

'National Security' Threat

Wiretaps Futile

By Laurence Stern
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In the intimacy of the Oval Office on Feb. 28, 1973, President Nixon gave John W. Dean III his unvarnished assessment of the "national security" wiretap program.

"They never helped us," Mr. Nixon told his former aide. "Just gobs and gobs of material: gossip and bullshitting."

But three months later, in his first definitive public statement on Watergate, the President declared that the taps of 17 government officials and newsmen produced important leads that made it possible to tighten the security of highly sensitive materials."

The four volumes of testimony released last night by the House Judiciary Committee on White House surveillance activities strongly support Mr. Nixon's private rather than public appraisal of the highly classified wiretapping operation that blew up in the administration's face and aborted the Ellsberg trial last year.

The underlying theme of the committee's investigation was that the wiretap program was launched by President Nixon, prodded by Henry A. Kissinger's concern over news leaks early in 1969. The wiretaps were carried out in an atmosphere of extraordinary secrecy and known only to a handful of top government officials. The FBI, for example, was ordered to keep no records in its files. They produced little of value in ferreting out national security leaks.

Finally, the administration, with the personal involvement of the President, engaged in a frantic effort to cover up the existence of the 1969-to-1971 wiretapping through what Mr. Nixon approved as a policy of "stonewalling totally."

Ironically, the wiretaps surfaced publicly by means of a news leak in February, 1973.

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Ellsberg Backfire

By Lou Cannon
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Three days before Daniel Ellsberg was indicted in California for unauthorized possession of the Pentagon Papers, Charles W. Colson sent White House chief of staff H. R. (Bob) Halde- man a confidential memorandum describing how the Ellsberg prosecution could be used to confound the press, divide the Democrats and "arouse the heartland."

The story of how this White House political strategy led to the burglary of a psychiatrist's office, a defamatory psychological profile, the illegal use of the Central Intelligence Agency and the ultimate loss of the case against Ellsberg was told in graphic detail yesterday in evidence released by the House Judiciary Committee.

Much of the story has been told before, first to the Senate Watergate committee and the Watergate grand jury, then to jurors who last week tried and found guilty the former No. 2 White House aide, John D. Ehrlichman.

But the narrative scattered yesterday through four new volumes of impeachment evidence totaling 2,090 pages gives by far the most detailed picture yet of the bungled political strategy that caused the Ellsberg case to backfire on those who sought to exploit it.

It also shows that President Nixon approved, after the fact, of the break-in of the office of Ellsberg's psychiatrist and that he privately defended this burglary long after he had publicly repudiated it.

For instance, during an April 18, 1973, telephone conversation between Assistant Attorney General Henry Petersen and the President, Petersen dropped what he thought was the "bombshell" that Watergate conspirators E. Howard Hunt Jr. and G. Gordon Liddy Jr. had burglarized the of-

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Nixon's Defense

By George Lardner Jr.
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President Nixon felt constantly hemmed in and frustrated in his first term of office by unauthorized disclosures that threatened his ability to govern, according to White House lawyers.

Mr. Nixon's defense of clandestine White House surveillance activities rests heavily on that mood. It stands not on denials but on atmospherics. The submissions of his lawyers for the House impeachment inquiry portray a President gripped by a sense of crisis over news leaks within weeks after he was first sworn in.

The President's chief counsel, James D. St. Clair, made no direct attempt to justify the Ellsberg break-in, which resulted last week in the conspiracy conviction of former White House aide John D. Ehrlichman.

St. Clair strongly implied, however, that the covert effort to obtain Ellsberg's psychiatric files was at least understandable and, in Mr. Nixon's view, even defensible.

The President's lawyer also contended that "there was clear legal authority" for at least some of the secret wiretaps that the White House ordered placed in 1969-71 on the telephones of 17 government officials and newsmen.

At the same time, St. Clair made no claim that every one of the 17 wiretaps could be justified.

The White House presentation concentrates on the Ellsberg break-in first. Although the Sept. 3, 1971, burglary was carried out by the White House "Plumbers" unit organized at Mr. Nixon's direction, the President, St. Clair said, "did not authorize the use of illegal means by the unit."

