

If the answer is no, say no.  
If the answer is yes, say yes.  
Did there come a time when

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you were asked to develop a capability in the White House for intelligence-gathering? A. Intelligence-gathering, the answer would be no.

Q. Now, you were trying to see what I was getting at. Were you ever asked to set up a special unit in the White House for the purpose of determining whether certain leaks had occurred in major national security areas? A. In point of fact I was—and strictly in terms of your question. I was not asked to set it up. Mr. Krogh was asked to set it up.

Egil Krogh Jr. was a member of the Domestic Council staff, and he was asked by the President to form this special unit. I was designated as one to whom Mr. Krogh could come with problems in connection with it, and the President said also that he could come to him with problems.

In at the Beginning

Q. Were you in at the beginning of the setting up of this plan? A. Yes.

Q. And you knew what the unit was to do? A. Yes.

Q. What was the unit to do? A. The unit as originally conceived was to stimulate the various departments and agencies to do a better job of controlling leaks and the theft or other exposure of national security secrets from within their departments. It was a group which was to bring to account, so to speak, the various security offices of the Departments of Defense and State and Justice and C.I.A., to get them to do a better job.

Q. And, therefore, this unit was to gather facts, if there was a leak or to act as a deterrent, I take it, to prevent leaks.

A. No, there would have been no need to gather facts under the concept, except to know that there had been an occurrence but to require vigorous and very active effort on the part of the responsible people in the departments and agencies to find out who was responsible, and how it happened and to make sure it couldn't happen again.

Q. Isn't that getting facts. Would you say some people who go to seek facts in an investigative way can also

## Figures in Senate Inquiry

Special to The New York Times

WASHINGTON, July 24—Following are the names of individuals who figured today in hearings by the Senate select committee on the Watergate case:

### COMMITTEE MEMBERS

Sam J. Ervin Jr., North Carolina Democrat, chairman.  
Herman E. Talmadge, Democrat of Georgia.  
Daniel K. Inouye, Democrat of Hawaii.  
Joseph M. Montoya, Democrat of New Mexico.  
Howard H. Baker Jr., Republican of Tennessee.  
Edward J. Gurney, Republican of Florida.  
Lowell P. Weicker Jr., Republican of Connecticut.

### COMMITTEE COUNSEL

Samuel Dash, chief counsel and staff director.  
Fred D. Thompson, chief minority counsel.  
Rufus L. Edmisten, deputy counsel.  
Terry F. Lenzner, assistant chief counsel.

### WITNESS

John D. Ehrlichman, former White House adviser.

### PERSONS NAMED IN TESTIMONY

John J. Caulfield, former aide of the committee to re-elect.

Charles W. Colson, former counsel to the President.  
John W. Dean 3d, former counsel to the President.  
Robert H. Finch, former White House counsel.  
H. R. Haldeman, former White House chief of staff.  
Bryce Harlow, former White House liaison chief.  
J. Edgar Hoover, former director of Federal Bureau of Investigation.

E. Howard Hunt Jr., ex-C.I.A. agent and White House aide, pleaded guilty in Watergate break-in.

Henry A. Kissinger, Presidential adviser on national security.

Egil Krogh Jr., former assistant to Mr. Ehrlichman.  
Frederick C. LaRue, former aide to Mr. Mitchell.

G. Gordon Liddy, former White House aide convicted in Watergate break-in.

Clark MacGregor, former chief of the Committee for the Re-election of the President.

Robert C. Mardian, former aide of re-election committee.  
John N. Mitchell, former Attorney General and former chief of re-election committee.

Henry E. Petersen, assistant Attorney General who headed Watergate prosecution.

Nelson A. Rockefeller, Governor of New York.

William P. Rogers, Secretary of State.

Earl J. Silbert, former chief prosecutor in Watergate case.

William C. Sullivan, former associate director of the F.B.I.

Anthony T. Ulasewicz, former aide to John J. Caulfield.

David R. Young Jr., former White House aide.

Ronald L. Ziegler, White House press secretary.

### Investigative Unit

Q. So there came a time when you were administering an investigative unit? A. Yes. In a literal sense, that is true.

Q. Literal sense? A. Yes, sir.

Q. Not in an actual sense? A. Well, here I am dueling with a professor.

Q. I am not dueling with you. I am just trying— A. Professor, if you say actual, it is actual.

Q. I don't want you to take my questions, and I don't want to put words in your mouth. A. Sure, I am trying to give you—

Q. I really want to have you answer to the best of your recollection. A. Sure, I am trying to give you the real essence of this as we go along and I don't mean to be fencing over words.

Q. Could you please tell us in as clear a way as you can what the responsibilities of this particular unit were both in the beginning and how it developed, and as it developed later?

A. At a point in time in connection with the Pentagon papers theft, a whole series of events took place. One of the first of them was that the Pentagon papers, which were marked secret and top secret and which were largely Defense Department documents, were turned over the Russian Embassy.

I knew this because I had a call from Mr. Mardian, the assistant attorney general, advising me that the Justice Department had this firm fact. The Attorney General came over and reported to the President that this theft had evidently been perpetrated by a number of people, a conspiracy, and that some of the people were identified by the Department of Justice as having had previous ties to domestic Communist activities.

