

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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IN RE PETITION OF NATIONAL SECURITY )  
ARCHIVE, AMERICAN HISTORICAL )  
ASSOCIATION, AMERICAN SOCIETY OF LEGAL ) Miscellaneous Action  
HISTORY, ORGANIZATION OF AMERICAN )  
HISTORIANS, SOCIETY OF AMERICAN )  
ARCHIVISTS, AND SAM ROBERTS )  
FOR ORDER DIRECTING RELEASE OF )  
GRAND JURY MINUTES )  
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DECLARATION OF BRUCE CRAIG

I, Bruce Craig, hereby declare as follows:

1. I am a historian by training and profession whose specialty is the history of American espionage during the Cold War era. I submit this declaration in support of the above-captioned Petition to unseal the grand jury records relating to the case United States of America v. Julius Rosenberg, Ethel Rosenberg, Anatoli A. Yakovlev, also known as “John”, David Greenglass and Morton Sobell (C. 134-245). Historians commonly characterize this case as the Rosenberg Atomic Espionage Spy Case.<sup>1</sup>

2. Julius and Ethel Rosenberg and Morton Sobell were all indicted and found guilty of conspiring to commit espionage (a violation of Title 50, section 34 of the U.S. Code – Espionage). They were sentenced on April 5, 1951. The Rosenbergs were sentenced to death, Ethel’s brother, David Greenglass (who had entered a plea of guilty and had cooperated with the government by providing key trial evidence against his relatives), was given a fifteen-year sentence, and Morton Sobell received a thirty-year sentence. Following extensive appeals and attempts to overturn their convictions, the

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<sup>1</sup> See John Earl Haynes and Harvey Klehr, *Early Cold War Spies: The Espionage Trials That Shaped American Politics* (New York; Cambridge University Press, 2006) at 138.

Rosenbergs were executed in the electric chair at Sing Sing Prison in New York on June 19, 1953.

3. The Petition also seeks to provide the basis for the unsealing of the grand jury records relating to the closely associated conspiracy cases of Abraham Brothman and Miriam Moskowitz, which in essence served as a “rehearsal” for the Rosenberg prosecution.

4. Abraham Brothman was arrested and charged with conspiracy to obstruct justice for testifying falsely before a federal grand jury in 1947 regarding his relationship with Harry Gold, the first major figure in the Rosenberg spy ring to confess. Brothman’s business partner, Miriam Moskowitz, allegedly cooperated in the grand jury deception; both individuals were convicted and sentenced on November 28, 1950 by federal judge Irving R. Kaufman. Brothman was given seven years in prison (later reduced to two years) and Moskowitz received a two year sentence.

5. This declaration has several objectives. First, it outlines and describes the publicly available sources of information about the grand jury that investigated the Rosenberg matter. Second, it chronicles the Rosenberg atomic spy controversy, the trial, and its aftermath. Third, it identifies what grand jury records relating to the case are currently available to scholars and which ones remain sealed. Fourth, it describes what is known about the grand jury testimony of the principals and other witnesses whose testimony is of key importance. Fifth, it describes the current location of the grand jury records. And finally, it raises relevant research questions that could be answered by unsealing all of the Rosenberg case grand jury minutes.

## CREDENTIALS

6. I possess a Ph.D. (1999) in History from the American University (Washington, D.C.) and am on the faculty of the University of Prince Edward Island (Charlottetown, Prince Edward Island, Canada), where I teach American history. I hold a concurrent position as an adjunct faculty member of the Department of History at the American University (Washington, D.C.). I am the author of *Treasonable Doubt: The Harry Dexter White Spy Case* (University Press of Kansas, 1994), a book detailing the espionage case of Harry Dexter White, a high-ranking Treasury Department official accused of being a Soviet spy at the same time as was former State Department official Alger Hiss.

7. In 1996, while conducting research for my doctoral dissertation, I brought suit to unseal the grand jury records relating to the Harry Dexter White investigation.<sup>2</sup> After that case was adjudicated, I subsequently prepared the key historical declaration in the case In re American Historical Ass'n.<sup>3</sup> In October 1999, this case resulted in the release to the public of the roughly 4,800 pages of testimony relating to the Alger Hiss espionage case.

8. I have written dozens of other articles for popular and scholarly periodicals, including “Unsealing Federal Grand Jury Records: The Case of the Harry Dexter White Transcript” (in *The Public Historian*, vol. 20 no. 2 (Spring 1998), at 45-62). In 1989, my article on the Alger Hiss-Whittaker Chambers controversy, titled “Politics in the Pumpkin Patch” won the G. Wesley Johnson award as the best article in *The Public*

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<sup>2</sup> See In re Craig, 942 F. Supp. 881 (S.D.N.Y. 1996) *aff'd*, 131 F.3d 99 (2d Cir. 1997).

<sup>3</sup> See In re Am. Hist. Ass'n, 49 F. Supp. 2d 274 (S.D.N.Y. 1999); In re Am. Hist. Ass'n, 62 F. Supp. 2d 1100 (S.D.N.Y. 1999).

*Historian*, a journal of history (The Public Historian, vol. 12 no. 1 (winter 1989), at 8-24).

I am presently writing a biography of Alger Hiss which will, in part, make use of the released grand jury records.

9. As Executive Director of the National Coalition for History, a Washington, D.C.-based history and archives advocacy organization, I spearheaded the successful effort that resulted in the unsealing of House Committee on Un-American Activities (HUAC) records in August 2001. I have served on the editorial board of *The Public Historian* and have chaired or have been a member of various committees for the American Historical Association, the Organization of American Historians, and the National Council on Public History.

#### PUBLICLY AVAILABLE SOURCES OF INFORMATION

10. This declaration is based on an extensive research project into what is publicly known about the grand jury proceedings related to the indictment and eventual conviction of Ethel and Julius Rosenberg and Morton Sobell on the charge of conspiracy to commit espionage.

11. To this end, I examined the already unsealed grand jury testimony of Harry Gold,<sup>4</sup> a key figure in the Soviet Union's atomic espionage spy ring. I also examined other publicly available partial releases of grand jury minutes relating to the

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<sup>4</sup> Because of its close association with and relevance to the Alger Hiss espionage case, the July 31, 1947, grand jury testimony of Harry Gold was unsealed in 1999 by the U.S. District Court for the Southern District of New York as part of the Alger Hiss Grand Jury release. Gold was also a key figure in the Rosenberg espionage ring. His testimony is available without restriction to researchers. See "Testimony of Harry Gold" July 31, 1947, at pp 971-1001, Alger Hiss Grand Jury Release, October 1999.

Rosenberg espionage case, including the testimony of Abraham Brothman.<sup>5</sup>

12. I have surveyed the extensive secondary source literature relating to the Rosenberg spy ring and to atomic espionage in general.

13. I have examined in detail the primary source materials pertaining to the Rosenberg grand jury investigation, including a detailed examination of the entirety of the 2,563-page Rosenberg trial transcript.<sup>6</sup> I also reviewed pertinent archival records relating to the Harry Gold case.<sup>7</sup> I have surveyed and culled relevant information from some 23-cubic feet of records relating to the Rosenberg espionage case deposited in the National Archives New York Regional Office, including the 69-box collection of U.S. District Court Records, Series I and II of the Records of U.S. Attorneys (NARA Record Group 118) and relevant sub-series collections (i.e. Series II “Grand Jury Files (1950-1954) where the sealed grand jury records are presently stored.

14. I have examined select personal papers of the Rosenbergs’ defense attorneys, including the Papers of Fyke Farmer, which are deposited at the Manuscript Division, Library of Congress in Washington, D.C.

15. Relevant decrypts from the once-secret VENONA project, as well as articles about the case that appeared in newspapers of record like *The Washington Post*

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<sup>5</sup> See “Testimony of Abraham Brothman” July 22, 1947, at pp 849-887, Alger Hiss Grand Jury Release, October 1999. Though the Brothman testimony of July 22, 1947, was released in its entirety, it represents only one of Brothman’s several grand jury statements. His statements from 1950 remain sealed.

<sup>6</sup>See Transcript of Record, United States v. Rosenberg, C. 134-245 (S.D.N.Y. 1951) (available at <<http://www.law.umkc.edu/faculty/projects/FTrials/Rosenberg/RosenbergTrial.pdf>>).

<sup>7</sup> The prosecution and court records of the Gold case are found in the U.S. Attorney records (Record Group 118) deposited at the National Archives and Records Administration’s (NARA) Mid-Atlantic Region’s archives (Philadelphia) and the NARA Northeast Region (New York City) archive.

and The New York Times were also reviewed.

16. Using indexes of records and NARA collection finding aids associated with the various Rosenberg Trial-related collections retained by the National Archives Mid-Atlantic and Northeast regional offices (largely from Record Group 118), I have compiled a comprehensive index of trial and grand jury witnesses, the dates of their testimony before the grand jury, and citations of page numbers identifying where the transcripts may be located in National Archives collections.<sup>8</sup> A compilation of the names of additional individuals involved in the case and their current status has also been developed based on these materials.<sup>9</sup>

17. While preparing this declaration, I have consulted and conducted interviews with Ronald Radosh, co-author of *The Rosenberg File: A Search for the Truth* (New York: Holt, Rinehart and Winston 1983 and rev. 2nd ed., New Haven: Yale University Press, 1997), and Sam Roberts, author of *The Brother: The Untold Story of Atomic Spy David Greenglass and How He Sent His Sister, Ethel Rosenberg, to the Electric Chair* (New York: Random House 2001). Both of these books were written largely using primary source documentary materials, and collectively they are considered authoritative accounts of the Rosenberg case.

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<sup>8</sup> See Appendix 1. The exhibit includes a list of all known witnesses who testified before the federal grand jury on matters relating to the Rosenbergs and related atomic spy efforts, the date each witness testified, the relevant page numbers where each individual's testimony may be found in the 69-box collection titled Series I (U.S. Attorney Files 1950-1981) and Series II (Grand Jury Files 1950-1954) collections pertaining to Record Group 118, Records of U.S. Attorneys (Rosenberg Case File #114868; cited as C134-245 and Brothman Case File; cited as C133-106) retained at the National Archives and Record Administration, Northeast Regional Archives, 201 Varick Street, New York, N.Y. 10014-4811.

<sup>9</sup> See Appendix 2.

## INTRODUCTION TO THE ROSENBERG CASE

18. The defection of Soviet cipher clerk Igor Gouzenko to Canada in September 1945 jolted the American, British, and Canadian intelligence community. Gouzenko produced incontrovertible documentary evidence—109 documents pilfered from top-secret Soviet embassy files—establishing that from the mid-1930s through World War II, the Soviet Union had organized underground networks in the United States, Canada, and elsewhere; that Soviet agents had penetrated many government agencies; and that Soviet agents had gathered and still were gathering sensitive technological and military “secrets” from Western allies.

19. Perhaps the most sensitive of the military secrets that Gouzenko’s documents suggested had been stolen and provided to the Soviets were key aspects of the secret technology needed to build an atomic bomb. This powerful new weapon, developed and used by the United States to end World War II, had transformed the military balance of the post-war world.

20. For many Americans reading the newspapers in 1948-49, the initial revelation that government agencies like the State and Treasury Departments appeared to have been penetrated by spies such as Alger Hiss was startling enough—that American citizens had betrayed their country by helping the Soviets gain the technological know-how to produce their own atomic bomb was truly shocking. If the Soviets possessed the technological know-how that would enable them to build an atomic bomb, it meant that the apparent American nuclear monopoly over the technology needed to produce an atomic bomb had been shattered, as had the precarious wartime alliance that had existed between the Soviet Union and the United States, Britain, and the other western powers

during World War II.

21. The Soviet Union was able to develop its own atomic bomb, which was detonated on August 28, 1949.

22. At the time, it was widely believed that the Soviets simply did not have the technical ability to build a bomb unassisted. Therefore, some believed that the “secret” of the atomic bomb must have been conveyed by the treacherous acts of spies. Americans were angered and afraid. Because America was now vulnerable to a surprise Soviet nuclear attack and perhaps even atomic incineration, Americans demanded that their government take immediate action to bring the traitors to justice.<sup>10</sup>

23. When it was revealed in the summer of 1950 that the key figure, if not the alleged leader of the atomic spy ring, Julius Rosenberg, and his band of accomplices, including his wife Ethel, his brother-in-law David Greenglass, and others such as Morton Sobell, had been hunted down and captured by agents of J. Edgar Hoover’s Federal Bureau of Investigation (FBI), few Americans disagreed that the traitors had to promptly be brought to justice. So began the investigation, trial, and conviction of the members of the Rosenberg spy apparatus.

24. The sensational court drama that followed is commonly considered the most infamous atomic espionage trial of the early Cold War era. The drama intensified as the Rosenbergs’ execution dates drew near. The Rosenbergs were electrocuted in 1953, and the aftermath of their deaths fueled an acrimonious debate over their guilt that continues to this day.

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<sup>10</sup> Haynes & Klehr, *Early Cold War Spies*, at 138.



