

POINT I

THE "STRAW MAN" AND "THE SECRET"

The government's answer to the petition relating to the atomic weapon information and the statements made both prior to and during the trial is essentially a belated attempt to recast and reframe the actual trial, to avoid the implications of its prior conduct, and an ostrich-like maneuver to avoid issues of fact which would compel a hearing.

The government's brief states in effect that it really did not quite mean what it said to the jury and the court, that the Greenglass material was really not quite that important--and that there is at least a scintilla of fact that could be extracted from the testimony of Derry and Greenglass which was not vitiated by the fraud.*

It was not only the trial court and jury, the defense, and the public at large who were deceived by the government's fraud in creating the "secret" hoax. Even ^{wrote:} J. Edgar Hoover was deceived, as he demonstrated when he

*The government seeks to associate Dr. Koski with the Derry-Greenglass testimony relating to Government Exhibit 8 but the record refutes that without any question.

"Who in all good conscience can say that Julius and Ethel Rosenberg, the spies who delivered the secret of the atomic bomb into the hands of the Soviets, should have been spared when their treachery caused the shadow of annihilation to fall upon all of the world's people?"*

The government in its brief now contends that Mr. Hoover's statement is wrong; that the Rosenbergs, petitioner's co-defendants, did not really steal the secret of the atomic bomb; that to claim that was what the trial was about is to erect a "straw man."** On page 71 of its brief, the government argues:

"B. Petitioner's 'Straw Man' - 'The Secret of the Atomic Bomb'

"The amended petition seeks to nurture the very notion it attacks, that the Greenglass sketch and description contain 'the secret of the atomic bomb.' It does this by reference to isolated, out of context statements in the prosecution's opening and closing remarks and the charge and sentencing remarks of the trial judge."

The government argues in its brief that one should disregard in toto the statements regarding the statements regarding the alleged theft of the atom bomb secret made by the prosecution in its opening to the

*Statement of J. Edgar Hoover, F.B.I. Law Enforcement Bulletin, Vol. 30, June 1961.

**A "straw man" is defined in Webster's Unabridged Dictionary as a "nonentity, a puppet, a perjured witness." The "straw man" was created by the government on the trial. The straw man is the atom-spy hoax itself.

jury, in the course of the trial in the presence of the jury, in its summation to the jury, and as part of the comments made at the sentencing of the petitioner and his co-defendants, because such statements by the prosecutor, however false, were not "evidence" and hence should not be considered in the present proceeding. (Govt. br. p. 42) We are asked to conclude that none of the false statements and representations made by the prosecution in the course of the trial had any impact upon the court and jury because they were not made in testimonial form--a perfect non sequitur.

A "straw man," i.e., "perjured witness," was created by the government in the course of the trial in the manner indicated in the petition. When the government said in its opening that the Rosenbergs stole "this one weapon ... the atomic bomb," what was the government referring to? What did it thereby induce the jury to believe? It is clear beyond any peradventure of doubt that the straw man was created by the government even prior to the trial; inflated beyond proportion during the course of the trial; was made the basis for the imposition of death sentences; and was the rationale used by the trial court in refusing to reduce the ultimate sentence in January of 1953. See the following references to com-

ments by the government as they appear in the transcript:

"... sketches of the very bomb itself."
(R. 1523)

"The government claims that the venture was successful as to the atom bomb secret"
(R. 1551-1552)

"...putting into the hands of the Russians the A-bomb years before our best scientists predicted ... they passed this nation's most deadly and closely guarded secret" (R. 1615)

"...you can ... perceive what the actual construction of the bomb was.

* * *

"It is the bomb we dropped at Nagasaki, similar to it. * * *

The sketch and description "demonstrate/s/ substantially and with substantial accuracy the principle involved in the operation of the 1945 atomic bomb." (R. 910-911)

One cannot ignore the fact that this "straw man" fiction was the basis of the refusal to grant executive clemency during the week of June 15, 1953. The government in its brief seeks to dissociate itself from the historical fact that petitioner and his co-defendants were convicted on the fiction of the theft of the atom bomb secret. Only a month or so ago the government sought in camera proceedings to protect the atomic secret it now admits is non-existent.

Its futile attempt to disregard the charge to the jury which was based upon representations of the government is equally absurd. When the court stated:

"In this case, the government's claim that the venture was successful as to the atom bomb secret" (1551-1552),

the government now contends, "this was judicial shorthand to distinguish the atomic information from the other information which the conspirators sought to transmit to Russia."

Even absent the government statements, it is clear that a fraud was perpetrated upon the court and jury. Derry who was no expert was called as an expert to authenticate the accuracy of the Greenglass drawing and description. The government admits that Derry testified that a scientist could perceive from Exhibit 8 the actual construction of the bomb (government br., p. 19), and Derry testified to the substantial accuracy of Exhibit 8 in depicting the principle involved in the operation of the 1945 atomic bomb (government br., p. 65). But the government knew this was not true. To contend that the statements of Derry which are set forth in the petition do not materially differ from the affidavits of Drs. Linschitz and Morrison is to ignore and disregard the contents of those affidavits.

The Linschitz affidavit characterizes the Greenglass material as a "garbled, ambiguous and highly incomplete description of the plutonium bomb." On page

3 of the affidavit, it is noted that there is shown in Exhibit B no tamper, no form of lens interfacing, no chemical composition of the explosives or method of detonation; polonium is missing, as well as two other vital elements which are not identified. The testimony and exhibit contain bizarre notions, a lack of comprehension of the entire principle and functioning of the bomb. Dr. Linschitz concludes: "Thus, essential information needed to make clear the 'principle' of initiating a chain reaction in plutonium is not given by the drawing. Further discussion of principle seems superfluous."

It is not merely that minute details are missing from the drawing and description, but that the major decisive, qualitative factors or components are completely absent along with the quantitative data so as to make the material neither a "diamond" nor a "rhinestone" but only a pebble. As stated on page 12 of the Linschitz affidavit, "Even as mere qualitative confirmation of Fuchs' information, the Greenglass 'data' was worthless."