### 'Very Tough Problem'

The Attorney General then reported in response to an inquiry, and maybe I had better tell you how the inquiry came up. Mr. Krogh came to me and said, "I am having real trouble getting the F.B.I. to move on this." And so I said "well" and this was basically my function was to do downfield, blocking for Mr. Krogh when he had problems in the department. I said, "Okay, I will contact the Attorney General and see what I can do," which I did I did.

The Attorney General called

say they seek intelligence?

A. Well, but you see what I am trying to say to you in as originally set up and conceived this was not an investigative unit in the sense that your question implies. It was far more a group that was established for the purpose of getting the security people in the departments and agencies to do a better job of their job.

Q. Did it ever—was it ever called or was it ever referred to as an investigative unit?

A. Subsequently it was because it became an investigative unit subsequently.

me back and he said, "We have a very tough problem here. It appears that a top man in the F.B.I. put in a routine request that Mr. Ellsberg's father-in-law be interviewed. The director has given notice that the interview and interviews of that family are not to take place.

Now this was the area in which Mr. Krogh and the special unit were pressing for the Department of Justice to bring information together as was their job to do. The Attorney General said, "I am going to reverse this decision on the part of the director to transfer this man and demote him," but he said, "We have a very touchy situation with the director. Mr. Sullivan in the bureau is extremely upset and concerned and disagrees strongly with the director in this matter. I don't know what Mr. Sullivan may quit as a result of this whole episode. It's very touchy within the bureau." I said, "What are our chances of getting the bureau to move ahead on this right away?" and he said "very slim or none."

#### Follow Up Assignment

So it was this set of facts, and the real strong feeling of the President that there was a legitimate and vital national security aspect to this, that it was decided, first on Mr. Krogh's recommendation, with my concurrence, that the two men in this special unit who had had considerable investigative experience, be assigned to follow up on the then leads and rather general leads which were in the file.

Q. Who were those two men? A. Hunt and Liddy.

Q. Now, did you know Mr. Hunt or Mr. Liddy? A. I had met Mr. Hunt once briefly. I had never met Mr. Liddy. I will take that back. He may have been in my office once.

Q. Now, Mr. Young also worked in this unit, did he not? A. Yes.

Q. And he worked under Mr. Krogh? A. He worked as a kind of a co-chairman.

Q. What was the reporting relationship between Mr. Young, Mr. Krogh to you?

A. Well, Mr. Krogh, of course, was on my staff, and maintained the same reporting relationship to me that he had always maintained. Mr. Young began reporting to me at the time he joined the special unit.

Q. Did you ever initiate any instruction to them?

A. I was asked to ratify a

number of their decisions from time to time. Their practice would be to send me periodic information reports sometimes these would contain requests for either approval of a decision that they had made or proposals that they had or something of that kind.

Q. Is this the special investigations unit that later became, began to be known popularly as the "plumbers"? A. Yes.

Q. Now, did you actually interview Mr. Hunt before he was hired? A. No, I had a meeting with Mr. Colson and Mr. Hunt after he was hired. It was in July of 1971 and I believe that is the only time I have seen Mr. Hunt.

Q. Would it be fair to say that Mr. Colson very much wanted Mr. Hunt to be hired? A. That would be fair to say.

Q. Now, did you make a call for Mr. Hunt to the C.I.A. shortly after you saw him? A. Well, I cannot recall ever making such a call.

#### Major Responsibility

Q. Now, you said that the major responsibility of this unit developed because of the need for the unit to go ahead on an investigation of the so-called Pentagon leaks. Were there any other responsibilities or assignments given to this unit? A. Yes.

Q. Could you state what they are — were?

A. Well, I can state some of them; I cannot state all of them. The strategic arms limitations negotiations were under way in the summer of 1971 and a newspaper obtained the U.S. negotiating position, in effect, the secret script for the U.S. negotiations in that negotiation. That came close on the heels of the Pentagon papers episode and was a major cause of concern for the President and for those dealing in this area of foreign policy. This special unit was asked to see if they could determine the source of that leak.

Q. Do you know what actions the special unit took in seeking to carry out that responsibility?

A. In General terms, I do. I know that they worked through the security people at the State Department and the Defense Department. They narrowed down the probable source of that leak, and I believe there were some personnel actions taken as a result of that.

Q. Did you become aware of any wiretapping that took Place at the request of the president and approved by the Attorney General in regard to that? A. In regard to

the SALT leak? No.

#### Unrelated to SALT

Q. Did you become aware of wiretapping that was authorized by the President and also the Attorney General with regard to any particular leaks involving national security at this time? A. The answer to your question, Mr.

Dash, is yes. It was in relation to an investigation in 1971. Beyond that I cannot go.

Q. You say it did not relate the SALT leaks? A. No.

Q. Did you know anything about the so-called Kissinger Taps? A. Yes, I knew — I did not know at the time the details of those taps; that is, who was being tapped, the purpose, the extent, and so on. I knew generally that such a thing was going on.

Q. And did you know who had approved that? A. I do not know of my own knowledge, no.

Q. Well, how did you know? You said you knew generally. How did it come to your attention? A. I think Mr. Halde- man told me obliquely and not directly and not with any degree of specific fact that such a thing was going on.