## POPULAR AND SCHOLARLY WORKS ABOUT THE ROSENBERG CASE

25. As a consequence, the trial of the Rosenbergs and their accomplices and the aftermath of the Rosenbergs' execution has been the topic of study for many Rosenberg partisans, journalists, investigative reporters, and historians for decades and consequently is the subject of many books, articles, plays, and television docudramas.<sup>11</sup>

26. Shortly after the execution of the Rosenbergs, books were penned by Rosenberg partisans and journalists.<sup>12</sup>

27. With the passage of time, the cooling of passions, and the release of primary source documentation made available to scholars as a result of requests under the Freedom of Information Act (FOIA), more nuanced studies of the Rosenberg spy case, the Manhattan Project, and Soviet atomic espionage in general started to emerge.<sup>13</sup>

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<sup>11</sup> For an example of television docudramas, see Russell Aiuto, "The Rosenbergs: A Case of Love, Espionage, Deceit, and Betrayal" on Courtroom Television Network Crime Library: Terrorists, Spies, & Assassins at <http://www.crimelibrary.com/rosen/rosemain.htm> and Public Broadcasting System's "Secrets, Lies, and Atomic Spies" on Nova Online <http://www.pbs.org/nova/venona>. For a listing and discussion of the evolution of the scholarly literature into the Rosenberg case, see below.

<sup>12</sup> E.g., S. Andhill Fineberg, *The Rosenberg Case: Fact and Fiction* (1952); William Reuben, *The Atom Spy Hoax* (1955) and revised in 1977 after the release of FBI documents; John Wexley, *The Judgment of Julius and Ethel Rosenberg* (1955); Malcolm P. Sharp, *Was Justice Done? The Rosenberg-Sobell Case* (1956); Walter Schneir and Miriam Schneir, *Invitation to an Inquest* (1965, revised 1983). Books by co-conspirator Morton Sobell and the sons of Julius and Ethel Rosenberg were also written: e.g., *We Are Your Sons: The Legacy of Ethel and Julius Rosenberg* (1975 and 1986); Robert Meeropol, *An Execution in the Family: One Son's Journey* (2003); Morton Sobell *On Doing Time* (1974).

<sup>13</sup> E.g., Louis Nizer, *The Implosion Conspiracy* (1973); Ronald Radosh and Joyce Milton, *The Rosenberg File: The Search for the Truth* (1983 and revised 1997); Richard Rhodes, *The Making of the Atomic Bomb* (1986); Norman Moss, *Klaus Fuchs: The Man Who Stole the Atom Bomb* (1987); David Holloway, *Stalin and the Bomb: The Soviet Union and Atomic Energy, 1939-1956* (1994); Sam Roberts, *The Brother: The Untold Story of Atomic Spy David Greenglass and How He Sent His Sister, Ethel Rosenberg, to the Electric Chair* (2001).

28. With the collapse of the Soviet Union and the proliferation of “true confessions” books by former Soviet diplomats and KGB officers who claimed to have been “control agents” for western spies and/or at times claim to have been privy to Soviet archive classified or secret information began to be published in English.<sup>14</sup>

29. After the release of the VENONA decrypts<sup>15</sup> and additional studies based on oral history interviews of former Soviet collaborators and spies, still more information was gleaned by scholars, thus helping to fill in unanswered questions relating to the story of atomic espionage in the post-war era.<sup>16</sup>

30. However, scholars have been unable to examine the grand jury minutes relating to the Rosenberg trial. These minutes remain closed to researchers though they undoubtedly contain information that will shed new light on the Rosenberg case. The accompanying declarations by scholars of national and international reputation suggest that the minutes, when unsealed, will shed new light on age-old questions about the case that remain outstanding, as well as new ones that are likely to emerge when the minutes

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<sup>14</sup> See, e.g., Nikita Sergeevich Khrushchev, *Memoirs of Nikita Khrushchev* (2005); Pavel Sudoplatov and Anatoli Sudoplatov, *Special Tasks: The Memoirs of an Unwanted Witness – A Soviet Spymaster* (1994); Alexander Feklisov and Sergi Kostin (translated by Catherine Dop), *The Man Behind the Rosenbergs* (2001).

<sup>15</sup> In July 1995, the first of several public releases of the so-called VENONA decrypts—the product of a top-secret project begun in 1943 by the U.S. Army Signal Security Service that intercepted and decrypted telegrams sent and received by Soviet diplomatic missions throughout the world—occurred. The decrypts provided what many concluded was “definitive proof” of the involvement of Julius and Ethel Rosenberg in the Soviet atomic bomb espionage operation during World War II (see Radosh and Milton, *The Rosenberg File*, at xv). For the online version of many of the key VENONA decrypts (including those implicating the Rosenbergs), see National Security Agency, Central Intelligence Agency, *VENONA: Soviet Espionage and the American Response 1939-1957* (Washington, D.C.: 1996) at <<http://www.cia.gov/csi/books/venona/venona.htm>>.

<sup>16</sup> E.g., Joseph Albright and Marcia Kunstel, *Bombshell: The Secret Story of America’s Unknown Atomic Spy Conspiracy* (1997); Nigel West, *Mortal Crimes: The Greatest Theft in History: Soviet Penetration of the Manhattan Project* (2004); and Steven Usdin, *Engineering Communism* (2005).

are released.

### THE ROSENBERG TRIAL DEFENDANTS

31. The Rosenberg atomic spy case involves four principal defendants: Julius Rosenberg, his wife Ethel Rosenberg, Morton Sobell, and Anatoli Yakovlev.

32. **Julius Rosenberg** was born in New York on May 12, 1918. He was graduated from the City University of New York with a degree in electrical engineering in 1939.

33. As part of a generation of students that was highly politicized by the Great Depression and the growth of fascism abroad, Rosenberg joined the Young Communist League in 1936.

34. Julius married Ethel Greenglass in 1939, the same year that he was inducted into the American Communist Party (CPUSA).

35. Julius joined the Army Signal Corps as a civilian engineer in the fall of 1940.

36. By 1942, he was an open and active CPUSA member. However, he and his wife dropped out of the open party in 1943 when Julius started to pursue espionage activities. As a consequence, they stopped attending Party functions and ceased associating with known communists.

37. In 1945, Julius was fired from his job with the Army Signal Corps when his past membership in the CPUSA came to light as the result of a routine security investigation. Subsequently, he took a position with the Emerson Radio Corporation and then formed a small machine shop with members of his wife's family and a family friend, Isadore Goldstein.

38. Rosenberg was arrested on June 17, 1950, on suspicion of espionage. Rosenberg's arrest was the result of having been named by his wife's brother, David Greenglass, who had confessed to authorities.

39. Julius was convicted on March 29, 1951, and sentenced to death under Section 2 of the Espionage Act. He was executed by electric chair at Sing-Sing Prison in New York on June 19, 1953.<sup>17</sup>

40. **Ethel Rosenberg** was born September 28, 1915, in New York City. She attended a local religious school and then a high school, from which she graduated at age 15.

41. Though an aspiring actress and singer by avocation, she worked as a clerk-secretary at a shipping company, where she remained for four years before being dismissed because of her role as a strike organizer.

42. She married Julius in the summer of 1939 and became a housewife. The couple had two sons, Michael (b. 1943) and Robert (b. 1947), who, after the execution of their parents, were raised by Abel and Anne Meeropol, whose name both sons adopted.

43. Ethel Rosenberg was arrested on August 11, 1950.

44. Like her husband, Ethel was charged under Section 2 of the Espionage Act, convicted on March 29, 1951, and sentenced to death. She was executed shortly after her husband on June 19, 1953.<sup>18</sup>

45. **Morton Sobell** was born on April 11, 1917, in New York City. He

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<sup>17</sup> See Radosh and Milton *The Rosenberg File*; and Douglas O. Linder, ed., "Famous Trials: The Rosenberg Trial" (website of the University of Missouri-Kansas City (UMKC) School of Law at

<[http://www.law.umkc.edu/faculty/projects/ftrials/rosenb/ROS\\_BSOB.HTM](http://www.law.umkc.edu/faculty/projects/ftrials/rosenb/ROS_BSOB.HTM)>.

<sup>18</sup> Ibid.

attended local schools, including City College of New York, where he received a degree in engineering.

46. He then moved to Washington, D.C., where he began working at the Navy Bureau of Ordnance; there he allegedly began his espionage work.

47. On June 22, 1950, Sobell and his wife Helen, infant son Mark, and Helen's daughter Sydney left the United States for Mexico. Once located by authorities, Sobell was abducted by armed men, taken to the United States border, and turned over to the FBI.

48. Shortly thereafter, he was arrested for conspiring with Julius Rosenberg to violate espionage laws.

49. Sobell received a thirty-year sentence for his role in the Rosenberg conspiracy. He served only 18 years, was released from prison in 1969, and maintains his innocence to this day.<sup>19</sup>

50. **Anatoli Yatskov**, also known in the United States as Anatoli Antonovich Yakovlev, was the Soviet Vice-Consul in New York City and a Soviet spymaster.

51. He returned to Russia prior to the commencement of the Rosenberg Trial.

52. In October 1995, during an interview with Michael Dobbs of The Washington Post, Yatskov bragged that the Soviet Union had managed to penetrate "the wall of secrecy around the Manhattan Project," and that his agents had stolen the major process for manufacturing the atomic bomb from the United States. While Yatskov claimed that the FBI had not managed to uncover even half of his network, he was adamant that he had not known the Rosenbergs and could not shed any light on their case.

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<sup>19</sup> Ibid.

However, in his 1995 confession he did confirm that Harry Gold was a courier for his network.<sup>20</sup>

#### PRELUDE TO THE ROSENBERG CASE:

##### HARRY GOLD'S TESTIMONY AND ITS AFTERMATH

53. The successful prosecution of the Rosenbergs, Sobell, Brothman, and Moskowitz would probably not have been possible without the grand jury and court testimony of Harry Gold, a confessed Soviet courier who met with numerous industrial spies during the early Cold War period. On July 20, 1950, in federal court, Gold pled guilty to conspiracy to transmit documents to a foreign power.

54. Gold's key testimony before a federal grand jury was released to the public in October 1999 as a result of the successful petition to unseal the records of the grand jury investigation of Alger Hiss.<sup>21</sup>

55. In his grand jury testimony, Gold stated that he served a courier for atomic energy information gleaned from Klaus Fuchs, a Soviet military intelligence (GRU) agent. Gold also admitted that he transmitted information about the development of the building of an atomic bomb (the so-called Manhattan Project) to his Soviet contacts.<sup>22</sup> Gold was given a 30-year prison sentence.

56. Abraham Brothman, one of Gold's contacts, was another individual implicated in atomic espionage. He was arrested and charged with obstruction of justice

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<sup>20</sup> Radosh and Milton, *The Rosenberg File*, at xviii-xiv.

<sup>21</sup> See In re Am. Hist. Ass'n, 49 F. Supp. 2d 274 (S.D.N.Y. 1999); In re Am. Hist. Ass'n, 62 F. Supp. 2d 1100 (S.D.N.Y. 1999).

<sup>22</sup> See U.S. District Court for the Eastern District of Pennsylvania – “The United States vs. Harry Gold, John Doe, alias ‘John’ Richard Roe, alias ‘Sam;’” Criminal case no 15769.

for testifying falsely before a federal grand jury in 1947 regarding his business relationship with Harry Gold.

57. Brothman's business partner, Miriam Moskowitz, who allegedly cooperated in the deception, was subsequently charged with conspiracy to obstruct justice.

58. Both individuals were convicted as charged on November 22, 1950, and sentenced on November 28 by federal judge Irving R. Kaufman. Brothman was given seven years in prison (later reduced to two years) and Moskowitz received a two year sentence.

59. Hoping to capitalize on the momentum of Gold's confessions, the FBI investigated Gold's statement that he had also gathered information from an unidentified soldier in Albuquerque in June 1945.

60. After eliminating other possible suspects, the FBI identified David Greenglass as the most likely person to have been Gold's contact.

61. When interrogated by the federal agents, Greenglass confessed immediately after he was told that Harry Gold had identified him and implicated his wife Ruth Greenglass, his brother-in-law Julius Rosenberg, and his sister Ethel.

62. Julius Rosenberg was then questioned by the FBI. He was subsequently arrested and charged with conspiracy to commit espionage.

63. Ethel Rosenberg was also questioned. After two appearances before a federal grand jury, during which she relied principally on her Fifth Amendment right against self-incrimination, Ethel Rosenberg was arrested.

64. Morton Sobell was also arrested for allegedly providing information to the Soviets as part of the conspiracy.

65. On March 6, 1951, the joint trial of Julius and Ethel Rosenberg and Morton Sobell began in room 107 of the federal courthouse in New York City with Judge Irving R. Kaufman presiding. Judge Kaufman had also presided over the Brothman/Moskowitz trial.

66. In the end, all three defendants were found guilty of conspiring to commit espionage.

67. They were sentenced on April 5, 1951. The Rosenbergs were sentenced to death. David Greenglass (who had entered a plea of guilty and had cooperated with the government in the trial of the Rosenbergs and Sobell) was given a fifteen-year sentence. Morton Sobell was given a 30-year sentence and was released in 1969.

68. Following extensive appeals and attempts to overturn their convictions, the Rosenbergs were executed in the electric chair at Sing-Sing Prison in New York on June 19, 1953.

### THE CASE IN HISTORICAL CONTEXT

69. Throughout most of human history espionage has rarely taken center stage in the national drama that is war. Certainly, from biblical times through World War II, spies have left their mark and have influenced the outcomes of battles and military campaigns.

