

Additional Tapes Contain Gaps, Buzhardt Says

# Prosecutor: 'No Reason For Silences'

By George Lardner Jr.  
Washington Post Staff Writer

White House special counsel J. Fred Buzhardt Jr. acknowledged yesterday that the subpoenaed Watergate tapes contain a number of spots without any "identifiable sound."

Testifying in Federal court here, Buzhardt denied that the dead spots were significant, but Watergate prosecutors disagreed sharply.

Assistant Special Prosecutor Richard Ben-Veniste said that the tapes contain "substantial gaps" for no apparent reason. Since the White House recording system was supposed to have been "voice-actuated machinery," he said "there should be no reason for silence on the tape."

The new dispute arose in the midst of the current round of hearings before Chief U.S. District Judge John J. Sirica on a still-unexplained 18¼-minute erasure that evidently wiped out Mr. Nixon's first discussion of the Watergate scandal.

Buzhardt confessed that he was "shocked" when he discovered on Nov. 14 just how long this gap was.

Buzhardt also disclosed that he told Mr. Nixon the very next day—in the midst of the President's "Operation Candor"—that the recording involved was indeed covered by the Watergate grand jury's subpoena.

Deputy White House press secretary Gerald L. Warren has stated that "there was some confusion in the President's mind" when he had assured Republican governors in Memphis that they would not be hit with any more bombshells in the Watergate case. That was a week after Buzhardt testified he told the President.

Buzhardt conceded on the witness stand that the long 18¼-minute gap in Mr. Nixon's tape for June 20, 1972, was "serious," especially in light of the fact that former White House chief of staff H. R. Haldeman's notes show that Haldeman and the President talked about Watergate during the miss-

ing segment.

But the White House lawyer insisted that the silent spots on other tapes—which he did not identify—were inconsequential. In some cases, he said, the recording machines were touched off simply by the ticking of a clock or the rumbling of a truck and kept running for short periods.

"It's nothing to get excited about," Buzhardt told reporters. He said there was no other gap on the tapes remotely like the 18¼-minute humming noise that obscured the June 20 conversation.

During his questioning of Buzhardt, however, Ben-Veniste said the copying of the tapes, ordered by Judge Sirica as a security measure, also produced signs that "there were substantial periods lasting several minutes in which no sound was made."

He said a machine used to monitor the tapes during the copying process showed no sound at all.

Buzhardt said this was not what he had been told. "The report I had," he said, "was that there were periods on the (monitoring) screen where there was no conversation or signals of varying frequency such as conversation produces."

"We disagree on that," Ben-Veniste told him. The prosecutor said the issue would have to be resolved by the panel of six experts—jointly selected by the White House and Watergate prosecution force—whose pilot tests for any signs of tampering are expected to begin shortly.

The subpoenaed tapes were copied Nov. 13-14 at the Fort Meade, Md., headquarters of the National Security Agency, with representatives of both the White House and the Watergate force in attendance.

Acting White House counsel Leonard Garment protested what he called the raising of a "collateral issue" that would lead to news reports of additional gaps in the tapes. He said it should have been left to the experts.

Ben-Veniste contended that it was relevant. He said that the first day Buzhardt, by his testimony, concluded that the June 20 Nixon-Haldeman recording was covered by the grand jury subpoena was also "the first day that he learned there were gaps" in the conversations.

At the White House, press secretary Warren said that all the conversations on the tapes "are intact, except for that 18-minute portion." Like Buzhardt, he said the dead spots were short and inconsequential.

"It's a sound-activated system," Warren said. "An air-conditioner could turn it on and you can't hear the air-conditioning."

Warren also said he was standing by his statement that Mr. Nixon was doubtful about the subpoena's covering the June 20 recording, even after the report from Buzhardt.

He said Mr. Nixon found that hard to accept "after all these months of being told that the conversation (with Haldeman) was not subpoenaed."

Buzhardt maintained that "only the most careful reading" of a court memo filed by former Watergate special prosecutor Archibald Cox last August showed that it was covered by the subpoena. He said he did not really study that memo until Nov. 14.

