

NY Times JUN 29 1974  
**NEW DEFENSE SET  
 IN 'PLUMBERS' CASE**

**Ehrlichman's Lawyer Says  
 Young Falsified Evidence  
 'to Save His Own Neck'**

By SEYMOUR M. HERSH  
 Special to The New York Times

WASHINGTON, June 28—Attorneys for John D. Ehrlichman offered today a new defense in the White House "plumbers" case, accusing David R. Young Jr., who is expected to be a key prosecution witness, of falsifying statements and documents against Mr. Ehrlichman "in order to save his own neck."

Henry H. Jones, one of Mr. Ehrlichman's four attorneys, told the jury in his opening statement that "it was Mr. Young who altered the documents and presented them to the Government" in return for immunity from prosecution.

Mr. Young, one of the co-conspirators in the Watergate prosecutors' case, served as a co-director of the plumbers unit in 1971 when Mr. Ehrlichman allegedly authorized a burglary at the office of Dr. Daniel Ellsberg's former psychiatrist. He was granted immunity last week to testify against Mr. Ehrlichman and the three other defendants in the case.

**Indicted in March**

The opening statements by defense and prosecution attorneys were followed this afternoon by testimony from E. Howard Hunt Jr., a Government witness who participated in the break-in, and Dr. Lewis J. Fielding, the Beverly Hills, Calif., psychiatrist whose offices were burglarized.

Mr. Ehrlichman and three other defendants—G. Gordon Liddy, Bernard L. Barker and Eugenio R. Martinez—were indicted last March for violating Dr. Fielding's civil rights, a felony offense that carries a maximum sentence of 10 years' imprisonment and a \$10,000 fine. In addition, Mr. Ehrlichman was named on three counts of false swearing to a grand jury and one count of false swearing to the Federal Bureau of Investigation.

All of the defendants were involved with the White House

Continued on Page 13, Column 3

Continued From Page 1, Col. 4

plumbers unit, an ad hoc special investigations force authorized by President Nixon in July, 1971, and ordered to stop leaks to newspapers. Its first target was Dr. Ellsberg, who has said that he provided The New York Times with copies of the Pentagon papers.

The trial, before Judge Gerhard A. Gesell of United States District Court, is expected to last one month.

In his opening statement, Mr. Jones also relied heavily on a previously known contention by Mr. Ehrlichman that while he had approved a "covert" operation to obtain Dr. Ellsberg's psychiatric records, "at no time did he consider what he had authorized to be an illegal act."

The lawyer explained to the



United Press International  
**Dr. Lewis J. Fielding, whose offices in Los Angeles were burglarized, after he testified in the "plumbers" case yesterday.**

jurors, who were empaneled yesterday, that Mr. Ehrlichman understood the word "covert" to mean only "cover in the sense that it [the Ellsberg mission] was not to be disclosed."

"At no time was the [plumbers] unit set up to violate the law, as Mr. Ehrlichman understood it," Mr. Jones said.

**Ehrlichman Key Target**

That thesis was attacked by William H. Merrill, head of the Watergate prosecuting team, who told the jurors that testimony and documents—many of them provided by Mr. Young—would be presented "to show that the entry . . . was the wilful, arrogant act of men who took the law in their own hands because they felt they were above the law."

In his hour-long opening statement, Mr. Merrill, speaking quietly, made clear that the basic target of the prosecution was Mr. Ehrlichman, who served as President Nixon's top domestic adviser until last year.

Most of the documents described by Mr. Merrill had previously been disclosed at the televised Senate Watergate committee hearings last summer, but the prosecutor's opening statement included new information that had presumably been supplied by Mr. Young, who has not yet testified in public.

For example, Mr. Merrill told the jury of a meeting in early August, 1971, between Mr. Ehrlichman, Mr. Young and Egil Krogh Jr., another director of the plumbers who is scheduled to testify as a Government witness.

Mr. Young and Mr. Krogh, said Mr. Merrill, talked to Mr. Ehrlichman in terms of the mission's "being covert so no one would ever know who did it." Mr. Ehrlichman, "recognizing the seriousness of the proposal," Mr. Merrill told the jury, approved the operation a few days later "if done under your assurance that it is not traceable."

A few days before the operation, Mr. Young and Mr. Krogh telephoned Mr. Ehrlichman, then on vacation in Cape Cod, for final approval, the prosecutor said.

After the two young aides restated their belief that the operation should be permitted, Mr. Ehrlichman said, according to Mr. Merrill, O.K. Let me know if you find out anything."

**A Phone Call to Young**

Nearly two years later, in late March of 1973, when the Watergate scandal was beginning to grow, Mr. Ehrlichman telephoned Mr. Young—still a White House aide—and asked him to bring in the Ellsberg break-in files, Mr. Merrill said.

Mr. Ehrlichman subsequently removed some of the more incriminating documents before returning the file, the prosecutor said, later explaining to Mr. Young that the memorandums "showed too much forethought."

Unbeknown to Mr. Ehrlichman, however, Mr. Merrill asserted, Mr. Young had photocopied the whole file before taking it to Mr. Ehrlichman's office.

"Some time later," Mr. Merrill told the jury "Young decided to give those memoranda to the prosecution in return for immunity."

Mr. Merrill, a former United States Attorney in Detroit, in discussing the false swearing charges against Mr. Ehrlichman, said, "The Government will show that he lied, and he knew he lied."

Noting that one count accused Mr. Ehrlichman of false swearing that he had not seen a psychiatric profile of Dr. Ellsberg before the Sept. 3, 1971, Fielding break-in, Mr. Merrill cited six White House memorandums discussing the profile—one of which included a copy of the profile—that had been forwarded to Mr. Ehrlich-

man's office in July and August. "He received six memos and a copy of the profile, and yet he said under oath he didn't know in advance," Mr. Merrill said.

Before the opening statements began, Judge Gesell summarized some of the pertinent issues for the jury and the legal problems facing the defendants and their attorneys.

"The prosecution must prove that the defendants specifically intended to enter Dr. Fielding's office," the judge said. He added that was the only "intent" the Government needed to show. The fact that the defendants' "motives were good" or that they honestly believed that the break-in was a valid "national security mission cannot be cited as a legal defense in the case," he said.

However, Daniel E. Schultz, the attorney for Mr. Barker and Mr. Martinez, and Peter L. Maroulis, Mr. Liddy's attorney, framed their opening statements in terms of their clients' belief in the validity of the break-in and its important "national security" implications.



United Press International

John D. Ehrlichman, accompanied by his wife, arriving at Federal Court in Washington yesterday.

*Ehrlichman's Lawyers Disclose  
New Defense in 'Plumbers' Case*