

Agnew's Lawyers Launch Own Probe

By Edward Wash

Washington Post Staff Writer

Vice President Spiro T. Agnew's lawyers, hoping to convince the Justice Department that there is not enough evidence to seek an indictment, are conducting their own investigation into the criminal allegations lodged against Agnew.

Two of the lawyers, Judah Best and Jay H. Topkis, spent much of last week in Baltimore and Towson, the county seat of Baltimore County, interviewing county officials and members of architectural and engineering firms.

Agnew's lawyers also have asked Maryland state officials to compile a list of all the architectural and engineering contracts awarded by the state between 1962 and 1972—a period of time that not only includes Agnew's term as Republican governor of Maryland, from 1967 to 1969, but the administration of former Democratic Gov. J. Millard Tawes and most of the current administration of Democratic Gov. Marvin Mandel.

The purpose of this separate investigation by Agnew's team of defense attorneys, according to a source who is familiar with it, is "to demonstrate to the Department of Justice the lack of merit in this case" (against Agnew).

Attorney General Elliot L. Richardson said on national television last week that he personally will decide whether prosecution evidence involving Agnew should be presented to a federal grand jury in Baltimore that is probing political corruption in Maryland.

In effect, Richardson will be presented with the results of two separate investigations—one conducted by the Vice President's lawyers, and the other by George Beall, the U.S. attorney for Maryland who heads a four-man team of prosecutors.

Beall has already briefed Assistant Attorney General Henry Petersen, head of the Justice Department's criminal division, on the evidence concerning Agnew that the federal probe has produced.

According to sources, the prosecutors have been told by several Maryland engineering firm officials that they made regular cash payments to Agnew to receive choice state contracts while Agnew was governor of Maryland.

Last week, the prosecutors obtained a 39-count indictment involving charges of extortion and bribery against Democrat Dale Anderson, who succeeded Agnew as Baltimore

County's county executive in 1966. The indictment charged Anderson with receiving \$46,420 in kickbacks from eight engineering, architectural and consulting firms that do business with the county.

Agnew's lawyers, according to a source familiar with the case, hope to prove to Richardson that whatever evidence the prosecutors have gathered against the Vice President, even if "legally acceptable in the sense that it would not be dismissed by a judge, is the kind of evidence that no responsible prosecutor would go forward with to seek an indictment."

The lawyers are also investigating Beall's handling of the federal probe, which initially focused on Anderson and only later shifted to Agnew, according to one source.

The investigation by Agnew's lawyers is only one part of what is described as a still evolving defense strategy. The lawyers are also preparing memorandums for the Vice President, setting out the legal and constitutional questions involved in the federal investigation.

The key issue, which Richardson has said he will decide, is whether a Vice President can be indicted for crimes while he is still in office, regardless of the prosecution's evidence. Agnew's lawyers, contending that there is no constitutional difference between a President and a Vice President, are prepared to argue that he cannot.

They point, for example, to Assistant Attorney General Petersen's testimony Aug. 7 before the Senate Watergate Committee. Petersen said that he once told President Nixon that if he (Petersen) obtained criminal evidence against the President he would "waltz it over to the House of Representatives" to seek impeachment proceedings rather than to a grand jury.

However, if the lawyers succeed in persuading Justice Department officials that there is insufficient evidence in the case, the constitutional issue would not even arise.

Agnew was described by a source yesterday as being concerned about the effect the federal investigation on the office of Vice President and the precedents affecting his successors that may grow out of it. This was one factor that prompted Agnew's angry, public condemnation of news leaks about the investigation last week, the source said.