Professor Morrison particularly directed his affidavit to the statement by Derry in the course of his testimony, and in that affidavit makes categorical statements that the Derry testimony was false. He stated:

"The sketch of Exhibit 8 is not a representation of what you would see were you present at the assembly of an implosion bomb ..." and "... were Derry to be accurately testifying he would be required to state 'it did not look like that.'" Derry did not even know that "In reality, such an inside view cannot be obtained. It is doubtful that such a sketch was to be found anywhere on the project as Major Derry apparently testifies on folio 35. The drawing was completely insufficient and could not be used for any construction purposes in that it lacked any details. Nor was it of use for theoretical discussion in that it was factually incorrect, with serious wrong emphasis and designations."

Finally, Dr. Morrison states that Derry "was also in error when he answered in the affirmative the question, 'Can a scientist and can you perceive (from the testimony and the sketch) what the actual construction of the bomb was?' And he was even more misleading when he answered a subsequent question, '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?' Answer: 'It does. It is the bomb we dropped at Nagasaki, similar to it.' Say, rather, it was a caricature of the bomb."

We contend that the Derry testimony on its face, in the light of the affidavits presented, must be characterized as completely false, both as to his competency and the facts. In any event, in view of the uncontradicted scientific demolition of the crucial Derry answers, in order for the government to salvage an iota of credence as to the Derry testimony, an evidentiary hearing is required.

The issue is not whether a rhinestone was stolen instead of a diamond. The issue is whether the prosecution fraudulently represented a rhinestone as a diamond and created a diamond expert, in order to establish motive and plausibility for the alleged conspiracy, and thus obtain a conviction. The question is whether this fraud was used to invent an imaginary crime and convict innocent people, when in fact there was no theft whatsoever. The government does not wish to discuss--and makes that evident--the value of the Greenglass material, nor whether it was of any aid to anyone. The reason for this position is clear: It had no value, it had no worth, but the government used it to create the very straw man it now wishes to deny or disavow.

POINT II

THERE WAS NO JUNE 3rd, 1945 MEETING AND
THERE WAS NO JUNE 3rd, 1945 REGISTRATION
CARD, AS THE GOVERNMENT WELL KNEW

In the statement of facts encompassing some of the allegations set forth in the petition a more than sufficient showing on this subject has been made to warrant a hearing. False and fraudulent testimony and a forged card were used to create the June 3rd, 1945 meeting. The perjury was suborned by the government, the forged card was created by the government and the "original" was destroyed by the government. The petitioner is prepared to offer the tapes of Gold's pre-trial statements made to his attorney and other documentary material. These same tapes and material had been given to the government by Gold's counsel in 1954. The statements contained therein are not new to the government, although they are new to the petitioner and his counsel.

As set forth in the statement of the applicable law in §2255 proceedings, the government has an affirmative obligation to disclose exculpatory evidence with or without request by counsel. The government has the obligation to advise the defendant that it has contrary evidence in its possession which conflicts with that presented through its witnesses. It cannot stand silent while false or perjured statements are being made. The failure to disclose and

correct, if known by the prosecutor or other agencies of the government, is an unlawful and unconstitutional suppression of such exculpatory or basically contrary evidence. It is not for the government to determine whether the evidence should be disclosed to the defendant. It is for the court to decide upon due notice to the defendant.

The "discrepancies" in the pre-trial statements do more than raise the question of credibility in this case. They serve to establish contrivance of testimony by the government, the subornation of perjury. The very nature of the omissions in the pre-trial statements given to Gold's attorney would require disclosure. The basic conflicts in these statements with the testimony given at the trial reached such proportions here as to mandate the immediate production of all of the statements given by Gold and Greenglass prior to trial. It requires the production of the Fuchs' confession in full, which the government has held and kept secret since February of 1950.

The essence of the government's argument is that because trial counsel did not effectively cross-examine in reliance upon false representations of the government, a fraudulent conviction stands immune to collateral attack. This motion does not merely seek an opportunity to cross-examine Gold or Greenglass in the light of the newly discovered evidence. There are a multitude of witnesses whom

petitioner could and should call at the time of the evidentiary hearing, including agents and employees of various government agencies and departments, as well as employees of the Hotel Hilton, and those having any association with the handling, receipt or disposition of Government Exhibit 16 in its "original" form. */ Some of these witnesses may well be those named by the prosecution at the beginning of the trial and never called.

In its brief the government does not deny a single allegation with reference to Government Exhibit 16. The brief has become in this instance a means or device to avoid the filing of an affidavit or a pleading. Many of the arguments tendered by the government in opposition are factual in nature and dehors the record.

The government argues that it could or would have obtained a better forgery than Exhibit 16. The petition does not say, although it does not exclude the possibility, that someone associated with the FBI forged the card or that the forgers were incompetent. To use the government's argument, the best protection for forgery is intentional error.

It is respectfully suggested that the fragile arguments posed by the government with reference to Government

*/ Also, there are many witnesses who would be called besides Greenglass and Derry in connection with the "secret of the atom bomb."

Exhibit 16 and the June 3rd meeting are so transparently weak as to warrant either an acknowledgment of the validity of the petitioner's application, or, at least, to require an evidentiary hearing.

CONCLUSION

The relief prayed for in the petition should be in all respects granted.

Respectfully submitted,

MARSHALL PERLIN

WILLIAM M. KUNSTLER

ARTHUR KINOY

MALCOLM SHARP

BENJAMIN DREYFUS

VERN COUNTRYMAN

Attorneys for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

66 Civ. 1328

AFFIDAVIT

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

MARSHALL PERLIN, being duly sworn, deposes and
says:

That he is one of the attorneys for the petitioner
Morton Sobell and submits this affidavit in support of the
Amended Petition before this Court.

Attached hereto is a report of Elizabeth
McCarthy, an attorney, a handwriting and document expert
of long experience and excellent standing, making certain
findings and rendering opinions as to Government Exhibit
16, a photostat copy of an alleged hotel registration
card of the Hilton Hotel, Albuquerque, New Mexico, bearing
card No. 65841, dated on its face June 3rd, 1945, and
having a time date stamp of June 4th on its reverse side;
and a photostat of an alleged registration card of the
Hilton Hotel, not introduced into evidence, card No. 78783,
dated September 19, 1945; both cards bearing the name
"Harry Gold."

Mrs. McCarthy has regularly examined questioned
documents in behalf of the Boston police, the Massachusetts

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State Police and various parties in both criminal and civil proceedings and has testified in connection therewith.

