

Watergate Data Subpoenaed

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Sen. Edward M. Kennedy has been subpoenaing records and documents for two weeks for his subcommittee's investigation of the Watergate bugging and alleged political espionage.

Although Kennedy's Subcommittee on Administrative Practice and Procedure has attempted to keep the issuance

of subpoenas a secret, The Washington Post has learned that at least five have been issued, including one to the Chesapeake and Potomac Telephone Company.

Kennedy is said to have at least eight lawyers and investigators working virtually full time on the Watergate and events disclosed since Democratic headquarters were broken into June 17.

Capitol Hill sources said

Kennedy will in all probability wait until well beyond the Nov. 7 election before attempting to open public hearings.

Meanwhile yesterday, U.S. District Court Judge John J. Sirica postponed until Jan. 8 the trial of seven men indicted in the Watergate bugging

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case, saying he had a pinched nerve and had been advised by his physicians not to hear the case until then. The trial had been scheduled to begin on Nov. 15.

The issuance of subpoenas by the Kennedy subcommittee was confirmed yesterday by Fred Langbein, chief spokesman for the C&P Telephone Co., who said that records had already been sent to Capitol Hill. "We were served last week and responded by turning over the information last Friday," Langbein said.

He declined to say whose phone records—presumably of long distance calls—had been sought by the subcommittee, or reveal the number of persons whose records were subpoenaed.

Sources close to Kennedy's investigation said that subpoenas had also been issued to four banks and business firms, ordering them to supply relevant records.

On Oct. 12, Kennedy said it was his "intention" to issue subpoenas, but he has declined to say whether he actually had issued any.

Congressional sources said this was because Kennedy wanted to conduct his investigation quietly and avoid the type of partisan dispute that erupted earlier this month when the House Banking and Currency Committee tried to open public hearings and obtain subpoena power for a Watergate investigation.

On Oct. 3, the banking committee, following a week of heavy Republican lobbying, voted 20 to 15 against holding such hearings with subpoena powers.

Republican opposition to the Kennedy investigation is expected. On Oct. 14, Sen. Edward J. Gurney (R-Fla.) threatened to call a meeting of the full Judiciary Committee if Kennedy went ahead with his subcommittee investigation.

Under the Senate Judiciary Committee rules, Kennedy—as a subcommittee chairman—has authority to issue subpoenas. However, the full Committee could vote to take away that authority.

Kennedy has the support of the Democratic majority on his subcommittee to issue subpoenas on a broad inquiry into what Kennedy called "the authorization, financing, direction, control, operation, products, beneficiaries, participants, methods and results of the alleged bugging and wire-



JOHN J. SIRICA

... postpones trial

tapping and related political espionage and sabotage activities."

Kennedy has said that he would not issue subpoenas to the seven men indicted in the Watergate bugging case since the subcommittee "would seek in every way to avoid interfering with the criminal prosecutions."

Judge Sirica in postponing the Watergate trial, released a two-page statement through his administrative assistant explaining that the judge, who was not in court yesterday, has been experiencing "intermittent pain" in his left leg because of a pinched nerve.

The new trial date chosen by the 68-year-old judge was the earliest of three alternative dates given to him by defense lawyers who have said that the Nov. 15 date the judge originally had imposed would not give them enough time to prepare their cases. The prosecution already has indicated that the Jan. 8 date is acceptable.

Sirica did not exercise his discretion, as chief judge, of reassigning the case to one of his colleagues. The seven men are charged with conspiracy in connection with the bugging of the Democratic National Committee headquarters. Sirica indicated through his administrative assistant that he had no comment beyond the written statement.

Since announcing he original Nov. 15 trial date on Oct. 17, Sirica had rebuffed defense efforts to delay the trial. The U.S. Court Appeals on Tuesday refused to review Sirica's decision.

In his statement yesterday, Sirica said he has been experiencing pain in his left leg

since "shortly after" Oct. 17. Sirica said his physician had diagnosed the cause as a "displaced Lumbar disk with associated sciatic pain" or "in plain and simple English this means that I have a pinched nerve with pain radiating down my left leg."

The condition is not uncommon, Sirica said his physician told him, but "it will be physically impossible for me to commence the trial of a protracted case such as this on Nov. 15 with any reasonable anticipation of being able to conclude it without interruption. To do this would be an injustice to the defendants, their counsel, and to the United States of America and its counsel."

Sirica said the prospects for his recovery are "extremely optimistic" and that "relatively simple therapeutic measures will rectify the condition in the near future."

When Sirica ordered the original Nov. 15 trial date, principal Assistant U.S. Attorney Earl J. Silbert tried to persuade the judge to postpone the case, arguing that the trial should be conducted "on a perfect record." Sirica refused to change the date at that time.

According to a reliable source, Silbert later told the Justice Department that if the trial were to begin on Nov. 15, any resulting convictions were almost certain to be overturned by a higher court.

Sirica had set the Nov. 15 trial date to conform with federal court guidelines that recommend bringing defendants to trial within 60 days of their indictment in cases that have received extensive publicity.

Meanwhile, in Miami, Criminal Court Judge Paul Baker agreed yesterday to a two-day postponement in the Florida trial of Watergate defendant Bernard L. Barker, but refused a defense motion for an indefinite delay.

The Associated Press reported that Baker postponed from Monday until Wednesday the start of Barker's trial on charges of fraudulently notarizing a \$25,000 Republican campaign check.

The judge said the delay would give defense attorney Henry Rothblatt time to appeal his decision to higher state courts. Baker also said he would hear a motion Monday by the defense for a summary dismissal of the state charges.

In Washington, the D.C. Court of Appeals yesterday

upheld a lower court ruling that Nixon finance committee chairman Maurice Stans need not testify at Barker's trial in Miami.

A three-judge panel of the court held that there "was ample evidence to support (Superior Court Judge Paul F. McArdle's ruling) that there was 'absolutely no necessity for the presence of (Stans) in the prosecution of the Barker case.'"

The court's action came on an appeal of McArdle's ruling filed by the U.S. attorney's office on behalf of Florida authorities.