

A Plea by Mitchell's Lawyers

Washington

Lawyers for former Attorney General John N. Mitchell urged Senate Watergate investigators yesterday not to force Mitchell to testify, claiming he has become "a target" of a grand jury indictment, it was learned.

In a letter to Senator Sam J. Ervin Jr. (Dem-N.C.), chairman of the Senate Watergate investigating committee, attorney William G. Hundley petitioned the committee "to withdraw its subpoena compelling the appearance of my client, John N. Mitchell," sources said.

LETTER

According to the sources, Hundley told the committee that "the cold fact of the matter is the Justice Department prosecutor has presented evidence tending to incriminate Mr. Mitchell concerning Watergate to the grand jury," and "they are going to recommend that the grand jury is going to follow their recommendation.

"By compelling Mr. Mitchell to appear before this committee you are in fact compelling him to spell out his entire defense to criminal charges against him" before the prosecution has evidence proving its charges, the sources quoted Hundley's letter as saying.

Hundley told the committee that Mitchell would not seek and does not want immunity, nor will Mitchell invoke constitutional privilege, and he will not stand in contempt of the committee, the sources said.

RIGHTS

The sources said Hundley admitted that Mitchell "is certainly a logical witness to be subpoenaed," but he said in this instant "his personal, constitutional and legal rights are paramount and must take precedence."

Hundley's arguments did not persuade at least two members of the Watergate committee, vice chairman Howard H. Baker Jr. (Rep-Tenn.) and Senator Joseph M. Montoya (Dem-N.M.). Both noted that the panel had turned down similar pleas from Maurice Stans, the Nixon finance committee chairman, and former presidential counsel John W. Dean III.

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