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State Set to Bow Out of Ellsberg Case

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Washington

California authorities sur-rendered priority to federal indictments in the Ellsberg break-in case yesterday and agreed to ask that state conspiracy-burglary charges against John D. Ehrlichman and two others be dismissed.

Superior Court Judge Gordon Ringer in Los Angeles, who has summoned President Nixon as a material witness in the case, must approve the decision.

The agreement to seek dismissal of state charges against Ehrlichman, G. Gordon Liddy and David R. Young — all former White House aides — was announced after District Attorney Joseph Busch of Los Angeles and special Watergate prosecutor Leon Jaworski met for an hour.

Ehrlichman would remain under a perjury charge in Los Angeles, the agreement said because "it involves protection solely of a state interest." There was no further explanation.

The state perjury charges stemmed from Ehrlichman's denial to the grand jury that he knew about or authorized the 1971 break-in at the office of Dr. Lewis Fielding by White House "plumbers" seeking files on Daniel Ellsberg. Ellsberg at the time had been indicted on charges of stealing and making public the so-called Pentagon Papers.

Ehrlichman's lawyers had sought Mr. Nixon's testimony to back their contention that Ehrlichman acted in his official capacity to prevent breaches of national security. It was expected that dismissal of the main charges would make the issue of presidential testimony moot.

Young, who was named as a co-conspirator in the federal case but was not indicted, would be free of any charges should Ringer go along with the agreement.

Liddy, already convicted and sentenced as a Watergate burglar and conspirator, is charged in the federal indictment returned last Thursday — alongside Ehrlichman and four others — with conspiracy to violate Fielding's civil rights. Ehrlichman, additionally, is charged with four counts of lying to the FBI and a grand jury.

"Among the reasons given for seeking to dismiss (the state charges) are that many of these issues involve matters of national interest and therefore would best be decided in the federal court system," said the joint Busch - Jaworski announcement.

"The two indictments would be exposing defendants to trial in two different jurisdictions and, in fairness to those defendants charged in both jurisdictions and in the interests of justice, they should be tried in one jurisdiction."

Ehrlichman, formerly President's Nixon's chief domestic adviser, and former special counsel Charles W. Colson, pleaded innocent to the charges in the Ellsberg case last Saturday as they were arraigned in the Watergate coverup indictments.

The other four indicted on the conspiracy charges were Liddy, Bernard L. Barker, Eugenio Martinez and Felipe DeDiego. Their arraignment is set before U.S. District Judge Gerhard A. Gesell on Thursday.

The federal-state indictments presented prosecutors with jurisdictional problems, although the charges were different and did not constitute double jeopardy.

The Los Angeles County Grand Jury had charged Ehrlichman, Liddy and Young with conspiring "to commit the crime of prowling and wandering upon the private property of another, in the nighttime without lawful business with the owner and occupant thereof."

The indictment named E. Howard Hunt, Barker, Martinez and DeDiego but did not charge them.

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