

**F.O.I.A.**

**JULIUS ROSENBERG ET AL.**

***FILE DESCRIPTION***

H Q

**FILE**

**SUBJECT** Morton Sobell

**FILE NO.** 101-2483

**VOLUME NO.** 42

**SERIALS**

1586

1630

## NOTICE

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File No: 101-2483 (42) Re: Morton Sobell

Date: \_\_\_\_\_  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1586	3/9/66	AQ A/T HQ and encl.	1/2	1/2	
1586	3/17/66	HQ lit DOJ	1	1	
1587	2/25/66	Translation	4	4	b7c
1588	3/22/66	NY a/T HQ w/note + encl.	2/7	2/7	
1589	3/28/66	NY a/T HQ w/note	1/1	1/1	
1590	4/1/66	NY a/T HQ	1/1	1	
1591	4/4/66	NY a/T HQ w/note	1/1	1/1	
1592	4/7/66	HQ a/T NY	1	1	
1593	4/11/66	NY lit HQ	1	1	
1594	4/14/66	Brannigan memo to Sullivan	2	2	
1595	4/21/66	NY a/T HQ + encl.	1/3	1/3	
1596	5/2/66	NY A/T HQ	1	1	

41 41  
rev rel deny ref presumed proper

File No: 101-2483 (42) Re: Morton Sobell

Date: \_\_\_\_\_  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1597	5/6/66	NY AIT HQ	2	2	b2 b7D
1597	5/12/66	HQ let DOJ	2	2	b7D
1598	5/12/66	WFO AIT HQ	2	2	b2 b7C b7D
1598	5/13/66	HQ let WFO	1	1	
1599	5/13/66	Branigan memo to Sullivan	2	2	
1600	5/11/66	NY AIT HQ	2	2	
1600	5/13/66	HQ TT NY	1	1	
1601	5/10/66	NY AIT HQ + EBF	2/36	2/36	
1602	5/12/66	Branigan memo to Sullivan	2	2	
1603	5/13/66	NY AIT HQ + encl.	2/3	2/3	
1604	5/18/66	NY a/t HQ	2	2	
1605	5/20/66	NY a/t HQ + encl.	2/4	2/4	

65 65 being ref presumed proper  
w me

File No:

101-2483 (42)

Re:

Morton Sobell

Date:

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
NR	5/26/66	NY AIT HQ	1	1	62 b7D
1606	5/27/66	BS AIT HQ	1	1	
1607	5/27/66	NY AIT HQ	1	1	
1608	5/24/66	NY AIT HQ	3	3	
1608	5/31/66	HQ AIT HQ + SS	1/1	1/1	
1609	5/31/66	NY AIT HQ	1	1	
1610	6/3/66	NY AIT HQ	1	1	
NR	6/6/66	HQ let DOJ	2	2	b7D
NR	6/2/66	NY TT HQ w/note	2/1	1/1	62 b7D
1611	6/8/66	NY AIT HQ	1	1	
1612	6/13/66	NY AIT HQ	1	1	
NR	6/6/66	NY TT HQ	1	1	62 b7D

18 17 1 0  
rev rel deny ref presumed prior

File No: 101-2483 (42) Re: Morton Sobell

Date: \_\_\_\_\_  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
NR	6/8/66	HQ let DOJ	1	1	b7D b2
1613	6/21/66	PH let HQ	1	1	
1614	6/17/66	NY A/T HQ + encl.	27	27	b7c b7D
1614	6/21/66	HQ let DOJ	1	1	
1615	6/14/66	NY A/T HQ + encl.	37	37	
1616	6/16/66	Branigan memo to Sullivan	2	2	
1617	6/27/66	NY A/T HQ	1	1	
1618	6/28/66	NY A/T HQ	2	2	
1619	7/1/66	Branigan memo to Sullivan	2	2	
NR	6/17/66	Rap sheet	5	5	
1620	7/6/66	HQ let DOJ	2	2	
1621	6/29/66	3rd party let HQ	1	1	

65 65  
no me deny ref presumed person

File No: 101-2483 (42) Re: Morton Sobell

Date: \_\_\_\_\_  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1621	7/6/66	HQ let 3rd party	1	1	
1622	7/8/66	PH a/T HQ	3/15	3/15	
1623	7/7/66	NY a/T HQ	1	1	
1624	7/14/66	Branigan memo to Sullivan	2	2	
1625	7/12/66	NY a/T HQ + EBF	1/86	1/86	
1626	7/14/66	Dog let HQ & encl.	1/2	1/2	
1627	7/19/66	NY a/T HQ & encl.	2/2	2/2	
1628	7/25/66	NY a/T HQ	2	2	
1629	7/27/66	HQ a/T HQ	1	1	
1630	7/26/66	NY A/T HQ	2	2	
1630	7/29/66	HQ a/T NY	1	1	

122 122  
rev me deny ref presumed prior

F B I

Date: 3/9/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via Airtel

(Priority)

To: DIRECTOR, FBI (101-2483)  
 From: SAC, ALBUQUERQUE (65-50) (RUC)  
 Re: MORTON SOBELL  
 ESP - R

Re Bureau airtel, 2/25/66.

Pursuant to Bureau instructions appropriate copies of a letterhead memorandum suitable for dissemination are attached for the Bureau. Two copies are furnished to New York.

No further action is contemplated by Albuquerque at this time.

ALL INFORMATION CONTAINED  
 HEREIN IS UNCLASSIFIED

DATE 11/18/84 BY SP2 BPL/amy

# 97-999

4/30/87 5043 PWT/mw

REC-79

101-2483-1586

C. C. Wick

- 3 - Bureau (Enc. 5)  
 2 - New York (100-37158) (Enc. 2) (RM)  
 1 - Albuquerque  
 GJ/dac

(6)

Approved: \_\_\_\_\_

Special Agent in Charge

Sent \_\_\_\_\_

M

Per \_\_\_\_\_

MAR 14 1966

SOVIET

Let to AAG encl 3  
 JPL: MAB  
 3/17/66





UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Albuquerque, New Mexico

March 9, 1966

In Reply, Please Refer to  
File No.

MORTON SOBELL  
ESPIONAGE - R

On March 8, 1966, Linda Hughes, 8202 Morrow Road Northeast, Albuquerque, New Mexico, furnished information in a signed statement.

"Albuquerque, New Mexico  
March 8, 1966

"I, Linda Hughes, 8202 Morrow Road, N.E., Albuquerque, New Mexico, make the following voluntary statement to Gordon Jackson, identified to me as a Special Agent of the Federal Bureau of Investigation.

"I was formerly employed with the Hilton Hotels in Albuquerque, New Mexico and was so employed in the early 1940s.

*N. Mexico*  
"On February 10, 1966, I received a telephone call from a person identifying himself as Malcolm Sharp, an attorney. He wanted to know if I had read the book about the Rosenberg case written by Walter Schneir. I told him no. He then seemed to be surprised that I had not kept up with the Rosenberg case and the Sobell case. He volunteered to bring a copy of the book to my home so I could read it.

"The following day Mr. Sharp came by my home and left a copy of the book by Walter and Mirian Schneir, together with a summation of 'Invitation to an Inquest,' prepared by him, and an affidavit prepared by him which he wanted me to sign. In referring to the summation, he told me 'these are my views entirely.' At this

This document contains neither recommendations nor conclusions of any kind. It is the property of the FBI, and is a loan to your agency; it and/or its contents are not to be distributed outside your agency.

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11/6/84

SPATAP/ang

# 77-999

3042 PWT/lmw 4/30/87

ENCLOSURE

101-2483-1586

MORTON SOBELL

time he told me that he was at the University of New Mexico, and a law professor in the law school.

"Mr. Sharp explained that his purpose in contacting me was to ask me to verify the statements in the book attributed to me. He indicated that he had talked with Mr. Arnhart, the present manager of the Hilton Hotel, and he had been cooperative.

"I checked that portion of the book wherein I am referred to and have found it is inaccurate and misquotes my statements to Mr. Schneir. At the time Mr. Schneir was in Albuquerque preparing the book, I had not wanted to talk with him, and I felt I had no positive information which I could furnish, but after thinking it over, decided that it would probably be the only way to get rid of him because he had been very persistent.

"On February 14, 1966, Mr. Sharp again called me and wanted to know if he could come by and pick up the affidavit. I told him that he could pick it up if he wanted to but that I had not signed it and did not intend to sign it because it is not correct. Mr. Sharp was disturbed about me not having signed the document and suggested that I check with Mr. Arnhart. I told him I did not need to check with Mr. Arnhart, that my mind was definitely made up, and I had no intention of signing. He then wanted to know if I had read the book and I told him that I had not, but would like to keep the book for a while so I could read it. He then said I could have the book, that Mr. and Mrs. Schneir should have sent me a complementary copy of the book, which must have been an oversight. I then wanted to pay him the \$5.95, the price marked on the book, and offered to send him a personal check but he refused payment and insisted that I could have the book.

"I reminded Mr. Sharp, at this time, that I could not recall ever having signed an affidavit in connection with this matter, as he had previously given some indication that I had signed such an

**MORTON SOBELL**

affidavit. When Mr. Sharp handed me the affidavit for my signature, he had mentioned that if I would sign it there was a possibility it would save me having to go back to New York to testify. He seemed confident there would be a new trial in the Sobell matter. At the time I informed him that I had no intention of signing the affidavit, he took the attitude that I would have to be subpoenaed. He made this remark in such a manner that it indicated to me that I should be afraid of a subpoena. In my reply to him I let him know that I was not afraid of a subpoena and had no fear of testifying.

"In reviewing the affidavit which deals with the difference in the date on the face of the registration card of Harry Gold at the Hilton Hotel in Albuquerque and the stamp date on the back of the card, I noted that the statement is made 'In this case, since there is a discrepancy, I would take the stamp as the valid date of registration.' This is not true inasmuch as it is just as likely that someone forgot to change the stamp, or that it got off unintentionally one way or the other, or the stamp had not been used until sometime after the registration card was made out, or that being an electrical device, many things could have gone wrong with it.

"On February 28, 1966, Mr. Sharp again called me and wanted to know if I had done any thinking about this matter and made a comment I did not understand. He said 'my friends in New York misunderstood a letter I wrote to them,' and I just wanted to know if you had done any thinking about signing the affidavit and had changed my mind. I told him that it did not matter how much thinking I would do about it that I would not change my mind.

"I have read this and one other type written page and they are correct.

"/s/ Linda Hughes  
8202 Morrow Rd. N.E.

**MORTON SOBELL**

**Albuquerque,  
New Mexico**

**"Witnesses:**

**/s/ Gordon Jackson, SA \_ FBI \_ Albuquerque \_ 3/8/66"**

**The proposed affidavit and the summation of  
"Invitation to an Inquest" are made a part of this memorandum  
as follows:**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

No. C 134-245

-against-

UNITED STATES OF AMERICA,

Respondent.

STATE OF NEW MEXICO

COUNTY OF

)  
( ss.:  
)

LINDA HUGHES, being duly sworn, deposes and says:

I was employed for nearly twenty years at the Albuquerque Hilton Hotel, and worked at the hotel's reception desk in 1945. I utilized and was fully familiar with the registration procedure:

Arriving at the reception desk, a guest was presented with a numbered registration card. On the top half of this card the guest filled in his name and other information; the lower part of the card was filled in by the desk clerk. Then the clerk immediately placed the card in a time-stamp machine to record the date and exact time on the back. The machine in use for this purpose in 1945 stamped the word "Received" along with the date and time, so that it could be used for incoming mail as well as the registration cards.

My opinion has been asked about the discrepancy in the dates on the front and reverse sides of a Hilton registration card in the name of Harry Gold, which bears a June 3, 1945 registration date in handwriting on the former, and a date-time stamp of 12:38 p.m., June 4, 1945, on the latter. Since the registration procedure was a standard one, with registration cards being stamped on their reverse side, the dates should

agree. In this case, since there is a discrepancy, I would take the stamp as the valid date of registration.

---

Linda Hughes

Sworn to before me this  
day of February, 1966.

Invitation to an Inquest

Walter and Miriam Schneir  
Doubleday, 1963

The principal prosecution witnesses against Mr. and Mrs. Rosenberg were her brother David Greenglass, Mrs. Greenglass and Harry Gold. Harry Gold did not claim to know the Rosenbergs or--in the end--anything about them. He confessed to participation in the steps toward espionage which were charged against all five, particularly to getting from the Greenglasses and giving to Yakovlev, gone since to Russia, information about the detonating devices used in the first atomic bombs, devices on which Greenglass worked as a machinist at Los Alamos. The Greenglasses confirmed Gold's account of their contribution and in addition implicated the Rosenbergs as instigators and go-betweens. Mrs. Greenglass escaped prosecution, David was sentenced to fifteen years (and served ten), the Rosenbergs were executed, denying the Greenglasses' story until the moment of their death.

A few students of the record, including the record of new evidence impeaching the credibility of the Greenglasses offered just before the Rosenbergs' execution, have doubted the guilt of the Rosenbergs or the adequacy of the evidence to justify their conviction and execution. Perhaps the two most persuasive critics were Professor Harold Urey, with his scientist's sense for proof, and the late Mr. Stephen Love of the Chicago Bar, a conservative lawyer with a life time of experience in criminal matters. A great many criticized the sentences of death, related to the trial judge's view that the conspirators had given the Russians "[the] secret" of the bomb and thus "caused" the Korean War.

Mr. and Mrs. Schneir, experienced and responsible journalists, to some extent specialists in science reporting, have written what is now the definitive book on the case, Invitation to an Inquest. For the first time a critical book

on the case has been published by a substantial commercial publisher, Doubleday. A doubtful exception might be made for Jonathan Root's *The Betrayers* (Coward-McCann, 1963), a book as unfavorable as possible to the prosecution's proof, the conduct of the trial, and the execution; but with the author satisfied by the FBI's assurance that it withheld available evidence favorable to the prosecution, for use elsewhere, in view of the agency's estimate of the limited proof needed for conviction in the temper of the times.

Mr. and Mrs. Schneir devote a large part of their volume to recreating, as far as it can be done, the temper of the times. The arrests took place a few months after Senator McCarthy got his start in February 1950, by charging the presence of a significant number of Communists in the State Department. The trial took place in the first year of the Korean War. The execution took place about a year before the beginning of Senator McCarthy's decline. Roy Cohn was second among the prosecuting lawyers at the trial, on his way from an original association with the Bronx Democratic organization to his association with the Senator. The senior prosecuting lawyer was Irving Saypol, who by reputation and performance may well have been Mr. Cohn's principal mentor. The times and his own training and experience prepared for the trial judge's statement, on sentencing, that the defendants "caused" the Korean War.

Mr. and Mrs. Schneir show how the temper of the times combined with the variegated and bizarre characteristics of the witnesses to contribute to our mistrust of the proceedings. All the principal witnesses were subject to the familiar temptations of the accomplice in turning state's witness. They had an opportunity to cooperate in planning their testimony. In view of the new evidence which came to light shortly before the execution, there can be no doubt that Gold and the Greenglasses did not in fact testify honestly at all points, whatever the precise significance of their plain misstatements may be.



At the request of defense counsel, resulting from my public statement on the new evidence made on May 16, 1953, I joined defense counsel on June 3, and participated in the last efforts in the courts and with the Executive to prevent the execution which took place on June 19. As I acted, by my standards, pro bono publico, I have thought it proper to publish my views on the case. I later participated in action which protected the Rosenbergs' two sons in the home which the late Mr. Emanuel Bloch, the parents' friend and lawyer, planned for the boys. I have joined the Sobell Committee in their efforts to secure parole or pardon for Morton Sobell, convicted of participation not in any atomic espionage conspiracy but in a shadowy general conspiracy, as co-defendant with the Rosenbergs. In all these activities I have been thrown into close association with people long involved in the case. I met them with friendly suspicion, and have questioned them in all sorts of circumstances about problems that puzzled me. If they had not satisfied me, I would not of course have been free to disclose their confidences, but I would have quietly ceased to discuss the case. As it stands, my confidence in the innocence of Mr. and Mrs. Rosenberg and of Morton Sobell, which I reached only during my first days spent working on the motion for a new trial, has been confirmed and strengthened by years of association and experience with their friends and relatives. Only the trial and hanging of Madame Surratt, whatever her precise relation to a conspiracy to murder Lincoln, compares with this case as an instance of inadequacy in the administration of federal justice.