The report substantiates the allegations in the petition that Government Exhibit 16 is a photostat of a forged document.

Deponent has in his possession the tape recordings of pre-trial statements made by Harry Gold to his attorneys as well as the various other documents itemized in the affidavit of Walter and Miriam Schneir, sworn to the 19th day of August, 1966, and is prepared to submit those portions thereof as are relevant to the instant petition.


Marshall Perlin

Sworn to before me this
11th day of September, 1966.

Elizabeth McCarthy

HANDWRITING AND DOCUMENT EXPERT

40 COURT STREET
BOSTON 8, MASSACHUSETTS

TELEPHONE:
LAFAYETTE 3-2959
BANTON 7-5220

September 9, 1966

To:
Marshall Perlin, Esquire
36 West 44th Street
New York, New York 10036

R E P O R T

This reports on my detailed microscopic examination at the office of the United States Attorney in the United States District Courthouse, Foley Square, New York on September 7, 1966 of photostatic copies of two hotel registration cards of Hilton Hotel, Albuquerque, New Mexico, which are as follows:

1. Government's Exhibit 16, card No. 65841, dated 6/3/45, having a time date stamp of June 4 on its

reverse side, for Room 1001, bearing the handwriting:

"Harry Gold
6723 Kindred St., Phila. 24, Pa.
Terry & Siebert"

2. Card No. 78783 dated 9-19-45, for Room 521,
bearing in handwriting below:

"Harry Gold
5132 Bouden st. Philadelphia 24
A. (?) A. Laboratories, New York City"

F I N D I N G S

I

I find erasures in a number of places and
evidence of writing other than the present writing, which
has been eradicated, on both of these cards. These are
the following:

(1) Government Exhibit 16, Card No. 65841

(a) An erasure and the top of a letter
can be seen over the second r in Harry.

(b) Over and around the name of the street "Kindred" are markings which appear to be erased writing characters, and there is a very apparent small down-stroke at the baseline of writing where the small e ends and the connecting stroke swings over to the d.

(c) Over the next word on the same line "St" there are dots which appear to be parts of removed letters.

(d) On the third printed line above the printed word "OFFICE" is a very evident erased hieroglyphic which looks like a combination of capitals;- a group of initials--possibly beginning with an M, N or W and ending with a long curved down-stroke.

(e) An erasure smudge and underwriting appears under the "til" of the word until on the third last printed line, and the writing at this point is irregular. This often happens when the paper fibers and calendering are disturbed by an erasure and the area is subsequently overwritten.

(f) There are extra dots before the period after the letter p of p.M.

(g) There are signs of erased writing over the period which follows the letter M of p.M.

(h) Above the printed line at the lower right corner dots which may be parts of erased letters are found.

(2) Card No. 78783

(a) Below the printed word Hotel is a distinct smudge.

(b) Above the words Bouden (or Borden) st. to the right of the rubber stamp there is evidence of an erasure, and there are erased outlines which extend down below this line of writing into the space above the letters bor of Laboratories on the succeeding line.

(c) There is an extra stroke and what appears to be an apparent smudge under the t of Laboratories.

(d) There is an indentation or a groove after the number of the room (521) in the second printed block. This might be a long figure like a 1 or 2.

II

This reports on my comparison of writing of Mrs. Larry A. Hockinson, who was Anna Kinderknecht, on various standards submitted by you, with writing, initials and figures on the two Hilton Hotel registration cards. In this connection I have had writing of Mrs. Hockinson on: Photostat of marriage certificate No. 36773 Book 62, Page 36773 for records of County of Bernalillo, State of New Mexico, dated September 23, 1952;

Registered mail receipt No. 223927 dated 4/18/61;

Letter to Mrs. Walter Schnsir of April 20, 1961 and envelope addressed to her postmarked at Miami, Florida on April 21, 1961, 6:30 p.m.

Manila 6 $\frac{1}{2}$ x 9 $\frac{1}{2}$ envelope postmarked in Miami May 1, 3:30 p.m., year illegible, addressed to Mrs. Walter Schnsir;

Letter addressed to Mr. and Mrs. Walter Schmeir dated October 7, 1965 and envelope addressed to them postmarked at Miami, Florida 1A, October 7 1965.

OPINION:

A. It is my opinion that Mrs. Larry A. Hopkinson wrote none of the following figures and writing on Card No. 65841, Government's Exhibit 16:

"6-3-45 1001 150 day rate ak
until 8 p.m."

B. It is my further opinion that Mrs. Larry A. Hopkinson wrote the following line of figures and initials on Card No. 78783:

"9-19-45 521 5.00 ak"

III

I have previously reported on certain aspects of these two Hilton Hotel registration cards, namely, on June 21, 1961. My examinations then were made from much

dimmer, more poorly focused photostats than were the government photostats of those cards which I have had an opportunity to examine this week on September 7. This dimness may have been caused by the fact that the previous photostats were photostats of photostats whereas the present ones were made from the originals. Some of the phenomena I have mentioned above in these photostatic copies, of course, would be much more apparent if I could examine the original cards.

Respectfully submitted

Elizabeth McCarthy
Handwriting and Document Expert

em/cc

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

- against -

NO. 66 Civ. 1328

UNITED STATES OF AMERICA,

Respondent.

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

MALCOLM SHARP, being duly sworn, deposes and says:

I am Visiting Professor of Law at the University of New Mexico and of counsel for the petitioner Morton Sobell.

An affidavit in opposition to the present motion quotes from my book "Was Justice Done?" a passage which appears to indicate my satisfaction with the trial and conviction of Mr. and Mrs. Rosenberg and Mr. Sobell. A reading of the book will disclose that this paragraph represents a position which I took before becoming engaged in the case in June of 1953. It will show that my experience with the case, which is the principal subject of the book, resulted in critical dissatisfaction with the proceeding in the case, an opinion that a new trial should have been given Mr. and Mrs. Rosenberg as well as Mr. Sobell, and that justice in fact had not been done. Since the two weeks preceding the execution of Mr. and Mrs. Rosenberg, I have not been of counsel or otherwise a representative of any party to the case until the initiation of the present motion. Any failure on my part in the interval cannot therefore be charged to Mr. Sobell, nor to those who are actively representing him in the present motion. I have, however, during this interval been friendly to his position and to the efforts of his wife to secure his release whether by judicial action or by parole.

