

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Archibald Cox

DATE August 24, 1973

FROM : Richard Weinberg

SUBJECT: The President

Attached is the report I have prepared under the supervision of Jim Vorenberg on Presidential involvement in the Watergate affair and related matters being investigated by this office. A substantial amount of the work on the Watergate sections of this report was done by George Frampton. The final four sections are based on memoranda prepared by the following:

- 1) Plumbers-Bill Merrill and Phil Bakes
- 2) Dirty Tricks- Richard Davis
- 3) ITT- Joe Connolly
- 4) Campaign Contributions- Tom McBride

The most difficult aspect of compiling this report is ensuring the accuracy of the many factual assertions, and determining exactly what each of the numerous participants in the Watergate affair had to say about each subject. Peter Rient read over my draft and helped to ensure the accuracy of its contents. I understand from Carl Feldbaum that someone on Harry Bratt's staff will at some point supply the missing page references to the testimony cited in this report.

Parts of each section are somewhat repetitious of parts

of other sections. This was done because generally I felt it better that each section contain all the pertinent information on that subject even at the risk of being redundant.

The differing length of each section is naturally due to the disparity from one topic to another of direct evidence, circumstantial evidence, inferences, and pure speculation involving the President in the various matters being investigated by this office.

I. Pre-June 17 Knowledge of a Planned Break-In and
Bugging at the DNC Offices at Watergate

SYNOPSIS:

Although the CRP intelligence operation of Liddy and Hunt was known to and approved by the leadership of the CRP and probably by H. R. Haldeman, there is no direct evidence that the President himself knew about the program, or if he did that he knew that it contemplated an illegal break-in and wiretapping of the DNC Headquarters. However, circumstantial evidence and coincidences suggest that the President may well have been aware, at least, that the CRP was mounting a "sophisticated intelligence program" -- including covert operations and campaign disruption -- with a budget in the area of \$300,00.

FACTS:

There is testimony, particularly that of Hunt and Dean, that Liddy's transfer from the White House staff to the CRP to head a large-scale intelligence program was contemplated in the White House as early as November 1971. Liddy in fact made in December, and almost immediately began to receive large cash payments from Porter for intelligence activities. Together with Hunt, Liddy drew up a draft plan and budget for this program of one million dollars. This plan, together with a "pared down" version of the same program at a budget of a half a million dollars, was discussed in meetings in January and February 1972 in Mitchell's office attended by Mitchell, Liddy, Magruder, and Dean.

A final version, at about a quarter of a million dollars, was approved about March 30 in Key Biscayne by John Mitchell, during a meeting attended by him, Magruder, and Fred LaRue (though LaRue's testimony is equivocal, and Mitchell denies approval). According to Magruder, the approved program had two primary targets - the DNC headquarters and the Democratic candidate's offices - - and included illegal entry and wiretapping.

Magruder communicated this approval to his aides. Furthermore, shortly thereafter, Liddy sought a cash disbursement of \$83,000 on the basis of the new budget approval, which disbursement was made by Hugh Sloan after clearance with Magruder, Stans, and Mitchell. This money, and two other disbursements, was used by the Watergate defendants to buy equipment and to effect two entries into the DNC.

Shortly after the Key Biscayne meeting, Magruder sent papers to Gordon Strachan indicating that Mitchell had approved the program. Strachan prepared a talking paper for a Mitchell-Haldeman meeting on April 4 which included the fact that CRP had operational a "sophisticated intelligence plan at 300". Mitchell and Haldeman did in fact meet April 4 to review the various campaign decisions made at the Key Biscayne meeting, and the two met the same day with the President.

ANALYSIS:

The President has stated that he "had no prior knowledge of the Watergate bugging operation or of any illegal surveillance activities for political purposes" (May 22, 1973, public statement) (See also August 15, 1973 statement)

This is a considerably narrower statement of his position concerning his prior knowledge of and White House involvement in the Watergate matter than any of his preceding statements.

For example, in his first public statement following the arrests on June 17, the President said in response to a question that "the White House had had no involvement whatever in this particular incident." (6/22/72 press conference) At a subsequent press conference on August 29, 1972, the President stated that under his direction, John Dean had conducted a complete investigation of all leads which might involve any present members of the White House staff or anybody in the Government. The investigation "indicates that no one in the White House staff, no one in this Administration, presently employed, was involved, in this very bizarre incident." (8/29/72 press conference, p. 1-2). The President also explained that CRP was conducting its own investigation, and that Clark MacGregor had assured the President that anyone who fails to cooperate or "against whom charges are leveled where there is a prima facie case where those charges might indicate involvement will be discharged immediately. That, also, is true of anybody in the Government." (8/29/72) (press conference, p. 2).

The President reaffirmed the results of Dean's investigation in March 1972, when he stated: "The investigation conducted by Mr. Dean, the White House Counsel, in which, incidentally, he had access to the FBI records on this particular matter because I directed him to conduct this investigation, indicates

that no one on the White House staff, at the time he conducted this investigation - that was last July and August - was involved or had knowledge of the Watergate matter." (3/2/73) press conference, p. 12.)

While these earlier statements tended to deny any "knowledge" of or "involvement" in the whole matter by White House officials (or the President), the May 22, 1973, statement does not constitute a denial that the President was at least aware of the Liddy intelligence operation, and possibly of its intended targets.

There is some circumstantial evidence to suggest that the President was at least aware of a "sophisticated intelligence plan" being mounted by the Committee to Re-Elect the President, at a budget in the neighborhood of \$250,000 or \$300,000:

1. [REDACTED]

Magruder says that both Dean and Strachan called Magruder shortly thereafter to urge that a way be found to keep Liddy on, because of the importance of Liddy's intelligence duties. (Magruder [REDACTED] SC) Strachan told Magruder that the President was aware of the program and thought that it was important that the program go forward.

Magruder testified that following his dispute with Liddy, Magruder was told by Dean and Strachan not to let personal animosity get in the way of the project. Egil Krogh also told Magruder that Liddy could be very effective, but tight control was needed over Liddy. (Magruder, Senate Select, 1895-1897) Apparently people in the White House were quite concerned with keeping Liddy's services for the re-election effort. (Check [REDACTED] Dean SC; Strachan denies it.)

2. In mid-February 1973 Magruder told O'Brien that Magruder had received final authorization for Liddy's plan from Strachan, and Strachan reported to Magruder that Haldeman had cleared the plan with the President. (Can Magruder corroborate?) O'Brien reported this to Dean, according to Dean, who reported it to Haldeman. Dean says it was after this that White House efforts to find a job for Magruder were redoubled, and Haldeman assigned Higby to that task. (Dean Statement 178)

3. Following the March 30 Key Biscayne meeting, Strachan listened in on a phone conversation between Haldeman and Mitchell during which a meeting was arranged for Mitchell with Haldeman April 4. Strachan has said he prepared a talking paper for that meeting which included the "sophisticated intelligence plan at 300," and that he assumes that matter was covered since Haldeman never said anything further about it. (Strachan SC) In fact, on April 4, Haldeman and Mitchell met with the President, according to White House logs. Haldeman has testified about that meeting in his opening Senate Committee statement. Haldeman claims the Presidential meeting included ITT matters and other political decisions reached by Mitchell at the March 30 Key Biscayne meeting (re assignment of regional coordinators) but did not include the intelligence plan.

4. Colson had an active interest in Liddy's plan, according to both Hunt and Magruder, but nothing is known about what Colson may have communicated to the President on this.

5. When Alex Butterfield was informed of the fact that Hunt's name was found in connection with the arrests on June 17, he called Kehrli to ascertain Hunt's status. Kehrli told Butterfield Hunt's name was not listed in the official and complete book of all WH employees (of which there were only three copies) because Kehrli has been instructed by Haldeman that Hunt was on a "hush-hush" project and thus Hunt's name should be kept out of the book. (Butterfield Witness Interview)

6. The likelihood that the President had pre-June 17 knowledge of the Liddy intelligence plan is also premised on the atmosphere created in the White House, about which Dean testified:

"The Watergate matter was an inevitable outgrowth of a climate of excessive concern over leaks, an insatiable appetite for political intelligence, all coupled with a do it yourself White House staff, regardless of the law." (p. 1, Dean's statement).

Specific programs and action that corroborate this atmosphere include:

- (a) The President's concern about and contempt toward even peaceful demonstrations;
- (b) The "Enemies" list;
- (c) The creation of the "plumbers" unit;
- (d) The President's September 15, 1972, comment to Dean and Haldeman that Dean should keep a list of press people giving the Administration trouble, because, "we will make life difficult for them after the election;"
- (e) The President's conceded knowledge of a "special program of wiretaps" instituted in mid-1969 and terminated in February, 1971;

(f) The President's 1970 internal security plan, which contemplated "surreptitious entry - breaking and entering, in effect - on specified categories of targets in specified situations related to national security," and which never went into effect because in the President's own words, "they were protested by Mr. Hoover;"

(g) The creation of the Intelligence Evaluation Committee to improve coordination among the intelligence community and to prepare evaluations and estimates of domestic intelligence.

(h) Misuse of the IRS against political enemies. Mitchell, Haldeman, Richard Moore, and Ehrlichman have all denied that the Presidnet knew, prior to June 17, either about the break-in at the DNC or about general surveillance plans directed at the DNC and McGovern Headquarters.

It should be noted that most of those denying any Presidential complicity or knowledge of the pre-June 17 activities fail to distinguish between the break-in plans and the electronic surveillance plans. Purely as a matter of speculation it is more probable the President knew of the general CRP political intelligence gathering plans than specific knowledge of illegal breaking and entering plans.

II. Probable early knowledge by the President of the involvement of high White House and CRP officials in Watergate.

SYNOPSIS:

The President has denied having any knowledge of any involvement by high White House or CRP officials in the Watergate operation (or cover-up) until March 1973. However a series of meetings and contacts the President had with Haldeman, Ehrlichman, and Mitchell between June 17 and June 30 -- when viewed against the knowledge and activities of these three persons and the information that was being communicated to them by others such as Colson, Dean, Mardian, LaRue, and Magruder -- strongly suggest that the President became aware early on of the involvement of all these people in Watergate.

FACTS:

The President has said that he first learned about the Watergate arrests on June 17, from news reports. (4/30/73 public address, p. 1) He has not provided any further information about his knowledge of the details of the arrests between June 17 and June 20, on which day we know from Ehrlichman's testimony and White House logs that the President met with both Haldeman and Ehrlichman.

The President was in Key Biscayne, with Haldeman, on June 17 and returned to Washington on the evening of June 19 (Monday). As early as mid-day on June 17, Attorney General Kleindienst was apprised that one of those arrested was or might be employed by CRP or the White House, due to Liddy's approach to Kleindienst on

June 17 at Burning Tree. (Petersen SC; [REDACTED] We
also know that the FBI entered the case June 17, and discovered then or early June 18 that in the address book of one of those arrested was the White House number of Howard Hunt. Alexander Butterfield believes it was June 17 when he was notified by Al Wong of the Secret Service of Hunt's possible involvement. (Butterfield Witness Interview)
We also know that Haldeman phoned Magruder in California, from Florida, at about noon Eastern time on Sunday, June 18. (Magruder SC; [REDACTED] What Haldeman learned from Strachan (or Higby, through Strachan), has not been determined. (Ehrlichman was in Washington, and according to him had no significant involvement til June 19.

