Cox News Conference

'I Decided I Had to Stick'

Following are excerpts of Special Prosecutor Archibald Cox's press conference, which was recorded by The Washington Post.

I read in one of the newspapers this morning the headline "Cox Defiant." I do want to say that I don't feel defiant . . . Some things I feel very deeply about are at stake, and I hope that I can explain and defend them steadfastly . . . In the end I decided that I had to stick by what I thought was right.

As you all know, there has been and is evidence—not proof, perhaps, in some instances, but clearly prima facie evidence—of serious wrongdoing on the part of high government officials; wrongdoing involying an effort to cover up other wrongdoing.

It appeared that papers, documents and recordings of conversations in the White House, including the tapes, would be relevant to getting the truth about those incidents. I'm referring not only to the Watergate incident itself, but to other things involving electronic surveillance, breakins at a doctor's office and the like.

Two courts have ruled that, with some exclusions, not only the tapes of nine conversations, but some very important papers, memoranda and other documents bearing on those conversations are relevant and should be supplied to pursue the investigation. Last night we were told that the court order would not be obeyed, that the papers, memoranda and documents of that kind would not be provided at all, and that instead of the tapes, a summary of what they showed would be provided.

I think it is my duty, as the special prosecutor, as an officer of the court and as the representative of the grand jury, to bring to the court's attention what seems to me to be noncompliance with a court order. If the court should rule that there was satisfactory compliance, then it would be my duty in those same capacities to abide by the court's order, and of course I would and we would go about our business as best we can . . .

You will say, well, so far as the tapes are concerned, forget legalisms, isn't this a pretty good practical arrangement? I find . . . to my way of thinking, insuperable difficulties with it. First, when criminal wrongdoing is the subject of investigation and when one of those subjects is obstruction of justice in the form of a cover-up, then it seems to me it is simply not enough to make a compromise in which the real evidence is available only to two or three men operating in secrecy—all but one of them the aides to the president, a man who had been associated with those who are the subject of the investigation.

It's not a question of Sen. Stennis' integrity. I have no doubt at all of Sen. Stennis' personal integrity. I have no doubt at all of Sen. jstennis' personal integrity. . . .

My second difficulty is that I will not know, and no one else will know, what standards have been applied in deciding what to exclude from the summary . . . .

My third reason . . . is that it's most unlikely . . . that a summary of the tapes would be admissable in evidence. It would be satisfactory for the purposes of a grand jury, I think, but I'm thinking of the actual conduct of the trial.

Similarly, you have all read of cases in which those who have been charged with wrongdoing have said that they need the tapes in order to make their defenses. Again, it seems to me most unlikely that a summary would be accepted by the defendants or that a court would regard in as sufficient. And that could very well mean that those prosecutions would have to be dropped . . .

The other main part of the President's statement last night said that I would be instructed not to use the judicial process in order to obtain tapes and documents, memoranda relating to private presidential conversations. This instructs me not to pursue what would be the normal course of a prosecutor's duty in conducting this kind of investigation. And I think the instructions are inconsistent with pledges that were made to the United States Senate and through the Senate to the American people before I was appointed and before Attorney General Richardson's nomination was confirmed . . .

The incidents of last night need to be viewed against two things. One is the whole problem of obtaining information for this investigation. And the other is the immediate discussions which took place between me and various representatives of the President.

It's my characterization that all I can say is that my efforts to get information beginning in May have been the subject of repeated frustration.

This is a very special investigation in some way. The problem is unique because nearly all the evidence bearing not only on the Watergate incident and the alleged cover-up but on the activities of the "plumbers" and other things of that kind, is in the White House papers in files. And unless you have access to those, you're not able to get the normal kind of information that a prosecutor must seek . . .

Well then we come to the immediate incidents . . .

You'll remember that the court of appeals, after oral argument, and before it rendered its decision, suggested that there be an effort to

reach a mutually satisfactory accommodation in which the President or his representative and I would agree what parts of the tapes should be made available to the grand jury and what parts should be not.

I had conversations chiefly with Fred Buzhardt. They were conducted under a pledge of confidentiality. I do not think I ought to violate that pledge. I do think it's proper to say just one thing: I did submit a fairly carefully drafted six or seven-page proposed precedure for resolving these questions . . .

The end of last week, the Attorney General and I were in touch with each other. We had several candid, frank and very friendly conversations. . .

The conversations ended in a document, headed a proposal.

It set forth . . . a plan somewhat like what was announced yesterday, last night, except that it was in more contingent form and I think it was meant to leave room for discussion.

I wrote him on October 10 a paper called comments on a proposal. And we will give you that too. . . .

Thursday night, if my memory is correct, I received word that I was to call Marshal Wright at the White House in Gen. (Alexander) Haig's office. Marshal Wright turned out to be Charlie (White House Special Counsel Charles Alan Wright) when he came on the phone . . . And he referred to my comments—said that there were four stipulations that he must make that would be essential to any agreement. And as I understood him, he said 'You won't agree to these' . . . But it was my impression that I was being confronted with things that were drawn in such a way that I could not accept them. . . . .

I then went on and suggested, 'Why don't you dictate what the four points are and I can look at them tomorrow morning and then give you a reply.' And we will give you his letter, which I received, my response, and then one final letter which suggested that I had misunderstood the scope of some of the things he said. That came at 23 minutes past five yesterday. My letter was delivered about 10 o'clock. There was ample time to explain if I had misunderstood anything of critical importance.

Q: What do you consider to be the state of the case now and if you will go into court, what court and what will you say?

COX: . . . It is my intention with reference to the order of the Court of Appeals and the District Court to call to the attention of one or the other, and I'm not sure yet which is correct, the fact that the papers, documents and other things subpoenaed are being refused, and that the order to deliver the tapes is subject to some particular reservations, is certainly not being satisfied . . .

Now, technically, the first thing we have to be sure of is the mandate issues. The second thing we have to decide is which of the two courts has jurisdiction. I think the District Court clearly has jurisdiction. I think that the Court of Appeals may also have jurisdiction, in which case I would have to make a choice whether to go to the seven-man tribunal or to Judge Sirica.

One form of procedure would be to seek an order to show cause why the respondent should not be adjudicated guilty of contempt. I think it may also be possible and perhaps might be preferable to seek a further order clarifying any possible doubt resulting from the President's statement last night. We will have to make that kind of choice.

Q: Mr. Cox, is not your intention in direct conflict with the President's order to you, and if it is, and you're fired by the end of this newsconference, what happens then?

A: Well, I — there are a number of other technical questions. I was appointed by the Attorney General. Under the statutes the Attorney General and those to whom he delegates authority are in charge of all litigation, including the obtaining of evidence. I think there is a question of whether anyone other than the Attorney General can give me any instructions that I have any legal obligation to obey. Second, under the Constitution, and the statutes, there are instances in which not the President but departmental heads make appointments. And I would think that it was a proper inference in that where departmental heads are authorized by statute to make appointments, that the same departmental heads are the only ones who can make dismissals. . . .