
Don Edwards
26. On July 18, 1973 Cox wrote to Buzhardt requesting eight tape recordings of conversations between the President and various White House staff and others whose conduct was under investigation in connection with the alleged cover-up of the Watergate break-in. Cox stated that the tapes were material and important evidence in an investigation of serious criminal misconduct.

26.1 Letter from Archibald Cox to J. Fred Buzhardt, July 18, 1973 (received from Watergate Special Prosecution Force).

27.1 Letter from Archibald Cox to J. Fred Buzhardt, July 20, 1973 (received from Watergate Special Prosecution Force).

27.2 Letter from J. Fred Buzhardt to Archibald Cox, July 25, 1973 (received from Watergate Special Prosecution Force).
27. On July 20, 1973 Cox wrote to Buzhardt expressing his concern about the care needed to insure that the tapes were preserved intact and to protect their integrity as possible evidence. He requested Buzhardt to take all necessary steps to see that custody of the tapes was properly limited and fully documented. On July 25, 1973 Buzhardt wrote to Cox that the tapes were being preserved intact. Buzhardt stated that the tapes were under the President's sole personal control and that they were being adequately protected under secure conditions. Buzhardt stated that all access to the tapes was carefully documented.

27.1 Letter from Archibald Cox to J. Fred Buzhardt, July 20, 1973 (received from Watergate Special Prosecution Force).

27.2 Letter from J. Fred Buzhardt to Archibald Cox, July 25, 1973 (received from Watergate Special Prosecution Force).
28. On July 20, 1973 Cox confirmed that Ashland Oil, Inc. and Orin E. Atkins, Chairman of the Ashland Oil, Inc. Board, voluntarily acknowledged making an illegal corporate contribution of $100,000 to Maurice Stans of the Finance Committee to Re-elect the President (FCRP) early in April 1972.

29. On July 21, 1973 Buzhardt wrote to Cox expressing regret that the White House had been much slower than it would have liked to have been in responding to Cox's requests. Buzhardt explained that only the President could resolve many of the questions raised by the requests and that during the period in question the President had had the summit meeting with Mr. Brezhnev and had been hospitalized for seven days. Buzhardt stated that he would have responses on many requests early in the following week.

29.1 Letter from J. Fred Buzhardt to Archibald Cox, July 21, 1973 (received from Watergate Special Prosecution Force).
30. On July 23, 1973 Haig called Richardson. Richardson has stated that Haig told him that the President complained about various Cox activities, including letters to the IRS and Secret Service from the Special Prosecutor's office seeking information on guidelines for electronic surveillance. Richardson has stated that Haig told him that if they had to have a confrontation they would have it, that the President wanted a tight line drawn with no further mistakes and that if Cox did not agree they would get rid of Cox. Richardson has stated that Cox agreed that the request for information contained in letters by his office to Treasury Department agencies had been over-broadly stated.

30.1 Elliot Richardson affidavit, House Judiciary Committee, June 17, 1974.
31. On July 23, 1973 Special Counsel to the President Charles Alan Wright informed Cox that he had been instructed by the President that the tape recordings requested by Cox would not be made available and that the President had concluded that doing so would not serve the public interest. On July 23, 1973 the President wrote to Senator Ervin, stating that he had decided not to turn over the tapes to the SSC. The President stated that the tapes would not finally settle the central issues before the Committee because persons with different perspectives and motivations would inevitably interpret the comments on the tapes in different ways. The President also stated that the tapes could be accurately understood or interpreted only by reference to other documents and tapes.

31.1 Letter from Charles Alan Wright to Archibald Cox, July 23, 1973 (received from Watergate Special Prosecution Force).

31.2 Letter from President Nixon to Chairman Ervin, July 23, 1973 (received from Watergate Special Prosecution Force).
32. On July 23, 1973 the Special Prosecutor issued a subpoena duces tecum to the President on behalf of the Watergate Grand Jury. The subpoena required the production of materials relating to nine Presidential conversations, a memorandum dated March 30, 1972 from W. Richard Howard to Bruce Kehrli, and all "Political Matters Memoranda" and all tabs or attachments thereto from Gordon Strachan to H. R. Haldeman between November 1, 1971 and November 7, 1972.

33. On July 25, 1973 Buzhardt responded by letter to Cox's request of June 27, 1973 for a narrative statement from the President. Buzhardt stated that at an appropriate time the President intended to address publicly the subjects the SSC was considering, including Dean's testimony. That same day Cox wrote Buzhardt and expressed his reservations that the President's public statement would be responsive to his request for a testimonial narrative, but that he would postpone making a decision on whether to renew such request until after the President's public statement.

33.1 Letter from Archibald Cox to J. Fred Buzhardt, June 27, 1973 (received from Watergate Special Prosecution Force).

33.2 Letter from J. Fred Buzhardt to Archibald Cox, July 25, 1973 (received from Watergate Special Prosecution Force).

33.3 Letter from Archibald Cox to J. Fred Buzhardt, July 25, 1973 (received from Watergate Special Prosecution Force).
34. On July 25, 1973 the President informed Judge Sirica that he would decline to obey the subpoena issued on July 23, 1973 because to do so would be inconsistent with the public interest and with the Constitutional position of the Presidency. The President agreed voluntarily to transmit the memorandum from W. Richard Howard to Bruce Kehrl and the memoranda from Gordon Strachan to H. R. Haldeman.

34.1 Letter from President Nixon to Judge John Sirica, July 25, 1973 (received from Watergate Special Prosecution Force).
On July 26, 1973 Judge Sirica issued an order requiring the President to show cause why there should not be full and prompt compliance with the subpoena.

36. On July 30, 31 and August 1, 1973 Haldeman testified before the SSC. Haldeman told the Committee that he had listened to a tape recording of a meeting between the President and Dean on March 21, 1973 from 10:12 to 11:55 a.m. that Haldeman had joined at 11:15 a.m. Using notes he had prepared while listening to the tape, Haldeman testified about the entire conversation between the President and Dean. Haldeman testified that on March 21 the President had told Dean that there was no problem in raising one million dollars but that it would be wrong.

36.1 Table of Contents, 7 SSC III and 8 SSC III.
36.2 H. R. Haldeman testimony, 7 SSC 2892-93, 2895-98.
36.3 H. R. Haldeman testimony, 8 SSC 3090.
36.4 H. R. Haldeman notes of March 21, 1973 (received from Watergate Grand Jury).
37. On or about August 9, 1973 Cox met with Richardson and requested a file of documents concerning campaign contributions by milk producers then in the possession of lawyers in the Civil Division of the Department of Justice. Richardson called Buzhardt and told him that he wanted to turn the milk producers file over to Cox. Buzhardt later called Richardson and told him not to give the file to Cox.

37.1 Archibald Cox testimony, SJC, 1 Special Prosecutor Hearings 18.

37.2 Elliot Richardson testimony, SJC, 1 Special Prosecutor Hearings 267-68.

37.3 Memorandum from Elliot Richardson to J. Fred Buzhardt, August 13, 1973, SJC, 1 Special Prosecutor Hearings 288-89.
38. On August 13, 1973 Cox wrote to Richardson to request access to files relating to the possible relationship between large contributions by the Milk Producers Association and the Government's decision to grant an increase in milk prices. On August 13, 1973 Richardson wrote to Buzhardt to express his disagreement with the President's decision not to turn the milk files over to Cox. Richardson said that he could find no plausible basis for denying Cox access to papers which were available to other personnel in the Justice Department.

38.1 Letter from Archibald Cox to Elliot Richardson, August 13, 1973, SJC, 1 Special Prosecutor Hearings 289.

38.2 Memorandum from Elliot Richardson to J. Fred Buzhardt, August 13, 1973, SJC, 1 Special Prosecutor Hearings 288-89.
39. On August 14, 1973 W. Richard Howard was directed by the Grand Jury to produce the original carbon copy of a March 30, 1973 memorandum he wrote to Bruce Kehrl concerning E. Howard Hunt. On August 27 Cox wrote to Buzhardt requesting that the document be supplied to the Special Prosecutor. On September 5 Buzhardt provided the requested documents and informed Cox that the authority to control documents in the physical custody of White House employees was exclusively a matter for Presidential decision.

39.1 Letter from Archibald Cox to Fred Buzhardt, August 27, 1973 (received from Watergate Special Prosecution Force).

39.2 Letter from J. Fred Buzhardt to Archibald Cox, September 5, 1973 (received from White House).
41. At an August 22, 1973 press conference the President responded to an inquiry concerning his recollection of what he had told John Dean on March 21, 1973 on the subject of raising funds for the Watergate defendants. The President stated that Haldeman had testified as to that matter before the SSC and that Haldeman's statement was accurate.

42. On August 22, 1973 Special Counsel Wright told Judge Sirica that the President had told Wright that on one of the subpoenaed tapes there was national security material so highly sensitive that the President did not feel free even to hint to Wright its nature.

42.1 Charles Alan Wright statement, August 22, 1973, In re Grand Jury, Misc. 47-73, 56.
43. On August 22, 1973 David Young testified before the Grand Jury that John Ehrlichman had given advance approval of a covert operation to examine Ellsberg's files in the office of Dr. Lewis Fielding. On August 23, 1973 Cox requested certain records relating to the Pentagon Papers matter and the Fielding break-in. On October 4, Associate Special Prosecutor William Merrill talked to Buzhardt about the August 23 request and followed up his discussion with a letter to Buzhardt identifying eight documents that the Special Prosecutor needed immediately. Cox testified on October 29, 1974 that according to his records none of these documents had been turned over to the Special Prosecutor.

43.1 Letter from Archibald Cox to J. Fred Buzhardt, August 23, 1973 (received from Watergate Special Prosecution Force).

43.2 Letter from Associate Special Prosecutor William Merrill to J. Fred Buzhardt, October 4, 1973 (received from Watergate Special Prosecution Force).

43.3 Archibald Cox testimony, SJC, 1 Special Prosecutor Hearings 17.

44. On August 27, 1973 Cox requested all White House records relating to Joseph Kraft and the electronic surveillance of Kraft. Cox's letter to Buzhardt stated that his request was framed with the specificity necessary for a subpoena. Cox testified on November 5, 1973 that this request had not been filled.

44.1 Letter from Archibald Cox to J. Fred Buzhardt, August 27, 1973 (received from Watergate Special Prosecution Force).

44.2 Archibald Cox testimony, House Judiciary Committee, Special Prosecutor and Watergate Grand Jury Legislation, 302.
On August 29, 1973 Judge Sirica issued an order requiring the President to turn over the recordings sought by the July 23, 1973 subpoena for in camera review by the Court. On September 6, 1973 the White House filed a petition for a writ of mandamus in the United States Court of Appeals for the District of Columbia Circuit requesting that an order be entered directing Judge Sirica to vacate his order.


In September 1973 the Special Prosecutor's office received the Political Matters Memoranda file kept by Strachan that had been requested on July 10, 1973 and that the President had agreed to furnish to the Special Prosecutor in his letter to Judge Sirica of July 25, 1973. Cox has testified that Buzhardt wanted to go through the file before turning it over and Cox agreed so long as he got to see the entire file.

46.1 Archibald Cox testimony, SJC, 1 Special Prosecutor Hearings 16-17.

46.2 Letter from President Nixon to Judge Sirica, July 25, 1973 (received from Watergate Special Prosecution Force).
47. On September 24, 1973 Cox told Richardson that an effort was being made to place White House documents out of his reach by removing materials or files thought to be the subject of a subpoena and placing such materials or files among the Presidential papers. Prior to his appearance before the SSC on September 26, 1973 and the Grand Jury on September 27, 1973, Special Assistant to the President Patrick Buchanan has testified that White House counsel instructed him to take his 1971 and 1972 files to the basement of the Executive Office Building. Buchanan has also testified that he always thought that such papers were Presidential papers.

47.1 Elliot Richardson testimony, SJC, 2 Special Prosecutor Hearings 425.

47.2 Archibald Cox testimony, SJC, 1 Special Prosecutor Hearings 18.

47.3 Patrick Buchanan testimony, 10 SSC 3905–06.

47.4 Letter from Archibald Cox to J. Fred Buzhardt, August 23, 1973 (received from Watergate Special Prosecution Force).
48. On Friday, September 28, 1973 the President decided to review the contents of the tapes which the Grand Jury and the Senate Select Committee had subpoenaed July 23, 1973 and directed General Haig to make the arrangements for such review commencing the following day at Camp David. The President asked his private secretary, Rose Mary Woods, to go to Camp David and to transcribe the contents of the subpoenaed tapes. Special Assistant to the President Stephen Bull was instructed to accompany Woods and to cue the tapes to particular conversations for her.


48.2 John C. Bennett testimony, November 6, 1973, In re Grand Jury, Misc. 47-73, 559-60.


49. On September 29, 1973 Rose Mary Woods and Stephen Bull took between eight and twelve tapes and three Sony tape recorders to Camp David. Haig has testified that on September 29, 1973 he telephoned Bull at Camp David and that Bull stated that he was having difficulty matching up conversations on the reel with the first item on the subpoena. Haig has testified that he then telephoned Buzhardt who informed Haig that only the conversation between the President and Ehrlichman was demanded by the subpoena of the June 20, 1972 EOB tape and that the subpoena did not include the conversation between the President and Haldeman. Haig has testified that at approximately 10:10 a.m. he telephoned Rose Mary Woods and told her that the President's conversation with Haldeman was not included in the subpoena. Woods typed this information on a note to Bull.

49.2 Fred Buzhardt testimony, November 28, 1973, In re Grand Jury, Misc. 47-73, 1463-64, 1467-70.
49.5 Rose Mary Woods testimony, November 8, 1973, In re Grand Jury, Misc. 47-73, 802-03, 837, 839, 842.
49.7 John Bennett logs, Exhibits 32-b and 32-c, In re Grand Jury, Misc. 47-73.
49.8 List of exhibits, In re Grand Jury, Misc. 47-73.
50. Woods has testified that during the weekend of September 29-30, 1973 she spent twenty-nine hours transcribing the June 20 EOB tape, but that she was unable to complete the tape. She has also testified that while she was transcribing the tape the President came into the cabin where she was working and listened to a portion of the tape for five to ten minutes, that he pushed the buttons on her recorder back and forth manipulating the tape and that he commented that he heard two or three voices. Bull has testified that he was unable to find recordings of the President's June 20, 1972 telephone conversation with Mitchell or his April 15, 1973 meeting with Dean and that he discussed this with the President and Woods while they were at Camp David.


26. On July 18, 1973 Cox wrote to Buzhardt requesting eight tape recordings of conversations between the President and various White House staff and others whose conduct was under investigation in connection with the alleged cover-up of the Watergate break-in. Cox stated that the tapes were material and important evidence in an investigation of serious criminal misconduct.

26.1 Letter from Archibald Cox to J. Fred Buzhardt, July 18, 1973 (received from Watergate Special Prosecution Force).
July 18, 1973

J. Fred Buzhardt, Esquire
Counsel to the President
The White House
Washington, D. C.

Dear Mr. Buzhardt:

I am writing to request access to the recordings of certain conversations between the President and various members of the White House staff and others whose conduct is under investigation in connection with the alleged cover-up of the break-in at the Democratic National Committee offices. The conversations are listed below.

May I emphasize three essential aspects of this request:

First, the request is part of an investigation into serious criminal misconduct -- the obstruction of justice. The tapes are material and important evidence -- quite apart from anything they show about the involvement or non-involvement of the President -- because the conversations recorded in all probability deal with the activities of other persons under investigation. Indeed, it is not implausible to suppose that the reports to the President on these occasions may themselves have been made pursuant to a conspiracy and as part of a cover-up.

Second, furnishing the tapes in aid of an investigation into charges of criminal conspiracy plainly raises none of the separation-of-powers issues you believe to be involved in furnishing so-called "Presidential Papers" to the Select Committee. The Select Committee is seeking information -- as I understand the position -- solely in order to recommend legislation. Whatever fears you may entertain that furnishing the tapes in aid of the Select Committee's legislative function would set a precedent for furnishing Presidential papers to other legislative committees are plainly irrelevant to my request. For my request involves only a grand jury investigation

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resulting from highly extraordinary circumstances. No question of precedent arises because the circumstances almost surely will never be repeated.

Third, I would urge that the tapes be furnished for use in my investigation without restriction. This procedure strikes me as the method of establishing the truth which is most fair to everyone concerned, including the President. It is proper to point out, however, that if you thought it essential to furnish the papers only to the grand jury under the rules pertaining to grand jury documents, an appropriate procedure could be devised. This is an additional circumstance distinguishing the present investigation from the situation before the Select Committee.

The particular conversations to which my present request pertains have been carefully selected as those which other evidence in our possession identifies as most material to the investigation, to wit --

1. Meeting of June 20, 1972, in the President's EOB Office between the President and Messrs. Ehrlichman and Haldeman from 10:30 a.m. to 1:00 p.m. (time approximate).

2. Telephone conversation of June 20, 1972, between the President and Mr. Mitchell from 6:08 to 6:12 p.m.

3. Meeting of June 30, 1972, in the President's EOB Office between the President and Messrs. Haldeman and Mitchell from 12:55 to 2:10 p.m.

4. Meeting of September 15, 1972, in the President's Oval Office between the President and Mr. Dean from 5:15 to 6:17 p.m. Mr. Haldeman joined this meeting at 5:27 p.m.

5. Meeting of March 13, 1973, in the President's Oval Office between the President and Mr. Dean from 12:42 to 2:00 p.m. Mr. Haldeman was present from 12:43 to 12:55 p.m.

