

# Ellsberg Wins Delay on Order for West Coast Trial

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BOSTON, July 15 — An order requiring Dr. Daniel Ellsberg to go to Los Angeles to stand trial in connection with the pentagon papers was put off for at least eight days today as his lawyers sought to show that the Government's case against him was based on illegal wiretap evidence.

The Government contended that the issue of wiretapping was properly the business of the Federal District Court in Los Angeles, where the former was indicted on June 28 on charges of having stolen Government property and having had unauthorized possession of documents "related to the national defense."

But Magistrate Peter A. Princi ruled here that Dr. Ellsberg's lawyers could have until Friday of next week to file a further brief to support their contention that the question of

wiretapping must be settled first, in order to determine whether the case should be allowed to proceed.

As the indictment made clear the case was based on Dr. Ellsberg's actions in September and October of 1969, when he was working for the Rand Corporation, a government-supported research organization in Santa Monica. The indictment made no reference to Dr. Ellsberg's statement that he had transmitted the Pentagon study on the Vietnam war to the press.

Appearing on behalf of Dr. Ellsberg, Leonard H. Boudin noted that the Safe Streets Act of 1968 required the Government to divulge "in any trial, hearing or other proceeding" whether the defendant, has been the object of illegal surveillance.

A disclosure of wiretapping, he maintained, would lead automatically to a hearing on

whether the charges should be dropped because they are based on "tainted" evidence.

Lawrence P. Cohen, an Assistant United States Attorney, argued that a Federal Court here had no authority to drop charges brought in California.

## Sees Untenable Position

He said a disclosure of illegal surveillance would put the Government in the untenable position of having to present here all the evidence it presented last month to the Federal grand jury in Los Angeles.

Seated next to Mr. Cohen at the Government table but not participating in the arguments was Paul A. Vincent, a white-haired lawyer from the Justice Department's Internal Security Division who presented the Government's case to the grand jury in Los Angeles.

However, Mr. Vincent has reportedly been presenting evidence to a Federal grand jury here in an attempt to secure the indictment of Neil Sheehan, The New York Times reporter

whose investigative reporting led to the publication of the Pentagon papers.

The Times has never discussed its sources for the documents, but Dr. Ellsberg asserted at a news conference on July 1 that he had given material to all newspapers that published parts of the study.

Dr. Ellsberg, who is now a research associate at the Massachusetts Institute of Technology, looked drawn and composed at he followed the legal arguments during the 45-minute hearing this morning. His wife was seated 15 feet behind him.