I early suggested that my criticism of the case against Mr. and Mrs. Rosenberg made it undesirable that I should be associated in litigation as a representative of Mr. Sobell, since in addition to the weaknesses in the case against Mr. and Mrs. Rosenberg, there are shocking weaknesses in the case against him considered by itself. My advice was taken. It is only the circumstances of this motion, which inevitably raises again issues

about the case against Mr. and Mrs. Rosenberg that lead me to appear again among those associated with the defense. Since 1953 and indeed since the publication of my book in 1956, my dissatisfaction with the prosecution of these defendants has been increased by the discoveries made by counsel for the petitioner, which have been the basis of a number of motions, and the treatment of these motions in the courts, including denials of certiorari by The Supreme Court. The recent discoveries by Mr. and Mrs. Schneir, made in the face of serious obstacles, seem to me to reduce the case against Mr. Sobell to a shambles.

Since the affidavit of the United States Attorney appears to have attempted to put my views in issue, I shall state them briefly here.

The original trial was held at a time when passions were aroused, in ways we find it hard to remember, by the activities of Senator McCarthy and by the fears and hostilities incidental to the Korean War. The execution of Mr. and Mrs. Rosenberg took place shortly before the end of the Korean War and about a year before the beginning of the decline in the influence of Senator McCarthy and his associate, Mr. Roy Cohn, the second most important of the United States attorneys engaged in the prosecution of this case. The senior prosecutor was Mr. Irving Saypol, now a judge, who as Mr. Cohn's mentor and on his own account may be regarded as a precursor of Senator McCarthy's vogue.

The witnesses on whom the convictions concededly depend were all accomplices whose testimony was not corroborated by the standards applied in the courts in the state of New York, and whose testimony would not have been admissible in those courts. Their characters were bizarre, particularly the character of Mr. Harry Gold, whose peculiarities had already appeared in another case prosecuted by Mr. Saypol before Judge Kaufman. The principal witnesses were given extended opportunities to plan and correlate their testimony in conferences with one another, and they were not sentenced before they gave their testimony, as is the practice, for example in England, in dealing with accomplice witnesses.* One important witness, Mrs. Greenglass, was not punished at all nor indeed prosecuted. Another witness, Elitcher, whose connection with the conspiracy alleged was on any view less important but on whose testimony the conviction and 30-year sentence of the petitioner

*Gold had already been sentenced for another crime.

depend, was not prosecuted either for his part in the conspiracy or for conceded perjury; against which limitations had not run when he was first taken into custody, or the fraud on the Government against which limitations had not run even at the time of the trial. In addition to the motives, personal characteristics, and opportunities which made it likely that perjury and false testimony would occur, it was evidence that false testimony had in fact been given which first led me to make the public comment that led Emanuel Bloch, counsel for Mr. and Mrs. Rosenberg, to request my participation in the final stages of the case.

Mr. Bloch had already made a motion which, among other things, read in the light of the Sheppard case, indicated that the effect of newspaper publicity, some of it encouraged by the Government, which attended the trial of the case was such as to destroy the possibility of due process by standards currently applicable. It is true that the newspaper publicity in this case was not in itself as readily controllable as that in a murder case, in view of the inevitable public concern over the issues raised here; but there would surely have been required, by present standards, a special effort to correct the impressions inevitably created on the jury by newspaper statements, many of them made or inspired by the Government.

My own engagement in the case came at a later point. It came at a time when our primary dependence was on a motion for a new trial, as well as on a motion under Section 2255 of the Judicial Code, both depending on the appearance of perjury as result of newly discovered evidence, and--in the case of the motion under Section 2255 of the Judicial Code--the prosecution's knowing use of the perjured testimony. Contrary to the impression created by the affidavit of the United States Attorney, my book is principally concerned with my dissatisfaction over the disposition of our motions and so over the conduct of the trial in the first instance.

Moreover, the absence of my name from judicial records in the case since 1953 was in fact accompanied by admiration for the efforts of counsel representing Mr. Sobell and increasing dissatisfaction with the treatment of the case in the courts and by the pardon and parole authorities.

One motion, and investigations on which it was based, established a strong case for the view that the petitioner was not legally

deported from Mexico, before his prosecution, but was illegally kidnapped by unauthorized persons acting under the direction of United States attorneys. The situation was distinguishable from those with which the Court had previously dealt, in that the misconduct appeared to be not simply that of private persons or of state officials, but of officers of the United States courts, and the due process question raised was a critical one. Moreover, the perjured statement by a witness for the prosecution that there was a deportation was on the record known to the prosecutors to be perjured, and was prejudicial in enhancing the impression of wrong doing on the part of the petitioner. He has since sworn that he was ready to return freely, without taking advantage of the absence of means of legal extradition. The motion was denied and The Supreme Court inexplicably denied certiorari. The Government by refined procedural argument avoided facing the factual issues of the case.

Again, a motion to establish the illegality of the sentence and to review the convictions, both based on new doctrine established by the Supreme Court, was denied and certiorari in turn denied by the Supreme Court. The objection to the sentence was recognized in effect as unanswerable but narrow procedural grounds, technical in the pejorative sense of the word, were relied on in disposing of the motion. More important for present purposes, it was recognized that the application of what was the established but since outmoded law of the Fifth Amendment at the time of the trial permitted the cross examination of Mrs. Rosenberg at the trial on her claim of privilege before the grand jury. The issue raised by the somewhat ambiguous new doctrine applicable to self incrimination was indeed a somewhat puzzling one, and the learned Judge discussed it thoughtfully. It seems clear, however, that the law as it now stands would have prohibited the use of Mrs. Rosenberg's claim of privilege to help convict her and her husband, and Mr. Sobell as well.