Q. Did there come a time when you had more specific facts? A. Well, obviously, in the last few months, I have learned a great deal more about the whole situation than I knew previously.

Q. Did you ever receive the logs of those taps? A. Yes, I evidently did without scrutinizing them, but I did receive them.

Q. Could you tell us how you received them? A. Yes, I received them from Mr. Mardian at the Justice Department.

Q. Why did Mr. Mardian give them to you? A. He gave them to me because he felt that they should be in the custody of the White House and proposed that they be moved out of the Justice Department because he could not assure their safe-keeping there.

Q. Well, did you know that actually, he was giving them to you at the direction of the President?

A. I did not know that until I heard him [Mr. Mardian] testify to that here. In point of fact, I referred the question to the President, perhaps unnecessarily, after Mr. Mardian originally talked to me about it. The President asked me then to take custody of them, which I did.

#### Logs and Synopses

Q. At that time, did you look at them or did you

know what they contained?

A. I looked at them very, very quickly. He told me what they purported, what he said they were, which was the logs and correspondence and synopses of a national security investigation in 1969. Well, then, I related that to what Mr. Haldeman had described to me, and I—

Q. And these were the logs and taps that were put on certain newspaper persons and certain staff members of Mr. Kissinger? A. That is what I understand.

Q. Where did you lodge these logs?

A. I lodged those in a two-drawer combination filing cabinet in one of the rooms of my office. Q. Do you know what time this was when you did that?

A. It would have been in the fall of 1971. Q. And how long did they stay there?

A. They stayed there until the day I resigned, which would have been the 30th of April of this year.

Q. On that date, did something happen to them? A. Yes, sir, those papers and all the papers in my office were then turned over to the President as Presidential papers.

Q. Now, you were beginning to tell us about some of the other assignments that the special investigations unit had. Would you go on, those that you can tell us about?

A. There is only one other that is in the public domain that I know of, and that is an investigation into the circumstances of the leak of a C.I.A. document relating to relations between India and Russia.

Q. Did you have any part or role in authorizing the

taps we just talked about, of which you ended up being the custodian of the logs. A. No.

Q. Did you have any role in authorizing other wiretaps? A. From time to time, I did.

#### Wiretaps by Liddy

Q. Did you authorize Mr. Liddy's wiretaps in your role of supervising the special investigations unit?

A. In 1971, that was so. In 1969, as counsel, I authorized an attempt which never came to anything. It was not actually accomplished. But beyond that, it would have been in one of those two capacities, either as counsel in 1969 or in my relationship to this unit in 1971.

Q. Were you aware of the electronic surveillance on Joseph Kraft's house? A. That

was the one that I was talking about in 1969 that, so far as I know, never happened.

Q. Do you know who was involved in attempting to commit that wiretap? A. Yes, Mr. Caulfield was.

Q. Did you ever discuss that tap with the President? A. I am sure I did.

Q. Do you know what the purpose of the placing of that tap was? A. It was a national security purpose.

Q. Now, did it come to your attention that there was an effort to either break into the Brookings Institute or fire bomb the Brookings Institute?

A. Yes. It came to my attention, I think, from John Dean at the time that he came to California. I can say very briefly, I didn't authorize it.

Q. Do you know who authorized it? A. No, I don't.

Q. Did you ever look into who authorized it? A. No, I didn't.

Q. What was he asking you to do about it? A. He was asking me to make sure that that didn't happen.

Q. Did you? A. I believe I did.

Q. Now, you did become aware at some point in time of the activities of staff members of the special investigations unit, Mr. Hunt and Mr. Liddy, with regard to the office of Mr. Ellsberg's psychiatrist? A. Yes, it was around Labor Day of 1971.

#### Fact-Gathering Project

Q. And I take it that was a fact-gathering project? A. That was the fact-gathering project that I mentioned before in relation to the theft of the secrets and the turnover the Russians and the dilemma we had of the bureau [F.B.I.] not moving on this.

Q. And when do you say that you learned of that break-in? A. Within a day or two after my return from a Labor Day trip to Cape Cod.

Q. Did you know that Mr. Liddy, Gordon Liddy, who had been a staff member in your special investigations unit, took on a very important role in the Committee to Re-elect the President? A. I did not know it at the time.

Q. Did you know that Mr. Krogh, who worked directly under you, had recommended him for that job? A. I don't believe I knew that.

Q. You mean you first heard about it during testimony? A. I believe so.

Q. Did there come a time shortly after the break-in that you read of Mr. Liddy's

involvement? A. Oh, yes, certainly.

Q. And at that time, did you read that Mr. Liddy worked for the Committee to Re-elect the President? A. Yes.

Q. Is it not true that you first learned about it in testimony. A. I think it must have been subsequent to the break-in at the Watergate. I think rather soon, within a matter of days after.

Q. Now, you knew at that time, certainly at that time, that Mr. Liddy had been involved in the break-in of the

psychiatrist's office of Mr. Ellsberg? A. Yes.