This book confirms my own views about the innocence of the defendants and the insufficiency of the evidence to sustain their conviction or justify their execution. It has convinced me, at the same time, that the theory used by the defense is less probably true than an alternative theory which some friends of the defense urged the defense to adopt in the later stages of the case. Each theory supplements and supports the other in raising objections to the convictions and the executions.

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The choice between them depends on an appraisal of evidence about which persons favorable to the defense may reasonably differ.

The defense theory was that the leading scientist, Fuchs, and Gold, who testified that he worked with Fuchs, under direction from Yakovlev, and Yakovlev himself, may well have played the part in the story which Gold attributed to them, and that the Greenglasses may also have played approximately the part in the story which Gold attributed to them. This theory while accepting provisionally at least the existence of a plot including Gold, the Greenglasses, and Yakovlev, called attention to the defects of the evidence relied on to connect the Rosenbergs with the plot.

The competing theory called attention to the weakness of the evidence relied on to establish any plot at all. Mr. John Wexley (with Mr. William Reuben) has been the principal proponent of this view, and he published a formidable argument for it in 1955, about the time my own book on the subject (prepared quickly at the request of a New York publisher in 1953-1954) had finally found a publisher willing to take it. I considered Mr. Wexley's argument, which would have relieved me of the necessity of publishing, very carefully. I found I was not convinced, and expressed my doubts with much respect for Mr. Wexley, but firmly, in a review later published as an appendix to my book. In that review I indicated, I hope, a receptive attitude toward further evidence on the subject.

That further evidence, in convincing form, appears in the present book, particularly in Chapters 27, 29 and 31. Material made public soon after the publication of my essay together with material newly made available to the authors of this book indicates convincingly that Gold was in the process of inventing the whole story of the plot when he was first under interrogation, at a time after the Greenglasses had come under FBI observation. It was already known, on Mr. Wexley's account for example, that Gold was capable of this sort of invention. Delayed

stimulated total recall seems a less simple and likely explanation of Gold's testimony, and the evidence relating to it. Moreover the authors by careful research have confirmed an opinion that Mr. Wexley reached without the facilities for research which were apparently assured by the authors' association with a publisher of "respectable standing." This is the opinion that the government found it necessary to rely on a fabricated registration card, falsely indicating Gold's presence at the Albuquerque Hilton, to show his presence in Albuquerque on the Sunday when according to his and the Greenglasses' testimony Greenglass there gave Gold material describing Greenglass's observations at Los Alamos.

The Greenglass story begins haltingly, under stimulus from the FBI, which already had Gold; and it was perfected over some seven months in prison. During much of the time Gold was in the same prison with Greenglass and apparently at times in the same "singing quarters." His bizarre and imaginative character seems to have combined with the strong and dominating character of Ruth Greenglass to drill David Greenglass in a fabrication designed to save David and Ruth from threats or supposed threats to David, made plausible partly by the temper of the times.

The theory now seems better substantiated than the theory of the defense. The authors do not do justice to Mr. Bloch, in failing to recognize the obstacles he faced, with limited resources, isolated even by a good many somewhat like minded lawyers. Even Mr. Wexley was not able, in my opinion, to sustain the position which is now vindicated. They have both contributed, with the present authors, in ways beyond adequate praise, to our understanding of a critical case.

The one practically unfortunate aspect of this book is that it continues a tendency to be preoccupied with the Rosenbergs and to subordinate the case of Morton Sobell, still serving a thirty-year sentence. The weakness of the case against Mr. and Mrs. Rosenberg is weakness in the case against Mr. Sobell. There are however so many additional weaknesses in the case against Mr. Sobell that it is to be hoped

-6-

the public and the authorities will find it possible to give that case appropriate attention on its own account. So far, in this phase of the cold war at home, as in the cold war abroad, our public agencies show the prejudicial effects of having to act as judges in their own case.

1 - Mr. Lee

Mr. J. Walter Yeagley  
Assistant Attorney General  
Director, FBI

March 17, 1966

NORTON SOBELL  
ESPIONAGE - RUSSIA

Reference is made to our letter dated March 8, 1966.

There are attached one copy of a memorandum made at Albuquerque, March 9, 1966, one copy of an unsigned and undated affidavit presented to Linda Hughes by Malcolm Sharp for her signature and a summary of a book "Invitation to an Inquest," prepared by Malcolm Sharp. The above-mentioned Malcolm Sharp is an attorney and a professor at the University of New Mexico Law School. This memorandum includes the text of a statement given by Linda Hughes to an Agent of this Bureau in which she advised that she was misquoted in the book "Invitation to an Inquest," and that she refused to sign the affidavit presented to her by Sharp.

This is furnished for your information.

Enclosures - 2

101-2483

JPL:mab (4)

NOTE: mab

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HEREIN IS UNCLASSIFIED

DATE 1/6/84 BY SP2 TAP/awg  
# 97-999 3040PWF/IMW 45067

In August, 1965, a book entitled "Invitation to an Inquest," written by Walter and Miriam Schneir dealing with the Rosenberg - Sobell case was published. This book claims that the FBI forged a hotel registration card for the Hilton Hotel in Albuquerque for June 3, 1945. One of the bases for the allegation of forgery is that this registration card which was for Harry Gold had a handwritten date on the front for June 3 and a time stamp date of June 4 on the back. The book claimed that Linda Hughes, clerk at the hotel, stated that in the event of a conflict the date stamp was the governing date. Miss Hughes was presented with an affidavit by one of the Sobell defense counsel affirming the statements attributed to her in the book. She refused to sign this affidavit since it was not true.

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

MAR 18 1966  
MAR 17 1966  
COMM-FBI

MAIL ROOM ☐ TELETYPE UNIT ☐



TRANSLATION FROM FRENCH

Communication addressed to the Attorney General and postmarked  
Paris, France, February 18, 1966.

The communication is written on a calling card.

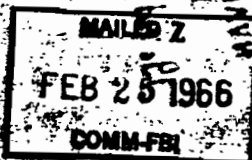
*C. MarCady*

**Printed portion:**

Pol et Jeanne Gaillard  
University Professors  
11, Rue du Docteur-Finlay  
Paris XV France  
Fontenoy 07-71

Written portion: ... respectfully urge you, in the best interests of justice,  
not to oppose the request for a revision (possibly a "new trial") of the trial  
of Morton Sobell.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw



REC-103

10122483-1587

NO. RECORDED  
MAR 2 1966

TRANSLATED BY:

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

February 25, 1966

BUFILE 62-1077

54 MAR 29 1966

MAIL ROOM ☒ TELETYPE UNIT ☐

(Translation and original material  
sent to Department 2/21/66 by  
Form 0-6, pursuant to their request).

(1)

**TRANSLATION FROM GERMAN**

Airmail communication to the Department of Justice, postmarked Brugg, West Germany, February 21, 1966.

The return address reads:

Anna Maurus  
Gestratz  
8999 Post Brugg, Allgäu  
Kreis Lindau  
West Germany

Gestratz, February 18, 1966

Subject: Estate of Maria Goesmeln-Brutscher and Alma Mebius, USA, to the benefit of co-heir Mrs. Anna Maurus, Gestratz, 8999 Post Brugg, Allgäu, Kreis Lindau, West Germany.

To the Department of Justice

Gentlemen:

I am turning to you with a request from the bottom of my heart. I need to collect my claim (Claim No. ...) to my share of the inheritance. Therefore, I am writing to you again to ask you to help me. Looking forward to hearing from you soon, I remain respectfully yours

(Signed) Anna Maurus

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

TRANSLATED BY

February 25, 1966

BUFILE 62-1077

MAIL ROOM ☐ TELETYPE UNIT ☐

(Translation and original material sent to Department 2/25/66 by Form 0-6, pursuant to their request).

(2)

TRANSLATION FROM FRENCH

Communication to the Attorney General of the United States,  
postmarked Meudon P. pal, Hauts de Seine, February 4, 1966.

No return address is shown in the communication.

Meudon, January 20, 1966

To the Attorney General

Dear Sir:

On behalf of all Frenchmen who have learned in school in 1918  
your national anthem and who find, in their best recollections, the generosity  
of those Americans, I am writing to you with a request not to tarnish this  
beautiful image.

I am asking you not to oppose the request for the opening of a  
new trial of Morton Sobell. May truth come out of this new trial and may  
those who are responsible for this miscarriage of justice be punished.

I feel confident that your great soul and your honor will lead you  
to accept this request.

I extend herewith, Mr. Attorney General, the expression of my  
respectful civility (sic).

(Signed) C. Marcady (?)

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042PWT/lmw

TRANSLATED BY:

February 25, 1966

BUFILE 62-1077

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

MAIL ROOM ☐ TELETYPE UNIT ☐

(Translation and original material  
sent to Department 2/25/66 by  
Form 0-6, pursuant to their request).



No routing slip accompanied foreign language material sent from Department.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

*Transl and encls to  
Recds. Adm. Office  
RAV:chf  
2-25-66*

F B I

Date: 3/22/66

Mr. Tolson  
Mr. DeLoach  
Mr. Mohr  
Mr. Bishop  
Mr. Casper  
Mr. Callahan  
Mr. Conrad  
Mr. Felt  
Mr. Gale  
Mr. Rosen  
Mr. Sullivan  
Mr. Tavel  
Mr. Trotter  
Tele. Room  
Miss Holmes  
Miss Gandy

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via AIRTEL REGISTERED  
(Priority)

TO: DIRECTOR, FBI (101-2483)  
FROM: SAC, NEW YORK (100-37158)  
SUBJECT: MORTON SOBELL  
ESP - R Espionage - Russia

Enclosed for the Bureau is one copy of Notice of Motion on behalf of the subject requiring the Government to produce for inspection and study the original of Government Exhibit 8 and untranscribed stenographic notes of the testimony of DAVID GREENGLASS and JOHN A. DERRY relating thereto fully transcribed. Also enclosed is one copy of affidavit of WILLIAM M. KUNSTLER, attorney for subject in support of this motion.

ASST. U.S. ATTORNEY

The enclosures were made available by AUSA JOHN S. MARTIN, JR., SDNY. Southern District of New York

The motion is returnable on March 28, 1966, at USDC, SDNY.  
U.S. District Court

KUNSTLER, in his affidavit, states that the subject is now in the process of preparing a motion pursuant to Title 28, U.S. Code, Section 2255, to set aside subject's conviction

4 - BUREAU (Encl. 2) (RM)  
(1 - 62-106323) (WALTER D. SCHNEIR)  
(Attn: Crime Records)  
1 - NY 100-109849 (HELEN SOBELL)  
1 - NY 100-135206 (WALTER D. SCHNEIR)  
1 - NY 100-107111 (CSJMS)  
1 - NY 100-37158

ENCLOSURE

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3042/PNT/1mw

EFM:mfd (#331)

19)

MAR 29 1966

ENCLOSURE

101-2483 1588

MAR 23 1966

Approved: \_\_\_\_\_  
Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

4 APR 4 1966

62-106323-  
UNRECORDED COPY FILED IN

NY 100-37158

on the grounds, among others, that the Government fabricated and knowingly, wilfully, etc., utilized false and perjurious testimony and documents in its successful effort to convict the defendant.

AUSA MARTIN advised that he had been in contact with the Department concerning this motion and was advised that the Department would consult with the Atomic Energy Commission relative to the unsealing of the testimony and exhibit in this case.

NYO will maintain contact with AUSA MARTIN and the Bureau will be kept advised promptly.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

Cr. 134-245 8-1840CV  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/mw

S I R:

PLEASE TAKE NOTICE that defendant will move this Court at a motion term thereof to be held in Room 318, United States Courthouse, Foley Square, New York, on the 28th day of March, 1966, at 10:00 o'clock in the forenoon thereof, or as soon thereafter as counsel can be heard, for an order directing the government to produce for his inspection and study the original of Government Exhibit 8 and the untranscribed stenographic notes of the testimony of David Greenglass and John A. Derry relating thereto, properly and fully transcribed.

Dated: New York, New York  
March 20th, 1966.

Yours, etc.

KUNTLER KUNTLER & KINOY  
Office & P.O. Address  
511 Fifth Avenue  
New York, New York

by: *William M. Kunstler*  
William M. Kunstler  
Arthur Kinoy

TO:

ROBERT MORGENTHAU, ESQ.  
United States Attorney  
for Southern District  
of New York  
U.S. Courthouse  
Foley Square, New York

MARSHALL PERLIN  
580 Fifth Avenue  
New York, New York

BENJAMIN O. DREYFUS  
341 Market Street  
San Francisco, California

MALCOLM SHARP  
University of New Mexico Law  
School  
Albuquerque, New Mexico  
Attorneys for Defendant

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Cr. 134-245

-against-

MORTON SOBELL,

Defendant.

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:

WILLIAM M. KUNSTLER, being duly sworn, deposes and  
says:

I am one of the attorneys for the defendant herein  
who, along with Julius and Ethel Rosenberg, was convicted in  
1951 of conspiring to transmit classified atomic information to  
the Soviet Union during wartime, all in violation of Title 50,  
United States Code, Section 34. He was sentenced to a term of  
thirty years in jail and is presently confined at the United  
States Penitentiary at Lewisburg, Pa.

I am making this affidavit in support of defendant's  
motion for the production of certain impounded testimony relating  
to Government Exhibit 8, allegedly "a replica of the sketch,  
cross-section of the atomic bomb" (R. 702), as well as the exhibit  
itself. When this sketch was offered into evidence at the trial,  
defense counsel, after first strenuously objecting to its ad-  
mission, asked the Court "to impound this exhibit so that it re-  
mains secret to the Court, the jury and counsel." (R. 703).  
The Court so ordered (R. 704).

At the time of the introduction of Government Exhibit  
8, David Greenglass, a key government witness, was on the stand.  
Greenglass, who had testified that it was a replica of a sketch  
which he had given to Julius Rosenberg in September of 1945  
(R. 702), was about to describe it when lead counsel for the

defense requested that his testimony "also be kept secret" (R. 705). Because all defense counsel would not join in a stipulation that Greenglass' testimony regarding the sketch was "confidential matter and pertaining to the national defense" (R. 720), the Court qua sponte cleared the courtroom during "the balance of this testimony" (R. 715).

Before this decision was reached, the Court permitted the jury, the press and the courtroom spectators to listen to a great deal of colloquy between counsel for the government and for the defendants as to the secret character of the proof to be offered by Greenglass and other witnesses (R. 712-716). At one point, the prosecutor stated that "that matter is of such gravity that the Atomic Energy Commission held hearings, at which I was represented, as did the Joint Congressional Committee, and representatives of the Atomic Energy Commission have been in attendance here at the trial, as your Honor knows, have been in constant consultation with me and my staff on the subject" (R. 713-4).

After Greenglass' testimony about Exhibit 8 had been completed, the stenographer's untranscribed notes were impounded and it does not appear in the official trial transcript. The jury (as well as the press and public) was left with the impression that a scientific secret of enormous proportion was contained in Exhibit 8. The prejudicial nature of this impression insofar as defendant is concerned can scarcely be underestimated.

Outside of Greenglass, only one witness testified as to Exhibit 8. John A. Derry, an electrical engineer who had served as liaison for General Leslie R. Groves, the officer in charge of the atomic bomb project at Los Alamos, was permitted to view the exhibit and listen to the impounded Greenglass testimony.<sup>\*/</sup> Thereupon, he testified as follows:

<sup>\*/</sup> Derry testified with the same elaborate security precautions as had been imposed during the testimony of Greenglass as to Exhibit 8 (R. 1318-1319).



Q. Mr. Derry, does the description as read by Mr. Slavin in conjunction with the sketch before you, Government's Exhibit 8, relate to the atomic weapon which was in the course of development in 1945?

\* \* \*

A. It does.

\* \* \*

Q. Does the knowledge as disclosed in the material read by Mr. Slavin, in conjunction with the sketch before you, Government's Exhibit 8, demonstrate substantially and with substantial accuracy the principle involved in the operation of the 1945 atomic bomb?