An unrecognized and only half expressed factor in the learned Judge's opinion appears in his one reference to the troublesome condition of the evidence in the trial record. "Even under all the elaborate safeguards with which this country properly surrounds those charged with crime, it [the point on appeal] would have led only to a new trial, in which it seems unlikely that the result as to any of the defendants would have differed." 314 F.2d at pp. 324-325 (Second Circuit 1963). The Court appears

to have forgotten for the moment that the late Judge Jerome Frank, the Judge of the Court to whom the appeal from the original conviction was assigned, dissented from the judgment against Mr. Sobell, and thought him entitled to a new trial. Since Judge Frank wrote the opinion for the Court sustaining the affirmance of the judgment against Mr. and Mrs. Rosenberg and the petitioner, it is easy to overlook his sharp but brief treatment of the case against the petitioner. Moreover, it is strongly suggested that if a Judge or a prosecutor reads no other part of the record, he should read print pp. 245-248, which deal with the most nearly specific evidence of concrete action in furtherance of the alleged conspiracy introduced against the petitioner. Again, a reader of my book will observe that this evidence of this episode is dismissed as without point. Another episode often referred to, the episode of the supposed film can containing undescribed film, is more fully treated in my book.

I have discussed these episodes together with other aspects of the case in communications to the Department of Justice and particularly in letters to the Board of Parole which are readily available. I have further published comments on the case in the course of a book review essay in 28 University of Chicago Law Review 399 (1961), pages 401, 403-404, 411, 413-414 and in a review of the recent book by Mr. and Mrs. Schneir in The Progressive for January 1966 at page 40.

It will be seen that the characterization of my position in the affidavit of the United States Attorney is misleading and confused. Since I first began to give the case attention beyond that given by one with a general interest in such a public case, I have been critical of its treatment and actively interested in correcting its consequences, whether by judicial action or by pardon or parole.

For some years people interested in the case have been aware that Mr. and Mrs. Schneirs' book was in course of preparation. It was hoped that their opportunity for extended research and the backing of Doubleday and Company, a publisher of standing, would enable them to cast further significant light on the case. They have now done so.

They have established to my satisfaction that there is no credible evidence that any such meeting as that supposed to have taken place in Albuquerque between Harry Gold and Mr. and Mrs. Greenglass ever did in fact

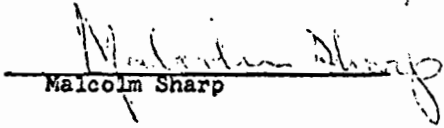
take place. Their report on the Hilton registration card goes a long way in demolishing this necessary element of the prosecution's case so far as it is based on the lens mold drawings. The flimsy quality of the drawings themselves appears now more clearly than before as a serious objection to the Government's theory of this meeting. It may be inferred from what is known of the story, that the information given by Dr. Fuchs not only included scientific data which David Greenglass was incapable of transmitting, it must have included also more than enough to make these Greenglass sketches superfluous. It is hard to suppose that even partly rational spies would on their account have incurred the trouble and still more the hazard of adding the stop at Albuquerque to Gold's trip to Santa Fe as a step in the transmission of the Fuchs material.

Furthermore, as the result of vigorous and hard fought efforts on the part of defense counsel in the present motion, it has become possible to consider the significance of the sketch of "the bomb itself" which Greenglass is supposed to have given to Mr. Rosenberg in September of 1945. The Government's witness Colonel Derry misstated his own qualifications and gave completely misleading testimony about the characteristics of the sketch. His motives were doubtless good, but perjury--like theft--may be committed for good and even patriotic motives, and it is nonetheless perjury on that account. Moreover, the course of Mr. Saypol's examination of Colonel Derry indicates that Mr. Saypol realized that the witness had gotten beyond himself, and he and Judge Kaufman appear to have done their best to introduce some corrections. They did not, however, lead the witness to make his own correction. Their witness list shows that the United States attorneys understood the differences between qualified atomic scientists who were on the list but, except for Mr. Koski on the lenses, not called and such an engineer as Colonel Derry. The emotional effect which the testimony produced is shown by Mr. Saypol's somewhat hysterical treatment of the evidence in his summation and by Judge Kaufman's treatment of the episode on the sentencing. It cannot be doubted that the testimony is likely to have had a great emotional effect on the jury.

Moreover, the affidavits of Mr. Linschitz and Mr. Morrison in support of the present motion raise a question whether the evidence on this episode describes an offense under the Espionage Act. Science fiction is presumably

not within the Act, nor can an attempt to transmit science fiction constitute part of a "conspiracy."

Contrary to the impression created by the affidavit of the United States Attorney, my personal opinion of this case, if it is relevant, is that the Government's case has become with successive motions increasingly incredible. The Government has implied that it has evidence which it has not used, and persons interested in parole have asked that this evidence be submitted for their scrutiny. So far the Government has evaded facing the factual issues raised by critics of the case. If it has in fact evidence of any consequence, a new trial will be the opportunity for the Government to produce it.


Malcolm Sharp

Sworn to before me this

18th day of September, 1966.

William R. K. H.
Notary Public State of N.Y.

My Commission Expires 3-30-68

Qualified in broken N. entry.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

I, HAROLD CLAYTON UREY, being duly sworn, depose and say:

I reside at 7890 Torrey Lane, La Jolla, California.

I am professor of chemistry at large of the University of California.

My educational background, degrees and experience follows: --

Public schools of DeKalb Co., Indiana, High School graduate of Kendallville, Indiana 1911; B. S. Chemistry, State University of Montana 1917; Ph.D. Chemistry, University of California, Berkeley 1923; Institute for Theoretical Physics, Copenhagen 1923-1924; Academic positions at University of Montana, Johns Hopkins University, Columbia University, University of Chicago, University of California. I have received many honors including medals, honorary degrees, memberships in many Scientific Academies and the Nobel Prize in Chemistry for 1934.

During the war I was director of the SAM laboratories Columbia University, charged with separating the isotopes of uranium, hydrogen, and boron for use in the atomic bomb and other phases of the atomic bomb. I have an extensive knowledge of many phases of the problems involved in preparing materials for the bomb and an intimate experience in the whole project even though I had no direct detailed knowledge or experience in the actual construction of the bomb itself.

I have read the statements of Henry Linschitz and Philip Morrison in regard to the diagram and statements of David Greenglass and find these statements to be reasonable and convincing to me. Their statements in regard to the great complexity of the problems are certainly correct. The value of the Greenglass sketch and statement, if they were transmitted to the Soviet scientists and engineers, would be of very minor importance. I do not approve of transmitting

H. Urey

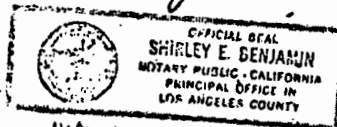
any classified information to unauthorized persons but the severity of the sentences on the Rosenbergs and Sobell were justified on the basis of the value of the information allegedly transferred. I believe that the statements in regard to the value of this information made by Linschitz and Morrison are eminently reasonable and convincing. I believe that my experience with the problems involved in the construction of the bomb enable me to make a valid judgement in this matter.