Q. Did you say anything to anybody at that time when you read in the newspapers about this same Mr. Liddy, now working for the President's campaign, being found in another break-in at the Democratic National Committee headquarters, at least being involved in it? A. I am sure I must have commented on it.

Q. Commented? To whom? A. I don't recall offhand. I am sure I talked to John Dean about it. As a matter of fact, he may have been the one that first let me know that Liddy was involved and that it is the Liddy who was at the White House.

Q. As a matter of fact, is that not true that rather than learning it from the newspaper you learned about it from Mr. Dean? A. I think that undoubtedly is the case.

Q. Now, were you informed after March 30, 1972 that the Committee for the Re-election of the President had a sophisticated intelligence system with a budget of around a quarter million dollars or \$300,000? A. No.

Q. Do you know whether Mr. Haldeman was? A. Not of my own knowledge, I do not, no.

Q. Now, when did you, Mr. Ehrlichman, learn for the first time of the break-in of the Democratic National Committee headquarters? A. It was the following day when I received a telephone call.

Q. And what, if anything, did you do? A. I made a couple of phone calls in response.

Q. How soon thereafter did you learn that Mr. Hunt was involved? A. His name was mentioned in the original phone call.

Q. And who made that



The New York Times

John D. Ehrlichman, back to camera, testifying before the Watergate committee yesterday as Senators Sam J. Ervin Jr., center, chairman, and Howard H. Baker Jr., left, vice chairman, and chief counsel, Sam Dash, listened.

phone call to you? A. Mr. Boggs of the Secret Service.

Q. And then, shortly after did Mr. Dean make a report to you about what he had learned about the break-in? A. That would have been the afternoon of the 19th, the following Monday.

Q. What did he tell you? A. He just gave me a run-down of the identity of the individuals. He told me that he had talked to Liddy. That Liddy had told him that it was his operation, in effect, that he, Liddy, was involved, but that nobody at the White House was involved.

Q. So at least by the 19th of June, which is two days after the break-in, one, on the basis of a call from a Secret Service man, and the other from Mr. Dean, that the two men who had been involved in the so-called Ellsberg break-in were involved in the break-in of the Democratic National Committee headquarters? A. That is correct.

#### Position of Responsibility

Q. These two men, at least one of them specifically, Mr. Liddy, had a position of some responsibility with the Committee to Re-elect the President of the United States. A. Well, I obviously learned that he was working at the committee. I do not know about the responsibility part.

Q. Did you know he was counsel for the Finance Committee of, for the Re-election of the President? A. I am not sure that I did.

Q. Now, having learned that persons who had the prior history that you knew about were working in a close relationship to the campaign for the re-election of the President you were so dedicated, honestly dedicated to see that he was re-elected, did this produce any concern on your part with regard to the campaign itself? A. Yes, I was concerned about it.

Q. Would it also be a, even more of a serious campaign issue if it developed or was revealed that Mr. Hunt and Mr. Liddy had broken into

the office of Mr. Ellsberg's psychiatrist, the same two people?

A. No, I would not think so. They were certainly identified as former White House people in the media, and that was, that connection was, known. This connection was established.

Q. What connection was established? A. Their connection with the White House.

Q. Yes, but it had not been established, is it not true, that Mr. Hunt and Mr. Liddy had broken in the psychiatrist's office of Mr. Ellsberg, at that point it had not been publicly known? A. No, it was not publicly known.

Q. Are you telling the committee that that additional information that these former White House staffers working under your direction had broken into Mr. Ellsberg's psychiatrist's office, would not have created an even more serious embarrassing situation for the campaign?

A. I would not think so,

Mr. Dash, for several reasons. Number 1, that episode was a part of a very intensive national security investigation which had been impressed with a very high security classification. The likelihood of that being disclosed was very slight.

Number 2, those people were operating, at least I believe they were operating, under express authorization.

Q. Express authorization to break in?

A. Yes, sir. Under a national security situation, under a situation of considerable moment to the nation in the theft of top secret documents, and their apparent delivery to the Soviet Embassy. It never was my view that Hunt and Liddy, as individuals, had done something that was completely irrational in that break-in. In other words, they were operating in a national security setting and pursuant to either instructions or authorization and, that being the case, that had never been a subject which I considered to be seriously embarrassing.

Q. Let us first take the first point you made, which was that it would be unlikely that it would be revealed. A. Right.

Q. And I take it, it would be unlikely to be revealed was because neither Mr. Hunt or Mr. Liddy would talk about it? A. Neither would they talk about it nor would a prosecutor talk about it if they told him, nor any employe of the Federal Government aware of the national security characteristic of it be talking about it.

Q. How would you be assured of the fact that Mr. Hunt and Liddy would not talk about it?

A. Well, the only assurance that one could have, I suppose you have a couple of individuals here with long training and experience as law enforcement or intelligence people in the Government, Hunt for what, 20 years, and Liddy for seven, or something of this kind, and it never occurred to me to be a serious likelihood at that time.

Q. Now, I think you have heard the testimony of Mr. Mitchell that he first became aware of the so-called Liddy operations, which included the Ellsberg break-in, on the 21st of June, [1972] and Mr. Mardian, Mr. Larue debriefed him after speaking to Mr. Liddy and that he characterized this kind of operation, plus some others, as White House horrors. It was his view as presented to the committee that the potential

for embarrassment to the reelection of the President was such, that he withheld this information from the President because he thought it might cause the failure of the President for being re-elected. You disagree with his evaluation.

