

Nixon 'Cleared' in Ellsberg Break-in

Washington

Watergate prosecutor Leon Jaworski has found no evidence that President Nixon authorized the 1971 burglary at the office of Daniel Ellsberg's psychiatrist or even knew of it in advance, according to court papers filed yesterday.

Making his first public statement about the President's role in the affair, Jaworski indicated he has concluded that Mr. Nixon was unaware of the plot.

He rejected claims by defendants in the case that the raid had presidential blessings and was undertaken to protect national security.

He stressed repeatedly in lengthy legal briefs that the White House "plumbers" unit that carried out the raid had acted illegally on its own, referring to the operation as "a warrantless trespassory break-in and search that had not received the prior approval of the President or the attorney general."

On orders of U.S. District Judge Gerhard A. Gesell, Jaworski had filed secret papers with the court — still under seal — detailing what he knew about whether Mr. Nixon had authorized the burglary.

Although Jaworski's office refused comment, it was be-

lieved the public filing echoed what he had told Gesell in private.

He emphasized that Mr. Nixon himself disavowed prior knowledge, and noted that none of the six men awaiting trial in the case has disputed that claim.

Jaworski accused the defendants of seeking to "justify a warrantless break-in done without the knowledge, much less approval" of Mr. Nixon or then-Attorney General John N. Mitchell.

Jaworski said the demand by Mr. Nixon that White House leaks must be stopped "whatever the cost" referred to a general situation,

not a specific mandate to burglarize Ellsberg's psychiatrist's office.

"Not one of the defendants has attempted to contradict the President's assertion that he had no prior knowledge of the break-in and hence could not possibly have authorized it," Jaworski said.

"Thus, neither they nor any other defendant point to any specific 'authority' given by the President to conduct a warrantless search of a doctor's office, or any searches of any private facilities. Rather, the President's authorization, according to defendants' assertions, is confined to a gener-

al mandate to investigate leaks . . .

"Defendants do not claim they fit within the category of 'civil officers' authorized by statute to enforce the laws, and despite the court's invitation, they have failed to come forward with any evidence that the President specifically and explicitly authorized them to conduct any searches, much less the one here at issue."

His briefs were filed in response to claims of the defendants that the raid — conducted on Labor Day weekend of 1971 at the Beverly Hills office of Dr. Lewis J. Fielding — was justified

on national security grounds, pursuant to Mr. Nixon's orders to plug "leaks" of sensitive documents such as the Pentagon Papers made public by Ellsberg.

Two of Mr. Nixon's closest former aides — John D. Ehrlichman and Charles W. Colson — have been indicted in the Fielding case, along with four of the men who allegedly carried out the raid in search of Ellsberg's psychiatric files.

While claiming the burglary was within Mr. Nixon's authority to protect national security, Jaworski said, "Ehrlichman, like Colson,

stops well short of any representation that the President ordered the break-in."

And, he noted wryly in a footnote: "It is also difficult to understand how defendants Colson and Ehrlichman can invoke an alleged defense of 'good faith and probable cause' when they deny knowledge of the break-in."

Ehrlichman, Colson and the others have been charged with conspiring to violate Fielding's civil rights. Their trial is set for June 17.

"Viewed in the best possible light, the Fielding break-in was no emergency



AP Wirephoto

LEON JAWORSKI
No presidential knowledge

response to a 'national security' or other law enforcement crisis," Jaworski said.

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