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**Hunt, Seeking New Trial,  
Will Raise Ellsberg Issue**

By ANTHONY RIPLEY  
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WASHINGTON, Oct. 16 — Improper Government conduct, the issue that destroyed the Government's case against Dr. Daniel Ellsberg, will be raised by E. Howard Hunt Jr. in efforts to win a new trial.

Sidney S. Sachs, Hunt's lawyer, said today that materials from Hunt's safe at the executive Office Building had never been turned over to Hunt for the preparation of his defense, despite a court order directing the release.

As a result, Mr. Sachs contended, "evidence available to support his defense was withheld from him" before Hunt entered his guilty plea, and "he was entitled to it."

Some of that evidence may have been destroyed. L. Patrick Gray 3d, the former Acting Director of the Federal Bureau of Investigation, has said he burned two envelopes of information from Hunt's safe.

Mr. Sachs described the

strategy to reporters as he was leaving the Federal Court Building after arguments to release on bond Hunt and four other convicted Watergate conspirators proved fruitless.

"Wouldn't it be wonderful if Hunt got off on the same argument Ellsberg got off on?" Mr. Sachs said.

Dr. Ellsberg and Anthony J. Russo were indicted following the publication in The New York Times in 1971 of portions of a top-secret, 47-volume study of American involvement in Southeast Asia.

Judge William Matthew Byrne Jr., in United States District Court in Los Angeles, dismissed the case May 11, citing

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records that had disappeared from the files of the Justice Department and the F.B.I.

Chief Judge John J. Sirica of the United States District Court here set Oct. 29 for a hearing on Hunt's motions seeking to obtain a new trial and to force the Government to explain why it did not comply with an order to turn over all documents.

Hunt pleaded guilty in the Watergate case before Judge Sirica in January. Last October, he filed a motion for discovery of the Government's evidence against him that Mr. Sachs said was never delivered.

Hunt's contention is that the break-in at Democratic National Headquarters at the Watergate complex on June 17, 1972, was either done legally, or that he had reason to believe it was legal and thus did not act with criminal intent.

Mr. Sachs said today that "the stuff Pat Gray destroyed" might have helped prove his client's point.

Shortly after the break-in was discovered, Hunt's safe was broken open and the contents were removed, according to the dismissed White House Counsel, John W. Dean 3d. Mr. Dean has said that sensitive po-

litical material was separated from the papers and turned over to the F.B.I., despite suggestions from John D. Ehrlichman, former assistant to the President, that it be destroyed.

Mr. Gray told varying stories about the sensitive material, at first saying he did not look at it and threw it in a "burn bag" in his office at the F.B.I. He later said that he had kept it for several months and burned it with the Christmas trash at his Connecticut home after briefly glancing through part of it.

On Sept. 25, Hunt told the Senate Watergate committee that a notebook with "names, addresses, pseudonyms and phone numbers of everyone I dealt with" in connection with a "gemstone" intelligence gathering project against the Democrats was in the notebook.

He called it "a ready handbook by which any investigator with any resources at all could quickly determine the parameters of" intelligence opera-

tions conducted for President Nixon's re-election committee.

Mr. Sachs said the notebook is among the items that have never been produced.

Hunt, along with Eugenio R. Martinez, Virgilio R. Gonzalez and Bernard L. Barker, all appeared in court seeking to be released on bond while the court considers their motion to set aside their pleas of guilty and grant new trials.

Also seeking release on bond was Frank Sturgis, who was not in the courtroom.