6. Meeting of March 21, 1973, in the President's Oval Office between the President and Messrs. Dean and Haldeman from 10:12 to 11:55 a.m.
7. Meeting of March 22, 1973, in the President's EOB Office between the President and Mr. Dean from 1:57 to 3:43 p.m. Mr. Ehrlichman joined this meeting at 2:00 p.m., and Messrs. Haldeman and Mitchell joined at 2:01 p.m.

8. Meeting of April 15, 1973, in the President's EOB Office between the President and Mr. Dean from 9:17 to 10:12 p.m. (you will recall that this is the conversation the recording of which I requested as early as June 11 and which you declined to furnish under the misapprehension that there was only a subsequent memorandum.)

You will realize that as the investigation proceeds it may be necessary to request additional recordings.

Sincerely,

ARCHIBALD COX
Special Prosecutor

cc:
Chron
File
27. On July 20, 1973 Cox wrote to Buzhardt expressing his concern about the care needed to insure that the tapes were preserved intact and to protect their integrity as possible evidence. He requested Buzhardt to take all necessary steps to see that custody of the tapes was properly limited and fully documented. On July 25, 1973 Buzhardt wrote to Cox that the tapes were being preserved intact. Buzhardt stated that the tapes were under the President's sole personal control and that they were being adequately protected under secure conditions. Buzhardt stated that all access to the tapes was carefully documented.

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27.2 Letter from J. Fred Buzhardt to Archibald Cox, July 25, 1973 (received from Watergate Special Prosecution Force).
July 20, 1973

J. Fred Buzhardt, Esquire  
Counsel to the President  
The White House  
Washington, D. C. 20500

Dear Mr. Buzhardt:

I have requested that tape recordings of specific conversations that took place in the White House and bear directly on our grand jury investigation be made available. I understand that the Senate Select Committee on Presidential Campaign Activities has also requested access to some tapes in the White House.

I am writing to you to emphasize the care that should be taken to insure that the tapes that we are seeking are preserved intact. In addition, if and when these tapes are produced, it will be important for purposes of their use as evidence to be able to establish their accuracy and authenticity. Therefore, I request that you take all necessary steps to see that the custody of these tapes is properly limited and fully documented and that if they are made available to the Senate Select Committee, necessary arrangements are made to protect their integrity as possible evidence.

Sincerely,

ARCHIBALD COX  
Special Prosecutor

000983
July 20, 1973

J. Fred Buzhardt, Esquire
Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Buzhardt:

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Sincerely,

ARCHIBALD COX
Special Prosecutor
THE WHITE HOUSE
WASHINGTON
25 July 1973

Dear Mr. Cox:

By way of further response to your letter of July 20th, I am glad to be able to assure you that the tapes you referred to therein are being preserved intact. The President has sole personal control of those tapes and they are being adequately protected under secure conditions. All access to the tapes is carefully documented.

Sincerely,

J. FRED BUZHARDT
Special Counsel to the President

Honorable Archibald Cox
Special Prosecutor
Watergate Special Prosecution Force
1425 - K Street, N. W.
Washington, D. C. 20005
28. On July 20, 1973 Cox confirmed that Ashland Oil, Inc. and Orin E. Atkins, Chairman of the Ashland Oil, Inc. Board, voluntarily acknowledged making an illegal corporate contribution of $100,000 to Maurice Stans of the Finance Committee to Re-elect the President (FCRP) early in April 1972.

FOR IMMEDIATE RELEASE
FRIDAY, JULY 20, 1973

Special Prosecutor Archibald Cox today confirmed that Ashland Oil Inc. and Orin E. Atkins, chairman of the firm's board, have voluntarily acknowledged illegal corporate contributions to the Finance Committee to Re-Elect the President early in April 1972.

Mr. Cox noted that corporate contributions to political campaigns are a violation of Section 610 of the Federal Criminal Code. He added, "We are in no position to make any determination concerning the likely disposition of the matter until the details of the contribution and surrounding circumstances have been fully investigated."

But he repeated an earlier statement: "When corporate officers come forward voluntarily and early to disclose illegal political contributions to candidates of either party, their voluntary acknowledgement will be considered as a mitigating circumstance in deciding what charges to bring."

The facts indicate that the $100,000 contribution was solicited by and delivered to Maurice H. Stans, chairman of the Finance Committee to Re-Elect the President.
On July 21, 1973 Buzhardt wrote to Cox expressing regret that the White House had been much slower than it would have liked to have been in responding to Cox's requests. Buzhardt explained that only the President could resolve many of the questions raised by the requests and that during the period in question the President had had the summit meeting with Mr. Brezhnev and had been hospitalized for seven days. Buzhardt stated that he would have responses on many requests early in the following week.

29.1 Letter from J. Fred Buzhardt to Archibald Cox, July 21, 1973 (received from Watergate Special Prosecution Force).
Buz pt out Pres made these decis personally.
Dear Mr. Cox:

As your letter of July 10th points out, this office has been much slower than we would like to have been in responding to a number of your requests over the last month. This is a matter of great regret to me, and I want to confirm the explanations I gave you on the telephone why it has occurred, as a preliminary to sending you--within, I hope, the next few days--responses to your several specific requests.

In the first place, this period has been, as you can imagine, an extremely busy time for this office. The Senate committee hearings have been at a critical stage that has occupied much of our attention. We have been involved with subpoenas, requests for documents, and the like in a dozen or more civil actions. We have responsibilities in all of these matters, in addition to our responsibility to cooperate with you as fully and as expeditiously as is possible. Leonard Garment and I must meet these responsibilities with the help of a total staff of only three younger lawyers, in addition to Professor Wright as a consultant, but he returned from England only on Thursday after being away from Washington for four weeks.

The second, and more important, reason is that all, or virtually all, of your requests raise questions that can only be resolved by the President of the United States. The precedents are clear that a decision to claim or to waive executive privilege is one that must be made personally by the President. In the period in question the President has had the summit meeting with Mr. Brezhnev. He has also been hospitalized for seven days. These are in addition to all of the usual burdens that any President bears. You will surely understand that, under these circumstances, obtaining a decision from the President on sensitive questions that only he can decide is often not a speedy process.
I do regret that we have not been more prompt in responding to these requests. We are now prepared to give you responses on many of them and will do so early next week. I will advise you of the status of other matters on which we do not yet have a response for you. I assure you that we understand the urgency of the enterprise in which you are engaged and that we hope, fully as much as you do, that the delays that have occurred in recent weeks will not be necessary in the future.

Sincerely,

[Signature]

J. FRED BUZHARDT
Special Counsel to the President

Honorable Archibald Cox
Special Prosecutor
Watergate Special Prosecution Force
1425 K Street, N. W.
Washington, D. C. 20005
30. On July 23, 1973 Haig called Richardson. Richardson has stated Haig told him that the President complained about various Cox activities, including letters to the IRS and Secret Service from the Special Prosecutor's office seeking information on guidelines for electronic surveillance. Richardson has stated that Haig told him that if they had to have a confrontation they would have it, that the President wanted a tight line drawn with no further mistakes and that if Cox did not agree they would get rid of Cox. Richardson has stated that Cox agreed that the request for information contained in letters by his office to Treasury Department agencies had been over-broadly stated.

30.1 Elliot Richardson affidavit, House Judiciary Committee, June 17, 1974.
HOUSE OF REPRESENTATIVES
OF THE UNITED STATES
COMMITTEE ON THE JUDICIARY

AFFIDAVIT

DISTRICT OF COLUMBIA, ss:

ELLIOT RICHARDSON, being duly sworn, in response to specific points of interest to counsel for the House Committee on the Judiciary, deposes and says:

1. From May 25, 1973 to October 20, 1973 I served as the Attorney General of the United States. While I held that position I had conversations with the President and others relating to the work of the Watergate Special Prosecution Force. This affidavit contains information relating to certain of those conversations and supplements my testimony in November, 1973 before the Senate Judiciary Committee.

2. On May 25, 1973, just before my swearing in as Attorney General of the United States, I had a brief conversation with the President in the Oval Office. The President referred to his statement of May 22, 1973 relating to the waiver of executive privilege as to testimony concerning Watergate, and told me that his statement did not mean that there would be any such waiver of executive privilege as to documents. I was not aware until then that the word "testimony" had been used advisedly in the President's May 22nd statement. I did not say anything in response to what the President told me.
3. On July 3, 1973 General Haig, the President's Chief of Staff, called me about a *Los Angeles Times* story that Mr. Cox was investigating expenditures related to the "Western White House" at San Clemente. I called Mr. Cox, who said that he was not investigating San Clemente. Mr. Cox explained that he had asked his press officer to assemble press clippings on San Clemente after Mr. Cox was questioned about San Clemente at a press conference. The press officer requested clippings from the *Los Angeles Times*, which had carried most of the articles. I called General Haig back and told him this. He said that I ought to get a statement from Mr. Cox saying that Mr. Cox was not investigating the matter. General Haig said that he was not sure the President was not going to move on this to discharge Mr. Cox, and that it could not be a matter of Cox's charter to investigate the President of the United States. I called Mr. Cox, who agreed to make a statement. Some time after 1:00 p.m. I called back General Haig, who said the statement was inadequate. At this point the President broke in on the conversation. The President said that he wanted a statement by Mr. Cox making it clear that Mr. Cox was not investigating San Clemente, and he wanted it by two o'clock.

4. On July 23, 1973 General Haig called and told me that the "boss" was very "uptight" about Cox and complained about various of his activities, including letters to the IRS and the Secret Service from the Special Prosecutor's office seeking information on guidelines for electronic surveillance. General Haig told me that "if we have to have a confrontation we will have it." General Haig said that the President wanted "a tight line
drawn with no further mistakes," and that "if Cox does not agree, we will get rid of Cox." In this instance Mr. Cox agreed that the requests for information contained in the letters sent by his office to Treasury Department agencies had been over-broadly stated.

5. In late September or early October 1973 I met with the President in regard to the Agnew matter. After we had finished our discussion about Mr. Agnew, and as we were walking toward the door, the President said in substance, "Now that we have disposed of that matter, we can go ahead and get rid of Cox." There was nothing more said.

Elliot Richardson

Dated: June 17, 1974

Subscribed and sworn to before me this 17th day of June, 1974.

Mildred M. Thompson
Notary Public

My commission expires Nov 14, 1975
31. On July 23, 1973 Special Counsel to the President Charles Alan Wright informed Cox that he had been instructed by the President that the tape recordings requested by Cox would not be made available and that the President had concluded that doing so would not serve the public interest. On July 23, 1973 the President wrote to Senator Ervin, stating that he had decided not to turn over the tapes to the SSC. The President stated that the tapes would not finally settle the central issues before the Committee because persons with different perspectives and motivations would inevitably interpret the comments on the tapes in different ways. The President also stated that the tapes could be accurately understood or interpreted only by reference to other documents and tapes.

31.1 Letter from Charles Alan Wright to Archibald Cox, July 23, 1973 (received from Watergate Special Prosecution Force).

31.2 Letter from President Nixon to Chairman Ervin, July 23, 1973 (received from Watergate Special Prosecution Force).
July 23, 1973

Dear Mr. Cox:

Mr. Buzhardt has asked that I respond to your letters to him of June 20th, July 18th and July 20th in which you make certain requests with regard to tape recordings of or about conversations between the President and various members of the White House staff and others.

The President is today refusing to make available to the Senate Committee material of a similar nature. Enclosed is a copy of his letter of this date to Senator Ervin stating his position about the tapes. I am instructed by the President to inform you that it will not be possible to make available to you the recordings that you have requested.

In general the reasons for the President's decision are the same as those that underlie his response to the Senate Committee. But in your letter of July 18th you state that furnishing the tapes in aid of an investigation into charges of criminal conspiracy raises none of the separation-of-powers issues that are raised by the request from the Senate Committee. You indicated a similar position when we met on June 6th. At that time you suggested that questions of separation of powers did not arise since you were within the Executive Branch, though, as I recall, you then added that your position is a little hard to describe since, in your view, you are not subject to direction by the President or the Attorney General.

I note that in your subsequent letters, and particularly that of July 18th in which you argue that the separation-of-powers argument is inapplicable, there is no suggestion that you are a part of the Executive Branch. Indeed, if you are an ordinary prosecutor, and thus a part of the Executive Branch as well as an officer of the court, you are subject to the instructions of your superiors, up to and including the President, and can have access to Presidential papers only as and if the President sees fit to make them available to you.
But quite aside from the consideration just stated, there is an even more fundamental reason why separation-of-powers considerations are fully as applicable to a request from you as to one from the Senate Committee. It is clear, and your letter of the 18th specifically states, that the reason you are seeking these tapes is to use some or all of them before grand juries or in criminal trials. Production of them to you would lead to their use in the courts, and questions of separation-of-powers are in the forefront when the most confidential documents of the Presidency are sought for use in the Judicial Branch. Indeed most of the limited case law on executive privilege has arisen in the context of attempts to obtain executive documents for use in the courts.

The successful prosecution of those who have broken the laws is a very important national interest, but it has long been recognized that there are other national interests that, in specific cases, may override this. When Congress provided in the Jencks Act, 18 U.S.C. § 3500 (d), that the United States may choose to refuse to disclose material that the court has ordered produced, even though in some instances this will lead to a mistrial and to termination of the prosecution, it was merely recognizing that, as the courts had repeatedly held, there are circumstances in which other legitimate national interests requiring that documents be kept confidential outweigh the interest in punishing a particular malefactor. Similarly in civil litigation the United States may feel obliged to withhold relevant information, because of more compelling governmental interests, even though this may cause it to lose a suit it might otherwise have won. The power of the President to withhold confidential documents that would otherwise be material in the courts comes from "an inherent executive power which is protected in the constitutional system of separation of power." United States v. Reynolds, 345 U. S. 1, 6 n. 9 (1953).

In your letter to Mr. Buzhardt of July 10th you quoted Mr. Richardson's statement to the Senate Judiciary Committee in which he concluded that it was the President's intention "that whatever should be made public in terms of the public interest in these investigations should be disclosed."
That is, of course, the President's view, but it is for the President, and only for the President, to weigh whether the incremental advantage that these tapes would give you in criminal proceedings justifies the serious and lasting hurt that disclosure of them would do to the confidentiality that is imperative to the effective functioning of the Presidency. In this instance the President has concluded that it would not serve the public interest to make the tapes available.

Sincerely,

[Signature]

CHARLES ALAN WRIGHT

Honorable Archibald Cox
Special Prosecutor
Watergate Special Prosecution Force
1425-K Street, N.W.
Washington, D.C. 20005

Encl.
THE WHITE HOUSE
WASHINGTON

July 23, 1973

Dear Mr. Chairman:

I have considered your request that I permit the Committee to have access to tapes of my private conversations with a number of my closest aides. I have concluded that the principles stated in my letter to you of July 6th preclude me from complying with that request, and I shall not do so. Indeed the special nature of tape recordings of private conversations is such that these principles apply with even greater force to tapes of private Presidential conversations than to Presidential papers.

If release of the tapes would settle the central questions at issue in the Watergate inquiries, then their disclosure might serve a substantial public interest that would have to be weighed very heavily against the negatives of disclosure.

The fact is that the tapes would not finally settle the central issues before your Committee. Before their existence became publicly known, I personally listened to a number of them. The tapes are entirely consistent with what I know to be the truth and what I have stated to be the truth. However, as in any verbatim recording of informal conversations, they contain comments that persons with different perspectives and motivations would inevitably interpret in different ways. Furthermore, there are inseparably interspersed in them a great many very frank and very private comments, on a wide range of issues and individuals, wholly extraneous to the Committee's inquiry. Even more important, the tapes could be accurately understood or interpreted only by reference to an enormous number of other documents and tapes, so that to open them at all would begin an endless process of disclosure and explanation of private Presidential records totally unrelated to Watergate, and highly confidential in nature. They are the clearest possible example of why Presidential documents must be kept confidential.

000983
Accordingly, the tapes, which have been under my sole personal control, will remain so. None has been transcribed or made public and none will be.

On May 22nd I described my knowledge of the Watergate matter and its aftermath in categorical and unambiguous terms that I know to be true. In my letter of July 6th, I informed you that at an appropriate time during the hearings I intend to address publicly the subjects you are considering. I still intend to do so and in a way that preserves the Constitutional principle of separation of powers, and thus serves the interests not just of the Congress or of the President, but of the people.

Sincerely,

[Signature]

Honorable Sam J. Ervin, Jr.
Chairman
Select Committee on Presidential Campaign Activities
United States Senate
Washington, D.C. 20510
32. On July 23, 1973 the Special Prosecutor issued a subpoena duces tecum to the President on behalf of the Watergate Grand Jury. The subpoena required the production of materials relating to nine Presidential conversations, a memorandum dated March 30, 1972 from W. Richard Howard to Bruce Kehrl, and all "Political Matters Memoranda" and all tabs or attachments thereto from Gordon Strachan to H. R. Haldeman between November 1, 1971 and November 7, 1972.


Has to do with Hunt's pension
GRAND JURY

Subpoena Dues Tecum

United States District Court

For the District of Columbia

THE UNITED STATES

v.

JOHN DOE

To: Richard M. Nixon, The White House, Washington, D.C., or any subordinate officer, official, or employee with custody or control of the documents or objects hereinafter described on the attached schedule.