70. The Cold War—that undeclared war that pitted the United States and the Soviet Union against each other for nearly five decades—was no ordinary war. The world was the battlefield and nations, like figures on a chessboard, were maneuvered into position by what at times seemed unseen hands.



71. Though diplomacy had its place, the Cold War was often a game of “spy versus spy”— a contest in which espionage became a central strategy of both the United States and the Soviet Union in each nation’s effort to “win.”<sup>23</sup>

72. Ever since the 1945 defection of Igor Gouzenko—a young Soviet cipher-clerk who presented Canadian officials with concrete documentary evidence that the Soviets were engaging in espionage and were spying on their supposed wartime friends and allies—Western intelligence officials were well aware of the existence of a world-wide Soviet underground intelligence-gathering operation that had tentacles that reached across the globe.<sup>24</sup>

#### THE TRAIL THAT LED TO THE ROSENBERGS

73. One of the names that had turned up among the documents that Gouzenko had pilfered from the Soviet mission in Ottawa was that of Klaus Fuchs, a young German-born physicist. Though at first the presence of his name on a document found in Gouzenko’s cache seemed innocent enough, a chance reference in a separate intercepted and decoded Soviet message that had been addressed to a British atomic spy also made a passing reference to a relative of Fuchs, thereby alerting Western authorities that Fuchs may have been a Soviet spy after all.

74. When directly confronted by British authorities in January 1950, Fuchs confessed all. He told his inquisitors that he had been a Soviet spy from 1941-1945 and

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<sup>23</sup> For the centrality of espionage in the Cold War period, see John Lewis Gaddis, “Intelligence, Espionage and Cold War Origins” *Diplomatic History* 13 no. 2 (Spring 1989), 191-212.

<sup>24</sup> For the Gouzenko defection, see Amy Knight, *How the Cold War Began: The Igor Gouzenko Affair and the Hunt for Soviet Spies*; (Toronto: McClelland and Stewart, 2005).

beyond that, and had betrayed information about the American top-secret atomic bomb project (the Manhattan Project) to his underground contacts. In fact, he had given information “about the principle of the design of the plutonium bomb” to the Soviets.

75. Fuchs also told his interviewers that he had picked up information in New York and New Mexico from a special courier, an American national who he knew only by the cover-name “Raymond.” So began the American spy hunter community’s search for “Raymond” and other atomic spies.<sup>25</sup>

76. In February 1950, banner headlines splashed across newspapers throughout the nation announced Fuchs’ confession and served as the catalyst for an intensive search by the Federal Bureau of Investigation (FBI) for “Raymond.”

77. Based on a cursory check of information in the Bureau’s own surveillance and central investigatory files (BUFILES) three likely candidates emerged: Joseph Arnold Robbins, Abraham Brothman, and Harry Gold.

78. Brothman and Gold had both appeared in 1947 before a federal grand jury that had been charged to investigate the allegations of one-time Soviet spy courier Elizabeth Bentley that Brothman’s Queens County engineering firm had served as a clearinghouse for Soviet industrial espionage. There was insufficient evidence to support these allegations, and neither man was indicted.<sup>26</sup>

79. A routine check into the summer 1945 whereabouts of Robbins quickly eliminated him as a suspect.

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<sup>25</sup> See Radosh and Milton, *The Rosenberg File* at 9-13; quote at 12; see also Haynes and Klehr, *Early Cold War Spies* at 139-141, 152-154.

<sup>26</sup> Radosh and Milton, *The Rosenberg File* at 21-22, 34-36. For a discussion of the importance of the Brothman/Gold grand jury testimony to the Rosenberg case see page 31-32 of this declaration.

80. Because Brothman's physical appearance did not even remotely correspond to the physical characteristics of "Raymond" as described by Fuchs in his confession, Brothman was quickly eliminated as well.

81. Consequently, the Bureau launched an all-out effort to locate the third suspect, Harry Gold.

82. The search began at Brothman's engineering firm, where Gold was last known to have been employed. When interviewed by FBI agents, a nervous Brothman stated that Gold had not worked for him since before the grand jury investigation of 1947, and that he had no idea where Gold was.

83. The FBI managed to locate Gold. When they searched his residence they discovered a map of Santa Fe. The map was "hardly enough to convict a man of espionage" according to historians Ron Radosh and Joyce Milton's definitive book on the Rosenberg case, *The Rosenberg File*. Nevertheless, when confronted with the map, the terrified Gold blurted out, "Yes, I am the man to whom Klaus Fuchs gave the information on atomic energy." Gold subsequently dictated a seven-page statement and underwent further sustained questioning by the FBI beginning in June 1950.<sup>27</sup>

84. During interviews Gold recounted that among other contacts, he recalled having had a meeting with a young soldier in New Mexico who had been assigned to a secret installation on a 7,200-foot-high mesa—the Los Alamos atom-bomb facility. Gold recalled that the GI had passed an envelope and possibly a sketch on to Gold that he subsequently delivered to his Soviet handlers.

85. Though Gold could not recall the name of the young man, he was able to

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<sup>27</sup> Radosh and Milton, *The Rosenberg File*, at 22-23, both quotes at 39; 40-45; see also Haynes and Klehr, *Early Cold War Spies*, at 154-156.

provide a detailed physical description. He also was able to recall that his contact's wife was named "Ruth."

86. A quick investigation of likely GIs who fit Gold's detailed profile—a man not more than 25 years old, five feet seven inches tall, sturdily built with dark brown curly hair, with a snub nose and wide mouth, who had been employed at Los Alamos at the appropriate time five years previous, and who had a wife named Ruth—resulted in the identification of David Greenglass.

87. On June 15, 1950, Gold was shown some pictures of Greenglass, whom he immediately recognized. On the back of a FBI photograph of Greenglass, Gold wrote the statement, "This is the man I contacted in Albuquerque, New Mexico in June 1945."

88. Once Greenglass was located, in his first interview with federal agents, he confessed and admitted that he had passed information to Gold and also to Greenglass's brother-in-law, Julius Rosenberg.<sup>28</sup>

89. Within the historical community today, it is generally accepted that even before the Gouzenko defection and the confessions of Klaus Fuchs and Harry Gold, the FBI was aware that a Soviet spy ring had most likely penetrated the Los Alamos project.

90. Ever since 1943, the U.S. Army Signal Security Agency had been carrying out a top-secret military operation (code-named JADE, BRIDE, and DRUG before ultimately being named VENONA) in which American cryptanalysts had laboriously sought to decrypt intercepted encrypted telegrams sent and received by Soviet military missions in the United States and elsewhere.

91. In order to try to put a name to the code and/or cover-named individuals,

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<sup>28</sup> Radosh and Milton, *The Rosenberg File*, at 45-47; "Ruth" identified at 45; quote at 47.

the Signal Corps shared the contents of the decrypts with the FBI. Among the Soviet agents in the United States identified in the decrypts was an individual (dubbed by the FBI as “Unknown American No. Five”) with the cover-name of “Kalibr” or “Caliber.” This person worked at Los Alamos and had a Communist wife cover-named “Osa,” which is Russian for *wasp*.

92. Hence, it was through the efforts of field investigations and VENONA that the FBI was able to put the puzzle together and identify David Greenglass as the most likely suspect.<sup>29</sup>

93. A second VENONA decrypt suggested to the FBI the name of yet another atomic spy—a man tentatively identified as “Lib or “Antenko,” later translated to mean “Liberal” and “Antenna.” This spy had a 29-year old wife named Ethel.<sup>30</sup>

94. By mid-June 1950, the FBI had been alerted by the VENONA decrypts to the existence of several atomic spies—one being David Greenglass. Once he confessed, others whose code names appeared in VENONA were also definitively identified, including Julius and Ethel Rosenberg.

95. Though the two VENONA puzzle pieces fit neatly together the FBI still faced a difficult quandary. Because of the top-secret nature of the VENONA project and because government officials did not want to alert the Soviets that their secret code had been broken, the Bureau was unwilling to introduce evidence garnered through the Top Secret project in a public trial. However, the presentment of secret evidence gathered from sources that could merely be identified as “Confidential” before a grand jury

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<sup>29</sup> See Haynes and Klehr, *Early Cold War Spies*, at 157; see also Sam Roberts, *The Brother*, at 81-83, 165-171, and 419-21.

<sup>30</sup> Radosh and Milton, *The Rosenberg File*, at xv.

possibly was another matter.<sup>31</sup>

#### GREENGLASS INTERROGATIONS AND ROSENBERG ARRESTS

96. David and Ruth Greenglass, as well as Julius and Ethel Rosenberg and others closely associated with the Rosenberg spy ring, knew all too well after the arrest of Klaus Fuchs on February 2, 1950, that some of them may be forced by circumstance to flee the country.

97. Once Harry Gold's arrest was publicized in the newspapers on May 24, 1950, Julius Rosenberg began making arrangements with his Soviet underground contacts for David and Ruth Greenglass and their young children to flee to Russia via Mexico. However, largely because Ruth sustained serious burns in a kitchen fire on February 14, 1950 and was unable to leave the hospital for months, her husband made no preparations to leave the country.

98. FBI agents eventually arrived at Greenglass's doorstep and escorted him to Room U of the FBI's 29<sup>th</sup> floor offices in the New York City Federal Building, where they interrogated him. Greenglass quickly confessed, and once he started talking, he couldn't stop. Shortly after his confession was recorded, his wife also confessed.

99. David Greenglass agreed to cooperate fully with the FBI provided that his wife would be kept entirely out of the matter. Greenglass began retelling how he became involved in espionage, and he told investigators that it was his brother-in-law Julius

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<sup>31</sup> Roberts, *The Brother* at 420-21. One of the key questions that unsealing the Rosenberg grand jury minutes seeks to answer is what, if any, evidence gathered by VENONA was revealed to grand jurors in their secret proceedings.

Rosenberg who had “sucked [him] into” the communist underground conspiracy.<sup>32</sup>

100. With Greenglass’s confession in hand, the FBI began to question Julius Rosenberg. He denied everything. Rosenberg could not be arrested, as the only direct evidence authorities possessed against him (short of VENONA evidence that could not be used in a public prosecution) was David Greenglass’s confession.

101. In mid-July, however, Ruth Greenglass—who was also giving statements to the FBI—expanded on one of her recollections. She told the FBI that, in Ethel’s presence, Julius had asked Ruth to persuade David to spy at Los Alamos. She also stated that Harry Gold had identified himself as a courier using a recognition password arranged by Julius.

102. On the basis of these new statements by Ruth Greenglass, on July 17, 1950, Julius Rosenberg was arrested and charged with conspiracy to commit espionage. He was arraigned before the District Court in the Southern District of New York (S.D.N.Y.). Unable to post the \$100,000 bail, he was remanded to the custody of the U.S. Marshal.

103. On August 7, 1950, Ethel Rosenberg was also arrested after appearing for a second time before a federal grand jury in the S.D.N.Y. pursuant to a subpoena. Also

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<sup>32</sup> Haynes and Klehr, *Early Cold War Spies*, at 157-159 and Radosh and Milton, *The Rosenberg File*, at 75-78; 80-82; quote at 67.

It should be noted that in New Mexico, U.S. Attorney Everett Grantham convened a special grand jury on July 6 and indicted David Greenglass on the basis of four overt acts that were drawn exclusively from the affidavits of FBI agents. The New Mexico FBI office also considered indicting Harry Gold, however, the Washington office of the FBI intervened and advised the Albuquerque FBI office that indicting Harry Gold in New Mexico (as Grantham had hoped to do) might interfere with the witness’s cooperation in other cases. Ultimately, the Greenglass indictment was dropped and Gold was never indicted in New Mexico. See Roberts, *The Brother*, at 261-62.

unable to raise the requisite \$100,000 bail, she was remanded to the custody of the U.S. Marshal.<sup>33</sup>

### ROSENBERG GRAND JURY INDICTMENTS

104. On August 17, 1950, just seventeen days after hearing testimony, the federal grand jury impaneled in the S.D.N.Y. returned an indictment charging the Rosenbergs with eleven overt acts that violated Title 50, U.S. Code, Section 34 – Espionage. Six days later, on August 23, 1950, the couple was arraigned before a S.D.N.Y. judge; they entered pleas of not guilty.

105. On October 10, 1950, a superseding indictment was returned by the same federal grand jury in the S.D.N.Y. This time, the Rosenbergs were charged with conspiracy to violate the espionage statutes. On October 17, 1950, they again entered pleas of not guilty, and, still unable to post bail, were remanded to the custody of the U.S. Marshal.

106. On January 31, 1951, yet another superseding indictment was handed down by the federal grand jury. This indictment charged the Rosenbergs with conspiracy to commit espionage between June 6, 1944 and June 16, 1950. The indictment was similar in all respects to the previous superseding indictment except that it changed the start date of the conspiracy from November 1944 to June 1944. On February 2, 1951, once again the Rosenbergs appeared before a S.D.N.Y. judge and entered pleas of not guilty.

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<sup>33</sup> Haynes and Klehr, *Early Cold War Spies*, at 157-58; Radosh and Milton *The Rosenberg File*, at 94-97; and Roberts, *The Brother*, at 255-73. See also Federal Bureau of Investigation, “Famous Cases: The Atom Spy Case” website at <<http://www.fbi.gov/libref/historic/famcases/atom/atom.htm#authorities> >, hereafter FBI: Famous Cases webpage.



