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Watergate Plea Bargains Are Defended by Jaworski

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Replying to Criticism, He Terms Practice Fair, Legal and Necessary

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WASHINGTON, June 18—Leon Jaworski, responding to the first serious public criticism in his seven months as special Watergate prosecutor, defended plea bargaining today as a fair, legal and necessry way to prosecute Watergate criminals.

Mr. Jaworski also defended the results of the bargains the prosecution has negotiated—the guilty pleas of one former Nixon campaign aide or White House official, after another.

The New York Times
Leon Jaworski

He flatly rejected "what we're hearing, that the accused are getting off too lightly."

"That's not the case at all," he said.

Mr. Jaworski, in an interview in his closely guarded office, refrained from discussing specifically the individual cases that the prosecution had handled, on the ground that some of them were still before the courts and that he was under a court-imposed "gag" rule.

Instead, he explained his general policy, and sought to justify it, by citing the law, the guidelines adopted by the American Bar Association and the public record of the prosecution's work.

The latter shows, as he pointed out, that many defendants—all of those who plea-bargained, in fact, with the exception of Richard G. Kleindinst, the former Attorney General, and the defendants in the cases involving illegal corporate campaign contributions—had pleaded guilty to felonies that were punishable by up to five years and, in one case, 10 years in prison.

Mr. Jaworski made his comments in response to recent newspaper editorials, magazine articles and public comments of some lawyers, all questioning the plea-bargaining policies of the prosecution.

The questioning was touched off to a great degree by the disposition of the potential case of perjury against Mr. Kleindienst, first by a bargain in which the former Attorney General pleaded guilty to a misdemeanor of failing to testify and

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withholding information, and then the sentence of a suspended 30-day jail term that he received. Several articles severely criticized the disposition of the Kleindienst case and went on to criticize the pleas in other cases as well.

At the same time, though, Mr. Jaworski was also responding to charges that have been made for years about plea bargaining.

Three Basic Facts

Underlying the dispute about the Watergate dispositions are three basic facts about the judicial system: first, that plea bargaining is indeed a legal device, and a major part of the justice system; second, that prosecutors have broad discretion in deciding whom and how to prosecute, and third, that judges have wide discretion in sentencing and one result is disparity in sentences.

Mr. Jaworski has been criticized, for instance, for the fact that some of the defendants who have pleaded guilty have gotten relatively light sentences—Herbert L. Porter's sentence of five to 15 months with all but 30 days suspended is an example—while defendants who have gone to trial, such as the original Watergate burglars, have gotten long sentences, and many other criminals in less-celebrated and serious cases have gotten still longer terms.

Yet the bargaining with the Watergate defendants was legal, as the law now stands; the sentences, as Mr. Jaworski points out, were imposed by judges who could have imposed heavier sentences.

The American Bar Association, moreover, of which Mr. Jaworski was once president, and many other organizations have repeatedly urged that judges use probation rather than imprisonment whenever possible, and that prison terms, when imposed, be as brief as possible. The A.B.A. suggests five years as the maximum in nearly all cases.

So, when critics charge that it is unfair that a youth from an urban slum is sent to prison for four years for a car theft or mugging, say, but Mr. Porter gets only 30 days for making false statements in the case of the Watergate cover-up, Mr. Jaworski has a simple response.

"Two wrongs don't make a right," he said today in the interview.

Prosecution Decides Charge

The fact that judges have sole power to sentence defendants is not a complete answer to the criticism against Mr. Jaworski, of course, for the prosecution, in deciding on the charge to lodge, is in effect setting the maximum term a judge can impose.

The Watergate prosecution has allowed a number of defendants to plead to a single count each of a crime punishable by a maximum of five years. Some of those could have been prosecuted for charges punishable by many more years in prison.

The charge to which Mr. Kleindienst pleaded, moreover, was punishable by a maximum of one year.

And, more to the point, both the prosecutors and the defendants knew that the defendants probably would not get the maximum. It is almost standard practice for judges to give lesser sentences to defendants who plead guilty than to defendants who are convicted after trial.

Yet at the same time, one defendant in particular has gone to trial in the Watergate affair and been convicted, only to get what some critics have termed a light sentence and what some prosecutors have said was only slightly more than he would likely have gotten if he had bargained. That defendant was Dwight L. Chapin, who was sentenced to 30 months after his conviction on two counts of lying.

Practice Abused

Plea bargaining, over the years, has been abused often and widely—in New York, for instance, defendants incarcerated pending trial have been known to plead guilty in return for the promise of a suspended sentence. If they persisted in demanding trial, they would remain in jail for months.

Yet the Supreme Court, the A.B.A. and other groups—with the notable exception of the National Advisory Commission on Criminal Justice Standards and Goals, which recommended the abolition of plea bargaining—have urged only that the process be cleaned up and regulated, not abolished.

Mr. Jaworski, to explain his policies, cites the A.B.A. guidelines, which say, among other things, that prosecutors should consider negotiated pleas.

The A.B.A. guidelines cite various reasons for negotiating a plea—if the evidence against the defendant is not particularly strong on the potential charges, for instance. Another common factor is the willingness of the defendant to provide information to the prosecution on other cases.