

# White House Requests Action To Return Dean's Documents

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The White House has requested the Justice Department to take "appropriate action" to recover nine documents apparently related to the Watergate affair that former White House counsel John W. Dean III put into a Virginia bank safety deposit box.

The White House sent a letter signed by Dean's replacement, Leonard Garment, to Deputy Attorney General Joseph T. Sneed on Monday asking him to begin legal proceedings to retrieve the documents, an informed source said yesterday. The keys to the deposit box were turned over to Chief U.S. District Judge John J. Sirica to take custody of the box and its contents.

Commenting on the documents, a White House source said, "We want the originals back. They're our papers, Goddamit." The source said that if anyone is concerned "that we're going to do anything sneaky, let the court hang on to a copy."

Precisely what is in the documents could not be determined. The White House official said he does not know what the papers contain. "Dean says they're classified," the official said, "and we're not in a position to dispute that." Sources close to the prosecution also have indicated that they do not know what the papers contain.

White House sources have said that Dean has kept White House records and other documents that he believes constitute circumstantial evidence that former presidential aides H. R. (Bob) Haldeman and John D. Ehrlichman directed a coverup of the Watergate affair. Dean also is reportedly prepared to assert that he believes President Nixon had knowledge last year of the cover-up.

In a related development, the Senate select committee investigating the Watergate affair voted yesterday to subpoena Dean to talk to its staff this week, and to begin proceedings to obtain limited immunity from prosecution for Dean should he testify before the committee, which is to begin public hearings May 17.

## The Watergate

The Central Intelligence Agency submitted memoranda to the Daniel Ellsberg trial judge claiming that it cut off assistance to Watergate conspirator E. Howard Hunt Jr. as soon as the agency suspected he was engaged in a "domestic clandestine operation." The operation involved the burglary of the office of Ellsberg's psychiatrist in 1971. **Page A1.**

Documents related to the break-in and the CIA's assistance to Hunt were given to the court last week over President Nixon's initial resistance, it was learned. He was persuaded to release them by Elliot L. Richardson, the attorney-general designate, and Assistant Attorney General Henry Petersen. **Page A1.**

The State Department confirmed that it gave E. Howard Hunt copies of 240 classified diplomatic cables at the request of the White House in 1971. Hunt used the cables for reference material in an attempt to link President Kennedy with the assassination of South Vietnamese President Diem in 1963. **Page A1.**

Egil Krogh, Under Secretary of Transportation, is expected to resign today as a result of his involvement in the break-in at the office of Ellsberg's psychiatrist. **Page A19.**

The White House reversed an earlier position and said that Elliot Richardson will have full authority to grant immunity to Watergate case witnesses. **Page A1.**

The Justice Department has been asked by the White House to recover nine documents—apparently related to the Watergate affair—from a safety deposit box rented by former White House Counsel John W. Dean III. **Page A8.**

Elliot Richardson has begun his search for a special prosecutor for the Watergate case. Hearings on Richardson's confirmation as attorney general open today. **Page A1.**

Sen. Sam J. Ervin Jr., (D-N.C.) chairman of the select committee, said that Dean will be granted immunity, which would not completely protect him from prosecution, if the committee determines that it is necessary. In addition, the committee voted to ask the U.S. Attorney General to waive the statutory 10-day waiting period the committee applies for immunity until a federal court can grant it.

Federal prosecutors investigating the Watergate affair and the alleged attempt by White House and Nixon campaign committee officials to coverup the scandal have decided not to grant Dean immunity from prosecution for testimony before a grand jury or in court.

A source close to the Senate committee said yesterday that former deputy Nixon campaign manager Jeb Stuart Magruder will be given limited immunity if the committee decides to call him to testify at its hearings.

Convicted Watergate conspirator E. Howard Hunt, Jr. already has been given immunity by Judge Sirica at

the request of the committee. No witness list has been made available for the hearings, which Ervin said last week will be conducted in three stages, beginning with the Watergate bugging. Sources close to the committee indicated that the four convicted Watergate burglars from Miami—Bernard L. Barker, Virgilio R. Gonzalez, Eugenio R. Martinez and Frank Sturgis—will be called. In addition, Magruder and convicted Watergate conspirator G. Gordon Liddy will also be called, according to the sources.

