

**APPENDIX K**  
**"Why Watergate indictments were postponed until after Ervin**  
**Hearings [See text p ]**

UNITED STATES GOVERNMENT

L<sup>F</sup>  
DEPARTMENT OF JUSTICE

*Memorandum*

TO : Messrs. Cox, Vorenberg,  
Neal, and Silbert

DATE: June 18, 1973

FROM : Phil Heymann *J.H.*

SUBJECT: Some Steps that Should be Taken  
in Watergate Prosecution

1. A list should be made of the dates and content of all Presidential pronouncements on executive privilege or national security privilege between June 1972 and May 1973. The timing should be checked against what we know of the emerging breakdown of cover-up efforts.

2. One or two younger lawyers should be assigned full time to read the entire transcripts of the Select Committee and of all other Congressional hearings and produce a list of charges and supporting evidence on this basis alone. The result will be:

- a. We will be sure to pick up any additional evidence generated on the Hill.
- b. We will get a double check on our "charging" decisions as to people and crimes.
- c. We will not be subject to the charge of having ignored an alternative investigative effort.

3. We must develop more fully the pay-off aspect of the cover-up. The defendants are going to argue that this was a "legal defense" fund of a perfectly proper sort. We haven't even clarified the conceptual line at which such a fund becomes an obstruction of justice, let alone target the necessary evidence.

4. One person on the Watergate team should be asked to maintain a "perjury" file both for possible later prosecution and for bargaining purposes. Congressional committees are already referring matters of possible perjury to us. The file should list all likely instances by defendant and conflicting statements.

5. Some miscellaneous points:

- a. Can we corroborate Magruder's alleged conversation with Haldeman in January?
- b. Sunday N.Y. Times, page 44, says Mitchell suspects Colson involvement. How can we check this out?
- c. Three former special agents, now no longer with FBI Headquarters, can tell us something about Gray's role. How should we interview:
  - (i) Robert Kunkel (Agt. in Charge, St. Louis).
  - (ii) Charles Bates (assigned to San Francisco).
  - (iii) Charles Bolz (at HUD or Transportation).
- d. How can we get Krogh to comment on Dean's allegation that Krogh said the Ellsberg break-in was approved by President Nixon?