

1 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

2 -----x
3 IN RE: POSSIBLE VIOLATIONS :
4 OF 18 USC 2511 and 2512 :
5 -----x

19.1

6 Grand Jury Room No. 3
7 United States District Courthouse
8 3rd & Constitution Avenue, N. W.
9 Washington, D. C.

10 February 5, 1974

11 The testimony of HENRY E. PETERSEN was presented to
12 a full quorum of the Grand Jury.

13 BEFORE:

14 RICHARD BEN-VENISTE, ESQ.
15 Assistant Special Prosecutor
16 U. S. Department of Justice

17 GEORGE T. FRAMPTON, JR., ESQ.
18 Assistant Special Prosecutor
19 U. S. Department of Justice

20 JILL VOLNER
21 Assistant Special Prosecutor
22 U. S. Department of Justice
23
24
25

ELIZABETH ANN TIPTON
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P R O C E E D I N G S

1
2 Whereupon,

3 HENRY E. PETERSEN

4 was called as a witness and, having been first duly sworn by
5 the Foreman of the Grand Jury, was examined and testified as
6 follows:

7 BY MR. BEN-VENISTE:

8 Q Would you state your full name for the record,
9 please?

10 A My name is Henry E. Petersen.

11 Q Mr. Petersen, you're reappearing this morning be-
12 fore the Grand Jury at the request of the Grand Jury as a
13 result of the information received by the Grand Jury in the
14 interim since your last appearance here, about which, they
15 would like to ask some questions.

16 It will go to the period of around April the 15th,
17 1973, and I ask whether, on that day, you met with the Presi-
18 dent of the United States.

19 A I did.

20 Q Now, can you give us the substance of that meeting
21 or meetings, as you recall them?

22 A Yes, I can. Perhaps, first, I suppose I ought to
23 explain how I came to meet with the President of the United
24 States.

25 Attorney General Kleindienst called me at my home

1 sometime that afternoon on Sunday, April 15th, and asked me
2 to come down to the office. I told him I wasn't appropriately
3 dressed, did it make any difference, and he said, no.

4 I went down to the office in sports clothes, met
5 him in his office, and there was no one else there. He ad-
6 vised me that he -- as he had indicated he would, earlier
7 that morning about 5:00 a.m., that he had seen the President
8 of the United States briefly following a prayer breakfast
9 at the White House at about 11:00 a.m. And that he was to
10 see the President later, again, that afternoon at 3:15 or
11 thereabouts, and that one of the things that he was going to
12 do, when he saw the President, was to recuse himself from
13 the investigation because of the individuals who were involved
14 and that, when he did so, the obligation for the conduct of
15 the investigation would fall upon me.

16 He had written a memorandum -- handwritten on yellow
17 paper -- indicating his recusal and his appointment of me to
18 carry on those duties.

19 About that time, he said, "I think you ought to
20 come with me to see the President." And I said I wasn't
21 appropriately dressed.

22 He called the White House. I don't know to whom he
23 spoke but, apparently, he got permission for me to come along.

24 We went to the President's Office and we went, with
25 him, in the Executive Office Building. We discussed Mr.

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1 Kleindienst's recusal and, as a follow-up to the conversation
2 -- or apparent conversation -- earlier in the day between the
3 President and Mr. Kleindienst -- I say apparent because it's
4 never been clear to me to whom he spoke, what he said, how
5 long that conversation was.

6 But, in apparent follow-up of that, he gave the
7 President a brief statement of the evidence implicating Mr.
8 Haldeman and Mr. Ehrlichman and the suggestion that, in order
9 to protect the Presidency, that he ought to disassociate
10 himself from those people immediately.

11 Basically, that was the nature of the conversation.
12 The contents, with respect to substance, was more pointed
13 towards Mr. Ehrlichman and it related to what Mr. Dean had
14 said, that Ehrlichman knew and what Magruder had said.