107. During the period from July 17, 1950 through January 31, 1951, the S.D.N.Y. federal grand jury actively heard from dozens of witnesses as the U.S. Attorneys were busy building their case against the Rosenbergs and others charged in the case. The grand jury minutes from this period are expected to prove especially rich in filling out the story of the prosecution of the Rosenbergs and their accomplices.<sup>34</sup>

### THE ARREST OF ETHEL ROSENBERG

108. One of the most controversial aspects of the Rosenberg espionage case relates to the U.S. Attorney's strategy of waiting to arrest Ethel Rosenberg until after she made her second grand jury appearance on August 11, 1950.

109. According to historian Ron Radosh, "Up until the very day of Julius's arrest, the FBI's interest in Ethel Rosenberg had been nil. Julius alone was the target of their investigation....From the very beginning of the investigation, the government's interest in Ethel was based less on her own alleged complicity than on the possibility that the threat of prosecuting her could be used to pressure her husband into a full confession."<sup>35</sup>

110. Radosh and Milton's interpretation of events is supported by the documentary record. FBI field agents in New York were urged to "consider every

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<sup>34</sup> "New Jury to Study Espionage Evidence," *New York Times*, August 2, 1950 at p. 39. For the grand jury chronology, see FBI, Famous Cases webpage. For the twelve-count indictment of the Grand Jury, see Transcript of Record, United States v Rosenberg, C. 134-245 (S.D.N.Y. 1951) at pp 28-31, available at (<<http://www.law.umkc.edu/faculty/projects/FTrials/Rosenberg/RosenbergTrial.pdf>>) Another key issue that the release of the grand jury minutes would shed light on relates to the prosecution's legal strategy in presenting evidence to the grand jury and modifying the charges over time so as to provide the best chance of securing the defendants' conviction. The number of superseding indictments in this case is extraordinarily large.

<sup>35</sup> See Radosh and Milton, *The Rosenberg File* at 98.

possible means to make him [Julius Rosenberg] talk, including...a careful study of the involvement of Ethel Rosenberg in order that charges be placed against her.”<sup>36</sup>

111. The strategy had the blessing of FBI Director J. Edgar Hoover who wrote to Attorney General J. Howard McGrath, “There is no question [that] proceeding against his wife might serve as a lever in the matter.”<sup>37</sup>

112. The historical record suggests that U.S. Attorney Irving Saypol wanted to have Ethel arrested even before her first grand jury appearance on August 8, but held off at the request of the FBI. Internal FBI memos suggest that Bureau officials suspected that Saypol was seeking to manage Ethel’s arrest in a way that would generate maximum positive press coverage for the U.S. Attorney’s office, rather than the positive press that Director Hoover believed the FBI richly deserved.

113. However, historians Radosh and Milton suggest that there was another reason as well. They assert that the grand jurors were targeting Ruth Greenglass, who by her own admission had played a far greater role in the conspiracy than had Ethel Rosenberg. The grand jurors saw Ruth Greenglass as a logical target for a grand jury indictment.

114. According to Radosh and Milton, internal FBI memos suggest that the grand jurors’ attitude “did not change until Assistant U.S. Attorney Myles Lane informed them that action against Mrs. Greenglass would interfere with the government’s ability to prosecute the case successfully.”<sup>38</sup>

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<sup>36</sup> See FBI memo, Belmont to Ladd, July 17, 1950 cited in Radosh and Milton, *The Rosenberg File*, at 99.

<sup>37</sup> J. Edgar Hoover confidential to Attorney General, July 19, 1950, culled from the Rosenberg FBI BUFILE and cited in Radosh and Milton, *The Rosenberg File*, at 99.

<sup>38</sup> See Radosh and Milton, *The Rosenberg File*, at 100.

115. When the government did move against Ruth Greenglass, she was named as an un-indicted co-conspirator. Thus, the government was able to keep its side of the bargain with David Greenglass, who had promised his full cooperation with the prosecution provided that his wife would not be prosecuted.

116. The release of the S.D.N.Y. federal grand jury minutes may shed new light on the prosecution's statements to the grand jurors, the government's trial strategy, the cooperation (or lack thereof) with the FBI, and the degree to which multiple agencies worked together to attain the government's overarching goal of seeing the Rosenbergs and their co-conspirator, Morton Sobell, convicted.

#### THE SOBELL ARREST AND INDICTMENT

117. On the day that David Greenglass's arrest was announced to the press, several individuals implicated in the Gold/Rosenberg spy ring operation started to make plans to flee the country.<sup>39</sup>

118. One individual, Morton Sobell, an acquaintance of Julius Rosenberg, asked his employer for a leave of absence and six days later flew to Mexico with his wife Helen and two young children. After Julius Rosenberg's arrest was made public, Sobell began making arrangements to book passage from Mexico to Europe for himself and his family.

119. Sobell was known to the FBI because of the statements of Max Elitcher, a

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<sup>39</sup> The story of the disappearance of Joel Barr, Al Sarant, and others is beyond the scope of this declaration as they were not part of the Rosenberg prosecution or defense strategy. For a discussion of their relevance to the Rosenberg conspiracy, see Haynes and Klehr, *Early Cold War Spies* at 160-161 and Radosh and Milton, *The Rosenberg File*, at 104-129. See also Steven T. Usdin, "Tracking Julius Rosenberg's Lesser Known Associates," *Studies in Intelligence* (Vol. 49, No. 3, 2005) at 13-23.

Naval Ordnance Department employee who, when interrogated by FBI agents, told his interrogators that Julius Rosenberg had tried to recruit him to engage in espionage in 1944 and that their mutual friend Sobell was present during some of these recruitment efforts. According to Elitcher, Julius Rosenberg stated that Sobell was already cooperating by passing information to the Soviets.

120. Once in Mexico, Sobell was unable to book passage to Europe because he and his family lacked proper passport documentation. The delay gave the FBI time to track him down.

121. Once the FBI, in conjunction with Mexican authorities, located Sobell and his family in Mexico, Sobell was abducted by three Spanish-speaking men, assumed to be Mexican security police who were acting on behalf of American authorities. He was transported to the Texas border and transferred to FBI custody.

122. At the border he was immediately arrested on the grounds of “having conspired with Julius Rosenberg and others” to violate espionage laws. Charges against Sobell were vague, and he never confessed to any wrongdoing. The press, however, reported that Sobell was a central character deeply involved in the conspiracy.<sup>40</sup>

123. Exactly what evidence was presented to the grand jury regarding Sobell’s connection with the Rosenberg conspiracy between August 3, 1951 (when the U.S. Attorney Myles Lane first began to prepare a complaint against Sobell) and January 31, 1951 (when the grand jury indicted him along with the Rosenbergs, David Greenglass, and Anatoli Yakovlev) remains something of a mystery.

124. In order to enlighten scholars about this aspect of the Rosenberg

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<sup>40</sup> “Engineer is Seized at Laredo as Spy for Russian Ring,” *New York Times* August 19, 1950, at 1; see also Radosh and Milton, *The Rosenberg File*, at 130-37.

prosecution, the three grand jury appearances of Max Elitcher and two appearances of his wife Helen are key. Historians Haynes and Klehr summed up what is currently known about the prosecution's case against Morton Sobell as follows: "Unfortunately for Sobell, he was quickly labeled an atomic spy in the press even though his espionage had been directed to conventional military technology, and he had never had anything to do with Rosenberg's and Greenglass's atomic espionage."<sup>41</sup>

125. After Sobell's indictment on January 31, 1951, with several principals in the Rosenberg atom bomb espionage ring in custody and charged with conspiracy, the work of the federal grand jury was nearly complete. However, from February 1951 though mid-March 1951, the grand jury continued its investigation into the case. It heard from six additional witnesses in an effort to clarify details about the Rosenberg espionage case and help federal prosecutors explore possible future indictments.

#### THE BROTHMAN/MOSKOWITZ INVESTIGATION

126. While U.S. Attorney Irving Saypol and his bevy of prosecutors were preparing the Rosenberg case for trial, with the assistance of the FBI, Harry Gold was imprisoned in the "Tombs," an area on the 11<sup>th</sup> floor of the New York City jail renowned for incarcerating "songbirds" (persons who take plea bargains and testify for the government).

127. Saypol considered Gold his prospective star witness, as only he could link the accused to an actual Soviet agent—Anatoli Yakovlev.

128. Even though Gold received a stiff thirty-year sentence for his role in the

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<sup>41</sup> Haynes and Klehr, *Early Cold War Spies*, quote at 160; see also Radosh and Milton, *The Rosenberg File*, at 130-37; "having conspired" quote at 137.

Rosenberg conspiracy, he gave testimony in two subsequent trials: the trial of Alfred Dean Slack<sup>42</sup> and the trial of two of Gold's other allies—Abraham Brothman and his business partner, Miriam Moskowitz.<sup>43</sup>

129. The Brothman/Moskowitz case can be considered a rehearsal, or in the words of historians Radosh and Milton, a “tune-up,” for the upcoming Rosenberg/Sobell trial for several reasons. First, the Brothman/Moskowitz trial was prosecuted by Irving Saypol, who also prosecuted the Rosenberg case. Second, Roy Cohn and the same cast of prosecutors that handled the Rosenberg case handled the Brothman/Moskowitz case. Third, the trial judge was Judge Irving Kaufman, who also heard the Rosenberg case. Finally, the case was the first appearance of Elizabeth Bentley, the so-called “Red Spy Queen,”<sup>44</sup> who was also slotted to testify in the Rosenberg trial and was expected to face a searing examination in the hands of the Rosenbergs' defense attorneys.<sup>45</sup>

130. The Brothman/Moskowitz grand jury provided the opportunity for prosecutors to test the tactics and some of the key witnesses that they planned to use against the Rosenbergs. Therefore, only by reviewing the Brothman/Moskowitz grand jury records can historians fully understand the strategic decisions made in the Rosenberg prosecution, which were shaped by prosecutorial experience gained in the

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<sup>42</sup> The charges against Slack related to industrial espionage and had nothing to do with the Manhattan Project, hence, they are not chronicled in this declaration.

<sup>43</sup> Radosh and Milton, *The Rosenberg File*, at 151.

<sup>44</sup> Famed Soviet espionage courier Elizabeth Bentley was a principal witness in a number of high-profile espionage cases. For the life and times of Bentley, see her autobiography, *Out of Bondage: The Story of Elizabeth Bentley* (New York: Devin-Adair, 1951) as well as two recent biographies: Lauren Kessler, *Clever Girl: Elizabeth Bentley, the Spy Who Ushered in the McCarthy Era* (New York: Harper Collins, 2003) and Kathryn Olmsted, *Red Spy Queen: A Biography of Elizabeth Bentley* (Chapel Hill, University of North Carolina Press, 2002).

<sup>45</sup> See Radosh and Milton, *The Rosenberg File*, at 153-54; “tune-up” at 153.

Brothman/Moskowitz case.

131. Abraham Brothman, also known as “The Penguin,” was one of the principals named by Elizabeth Bentley in the industrial espionage ring she claimed was run by her control, Jacob Golos.

132. Though the government found no grounds to prosecute Brothman on an espionage charge, there was sufficient cause to bring him to trial on the charge of obstruction of justice. There was substantial evidence that he and Gold had concocted a false story to counter Miss Bentley’s allegations when they appeared before a grand jury in 1947.<sup>46</sup>

133. In 1945, Elizabeth Bentley told FBI agents that her Soviet espionage control, Jacob Golos, had ten meetings with Abraham Brothman in 1940. Furthermore, she stated that she had served as courier for blueprints that Brothman had given her to deliver to Golos.

134. According to FBI records, Bureau agents interviewed both Brothman and his employee Harry Gold in 1947 about Bentley’s allegations.

135. During the first interview, Brothman, though terrified, told agents that his dealings with Golos were nothing more than legitimate business transactions. Before the FBI agents were able to interview Gold, Brothman contacted his former employee and convinced him to invent a tale that would make his dealings with Golos also appear innocent.

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<sup>46</sup> Espionage was a particularly difficult charge to substantiate in the 1940s and 50s, and federal prosecutors frequently found that they often had to settle for lesser charges. In the Hiss case, for example, Alger Hiss was brought to trial on two perjury charges which, once he was convicted, may be considered tantamount to a conviction of espionage. See Allen Weinstein, *Perjury: The Hiss-Chambers Case* (Rev. Ed., New York: Random House, 1997).

136. During subsequent interviews with FBI agents, Brothman almost broke under the pressure of the agent's questions. Gold then allegedly enlisted Brothman's business partner, Miriam Moskowitz, to convince Brothman to stand fast.

137. Thus, by the time they were called to testify before the federal grand jury that was charged to investigate Bentley's allegations, the two men had ironed out the tale they would mutually testify to when called before the grand jury. As a consequence, the grand jury found no basis to indict either of the men.<sup>47</sup>

138. Brothman appeared before the federal grand jury on July 22, 1947, and Harry Gold appeared on July 31, 1947. The full text of both of their grand jury appearances was released in October 1999<sup>48</sup> as a result of the successful effort to unseal the Alger Hiss related grand jury materials.

