

# Ehrlichman Said to Know Break-in Plans

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John D. Ehrlichman told then-White House national security aide David R. Young in March, 1973, that he had removed documents from Young's files that showed Ehrlichman had advanced knowledge of the Ellsberg break-in, an assistant Watergate special prosecutor said at the opening of the Ellsberg burglary trial yesterday.

Prosecutor William H. Merrill, said in his opening statement that Young's testimony about his meetings with Ehrlichman, then President Nixon's top domestic aide, will be buttressed by copies of the three documents that Young had made without Ehrlichman's knowledge and later turned over to the prosecutors.

The testimony of Young and others, supported by numerous documents, Merrill argued, will show that Ehrlichman, contrary to his past denials, was intimately involved in prior planning of the break-in and repeatedly gave the operation his approval right up to the last minute.

Ehrlichman's attorneys countered by telling the U.S. District Court jury that cross-examination of Young will show that he somehow altered the documents to implicate Ehrlichman and is "trying to save his own neck." Young has been given complete immunity from prosecution by the government.

Young thus emerged from yesterday's opening statements as the star witness in the conspiracy case against Ehrlichman—the highest ranking Nixon aide to stand trial in a Watergate-related case—and three other members of the secret White House "plumbers" investigative team.

The lawyer for two of the other defendants, Bernard L. Barker and Eugenio Martinez, disclosed in his opening statement that Barker had participated in at least three other break-ins ordered by the CIA in this country during the 1960s. The lawyer, Daniel Schultz, argued that those burglary assignments helped his clients to believe they were acting legally for the govern-

ment in the Ellsberg case.

The fourth Ellsberg burglary defendant is former White House aide G. Gordon Liddy, who was convicted and sentenced to more than six years in jail for June, 1972, break-in at the Democratic National Headquarters office in the Watergate office complex. Martinez and Barker pleaded guilty to that burglary, but are attempting to change their pleas to innocent on appeal.

The opposing lawyers otherwise focused much of their statements on the detail with which Young, 36, is expected to testify about his White House meetings with Ehrlichman.

Assistant Prosecutor Merrill said Young will testify that he received a call from Ehrlichman in March, 1973, in which he was asked to bring Ehrlichman his notes on the plumbers' activities, including the 1971 break-in at the office of Daniel Ellsberg's psychiatrist in Los Angeles.

Young took those notes to Ehrlichman and returned on March 27, 1973, to retrieve them, Merrill said Young will testify, and that the following exchange then took place:

Ehrlichman asked Young if he had known in advance about the Ellsberg break-in. Young said, "Of course, and so did you . . . the memos in those files show it."

Ehrlichman then told Young, according to Merrill, "I've removed them from the files."

When Young said, "Suppose

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there are other copies," Ehrlichman, according to Merrill, answered: "We'll have to take our chance."

Young had made copies of

the documents and later turned them over to the Watergate prosecutors as part of his agreement with the government for immunity.

The March 27, 1973, meeting was one of several meetings and supporting documents outlined by Merrill in his opening statement as part of its case against the four men on civil rights conspiracy charges. Ehrlichman also is charged with four perjury counts.

Merrill said the break-in at the Beverly Hills office of Dr. Lewis Fielding, Ellsberg's psychiatrist, violated "one of our most cherished rights"—that against illegal search and seizure.

He described the break-in as "the willful, arrogant act of men who took the law into their own hands because they thought they were above the law."

He said the events leading up to the break-in began with the hiring of ex-CIA agent E. Howard Hunt Jr. as a White House consultant on July 7, 1971. He was hired by former White House special counsel Charles W. Colson, who has pleaded guilty to obstruction of justice in the Ellsberg prosecution. Hunt testified later yesterday that his hiring was approved by Ehrlichman.

Ehrlichman called Gen. Robert Cushman, then deputy director of the CIA, to ask that agency to provide technical assistance to Hunt in the form of disguises and other equipment, Merrill continued. Part of that equipment was a voice-changer, which a person could place in his mouth to change the pitch and tone of his voice, Merrill added.

