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Senate Unit To Act on Nixon Files

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Washington Post Staff Writers

The chief counsel of the Senate Watergate committee accused the White House yesterday of refusing to cooperate with the committee's investigation and said the committee will probably vote today on whether to subpoena documents that President Nixon has declined to turn over to the panel.

Referring to the White House refusal to supply the documents, chief counsel Samuel Dash told reporters: "Obviously we've reached a point where they've decided it's not appropriate to cooperate."

Dash's comments came amid reports from both White House and committee sources that they expect the current round of Senate hearings to end next month without resolving the question of President Nixon's role in the Watergate affair.

According to Senate sources, the difficulty in understanding what role Mr. Nixon may have played has been compounded by his refusal to appear before the committee or to supply White House documents formally sought by the committee.

Senate sources said they expect the committee to vote to subpoena the White House documents, thus setting the stage for a possible constitutional struggle between Mr. Nixon and the Congress.

In a letter to the Senate committee released Saturday, the President declined either to testify before the committee or to supply White House papers, adding that it was his obligation "to defend the office of the presidency against encroachment by other branches."

Dash said the committee staff has prepared a memorandum of law on the question of whether it has au-

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thority to subpoena the documents and that the memo will be presented to members of the committee for probable action during an executive session this morning.

Although the counsel refused to disclose the contents of the memorandum, committee sources said it argues that there is clear authority to subpoena all White House papers relevant to the Watergate investigation and recommends that the Senate committee vote to compel the President to surrender them to the panel.



By James K. W. Atherton—The Washington Post

A blow-up of John Mitchell's June, 1972, log hangs above Sen. Herman E. Talmadge

(left) as he questions the former Attorney General. Sen. Joseph M. Montoya looks on.

in a brief meeting with reporters late yesterday, Dash said the question of obtaining testimony from the President will probably be discussed at a future committee meeting, after the issue of access to White House records is resolved.

If the committee votes to subpoena White House papers and Mr. Nixon refuses to turn them over, the issue presumably would have to be resolved in the courts.

Although the committee has formally requested that the White House supply all documents in its possession that may be relevant to the Watergate investigation, the Senate panel expressed particular interest in obtaining the following papers, according to Senate sources:

- Daily news summaries prepared for the President, in which Mr. Nixon purportedly wrote hand-written notations on the margins to White House aides regarding Watergate news accounts. According to former presidential counsel John W. Dean III, such notes support his testimony that Mr. Nixon had knowledge of the cover-up while it was occurring.

- Notes purportedly taken by former White House chief of staff H. R. (Bob) Haldeman during discussions with Dean. Dean has told committee investigators

that such notes deal explicitly with the Watergate cover-up and that Haldeman carried them with him to brief Mr. Nixon on Watergate developments.

- Briefing papers and notes used to prepare the President for news conference questions regarding Watergate and similar papers used to prepare White House press secretary Ronald L. Ziegler for his meetings with the press.

- All White House papers from the files of Haldeman, Dean and former presidential deputy John D. Ehrlichman that might relate to the Watergate affair or secret intelligence-gathering operations undertaken by the White House.

According to Senate sources, the committee first made a general request to the White House about two weeks ago for all correspondence, notes, diaries and press briefing papers relating to Watergate. Following the initial request, the White House asked the committee to be more specific and the committee supplied a detailed list of items, the sources reported.

The committee's last request went unanswered by the White House until last Saturday, when President Nixon sent a letter to the chairman, Sen. Sam Ervin (D-N.C.), stating that under no circumstances would he testify before the panel or open presidential papers for committee inspection.

Regarding the commit-

tee's request for White House documents, Mr. Nixon wrote:

"No President could function if the private papers of his office, prepared by his personal staff, were open to public scrutiny. Formulation of sound public policy requires that the President and his personal staff be able to communicate among themselves in complete candor, and that their tentative judgments, their exploration of alternatives, and their frank comments on issues and personalities at home and abroad remain confidential."