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The President met with John Ehrlichman and H. R. Haldeman, separately or together, from approximately 10:30 a.m. til approximately 12:45 p.m. or later on June 20, 1972. Apparently he met with Ehrlichman first, then with Haldeman from 11:30 til 12:45.

Ehrlichman has testified that he has no independent recollection of what he discussed with the President for 55 minutes at 10:30 a.m., but that upon refreshing his recollection with certain notes he is "certain" that the subjects of the meeting included "Government wiretapping" and Watergate.

In addition, by the time of these meetings on June 20, it had been determined in the White House that Howard Hunt had an office and safe, the safe had been opened on the night of June 19 by Kehrli and Fielding, and Dean had taken possession of the contents of the safe on the morning of June 20. According to the testimony of Dean and Kehrli, Dean was ordered to have the safe opened Monday evening by Ehrlichman.

It appears likely that the fact of the safe became known to Ehrlichman and Colson on Monday morning when Hunt told Colson's secretary that his safe was "loaded," and asked her to pass the message along to Colson. (Hall denies this.) We have no testimony concerning when the President might have become aware of the contents of the safe, which were examined Tuesday afternoon by Dean and Fielding (while they were wearing rubber gloves); Dean reported on the contents of the safe to Ehrlichman late Tuesday, according to Dean. (Dean SC)

By the time the safe was opened, it appears there was action already underway to alter Hunt's personnel records to make it appear that Hunt had been formally terminated as a White House consultant about March 30, 1972. Participants in that scheme would appear to include Kehrli, Colson, and Richard Howard (Colson's deputy), but there is no evidence that either Ehrlichman or Haldeman would necessarily have known about it, or that the scheme would have been communicated by anyone to the President.

The president spoke to John Mitchell on the telephone on that same evening, June 20, from about 6:00 to 6:12 p.m.

Mitchell has testified to the full extent of his recollection about what was said during this conversation. (Senate Select Committee Transcript pp. 3407-08) Mitchell testified that the subject of the conversation was the Watergate matter and the investigation into it. Mitchell testified that he apologized to the President for not keeping a "tighter rein" on Re-Election Committee officials, in light of his knowledge that James McCord was one of those arrested on June 17.

ANALYSIS:

There is a substantial probability that the bulk of the meetings among Haldeman, Ehrlichman, and the President concerned Watergate for two reasons:

(1) This was the first opportunity following the arrests when the President would have had an opportunity for a full report on the case from all his top aides in the White House and Re-Election Committee who had knowledge about the events and the progress of the investigation. The President, Haldeman, Mitchell, LaRue, and Mardian all returned to Washington late on June 19; Dean and Magruder returned to Washington late on June 18.

(2) The President's meeting (s) with Ehrlichman and Haldeman was immediately preceded by a meeting that began at 9 a.m. between Haldeman, Ehrlichman, and Mitchell, during which these three persons were joined by Attorney General Kleindienst and John Dean. (HRH, JE Logs)

Ehrlichman has testified that the main subject of the meeting from 9 a.m. to 10:30 was the Watergate matter and the knowledge of all those present about it. Ehrlichman has testified (Select Committee Transcript pp. 5358-70 and 5923-28) that the participants at the meeting discussed, among other things, their knowledge that Gordon Liddy, then General Counsel to the President's Re-Election Committee, Howard Hunt, a consultant to the White House, and James McCord, Security Director for the Re-Election Committee, were all deeply implicated in the Watergate break-in and bugging. Ehrlichman has testified that he himself at this time was "unclear" but "actively concerned" about whether "the trail" led into the White House.

It appears likely that Ehrlichman or Haldeman or both would have given the President a complete report on the Watergate matter during the morning because of the immediately preceding meeting between White House and CRP officials about Watergate and because, of the five who participated in the preceding meeting, there is sworn testimony that:

John Mitchell:

-- approved the budget and targets of an intelligence plan that resulted in the break-in and bugging at Watergate; (Magruder [REDACTED] SC)

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-- was aware of the entry into Watergate on or about May 28, 1972, and of the fruits of that entry; (Magruder [REDACTED] SC)

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-- had participated in a meeting the preceding night, June 19, in his apartment where he himself proposed that documents at CRP that would be evidence of his and others' involvement in the break-in and bugging be destroyed.

(Magruder [REDACTED] SC; [REDACTED] Dean SC)

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H. R. Haldeman:

-- was aware prior to May 28, 1972, of the intelligence plan approved by Mitchell; (Strachan SC; Magruder SC)

-- had on June 20 been shown by an aide materials in the files of Haldeman or his staff that would tend to prove Haldeman's foreknowledge, and ordered such material destroyed. (Strachan SC)

John Ehrlichman:

- had received on June 19 a full report from John Dean on the break-in and bugging based on an earlier Dean meeting June 19 with Gordon Liddy, a report that included Dean's and Mitchell's participation in meetings in January and February 1972 where budgets for the above-mentioned intelligence plan were reviewed; (Dean SC)
- had met on June 19 with Dean, Colson, and others to discuss the status of Howard Hunt at the White House and disposition of the contents of Hunt's safe, [REDACTED]; (Dean SC)

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- had on June 19 discussion about orders to Hunt to leave the city or country;
- had, according to the sworn testimony of Dean, ordered that the contents of Hunt's safe should be "deep-sixed," i.e., destroyed.

Richard Kleindienst:

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- had met on June 19 with Ehrlichman to discuss the Watergate investigation. (JE Logs)

John Dean: (Dean SC)

- attended the above-mentioned planning meetings with Mitchell and Liddy in January and February 1972;
- had met Liddy June 19 and recieved a full report on the break-in and bugging;
- had begun an investigation among officials of the CRP to determine the facts concerning the planning and financing of the break-in and bugging;
- had attended the meeting June 19 with Ehrlichman where Hunt's employment status and safe were discussed;
- had taken custody of the contents of Hunt's safe;
- had reported to Haldeman and Ehrlichman on some of his investigations.

It is probable that the subject of the telephone conversation on June 20 between Mitchell and the President was the Watergate matter and other illegal or covert activities engaged in by Howard Hunt and Gordon Liddy while employed by the White House for the following reasons:

(1) This was the first direct conversation between the President and Mitchell since June 17, 1972.

(2) At the time of this conversation, there is sworn testimony that Mitchell was possessed of all of the information mentioned above.

(3) In addition, at the time of this conversation Mitchell may already have been briefed by Robert Mardian and Fred LaRue concerning their conversation with Gordon Liddy in which Liddy related to them his involvement in the Watergate break-in and bugging, and his and Hunt's

participation in the Ellsberg psychiatrist break-in in 1971 and other "White House horrors." (See Mardian [REDACTED] SC; LaRue [REDACTED]; SC)

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Mitchell has testified that despite all the information allegedly in his possession on June 20, he did not know of and did not communicate to the President anything concerning involvement of others besides the five men arrested in Watergate, and that the President never asked Mitchell directly, at any time, about the involvement of CRP or White House officials. (Mitchell SC)

John Mitchell's resignation as Chairman of CRP and his replacement by Clark MacGregor was announced July 1, 1972.

The President met with Mitchell and Haldeman the day before, from 12:55 p.m. til 2:10 p.m. on June 30, and Mitchell has testified that his resignation was the sole subject of this meeting. The President and Haldeman also met with Kleindienst, MacGregor, and Colson (separately) that same afternoon.

[REDACTED]

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Mitchell has repeatedly said and testified that the sole reason for his resignation was family problems, viz, his wife's desire that he remove himself from day-to-day campaign activities. However, his wife had made a

public statement between June 17 and June 30 to the effect that she did not want to have anymore to do with "dirty" things going on. [Source N.Y. Times]

Mitchell has also said that his resignation did not occur til June 30, but it is a strong possibility that his leaving the campaign was a result of Watergate, and that it was decided upon as early as June 20.

Despite Mitchell's testimony that the President never asked him -- and he never told the President -- about the involvement of White House or CRP officials in Watergate, there is a strong probability that such discussion did take place at this June 30 meeting, the tape of which we have subpoenaed. This was the first time since June 17 Mitchell met directly with the President, alone or with others. On June 30 Mitchell not only had in his possession the facts referred to above but had also by that time:

- heard from Robert Mardian and Fred LaRue of the "confession" to them of Gordon Liddy concerning Watergate and the White House "horrors"; (Magruder, Senate Select, 1913-15)
- learned from Hugh Sloan, Maurice Stans, Jeb Magruder, Robert Mardian, and others about the source of the funds used to finance the break-in and bugging; (Magruder, Senate Select, 1951-17)
- participated in a meeting with, among others, LaRue, Mardian, and Dean in which it was suggested or discussed that the CIA could be used to help block the FBI's investigation into Watergate;

- participated in a meeting in which it was suggested or discussed that the CIA could be used to supply funds to those arrested and to Liddy and Hunt;
- had suggested himself in a meeting attended by Dean, Mardian, and LaRue that Dean obtain Haldeman's sanction for employing Herbert W. Kalmbach to raise and distribute money to those arrested, Liddy, and Hunt.

In examining the events surrounding Mitchell's resignation three factors are significant: (1) The coincidence that Mitchell resigned two weeks after the break-in; (2) The relative and apparent need for Mitchell's quick resignation (he informs the President one day before his resignation); (3) The clear importance to the President of who runs his campaign. It seems only natural that the President would have questioned Mitchell carefully about the decision to resign.

Mitchell also testified that at the June 20 meeting with the President, the President did not ask Mitchell directly about the involvement of CRP or White House officials. This fact along with others discussed later, add support for the view that at a minimum the President was not terribly concern with ascertaining the full scope of the Watergate incident, and the involvement of his Administration,

III. Attempted Use of CIA to Block the FBI Investigation

SYNOPSIS:

Beginning June 20 and continuing til July 6, 1972, high White House officials attempted to impede the FBI's investigation into Watergate - - particularly into the source of the money found on those arrested July 17 - - by repeatedly representing that a vigorous FBI investigation might uncover certain sensitive CIA activities. This attempt was set into motion by Haldeman and Ehrlichman and continued by Dean at their request (according to Dean's testimony). It included direct representations to L. Patrick Gray by Dean and the importuning of the CIA by Ehrlichman and Haldeman to seek CIA's cooperation in obstruction of a full FBI investigation. The President's participation in this part of the coverup is an important area for investigation because he has publicly acknowledged that he precipitated the events that subsequently occurred, and because on July 6 he received both indirect and then direct information from Gray that the President's trusted aides had in fact been misusing the CIA and FBI in an attempt to impede the FBI's investigation, yet he took no action and made no further inquiry.

The President set in motion the chain of events by which the CIA was used as a means of curtailing the FBI's investigation. The President in his May 22 statement said, "I instructed Mr. Haldeman and Mr. Ehrlichman to ensure that the investigation of the break-in not expose ...an unrelated covert operation of the CIA." On July 6 the President received a warning from Gray that the President's aides were misusing the CIA and FBI. The events

beginning with the President's decision to involve the CIA (even for the presumably innocent purpose of protecting CIA operations) until his June 6 phone conversation raise a number of questions about the President's handling of the Watergate investigation.