\* \* \*

A. It does.

Q. From that testimony and from that exhibit you perceive clearly the structure of the weapon as it actually was?

A. I didn't get that question.  
[fol. 1330] Q. That is, from the testimony as it has been read to you and from the sketch, Exhibit 8, can you perceive --

The Court: Can an expert.

Q. Can you --

The Court: I would say, can an expert in that particular field perceive.

Q. Can a scientist, and can you, perceive what the actual construction of the bomb was?

A. You can.

Q. To a substantial degree?

A. You can.

Q. Was this information classified at the time?

A. It was classified top secret.

Q. Is it still classified?

A. Yes, sir.

Q. Does this information relate to the national defense of the United States of America?

A. It certainly does.

\* \* \*

Q. Does the information that has been read to you, together with the sketch concern a type of atomic bomb which was actually used by the United States of America?

A. It does. It is the bomb we dropped at Nagasaki, similar to it.

On cross-examination, Derry stated that the exhibit and the Greenglass testimony concerning it was "the principle ... that is what is intended here" (R. 1336), rather than "a complete description of the cross-section of the atomic bomb and the function of the atomic bomb and how it works and the principles under which it works" (R. 1336-7). When defense counsel attempted to press the witness as to the completeness of Greenglass' description of the bomb, he was interrupted by the Court who volunteered that "I don't think it was offered as a complete or a detailed description ... it is a description of a principle upon which it works" (R. 1337).

New counsel for defendant are now in the process of preparing a motion pursuant to 28 U.S.C. 2255 to set aside his conviction on the ground, inter alia, that the government fabricated and knowingly, wilfully, intentionally and deliberately utilized false and perjurious testimony and documents in its successful effort to convict defendant and his co-defendants of the crime of conspiring to commit atomic espionage during wartime. In connection with these preparations, defendant considers it indispensable to such preparations that he be permitted to examine Exhibit 8 and the untranscribed testimony of David Greenglass relating thereto.

Among other things, defendant will contend that many of the exhibits offered by the government during the trial were deliberate and fabricated forgeries, the false nature of which it had full knowledge, and that the testimony relating thereto



was likewise fabricated, false and perjurious under similar conditions of knowledge and wilfulness. Since the impounded evidence referred to above has not been seen by defendant's counsel, it is impossible to complete his motion under 28 U.S.C. 2255 without recourse to it. Following such examination, which would be in the best interest of justice, defendant will be in a position to determine whether the impounded material should be considered in his moving papers.

There can be no question of any conceivable threat to national security at this point. Even during the trial, the prosecution had no objection to the introduction in open court of Exhibit 8 without the precautions which, it must be kept in mind, were first suggested by defense counsel and not by the government. This was also true of the related testimony of David Greenglass and, inferentially, at least, of that of Mr. Derry as well. Moreover, it has been patently apparent for many years that the information which the government claimed was received from David Greenglass by defendant's co-defendants and allegedly transmitted to the Soviet Union could not possibly have had any significant effect, if it had any at all, on that country's scientific progress insofar as the development of the atom bomb was concerned.

WHEREFORE, it is respectfully requested that the government be directed to produce for the immediate inspection by the defendant or his attorneys and their scientific and documentary experts Government Exhibit 8 and all of the impounded testimony of David Greenglass and John Derry pertaining thereto.

Sworn to before me this  
15th day of March, 1966.

MICHAEL J. KUNSTLER  
Notary Public, State of New York  
No. 217833  
Qualified in Westchester County  
Commission Expires March 23, 1967

15/ William M. Kunstler  
William M. Kunstler

101-2413-1584

**NOTICE OF ENTRY**

Sir: Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

Dated, \_\_\_\_\_  
 Year, etc.  
**KUNSTLER KUNSTLER & KINOY**  
 Attorney for  
 Office and Post Office Address  
 811 FIFTH AVENUE  
 NEW YORK, N. Y. 10017

To  
 Attorney for

**NOTICE OF SETTLEMENT**

Sir: Please take notice that an order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court, at on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_

Dated, \_\_\_\_\_  
 Year, etc.  
**KUNSTLER KUNSTLER & KINOY**  
 Attorney for  
 Office and Post Office Address  
 811 FIFTH AVENUE  
 NEW YORK, N. Y. 10017

To  
 Attorney for

Index No. Cr. 134-245 Year 19  
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**  
**UNITED STATES OF AMERICA,**

-against-

**MORTON SOBELL,**  
 Defendant.

**MOTION AND AFFIDAVIT**

**KUNSTLER KUNSTLER & KINOY**  
 Attorney for Defendant  
 Office and Post Office Address  
 811 FIFTH AVENUE  
 NEW YORK, N. Y. 10017  
 MURRAY HILL 8-6817

To  
 Attorney for  
 Service of a copy of the within  
 Dated, \_\_\_\_\_  
 Is hereby admitted.  
 19\_\_\_\_  
 Attorney for

MAILED  
 MAY 21 1954  
 U. S. ATTORNEY  
 SO. DIST. OF N. Y.

The undersigned attorney certifies pursuant to Section 2105 C.P.L.R. that the within has been compared by the undersigned with the original on file in the office of \_\_\_\_\_ and found to be a true and complete copy.

STATE OF NEW YORK  
 COUNTY OF \_\_\_\_\_

**ATTORNEY'S CERTIFICATION**

Dated, \_\_\_\_\_  
 Signature  
 Typed

The grounds of the belief and sources of information on all matters not stated upon the knowledge are as follows:  
 The undersigned affirms that the foregoing statements are true, under the penalties of perjury, pursuant to Rule 2105 C.P.L.R.

The undersigned, being an attorney duly admitted to practice in the courts of the State of New York, do hereby certify that he is the attorney(s) of record or an attorney acting on of counsel with the attorney of record for the within named party, that he has read the foregoing and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true. He further states that the reason this affidavit is made by him and not by the \_\_\_\_\_ is that \_\_\_\_\_

STATE OF NEW YORK  
 COUNTY OF \_\_\_\_\_

**ATTORNEY'S AFFIRMATION**

The undersigned, being an attorney duly admitted to practice in the courts of the State of New York, do hereby certify that he is the attorney(s) of record or an attorney acting on of counsel with the attorney of record for the within named party, that he has read the foregoing and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true. He further states that the reason this affidavit is made by him and not by the \_\_\_\_\_ is that \_\_\_\_\_

F B I

Date: 3/28/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via AIRTEL REGISTERED  
(Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)

SUBJECT: MORTON SOBELL  
ESP - R

ReNYairtel, 3/22/66.

AUSA JOHN S. MARTIN, JR., SDNY, advised that motion of SOBELL's attorney's for inspection of sealed trial exhibit came before Judge THOMAS MURPHY, SDNY, on 3/28/66.

At the request of USA's office, SDNY, this motion was put over for one week to allow Government time for reply.

AUSA MARTIN advised that he had received no instructions as to Department's decision on this motion as a result of its consultation with the Atomic Energy Commission.

Bureau will be advised of developments.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

- 4 - BUREAU (RM)  
(1 - 62-106323) (WALTER D. SCHNEIR)  
(Att: Crime Records)
- 1 - NY 100-109849 (HELEN SOBELL)  
1 - NY 100-135206 (WALTER D. SCHNEIR)  
1 - NY 100-107111 (CSJMS)  
1 - NY 100-37158

EFM:mfd (#331)  
(10)

REC-106

101-2483-1589

MAR 29 1966

SOVIET SECTION

Sent

M

Per

Special Agent in Charge

APR 5 1966

62-106323-

RECORDED COPY FILED IN

## Domestic Intelligence Division

## INFORMATIVE NOTE

Date 2/23/66

Morton Sobell was convicted along with Julius and Ethel Rosenberg in 1951 of conspiracy to commit espionage and is now serving a 30-year sentence. Book published in 1965 accused the FBI of forging evidence used at the trial. Sobell's attorneys have filed a motion in U. S. District Court, Southern District of New York, asking that a sketch of atom bomb made by David Greenglass, Government witness at trial and Greenglass's untranscribed testimony be made available for examination. Sketch was impounded by the trial judge on the motion of defense counsel at trial. U. S. Attorney has been in contact with Department of Justice and will obtain opinion of Atomic Energy Commission concerning unsealing of this evidence. Defense counsel claim it is necessary to review this impounded evidence in connection with their plans to file a motion for a new trial based on alleged forgery of evidence. This is being followed closely.

JPL:mab

*note* *2e 82* *10*  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY SP4 PWT/  
IMW

F B I

Date: 4/1/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via AIRTEL REGISTERED  
(Priority)

Mr. Tolson	_____
Mr. DeLoach	_____
Mr. Mohr	_____
Mr. Wick	_____
Mr. Casper	_____
Mr. Callahan	_____
Mr. Conrad	_____
Mr. Felt	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Trotter	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

TO: DIRECTOR, FBI (101-2483)  
 FROM: SAC, NEW YORK (100-37158)  
 SUBJECT: MORTON SOBELL  
 ESP - R

ReNYairtel, 3/28/66.

ALL INFORMATION CONTAINED  
 HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3042PWT/1mw

AUSA JOHN S. MARTIN, JR., SDNY, advised on 4/1/66, that he had been in telephonic contact with the Department on this matter.

MARTIN stated that the Atomic Energy Commission had advised the Department that the information in the sealed exhibit, which is the subject of the present motion, is not now classified, but that the AEC does not desire widespread publication of the material in the exhibit.

MARTIN stated that he was awaiting receipt of a letter from the Department with such advice.

MARTIN stated that accordingly at the hearing on the motion scheduled for May 4, 1966, the Government would not object to the unsealing of the exhibit, the transcription of the testimony therein, and the inspection by subject's attorneys for the purposes of this case, but would request the restriction of such inspection and the resealing of the exhibit after such inspection.

The Bureau will be advised of further developments in this matter.

4 - BUREAU (RM)  
 1 - (1 - 62-106323) (WALTER D. SCHNEIR)  
 (Att: Crime Records)  
 1 - NY 100-109849 (HELEN SOBELL)  
 1 - NY 100-135206 (WALTER D. SCHNEIR)  
 1 - NY 100-107111 (CSJMS)  
 1 - NY 100-37158

EFM:mfd (#331)

(10)

Approved: \_\_\_\_\_  
 Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

62-106323-  
 UNRECORDED COPY FILED IN 62-106323-11

18 APR 2 1966  
 SOVIET SECTION

F B I

Date: 4/4/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via AIRTEL REGISTERED  
(Priority)

TO: DIRECTOR, FBI (101-2483)  
 FROM: SAC, NEW YORK (100-37158)  
 SUBJECT: MORTON SOBELL  
 ESP - R

ALL INFORMATION CONTAINED  
 HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3043 PWT/lmw

ReNYairtel, 4/1/66.

At hearing on motion on 4/4/66, before U.S. District Judge EDMUND L. PALMIERI, AUSA JOHN S. MARTIN, SDNY, in accordance with Departmental instructions set out in reairtel, did not object to defense motion to inspect sealed trial exhibit.

WILLIAM KUNSTLER representing subject agreed not to make contents of exhibit public, but requested that "experts" of the defense be also permitted to inspect the exhibit. KUNSTLER did not identify "experts" and stated they would be bound by same stipulation of restriction against public disclosure. He agreed to identify the "experts" to U.S. Attorney.

AUSA MARTIN advised he would notify NYO of identity of "experts" submitted by KUNSTLER and the terms of the court order settling this motion.

Bureau will be advised of developments.

4 - BUREAU (RM) 1-*dist*  
 (1 - 62-106323) (WALTER D. SCHNEIR) REC-81  
 (Att: Crime Records)  
 1 - NY 100-109849 (HELEN SOBELL)  
 1 - NY 100-135206 (WALTER D. SCHNEIR)  
 1 - NY 100-107111 (CSJMS)  
 1 - NY 100-37158

18 APR 5 1966

C.E. Wick

KFM:mfd (#331)  
(10)

EX-112

SOVIET SECTION

APR 12 1966

Special Agent in Charge

Sent

M

Per

62-106323-1

## Domestic Intelligence Division

## INFORMATIVE NOTE

Date April 4, 1966

Morton Sobell was convicted with Julius and Ethel Rosenberg in 1951 of conspiracy to commit espionage and is now serving a 30-year sentence. Book published in 1965 accused FBI of forging evidence used at trial. Sobell's attorneys filed a motion in U. S. District Court, Southern District of New York, asking that sketch of atom bomb made by David Greenglass, Government witness at trial, and untranscribed testimony of Greenglass be made available. Sketch was impounded by trial judge on motion of defense counsel at trial. Defense claims it is necessary to review this impounded evidence in connection with plans to file motion for new trial based on alleged forgery of evidence. Atomic Energy Commission advised Department of Justice that information in sealed exhibit is not now classified by AEC, but AEC does not desire wide-spread publication of material in exhibit. Assistant United States Attorney, Southern District of New York, advised Government would not object to unsealing of exhibit, transcription of testimony and inspection of same by subject's attorneys on return of motion April 4, 1966. This matter is being followed closely.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3042 PWT/lmw

JPL:mab



1 - Mr. Lee

4/7/66

*la*  
Airtel

To: SAC, New York (100-37158)

From: Director, FBI (101-2483)

MORTON SOBELL  
ESP - R

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 342PWT/1mw

ReAQairtel dated 3/9/66.

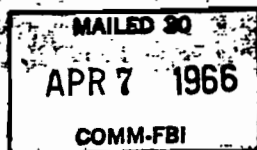
One copy each of the enclosures to reairtel has been furnished to the Department of Justice. In the light of the possibility that a motion may be filed by the attorneys of Morton Sobell to set aside the subject's conviction, you should furnish one copy each of the enclosures to reairtel to the United States Attorney, Southern District of New York.

*sl* JPL:mhb (4) *mhb*

NOTE:

A book written by Walter and Marian Schneir in August, 1965, claims that the FBI forged a hotel registration card for the Hilton Hotel, Albuquerque, for June 3, 1945. This registration card shows that Harry Gold, Government witness, was in that town on that date to support his testimony that he contacted David Greenglass, another Government witness. The claim is made in the book that since the handwritten date on the front of the card conflicts with the time stamp on the back, the card is therefore a forgery. The authors claimed that Linda Hughes, clerk at the hotel, stated that in the event of a conflict the date stamp governs. Miss Hughes has denied making this statement and a LHM incorporating her statement has been furnished to the Department. Also included with LHM was a copy of affidavit which defense counsel requested Miss Hughes to sign and a review of above-mentioned book prepared by Malcolm Sharp, one of defense lawyers.

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_



REC-52 101-2483-1592

19 APR 8 1966  
*Am*

50 APR 18 1966

MAIL ROOM ☐ TELETYPE UNIT ☐



UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI (101-2483)

DATE: 4/11/66

FROM : SAC NEW YORK (100-37158)

SUBJECT: MORTON SOBELL  
ESPIONAGE - R

On 4/8/66 Judge IRVING KAUFMAN, U. S. Court of Appeals, called me from his home in regard to an article which appeared in the New York Times 4/6/66, indicating that "U. S. Releases A-Bomb Sketch to Sobell for Use in an Appeal".

Judge KAUFMAN was very much concerned about the fact that this information was being released against his wishes. He stated that he made the decision to keep this information preserved in a sealed status and he was not even consulted in regard to the matter.

He stated that he wanted his feelings in regard to this matter made a matter of record with the Bureau inasmuch as he had discussed this matter with Mr. HOOVER in the past and they were of one mind that the information should not be released.

The purpose of this letter is to record with the Bureau Judge KAUFMAN's feelings in regard to the matter.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

2 - Bureau (101-2483)  
1 - New York (100-37158)  
1 - New York (80-9177)

REC-15

101-2483-1593

APR 12 1966

APR 13 2 38 PM '66

69 APR 22 1966

HOW INLET DIA  
REC.D

*[Handwritten signature]*

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. W. C. Sullivan

FROM : Mr. W. A. Branigan

SUBJECT: MORTON SOBELL  
ESPIONAGE - RUSSIA

1 - Mr. DeLoach  
1 - Mr. Sullivan  
1 - Mr. Branigan

DATE: 4/14/66

1 - Mr. Lee

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PNT/PMW

This is an informative memorandum.

