

Nixon Data

Barred at Krogh Trial

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LOS ANGELES, Nov. 15 — Obtaining President Nixon's personal statements, tapes and papers has been ruled out "at this time" by the judge in the case in which four former White House aides are charged with burglary.

Superior Court Judge Gordon Ringer told Norbert Schlei, attorney for Egil (Bud) Krogh Jr., who alone of the four defendants had asked for the presidential documents, that "the court does not have the power in a criminal case to issue a subpoena . . . for pre-trial discovery."

Former White House aides John D. Ehrlichman, David Young, and G. Gordon Liddy are also charged with the 1971 break-in at the office of Daniel Ellsberg's psychiatrist.

Ringer made clear, however, that he felt the defense had "other arrows in its quiver" with which to obtain information from the President.

These apparently include written interrogatories, direct testimony and the service of a subpoena on the President while the trial

here is in progress.

Judge Ringer also noted the provision of California law that allows an attorney to subpoena a witness without a court order.

Schlei said he did not know when he would make his next move in regard to obtaining evidence.

On Wednesday, Judge Ringer told Deputy District Attorney Stephen Trott that "you have problems down the road with Mr. Young."

The comment apparently referred to questions raised in light of the grant of so-called limited, or use, immunity to Young in exchange for his testimony before a Washington, D.C., grand jury. He has never been granted immunity here.

Under use immunity, a defendant can only be prosecuted on the basis of information which the prosecution develops independently of the defendant's immunized testimony.

However, two recent circuit court decisions have held that, in effect, once use immunity is granted anywhere, it has the same effect as full, transactional, immunity.

If that point is raised in court here, and attorneys say it seems likely to be, then charges against Young might be dropped, and he could become a prosecution witness against the remaining three defendants.