

Ellsberg Break-in Case Status Unclear

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The status of the Ellsberg break-in case, including the number of defendants who will be tried and the date of the trial, remained uncertain yesterday after a closed meeting between U.S. District Judge Gerhard A. Gesell and lawyers in the case.

Four persons, including former top Nixon adviser John D. Ehrlichman, had been scheduled to begin trial next Monday on the break-in charges. However, in the past week Ehrlichman's possible participation in the trial became unclear during a clash between

Gesell and the White House over production of documents for the former White House aide's defense.

After yesterday's meeting, Ehrlichman went to the White House to begin examining subpoenaed materials that the White House had refused to provide for his defense. The White House has provided a number of other documents, and said the ones that remained were not relevant to the trial.

Ehrlichman's attorneys have claimed that there are remaining documents in the White House that are relevant, and the search is presumably being made in an attempt to support those claims.

If there are additional documents located, Gesell would again be in a position to try to force the White House to turn over all of the subpoenaed materials to Ehrlichman.

Earlier this week, before the White House made a detailed search of the files and waived executive privilege on the ma-

terial it had already turned over to the judge, Gesell had been prepared to issue an order enforcing the total subpoena. However, he did not issue the order after the new White House moves.

Before those moves, Gesell had ordered that Ehrlichman be given a separate trial because of the White House failure to produce the documents. However, after the White House moves, he said he might reinstate Ehrlichman to the trial if there were no further snags in production of relevant documents.

Persons familiar with all aspects of the case said that at this point Ehrlichman's attorneys are not sure whether their client will definitely be tried with the other three defendants. "They're as unsure as everyone else," one source said. "They're having to play it by ear."

Judge Gesell has scheduled another closed meeting with lawyers in the case today, apparently to see how the new

White House arrangement is working out. He is expected to rule later today on the trial date and whether all the defendants will stand trial at the same time.

Meanwhile yesterday, a list was provided of the subpoenaed portions of Ehrlichman's notes of conversations with the President and other White House officials that the White House has already turned over for use by the defense.

They included notes on 50 conversations from June 15, 1971, to May 2, 1973, concerning the Pentagon Papers case, Daniel Ellsberg, and the break in at the office of Dr. Lewis Fielding, who was Ellsberg's psychiatrist.

The President was a participant in 44 of the conversations. The list—which does not include any reference to the substance of the notes themselves — also shows that several pages of even those notes were deleted by White House officials as being irrelevant to the Ellsberg case.



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John D. Ehrlichman (left) leaves District Court building with Spence Boyer, one of his attorneys. In fore-

ground at left is Jean Staudt, a lawyer for the White House. Status of Ehrlichman trial is presently uncertain.