

# Committee Staff Rejects Nixon Aides

By Lawrence Meyer  
Washington Post Staff Writer

A draft report prepared by the staff of the Senate select Watergate committee rejects key elements in the sworn testimony of former top White House aides H. R. (Bob) Haldeman and John D. Ehrlichman before the committee last summer.

The staff report, described in a cover letter that went to the seven committee members as a "rough draft," asserts that the only tenable interpretation of the clandestine payments made to the original seven Watergate conspirators is that they were intended to buy their silence rather than simply being for a defense fund as former White House chief of staff Haldeman testified he believed.

The report also states that because of documentary evidence to the contrary, it is difficult to accept former top presidential domestic adviser Ehrlichman's testimony that the September, 1971, break-in at the offices of Daniel Ellsberg's psychiatrist was not carried out "with his express knowledge and authorization."

The draft report, which is still subject to acceptance, change or rejection by committee members, also asserts that testimony before the Senate committee shows that former Attorney General John N. Mitchell, despite his denials under oath, did approve an intelligence-gathering plan that included the Watergate break-in.

Although a chapter on presidential involvement in the Watergate affair still has not been circulated by the staff, the draft report states that critical portions of testimony before the committee by former White House counsel John W. Dean III, concerning President Nixon's alleged role in the Watergate cover-up, are substantially corroborated by the edited White House transcripts released last week.

The draft report stops short, however, of making formal accusations that any witness lied in testimony before the committee. The decision to prosecute any witness for perjury is customarily made by the Justice Department or by the special Watergate prosecutor in matters relating to the Watergate affair.

Haldeman, Ehrlichman and Mitchell were among seven men indicted by a federal grand jury March 1 on charges of conspiracy in connection with the Watergate cover-up. Mitchell and Haldeman also were indicted for perjury stemming from their testimony before the Senate committee last summer.

Ehrlichman was among six men indicted by a federal grand jury on March 7 for conspiracy in connection with the Ellsberg break-in.

Among the recommendations made by the staff to the committee members for submission to Congress is a proposal to establish a permanent office of "public attorney" to prosecute cases "in which there is a real or apparent conflict of interest within the executive branch."

The draft report is likely to cause considerable controversy among committee members who may find it difficult to accept the rejection of testimony by Haldeman, Ehrlichman and Mitchell at the same time that Dean's testimony is substantially accepted.

A memo from chief committee counsel Samuel Dash to the committee members emphasizes that "this rough draft is part of the final report and is a staff draft—not the committee report until the committee approves it."

Dash also emphasized in his memo the need for "very careful security of the draft submitted to you" because of the embarrassment to the committee if the draft report leaked.

The bulk of the report, which still awaits chapters on investigations that have not been completed, is concerned with the Watergate break-in and the subsequent cover-up.

Mitchell, who served briefly as President Nixon's 1972 campaign manager, denied under oath that he had approved an intelligence-gathering plan with a budget of \$250,000 during a March 30, 1972, meeting in Key Biscayne, Fla., with former deputy Nixon campaign manager Jeb Stuart Magruder. The staff cited testimony by other witnesses that subsequent to that meeting Mitchell approved a request for \$83,000 in campaign funds by G. Gordon Liddy, whose intelligence plan Mitchell said he had rejected.

"Mitchell's action in approving the payment of the funds to Liddy during the last few days of April is consistent only with his approval of the Liddy plan when it was presented to him by Magruder in Key Biscayne," the draft report states. "The committee thus finds that the weight of

the evidence tends to establish that Mitchell did approve the Liddy intelligence plan with a quarter-million dollar budget in Key Biscayne on March 30, 1972."

Focusing on the more than \$400,000 in Nixon re-election committee funds that were paid to the seven original Watergate defendants, the draft report states that "the weight of the evidence can only support the conclusion that these payments were made for the purpose of keeping the Watergate defendants silent as to the involvement of other persons in the Watergate break-in or other activities embarrassing to the White House."

"The clandestine nature of the payoffs with \$100 bills placed in drops by an intermediary using a code name and keeping himself from being seen," the draft report states, "is consistent only with criminal behavior of cover-up and obstruction of justice, similar to organized crime activity, rather than the raising and disbursing of a legitimate defense fund which is essentially an open activity in the light of day accompanied by the kind of visible situation by people who act like they believe in a cause and are not ashamed or fearful about what they are doing."

The draft report specifically rejects Haldeman's explanation that the payments to the defendants were merely a defense fund, asserting that it is "beyond the limits of belief that anyone involved in these payments could have believed that it was legal or proper to spend hundreds of thousands of dollars of political campaign funds to pay for bail, legal defense and support of families of persons charged with the Watergate crimes."

In examining Dean's testimony against the edited White House transcripts, the draft report concludes that the edited White House transcript of a Sept. 15, 1972, meeting between Dean Haldeman and President Nixon "generally supports Dean's interpretation of this meeting in his testimony before the committee."

Dean testified before the committee last summer that he came away from this meeting with the "impression" that President Nixon knew about the Watergate cover-up.

Citing several exchanges in the meeting, the report states, "There may be more than one interpretation to these remarks by Dean, Haldeman and the President, but none of them is that of a President anxious to find out the truth, unafraid of the consequences, ready to lower the boom on subordinates who are less



than completely cooperative with the FBI, the Department of Justice and congressional investigators."

Examining the March 21, 1973, meeting where Dean outlined the cover-up for President Nixon, the report states that Dean's testimony about the meeting was "conservative."

"The President's response on March 21, 1973 to Dean's report of demands for hush money, especially from (Watergate conspirator E. Howard) Hunt for \$120,000 is unambiguous," the report asserts, citing several instances where President Nixon told Dean that the money should be paid to Hunt.

The staff report also rejects Ehrlichman's denial that he did not approve the Ellsberg break-in. The report cites a memo to him from White House aides Egil (Bud) Krogh and David Young recommending "that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst." The memo contains Ehrlichman's initialed approval with his written notation, "if done under your assurance that it is not traceable."

Along with other documents received by the committee, this memo makes it "difficult to accept Ehrlichman's claim that the Ellsberg break-in was not carried out with his express knowledge and authorization," the report states.

The report also tersely dismisses any argument that the Ellsberg break-in was necessary for national security. "The committee can find no legal justification for the Ellsberg break-in based on any national security grounds," the report states. "Indeed, the report's copy of 'Recorded Conversations' between President Nixon and Ehrlichman by the Judiciary Committee and the National Security Council, which the Ellsberg break-in was a contrived effort to provide protection for Krogh, Ehrlichman and the President."