

Judge denies request for special prosecutor

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A Dade Circuit judge Thursday refused to disqualify Dade State Attorney Janet Reno from prosecuting the 42 "Tick-Talks" narcotics cases despite defense contentions that the continued participation of her office violates professional ethics.

Judge Gerald Kogan refused to appoint a special prosecutor to handle the cases.

Defense attorneys William Cagney and Kirk Munroe argued at a hearing Monday that the failure of the Dade state attorney's office to post routine \$5,000 bonds for the 21 city of Miami and Coral Gables police officers who participated in the wiretap probe should result in the dismissal of the cases.

When Kogan refused to throw out the prosecutions, which are based on more than 1,000 hours of taped conversations, the defense attorneys argued that he should set a

new prosecutor for the case. They said that the officers participating in the months-long investigation were unwittingly guilty of a second-degree misdemeanor — making arrests outside their jurisdiction.

They contended that Reno and her office were "aiding and abetting" this misdemeanor — which, they said, is an ethical violation.

In order for municipal policemen to investigate cases originating outside their jurisdiction, they must be sworn in as special investigators for the county-wide State Attorney's Office. Coupled with this swearing, \$5,000 bonds must be posted for each officer. In the Tick-Talks investigation, a secretary's unexpected illness resulted in a failure of the bonds to be posted before the officers participated in the probe.

Prosecutors admitted that the bonds were not posted before the investigation began. They did not, however, admit that a law had been broken. Assistant State Attorney Ira Loewy said there are "no good grounds" for a special prosecutor.

Kogan focused on this partial admission when he refused to appoint the new prosecutor. "They have been fair, open and above-board," he said. "If they [the prosecutors] had attempted a cover-up, then it [the motion for a new prosecutor] might be well-taken."

The Tick-Talks cases — so named because the principal wiretap was placed in a wall clock — still must undergo a lengthy suppression hearing where defense lawyers will argue that the bugs and other electronic listening devices were illegally placed.

Cagney said he may write to Gov. Bob Graham requesting a special prosecutor for the case. The suppression hearing, a three-week long affair, is still scheduled for March 29. Whether the governor would take any action before then is an open question.