F I L E D

JUL 24 1973

JAMES F. DAVEY, Clerk

You are hereby commanded to attend before the Grand Jury of said Court on Thursday the 26th day of July, 1973, at 10 o'clock A.M., to testify and to bring with you the documents or objects listed on the attached schedule. WITNESS: The Honorable John J. Sirica Chief Judge of said Court, this rule.

ARCHIBALD COX

Attorney for the United States

By

Robert A. Fine

Deputy Clerk

[Form No. USA-81-184 (Rev. 7-4-71)]
Schedule of Documents or Objects to be Produced by or on Behalf of Richard M. Nixon:

1. All tapes and other electronic and/or mechanical recordings or reproductions, and any memoranda, papers, transcripts or other writings, relating to:

   (a) Meeting of June 20, 1972, in the President's Executive Office Building ("EOB") Office involving Richard Nixon, John Ehrlichman and H. R. Haldeman from 10:30 a.m. to noon (time approximate).

   (b) Telephone conversation of June 20, 1972, between Richard Nixon and John N. Mitchell from 6:03 to 6:12 p.m.

   (c) Meeting of June 30, 1972, in the President's EOB Office, involving Messrs. Nixon, Haldeman and Mitchell from 12:55 to 2:10 p.m.

   (d) Meeting of September 15, 1972, in the President's Oval Office involving Mr. Nixon, Mr. Haldeman, and John W. Dean III from 5:27 to 6:17 p.m.

   (e) Meeting of March 13, 1973, in the President's Oval Office involving Messrs. Nixon, Dean and Haldeman from 12:42 to 2:00 p.m.

   (f) Meeting of March 21, 1973, in the President's Oval Office involving Messrs. Nixon, Dean, and Haldeman from 10:12 to 11:55 a.m.

   (g) Meeting of March 21, 1973, in the President's EOB Office from 5:20 to 6:01 p.m. involving Messrs. Nixon,
Meeting of April 15, 1973, in the President's EOB Office between Mr. Nixon and Mr. Dean from 9:17 to 10:12 p.m.

2. The original two paragraph memorandum from W. Richard Howard to Bruce Kehrli, dated March 30, 1972, concerning the termination of Howard Hunt as a consultant and transfer to "1701," signed "Dick," with handwriting on the top and bottom of the one-page memorandum indicating that it was placed there by Kehrli. (A copy of this memorandum was turned over to the Federal Bureau of Investigation on August 7, 1972, by James Rogers, Personnel Office, White House.)

3. Original copies of all "Political Matters Memoranda" and all "tabs" or "attachments" thereto from Gordon Strachan to H. R. Haldeman between November 1, 1971, and November 7, 1972.

xxx
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AFFIDAVIT

PHILIP A. LACOVARA, being duly sworn, deposes and says:

1. I am Counsel to the Watergate Special Prosecution Force, am over 18 years of age, and I am not a party to these proceedings.

2. At 6:20 p.m. on Monday, July 23, 1973, I served the annexed grand jury subpoena duces tecum addressed to Richard M. Nixon by delivering a copy thereof to a person known to me to be J. Fred Buzhardt, Special Counsel to the President, who acknowledged receipt thereof in writing on behalf of the President. Service was made in room 188-1/2 of the Old Executive Office Building, 17th Street and Pennsylvania Avenue, N. W., Washington, D. C.

Subscribed and sworn before me this 24th day of July, 1973.
On July 25, 1973 Buzhardt responded by letter to Cox's request of June 27, 1973 for a narrative statement from the President. Buzhardt stated that at an appropriate time the President intended to address publicly the subjects the SSC was considering, including Dean's testimony. That same day Cox wrote Buzhardt and expressed his reservations that the President's public statement would be responsive to his request for a testimonial narrative, but that he would postpone making a decision on whether to renew such request until after the President's public statement.

33.1 Letter from Archibald Cox to J. Fred Buzhardt, June 27, 1973 (received from Watergate Special Prosecution Force).

33.2 Letter from J. Fred Buzhardt to Archibald Cox, July 25, 1973 (received from Watergate Special Prosecution Force).

33.3 Letter from Archibald Cox to J. Fred Buzhardt, July 25, 1973 (received from Watergate Special Prosecution Force).
June 27, 1973

Mr. J. Fred Buzhardt
Counsel to the President
The White House
Washington, D. C.

Dear Mr. Buzhardt:

The testimony of John W. Dean, III before the Select Committee of the Senate makes it necessary for me to raise the matter of obtaining the evidence of the President upon incidents of which he has first hand knowledge. Although Dean's testimony was given in another forum, his version of events is equally available to this office and the grand jury. The President has also been named in other testimony as one who has critical information about the involvement of a number of persons in a major conspiracy to obstruct justice.

The normal course - apart from Presidential office and responsibilities - would be to ask such a crucial witness to come in for an interview or to subpoena him for testimony before the grand jury. His testimony would be not only material but well-nigh essential in any real search for the truth. If he did not appear voluntarily, he would be subpoenaed.

The fact that a crucial witness in this investigation is the President does not make his testimony any less important to the administration of justice. Nor can I assume that the President is unwilling to contribute all the information he has to the ascertainment of the truth. Thus, there is no reason at this time to enter upon debate about whether he can be subpoenaed to appear before the Grand Jury. It is important, however, that the evidence be obtained without undue interference with the performance of the heavy and time-consuming responsibilities the Presidency entails.
Under these circumstances, the least inconvenient course to the President would seem to be for him to furnish a detailed narrative statement covering the conversations and incidents mentioned in John Dean's testimony. The President would doubtless wish to attach copies of all relevant transcripts and other papers or memoranda. After studying the narrative there might well be questions I would wish to put to the President personally. Possibly, further requests may become necessary from time to time, but I would hope that the advance preparation of a narrative statement would [unreadable] the demand upon the President's time to the necessary minimum. Both the narrative statement and any subsequent interview would be treated with the secrecy accorded grand jury testimony.

Will you please treat this letter as a formal request for the kind of narrative statement described above and give me the President's response in the near future?

Sincerely,

ARCHIBALD COX
Special Prosecutor
Under these circumstances, the least inconvenient course to the President would seem to be to have him furnish a detailed narrative statement covering the conversations and incidents mentioned in John Dean's testimony. The President would also wish to attach copies of all relevant transcripts and other papers or memoranda. After studying the narrative there might well be questions I would wish to put to the President personally. Possibly, further requests may become necessary from time to time, but I would hope that the entire preparation of a narrative statement would not be demand upon the President's time to the necessary minimum. Such the narrative statement and any subsequent interview would be treated with the secrecy accorded grand jury testimony.

Will you please treat this letter as a formal request for the kind of narrative statement described above and give me the President's response in the near future?

Sincerely,

[Signature]

J. ERRALD COX
Special Prosecutor
Dear Mr. Cox:

This is in response to your letter of June 27th, requesting a narrative statement from the President covering the conversations and incidents mentioned in John Dean's testimony.

The President has announced, in his letter of July 6th to Senator Ervin, that at an appropriate time he intends to address publicly the subjects the Senate Committee is considering. Clearly the testimony of Mr. Dean is among those subjects and my expectation is that the President's statement will provide you with the information you need in this respect.

Sincerely,

J. Fred Buzhardt
Special Counsel to the President

Honorable Archibald Cox
Special Prosecutor
Watergate Special Prosecution Force
1425 K Street, NW
Washington, DC 20005
J. Fred Buzhardt, Esquire
Counsel to the President
The White House
Washington, D. C.

Dear Mr. Buzhardt:

This will acknowledge your letter of July 25.

It seems most unlikely that a public statement by the President on the subjects which the Select Committee of the Senate is considering will be the kind of narrative statement by a witness requested in my letter of June 27th. My request was for a testimonial narrative of the kind that would be obtained from any other witness by personal interview or by putting him before the grand jury.

While I am very skeptical about the likelihood of the President's public statement meeting testimonial needs, I am anxious so far as possible, to avoid undue interference with the President's performance of his heavy and time-consuming duties. Having noted my skepticism, I am willing to wait until the public statement is made -- assuming that it comes reasonably soon -- before reaching a conclusion or renewing my previous request.

It may also be worth recalling that my letter of June 27th spoke of the possibility that it would be necessary to question the President personally after receiving his narrative statement. The more detailed a testimonial statement the President was willing to prepare, confining himself to facts, the less I would have to burden his time by questioning him in person.

Sincerely,

ARCHIBALD COX
Special Prosecutor
34. On July 25, 1973 the President informed Judge Sirica that he would decline to obey the subpoena issued on July 23, 1973 because to do so would be inconsistent with the public interest and with the Constitutional position of the Presidency. The President agreed voluntarily to transmit the memorandum from W. Richard Howard to Bruce Kehrl and the memoranda from Gordon Strachan to H. R. Haldeman.

34.1 Letter from President Nixon to Judge John Sirica, July 25, 1973 (received from Watergate Special Prosecution Force).
Dear Judge Sirica:

White House Counsel have received on my behalf a subpoena duces tecum issued out of the United States District Court for the District of Columbia on July 23rd at the request of Archibald Cox. The subpoena calls on me to produce for a Grand Jury certain tape recordings as well as certain specified documents. With the utmost respect for the court of which you are Chief Judge, and for the branch of government of which it is a part, I must decline to obey the command of that subpoena. In doing so I follow the example of a long line of my predecessors as President of the United States who have consistently adhered to the position that the President is not subject to compulsory process from the courts.

The independence of the three branches of our government is at the very heart of our Constitutional system. It would be wholly inadmissible for the President to seek to compel some particular action by the courts. It is equally inadmissible for the courts to seek to compel some particular action from the President.

That the President is not subject to compulsory process from the other branches of government does not mean, of course, that all information in the custody of the President must forever remain unavailable to the courts. Like all of my predecessors, I have always made relevant material available to the courts except in those rare instances when to do so would be inconsistent with the public interest. The principle that guides my actions in this regard was well stated by Attorney General Speed in 1865:

Upon principles of public policy there are some kinds of evidence which the law excludes or dispenses with. ** The official transactions
between the heads of departments of the Government and their subordinate officers are, in general, treated as "privileged communications." The President of the United States, the heads of the great departments of the Government, and the Governors of the several States, it has been decided, are not bound to produce papers or disclose information communicated to them where, in their own judgment, the disclosure would, on public considerations, be inexpedient. These are familiar rules laid down by every author on the law of evidence.

A similar principle has been stated by many other Attorneys General, it has been recognized by the courts, and it has been acted upon by many Presidents.

In the light of that principle, I am voluntarily transmitting for the use of the Grand Jury the memorandum from W. Richard Howard to Bruce Kehrl in which they are interested as well as the described memoranda from Gordon Strachan to H. R. Haldeman. I have concluded, however, that it would be inconsistent with the public interest and with the Constitutional position of the Presidency to make available recordings of meetings and telephone conversations in which I was a participant and I must respectfully decline to do so.

Sincerely,

[Signature]

Honorable John J. Sirica
U.S. Court House
3rd and Constitution Avenue, N.W.
Room 2428
Washington, D.C. 20001

cc: Honorable Archibald Cox
Special Prosecutor

Enclosure: Howard/Kehrl memorandum
35. On July 26, 1973 Judge Sirica issued an order requiring the President to show cause why there should not be full and prompt compliance with the subpoena.

In re Grand Jury Subpoena Duces Tecum Issued to Richard M. Nixon, or Any Subordinate Officer, Official, or Employee with Custody or Control of Certain Documents or Objects

Misc. No. 47-73

ORDER TO SHOW CAUSE

Upon consideration of the verified petition of Archibald Cox, Special Prosecutor, Watergate Special Prosecution Force, on behalf of the Grand Jury in and for the United States District Court for the District of Columbia, for an order directing Richard M. Nixon or any subordinate officer whom he may designate as having custody and control of certain documents or objects, to show cause why there should not be full and prompt compliance with a subpoena duces tecum of this Court, dated July 23, 1973, directing the production of certain documents and objects before the Grand Jury of this District at 10:00 a.m. on July 26, 1973, and it appearing to this Court that various items called for by that subpoena are being withheld and that good cause has been shown why the subpoena should be enforced, it is hereby ORDERED:

1. That Richard M. Nixon or any subordinate officer whom he may designate as having custody or control of any of the items described in paragraph 1 of the schedule attached to the above mentioned subpoena, is ordered to show cause at a hearing on the 7th day of August, 1973, why the documents and objects described in paragraph 1 of such schedule should not be produced as evidence before the Grand Jury;
2. That at the hearing, and in any affidavits, briefs, or memoranda submitted in connection with this matter, the Special Prosecutor is authorized to disclose matters occurring before the Grand Jury to the extent necessary to show the Grand Jury's entitlement to enforcement of the subpoena;

3. And that the United States Marshal for the District of Columbia is directed to serve forthwith a copy of this order and the above mentioned petition on Richard M. Nixon, J. Fred Buzhardt (as Special Counsel to the President), or any other person of suitable age and discretion at the White House or the Old Executive Office Building, Washington, D. C. Such service on or before the 30th day of July 1973, shall be deemed good and sufficient service.

Dated: 7/26/73

John J. Sirica
Chief Judge

- 2 -
36. On July 30, 31 and August 1, 1973 Haldeman testified before the SSC. Haldeman told the Committee that he had listened to a tape recording of a meeting between the President and Dean on March 21, 1973 from 10:12 to 11:55 a.m. that Haldeman had joined at 11:15 a.m. Using notes he had prepared while listening to the tape, Haldeman testified about the entire conversation between the President and Dean. Haldeman testified that on March 21 the President had told Dean that there was no problem in raising one million dollars but that it would be wrong.

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36.1 Table of Contents, 7 SSC III and 8 SSC III.

36.2 H. R. Haldeman testimony, 7 SSC 2892-93, 2895-98.

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36.4 H. R. Haldeman notes of March 21, 1973 (received from Watergate Grand Jury).
PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972
SENATE RESOLUTION 60

HEARINGS
BEFORE THE
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES
OF THE
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION

WATERGATE AND RELATED ACTIVITIES
Phase I: Watergate Investigation
WASHINGTON, D.C., JULY 25, 27, AND 30, 1973
Book 7

Printed for the use of the
Select Committee on Presidential Campaign Activities

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I should point out one question that Mr. Dean raised regarding a comment made by the President in his meeting of February 27. He said the President told him he wanted Dean to handle the Watergate matter as it was taking too much of Ehrlichman and Haldeman's time and they were principals in it. Dean indicates that he did not understand what it was the President meant by the statement that Haldeman and Ehrlichman were principals. If this statement was made, I think it is quite clear in the context in which that meeting was held. At that time the major issue was whether the President would permit his principal aides to be called up to the Senate committee to testify. At that time the President considered it inconceivable that anyone would think that the White House counsel would be called to testify and, therefore, was not even considering the possibility of Mr. Dean going before the Senate hearings. He was concerned about the question of Haldeman and Ehrlichman being called. In that sense, I was a principal in the matter of executive privilege. It is significant that the President, according to Dean's report, also emphasized that he would never let Ehrlichman and Haldeman go to the Hill, and I think it is in that connection that he would look at us as principals.

MARCH MEETINGS

The March 13 meeting Mr. Dean had with the President shows on the President's log as having run from 12:42 to 2, an 80-minute meeting, approximately. The President's log also shows that I was in that meeting for 12 minutes from 12:43 to 12:55. Mr. Dean has testified that this was a long meeting, mainly regarding the Gray hearings and Dean's invitation to appear there. He says that toward the end of the conversation they got into a discussion of Watergate matters and the question of money demands being made by the defendants. He says that it was during this conversation that Haldeman came into the office for a brief interruption but that Haldeman then stayed on. It was then, Dean says, that he told the President there was no money to pay the individuals; the President asked how much it would cost; Dean estimated $1 million; the President said that was no problem and looked over at Haldeman and repeated that statement. Dean then goes on to describe a conversation regarding Executive clemency and then back to the question of money, ending with a laugh from me at Dean's comment that next time he would be more knowledgeable.

The log, however, shows that I was in for 12 minutes at the beginning of the meeting and not at the end.

I have no notes on the March 13 meeting and I have no recollection of that meeting at all. I do not recall going into the President's office and interrupting the meeting with John Dean, but I am sure that I did if the log so indicates. However, I seriously doubt that the conversation John Dean has described actually took place on March 13. I doubt it because of the difference in timing as shown in the President's log, but I also doubt it because a discussion of some of those matters actually occurred during a meeting on March 21.

There is also a timing problem regarding the meeting of March 21, since Dean has stated that I was only in that meeting for the last 5 minutes or so when the President called me in to suggest that a meeting be set up with John Mitchell. My log indicates that I was in a
meeting with the President from 11:15 to 11:55 on the morning of March 21. I do recall that meeting and I recall being in it for substantially more than the 5 minutes that Mr. Dean remembers.

I was not present for the first hour of the meeting, but I did listen to the tape of the entire meeting—including that portion before I came in.

While I am free to testify to everything which I can recall happening during the time I was present, the President has directed that I not testify as to any facts which I learned solely by listening to the tape of the meeting.

My counsel will present a letter* in this respect and I shall obey the decision of the committee as to its ruling thereon. Depending on that decision, I shall issue an appropriate addendum to this statement concerning the March 21 meeting.

Mr. WILSON. Mr. Vice Chairman.

Senator BAKER [presiding]. Mr. Wilson.

Mr. WILSON. I am obliged to present to the committee a communication which I received this morning from the White House and I would like to read it, if I may, and a page carry a copy of it up to you while I am doing it.

Senator BAKER. Would you proceed, Mr. Wilson?