Meanwhile, Buzhardt said he advised the President last summer—and White House chief of Staff Alexander M. Haig Jr. on Sept. 29—that the Haldeman conversation would not have to be produced even if the courts ordered surrender of the subpoenaed tapes. The original subpoena, he said, called for the tape of a meeting "involving" Mr. Nixon, Ehrlichman and Haldeman between "10:30 a.m. and noon (time approximate)" on June 20, 1972.

In his memo, Cox refined the request to include a meeting "from 10:30 a.m. until approximately 12:45 p.m." in which "Ehrlichman and then Haldeman went to see the President."

Judge Sirica was openly skeptical of Buzhardt's explanation.

"You mean to say it takes a careful reading of that paragraph to conclude that the subpoena called for the conversation of Mr. Haldeman and Mr. Ehrlichman?" the judge demanded at one point.

"In my opinion, your Honor, it takes a very careful reading," Buzhardt replied, "because it calls for two meetings, not one."

Buzhardt said he told Haig of the 18¼-minute gap in the June 20 tape on the morning of Nov. 15. Until

then, the White House lawyer said, he thought that Mr. Nixon's personal secretary, Rose Mary Woods, had accidentally obliterated it for only about 4½ minutes. Buzhardt said he also told Haig at the same session of his newfound conclusion that "this was a conversation sought under the subpoena."

"He (Haig) said it was a mighty late date to find out this was a subpoenaed conversation," Buzhardt recalled. Buzhardt said he gave the same message to Mr. Nixon later that day.

Buzhardt's testimony also conflicted in some respects with that of Miss Woods who left the stand earlier in the day with the mystery over the erasure deeper than ever.

She had testified that she typed out the "gist" of the subpoenaed recordings (except for the Haldeman conversation) for Mr. Nixon, but never saw her rough transcripts again after she gave them to the President. She said she made no copies.

Buzhardt, however, said he himself returned one of those transcripts to Miss Woods, either in late October or early November "to see if she could do better." During the same chat, he said, he told her that Mr. Nixon had informed him "about the mistake she'd made" on the June 20 tape.

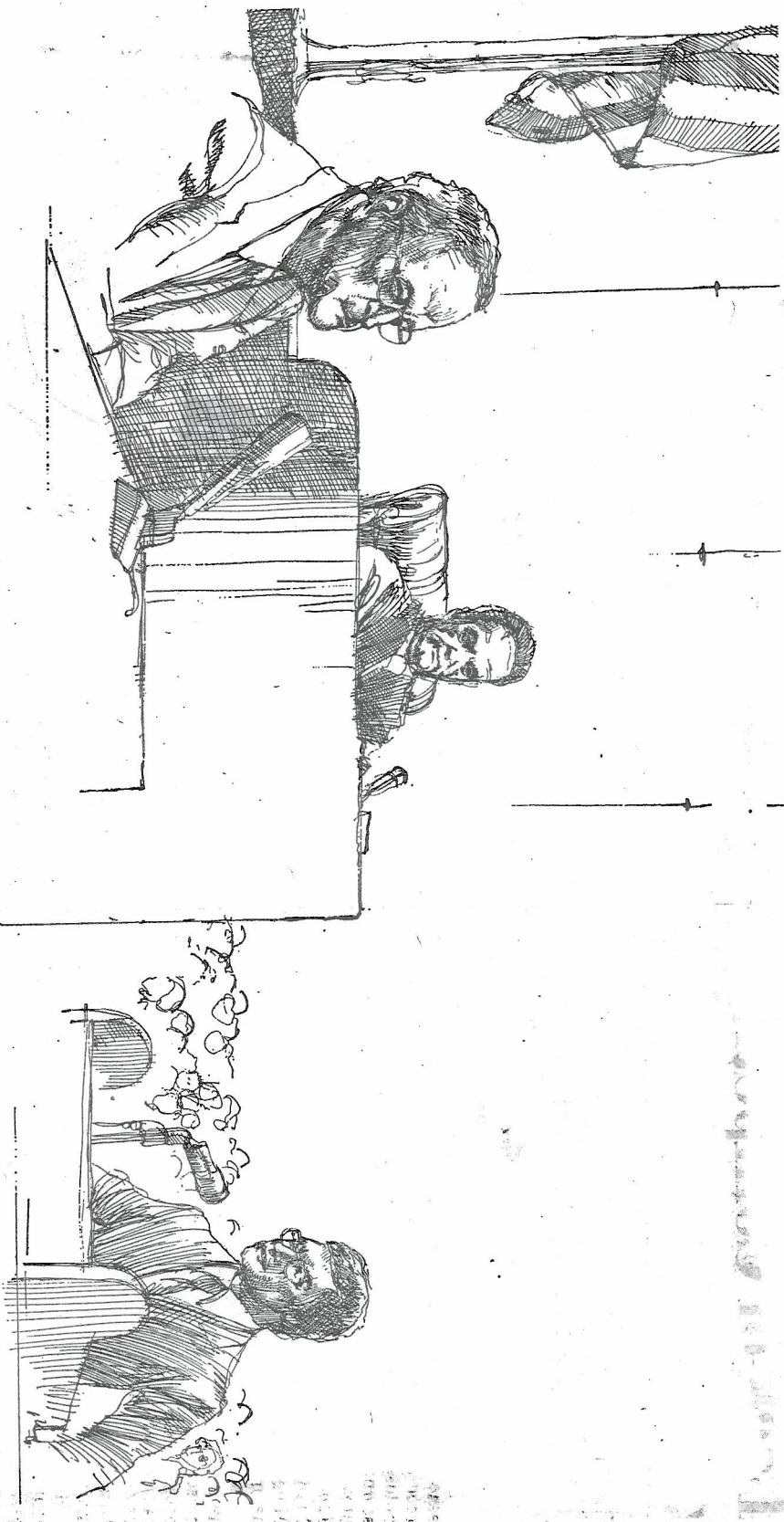
Miss Woods apparently didn't remember that when she was testifying Monday. Asked if she'd discussed the mishap with Buzhardt, Miss Woods said Monday that she did not believe she had. "I've talked to him many times since Oct. 1 (when she says she mistakenly pressed the wrong button on her recording machine), but not about this accident," she said.

