

Tapes 'Privilege' Challenged

Inspection Urged

By William Claiborne
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Watergate Special Prosecutor Leon Jaworski yesterday challenged President Nixon's claim of executive privilege for the White House tape recordings surrendered to the U.S. District Court on Monday, and asked that they be turned over to a federal grand jury after a private inspection by Chief Judge John J. Sirica.

The subpoenaed tapes are bound to be relevant to the Watergate probe and should be given to the grand jury "irrespective of whether the President believes they concern 'possible criminal conduct' . . ." Jaworski argued in a written response to a White House analysis of documents and recordings it delivered to Sirica Monday.

Brushing aside the claim by White House special counsel J. Fred Buzhardt that some of the tapes and documents involve confidential communications between the President and his staff and are not relevant to the thrust of the Watergate investigation, Jaworski asked Sirica to inspect the material and decide for himself whether executive privilege can be invoked for any reason.

"The unsworn, conclusory allegations of (Buzhardt) cannot suffice to preclude this inspection by the court," Jaworski argued.

Moreover, Jaworski asked Sirica to order the White House to turn over to the court transcripts and summaries of

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subpoenaed presidential tape recordings. The transcripts were typed by Mr. Nixon's private secretary, Rose Mary Woods, who has testified that she made only one copy and gave it to the President.

Jaworski noted that Buzhardt's analysis of the surrendered tapes and documents made no mention of the typed transcripts. The special prosecutor said "their production will be of obvious assistance to the court and the grand jury."

Sirica said he will conduct a hearing on Jaworski's request today.

The special prosecutor submitted a list of 11 tape recordings, cassette recordings, dictabelts and memoranda for which the President asserted no particular claim of executive privilege.

These, Jaworski argued, should be handed over to the special prosecution at-

torneys for immediate presentation to the Watergate grand jury solely on the basis that executive privilege was not claimed.

They include the President's notes of an April 15, 1973, meeting with former White House counsel John W. Dean III, a dictabelt recording of the President's recollections of a June 20, 1972 telephone conversation with former Attorney General John N. Mitchell, and tape recordings of conversations between Mr. Nixon and White House aides H. R. (Bob) Haldeman and John D. Ehrlichman.

Each of the remaining four tape recordings for which the White House has claimed executive privilege should be heard privately by Sirica, after which the judge should rule on their relevance to the Watergate criminal prosecution, Jaworski said.

Attorneys of the special prosecution force pointed out that Sirica would have listened to the tapes in any event, but that he would not necessarily have ruled on their relevancy.

"It is too late to try to restrict this court's inquiry by implying that it is still for the White House to decide whether particular Watergate-related conversations with the President . . . can be concealed," the special prosecutor argued.

As an example, Jaworski cited a tape recording of a June 20, 1972, conversation between the President and Ehrlichman. On Monday, Buzhardt claimed executive privilege on the tape, partly because "nothing in the conversation relates to Watergate or anything connected therewith."

Jaworski pointed out that according to the White House analysis, the conversation included a discussion of the Supreme Court's ruling on domestic national security wiretapping.

"Since the Supreme Court decision on wiretapping was filed only two days after the Watergate break-in and wiretapping was discovered, it is entirely plausible . . . that there were references, no matter how remote, to the Watergate wiretapping during the discussion of this decision," Jaworski said.

Jaworski also noted that Ehrlichman, after checking his notes, testified under oath before the Senate Watergate committee that

he was "sure" there was some discussion of Watergate with the President on June 20, 1972.

Asked yesterday whether his client still stood behind that testimony, Ehrlichman's attorney, John Wilson, declined to comment.