

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED

OCT 25 1973

JAMES F. DAVEY, Clerk

IN RE INVESTIGATIONS BY )  
JUNE 5, 1972 GRAND JURY )  
AND AUGUST 13, 1973 GRAND )  
JURY )

Misc. Nos. 47-73 and 108-73

FILE

MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 6 of the Federal Rules of Criminal Procedure and 28 U.S.C. §1651, the undersigned as officers of the Court authorized to conduct grand jury investigations, move for certain relief, and in support thereof aver the following:

1. Beginning after June 17, 1972, the United States Attorney's Office for the District of Columbia commenced an investigation into the break-in at the headquarters of the Democratic National Committee in the Watergate complex. Seven persons were charged with and convicted of various offenses in connection with that incident. Thereafter, as a result of information indicating substantial involvement of government officials and political leaders in either the planning of that illegal activity or in the cover-up of responsibility for it, the June 1972 Grand Jury resumed its investigation into those matters and has continued its investigation to the present. As a result of its investigation so far, several individuals have pled guilty to felony charges involving conspiracy among high government officers to obstruct justice and suborn perjury.

2. In the Spring of 1973, as a result of disclosures before Congress and elsewhere concerning substantial allegations of criminal misconduct during the 1972 Presidential campaign and otherwise alleging criminal misconduct by

*(granted per order  
signed and filed 10-26-73  
James F. Davey)*

White House staff members and other Presidential appointees, the Attorney General of the United States on May 31, 1973, established the Watergate Special Prosecution Force with responsibility to conduct an independent investigation of the Watergate matter and the other matters described in the annexed copy of Department of Justice Order 517-73.

Archibald Cox was appointed Special Prosecutor to conduct these investigations and was authorized to take all action that could be taken by a United States Attorney or by the Attorney General without the need for prior consultation with the Attorney General and upon the assurance that he was authorized to litigate such matters as executive privilege to the fullest and that he would not be dismissed except for extraordinary improprieties.

3. On August 13, 1973, at the request of the Special Prosecutor, the Court empanelled an additional grand jury to investigate matters under the jurisdiction of the Court and the Special Prosecutor. That grand jury has been in continuous session since it was empanelled and thus far has returned one indictment alleging perjury by a former White House official.

4. In accordance with the order of the Attorney General establishing the Watergate Special Prosecution Force, attorneys appointed to serve in that office have conducted extensive grand jury proceedings before both of the above mentioned grand juries. Because of the unusual nature of the investigations committed to this quasi-independent office, unusual security measures were taken to preserve the absolute confidentiality of the investigation, including testimony and exhibits before the grand jury and analyses and investigative files derived therefrom ~~were~~ prepared

therefore The full time security force was then under the direction of the Special Prosecutor and for purposes of security all such documents were stored in the offices of the Watergate Special Prosecution Force on the 8th and 9th floors of an office building on 1425 K Street, N. W., Washington, D. C.

5. As part of the investigation into the alleged Watergate cover-up and other matters within the jurisdiction of the Court and the Special Prosecutor, a subpoena was served on President Richard M. Nixon on July 23, 1973, calling for the production of various tape recordings and writings relating to nine specified conversations. On August 29, 1973, this Court entered an order enforcing the subpoena and directing production of those tapes and writings for review by the Court in camera. On October 12, 1973, the United States Court of Appeals for the District of Columbia Circuit, sitting en banc, and acting on the President's petition for a writ of mandamus, entered its judgment confirming, as modified, the order of this Court. Pursuant to the President's decision not to seek Supreme Court review of that order, the stay of the mandate of the Court of Appeals has expired and the mandate has been sent down to this Court and duly filed.

6. On Saturday, October 20, 1973, as a result of the refusal of the Special Prosecutor to accede to an offer which he in his judgment considered not to be compliance with the outstanding and effective orders of this Court and the Court of Appeals, and not to be sufficient for the conduct of a full and fair investigation and trial of criminal cases, the President directed the Attorney General to dismiss the Special Prosecutor who had been appointed by the Attorney General.

The Attorney General declined and resigned. The Deputy Attorney General declined to dismiss the Special Prosecutor and was himself discharged. The Solicitor General, as Acting Attorney General, then, at the President's direction, dismissed the Special Prosecutor. He also stated, at the President's direction, that the Watergate Special Prosecution Force was being abolished and all of its functions were being converted into the Criminal Division of the Department of Justice.

