



A couple strolling on beach at the Nixon estate in San Clemente, Calif., now open, but not very accessible. Associated Press

White House Says Tapes Are Nixon's Own Property

By JOHN M. CREWDSON
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WASHINGTON, Aug. 14 — The tape recordings that former President Nixon made of thousands of hours of conversations with aides, associates and advisers are his personal property and will be returned to his control, a White House spokesman said today.

President Ford's press secretary, J. F. terHorst, said that the decision was based on a "formal," although unwritten, opinion by James St. Clair and J. Fred Buzhardt Jr., the two White House lawyers who coordinated Mr. Nixon's Watergate defense while he was President. Mr. St. Clair resigned today to return to private practice in Boston, as he had been expected to do.

Mr. terHorst said that the opinion, which is consistent with historical precedents that reaching back to George Washington, applied to all tapes produced in the 29 months that the White House recordings system was in operation, including those containing the 62 conversations turned over so far to Judge J. Sirica of United States District Court.

The decision, which was communicated to Leon Jaworski, the Watergate special prosecutor, does not affect the status of the tapes now in Judge Sirica's possession, Mr. terHorst said, adding that the former President would regain control of them only after they were no longer necessary to the criminal justice process.

Mr. Jaworski and Archibald Cox, his predecessor as special prosecutor, between them subpoenaed the recordings of 73 conversations that were believed relevant to the cover-up of the Watergate case.

Moreover, the House Judiciary Committee issued subpoenas for more than 150 recorded conversations in its inquiry into Mr. Nixon's impeachment. That material is still at the White House.

The Judiciary Committee's subpoena was never complied with by the White House, and Congressional aides said today that they did not expect it to be reissued to Mr. Nixon as a private citizen, since the com-

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mittee's impeachment report was already in draft form.

Of the 73 conversations subpoenaed by the special prosecutor's office, 10 have been reported by the White House as not having been recorded. Mr. St. Clair has said one is missing.

None of the tapes now in the White House are under subpoena by the Watergate officials said that future subpoenas from Mr. Jaworski or other authorities would have to be addressed to Mr. Nixon, who is in seclusion at his San Clemente, Calif., estate.

The Ford Administration no longer has any stake in, or control over the tapes," one official said.

The White House lawyers also decided that Mr. Nixon was entitled to remove from the Executive Mansion all his personal Presidential papers, according to Mr. terHorst.

Prosecutor Informed

John Barker, a spokesman for Mr. Jaworski, said only that his office had been "informed" by the White House of the lawyers' decision, but a White House official said that the special prosecutor had raised no objection to it.

The official pointed out that the opinion was based on precedent, rather than law, that virtually all former Presidents had been allowed to take with them

the records of their Administrations, although technically the materials, purchased with public funds, were Government property.

The custom in recent years among former Presidents has been to place such documents in Presidential libraries, and Mr. Nixon has been told by associates that plans to build such a depository for him have been set in motion, although no site has yet been selected.

Ronald L. Ziegler, the former Presidential press secretary who accompanied Mr. Nixon to San Clemente last Friday, failed to respond to a query about how soon the former President expected to remove the tapes and documents from the White House, or what legal defense, if any, he might raise if additional subpoenas were issued for any of the materials.

Legal authorities are divided

over the question of whether Mr. Nixon could successfully raise claims of executive privilege in the event that demands were made by Mr. Jaworski or others for materials that might have been protected by confidentiality if he had remained in office.

It is generally believed, however, that a prosecuting authority would now have no more, and perhaps less, difficulty in obtaining tapes or other materials believed relevant to possible criminal conduct than he would with Mr. Nixon in the White House.

Before his departure, Mr. St. Clair raised claims of privilege for some portions of the conversations turned over to Judge

Sirica, following a Supreme Court decision upholding Mr. Jaworski's subpoena for them. Court officials said today that the judge had ordered 28 of the conversations turned over to the special prosecutor and was still considering the claims made for others.

Some of the materials returned to Mr. Nixon's control today could presumably be used as evidence at the impending Watergate cover-up trial, to bring new indictments in that area or others or to support the prosecution of Mr. Nixon himself.

The decision whether to proceed against Mr. Nixon now rests, by all accounts, squarely with Mr. Jaworski alone. Wil-

liam B. Saxbe, the Attorney General, said yesterday that he had told President Ford that he would leave the decision to the special prosecutor, and that he "got the feeling" that Mr. Ford intended to do the same.

Mr. terHorst and other White House aides have also indicated that Mr. Ford is not giving active consideration to the possibility of pardoning Mr. Nixon for his admitted role in the cover-up of responsibility for the Watergate bugging.

Mr. Barker was quoted today as saying that no decision on the prosecution of the former President had been made, and that none was imminent.