I have been concerned with the trial and conviction of the Rosenbergs and Sobell because of my concern for the integrity of justice as administered by our courts in the United States of America. In many ways the evidence presented in this trial failed to be fair and convincing to me when I first read the transcript of the trial record and this remains as my conclusion today.

Harold C. Urey
HAROLD C. UREY

Sworn to before me, this
9th day of September, 1966.

Shirley E. Benjamin
Notary Public



My Commission Expires April 26, 1970

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

66 Civ. 1328

AFFIDAVIT

STATE OF NEW YORK

COUNTY OF NEW YORK

} ss.:

WALTER SCHNEIR, being duly sworn, deposes and says:

I am the co-author, with Miriam Schneir, of a 467-page study of the Rosenberg-Sobell case entitled Invitation to an Inquest, published by Doubleday and Company in August, 1965. I have also written for various national publications on atomic energy subjects. One of the many questions to which we sought answers during our five years of research for Invitation to an Inquest concerned the accuracy and importance of the atomic energy data allegedly passed by David Greenglass to Harry Gold and Julius and Ethel Rosenberg. Our research efforts in this direction included the following:

Deponent requested from assistant U. S. Attorney Edward R. Cunniffe, in whose office in the Federal Court House of the Southern District of New York the Rosenberg-Sobell case exhibits were kept in locked files, copies of prosecution exhibits 2, 6 and 7 -- replicas drawn by David Greenglass of the sketches he allegedly had transmitted. (Mr. Cunniffe had previously informed deponent that, since exhibit 8 was impounded,

it was definitely not publicly available.) Mr. Cunniffe stated that he could not, on his own authority, supply copies of exhibits 2, 6 and 7 but would refer the matter to the Department of Justice in Washington. Over a month later, after a long series of follow-up telephone calls to Mr. Cunniffe and a Mr. James Waldon of the Department of Justice in Washington, copies of exhibits 2, 6 and 7 were made available to deponent.

Deponent then sent copies of these sketches, not including Exhibit 8, together with the related testimony of David Greenglass, inter alia, to J. Robert Oppenheimer and George B. Kistiakowski. We submitted to each of these scientists a series of questions aimed at eliciting "a reasoned view of the probable importance to the Russians of the material allegedly transmitted by David Greenglass." Dr. Oppenheimer replied (on December 4, 1961): "I do not know the answers to the questions that you put." Dr. Kistiakowski, who at Los Alamos had headed the Explosives Division where David Greenglass was employed, replied (September 26, 1961): "On looking these questions over, I feel that I cannot give you a well reasoned and honest answer without revealing classified information to a sufficient extent to get myself into difficulties. I have, therefore, definitely decided not to do so." Dr. Kistiakowski suggested that we try to find scientists "whose clearance is such that they could comment more usefully than I."

Copies of the sketches were sent also to Mr. Edward A. Connolly of the Public Relations Department, Los Alamos Scientific Laboratory, Los Alamos, New Mexico. Mr. Connolly had previously offered to try to obtain answers to our questions from scientists at the Laboratory. We requested that,

if possible, the material be evaluated by scientists who had worked during the war at Los Alamos in Dr. Kistiakowski's Explosives Division. Mr. Connolly replied (on October 9, 1961): "I am sorry to say I can find no one here who wishes to comment on the material you submitted. The feeling is that whatever remarks were made by experts during the trial represents the extent to which the AEC chooses to discuss the matter."

2. Deponent's lengthy search of the available atomic energy literature disclosed that at the time of the Rosenberg-Sobell trial and for nearly 11 years thereafter, no authoritative technical information (other than that testified to at the trial) had been made public regarding the details of the components or design of the 1945 implosion bomb. In December, 1961 a two-volume technical history of the wartime and early post-war work at Los Alamos was declassified and became publicly available for the first time through the Office of Technical Services, U. S. Department of Commerce. The following year, 1962, a detailed account of the background and development of the entire Manhattan Project was published (The New World, 1939/1946. Vol. 1 of a History of the United States Atomic Energy Commission) by two authors -- one an official AEC historian -- who had been afforded broad access to the files of the wartime Manhattan Project and of the Atomic Energy Commission. These works discussed in great detail the 1945 implosion bomb. Not until the publication of these works was it possible for any researcher -- without access to classified data -- to form a reasoned judgment regarding the Greenglass sketches and testimony and to assess them in terms of the total picture of Los Alamos and the entire Manhattan Project.

3. Deponent wrote (on April 14, 1962) to Robert M. Morgenthau, United States Attorney for the Southern District of New York, requesting a copy of Exhibit 8 and the related sealed testimony kept in the vault in Room 602. Deponent wrote (on June 7, 1962) to Judge Irving R. Kaufman, recalling in some detail the circumstances of the impounding at the request of defense counsel and requesting a copy of Exhibit 8 and the sealed testimony. By separate letter on that date, we informed Attorney General Robert F. Kennedy of our request and asked for his support. Judge Kaufman replied (on June 15, 1962) as follows: "I have your letter of June 7, 1962, requesting that I set aside the impounding order entered in U. S. v. Rosenberg et al. I have had occasion previously to consider a similar request by another writer who is in the process of writing a book of this case. I have denied a request from that writer for the setting aside of the impounding order. The matter was gone into extensively at that time and it was considered to be in the best interest of the country that the order stand.

"I have reviewed this situation upon your request and adhere to the same view."

4. In an effort to clarify for ourselves Mr. Derry's view regarding Government Exhibit 8, as well as his status as an expert, deponent interviewed Mr. Derry on December 13, 1961 at the Atomic Energy Commission Building in Washington. Mr. Derry, an electrical engineer, was at the time employed as the Director of the Division of Construction and Supply of the AEC.

Mr. Derry stated that he was unaware of how he had

been chosen to testify, but assumed that the choice had been made by the prosecution. He said that there were plenty of people at Los Alamos who knew much more than he did. He stated that he was not a scientist, but a construction man, and didn't know much physics.

WALTER SCHNEIR

Sworn to before me this

9 day of September, 1966.

