

Jury Leaks Probed

4/24/73

By Lawrence Meyer
and Timothy S. Robinson
Washington Post Staff Writers

The full-15-judge U.S. District Court here ordered the United States attorney yesterday to conduct a grand jury investigation "into the unauthorized disclosure" of verbatim secret testimony before the Watergate grand jury.

The unusual action was taken by the judges after a special hour-long executive session called yesterday to discuss leaks of testimony heard by the grand jury. Columnist Jack Anderson has been printing excerpts of testimony for about the past 10 days in his column. Prosecution sources have confirmed that Anderson's excerpts are authentic.

It could not be determined whether the grand jury, which was expected to hear testimony from White House counsel John W. Dean III and former deputy Nixon campaign director Jeb Stuart Magruder, met at all yesterday. Reporters maintaining a watch inside the courthouse were unable to locate the grand jury. Principal Assistant U.S. Attorney Earl J. Silbert, who has been directing the grand jury investigation into the Watergate conspiracy, declined to answer questions about the grand jury.

Prosecution sources have acknowledged that Anderson's revelations about the grand jury sessions, which began appearing on April 16, have hampered the investigation but would not comment when asked whether they

See WATERGATE, A10, Col. 1

WATERGATE, From A1

had halted grand jury testimony because of the leaks.

In related development yesterday, one of the two lawyers for convicted Watergate conspirator G. Gordon Liddy filed a motion asking to withdraw as Liddy's lawyer because Liddy has refused to answer questions before the grand jury.

In addition, it was learned that Martha Mitchell, wife of former Attorney General John N. Mitchell, was reliably reported to be scheduled to appear before the grand jury this week.

The brief statement by the judges did not mention Anderson or any other publication. Anderson, however, has been the only member of the media to obtain and quote verbatim testimony from the secret grand jury proceedings.

In expressing their "con-

cern" over the release of testimony, the judges said grand jury proceedings "must remain" secret. "Secrecy during actual inquiry preserves the integrity of the grand jury by protecting the innocent and en-

couraging free disclosure by persons who have information with respect to possible commission of crimes."

The judges directed the U.S. attorney "to conduct a grand jury investigation into the unauthorized disclosure of transcript that has apparently taken place. Any person having knowledge of the circumstances of such unauthorized disclosure is requested to communicate directly with the United States attorney.

The federal rules of criminal procedure prohibit grand jurors, attorneys, interpreters and any person transcribing or recording testimony before the grand jury from disclosing testimony heard without court permission. Witnesses are not barred, however, from revealing their testimony.

The Watergate grand jury, which consists of 23 members, was called back into session by Silbert March 26 to resume hearing testimony after the revelation by convicted Watergate conspirator James W. McCord Jr. that others, besides the seven men originally indicted and convicted, were

involved. Since then, the grand jury has met several times a week in one of the grand jury rooms on the third floor of the U.S. courthouse here.

Anderson's columns have contained excerpts from testimony by McCord and his convicted co-conspirator E. Howard Hunt Jr., Silvia Panarites and Sally Harmony,

both former secretaries to Liddy, and Robert Reisner, assistant to Magruder.

Anyone violating the federal rules of criminal procedure by revealing grand jury testimony is subject to a contempt of court citation and a jail sentence. Persons who encourage the unlawful disclosure of grand jury testimony also are subject to citation for contempt and a jail term.

Silbert declined to say yesterday whether the Watergate grand jury would investigate the leaks or if another grand jury would look into the matter.

Anderson issued a statement yesterday evening saying: "Reporters have been scrambling all over one another to find out what is happening in the secret sessions. The government is upset, apparently, because we nailed down the testimony precisely rather than relying on hearsay.

"It is significant that we began publishing excerpts from the grand jury proceedings on April 16. The next day President Nixon announcee his dramatic turnabout on Watergate. One factor that persuaded the President to throw open the Watergate investigation, say White House sources, was our access to the grand jury findings.

"Under our Constitution we are free to publish any and all news generated by the White House, the Congress or the courts. No federal rule of criminal procedure supercedes the Constitution, which grants freedom of the press," Anderson said.

In a telephone interview, Anderson said that "no law has been violated by myself or my staff. I have always advised sources of mine never to violate the law." Anderson said if he were called before the grand jury and asked where he obtained the transcripts, "I cannot divulge my sources. I hate to think theres any newspaperman in this country who would divulge his sources."

The motion by Thomas A. Kennelly, one of the lawyers for Liddy, to withdraw from the case was presented to Chief U.S. District Judge John J. Sirica.

"In view of our total disagreement as to the course of action he should follow," Kennelly said in his brief motion, "I do not think it is in his best interests for me to continue."

Kennelly confirmed in a telephone interview that he had advised Liddy, through Liddy's other lawyer, Peter L. Maroulis, to answer questions put to him by the prosecution before the grand jury.

Liddy, who was given immunity from prosecution and ordered to testify by Sirica, has refused to answer questions in grand jury testimony. Sirica cited Liddy for contempt of court on April 3 and gave him eight months in jail in addition to the six years and eight months Liddy already is serving for his role in the Watergate conspiracy.

Kennelly said he and Maroulis "haven't disagreed" on Kennelly's advice that Liddy should answer questions put to him before the grand jury. "He's accepted my advice through Maroulis, thanked me, but this is his decision," Kennelly said of Liddy.

"He is a man who is willing to accept the judgement rendered on him. He is willing to go to jail. But he is not willing to involve anyone else, and this is not to say that anyone else is involved. Gordon Liddy is a man to accept his punishment and accept it alone," Kennelly said. "I just don't see that there's much I can do for Liddy anymore. At this point, the guy's got to help himself."

Prosecution lawyers say Liddy's testimony is important since Liddy, according to sources, has been described by McCord as the link between the six others who were convicted and "higher-ups" in the administration and re-election committee. Liddy's testimony could corroborate statements given to the prosecution and the grand jury reportedly implicating others in the conspiracy.

Liddy's refusal to testify now has puzzled many persons, including Kennelly, since others above Liddy in the hierarchy have indicated that they intend to reveal what they know. The New York Times reported yesterday that Liddy believes President Nixon wants him to testify and is pleased that the White House is interested but still refuses to cooperate with the prosecution.

McCord, who is free on \$100,000 bond—the only one of the seven convicted defendants who is not in jail — appeared briefly before Sirica yesterday in an attempt to have travel restrictions imposed by the judge lifted so McCord can go to London for a television appearance. Sirica denied that request and another that McCord's probation officer be permitted to supervise his travel. Sirica did allow McCord to leave the metropolitan Washington area from April 24 to April 27 for a vacation at Ocean City, Md.

In another related development, attorneys for the Democratic National Committee in the civil damage suit against officials of the Committee for the Re-election of the President growing out of the Watergate bugging filed a notice of their intention to take sworn testimony from former campaign official Magruder on May 1.