The New York Office advised by letter dated April 11, 1966, that Judge Irving Kaufman, United States Court of Appeals, called Assistant Director Malone on April 6, 1966, in regard to an article which had appeared in the "New York Times" for that date indicating that the United States Government had released a sketch of the atomic bomb to Morton Sobell for use in an appeal. Judge Kaufman advised Mr. Malone that he was concerned about this information being released against his wishes. He said that he had made the decision to seal this exhibit and he had not been consulted in regard to this motion. He said he wanted to make his feelings a matter of record with the Bureau, since he had discussed this matter with the Director in the past and they were of one mind that the information should not be released.

Morton Sobell was convicted along with Julius and Ethel Rosenberg in 1951 of conspiracy to commit espionage and is now serving a 30-year sentence. During the trial David Greenglass, Government witness, prepared a sketch of the atomic bomb which he stated was a copy of the sketch he had furnished to the Russians through Rosenberg. At the trial Emanuel Bloch, attorney for Julius Rosenberg, moved that this sketch be impounded and the motion was granted. In addition, the notes concerning the testimony of David Greenglass and John A. Derry of the Atomic Energy Commission, relating to this exhibit, were not transcribed.

Attorneys for Morton Sobell filed a motion returnable on March 28, 1966, asking that this sketch be released and that the stenographic notes be transcribed. By memorandum of March 23, 1966, it was reported that the United States Attorney, Southern District of New York, had requested the Department of Justice to obtain an opinion from the Atomic Energy Commission concerning the unsealing of this evidence. By memorandum of April 4, 1966, it was pointed out that the Atomic Energy Commission had advised the Department of Justice the information

101-2483

APR 19 1966

JPL:mab

(5)

REC 20

60 APR 22 1966

APR 18 1966  
CONTINUED-OVER

UNRECORDED COPY FILED IN 94-4-5046

Memorandum to Mr. W. C. Sullivan  
RE: MORTON SOBELL  
101-2483

is not now classified but the Atomic Energy Commission would not desire wide-spread publication of the material. It was also pointed out the United States Attorney for the Southern District of New York had advised the Government would not object to unsealing the exhibit when the motion was returned on April 4, 1966.

When the motion was heard before United States District Judge Edmund L. Palmieri, the Assistant United States Attorney did not object to the defense motion and the defense agreed to restrict the public disclosure concerning this exhibit.

ACTION:

This is furnished for information purposes.

*ML* *Are* *Law* *P* *V* *Ar*  
*ENC*

FBI

Date: 4/21/66

Transmit the following in

PLAINTEXT

(Type in plaintext or code)

AIRTEL

(Priority)

TO: DIRECTOR, FBI (101-2483)  
 Attention: CRIME RECORDS  
 FROM: SAC, NEW YORK (100-37158)  
 SUBJECT: MORTON SOBELL  
 ESP - R

Re NY airtel 4/4/66.

Enclosed for the Bureau is one photocopy of order settling motion for inspection of sealed trial exhibit.

AUSA JOHN S. MARTIN, SDNY, advised on 4/21/66 that U.S. District Judge EDMUND L. PALMIERI signed the order.

MARTIN further advised arrangements for the inspection had not been made nor had defense identified its experts.

Bureau will be advised of developments.

Bureau (Enc. 1) (RM)

(1 - 62-106323 - WALTER D. SCHNEIDER)

(1 - New York (100-37158))

(1 - 100-109849 (HELEN SOBELL))

(1 - 100-135206 (WALTER D. SCHNEIDER))

(1 - 100-107121 (CSJMS))

WDM:jlr

(9)

ALL INFORMATION CONTAINED  
 HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3042PWT/ln

REC-101-2483-1595

ENCLOSURE  
 RECEIVED

FBI ST-105 APR 22 1966

Approved: 978

Special Agent in Charge

Sent

M

Per

55 MAY 3 1966

SOVIET SECTION  
 FBI - NEW YORK

UNRECORDED AND COPIES OF ENCL. RETURN

62-106323



ENCLOSURE TO BUREAU (1) (RM)

FROM: SAC, NY

RE: MORTON SOBELL  
ESP - R

Enc. to Bureau 1 photocopy of order  
settling motion for inspection of  
sealed trial exhibit.

Bufile 101-2483  
NY file 100-37158

KFM:jlr  
4/21/66

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

ENCLOSURE

101-2483-595

File  
Can

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

ORDER

Cr. 134-245

This cause having come on for hearing on the motion of defendant for an order directing the United States of America to produce for his inspection and study the original of Government Exhibit 8 and the heretofore untranscribed stenographic notes of the testimony of David Greenglass and John A. Derry relating thereto, properly and fully transcribed, and the Court having considered the affidavit of William M. Kunstler, duly verified the 15th day of March, 1966, in support of said motion, and there being no opposition thereto other than a request by the United States of America that said material not be made public; it is

ORDERED, that the defendant's motion be and the same hereby is granted; and it is

FURTHER ORDERED that the original of Government Exhibit 8 shall be made available to defendant for study and reproduction; and it is

FURTHER ORDERED that the appropriate court reporters of the United States District Court for the Southern District of New York shall forthwith transcribe the aforesaid hitherto untranscribed stenographic notes of the testimony of David Greenglass and John A. Derry relating to Government Exhibit 8, and shall thereupon, upon the payment of their requisite and customary charges, furnish to defendant's counsel one copy each thereof; and it is

10001  
Apr 28 1966

FURTHER ORDERED that defendant's counsel shall not make public, other than in documents filed in this Court, the information contained in Government Exhibit 8 or the transcribed testimony of David Greenglass and John A. Derry relating thereto, but that defendant's scientific, handwriting, documentary and other experts shall be permitted to examine same provided that a list of their names together with their agreement to abide by the aforesaid restriction shall be furnished to the United States Attorney for this District prior to their inspection of said material.

United States District Judge

Dated: New York, N. Y.  
April , 1966.



F B I

Date: 5/2/66

Transmit the following in \_\_\_\_\_

(Type in plaintext or code)

Via AIRTEL

(Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)

SUBJECT: MORTON SOBELL  
ESP - R

Re NY airtel 4/21/66.

AUSA JOHN S. MARTIN, JR., SDNY advised that copies of the material in sealed exhibit were turned over to subject's attorneys on 4/29/66.

MARTIN stated that the subject's attorneys had not advised of the identity of the "experts" to whom the material will be shown under the terms of the District Court Order.

MARTIN advised that he will notify NYO when identities of "experts" are received.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3046 PNT/REC-11  
IMW

- 4 - Bureau (101-2483) (RM)  
 (1 - 62-106323) (WALTER D. SCHNEIR)  
 1 - New York (100-109849) (HELEN SOBELL)  
 1 - New York (100-135206) (WALTER D. SCHNEIR)  
 1 - New York (100-107111) (CSJMS)  
 1 - New York (100-37158)

EFM:tp  
(9)

2 MAY 8 1966

Approved: MAY 6 1966

Sent

M

SOVIET SECTION

62-106323-

UNRECORDED COPY

FBI

Date: 5/6/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)

AIRTEL

**CONFIDENTIAL**

(Priority)

TO: DIRECTOR, FBI (101-2483)

DECLASSIFIED BY 3042PWT/IMP

FROM: SAC, NEW YORK (100-37158)

SUBJECT: MORTON SOBELL  
ESP - RAPPROPRIATE AGENCIES  
AND FIELD OFFICES  
ADVISED BY ROUTING  
SLIP(S) ON Classified  
DATE 2/16/78 RP/PT*Bruff*ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 5/12/86 BY 60322  
b2  
b7D  
b7C

③ - Bureau (RM)

1 - New York (100-107111) (41)

1 - New York (41)

1 - New York (41)

1 - New York

HPB:lls

(8) *Waltz*  
*5/12/66* *C. E. Wick***CONFIDENTIAL**SEC. 101-2483-1597  
SEC. 101-2483-1597

COVINT SECTION

Approved: *[Signature]*

Special Agent in Charge

Sent

Classified by 44913  
Exempt from GDS, Category 2  
Date of Declassification Indefinite 2/8/78

NY 100-37158

[REDACTED]

b7D

[REDACTED]

b7D

[REDACTED]

b7D

The above is being furnished for the information of the Bureau

[REDACTED]

b7D

This situation will be discussed informally with AUSA JOHN S. MARTIN.

CONFIDENTIAL

Mr. J. Walter Wengley  
Assistant Attorney General  
Director, FBI

May 12, 1966

1 - Mr. Lee

MORTON SOBELL  
ESPIONAGE - RUSSIA

DECLASSIFIED BY 3042PWT/lmn  
ON 4/30/87

Reference is made to our letter dated  
March 17, 1966.

[REDACTED]

MAILED 12  
MAY 12 1966  
COMM-FBI

RECEIVED MAIL ROOM

FBI

b7D

[REDACTED]

b7D

[REDACTED]

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

REC 37

6 MAY 19 1966

1597

GROUP 1  
Excluded from automatic  
downgrading and  
declassification

MAIL ROOM ☐ TELETYPE UNIT ☐

b7D  
Walt  
JPR

~~CONFIDENTIAL~~

Mr. J. Walter Yeagley

It is requested that the above information not be disseminated outside your Department since it would tend to identify the sources of our information.

NOTE:

Morton Sobell is currently serving a 30-year sentence after having been convicted along with Julius and Ethel Rosenberg of conspiracy to commit espionage in 1951. His attorneys are currently attempting to obtain a new trial and are engaged in legal action. Recently the District Court, Southern District of New York, released to the defendant's attorneys evidence which had been impounded during the trial. This is classified "Confidential" since [redacted] and the identification of these informants would be prejudicial to the defense interests of the United States.

b7D

~~CONFIDENTIAL~~



FBI

Date: 5/12/66

Mr. Tolson	_____
Mr. DeLoach	_____
Mr. Mohr	_____
Mr. Wick	_____
Mr. Casper	_____
Mr. Callahan	_____
Mr. Conrad	_____
Mr. Felt	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Trotter	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

Transmit the following in \_\_\_\_\_

(Type in plaintext or code)

AIRTEL

Via \_\_\_\_\_

(Priority)

TO: DIRECTOR, FBI (100-387835)

FROM: SAC, WFO (100-25474) (RUC)

COMMITTEE TO SECURE JUSTICE  
FOR MORTON SOBELL

IS - C

ISA - 1950

(OO:NY)

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE \_\_\_\_\_ BY \_\_\_\_\_

U.S.A. For info, [redacted] learned on 5/11/66 that SYDNEY GUREWITZ, aka, daughter of CLARENCE DARROW GUREWITZ and HELEN SOBELL, would not be coming to Washington, D. C., b2 the weekend of May 14-15, since she will be busy working b7D on a "petition," to be filed Monday, May 16, 1966, apparently in connection with legal maneuvers in re MORTON SOBELL.

- 3 - Bureau
- 3 - New York (100-107111)
- (1- 100-114566) (S. GUREWITZ)
- 4 - WFO
- (1- 65-1131) (C. GUREWITZ)
- (1- 100-20644) (H. GUREWITZ)
- (1- 100-35450) (S. F. FRINDLE)

REC-26

ST-103

MAY 17 1966

REC:mjs  
(10)DECLASSIFIED BY SP-1 PNT/100N  
ON 4/30/82

AIRTEL

APPROPRIATE AGENCIES

AND FIELD OFFICES

ADVISED BY ROUTING

SLIP (S) OF

DATE 4/25/71

Classified by SP-1 PNT/100N

C. C. Wick

Approved

Special Agent in Charge

Sent

M

Per

WFO 100-25474

For info New York, [REDACTED] learned that  
SYDNEY GUREWITZ contacted her father from Area Code  
212 - 568-3892. *R-u*

On 6/19/63, [REDACTED]  
[REDACTED] (protect) identified CLARENCE D. GUREWITZ as a  
current CP member. *b2 b7D*

On 2/10/65, [REDACTED] advised that CLARENCE D.  
GUREWITZ and his wife are still active in the communist  
movement. *b2 b7D*



SAC, WFO (100-25474)

REC-28

5/13/66

157-103

Director, FBI (100-337333)

101-2483-1598

1 - Kleinkauf

COMMITTEE TO SECURE JUSTICE FOR  
MORTON SOBELL  
SS - C

Reurairtel 5/12/66.

The information set forth in referenced airtel  
relates to the case of Morton Sobell rather than the  
activities of captioned Committee; therefore, the information  
should have been sent in under the Morton Sobell case caption.  
You should insure that information furnished the Bureau in  
the future be submitted under the correct case caption.

JHK:pdb  
(4)

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042PWT/lmw

MAILED 12  
MAY 13 1966  
COMM-FBI

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

50 MAY 23 1966 MAIL ROOM 101 TELETYPE UNIT ☐

UNITED STATES GOVERNMENT

# Memorandum

Tolson \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Mohr \_\_\_\_\_  
Wick \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
Felt \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

1 - Mr. DeLoach  
1 - Mr. Sullivan

TO : Mr. W. C. Sullivan

DATE: 5/13/66

FROM : Mr. W. A. Branigan

1 - Mr. Wick  
1 - Mr. Branigan  
1 - Mr. Lee

SUBJECT: MORTON SOBELL  
ESPIONAGE - RUSSIA

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

This memorandum recommends New York be authorized in accordance with its request to make available to United States Attorney, Southern District of New York for review a Bureau memorandum analyzing the book "Invitation to an Inquest" and furnish him with copy of Bureau letter to Assistant Attorney General Yeagley, 12/2/65, for assistance in preparing answer to subject's allegations.

## BACKGROUND:

Morton Sobell was convicted along with Julius and Ethel Rosenberg in 1951 of conspiracy to commit espionage and is now serving a 30-year sentence.

Sobell's attorneys have filed three Orders to Show Cause requesting among other things a new trial for Sobell. The papers filed contained allegations of fraud, forgery and subornation of perjury on the part of the Government in connection with Sobell's trial. Most of the allegations are based on unfounded charges made in the book entitled "Invitation to an Inquest" written by Walter Schneir which was published in August, 1965.

One of the charges is that a registration card for the Hotel Hilton, 6/3/45, showing that Harry Gold, Government witness, was in Albuquerque on that day was forged by the FBI. The basis for this allegation is the fact that the front of the card contained a handwritten date of June 3, 1945, and the reverse side contained a time stamp of June 4, 1945. This plus the fact that during the trial United States Attorney introduced photostat of this registration card caused Schneir to concede that this was a forgery. We wrote Assistant Attorney General Yeagley on 12/2/65 giving him the details concerning the Harry Gold registration cards of the Hotel Hilton for June 3, and September 19, 1945, including the names of the Agents who obtained them and the disposition of both cards. In this letter we pointed out that the trial record showed that no attempt was made to conceal any part of the photostat at the trial and further that Rosenbergs' attorney publicly conceded Gold was in Albuquerque on June 3, 1945.

69 MAY 20 1966  
ENCLOSURE

101-2483

JPL:mab

(6)

CONTINUED - OVER

SOVIET SECTION

UNRECORDED COPY FILED IN

62-106329  
100-404819

8

Memorandum to Mr. W. C. Sullivan  
RE: MORTON SOBELL  
101-2483

New York also requested authority to permit United States Attorney to review a Bureau memorandum dated 11/12/65 which is a chapter by chapter analysis of the above book. New York was authorized by airtel 1/10/66 to make this memorandum available to former Assistant United States Attorney James Kilsheimer in connection with a television appearance he made to refute the lies in the book. New York also pointed out that information was received that Helen Sobell had in her possession a copy of the sketch of the atomic bomb which was impounded during the trial and was recently released to the defense for the purpose of having it examined by experts and that United States Attorney stated if the Bureau desired he would raise this issue with the court. United States Attorney said that if this issue was raised, the court would only order the destruction of this copy. New York recommended against taking this action at this time since it would not accomplish a great deal and could prejudice the informants who gave this information.

