

Federal Jury Begins Probe of Agnew Case

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BALTIMORE, Sept. 27—A special federal grand jury today began hearing witnesses and evidence against Vice President Spiro T. Agnew in a history-making attempt by prosecutors to indict a sitting Vice President on criminal charges.

The grand jury session, conducted under strict and elaborate security precautions, lasted for about 7 hours, ending around 5 p.m. with the announcement that the panel would not return for another session until some time next week.

By then, legal sources predict, Agnew's lawyers will be prepared to file suit in an attempt to block the investigation on constitutional grounds. They have publicly contended that Agnew cannot be investigated by a grand jury until he is first removed from office.

None of Agnew's three lawyers—Jay H. Topkis and Martin London of New York and Judah Best of Washington—would comment today on why they failed to file the promised papers before the grand jury began hearing witnesses. Best had said last week that such a suit would be filed either yesterday or today.

The grand jury session, a marked exception to its usual half-day meetings, began promptly at 10 a.m. when William J. Muth, an obscure Agnew fundraiser and Baltimore County public relations man, entered the grand jury room, exercised his Fifth Amendment right not to answer questions and exited within five minutes.

His attorney, Phillip M. Sutley of Baltimore, told reporters that Muth had been called in relation to the Agnew investigation and not as a witness in the grand jury's parallel probe of political corruption in Maryland being conducted by the same grand jury.

Muth himself denounced the probe and later admitted that he, too, is a target of the grand jury investigation. He said that he was

joined in the grand jury waiting room by about 15 other persons, some of whom apparently were waiting to testify.

George Beall, the U.S. attorney for Maryland refused to say when the grand jury would be summoned back. In keeping with the secrecy surrounding any grand jury investigation and the detailed security precautions taken for this one, Beall would not divulge the number of witnesses who testified.

By early this morning, the 43-year-old Federal Courthouse here was center stage for a media spectacular. About 100 newsmen lined the halls and stationed themselves at exits in the hope of spotting grand jury witnesses. So tight was the security that some of the grand jurors themselves were seen wandering the halls, apparently searching for a way into the restricted area.

Federal marshals again restricted reporters from seeing who went into the grand jury room, cordoning off about half of the fifth floor of the courthouse where the panel was in session. The witnesses were led up to the

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jury room by a back stairs from the fourth floor office of the U.S. attorney.

Marshals and General Services Administration guards also barred newsmen from the courthouse's garage in the rear of the building, and a special Justice Department security expert, Winslow Joy, was detailed to supervise the operation.

At one point this morning,

the marshals seized three members of a CBS television crew who were seen by grand jurors on the rooftop of an adjacent building. The marshals confiscated the film and equipment and led the three to Beall's office, where he personally interrogated them.

Beall questioned them, they said later, about their equipment, asking if they could pick up sound from inside the courtroom and whether they could film the proceedings. At 2:30 p.m., about 2½ hours after they were seized by the marshals, the three were released. Beall, they said, had given each of them a chicken salad sandwich, a half pint of milk and a banana-flavored cake. He kept the film.

Tight security precautions have been in effect at every grand jury session since it became known publicly on Aug. 6 that Agnew was under investigation. The grand jury, thus far, has handed down one indictment in what appears to be a mushrooming probe of political corruption in Maryland. On Aug. 23 the grand jury indicted Agnew's successor as Baltimore County executive, Dale Anderson, on 39 counts of bribery, extortion and conspiracy. Anderson has pleaded not guilty to the charges.

Agnew, meanwhile, was in Washington, attending to his official duties. He participated in a morning White House meeting with President Nixon, cabinet officials and Republican congressional leaders. Later, he stood by in the Senate on the chance his vote might be needed to break a possible tie on a measure to accelerate development of the Trident submarine. His vote was not needed.

Agnew was notified Aug. 2 in a letter from Beall that he was under investigation here on allegations that he had broken bribery, conspiracy, extortion and tax laws.

The bulk of the case against Agnew, sources said, are allegations that he received kickbacks from Maryland architectural and engineering firms while governor of Maryland from 1966 to 1969, and later as Vice President.

Agnew has denied the allegations, calling some of them "damned lies." He has proclaimed his intention to remain in office and maintained that the grand jury does not have jurisdiction over him.

