

## White House Aides' Files

# Ellsberg Break-In Ruling

### Washington

The U.S. district judge in the Ellsberg break-in case said yesterday that the White House has no right to block former presidential aides from obtaining their personal records.

At a pre-trial hearing, U.S. District Judge Gerhard A. Gesell noted that some former aides to President Nixon have had trouble obtaining their files. He said he would try to solve this by subpoenaing records for two of them, John D. Ehrlichman and Charles W. Colson.

"If a man has personal files that relate to this case, there is no right of the White House to keep him from it,"

Gesell said.

He told attorneys for Ehrlichman and Colson, two of five defendants in the conspiracy case: "If you want to bring in an appropriate subpoena, you might find it signed tomorrow."

Ehrlichman and Colson have contended that a burglary aimed at Daniel Ellsberg's psychiatric records in September, 1971, resulted from expressions of concern by Mr. Nixon over leaks of sensitive "national security" data.

Defense attorneys have claimed the burglary could have been within the scope of presidential power, and that White House documents

from that period would show Mr. Nixon authorized the break-in.

Any subpoenas for documents issued by Gesell could bring a new clash between the White House and the courts. President Nixon is already fighting a subpoena signed by U.S. District Judge John J. Sirica for the tap believed to be relevant to the Watergate coverup.

At the court hearing, Gesell announced he was throwing out charges against Felipe de Diego, 46, one of six men originally indicted in the conspiracy. De Diego, of Miami, had testified so extensively under grants of immunity last year to Florida authorities and to the Los Angeles County Grand Jury that it made federal prosecution improper, Gesell ruled.

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