OBSERVATIONS:

It is believed these items should be made available for his assistance in refuting the false allegations made in the motion papers of the defendant. The United States Attorney handling this case was not so employed at the time of the trial in 1951 and these items will be of assistance to him in preparing his answers. We can also make certain that allegations against the Bureau are properly refuted. It is believed no issue should be raised at this time concerning the possession by Helen Sobell of the sketch of the atomic bomb recently released since it might compromise the informants and would not cause any action by the court other than an order to destroy the sketch.

ACTION:

There is attached a teletype to the New York Office authorizing it to make available the above-mentioned items to the United States Attorney.

*Handwritten signatures and initials:*  
JAL, AM, 20/1, JS, R

FBI

Date: 5/11/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via AIRTEL \_\_\_\_\_  
(Priority)

TO : DIRECTOR, FBI (101-2483)

FROM : SAC, NEW YORK (100-411511) INFORMATION CONTAINED

SUBJECT: MORTON SOBELL  
ESP-R

HEREIN IS UNCLASSIFIED

DATE 4/30/87 BY 3042PWT/IMW

ReNYairtel 5/10/66 forwarding to Bureau copies of Orders to Show Cause filed by subject's attorneys.

It is observed that documents filed by subject's attorneys probably do not on their face state a cause of action since they allege conclusions rather than evidence. However, the subject's attorneys accuse the Government, and the Bureau in particular of fraud, forgery and subornation of perjury in the trial leading to subject's conviction. These allegations should be refuted in Government's answer.

So that USA, SDNY, may be in a position to refute these allegations it is recommended that he be furnished copy of Bulet to AAG J. WALTER YEAGLEY dated 12/2/65 concerning Hotel Hilton registration cards. It is also recommended that USA, SDNY, be permitted to review brief prepared by the Bureau of analysis of "Invitation To An Inquest" on which subject's legal proceedings are based. Bureau authorized by Buairtel 1/10/66 making this brief available to JAMES B. KILSHEIMER so that KILSHEIMER could refute allegations made in the book.

AUSA MARTIN advised that Exhibits B, C, D mentioned on page 3 of KUNSTLER's affidavit consist of correspondence with

- 4 - Bureau (RM)
- (1 - 62-106323)(WALTER B. SCHNEIR)
- 1 - New York (100-109849)(HELEN SOBELL)
- 1 - New York (100-135206)(WALTER B. SCHNEIR)
- 1 - New York (100-107111)(CSJMS)
- 1 - New York

EFM:HC (331)

(10)

MEMO. BRANIGAN to Sullivan  
JPL:MAB 5-13-66

REC-24

101-2483-1600  
12 MAY 1966

EX-104

MAY 13 5 22 PM '66

Approved: *[Signature]*

Special Agent in Charge

Sent \_\_\_\_\_

M

SOVIET SECTION

UNRECORDED COPY FILED IN 100-404849-62-106323

NY 100-77158

HARRY GOLD's attorney. As soon as received they will be forwarded to Bureau.

With regard to HELEN SOBELL's showing of what purported to be a copy of a bomb sketch as mentioned in NY airtel 5/6/56, AUSA MARTIN advised that if the Bureau desired he would raise the issue of her possession of this sketch but doubted that if raised the Court would order the return and destruction of this purported copy. It is not recommended that USA be requested to take this action at this time in view of minimal result and prejudice to informants but this can be raised in future, if desired, to embarrass HELEN SOBELL.



CODE

per T.J.S. /ew  
5/13/66

TELETYPE

DEFERRED

- 1 - Mr. DeLoach
- 1 - Mr. Sullivan
- 1 - Mr. Wick
- 1 - Mr. Branigan
- 1 - Mr. Lee

TO SAC NEW YORK (100-37188)

FROM DIRECTOR FBI (101-2483)

MORTON SOBELL, ESPIONAGE - RUSSIA

REURAI TEL MAY ELEVEN, ONE NINE SIX SIX. YOU ARE AUTHORIZED TO FURNISH USA, NEWY, WITH COPY OF BUREAU LETTER TO AAG TRAGLEY DATED DECEMBER TWO, ONE NINE SIX FIVE. YOU ARE ALSO AUTHORIZED TO PERMIT HIM TO REVIEW THE BUREAU MEMORANDUM PREPARED TO REFUTE THE ALLEGATIONS MADE IN THE BOOK "INVITATION TO AN INQUEST." BUREAU AGREES THAT USA NOT BE REQUESTED TO TAKE ANY ACTION TO RAISE THE ISSUE OF MRS. SOBELL HAVING IN HER POSSESSION A COPY OF THE SKETCH OF THE ATOMIC BOMB WHICH HAD BEEN IMPOUNDED BY THE TRIAL JUDGE AND WAS RECENTLY RELEASED TO THE DEFENSE COUNSEL FOR THE SPECIFIC PURPOSE OF HAVING SAME EXAMINED BY EXPERTS.

JPL:mab (7)

NOTE:

See memorandum W. A. Branigan to W. C. Sullivan dated 5/12/66, same caption, prepared by JPL:mab.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042PWT/1mw

Tolson  
DeLoach  
Mohr  
Wick  
Casper  
Callahan  
Conrad  
Felt  
Gale  
Rosen  
Sullivan  
Tavel  
Trotter  
Tele. Room  
Holmes  
Gandy

TELETYPE UNIT

MAY 13 1966

8:00P DER  
ENCODED MESSAGE

54 MAY 23 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

REC'D DOM INTELL DIA  
MAY 13 11 38 AM '66  
MAY 13 2 54 PM '66

UNRECORDED COPY FILED IN

100-404849-  
68 106323-

FBI

Date: 5/10/66

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via **AIRTEL** **REGISTERED**  
(Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)

SUBJECT: MORTON SOBELL  
ESP - R

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042 PWT/lmw

ReNYairtel 5/6/66

Enclosed for the Bureau is one photocopy of each of three Orders to Show Cause together with annexed affidavit and petition filed by subject's attorneys. They are all returnable on May 13, 1966, at USDC, SDNY.

The enclosures were made available by AUSA JOHN S. MARTIN, SDNY, on 5/10/66. MARTIN stated he would ask that argument on the Orders be put over to a future date.

The first Order to Show Cause requests that SOBELL be transferred from Lewisburg to the Federal House of Detention for the purpose of consulting with his attorneys and inspection of material in the sealed trial exhibit which was made available to subject's attorneys.

The second Order requests the Court to grant a hearing on a petition by SOBELL under Title 28, Section 2255, to review his conviction. Attached is petition of SOBELL.

- ENCLOSURE
- 4 - BUREAU (Encl. 3) (RM) "ENCL BEHIND FILE"
  - (1 - 62-106323) (WALTER D. SCHNEIR)
  - 1 - NY 100-109849 (HELEN SOBELL)
  - 1 - NY 100-135206 (WALTER D. SCHNEIR)
  - 1 - NY 100-107111 (CS JMS) BH, PP
  - 1 - NY 100-37158

EFM:mfd (#331)  
(10)

Approved: \_\_\_\_\_

Special Agent in Charge

Sent \_\_\_\_\_

M

Per \_\_\_\_\_

SOVIET SECTION

50 MAY 23 1966

MEMO Bureau to Sullivan  
JPL:MA 3 5/12/66

62-106323-  
ENCLOSURE COST FILED IN



NY 100-37158

The third Order requests USA, SDNY:

1. Arrange for transfer of SOBELL to New York
2. Inspect all statements of HARRY GOLD, DAVID and RUTH GREENGLASS in possession of the Government
3. Arrange for production of HARRY GOLD so that deposition can be taken
4. Arrange for production of confession of KLAUS FUCHS.

Attached to this Order is another copy of SOBELL's petition attached to the Second Order and an affidavit by WILLIAM M. KUNSTLER, subject's attorney.

AUSA MARTIN advised that on page 4 and 5 of KUNSTLER's affidavit, it is stated that he (MARTIN) had no objection to the transfer of SOBELL to New York. MARTIN stated that this is not so. He states he told subject's attorney that in order to transfer SOBELL to New York a court order would be necessary without indicating at the time whether he would oppose such transfer. MARTIN said he would oppose application to have SOBELL brought to New York.

MARTIN stated he did not receive Exhibits B, C and D mentioned on page 3 of KUNSTLER's affidavit.

Close contact will be had with AUSA MARTIN and the Bureau will be promptly advised.

8-1840CV  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3046PWT/lmw

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

66 Civ. 1328

ORDER TO SHOW CAUSE

Upon the annexed petition, on motion of Kunstler Kunstler & Kinoy, Marshall Perlin, Benjamin Dreyfus, Malcolm Sharp and Vern Countryman, attorneys for petitioner, it is

ORDERED that the respondent herein show cause, if any they have, before the United States District Court for the Southern District of New York, in Room 316, United States Courthouse, Foley Square, New York, on the 13 day of May, 1966, at 10:00 o'clock in the forenoon thereof or as soon thereafter as counsel can be heard, why an order should not be made setting this motion down for a prompt hearing as provided for in 28 U.S.C. 2255, and it is further

ORDERED, that service of this order and the papers upon which it is granted, on the respondent, on or before the 10<sup>th</sup> day of May, 1966, at 2 p.m., shall be deemed sufficient.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

/s/ Marvin Frankel  
U.S.D.J.

Dated: New York, New York  
May 9, 1966  
MORTON SOBELL

& Kinoy, et al.

Vern Countryman

have, before me

District of New York

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Respondent.

66 Civ. 1328  
~~No. 9-134-242~~

The petition of MORTON SOBELL, by his attorneys below named, respectfully represents as follows:

1. Petitioner is unlawfully, unjustly and illegally detained and imprisoned and in the custody of the Attorney General of the United States and his authorized representatives in a federal penal institution at Lewisburg, Pennsylvania, pursuant to a judgment entered and a commitment issued by the United States District Court for the Southern District of New York, dated and filed April 5, 1951.

2. Defendant was tried with co-defendants Julius and Ethel Rosenberg before judge and jury upon an indictment charging that they had conspired with others to transmit to the Soviet Union information purporting to relate to the national defense of the United States, all in violation of Title 50 U.S.C. §34. <sup>\*/</sup> Named as co-conspirators were Ruth and David Greenglass, Harry Gold, former Soviet Vice-Consul, Anatoli A. Yakovlev and divers others <sup>\*\*/</sup> said to be unknown. Following his conviction, a sentence of

<sup>\*/</sup> Repealed June 25, 1948, c. 645, §21, 62 Stat. 862, eff. September 1, 1948. Now covered by §§ 792 and 2388, Title 18, United States Code.

<sup>\*\*/</sup> Thus the indictment omitted Dr. Klaus Fuchs, a German-born scientist who, in January of 1950, had confessed and subsequently pleaded guilty to having violated the British Official Secrets Act by transmitting theoretical data relating to atomic energy to the Soviet Union. The Fuchs confession, never made available to counsel for petitioner, was undoubtedly in the possession of the United States authorities in January or February 1950.

30 years imprisonment was imposed upon the petitioner under the wartime provisions of the statute.

3. Petitioner duly appealed to the United States Court of Appeals for the Second Circuit, and argument was had thereon on January 10, 1952. On February 25, 1952, that court affirmed the judgment of conviction. Judge Frank dissented, maintaining that the petitioner was entitled to a new trial. 195 F. 2d 583, 609-611.

4. Petitioner thereafter duly petitioned to the Supreme Court of the United States for a writ of certiorari. Said petition was denied. 344 U.S. 838, 889.

5. Since their original conviction and appeal, petitioner and his co-defendants have instituted several collateral proceedings pursuant to Rule 35 of the Federal Rules of Criminal Procedure and Section 2255 of Title 28, United States Code, in none of which were the within issues raised or presented. The prolixity of citations relative to those proceedings obscures the simple but inescapable fact that at no time since his original conviction was petitioner (or his co-defendants) ever granted a hearing pursuant to these applications, nor has the United States Supreme Court ever reviewed or determined the fairness of his trial and conviction.

6. Petitioner from the time of his arrest to the present has consistently and constantly declared, maintained and affirmed his innocence.

#### GROUND FOR RELIEF

7. Petitioner makes this application praying that his sentence be vacated and set aside and that he be discharged from detention and imprisonment pursuant to Section 2255 of

\*/  
Title 28 U.S. Code, on the grounds that his conviction was unlawfully and illegally procured in violation of the Constitution and the laws of the United States, that he was denied due process of law, and that the sentencing court was without jurisdiction to impose this sentence, the said judgment being subject to collateral attack.

\*\*/  
8. Among other things, the government knowingly created, contrived and used false, perjurious testimony and evidence and induced and allowed government witnesses to give false testimony in order to obtain the conviction of petitioner and his co-defendants. To effect the same and to immunise the conviction from effective review or judicial scrutiny or collateral attack based upon after-discovered evidence, the government

a. knowingly suppressed and destroyed or caused to be destroyed evidence which would have impeached and refuted testimony and evidence given against the petitioner and his co-defendants; and

\*/  
The full statute is incorporated herein by reference. Its pertinent provisions are as follows:

**§2255. Federal custody; remedies on motion attacking sentence.**

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

A motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing hereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate. (emphasis supplied)

\*\*/  
By the term "government" as herein used, petitioner is making reference only to the prosecutive or investigative agencies or their agents or employees, and all those acting with its knowledge and/or best, involved in the investigation or prosecution of this case.

b. presented and vouched for the credibility of its main and indispensable witness when it knew and knowingly suppressed the evidence that he was a proved and admitted pathological liar, who could not be believed or relied upon

thereby rendering the judgment and sentence itself null and void and making it subject to collateral attack.

9. No previous application for similar relief has been founded upon all of the facts and the grounds here set forth. The within application, based both upon new evidence and in conjunction with evidence previously obtained as well as the files and records of this case, mandate that petitioner be granted an evidentiary hearing to determine the issues and make possible findings of fact and conclusions of law upon which the sentence and judgment of conviction should be vacated and petitioner discharged forthwith.

#### THE FRAUD

10. The theory of the government's case was that a single large conspiracy to commit espionage existed for the purpose of transmitting classified atomic energy information to the Soviet Union in which petitioner, the Rosenbergs, the Greenglasses, Gold, Yakovlev and Dr. Fuchs were involved. According to the government, Gold's role in this conspiracy was to serve as the sole courier between Yakovlev, Fuchs and the Greenglasses. At petitioner's trial, Gold testified freely as to his courier function with Fuchs in order to lend credence to his false claim of an alleged meeting with David and Ruth Greenglass in Albuquerque, New Mexico on June 3, 1945, at which time he supposedly received atomic bomb data from them for transmission to Yakovlev.

\* Although petitioner was unfairly burdened with the task of defending himself against the charge of being a member of this conspiracy, no claim was ever made by the government nor was any evidence ever adduced that he was at any time involved in atomic espionage. This was fully acknowledged by the trial judge at the time of sentencing. See Record of Transcript, p. 1620.

11. The most prejudicial aspect of the Gold testimony related to this Albuquerque meeting, which, according to him, took place the day after he had met with Dr. Fuchs in Santa Fe for the same purpose. To corroborate this perjurious testimony, the government introduced a fraudulent document, Government Exhibit 16 -- a photostatic copy of an alleged Albuquerque Hilton registration card -- which purported to establish that Gold had registered at that hotel on June 3, 1945.

The government knew that the aforesaid testimony and evidence were false, perjurious and fraudulent, in that Gold had not met with Greenglass on June 3, 1945, in Albuquerque, New Mexico, and had not registered at the aforesaid hotel. It also knew that such false and perjured testimony and the forged and fraudulently created exhibit had been created and contrived by Gold and the government at the inducement and suggestion of the latter. Moreover, the government suppressed facts, evidence and prior statements of Gold which would have impeached and destroyed his credibility and would have established the falsity of his testimony and of the said fraudulent exhibit.

It was vital to the government to use the large conspiracy to relate Fuchs and Gold and their alleged activities with the Rosenbergs and the Greenglasses. This would support its claim of the actual transmission of atomic information and impose the Fuchs confession<sup>\*</sup> with all of its prejudicial implications upon each defendant in this case. Since neither Fuchs nor his confession was made available, Gold became the understudy for him in playing out the fraud predicated upon Fuchs' confession, the contents of which became his script. To create this needed substitution, it was vital to fabricate a meeting between Gold and Greenglass. For various reasons, hereinafter set forth, it was necessary to contrive the false testimony and document so as to place this fictitious meeting on June 3, 1945.

