

New Prosecutor Expected

Files Protection Sought

10/20/73
By George Lardner Jr.
Washington Post Staff Writer

Assistant Attorney General Henry E. Petersen and members of the Watergate Special Prosecution Force asked the courts yesterday to take protective custody of their investigative records involving the Nixon administration.

In an extraordinary motion submitted to U.S. District Court Chief Judge John J. Sirica, they said they were asking for the protective order in light of the FBI's sudden impoundment of the records last weekend at the direction of the White House.

As a result, the prosecutors asked Judge Sirica to declare the records to be in his custody and to permit their removal from the offices of former Watergate Special Prosecutor Archibald Cox only by Cox's staff and Petersen himself.

As the head of the Justice Department's Criminal Division, Petersen is, at least for the moment, in charge of the investigations. Cox was fired on President Nixon's orders Saturday night.

The motion noted that "within a few minutes" of Cox's ouster, "agents of the FBI acting on direct instructions of the White House 'sealed' the offices of the Watergate Special Prosecution Force, as well as of the former Attorney General and deputy attorney general."

Shortly after noon the next day, FBI agents were withdrawn and U.S. mar-

See FILES, A6, Col. 1

Richardson Suggested

By Mary Russell
Washington Post Staff Writer

President Nixon is expected shortly to name a new Watergate special prosecutor to replace Archibald Cox, whom he fired last week.

The President's action is intended to forestall action on Capitol Hill, where there is a strong movement in Congress to name its own special prosecutor.

House and Senate Republicans are pressing the President to name a new special prosecutor and a high White House official said yesterday, "The interest of the House and Senate is certainly well known here."

The official said President Nixon's timing in the matter "is still an open question" at the White House. "The decision could come as early as tomorrow but I rather doubt it," the official said. "The odds favor the possibility that the best person would say he wouldn't do it."

Former Attorney General Elliot L. Richardson, who resigned rather than give the order to fire Cox, was being mentioned yesterday as a replacement for Cox. Richardson's name was mentioned at a conference of House Republicans with three White House aides—Charles Alan Wright, the President's attorney in the court cases over the White House tapes, counselor Bryce Harlow and counsel Leonard Garment.

Presidential adviser Melvin Laird, who predicted at a Chicago news conference

See PROSECUTOR, A4, Col. 6

FILES From A1

shals dispatched by acting Attorney General Robert H. Bork, who had fired Cox, "assumed control" of the special force's headquarters, the motion pointed out.

"The status of the records developed by the Watergate Special Prosecution Force" for two federal grand juries here "and the responsibility for security of these materials is therefore uncertain," the prosecutors added.

The Cox headquarters is usually guarded by officers

of the General Service Administration's Federal Protective Service who have now resumed their stations.

Under the proposed order submitted to Judge Sirica, only Petersen and lawyers who worked for Cox would be permitted to take out official records and then "only for the purpose of conducting legal proceedings, interviewing witnesses, or otherwise discharging their official duties."

In addition, true and exact copies would have to be left on file at the task force

headquarters at 1425 K St. NW.

The proposed order seemed to amount to a public admission that the Justice Department itself cannot guarantee what might happen to the records.

The request to Judge Sirica, which briefly reviewed the history of the Watergate scandal and related allegations of criminal misconduct "by White House staff members and other presidential appointees," was signed by Petersen, Deputy Watergate Special Prosecutor Henry Ruth and six top aides, including the heads of each of the Cox task forces conducting the investigations.

They said that acting Attorney General Bork and Petersen have both pledged "to continue with full and

vigorous investigations," but they added that the order was needed "pending the development of further facts in connection with the dissolution of the Watergate Special Prosecution Force and the reassignment of its former responsibilities."

Both the House and Senate Judiciary committees are expected to take up proposals next week to re-create the special prosecutor's office by law. The Senate committee sent a letter to Bork yesterday expressing its concern that the integrity of the evidence gathered by the Cox forces be protected.

Judge Sirica was asked to enforce the proposed decree through the Federal Protective Service.

PROSECUTOR From A1

yesterday that a new special prosecutor would be appointed, either by Congress or the President, said Richardson was among those who should be considered for the post.

And Florida Republican Sen. Edward Gurney, the President's strongest supporter on the Senate Watergate committee, admitted he made a mistake in applauding the Cox firing and asked President Nixon to name Richardson to the post.

Richardson was unavailable for comment.

Vice President-designate Gerald R. Ford, the House Minority Leader, who supported the President's firing of Cox, said yesterday after the meeting between House Republicans and White House aides that he would agree to the naming of a new special prosecutor by the President, and that the new prosecutor should be confirmed by the Senate.

"I have some reservations about the re-establishment of the special prosecutor's office," Ford said, but "with the right person it can be done and if a majority of

the members of Congress feel that is the proper action, I would certainly agree to it."

Ford said he had not discussed the naming of a special prosecutor with the President.

The House Republican Conference chairman, Rep. John Anderson (R-Ill.), said the "majority of House Republicans" did feel the office should be re-established.

The White House aides agreed to take that message back to the President, but did not say the President would necessarily agree. Anderson expressed his personal feeling, however, that the President would agree.

Rep. Robert McClory (R-Ill.) quoted the President's attorney, Charles Alan Wright, as saying that he personally felt the President should name a new special prosecutor by that he had not conveyed his feeling to the President.

Rep. John Erlenborn (R-Ill.) said the prosecutor should be part of the executive branch and, to insure his independence, Congress could pass a law preventing the President from firing him.

The House Republican meeting came one day after the Senate Republican leadership unanimously urged the President to name a new

special prosecutor, without delay.

Rep. William L. Hungate (D-Mo.) announced meanwhile that his Judiciary subcommittee would begin hearings Monday on bills to name a new special prosecutor.

Senate Democrats were pushing a bill that would put the prosecutor under the authority of U.S. District Chief Judge John J. Sirica. The bill is to be introduced today, and the Senate Judiciary Committee is to hold hearings Monday on the legislation and the firing of Cox.

A report that acting Attorney General Robert H. Bork was compiling a list of persons who might be named special prosecutor was neither confirmed nor denied by the Justice Department.

Sen. Edward M. Kennedy (D-Mass.) yesterday discovered a bill introduced by Richard Nixon as a senator in August, 1951, that would "authorize in certain cases the appointment of a special counsel and investigators to assist grand juries in the exercise of their power."

Mr. Nixon wanted the bill because of scandals uncovered in President Harry S. Truman's administration revolving around the Reconstruction Finance Corp. The bill died in the Judiciary Committee.