

New Subpoena for Tapes Delivered to White House

Step Is Taken After Jaworski Gets Order From Sirica—Prosecutor Seeks Data for Trial in Watergate Cover-Up

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WASHINGTON, April 18 — United States District Judge John J. Sirica ordered today the issuing of a subpoena commanding President Nixon to turn over tape recordings and other records of 64 White House conversations relating to the Watergate cover-up.

The judge acted at the request of the Watergate special prosecutor Leon Jaworski, who told the District Court last Tuesday that he needed the material for use in the trial of the cover-up case.

The subpoena was delivered to the White House at 4:45 P.M., a few hours after the judge's ruling, by the United States Marshal for the District of Columbia, George F. McKinney, and one of his deputies, Kenneth Small. James D. St. Clair, the President's chief defense counsel, accepted it for Mr. Nixon.

The White House press office said "counsel is considering" the subpoena, and that there would be no comment on it today.

Judge Sirica set May 2 as the return date for the subpoena.

Meanwhile, Representative Peter W. Rodino Jr., New Jersey Democrat who is chairman of the House Judiciary Committee, ruled out any compromise with the White House on the committee's demand for tape recordings of some 42 conversations related to Watergate.

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The subpoena delivered this afternoon to the White House was drafted by the special prosecution, as was the five-page attached schedule listing the requested items—tapes, other "electronic and/or mechanical recordings or reproductions," memorandums, papers, transcripts and other writings relating to the 64 conversations.

Of the 64, all but one were conversations between President Nixon and, variously, four of his former top aides: Charles W. Colson, John D. Ehrlichman, H. R. Haldeman and John W. Dean 3d. The first three are defendants in the cover-up case; Mr Dean, who has pleaded guilty to obstruction of justice, is expected to be a key witness

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at the trial.

The one conversation that apparently did not include Mr. Nixon took place among Mr. Dean, Mr. Ehrlichman and Mr. Haldeman.

The prosecution's request for the subpoena was the first step in what could turn out to be a second major confrontation between the White House and the prosecution, whose only other subpoena of Mr. Nixon led to the dismissal of Mr. Jaworski's predecessor, Archibald Cox, and the resignation of Attorney General Elliot L. Richardson.

Attorney General William B. Saxbe said yesterday, "We are now reaching a confrontation" over the subpoena request, and Judge Sirica's order today increased the odds that there would be one.

The Judge's order, however, was not the equivalent of a court decision — such as the orders issued regarding the Watergate prosecution's first subpoena — holding that Mr. Nixon must comply with the subpoena. Such rulings come only after a subpoena is issued and when, in the face of a refusal to comply, the person seeking the subpoena asks the court to enforce it.

Judge Sirica's order today

was in effect merely a ruling that Mr. Jaworski was entitled to have the subpoena issued.

Mr. Jaworski could have had a subpoena issued without such an order if he had been willing to wait until the start of the trial to obtain the material he was seeking. He was not willing to wait until then, however, explaining in the papers that he filed with the court Tuesday that the materials would require time to analyze, and that, in addition, there was a chance that the subpoena would have to be litigated.

In requesting the issuance of a subpoena, Mr. Jaworski made clear that he was unhappy to be taking a step that could lead to a confrontation. He contended, however, that "information now available to the Government" indicated that each of the items would be useful at the trial, and that his efforts to obtain them informally had been futile.

Mr. Jaworski also said that some of the material he was seeking "might be helpful" to one or more of the defendants. And soon after he filed his request, two of the seven defendants in the cover-up case, Mr. Colson and Robert C. Mardian, joined in the prosecution's motion.

The last date for defense motions in the cover-up case

is May 1, and the five other defendants are expected to join in the motion in time for the May 2 return date.

Judge Sirica's order today did not make clear whether the materials under subpoena, if turned over, would be made available to the defense as well as to the prosecution. He said simply that "upon consideration" the prosecution's motion should be granted and the subpoena issued.

It was not clear, either, how the May 2 return date on the subpoena would be affected by the April 25 return date on the subpoena issued by the House Judiciary Committee for some 42 tapes. The two subpoenas overlap to the extent that 24 conversations are covered by each subpoena.

The conversations on the Jaworski subpoena took place between June 20, 1972, three days after the break-in at the Democratic party's headquarters at the Watergate complex, and June 4, 1973, the date on which President Nixon is said to have listened to some of his Watergate tapes.

Most of them, however, took place in February, March and April of 1973, the period in which President Nixon has said that he first learned of the cover-up and ordered the investigation.