<sup>\*</sup>/ Infra, at P.10



12. The substance of the false testimony of Harry Gold as to the June 3, 1945 meeting was as follows:

a. Some time in May of 1945 Yakovlev instructed Gold to see Greenglass. He gave Gold an onion-skin paper bearing the name and address of Greenglass which also had typed thereon the words "Recognition signal. I come from Julius." (R. 822) \*/

b. At the same time he was given a piece of cardboard which appeared to have been cut from a packaged food product in an odd shape and told that Greenglass would have a matching portion thereof (R. 822). \*\*/

c. He was also given an envelope allegedly containing \$500 and instructed to transmit it to Greenglass (R. 822).

d. He identified a purported reproduction of the cardboard side of a food package previously cut and shaped by Greenglass during the course of the trial as similar to the one purportedly given to him by Yakovlev in 1945 (R. 823).

e. After allegedly visiting Dr. Fuchs in Santa Fe on June 2, 1945, he left by bus for Albuquerque, and, at 8:30 that evening, he visited the Greenglasses' residence but failed to find them at home (R. 824).

f. He spent the night in the hallway of a rooming house and in the early morning of June 3, 1945 registered under his own name at the Hotel Hilton. Thereafter, at approximately 8:30 a.m. he returned to the Greenglass residence (R. 825).

g. Gold there stated to Greenglass, "I came (sic) from Julius" (R. 825).

h. He next brought out and matched his cardboard piece with that produced by Greenglass (R. 825).

i. Gold then identified himself as "Dave from Pittsburgh" (R. 826).

j. After introducing Gold to his wife, Greenglass told him "that he had not expected me right on that day, but that nevertheless he would have the material on the atom bomb ready for me that afternoon" (R. 826).

k. When Mrs. Greenglass went into the kitchen to prepare some food, Gold gave Greenglass the envelope containing the \$500 (R. 826).

l. Gold was instructed to return to the Greenglass residence at "3:00 or 4 o'clock in the afternoon" to receive the atomic bomb information. Before leaving he was told by Mrs. Greenglass that she had spoken to Julius "just before she had left New York to come to Albuquerque" (R. 826).

\*/ All references are to the designated page or pages of the printed Transcript of Record.

\*\*/ Gold testified that he did not know whether he ever destroyed the onion-skin paper or what happened to it (R. 823).

m. This meeting took "about 15 minutes" (R. 827).

n. Gold returned at about 3:00 o'clock, received an envelope containing "the information on the atom bomb" from Greenglass who informed him that he expected a furlough around Christmas time and "if I wished to get in touch with him then I could do so by calling his brother-in-law Julius, and he gave me the telephone number of Julius in New York City." (R. 827).

o. Immediately after this visit, which took 5 minutes, Gold left Albuquerque by rail (R. 828).

p. The material which he had received from Greenglass, consisting of "three or four handwritten pages plus a couple of sketches", he gave to Yakovlev at a pre-arranged meeting in Brooklyn on the evening of June 5, 1945 (R. 829).

13. After Gold had completed his direct testimony, a full day later, and after two intervening witnesses, the prosecution offered a "photostat" of an "original" registration card of the Albuquerque Hilton, said to have been made and kept in the regular course of business to establish Gold's registration at the hotel on June 3, 1945.<sup>\*/</sup> The government, by representing its authenticity, was successful in inducing defense counsel to stipulate to its introduction into evidence as Government Exhibit 16. By the use of this photostat, the government sought to corroborate Gold's false testimony of the June 3, 1945, meeting in Albuquerque, New Mexico.

14. Government Exhibit 16 is a false, fraudulent and after-contrived document and not a photostat of a registration card signed by Harry Gold on June 3, 1945, at the Hilton and kept in the regular course of business, as the government well knew. Harry Gold did not register at the aforesaid hotel that day and no such registration card ever came into existence in the regular course of its business.

15. The prosecutor in the portion of his summation to the jury relating to the June 3, 1945 meeting, stated:

<sup>\*/</sup> Significantly, Gold was never asked to identify this card during his direct examination.

"The history of this jello box-side, the greetings from Julius, the Greenglasses' whereabouts in Albuquerque come to us not only from Ruth and David but from Harry Gold ...

\* \* \* \* \*

"Harry Gold, who furnished the absolute corroboration of the testimony of the Greenglasses forged the necessary link in the chain that points indisputably to the guilt of the Rosenbergs.

\* \* \* \* \*

"It was so obvious to everyone in this courtroom that he Gold was telling the complete truth when he described his trip to Greenglass ...

\* \* \* \* \*

"The veracity of David and Ruth Greenglass and of Harry Gold is established by documentary evidence and cannot be contradicted. You have in evidence before you the registration card from the Hotel Hilton in Albuquerque which shows that he Gold was registered there on June 3, 1945.

\* \* \* \* \*

"Exhibit 4B, the other part of this jello box, last seen in Rosenberg's hands, next appeared in the hands of Soviet official Yakovlev. He handed that recognition signal to Harry Gold. He gave Harry Gold the address in Albuquerque to Rosenberg's brother-in-law, David Greenglass. He told Harry Gold to bring Greenglass greetings from Julius. Gold made the visit to Albuquerque as we have seen on June 3, 1945. He brought the greetings from Julius to David. He carried the piece of the jello box that Rosenberg had kept in the first instance. On that Sunday, in June, Gold told you that he gave Greenglass \$500 in an envelope. Gold received and delivered the atom bomb information from Greenglass along with other information he had obtained from Dr. Klaus Fuchs on the same trip to his Soviet superior, Yakovlev." (R. 1521-23).

16. In attempting to show that Fuchs, Gold, Rosenberg and petitioner were parties to a single large conspiracy, the prosecutor declared in his summation that:

"In February, 1950 Dr. Fuchs was arrested. He confessed his activities as a spy for the Soviet Union. You have heard of the part that he performed while he was in Los Alamos. Rosenberg's position in the Soviet espionage hierarchy in this country was such that he knew that on that trip out West to see Greenglass, Harry Gold was the one that had also collected information at the same time on the atomic bomb from Dr. Fuchs. Rosenberg knew that when Dr. Fuchs disclosed to the authorities what had happened, that he must identify Harry Gold as the espionage agent who had come to him in New Mexico. Rosenberg knew that Harry Gold had dealt also at some time with David Greenglass. Rosenberg knew that David Greenglass had been recruited into this espionage work by himself and his wife." (R. 1523).

17. The court in its charge the jury recognized the vital importance of the June 3, 1945 meeting to the prosecution's case when it stated:

"The Government attempted to show the link with the Russians . . . by

\* \* \* \* \*

". . . the testimony as to the jello box side incident -- that one-half of the jello box-side was kept by Julius Rosenberg to be used as a recognition signal by the courier to be sent by Rosenberg to pick up secret information obtained by Greenglass at Los Alamos and that Gold subsequently received the part of the box-side from Yakovlev and used it to obtain the information from Greenglass and that at the same time Gold, in identifying himself to the Greenglasses said -- words to the effect 'I come from Julius' which the Greenglasses contend was a greeting that had been prearranged between the Rosenbergs and the Greenglasses. The Government contends that you have a right to infer that there existed a link between Julius Rosenberg and Yakovlev in that Julius Rosenberg in some way transmitted the recognition symbol, that is, the jello box-side to Yakovlev." (R. 1557).

18. In January or February of 1950, the government learned from British authorities that Fuchs had voluntarily confessed to having transmitted information relating to the development of the atom bomb to the Soviet Union through various couriers. In this confession, the full contents of which were transmitted to the American authorities, Fuchs outlined the times and places that he met with one or more couriers to transmit atomic information. He also described the nature of the information which he had transmitted. At the same time, he did not name or identify anyone. Most significantly, no claim has ever been made by any British or American authority that Fuchs claimed that he had met a courier in June of 1945.\*

19. The Fuchs confession, true or false, set the framework within which the government was required to seek and find either the actual courier or couriers, or persons who could be induced or were willing to frame their confessions and testimony to meet the needs of the prospective prosecution and provide an adequate cast of characters. Since Fuchs' written

\* According to Percy Sillitoe, Director-General of the British Security Services in 1950, who was in charge of the Fuchs investigation, the physicist had turned over atom bomb data to a courier in Santa Fe in the latter half of July, 1945.

confession was only partially revealed, and indeed is still, in large part, suppressed, adaptations, variations or revisions on the part of the willing and compliant couriers or accomplices would be no impediment to the government in any case brought to trial.

20. Upon information and belief, Fuchs stated in his confession that the courier he met in the United States was between 40 and 45 years of age [In 1945, Gold was 33], and was 5' 10" tall [Gold is 5' 6" tall]. Fuchs never identified Gold even after being shown still and moving pictures of him. Rather Fuchs, after being informed by his attorney and the British authorities that Gold persisted in his plea of guilty, merely decided not to challenge Gold's insistence that he was the sole courier in the United States. At the time Gold was sentenced, the government adverted to Fuchs' failure to identify him and to the fact that it was Gold alone who had exposed his own alleged involvement.

Petitioner does not claim that Fuchs and Gold never met, nor does he acknowledge that they ever did, or that Gold did or did not meet Fuchs on September 19, 1945. Petitioner does affirmatively state that this application is based upon the fact that Gold neither met Greenglass on June 3, 1945, nor registered at the Hotel Hilton on June 3, 1945, after allegedly seeing Fuchs in Santa Fe on June 2, 1945.

21. The FBI had been investigating Harry Gold and his associate Abraham Brothman, since some time in 1947. In that year, Gold, in the course of an investigation of charges made by Elizabeth Bentley, a self-confessed Soviet agent, testified before a federal grand jury as to the nature of his association with Brothman. He subsequently testified in this very court in United States v. Brothman, et ano. (S.D.N.Y. Cr. 133-106), that he had lied before that grand jury. Moreover, Gold felt himself highly suspect in that he had at least attempted to engage in espionage and had obtained or sought to obtain information to be  
\* J. Edgar Hoover, The Crime of the Century, Reader's Digest, May, 1951.

passed on to agents and/or representatives of the Soviet Union. Petitioner and his counsel have no idea whether such information related to the national defense but Gold certainly had a motive to "cooperate" in order to lessen any possible criminal punishment.

22. On May 15, 1950, while the government was unsuccessfully seeking to determine the identity of Fuchs' alleged <sup>it</sup> courier in the United States, /commenced an intensive interrogation of Harry Gold. As a result, the latter is said to have confessed on May 22, 1950 that he had served in that capacity. During this period of interrogation, Gold is also supposed to have admitted that he saw Fuchs in Santa Fe on September 19, 1945, at which time he had registered at the Albuquerque Hilton. Thereupon, upon, information and belief, FBI agents went to the Hilton and, on May 23, 1950, found a registration card dated September 19, 1945 bearing the name of Harry Gold. <sup>\*/</sup> Despite the fact that the hotel's filing system was such that any other Gold registration card for 1945 would easily have been discovered, none was then found.

23. But the September 19, 1945, meeting and registration card were of no value to the government in the case against petitioner and his co-defendants in that during that month Greenglass had been on leave in New York City and no claim of a meeting with Gold could be retroactively reconstructed. The usefulness of establishing a Gold-Greenglass meeting on Sunday, June 3, 1945, arose from the discovery that, fortuitously, Ruth Greenglass had deposited \$400 in an Albuquerque bank on Monday, June 4, 1945. <sup>\*\*/</sup>

<sup>\*/</sup> On the basis of this "support" document, Gold was arrested later that day.

<sup>\*\*/</sup> The alleged Gold-Greenglass meeting had to take place on a weekend since Greenglass, who was stationed at Los Alamos could spend only Saturdays and Sundays with his wife in Albuquerque.



24. To support this contention of such a meeting on June 3, 1945, a Gold registration card at the Hilton for that date was needed. It is for this reason that Government Exhibit 16 was contrived.

25. As the government knew, well in advance of the trial of petitioner and his co-defendants, Gold was an acknowledged and proven pathological and congenital liar, Despite this knowledge, however, and in suppression thereof, it offered him as its main and indispensable witness, representing and vouching for his complete credibility. In the prosecutor's own words, "It was so obvious to everyone in this courtroom that he [Gold] was telling the complete truth, when he described his trip to Greenglass..." (R. 1521-22)

26. In so presenting Gold as its witness-in-chief, the government did not inform the court and jury that

- a. it had felt impelled to submit him for psychiatric observation and testing;
- b. he had testified in open court that he had lied before a federal grand jury;
- c. he had admitted to his attorney:
  1. that he had lied before another federal grand jury;
  2. that he had for years woven a series of complete fantasies about a make-believe wife and twin children;
- d. he had, in pre-trial statements made to his attorneys given information wholly inconsistent or at variance with his eventually anticipated testimony.

27. As the government well knew, Gold's life was such a fabrication of lies and deceptions that it was impossible even for him to determine when he was telling the truth or not. A graphic example of this psychotic disability took place in 1955 during the perjury trial of Benjamin Smilg in the United States District Court for the Southern District of Ohio. Gold, the government's witness-in-chief, testified on cross as follows:

- A. ... first, I created this wife whom I did not have. Then there had to be children to go along with the wife, and they had to grow old, so I had to keep building one on top of the other. ...

Q. Did you make this statement: "It is a wonder that steam didn't come out of my ears at times"?

A. That really is ... It really is remarkable that it didn't occur.

Q. Because of the lies you told?

A. I had gotten involved into one of the doggondest tangles. ...

Q. ... you lied for a period of six years?

A. I lied for a period of sixteen years, not alone six. <sup>\*/</sup>

28. This failure and refusal of the government to inform the court and jury at petitioner's trial of Gold's psychotic condition and his lifelong record of blatant and outright prevarication and fantasizing in and out of court, and its vouching of him as a wholly truthful and credible witness constituted both a fraud upon the court, and a suppression of vital information relevant to the guilt or innocence of the petitioner and his co-defendants and consequently a denial of due process to them, violative of those "fundamental principles of liberty and justice which lie at the base of all our civil and political institutions." Hebert v. Louisiana, 272 U.S. 312, 316.

29. Moreover, during the time he was under intensive questioning by the FBI from May 15, 1950, and while in custody from approximately May 22, 1950 to the time of his sentencing in December, 1950, Gold, who had conceded that he had engaged or attempted to engage in espionage activity, faced the danger of the imposition of the death penalty. As the government well knew, it was patent that he did and would contrive, adapt, or conform his testimony at the slightest suggestion in order to ingratiate himself with and to and meet the needs of the prosecutive and investigative agencies, particularly when he was facing a possible death penalty. Quite obviously, Gold sought to exaggerate and establish his role both as an espionage courier and a man, as well as to ingratiate himself with the authorities for future favors.

<sup>\*/</sup> Parenthetically, in his summation, the United States Attorney said: "To find him Smilg innocent ... you have to disbelieve Harry Gold."

The jury thereupon acquitted Smilg.

30. Between the period from 15 to June 1, 1950, the broad outlines of Gold's confession were developed with the aid of the government. Notwithstanding that fact, Gold did not obtain or meet with his court-appointed counsel until June 1, 1950. The June 3, 1945 meeting was, at that time, an undeveloped story -- Gold's memory had not yet been fully refreshed."

31. Commencing with June 6, 1950, Gold met on five or six occasions, for several hours each, with his counsel, at which times tape recordings of his statements were made. These recordings, which have only recently been made available to petitioner's counsel, reveal:

a. That Gold was speaking from detailed notes made as a result of the intensive conversations with the prosecution and its investigative agencies and that his notes were in substance the "confession" as it then existed at the time of his conversation with his attorneys.

b. That Gold stated that he had no recollection of a meeting with a "G.I." in Albuquerque, in June of 1945 until his memory was aided by conversations with government agents and representatives. He had no recollection whatsoever of the name "Greenglass".

c. That he had no recollection of the address of the person he was to meet in Albuquerque.

d. That until June 14, 1950, after he had been under interrogation by and conversation with the prosecutive authorities for approximately one month, <sup>in</sup>\*/ he was only able to indicate in the most ephemeral type of outline his alleged meeting some time in June, 1945.

e. That he had no recollection of the recognition signal allegedly used other than that "Bob, or Benny or John sent me."

f. That he had no recollection of any jello box or any other form of recognition signal.

g. That, while incarcerated, he was shown films by the prosecutive and investigative authorities of various portions of Albuquerque to help him "refresh his recollection". His memory and his story grew in active conjunction with his collaborators and interrogators.