FACTS:

On Thursday, June 22, the White House arranged for Walters, Helms, Ehrlichman, and Haldeman to meet at the White House the next day. These four persons met at 11:45 a.m. The testimony of Walters and Helms is in substantial agreement that Haldeman and Ehrlichman spoke about Watergate causing problems with "the opposition" and of the embarrassment that would be caused. [REDACTED] Helms and Walters SC) Haldeman also stated that the investigation was leading or could lead to a lot of people in high places, and could get worse. Haldeman specifically directed Walters to meet with Gray, despite Director Helms' repeated protestations that CIA had no interest in those arrested at Watergate or the Watergate matter (a protestation Helms had made directly to Gray the previous day, June 22 ([REDACTED] Helms W Interv). Walters, at this time, had been at CIA only a few weeks and, according to Dean, was considered by Ehrlichman to "owe" his position to the present Administration. (Dean SC)

John Dean did in fact arrange a Walters/Gray meeting for later that day, and that meeting was the first of a series of attempts by the WhiteHouse to

impede the FBI investigation. Dean, for example, requested urgent meetings with Walters on Monday, Tuesday, and Wednesday (June 26-28) following the Friday conference discussed above, and at each of these meetings urged Walters to help in preventing a vigorous FBI investigation. (Walters SC) Dean reported on each of these meetings to Ehrlichman and possibly Haldeman, and was told to "press Walters harder" when no success was initially achieved. (Dean SC)

Meanwhile, Dean was also making almost daily calls to Gray during which Dean requested that FBI interviews with Ogarrio, Dahlberg, and others with no CIA connections whatever be postponed or quashed. [REDACTED] b3
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When Gray grew suspicious about these representations and requested a meeting directly with Director Helms, scheduled for June 28, the meeting was cancelled on the orders of Ehrlichman when Ehrlichman discovered the scheduled meeting the morning it was to take place. (Dean SC)

Finally, after Gray returned from a long Fourth of July weekend and was still unable to ascertain a satisfactory basis for these repeated requests, Gray notified Walters that he would have to have in writing a statement of CIA's interest by the morning of July 6 in order for the FBI to continue to postpone following up the Dahlberg and Mexican leads. Walters in fact met with Gray that morning at 10 a.m. and gave Gray a statement

that indicated that no CIA activities would be jeopardized by a full FBI investigation. (Walters SC; [REDACTED])

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On July 6, immediately after meeting with Walters, Gray decided that the CIA had in fact been misused and that White House officials had been pressuring the FBI in bad faith to curtail certain investigative leads. Gray sought to get a message to the President to this effect, without going through Haldeman and Ehrlichman, by calling Clark MacGregor. Gray reached MacGregor in California at 10:51 a.m. EDT. Gray told MacGregor of Gray's concern about Watergate and about the misuse of CIA and the FBI by high White House officials. Gray asked MacGregor to convey this information to the President. Gray has testified to the substance of this call at length in the [REDACTED] and Select Committee, and it is confirmed by his phone logs and his telephone operator, who remembers this particular call distinctly.

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About one half hour later, the President called Gray directly from San Clemente, on the pretext of congratulating him on the FBI's success in stopping a recent hi-jacking. Gray then took the initiative and warned the President that his highest aides were "wounding" him, etc. [Gray has testified to the details of this conversation in the [REDACTED] and the Select Committee] The President asked Gray if he had talked with General Walters. Gray told the President that he had, and that General Walters had assured Gray that the CIA was not involved. Gray told the President that the matter might lead higher. The President without making further inquiries of Gray told Gray to "press ahead with the investigation."

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ANALYSIS:

In his May 22, 1973, statement the President said, "Within a few days [of the break-in] I was advised that there was a possibility of CIA involvement in some way." However, the President has never explained who so advised him, or what he was advised, or whether he sought to confirm that advice directly with Director Helms or others at CIA.

According to the statement:

I wanted justice done with regard to Watergate; but in the scale of national priorities with which I had to deal -- and not at that time having any idea of the extent of political abuse which Watergate reflected -- I also had to be deeply concerned with ensuring that neither the covert operations of the CIA nor the operations of the Special Investigations Unit should be compromised. Therefore, I instructed Mr. Haldeman and Mr. Ehrlichman to ensure that the investigation of the break-in not expose either an unrelated covert operation of the CIA or activities of White House investigations unit -- and to see that this was personally coordinated between General Walters, the Deputy Director of the CIA, and Mr. Gray of the FBI. It was certainly not my intent, nor my wish, that the investigation of the Watergate break-in or of related acts be impeded in any way. (page 5 of Statement).

Other than the President's May 22 statement and the testimony of Haldeman that Haldeman was asked by Nixon to "inquire into" any "possible" CIA interest in the affair of those arrested, there is no direct evidence to suggest that the President actually ordered an attempt to use CIA to obstruct justice. Haldeman's testimony is consistent with the President's, but it is completely inconsistent with the testimony of Helms and Walters about what occurred at the June 23 meeting, inconsistent with the testimony and behavior of Dean through this period, and inconsistent with the representations made to Gray and Walters by Dean, Ehrlichman, and Haldeman.

Walters initially testified that he recalled that Haldeman had said at the June 23 meeting that it was the "President's wish" that Walters instruct Gray not to pursue the Mexican aspects of the investigation. However, Helms does not recall these specific words being used, and Walters shortly thereafter retreated from this testimony, claiming that this was being communicated to him by Haldeman.

We have no testimony about any communications between the President and Ehrlichman or Haldeman during this period of time (during the latter part of which the President was in San Clemente), and we must inquire about this in the Grand Jury.

The President's complicity in this area of the cover-up is based on his acknowledged role and the strong inference that the attempts mounted by his highest aides must have been at his direction. It is difficult to believe that despite representations of no CIA interest made by the Director of CIA to both Gray and, at the June 23 meeting, directly to Haldeman and Ehrlichman (a fact confirmed by Ehrlichman's Senate testimony), White House aides would have persisted in such a strenuous effort affirmatively to involve the CIA without Presidential knowledge or approval.

It is worth noting that MacGregor denies the strong inference that MacGregor called the President on July 6 to alert him to Gray's concern.

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MacGregor's account is, however, highly improbable and contradicted by a substantial amount of evidence, including not only Gray's testimony, his phone logs, his telephone operator, and the circumstances of the President's immediate follow-up call, but also by MacGregor's apparent prejury concerning the long distance phone bill on his hotel receipt for July 5-6. MacGregor claims this call was made by his wife to her brother in San Francisco; but his bill bears a toll charge that is too small for any call to San Francisco, but is appropriate for a five or six minute call to San Clemente from MacGregor's hotel. (Kleindienst has also stated that Gray is not a "drinker.")

Ehrlichman, on the other hand, has provided testimony that strongly supports the inference that MacGregor promptly notified the President of Gray's warning and triggered the President's phone call to Gray. Ehrlichman testified in the Senate Committee that the President told him that MacGregor had told the President (in person) of Gray's call, and that the President thereupon picked up the phone and called Gray. (This could not have occurred in exactly this fashion, however, since MacGregor did not have time to get from his hotel to San Clemente in the intervening half hour between the Gray/MacGregor call and the Nixon/Gray call.)

Helms' testimony indicates that there was no need to be concerned about the investigation uncovering CIA operations. Helms knew nothing about a CIA Mexican operation which could be exposed by an FBI investigation; but Helms recognized the possibility that the President or Haldeman had information he did not. (Helms, Senate Select, 6706-08) It seems incredible that even the President would have knowledge of CIA activities which the Director did not. The President if concerned about the problem could have himself or through Haldeman asked Helms if the CIA was involved or if CIA action could be compromised by an investigation. Rather even after Helms told Gray on June 22 and Haldeman on June 23 that there was no CIA involvements, efforts were still made to curtail the FBI investigation for fear of jeopardizing the CIA (Helms, Senate Select, 6705-6708). Helms also testified that he had the name Ogarrio checked out, and after being told the CIA had no connection with him, Helms conveyed this information to the FBI. (Helms, Senate Select, 6710).

Moreover, during the President's July 6 phone conversation with Gray the President asked Gray if Gray had spoken to Walters; Gray responded that Walters had told Gray that the CIA was not involved. Therefore, according to the President's own version of the pertinent events (See May 22 statement), the President while precipitating the White House's actions to ensure that the FBI not expose CIA operations, did not himself check back with Haldeman or Walters or Helms to ascertain if there was any need to limit that investigation.

Rather it was two weeks later that he finally asked Gray if Gray had found out about a CIA connection; and there is testimony that even this phone call was not at the President's initiative. It appears that the President was willing to suggest a limitation on an FBI investigation into Watergate until the CIA involvement was resolved, but then did not take strong steps to ensure a speedy resolution of the problem so that a full investigation could commence.

IV. Covert Cash Payments to the Defendants in Exchange for Their Silence

SYNOPSIS:

Beginning as clearly as June 26, 1973, the CRP leadership, John Dean, John Ehrlichman, and (according to Dean) H.R. Haldeman began attempts to arrange secret payments of cash to the five men arrested in the DNC, Liddy, and Hunt. One theory views these payments as a means to insure that the seven would not reveal the involvement of high CRP and White House officials in Watergate. Alternatively, these were legal efforts to provide financial aid to the defendants.

There is no direct evidence that the President knew of these payments until March 1973. Any inference of Presidential knowledge is grounded in the assumption that if Mitchell, Haldeman, and Ehrlichman knew, they must have communicated this information to the President. Dean's testimony places March 13 as the date he informed the President of the defendants' demands for money.

FACTS:

During the weeks following the break-in, Dean attempted to obtain CIA help in making payments to the defendants. When Dean's efforts to secure CIA assistance in this venture failed, Dean arranged for Herbert Kalmbach to coordinate obtaining and distributing these funds. Dean's

Statement, Senate Select, 83-85) Kalmbach received secret CRP cash funds from Stans and LaRue at Dean's request, and distributed these funds through Tony Ulasewicz to Hunt and Mrs. Hunt, and through them to the others. Kalmbach confirmed this arrangement with Ehrlichman, and both Haldeman and Ehrlichman have confirmed that they knew of these payments as early as the summer of 1972. The payments were for legal and lawyers fees and "income supplement."

By the end of September, 1972 Kalmbach refused any further role in the payoffs, (Kalmbach SC; [REDACTED]) After election day CRP cash was exhausted, and the defendants' legal fees (and demands by Hunt) were increasing. It was arranged that payments would be made by LaRue to various persons out of a secret White House cash fund of \$350,000 which Haldeman ordered turned over to LaRue by Strachan. [REDACTED], Dean SC; 123-133 Strachan SC)

The defendants' demands for money escalated, and according to Dean shortly before the trial the "demands reached the crescendo point once again." (Dean's statement, Senate Select, 132). At this point Haldeman ordered the entire \$350,000 fund turned over the LaRue by Strachan.