Hunt was assigned to work with former White House Aide Egil (Bud) Krogh on the White House plumbers unit in mid-July. Krogh has already pleaded guilty to civil rights conspiracy in the Ellsberg case and will be a witness in this case.

Already with the plumbers unit was ex-FBI agent and White House aide G. Gordon Liddy, and he and Hunt made "an ideal pair," Merrill said. The key plumber project was gathering material about Daniel Ellsberg, and Hunt suggested that the CIA be asked to prepare a psychological profile on him.

On July 27, 1971, Young sent a memo to Ehrlichman about the request for the CIA profile, the prosecutors said. On July 28, Hunt sent a memo to Colson discussing a CIA psychological assessment of Ellsberg and the possibility of "obtaining Ellsberg's files from his former psychiatrist," who had refused to cooperate with an FBI probe because of the confidentiality of the doc-

tor-patient relationship.

Colson gave the memo to Krogh and Young, who on Aug. 3 told Colson they were "looking into that," Merrill said.

At that point, Hunt and Liddy began discussing ways of getting information from Fielding without his consent, Merrill said.

They discussed a "surreptitious entry" of the office with Krogh and Young, and told them that they could recruit persons to carry out the actual operation, the prosecutor continued.

On Aug. 5, 1971, at 11:30 in the morning, Krogh and Young met with Ehrlichman in his office in the White House to get his approval of a covert operation to examine files, Merrill said. They discussed the operation in detail and talked about it being done covertly, he added.

Ehrlichman recognized the seriousness of the step, said Merrill, and didn't immediately approve, saying, "Let's think about it."

By Aug. 11, the plumbers had received a four-page psychiatric profile of Ellsberg, prepared by the CIA, with which they were disappointed, Merrill said. Young sent the profile to Ehrlichman with a covering memorandum with a place for Ehrlichman to approve or disapprove a covert operation to get Ellsberg's medical records.

Ehrlichman initiated his approval and added in his handwriting, "As long as it is not traceable," Merrill told the jury.

"The stage was set for the entry," Merrill said.

Hunt then began his recruitment efforts that ended with the location of Barker, Martinez and Felipe DeDiego, a former defendant in the case against whom charges have been dismissed by the judge.

Hunt and Liddy took a trip to California to perform a reconnaissance mission on the office building of Ellsberg's psychiatrist, and took pictures for use in planning the actual break-in, Merrill said. They were even caught in the building by a cleaning person, but Hunt told her, "I'm a doctor, don't worry" and escaped detection as to his intentions.

The \$5,000 requested for the break-in was raised by Colson, Merrill continued, and produced in cash so it would not be traceable to the White House.

Meanwhile, Young and Krogh sent a memorandum to Ehrlichman concerning the creation of a negative press image for Ellsberg, Merrill said. On Aug. 27, Ehrlichman sent a memorandum to Colson on developing a "game plan"

for the use of information gained by the plumbers against Ellsberg, he added.

Also on Aug. 27, Hunt and Liddy had returned from their trip to the West Coast and began planning the break-in in detail. When they presented their final plan to Krough and Young on Aug. 30 or 31, their two superiors decided to check with Ehrlichman again, Merrill said.

Ehrlichman was vacationing on Cape Cod, and Krough and Young told his Hunt and Liddy were ready, Merrill said. Ehrlichman asked both Krough and Young if they thought they should go ahead, and they said "yes," Merrill said.

Ehrlichman's response was to say, "Let me know if they find anything," he added.

Then, Merrill outlined to the jury meticulous details of the break-in operation itself, including the purchase of a 30-foot piece of rope to use as an escape means. The break-in was supposed to be unnoticed, and the documents in Fielding's office only photographed, according to the Hunt-Liddy plan.

However, that was botched by the three persons carrying out the assignment when their arrangement to have the door unlocked failed. They had to force their way into filing cabinets and try to make it seem as if burglars has been looking for drugs.

When Hunt reported on the turn taken by the operation, "Krough was appaled," Merrill said, because the operation was no longer covert. Krough

told Ehrlichman what had happened, and Ehrlichman was upset for the same reason, Merrill added.

Hunt and Liddy then suggested another break-in at Fielding's home, but Krough, Young and Ehrlichman overruled them, Merrill added.