Whether or not Dean will be granted immunity, one source said, will depend on whether "he takes the Fifth (Amendment) and if we're satisfied that we need it."

Judges may grant two kinds of immunity—"use" immunity and "transactional" or "blanket" immunity. Discussions of immunity for witnesses before the grand jury and the Senate committee have involved use immunity, which bars the prosecution from using in court against the witness anything he testifies about.

A witness who testifies after being given use immunity still can be prosecuted for things he testifies about if the prosecution can present independent evidence and testimony concerning the alleged crime, legal sources explained.

The other type of immunity—transactional or "blanket" immunity—would bar the prosecution of a witness for anything he discussed, whether independent evidence and testimony could be presented or not. Transactional immunity, so far as is known, has not been contemplated for any potential witness before the grand jury or the Senate select committee.

One legal source who has been involved in discussions of immunity said that in the context of the Watergate affair, "use immunity means nothing" in terms of saving

a witness from future prosecution.

Another legal source, acknowledging that a grant of use immunity is no safeguard against prosecution, said that this form of immunity is beneficial to a witness because the prosecution then has the added burden of demonstrating that evidence against the witness in a subsequent trial was not developed from his immunized testimony.

This source said that receiving use immunity makes it more difficult but not impossible for the prosecution to present a case against a witness for the crimes he has testified about.

Once a witness is granted use immunity, he must answer questions he is asked under oath—either before a grand jury or a congressional committee. If he refuses to answer, the witness can be cited for contempt.

The White House announced yesterday that Attorney General-designate Elliot L. Richardson has a "totally free hand" to conduct the Watergate investigation and that Richardson can grant immunity to witnesses if he believes it is necessary to encourage testimony.

The decision by the White House to try to recover the documents that Dean's lawyers say are in the bank safety deposit box places the Justice Department in an apparently awkward situation.

Sources close to the investigation indicated that Dean placed the documents in the deposit box in the Alexandria National Bank after consultation with the prosecution directing the grand jury investigation.

Dean was notified in a letter from Senate Majority Leader Mike Mansfield (D-Mont.) on Jan. 16 that he was to safeguard any documents in his possession that might relate to the Senate investigation into the Water-

gate affair. On the other hand, legal sources said, Dean could not turn classified documents over to the prosecutors because they lack the necessary security clearance.

Garment's letter to Sneed, asking the Justice Department to get the Dean documents back, is in effect a request to negate an arrangement made by the Justice Department's own prosecutors.

When asked to comment on the situation, a Justice Department spokesman refused comment except to say, "The entire matter is under advisement by the Department of Justice."

Spirica has set no date for a hearing on whether he will retain custody of the documents and reportedly has not decided whether to hold a hearing on the matter at all.

Although Dean has not yet spoken to the Senate staff, he reportedly met with one committee member, Sen. Lowell P. Weicker Jr. (R-Conn.) for almost three hours last Thursday.

Associates of Dean, who declared on April 19 that he would not be a "scapegoat," insist that he is being forced to accept responsibility for the actions of others and that an effort is being made to discredit him.

One associate of Dean said yesterday that President Nixon had attempted to get Dean to sign a resignation letter that was a "virtual confession." Had Dean signed the letter, the associate said, "Haldeman, Ehrlichman and the rest would have been safe with maybe a few questions asked but nothing else would have happened."

Following that attempt, the source close to Dean said, the White House began to attempt to discredit Dean, both publicly and behind the scenes. While negotiating with the select committee over guidelines, the source said, Ehrlichman attempted to block any grant of immunity that would permit Dean to testify.

In addition, the source said, before President Nixon announced their resignations on April 30, Haldeman and Ehrlichman were combing old memos Dean had written, "not necessarily what he had done in Watergate," but trying to find "some misfeasance they could float out to show that John was not a proper employee."

Dean's associates said that the attempt to recover the contents of the safety deposit box is being conducted under the assertion that matters concerning national security are in the box. Dean is aware of illegal actions that were taken in the name of national security and that "really aren't," the associate said.

In a related development, the Senate committee staff interviewed former Commerce Secretary Maurice H. Stans yesterday. He was chairman of President Nixon's 1972 election finance committee. According to information from federal investigators, Stans kept as much as \$900,000 in campaign funds in his office safe. Funds from this safe were used to finance the bugging and break-in of the Democrats' Watergate headquarters, according to testimony at the trial.