ANALYSIS:

The President has stated that "neither did I know until the time of my own investigation, of any efforts to provide them (the defendants) with funds." (May 22

statement). Presumably the President meant March 21, when Haldeman confirms that the payments were discussed with the President at a meeting with Dean.

It would be important to know whether, and precisely when, the President may have known about the payoffs before March 21, because during January, February, and March of 1973 Hunt was seeking to let it be known that "commitments" made to the defendants were "not being kept." ([REDACTED] Dean SC) In mid-March meetings with O'Brien and Shapiro, Hunt threatened to "blow the lid off" if he were not provided quickly with some \$60,000 - \$120,000, [REDACTED]; Dean SC; [REDACTED] Shapiro W. Interw) and [REDACTED]

Hunt's threats were communicated to the President by Dean by March 21 at the latest, during which meeting the President asked what it would take to keep all the defendants silent for a long time, Dean suggested a million dollars, and the President stated that that would not be difficult to raise. (Haldeman SC) If Dean communicated Hunt's demands to the President on March 13, as Dean testified, (Dean SC) or if the President knew of these demands or payments after the LaCosta meetings on February 10 and 11 attended by

Haldeman and Ehrlichman (at which raising more money was discussed (see Dean SC: [REDACTED], or if the last \$75,000 payment to Hunt about March 21 was made after Dean reported Hunt's demand to the President, or if the President knew that that last payment had in fact been made (even if he did not approve it personally), then the President's personal knowledge of the purpose of these payments could be established.

Dean testified that at his March 13 meeting with the President, Dean told the President that money demands were being made by the seven defendants. According to Dean Haldeman was present at the meeting. Dean told the President that there was no money available to pay the defendants' demands. The President asked how much would it cost, and Dean estimated as high as a million dollars or more. The President said that was no problem. The President also asked how the payoffs were made and Dean told him the money was laundered so it could not be traced. (Dean's statement, Senate Select, 190-91). At the March 21 meeting Dean further testified that he told the President that Kalmbach had been used to raise funds to pay the defendants for their silence at the instructions of Haldeman, Ehrlichman, and Mitchell. Dean elaborated on the blackmail demands. (Dean's Statement, Senate Select, 197).

Haldeman, however, testified that Dean reported to the President on March 21 Hunt's blackmail threat. Haldeman acknowledged that the President asked how much money would be involved, and Dean said one million. The President stated that there was no problem raising the money, but it would be wrong. (NY Times, 7/31/73 p. 24).

According to Haldeman his testimony concerning Dean's telling the President about Hunt's demands, is based on Haldeman's listening to the tapes and his own recollection of the meeting. Haldeman claims that the President asked Dean leading questions in an effort to find out all Dean knew about the cover-up.

In any event by at least March 13 or March 21 the President knew of the payoffs. Whether he sanctioned the payoffs or disapproved of them will to some extent be shown on the tapes.

There doesn't appear to be any evidence that the President was aware of these secret payoffs before March 13. Pure speculation might infer that at some point prior to March 13, (possibly after the February 10 LaCosta meeting) Haldeman, Ehrlichman, or Mitchell told the President about the blackmail demands.

V. Presidential Knowledge of a Conspiracy to "Coverup"
the Break-in and Other Related Events.

SYNOPSIS:

The strongest evidence of Presidential complicity in the coverup is Dean's testimony. The President's meeting with Dean on September 15 and during late February and March, 1973 are of key importance.

However, some of the most favorable testimony on behalf of the President still supports the view elaborated upon below that the President showed little concern about the Watergate investigation. Several conflicting interpretations for this neglect are possible:

1) The President thought the break-in was only a bizarre and isolated incident not deserving his attention in light of the more pressing domestic and foreign problems confronting him; 2) The President accepted Dean's and Ehrlichman's conclusions that no one in the White House or CRP was involved, and he had no reason to doubt the validity of these reports; 3) The President had "a feeling" that a coverup was in effect, and wanted to insulate himself from that effort without stopping it; and 4) The President was fully aware of the coverup and/or the involvement of others in the pre-June 17 events, and did not want an investigation to expose the cover-up or any White House or CRP political intelligence or sabotage efforts.

On June 17, the leadership of the CRP, with the knowledge and cooperation of high White House aides, entered into a conspiracy to prevent the prosecution and FBI from discovering that the break-in had resulted from a large

scale covert intelligence plan approved by CRP (and possibly White House) aides, and that in furtherance of this program well over \$250,000 had been disbursed to Gordon Liddy. This conspiracy comprehended, inter alia, the destruction of incriminating documents at the CRP and the White House, and perjury and false statements to the prosecutors by Jeb Magruder and Herbert Porter concerning the purpose of the money disbursed to Liddy and the purpose of meetings between Dean, Magruder, Liddy, and Mitchell in January and February 1972.

There is no direct evidence of the President's knowledge of this conspiracy. There is circumstantial evidence, however, that the President either was told about the conspiracy by Haldeman and/or Ehrlichman, or that the President -- having learned some details of the Hunt-Liddy operation before or soon after June 17 -- purposefully chose to "insulate" himself from any detailed knowledge of how his aides and political associates went about preventing this incriminating information from coming to light.

This circumstantial evidence consists of: (1) the President's failure to heed a clear warning given him during a phone conversation with L. Patrick Gray on July 6 that Presidential aides were misusing the CIA to obstruct the Watergate investigation; (2) the discrepancy between the President's public statements urging a thorough and aggressive investigation, and his actions: his failure personally to seek information from any of the principals in the CRP, the White House, or the prosecution and his failure to take steps to

insure that an aggressive investigation would in fact be mounted; and (3) the President's September 15 meeting with John Dean and H.R. Haldeman. Dean has testified that during that meeting the President congratulated Dean on 'containing' the investigation so that indictments 'stopped with' Liddy.

FACTS:

Beginning almost immediately after June 17, high White House and CRP officials entered into a conspiracy or conspiracies to prevent the FBI and prosecutors from learning how the Watergate break-in had in fact come about. In particular, the conspirators sought to prevent the investigation from uncovering these facts:

1) that a large amount of money, between \$200,000 and \$300,000 had been paid by CRP to Liddy and his agent Hunt;

2) when that became impossible to conceal, the purpose for which this money was intended;

3) the fact that the money had been disbursed pursuant to a specific intelligence plan known to and approved beforehand by Magruder, Mitchell, LaRue, and Haldeman (?).

The means by which this conspiracy was furthered included destruction of documents (by Strachan, Liddy, Magruder, [REDACTED] and possibly others); perjury (by Magruder, Porter, [REDACTED] and possibly others); subordination of perjury (by most of the conspirators, who knew

that Magruder's testimony was false); and false statements to FBI agents. Material information was also concealed. The conspiracy was further aided by Dean's obtaining raw FBI data from L. Patrick Gray which enabled the conspirators to plan and carry out this aspect of the cover-up. The conspiracy(s) continued even after September 15 and in addition a new element was added by the necessity to conceal from the public the fact that Donald Segretti had been employed by Haldeman's aide Chapin, directed by Chapin and then by Liddy and Hunt; and paid by Kalmbach: discovery of the true facts here would have revealed Hunt's and Liddy's roles in the overall CRP intelligence operation.

ANALYSIS:

There is no direct evidence to show that the President knew of these efforts by Dean, Mitchell, Magruder, LaRue, Mardian, Haldeman, Ehrlichman and Strachan. Of these participants, the President had direct contact before September 15 only with Haldeman and Ehrlichman, and several conversations with Mitchell (though not many). Haldeman and Ehrlichman have denied being aware of this phase of the cover-up, and thus of informing the President. Mitchell admits awareness but claims he never talked to the President about it, and the President never asked. Except for Strachan's testimony implicating Haldeman in destruction of White House documents, only Dean's testimony links either Haldeman or Ehrlichman clearly with the perjury of Magruder which was central to this phase of the cover-up.

In addition, Ehrlichman has testified that he advised the President throughout the summer, on the basis of Dean's reports, that no one in the White House was involved. And there is some corroboration for this in that Gray prepared a letterhead memorandum on the investigation about July 20, which was evidently discussed at a July 31 luncheon attended by Dean, Ehrlichman, and Kleindienst. That memo indicates that there is no evidence against high White House officials, or Magruder or Mitchell. Ehrlichman says that Kleindienst assured him at the luncheon that no one in the White House or CRP was in fact involved, (together with Dean's reports) and that this was the basis for Ehrlichman's report to the President to the same effect, and the President's August 29 statement. Kleindienst, however, denies making any such statement since, at the least, he strongly suspected at that time that Magruder might be lying.

Any involvement by the President in this area must, therefore, be based upon an assumption that he "must have known" what Haldeman and Ehrlichman themselves knew; or, failing that, that the President "should have known" and was grossly negligent in not finding out. This second line of reasoning may be even damaging than the first, if it can be assumed that the President knew before or shortly after June 17 of at least the fact of Liddy's intelligence plan and the employment of Liddy and Hunt to carry it out. If that is true, then the President's

failure to assure that these facts would be brought out -- indeed, an affirmative effort to "insulate" himself from any knowledge of his subordinates' attempts to prevent this information from becoming available to the prosecution or FBI -- would probably constitute criminal conduct.

Affirmative evidence to support either of these "theories" must be found in (1) the President's telephone conversation with Pat Gray on July 6, (2) his meeting with Dean and Haldeman on September 15, and (3) the discrepancies between his public statements urging a full investigation and claiming such an investigation had been conducted, and the President's actual failure to cause a thorough investigation to be made or to assure that one was being made.

Despite these statements, the President had no direct contact whatsoever with those responsible for the investigation: Kleindienst, Petersen, Gray or Titus. Nor did the President direct either Haldeman or Ehrlichman to have such direct contact, except for the CIA link (prior to July 6). According to Kleindienst, the only contact between him and the President regarding Watergate was an early phone call when the President urged him to conduct a "thorough and intensive" investigation.

On July 6, the President received clear notice from Pat Gray that attempts were being made to impede the FBI's investigation into the Watergate break-in and bugging. All

evidence indicates that, other than urging Gray to conduct a "thorough" investigation -- a homily entirely inconsistent with what Gray had just told the President a moment before -- the President did nothing. He did not inquire into the meaning of Gray's statement that the President aides were "wounding" him or misusing the FBI; rather the President said nothing.

Subsequent to July 6, the President was also aware that John Dean was receiving raw FBI investigative reports from Gray or the Department of Justice. (May 22, 1973, public statement)

On August 29, 1972, the President stated in response to a question at a press conference that his counsel, John Dean, had made a full report to the President and had concluded that no one in the White House was involved. In fact, Dean had never been asked by the President directly to make such a report, nor had he made one.

Dean's statement before the Senate Select Committee contains a blanket statement by Dean that he had never told the President that no one presently employed at the White House had any advance knowledge of the Watergate incident. Moreover, Dean stated that he had no advance knowledge of the President's August 29 public disclosure of the so-called "Dean Report." (Dean, statement before Senate Committee, 94-97).

