

## Pentagon Papers Case

# Ellsberg Would Bar Jurors With Security Clearances

By Sanford J. Ungar

Washington Post Staff Writer

LOS ANGELES, July 17—The defense in the Pentagon Papers case, fighting to exclude from the jury all people who have ever held security clearances, filed affidavits in federal court here today contending that such people could not judge the case fairly.

"Cleared employees of defense contractors are definitely afraid of losing their security clearances if they do not accept and demonstrate support for each procedural rule pertaining to the handling of material bearing classification marking," said William G. Florence, a retired Air Force security expert, in his affidavit.

As jury selection in the conspiracy, espionage and theft trial of Daniel Ellsberg and Anthony Russo entered its second week today, defense lawyers continued to insist that persons with security clearances might be afraid to vote for acquittal, lest their livelihoods be threatened.

The charges arise out of Ellsberg's and Russo's disclosure of the Pentagon Papers, a history of U.S. involvement in Southeast Asia, which were stamped "top secret-sensitive" at the time and still will be when seen by the jury.

### Refusal by Judge

U.S. District Court Judge W. Matt Byrne Jr. has repeatedly refused to quiz prospective jurors on how they would react to the secrecy stamps or whether they feel they might endanger their jobs with a

verdict that renounces the security classification system.

Today's affidavits were part of a defense effort to change the judge's mind.

Florence, who is serving as an Ellsberg consultant for the case, said that those who undergo "security indoctrination" by the Air Force "have exceptionally strong convictions about the sanctity of a classification marking on a document."

Bernard Brodie, a former staff member at the Pentagon-oriented Rand Corporation in Santa Monica—where Ellsberg was working when he and Russo photocopied the papers—said in his affidavit that "those who hold high security clearances form a virtual priesthood, from which common people are excluded."

Morton H. Halperin, a former National Security Council and Defense Department aide also serving as a consultant to Ellsberg here, observed in another affidavit that "a juror with a clearance will be under great pressure not to condone a violation of the procedures which he has been trained to follow."

The defense will contend during the trial that the Pentagon Papers were not properly classified and that once a copy of them was deposited with the Rand Corporation, they were subject to "special security arrangements" more lenient than in most instances.

### Continues Questioning

Byrne continued his individual interrogation of prospective jurors in the case today and was told by Andrew L.

Gram, a retired Los Angeles city official, that "there are a lot of things that are awfully dull that I don't like to read."

That was a reply to Byrne's standard question about whether the potential jurors are willing to read substantial parts of the Pentagon Papers when they are put into evidence.

Gram, when asked for his views about the war in Vietnam, gave a five-minute talk about why he had originally been "vehemently against it" but was now "reconciled" to it.

His willingness to talk at length about the war took the courtroom by surprise, since many prospective jurors have been reluctant to do so.

More characteristic was Paul Clearwater, who was also questioned today and said about the Vietnam war, "I think it's an unfortunate set of circumstances that got us involved. That's about it."