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# Watergate author won't face charge

The state attorney says he won't prosecute on a report of illegally taped phone calls.

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TAMPA — State Attorney Harry Lee Coe on Friday decided not to prosecute the author of the Watergate book "Silent Coup," who had been accused by former presidential aide John Dean of illegally tape recording their conversations.

Dean accused author Len Colodny last fall of recording their talks without his permission — a violation of state law.

But Colodny said Dean knew he was working on a book about Watergate and had no expectation that the conversations were private.

In a letter to Dean's attorney Friday, Coe said, "the totality of the circumstances do not warrant the

initiation of a criminal prosecution in this matter."

A jubilant Colodny and his attorneys said Coe made the only decision he could.

"I couldn't understand how there was anything criminal here," said Miami attorney Sanford Bohrer, who is representing Colodny in a federal libel case brought by Dean in Washington.

"I've always seen this as purely a tactic in his civil suit — a major tactic which has just blown up in his face."

Colodny and his Washington-based partner Robert Gettlin wrote the best-selling book "Silent Coup," which was published in 1991. In it, Dean is made out to be a major villain in Watergate.

Dean sued the authors and their publisher, St. Martin's Press, in January 1992.

Colodny said Friday Dean wants to kill his tapes. "His problem is the

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# Coe won't file charges on Watergate author

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taping of the interviews clearly proves his role in Watergate was different than he has portrayed."

Dean is in a tough spot, Colodny said, because if he testifies in the libel case the way he did during the Watergate investigation, the "Silent Coup" tapes would show him a liar.

But if he tells the truth and changes his story, he would lose the libel lawsuit, Colodny said.

"That's nonsense, hogwash!" said John Garrick, Dean's libel attorney. "We'd love to make the 'Silent Coup' tapes public and play them on Gordon Liddy's radio show. We think they'll show Colodny to be the liar."

The libel lawsuit, Garrick said, is not tantamount to a retrial of Watergate. Coe's decision, he added, could be beneficial to Dean because Colodny has used the investigation as a means to delay and stonewall the libel trial.

But it was Dean who last October came to Tampa to meet with then-State Attorney Bill James to investigate the potential prosecution of Colodny.

Dean claimed Colodny violated state law by not telling him he was taping the interview.

State law makes it a felony to record a conversation without the other person's consent. But a 1989 amendment makes an exception for people who believe that federal law — which allows certain recordings — is in effect.

Colodny says he believed the federal law applied.

State law also says that for there to be a crime, the tape-recorded person must have a reasonable expectation of privacy. Colodny says he told his interviewees he was writing a book, and in one taped conversation, Dean told Colodny he was "out promoting your book for you."

James' probe concerned telephone recordings, wiretaps not mentioned by statute, said former prosecutor Judy Hoyer, who led the investigation until James left office in January.

Hoyer said she first met Dean

last October, a month after he made his first complaint to James. She immediately subpoenaed the tapes, she said, and soon wrote letters to the subjects of the conversations.

Within days after Colodny turned over the tapes and an inventory list to Hoyer, Dean's libel attorneys sent subpoenas to those interviewed for the book.

Problem was, three subpoenas were issued to people who were never mentioned in his book, Colodny said. "They made a mistake by sending out those three names."

"Mrs. Hoyer aided and abetted John Dean," Colodny said. "John Dean had to kill these tapes for his civil suit to survive."

Hoyer "categorically denied" that she gave a list of names "to John Dean, his lawyers, his wife — to anyone."

She said she has never met Garrick and has talked to him only once. The investigation was barely under way, Hoyer said, when she left office in early January. Although she would not comment on Coe's decision, she said it's possible the James administration could have made the same one.

Hoyer recalled listening to some of the tapes and said she detected a change in the tone of conversations. In one tape, "an extremely significant aspect of the recording did not match the book," she said. "I pointed that out to Colodny's lawyer."

During a deposition in April, Hoyer was told by the state attorney's office to not answer questions about the investigation, but Colodny's attorneys hope to force her to answer their questions soon.

Without a criminal investigation looming, they believe she can be compelled to testify and answer specifically whether she fed information to Dean's civil trial team.

"I don't think we've heard the last of her testimony," Bohrer said.

One of the ironies of the investigation, Colodny believes, is that Dean's accusations prior to the November election could have helped ensure James' defeat.

"John Dean may not only have knocked off President Nixon, he may have knocked off Bill James."