139. However, the testimony heard by a subsequent S.D.N.Y. grand jury that dealt with the Rosenberg conspiracy—in which Brothman, Moskowitz, federal prosecutors, and FBI agents testified between July 14, 1950 and July 29, 1950—has yet to be released. Little is known about their Rosenberg-related grand jury appearance except that the jury “sat for two and a half hours” and the only persons other than Brothman and Moskowitz who appeared before the panel were prosecutors Saypol and Myles J. Lane.<sup>49</sup>

140. Brothman and Moskowitz were charged with conspiracy to obstruct justice and went to trial on November 8, 1950. Harry Gold and Elizabeth Bentley testified against them, and on November 22, 1950, after four hours of deliberation, jurors

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<sup>47</sup> See Radosh and Milton, *The Rosenberg File*, at 34-36.

<sup>48</sup> Gold's July 31, 1947 testimony at 971-1001; Brothman's July 22, 1947, testimony at 849-887; and FBI agent Francis D. O'Brien's July 31, 1947, testimony at 967-969.

<sup>49</sup> See “2 Pled Not Guilty in Spy Conspiracy,” *New York Times* August 3, 1950, at p. 10.



convicted them both. Judge Kaufman sentenced Brothman to seven years in prison (which was ultimately reduced to two years), and Moskowitz received a two-year sentence.<sup>50</sup>

141. Because of their centrality to the Rosenberg case and for the reasons cited above, I respectfully urge that the unreleased portions of the Brothman/Moskowitz grand jury minutes, as identified in Appendix #1, be released *in full*. The release of this material will undoubtedly shed light on this episode and make clear exactly what Gold, Brothman, and Moskowitz testified to under oath in relation to their dealings with Elizabeth Bentley, atomic spy Harry Gold, and possibly Julius Rosenberg or others affiliated with his clandestine operation.

#### THE ROSENBERG/SOBELL TRIAL

142. The trial of Ethel and Julius Rosenberg has been chronicled in many of the books cited earlier in this declaration. Secondary sources, however, often neglect to note or reference the occasional mention in the official stenographer's notes and transcripts of record to grand jury testimony.

143. Hence, in preparing this declaration, the original primary source record—the 2,563-page trial record scanned by Printing House Press of the official stenographers' minutes and S.D.N.Y. court reporters' notes—was deemed authoritative and reviewed in detail.<sup>51</sup>

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<sup>50</sup> For a summary of their trial, see Radosh and Milton, *The Rosenberg File* at 153-155 and Haynes and Klehr, *Early Cold War Spies* at 156-157.

<sup>51</sup> See Transcript of Record, United States v Rosenberg, et al, (S.D.N.Y. 1951), available online at

<<http://www.law.umkc.edu/faculty/projects/FTrials/Rosenberg/RosenbergTrial.pdf>> hereafter, "Trial transcript." Though the following account summarizes aspects of the

144. At 10:30 AM on March 6, 1951, in Foley Square's courtroom number 7, federal judge Irving R. Kaufman called the court to order and began the process of impaneling a trial jury.

145. Representing the government was U.S. Attorney Irving Saypol, who was still basking in the glory from his recent triumph of securing a perjury conviction against William Remington, a Commerce Department official who Elizabeth Bentley claimed had furnished her with classified documents.<sup>52</sup>

146. Saypol was joined by five other lawyers, including his chief assistant, Roy Cohn—a 24-year-old prosecutor who later gained notoriety as Senator Joseph McCarthy's right-hand man during the infamous Senate investigations popularly known as the "McCarthy hearings." Cohn is credited with being the individual who largely crafted the prosecution's overall strategy to secure the conviction of the Rosenbergs.

147. Defendants Julius and Ethel Rosenberg were represented by a father and son team, Alexander and Emanuel Block. David Greenglass was represented by O. John Rogge. Morton Sobell was represented by Harold Phillips and Edward Kuntz.

148. After the jury was impaneled, the prosecution presented the court with its list of witnesses that the government intended to call. The clerk read the grand jury

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trial, the emphasis is on trial testimony that relates to the grand jury proceedings, which is of direct relevance to this declaration. Detail relating to the other testimony and statements by the principals, their attorneys, and the judge are not discussed. For a detailed day-by-day chronicling of the court proceedings, see Radosh and Milton, *The Rosenberg File*, at 170-274. For a summary of the trial proceedings, see Haynes and Klehr, *Early Cold War Spies*, at 166-176.

<sup>52</sup> A good deal of the Remington grand jury record has been released to the public, see *In re May*, Media L. Rep. (BNA) 2198 (S.D.N.Y. 1987). The material is discussed in Gary May, *Un-American Activities: The Trials of William Remington* (New York: Oxford University Press), 1994.

charges, including the twelve overt acts that the prosecution would seek to prove.<sup>53</sup>

149. With court formalities out of the way, the U.S. Attorney and the defense attorneys launched into opening statements on March 7.<sup>54</sup>

### THE PROSECUTION'S CASE

150. On March 8, the jury began hearing the prosecution's case.

151. The first witness called was **Max Elitcher**, a naval ordinance officer who was the sole accuser of Sobell, upon whom virtually the entire case against that defendant rested. Sobell had not been mentioned in the overt acts of the conspiracy indictment under which he was tried, though the prosecution charged his complicity in the conspiracy because of five alleged conversations with Julius Rosenberg in June 1944. Elitcher testified to his relationship with Rosenberg and Sobell.

152. During cross-examination the defense raised enough doubts about his credibility as a reliable witness that Judge Kaufman ordered that Elitcher's FBI pretrial statements, as well as his August 1950 testimony to the grand jury, be made available for the defense to examine.<sup>55</sup>

153. While Elitcher answered questions in open court about his grand jury testimony given in mid-August 1950 and January/February 1951, nothing in either the

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<sup>53</sup> The prosecution list named nearly 100 witnesses. As the trial progressed, though, those actually called to testify numbered less than a dozen. For the list of government witnesses, some of whom had appeared before the grand jury, see Trial transcript, at 25-27; for the grand jury charge, see *ibid.*, at 28-31 and Appendix 1.

<sup>54</sup> See Trial transcript at 1-219; the prosecution's opening statement at 219-236; the defense statement at 237-249; see also Radosh and Milton, *The Rosenberg File*, at 170-174.

<sup>55</sup> The grand jury testimony was entered as case Exhibits I-V but apparently, like Exhibit 8 that would be introduced into evidence later in the trial, they were excluded from the official public transcript; see Trial transcript at 610 and Radosh and Milton, *The Rosenberg File*, at 190.

FBI statements or the grand jury materials that the defense reviewed caused the defense attorneys to summon Elitcher back to the witness stand when the court reconvened on March 9.

154. Following Elitcher, from March 9 through March 14, **David Greenglass** was the primary witness. Greenglass stated that he gave Julius Rosenberg a sketch of a lens-mold and a twelve-page description of an implosion-style bomb. He described his meetings with Harry Gold, his discussions about espionage with his brother-in-law, and the role that his sister played in the conspiracy.

155. Greenglass's testimony was interrupted by **Walter S. Koski**, a physical chemist, and **William Denson**, Chief of Litigation for the Atomic Energy Commission, both testified as expert witnesses.

156. Koski educated the court on technical aspects of atom bomb implosion research. In particular, he discussed the importance of the lens mold that Greenglass provided to the Soviets. He also explained the general secrecy procedures that researchers operated under when posted to Los Alamos.

157. Denson's testimony raised questions about the advisability of presenting certain types of atomic bomb evidence in open court.<sup>56</sup>

158. The appearance of **Ruth Greenglass** midway through the seventh day of the trial (March 14) proved useful to the prosecution. It served to back up essential points made in her husband's testimony on previous days. She described in considerable detail the story of how she learned that Ethel Rosenberg had typed documents for Julius, and she also described payments that David and Ruth claimed to have received from

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<sup>56</sup> Trial transcript at 546-655 and 684-1089; Radosh and Milton, *The Rosenberg File*, at 181-195; Roberts, *The Brother* at 309-40.

Julius Rosenberg to help finance their flight to Russia. Ruth Greenglass also provided corroborating testimony regarding a Jell-O box panel that had been cut or torn into two pieces, which, at the appropriate time, were to be joined by David and his Soviet espionage courier as a recognition signal.<sup>57</sup>

159. On March 15-16, the prosecution's key witness, **Harry Gold**, testified. Though Gold never claimed that he had ever known either of the Rosenbergs by name, he did recount being told by his Soviet control, Anatoli Yakovlev, that when Gold met with his contact in New Mexico, Gold should listen for the recognition signal, "I come from Julius." This statement was devastating to defense efforts to cast doubt on the guilt of their clients. It also served to make a concrete connection between the defendants and an acknowledged Soviet agent.<sup>58</sup>

160. On March 16, the ninth day of the trial, the prosecution called for the testimony of several reluctant witnesses, Dr. George Bernhardt, Sobell's friend William Danziger, and four additional witnesses from Mexico. Collectively, the testimony of these individuals was designed to show that the Rosenbergs and Sobell were making plans to secure travel documents and flee the country, possibly to Russia.

161. After the testimony of these individuals, much to the surprise of the defense, the prosecution announced that it was about to rest its case. The defense was taken aback as attorneys had expected that the prosecution would call nearly 100 witnesses, including Michael and Ann Sidorovich, William Perl, Vivian Glassman, and others who had testified before the grand jury.

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<sup>57</sup> Trial transcript at 969-1133; Radosh and Milton, *The Rosenberg File*, at 196-201; Roberts, *The Brother*, at 340-51.

<sup>58</sup> Trial transcript at 1150-1230; Radosh and Milton, *The Rosenberg File*, at 208-216.

162. None of these persons were called by the prosecution, raising the possibility that their grand jury testimony may contain information that would cloud—if not contradict—the “facts” as presented to the jury by the prosecution.

163. Instead, the prosecution opted to wrap up its case by questioning one last key “celebrity” witness, the person the tabloid press had dubbed the Red Spy Queen: **Elizabeth Bentley.**<sup>59</sup> Elizabeth Bentley was a major figure in Cold War espionage.

164. Her all-important testimony during the grand jury investigation of the Alger Hiss case, comprising over 1000 pages, was approved for release by the District Court of the S.D.N.Y. in 1999. However, this testimony was never located and was deemed “missing” by National Archives archivists when the Hiss grand jury materials were ordered unsealed by the S.D.N.Y. Court. As a consequence, Bentley’s subsequent grand jury and trial testimony in various subsequent espionage cases—such as the Rosenberg trial—is even more significant to scholars.

165. Bentley was a controversial figure in the Rosenberg trial for another reason. In 1950, a grand jury had been convened to consider the perjury indictment against William Remington. His trial was well underway when Remington’s lawyers learned that the foreman of the grand jury, who had been instrumental in bringing Remington’s indictment, had been hired by Bentley’s publisher to ghostwrite her forthcoming book, *Out of Bondage*. In the words of historians Radosh and Milton, “Bentley had a strong financial stake in her ability to keep producing new and startling revelations.” Though Irving Saypol was aware of the grand jury foreman’s interest in Bentley’s book, he nonetheless decided to proceed with the Remington perjury case.

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<sup>59</sup> Trial transcript at 1230-1419; Radosh and Milton, *The Rosenberg File*, at 217-223.

166. Hence, in the Rosenberg case, Saypol's decision to dismiss the objections of the FBI and the reservations of his own assistant Roy Cohn to Bentley's appearance in the Rosenberg trial not only provided an opportunity for Bentley to provide a theatrical conclusion to the prosecution's case, but it also provided her with yet another opportunity to bring her story before the public in a new and dramatic way.

167. Bentley's cameo appearance met Saypol's expectations and, in terms of securing the conviction of the Rosenbergs, served his objective well. Whether her testimony served the best interests of justice is another matter. Bentley testified that when she was a Soviet courier for Jacob Golos, she had numerous telephone conversations with a man named "Julius" who resided in Knickerbocker Village (as did Julius and Ethel Rosenberg). However, as historians now know thanks to the subsequent public release of Bentley's various confessions, these conversations with "Julius" took place in 1942, long before the beginning date of the conspiracy named in the Rosenbergs' indictment. More importantly, the FBI had concluded that the name "Julius" was a cover name, not the actual name of a Soviet contact, a fact never raised during the trial.

168. Under cross examination, the defense punched holes in Bentley's testimony. Rosenberg's attorneys managed to get Bentley to admit that she did not know the exact number of times she heard from "Julius." Her testimony was further impeached when she was forced to admit that in pre-trial conversations she had been told by the FBI of the existence of the "I come from Julius" conversations about which Harry Gold had testified.

169. In spite of these admissions, the prosecution still had reason to feel confident that Bentley's testimony was a fine capstone to their case.

170. Because of the highly controversial nature of Bentley's trial testimony, learning exactly what she told the grand jury in her July 25, 1950, appearance may well clarify aspects of the Rosenberg prosecution's strategy.<sup>60</sup>

#### THE DEFENSE'S CASE

171. The defense began its presentation of the case with **Julius Rosenberg**. Rosenberg took the witness stand immediately after Bentley's appearance.

172. Julius testified for the next two days, during which he steadfastly denied the story advanced by his brother-in-law, David Greenglass. The jurors saw Rosenberg as a man of convictions (i.e., a devoted communist), though those convictions were seemingly unpalatable to many of them.<sup>61</sup>

173. After Julius, **Ethel Rosenberg** testified. She made terse denials to lengthy paraphrases of Greenglass's testimony that her attorney read into the record. She denied typing documents for Julius, denied any recollection of the JELL-O box recognition signal conversation that Ruth Greenglass had described in detail in her testimony, denied having pictures taken for passports that the prosecution claimed had been taken in anticipation of the Rosenberg's flight from the country, and denied any microfilming activities took place in her apartment.