The White House-introduced evidence, however, includes an affidavit by Ehrlichman stating that Mr. Nixon twice expressed his after-the-fact approval of the break-in.

Mr. Nixon said last year that he did

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Nixon's Appraisals Differ On Value of the Wiretaps

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The Judiciary Committee report does not conclusively resolve the widely publicized ambiguities surrounding the role of Secretary of State Kissinger as an initiator of the national security taps on former aides and acquaintances in the news media.

In the Feb. 28, 1973, transcript the President is quoted as strongly suggesting to Dean that Kissinger asked for the wiretaps. "I know that he asked that it be done," the President remarked to Dean, "and I assumed that it was." It was at that point that the President went on to suggest that the taps were a bad idea. "They never helped us," Mr. Nixon sourly concluded.

But Mr. Nixon, in a statement last week to the Senate Foreign Relations Committee, said it was he who "personally directed the surveillance, including wiretapping, of certain specific individuals"—where "supporting evidence was available."

One of the new evidentiary highlights in the surveillance study was former Assistant Attorney General Robert C. Mardian's description of how, on the direct instruction of President Nixon, he delivered an "old beat up" satchel containing the wiretap logs and summaries to the Oval Office late in July, 1971.

Asked during a May 10, 1973, FBI interview whether he had delivered the bag to the President, Mardian "sat back in his chair, shrugged his shoulders, hesitated and said, 'I cannot answer that question,'" according to the FBI report cited in the committee's exhibits.

Mardian was the high-level go-between who, acting on presidential instruction, retrieved the wiretap material from the custody of the late J. Edgar Hoover and had it deposited in the White House. Ultimately the material ended up in a safe in the outer office of former White House Domestic Counselor John D. Ehrlichman where the FBI tracked it down during its May, 1973, investigation of the wiretap episode.

The evidence amassed by the committee cut most sharply at the probity of former Attorney General John N. Mitchell, who repeatedly denied knowing of the wiretap program or having authorized the taps at the re-

quest of Hoover. Photostats of the wiretap authorizations all carry Mitchell's signature of approval, which was authenticated by the FBI.

The 17 targets of the wiretap program were: (National Security Council staff) Daniel I. Davidson, Morton Halperin, Anthony Lake, Winston Lord, Richard Moose and Helmut Sonnefeldt; (Department of State) Richard F. Pedersen, Richard L. Sneider, William H. Sullivan; (White House) James W. McLane, William Safire, John P. Sears; (Department of Defense) Lt. Gen. Robert E. Pursley; (Press) William Beecher, formerly of The New York Times, Hedrick Smith of the New York Times, Henry Brandon of the Sunday Times of London and Marvin Kalb of CBS News.

In addition, the committee chronicled the efforts of the White House to wiretap columnist Joseph Kraft at his Washington residence and at his hotel in Paris during a European news-gathering trip.

None of the wiretap targets, according to the evidence in the report, produced results of any significance in exposing security lapses or uncovering sources of leaks.

Former White House chief of staff H. R. (Bob) Haldeman acknowledged in a May, 1973, FBI interview that "at first he read all the summaries which came into his office but found them to contain information which really was not of much interest to him." He said he delegated the reading of the top-secret material to his administrative assistant, Lawrence M. Higby.

Kissinger, the other principal White House channel for the wiretap material, also professed to have lost interest in the material and stopped receiving it in May, 1970. However his chief aide at the time, Alexander M. Haig Jr., continued to review the reports churned out by the surveillance program until all the security wiretaps were turned off in February, 1971.

Yet an FBI report cited by the committee quotes Kissinger as complaining shortly after the inauguration of the program and his first reading of the logs on May 20, 1969, that "it is clear that I don't have anybody in my office that I can trust except Colonel Haig."

The surveillance program, according to FBI records cited by the committee, began on May 9, 1969, with a call from Kissinger to Hoover complaining about

New York Timesman Beecher's story that day on the covert U.S. bombing of Cambodia. Administration officials were nettled by several other Beecher stories in the same period.