A. Well, I certainly disagree with it at the time.

In other words, trying to reconstruct my frame of mind at the time, I considered the special unit's activities to be well within the President's inherent constitutional powers, and this particular episode, the break-in in California, likewise to have been within the President's inherent constitutional powers as spelled out in 18 U.S. Code 2511.

Q. Once the information did become public, and the press dealing with it, and the reaction generally by the public to the break-in, would you say that this was treated as a normal function of Government to authorize Mr. Hunt and Liddy to break into Mr. Ellsberg's psychiatrist's office. By the public, not as you saw it, but how the public reacted when they heard about it?

A. I think what is normal in the press these days is perhaps a difficult thing for any of us to define, particularly in this setting. Taken at the time, either at time of the Pentagon papers episode, where you had these people stealing top secret documents and doing what they did with them, on the one hand, or taken at the time of the campaign, it depends on how many of the facts, how much of the facts, how much understanding could be sifted through the daily press.

I think if it is clearly understood that the President has the constitutional power to prevent the betrayal of national security secrets, as I understood he does, and that is well understood by the American people, and an episode like that is seen in that context, there shouldn't be any problem.

Q. Well, then, you would not have had the same concern that Mr. Mitchell expressed, that if he had told the President about it, one, the President would have lowered the boom and, in lowering the boom, he would

have probably caused his own defeat for President of the United States?

Discussed With Nixon

A. In point of fact, on the first occasion when I did discuss this with the President, which was in March of this year, he expressed essentially the view that I have just stated, that this was an important, a vital national security inquiry, and that he considered it to be well within the constitutional, both obligation and function of the Presidency.

Q. You say you first discussed this with the President in March of this year?

A. That is the first I can recall discussing it with him.

Q. Well, what was the purpose of the President's statement of May 22, [1973] when he said that he instructed you and Mr. Haldeman to take steps to prevent the fruits of the special investigative unit from becoming known during the investigation of the Watergate as early as June?

A. Well, that is quite another subject, Mr. Dash, and that relates to some of the subject matters that I am at this point not able to talk to the committee about, which the President has impressed with the highest secrecy classification and which he feels is very vital to the national security of the country.

Now, in furtherance of that, he has had me communicate his concerns about that to a number of people and he, in turn, has personally communicated his decision in that regard to a number of people in the executive branch.

Q. I am not trying to probe into any other secrets, but certainly at the time in June of 1972, right after the break-in you were aware of, and I take it, he was aware of the break-in, the Ellsberg break-in. A. I cannot speak for the President on that. I can only say that I was aware of it.

Q. Well did not the President in a statement indicate that certain acts were taken by properly motivated people that he would not authorize but that he had instructed Mr. Haldeman and Mr. Ehrlichman to see to it that none of this, which he thought were taken in the guise of national security, should be investigated into by the F.B.I.?

A Number of Inquiries

A. Well, I took that instruction from the President to relate to a number of investigations which the special unit either supervised or engaged in one way or an-

other over a period of months, spanning six, eight, nine months.

Q. But you included the Ellsberg break-in in that? A. I included the whole Pentagon papers episode in that.

Q. All right. So it was your understanding you were under instructions to see to it that the F.B.I. investigation did not get into this, did not uncover the Ellsberg break-in? A. No, No. The Justice Department already had the information about the Ellsberg break-in.

Q. When? A. I cannot say when. John Dean told me that Henry Petersen had the information and the photographs and the whole busi-

ness, oh, I would guess a year or more ago.

Q. A year or more ago? A. Yes, sir.

Q. And it did not take—and actually, the prosecutors did not learn about this from Mr. Dean when he went to the prosecutors?

A. No. Mr. Dean told me that, as I say, about a year ago. Last November he told Mr. Krogh the same thing, told him that both Mr. Silbert and Mr. Petersen had this information and the photographs.

## AFTERNOON SESSION

MR. DASH: Mr. Ehrlichman, prior to the luncheon recess you stated that in your opinion, the entry into the Ellsberg psychiatrist's office was legal because of national security reasons. I think that was your testimony. A. Yes.

Q. Have you always maintained that position? A. Well, I do not know—

Q. Well, do you recall when we had our first interview in my office, and we discussed this issue you expressed shock that such a thing had occurred, and indicated that you had informed Mr. Young or Mr. Krogh to see that this thing should not happen again but you did not take any action such as ordering the firing of these people because of the general sensitive issues that were involved. Do you recall that?

A. Well, that is not on the ground of illegality, Mr. Dash. I do not think you asked me at that time whether — what my legal opinion was, for whatever it is worth. What you were

asking me was what I did, and that is what I did.

Q. Well, if it was legal you would ordinarily have approved it, would you not?

A. Well, no, the thing that troubled me about it was that it was totally unanticipated. Unauthorized by me.

Q. Who was it authorized by? A. Well, I am under the impression that it was authorized by Mr. Krogh, but it is not based on any personal knowledge.

