

WX Post

MAY 5 1973

Bug Probe Under Fire

By Bob Woodward
and Carl Bernstein

Washington Post Staff Writers

The Senate's select committee on the Watergate is actively investigating the handling of the Watergate prosecution by the Justice Department, according to government sources and others familiar with the investigation.

The prosecutors who supervised the Watergate case received evidence last year—before the Watergate trial—indicating that there was a coverup of high-level involvement in the bugging of Democratic headquarters, the sources said.

Although some of this evidence was received fully six months before the Watergate trial, the prosecutors failed to adequately pursue the leads it provided, the sources reported. Instead,

the three-man prosecution team continued to insist through the trial that there was not a single piece of evidence to indicate that the Watergate conspiracy extended beyond the seven men convicted or found guilty in January.

In addition, the Senate's Watergate committee has been told that the FBI and prosecutors did not conduct intensive questioning of many potentially crucial witnesses and failed altogether to interview some key persons from the White House and President Nixon's re-election committee.

"It adds up to a sloppy job," one government source said yesterday. The three assistant U.S. attorneys who prosecuted the case and are handling the renewed grand jury investigation "were irresponsible," the source continued. "It's not just hindsight; they had the clues last summer."

As a prime example of the supposed inadequacy of the initial Watergate investigation, Senate sources cited the failure of either the prosecution or the FBI to question former White House chief of staff H. R. Haldeman, who has since been implicated in the renewed investigation.

Many of the persons now under investigation worked directly under Haldeman at one time or another, but the prosecutors are reliably reported to have learned only recently that Haldeman was the primary force behind the Nixon re-election campaign.

"We never adequately understood the lines of authority in the White House or the re-election committee," one of the prosecutors reportedly conceded to a colleague recently. "We were politically naive," the prosecutor is said to have added.

See WATERGATE, A6, Col. 4

Watergate Prosecutors Under Fire

WATERGATE, From A1

Four different sources have provided The Washington Post with examples of what they said were indications of inadequate prosecution of the Watergate case. The sources all described the prosecutors as honest but not aggressive.

One source said the prosecutors were "manipulated" by presumptions of ethical behavior on the part of Nixon administration officials.

Assistant U.S. Attorney Earl J. Silbert, the head of the Watergate prosecuting team, said yesterday that he was not aware of any Senate investigation of his prosecution of the case, but had no objection to it and would be happy to defend his actions money before the Senate committee.

Another Justice Department attorney gave the following defense:

"Earl was under the most intense pressure to return indictments last year before the election—quick indictments and the fullest investigation in history. That's impossible, first off."

"Next they (the prosecutors) offered all the conspirators a deal to talk before the election, but none took it. All the evidence about a wider conspiracy was bits and pieces—nothing any sane prosecutor would dare go into court with."

One example cited by the sources was the handling of Hugh W. Sloan Jr., the former Nixon committee treasurer. Sloan told the prosecutors last summer that Jeb Stuart Magruder, the deputy Nixon campaign manager, urged him on three separate occasions to lie to investigators and the grand jury about the amount of cash given to one of the Watergate conspirators.

In the matter of Sloan's assertion that Magruder asked him to lie before the grand jury, reliable sources said that Sloan has told investigators the following:

"I told Magruder that 'I have no intention of committing perjury,' and he told me, 'Well, you may have to.'"

Sloan testified at the Watergate trial that he gave about \$199,000 in cash campaign funds to Watergate conspirator G. Gordon Liddy. Last summer Sloan told investigators that Magruder asked him on one occasion to say that the figure was \$40,000 and on another occasion to say it was \$80,000.

Although the prosecution regarded Sloan as the most

credible witness from the re-election committee's higher echelon Magruder's activities were only perfunctorily examined and key members of Magruder's staff—including his secretary—were never interviewed by the FBI, the sources said. The secretary, Victoria Chern, said yesterday she was not contacted by the prosecutors or FBI until several weeks ago, when "they read in The Post that I had been before the Senate committee." Miss Chern is known to have supplied important corroborative evidence linking Magruder and others to the bugging when she finally appeared before the grand jury.

