

# Ehrlichman: Nixon Ordered Bomb Bypass

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President Nixon bypassed "normal lines of command" in the Defense Department "because of certain Cabinet-level difficulties" to pass orders directly to the Joint Chiefs of Staff for bombing strikes during the 1971 secret Vietnam peace negotiations, attorneys for former White House aide John D. Ehrlichman declared in court papers filed yesterday.

Through this arrangement, the American negotiators, led by Henry Kissinger, "could call for a bombing strike to emphasize their discussions," Ehrlichman's attorneys said in motions with U.S. District Judge Gerhard A. Gesell.

The motions are in support of a new subpoena for Ehrlichman's handwritten notes of 10 specific conversations with President Nixon. The notes are in the possession of the President.

Ehrlichman's attorneys argue that the notes are essential to Ehrlichman's defense in the Ellsberg burglary case because they show how the special bomb strike arrangement eventually led to "legitimate national security" concealment of the activities of the White House plumbers unit, which committed the Ellsberg burglary.

During the special bomb strike arrangement, Adm. Thomas H. Moorer, then chairman of the Joint Chiefs of Staff, "was in charge of (the) liaison" between President Nixon and the joint chiefs, Ehrlichman's lawyers stated.

At about this same time, the White House plumbers unit found that two White House military liaison officers, Rear Adm. Robert O. Welander and Yeoman 1C Charles E. Radford, were passing secret documents belonging to Kissinger, then the President's foreign policy aide, to the Pentagon. Adm. Moorer, it turned out, was a recipient of the leaked documents.

"When the President

learned of the Moorer-Welander-Radford leak, public disclosure would have seriously impaired the direct chain of command to the Joint Chiefs of Staff and would have in turn impaired negotiations with the North Vietnamese government," Ehrlichman's attorneys declared in the court papers.

"When the President learned of this leak through the Room 16 (plumbers) unit, he imposed a security restriction on all the activities of that unit, lest the disclosure of any of their activities lead to disclosure of the Moorer-Welander-Radford leak," Ehrlichman's attorneys added.

The lawyers argued that any concealment of the activities of the plumbers unit by Ehrlichman, therefore, "was in fact an effort to protect a legitimate national security concern." Ehrlichman is charged with lying on four occasions to federal investigators probing the Ellsberg burglary and the plumbers' activities.

See EHRlichman, A9, Col. 1

EHRlichman, From A1

The outline by Ehrlichman's attorneys of the atmosphere of the White House at the time of Kissinger's secret negotiations with the government of North Vietnam marks the first time that persons with access to White House documents pertaining to that situation have made such public disclosure.

There is no sworn affidavit by Ehrlichman himself in support of the motion. However, persons familiar with Ehrlichman's perusal of his notes in the White House in preparation for his defense indicated the motion was based upon those documents.

According to Ehrlichman's attorneys, at the time of Kissinger's secret negotiations, "It was indispensable to the negotiating strategy that the activities of the military in Vietnam be closely coordinated with the negotiations to ensure maximum effect. Thus, the negotiators could call for a bombing strike to emphasize their discussions."

The lawyers stated that the "normal lines of command" in the Defense Department were ineffective because of certain Cabinet level personal difficulties and as a result a practical bypass from the Department of Defense was required."

It was unclear, and Ehrlichman's attorneys would not comment further, with whom the President had those "personal difficulties." Melvin Laird was then Secretary of Defense.

In reference to the Moorer-Welander-Radford leak problem, Ehrlichman wants access to notes of a Dec. 24, 1971, meeting "at which Mr. Ehrlichman advised the President that Admiral Welander had confessed to the obtaining of this (Kissinger's) information."

This version conflicts with statements made by Welander before the Senate Armed Services Committee in February. He told that Committee that Ehrlichman prepared a confession of "the wildest possible, totally false charges" for him to sign, but that he refused.

In addition, Ehrlichman wants notes "of an instruction that Mr. Ehrlichman was to transmit to (former White House aide Charles W.) Colson on April 16, 1973, whereby Mr.

Ehrlichman was to advise Mr. Colson that any testimony on the Room 16 operation is affected by the national security and their activities were not to be disclosed."

Notes from those two dates could explain Ehrlichman's need to talk to co-conspirators Egil (Bud) Krogh and David R. Young concerning their grand jury testimony about the Ellsberg break-in in April, 1973, Ehrlichman's attorneys argued.

Judge Gesell has ruled that national security matters can be introduced into the trial only to try to prove that Ehrlichman had legitimate reasons for meeting with alleged co-conspirators, and not in connection with the Ellsberg break-in as charged.

Throughout yesterday's motion, Ehrlichman asks for access to notes to prove that he thought at the time that the plumbers unit was a legal investigating tool "and that he never contemplated their use in unlawful matters."

Several of the conversations allegedly concern the unhappiness of the White House with what it has called the ineffectiveness of the FBI during the investigation of the leak of the Pentagon Papers to the press.

The new subpoena for specific notes again raises the possibility of a clash between the White House and Judge Gesell over the production of White House-held documents. A confrontation was avoided about a week ago when Judge Gesell accepted a representation from White House counsel J. Fred Buzhardt that nothing more in Ehrlichman's personal files of handwritten notes kept by the White House were relevant to his defense in the Ellsberg case.

However, Judge Gesell at the time told Ehrlichman's attorneys that they could come back at any time with a specific listing of subpoenas if Ehrlichman found notes he thought were relevant to his defense.

In coming back to Judge Gesell yesterday, the attorneys also again raised their request that they, as well as Ehrlichman, be given access to the documents. The lawyers have had to occupy an adjoining room in the White House while Ehrlichman studies his notes.

There was no indication if or when Gesell would hold a

hearing on the new motion.  
The trial of Ehrlichman, former White House aide G. Gordon Liddy and Miamians Eugenio Martinez and Bernard L. Barker is scheduled for next Wednesday.

All four are charged with conspiracy to violate the civil rights of Dr. Lewis Fielding, Pentagon Papers codefendant Daniel Ellsberg's psychiatrist, by breaking into his Los Angeles office.