

Questions for Egil Krogh

If the Democratic majority of the Ervin committee has its way, former presidential aide Egil (Bud) Krogh soon will be summoned to a closed-door interview to answer this portentous question: Did President Nixon personally order or authorize the 1971 burglary of Daniel Ellsberg's psychiatrist's office?

If the answer is no, the committee will not probe much deeper into the Ellsberg case. If the answer is yes, Krogh will have set the scene for a crisis dwarfing anything yet spawned by the Watergate scandal and, indeed, unprecedented in this country's history.

Special Prosecutor Archibald Cox is known to reject the White House argument that the Sept. 3, 1971, break-in by the White House Plumbers unit at the office of Dr. Lewis J. Fielding in Beverly Hills, Calif., was a legitimate exercise of national security powers. If federal charges are brought against the burglars, an indictment may well be sought against the government official who authorized the burglary — even if it is the President of the United States. If Krogh fingers the President, the dormant campaign to impeach Mr. Nixon will be energized.

Thus, Bud Krogh, once a conscientious, well-liked and publicly anonymous middle-level aide at the White House, can assume historical importance. His former colleagues agree on two points: first, he never would have authorized the Plumbers to break into Fielding's office without approval from higher authority; second, the devoutly religious Krogh ("straight arrow" is the most frequent description) could not lie under oath.

An affidavit in May by Krogh admitted the Fielding burglary, leading to

his resignation as under secretary of transportation. Since then, on advice of counsel, he has taken the Fifth Amendment before both a House committee and the county grand jury in Los Angeles investigating the burglary.

Although Republican members contend the Fielding burglary is outside the Ervin committee's scope, Chairman Sam Ervin and chief counsel Sam Dash want a private interview with Krogh during the present recess. If Krogh then reveals that the President or some other high official authorized the burglary, the committee will grant Krogh limited immunity — as it did John Dean — to testify in open session without danger of further prosecution.

Krogh could prove uncooperative. His lawyers told us they have not decided whether to grant Dash a private interview. But even if the Ervin committee is frustrated, the search for the source of the Fielding burglary will not end.

Much to the irritation of top White House aides, the special prosecutor's big staff is probing all the Plumbers' operations. One of Cox's senior lieutenants — William Merrill, former chief assistant U.S. attorney in Detroit — was recently dispatched to Los Angeles leading a task force investigating the Fielding burglary.

Cox says nothing publicly, but his thinking is believed to follow these lines: whatever the Los Angeles grand jury does, he considers both the burglars and their superiors subject to federal criminal statutes. He rejects both the national security rationalization and the White House constitutional thesis that a sitting President

must be impeached before he can be indicted.

Uncorroborated testimony by deposed White House counsel Dean is that Krogh informed him that John D. Ehrlichman, in over-all charge of the Plumbers, did not know in advance about the Fielding burglary but that orders for the break in came "right out of the Oval Office." When Assistant Atty. Gen. Henry Petersen informed the President about the Fielding burglary last April 18, Petersen testified before the Ervin committee, Mr. Nixon told him, "That is a national security matter. You stay out of that" (an order later reversed on Petersen's urgings).

Krogh's boss, White House domestic chief Ehrlichman, told the Ervin committee that the burglary "was totally unanticipated, unauthorized by me." Nevertheless, Ehrlichman and his attorney, John Wilson, passionately defended the burglary on national security grounds. The widespread interpretation: they were trying to protect not Ehrlichman but President Nixon.

The national security argument has obvious flaws. Ehrlichman contended that Ellsberg had leaked the papers to the Soviet embassy as well as the press and that the FBI did not adequately investigate Ellsberg. In fact, the FBI did a thorough job on the case and could find no truth in the Soviet leak rumor.

Accordingly, federal prosecutors are inclined to move against the Plumbers, their supervisors and anybody in high office mixed up in the burglary. Whether Krogh puts the President in that category is a question that may deeply influence America's history.