

U.S. 'Needed' Papers, Ellsberg Defense Says

By Sanford J. Ungar
Washington Post Staff Writer

LOS ANGELES, Feb. 27—Daniel Ellsberg and Anthony J. Russo Jr. disclosed the top-secret Pentagon Papers because the documents were "needed by the country" in evaluating the war in Vietnam, one of their attorneys told a jury in federal court here today.

Launching the defense case in the Pentagon Papers trial, Leonard I. Weinglass insisted that Ellsberg and Russo had committed no crime at all by their acts.

Indeed, Weinglass told the jury, "It is the government which bent the law" by charging Ellsberg and Russo with conspiracy, espionage, and theft of government property.

He promised that the defense will present "a long list of knowledgeable and expert people" as witnesses to support that view and to explain he "relatively simple" issues in the controversial case.

Most of those witnesses, he said, will be former officials of the Kennedy and Johnson administrations and retired military men who will contend that the Pentagon Papers had absolutely no relationship to the "national defense."

Sources close to the defense said that among the prospective witnesses are John Kenneth Galbraith, former U.S. ambassador to India; Theodore Sorenson, White House counsel to the late President John F. Kennedy; and Morton H. Halperin, who was deputy assistant secretary of defense in the Johnson administration and worked on the National Security Council staff early in the Nixon administration.

But Weinglass told the jurors they would also hear from people currently in government, including Rep. Paul N. (Pete) McCloskey Jr. (R-

Calif.) and Samuel A. Adams, analyst for the Central Intelligence Agency.

The defense attorney began his opening to the jury only moments after the prosecution formally rested its case against Ellsberg and Russo this morning.

The final prosecution evidence came from an FBI fingerprint expert, who testified that he had found on the Pentagon Papers the fingerprints of Vu Van Thai, a former South Vietnamese ambassador to the United States and a close friend of Ellsberg's while both were working at the Rand Corp. in Santa Monica.

U.S. District Court Judge W. Matt Byrne Jr. permitted the testimony about Thai—named as an unindicted co-conspirator in the case—only after chief prosecutor David R. Nissen produced a properly authenticated set of the former diplomat's fingerprints.

An earlier set had been rejected by the judge, and the new fingerprints were flown here from Saigon over the weekend.

Weinglass, his characteristically shoulder-length hair cropped short for the occasion, spoke to the jury in slow, unemotional tones from a lectern in the middle of the courtroom.

He made it clear from the outset that the defense would

not dispute the essential fact at the heart of the prosecution case—that Ellsberg and Russo photocopied the Pentagon Papers at the office of Lunda Sinay, a Los Angeles advertising woman, in October, 1969.

But Weinglass insisted that the papers and other top secret documents covered by the indictment do not fall into the "very limited and narrow" category of information whose disclosure is banned by the Federal Espionage Act, information "relating to the national defense."

What military information is contained in the documents was either "stale" or already "in the public domain" in 1969, he contended.

But the real importance of the Pentagon Papers, he told the jury, was found in the "insights" they contained about "how and why" the

United States became involved in Vietnam—what they told about "the political and social revolution" in Vietnam and about the "troublesome role" of the United States there.

"All of this information was necessary to the ongoing debate about Vietnam" in 1969, when Ellsberg and Russo photocopied the papers, he said.

Sounding a common defense theme in the case, the attorney also contended that the documents were "improperly classified top secret" even though they contained information that did not require classification.

As for the theft charges, Weinglass asserted that the defense could show that the Pentagon Papers were not "government property" at all, but belonged to three retiring Defense Department officials.