15 Q I think you may be referring to Mr. Haldeman when
16 you mentioned Mr. Ehrlichman.

17 A Yes, I did, excuse me. I confused them. Particularly
18 with respect to what Mr. Dean had said concerning Mr. Halde-
19 man and what Mr. Magruder had said and, with special emphasis,
20 that Magruder's testimony related to information that he,
21 Magruder, had given to Strachan before the break-in.

22 It specifically concerned a budget statement of the
23 project from which Magruder said the nature of the project
24 could have been ascertained and, secondly, transcripts of the
25 logs which Magruder said were given to Strachan, and the only

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1 reason they were given to Strachan was for transmittal to
2 Haldeman. Though he could not testify that they had, in
3 fact, been transmitted to Haldeman, but he certainly considered
4 Strachan to be their liaison between themselves and Haldeman.

5 With respect to Ehrlichman, as I recall -- all of
6 which is summarized in a memorandum for the President, a copy
7 of which you all have -- there was a statement by Dean, I
8 think, that there was some discussion between him and Ehrlich-
9 man concerning the amount of money that was to be made avail-
10 able to those people.

11 There was then some discussion about whether or
12 not this -- I was saying we were going to charge and convict
13 these people, and I replied that, with respect to Ehrlichman,
14 we had almost a prima facie case but that depended on whether
15 or not Strachan could corroborate Magruder.

16 Q Again, Mr. Petersen, you said Ehrlichman when I
17 think you meant Haldeman.

18 A I meant Haldeman. Very strange to figure that out.
19 I've never met Mr. Haldeman.

20 In any event, that was the thrust of the conversa-
21 tion with the President from my point of view and it was
22 incumbent upon him to do something and do something quickly.
23 Otherwise, the impact on the Presidency was going to be
24 drastic -- prophetic statement.

25 Q What did the President reply?

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1 A Well, I cannot fix any specific reply -- pungent,
2 pithy statement that he made. He spoke well of Ehrlichman
3 and Haldeman; thought that it seemed difficult for him to
4 comprehend; seemed to think -- seemed to fear I guess is a
5 better term -- that perhaps John Dean was simply trying to
6 exculpate himself and that he was really responsible; that
7 he didn't know about these things at all until Dean had
8 told him on March 21st; and that, at that point, he had asked
9 Ehrlichman to look into the matter.

10 With respect to Magruder, I think he felt the same
11 way, and I probably told him that we were trying to develop
12 Strachan as a witness and if we developed Strachan as a wit-
13 ness, school was going to be out, as far as Haldeman was
14 concerned.

15 Q Did the President, in that conversation, Mr. Peter-
16 sen, mention the so-called Dean report?

17 A He mentioned that he, after Dean -- and, apparently,
18 after March 21st, when Dean had come to him, he had sent
19 Dean, he said, to Camp David to write a report and Dean came
20 back and told him that he, Dean, wasn't able to do it.

21 And the President said, "Well, no wonder he was not
22 able to do it" -- these are not quotes, but -- "No wonder
23 he was not able to do it, really. It was a report which would
24 implicate himself. He just couldn't bring himself to do it."

25 Q And did the President indicate to you, in the

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1 course of that meeting, whether or not he could believe John
2 Dean or did believe John Dean as a result of what Mr. Dean
3 told him on March 21st?

4 My question is whether that was related to the
5 President telling you that he had asked Ehrlichman to write
6 a report.

7 A I don't think --

8 Q And make an investigation.

9 A I'm puzzling over the use of your word "believe."
10 Certainly, the President's attitude, as I interpreted it,
11 was that he found it difficult to believe, but I don't mean
12 to imply that he was saying John Dean was lying about this
13 or so-and-so. And because he found his situation unbelievable,
14 incredible, he had asked Ehrlichman to look into the facts
15 of the matter and to give him the report that John Dean should
16 have given him.

17 I think one of the things I asked him was, "Well,
18 didn't Dean ever give you a report of all of this?" And he
19 said, no, Dean had never given him a report. This was common-
20 place in the press that Dean had.