Mr. WILSON. It is addressed to me by Mr. Buzhardt.

This concerns your inquiry as to the extent of the President’s waiver of executive privilege with regard to the testimony of Mr. Haldeman before the Senate Select Committee on Presidential Campaign Activities. Your inquiry was directed to Mr. Haldeman’s knowledge of the contents of tape recordings of conversations at meetings in the President’s office on September 15, 1972, and March 21, 1973.

Under the waiver of executive privilege stated by the President on May 22, 1973, Mr. Haldeman is not constrained by any claim of executive privilege as to conversations at meetings which Mr. Haldeman attended, if such conversations fall within the May 22, 1973, guidelines.

If asked to testify as to facts which he learned about meetings or portions of meetings which he did not attend, but of which he learned solely by listening to a tape recording of such meeting, the President has requested that you inform the Committee that Mr. Haldeman has been instructed by the President to decline to testify to such matters, and that the President, in so instructing Mr. Haldeman, is doing so pursuant to the constitutional doctrine of separation of powers.

Mr. WILSON. Mr. Vice Chairman, I have no argument to supplement that letter.

Senator BAKER. Mr. Wilson, is it your preference that the committee act on this at this point or would it be agreeable for counsel to the committee to take that matter under advisement until Mr. Haldeman finishes his statement?

Mr. WILSON. I think, sir, that if it is not inconvenient, and in order to continue the continuity of this statement, if the committee could act at this time upon that letter, I think it would be very helpful to us.

Senator BAKER. Mr. Wilson, if there is no objection from the committee, and I note that two members of the committee—three members of the committee are not present—if there is no objection from any member of the committee, the committee then will stand in recess while we confer on this matter.

[Recess.]

*The letter was subsequently received and appears in Book 8 as exhibit No. 112.
Senator Baker. Mr. Chairman, let me ask one or two other qualifying questions on the statement. As the chairman pointed out, Mr. Haldeman, we don't have the tapes and it looks like we are going to have a lawsuit over that, but just for the sake of further establishing the value or susceptibility of misinterpretation of the information you are about to give us, did you in fact listen to the tapes, that is, physically listen to them as distinguished from reading a transcript of the tape?

Mr. Haldeman. Yes. There has been to my knowledge no transcript made of any of the tapes at any time. I listened to the actual tape.

Senator Baker. Can you tell us where you did it?

Mr. Haldeman. I did the—I listened to the March 21 tape in my office at the White House, and I listened to the September 15 tape in my residence.

Senator Baker. All right. Can you tell us something of the quality of the tape, that is, were voices clearly distinguishable, were there periods when they were inaudible? What was the general quality of the recording?

Mr. Haldeman. The quality varies. It's good at times and not good at times. It's the kind of tape recording you have in a large room, which the Oval Office is, there is a lot of echo and bounce, it's difficult to follow the conversation completely but it is not by any means impossible.

Senator Baker. Can you tell us whether or not those two tapes are still in existence?

Mr. Haldeman. I do not know. I have no knowledge. They were returned by me to the White House custodian and I have no knowledge of where they are from that point on.

Senator Baker. Thank you, Mr. Chairman.

Senator Gurney. Mr. Chairman, can I ask a question?

Senator Ervin. One question then. Who permitted you were you authorized by the President to hear these tapes?

Mr. Haldeman. Yes, sir; as I indicated in my statement, I heard the tapes at the President's authorization and for the purpose of reporting on their contents to the President.

Mr. Wilson. Mr. Chairman, may I make a lawyer's reservation with respect to your remarks? In some other context before this hearing is over, I would appreciate the opportunity to debate with you, sir, the question of the extent of the constitutional doctrine of separation of powers, sometimes called executive privilege. In other words, you indicated, sir, that you didn't think this was a valid reason, and I gathered under all occasions. I just want you to know that maybe before we are through here I may take the liberty, if you will permit me, of raising the question in some other context.

Senator Ervin. Always glad to be wiser today than I was yesterday.

Senator Gurney. Mr. Chairman.

Senator Ervin. Senator Gurney.

Senator Gurney. Mr. Haldeman, did you take notes as you were listening to these tapes?

Mr. Haldeman. Yes; I did, Senator.

Senator Gurney. And the notes were taken simultaneously with the listening to the tapes?

Mr. Haldeman. That is correct.
Senator Gurney. Thank you.
Senator Inouye. Mr. Chairman.
Senator Ervin. Senator Inouye.
Senator Inouye. I have a question. Mr. Haldeman, who had physical custody of the tapes at the time of the hearing of them?

Mr. Haldeman. The Technical Security Division of the Secret Service.

Senator Inouye. What person specifically?

Mr. Haldeman. I don't know. I don't know. I obtained them through Mr. Bull, the man who replaced Mr. Butterfield as the President's aide.

Senator Inouye. Was he there at all times?

Mr. Haldeman. Pardon me?

Senator Inouye. Was he there at all times when the tapes were played?

Mr. Haldeman. No, sir; he was not there at all when the tapes were played.

Senator Inouye. We were told that the Secret Service had exclusive custody over these tapes and they were left in your care.

Mr. Haldeman. The particular tapes that I listened to, yes, sir.

Senator Inouye. Thank you very much.

Senator Montoya. Mr. Chairman.

Senator Ervin. Senator Montoya.

Senator Montoya. Did I understand you to say that you took the September 15 tape to your home?

Mr. Haldeman. That is correct.

Senator Montoya. How long did you keep it there?

Mr. Haldeman. Overnight.

Senator Montoya. Who was present when you played this tape?

Mr. Haldeman. No one.

Senator Montoya. Who was present when you played the March 21 tape?

Mr. Haldeman. No one.

Senator Ervin. I think we subpenaed those notes of yours. Did you bring them?

Mr. Haldeman. No, sir; my notes are in the President's files, I don't have any notes.

Senator Ervin. Oh, the President keeps the notes and he keeps the tapes. [Laughter.]

Mr. Haldeman. Yes, sir.

Senator Ervin. Anyway, we have made a ruling and we might as well proceed.

Mr. Haldeman [continues reading his statement]. I will proceed with the addendum on the March 21 meeting. I was present for the final 40 minutes of the President's meeting with John Dean on the morning of March 21. While I was not present for the first hour of the meeting, I did listen to the tape of the entire meeting.

Following is the substance of that meeting to the best of my recollection:

Dean reported some facts regarding the planning and the break-in of the DNC and said again there were no White House personnel involved. He felt Magruder was fully aware of the operation, but
he was not sure about Mitchell. He said that Liddy had given him a full rundown right after Watergate and that no one in the White House was involved. He said that his only concerns regarding the White House were in relation to the Colson phone call to Magruder, which might indicate White House pressure, and the possibility that Haldeman got some of the "fruits" of the bugging via Strachan since he had been told the "fruits" had been supplied to Strachan.

He outlined his role in the January planning meetings and recounted a report he said he made to me regarding the second of those meetings.

Regarding the post-June 17 situation, he indicated concern about two problems, money and clemency. He said that Colson had said something to Hunt about clemency. He did not report any other offers of clemency although he said he felt the defendants expected it. The President confirmed that he could not offer clemency and Dean agreed.

Regarding money, Dean said he and Haldeman were involved. There was a bad appearance which could be developed into a circumstantial chain of evidence regarding obstruction of justice. He said that Kalmbach had raised money for the defendants; that Haldeman had OK'd the return of the $350,000 to the committee; and that Dean had handled the dealings between the parties in doing this. He said that the money was for lawyers' fees.

He also reported on a current Hunt blackmail threat. He said Hunt was demanding $120,000 or else we would tell about the seamy things he had done for Ehrlichman. The President pursued this in considerable detail, obviously trying to smoke out what was really going on. He led Dean on regarding the process and what he would recommend doing. He asked such things as—"Well, this the thing you would recommend? We ought to do this? Is that right?" and he asked: "Where the money would come from? How it would be delivered?" and so on. He asked how much money would be involved over the years and Dean said "probably $1 million—but the problem is that it is hard to raise." The President said "there is no problem in raising $1 million, we can do that, but it would be wrong." I have the clear impression that he was trying to find out what it was Dean was saying and what Dean was recommending. He was trying to get Dean's view and he was asking him leading questions in order to do that. This is the method the President often used when he was moving toward a determination.

Dean also mentioned his concern about other activities getting out, such as the "Ellsberg" break-in, something regarding Brookings, the other Hunt activities for Colson on Chappaquiddick, the Segretti matter, use of Kalmbach funds, et cetera.

When I entered the meeting, there was another discussion regarding the Hunt threat and the President again explored in considerable depth the various options and tried to draw Dean out on his recommendation.

The meeting then turned to the question of how to deal with this situation and the President mentioned Ehrlichman's recommendation that everybody should go to the grand jury. The President told Dean to explore all of this with Haldeman, Ehrlichman, and Mitchell.
There was no discussion while I was in the room—nor do I recall any discussion on the tape—on the question of clemency in the context of the President saying that he had discussed this with Ehrlichman and with Colson. The only mention of clemency was Dean's report that Colson had discussed clemency with Hunt and the President's statement that he could not offer clemency and Dean's agreement—plus a comment that Dean thought the others expected it.

Dean mentioned several times during this meeting his awareness that he was telling the President things the President had known nothing about.

I have to surmise that there is a genuine confusion in Mr. Dean's mind as to what happened on March 13 versus what happened on March 21, because some of what he describes in quite vivid detail as happening on March 13 did, in fact, happen on March 21. The point about my laughing at his being more knowledgeable next time, and the question that he says he raised on March 13 regarding the $1 million are so accurately described, up to a point, as to what really happened on March 21 that I believe he is confused between the two dates.

Mr. Dean's recollection that the President had told him on March 13 that Ehrlichman had discussed an offer of clemency to Hunt with him, and he had also discussed Hunt's clemency with Colson is at total variance with everything that I have ever heard from the President, Ehrlichman, or Colson. I don't recall such a discussion in either the March 13 or the March 21 meeting.

Now, to the question of impression. Mr. Dean drew the erroneous conclusion that the President was fully knowledgeable of the coverup at the time of the March 13 meeting in the sense: First of being aware that money had been paid for silence, and that, second, the money demands could reach $1 million and that the President said that was no problem. He drew his conclusion from a hypothetical discussion of question since the President told me later that he had no intention to do anything whatever about money and had no knowledge of the so-called coverup.

I had no difficulty accepting the President's version based on years of very close association with President Nixon and on hundreds of hours of meetings with him. Having observed the President over those years in many different situations, it was very clear to me on March 21 that the President was exploring and probing, that he was surprised, that he was trying to find out what in the world was going on. He did not understand how this all fit together and he was trying to find out. I was pushing hard for that kind of information from Mr. Dean.

The President, further, was concerned about how this ought to be dealt with and he was interested in getting views from Ehrlichman, Dean, Haldeman, and Mitchell because he felt that those views might be enlightening as to what the true situation was.

For that reason he asked that the meeting be held with the four of us in the immediate future and such a meeting was scheduled the next day.

Senator Baker [interrupting]. Mr. Haldeman, before you continue. Is that the end of your addendum?

Mr. Haldeman. Yes, it is.
PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972
SENATE RESOLUTION 60

HEARINGS
BEFORE THE
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES
OF THE
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION

WATERGATE AND RELATED ACTIVITIES
Phase I: Watergate Investigation
WASHINGTON, D.C., JULY 31, AUGUST 1, AND 2, 1973
Book 8

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36.3 H. R. Haldeman testimony
Senator Baker. I see Senator Inouye has returned now and I am past my time, and if I may, I will ask one more question before I yield to him. You know this tape situation has gotten to be a pretty celebrated affair.

Mr. Haldeman. Yes, sir; I understand that.

Senator Baker. And you understand that I made the motion to institute litigation to test the privilege of the President to withhold that information from us, and that I feel very strongly about this subject. As I have indicated earlier, I think my concern in that respect is heightened by your testimony and your reference to portions of that tape. I also remarked, parenthetically to Mr. Wilson, that I gazed deep into his eyes and could not divine quite what was going on and I still cannot and I am going to continue to tantalize him a little with that. What I want to point out to you is that one statement in your addendum seems to me to be of extraordinary importance and I want to test the accuracy of your recollection and the quality of your note-taking from those tapes, and I am referring to the last, next to the last, no, the third from the last sentence on page 2, which reads, "The President said there is no problem in raising $1 million. We can do that but it would be wrong."

Now, if the period were to follow after "We can do that," it would be a most damning statement. If, in fact, the tapes clearly show he said "but it would be wrong," it is an entirely different context. Now, how sure are you, Mr. Haldeman, that those tapes, in fact say that?

Mr. Haldeman. I am absolutely positive that the tapes—

Senator Baker. Did you hear it with your own voice?

Mr. Haldeman. With my own ears, yes.

Senator Baker. I mean with your own ears. Was there any distortion in the quality of the tape in that respect?

Mr. Haldeman. No; I do not believe so.

Senator Baker. Mr. Haldeman, my final question as a follow-on to that is do you have any idea whether or not any other witnesses who were present at other Presidential conversations that relate to the mandate of this committee to inquire, might also be entitled to hear those tapes as they relate to their conversations in order to refresh their recollection?

Mr. Haldeman. I do not know, Senator. But I—it is my understanding that no one would. In the first place, almost—I do not think anybody that has appeared or will appear before this committee knew of the existence of the tapes.

Senator Baker. What about John Dean? He knows now.

Mr. Haldeman. He knows now.

Senator Baker. Do you have any idea that Mr. Dean would be permitted to go to the White House and listen to those tapes?

Mr. Haldeman. No, sir; it is my understanding that no one has been nor will be.

Senator Baker. Is the rationale for your utilization of them that it is an aid to the refreshing of your recollection for reporting to the President as a former staff member?

Mr. Haldeman. Yes.

Senator Baker. Would not that precisely exact situation apply to John Dean?
256 Mar 21 Oval

D in

E caught me why Gray w/ hldg - instr frm us?
we sd no further data - but he made dec. on his ow
won't review anything w/ us

disc of Gray strategy - re FBI files - Ervin etc.

any further word on Sullivan? he's going to be over to see me
want to see what he has

D reason for this AM - you don't know what I know
so diff to make judgments
overall - no dbt re seriousness - cancer close to Pdcy
growing daily, compounds itself -
being blkmd, people w/ start perjury to protect others
no assurance it won't bust

267 Wtgte

std w/ instr to me from H to set up legit intell op.
I turned to Caulfield cause not fam. w/ this
told him come up w/ plan.

consensus was Caulfield not man to do this
after rejected - I was told 1701 - came up w/ Liddy
had done extremely sens. thgs at WH
ie Ellsbergs Dr's office etc
Krogh sd gd man + gd lawyer

so Mag sd to M WH is pushing us
so M sd go ahead - not knowing plan
had lot of diff targets

284 info did come to Str & to H - no doubt about
Str know what it was - H may not have
D - "I've never pushed them on this cause hurts
to give extra inch.
H even gave instr to chg capab. from Musk to McG
& L decided to bug McG
never bugged McG -
info was coming over here

next time I aware - Jun 17 - brkin.
put pieces together
ask'd L - anyone in WH - L sd no
how happened - L pushed by Mag
Mag sd WH not happy w/ what getting
D thks it was Str saying H not happy
P - cant see why doing it
D - probing info re Convs
Mag is totally knowldg g bl on whole thing

don't know how much knowledge M had

292 Mag did perjure self

[11005]
took him to mt L - M had sent him to WH for Krogh
told L devel plan - after hired at CRP
Mag called D to mtg at M's re L's plan
I laid out mill $ plan - incredible
blackbag, kidnap, prostit, bugging, mugging
M sat puffing + laughing - agrees incred
2nd mtg - D in at tail end - same kind of stuff
D sd these are not things to disc in off of AG
(trying to get M off hook)
told them to pack up & get out - reexam
Mag - M - L & D
came back & told H - growing disaster - WH out
H agreed
D thot t'd off - last he heard of it
had dlgs w/ L after - never tlkd about it.