174. Under cross examination, prosecutor Saypol attempted to impeach her credibility by reading back portions of her grand jury statement from the previous August, when she took the Fifth Amendment on identical questions. In court, Saypol wondered

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<sup>60</sup> Trial transcript at 1420-1516; Radosh and Milton, *The Rosenberg File*, at 224-234; for the controversy over Bentley's appearance in the Remington trial see *ibid.*, 226-227 and Gary May, *Un-American Activities: The Trials of William Remington*.

<sup>61</sup> Trial transcript at 1560-1769; Radosh and Milton, *The Rosenberg File*, at 235-252; Roberts, *The Brother*, at 352-63.



aloud why she thought answering these questions before the grand jury might incriminate her, and yet, now at trial, she was able to make definite denials to identical questions.

175. In response, Ethel sputtered and explained that she could not now remember the reasons that she might or might not have had to invoke self-incrimination. She explained, “It was not for me to state what I thought or didn’t think the government might or might not have in the way of accusation against me. I didn’t have to state my reason, but I did feel that in answering certain questions I might be incriminating myself until I exercised my privilege.” Saypol admonished her by stating that “self-incrimination is not a truthful answer.”<sup>62</sup>

176. The discussion arising from Ethel Rosenberg’s answers to questions posed by U.S. Attorney Saypol, as they relate to Mrs. Rosenberg’s grand jury testimony, is of particular relevance to the objectives of this declaration. The trial transcript reveals that large verbatim portions of the grand jury minutes were read into the trial record; when not cited verbatim, the witness’s statements were paraphrased in considerable detail. With such a large portion of Ethel Rosenberg’s testimony already read into or referenced in the public record, the release of Ethel Rosenberg’s grand jury statement in its entirety seems reasonable.<sup>63</sup>

#### REBUTTAL WITNESSES AND CLOSING ARGUMENTS

177. Following the testimony of the Rosenbergs, the prosecution called several rebuttal witnesses whose testimony was designed to raise questions regarding the veracity

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<sup>62</sup> Trial transcript 1924-2157; for the discussion relating to Ethel Rosenberg’s grand jury testimony, see especially 2004-2084; Ethel Rosenberg quote at 2066; Saypol quote at 2052. See also, Radosh and Milton, *The Rosenberg File*, at 259-263; Roberts, *The Brother*, at 363-65.

<sup>63</sup> See Trial Transcript at 2004-2084.

of the defendants' statements regarding passport photos and the origin of a console table upon which microfilming of documents allegedly had been performed in the Rosenbergs' apartment. Another rebuttal witness testified to the disbursement of funds allegedly provided to the Greenglasses by Rosenberg to help the Greenglasses escape the country.<sup>64</sup>

178. On March 28, 1951 the prosecution and defense presented their closing arguments. Emmanuel Block, one of the Rosenbergs' attorneys, appealed to emotion, arguing that the government's case boiled down to the credibility of the witnesses. He characterized David Greenglass as a clever man and tried to cast doubts in the jurors' minds as to why Ruth Greenglass had not also been indicted.

179. Prosecutor Irving Saypol then delivered a spirited rebuttal to the attacks upon his chief witnesses, and concluded, "These defendants stand before you in the face of overwhelming proof of this terrible disloyalty, proof which transcends any emotional consideration and must eliminate any consideration of sympathy."<sup>65</sup>

#### JURY DELIBERATIONS, SENTENCING, AND POST-TRIAL MOTIONS

180. Late in the afternoon, following the summations, Judge Kaufman instructed the eleven men and one woman as to their duties as jurors and they retired for the evening to consider the case.

181. A verdict was returned the following morning, March 29, at 10:00 AM. All of the defendants were found guilty of conspiracy to commit espionage as charged under the indictment. The defendants were subsequently sentenced on April 5, 1951.<sup>66</sup>

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<sup>64</sup> Trial transcript at 2098-2157; Radosh and Milton, *The Rosenberg File*, at 263-266.

<sup>65</sup> Trial transcript at 2158-2166; Saypol quote at 2313; Radosh and Milton, *The Rosenberg File*, at 267-274.

<sup>66</sup> Trial transcript at 2314-2462; Radosh and Milton, *The Rosenberg File*, at 271-90.

182. Historians have speculated about what went through the minds of the jurors when they considered the evidence.

183. Post-trial interviews with some of the jurors suggest that when they entered the jury room all twelve were leaning toward conviction. One juror was even concerned about rendering a conviction too quickly, thus giving the impression that they callously disposed of human lives without due deliberation. Another juror proved squeamish about giving the death penalty to a mother with two children. The absence of a single friendly defense witnesses was also striking, and Sobell's silence left a bad impression with all the jurors.

184. The jury opted to believe the testimony of David Greenglass over that of the Rosenbergs and concluded that the corroborating evidence was convincing.<sup>67</sup>

185. Following sentencing and setting of an execution date, the defendants' attorneys filed motions for appeal.

186. The execution of the Rosenbergs was stayed several times. The historical record reflects the long and complex story of the complicated appeal and clemency efforts that took place between April 5, 1951 and June 19, 1953.

187. In the end, though, the U.S. Supreme Court denied a motion by the Rosenbergs' lawyers to vacate a stay of execution, and President Dwight Eisenhower denied the defendants clemency.

188. Because the various appeals motions were based on allegations of perjury and prejudicial publicity, and did not involve the grand jury testimony, the relevance of such motions is beyond the scope of this study.

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<sup>67</sup> Radosh and Milton, *The Rosenberg File*, at 244, 270-274.

## ESPIONAGE GRAND JURIES

189. The grand jury that heard the prosecution's evidence that led to the indictment of Julius and Ethel Rosenberg was originally impaneled on August 1, 1950. It was composed of six women and seventeen men and was charged to "deal with regularly scheduled matters as well as espionage cases." Randolph S. Merrill was selected to serve as foreman. For several months the grand jury heard testimony and evidence presented to them by U.S. Attorney Irving Saypol and his assistants.<sup>68</sup>

190. Prior to the convening of the Rosenberg grand jury, several other federal grand juries had been investigating possible violations of the espionage laws of the United States. One grand jury indicted twelve U.S. Communist Party leaders on conspiracy charges on July 20, 1948, before adjourning.

191. Another heard testimony on a number of pending investigations, though in its latter phase it focused nearly exclusively on the Hiss-Chambers controversy before adjourning on December 6, 1948, at which time Alger Hiss was indicted for perjury.<sup>69</sup>

192. At the time that the Hiss indictment was handed down, the sitting grand jury—whose term was about to expire—issued a statement that it had been unable to complete its work. It recommended that its inquiry be continued by a successor grand jury.<sup>70</sup>

193. On December 16, a twenty-three member successor grand jury was selected, sworn in, and began their investigations. That grand jury concluded work on

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<sup>68</sup> "New Jury to Study Espionage Evidence," *New York Times*, August 2, 1950 at 39.

<sup>69</sup> See Weinstein, *Perjury*, at 246-50; 262-68; the records of this grand jury proceeding have been unsealed by the S.D.N.Y.

<sup>70</sup> See Russell Porter, "Hiss Indicted for Perjury in Communist Spy Inquiry: New Jury to Meet Today," *N.Y. Times*, Dec. 16, 1948 at 1, 3.

the Hiss-Chambers controversy and then began to address other espionage-related matters, including a detailed investigation of allegations surrounding the so-called William Remington spy case.<sup>71</sup> The story of that grand jury investigation is ably chronicled by historian Gary May in his *Un-American Activities – The Trials of William Remington* (1994). Much of the grand jury record relating to Remington’s indictment was unsealed twenty years ago.<sup>72</sup>

194. Just before the adjournment of the Hiss/Remington grand jury, a presentment was issued recommending that the espionage laws of the United States be tightened.<sup>73</sup>

195. When the Hiss/Remington grand jury expired, other grand juries—such as the one convened to investigate the Rosenberg atomic spy matter—were subsequently impaneled and continued the broad-based investigation into Soviet espionage. Investigations into atomic espionage and internal subversion of government agencies continued through much of the 1950s.

#### UNSEALED GRAND JURY MINUTES AND OTHER TRIAL-RELATED RECORDS

##### REFERENCING ROSENBERG GRAND JURY TESTIMONY

196. As previously stated in this declaration, Hiss case grand jury minutes are, except for a handful of pages, entirely unsealed; relevant portions of the Remington grand jury investigation have also been unsealed by the S.D.N.Y. Court, including the full testimony of Harry Gold and FBI agent O’Brien, as well as a partial release of Abraham

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<sup>71</sup> See *United States v. Remington*, 191 F.2d 246, 250-51 (2d Cir. 1951).

<sup>72</sup> See *In re May*, 13 Media L. Rep. (BNA) 2198 (S.D.N.Y. 1987).

<sup>73</sup> See Thomas P. Ronan, “Grand Jury Urges Tougher Spy Laws,” *N.Y. Times*, Apr. 27, 1949, at 1, 7. See also Russell Porter, “New Spy Documents Show 1937 Nazi Overtures to U.S.; Hiss Freed on \$5,000 Bail,” *N.Y. Times*, Dec. 17, 1948, at 1, 5.

Brothman's testimony as it relates to the Hiss case.

197. In addition, verbatim and summarized passages from the minutes of Ethel Rosenberg's first grand jury appearance were read into the record during the Rosenberg trial as she was compelled to testify about her grand jury statements.<sup>74</sup>

198. A variety of other sources also document certain aspects of the secret proceedings of the S.D.N.Y. espionage grand juries.

199. For example, a limited amount of information about the Rosenberg grand jury proceeding was published in newspapers of record as a result of interviews with witnesses or through official and unofficial leaks.<sup>75</sup> More often than not, newspaper accounts contained mere summaries of information provided to the press by the U.S. Attorney's Office.<sup>76</sup>

200. Reports by the press and summaries of activities that transpired before the grand jury evidently were sent to the FBI's Washington central office and select field offices in memo form, along with other case-related communications. These memoranda are currently available as Rosenberg-related FBI Freedom of Information (FOIA) files in the FBI FOIA Reading Room in Washington, D.C. They were reviewed in detail by historians Radosh and Milton while researching their book, *The Rosenberg File*. The authors found that the FBI records contain passing references to, and on rare occasions,

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<sup>74</sup> See Trial Transcript at 2004-2084.

<sup>75</sup> For the Rosenbergs, "Plot to Have G.I. Bomb Data to Soviet Is Laid to His Sister Here," *New York Times*, August 12 1950 at 1; for an example in the Brothman/Moskowitz case, "2 Pled Not Guilty in Spy Conspiracy," *New York Times*, August 3, 1950, at 10.

<sup>76</sup> See, for example, "Indicted Anew in Atom Spy Case," *New York Times*, February 1, 1951, at 11 and "Spy Hearing Adjourned," *New York Times*, August 16, 1950 at 9.

summaries of, grand jury testimony.<sup>77</sup>

LOCATION OF ROSENBERG GRAND JURY RECORDS AND RELATED  
DOCUMENTS

201. The most important materials relating to the Rosenberg grand jury proceedings are the court records that are in the custody of the Northeast Regional Office of the National Archives and Records Administration in New York City. This is the repository of the grand jury minutes (including stenographer's minutes) and files for the Rosenberg case (File #114868).

202. In addition to the minutes that are found in Record Group 118—Records of U.S. Attorney's—Series II (Grand Jury Files) of the U.S. Attorney Files (1950-1981), which are closed to the public, the typed finding aide for the U.S. Attorney Files, and a separate hand-written box locator provide a detailed description of Series I (U.S. Attorney Files) and Series III (Court Files).

203. Both the finding aide and the box locator contain miscellaneous information about the grand jury proceedings including: lists of witnesses and interview schedules; names and occupations of the individuals sitting on the grand jury panel (closed record); and copies of pre-trial testimony of key witnesses, grand jury charges, subpoenas of witnesses, telegrams, U.S. Attorney conference notes, and general correspondence.

204. Unlike the grand jury release in the Alger Hiss case, where it was impossible to determine exactly how many witnesses testified before the two grand juries

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<sup>77</sup> Personal communication from Ronald Radosh to Bruce Craig, February 16, 2007; see e.g., Radosh and Milton, *The Rosenberg File*, at 35, 69, 100-101, 294-95.

that investigated the allegations related to the Hiss-Chambers controversy,<sup>78</sup> all 47 witnesses who appeared before the grand jury in the Rosenberg atomic spy investigation between August 2, 1950 and March 31, 1951 have been identified.<sup>79</sup>

QUESTIONS ABOUT THE CASE THAT MAY BE ANSWERED BY THE GRAND  
JURY MINUTES

205. As noted throughout this declaration, a number of research questions relating to the grand jury investigation can only be addressed by unsealing grand jury minutes.

206. The questions specifically raised in this Petition are summarized as follows:

- A. While Anatoli Yatskov is named in the indictment handed down by the grand jury, what evidence was presented to the jurors to warrant his inclusion in the indictment?
- B. Similarly, what evidence was presented relative to Morton Sobell to warrant his inclusion in the charge of conspiracy to commit espionage? Was it based solely on the grand jury testimony of only one witness, Max Elitcher, as suggested by trial testimony?
- C. What did Elizabeth Bentley testify to during her grand jury appearance of July 25, 1950? Was her testimony consistent with her trial testimony? Did her appearance before the grand jury have the same effect that it did on the trial jury?

