

U.S. Admission On Ellsberg Bug

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The government disclosed yesterday—one year after the Pentagon Papers judge ordered that all information on wiretaps be handed over to the court—that FBI wiretaps picked up some of Daniel Ellsberg's phone calls in late 1969 and early 1970.

The disclosure at the trial goes to the heart of "taint" of evidence and testimony in this trial, and U.S. District Judge William Matthew Byrne Jr. immediately suspended the court proceedings and asked the government to produce all its logs and other records concerning the taps.

But prosecutor David Nissen, reported to the court in the afternoon that the records of the wiretapping had been missing from FBI files since sometime between July and October of 1971.



UPI Telephoto

DANIEL ELLSBERG
A chance for dismissal

DEADLINE

Angered by prosecution delays in getting details of the wiretap, Judge Byrne set this morning as the deadline for hearing arguments on the wiretap issue as grounds for dismissing the charges.

This "puts a different posture" on the issues, the judge said. "It appears that Mr. Ellsberg was surveilled during the most crucial period of the indictment, from

the time of copying to the time of leaving Rand."

Ellsberg copied the Pentagon Papers in October, 1969, and left the Rand Corp. in May 1970.

The disclosure of the surveillance came in a memo-

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randum filed with the judge by William D. Ruckelshaus, acting director of the FBI.

The burden is now on the government to prove that the taped telephone conversations were not used to "taint" this case. If the government cannot meet that burden, then as a matter of law the case against Ellsberg and Anthony J. Russo Jr. will be dismissed.

INVESTIGATION

Ruckelshaus, in his memorandum, dated Wednesday and made public yesterday, said that on May 4 he "initiated an investigation to interview present and retired

FBI personnel for the purpose of determining, if possible, where there had been any such taps."

He said that Tuesday night he received a "preliminary report" in which a former FBI employee recalled that "in late 1969 and early 1970 Mr. Ellsberg had been overheard talking from an electronic surveillance of Dr. Murton Halperin's residence."

"It is this employee's recollection that the surveillance was of Dr. Halperin, and that Mr. Ellsberg was then a guest of Dr. Halperin," Ruckelshaus said.

Ellsberg said that it was conceivable that he talked about the Pentagon Papers at that time on Halperin's telephone.

WITNESS

Halperin has been defense consultant and a defense witness in this case. At the time of the taps on his telephone, he was either a staff member of the National Security Council or a consultant to the council. He lived in Bethesda, Md.

Halperin left his position in the Defense Department in 1969 and became a member of the staff of the National Security Council. He left that post in September 1969, but remained a consultant until the following May.

While in the Defense Department, he was in over-all charge of the panel that produced the Pentagon Papers, and a basic contention of the defense has been that the set of the papers copied by Ellsberg were, in fact, the private papers of three former government officials, including Halperin.

The judge had set yesterday for arguing motions to dismiss this case and for arguing defense motions for a verdict of acquittal, but he halted the proceedings before the arguments could start.