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Sirica Signs Subpoena

Nixon Ordered To Yield Tapes By May 2

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President Nixon was ordered by the U.S. District Court yesterday to turn over tape recordings, memos and other records of 64 White House conversations bearing upon the trial of the Watergate cover-up.

This latest—and the largest—demand for Watergate-related documents came in the form of a subpoena requested on Wednesday by Watergate Special Prosecutor Leon Jaworski.

Responding with unexpected speed, U.S. District Court Judge John J. Sirica granted the request yesterday and almost immediately Chief U.S. Marshal George McKinney served the subpoena on the President's special counsel and chief Watergate defense lawyer, James D. St. Clair.

The document sets a deadline of May 2 for the White House to respond, either by delivering the material or presenting its arguments for refusing to do so.

Jaworski had argued that the material was likely to be needed by the prosecution and possibly by some of the defendants in the September trial of seven former aides and associates of President Nixon on charges of conspiracy, obstruction of justice, perjury, and making false statements.

This is the third time the Watergate prosecution force has sought, and been granted, a subpoena for presidential tapes and other documents it believed could be used in evidence in the Watergate case. Former prosecutor Archibald Cox initiated the first of these confrontations with the President last July by requesting nine tapes and other material. After refusing to comply, the President finally yielded to an appeals court order that the material be turned over to Judge Sirica for his decision

as to whether it should be passed along to the Watergate Grand jury. As it turned out, only seven of the nine requested tapes were delivered—the White House said the other two never were recorded—and one of the seven had a still unexplained 18½ minute gap.

In the course of that battle, Cox was fired when he refused to drop his demands for still more White House tapes and other records. In March, his successor, Jaworski, was granted a subpoena for a limited number of records having to do with the award of ambassadorships in exchange for

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campaign contributions. This time the White House yielded up the material without a court fight.

Yesterday the White House declined to indicate what its strategy would be. Deputy Press Secretary Gerald L. Warren said only that "the matter will be considered" by Special Counsel James St. Clair.

In addition to fighting one subpoena and yielding to another, the White House has also on occasion turned over some material to the Special Prosecutor without protest, or allowed him to examine documents to determine their relevancy for himself. In short, the White House policy in the past has been to try to reserve to itself, as much as possible, the right to decide what material it will surrender, in keeping with its constitutional claims of executive privilege and Presidential confidentiality.

This latest demand for presidential records differs from earlier ones, however, in that the material is being sought for use in trials other than as part of an investigation leading to grand jury proceedings. Originally, Jaworski had asked for most of the tapes subpoenaed yesterday for presentation to the grand jury. But the White House simply ignored repeated requests that were first initiated in January. Jaworski eventually decided that he did not urgently need this material in order to secure indictments in the case.

But he told Judge Sirica on Wednesday the government "had reason to believe" the various White House records of the 64 conversations involved in yesterday's subpoena action "contains or is likely to contain evidence that will be relevant and material to the trial of this case, either as evidence which the government would seek to offer in the case or which might be helpful to one or more of the

defendants."

Jaworski was subsequently joined in his subpoena request by two of the defendants in the case: former White House Counsel Charles W. Colson, and Robert C. Mardian, who served as an assistant attorney general in the Justice Department and later as an official in the Committee for the Re-election of the President.

The demands for the subpoenaed material by both the prosecutor and at least two defendants may put the White House under additional pressure to produce it. To refuse to comply or to challenge the subpoena in court would invite accusations of denying the defendants a fair trial or of delaying judicial proceedings which the President has insisted he wants to have brought to a speedy and just conclusion.

If the White House complies with this subpoena, however, it may find it difficult to fight a subpoena from the House Judiciary Committee which is seeking some of the same records that Jaworski is asking for—although for an altogether different purpose. As part of its impeachment proceedings against the President, the House investigators have demanded records of 24 of the 64 conversations which the special prosecutor is currently asking for.