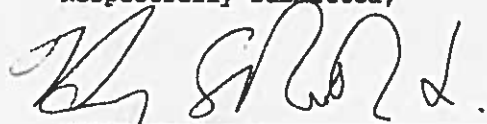
7. At approximately 8:30 p.m., Saturday, October 20, 1973, within a few minutes after the White House announcement of the events described in the preceding paragraph, agents of the FBI acting on direct instructions of the White House "sealed" the offices of the Watergate Special Prosecution Force, as well as of the former Attorney General and Deputy Attorney General. These agents superseded the security arrangements which had theretofore been enforced. At approximately 12:30 p.m. on Sunday, October 21, 1973, agents of the FBI were withdrawn and United States Marshals assumed control of the offices of the Watergate Special Prosecution Force, acting pursuant to the instruction of the Acting Attorney General. At approximately 8:00 p.m. on Monday, October 22, 1973, the United States Marshal's were withdrawn by the Acting Attorney General. Security arrangements are now being provided by the Federal Protection Service of the General Services Administration, under the direction of the Acting Attorney General and the Acting Assistant Attorney General for Administration.

8. The Acting Attorney General and the Assistant Attorney General in charge of the Criminal Division, who has been assigned direct responsibility for the matters formerly

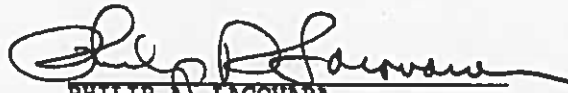
within the jurisdiction of the Special Prosecutor, have both stated that they intend to continue with full and vigorous investigations along these lines. The status of the records developed by the Watergate Special Prosecution Force before and for the grand juries and the responsibility for security of these materials is therefore uncertain.

WHEREFORE, the undersigned move the Court to enter an appropriate order designed to maintain the Court's effective custody of grand jury material and to preserve the status of these records pending the development of further facts in connection with the dissolution of the Watergate Special Prosecution Force and the reassignment of its former responsibilities.

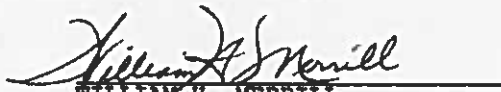
Respectfully submitted,



HENRY S. RUTH  
Deputy Special Prosecutor



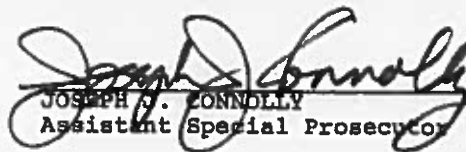
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On Behalf of the Grand Juries

1425 K Street, N. W.  
Washington, D. C. 20005

October 25, 1973

*Henry E. Petersen*  
HENRY E. PETERSEN  
Assistant Attorney General  
Criminal Division  
Department of Justice

JAMES F. DAVEN, Clerk

OCT 25 1973

FILED



Office of the Attorney General  
Washington, D. C. 20530

June 1, 1973

ORDER NO. 517 - 73

FILED  
OCT 25 1973

JAMES F. DAVEY, Clerk

Title 28—Judicial Administration  
CHAPTER I—DEPARTMENT OF JUSTICE  
[Order No. 517-73]

PART 0—ORGANIZATION OF THE  
DEPARTMENT OF JUSTICE  
Establishing the Office of Watergate  
Special Prosecution Force

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, there is hereby established in the Department of Justice, the Office of Watergate Special Prosecution Force, to be headed by a Director. Accordingly, part 0 of chapter I of title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1 of subpart A, which lists the organizational units of the Department, is amended by adding "Office of Watergate Special Prosecution Force" immediately after "Office of the Pardon Attorney."

2. A new subpart G-1 is added immediately after subpart G, to read as follows:

Subpart G-1—Office of Watergate Special  
Prosecution Force

§ 0.37 General functions.

The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the Attorney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix which is incorporated and made a part hereof.

This order is effective as of May 25, 1973.

Dated May 31, 1973.

ELLIOT L. RICHARDSON,  
Attorney General.

APPENDIX

DUTIES AND RESPONSIBILITIES OF THE  
SPECIAL PROSECUTOR

*The Special Prosecutor.*—There is appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry in Democratic National Committee headquarters at the Watergate, all offenses arising out of the 1972 Presidential election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation, or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including U.S. attorneys;

Dealing with and appearing before congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.

*Staff and resource support.*—1. *Selection of staff.*—The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full- or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including U.S. attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget.*—The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. *Designation and responsibility.*—The

personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

*Continued responsibilities of Assistant Attorney General, Criminal Division.*—Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

*Applicable departmental policies.*—Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

*Public reports.*—The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

*Duration of assignment.*—The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

[PR Doc.73-11210 Filed 6-1-73;9:21 am]

EXHIBIT "A"

1011-1973-06