Q. Well, now, as a matter of fact, Mr. Ehrlichman, did you not personally approve in advance a covert entry into the Ellsberg psychiatrist office for the purpose of gaining access to the psychoanalysts's reports? A. I approved a covert investigation. Now, if a covert entry means a breaking and entering the answer to your question is, no.

Q. Well, let me read to you a memorandum dated Aug. 11, 1971, and it is a memorandum to you from Bud Krogh and David Young, "Subject: Pentagon Papers Project—Status Report as of Aug. 11, 1971."

### Relevant Information

I think the relevant information is in paragraph (2) rather than the progress report of (1.) Let me just read paragraph 2. "We have received the C.I.A. preliminary psychological study (copy attached at Tab A) which I must say I am disappointed in and consider very superficial. We will meet tomorrow with the head psychiatrist, Mr. Bernard Malloy, to impress upon him the detail and depth that we expect. We will also make available to him here some of the other information we have received from the F.B.I. on Ellsberg."

Now, more significant. "In this connection we would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the two-year period in which he was undergoing analysis."

And there is a provision here for approve, disapprove. There is an "E", which I take it you would recognize as your "E," and in handwriting which I would ask if it is your handwriting, the approve, and the handwriting is, "if done under your assurance that it is not traceable."

A.; That is correct.

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Q. Now, how would you interpret in this connection your assistance recommended to you in this connection.

A. Well, no interpretation is necessary, Mr. Dash. This was in the setting of a previous conversation in which it was contemplated that these two men would go to the Coast to do this investigation as the President's statement of May 22d says.

The effort here was to find out everything that could be found out about the people and the circumstances surrounding Ellsberg in all respects.

### Investigation Authorized

Now, whether a psychiatric profile, as such, helps an investigation or in that situation, is something that the experts would have to tell you. It is something that I certainly cannot second-guess about. But the point here is that the investigation was already authorized and was going to go forward. Now covert, in its literal meaning, and in its everyday meaning, is simply that it is a covered operation, that is to say you do not identify yourself as being an investigator from the separate committee.

My concern, and the reason that I certainly acquiesced in the use of the term "covert" here was that I was not on the concept of the White House having investigators in the field and known to be in the field, and I just don't think from a public standpoint, from a public relations standpoint, from a public policy standpoint, that that is a desirable situation, and I was not anxious to have anybody go in and flash a White House pass, credentials and say, "I am from the White House and I want this or that and I want to ask questions." That is the sense in which I conceived, at least, of this investigation as being a covert investigation, and that is the sense in which I endorsed on here what I did in my hand.

Now, if you asking me whether this means that I had in my contemplation that there was going to be a breaking and entering, I certainly did not. I heard a remark by a member of the committee to the effect that there are only two ways that one can see a medical file and that is either to get the doctor to violate his oath or to break or enter. Well, I know that is not so and I imagine those of you who have been in private practice

will recognize there are a lot of perfectly legal ways that medical information is leaked, if you please, and when I saw this that is the thing that occurred to me. That they by one way or another this information could be adduced by an investigator who was trained and who knew what he was looking for.

#### Hunt and Liddy

Q. All right. Let me follow that up a bit. It was after this memorandum, do you recall that Mr. Young and Mr. Krogh then authorized Mr. Hunt and Liddy to go out to California? A. Do I recall that? No, I don't.

Q. And that they went out to California for a feasibility test to see whether or not they could undertake a covert, and I am not saying breaking and entering? A. No, my recollection is that that trip West had been authorized before this.

Q. What was the purpose of the trip? A. As I have said before, it was to find out everything possible about Ellsberg, his associates, his methods, everything surrounding him. This business of the material for the psychiatric profile so far as I was concerned was an add-on.

Q. Well, do you know what Mr. Hunt and Mr. Liddy did when they went out on a trip for the feasibility? A. I didn't even know there were two trips, as a matter of fact, until I was told in the rather recent past.

Q. Now, would your understanding of covert operation be, not a breaking and entering, but being let in by impersonating themselves to be somebody else into the building. Isn't that a covert operation?

A. I suppose that phrase could include that. It could include a lot of things.

Q. Yes and, therefore, I don't think we have to quarrel about whether you approved a break-in, an entering or even what you might consider to be a common-law burglary, what I am now saying is that the language here is not covert investigation, but a covert operation being undertaken to examine all medical files.

#### 'I Don't Mean to Quibble'

A. Again I don't mean to quibble with you. The words here are not my words. They are the words of the writers of the memo. The thing that was imparted to be my the word "covert" was that these people would not identify

themselves as investigators of the White House or anything of this kind, and that their identities would not be known to the people that they were interrogating.

Q. So they would not identify themselves as representatives of the White House but through some identification they might get access to the building.

A. Not necessarily. They might have gotten access through another doctor, through a nurse. There are all kinds of ways that one could get this information.

Q. But it would include getting access to the building, would it not? A. Not inevitably.

Q. I didn't say inevitably, it would include it. A. As one of a number of possibilities.

Q. And also access, say, by some covert activity, not identify themselves as a member of the White House staff, getting access to the office. Would it not include that as one of the alternatives that they could take? A. Well, you are asking me to define phrases in somebody else's memo.