The sources said that Sloan also told the prosecutors last summer that he had been urged by former White House aide Frederick C. LaRue not to assist in the Watergate investigation and urged him to invoke the Fifth Amendment.

At the time, the prosecutors had already heard allegations that LaRue supervised the destruction of evidence after the Watergate arrests last June 17 but failed to question key members of his staff, the sources said. LaRue, a principal deputy to former Attorney General John N. Mitchell, has told associates he now expects to be indicted in the case.

In addition, the sources said, Robert Reisner, a key assistant to Magruder at the Nixon committee, was never interviewed by the prosecutors or the FBI prior to the Watergate trial. Reisner has since reportedly given testimony that directly implicates Magruder in the Watergate operation—testimony that was a crucial element in getting Magruder to finally admit his role in the conspiracy.

While not interviewing Reisner and other important aides to the top Nixon campaign officials, the FBI did talk with at least 18 low-level security guards—reflecting the prosecutors' apparent assumption that the bugging of the Watergate was a project conceived and authorized only by low and middle-level campaign aides, the sources said.

Other examples cited by the sources were these:

• Alfred C. Baldwin, the ex-FBI agent who monitored the Watergate telephone tap for three weeks, told the prosecutors last summer that he too had been urged by one of the re-election committee's lawyers to invoke the Fifth Amendment. That attorney, never

questioned by the FBI before the trial, is now being investigated by the grand jury.

• Although the prosecutors told their superiors at the Justice Department that a secretary to a key person in the Watergate conspiracy lied before the grand jury, perjury action was never instituted. The secretary has since been a key witness both before the Senate committee and renewed grand jury investigation and reportedly told a completely different story.

• Robert F. Bennett, head of the public relations firm that employed convicted Watergate conspirator E. Howard Hunt Jr., told prosecutors before the trial that Hunt had indicated to him several times that White House aides had advance knowledge of the bugging. The prosecutors told Bennett that they had no evidence to support the allegation.

The sources said that Bennett was also one of several witnesses who told the prosecutors that the White House and Nixon re-election committee had directed an undercover campaign of political espionage and sabotage.

Throughout the initial Watergate investigation, the prosecutors rejected assertions in the press that the Watergate bugging was part of that larger campaign of espionage and sabotage—although they knew that two of the Watergate conspirators, Hunt and Liddy, were deeply involved in all the activities.

Senate investigators are known to have concluded that perhaps the gravest failing of the initial Watergate investigation was the decision not to pursue allegations of political espionage and sabotage beyond the bugging operation.

Last year the Justice Department ruled that such political espionage and sabotage might be unethical but certainly involved no violations of the law.

On Oct. 25, Attorney General Richard G. Kleindienst referred to the ruling and said: "The full matter . . . if there is one, has gotten such an exposure in some parts of the media—like I say, based on hearsay, rumor, speculation—that the public attention to it, if any does exist, is probably a great (and, he said later on, sufficient) deterrent."

With the establishment of the Senate Watergate investigating committee in February, however, the Justice Department began prob-

ing the espionage, at least in Florida, where California attorney Donald H. Segretti was indicted yesterday on charges of distributing deceptive campaign literature.

Despite that indictment, Justice Department sources said earlier this week that there still are no plans to broaden the Watergate grand jury's investigation to include such activities as those engaged in by Segretti and an estimated 50 other political saboteurs who worked on behalf of President Nixon's re-election.

Justice Department attorneys were unable to explain how the Segretti indictment in Florida is consistent with its earlier ruling on political espionage and sabotage or why similar activities by others are not being investigated.

One government attorney said it has not been established that at least six people committed perjury before the first grand jury investigation. "The prosecution was confronted with an elaborate cover-up and conspiracy to tell lies—what could they do? They just didn't expect that. Would you?"

Sources familiar with the Senate probe said that the investigation of the prosecution is presently low priority, but definitely will be given higher priority later this year.

Though the Senate resolution establishing the Watergate committee does not specifically empower the seven-member panel to investigate the prosecution of the case, Sen. Sam J. Ervin Jr. (D-N.C.), chairman of the committee, has said he intends "to investigate the investigators."