

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE PETITION OF)
)
STANLEY KUTLER)
4112 Keewatin Trail)
Verona, Wisconsin 53593;)
)
AMERICAN HISTORICAL ASSOCIATION)
400 A Street SE)
Washington, District of Columbia 20003;)
)
AMERICAN SOCIETY FOR LEGAL HISTORY)
4301 Friedmann Hall)
Western Michigan University)
Kalamazoo, Michigan 49008;)
)
ORGANIZATION OF AMERICAN HISTORIANS)
112 North Bryan Avenue)
Bloomington, Indiana 47408;)
)
and)
)
SOCIETY OF AMERICAN ARCHIVISTS)
17 North State Street, Suite 1425)
Chicago, Illinois 60602.)
_____)

Miscellaneous Action No.

**PETITION FOR ORDER DIRECTING RELEASE OF
TRANSCRIPT OF RICHARD M. NIXON’S GRAND JURY TESTIMONY OF
JUNE 23-24, 1975, AND ASSOCIATED MATERIALS OF
THE WATERGATE SPECIAL PROSECUTION FORCE**

Stanley Kutler, the American Historical Association, American Society for Legal History, Organization of American Historians, and Society of American Archivists hereby petition this Court to exercise its inherent supervisory authority to unseal the transcript of President Richard M. Nixon’s grand jury testimony of June 23-24, 1975, and certain associated materials of the Watergate Special Prosecution Force. Attached to this petition is a list of the records that petitioners seek. The records are located at the National Archives and Records Administration in College Park, Maryland, as part

of Record Group 460, Records of the Watergate Special Prosecution Force, Special Prosecutor's Files, Records Relating to Richard Nixon.

1. Stanley Kutler is an historian, Professor Emeritus at the University of Wisconsin, and author of *The Wars of Watergate* (1990), a text that is widely considered to be the definitive account of the Watergate scandal. The American Historical Association, American Society for Legal History, and Organization of American Historians are professional organizations for historians. The Society of American Archivists is a national archival professional association.

2. In June 1975, less than one year after he resigned the presidency, Richard Nixon testified before two members of a Washington, DC-based federal grand jury and several staff attorneys of the Watergate Special Prosecution Force. The testimony was taken by deposition near Mr. Nixon's home in San Clemente, California. Never before had a former president given grand jury testimony, and never before had a court authorized a select number of grand jurors to travel outside their jurisdiction to take testimony. Mr. Nixon's testimony capped what one newspaper described as "the most momentous criminal investigation in American political history." Editorial, *Mr. Nixon's Testimony*, N.Y. Times, June 29, 1975, at 14.

3. At minimum, the testimony covered the following topics in connection with the special prosecutor's Watergate investigation: the 18½-minute gap on a White House tape recording of a June 20, 1972 conversation between Mr. Nixon and Chief of Staff H.R. Haldeman; the alteration of White House tape transcripts that were submitted to the House Judiciary Committee during its impeachment inquiry; the extent to which the Nixon administration used the IRS to harass Mr. Nixon's political enemies; and the \$100,000 campaign contribution from billionaire Howard Hughes to Mr. Nixon's close friend Charles G. "Bebe" Rebozo. In addition, one news report suggests that

Mr. Nixon was asked who ordered questionable “national security” wiretaps of journalists and government officials between 1969 and 1971.

4. Watergate arguably was the defining episode of Mr. Nixon’s presidency. “Watergate” has come to symbolize a variety of unlawful activities associated with the Nixon White House, including the misuse of federal agencies, improper campaign activities, and obstruction of justice. As political history, Watergate is the benchmark political scandal against which all others are measured. As legal history, Watergate generated Supreme Court precedent regarding presidential power and the relationship between the branches of government. As social and cultural history, Watergate is a shibboleth that invokes corruption and distrust of government.

5. Today, Watergate continues to captivate historians and the public alike. Despite the many books, films, plays, and television programs that have addressed the scandal and its players, unanswered questions remain. New theories and revised narratives are proposed. Mr. Nixon’s grand jury testimony continues to be a source of speculation for Nixon scholars and others.

6. This petition seeks the release of the transcript of Mr. Nixon’s grand jury testimony of June 23-24, 1975, the deposition exhibits, and memoranda regarding and correspondence with Mr. Nixon’s lawyer. Submitted in support of this petition is a comprehensive declaration by historian Stanley I. Kutler that recounts the key events surrounding Watergate, describes efforts to preserve and make public the Nixon tapes, describes the extensive publicity that the Watergate scandal received at the time it occurred and in the decades since the events transpired, and refers to some of the revisionist history theories that have arisen. A declaration by Julian Helisek, a fellow at Public Citizen Litigation Group, outlines what is publicly known about Mr. Nixon’s grand jury testimony,

reviews the investigations of the three Watergate grand juries, and identifies grand jury testimony previously made public.

7. Also submitted in support of this petition are declarations from Nixon and Watergate scholars who strongly support release of the grand jury records. These scholars include Rutgers University Professor David Greenberg, Distinguished Professor of History Emeritus at Wayne State University Melvin Small, University of Maryland Professor Keith Olson, and historian Rick Perlstein.

8. This petition is also supported by author and former White House Counsel John W. Dean III, former Assistant Chief Counsel to the Senate Watergate Committee David Dorsen, Editor of the Nieman Watchdog Project at Harvard University's Nieman Foundation for Journalism and former District of Columbia Editor of the *Washington Post* Barry Sussman, Associate Professor of Media and Public Affairs at The George Washington University Mark Feldstein, Professor of History and Public Affairs at the Woodrow Wilson School of Public and International Affairs at Princeton University Julian Zelizer, Assistant Professor of History at California State University (San Bernardino) Thomas Long, Nixon Tapes Project Editor with the Presidential Recordings Project at the University of Virginia's Miller Center for Public Affairs Kenneth J. Hughes, Watergate journalist Don Fulsom, former Historian of the U.S. House of Representatives and current Director of the Robert C. Byrd Center for Legislative Studies Raymond Smock, and former assistant special prosecutor with the Watergate Special Prosecution Force Richard J. Davis.

WHEREFORE, petitioners respectfully request that this Court order the release of the transcript of Richard M. Nixon's grand jury testimony of June 23-24, 1975, and associated materials of the Watergate Special Prosecution Force.

Dated: September 8, 2010

Respectfully submitted,

/s/ Allison M. Zieve
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Records Relating to President Nixon's Grand Jury Deposition
(located in RG 460, Watergate Special Prosecution Force,
Special Prosecutor's Files, Records Relating to Richard Nixon)

Box 5

Folder 9/5: Richard J. Davis File: WSPF memos & correspondence with Herbert Miller

Folder 9/11: List of remaining documents re RMN deposition

Folder 9/13: #2 Correspondence & memos re contacts with Miller

Folder 9/14: #3 Exhibits furnished to Miller-mostly used in deposition

Folder 9/15: #4 Background documents

Folder 9/16: Transcripts, 2 days

Box 6

Folder 9/21: Binder #1-Summaries of tapes (or possibly of HRH notes)

Folder 9/22: Binder #2-Tape transcripts

Folder 9/23: Binder #3-Tape transcripts

Box 7

Folder 9/24: Exhibits

Folder 9/25: Exhibits

Folder 9/26: Exhibits

Stenographer's tape of deposition