Dean further testified to his September 15 meeting with the President and Haldeman. The President told Dean that he did a good job with a difficult task, and that the President was pleased that the case had stopped with Liddy. Dean told the President that Dean thought there was a long way to go before the matter ended, and that Dean could make no assurances that the matter would not unravel. Dean told the President that the Justice Department had held off as long as possible the return of indictments. The President expressed his hope that the case would not come to trial before the election. The President asked about the Patman Committee hearings, and the President indicated that we don't need the hearings before the election. The conversation then turned to the President's post election plans about dealing with those in the press giving the administration problems, (101-103).

In late November, 1972 Haldeman told Dean to write a report on the Watergate matter. The President wanted to get rid of the Watergate matter. (121-122).

We can, therefore, conclude that the evidence indicates little concern by the President with a full scale, thorough investigation. Gray has testified that the President did not question him when he told the President on July 6, 1972 that people in his Administration were trying to mortally wound him. Further, it was not until July 6 that the President told Gray to conduct an aggressive investigation,

and there is no evidence that the President was kept posted by Gray during the investigation. Haldeman has testified before the Senate Select Committee that following the break-in the President did not call and demand from Mitchell, Magruder, Stans, or Sloan an explanation as to why burglars were found in the DNC with funds from his re-election committee (N.Y. Times, 8/2/73, p. 20-21). In addition if the President was concerned that a complete Watergate investigation be conducted, why did he wait until September 15 before having personal contact with John Dean the man in the White House responsible for conducting the White House phase of the investigation. The President even made his August 29 statement without consulting the White House Counsel who supposedly conducted the investigation.

The President's apathy towards a possible cover-up continued into 1973. Henry Petersen and Richard Kleindienst testified on August 8, 1973, before the Senate Select Committee that the President did not direct them on March 21 or at any time before April 15 "to get all the facts" regarding the Watergate affair, and to report directly to him. Moreover, even accepting as true Ehrlichman's testimony that at the March 21, 1973, meeting of Haldeman, Ehrlichman, Mitchell, and the President there was no discussion of Watergate (NY Times, 7/28/73, p. 11), we are

left with the conclusion that even after the President was told of a possible cover-up he did not discuss the issue with his closest advisors. Ehrlichman also testified that it was not until April 14, 1973, that the President got his first thorough report on Watergate (NY Times, 7/28/73, p. 1). Was this due to Presidential indifference, or Presidential involvement, or deception of the President by his advisors such as Dean?

VI. Offers of Executive Clemency to the Defendants
In Exchange for Their Silence

SYNOPSIS:

There has been a substantial amount of testimony, sharply contradicted at points, that the Watergate defendants were promised executive clemency if they would remain silent about the involvement of higher-ups in the Watergate affair. Dean has testified that Hunt was promised clemency in early January 1973 by Colson, through Hunt's attorney Bittman, and that this promise was communicated by the President directly to Colson and indirectly from the President through Ehrlichman to Colson. There is also evidence of a promise of clemency to McCord, corroborated by all those "couriers" who carried the message: Ulasewicz, Caulfield, and Dean. Dean says this offer was approved by Mitchell. David Shapiro, Colson's attorney has also told us that, according to Hunt, Liddy was offered a Presidential pardon by John Mitchell. And there is sworn testimony of Henry Rothblatt -- for whatever that is worth -- that Hunt pressured the Miami defendants into pleading guilty by promises of money, clemency, and rehabilitation.

The President is tied directly only to the offer to Hunt, through Colson and Bittman. Of course, direct evidence of Presidential knowledge may be less important in this area than elsewhere, since only the President can grant clemency and it seems unlikely that high White House officials would extend a promise of clemency to a defendant without checking first with the President.

It is possible and reasonable, however, that any offers of clemency were made by high officials knowing that the President would never grant executive clemency, and that the offers were made without Presidential knowledge. In the latter case the offers were made without expectation of fulfillment.

However, with respect to the one promise to which the President is directly tied -- that to Hunt -- the weight of the evidence contradicts Dean's testimony that any offer was in fact made. Without establishing the offer itself, no liability can be assigned to the President. Thus, Hunt, Bittman, Shapiro, Colson, Ehrlichman, and O'Brien, all of whom could corroborate Dean, in fact contradict him.

There is some, largely circumstantial, corroborating evidence of the fact of the offer to Hunt. But this evidence will have to be strengthened before a firm conclusion can be drawn concerning the President's own liability.

FACTS:

The following are the major points in the various versions of the executive clemency stories. Dean's Senate testimony is the most damaging against the President. (Page references are to Dean's statement, when the language concerns Dean's testimony; otherwise, page references are to the witness' testimony before the Senate Select Committee, before the Senate Select Committee, or to memoranda in our files.

On January 2, 1973, Dean received a phone call from Paul O'Brien saying there were serious problems with Hunt. Dean told Haldeman about the call. (136)

The evening of January 2, Dean called O'Brien and O'Brien told him that Hunt would plead guilty, but Hunt wanted some assurances of executive clemency. O'Brien said Hunt wanted assurances from Colson, and Bittman was trying to reach Colson. (136)

On January 3, Dean discussed with Colson Hunt's letter to Colson pleading for Colson to meet with Bittman. Dean then met with Ehrlichman, and Ehrlichman thought Colson should meet with Bittman. (137). Colson apparently met with Bittman, and on January 3, Colson came to Ehrlichman's and Dean's meeting, and said it was imperative that Hunt receive some assurances of executive clemency. Ehrlichman told Colson not to speak with the President. (137-138).

On January 4, Dean learned that Ehrlichman had given Colson an affirmative regarding clemency for Hunt, and that Colson had talked with Bittman about this. (138).

Another meeting was held in Ehrlichman's office on January 5. Ehrlichman told Dean that no one could be given a specific commitment, but if Hunt was going to get "an assurance for clemency the others could understand that it applied to all." (138). After

this meeting Colson told Dean that Colson had taken up the matter of executive clemency with the President. (139).

Dean further stated that on March 13, 1973 and April 15, 1973, the President had told Dean that the President had discussed the matter of executive clemency for Hunt with both Ehrlichman and Colson. (139).

As to McCord, Dean's testimony is as follows:

Around January 3-5, 1973, Caulfield came to Dean's office with a letter Caulfield had received from McCord. Dean thinks he gave the letter to O'Brien. (140).

At some point Mitchell then called Dean and told dean to get Caulfield to speak to McCord. (140). On January 10, both O'Brien and Mitchell told Dean that since Hunt had been given assurances of clemency, Caulfield should give the assurances to McCord. (140). Dean called Caulfield and they agreed on the clemency message Ulasewicz gave McCord. (141).

On January 11, O'Brien called Dean and told Dean that McCord wanted to meet with Caulfield. (141). Dean called Caulfield and Caulfield agreed to meet McCord. (142).

On June 12, Mitchell called Dean for a report. (142).

On June 13, Caulfield gave Dean a report on Caulfield's meetings with McCord. (142).

On January 15, Dean reported to Mitchell on what Caulfield has reported. (144).

On January 19 or 20 Caulfield brought Dean copies of McCord's memo regarding the intercepted conversation with the embassies. Dean told Mitchell about the memo and showed it to O'Brien. (144).

Colson denies offering Hunt executive clemency. Colson does admit speaking with Bittman and telling Bittman in January, 1973 that as a friend of Hunt's, Colson would always want to help Hunt. In a March 23, 1973 memorandum Colson does state that Bittman might "have drawn whatever conclusions he wanted to from my having said that I would do anything I could to help him." Colson in discussing the January 4 meeting with Ehrlichman stated that Ehrlichman told Colson to talk to Bittman but to "make no promises of any kind other than to assure Hunt that Colson was still his friend." (See Haberfeld summary of Colson, p. 10 D-E).

O'Brien denies discussing executive clemency with Dean, Bittman, or Hunt. (O'Brien interview - Hecht memo, 9-10).

Bittman in a memorandum to Neal on July 5, 1973, related his meeting with Colson on January 4. Colson told Bittman that Colson "could be called upon to do anything possible to assist Hunt, whether he was in or out of the White House." (14-15).

Previously Bittman had talked to Hunt about executive clemency in the event of a substantial sentence. While speaking to Hunt after meeting with Colson, Bittman discussed the chances of clemency in the context of Colson's expressed support. (15-16).

Ehrlichman before the Senate Select Committee denied Dean's story that as a result of a meeting on January 3, Ehrlichman checked with the President and told Colson to give Bittman assurance of clemency for Hunt. Ehrlichman claims his only meeting with the President was on January 4 at 3:00 with Haldeman, and Kissinger was present a substantial portion of time (NY Times, 7/26/73, p. 28). Haldeman stated that he had no specific recollection of any White House discussion before last March of demands by Watergate defendants for presidential clemency (NY Times, 8/1/73, p. 20). Haldeman further stated that he did not recall any March 13, 1973, discussion between the President and Dean concerning executive clemency for Hunt (NY Times, 7/31/73, p. 24).

In his testimony before the Senate Select Committee McCord stated that on about January 14, 1973, Caulfield made an offer of executive clemency, and said the message was coming "from the very highest level of the White House." Caulfield said the President knew of the meeting. McCord was notified to meet Caulfield by a strange call

(from Ulasewicz) saying, "plead guilty. One year is a long time. You will give Executive Clemency. Your family will be taken care of and when you get out you will be rehabilitated and a job will be found for you." (312) Caulfield and McCord had subsequent discussions about executive clemency.

Caulfield's testimony to some extent corroborates McCord's. But Caulfield expressly stated that "at no time in our first meeting do I recall saying anything about the President but I specifically reviewed the offer of executive clemency, as indicated above and referred to it as coming from the highest levels of the White House." (622)

Caulfield had his meetings with McCord and made the offer of clemency pursuant to instructions from Dean. Caulfield testified that at one point, Dean said to talk to McCord again and "impress upon him as fully as you can that this offer of executive clemency is a sincere offer which comes from the very highest levels of the White House." (623). Caulfield asked if he should say "it comes from the President?" Dean said, "No, don't do that, say it comes from way up at the top." (624)

At the Senate Select Committee Caulfield stated: "I believe that I was going back to see Mr. McCord to again extend an offer of executive clemency and that by my doing so I was doing a great service for the

President of the United States in a very sensitive matter. At no time, either before or after this meeting with Mr. Dean did I ever speak to any other White House officials about this offer of executive clemency. I specifically never spoke to the President of the United States ... my guess was that when Mr. Dean referred to 'high White House officials' he at least meant Mr. Ehrlichman." (625-626).

Ulasewicz's Senate Select Committee testimony is largely consistent with Caulfield's and McCord's.

Alch's Senate testimony reveals two matters relative to executive clemency. Both events substantiate the views that Bittman had some involvement with efforts to obtain executive clemency for the Watergate defendants.

On January 8, 1973, Alch, McCord, Strachan, and Baker went to Bittman's office to discuss Hunt's plan to change his not guilty plea (736). Alch met with Bittman and discussed Hunt's change of plea. (738). Bittman told Alch that McCord would receive a call from a friend; Bittman did not mention "the White House," nor did Alch when conveying the message to McCord (738).