Dash also said the committee will issue an interim report following completion of the current phase of hearings, which deals solely with the Watergate bugging and the subsequent cover-up by the White House.

Although Dash declined to discuss what such a report might contain, committee sources said it would undoubtedly discuss any role of the President in the Watergate affair and what possible action — if any — may be warranted against Mr. Nixon.

According to Senate sources, such a report dealing with the President will reflect the committee's expected failure to clearly resolve the question of Mr. Nixon's role in Watergate.

The next 10 former high administration officials scheduled to testify will "both confirm much of (former White House counsel) John Dean's testimony and refute much of it," according to one White House source. "But the net result will be a cloud of ambiguity."

One Senate committee Republican source said: "From what we have of preliminary testimony—and that is a good amount—the question of the President's guilt will lean in his favor but still be very much up in the air."

In a week of sworn testimony last month, Dean charged that the President was aware of the Watergate cover-up as early as last September.

Former top presidential aides Haldeman and Ehrlichman will testify to the contrary, according to the sources, but in the course of testimony by other witnesses the two aides will be so heavily implicated in the Watergate cover-up that their credibility will be severely damaged.

"We expect there will be no more direct charges against the President," said a second White House source, thus "stabilizing his legal position," and virtually ruling out an impeachment proceeding in the view of this source.

The source said the testimony will still leave the President in a difficult political position, particularly in regard to restoring public confidence in his administration.

Specifically, the Senate White House sources said they expect former Attorney General John N. Mitchell, former CIA officials and former acting Director of the FBI L. Patrick Gray III to give testimony showing that the President was not overly eager to have the Watergate investigation pushed, though the President gave lip service to a full investigation.

For example, Gray has told investigators that on Feb. 15, when he met with the President, Mr. Nixon

voiced concern about FBI leaks to the news media rather than the substance of the investigation.

Gray reportedly quoted the President as saying: "Pat, you're not exercising the same leadership as (former FBI Director J. Edgar) Hoover. You're not ruthless enough in getting polygraphs (lie detector tests) to stop these leaks. Get tougher."

Gray will also testify, according to the sources, that during a conversation with the President last summer several weeks after the Watergate arrests, the President did not seem very concerned about Gray's warning that the action of some presidential aides might "mortally wound" Mr. Nixon.

Mitchell, according to Senate sources, has said in an interview that the President never asked him for substantive information regarding Watergate and is expected to confirm this during his testimony today.

In addition, the sources said that the testimony of former presidential special counsel Charles W. Colson, one of Mr. Nixon's strongest defenders, may not help the President's position.

Colson has said publicly and is expected to testify under oath that he personally warned the President in January that there might be White House involvement in the Watergate operation.

This was three months before the President has said he opened a new White House investigation into the matter. Colson has said that the President was unable to get the facts from his aides, particularly from Dean.

Richard A. Moore, a special White House counsel and probable Watergate witness, is expected to confirm Dean's testimony about an early February meeting in which top White House aides, including Haldeman, planned to set up road blocks in the Senate Watergate investigation.

However, the sources said that Moore will dispute Dean's testimony that Moore contacted former Attorney General Mitchell about the payoffs of money to the Watergate defendants.

Moore, the sources said, will also testify that he has no knowledge that President Nixon knew of the cover-up prior to March 21, when Mr. Nixon has said he initiated his own Watergate probe.

White House and Senate sources said this week that they are uncertain about some important details of expected testimony from former White House aides Gordon Strachan and Egil Krogh Jr.

Strachan, a former political aide to Haldeman, is expected to testify that Haldeman knew of the Watergate bugging plans and the subsequent cover-up according to reliable sources. None of the sources in the White House or Senate contacted in the last week had any idea about what Strachan might have to say about the President, however.

Krogh, a former aide to Ehrlichman, has said that the orders for the 1971 burglary of the office of Daniel Ellsberg's psychiatrist came directly from the "Oval Office," the main office of the President, according to Dean's sworn public testimony before the Senate Watergate committee.

It could not be learned whether Krogh will confirm or dispute Dean's testimony on this crucial point.