D puts pieces together
L came up w/ another plan apparently
didn't get it approved
so L & Hunt saw Cols - Cols tld Mag - fish or cut bait
if you don't use them I will - appty Feb
D assumes Cols knew what tlkg about
probly deny & get away w/ it
Cols helped to get it off dime

P - thks H assumed they had a proper op
& thru Str started pushing them for info

Mag did know & spec. instrd to go into DNC

294 I honestly bel no one over here knew
Bob I don't blv specifically knew
Str did know
Bob knew there was a capacity

297 Post Jun 17
I was under clr instr not to invest
worked on theory of cntnt
totally aware FBI & GJ - & had to
Peterson's a soldier - kept me informed
blvs in you & this Admin
made sure invest. narrowed - nothing improper
ran out to fullest extent

P - why didn't call H - D - no reason to call him
Str appeared - as result of coaching - to be dumbest

302 L deal w/ Kldst at Bng Tree CC
they std making demands - attys fees
yr asking us to take this thru elect
so arrgmnts made thru M - I was present
they had to be taken care of - fees done
Klb raised cash -
some to Hunts lawyer - his wife was taking $ to Cubans
P - how ll inv -
D - ran out of $ - 350 in safe - polling
so they came here - I went to H
H sd what for - I told him
decided no price too high to pay to blow before elect.

now w/ be cont. blackmail by Hunt L. McC
Cols had tld indir to Hunt re commutation

don't thk Sen can find this - all cash

311 the blackmail is cont
Hunt called Lawyer O'B at CRP Fri - lawyer to me
H demand 72 personal 50 atty fees
by close bus yest - affairs in order - sentence Fri
D sd you came to wrong man - I'm not inv. in $
don't know thing about it - cant help you
O'B got ball player - safe - no prob
Hunt made dir thr to agst E - blackmail
I will bring E to his knees - put him in jail
Ellsberg & other things - I don't know extent

314 Where are soft pts - how many people know?

Cubans were same H & L used in Calif brkin
H & L fully aware it was right out of WH
P - Why - D - I don't know
Cpl thgs here I've gotten wind of
one time 2nd story job on Brookings
was told E instrd it - ck'd, he said turn it [unreadable]
& I did - not worth it

Who knows?
Cubans lawyer - Rothblatt - no good SOB
F. Lee Bailey - came in to cool Rothblatt down
Bittman
O'B & Park - they're solid, but they know
all principals - some wives - Mrs Hunt whole pic

320 P. pt someone did raise Hunt commutation

that's extent of knowledge

soft spots
  1 - contg. blackmail - not just now, when in prison etc.
$ & $ compound obstr justice & cost $
people here aren't pros - don't know how to do this
P - may be we can't

D - that's right - plus prob raising $
M is working on $  
no denying H - E - I involved in early $ raising  
P - how much $  
D - Hill dollars over next few yrs.  
P - you need the money we can get the money  
we can get in cash - I know where can be gotten  
but q is who can handle it  
D - M shld be charged w/ that & get pros to help him  
he has LAR getting it  
P - I told him that's awful  
talked to Pappas  
Pappas agreed to help  
P thinking out loud here - would you put it thru Cuban Com  
D - no  
P - some will be cash is Cuban an obstacle just  
would that give it a cover?  
D - some for Cubans & Hunt - then have L - McC doesn't want $  
McC's not a bought man right now

growing cancer i.e.
1) Krogh perjured before GJ - haunted by it  
says I haven't had a pleasant day on my job  
told wife cause curtain may ring down  
perjured re did he know the Cubans?  
said he didn't  
2) M & Mag potential perjurers  
3) poss of any individual blowing

L strongest of all

P - yr major one to control is Hunt cause knows so much  
D - right - he could sink Cols.  
thanks Cols abandoned him - no $  
P - looking at imm prob - don't you have to handle  
H's financial situation  
D - I talked more about last night  
P - get to keep the cap on the bottle that much  
D - that's right  
P - either that or let it all blow right now  
D - that's the q.

Klmbach - at Jan 69 had $1.7 mill to keep  
in boxes ult to Calif. knowledge of this  
spent a good deal since 69 - hard to account for  
ies 500 th for priv. polling - nothing wrong  
sent 400 th to South for another cand (Wallace)  
mental Toney - who did Chapp study  
P - I heard about that  
nothing illegal - but explosive  
don't know anything illegal - except can't blow whistle  
ies they'll ask him re Segretti  
where get cash etc  
P - how will you handle that -  
D - doesn't bother me - not embarrassing
other vuls -
- runaway CJ in NY - N & Stans
  will try to drive E into that
  Don N Jr etc
  E may have to appear at that CJ - no priv.

that's the overall pic

re Seg - H did authorize - ck
  potential felony chg v. C
  has to disprove his control of Seg
  use of stats re interfere w/ campaign
P - not too concerned - prob on PR side
D - real prob is growing sit - support for Wgte
  & need for some to perjure
  if this ever blows & we're in a cover up sit
  extremely damaging to you
  ie if starts brkg & they find crim cases agst H, D, M, E
P - coming down to that fact we cannot take the heat
  we have to share it a little
D - that's right  H & E & M & I shld sit down
  spend a day or however long to fig out
I - how carve this away from you so does not dam you
  or Pdcy
  I know frm our convs these are thgs you
  have no knowledge of

P - trigger man was Cols on this
D - well he was just in the chain
P
I - will this brk someday-domino sit
  H accused of thgs never heard of.
  P wl be hurt most
D - I am not confid we can ride thru this
  there are soft spots
  everybody looking out for self - criminal.
  we were able to hold for a long time
  my facility hampered by Gray on front page
P - supps you & H & E & M Put out full discl.
D - One way - P tell AG for another CJ
  avoid crim liab for many & min for rest
  by thkg thru immunity - ie Mag
  but some have to go to jail.

P - who - lets talk about that
D - I think I wd for one -  P - oh hell no
  D - can see people ptg finger
P - you were doing as counsel -  obsr just
  could cut it off at the pass
D - thk w/ prep coord. w/ D. Just
  Pete only one I know bright cnuf to advise us
  put together w/ max sep [unreadable] & minimal dam to
individuals
have faith in him --
D - I've been conduit of info tkg care of people
who were guilty of crimes:
the blackmail

P - suppose you got the money & way to handle it

would seem to me that would be worthwhile

have prob Hunt clemency
D - right & the others - may be untenable
not sure you can deliv on clem
P - not before 74 elect for sure
D - may further involve you
P - & its wrong
D - there've been some bad judgments made
    & some nec. judgments made before elect
can't burden 2nd Admin w/ something that won't go away
has to be...
who else potential crim.
D - E, conspir to burg Ellsberg
    picture was in files - not buried
    why phone at WH in secy's name

  don't have a plan - but shld think in terms,
  how to cut losses, not further compound
P - but at moment don't you agree better take the
Hunt thing

000011

E & H have met w/ D - never w/ M

H has potential crim liab frankly

indicted - maybe never convicted

P - if they're going to be indicted - better to tough it thru
cut our losses - but if it blows w/ never recover
  so fight it out - no one testify
realize wanness re blackmail
D - get you up & out & away from it
  or hunker down & fight at every turn
  & hope we can do it. & take the heat
P - still consid - bef Cab & ldrs etc.
    re my invest -
D - if we go that route I can give a show
P - most diff prob are the guys going to jail
    & clemency - how long w/ they sit.

P - have mtg fast - today - tomorrow
D - H & E don't want to tell to M
    H agrees you shld have facts

000012[11010]
H in somewhere

D - can chg them w/ blkmng us

P - I tlkd w/ E - so he can get away from this
he reco mtg at earliest time
pushes for mtg H E M
don't want Moore there.
decide - then let me know
tell them exactly what you told me
re obstr etc
then see what the line is
stonewall & take heat?
analyze vul. pts. Hunt

398

Hunt blow whistle

P - pt is all the secys etc know

D tells H for first time re Cols - Mag phonecall

1134

P - Hunt prob is serious cause of Ellsberg
D - put on nat'l sec basis
but why not CIA or FBI

H - cause we were ckg them
D - can probly get by on that
solves Krogh prob - was treason

P must have talk w/ M

000013

P either decide so many crim probs - not pub-
for WH staff

H - q where cut off pt is - poss of L - where ar now
req's continued perjury by Mag
P - & req's total control over all defdts
D - Hunts playing hard ball -w/ re E etc.

H - what w/? $ (obviously first I knew)

418

P - 120 th - easy to get - not easy to deliver
Try to cut losses - won't work - in end bleed to death & look like coverup.
have to look at what they are
avoid crim liab. - Bob, C, Str & M

H - & Mag if you can
P - D says if Mag goes down pulls all w/ him
another way -
cont. to try to fight it
req. 1 mill dollars to take care of defds
that can be arregd.
but they'd crack after we're gone
best people won't care that much
we can't del. on clemency - Cols promises

1176

D - Hunt tlkg out by Xmas
H - this year?
says that's his commmt from Cols.
H - I'd blv it.

Kldst has control of parole bd & says we can del.
disc'd parole

430

D - our grtst jeopardy is to pay the blackmail
P - we can get the $ - no prob w/ that
but can't provide the clemency
money can be provided - M can provide way to deliver
H - don't see any way WH or anyone in WH involved in
trying to give up money
D - we're already deeply enuf in that That's the prob

D - when they ran out of Kmbach money cause after the 350 that w/ [unreadable]
& I had to explain what it was for
H - that was sent to LaR where bigd - in pieces
& balance was all ret'd to LaRue - but no recept.
we cldn't cont. piecemeal giving - wld tell H - he'd get Str to go

D - every time asked had to get Str to safe
& take to LaR a forever operation

H - this was loans to be replenished
D - they'll have hell of a time proving it.
P - back to money - the mill $ ways to get it &
hard place your view is - hell w/ [unreadable] say to them it's all off
that's the way to do it isn't it?

H - only way can live w/ - cause down years
had to get thru Nov 7 - no q.
D - these fellows cld have sold out to Dems.
P - so let it go - they blow whistle - the clean way
is that really yr rec?
D - no - not necessarily the cleanest way
is there way to get our story before GJ - they mv WH
haven't that thru

1226

P - 12 has raised vt of GJ - don't know how you do it
have WH called before it
gives reason not to go to Corp -
puts it in exec session, rules of evid.
disc re GJ procedure & what can do
Hill much worse to deal w/
what to Ervin Corp - etc
c. of spec. prosec.
D - wld like to have Pete on our side advising us

D - US Atty w/l pull all defdts back & immunize them
won't do any good - they'll Stonewall
ex. Hunt - that's Hunts opntv.
P - that's why for impd thing you've got no choice w/ H w/ the 123
is that right
D - That's right
  wld you agree that.
P - if that wld buy time - better damn well get that done
D - I thk he ought to be given some sig. anyway
P - for C's sake get it in a way that -
  whose going to talk to him - Colson -- he's the one
D - well Coln doesn't have any money - that's the thing
  one of real probs - they haven't been able to raise $
mill in cash is very diff prob
  as we've disc before
M has tlk'd to Pappas I called him last -
  John asked me to call him last nite after our disc.
  & after you'd met w/ John to see where that was

& I said have you tlkd w/ Pappas -
  all in code cause MM on phone
  did you tlk to the Greek - M Yes I have
  is the Greek bearing gifts - M well I want to call
  you tomorrow on that
P - well look what is it you need on that
D - it sounds easy - but that's our brkdn
P - well if you had it - how wld you get it to somebody
D - La R lv's it in mail boxes - someone phones Hunt
  we're a bunch of amateurs in that bus.
H - that was the thing we thot M ought to be able to
  find somebody to do that sort of thing
  none of us know how to
D - have to wash - to Vegas - NYC
  lrd all this after fact
  get shape for next time around
H - what about the money we moved back frm here
D - they may have some
H Kalmbach must have some
D Kalm doesn't have a cent
H the 350 was all we saved
  we're so square we get caugh
P - suggest this -
  the CJ thing has appeal - at least we're coop.

3.

D - once we start there's no control
  did amazing job keeping on track before
    I knew where they were going
P - what happens at CJ
D - depend on what Mag says - chqs his stry
H - that's the best leverage on Job  
   unless they give him immunity  
   then have intstmt prob.

D - we have control of who they immunize  

P - think how P looks - we'd be cooperating  
   that's where sh'd be done - GJ  
   then exec priv before Conv.

H - do we agree to release GJ transcripts  

D - that's not up to us - up to Court  
   disc. of GJ route

H - to our interest to get it out

P - other poss  
   1 - hell w/ it - can't raise $ - Hunt blow whistle  
      raises probs - get Mag - poss Cols. - M.  
      D - starts whole FBI again  
      might get E -  
      D - Krogh go down in smoke  
      Nat Sec won't sell in crim sit.

P - we have no choice on Hunt - eventually will blow

D - see how we can lay out everything we know to GJ  
   so if Hunt blows - we've already told it  
   not incl E deal - cause Hunt go to jail for that

P - don't go into Natl Sec area

P - other thing - have GJ & Com  
   GJ appeals - cause P makes the move  
   that's the place to do it.

   can't risk M going  
   third is just hunker down & fight it

D - that's a high risk

D - something will break

P - will look like P is covering up

D - have to look at other alts

P - middle grid of GJ & finally ---  
   or pub stat w/o GJ  
   disc.  
   must move fast if sentence on Fri.

D - AG could call Sirica & ask delay sent two wks  
   Kildst has good rapport w/ Sirica

000018

000018
D - the person I feel we cld use is Pete
   awkward - but remove him - to dis. w/ him
   spec. assn't here
   advise what is obst - etc.
P - how wld you get him out
D - appeal dir to Pete
P - P call in as spec. couns to HM.
   rather than D?
   D cld rec. that to P.
   (D didn't seem to know Pete planning to lv)
   Flw see if Klds & can put off
   2 - get M down tomorrow - disc. this
       H  why not tonight
P - I'll mt w/ grp - or D report to me at end
   I shld stay away from M side of this

- good to consid these options
  when have right plan
  no doubt you were right before election
  need new plan now
H - have to turn off erosion - comes to P.
  at any cost

1365 disc.

Retyped from indistinct original
"Caught me why they expelled - what for us? We ask no further this but his might rise as in
no situation anything 19
also if they strategy - 12 111 ones - Envi cke.
Any further word on Kiddington? He's going to leave this
place to see what he has
I reason for this 1975 - you didn't understand I knew
so of to make judgment
perhaps we do not the question - cause him being
growing daily, caractère itself,
being libelled people of that proving suspected them
we announce it must limit

267. Left:
And up until time from 44 to a long time until 449.
I turned to Clifford can form from left
right here come up and plan.
Worries were Clifford now from the two
after expected - I was left 1791 - came up of that
had time extremely rare. They are still
12 Ellingham 1314 Africa etc.
Worries all get more 11.1

000001
The log is set to be used tomorrow. We'll let go ahead with the plan, but we need to set up the lot of staff targets.

We did come to the site to look around. It may not have been our preferred plan, but we decided to try for a higher number. Our efforts seem to have borne fruit.

Next time, I assume it'll be 17 - again.

Put price together.

As per your instructions - we'll proceed with the plan. We'll let the decision be up to you.

We are trying to keep it as not happening.

We can see why doing it.

D - asking me to leave.

That is totally amazing, isn't it? I don't know how much reality is still.

They did remain calm.

They don't talk by me - I must not know of that is yes, they join.

DV
DV

The letter of the M - Not clear. It is very illegible. It could be read at all. May have been written in ink. I don't know.

 meant to be a plan - unclear.

Wallace, being correct, legible, was not
out of the blue - same kind of thing.

I set them out, things to change in NY ST
[staying to get 10 RHD]
to keep him to stick up and out - through

No one said it - I think.

It seems that the letter from the KND
had been cut off - some time in August.

D puts pieces together

I came up with another plan apparently
apparently not a good one - like that way - for more
D - I think I was right - it was a small letter -

made clear what we said -

it's very clear and got away with it

lots helpful to get it my own

Felt it became they had a proper if

Dun no. 11. December thing for it.
May did know - open visit to go into DNC

I honestly tell no one ever knew.
But I didn't specifically know
She did know.
But I'm sure there was a capacity.

294
Post Jan 17

Guess main the desire not to make
Worked on theory of commitment.

Fasting causing P11 and CT - I had to

Peterson is reliable - kept me informed

Went in you to this decision

Made here want increased - nothing big enough

Can out to finish curtain.

D Why didn't we hit - D - No reason to call the

Date appeared as result of contact to be due.

302

L deal up Easter at Ray Trace CE

They still raising demand - acting fast

Yes ability to take this form which

So around made until M - I am connected.

They had to be taken care of - just done.

Rents raised fast -

Some of these lawyers - this might change up.

DV

DV
DV

306

is this true. & is sworn to.

1 - how it was

D - owed $50 - 350 in expenses.------

So they came here. I went to it.

150 owed $50 I said this

alone at 7th St. to pay to Mrs. Safety

more up the cont. brought by Agent E. McC

Old & I told him to trust me. Combination.

can't find this con. later - cash card

311

the home is cont. D -

I went called lawyer at CP for - large sum.

1st duty, 72 personal 3D visits. fees

by done last you - affairs in other - matters.

Did you come do every man. I'm not here in it.

can't have thing about it - can't help you.

6 $20 built plan 9 - safe - see you.

I never made see that agent E. - Liberal

Just bring E to his house - sent to repair

Clothes - other things. I don't know
Where are my pets - how many people know?

Cuban were gone. Had work in Chef. Kitchen
1st fully aware it was right away C
P - Why - D - I don't know
you guys here. I've gotten word of
One time 2 boys fell on Brattman
and told E what I - chet, he said.
D - I did - not want it

Who knows
Cubanlander, Keith Clark - no good, 5000
Fresh daily - came in to look at Brattman
Bettman
C B - pack - they're still, but they know
all principles - some dotted - has tent whole P
P, put someone did their tent connection
that's out of Brattman

Soft spot
1 - conty, Allman - not just now, when in prison
and compound crime, justice & costs
people haven't got - don't know do
P - maybe we can't
D - that's right, has first money.
DV

 Mrs. Carter in SF

 mummy H-E-D named in case adding

 - hour and 3 D - well before we return,

 P - you need the money, we can get the money

 we can get in cash - I know there can be trouble

 but G is who can sell it. D they like

 D - in that big Soothe that got up

 she has but - the if. D said him that she sold

 the to Pippa. P - I know

 Pippa agreed to help

 P told out loud here - what you got it then off

 D - no

 P - some of the cloth is like the other just

 will I gain it on now?

 D - more for clothes that - then here - did he

 The C's not is bought seen right now

 January 12 196

 1) Knob prepared before 6T - accounted by it

 that. I heard had a pleasant stay on my job

 that could cause certain may not down

 prepared to did he know the Cables?

 if he didn't

 2) Not in potential preferences

 3 part of day removed becoming
Listen to me.

I—yes, I quite control it... but since the rain is over.

