

# Nixon Due Subpoena in Next 2 Days

By Ronald J. Ostrow  
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Former President Nixon will be served today or Thursday with a defense subpoena requiring his testimony at the upcoming Watergate conspiracy trial, Chief U. S. Marshal Wayne B. Colburn said yesterday.

Meantime it was learned that Mr. Nixon has retained Herbert J. Miller Jr., a noted criminal attorney in Washington, to represent him in this and any other court matters arising in the capital.

Miller, 50, has scored an impressive record in representing such Watergate figures as former Attorney General Richard G. Kleindienst and William O. Bittman, former attorney for convicted Watergate conspirator E. Howard Hunt Jr. Miller checked Sunday into the San Clemente Inn, minutes from Mr. Nixon's ocean-front estate, and checked out yesterday morning.

[Although a Republican, Miller served as assistant Attorney General in charge of the criminal division of the Justice Department when Robert F. Kennedy was Attorney General and he remains a close friend of the Kennedy family. During the Senate Select Watergate committee hearings, Miller represented special counsel to the President Richard A. Moore when he was called to testify.]

Colburn declined to specify where or when the subpoena would be served, in line with his desire to prevent publicity

concerning the incident.

Chris Rice, a spokesman for Colburn, said he thought the subpoena would be served in San Clemente by Gaylord L. Campbell, U. S. marshal in Los Angeles. At the same time, Rice said, Mr. Nixon will be presented with a civil subpoena requiring him to give a deposition Sept. 24 in Santa Ana, Calif., in connection with a suit over a 1971 appearance he made with the Rev. Billy Graham in Charlotte, N.C.

Rice said the marshal's service had determined that both criminal and civil subpoenas must be served personally on Mr. Nixon. Colburn announced imminent service of the subpoenas after concluding negotiations on the matter with Ronald L. Ziegler, press secretary to the former President.

The subpoena, issued in Washington by U.S. District Court Judge John J. Sirica Aug. 15 on behalf of Watergate defendant John D. Ehrlichman, Mr. Nixon's former domestic affairs adviser, requires Mr. Nixon to testify at the trial, which is set to open Sept. 30. It was received by Campbell Aug. 19.

Rice said Colburn did not consider the intervening eight days as a delay in serving the subpoena. He said Colburn believed the matter had been handled in "a normal way."

Rice quoted the marshal's legal counsel, John Lockie, as stating that "the chances are very, very slim (Mr. Nixon) would be successful in a move to quash the subpoena."

However, legal observers here familiar with Miller's past assignments said they expected the veteran attorney to challenge any subpoenas for Mr. Nixon—probably attempting to assert executive privilege.