21 Q Did the President indicate to you anything about
22 the substance of Mr. Ehrlichman's report?

23 A No, he did not.

24 Q Did the President indicate to you whether Mr. Dean,
25 back in March, had told the same or a similar set of facts
concerning the involvement of Haldeman and Ehrlichman?

1 A I didn't gather that. I don't think it was speci-
2 fically discussed. My reaction to that is that the President
3 was, in fact, saying that Dean came and told him what he had
4 been doing with the Committee, and that whether or not he
5 specifically got into discussions of what Haldeman and Ehrlich-
6 man were doing, I don't know.

7 I couldn't draw that. I had to conclude that that
8 was somewhat muted. Otherwise, the President would not have
9 chosen one who was deeply involved to investigate the matter
10 anew. But that assumes innocence on the part of the parties
11 involved, of course.

12 Q As a result of the President having told you that
13 Dean may have been making the statements that you related to
14 the President in order to exculpate or help himself in some
15 way, did you conclude that this was something recently dis-
16 closed by Dean and not something which Dean may have been
17 telling people at an earlier date than you had learned?

18 A Well, I can't be certain, but my reaction to that
19 is that I was dissatisfied from what I considered to be the
20 President's knowledge based on the earlier conversation, and
21 it was because of that dissatisfaction that I suggested that
22 he now talk to John Dean again; that he hear directly from
23 John Dean what John Dean was telling the Prosecutors.

24 There is another reason for that. We were under
25 some inhibitions with respect to what Dean was telling us.

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1 It was told to us in confidence. So we were told in confi-
2 dence with the commitment that it would not be used directly
3 or indirectly. I didn't feel free to put, you know, whatever
4 I had of that out, but I certainly felt that it was entirely
5 proper for the President, as head of the Government -- par-
6 ticularly the man in charge of the White House -- to be in-
7 formed of these things so that he could take proper admini-
8 strative action.

9 And for those two reasons, I suggested that he talk
10 with John Dean. And they did talk that night.

11 Q My question really focuses on whether you got the
12 impression, after the President described those motives to
13 Mr. Dean for having come to the Prosecutors with this in-
14 formation, that this was news to the President. That the
15 involvement of Haldeman and Ehrlichman, as Dean explained it,
16 at least preliminary to the prosecutors, was new information
17 coming to the President from you rather than from Dean at an
18 earlier time?

19 A Well, there's no statement that I could attribute
20 to the President that would definitely answer that question.

21 My reaction to the April 15th was that the Presi-
22 dent exhibited a lack of shock, or that he was in immense
23 control of himself. But these are reactions.

24 A man, who is used to dealing with global crises
25 probably takes these things in stride. But he was calm and

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1 collected.

2 Q So he did not seem surprised by your narration that
3 Haldeman and Ehrlichman seemed to be involved in some criminal
4 activity?

5 A Well, there was no visible sign of emotion, in any
6 event.

7 Q Did the President indicate to you whether Mr. Halde-
8 man or Mr. Ehrlichman, or both, had denied the facts related
9 by you to the President about them?

10 A I'm not sure that he did so on the 15th. There
11 was a time earlier in that week, and I can't fix a date,
12 when the President said, "Well, you know, they think they're
13 innocent." But then he said, "I suppose everybody always
14 thinks he's innocent." That's one of his statements that
15 stands out in my mind.

16 So, you know, I assumed that there was some dis-
17 cussion by him with them in which they protested.

18 Q Did you ever tell the President not to dismiss or
19 call for the resignations of Haldeman or Ehrlichman before
20 corroboration was obtained?

21 A No. No, indeed. My point was whether or not we
22 have a case. What we're talking about is fitness to hold
23 office and they were not fit to hold office in the White
24 House, and I stated that starkly.

25 Q And was there a discussion, at this time, about

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1 whether or not John Dean and/or others ought to be immunized
2 from prosecution?

3 A There was some discussion of immunity, yes. And
4 one of the questions the President raised was whether or not
5 Dean was talking this way about others in order to save him-
6 self.