For this reason, Agnew said on Tuesday, he asked

House Speaker Carl Albert to authorize a congressional investigation of the charges against him. In his letter to Albert, Agnew said that he had been advised by his lawyers "that the constitution bars a criminal proceeding of any kind—federal or state, county or town—against a President or Vice President while he holds office."

Albert denied the request yesterday, prompting some knowledgeable legal sources to speculate that the rebuff was responsible for the delay in filing the suit to block the grand jury. Albert's refusal to allow the House to investigate the charges and Agnew's position that only the Congress can judge him could set the stage for a constitutional collision that may be settled only by the Supreme Court.

The grand jury, now dealing with both the Agnew investigation and the broader one of political corruption in Maryland, is likely to accelerate its schedule. The Agnew investigation, sources said, is under pressure to meet certain deadlines imposed by the five-year statute of limitations

on some of the allegations against Agnew.

The federal statute of limitations on bribery and extortion expires five years after the date of the offense. For tax fraud, the statute is six years after the date a tax return is filed.

Thus, any possible grand jury indictment of Agnew on bribery or extortion charges resulting from acts committed while he was Maryland governor would have to be based on alleged violations committed in the last months of his Maryland administration or since he became Vice President.

Conspiracy, is a different matter. There the government need only prove that any conspiracy was kept alive by an "overt act" that would extend the statute.

The legal situation, however, would be complicated if Agnew's lawyers sue to enjoin the grand jury from hearing evidence against the Vice President. Such a suit, under normal circumstances, might take months to resolve and the statutes might expire. It is likely, though, that such a suit would be expeditiously handled by the courts and resolved much quicker than an ordinary legal action.

Moreover, the government might move to protect itself against the possibility that the statutes might lapse by asking the grand jury to hand up sealed indictments. The indictments, which would be destroyed in the event the

government lost the suit, would be dated before the expiration of the statutes and could be opened after the court suit is resolved.

Informed sources said, however, that the government's case does not rest entirely on acts allegedly committed by Agnew when he was Maryland governor but also on acts allegedly committed while Vice President. Moreover, these sources say, the government is prepared to ask for what could amount to a multicount indictment. Many of these counts, the sources say, would not be affected by any approaching lapse of the statutes.

In addition to Agnew, at least two of his Maryland associates—J. Walter Jones and I. H. (Bud) Hammerman—have also been officially told they are targets of the grand jury. Jones, an Annapolis banker, is accused, sources said, of being an Agnew intermediary in the alleged transmission of bribes.

He has denied the allegation, saying the money he collected was for Agnew's campaigns.

Hammerman, a Baltimore mortgage banker and longtime Agnew friend, also denied any wrongdoing. Since then, however, informed sources have said that he is cooperating with the prosecutors and providing them with information on Agnew. The allegations against Agnew, sources said, include statements from three Maryland contractors that they personally handed money over to him. In addition, sources said, other Maryland contractors have told prosecutors they turned money over to intermediaries who, they said, later gave the funds to Agnew.

Attorney General Elliot L. Richardson announced Tuesday that the evidence would be submitted to the grand jury. The announcement came after the Justice Department officials, including Richardson, and Agnew's lawyers had concluded several sessions of what one source described as "delicate negotiations."

The negotiations, sources said, involved a Justice Department offer to allow Agnew to plead guilty to a relatively minor charge if he would authorize a statement of facts that indicated he had received bribes.

Richardson announced

that the negotiations had gotten nowhere and were broken off.

Judge Refuses to Void Charges Against Four

TOWSON, Md., Sept. 27 (AP) — Saying the cases should be tried on their merits, Judge Robert E. Clapp yesterday refused a raft of motions to void charges against four persons indicted by the Baltimore County grand jury. The grand jury has been investigating the county state's attorney's office.

However, the judge did dismiss two of the nine charges against Louis W. Irvin, the chief investigator of the county office. Clapp ruled that Irvin was not a "public officer" as specified in one of the indictments.

Lawyers for the four defendants, including State's Attorney Samuel A. Green, Jr., have argued the indictments returned by the county panel were defective on various procedural grounds.

But Clapp refused to dismiss the indictments, saying he felt the cases were of such importance they should be tried on their merits, "rather than have me as a single judge say right here these prosecutions must terminate."

The two dismissed indictments against Irvin were for common law extortion and common law misconduct in office, both were connected to an alleged plan to have the arrest record of a Catonsville gas station owner erased.

Irvin, 48, still faces charges of bribery, false pretenses and obstruction of justice.