Curiously, however, Beecher was not wiretapped until a full year later. Brandon was the first journalist to be wiretapped, on May 29, 1969, and he remained under surveillance for some 20 months—far longer than any of his colleagues. Smith was under surveillance for nearly three months, Kalb for less than a month and Beecher for seven months.

There is a cryptic reference in the Judiciary Committee summary to testimony by Kissinger to the Senate Foreign Relations Committee that one of the four journalists was described by Hoover to President Nixon "as a man who had connections with an allied foreign intelligence service and the decision to place a tap resulted from that presentation."

The committee also noted that in the case of the tap on Brandon (identified as were all the other wiretap targets only by a letter code), Kissinger's testimony remained secret. "In that testimony," the committee said, "Dr. Kissinger... testified generally that he knew 'P' (Brandon) well, and that 'P' did not fit any of the categories Kissinger knew of for wiretaps... Dr. Kissinger further testified that P's news stories rarely included leaked material but Dr. Kissinger believed that the tap of P was on a national security basis."

Only former NSC aide Halperin was wiretapped for the entire duration of the program, some 21 months.

The one surveillance that paid off, in part, was an outgrowth of the Pentagon spying episode which came to the attention of the White House as a result of a series of leaks to columnist Jack Anderson on the Indo-Pakistani war deliberations in the White House.

The tap was directed against Navy yeoman Charles E. Radford II as the suspected leak in the Anderson case. "Our coverage during the Radford project did in fact reveal a rather close and somewhat surreptitious relationship between Radford and Jack Anderson," the FBI concluded. The tap was removed on June 20, 1972—immediately after the Supreme Court decision in the Keith case which prohibited wiretaps without a warrant in internal security cases.



Associated Press

Judiciary Committee Chairman Rodino, left, and ranking minority member Hutchinson chat before meeting.

Ellsberg Maneuvering Emerges

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office of Dr. Lewis Fielding, Ellsberg's psychiatrist.

"I know about that," Mr. Nixon replied. "That's a national security matter. Your mandate is Watergate. Stay out of that."

The President's response comes from Petersen's testimony to the Watergate grand jury last August. Ehrlichman, who overheard the President on the other end of the phone conversation, said in an affidavit this year that Mr. Nixon told him soon after he hung up that the break-in was "fully justified by the circumstances."

The national security issue cited by the President in his phone conversation with Petersen has been the battle-cry of the White House in the Ellsberg affair. However, the documents released yesterday by the Judiciary Committee show a far more persistent White House interest in using the Ellsberg case for purposes of political strategy than in plugging security leaks.

In his June 25, 1971, memo to Halde-man, Colson candidly acknowledged that "the heartland isn't really aroused" over the publication of the Pentagon Papers. Ellsberg is seen as a way of getting at the press second-hand because, Colson said, "the fact that he conspired with the press and the press printed the documents that he stole is bound to have a bad rub-off on the press."

"There is another opportunity in this whole episode, that is the prosecution of Ellsberg," Colson continued. "It could indeed arouse the heartland, which is at present not very excited over the whole issue."

In this memo Colson described Ellsberg as "a natural villain to the extent he can be painted evil."

Several wiretaps, two psychiatric profiles and one break-in later, the White House was still trying to paint this picture without much success.

Fielding's office in Beverly Hills was broken into on Sept. 7, 1971. On Nov. 1, the two leaders of the White House special investigative unit, which directed the operation, met with Ehrlichman to tell him that the Ellsberg prosecution was getting nowhere.

A memo from Egil Krogh Jr. and David R. Young, the co-bosses of the investigative unit known as the "Plumbers," spelled out the reasons:

"(a) Ellsberg gave classified information to the press, not to a foreign power.

"(b) Just a few months after Ellsberg went public, DOD (the Department of Defense) published virtually the same material.

"(c) There has been no apparent damage as a result of Ellsberg's disclosures."