Only once did Alch mention "executive clemency" to McCord. In late, 1972 Alch said to Bittman, "Bill, what do you think will receive as a sentence should they be convicted?" Bittman said, "You can never tell, Christmas time rolls around, and there could be executive clemency." Alch told Bittman the President

would not touch this case with a ten foot pole. Subsequently, but not on the same day, Alch mentioned this to McCord, but also told McCord that McCord should not rely on any prospect of executive clemency. (739-740). This was the only discussion Alch had with McCord concerning executive clemency.

Regarding McCord, O'Brien admits that Dean on January 8, 1973 read to O'Brien a letter sent by McCord which stated that he could not be made the scapegoat, that McCord wanted to be extricated from jail, and if the first two don't work out, "all of the trees in the forest shall fall." Dean asked O'Brien to contact him that evening. O'Brien wasn't sure if he got in touch with Alch, but O'Brien did speak with Bittman. Bittman told O'Brien that Alch was either at Bittman's or coming over. O'Brien passed on this information to Dean. (Hecht memo p. 27-30).

Concerning clemency to Liddy, Shapiro said that Hunt told him on March 16 that Mitchell had made a "solemn promise" to Liddy of a Presidential pardon.

ANALYSIS:

The President stated that at no time did he authorize any offer of executive clemency for the Watergate defendants, nor did he know of any such offer. (5/22/73 statement).

The different versions of the executive clemency story are included here at length because by definition this is one area where the President's complicity is essential if plans to grant clemency for the defendants were to succeed.

McCord's version states that Caulfield told McCord that the President knew about Caulfield's meeting with McCord. Caulfield does not remember specifically referring to the President at his first meeting with McCord, but rather remembers using the phrase "the highest levels of the White House." But Caulfield felt this meant at least Ehrlichman. Dean's testimony before the Senate Committee includes these references to the President: At a January 3 meeting with Colson, Ehrlichman told Colson that Ehrlichman would have to speak to the President about executive clemency. Colson later told Dean that Colson had taken up the matter with the President. At Dean's meetings with the President on March 13 and April 15, 1973, the President told Dean that he had discussed the issue of executive clemency for Hunt with both Ehrlichman and Colson.

The testimony of various witnesses refers to Haldeman, Ehrlichman, and Mitchell. The issue here, as in so many instances with the President, is whether Haldeman and/or Ehrlichman and/or Mitchell could have known about the talk of executive clemency and not the President.

Mitchell does state in his Senate testimony that Dean never told Mitchell about any conversations Dean had had with the President. Mitchell states he never discussed executive clemency with the President. Mitchell also states that Dean's testimony concerning Mitchell telling Dean to offer McCord executive clemency is false (3439-3442).

Ehrlichman has denied Dean's version that on January 4 Ehrlichman checked with the President and told Colson to give Bittman assurance of clemency for Hunt.

Thus, only Dean can testify directly that the President spoke about a previous discussion the President had with Ehrlichman and Colson concerning executive clemency. McCord's testimony that Caulfield said that the President knew of the Caulfield-McCord meeting is at least double hearsay. The tapes of the March 13, 21 and April 15 Dean-Nixon meetings would of course be extremely helpful in resolving these conflicts.

Haldeman's Senate Select Committee reveals a rather interesting discussion. Based on the tapes and his personal attendance at the March 21 meeting between Dean and the President, Haldeman testified as follows: At this meeting Dean told the President that Colson had said something to Hunt about clemency. The President confirmed that he could not offer clemency. Dean also reported on the current Hunt blackmail threat. According to

Haldeman the President pushed this in considerable detail, "obviously trying to smoke out what was really going on. He (Nixon) led Dean on regarding the process and what he (Dean) would recommend doing." Haldeman stated that the President asked how much money would be involved, and Dean said one million. The President stated that there was no problem raising the money, but it would be wrong. Haldeman then asserted "He (President) 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." (NY Times, 7/31/73, p. 24)

This explanation by Haldeman implies that the tapes contain statements which one might interpret as inculping the President, but were actually the President's technique to elicit information from Dean. Thus, anything incriminating on the tapes with Dean was merely the President "exploring and probing."

In spite of the absence (except for Dean's testimony) of direct evidence incriminating the President some circumstantial evidence does exist.

1) Ehrlichman testified that the President mentioned in summer of 1972 that executive clemency should not be offered. Why would this subject come up at that early point?

2) There is testimony by Kleindienst and Petersen that Ehrlichman and Dean explored technical aspects of clemency in January, 1973.

3) There is a similarity in the offer to McCord and Hunt ("a year is a long time, clemency comes up around Christmas.")

4) Would Dean tell Caulfield to offer McCord executive clemency on Dean's own initiation?

5) Colson admits that Bittman might have concluded that Colson would do anything to help Hunt. Would this include seeking clemency from the President? Bittman did speak with Hunt about clemency. Was this pure speculation by Bittman and Hunt, or was it based on assurances from Colson. In addition Bittman told Alch on January 8, 1973, that McCord would receive a phone call from a friend. Following that McCord received the calls from Ulasewicz and Caulfield.

VII. Collapse of the Cover-up

SYNOPSIS:

Beginning possibly in January 1973 and certainly on March 21, 1973, the President began to be made aware of the involvement of his own White House aides and the CRP's former leadership in the many aspects of the Watergate planning and cover-up. Any liability, criminal or otherwise, that the President may have in connection with the "collapse" of the cover-up must be premised on (1) any failure by him to bring out sooner the information he was receiving that tended to incriminate his aides and political associates; (2) any attempts by the President affirmatively to prevent this information from coming to the attention of the prosecutors or FBI; and (3) the discrepancies between what the President in fact knew (or probably knew) on the dates of his public statements on April 17, April 30, May 22, 1973 and August 15, and what he said or implied in those statements.

We can probably show substantial weaknesses in the President's position on (1) and (3); affirmative attempts to continue and perpetuate the cover-up, if any, can be established only by John Dean's testimony, which in this instance is uncorroborated, and by the tapes we have subpoenaed.

FACTS:

According to Dean, the President was made aware by both Ehrlichman and Colson in the first week of January of the need to extend a promise of executive clemency to Howard Hunt in order to insure his continued silence. There is little corroboration of Presidential involvement as pointed out above.

Magruder has testified that he met with Haldeman in mid-January and communicated to Haldeman Magruder's and Mitchell's full involvement in Watergate, which Haldeman knew much of already. Haldeman has denied the meeting took place during January, or that Magruder ever told him such things even in February meeting (which Haldeman agrees took place). Colson also says that he met with Haldeman in late January concerning Colson's suspicions (acquired through Hunt and Bittman) that Mitchell and others (including Dean) were deeply involved, but that Haldeman brushed him off. We do not know how much of this information, if any, Haldeman may have communicated to the President.

On February 10 and 11, Haldeman, Ehrlichman, Dean, and Richard Moore met in LaCosta, California, for a "secret" meeting that continued over two days. The meeting covered the entire range of Watergate-related topics, including -- according to Dean's testimony -- a discussion of whether the defendants would continue to remain silent, and a decision that Mitchell should raise more money for this purpose, a decision communicated to him by Moore. Haldeman and Ehrlichman (SC) deny that the meetings included such a discussion and Moore is quite equivocal. O'Brien, who visited Dean shortly after the meeting in Florida, tends to confirm Dean's testimony.

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_____ (Witness Interviews) O'Brien was told by Dean to report Mitchell that Mitchell would have to raise money for the defendants. The extent to which the President caused this secret and intensive meeting at LaCosta to be held and was told about the subjects covered and decisions reached has not been ascertained.

Colson met with the President (on an unrelated matter) on February 14 and attempted at that time to tell the President about Mitchell's involvement, the early 1972 planning meetings, and the payments to the defendants. Shapiro and Colson claim, however, that before Colson got far into this presentation or mentioned details or sources, the President "blew up" at Colson and asked Colson not to make accusations against Mitchell without hard evidence.

Beginning February 27, the President began to meet regularly with John Dean for the first time since June 17, 1972. The President told Dean, according to Dean, to report directly to the President on Watergate. On February 28 Dean told the President that he had been involved in some pre-June 17 activities, and might be involved in obstruction of justice (according to Dean). On March 2, the President said there would be no problem with Dean having received FBI reports. Most of the Dean/Nixon meetings during this time were concerned with executive and attorney-client privilege and the White House response to the upcoming Senate Watergate Hearings.

Dean met with the President on March 13.

According to the memorandum of the White House counsel briefing, the bulk of this meeting related to Watergate, some of which may have been in the context of preparation for an upcoming Presidential press conference. During the meeting, the President asked Dean for a report on the involvement of Colson, Haldeman and others in the White House or Re-Election Committee in Watergate, and Dean discussed the liabilities of these persons and Strachan. According to the memorandum of this briefing, the discussion also involved possibly illegal pre-April 7, 1972, fundraising by the Re-Election Committee.

Dean has testified that much of the meeting was concerned with Dean's possible appearance before the Senate Judiciary Committee where he might be asked about Watergate, and possible assertion of executive privilege or attorney-client privilege. Dean testified that during this meeting there was discussion of the money demands being made by the convicted defendants and of the fact that the President had discussed executive clemency with Colson. Dean has testified that some of these matters were discussed in Haldeman's presence, which Haldeman has denied (Haldeman SC). Dean has testified there was also discussion of the mechanics by which previous payments to the Watergate defendants had been arranged. The President asked how much money would be required to keep the defendants quiet indefinitely. Dean said: "a million dollars." The President said there would be no problem in raising that much money.

Haldeman has contradicted Dean and has further testified that some of this discussion may have taken place on March 21, rather than March 13, since the tape recording of the March 21 meeting which was reviewed by Haldeman reflected a similar discussion. (Haldeman SC)

On March 16, according to the White House briefing for the Senate Committee, Dean told the President about the Ellsberg break-in. The President's August 15 statement places March 17 as the first time he heard of the break-in.

On March 21, Dean met with the President at Dean's request to tell him the entire story of Watergate. According to all three accounts of this meeting -- Dean's, Haldeman's, and White House counsel's -- the sole subject of the meeting was the Watergate break-in and bugging, and the subsequent cover-up of Watergate. All versions substantially agree that Dean told the President of Dean's theory of Watergate and of the involvement

and possible liability of Magruder, Mitchell, Strachan, Colson, Ehrlichman, Haldeman, and Dean. Dean also reported on a "blackmail" threat from Hunt. According to Dean and Haldeman, Dean spoke of a "cancer on the Presidency." According to Haldeman, there was also discussion of how much money would be required to meet Hunt's threat and similar threats in the future and the difficulty of raising such money; the figure of one million dollars was mentioned at this meeting. According to Haldeman, the President said: "We could do that, but it would be wrong."

At about this time, it was announced that McCord had sent a letter to Judge Sirica that implicated high White House and CRP officials in Watergate and asserted that perjury had been committed at the trial, and payments had been made to the defendants for their silence.

In the late afternoon of March 21, the President met with Haldeman and Ehrlichman, and also with Dean, Haldeman and Ehrlichman. Dean got the impression that as far as the White House was concerned the cover-up would continue. Dean said that he, Haldeman and Ehrlichman were indictable for obstruction of justice.

