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PENTAGON'S STAND ON ELLSBERG TOLD

Nixon Reportedly Overruled Military's Objections to Prosecution of Doctor

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WASHINGTON, March 6—President Nixon authorized the prosecution of Daniel Ellsberg after publication of the Pentagon papers in June, 1971, even though the Defense Department objected to the court case on national security grounds, well-placed sources said today.

The sources, publicly disclosing for the first time the Pentagon's objections to the Ellsberg trial, noted that the military, for similar national security reasons, officially objected to the pending prosecution six months later of two Navy men accused of funneling unauthorized documents from the White House to the Pentagon. In that case, however, Mr. Nixon barred the prosecutions for what were called "national security" reasons.

Mr. Nixon's differing approaches to the two cases is known to have raised—at least in the minds of officials in the special Watergate prosecutors office—the question of whether he was acting both times in a fair and impartial manner or whether he was invoking the national security argument for political purposes.

The New York Times reported last month that the Watergate prosecutors had been investigating Mr. Nixon's handling of the military snooping issue.

The President is known to have ordered John D. Ehrlichman, then head of the White House "plumbers" unit, not to seek prosecution in December, 1971, of a Navy yeoman and an admiral suspected of involvement in the pilfering of "eyes only" documents from the National Security Council, headed by Henry A. Kissinger, who is now Secretary of State.

Target of Senators

The military snooping is also being investigated by the Senate Armed Services Committee. The committee will meet again tomorrow and some Senators said today they expected to broaden the scope of the inquiry then to include the specific role of the President.

Tomorrow's witness will be J. Fred Buzhardt, a White House aide who was serving as general counsel of the Defense Department in 1971 and who, sources said, made the recommendations against going to trial in both the Ellsberg and military spying cases.

In previous testimony before the committee, Yeoman 1st Cl. Charles E. Radford and Rear Adm. Robert O. Welander, who worked together in the military liaison unit attached to the National Security Council, acknowledged the transmittal of unauthorized documents in 1971 to Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

President Nixon and Mr. Kissinger were furious upon learning of the military snooping, reliable sources said, but they agreed nonetheless to the quiet transfer of the two men and the overnight abolition of their liaison office.

No charges were filed, although Admiral Moorer, who has also conceded that he received two batches of documents from Yeoman Radford, has contended that he twice sought in December, 1971, to begin military judicial proceedings against the yeoman.

White House officials have deemphasized the significance of the military snooping since the first newspaper accounts of it were published in mid-January. However, these officials have also acknowledged that the case was one of the "national security" concerns cited by Mr. Nixon last spring when he sought to limit the Justice Department's inquiry into the "plumbers."

Motive for Covering

With last week's Watergate indictments, the Federal prosecutors were known to have concluded that the Watergate cover-up in the White House had been motivated to a large degree by the desire of high-level officials to shield the burglary of Dr. Ellsberg's former psychiatrist in September, 1971, a burglary that was perpetrated by the "plumbers."

That theory, sources noted, amounted to a direct challenge to Mr. Nixon's contention that "national security" considerations lay behind his efforts to shield the "plumbers" activities. Instead, the prosecutors are known to believe, the President was attempting to shield the illegal activities against Dr. Ellsberg.

Federal sources noted that Mr. Nixon's decision to override the Pentagon's recommendation regarding the prosecution of Dr. Ellsberg provided, if publicly revealed, another potential embarrassment to the President—and another reason for him to suppress any information about the "plumbers."

One former high-level Pentagon official said in a telephone interview that the National Security Agency, the supersecret electronic eavesdropping unit controlled by the Defense Department, was particularly alarmed at the prosepects of national security revelations stemming from a trial of Dr. Ellsberg.

In addition, the former official said in explaining the Pentagon's objections, there was a question about the Government's ability to win the case. Dr. Ellsberg was accused of illegal possession of the Pentagon papers and the unauthorized conversion of them to his own use.

"There was no great joy in going out and trying one of these cases," the official added. "We had evidence we couldn't use; we had wiretaps we couldn't use, and the N.S.A. and C.I.A. [Central Intelligence Agency] said there were certain parts of the [Pentagon] The wiretaps alluded to by the officials were the so-called "national security" wiretaps on former National government officials that were authorized beginning in 1969 by Mr. Kissinger, allegedly in an attempt to stem newspaper leaks. The Government eventually admitted — after newspaper accounts of the wiretaps — that Dr. Ellsberg had been overheard on some of those.

In the Pentagon spying case, the sources said, the Pentagon similarly objected to the prosecutions on grounds that it was not possible to win the courts-martial and that the cases would compromise national security information.

Dr. Ellsberg's case was dismissed in Los Angeles in May, 1973, after revelation of the "plumbers'" activities against him.