

Indictments

Pose New

Intricacy

By Leroy F. Aarons

Washington Post Staff Writer

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—The federal indictments in the Ellsberg burglary case posed a direct conflict with the Los Angeles County prosecution of John D. Ehrlichman, G. Gordon Liddy and David Young, officials acknowledged here today.

Stephen Trott, a deputy Los Angeles County district attorney, said he and District Attorney Joseph Busch would meet in Washington Monday with Watergate Special Prosecutor Leon Jaworski "to discuss the problems of two prosecutions arising out of one actual situation and make decisions affecting the future course of both prosecutions."

Neither Trott nor Busch would elaborate, but it seemed apparent that something has to give in the case, and it could be all or part of the Los Angeles case.

Ehrlichman is charged here with burglary, conspiracy and perjury in connection with the Sept., 1971, break-in at the Beverly Hills office of Dr. Lewis Fielding as part of a search for information about Pentagon papers figure Daniel Ellsberg, a Fielding client. Liddy and Young, members of the White House "plumbers," are charged with a count each of burglary and conspiracy. They are scheduled to go on trial April 15.

The federal indictments of conspiracy and perjury against Ehrlichman and of conspiracy against Liddy are based on federal statutes but cover the identical factual situation.

There is no legal bar to bringing both cases to trial. California has a statute barring prosecution once an individual has been convicted or acquitted elsewhere based "on the act or omission in respect to which he is on trial." But this is not yet the case, since Ehrlichman and Liddy have only been indicted in Washington.

However, sources here indicated that a double prosecution would present enormous strategic and logistics problems and could provide grounds for reversal on appeal.

"It's not just a formality," one source said in describing Monday's meeting.

"Each side intends to make 100 per cent sure neither end fouls up the soup for the other guy. You sit down, you work out the possibilities, the combinations, you research the long-range legal ramifications and then you make your decision," the source said.

The situation is complicated by a legal tangle involving David Young, who was named as an unindicted co-conspirator in the federal case. Young was granted immunity by the Watergate grand jury in Washington on May 16, 1973, after which he testified and made available key memos that figured in today's indictments.

Then, on July 19, Young was secretly indicted as a co-conspirator in the Los Angeles prosecution. Young's attorneys are contending here that the indictment violated the Washington immunity.

The prosecution says Young was indicted on independent information not involving anything said to the grand jury in Washington, although the memos he provided were used later to indict Ehrlichman for perjury in the Los Angeles case. All the indictments were announced in early September.

A similar problem may have been created by today's federal indictments on the three Cubans, Bernard Barker, Egenio Martinez and Felipe De Diego. All three were granted immunity in the Los Angeles case and testified freely last summer about their involvement in the Fielding burglary.

One observer familiar with the defense position in the Los Angeles case describes the immunity-indictment crossovers as "game-playing" by prosecutors here and in Washington.

"It stinks when the local prosecutors give the three Cubans immunity, have them testify to certain acts and then Jaworski turns around and indicts them for the same thing," he said.

The Los Angeles case has also evoked special interest because President Nixon has been summoned to appear as a material witness to support the defense claim that the accused individuals were acting as official federal agents in the Fielding case. The White House has rejected the summons, and a hearing on the matter has been scheduled for March 15 in Washington.