On March 22 the President met with Ehrlichman, Haldeman and Mitchell with Dean; according to Dean there was no indication at this meeting of any change in attitude concerning the need to get the truth out.

On March 23, the President called Dean and suggested that Dean go to Camp David.

On the evening of April 15, the President met Dean alone. That meeting came about in the following manner. During the evening of April 14, the United States Attorney and Assistant United States Attorneys handling the Watergate case met with Henry Petersen to outline the information they had been receiving over the previous week from John Dean, Jeb Magruder, and others, concerning the involvement in Watergate of high officials in the White House and CRP. Following this meeting, Petersen and the prosecutors sought, through

Attorney General Kleindienst, an immediate and urgent meeting with the President to outline this information directly to him. On Petersen's request, Petersen, Titus, and Silbert met very late that night and until approximately 4 a.m. April 15 with Kleindienst at Kleindienst's residence. The following morning at about 9 a.m., Kleindienst urgently requested a meeting with the President. Petersen and Kleindienst did meet with the President on April 15, Sunday, and outlined to him the information available to the prosecutors. During this meeting, Petersen strongly urged the President that Haldeman and Ehrlichman be fired.

Following Petersen's meeting with the President, Petersen and the prosecutors, who were interviewing Dean and Dean's counsel that day, learned that John Ehrlichman was seeking to meet with Dean. Dean consulted with Petersen, who urged Dean or Dean's counsel to meet only with the President himself. Dean thereupon communicated a message through Lawrence Higby that Dean would meet with the President, but not with Haldeman or Ehrlichman. When the President received this message, he called Petersen at home to seek Petersen's advice. Petersen advise that the President should meet with Dean directly to receive Dean's information. Dean subsequently received a telephone call from the White House switchboard that the President would meet with him that evening.


According to Dean's testimony and the White House briefing the sole subject of the conversation was the Watergate matter. Dean has testified that this conversation included the following subject: Dean's negotiations with the prosecutors and his cooperation with them; whether Dean would seek or be granted immunity; the involvement of Haldeman; Liddy's continuing refusal to testify under immunity; the possibility of appointing a special prosecutor; previous conversations relating

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to the difficulty of putting up a (during which the President stated that his previous statement about a million dollars was made in jest); and the President's previous conversation with Colson concerning immunity (made, according to Dean, in a barely audible voice in one corner of the President's office.)

The President continued discussions during the next 15 days with Henry Petersen, during which time Petersen repeatedly urged the President that he must fire Haldeman and Ehrlichman.

On April 18, Petersen told the President about the Ellsberg break-in during a telephone conversation. The President told Petersen to stay out of that, it was a national security matter and none of Petersen's business. The President expressed concern that could "wreck the Ellsberg prosecution." (Petersen Witness Interview)

However, on April 25, after Petersen had consulted with Kleindienst, Kleindienst saw the President and, in effect, threatened that he and Petersen would resign if the President did not authorize them to release this information to Judge Byrne; the President consented. (Kleindienst  SC)

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ANALYSIS

During March and April the Watergate coverup collapsed. Assuming the President knew nothing of the cover-up before the early spring of 1973, then by March 21 at the latest the President by his own admission became aware that high officials in his administration and re-election campaign were involved in a conspiracy to obstruct justice.

With the collapse of the cover-up came the President's April 17, April 30, and May 22 public statements outlining his knowledge of all aspects of the Watergate case. When these statements are juxtaposed against the facts, the conclusion evolves that even while the cover-up was collapsing the President did not vigilantly pursue a full investigation into the Watergate incident.

On April 17 the President stated: "On March 21st, as a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter." What new inquiries did the President direct? His own Attorney General and Petersen have testified that the President did not direct them on March 21 or at any time before April 15 to conduct new and vigorous investigations. The President then mentioned that on Sunday, April 15, 1973, he met with Kliendienst and Petersen "to review the facts which had come to me in my investigation and also to review the progress of the Department of Justice Investigation." He said that major developments in the case has come to light which made it improper to be more specific now. All government employees were expected to cooperate fully (especially White House staff employees); anybody in the Executive Branch indicted would be suspended, and discharged if convicted; no individual holding a position of major importance in the Administration should be given immunity from prosecution.

On April 30 the President once again stated that "on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigation to get all the facts and to report them directly to me, right here in this office." The President offers a similar assertion in the August 15 statement.

However, even according to Ehrlichman it was not until March 30 that the President asked Ehrlichman to conduct a new Watergate investigation. This is more than a week after the President's March 21 meeting with Dean. There is no evidence that the Justice Department prior to April 15 was asked to provide the President personally with all information relevant to Watergate. There is no evidence the President contacted the FBI for a report on the investigation.

In addition even though the President claims that on March 21 he made new inquiries into the Watergate affair, it was not until mid-April, 1973 that the President spoke at length about the investigation with people from the Justice Department. This was several weeks after the March 21 meeting with Dean, and apparently the April 15 meeting of the President with Kleindienst and Petersen was held at the urging of Kleindienst, and not on the initiative of the President.

In announcing the April 30, 1973 resignations of Ehrlichman and Haldeman and Kleindeinst and Dean the President stated that he accepted the resignations of Ehrlichman and Haldemen with deep regret, and that no one should assume their resignations are admissions of wrongdoing. The President stated that "each of these men has demonstrated a spirit of selflessness and dedication that I have seldom seen equalled. Their contributions to the role of this Administration have been enomorous." The President asked for Dean's resignation without regrets. Thus, at this late date in the cover-up the President was praising men he had good reason to believe were involved in the commission of a felony while indirectly attacking Dean who was now aiding the prosecution while Haldeman and Ehrlichman were not.

In his statement on April 30 the President observed: "As the investigations went forward, I repeatedly asked those conducting the investigation whether there was any reason to believe that members of my Administration were in any way involved. I received repeated assurances that there were not." From whom did he receive these assurances? The August 29 "Dean Report" was a farce. The President even according to Ehrlichman did not receive until April a full report on the Watergate incident. John Dean the person who was allegedly conducting the White House investigation had almost no contact with the President until the end of February, 1973. Why did the President not insist on a written report on the Watergate affair?

In the President's August 15 statement he reiterated his position of April 17 and 30: "During the summer of 1972, I repeatedly asked for reports on the progress of the investigation. Every report I received was that no persons, other than the seven who were subsequently indicted, were involved in the Watergate operation." Since the President wasn't receiving personal reports from Dean who was conducting the White House investigation, then who gave him and what were the content of these reports received during the summer of 1972.

In the August 15 statement the President asserted that "on March 21st, I arranged to meet the following day with Messrs. Haldeman, Ehrlichman, Dean, and Mitchell to discuss the appropriate method to get the facts out." And yet Mitchell's testimony concerning that March 22 meeting stated that the focal point of the discussions with the President was executive privilege.

Mitchell also thought that the President asked Dean to serve as the liaison with the Senate Select Committee. (Mitchell, Senate Select, 3413-3415, 3341-3342, 3358-3359, 3667-3668).

Thus, even accepting the factual accuracy of all the President's statements the following pattern emerges:

(1) Even though the Director of the CIA was unconcerned about the Watergate investigation uncovering CIA activity, the President had his two closest advisors orchestrate a campaign to ensure that the FBI Watergate investigation not expose CIA operations.

(2) It is not until July 6, 1972 that the President tells Gray to pursue an aggressive investigation. When told by the Acting Director of the FBI that his people were trying to mortally wound him, the President makes no further inquiries.

(3) He (the President) receives no personal or written report until September 15 from the White House Counsel in charge of the White House investigation into the Watergate affair.

(4) Even after March 21 when the President concedes he was informed of a coverup, the President's actions evince a lack of concern that the facts about the break-in and the cover-up be made known to him, to the United States Attorney, to the Justice Department, and to the public.

The sections of this report on the CIA involvement, the initial cover-up and the collapse of the cover-up, support the conclusion that the President's actions from June 17, 1972 until April 30, 1973 were not indicative of a man anxious to ensure that a complete investigation was being conducted; free from concern about exposing CIA operations or revealing evidence incriminating or embarrassing White House, CRP, or FCRP officials.

VIII. Plumbers Operation and Related Activities

(1) SUMMARY: This area deserves special attention because the President has admitted his authorization of the Huston plan, a program of wiretaps, and a Special Investigation Unit in the White House. These programs sanctioned the employment of wiretaps without court order, and breaking and entering. The President has further conceded that he told Krogh to find out all he could about Ellsberg's associates and Ellsberg's motives. The President, however, has stated on May 22, 1973, that until recently he knew nothing about the break-in at Ellsberg's psychiatrist's office. (His August 15, 1973 statement places March 17 as the date he was informed of the break-in).

As the analysis below indicates there is evidence that the President knew of the Ellsberg break-in before May, 1973, and that he contributed to the creation of a situation where breaking and entering a doctor's private office and searching his confidential files is justified as necessary to protect the national security.

(2) FACTS: In the summer or fall of 1970 the President approved the so-called Huston plan which among other things included surreptitious entry. The Plan was apparently discontinued within four days after its approval by the President and others, only because Hoover refused to go along with it.

On September 3, 1971, people working for the Plumber's Unit led by Hunt and Liddy broke into Dr. Fielding's (Ellsberg's psychiatrist's) office.

The President's May 22, 1973, statement indicates that in June 1972, he was concerned that the operations of the Plumbers not be revealed.

In early April, 1973 Ehrlichman and Judge Byrne met concerning the possible appointment of Byrne to the Director

of the FBI.

The President's May 22 statement admits his authorization of a program of wiretaps in 1969. The program according to the President was then legal and was undertaken to find and stop serious national security leaks. Apparently Joseph Kraft's home phone was taped pursuant to this plan.

In June of 1971 the President allegedly told Colson to get all classified documents out of Brookings.

(3) ANALYSIS: The President's approval of the Huston plan shows his willingness to sanction surreptitious entry. Such approval shows a predisposition by the President to approve what occurred with respect to Fielding (the Ellsberg break-in).

Young and Colson have admitted that Nixon and Ehrlichman were concerned about Ellsberg. It seems reasonable to conclude that because of this concern he was aware of and directed the effort to discredit Ellsberg and those associated with him. This would include instructions to Krogh to find out all Krogh could about Ellsberg. It is also reasonable to conclude that Ehrlichman, who directed the Plumbers and authorized the covert operation to obtain Ellsberg's psychiatric files, consulted with the President on an operation as dramatic as this.

In September, 1971 Ehrlichman told Colson not to discuss the Ellsberg break-in with anyone, since it had been classified as national security by the President. This implies the President knew of the break-in shortly after it occurred.

* In August 1972, Dean has stated that he told Krogh that the President wanted Krogh to lie to the U.S. Attorney.

In the President's May 22, 1973, Watergate Statement, he indicated that when he heard of the Watergate break-in, he was concerned that the operations of the Plumbers not be revealed. A reasonable conclusion is that he was referring to the Ellsberg burglary and that he knew about it at least as early as June, 1972. He also indicated that the Fielding break-in exceeded his authorization to the Plumbers. It would be of great importance here to know what other operations the President was concerned might be exposed by the FBI investigation.

On March 20, 1973, Dean told Krogh that the President was concerned that the Ellsberg break-in not be disclosed.

