

U.S. Vague on Role In Ellsberg Bug

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By Sanford J. Ungar
Washington Post Staff Writer

LOS ANGELES, July 22 — The prosecution in the Pentagon Papers case has refused to make a blanket disavowal of wiretapping attorneys and consultants involved in the defense of Daniel Ellsberg and Anthony Russo.

In an affidavit filed in federal court here late Friday, assistant prosecutor Warren P. Reese said "none of the oral or wire communications" of the attorneys and consultants had been overheard "except as may hereafter be disclosed to the court" in secret.

Reese's statement was in response to an order by U. S. District Court Judge W. Matt Byrne Jr. a month ago that the government must disclose any electronic surveillance of each of the defense aides since they entered the case.

If any such surveillance were revealed and then determined to be the source of evidence in the case, it could result in dismissal of the indictment against Ellsberg and Russo.

The defense has contended there may have been wiretapping of, among others, Leonard B. Boudin, chief defense counsel in the case, whose daughter Kathy has been sought by the FBI since the 1970 explosion of a Weatherman "bomb factory" in New York; former New York Republican Sen. Charles E. Goodell, an Ellsberg lawyer who was once followed by Army intelligence agents, and Tom Hayden, a Russo consultant who was a defendant in the "Chicago Seven" conspiracy trial and has often traveled to Hanoi.

8 U.S. Agencies Involved

Reese said his affidavit was the result of an inquiry with eight government agencies: the FBI, the Bureau of Narcotics and Dangerous Drugs, the Bureau of Customs, the Secret Service, the Internal Revenue

Service, the Defense, and the Central Intelligence Agency.

In an earlier filing, the prosecution had said that none of those agencies conducted electronic surveillance of Ellsberg and Russo themselves.

But the response concerning the lawyers left out some of the addresses and phone numbers they had filed with the court, including Boudin's homes in New York City and Cambridge, Mass.

There also was no immediate explanation of Reese's suggestion that some wiretapping might later be disclosed to the court privately.

The prosecutors have declined to discuss any aspect of the Pentagon Papers case with the press, and on Friday night chief prosecutor David R. Nissen refused to make Reese's affidavit available to reporters, although it was already a part of the public record.

"Corroborates Suspicions"

Leonard I. Weinglass, who represents Russo, claimed today that "the delayed and inadequate response of the government . . . corroborates the suspicions we have had that there has been wiretapping of those of us involved in this case."

Boudin said he would press for any private prosecution filings with the judge to be made public.

At one point when the wiretap issue was being debated in court, Weinglass jokingly told the prosecutors, "As a taxpayer, I wouldn't feel you guys have been doing your job if you didn't wiretap us."

A jury of eight women and four men was selected on Friday to try Ellsberg and Russo on espionage, conspiracy and theft charges. After six alternates have been chosen Monday, the prosecution is scheduled to open its case Tuesday afternoon.