D—right. He did this last.

This is absurd.

P—looking at time, yes—what do you have to tell me.

D—tell me this.

P—getting the cap of the bottle that came.

D—That's right.

P—let me cut all those regret, you.

D—That's the day.

Shaped, a month, half a year, my boy in boxes, not to be.

Knowing this agent a good deal since 15—hardly anything

1500 life for your policy. Nothing more.

Under $100 at $500 life for personal accident.

Mutual. Tony. What did you do study.

I knew about this.

Not by itself, but expensive.

About how many life insurance policies.

And they took him to defeat.

In the last case.

P—how will you sell that.

D—about three—no, not even.

...
Other views:

- necessity of NY - hi Stone
  - of leg is done E etc etc
  - for N J etc etc.
  - E may have to appear at that SF reg.

Stated the overall pic

- no log - if did not arrive - the
  - potential glory etc etc.
  - has to determine his control of leg
    - may state a certain of campaign
  - P - not his counsel - fact in PC etc etc
  - D - you plan is growing with consent for log
    - Need for some to procure
    - if this does not become in some way an
      entirely thing is to join
    - if other thing - they for can etc etc
      - P away don t say he cannot take the lead
      - we have to have it a little

D - that is it - it is E or M I think it should be
  - spend a leg or human long to figure
  - how can this away for you do etc but the
    or they

I know from others there some time you
  - have no knowledge of

DV
P - they were close to us
D - well here's some more

D - and the little country - doesn't give
because of those people untidy
P - they're the best now.

D - I am not sure if we can make it to
there any time.
Everybody being out of it - some
unusual business - had been going on
my facility, especially after arguming.

P - what you think of this
D - one way - you felt the pressure to
avoid such bad news - him funny
by being more sensitive - so long
but more looks to go for.

P - who'd like it better?
D - I think I will steer - it will look
D - can we please not forget - at the first
P - you were doing as though
would cut it where the face.

D - the last person doing the
Peter anyone I know important is done in
put together as they felt that face.

DV
I agree with this plan but there is a few issues with the current setup of the lab.

The schedule:

360 P - Suppose you got this wrong because it's not clear but the lab should be conducted with the right chemicals.
D - Right, the other may be underlined.
I - That you can listen to them.
D - Right for sure.
V - Right.
D - There has been some feedback on the equipment used for this experiment. I think it's important that we take these steps...

With these potential errors:
D - E, agree to bring Zelho's picture in the files - not sure why phone it will be done.
D - Agree with these changes. I think it's important that we agree.

But I'll sign.
DV

P - Yes, if F and G are not empty then

P - I will do the same thing in

P - Don't want to haunt

P - You see what the... &

P - It will be a little bit

P - Put it on the 2nd layer

P - Can pretty get by with

P - Must be in the 11th

DV

00013

[11028]
P - write check to Magie to make sure it isn't just for "M.
H - 7 of 20 is paid and rest every 10 days
1 - any continued playing in May
P - paid all control over all subjects
D - wanted 2 more books back - I'll get them.
H - what is it? (obvious fault here)
P - 120 let - only 13 left - want money for rail
Try to get loose - work hard - head with me
H - own, what they are entering
D - live in east - be glad
H - you can
P - don't get over every time
D - make 290 for girls - all in
P - this fine - will have to go faster
D - check and write off fleet tax - things we can do

D

P -
D - one check properly to be paid before this
H - we can set the ft - no part of that

D - write already existing - that is the past.
D - they're in very limited in many ways. In the end, I had to explain that it was not.

H - that was that. It had already. In pieces.

D - there was already to do. In some cases, it was just personal. I'm not sure that the whole thing was.

D - any. They talked about it in the days of.

H - to tell a person's story.

H - this was done to be understood.

D - they'd have hell of a time doing it.

H - need to rank - they're trying to.

D - this is done. It's just not.

H - that is just. This is not just. It's just. They're making it. It's just. They're not just. They're doing it.

H - only way can take any - these characters.

D - what else? - they believe it whole. They believe it whole. They believe it whole. They believe it whole. They believe it whole. They believe it whole.

H - not necessarily the cleanest way.

D - was - not necessarily the cleanest way.

H - they're just something before 65. They were with the other. They're the other.
I am not sure you'll like anything.
All the books were locked up.
Did you put this book? Yes I have.
At the book store. I well... and she...
gives to me tomorrow.

D - well Sold when I was back in the
P - it... And now - lost. That's the bridge.
P - well if you have it - how about you get it.
D - last. Let it in real better-someplace.
I'll be back to you. In that case.

H - that was the boy. But I dug it too. It is the.
D - I'm sorry. It is the right.
H - [I think] cost later.
D - I can't see. It's very.
H - Is it? I can't see. It's very.
D - I can't see. I can't see.
H - The book is still here? I don't.

D - biggest thing.
The [I] his special. It can't be.
D: OK, let's start with the control

P: What happened on the flight?

D: Depends on what you mean by flight.

P: The take-off was fine, until they gave him something.

D: We have to control if they're giving him anything.

P: Why is it so hard to correlate

D: That's where the FFs come in.

H: We agree with the FFs' suggestion.

D: That's just- up to us- up to us.

H: To our request to get it out.

P: Other issue:

H: Let's put it in, let's couple.

D: That's our plan- let's couple.

H: Might get E.

D: Keep going to the

H: Might get C.

P: We have no choice on the- certainly any

D: VV
D - see first post no. 1 "GT" be of 1/2 inches to 1/16 inches. and 1/16 E must come here.

P - don't press with the cross.

P - other wise - tear "GT" and make it reversible. Makes the piece that the piece to do it.

Do it with a glycerin

Then it just luminates down and figure it.

D - three to look at other acts.

P - middle 90' GT to finally help put up GT to die.

Have to move first of infancy on feet.

D - lift call to you and bring the piece that is good for you.
D:\nI feel as if there is too much work involved - but outside in - to discuss.

Do you want to talk about what's going on?

P: How did you get here?

D: appeal due to date

P: Well, is it clear to court?

D: Actually, that's a no.

P: (Didn't mean to say that, forget it.)

D: you see, if bills can get paid,

P: I can tell tomorrow - what's going on.

D: roll up your sleeves - it's not just to me at all.

I think the story from here is:

Good to connect these options.

When love isn't

What would you love to have?

Need you plan next?

H: have 2% effect, then come to it.

D: any cost.

D:\n
1363
37. On or about August 9, 1973 Cox met with Richardson and requested a file of documents concerning campaign contributions by milk producers then in the possession of lawyers in the Civil Division of the Department of Justice. Richardson called Buzhardt and told him that he wanted to turn the milk producers file over to Cox. Buzhardt later called Richardson and told him not to give the file to Cox.

37.1 Archibald Cox testimony, SJC, 1 Special Prosecutor Hearings 18.

37.2 Elliot Richardson testimony, SJC, 1 Special Prosecutor Hearings 267-68.

37.3 Memorandum from Elliot Richardson to J. Fred Buzhardt, August 13, 1973, SJC, 1 Special Prosecutor Hearings 288-89.
SPECIAL PROSECUTOR

HEARINGS
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
SPECIAL PROSECUTOR

OCTOBER 29, 30, 31; NOVEMBER 1, 5, 6, 7, 8, 14, 15, and 20, 1973

Part 1

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973
Another example of our inability to get papers has to do with the so-called milk producers file. Back, I am afraid I can’t tell you the date, but back several months ago I was with the Attorney General one day and I said: Look, the file of papers on the milk producers is in the possession of the lawyers of the Civil Division, and I have been trying to get it from the President’s counsel. If the Civil Division can see it, I don’t see why I can’t see it.

And the Attorney General said: Well, I agree with you, I don’t see why you can’t see it. I will tell them to turn it over to you.

He stopped and said: I’d better tell the President’s counsel that I’m doing this before I do it, and when he did tell him he was forbidden to turn it over.

So much for that group of things.

There are, of course, and I need only mention them, to make the list complete, tapes and memoranda relating to conversations with the President. I have already mentioned the subject of delay, and I have referred in general terms to taking papers from one set of files and putting them among Presidential papers. An individual came to the office who, well, he was a member of the White House staff, and while I don’t think I should identify him, I think it is worthwhile reading a summary of part of the interview: X also explained that immediately after Y testified before the Senate Watergate Committee, Y indicated to X that the Senate was going to subpoena X and Y’s political files. X consulted with Mr. Buzhardt who determined that to avoid the subpoena problem all of Y’s political files should be deposited in the President’s files. That day X combed his files and deposited the relevant material in the President’s files.

I am relying on hearsay, but I understand that we had that experience in trying to get Hunt’s pass to the White House, although we finally did get it, I must emphasize, and you heard me refer to papers of Egil Krogh which had been taken out of his files and put into the President’s files.

I want to say one thing more on the subject of obtaining papers:

I do think that it is only fair to note that during this period we were engaged in litigation over the extent of Presidential privilege, and litigation had been going on since sometime in July. I did not press requests that I might otherwise have pressed because it seemed to me that we ought to get the test case out of the way first. I did not attempt to go public on it because it seemed to me that the answer would be: Well, you don’t really expect us to comply with all this while we are finding out the extent of Presidential privilege.

Now that that question has been adjudicated I would expect that the office would have a very large number of requests and would take out a very large number of subpoenas because there are many papers which ought to be obtained and scrutinized. Again, I want to emphasize that wanting to see a paper does not mean that it contains something evil or inculpatory. Maybe just the reverse. It is just as important if it is the reverse.

I have indicated—I’m sorry to be so longwinded, but I will try to hurry on here—I have indicated that I thought that a statutory office of Special Prosecutor should be created. I would emphasize that he should have independent powers. It seems to me imperative that his jurisdiction be at least as broad as the jurisdiction that was given to me. I noted, I think I quote it correctly, that in the press
The CHAIRMAN. Senator Tunney.
Senator Tunney. Thank you, Mr. Chairman.
Mr. Richardson, I would like to join with those colleagues on this committee who have complimented you on the job you did as Attorney General.
I personally think that you were one of the really outstanding Attorney Generals that this country has had and I personally am deeply disappointed that you are not going to be in the office for the next 3 years so that we could have the benefit of your intelligence and wisdom.
Mr. Richardson. Thank you very much, Senator Tunney.
Senator Tunney. And it is said from the heart. Yours is really a very fine example of the kind of job that can be done by a person in very difficult circumstances when that individual has the integrity that you have.
I would like to ask you a few questions that relate to testimony by Mr. Cox and some of the things you said today.
In his testimony to our committee, Mr. Cox refers to your role in helping him to secure documents in the milk case in the Civil Division. I just quote:

Back, I am afraid I cannot tell you the date, but back several months ago I was with the Attorney General one day and I said: Look, the file of papers on the milk producers is in possession of the lawyers of the Civil Division, and I have been trying to get it from the President's counsel. If the Civil Division can see it, I do not see why I cannot see it. And the Attorney General said: Well, I agree with you, I don't see why you can't see it. I will tell them to turn it over to you. He stopped and said: I'd better tell the President's counsel that I am doing this before I do it, and when he did tell him he was forbidden to turn it over.

That is in the first day of this hearing, October 29. Do you have that transcript?
Mr. Richardson. Yes, I do.
Senator Tunney. Starting with the paragraph, "Another example of our inability to get papers having to do with the so-called milk producers file."
Mr. Richardson. Yes; I have it.
Senator Tunney. I just was wondering why you were forbidden to turn over those papers to Mr. Cox?
Mr. Richardson. They were in this instance so-called Presidential documents. We were engaged in civil litigation involving the same case and a careful classification had been made of the papers and these fell within what I think would clearly be regarded as the category of Presidential papers, and so the question then was whether or not I had in effect the authority to make them available in the circumstances—it seemed to me something that I ought at least to raise.
I thought it ought to be done, and I did continue to urge that it be done and I included among the papers that were furnished to you this morning a memorandum dated August 13, from me to Mr. Buzhardt, in which I restated the reasons why I thought this should be done.
The key point was that "The papers are in the possession of this Department"—I am reading from the memorandum—

And have been reviewed by attorneys in the Civil Division as well as in my immediate office. Cox is an employee of this Department whose authority derives solely from delegation by me. I can find no plausible basis for denying him access to papers which are available to other personnel of this Department.
Senator Tunney. The fact that they were with the Civil Division did not in any way destroy the defense that they were privileged documents, Presidential documents?

Mr. Richardson. Well, I think if I understand you, the situation is the converse. The fact that they were in the hands of the Civil Division was in itself, it seems to me, a reason why they should be equally available to the Special Prosecutor.

Senator Tunney. Right.

Mr. Richardson. There was no—I never got a response ultimately to this letter of August 13. It was a matter of finding in Mr. Buzhardt’s time appropriate opportunity for me to take it up directly with the President and, because of the Agnew situation primarily, the opportunity just did not come. But it was in a sense unfinished business.

But I think this is one of the things which this hiatus, whatever you call it, now seems to me to create—an opportunity to get settled definitions along with access to other documents as well.

Senator Tunney. Mr. Richardson, with respect to the comments that Mr. Bork has made on the constitutionality of legislation that is before this committee, particularly that legislation which would have the courts as the appointing authority of the Special Prosecutor, I wonder if, in view of the comments that you have made on the restrictions that necessarily ought to be imposed on removal of any Special Prosecutor, assuming that he is appointed by the President, if restrictions can be placed on such a Special Prosecutor’s removal without running into serious constitutional questions?

As I understand the Myers case, the power to appoint also contains within it necessarily the power to remove. How could the Congress put any restriction on the power of the President to remove an official that the President has appointed without running into those constitutional difficulties?

Mr. Richardson. Well, I would rely essentially on the authority of the case of Humphrey’s Executor, which deals with the appointment of an FTC Commissioner, for the proposition that there can be qualifications under the power of removal where there is a sufficiently strong basis for this. The grounds would be distinguishable, of course, and in the Humphrey’s case, the point was that a regulatory commission member is exercising quasi-legislative and quasi-judicial as distinguished from executive functions.

But I would argue by analogy that where a Special Prosecutor is created in order to exercise independent authority to investigate actions of the executive branch, including those of the President himself, that it is then appropriate for the Congress to attach some restrictions to his removal and that this is simply a practical result that the Constitution is flexible enough to accommodate.

In any event, the questions of the constitutionality of the removal provision would not affect the constitutionality of the actions of the individual. So any doubt on this constitutional issue does not create the same problems that doubts of the constitutionality of an appointment by the court would create.

So besides that, if you put into the statute some restrictions on the power of removal, and they are not observed, then you would have, if not a legal issue affecting the tenure of the Special Prosecutor, you would have a very important public issue by which to judge the ac-
SPECIAL PROSECUTOR

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Part 1

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23-504
include the obvious requirement that the Special Consultant be a man trusted both by Cox and the White House. I thought it also inappropriate to include in this document the suggestion that Cox set up a special unit to deal with matters, such as the "plumbers", which are likely to involve security interests. We can discuss that with him separately.

I have broached the idea of a Special Consultant who would deal with both Cox and the White House to Fred Buzhardt. He expressed interest in the idea and in the specific name mentioned. He is going to mull the suggestion over and call me back.


The Special Prosecutor's authority covers:
(1) The Watergate break-in;
(2) Offenses arising out of the 1973 Presidential election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility;
(3) The "Plumbers' operations," if they constitute the commission of criminal offenses. In judging lack of criminality, three criteria will be employed:
   (a) The regularity or established nature of the procedures employed;
   (b) The absence of physical trespass; and
   (c) The plausibility of the belief at the time that national security was involved.

The listed criteria need not all be present to indicate probable lack of criminality. A strong showing under (c), for example, would diminish or, possibly, eliminate the importance of (a) and (b).

"Plumbers' operations" refers to the cluster of events, in addition to (1) and (2), above, that led to the appointment of the Special Prosecutor, including events not then known but involving the same personnel and not remote in time.

(4) Any matters the Special Prosecutor consents to have assigned to him by the Attorney General.

The problem of national security may arise in an investigation conducted under any one of these heads of authority. Since it is impossible to define cases of legitimate national security concern in advance, the Special Prosecutor may seek the advice of a special consultant on national security affairs concerning matters under investigation or about to be presented to a grand jury so that the special consultant may inform him whether national security interests are involved. The special consultant will be employed by the Department of Justice.

In the course of his investigations, the Special Prosecutor may discover administrative irregularities or misconduct not amounting to criminal behavior. Though such matters are not within the scope of his authority, nothing in this memorandum is intended to suggest that it is the Special Prosecutor's duty to overlook such irregularities or misconduct. To the contrary, he may refer any such matter to the appropriate agency of the Department of Justice or include it in any report he may wish to make either in the course of or at the conclusion of his duties.

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**TAB D**

**AUGUST 13, 1973**

**MEMORANDUM**

To: J. Fred Buzhardt, Special Counsel to the President.

From: Elliot L. Richardson, Attorney General.

Subject: Milk Case Papers.

J. T. Smith relayed to me on Thursday of last week word that the President does not wish me to turn over to Cox the papers in the milk case which are now the subject of disclosure proceedings in *Nader v. Butz*. I respectfully disagree with this conclusion for the following reasons:

1. The papers are in the possession of this Department and have been reviewed by attorneys in the Civil Division as well as in my immediate office. Cox is an employee of this Department whose authority derives solely from delegation by me. I can find no plausible basis for denying him access to papers which are available to other personnel of this Department.