7 And I guess my response was, "That wasn't one of
8 the hard questions we had to determine, in any immunity grant.
9 And, certainly, it was our responsibility to corroborate the
10 information and that, in any event, I was fully aware of the
11 implications of immunizing upper echelon leaders in the Govern-
12 ment in this type of investigation.

13 This debate went on for a couple of days in which,
14 I felt, I made it quite clear that the responsibility was
15 mine under the Statute, but I received no direction from the
16 President not to immunize.

17 Q Could you characterize it as at least a cautionary
18 discussion in which the President brought to you possible
19 reasons why immunity should not be extended?

20 A Yes. I think you could describe it as a cautionary
21 discussion. But the type of cautionary discussion that any-
22 one opposed to immunity in principle might entertain. I
23 couldn't describe any motive to it.

24 Q Now, earlier, you indicated, with respect to the
25 so-called Dean report, that the President said that Dean

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1 could not, in substance, bring himself to put it on paper
2 because it would be a confession of Dean's own improper or
3 illegal activities.

4 Was it your impression, or did the President indi-
5 cate, that Dean had not, at the time that the President asked
6 Dean to prepare such a report, provided information which
7 would be incriminatory of Dean?

8 A Well, I suppose I better give you -- I think that
9 might be a fair inference but the President said, "Dean came
10 in and told me all about these things. My goodness, that was
11 the first time I heard. I sent him up to Camp David and told
12 him, 'Sit down and write this out.' He came back and hadn't
13 done it." Conclusion -- which was the President's -- "I
14 suppose he was too involved to be able to do it."

15 "And, at that point, I asked Ehrlichman to sit down
16 and get me the facts."

17 So there are two inferences. One that Dean was
18 distraught and, two, that he was involved, and three, the
19 President, now, couldn't rely on him because the President
20 thought he was involved, in any event -- that's a possible
21 third inference.

22 Q Now, do you recall discussing with the President,
23 at some time -- strike that.

24 I think you have testified earlier that the Presi-
25 dent, at some time, indicated to you that Dean had been

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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IN RE: POSSIBLE VIOLATIONS :
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18 USC 2511 and :
18 USC 2512 :
:
----- X

United States District Courthouse
3rd & Constitution Avenue, N. W.
Washington, D. C.

August 23, 1973

The testimony of HENRY E. PETERSEN was taken in
the presence of a full quorum of the Grand Jury.

BEFORE:

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Assistant Special Prosecutor
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1 A No, not early in the investigation, Mr. Ben-Veniste.
2 Late in the investigation, post-conviction. Pat Gray informed
3 me that they had a lead which came from a CIA Agent, a contract
4 Agent or informant, I'm not sure, but in any event, a person
5 in a very sensitive spot, that information that money was
6 being funneled to the defendants through a kick-back arrange-
7 ment and that money originated with the Committee to Re-elect
8 the President -- in other words, it would be given to them and
9 they would take it and convert it and contribute it to the
10 Cuban committee for the defense of the Florida five, or some-
11 thing like that.

12 He said the CIA was very concerned about the sensi-
13 tivity of its source and "What should we do?". I wrote on
14 the memorandum which he took back with him, "Investigate
15 this and check it out."

16 I assume he did. I mentioned it to Mr. Ruckelshaus
17 after Mr. Gray's resignation.

18 Q Are you aware of what the results of that investiga-
19 tion were?

20 A No, I was not, but about the time the investigation
21 transferred, I would not necessarily be aware.

22 Q When did you learn that the President had ordered
23 Mr. Ehrlichman to conduct an investigation of the cover-up?

24 A April 15th or April 16th. The President told me.

25 Q Did Mr. Nixon tell you any substantive matter that

1 had resulted from Mr. Ehrlichman's investigation?

2 A No.

3 Q Specifically, did the President inform you that Mr.
4 Ehrlichman had investigated the payments, or the allegations
5 concerning payment of money, so-called hush money, to the
6 defendants?

7 A Only in the context of John Dean's statement to him
8 which he alluded to in his press conference last night. The
9 President told me that repeatedly. It somehow seemed to
10 bother him that Dean had come to him and said this, and that
11 the President construed this as blackmail and he told Dean,
12 "There's no problem raising a million dollars, but that's
13 blackmail and you can't do that."