\*/ During which period he had been interrogated by the FBI alone for at least 102 hours.

h. That he finally stated, after intensive consultations with his interrogators:

"... and I believe that we have succeeded in identifying the person who was this G.I. ... but there were so many factors which lead us to believe that the man we finally had selected is the one. ..." (emphasis supplied)

32. Thus, up until the time of the arrest of David Greenglass, who was then under independent investigation by the FBI and subject to criminal prosecution for perjury and theft, Gold:

- a. Never referred to a jello box.
- b. Never knew Greenglass' name or address.
- c. Never recalled the recognition phrase "I come from Julius."
- d. Never stated that he stayed at the Hotel Hilton in June of 1945.
- e. Never recalled being given the name of Julius Rosenberg or his address or phone number,

all of which the government well knew and suppressed.

33. In addition, Gold told his lawyers that Yakovlev had characterized the information allegedly received from Greenglass in Albuquerque as "of no value." At the trial, he swore that the Russian had described it as "extremely excellent and very valuable" (R. 831).

34. The story given on June 14, 1950, was thereafter changed and altered after the arrests of Greenglass and Julius and Ethel Rosenberg, and all of these pre-trial statements were contrived and developed in consultation with and at the inducement of the government and were directly in conflict with the testimony given in the course of the trial wherein petitioner was convicted, and this was known and suppressed by the government.

35. From the summer of 1950 until the trial in March of 1951, Gold and Greenglass were incarcerated together and had more than adequate time in which to contrive their testimony to meet the requirements of the government.

36. The allegations as set forth above do not merely establish prior contradictory statements but rather a story which

the government knew was fabricated, enlarged upon and devised in order to meet the needs of the prosecution and to obtain testimony and documentary evidence in order to convict petitioner and his co-defendants by connecting them with the Fuchs confession of furnishing atomic data to the Soviet Union.

37. An examination of Government Exhibit 16 demonstrates the following:

a. The front of the photostat bears the handwritten date, June 3, 1945. The rear portion of the photostat bears an electronic date-time stamp purporting to show that a registration took place at 12:36 P.M. on June 4, 1945, when Gold, according to his testimony, was already en route to New York and his pre-arranged meeting with Yakovlev.

b. Every exhibit obtained by the FBI introduced into evidence except Government Exhibit 16, bore the initials of one or more FBI agents and the date the document came into the hands of the FBI. \*/ All documents seized from petitioner and thereafter returned to him, of whatever nature, bore such initials and the dates they were obtained. Government Exhibit 16 bears no initials of any FBI agent nor any date of receipt. Significantly, the Hotel Hilton registration card bearing the date September 19, 1945, purporting to be a photostat of a registration card of Harry Gold, bears the initials of three FBI agents and the date of receipt, May 23, 1950. The photostat of that card bears the same handwritten date on the front portion thereof as the stamped date on the rear thereof.

38. In reply to an inquiry made by counsel for petitioner, the Department of Justice, by letter dated December 22, 1965, stated that the original Government Exhibit 16 was in its possession at the time of the trial. (See Exhibit A ). The sentencing of petitioner and his co-defendants took place on April 5, 1951. The appeal was argued on January 10, 1952, before the United States Court of Appeals for the Second Circuit which did not render its opinion until February 25, 1952. The Supreme Court did not deny certiorari until October 15, 1953. Nevertheless, the United States Department of Justice allegedly returned the original of Government Exhibit 16 to the Hotel Hilton

\*/ This is standard operating procedure for the FBI and other government investigative agencies.

on August 4, 1951, barely four months after sentencing and a full half-year before oral argument in the Court of Appeals.

The government well knew that there may have been a reversal of all of the convictions and the mandating of a new trial. It might then have been required to produce the "original" of Government Exhibit 16. Yet, prior to the disposition of the appeal in a capital case it returned to the Hilton Hotel the claimed original of a vital document used to corroborate its case, knowing that, according to normal established procedure and the laws of the state of New Mexico, such registration cards could then be destroyed.

39. Parenthetically, the Department of Justice in its letter of December 22, 1965, admitted that it did not return the original of the unimportant September 19, 1945, card which was not used at the trial, but destroyed it "in the normal course of operations" on February 11, 1960. This, of course, as the government well knew, made it impossible for the petitioner or any one, in the interest of justice, ever to examine or compare the two alleged originals.

40. The government is extremely well-versed and fully knowledgeable in the area of handwriting analysis and document evaluation. It well knows that it is more difficult to determine and detect a forgery from a photostat than from the original documents. For example, the quality, age and type of the paper and ink involved can only be ascertained from a microscopic study of an original.<sup>\*</sup> Yet, in this

<sup>\*</sup>/ According to Elizabeth McCarthy, a handwriting and document expert who regularly examines questioned documents for the Boston and Massachusetts State Police, "it is difficult in a case of this kind for a document expert to arrive at a definite, conclusive opinion from a study of photostats or photographs alone. A detailed microscopic study of the originals is necessary before a final opinion can be reached." See Invitation to an Inquest by Walter and Miriam Schneir, New York Doubleday & Company, Inc. at P. 387.



vitaly important case, involving the death penalty and the national security, the government decided to release and permit the destruction of an original exhibit relating to a vital portion of its case.

The circumstances of the destruction of the originals of these documents confirm and support fully the allegations of the within petition and mandate that an evidentiary hearing be held forthwith. It is highly probative of the fact that the government knew that Government Exhibit 16 was a false and forged and fabricated document used to support the contrived, false and perjured evidence of Harry Gold to the effect that a meeting took place in Albuquerque, New Mexico on June 3, 1945, between Gold and the Greenglasses.

41. Moreover, petitioner was denied a fair trial, in that he and his co-defendants were prevented from having effective representation by counsel in the preparation and trial of their case. The trial was held in an atmosphere of terror deliberately induced by the government whose representatives, both in and out of court, utilized the Korean War then being prosecuted, and the inflammatory charge against petitioner's co-defendants that they had stolen and transmitted the alleged secret of the atom bomb to the Soviet Union, to coerce, intimidate and panic defense counsel. <sup>\*/</sup>

42. Counsel were clearly and unmistakably threatened with economic destruction and social ostracism as reprisal for undertaking the representation of clients whose unpopularity, created and fostered by the government has had no precedent in the history of American jurisprudence. As a result of the aforesaid intimidation visited upon them, defense counsel were disabled and disqualified from the exercise of their full professional abilities in the defense of petitioner and his co-

<sup>\*/</sup> This atmosphere both in and out of court was in fact created by the government.

defendants. By this intimidation, defense counsel were coerced into abandoning an effective defense of petitioner and his co-defendants. Defense counsel, inter alia

a. proposed that the sketches and testimony of David Greenglass concerning the alleged secret of the atom bomb be received by the court in secret although the government was prepared to make the information public;

b. failed and refused to cross-examine Harry Gold, one of the government's most important witnesses at the trial;

c. refused to permit petitioner to take the stand in his own defense although petitioner's complete defense to the capital charge was his total innocence;

d. declared publicly that the trial of petitioner and his co-defendants, which was replete with fundamental violations of due process, was fairly conducted; and

e. were unable or fearful of obtaining scientific aid to properly conduct effective cross-examination of appropriate government witnesses.

43. The said deprivation of an effective right to counsel, as well as the knowing creation and use of false, perjurious testimony and evidence and the suppression of other vital evidence, rendered the trial offensive to common and fundamental ideas of fairness and right, and resulted in reducing the trial to a sham. Petitioner was thereby denied a fair trial and deprived of his liberty without due process of law.

WHEREFORE, petitioner asks that, upon this petition and the exhibits thereto, the Court

(1) grant a hearing to determine the issues and make findings of fact and conclusions of law with respect thereto; and, upon such findings of fact and conclusions of law, vacate and set aside the sentence and judgment of conviction and discharge petitioner forthwith from detention and imprisonment, or in the alternative, grant him a new trial; and

(2) order that, pending said hearing,

a. petitioner be released upon the posting of reasonable bail or, in the alternative, directed to be present at the hearing aforesaid; and

b. petitioner be forthwith authorized to take the deposition of Harry Gold, presently confined in the federal penal institution at Lewisburg,

c. petitioner be furnished with the confession of Klaus Fuchs;

d. petitioner be furnished with any and all pre-trial statements of Ruth Greenglass, David Greenglass and Harry Gold in the possession of the government; and

(3) grant such other and further relief as to the Court may seem just and proper in the premises.

Dated: New York, New York  
May 9, 1966

VERN COUNTRYMAN  
3 Suzanne Road  
Lexington, Massachusetts

BENJAMIN O. DREYFUS  
341 Market Street  
San Francisco, California

MALCOLM SHARP  
University of New Mexico  
Law School  
Albuquerque, New Mexico

MORTON SOBELL,

By His Attorneys

*William M. Kunstler*  
ARTHUR KINOY  
WILLIAM M. KUNSTLER  
511 Fifth Avenue  
New York, New York

MARSHALL PERLIN  
580 Fifth Avenue  
New York, New York



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the  
Division Indicated  
and Refer to Initial and Number

December 22 1965

Kunstler, Kunstler and Kinoy  
511 Fifth Avenue  
New York, New York 10017

Attention: William M. Kunstler, Esq.

Gentlemen:

Reference is made to your letter of December 7, 1965 enclosing copies of an exchange of letters between you and Mr. Hoover.

In your letter of August 31, 1965, you indicate that photostatic copies of the hotel registration cards for Harry Gold, at the Albuquerque Hilton Hotel, for June 3, and September 19, 1945, were introduced into evidence at the trial of Morton Sobell. Only a photostatic copy of the June 3rd card was introduced into evidence by the government. This was pursuant to a stipulation by defense counsel as to its authenticity. The September 19th card was not involved in the trial.

The original card dated June 3rd was returned to the hotel on August 4, 1951, and it is our information that it was destroyed by the hotel, together with all cards dated prior to 1957, in the ordinary course of business.

The original card dated September 19th was destroyed in the normal course of operations, by the Federal Bureau of Investigation, on February 11, 1960.

From the nature of your letters to the Federal Bureau of Investigation we assume that your interest in the aforementioned registration cards springs from the baseless accusations set forth in the book entitled "Invitation To An Inquest". We find it difficult to believe that you would seriously consider the fantastic hypothesis that the Federal Bureau of Investigation would either instigate, or, be a party to, a conspiracy to manufacture or falsify evidence.

Sincerely,

J. WALTER YEAGLEY  
Assistant Attorney General  
Internal Security Division

By:   
JOHN H. DAVITT, Chief  
Criminal Section

EXHIBIT A

**NOTICE OF ENTRY**

Sir:- Please take notice that the within is a  
(certified) true copy of a  
duly entered in the office of the clerk of the with-  
in named court on 19

Dated,

Years, etc.

**KUNSTLER KUNSTLER & KINOY**

Attorney(s) for

Office and Post Office Address

511 FIFTH AVENUE  
NEW YORK, N. Y. 10017

To

Attorney(s) for

**NOTICE OF SETTLEMENT**

Sir:- Please take notice that an order

of which the within is a  
true copy will be presented for settlement to the  
Hon. one of the judges of the within named Court, at

on the day of 19  
at M.

Dated,

Years, etc.

**KUNSTLER KUNSTLER & KINOY**

Attorney(s) for

Office and Post Office Address

511 FIFTH AVENUE  
NEW YORK, N. Y. 10017

To

Attorney(s) for

66 C.A. 1328

Index No.

19

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

**ORDER TO SHOW CAUSE**

**KUNSTLER KUNSTLER & KINOY**

Attorney(s) for Defendant

Office and Post Office Address

511 FIFTH AVENUE  
NEW YORK, N. Y. 10017  
MURRAY HILL 2-8317

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.  
19

Dated,

Attorney(s) for

Date:

Signature

Typed

STATE OF NEW YORK  
COUNTY OF

**ATTORNEY'S CERTIFICATION**

The undersigned attorney certifies pursuant to Section 2105 CPLR that the within  
has been compared by the undersigned with the original on file in the office of  
and found to be a true and complete copy.

Date:

Signature

Typed

The grounds of his belief and sources of information as to all matters not stated upon his knowledge are as follows:  
The undersigned affirms that the foregoing statements are true, under the penalties of perjury, pursuant to Rule 2106 CPLR.

The undersigned certifies that he has read the foregoing  
and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated to be alleged  
on information and belief, and that as to those matters he believes them to be true. He further states that the reason this affirma-  
tion is made by him and not by the

The undersigned certifies that he has read the foregoing

in the within

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3040PNT/1mw

MORTON SOBELL,  
Petitioner,

-against-

UNITED STATES OF AMERICA,  
Respondent.

66 Civ. 1328  
No. 6-134-245  
ORDER TO SHOW  
CAUSE

Upon the annexed affidavit of William M. Kunstler and the petition herein, now on motion of Kunstler, Kinoy, Marshall Perlin, Benjamin Dreyfus and Malcolm Sharp, attorneys for petitioner herein, it is

ORDERED that the United States show cause, if any it has, before the United States District Court for the Southern District of New York, in Room 318, United States Courthouse, Foley Square, New York, on the 13 day of May, 1966, at 10:30 o'clock in the forenoon thereof, or as soon thereafter as counsel can be heard, for an order directing the United States Attorney for the Southern District of New York to:

1. Arrange for the immediate transfer of petitioner from the Federal Penitentiary at Lewisburg, Pennsylvania, to the Federal House of Detention, 427 West St., New York, N.Y., for and during the pendency of the aforesaid petition, unless, at the time of the return date of this order to show cause, petitioner has already been so transferred;

2. Permit petitioner, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, to inspect and copy or photograph all statements of Harry Gold and David and Ruth Greenglass in the possession of the government;



3. Arrange for the immediate production of Harry Gold, presently a prisoner in the Federal Penitentiary, Lewisburg, Pennsylvania, at some designated place within this district for the taking of his deposition by petitioner's attorneys pursuant to Rule 15 of the Federal Rules of Criminal Procedure;

4. Arrange for the immediate production of the confession of Klaus Fuchs pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure; and it is further

ORDERED that service of this order and the papers upon which it is presented, on the United States Attorney for the Southern District of New York, on or before the 16<sup>th</sup> day of May, 1966, at 2:00 o'clock in the *after* noon, shall be deemed sufficient.

*/s/ Martin Frankel*  
U.S.D.J.

Dated: New York, New York  
May 9, 1966.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

-against-

No. C 134-245

UNITED STATES OF AMERICA,

Respondent.

STATE OF NEW YORK     )  
COUNTY OF NEW YORK    ) ss.:

WILLIAM M. KUNSTLER, being duly sworn, deposes and  
says:

I am one of the attorneys for petitioner herein and  
I am making this affidavit in support of his application for an  
order directing the United States Attorney for the Southern  
District of New York to:

1. Arrange for the immediate transfer of petitioner  
from the Federal Penitentiary at Lewisburg, Pennsylvania to  
the Federal House of Detention, 427 West Street, New York, N.Y.,  
for and during the pendency of the aforesaid petition;
2. Arrange for the production of Harry Gold, presently  
a prisoner in the Federal Penitentiary, Lewisburg, Pennsylvania,  
at some designated place within this district for the taking of  
his deposition by petitioner's attorneys, pursuant to Rule 15  
of the Federal Rules of Criminal Procedure;
3. Permit petitioner, pursuant to Rule 16 of the  
Federal Rules of Criminal Procedure, to inspect and copy or  
photograph all statements of Harry Gold and David and Ruth  
Greenglass in the possession of the government.
4. Arrange for the immediate production of the confes-  
sion of Klaus Fuchs, pursuant to Rule 17(c) of the Federal Rules  
of Criminal Procedure.

