

An Ehrlichman Setback Reported

Los Angeles

Former presidential adviser John D. Ehrlichman has failed in an attempt to have President Nixon make a voluntary appearance to help him out at an important court hearing scheduled here February 25, the Los Angeles Times learned yesterday.

Having been turned down, Ehrlichman now will send his attorneys before Los Angeles county Superior Court Judge Gordon Ringer today to ask that a subpoena be issued for the President.

Douglas Dalton, one of Ehrlichman's lawyers, confirmed that he made the re-

quest for Mr. Nixon's appearance to James St. Clair, who recently took over as head of the legal team advising the President on Watergate-related matters.

Ehrlichman and co-defendants David Young and G. Gordon Liddy are seeking Mr. Nixon's testimony to support their assertion they were acting as federal law enforcement officers in whatever role they played in the break-in at the office of Daniel Ellsberg's psychiatrist.

This assertion is crucial to their claim that they were victims of "discriminatory prosecution" when the Los Angeles county grand jury

indicted them last September 4 for conspiracy and burglary.

Ehrlichman also is charged with perjury.

In essence, they maintain the charges should be dismissed because they were acting as law enforcement officers and it is not the normal policy of the Los Angeles county district attorney's office to prosecute policemen who illegally obtain evidence.

Joseph Ball, another of Ehrlichman's attorneys, put it very directly at an earlier hearing when he said, "We should find out if a policeman has ever been put on trial here for kicking down

somebody's door."

It is the defense's contention that the 1971 Labor Day weekend break-in was planned by the White House "plumbers unit" as part of a national security investigation launched shortly after the Pentagon papers were published in the New York Times.

Judge Ringer will hear arguments on the discriminatory prosecution question at the February 25 hearing.

If they fail today in their effort to obtain a subpoena for Mr. Nixon, the defense attorneys then will seek an order from Judge Ringer directing the President to an-

swer interrogatories.

This procedure would call for submitting written questions to Mr. Nixon, who would be expected to file written replies.

Dalton said that St. Clair "was more encouraging" about obtaining the President's cooperation on interrogatories.

Los Angeles Times