

Ellsberg May Call Liddy, Hunt

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LOS ANGELES, April 28 —Defense attorneys in the Pentagon Papers case are considering asking that convicted Watergate conspirators G. Gordon Liddy and E. Howard Hunt Jr. be brought here for a special court hearing on whether they broke into Daniel Ellsberg's psychoanalyst's office to see Ellsberg's medical records.

They want to know whether Liddy and Hunt could have contributed information that led to the prosecution of Ellsberg and Anthony J. Russo Jr. in connection with disclosure of the Pentagon Papers.

The move to subpoena the two men is being pressed by those within the defense who feel that on the basis of prior Watergate disclosures, there is no reason for confidence that the Justice Department will provide full details on the incident to the court.

Those details may be es-

sential, they argue, before the Ellsberg-Russo case goes to the jury, which could happen in about 10 days.

A psychoanalyst who treated Ellsberg here in the late 1960s has confirmed to the defense attorneys that his office was burglarized in 1971 and his files on Ellsberg tampered with.

According to information submitted to Justice Department investigators and revealed during the Pentagon Papers trial in U.S. District Court here Friday, that burglary was allegedly committed by Hunt and Liddy.

Defense attorneys have learned from the still-identified psychoanalyst, that nothing was removed from his office during the burglary, but that there may be evidence that medical records were copied.

The break-in reportedly occurred in late June or early July, 1971, when newspapers were fighting in the courts for their right to publish the Pentagon Papers and Ellsberg was under investigation for photocopying and leaking them.

Some time before the burglary, Ellsberg's psychoanalyst was visited by the FBI, defense sources said, and there is concern that information from the FBI files or a request for other information may have been passed along to Hunt and Liddy for the purposes of such a break-in.

The attorneys said they will submit the details they have obtained to U.S. District Court Judge W. Matt Byrne Jr. Monday morning and ask that he conduct his own investigation beyond the one that he has ordered to be launched by the Justice Department.

The move to subpoena

Hunt and Liddy here could pose a complicated legal dilemma, in which the constitutional rights of Ellsberg and Russo would have to be weighed at the same time as those of the two Watergate conspirators, who, while convicted of other crimes, have not been formally charged with burglarizing the psychoanalyst's office.

Defense attorneys also said they want to know whether information on Ellsberg from his psychoanalyst's files could have been included among the material from Hunt's White House office which was destroyed by former acting FBI Director L. Patrick Gray III.

Ellsberg said today that he is now confident there was nothing in the psychoanalyst's files that could have directly contributed to the prosecution evidence against him in court here.

But the timing of the burglary could be significant in terms of the government's decision to bring the charges in the first place.

Ellsberg was first indicted on charges of espionage and theft of government property on June 28, 1971. On Dec. 29 of the same year, the indictment was expanded to include conspiracy charges and to add the name of Russo, an Ellsberg friend who had helped photocopy the Pentagon Papers and refused to testify before a federal grand jury here.

If the burglary can be linked in any way to persons then in the Justice Department with authority over the case, defense attorneys could contend, under the "dirty hands" doctrine, that the entire prosecution was tainted by illegal methods of inquiry. Should the judge agree, he could declare a

mistrial or dismiss the charges completely.

Defense attorneys indicated today that it is not their intention at this time to ask that Byrne declare a mistrial, but rather to await the judge's further actions and the results of the Justice Department investigation he ordered.

If a mistrial were granted on the motion of the defense—as it was once before last December—the way could be cleared for the case to be tried again.

Both Ellsberg and Russo have been tied up in litigation concerning the Pentagon Papers for two years now. Their defense has cost an estimated \$800,000 to date, and their defense fund is currently running about \$70,000 in the red.

Ellsberg continued to decline today to make public the name of the psychoanalyst he consulted here while working as a researcher at the Rand Corp., a defense-oriented "think-tank" in Santa Monica.

He said he was concerned with the confidentiality of the doctor-patient relationship and with the effect it might have on the analyst's practice if his other patients were to learn that his office was burglarized and his records seen by the Watergate conspirators.

Ellsberg said that his psychoanalysis stretched over an 18-month period and was discontinued only because he was leaving the Los Angeles area. He added that he hopes to resume it in the future.

The analysis dealt with "long-term dissatisfactions . . . work problems" and not with any particular acute psychological crisis, he stressed.