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<sup>78</sup> See Declaration of Bruce Craig, U.S.D.C. Miscellaneous Action M-11-189.

<sup>79</sup> See Appendix 1.



- D. Taking into account the totality of Ethel Rosenberg's grand jury testimony, were the excerpts that were read into the trial record as inconsistent as suggested by U.S. Attorney Saypol? What was the grand jury's interest in Ethel Rosenberg? To what degree was there grand jury evidence to warrant the indictment of Ethel Rosenberg independent of evidenced against her husband? Is there evidence that the purpose of her indictment was to pressure Julius into a confession?
- E. Given the huge number of witnesses who testified before the grand jury and the small number of them who actually testified during the trial, is there evidence not addressed in the trial that tends to impeach the testimony of trial witnesses, or does the grand jury testimony tend to bolster the solidity of the prosecution's case against the Rosenbergs?
- F. To what degree is the grand jury testimony of David Greenglass consistent with his trial testimony?
- G. What did Ann Sidorovich testify to before the grand jury relating to the existence of a JELL-O box identification signal?
- H. Finally, and perhaps most importantly, was any evidence garnered from the VENONA decrypts utilized by the prosecution in its presentations to the grand jury?

QUESTIONS ABOUT PROPRIETY OF THE PROCEEDINGS THAT MAY BE  
ANSWERED BY THE GRAND JURY MINUTES

207. It should be noted that the historiography of the Rosenberg case reflects allegations of improprieties that may or may not have been made with respect to both the

Rosenberg and Brothman/Moskowitz grand juries and the resulting trials. Given the highly charged political climate of the era and the facts of the case, the grand jury testimony of several individuals is critical for complete historical understanding of the atomic spy controversy.

#### The Gold/Greenglass Testimony

208. As noted above in this declaration, on June 30, 1950, Harry Gold was indicted and subsequently pled guilty to engaging in a conspiracy to transmit documents to a foreign power. The criminal case was heard in the United States District Court for the Eastern District of Pennsylvania (Criminal No. 15769). The transcript of the full text of the case, “The United States vs. Harry Gold, John Doe, alias “John”, Richard Roe alias “Sam,”” is in the custody of the National Archives and Records Administration regional office. This grand jury testimony has been unsealed.<sup>80</sup>

209. Scholars of the Rosenberg atomic espionage case will be particularly interested to compare the released grand jury testimony of Harry Gold to that of the still-sealed grand jury testimony of David Greenglass.

210. When compared to his trial testimony, Greenglass’s grand jury testimony may be considered authoritative for one simple reason. In December 1950, in anticipation of the Rosenberg trial, FBI agent J.C. Walsh conducted simultaneous interviews of Gold and Greenglass in an effort to have the two key witnesses iron out differences between their accounts. According to the FBI report of this joint interview, Gold and Greenglass were encouraged to “mesh” their testimony “neatly and

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<sup>80</sup> See Testimony of Harry Gold July 31, 1947 as cited in footnote 4 of this declaration.

convincingly” to prevent the defense from creating doubt in the minds of jurors.<sup>81</sup>

211. As historian Sam Roberts has suggested in his book, *The Brother*, Greenglass may have been tricked or coerced into falsely confessing and testifying; consequently, Greenglass’s trial testimony may be tainted.<sup>82</sup> With the release of all of David Greenglass’s grand jury testimony, the veracity of this witness’s possibly conflicting accounts can be resolved.

#### The Brothman/Moskowitz Testimony

212. As previously noted, on July 22, 1947, Abraham Brothman testified regarding his alleged connections with Harry Gold before a federal grand jury that was convened immediately prior to the Rosenberg grand jury.

213. Gold’s key grand jury testimony and one of Abraham Brothman’s grand jury statements have been unsealed.<sup>83</sup> However, testimony of others implicated in the Brothman case has not been released. Especially important is the subsequent testimony of Abraham Brothman and that of Miriam Moskowitz.

214. Based on a cursory examination of the court records in March 2007, National Archives and Records Administration (NARA) archivist Gregory Plunges stated: “From our examination of the files it appears that pages (1-1909 [as described in the NARA finding aide]) are testimony given by the grand jury in the Brothman case.”<sup>84</sup> To that end, pages 1-1909, as well as the detailed page numbers of witnesses identified as witnesses in the Brothman/Moskowitz case and identified in Appendix 1 of this Petition,

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<sup>81</sup> See Memo of S.A. Joseph C. Walsh, December 28, Philadelphia FBI in Gold File as cited in Radosh and Milton, *The Rosenberg File*, at 160, 525.

<sup>82</sup> Roberts, *The Brother*, at 494.

<sup>83</sup> See Hiss grand jury release at pp. 971-1001 (Gold) and 849-1001 (Brothman).

<sup>84</sup> See Letter from Gregory J. Plunges to Bruce Craig, March 19, 2007 (on file with the author).

need to be unsealed in order to complete the historical record relating to the Brothman/Moskowitz prosecution.

### The Greenglasses' Testimony

215. In light of the meager evidence linking Ethel Rosenberg to the atom bomb conspiracy, and because the available historical record suggests that at first government prosecutors were pessimistic about the prospects of her conviction, testimony of the Greenglasses is particularly important to the case against Ethel Rosenberg.

216. In February 1951, just ten days before the Rosenbergs were to go to trial, both Greenglasses suddenly recalled for prosecutors an incident that in essence placed Ethel at the center of Julius's activities as her husband's typist and aide. This "new" recollection deserves to be fully explored.

217. This "fortuitously timed revelation" brings back memories of the successful tactic federal prosecutors used in prosecuting Alger Hiss (e.g., the introduction of typewritten evidence). Rosenberg scholars have long wondered what prompted this change of story with respect to Ethel Rosenberg's involvement in the conspiracy, and why the Greenglasses "waited so long to talk about these particular incidents[.]"<sup>85</sup>

218. As explained by Sam Roberts in his book, *The Brother*, during an interview Ruth told the FBI and prosecutors that Ethel told her that she "always typed Julius's material that he received and occasionally had to stay up late at night to do this." Though Roberts questions whether there will be any reference to this assertion in the grand jury minutes, only with the release of the Greenglasses' complete grand jury

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<sup>85</sup> For a discussion of this particular point, see Radosh and Milton, *The Rosenberg File*, at 162-4; "this fortuitously" quote at 163 and "waited so long" at 164; see also Sam Roberts, *The Brother*, at 295-98.

statements can scholars be certain.

219. This is but one more example of why the grand jury testimony of the Greenglasses is of central importance. It may lead to heretofore unexplored connections between the Greenglasses and Rosenbergs that were not raised by federal prosecutors, who feared such connections could possibly be exploited by the defense or merely confuse the trial jury.<sup>86</sup>

#### The Sidorovich Testimony

220. When Ethel Rosenberg testified during the trial, she stated that, at Julius Rosenberg's suggestion, David Greenglass drew a sketch of a high-explosive lens mold that would be of interest to the Soviets. Several days later after Julius's visit to David, the Greenglasses reportedly went to dinner at the Rosenberg's apartment where they encountered Ann and Michael Sidorovich, who were friends of the Rosenbergs.

221. After Ann's departure, Julius purportedly announced to some of those still present in the room that in the future Ann would be acting as courier and carrying material for the Greenglasses between New Mexico and New York.

222. Ruth stated that after dinner concluded, Julius pulled Ruth into the kitchen and discussed with her a recognition signal that was to be used in case another courier had to take Ann Sidorovich's place. Julius handed Ruth the side panel of a JELL-O box cut into two irregular shaped pieces. Julius kept one piece, and the other Ruth took to give to her husband.

223. During the trial, the Greenglasses' version of this dinner was hotly contested.

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<sup>86</sup> For Roberts's view of the incident and its ramifications on the grand jury investigation, see *The Brother*, at 297–98; Roberts quote at 296.

224. Ann Sidorovich reportedly gave sworn testimony before the grand jury denying that she ever discussed being a courier with the Rosenbergs; the Greenglasses stuck to their story.<sup>87</sup>

225. Since Sidorovich did not testify at the trial, in order to put this highly controversial aspect of the case to rest, Ann Sidorovich and Ruth Greenglass's grand jury testimony needs to be released in full in order to facilitate a comparison and determine to what degree their grand jury testimony is consistent with their official trial testimony.

#### Ethel Rosenberg's Testimony

226. Ethel Rosenberg's second grand jury appearance of August 11, 1950 was carefully orchestrated by the U.S. Attorney's Office to "stage her arrest under the most dramatic circumstances possible," according to Radosh and Milton. The questions that were posed to Rosenberg on August 11 reportedly were "almost identical" to those that had been posed to her three days earlier, thus leading historian Radosh to speculate that "it would be hard to say who was more puzzled by their repeat performance, Ethel or the grand jurors."<sup>88</sup>

227. Release of Ethel Rosenberg's grand jury transcript undoubtedly would give scholars insight to the motivation behind her second appearance before the trial jury.

228. Of equal or even more interest is Ethel's testimony of August 8. Fashionably dressed to impress the jury in a blue and white polka-dot dress and a straw hat, on that day a composed Ethel Rosenberg reportedly admitted that she had once signed a Communist Party nominating petition, but then asserted her Fifth Amendment

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<sup>87</sup> No portion of Sidorovich's testimony has been officially released, though references to the grand jury testimony are contained in an FBI summary memo; see Radosh and Milton, *The Rosenberg File*, at 68-69 and corresponding footnotes at 507.

<sup>88</sup> Radosh and Milton, *The Rosenberg File*, at 101.

right on nearly all other questions, including the question “Have you ever met Harry Gold?” Exactly when Rosenberg opted to assert the constitutional privilege is partially known because part of her grand jury testimony was introduced into the official trial record by the prosecution to destroy her credibility as a witness.<sup>89</sup>

229. However, nothing is officially known of her testimony of August 11, though according to Radosh she was apparently asked the same or similar questions.<sup>90</sup> Whether Ethel’s answers to the questions posed on August 11 were consistent with her testimony of August 8 is a matter of speculation. Though a partial release has been made of Rosenberg’s August 8 testimony, the entirety of her August 8 statement should be compared to her August 11 testimony in order to shed new light on the prosecution’s apparently staged second appearance.

230. All that is currently known is that after finishing with the grand jury on August 11, Ethel Rosenberg left the courthouse and was immediately intercepted by two FBI agents who steered her back inside the federal building. There, she was arrested and arraigned before the U.S. Commissioner.

231. Release of this critical grand jury testimony should definitively answer the question of whether there were any revelations during either of her grand jury appearances that convinced the grand jurors that she should be arrested and indicted.<sup>91</sup>

#### The Testimony of William Perl

232. One of the key witnesses implicated in the Rosenberg spy conspiracy was William Perl. Perl was an engineer who was called to testify before the Rosenberg grand

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<sup>89</sup> Ethel Rosenberg trial testimony, Trial Transcript at 2004-2085.

<sup>90</sup> Radosh and Milton, *The Rosenberg File*, at 100-101.

<sup>91</sup> Radosh and Milton, *The Rosenberg File* at 101.

jury in mid-August 1950. Unlike others, he did not take the Fifth Amendment; it is known that he denied knowing Julius Rosenberg or Morton Sobell.

233. There was insufficient evidence to bring a charge of espionage against him, but what historians Haynes and Klehr characterize as “egregious lies” left him vulnerable to a charge of perjury.<sup>92</sup>

234. Perl was arrested in the middle of the Rosenberg trial in mid-March 1951, but his trial did not begin until May 1953, shortly before the Rosenbergs were executed. He was charged with four counts of perjury in his grand jury testimony for denying knowing Julius Rosenberg and various accomplices.

235. The perjury case was based on Perl’s grand jury testimony during the Rosenberg proceeding, in which Perl allegedly “had willfully and knowingly given false testimony,” and the testimony of a jailhouse informer who claimed to have first-hand knowledge of Julius Rosenberg’s statements about Perl’s involvement in the atom bomb conspiracy.

236. When brought to trial, Perl was found guilty on two of the four perjury charges.

237. Press reports suggest that portions of Perl’s grand jury testimony of August 30, 1950 may have been introduced into the Perl trial record.<sup>93</sup> The release of Perl’s testimony may well aid in the broader understanding of the overall strategy of

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<sup>92</sup> Haynes and Klehr, *Early Cold War Spies* at 162.

<sup>93</sup> For press reports of the Perl case referencing his grand jury testimony, see “Perl Trial Opens in Spy Case Lying,” *New York Times* May 19, 1953, at 19; see also Haynes and Klehr, *Early Cold War Spies*, at 160-164; “egregious lies” quote at 162; “had willfully” quote at 164. See also “Atom Perjury Data Filed By Government,” *New York Times* May 26, 1951 at 22 and “Perl Gets Five Years for Lying to [Grand] Jury,” *New York Times*, June 6, 1953 at 7.



prosecution of the atomic spies. However, because it is known that Perl claimed not to have known the Rosenbergs, and because he did not actually testify in the Rosenberg trial, court records from the Perl trial were not examined for the purposes of preparing this declaration.

