

Ellsberg Documents Show Up

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The general counsel of the Defense Department denied today that he had deliberately squelched a set of studies showing that disclosure of the Pentagon papers had no effect on the "national defense."

J. Fred Buzhardt, testifying at a special hearing that has interrupted the trial of Daniel Ellsberg and Anthony J. Russo Jr. in federal court here, said he had no knowledge of the studies, produced in the Pentagon's Office of Security Review, until Monday morning.

Only then, Buzhardt said, did Charles Hinkle, director of the Office of Security Review, discover the studies in his files and send them to Los Angeles.

They were turned over to U.S. District Court Judge W. Matt Byrne Jr. this morning for his inspection—more than nine months after he first ordered the prosecution to make all such files available.

Ellsberg's and Russo's attor-

neys contend that the studies were prepared for the Justice Department in December, 1971, in connection with preparation of the charges against the defendants.

But, according to the defense attorneys, they were set aside, perhaps even removed from the files, because their conclusion was adverse to the position taken by the prosecution—that the Pentagon papers had direct relation to the "national defense" and therefore fall within the Espionage Act.

Ellsberg and Russo are charged with violating that law and with illegal conspiracy and theft of government property in connection with disclosure of the Pentagon papers.

On the witness stand today, Buzhardt—who has supervised the Pentagon's involvement in all Pentagon papers litigation, civil and criminal—said he never ordered the preparation of the studies by the Office of Security Review.

He suggested that they had been drawn up "voluntarily" by someone in that office.

However, one of the documents turned over to Byrne today indicated that the studies had their origin in a meeting held on Dec. 15, 1971, in the office of Frank A. Bartimo, who is Buzhardt's assistant and a prosecution witness here.

In his earlier testimony, Bartimo said he could not recall such a meeting.