2. Since the papers afford scant support, if any, for Nader's side in the civil suit, they should help to rebut any allegation of criminal misconduct.
3. Given other situations—e.g., the tape—in which much more substantial interests are at stake, it seems to me undesirable to take a hard line in a case where cooperation won't hurt.

I would be glad to speak to the President directly on this matter, but I would be quite willing for you to do so on my behalf if that seems preferable.

ELR, August 21, 1973

WATERGATE SPECIAL PROSECUTION FORCE,
U.S. DEPARTMENT OF JUSTICE,

HON. ELLIOT L. RICHARDSON,
U.S. Department of Justice,
Washington, D.C.

DEAR ELLIOT: As you know, my Office has been investigating the possible relationship between the very large contributions made by the Milk Producers Association and the Governmental decision to grant an increase in milk prices greater than previously planned. The Civil Division of the Department of Justice has possession of files from the White House which may contain information pertinent to the question.

I am writing to request access to those files. You and I have spoken of my wish to see them earlier, but it seems important to put the request in writing.

If the files are not so confidential as to require denying access to members of the Civil Division in defending litigation, then they can hardly be so confidential as to warrant denying access to attorneys in this Office investigating the truth or falsity of charges of wrongdoing. It was my understanding when I accepted my present position that I would be given access to pertinent papers in the Executive Branch. We agreed that there might be claims of executive privilege but those seem hardly applicable at the present moment. At the moment, I am requesting access only for myself and properly authorized members of my staff. There is no question, at this point, even of putting the files before a grand jury.

For these reasons, I think we are clearly entitled to see the file, and I hope that it may be made available without the incongruity of having to seek a subpoena.

Sincerely,

ARCHIBALD COX, Special Prosecutor.

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TAB E

HANDLING OF PENDING MATTERS


1. Constitutional issues—DOJ (Office of Legal Counsel).
2. Civil Actions—DOJ.
   Nader v. Butz—Civil Division.
   (Defense allegations that White House and/or CRP personnel used illegal methods in obtaining evidence.)
4. Pending Indictments Under Cox Supervision.
5. Pending Investigations Under the Direction of the Criminal Division.
   William Taub matter (allegation that Teamster President FitzSimmons bribed “White House people” to block Hoffa trip to Hanoi).
   A. Ernest Fitzgerald matter (obstruction of justice allegations re dismissal from civilian Air Force job).
   Watergate break-in.
   Ellsberg break-in.
   Election law violations (by designation).
   DiCarlo commutation (under immediate direction of U.S. Attorney, District of New Jersey).
   Lehigh Valley Dairy Association (political contributions allegedly in return for assistance to Association).
38. On August 13, 1973 Cox wrote to Richardson to request access to files relating to the possible relationship between large contributions by the Milk Producers Association and the Government's decision to grant an increase in milk prices. On August 13, 1973 Richardson wrote to Buzhardt to express his disagreement with the President's decision not to turn the milk files over to Cox. Richardson said that he could find no plausible basis for denying Cox access to papers which were available to other personnel in the Justice Department.

38.1 Letter from Archibald Cox to Elliot Richardson, August 13, 1973, SJC, 1 Special Prosecutor Hearings 289.

38.2 Memorandum from Elliot Richardson to J. Fred Buzhardt, August 13, 1973, SJC, 1 Special Prosecutor Hearings 288–89.
HEARINGS
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
SPECIAL PROSECUTORS

OCTOBER 29, 30, 31; NOVEMBER 1, 5, 6, 7, 8, 14, 15, and 20, 1973
Part 1

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973
3. Given other situations—e.g., the tapes—in which much more substantial interests are at stake, it seems to me undesirable to take a hard line in a case where cooperation won't hurt.

I would be glad to speak to the President directly on this matter, but I would be quite willing for you to do so on my behalf if that seems preferable.

ELR, August 21, 1973—Copy hand delivered to Buzhardt.

**WATERGATE SPECIAL PROSECUTION FORCE,**
U.S. DEPARTMENT OF JUSTICE,

**Hon. Elliot L. Richardson,**
U.S. Department of Justice,
Washington, D.C.

**Dear Elliot:** As you know, my Office has been investigating the possible relationship between the very large contributions made by the Milk Producers Association and the Governmental decision to grant an increase in milk prices greater than previously planned. The Civil Division of the Department of Justice has possession of files from the White House which may contain information pertinent to the question.

I am writing to request access to those files. You and I have spoken of my wish to see them earlier, but it seems important to put the request in writing.

If the files are not so confidential as to require denying access to members of the Civil Division in defending litigation, then they can hardly be so confidential as to warrant denying access to attorneys in this Office investigating the truth or falsity of charges of wrongdoing. It was my understanding when I accepted my present position that I would be given access to pertinent papers in the Executive Branch. We agreed that there might be claims of executive privilege but those seem hardly applicable at the present moment. At the moment, I am requesting access only for myself and properly authorized members of my staff. There is no question, at this point, even of putting the files before a grand jury.

For these reasons, I think we are clearly entitled to see the file, and I hope that it may be made available without the incongruity of having to seek a subpoena.

Sincerely,

**ARCHIBALD COX, Special Prosecutor.**

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**TABLE II**

**July 10, 1973.**

**Handling of Pending Matters**

1. Constitutional issues—DOJ (Office of Legal Counsel).
2. Civil Actions—DOJ.
   - *Nader v. Batts*—Civil Division.
   (Defense allegations that White House and/or CRP personnel used illegal methods in obtaining evidence.)
4. Pending Indictments Under Cox Supervision.
5. Pending Investigations Under the Direction of the Criminal Division.
   - William Taub matter (allegation that Teamster President FitzSimmons bribed "White House people" to block Ho'a trip to Hanoi).
   - Ernest FitzGerald matter (obstruction of justice allegations re dismissal from civilian Air Force job).
   - Watergate break-in.
   - Ellsberg break-in.
   - Election law violations (by designation).
   - DiCarlo commutation (under immediate direction of U.S. Attorney, District of New Jersey).
   - Lehigh Valley Dairy Association (political contributions allegedly in return for assistance to Association).
SPECIAL PROSECUTOR

HEARINGS
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
SPECIAL PROSECUTOR

OCTOBER 29, 30, 31; NOVEMBER 1, 5, 6, 7, 8, 11, 15, and 20, 1973

Part 1

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973
include the obvious requirement that the Special Consultant be a man trusted both by Cox and the White House. I thought it also inappropriate to include in this document the suggestion that Cox set up a special unit to deal with matters, such as the “plumbers”, which are likely to involve security interests. We can discuss that with him separately.

I have broached the idea of a Special Consultant who would deal with both Cox and the White House to Fred Buzhardt. He expressed interest in the idea and in the specific name mentioned. He is going to mull the suggestion over and call me back.

The last paragraph of the document incorporates what I take to be your suggestion. It seems to me quite useful to incorporate it in a paper of this sort.

Robert H. Bork,
Solicitor General.

The Special Prosecutor’s authority covers:
(1) The Watergate break-in;
(2) Offenses arising out of the 1973 Presidential election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility;
(3) The “Plumbers’ operations,” if they constitute the commission of criminal offenses. In judging lack of criminality, three criteria will be employed:
   (a) The regularity or established nature of the procedures employed;
   (b) The absence of physical trespass; and
   (c) The plausibility of the belief at the time that national security was involved.

The listed criteria need not all be present to indicate probable lack of criminality. A strong showing under (c), for example, would diminish or, possibly, eliminate the importance of (a) and (b).

“Plumbers’ operations” refers to the cluster of events, in addition to (1) and (2), above, that led to the appointment of the Special Prosecutor, including events not then known but involving the same personnel and not remote in time.

(4) Any matters the Special Prosecutor consents to have assigned to him by the Attorney General.

The problem of national security may arise in an investigation conducted under any one of these heads of authority. Since it is impossible to define cases of legitimate national security concern in advance, the Special Prosecutor may seek the advice of a special consultant on national security affairs concerning matters under investigation or about to be presented to a grand jury so that the special consultant may inform him whether national security interests are involved. The special consultant will be employed by the Department of Justice.

In the course of his investigations, the Special Prosecutor may discover administrative irregularities or misconduct not amounting to criminal behavior. Though such matters are not within the scope of his authority, nothing in this memorandum is intended to suggest that it is the Special Prosecutor’s duty to overlook such irregularities or misconduct. To the contrary, he may refer any such matter to the appropriate agency of the Department of Justice or include it in any report he may wish to make either in the course of or at the conclusion of his duties.

TAB D
AUGUST 13, 1973
MEMORANDUM
To: J. Fred Buzhardt, Special Counsel to the President.
From: Elliot L. Richardson, Attorney General.
Subject: Milk Case Papers.

J. T. Smith relayed to me on Thursday of last week word that the President does not wish me to turn over to Cox the papers in the milk case which are now the subject of disclosure proceedings in Nader v. Butz. I respectfully disagree with this conclusion for the following reasons:

1. The papers are in the possession of this Department and have been reviewed by attorneys in the Civil Division as well as in my immediate office. Cox is an employee of this Department whose authority derives solely from delegation by me. I can find no plausible basis for denying him access to papers which are available to other personnel of this Department.

2. Since the papers afford scant support, if any, for Nader’s side in the civil suit, they should help to rebut any allegation of criminal misconduct.
3. Given other situations—e.g., the tapes—in which much more substantial interests are at stake, it seems to me undesirable to take a hard line in a case where cooperation won't hurt. I would be glad to speak to the President directly on this matter, but I would be quite willing for you to do so on my behalf if that seems preferable.

ELR, August 21, 1973—Copy hand delivered to Buzhardt.

Watergate Special Prosecution Force,
U.S. Department of Justice,

Hon. Elliot L. Richardson,
U.S. Department of Justice,
Washington, D.C.

Dear Elliot: As you know, my Office has been investigating the possible relationship between the very large contributions made by the Milk Producers Association and the Governmental decision to grant an increase in milk prices greater than previously planned. The Civil Division of the Department of Justice has possession of files from the White House which may contain information pertinent to the question. I am writing to request access to those files. You and I have spoken of my wish to see them earlier, but it seems important to put the request in writing.

If the files are not so confidential as to require denying access to members of the Civil Division in defending litigation, then they can hardly be so confidential as to warrant denying access to attorneys in this Office investigating the truth or falsity of charges of wrongdoing. It was my understanding when I accepted my present position that I would be given access to pertinent papers in the Executive Branch. We agreed that there might be claims of executive privilege but those seem hardly applicable at the present moment. At the moment, I am requesting access only for myself and properly authorized members of my staff. There is no question, at this point, even of putting the files before a grand jury.

For these reasons, I think we are clearly entitled to see the file, and I hope that it may be made available without the incongruity of having to seek a subpoena.

Sincerely,

Archibald Cox, Special Prosecutor.
39. On August 14, 1973 W. Richard Howard was directed by the Grand Jury to produce the original carbon copy of a March 30, 1973 memorandum he wrote to Bruce Kehrli concerning E. Howard Hunt. On August 27 Cox wrote to Buzhardt requesting that the document be supplied to the Special Prosecutor. On September 5 Buzhardt provided the requested documents and informed Cox that the authority to control documents in the physical custody of White House employees was exclusively a matter for Presidential decision.

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39.1 Letter from Archibald Cox to Fred Buzhardt, August 27, 1973 (received from Watergate Special Prosecution Force).

39.2 Letter from J. Fred Buzhardt to Archibald Cox, September 5, 1973 (received from White House).
August 27, 1973

J. Fred Buzhardt, Esq.
Counsel to the President
The White House
Washington, D. C.

Re: Memorandum from W. Richard Howard to Bruce Kehrli - 3/30/72

Dear Mr. Buzhardt:

During the course of W. Richard Howard's appearance before the grand jury on August 14, 1973, he was directed by the grand jury foreman to produce the original carbon copy of a March 30, 1973 memorandum which he wrote to Bruce Kehrli concerning E. Howard Hunt. I am informed that Mr. Howard's attorney, John Jude O'Donnell, has been advised by you that you are prepared to furnish this document to the grand jury on receipt of a letter from this Office confirming that the grand jury did in fact make such a request of Mr. Howard. As you will recall, the ribbon original of this document was furnished to the grand jury by you on July 19, 1973.

Please advise us if you desire any further information.

Very truly yours,

Archibald Cox
Special Prosecutor
Even tho held by an individual, still in control of Pres. Includes all paper in Presidential Papers.

Milk file - why denied? was in poss Justice Dept. Cox get them? Finally turned over to Spec Prosecutor.
39.2 J. Fred Buzhardt Letter

Dear Mr. Cox:

This is in response to your letter of August 27 requesting the copy of a W. Richard Howard memorandum of March 30, 1972 to Bruce Kehrli and of August 29 requesting the pass approval form for E. Howard Hunt.

As I mentioned to you in a recent telephone conversation, the fact that a particular document is in the physical custody of a current employee of the White House does not alter the fact that such documents are Presidential Papers, of which the authority to control is exclusively a matter for Presidential decision. Accordingly, requests for such documents, whether originating with the office of the Special Prosecutor or the Grand Jury, should be addressed to me in order that the request may be considered by the President.

Both documents you requested are enclosed.

Sincerely,

Fred Buzhardt
Special Counsel to the President

Honorable Archibald Cox
Special Prosecutor
Watergate Special Prosecution Force
1425-K Street, N.W.
Washington, D.C. 20005

Enclosures
40. On August 15, 1973 the President addressed the nation. The President reaffirmed his statement made on May 22, 1973 that he had no prior knowledge of the Watergate break-in and that he neither took part in nor knew about any of the subsequent cover-up activities. The President also stated that he would continue to oppose efforts to destroy the principle of confidentiality of Presidential conversations and would not turn over the tapes of his conversations to the Special Prosecutor or to the Senate Select Committee. The President said that the time had come to turn Watergate over to the courts, where the question of guilt or innocence belonged.

Termination of U.S. Combat Activity in Cambodia

Statement by the Deputy White House Press Secretary, August 15, 1973

As you know, the combat air operations by the United States aircraft have ceased in Cambodia, and in order clearly to explain our position, the President's position, concerning this action and to avoid any misunderstanding by others, I would like to make the following points:

—As the President indicated in his letter to Congressional leaders on August 3, this Administration is terminating combat activity in Cambodia in compliance with a specific, direct, and binding instruction from the Congress. The President continues to hold grave reservations about the wisdom of this legislative action. He is concerned that by its action the Congress has eliminated an important incentive for a negotiated settlement in Cambodia, has weakened the security of Cambodia's neighbors in Southeast Asia, and has eroded the structure of peace in Indochina laid down in the agreements of January 27. Most importantly, this Congressional act undermines the prospects of world peace by raising doubts in the minds of both friends and adversaries concerning the resolve and capacity of the United States to stand by international agreements when they are violated by other parties.

—While noting the dangers of this legislative action, the President most reluctantly accepted the August 15 cutoff date as a necessary compromise to avoid a major disruption in United States Government operations and to allow the Khmer Republic more time to adjust to the new situation. You will recall that at the time the law was enacted, the President faced the alternative of accepting a June 30 cutoff date or halting all governmental operations through a veto of the appropriations bill to which this legislation was attached. To have terminated immediately all combat support for the Khmer Republic in the face of a massive enemy attack would have been an irresponsible act depriving the Cambodian Government of the essential time to prepare for the future. In the light of these extreme alternatives, the only viable course was to reluctantly accept the date of August 15.

—During the 6 weeks which have ensued, our combat air support coupled with Cambodian efforts to improve and strengthen their forces have left the Khmer Republic in better shape to defend itself. We hope that the government will be able to defend itself and to hold its own against the insurgents and their North Vietnamese sponsors.

—In the meantime, the United States will stand firmly with the Khmer Republic in facing the current challenge and will continue to provide the maximum amount of economic and military assistance permitted by present legal constraints.

—We continue strongly to support a cease-fire through negotiations among the Khmer parties. An end to the fighting and respect for Cambodia's sovereignty and neutrality are our principal goals there. Despite the efforts of many interested parties and the good will of the Khmer Republic, the Communist side remains intrinsically opposed to any compromise.

—I should also recall the President's warning in his August 3 letter that the leaders of North Vietnam would be making a very dangerous error if they mistook the cessation of United States combat activity in Cambodia for an invitation to pursue a policy of aggression in Southeast Asia. It should be clearly understood in Hanoi that the President will work with Congress in order to take appropriate action if North Vietnam mounts an offensive which jeopardizes stability in Indochina and threatens to overturn the settlements reached after so much sacrifice by so many for so long.

NOTE: Deputy Press Secretary Gerald L. Warren made the statement at his news conference at the White House on Wednesday, August 15, 1973. It was not issued in the form of a White House press release.
of over 22 hours of television time each week to this subject. The Senate committee has heard over 2 million words of testimony.

This investigation began as an effort to discover the facts about the break-in and bugging of the Democratic National Headquarters and other campaign abuses.

But as the weeks have gone by, it has become clear that both the hearings themselves and some of the commentaries on them have become increasingly absorbed in an effort to implicate the President personally in the illegal activities that took place.

Because the abuses occurred during my Administration, and in the campaign for my re-election, I accept full responsibility for them. I regret that these events took place, and I do not question the right of a Senate committee to investigate charges made against the President to the extent that this is relevant to legislative duties.

However, it is my Constitutional responsibility to defend the integrity of this great office against false charges. I also believe that it is important to address the overriding question of what we as a nation can learn from this experience and what we should now do. I intend to discuss both of these subjects tonight.

