

# EHRLICHMAN MOVE CALLED LEGAL ACT

## Subpoena Is Termed a Ploy to Win Freedom and Not Break With President

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WASHINGTON, Jan. 29 —

Sources close to John D. Ehrlichman said today that the surprise move to subpoena President Nixon in Los Angeles in no way indicated a personal break between Mr. Nixon and his former White House domestic adviser.

These sources also said that Mr. Ehrlichman had no evidence linking the President with advance knowledge of the burglary of Dr. Daniel Ellsberg's former psychiatrist.

The sources asserted that the subpoena was part of a legal ploy that could help win Mr. Ehrlichman's freedom as well as pose a political problem for the President, since it raises anew the question of his cooperation with the courts.

Throughout Mr. Ehrlichman's dealings with the state and Federal authorities, the sources said, he has never indicated that President Nixon knew in advance of the break-in. In emphasizing that today's action to subpoena the President did not alter that fact, John J. Wilson, Mr. Ehrlichman's Washington attorney, declared in a telephone interview that "he's certainly not breaking with the President—no question about it."

Lawyers familiar with the Watergate investigation here agreed that Mr. Ehrlichman's California attorneys did not expect Mr. Nixon to honor the subpoena.

"They know he [the President] can't come," one senior lawyer said.

However, it was noted here that Mr. Nixon's refusal might be construed by his critics as another facet of what many Americans, according to public opinion polls, believe is a continued Presidential cover-up of the Watergate scandals.

### If He Appears

If Mr. Nixon surprises the experts and chooses to appear, he might be forced to explain how he provided the four-man "plumbers" team—the group under Mr. Ehrlichman's over-all supervision that eventually committed the Ellsberg burglary—with an unprecedented mandate to prevent any leaks of Government information. Such evidence would probably help Mr. Ehrlichman in his defense.

If Mr. Nixon refuses, as ex-

pected, to honor that subpoena, Mr. Ehrlichman could seek acquittal on the basis that evidence was withheld.

Last week Egil Krogh Jr., one of the plumbers, told a Federal court after receiving a six-month jail sentence for his role in the Ellsberg burglary that Mr. Nixon had instructed him that "further leaks would not be allowed."

Mr. Nixon has maintained that he did not learn of the burglary until March, 1973. However, he took full responsibility for the incident in his first public discussion of it May 22, 1973.

At that time, the President, while saying he did not "authorize and had no knowledge of any illegal means to be used" in the Ellsberg investigation, said he could "understand how highly motivated individuals could have felt justified in engaging in specific activities that I would have disapproved had they been brought to my attention."

### Assumed Responsibility

"Consequently, as President," Mr. Nixon said in the televised address, "I must and do assume responsibility for such actions despite the fact that I at no time approved or had knowledge of them."

In a statement issued last Aug. 15, Mr. Nixon simply noted: "I at no time authorized the use of illegal means by the special investigations unit [the plumbers]." In a news conference Nov. 17, he declared that "with regard to such activities (the Ellsberg break-), I personally thought it was a stupid thing to do, apart from being an illegal thing to do." He went on to state once again the Administration's concern over leaks at that time, but pointedly did not assume any responsibility for the burglary.

Sources close to the Watergate inquiry acknowledge that it is that issue — of Presidential responsibility — that Mr. Ehrlichman and his attorneys are seeking to revive by filing their subpoena.

"Don't you see," one Ehrlichman confidant said today, "if you seek to get the President and they don't succeed, this makes John shy of all the evidence available to him and then he can holler like hell that he's not getting a fair trial?"

### Security Angles

Another important facet of that policy, sources said, will be an attempt by Mr. Ehrlichman's attorneys to subpoena a broad array of "National Security" documents in an attempt to recreate the concerns confronting the plumbers in July, 1971, when the unit was first authorized by Mr. Nixon.

Last fall it was known that J. Fred Buzhardt, then Mr. Nixon's Watergate counsel, was trying to discourage the indictment of Mr. Ehrlichman, as well as Charles W. Colson, another former White

House counsel, and Mr. Krogh on the ground that the men could imperil national security by forcing the Government to disclose secrets as part of their defense.

As argued by Mr. Buzhardt, the Government theoretically would be faced with a choice of either producing the evidence or dropping the charges against the men. Earlier this month it was reported that a memorandum making the same argument had been sent to Leon Jaworski, the special Wa-

tergate prosecutor, by David I. Shapiro, Mr. Colson's attorney.

Complicating Mr. Ehrlichman's situation is the fact that the authorities here and in California are believed to have a strong case against him. Most of the evidence against him is reliably reported to have been provided by David R. Young Jr., another member of the plumbers team, who has received partial immunity from the Watergate prosecution office.