Winding up her testimony yesterday, Miss Woods was somewhat hard put to explain how she might have wiped out any of the conversation on the missing 18-minute segment.

Growing testier under persistent questioning by Jill Volner, assistant special prosecutor, the President's secretary said she could have caused a short five-minute gap in the tape when she was reviewing it for Mr. Nixon in her White House office last Oct. 1.

She said she accidentally





Composite sketch by David Suter for The Washington Post

**White House Special Counsel J. Fred Buzhardt** Special Prosecutor **Richard Ben-Veniste** dis-  
**Jr., left, Judge John J. Sirica and assistant** cuss the dead spots on the subpoenaed Water-  
**gate tapes, which Buzhardt asserts are not**  
**significant while Ben-Veniste differs sharply.**

pushed the "recording" key when she meant to push "stop" as she was answering a phone. While on the line, she said she must have kept her left foot on the floor pedal she had been using. Otherwise the machine would have stopped, even with the "recording" key down.

White House photographs of Miss Woods at work, taken at her office Tuesday afternoon and submitted in court yesterday, indicated that all this would

have required some awkward contortions. Miss Woods' desk is six feet one inch long and her phone is a good stretch from the typing table where she had her recording machine.

Mrs. Volner summed up the problem with a question.  
 "Is it comfortable to keep your left foot on the pedal, roll the chair back and take off your ear phones?" she asked Miss Woods, wondering how she answered the phone.

"It isn't even comfortable to answer 50 to 60 phone calls (a day)," Miss Woods replied. "It just happens to be the fastest way to take notes. Of all the tapes I typed, this seems to be the only case where I left my foot on the pedal."

"Everybody keeps saying I left my foot on the pedal," the President's longtime secretary added. But, she said, "I couldn't swear it did happen."  
 Miss Woods was firmer

than ever, though on the length of her phone call, after which she said she immediately noticed her mistake.

"I must emphasize," she said. "I was not on the phone for 18½ minutes."

Mrs. Volner kept going. She pointed out that Miss Woods' phone has a number of buttons on it, which might have to be pushed to get the right extension for the incoming call. Miss Woods has said she reached back to the phone with her left hand, scooped up the receiver, and cradled it in her left shoulder while accidentally pushing the "recording" key with her right hand.  
 "I'd like to know how you picked up the telephone and held it against your shoulder without dropping it if you pushed a (phone) button with your left hand," Mrs. Volner said.  
 Miss Woods: "If I could remember that there isn't a soul on earth who would be more glad than I."