

Hogan Drops Jay Kriegel Case; Reports He Can't Prove Perjury

By DAVID BURNHAM

The question of whether one of Mayor Lindsay's closest aides, Jay L. Kriegel, committed perjury during his testimony before the Knapp Commission will not be presented to a grand jury, District Attorney Frank S. Hogan announced yesterday.

Mr. Hogan said his office was dropping the case because "the people would not be able to establish beyond a reasonable doubt that there was a willful, irreconcilable inconsistency" between Mr. Kriegel's testimony before the Knapp Commission on June 17, 1971, and Dec. 20, 1971.

The commission was created by Mayor Lindsay—on the

recommendation of a special committee that included Mr. Hogan—to investigate allegations of widespread police corruption and of failure by officials in the Lindsay administration to follow up on information about cases of corruption brought to their attention.

Mr. Hogan, in a two-and-a-half-page statement, said another reason for not proceeding with the case was that "there is substantial doubt concerning the authority of the Knapp commission to administer the oath" at the December hearings.

Whitman Knapp, the chairman of the commission, said in

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response to an inquiry, that he did not agree with Mr. Hogan's decision concerning the commission's power to administer the oath.

Mr. Knapp said that the Mayor's executive order had empowered the commission to hold public hearings and take evidence and that these powers had been upheld by two State Supreme Court justices "when our authority was specifically challenged."

The chairman also noted that Mr. Kriegel had been involved in the drafting of the executive order creating the commission. "There is no reason to believe Mr. Kriegel had any reservations when he took the oath," Mr. Knapp said.

Testimony Inconsistent

During his testimony in executive session last June, Mr. Kriegel was asked what he had done after two policemen—Detective Frank Serpico and Sgt. David Durk—told him they felt the Police Department had failed to act on a specific corruption case.

"I indicated to the Mayor that I had talked to police officers who had filed complaints who were not satisfied with the way they were being handled by the Police Department," Mr. Kriegel testified.

Asked about this statement during the public hearing six months later, Mr. Kriegel said he subsequently had discussed the matter with Mayor Lindsay, and "I am clear now that following the meeting with Frank and David I did not report to [Mr. Lindsay] that allegation."

Mr. Hogan said that to sustain a criminal charge of perjury, the prosecution would have to prove beyond a reasonable doubt "that statements made by Mr. Kriegel under oath were inconsistent and irreconcilable, and that any inconsistency was not accidental but, on the contrary, was willful and intentional."

Mr. Hogan, noting that Mr. Kriegel had appeared in his office and had argued that his testimony was not inconsistent,



The New York Times
WON'T BE PROSECUTED:
Jay L. Kriegel, mayoral aide, whose testimony to Knapp Commission raised question of perjury. Case will not go to grand jury.

concluded by saying: "On the law and the facts, there is insufficient basis for presenting the matter to the grand jury."

According to a number of law-enforcement sources, Mr. Hogan's announcement yesterday reverses a decision made privately several weeks ago to present the matter to the grand jury. The decision to go ahead with the prosecution was so firm, these sources report, that at least several witnesses had been given specific dates when they were to testify.

Mr. Kriegel, a 31-year-old lawyer who now serves as the director of the mayor's Policy Planning Council, could not be reached for comment yesterday.