14 It was in that context. I just assumed that he had
15 gotten that from Ehrlichman as well as from Dean.

16 Q Did Mr. Nixon indicate to you when he had first
17 heard about this?

18 A First heard about what?

19 Q The question of payments.

20 A From John Dean, sometime at or about March 21st, or
21 thereafter.

22 Q Did Mr. Nixon indicate whether this was a proposal,
23 or whether he had information that payments had been made?

24 A I don't think it's fair to say that it was a pro-
25 posal. It was an item of information that John Dean didn't

1 know how to handle, and he was getting rattled at that point,
2 as the President related it, and insisted on seeing the Presi-
3 dent.

4 The President listened to this and gave him the
5 response I indicated.

6 Q Well, let me try to explain what I'm interested in.
7 As we know now, this is not a question concerning an initial
8 payment to the defendants or their families.

9 A That's right.

10 Q My question is really whether the President had been
11 advised at that time that payments had already been made, but
12 that now the demands were escalated.

13 A That was implicit in the conversation because one,
14 for example, I commented that they were idiots, and why they
15 did it, I'll never be able to figure out. They could have
16 advertised in the New York Times, "We're collecting money to
17 defend the Watergate Seven", and he said yes. I said that
18 that would have been perfectly legal, and he agreed.

19 He was aware from some source -- of course we had
20 indicated to him, I guess, in the course of our conversation
21 on the 15th or thereabouts, that we thought that's what had
22 occurred. So it is unclear where he got it from.

23 Q Is it clear whether it was you who initiated this
24 subject, or the President?

25 A The President told me at the point of telling me

1 that business about Dean coming to him. But in relation to
2 his disappointment in Dean, and Dean's having kept him posted
3 on this, and this came at or about the March 21st thing.

4 I gathered from the President's conversation -- I
5 hate to talk about the President when you're talking about
6 your own impressions of what he said or did. But I gathered
7 this was the precipitating thing that brought John Dean into
8 him.

9 His orders to John Dean were to go up to Camp David
10 and write this whole thing out. He said, "Tell me what it's
11 all about", and this was his discomfort about being informed
12 of this, and not knowing it beforehand.

13 I gathered it was this fact, this demand, this
14 million dollars, or whatever it was that was requested, that
15 triggered Dean's concern.

16 Q Did there come a time when you discussed with the
17 President the subject of immunity for Mr. Dean?

18 A Yes. Those discussions began on April 15th. The
19 President really didn't have any clear understanding of immu-
20 nity, so we had to tell him basically what the law was and how
21 the statute was written and in whom the authority was vested,
22 and his concern was, one -- I suppose it was a concern for
23 image. He didn't want it to appear that high echelon officials
24 in the White House were being immunized. He was afraid that
25 would look like a cover-up, particularly if it was done by

1 other relatively high Administration officials, and I indicated
2 that I shared that concern. I certainly had no desire to
3 immunize principals.

4 That was a factor that we would have to take into
5 consideration, but we might very well have to immunize John
6 Dean, and if so, then I reserved the right to do it, and it
7 was my responsibility and there was no way he could relieve
8 me of it.

9 We discussed that back and forth for about two or
10 three days. We finally reached the agreement that those were
11 factors I should take into consideration, but the judgment was
12 mine.

13 Q Excuse me, Mr. Petersen. What was his initial re-
14 action to the question of immunity?

15 A Well, he was concerned that Dean was falsely accusing
16 others to exculpate himself. That was one concern. The other
17 concern was the public imagery involved.

18 Q The others were Mr. Haldeman and Mr. Ehrlichman?

19 A That's right.

20 Q And Mr. Nixon voiced his concern that Mr. Dean might
21 be doing that, and in that context indicated that he did not
22 want Dean immunized?

23 A That's right. Well, that he did not want Dean immun-
24 ized -- it never got that strong because I put it to him rather
25 boldly. "There's not any way", said I, "that you can take this