Petitioner has simultaneously filed with this Court a motion pursuant to Title 28, U.S.C. §2255, praying that his sentence be vacated and set aside and that he be discharged from detention and imprisonment on the ground that his conviction was unjustly, unlawfully and illegally procured in violation of the Constitution and the laws of the United States, and that the sentencing court was without jurisdiction to impose this sentence, the said judgment being subject to collateral attack. A copy of said petition is attached hereto as Exhibit A and made a part hereof.

Inter alia, petitioner alleges and offers to prove that:

1. The testimony of Harry Gold, a key government witness at his trial, as to a meeting with David and Ruth Greenglass in Albuquerque, New Mexico, on or about June 3, 1945, for the purpose of receiving from them information relative to the national defense of the United States, was false and perjurious and contrived at the inducement and suggestion of the prosecuting authorities and their associated agencies;
2. The documentary evidence offered by the government in support of the proof of this visit, namely, Government Exhibit 16, a photostat of an alleged registration card of the Albuquerque Hilton Hotel for June 3, 1945, was fabricated and forged by the prosecuting authorities and associated agencies;
3. The prosecuting authorities wilfully and knowingly suppressed the fact that they had information directly contradicting the claim that Harry Gold was in Albuquerque, New Mexico on June 3, 1945, including pre-trial statements made by him to his court-appointed counsel in June of 1950.

A. The urgent need for the immediate deposing of Harry Gold.

Harry Gold is presently confined in the Federal Penitentiary at Lewisburg, Pa. The government has recently announced that he would be released from confinement on or about May 18, 1966. After David Greenglass was discharged in 19 , he changed his name and disappeared from view. It is highly probable that Gold will do the same upon his release, thus preventing petitioner from obtaining his testimony at any hearing granted herein.

Even if he does not, he will almost certainly not be available to petitioner upon any hearing of this motion. He has steadfastly refused to cooperate with petitioner in the preparation of the latter's application under 28 U.S.C. 2255, as can readily be seen by the self-explanatory letters attached hereto as Exhibits B, C and D. In view of this attitude and his own self-interest, his cooperation after he leaves prison can hardly be assured.

Under Rule 15 of the Federal Rules of Criminal Procedure, this Court is empowered to order the testimony of any material witness to be taken by deposition "if it appears that [he] ... may be unable to attend or prevented from attending a trial or hearing ... and that it is necessary to take his deposition in order to prevent a failure of justice ..." (emphasis supplied).

It is submitted that the testimony of Harry Gold fully fits this categorization. It is undeniable that he is a material witness, that his testimony will surely be unavailable to petitioner upon a voluntary basis after his release, that it will probably be equally unavailable on an involuntary basis, and that such testimony is necessary to "prevent a failure of justice." <sup>\*</sup>/ Moreover, it would be a relatively simple matter

<sup>\*</sup> It must be borne in mind that previous defense counsel did not cross-examine Gold at the trial.

to depose Gold within this district, or, if this Court so ordered, at Lewisburg, and petitioner is prepared to pay the required costs and expenses thereof.

On the other hand, a denial of this motion will, to a certainty, result in the irretrievable loss of material evidence that may well be vital in a just determination of petitioner's main motion. With so much to gain on behalf of both petitioner and the due administration of criminal justice, and nothing to lose on anyone's part, the Court should accede to this reasonable request. A prior motion to permit petitioner to inspect certain impounded evidence was granted upon the consent of the United States Attorney, presumably in the interest of ascertaining truth. The same motivation is equally compelling here.

**B. The urgent need for the immediate presence of petitioner in this district.**

At this stage in the within proceeding, it is absolutely necessary that defense counsel have ready access to the petitioner. Not only may he be a witness at any hearing granted by this Court, but frequent interviews on various aspects of the main motion are indispensable if adequate preparation is to be possible.

For example, his attorneys are unable to confer with him as to the recently accessible impounded evidence without going to Lewisburg, which is in an out-of-the-way area insofar as New York City, San Francisco and Albuquerque, where they maintain their offices, are concerned. Equal difficulty will be experienced concerning other aspects of the hearing on his main motion, such as the nature and order of his witnesses and exhibits, the organization of his own testimony, and the like.

Assistant United States Attorney John Martin, Jr. has already indicated to counsel that he has no objection to such

a procedure. In fact, he suggested that Mr. Sobell be brought here after counsel had complained to him of the difficulty of getting the impounded evidence to petitioner. It was only after Mr. Martin informed me that such a transfer could not be made without a court order that this portion of this application was decided upon.

In the interest of justice and in the spirit of Rules 43 and 44 of the Federal Rules of Criminal Procedure, as well as the Fifth and Sixth Amendments to the Constitution of the United States, it is submitted that petitioner's presence within this district is both proper and necessary. In the preparation and presentation of petitioner's evidence in any hearing held on his main motion, it is vitally important that his counsel be able to confer with him at every stage thereof. The serious nature of his allegations and the legal consequences thereof compel such a ruling.

C. The urgent need for the production by the government of the statements of Harry Gold and David and Ruth Greenglass

There can be no gainsaying that any statements in the government's possession of these three key witnesses at the trial which in any way relate to or touch upon their alleged meeting in Albuquerque, New Mexico on June 3, 1945, "is material to the preparation" of petitioner's case. Moreover, "the request is reasonable" as required by the rule. Lastly, the granting of this motion would clearly be in the interest of justice.

At the time of petitioner's trial, he did not have the benefit of the Jencks Act (18 U.S.C. 3500). Therefore, under the rule of the case which gave it birth, he was not accorded the requisite due process of law. At the very least, he ought now to be permitted to examine the pre-trial statements of the witnesses whose testimony convicted him. This is particularly true in the instant case where the pitch of his attack



in his main motion is that their trial testimony was deliberately and wilfully fabricated at the instigation and inducement of the government.

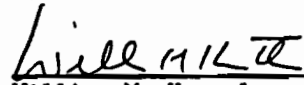
To allow him to do so cannot prejudice the government as it conceivably might before trial. Petitioner has already been convicted and the purpose of his main motion is to set that conviction aside on the grounds heretofore specified. His wholly reasonable request, clearly material to his case, should be unhesitatingly granted.

D. The urgent need for the production of the confession of Klaus Fuchs

In view of petitioner's contention that Harry Gold and the government, working in concert, tailored Gold's testimony to conform to the time and space requirements of the confession of Klaus Fuchs, which has never been made public, adequate and equitable trial preparation requires its production. In this respect, the attached petition speaks for itself.

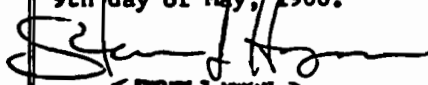
No previous application for the relief sought herein has been made except that a previous motion has been made for an order directing the United States Attorney for this district to arrange for the immediate transfer of petitioner to the said Federal House of Detention for the limited purpose of inspecting the aforesaid impounded material. The reason that it is brought on by an order to show cause rather than by motion is because of the immediacy of the release of Harry Gold and the imminent pendency of petitioner's main motion.

WHEREFORE, it is respectfully requested that petitioner's motion be granted in all respects.

  
William M. Kunstler

Sworn to before me this

9th Day of May, 1966.

  
STEVEN J. NYMAN  
Notary Public, State of New York  
No. 41-7027835  
Qualified in Queens County  
Commission Expires March 30, 1968

STATE OF NEW YORK  
COUNTY OF

The undersigned, being an attorney duly admitted to practice in the courts of the State of New York shows: that he is the attorney(s) of record or an attorney acting as of counsel with the attorney of record for the action; that he has read the foregoing and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true. He further states that the reason this affirmation is made by him and not by the

The grounds of his belief and sources of information as to all matters not stated upon his knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury, pursuant to Rule 3106 CPLR.

Date: \_\_\_\_\_

Signature

Typed

STATE OF NEW YORK  
COUNTY OF

ATTORNEY'S CERTIFICATION

The undersigned attorney certifies pursuant to Section 2105 CPLR that the within has been compared by the undersigned with the original on file in the office of and found to be a true and complete copy.

Date: \_\_\_\_\_

Signature

Typed

No. C. 134-245

Index No.

Year 19

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,  
Petitioner,  
-against-  
UNITED STATES OF AMERICA,  
Respondent.

ORDER TO SHOW CAUSE AND  
AFFIDAVIT

KUNSTLER KUNSTLER & KINOY

Attorney(s) for Petitioner  
Office and Post Office Address  
511 FIFTH AVENUE  
NEW YORK, N. Y. 10017  
MURRAY HILL 2-8317

To

Attorney(s) for  
Service of a copy of the within

is hereby admitted.

Dated, \_\_\_\_\_

19

Attorney(s) for

NOTICE OF ENTRY

Please take notice that the within is a certified true copy of a copy entered in the office of the clerk of the within named court on \_\_\_\_\_ 19

Med,

Yours, etc.

KUNSTLER KUNSTLER & KINOY

Attorney(s) for

Office and Post Office Address  
511 FIFTH AVENUE  
NEW YORK, N. Y. 10017

Attorney(s) for

NOTICE OF SETTLEMENT

Please take notice that an order

of which the within is a copy will be presented for settlement to the \_\_\_\_\_ of the judges of the within named Court, at the \_\_\_\_\_ day of \_\_\_\_\_ 19

Med,

Yours, etc.

KUNSTLER KUNSTLER & KINOY

Attorney(s) for

Office and Post Office Address  
511 FIFTH AVENUE  
NEW YORK, N. Y. 10017

Attorney(s) for

8-1810CV  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3445 PNT/lmw

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

No. C-134-245

ORDER TO  
SHOW CAUSE

Upon the annexed affidavit of William M. Kunstler, now on motion of Kunstler Kunstler & Kinoy, Marshall Perlin, Benjamin Dreyfus and Malcolm Sharp, attorneys for the defendant herein, it is

ORDERED that the United States show cause, if any it has, before the United States District Court for the Southern District of New York, in Room 318, United States Court House, Foley Square, New York, on the 13 day of May, 1966, at 10:30 o'clock in the forenoon thereof, or as soon thereafter as counsel can be heard, for an order directing the United States Attorney for the Southern District of New York, to arrange for the immediate transfer of defendant from the federal penitentiary at Lewisburg, Pennsylvania to the Federal House of Detention, 427 West Street, New York, New York, for the purpose of inspecting certain heretofore impounded material directed to be made available to him by an order of this Court, dated April 14, 1966; and it is further

ORDERED that service of this order and the papers upon which it is presented, on the United States Attorney for the Southern District of New York, on or before the 9<sup>th</sup> day of May, 1966, at 5 o'clock in the afternoon, shall be deemed sufficient.

Sl. M. Franklin  
U.S.D.J.

Dated: New York, New York  
May 6<sup>th</sup>, 1966.

101-2483-164

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

No. C 134-245

AFFIDAVIT

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

WILLIAM M. KUNSTLER, being duly sworn, deposes  
and says:

I am one of the attorneys for defendant herein  
and I am making this affidavit in support of his application for  
an order directing the United States Attorney of the Southern  
District of New York to arrange for the immediate transfer of  
defendant from the federal penitentiary at Lewisburg, Pennsylvania  
to the Federal House of Detention, 427 West Street, New York, New  
York, for the purpose of inspecting certain material directed to  
be made available to him by an order of this Court, dated April  
14, 1966, a copy of which is attached hereto and made a part  
hereof.

On or about March 28, 1966, defendant moved this  
Court for an order directing the government to produce for his  
inspection and study the original of Government Exhibit 8 and  
the untranscribed stenographic notes of the testimony of David  
Greenglass and John A. Derry relating thereto, properly and fully  
transcribed.

The underlying circumstances with reference to  
this motion are fully explained in the affidavit submitted in  
support thereof, a copy of which is attached hereto and made a  
part hereof.

It is the suggestion of defendant's counsel that since United States District Judge Edmund L. Palmieri issued the order making Government Exhibit 8 and the transcribed stenographic notes relating thereto available to them, that a further order be appended to the foot thereof, directing defendant's production as requested above for the purpose of inspecting said material, and consulting with his attorneys thereon.

No previous application for the relief sought herein has been made. The reason that it is brought on by an order to show cause is that defendant is about to file a motion under 28 U.S.C., 2255 and expects to have an early hearing thereon; the results of defendant's inspection of Government Exhibit 8 and the related stenographic notes may well be a crucial issue at that hearing.

WHEREFORE, it is respectfully requested that defendant's motion be granted in all respects.

*William M. Kunstler*

William M. Kunstler

Sworn to before me this  
5th day of May, 1966.

*Steven J. Hyman*  
STEVEN J. HYMAN  
Notary Public, State of New York  
No. 61-7027835  
Qualified in Queens County  
Commission Expires March 30, 1968

being an attorney duly admitted to practice in the courts of the State of New York shows that he is  
in the within  
of record or an attorney acting as of counsel with the attorney of record for the  
within that he has read the foregoing  
and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated to be alleged  
on information and belief, and that as to those matters he believes them to be true. He further states that the reason this affirma-  
tion is made by him and not by the

The grounds of his belief and sources of information as to all matters not stated upon his knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury, pursuant to Rule 2106 C.P.L.R.

Dated: \_\_\_\_\_

Signature

Typed

STATE OF NEW YORK  
COUNTY OF

ATTORNEY'S CERTIFICATION

The undersigned attorney certifies pursuant to Section 2105 C.P.L.R. that the within  
has been compared by the undersigned with the original on file in the office of  
and found to be a true and complete copy.

Dated: \_\_\_\_\_

Signature

Typed

Index No. \_\_\_\_\_ Year 19\_\_\_\_  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

MORTON SOBELL,

Defendant

ORDER TO SHOW CAUSE and  
AFFIDAVIT

KUNSTLER KUNSTLER & KINOY

Attorneys for Defendant

Office and Post Office Address  
511 FIFTH AVENUE  
NEW YORK, N. Y. 10017  
MURRAY HILL 2-8317

To

Attorney for

Service of a copy of the within

is hereby admitted.

Dated, \_\_\_\_\_

19\_\_\_\_

Attorney for

NOTICE OF ENTRY

Please take notice that the within is a  
(certified) true copy of a  
duly entered in the office of the clerk of the with-  
named court on \_\_\_\_\_ 19\_\_\_\_

ated,

Yours, etc.

KUNSTLER KUNSTLER & KINOY

Attorney for

Office and Post Office Address  
511 FIFTH AVENUE  
NEW YORK, N. Y. 10017

Attorney for

NOTICE OF SETTLEMENT

Please take notice that an order

of which the within is a  
true copy will be presented for settlement to the  
on \_\_\_\_\_  
one of the judges of the within named Court, at

on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_ M.

ated,

Yours, etc.

KUNSTLER KUNSTLER & KINOY

Attorney for

Office and Post Office Address  
511 FIFTH AVENUE  
NEW YORK, N. Y. 10017

Attorney for

NY 100-37158

"Confession" of KLAUS FUCHS and "statements" of HARRY GOLD and DAVID and EUTH GREENGLASS. MARTIN also asked whether copies of bills of Hotel Hilton, Albuquerque, showing GOLD's registration there on 8/3/45 are in Government possession.

NY will review files on these matters and Bureau will be advised.



LAW OFFICES  
**PEPPER, HAMILTON & SCHEETZ**

FIDELITY-PHILADELPHIA TRUST BUILDING

PHILADELPHIA, PA. 19109

215-KI 5-1234

CABLE ADDRESS

"PEPPIL PHILADELPHIA"

8-1840CV  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 4/30/87 BY 3042PWT/1mw

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1887-1981

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C. DALE MCCLAIN  
JOHN J. CANNON  
L. GARRETT DUTTON, JR.  
J. ROGER WILLIAMS, JR.

February 17, 1966

William M. Kunstler, Esq.  
Kunstler, Kunstler & Kinoy  
511 Fifth Avenue  
New York, New York 10017

Re: Harry Gold

Dear Mr. Kunstler:

As counsel for Harry Gold, Mr. Hamilton and I are not at liberty, without his permission, to furnish to you any of the pre-trial material which represents Mr. Gold's communications to us. I will apprise Mr. Gold of your request and advise you of his reaction.

Very truly yours,

*Augustus S. Ballard*  
Augustus S. Ballard