

# Ehrlichman's Break-In Defense Cites Nixon

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President Richard Nixon, in April, 1973, specifically described the break-in at Pentagon Papers codefendant Daniel Ellsberg's psychiatrist's office as "in furtherance of national security and fully justified by the circumstances," former presidential aide John D. Ehrlichman said in an affidavit filed here yesterday.

The description came during a telephone conversation between Nixon and Assistant Attorney General Henry Petersen, during which the President specially ordered Petersen to stop investigating the Ellsberg break-in case, said Ehrlichman, who was present when the call was made.

The President said last May 22 only that he told Petersen to "confine his investigation to Watergate and related matters and to stay out of national security matters."

However, in the affidavit in support of a move to use national security as a defense against criminal charges against him in connection with the Ellsberg break-in, Ehrlichman is more explicit about the conversation.

In the affidavit and other supporting papers, Ehrlichman also details the displeasure that President Nixon had with former FBI Director J. Edgar Hoover and also details the formation of the White House special investigations—or plumbers—unit that committed the burglary. He said that he intends to call as witnesses President Nixon, Secretary of State Henry Kissinger, other White House and CIA officials, and Dr.

Ellsberg to justify his national security defense.

Ehrlichman also portrayed the President as giving full support to the plumbers unit's activities, and saying that it wasn't aggressive enough.

"Invariably when they made recommendations, jointly or severally, the President concurred. His only criticism of their effort was that it was not vigorous enough," Ehrlichman said.

Ehrlichman is the second White House aide in two days to detail the President's mood and the circumstances in which the plumbers unit was established in an effort to stop leaks of classified information.

Charles W. Colson, who is also charged with conspiracy to violate the civil rights of Ellsberg's psychiatrist, Dr. Lewis Fielding, filed papers on Monday in support of a national security defense in which he said the President said the unit must do "whatever has to be done . . . whatever the cost" to stop the news leaks.

Ehrlichman in his affidavit said yesterday that the President told him to tell plumbers unit head Egil (Bud) Krogh—who is serving a six month jail sentence in connection with pleading guilty to a civil rights conspiracy charge in the Ellsberg break-in—"to do whatever he considered necessary to get to the bottom of the matter."

Ehrlichman again denied any prior knowledge of the break-in, but said that he considered a "covert operation" of the unit that he approved—which ultimately became the Fielding break-in—within the President's mandate.

Ehrlichman again out-

lined the concern of Kissinger over the leaks of the Pentagon Papers and other classified documents, describing him as "quite agitated at times." He said also that Kissinger described Ellsberg as "a fanatic, known to be a drug abuser and in knowledge of very critical defense secrets."

Ehrlichman's attorneys are attempting to gain access to many classified documents so they can illustrate the types of information to which Ellsberg had access, and in turn, the types of information they thought he could have distributed in addition to the Pentagon Papers.

Between June, 1971, and his death in May, 1972, Hoover was "the object of a President's criticisms on a number of grounds. . . the President was known to feel that the FBI effort against domestic sabotage and violence was inadequate; a file containing a complete catalogue of problems, marked 'The Company Director,' exists in the possession of the government," Ehrlichman said.

That was the main reason for the organization of the White House plumbers unit, Ehrlichman indicated.

Ehrlichman said that since the burglary of Fielding's office was carried out for the purposes of national security and authorized by the President, "either directly or implicitly," the charges against him should be dismissed.

If the charges are not dismissed, he should be able to present that national security defense to a jury, Ehrlichman's attorneys argued. U.S. District Judge Gerhard Gesell has indicated previously that he might not allow that defense.