

Ex-Aide Says Nixon Felt Office Raid Was Proper

By DAVID E. ROSENBAUM

Special to The New York Times

WASHINGTON, July 24— John D. Ehrlichman said today that President Nixon felt it was "well within both the constitutional duty and obligation of the Presidency" for White House aides to break into the office of Dr. Daniel Ellsberg's former psychiatrist.

Mr. Ehrlichman, the President's chief domestic affairs

Excerpts from the White House Ellsberg memo, Page 30.

adviser until he resigned April 30; told the Senate Watergate committee that neither he nor the President authorized the burglary of the doctor's office in September, 1971.

But he said that the break-in was entirely within the President's legal authority to protect national security information from falling into the hands of foreign powers.

That position was sharply

challenged by Senator Sam J. Ervin Jr., the committee chairman. The North Carolina Senator argued that nothing in the law gave the President the right to suspend the Fourth Amendment protection against illegal searches and to commit burglary.

The Beverly Hills, Calif., office of Dr. Lewis Fielding, Dr. Ellsberg's psychiatrist, was broken into around Labor Day in 1971, allegedly by a team led by E. Howard Hunt Jr. and G. Gordon Liddy, two men who were later convicted in the Watergate conspiracy.

Earlier in the summer, The New York Times and other newspapers had printed portions of the Pentagon papers, a secret Defense Department history of the Indochina war.

Dr. Ellsberg was subsequently charged with having illegally

Continued on Page 31, Column 1

Contd from Page 1, Col 7

released the classified documents to the newspapers. The case ended in a mistrial last spring after disclosures of the burglary of the psychiatrist's office and the fact that one of Dr. Ellsberg's telephone calls had been overheard on a government wiretap.

Mr. Ehrlichman also declared that there was no concern in

the White House, so far as he knew, that the operations of the special investigative unit that committed the burglary of the doctor's office would be disclosed as a result of the Watergate investigation.

He said further that he had received no direct instructions from President Nixon to see that the Government's inquiry into the Watergate affair did not divulge the activities of the special unit, called the "plumbers."

Both of these assertions contradict the President's statement of May 22, when he declared that he had been worried about disclosure of the plumbers' operations and had specifically instructed Mr. Ehrlichman to see that the Watergate investigation did not "compromise" those activities.

During Mr. Ehrlichman's testimony today, it was also disclosed that the Nixon Adminis-

tration had conceived a behind-the-scenes effort to discredit Dr. Ellsberg publicly.

Mr. Ehrlichman, answering questions aggressively, acknowledged that he was in overall charge of the plumbers unit and that he had approved a "covert operation" to examine Dr. Ellsberg's medical files.

Initialed Proposal

He agreed that he had initialed his approval on an August, 1971, proposal for such an operation prepared by his aides, Egil Krogh and David R. Young Jr., and that he had written on the plan, in his own hand, "if done under assurance that it is not traceable."

But Mr. Ehrlichman, a lawyer who was the White House counsel before he became the chief domestic adviser, said that he did not have a burglary in mind when he approved the proposal.

Rather, asserted, he thought the White House investigators, without identifying themselves, would conduct a legal inquiry, interrogating such persons as

nurses and nurses aides, there were, he said, legal ways that medical information could be "leaked," if you will.

That contention was disputed by Senator Ervin, who said that it was against the law in every state for a doctor to release medical records unless he had the patient's assent or unless a court demanded the documents.

Mr. Ehrlichman said that it was his "assumption" that the burglary of Dr. Fielding's office had been authorized by Mr. Krogh, who was an assistant to Mr. Ehrlichman. But Mr. Ehrlichman apparently never bothered to ask Mr. Krogh if he in fact had done so.

Learned a Few Days Later

He said that he did not learn about the burglary until a few days after it happened and that he did not immediately tell President Nixon. He was never asked just what he did tell the President. Mr. Nixon has said that he did not learn the details about the break-in until last April.

Mr. Ehrlichman said that he had discussed the matter with the President in March and that Mr. Nixon expressed essentially the view . . . that this was an important, a vital national security inquiry and that he considered it to be well within the constitutional obligation and function of the Presidency."

After he learned about the break-in, Mr. Ehrlichman testified, he ordered that there be no more burglaries. He did this, he said, not because they would have been illegal but because they would have provided bad public relations if they were ever discovered.

Citing a 1968 law, he pointed to a paragraph that specifies that none of the prohibitions against wiretapping and other surveillance prevented the President from protecting national security information from foreign intelligence operations. That law, he said, gave the President the authority to authorize burglaries.

'Not a Syllable'

Senator Ervin retorted that there was "not a syllable in there that says the President can suspend the Fourth Amendment and engage in burglary."

The chief concern about the disclosure of the Pentagon papers, Mr. Ehrlichman related, was that the Soviet Embassy in Washington had obtained a copy.

According to Justice Department sources, the documents were mysteriously delivered to the embassy after The Times had published its first three

installments from the papers and had been placed under a temporary court order to halt further publication.

Mr. Ehrlichman indicated that there were other covert activities of the plumbers unit that have not come to light. But he said he would not identify them because of national security considerations.

The Senate committee is to decide, before Mr. Ehrlichman leaves the witness stand, whether to compel such testimony from him, according to a ranking committee official.