

Ellsberg Trio Contend They Acted as 'Police'

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LOS ANGELES, Jan. 14—The defendants in the Ellsberg burglary case are contending that they acted in effect as federal police agents and, as such, should be as protected from criminal prosecution as policemen who conduct an illegal search and seizure.

In motions on file in Los Angeles County Superior Court, attorneys for former White House aides John Ehrlichman, G. Gordon Liddy and David R. Young, contend that "there seems no reasonable basis for filing burglary and conspiracy charges against a federal agent who has allegedly engaged in an unreasonable search, when no prosecutions are brought against local police officers who have consistently and systematically engaged in similar unreasonable searches which are known to the District Attorney's office."

Ehrlichman, Liddy and Young are charged with conspiracy to commit burglary in the September, 1971 break-in at the Beverly Hills office of Dr. Lewis Fielding, a psychiatrist. Fielding had been treating Daniel Ellsberg, central figure in the Pentagon Papers case.

The burglars allegedly were seeking information about Ellsberg to use in a campaign to discredit him. The Ellsberg case was thrown out of court when the existence of the burglary became known two years later.

Deputy District Attorney Stephen Trott, arguing in an opposition brief to the defence motion, said, "If the defendants were quasi-federal officers, their methods and admitted objectives were unlikely those of any other known police agency. We know of no police agency claiming the right to enter a totally innocent third party's premises, to keep that entry secret from the victim and from all known police agencies and to use the fruits of the entry for purposes unrelated to a criminal prosecution."

The motion will be argued Feb. 25, at which time Liddy's attorney, Charles A. Gessler, indicated he might call Egil (Bud) Krogh to testify.

Krogh, a member of the White House "plumbers" team and previously a defendant in the burglary case, pleaded guilty to a federal charge in Washington a few weeks ago.