On March 22, 1973, Ehrlichman told Krogh that Mitchell was paying money to the Watergate defendants to keep them quiet and that therefore Hunt would not disclose the Fielding break-in when he appeared before the Grand Jury. It would seem reasonable to conclude that the President was also aware of this at that time. Ehrlichman's statement can be proved only by Krogh's testimony.

On March 27, Ehrlichman told Young that the President was concerned that the Fielding break-in not be disclosed and also mentioned that certain memos in the files were too sensitive to be kept and should be removed from the files. When Young responded that he had assumed the decision to break-in to Ellsberg's psychiatrist's office had been cleared by Ehrlichman he was told by Ehrlichman that that was a matter which Young should not question.

Ehrlichman also made a statement that if the "Judge" saw the file (after removal of the sensitive memos) he would see that what they had done was justified. Young's explanation about the reference to the "Judge" is very unsatisfactory. When first questioned about this he said that Ehrlichman did not refer to any specific Judge and that he might have meant Sirica or Byrne or some unknown Judge who might ultimately pass on this. However, it should be noted that Young's notes of this meeting were dictated on May 4 -- after Judge Byrne was in the news revealing the fact of the Fielding break-in.

According to Colson, between April 13, and 19, 1973, Colson asked Ehrlichman if he (Colson) could talk about the Plumbers with the federal prosecutors. Ehrlichman went to the President, returned to Colson and said that the President does not want Colson talking about the Plumbers and should invoke national security.

On April 18, when Petersen mentioned the Ellsberg break-in to the President in a telephone conversation the President is reported to have said that he knew all about it and "God damn it, you keep out of it because it involves national security." However, during his Senate testimony, Petersen attempted to explain that what the President meant was that he knew of Silbert's memo about the break-in -- Petersen was trying to suggest that the President's statement did not necessarily mean that the President had any previous knowledge about the break-in itself.

On April 25, Kleindienst met with the President and talked about the Fielding break-in. The President acted surprised and indicated that this was the first he heard about it.

The administration's effort to influence Judge Byrne is susceptible to this type of analysis:

On April 4, Ehrlichman called Judge Byrne and on April 5 met with him and indicated that the President was interested in appointing Judge Byrne to be the Director of the FBI. Judge Byrne says there was no discussion of the Ellsberg case on April 5 or April 7 when they met again. Judge Byrne does not believe this was effort to influence him. Nevertheless, it seems clear that this was the beginning of an effort by Nixon (through Ehrlichman) to influence Byrne. Dean's attorneys had gone to the prosecutors on April 2, the Ellsberg case was all but lost by then, and such an effort was consistent with Ehrlichman's previous efforts to get Cushman to omit Ehrlichman's name from a memo regarding who had called for CIA assistance and his effort to have the CIA get certain material (including pictures of Fielding's office by Hunt and Liddy in August 1971) back from Justice. The attempted justification that Nixon was desperate for a replacement for Gray doesn't hold water since no publicity could be given to the appointment of Byrne until the Ellsberg trial was over (which Byrne told Ehrlichman would take about one more month).

The following analysis is offered concerning the taps placed on Joseph Kraft's and Donald Nixon's phone (presumably

these taps would be justified as part of the 1969 wiretap program to avoid national security leaks.)

In June of 1969, John Ehrlichman ordered John Caulfield to tap the home telephone of Joseph Kraft. Ehrlichman invoked national security and perhaps (according to Caulfield) the President for authority to do this. No hard evidence exists to implicate the President in this, except John Ehrlichman worked directly under the President. The tap was placed.

Ehrlichman ordered Caulfield to arrange with the Secret Service to tap the business telephone of Donald Nixon in order to gather information on Don Nixon so as to avoid embarrassment to the President if Don Nixon became involved in some business deal with some shady characters. The tap was placed. No direct evidence exists linking the President, but John Ehrlichman reported directly to the President.

The President told Charles Colson to get all classified documents out of Brookings in June of 1971 in a fit of anger. Colson, at the President's suggestion, went to Ehrlichman who suggested Jack Caulfield. Colson admits he might have mentioned firebombing Brookings as a joke, but Caulfield says there could be no mistake about the fact that Colson was dead serious. Caulfield ran to John Dean's office, who then flew to San Clemente to consult with Ehrlichman on Colson's firebomb order to Caulfield and later Dean called Caulfield to tell him to forget the order. Ehrlichman admits calling someone in

Washington to rescind the order but claims he can't recall who.

The President on May 22, 1973 stated that he was concerned that the Watergate investigation might expose an "unrelated covert operation of the CIA or activities of White House investigations unit." He further elaborated that the nature of its work "[was] highly sensitive then and remain so today." A full report on the President's involvement with the "Plumbers" should if possible examine these other operations to adequately answer the question whether these activities were legitimate and lawful actions necessary for the protection of the national security, and whether knowledge of the specifics should remain secret. On one occasion before the Senate Committee Ehrlichman refused to answer questions about one particular plumbers' activity.

IX. Dirty Tricks and the President

(1) Summary and Analysis: The evidence is scant on the President's knowledge of the Segretti affair.

There is only one piece of evidence at this stage in Rich Davis' investigation which might establish a direct link between the President and the dirty tricks operations. On June 26, 1971, Strachan and Chapin met with Segretti in Washington to discuss with him his possible role in the campaign. At the conclusion of the meeting they told Segretti that they could not take him to the Oval office because he would have to sign in; that this was undesirable because it was important that the President not know his name so that when asked about Segretti, he could say he did not know Segretti. Segretti left this conversation with the impression that the President would at least know that someone like Segretti was operating on his behalf.

Davis is interviewing Chapin and Magruder. If either of these interviews produce further information Davis will send us another memorandum.

Evidence exists that Haldeman knew of Segretti's activities. According to Dean, Dean learned that Haldeman, in a meeting with Kalmbach, had approved Segretti's activities and had authorized Kalmbach to make payments to Segretti (Dean's Senate Statement, 115). Did Haldeman ever mention to the President Segretti's activities?

From Dean's testimony, however, we can infer that by November 15, 1972, the President knew of Chapin's involvement with Segretti. Dean testified in his statement before the Senate Select Committee as follows:

After the election Dean was asked by Haldeman and

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Ehrlichman to meet with Segretti to determine Chapin's and Strachan's involvement. On November 10, Dean met with Segretti and taped the conversation. On November 12, Dean played the tape to Haldeman and Ehrlichman. During this November 12 meeting Haldeman got a request that the President wanted to see Haldeman. To Dean's surprise Haldeman sent back a message to the President that Haldeman was meeting with Dean, and would be over shortly to report. (Dean, Senate Select Statement, 118-120).

On November 15, Dean was told by Ehrlichman and Haldeman that the President had decided, based on information Dean had given Haldeman and Ehrlichman, that Chapin would have to leave the White House staff. (Dean, Senate Select Statement, 120).

X. ITT

Joe Connolly has supplied us with three sources of evidence on the President's involvement in the ITT matter.

(1) The March 30, 1972 memorandum from Colson to Haldean which was produced at the Senate Hearings refers to "a May 5, 1971 memo from Ehrlichman to the AG alluding was discussions between the President and the AG as to the "agreed upon ends" in the resolution of the ITT case and asking the AG whether Ehrlichman should work directly with McLaren or through Mitchell. There is also a memo to the President in the same time period." We have not yet seen the Ehrlichman-Mitchell memo or the memo to the President (Colson told us that the memo to the President was written by Ehrlichman; Colson recalls that the memo dealt with several antitrust policy issues and may have referred to the ITT case).

(2) The June 25, 1971 "Dita Beard Memorandum" from Beard to Merriam states that the President had been informed of the ITT San Diego convention pledge and that "certainly the President has told Mitchell to see that things are worked out fairly."

(3) Congressman Bob Wilson told us that he complained to the President about the Justice Department's conglomerate antitrust policy (mentioning the ITT case) at a congressional leadership meeting in mid-1970. Wilson said that the President told him to take the matter up with Dr. Arthur Burns, who was at the meeting; Wilson did so, and does not recall any further communications with the President.

XI. Campaign Contributions

A memo from Thomas McBride describes the following areas of possible Presidential involvement.

-- The 1970 Townhouse Operation. This matter is described in the attached memorandum.

-- The milk producer's contributions. We are investigating allegations that there was a causal connection between contributions by dairy interests to the President's re-election campaign and the administration's decision to reverse a Department of Agriculture decision, made 13 days earlier, denying an increase in the milk price support level. The major participants on the dairy side are the officers/executives of three dairy cooperatives, Associated Milk Producers Incorporated (AMPI), Dairymen, Inc. (DI), and Mid-American Dairymen (MAD). Each of the three cooperatives maintains a trust, fed by voluntary contributions, from which political contributions are made. In the spring of 1971 the cooperatives specifically, and the dairy industry generally were seeking an increase in the price support level of milk. On March 12, 1971, Secretary Hardin, then Secretary of Agriculture, announced that he had decided not to increase the price support level. The dairy cooperatives responded to Hardin's decision by beginning a lobbying effort on the Hill to have the price support level decision raised legislation. During that effort a previously scheduled meeting was held in the Cabinet Room attended by Nixon, Hardin, Schultz, and other Agriculture officials and members of the dairy industry on March 23, 1971. At that meeting Hardin and the other Department of Agriculture employees argued in support of not raising the support level, and the dairy

representatives argued for an increase. On March 22-24, 1971, the political trust of AMPI made a \$10,000 contribution, through the purchase of tickets, to the President's campaign. On March 25, 1971, the Secretary of Agriculture announced that the support level would be raised. In the month of April \$70,000 was contributed by the trusts of the cooperatives. The dairy money was the subject of a conversation between Dean and Haldeman, according to Dean's Senate Exhibit 24, on May 19, 1971. Subsequent dairy contributions to the President ultimately totalled approximately \$400,000. The allegation is, therefore, that the milk price support increase was won by the dairy farmers promise to make substantial campaign contributions. Recently the allegation has been made, by the General Manager of AMPI, that AMPI's refusal to contribute was somehow linked to the Justice Department's filing of an anti-trust action against AMPI. Dr. George Mehren, General Manager of AMPI, has stated that in the January-February 1972 period he was called by Herbert Kalmbach at least six times at his home, always in the late evening, but Mehren refused to talk to Kalmbach. On February 1, 1972, the anti-trust complaint was filed, and on February 3, 1972, Kalmbach asked for a further contribution, but was rebuffed.

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There are a number of other matters concerning which we have received allegations of impropriety. Conceivably some of these might involve the President, however, such a conclusion at this point would be only conjectural. These include:

(1) Allegations of favoritism in the awarding of airline routes. Such awards are made by decision of the President.

(2) Allegations of White House intervention in decisions of the Department of Justice in anti-trust matters such as the action against the networks, the Pfizer settlement, Precision Value, Warner-Lambert, and others.

(3) Executive pardons and clemency grants: Cal Kovens pardon, the pardons of three Lybrand, Ross partners, the Hoffa pardon and the DeCarlo commutation.

(4) Appointment of ambassadors in exchange for contributions, most notably the Ruth Farkas appointment.