William H. Kuntz

Notary Public State of N.Y.

Qualified in Westchester County
My Commission Expires 3/30/68

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,
Petitioner,

-v-

UNITED STATES OF AMERICA,
Respondent.

AFFIDAVITS

Marshall Perlin

~~PERLIN & PERLIN~~

ATTORNEYS FOR Petitioner

36 WEST 44TH STREET

BOROUGH OF MANHATTAN

NEW YORK, N. Y. 10036

MO 1-1886

FBI

Date: 10/3/66

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

TO : DIRECTOR, FBI (101-2483)
 ATTN: FBI LABORATORY
 FROM : SAC, BOSTON (100-27290) (RUC)
 SUBJECT: MORTON SOBELL
 ESP - R

OO: New York

Re New York airtel 9/14/66.

Files of the Boston Office reveal the following information pertaining to ELIZABETH MC CARTHY, which are in the possession of New York:

1. New York letter to the Director, 2/5/52, captioned, "JAHAM", NY 65-14920, one copy designated for the USA, SDNY, sets forth background data concerning MC CARTHY, (Boston file 65-3251-541).

2. New York's attention is directed to the case captioned, "WALTER D. SCHNEIR, MISC. INFORMATION CONCERNING (ESPIONAGE)", NY 100-135206. Letter to the Director dated 6/14/61 advised that in the JOHAM case, Bufile 74-1333, NY 65-14920, information concerning ELIZABETH MC CARTHY is set forth. In the motion of ALGER HISS for a new trial, an affidavit by ELIZABETH MC CARTHY indicated a comparison of typewriting between the old HISS Woodstock machine and the typewriter manufactured by MARTIN K. TYTELL. Boston conducted a discreet background investigation of MC CARTHY and results are set forth in the reports of SA ROBERT TONIS dated 2/20/52 at Boston and SA THOMAS F.

4 - Bureau (ENCLOSURE) (Encls. 2)
 (1 - FBI Lab.) (Encls. 2) EX-104
 2 - New York (100-37158) (RM) (AM) (Encls. 2)
 1 - Boston
 RHB:grs
 (7)

OCT 4 1966

Approved: _____

Sent _____ M

62 OCT 11 1966

Special Agent in Charge

ATTACHMENT

SEVEN
SOVIET SECTION

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 5-4-87 BY 3042/PLO/CL5

80-98-324-
 unclassified

BS 100-27290

RHB:grs

SULLIVAN at Boston 2/29/52 (Boston file 105-6944-1). These reports are in possession of the New York Office.

Another reference, report of SA(A) EDWARD J. CAHILL captioned, "NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE" (NCSJRC) dated 8/8/53, at New York, revealed a check drawn by the NCSJRC on 5/5/57 was \$500 to ELIZABETH MC CARTHY for handwriting analysis (GREENGLASS document). (Boston file 100-27290-497).

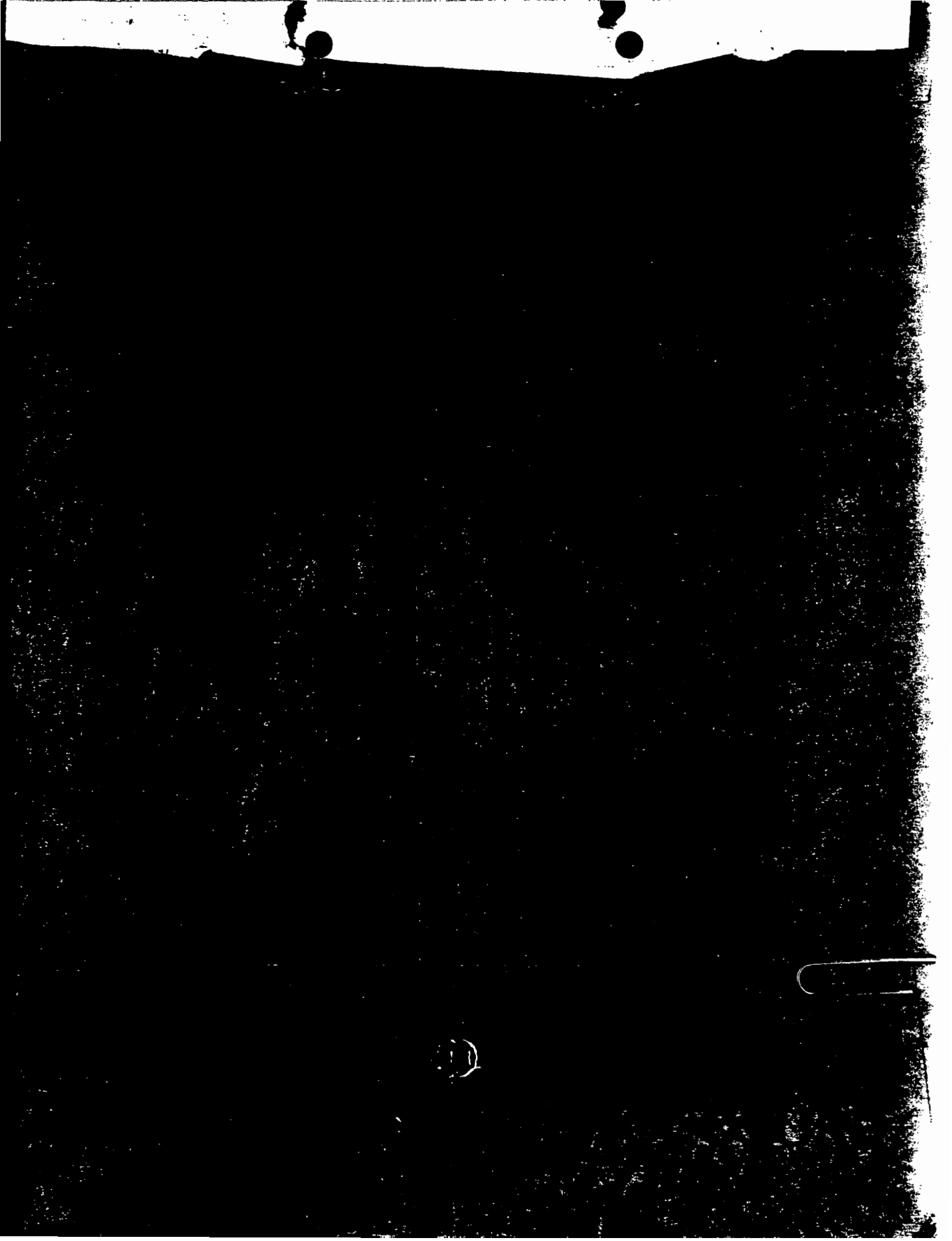
The "Daily Worker" on 5/29/53, page 2, carried an article captioned "The New Evidence in the Rosenberg Case" wherein it was stated in part as follows:

"The documents received by the NCSJRC arrived from the French Rosenberg Committee in the form of photo-stats. The first document consists of three pages written in Greenglass' own handwriting. The three pages were later authenticated by a foremost handwriting expert, Mrs. Elizabeth McCarthy of Boston, Mass. The document is dated 'Sat. June, 1950'. It purports to be a statement of recapitulation of what David Greenglass told the F.B.I..."