This lack of damage did not deter the White House in its continued attempts to turn the Ellsberg case to its own advantage. Two days after the Krogh-Young memo, Liddy met with a CIA psychiatrist, identified in the Judiciary documents only as "Dr. 6," and requested a second psychiatric evaluation of Ellsberg.

The CIA had, in August, also under pressure from the White House Plumbers, produced a profile of Ellsberg which described him as "an extremely intelligent and brilliant individual" who seemed to be "responding to what he deemed a higher order of patriotism"

The psychiatrist who prepared the profile called it an "indirect personality assessment . . . based primarily on background material and current im-

pressions derived from press reports including newspaper and magazine articles and television interviews."

This report, prepared by a "Dr. 9," under direction of "Dr. 6," did not satisfy the White House.

Instead, according to an affidavit given by Dr. 6, the White House sought an additional report, and Hunt supplied some "poorly xeroxed classified FBI reports and Department of State documents" which showed that Ellsberg:

- "Revealed quasi-secret information while still in the service when he was applying for a Ph.D. fellowship."

- Volunteered for Vietnamese service in the State Department "while under the stress of obtaining a divorce from his first wife."

- Sought psychoanalytic treatment in 1968 and 1970.

- "May have been involved in leaking information about a South Vietnamese" in 1970 while under psychoanalytic treatment.

Using this information and other material supplied by Hunt, Dr. 6 prepared a new profile.

"On 12 November 1971 the material was delivered by me to the White House and to Mr. Liddy, Mr. Young and Mr. Hunt," the psychiatrist's affidavit stated. "These men were interested in obtaining information which could be used to defame or manipulate Ellsberg."

The psychiatric evaluation was actually sent to Young by CIA Director Richard Helms, the Judiciary documents show. Accompanying them was a brief letter from Helms in which he said "I do wish to underline the point that our involvement in this matter should not be revealed in any context, formal or informal."

This new profile appears for the first time in the documents released by the committee. The psychiatrist preparing it took pains to point out that all of the material from which it was derived was second-hand or further removed.

Unlike the first profile, this new evaluation made no claims for Ellsberg's patriotism. It traced events to Ellsberg's boyhood and an automobile accident in which Ellsberg's mother and sister were killed and in which he sustained serious injuries. Ellsberg was 15 at the time, and his father, who was subsequently remarried, was driving.

"It is possible," wrote the CIA psychiatrist, "that strong feelings of resentment and rage and frustration stir-

red up by death and personal illness or injury are associated with his apparently sudden and extreme shifts in loyalty and enthusiasm."

The report noted that Ellsberg fell ill with hepatitis in Bangkok in 1967 and that a friend was simultaneously killed in an airplane accident. The psychiatrist theorized that the "anger and frustration" caused by these two events "mobilized a shift in his views."

The psychiatrist went on to describe Ellsberg as a man given to "rage and murderous anger" when his "gifts and abilities are not given proper recognition." In the psychiatrist's view "the leaking of the Pentagon Papers was also an act of aggression at his analyst, as well as at the President and his father."

The effort to defame Ellsberg did not stop with psychiatric evaluations or with a break-in. Another Krogh-Young memorandum to Ehrlichman, this one from July 30, 1971, informed him that the Plumbers had asked Richard Smyser, a State Department adviser on Vietnam "for an opinion (for Kissinger) on the relationship of timing between October South Vietnam election and the political exploitation of the Democrats' involvement in the 1963 coup against Diem."

Around the same time, according to testimony he subsequently gave to a federal grand jury, Hunt was fabricating cables to show that President Kennedy ordered the Nov. 1, 1963, assassination of South Vietnamese President Ngo Dinh Diem.

Neither the fabrication nor the defamation succeeded. The remainder of the Judiciary documents recount the now-familiar story of Ehrlichman's discussion of the FBI directorship with the trial judge in the Ellsberg case, W. Matthew Byrne Jr., and of Byrne's meetings with Ehrlichman and Mr. Nixon.

On April 15, 1973, then-White House counsel John W. Dean III told the Watergate special prosecutor about the Fielding break-in. On May 11, Judge Byrne dismissed the charge against Ellsberg—partly because of the failure of the government to produce wiretap logs on Ellsberg and partly because of the illegal investigations by the Plumbers.