### CONCLUSION

238. Following years of appeal, on Friday, June 19, 1953, final preparations for the execution of Julius and Ethel Rosenberg were underway at Sing Sing Prison.

239. Procedures for stopping the executions at any moment had been carefully rehearsed to the extent that on the second floor of the death house, a special interrogation room had been made ready, just in case either of the condemned wanted to confess and thereby avoid execution.

240. Two days earlier, the FBI had prepared a thirteen-page memorandum that listed the questions that FBI agents were to ask Julius should he agree to talk. When this memo was finally made public years later, scholars were amazed by the construction of the one question in the memorandum concerning Ethel: “Was your wife cognizant of your activities?” In hindsight, these words strongly suggest that the FBI and the prosecution may have knowingly manipulated the grand jury into returning an indictment against Ethel Rosenberg and/or twisted the evidence to ensure her conviction.<sup>94</sup>

241. Serious questions remain about the nature of Ethel’s involvement in the conspiracy. Some scholars point out that a jury of twelve had little hesitation in finding the evidence convincing that Ethel was involved in the conspiracy, and that while she may have been a minor participant in the espionage ring run by her husband, she remains

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<sup>94</sup> See Radosh and Milton, *The Rosenberg File*, at 413-419; “was your wife” quote at 417.

“a participant nonetheless.”<sup>95</sup> Others assert that Ethel was “a victim,” in essence held hostage in order to pressure her husband into breaking his silence about his involvement in atomic espionage.

242. It is no wonder that some within the scholarly community consider the Rosenberg espionage case “a giant Cold War conspiracy orchestrated by the FBI.” Today, though, for the most part, scholars dismiss this view.

243. Because of the nature of the evidence presented during the Rosenbergs’ trial, and the damning revelations contained in the VENONA decrypts, most scholars of the case declare that unquestionably Julius Rosenberg was a Soviet espionage agent. However, controversy remains regarding the prosecution’s legal strategy and conduct before, during, and after the trial of the Rosenbergs and their accomplices.

244. Scholarly debate continues. No less than three central issues continue to fascinate students of the case: 1) To what degree did the information that the Rosenbergs and their accomplices turn over to the Soviets assist in enabling the Soviets to build an atomic bomb?<sup>96</sup> 2) Though clearly Ethel was most certainly an accomplice in the conspiracy, was she convicted on the basis of tainted evidence?; 3) Given the nature of their crimes, were the defendants truly deserving of a death sentence?<sup>97</sup>

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<sup>95</sup> See Haynes and Klehr, *Early Cold War Spies*, at 176.

<sup>96</sup> For quote, “a giant Cold War conspiracy” see Radosh and Milton, *The Rosenberg File*, at 474. According to a congressional report on Atomic Energy in April 1951, the combined activities of the four principal atomic spies advanced the Soviet atomic-energy program by at least 18 months. See Roberts, *The Brother*, at 411. For a recent revelation regarding the centrality of the information provided by atomic spy George Koval, see “A Spy Path: Iowa to Kremlin Honor,” in *New York Times*, November 12, 2007 at 1

<sup>97</sup> For a discussion of both of these points, see Radosh and Milton, *The Rosenberg File*, at 432-449; for an insightful discussion of the broader meaning of the Rosenberg case in Cold War history, see Virginia Carmichael, *Framing History: The Rosenberg Story and the Cold War* (Minneapolis: University of Minnesota Press, 1993).

245. Release of the Rosenberg grand jury minutes is not expected to shed much light with respect to the first issue—that is a debate that will probably continue in perpetuity, or at least until new documents are released from the still closed Soviet archives.

246. However, unsealing the grand jury minutes would shed new light on the second and third questions, as well as other important questions raised in this declaration.

247. It is my hope that with the release of the grand jury minutes, both the interests of history and of justice can and will be served.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Charlottetown, Prince Edward Island, Canada, on this 25<sup>th</sup> day of January, 2008.

  
Bruce Craig

## APPENDIX 1

Persons Who Testified Before the Grand Jury Whose Testimony is in the National Archives U.S. Attorney Files Series II files "Grand Jury Files (1950-1954)" located at the National Archives and Records Administration, Varick Street Regional Archives Center, New York City, New York.

[Note: names are arranged chronologically by successive page number.]

### HARRY GOLD CASE

Harry Gold (RELEASED pp 971-1001 in Hiss Grand Jury effort, In re Am. Hist. Ass'n, 49 F. Supp. 2d 274 (S.D.N.Y. 1999); In re Am. Hist. Ass'n, 62 F. Supp. 2d 1100 (S.D.N.Y. 1999)). 7/31/47

Francis D. O'Brien (RELEASED pp 967-969 in Hiss Grand Jury effort, See In re Am. Hist. Ass'n, 49 F. Supp. 2d 274 (S.D.N.Y. 1999); In re Am. Hist. Ass'n, 62 F. Supp. 2d 1100 (S.D.N.Y. 1999)). 7/31/47

### BROTHMAN/MOSKOWITZ CASE

(pp 1-1909 – (some witnesses unknown))

Abe Brothman – pp 849-1001 (Box 28); RELEASED pp 849-887	7/22/47
pp 8869-8901 (Box 41 vol 18)	7/14/50
pp 8902-8925 (vol 18)	7/17/50
pp 8926-8940 (vol 18)	7/18/50
Miriam Moskowitz – pp 8941-8948 (vol 18)	7/18/50 Alive
Abe Brothman – pp 8949-8950 (vol 18)	7/20/50
Miriam Moskowitz – pp 8951-8954 (vol 18)	7/20/50
Thomas Donegan – 8955-8986 (vol 18)	7/25/50
Elizabeth Bentley – 8987-8997 (vol 18)	7/25/50
David Joseph Bohn – 8998-9019 (vol 18)	n.d.
Thomas Donegan – 9020-21 (vol 18)	7/29/50
B. DeBuff – 9022 (presume vol 18)	7/29/50
L. Benson – 9023-24 (presume vol 18)	7/29/50
Thomas Donegan – 9025 (presume vol 18)	7/29/50
Harry Gold – 9026-9085 (presume vol 18)	7/29/50

### ROSENBERG CASE (pp 1750-1754, 9086-9878 and 10004-10590)

Julius Rosenberg – pp 1750-1754 (Box 35)	n.d.
Julius Rosenberg – pp 1907-1909 (Box 35) [Cross and redirect]	n.d.
Harry Gold – pp 9086-9131 (Box 34)	8/02/50
Herman Bauch – pp 9129-9133 (Box 34)	8/17/50 (?)
Ruth Greenglass – pp 9132-9161 (Box 34)	8/03/50
David Greenglass – pp 9162-9207	Alive

Ethel Rosenberg – pp 9208-9213 (Box 35)	8/07/50
Vivian Glassman – pp 9214-9218 (Box 34)	8/10/50
Dr. George Bernhardt – pp 9219-9225 (Box 34)	8/11/50
Vivian Glassman – pp 9226-9251	
Ethel Rosenberg – pp 9252-9261 (Box 35)	8/11/50
Max Elitcher – pp 9262-9299	
Vivian Glassman – pp 9300-9304	
Robert B. Seidman – pp 9305-9321 (Box 35)	8/15/50
Vivian Glassman – pp 9322-9338	
Robert B. Seidman – 9339-9353 (Box 35)	8/15/50
Vivian Glassman – pp 9354-9385	
Harry Gold – pp 9386-9402 (Box 34)	8/16/50
Ernest Pataki – pp 9403-9424 (Box 35)	8/16/50
Mervin Isaacs – pp 9425-9428 (Box 35)	8/17/50
Vivian Glassman – pp 9354-9385	
Harry Gold – pp 9386-9402	
Ernest Pataki – pp 9403-9424	
Mervin Issacs – pp 9425-9428	
Soloman H. Bauch – pp 9429-9433	
William Perl – pp 9434-9484	
Rose Sobell – pp 9485-9513 (Box 35)	8/24/50
Louis Sobell – pp 9514-9524 (Box 35)	8/24/50
Ann H. Sidarovich – pp 9525-9537 (Box 35)	8/30/50
Robert E. Pflieger – pp 9538-9547 (Box 35)	8/30/50
Michael Sidarovich – pp 9548-9580 (Box 35)	8/30/50
Robert E. Pflieger – pp 9581-9584 (Box 35)	8/30/50
Michael Sidorovich – pp 9585-9588	
Ann H. Sidarovich – pp 9589-9604 (Box 35)	8/30/50
Michael Sidarovich – pp 9605-9607 (Box 35)	8/30/50
Mildred Pflieger – pp 9608-9614 (Box 35)	8/31/50
Michael Sidorovich – pp 9615-9628	
Ann H. Sidarovich – pp 9629-9637 (Box 35)	8/30/50
William Danziger – pp 9638-9651 (Box 34)	8/30/50
Edith Levitov – pp 9652-9706 (Box 35)	9/01/50
Ann H. Sidarovich – pp 9707-9715 (Box 35)	8/30/50
Michael Sidarovich – pp 9716-9724 (Box 35)	8/30/50
William Perl – pp 9725-9759	
Stanley Price – pp 9760-9771 (Box 35)	8/20/50

Helene Elitcher – pp 9772-9788 (Box 34)	9/20/50
Helen Sobell – pp 9789-9795 (Box 35)	9/20/50
Oscar John Vago (Mr. Donegan) – pp 9796-9828	
Helen Elitcher – pp 9829-9843	
Sylvia Danziger – pp 9844-9867 (Box 34)	9/27/50
William Perl – pp 9868-9878	
William Danziger – pp 10004-10020 (Box 34)	10/18/50
Sylvia Danziger – pp 10021-10034	10/18/50
Abraham J. Surouell – pp 10105-10112 (Box 35)	10/26/50
David Levitov – pp 10113-10142 (Box 35)	10/26/50
Abraham Surovell – pp 10143-10144	10/26/50
Florence Cohen – pp 10150-10179	11/1/50
Morris Pasternak – pp 10180-10207 (Box 35)	11/8/50
Florence Pasternack – pp 10208-10222	11/8/50
Morris Pasternack – pp 10270-10273	11/15/50
Benedict DeBuff – pp 10274-10275 (Box 34)	11/15/50
Morris Pasternak – pp 10276-10284 (Box 35)	11/15/50
Florence Pasternak – pp 10285-10306 (Box 35)	11/08/50
Harry Belock – pp 10307-10333 (Box 34)	12/14/50
Samuel Levine – pp 10334-10346 (Box 35)	12/14/50
Perry Alexander Seay – pp 10347-10363 (Box 35)	12/14/50
Ross C. Merritt – pp 10364-10365 (Box 35)	12/14/50
Edward J. Garrett – pp 10366-10376	12/14/50
Kathryn Kearns – pp 10377-10378 (Box 35)	12/14/50
Max Elitcher – pp 10447-10454	1/31/51
Emmanuel Schwartz – pp 10455-10464 (Box 35)	1/31/51
Ruth Alscher – pp 10465-10471 (Box 34)	1/31/51
Frank Wilentz – pp 10472-10473 (Box 35)	1/31/51
Louis Pasternak – pp 10474-10490 (Box 35)	1/31/51
Sarah Powell – pp 10491-10497 (Box 35)	1/31/51
Mark Page – pp 10498-10522	1/31/51
William Danziger – pp 10523-10534 (Box 34)	2/7/1951
Stella Page – pp 10535-10542 (Box 35)	2/7/51
Mark Page – pp 10543-10564	2/7/51
Vivian Glassman – pp 10565-10574 (Box 34)	2/7/51
Max Elitcher – pp 10575-10587 (Box 34)	3/13/51
Harold F. Good – pp 10588-10590 Box 34)	3/13/51

## **APPENDIX 2**

### **Members of the Court and Attorneys of Record**

#### **Judge:**

Irving Kaufman – Judge; known to be dead

#### **Prosecutors:**

Irving Saypol – U.S. Attorney who prosecuted the case; known to be dead.

Myles Lane – prosecutor; Irving Saypol's chief assistant; conducted much of the grand jury investigation; known to be dead.

James B Kilsheimer – assistant prosecutor (very young at the time and believed to still be alive)

Roy M. Cohn – assistant prosecutor; known to be dead

John M. Foley – Assistant U.S. Attorney

James Branigan Jr. – Assistant U.S. Attorney; known to be dead.

#### **Attorneys for the Defense:**

Edward Kuntz – attorney for Sobell

Harold M. Phillips – attorney for Sobell

Herbert Fabricant – with law firm of O. John Rogge

Emanuel Hirsch Block – son of attorney of record; also involved in defense proceedings

Alexander Block – defense attorney of record; specifically represented Ethel Rosenberg (p. 242); known to be dead.

Mr. O. John Rogge – attorney who accompanied Max Elitcher at Grand Jury hearing (p. 398); known to be dead.

#### **FBI Agents Known to be Involved in the Case:**

Mr. Cahill – agent

Mr. O. Brien – agent

Mr. William Norton – agent who arrested Greenglass (pp. 776-777)

Mr. John Harrington – agent who arrested Greenglass (pp. 776-777)

Mr. Leo Frutkin – agent who arrested Greenglass (pp. 776-777)

John W. Lewis - agent who arrested Greenglass (pp. 776-777)

Mr. Stevenson – agent who interviewed George Bernhardt (pp. 1243)