

WXPost JUL 27 1974
**Kleindienst
Disbarment
Not Ordered**

By John P. MacKenzie
Washington Post Staff Writer

The D.C. Court of Appeals has decided that the crime to which former Attorney General Richard G. Kleindienst pleaded guilty is not a "serious crime" requiring automatic suspension from law practice.

In a one-sentence order, the court, which has the final power to disbar or suspend Washington attorneys, has referred the Kleindienst case to the D.C. bar's disciplinary board "for whatever action it may deem warranted."

Under court rules, suspension pending further disciplinary action is mandatory when a lawyer has been convicted of felony or a misdemeanor that the court regards as "a serious crime." The Kleindienst case was sent to the disciplinary board under a rule governing "a crime not constituting a serious crime."

Ultimate disbarment or a lesser sanction is still possible under the court rules, depending in the first in-

See KLEINDIENST, A7, Col.

KLEINDIENST, From A1
stance on the action of the board. Board chairman Frederick A. Ballard could not be reached for comment yesterday and Fred Grabowski, counsel for the D.C. bar, refused comment.

Kleindienst received a suspended sentence last month following his plea of guilty to withholding testimony from the Senate Judiciary Committee at his 1971 confirmation hearings.

The plea was the result of extensive bargaining with the office of Watergate Special Prosecutor Leon Jaworski. The charge, a form of contempt of Congress, was widely regarded as a substitute for a charge of perjury, a felony that would have brought automatic suspension from the bar both here and Arizona, where Kleindienst also is licensed.

Kleindienst admitted withholding from the Senate committee the fact that President Nixon had ordered him to drop a government antitrust appeal against International Telephone & Telegraph Corp. The committee was investigating whether ITT had exerted undue influence on the Justice Department in cases handled by Kleindienst.

The one-sentence court order, which was issued July 3, did not give the judges' reasons for treating the misdemeanor as less than "serious."

A serious crime under the rules includes "any felony and any lesser crime a nec-

essary element of which, as determined by the statutory or common law definition of such crime, involves improper conduct as an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud" and several other factors.

Legal experts say there is little court precedent to guide the court of the bar in deciding whether the crime of contempt of Congress necessarily involves such factors as misrepresentation and deceit.

The order was accompanied by the separate opinions of several of the court's seven participating judges. An eighth judge, J. Walter Yeagley, a former assistant attorney general who served with Kleindienst at the Justice Department, did not vote.

Judges Catherine B. Kelly, Austin L. Fickling, John W. Kern III and George R. Gallagher noted that "the gravity of the conduct of Richard G. Kleindienst in terms of discipline has yet to be determined." They said it was "unnecessary to give advance guidance of any kind" to the disciplinary board.

Judge Frank Q. Nebeker said the court's order should not be interpreted as indicating the judges have decided that Kleindienst is guilty of professional misconduct merely because of his conviction. He said the board's first task is to decide "whether there is professional misconduct underlying the conviction."