Q. Well, you approved this memo. You didn't put any other conditions on it, did you? A. No, I am trying to tell you what I thought I was approving.

#### Call to Cape Cod

Q. Well, those who read it, undertook to also interpret what you thought you were approving. Did Mr. Young and Mr. Krogh call you while you were in Cape Cod after Mr. Hunt and Mr. Liddy came back, and tell you that they had established that it was feasible that they could get access and that you said, "Okay, go ahead and let them do it."

Do you recall that call that Mr. Krogh and Mr. Young made to you in Cape Cod?

A. I don't recall any business calls while I was up there at all. Q. Would you be surprised if I told you that Mr. Young would so testify?

A. Yes, I would.

Q. That Mr. Liddy and Mr. Hunt did in fact go out to carry out the feasibility study, disengage in what they considered to be a covert activity, not a break-in, and through a cleaning lady gain access to the building and saw they could gain access in similar way to the office, did return and that on the basis of that Mr. Young and Mr. Krogh got on the phone with you while you were in Cape Cod and told you that they were able,

therefore, to prove that was feasible and said, "Okay" when you were assured that Mr. Hunt and Mr. Liddy would not themselves be involved. Do you recall that?

A. I don't recall any such set of facts.

Q. By the way, did you also receive a memorandum suggesting that there be a Congressional investigation about the Ellsberg affair? dated Aug. 26, 1972?

A. I well may have.

Q. Do you recall having received this memorandum? A. It has my initial on it. I do not have a present recollection of the document.

Q. Do you also note that there is an attached memorandum on the same date for Mr. Colson from you, Mr. Ehrlichman, subject, "Hunt/Liddy Special Project."

#### 'Game Plan' Requested

And I quote, "On the assumption that the proposed undertaking by Hunt and Liddy would be successful, I would appreciate receiving from you by next Wednesday a game plan on how and when you believe the materials should be used." Do you recall that?

A. Yes, I have seen that recently on going back into the files.

SENATOR ERVIN: Mr. Ehrlichman, do I understand that you are testifying that the Committee to Re-elect the President and those associated with them constituted an eleemosynary institution that gave \$50,000 to some burglars and their lawyers merely because they felt sorry for them?

A. I am afraid I am not your best witness on that, Mr. Chairman. I do not know what their motives were. I think those will appear in the course of the proceeding.

Q. You stated this was a

defense fund just like that given to Angela Davis and to Daniel Ellsberg, did you not? A. I stated that was my understanding of it.

Q. Yes, well, Daniel Ellsberg and the Angela Davis defense funds were raised in public meetings and the newspapers carried news items about it, did they not?

A. I am not sure that we know who the donors to those funds were. I dare say there are many people in this country who contributed to those funds who would not want it known.

Q. Yes. But do you not

think most of the people contributed their funds because they believed in the causes they stood for? A. I assume that.

#### The Cause of Burglars

Q. Well, certainly, the Committee to Re-elect the President and the White House aides like yourself did not believe in the cause of burglars or wiretappers, did you? A. No.

Q. Can you— A. I didn't contribute a nickel, Mr. Chairman.

Q. Yes. You authorized somebody else to contribute?

A. No, I would like to set that straight, if I might, Mr. Chairman.

The only reason that anybody ever came to me about Mr. Kalmbach raising money was because of this arrangement that we had entered into that we would protect Mr. Kalmbach if he wished to be protected from requests to raise money.

Now that is—it was a situation where obviously he didn't wish to be protected. He made the judgment, he made it independent of me, and whether I conceded to it or not obviously didn't make any difference.

Q. Did he ever talk to you about that? A. Not until after the fact.

Q. I will ask you if he didn't come to you and not only talk about having known you a long time and you having known his family but didn't he ask you whether it was a proper or legal operation?

A. Mr. Chairman, the testimony is that that meeting, according to Mr. Kalmbach, was the 26th of July when he was long into this, and as I have already testified.

Q. He testified he had become dubious about the property of it and he went to you for reassurance? And he also testified when he got to you, you told him it was all right and to see that the money was delivered in secret because if he didn't deliver it in secret their heads would be in their laps. Didn't that occur?

A. No. I would be terribly slow to reassure Herb Kalmbach whom I consider a good and close friend of the propriety of any such undertaking, of any such undertaking without checking it first, if he had asked me, and I am testifying to you, Mr. Chairman, that he did not ask me.

Q. My question is didn't he have a conversation in which you told him to do it in secret because otherwise "if it

gets out, our heads will be in their laps." You can answer that yes or no. I have just 20 minutes at this time and I want to ask my questions.

#### Recalls Conversation

A. I had a conversation with Mr. Kalmbach, Mr. Chairman, and I have no doubt that we, if he says so, that we discussed the question of secrecy because I do recall his saying that Mr. Ulasewicz was carrying money back and forth.

Now, I had in my mind at that time the realization that this, what I considered to be a legitimate undertaking, could be terribly misconstrued if someone were to

impute the efforts of the President's lawyer to this defense fund for Watergate burglars. I mean there is room for misunderstanding, I think you have stated the misunderstanding very eloquently in your opening question.

