

Grand Jury Seen Getting Agnew Case

By Richard M. Cohen
Washington Post Staff Writer

Attorney General Elliot L. Richardson appears to have decided to allow a special grand jury in Baltimore to investigate allegations against Vice President Spiro T. Agnew.

Informed sources said Richardson has deferred ruling on whether the Constitution would allow a Vice President to be indicted.

Indications of the Attorney General's strategy emerged from several sources last night in the wake of widespread reports, including those by The New York Times, CBS News, and the Associated Press, that Richardson had decided to allow testimony before the grand jury on allegations that Agnew received kickbacks from Maryland contractors.

The Justice Department refused to confirm or deny the substance of these reports last night, but the Justice Department spokesmen took pains to make clear that their previous routine "no" to questions about whether Richardson had made a decision in the case was now being changed to "no comment."

The question of whether a President, Vice President or persons whom the Constitu-

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tion refers to as "civil officers" can be indicted before they are impeached has never been settled. In the case of a Vice President, the question is unprecedented.

The Constitution provides that these federal officers can be removed from office through impeachment by the House of Representatives and conviction by the Senate for "treason, bribery or other high crimes and misdemeanors." It does not say that impeachment must precede indictment and constitutional scholars have been arguing both sides of the issue for years.

President Nixon's chief constitutional lawyer, Charles Alan Wright, asserted at a court hearing here in August that "There is only one court to which the President is answerable for any supposed dereliction of duty and that is the court of impeachment."

Sources close to the investigation confirmed that Richard-

son had made some kind of interim decision that avoided the question of whether a Vice President could be indicted.

One high administration source also pointed out that a grand jury has an investigative function and indicated that the Baltimore grand jury could be used for this function. Up to now, the allegations against Agnew were being investigated only by federal prosecutors in Baltimore, who were waiting for authorization from Richardson to present their information to the grand jury.

Normally, prosecutors also recommend to the grand jurors whether or not evidence warrants indictment of the target of the investigation. But if Richardson has sidestepped that decision in this case, it would leave the grand jury with the responsibility of telling the prosecutors it wanted to indict Agnew, if the evidence warranted it.

If the grand jury were to vote an indictment under such circumstances, Richardson would then have to decide whether he would allow George Beall, the U.S. Attorney for Maryland, to sign any indictment. A grand jury indictment is not legally in force unless it bears the signature of the U.S. Attorney and the grand jury foreman.

Either Richardson or the grand jury could alternatively recommend that any evidence it gathers be turned over to the House of Representatives for a decision on whether or not to impeach the Vice President. Or Richardson could initiate or wait for some kind of court action that would clear up the question of a Vice President's vulnerability to criminal prosecution.

Finally, if the grand jury were to find the allegations against Agnew to be unfounded, it could vote to ig-

more them, which would end the case at that point.

One of Agnew's attorneys, Judah Best, said last night that he (Best) had not been informed of any possible decisions by the Justice Department. However, he said Agnew's lawyers had met yesterday and "we came to certain conclusions and will implement them."

Best would not say whether he personally met with Agnew, but Jay H. Topkis, another Agnew lawyer, said that he did meet with the Vice President. Best added that he himself has not talked to prosecutor Beall this week.

Agnew's lawyers have several alternatives in proceeding on behalf of their client and obviously now have reached a decision on their strategy. One alternative they have been known to be contemplating was a civil action seeking to enjoin the Justice Department from presenting evidence concerning Agnew to a grand jury before the question of impeachment is settled.

If Agnew's lawyers sue to remove the case from the courts, neither Justice Department lawyers nor others concerned with the case are sure of whether the suit would stop the clock on the statute of limitations. The statutory time limit for some of the allegations against Agnew is known to be close to expiration. Normally, when a statute of limitations expires, a grand jury target cannot be indicted.

Lawyers close to the case speculated last night that Richardson might seek to isolate these questions about

... who are also under in-
...
... In allowing the prosecu-
... information to be presented to
... the grand jury, the govern-
... could seek an indictment
... against others separately from
... the grand jury. Constitutional
... issues involving Agnew. One
... lawyer with prosecutorial ex-
... perience said that the grand
... jury could in the end decide
... not to indict Agnew and a civil
... investigation of the possi-
... ble indictment of Agnew.
... In that event, the House of
... Representatives would probab-
... ly be given all the informa-
... tion gathered by the grand
... jury.
... Besides Agnew, at least two
... of his Maryland political asso-
... ciates and several businessmen
... are known to be under inves-
... tigation. Don L. Hammer-
... man and J. Walter Jones, two
... Agnew friends and political
... fundraisers, have been notified
... they are under investigation.
... Both men, like Agnew, have
... denied any wrongdoing. Ham-
... merman, however, is reported
... by informed sources to be co-
... operating with the prosecu-
... tors.
... In addition to these two,
... the case involves a group of
... Maryland contractors who
... have told prosecutors they
... personally made cash pay-
... ments to Agnew while he was
... Maryland governor and vice
... president in return for both
... state and federal government
... contracts. Another group of
... businessmen have told prosecu-
... tors, sources said, that they
... paid money to Agnew through
... intermediaries.