The record of the Senate hearings is lengthy. The facts are complicated, the evidence conflicting. It would not be right for me to try to sort out the evidence, to rebut specific witnesses, or to pronounce my own judgments about their credibility. That is for the committee and for the courts.

I shall not attempt to deal tonight with the various charges in detail. Rather, I shall attempt to put the events in perspective from the standpoint of the Presidency.

On May 22, before the major witnesses had testified, I issued a detailed statement addressing the charges that had been made against the President.

I have today issued another written statement, which addresses the charges that have been made since then as they relate to my own conduct, and which describes the efforts that I made to discover the facts about the matter.

On May 22, I stated in very specific terms—and I state again to everyone of you listening tonight these facts—I had no prior knowledge of the Watergate break-in; I neither took part in nor knew about any of the subsequent coverup activities; I neither authorized nor encouraged subordinates to engage in illegal or improper campaign tactics.

That was and that is the simple truth.

In all of the millions of words of testimony, there is not the slightest suggestion that I had any knowledge of the planning for the Watergate break-in. As for the coverup, my statement has been challenged by only one of the 35 witnesses who appeared—a witness who offered no evidence beyond his own impressions, and whose testimony has been contradicted by every other witness in a position to know the facts.

Tonight, let me explain to you what I did about Watergate after the break-in occurred, so that you can better understand the fact that I also had no knowledge of the so-called coverup.

From the time when the break-in occurred, I pressed repeatedly to know the facts, and particularly whether there was any involvement of anyone in the White House. I considered two things essential:
the responsibility for the investigation in the case should be given to the
Criminal Division of the Justice Department.

I turned over all the information I had to the head of that department, Assistant Attorney General Henry Petersen, a career government employee with an impeccable nonpartisan record, and I instructed him to pursue the matter thoroughly. I ordered all members of the Administration to testify fully before the grand jury.

And with my concurrence, on May 18 Attorney General Richardson appointed a Special Prosecutor to handle the matter, and the case is now before the grand jury.

Far from trying to hide the facts, my effort throughout has been to discover the facts—and to lay those facts before the appropriate law enforcement authorities so that justice could be done and the guilty dealt with.

I relied on the best law enforcement agencies in the country to find and report the truth. I believed they had done so—just as they believed they had done so.

Many have urged that in order to help prove the truth of what I have said, I should turn over to the Special Prosecutor and the Senate Committee recordings of conversations that I held in my office or on my telephone.

However, a much more important principle is involved in this question than what the tapes might prove about Watergate.

Each day a President of the United States is required to make difficult decisions on grave issues. It is absolutely necessary, if the President is to be able to do his job as the country expects, that he be able to talk openly and candidly with his advisers about issues and individuals. This kind of frank discussion is only possible when those who take part in it know that what they say is in strictest confidence.

The Presidency is not the only office that requires confidentiality. A Member of Congress must be able to talk in confidence with his assistants; judges must be able to confer in confidence with their law clerks and with each other. For very good reasons, no branch of Government has ever compelled disclosure of confidential conversations between officers of other branches of Government and their advisers about Government business.

This need for confidence is not confined to Government officials. The law has long recognized that there are kinds of conversations that are entitled to be kept confidential, even at the cost of doing without critical evidence in a legal proceeding. This rule applies, for example, to conversations between a lawyer and a client, between a priest and a penitent, and between a husband and wife. In each case it is thought so important that the parties be able to talk freely to each other that for hundreds of years the law has said these conversations are “privileged” and that their disclosure cannot be compelled in a court.

It is even more important that the confidentiality of conversations between a President and his advisers be protected. This is no mere luxury, to be dispensed with whenever a particular issue raises sufficient uproar. It is absolutely essential to the conduct of the Presidency, in this and in all future Administrations.

If I were to make public these tapes, containing as they do blunt and candid remarks on many different subjects, the confidentiality of the Office of the President would always be suspect from now on. It would
make no difference whether it was to serve the interests of a court, of a Senate committee, or the President himself—the same damage would be done to the principle, and that damage would be irreparable.

Persons talking with the President would never again be sure that recordings or notes of what they said would not suddenly be made public. No one would want to advance tentative ideas that might later seem unsound. No diplomat would want to speak candidly in those sensitive negotiations which could bring peace or avoid war. No Senator or Congressman would want to talk frankly about the Congressional horse-trading that might get a vital bill passed. No one would want to speak bluntly about public figures here and abroad.

That is why I shall continue to oppose efforts which would set a precedent that would cripple all future Presidents by inhibiting conversations between them and those they look to for advice.

This principle of confidentiality of Presidential conversations is at stake in the question of these tapes. I must and I shall oppose any efforts to destroy this principle, which is so vital to the conduct of this great office.

Turning now to the basic issues which have been raised by Watergate, I recognize that merely answering the charges that have been made against the President is not enough. The word “Watergate” has come to represent a much broader set of concerns.

To most of us, “Watergate” has come to mean not just a burglary and bugging of party headquarters, but a whole series of acts that either represent or appear to represent an abuse of trust. It has come to stand for excessive partisanship, for “enemy lists,” for efforts to use the great institutions of Government for partisan political purposes.

For many Americans, the term “Watergate” also has come to include a number of national security matters that have been brought into the investigation, such as those involved in my efforts to stop massive leaks of vital diplomatic and military secrets, and to counter the wave of bombings and burnings and other violent assaults of just a few years ago.

Let me speak first of the political abuses.

I know from long experience that a political campaign is always a hard and a tough contest. A candidate for high office has an obligation to his party, to his supporters, and to the cause he represents. He must always put forth his best efforts to win. But he also has an obligation to the country to conduct that contest within the law and within the limits of decency.

No political campaign ever justifies obstructing justice, or harassing individuals, or compromising those great agencies of Government that should and must be above politics. To the extent that these things were done in the 1972 campaign, they were serious abuses, and I deplore them.

Practices of that kind do not represent what I believe Government should be, or what I believe politics should be. In a free society, the institutions of government belong to the people. They must never be used against the people.

And in the future, my Administration will be more vigilant in ensuring that such abuses do not take place, and that officials at every level understand that they are not to take place.

And I reject the cynical view that politics is inevitably or even usually a dirty business. Let us not allow what a few overzealous people did in Watergate to tar the reputation of the millions of dedicated Americ-
The time has come to turn Watergate over to the courts, where the questions of guilt or innocence belong. The time has come for the rest of us to get on with the urgent-business of our Nation.

Last November, the American people were given the clearest choice of this century. Your votes were a mandate, which I accepted, to complete the initiatives we began in my first term and to fulfill the promises I made for my second term.

This Administration was elected to control inflation—to reduce the power and size of Government—to cut the cost of Government so that you can cut the cost of living—to preserve and defend those fundamental values that have made America great—to keep the Nation’s military strength second to none—to achieve peace with honor in Southeast Asia, and to bring home our prisoners of war—to build a new prosperity, without inflation and without war—to create a structure of peace in the world that would endure long after we are gone.

These are great goals, they are worthy of a great people, and I would not be true to your trust if I let myself be turned aside from achieving those goals.

If you share my belief in these goals—if you want the mandate you gave this Administration to be carried out—then I ask for your help to ensure that those who would exploit Watergate in order to keep us from doing what we were elected to do will not succeed.

I ask tonight for your understanding, so that as a Nation we can learn the lessons of Watergate and gain from that experience.

I ask for your help in reaffirming our dedication to the principles of decency, honor, and respect for the institutions that have sustained our progress through these past two centuries.

And I ask for your support in getting on once again with meeting your problems, improving your life, building your future.

With your help, with God’s help, we will achieve those great goals for America.

Thank you and good evening.

Note: The President spoke at 9 p.m. in his Oval Office at the White House. His address was broadcast live on radio and television.

The Watergate Investigation

Statement by the President. August 15, 1973

On May 17 the Senate Select Committee began its hearings on Watergate. Five days later, on May 22, I issued a detailed statement discussing my relationship to the matter. I stated categorically that I had no prior knowledge of the Watergate operation and that I neither knew of nor took part in any subsequent efforts to cover it up. I also stated that I would not invoke executive privilege as to testimony by present and former members of my White House Staff with respect to possible criminal acts then under investigation.

Thirty-five witnesses have testified so far. The record is more than 7,500 pages and some 2 million words long. The allegations are many, the facts are complicated, and the evidence is not only extensive but very much in conflict. It would be neither fair nor appropriate for me to assess the evidence or comment on specific witnesses or their credibility. That is the function of the Senate Committee and the courts. What I intend to do here is to cover the principal issues relating to my own conduct which have been raised since my statement of May 22, and thereby to place the testimony on those issues in perspective.

I said on May 22 that I had no prior knowledge of the Watergate operation. In all the testimony, there is not the slightest evidence to the contrary. Not a single witness has testified that I had any knowledge of the planning for the Watergate break-in.

It is also true, as I said on May 22, that I took no part in, and was not aware of, any subsequent efforts to
41. At an August 22, 1973 press conference the President responded to an inquiry concerning his recollection of what he had told John Dean on March 21, 1973 on the subject of raising funds for the Watergate defendants. The President stated that Haldeman had testified as to that matter before the SSC and that Haldeman's statement was accurate.

The President today announced his intention to nominate Harry J. Hogan, of Bethesda, Md., to be Associate Director of ACTION for Policy and Program Development. He will succeed Charles W. Ervin, who resigned effective September 4, 1973.

Since 1972, Mr. Hogan has been director of government relations for Catholic University, in Washington, D.C. From 1971 to 1972, he was engaged in the private practice of law, served as a consultant on educational and environmental matters, and was professor of law at Delaware Law School, in Wilmington, Del. From 1969 to 1971, he was counsel of the House Special Subcommittee on Education.

He was born on May 2, 1914, in Newark, N.J. Mr. Hogan was graduated magna cum laude from Princeton University, received his LL.B. from Columbia Law School, and received his Ph.D. in American History from George Washington University. He served in the U.S. Navy during World War II, attaining the rank of commander.

From 1947 to 1952, Mr. Hogan was on the legal staff of the Tennessee Valley Authority, the Bureau of Land Management, and the Bureau of Indian Affairs. From 1952 to 1961, he was engaged in the private practice of law in The Dalles, Ore., where he was twice elected District Attorney (1956 and 1960). From 1961 to 1968, Mr. Hogan served as general counsel of the Bonneville Power Administration, in Portland, Ore.; as Associate Solicitor for Water and Power of the Department of the Interior, and as Legislative Counsel of the Department of the Interior.

Mr. Hogan is married and has three daughters. The Hogans reside in Bethesda, Md.

NOTE: The announcement was released in San Clemente, Calif.
have not had since 1955—that is, prosperity without war and without inflation—because throughout the Kennedy years and throughout the Johnson years whatever prosperity we had was at the cost of either inflation or war or both. I don’t say that critically of them, I am simply saying we have got to do better than that.

Now our goal is to move forward then, to move forward to build a structure of peace. And when you say, do I consider resigning, the answer is no, I shall not resign. I have 3½ years to go or almost 3½ years, and I am going to use every day of those 3½ years trying to get the people of the United States to recognize that whatever mistakes we have made that in the long run this Administration by making this world safer for their children and this Administration by making their lives better at home for themselves and their children deserves high marks rather than low marks. Now whether I succeed or not, we can judge then.

Q. Mr. President.

THE PRESIDENT. We always have to have Mr. Deakin for one.

Q. As long as we are on the subject of the American tradition and following up Mr. Rather’s question, what was authorized, even if the burglary of Dr. Fielding’s office was not, what was authorized was the 1970 plan which by your own description permitted illegal acts, illegal breaking and entering, mail surveillance and the like.

Now under the Constitution you swore an oath to execute the laws of the United States faithfully. If you were serving in Congress, would you not be considering impeachment proceedings and discussing impeachment possibility against an elected public official who had violated his oath of office?

THE PRESIDENT. I would if I had violated the oath of office. I would also, however, refer you to the recent decision of the Supreme Court or at least an opinion that even last year which indicates inherent power in the Presidency to protect the national security in cases like this. I should also point out to you that in the 3 Kennedy years and the 3 Johnson years through 1966, when burglary of this type did take place, when it was authorized on a very large scale, there was no talk of impeachment and it was quite well known.

I shall also point out that when you ladies and gentlemen indicate your great interest in wiretaps, and I understand that, that the height of the wiretaps was when Robert Kennedy was Attorney General in 1963. I don’t criticize it, however. He had over 250 in 1963, and of course the average in the Eisenhower Administration and the Nixon Administration is about 110. But if he had had ten more and as a result of wiretaps had been able to discover the Oswald plan, it would have been worth it.

So I will go to another question.

Q. Mr. President, do you still consider Haldeman and Ehrlichman two of the finest public servants you have ever known?

THE PRESIDENT. I certainly do. I look upon public servants as men who have got to be judged by their entire record, not by simply parts of it. Mr. Ehrlichman and Mr. Haldeman, for 4½ years, have served with great distinction, with great dedication, and like everybody in this deplorable Watergate business, at great personal sacrifice and with no personal gain.

We admit the scandalous conduct. Thank God there has been no personal gain involved. That would be going much too far, I suppose.

But the point that I make with regard to Mr. Haldeman and Mr. Ehrlichman is that I think, too, that as all the facts come out, that—and when they have an opportunity to have their case heard in court and not simply to be tried before a committee, and tried in the press, and tried in television—they will be exonerated.

Mr. Horner.

Q. Mr. President, could you tell us your recollection of what you told John Dean on March 21 on the subject of raising funds for the Watergate defendants?

THE PRESIDENT. Certainly. Mr. Haldeman has testified to that, and his statement is accurate. Basically, what Mr. Dean was concerned about on March 21 was not so much the raising of money for the defendants, but the raising of money for the defendants for the purpose of keeping them still—in other words, so-called hush money. The one would be legal—in other words, raising a defense fund for any group, any individual, as you know, is perfectly legal and it is done all the time. But if you raise funds for the purpose of keeping an individual from talking, that is obstruction of justice.

Mr. Dean said also on March 21 that there was an attempt, as he put it, to blackmail the White House, to blackmail the White House by one of the defendants. Incidentally, that defendant has denied it, but at least this was what Mr. Dean had claimed, and that unless certain amounts of money were paid, I think it was $120,000 for attorneys fees and other support, that this particular defendant would make a statement, not with regard to Watergate, but with regard to some national security matters in which Mr. Ehrlichman had particular responsibility.

My reaction, very briefly, was this: I said, as you look at this, I said, “Isn’t it quite obvious, first, that if it is going to have any chance to succeed, that these individuals aren’t going to sit there in jail for 4 years? They are going to have clemency; isn’t that correct?”

He said, “Yes.” I said, “We can’t give clemency.” He agreed. Then, I went to another point. I said, “The second point is that isn’t it also quite obvious, as far as this is concerned, that while we could raise the money”—and he indicated in answer to my question, it would probably take a million dollars over 4 years to take care of this defendant, and others, on this kind of basis—the problem was, how do you get the money to them, and also, how do you get around the problem of clemency, because they are not
42. On August 22, 1973 Special Counsel Wright told Judge Sirica that the President had told Wright that on one of the subpoenaed tapes there was national security material so highly sensitive that the President did not feel free even to hint to Wright its nature.

42.1 Charles Alan Wright statement, August 22, 1973, In re Grand Jury, Misc. 47-73, 56.
IN THE MATTER OF A GRAND JURY

SUBPOENA ISSUED TO

RICHARD M. NIXON.

MISCELLANEOUS NO. 47-73


Before THE HONORABLE CHIEF JUDGE JOHN J. SIRICA

at 10:00 a.m.

Representing the Petitioner,

The Watergate Special Prosecution Force:

ARCHIBALD COX, ESQ.

Representing the Respondent,

President Richard M. Nixon,

CHARLES ALAN WRIGHT, ESQ.

Jack Maher
Court Reporter
MR. WRIGHT: Mr. Chief Judge, I should like to begin a brief response with the final question you put to the Special Prosecutor.

You asked him as I recall whether this decision about executive privilege is not one wholly for the President. He, of course, contends it is not. We contend that it is, and we believe that what may have been lost sight of in the very powerful argument of my friend is that what we are talking about here is the President of the United States. We are not talking fungibly about legislators, judges, and cabinet officers. We are talking about that officer in whom Article II says executive power is vested.

I plan to make three points affirmably in regard to that, and in response to the Special Prosecutor, but I would like to preface those by noting one thing that the Special Prosecutor did not say, and I found the omission of considerable interest.

And, that is that he did not repeat the suggestion he had made in his brief that it would be possible to excise from these tapes irrelevant material or national security material.

I dealt with that in my initial submission, and I think the Alderman case indicates that he can't.
It is well known to the Press, at least, that I have never heard any of these tapes. Presumably, the President of the United States has confidence in me or he would not have retained me to represent him here today.

I was subjected to full field security clearance in order to be retained for that position, because it is regarded as a position of a sensitive nature.

Even so, and I unavoidably breach the confidentiality of Presidential conversations to say even this, the President has told me that in one of the tapes that is the subject of the present subpoena there is national security material so highly sensitive that he does not feel free even to hint to me what the nature of it is.

This is the kind of material that will necessarily be made public at least on demand of defendants if these tapes were ordered produced.

I think that that is a point that we should hold in mind.

THE COURT: On that point, let me ask you this. What do you think the President's feeling would be if the Court feels that there should be an inspection in camera of these tapes at which time the Court would have the right to have excised or taken out of those tapes, from the tapes, anything of a sensitive nature, or anything that referred to national security?

I understand from the brief that he would not even