Nearly two years after the Colson memo had described Ellsberg as "a natural villain," he had been acquitted by the unnatural efforts of the White House to use him as political weapon to "arouse the heartland."

Disclosures Unsettled Nixon

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not learn of the break-in at the offices of Dr. Lewis Fielding, Daniel Ellsberg's psychiatrist, until March 17, 1973, when he was told of it by White House counsel John W. Dean III.

According to the White House transcript of that conversation, Mr. Nixon expressed surprise, and exclaimed: "What in the world—what in the name of God was Ehrlichman having something (unintelligible) in the Ellsberg (unintelligible)?"

Several weeks later, though, on April 18, 1973, Ehrlichman said in his affidavit, Mr. Nixon called Assistant Attorney General Henry Petersen and told him to stay away from any investigation of the incident.

Ehrlichman said he was with Mr. Nixon when he made the phone call. "When he hung up," Ehrlichman said, "the President told me they had been discussing the Fielding break-in. He said, in substance, that the break-in was in furtherance of national security and fully justified by the circumstances."

At another meeting, in May, 1973, when the head of the Plumbers' unit, Egil (Bud) Krogh, was seeking permission to disclose his role in the burglary to the Justice Department, Ehrlichman said the President stated once again:

"While I (the President) did not know of the break-in attempt in ad-

vance, I surely recognize the valid national security reasons why it was done."

The White House evidence seeks repeatedly to emphasize the causes for Mr. Nixon's alarm. After Ellsberg's leak of the Pentagon Papers in mid-1971, the President was told that Ellsberg was believed to have "Communist ties," that he was "a fanatic," and "known to be a drug abuser."

Many of those allegations, according to the 225-page White House "defense book," came from Secretary of State Henry A. Kissinger, then Mr. Nixon's special assistant for national security affairs. In effect, Kissinger stands out as the President's chief defense witness, backing up Mr. Nixon's contentions that strict countermeasures were justified in the face of repeated leaks of government secrets.

According to a hitherto secret affidavit dated last Nov. 26, Kissinger said the Nixon White House was plagued by news leaks almost from the outset.

The early months of the Nixon administration, Kissinger said, were especially sensitive times for the establishment of basic foreign policy positions, and secrecy was considered vital.

Despite that, the leaks continued, tracing over National Security Council deliberations, intelligence information, negotiating positions and specific military operations, including the B-52 bombing raids over neutral Cambodia.

The disclosure of the bombing raids, Kissinger said, raised "a serious question in the mind of the President as to the ability of the government to maintain the necessary security required for this and other sensitive military and diplomatic operations, and whether in the future he could make critical foreign policy decisions on the basis of full and frank discussions."

In early May, 1969, Kissinger said, Mr. Nixon consulted with FBI Director J. Edgar Hoover, who told him that "the most effective method was that which had been followed in previous administrations, namely the conduct of electronic surveillance in accordance with specific procedures."

After the President was assured by Attorney General John N. Mitchell that such surveillance would "be in compliance with the law," Kissinger said his office was "required by the President to submit the names of those officials who had had access to the information which had been leaked."

In his affidavit, however, which was submitted under seal in connection with a lawsuit Ellsberg has brought against Mitchell, Kissinger explicitly named only Morton Halperin, then chief of the National Security Council planning group, as one of those whose names were supplied to the FBI.

Kissinger said he saw periodic summaries resulting from the Halperin taps, but hardly any after May, 1970, when they began to be routed directly to White House chief of staff H. R. (Bob) Haldeman.

Mr. Nixon's lawyers offered no justification for any of the other 16 wiretaps. Some of those whose conversations were monitored, such as former White House aides John P. Sears and William Safire, reportedly had no access to the national security information that was being leaked.

Phrasing his words cautiously, St. Clair said only that "there was clear legal authority on the legality of warrantless national security wiretaps at the time the 17 wiretaps were conducted." He did not maintain that each was, in fact, a "national security" wiretap, nor did he say whether the President had ordered each one.