

The Sun

**Hearing tests Md. bid to try Tripp; U.S. prosecutors say immunity should void wiretap charges**

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December 14, 1999 Page(s): 1A  
Edition: FINAL  
Section: TELEGRAPH  
Length: 884 words  
Record Number: 9912140101

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Federal prosecutors testified yesterday that they warned Linda R. Tripp she might face wiretapping charges in Maryland, even as they sought to protect her with an immunity deal.

As weeklong hearings in her criminal case opened in Howard County Circuit Court, Stephen Binhak, a former lawyer in Independent Counsel Kenneth W. Starr's office, said he and other federal prosecutors told Tripp "the state of Maryland may be able to indict her."

But by pursuing charges in a case involving an immunity deal, Maryland authorities would have a "difficult" time supporting their case, he said.

The testimony will determine whether state prosecutors used Tripp's immunized testimony against her during their investigation.

Judge Diane O. Leasure said she would rule this morning in her Ellicott City courtroom on a crucial aspect of the case -- when Tripp's immunity deal started.

Tripp was indicted in July on two counts of violating Maryland's wiretapping law for secretly taping a Dec. 22, 1997, conversation with then-White House intern Monica Lewinsky. In Maryland, it is illegal to record a conversation with another person without his or her consent.

The disclosure of those tapes, which revealed a sexual relationship between Clinton and Lewinsky, and the investigation by Starr's office led to the eventual impeachment of President Clinton last December.

Tripp's attorneys argue that their client is protected from prosecution because she entered into an immunity agreement with Starr's office on Jan. 16, 1998, when she turned over more than 20 hours in taped conversations.

But state prosecutors disagree. They say the protection didn't start until Feb. 19, more than a month later, when a federal judge signed the immunity order.

If Leasure decides that immunity started Jan. 16, state prosecutors have said, their case would be in trouble. They likely would lose the Dec. 22 tape and possibly other evidence.

"It would just raise the hurdle that much higher," said Steve Halpert, a spokesman for State Prosecutor Stephen Montanarelli.

One of Tripp's attorneys said a ruling in his client's favor would do much more damage.

"I don't think it will only be a hurdle," said Joseph Murtha. "I think it will be a barrier."

In yesterday's hearing, testimony by the Starr prosecutors might persuade Leasure to push that date back to Jan. 12, when those prosecutors met with Tripp at her Columbia home and offered her immunity, Murtha asserted.

The star of yesterday's drama, Tripp, waived her appearance at the hearings, and her attorneys said she was working at her job at the Defense Department.

Tripp called the independent counsel's office about 9 p.m. Jan. 12, 1998, and told prosecutors that she wanted to talk, said Jackie M. Bennett Jr., a former deputy in Starr's office.

Bennett and three other Starr staffers drove to Columbia that night and met with Tripp, where they discussed her tapes and what information she knew about Lewinsky and Clinton.

There, the prosecutors testified, they offered Tripp an immunity deal because they desperately wanted the tapes. But they also told Tripp she could be prosecuted in Maryland and explained the dangers of cooperating.

"We told her that, though we could not guarantee that she would not be prosecuted under Maryland law, if we immunized her, obtained the tapes then we shift the burden to any state prosecutor," Bennett testified.

Bennett also revealed yesterday that Howard County State's Attorney Marna L. McLendon called him just after news of the Clinton-Lewinsky scandal erupted in late January 1998 and complained about intense and "unbearable" political pressure being applied to her.

McLendon also told him that she thought it would be difficult for Maryland authorities to prosecute Tripp because federal authorities had the tapes, Bennett testified.

"She acknowledged it would be difficult," said Bennett, who also testified that he alluded to the immunity deal.

McLendon confirmed yesterday in an interview that she called Bennett on Jan. 26, 1998. She denied ever using the word "unbearable" and said Bennett never mentioned that Tripp had entered into an immunity agreement.

"We did not discuss the investigation," McLendon said. "We did not discuss any piece of the investigation. There was no discussion about federal immunity."

During that telephone conversation, McLendon told Bennett she would defer on prosecuting Tripp until after the federal

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investigation was finished, McLendon and Bennett said. Two weeks later, McLendon turned over the case to Montanarelli.

There is a chance that McLendon could testify in the hearings, especially after Bennett's disclosure.

Lewinsky is expected to testify Thursday and other prominent players, including New York literary agent Lucianne Goldberg and Paula Corbin Jones' former attorneys, also are expected to be called as witnesses.

Several of Tripp's local friends and the Radio Shack employee who sold Tripp her recording device also are expected to testify.

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