Q. So that was the reason that you made arrangements by which a gentleman who resided in California would deliver the money in cash and sometimes in laundry bags to an ex-policeman in New York, and allow the ex-policeman to come down and deliver the money under orders that he wasn't going

to permit the people he delivered it to see him.

A. Well, Mr. Chairman, as you know, I had nothing to do with those details at all. As a matter of fact, I was quite surprised to learn in the testimony here that there was what amounted to a laundering process where committee money or money held by people in the committee, was passed through several hands and around to Mr. Kalmbach for eventual delivery, and this, of course, all pre-dated any conversation that Mr. Kalmbach and I had.

Q. Well, I have always thought that if a political institution or committee enacted the role of an eleemosynary institution it would, like the Pharisee, brag about it on all opportunities, and so you agreed with me that a Doubting Thomas might think that this money was routed in this clandestine way not only to keep it secret but also to keep these people that were receiving the money. A. No, I don't agree with that because I

don't know that.

Q. Didn't you have a phone conversation with Mr. Kalmbach just before he came to Washington to testify before the grand jury about this matter?

#### Recorded, Not Bugged

A. I believe he was in Washington with his attorneys at the time.

Q. Yes. And didn't you bug his telephone conversation with you? A. No, sir.

Q. Didn't you record it then? A. Yes, sir. I think the result is about the same as having your secretary listen in on the other line and take it down in shorthand.

Q. Yes, but you didn't tell Mr. Kalmbach that you were recording his conversation did you? A. Sir. No more did

he tell me that he had two lawyers in the room with him.

Well, you see no difference between a man who is going before a grand jury having two lawyers and a man having a recording or bugging instrument annexed to his telephone. Now on this recording Mr. Kalmbach said, "You know, when you and I talked and it was after John had given me the word and I came to ask you, 'John, is this an assignment I have to take on?'"

"You said, 'Yes, it is, period, and move forward. Then that was all that I needed to be assured that I wasn't putting my family in jeopardy.'"

Now didn't Kalmbach make that statement to you in the telephone conversation the day before that he came to testify before the grand jury and was recorded on this view annexed to your telephone? And your answer is, "Sure."

A. Well, I have to disagree with you, Mr. Chairman. I suppose what we have to do is take the whole context of what Mr. Kalmbach said in order to understand its meaning.

Q. Yes. Now, you denied a while ago that you gave Kalmbach any such assurance, did you not?

A. No, sir, what I denied was this very vivid and dramatic moment when we looked deep into each other's eyes and I said with solemn assurance that this was both legal and proper. And I made no such solemn assurance and, as a matter of fact, in what you read here the word "period" stands out graphically because "period" means that was the end of the conversation and you will notice that there is nothing in there about my assuring Mr. Kalmbach that this was either proper or legal.



# United States District Court

For the District of Columbia

THE UNITED STATES

vs.

JOHN DOE

REPORT TO UNITED STATES DISTRICT COURT HOUSE  
Between 3d Street and John Marshall Place and on Constitution Avenue NW.  
~~ROOM 3~~ Grand Jury Room 3  
Washington, D.C.

To: Richard M. Nixon, The White House, Washington, D.C., or any subordinate officer, official, or employee with custody or control of the documents or objects hereinafter described on the attached schedule.

You are hereby commanded to attend before the Grand Jury of said Court on Thursday

the 26th day of July, 1973, at 10 o'clock A.M., to testify on behalf of the United States and not depart the Court without leave of the Court or District Attorney and to bring with you the documents or objects listed on the attached sched- WITNESS: The Honorable John J. Sirica Chief Judge of said Court, this

23rd day of July, 1973  
*Archibald Cox*  
ARCHIBALD COX  
Attorney for the United States

JAMES F. DAVEY, Clerk.  
*Robert L. Lane*  
By Deputy Clerk.

The subpoena issued Monday by Archibald Cox, special Watergate prosecutor, for Presidential materials

Q. But you told him that this was an assignment he had to take on. A. Well, obviously, Mr. Chairman, he is not my emplyee, he is not my vassal. I hold no sway over him. It was very much a situation where Mr. Kalmbach undertook this, and you will recall he undertook it some six weks before we had this conversation.

Q. Well, let us go on to something else. You said something about the burglarizing of the office of the psychiatrist of Ellsberg was justified power under the Constitution, did you not? A. Yes.

Reference to Statute

Q. And you referred to a certain statute. A. I referred to a statute in which the Congress in 1968 made a recognition of that inherent power.

Q. Is that 18 U.S. Code 2511? A. Yes.

Q. This statute has nothing to do with burglary. A. It has to do with the United States Constitution, Mr. Chairman.

Q. No, sir, That is not the purpose of the statute. The Constitution takes care of itself even there. This has to do with the interception or disclosure of wire or oral communications prohibited.

A. No, sir, it also has to do with the Congress's recognition of what the Constitution provides with relation to he powers of he Presiden.

Q. Is there a single thing in there that says that the President can authorize burglaries? A. Well, let us read it, Mr. Chairman.

Q. I can ask about it without reading. It says here that this statute, which makes it unlawful to intercept and disclose wire or other communications, says that this shall not interfere with the constitutional power of the President to—A. To do anything