Ehrlichman's attorneys, on the other hand, made it clear yesterday that one of their key strategies will be to question the credibility and motivation of government witnesses, especially former National Security Council aide David R. Young.

That was one of the points stressed by Ehrlichman attorney Henry Jones in his 25-minute opening statement. He said he intends to show that Young directed the part of the operation leading to the break-in and "when he found the game was up, he tried to remove files. Young tried to save his own neck."

Jones stood solemnly at the defense table, Ehrlichman seated at his side, as he addressed the jury. He reminded the jurors of the presumption that a defendant is innocent,

until proven guilty, then plunged into the defense theory of the case.

A main element in that theory is Ehrlichman's meaning of the word "covert," which appears in an Aug. 11 memorandum from Young initialed by Ehrlichman. The prosecutors said that word connotes the Fielding break-in; Ehrlichman's attorneys said it means merely "not to be disclosed."

Jones told the jury of the White House concern over leaks during the summer of 1971 that led to the formation of the plumbers' unit. He said it had been created by President Nixon to plug leaks, especially those occurring from the SALT talks, because of the "helplessness . . . failure of other agencies."

At no time was that unit intended to participate in illegal activities, according to Jones. He said Ehrlichman never authorized the Fielding break-in and specifically disapproved of it when he was advised of it.

As to the charge that Ehrlichman lied to the FBI, Jones said that Ehrlichman was "literally truthful" in that interview, saying that Krough might have some files relating to the case, but did not tell FBI agents that Young might also have some files.

Jones said the alleged perjury counts were not intentional lies to mislead the grand jury probing the break-in. He described Ehrlichman as a busy man, and said that "over his desk (at the White House) flowed a great volume of material. He did this on a daily basis from early morning until late every evening."

The attorney said that it would be a "tremendous task for Ehrlichman to remember all that flowed across his desk. Human fallibility can always excuse a faulty memory," he said.

Ehrlichman's defense attorneys said as well that Gen. Robert Cushman at onetime

complained about Hunt's possibly exceeding his authority, but that Ehrlichman said, "I will restrain him . . . I will stop him."

They said any authority for the break-in did not come as a result of Ehrlichman's giving approval, but "because of the flow of authority from someone else."

Liddy's attorney, Peter Maroulis, said his client should be found innocent because he "reasonably believed that he was authorized to do that which was done. He did not have any intent to do wrong." Maroulis' opening statement was the shortest, lasting about five minutes.

Schultz, the attorney for Barker and Martinez, detailed the past involvement of his

clients with the CIA and their backgrounds in Cuba. He said his clients became "caught up in this" because of their past relationship with Hunt in the Bay of Pigs invasion and that they had participated "out of loyalty" to him and to the United States.

The prosecution's presentation of evidence then opened slowly yesterday afternoon, with the first three witnesses the same type as those that would be presented in a normal burglary trial—two Beverly Hills, Calif., policemen who investigated the break-in, and the victim, Dr. Fielding.

Dr. Fielding, a completely bald man who said he was making his first courtroom appearance ever yesterday, testified that his office "was a mess" when he was called there on Sept. 4, 1971. He said filing cabinets and drawers had been opened in "a crude way" and nothing apparently was missing.

His answers to questions about the office layout and the break-in itself were often rambling and far beyond the specific questions asked. At one point, U.S. District Judge Gerhard A. Gesell cut in to say: "I want to be pleasant with you, but you must stop talking."

Hunt's testimony, the essence of which has been released publicly more than a year ago, gave details of his connection with the plumbers. He said he had met Ehrlichman only once, when he was hired as a White House consultant on July 7, 1971.

Hunt said that he himself "very likely" made the suggestion to break into Fielding's office. He said that based on the lack of cooperation by Fielding with the FBI, "it seemed to me at least that a bag job (a surreptitious entry) was in order."

Hunt maintained that any approval he had received for the Ellsberg break-in had come from Liddy, and not from other White House aides.

Hunt also disclosed that he prepared a derogatory article about Ellsberg's defense attorney that was later disseminated to the press by Colson. Colson's plea of guilty to obstruction of justice was in connection with that activity.

Hunt will continue testifying on Monday morning.