Enclosed for the Bureau, FBI Laboratory and the New York Office are the following:

1. Boston letter to Director, 8/28/37
2. Bureau letter to Boston, 5/11/36

It should be noted the above were dated in 1936 and 1937 and no sources are contained in Boston letter to Director, 8/28/37.



FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

May 11, 1936

80-94

Special Agent in Charge,
Boston, Massachusetts.

Dear Sir ;

The Bureau is desirous of obtaining as much information as possible, both favorable and unfavorable, concerning individuals who purport to be experts in the various fields of scientific crime detection and who undertake to give expert testimony on subjects of this nature before the courts. This will, of course, include both those who are members of authorized law enforcement agencies and those who practice these sciences on the outside, either commercially or occasionally. Accordingly, your office is instructed to conduct a discreet investigation with a view to determining the credibility and ability of such individuals within your district. As of assistance to your office in this undertaking, there is transmitted herewith a list made up from the indices of the Bureau containing the names of those who according to the Bureau's records engage in this work to a greater or lesser extent within your district. Much of the data furnished you in this list consist of information reported to the Bureau by its field offices as the result of a survey conducted on this subject matter about five years ago. Information is, of course, desired on others who engage in this work and who may not be included on the list submitted.

Reports should be made on these investigations in letter form to the Bureau and a separate letter should be submitted on each individual concerned, except, that if the information on several individuals is scant, more than one may be included in one letter, provided an extra carbon copy of the letter for each additional expert included therein is furnished for the Bureau's files. The information reported should include, where possible, data concerning any case in which the expert appeared, the outcome of which was inconsistent with the testimony of the witness and which for this reason might tend to indicate his unreliability.

Very truly yours,

/s/ J. E. Hoover

John Edgar Hoover,
Director.

COPY

80-70-2

FEDERAL BUREAU OF INVESTIGATION U. S. DEPARTMENT OF JUSTICE
MAY 13 1936
BOSTON OFFICE
<i>Imo</i> <i>h</i>

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-4-87 BY 3042 RWT/CLS

MISS ELIZABETH MCCARTHY, FORTY COURT STREET, BOSTON, MASSACHUSETTS

QUESTIONED DOCUMENTS

*Smith, Auto P.D.
Infile office*

80-20-1	
FEDERAL BUREAU OF INVESTIGATION U.S. DEPARTMENT OF JUSTICE	
MAY 13 1936	
BOSTON OFFICE	FILE

Post Office Box #2344
Boston, Massachusetts
August 28, 1937

Director,
Federal Bureau of Investigation,
Washington, D. C.

Re: MISS ELIZABETH MCCARTHY
40 Court Street, Boston, Mass.
QUESTIONED DOCUMENTS.
Bureau File #80-94

Dear Sir:

Reference is made to the Bureau letter dated May 11, 1936, concerning the individual named above.

Investigation conducted by this office reveals that Miss McCarthy is an Attorney-at-Law and has been a member of the local bar since October 9, 1923. Miss McCarthy is reputed to be a handwriting expert, and is known to have frequently testified in such capacity, but her reputation as such is not good. No records are available in the local courts concerning any type of "expert" witnesses, but it is generally believed that Miss McCarthy will testify as an expert in any manner that is desired.

It has been determined that Miss McCarthy's training as a handwriting expert was gained while she was employed years ago in the office of one HINGSTON, who enjoyed a fine reputation as a handwriting examiner. According to reports, Miss McCarthy does not employ any equipment to assist in her handwriting examinations other than a cheap microscope. She is not known to prepare charts, photographic enlargements, or other means of comparing various writings.

Miss McCarthy, as an attorney, is favorably known in her profession. Her credit rating is good and she associates with a good class of people. Her income is reported to be approximately \$2,000 to \$2,500 per year.

It has been discovered that in the recent disbarment proceedings against John J. Brennan, a local attorney in the

Close
H 80-20-2

Suffolk County, Massachusetts, Superior Court, Miss McCarthy testified as a handwriting expert in behalf of the defendant.

The outcome of that case was inconsistent with the testimony of this expert.

Very truly yours,

E. A. SOUCY
Special Agent in Charge

OFF:LMC
80-20

FBI

Date: 9/28/66

Transmit the following in _____
(Type in plaintext or code)Via **AIRTEL**

(Priority)

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/4/87 BY 3042/PLJ/CL

516704

ReNYairtel, 9/14/66; NYtel, 9/15/66, and Buairtel,
9/20/66.

Enclosed herewith for the FBI Laboratory is one Photostat each of the 6/3/45 and 9/19/45 Hilton Hotel registration cards for HARRY GOLD which were obtained from the files of the USA, SDNY. Also enclosed for the benefit of the Laboratory is one copy of an affidavit of defense attorney MARSHALL PERLIN, dated 9/11/66, which contains a copy of the report of handwriting and document expert ELIZABETH MC CARTHY, who examined the enclosed Photostats on 9/7/66.

The matter concerning the above-mentioned registration cards has been discussed with AUSA ROBERT L. KING and he has advised that since the defense has raised a question as to the authenticity of the above-mentioned registration cards, and since the court may request an evidentiary hearing on this point, he originally desired that the Bureau conduct certain investigation regarding the cards. (This was set forth in NYairtel, 9/14/66.) KING stated that since the former hotel clerk, Mrs. ANNA HOCKINSON, has been contacted by the defense

- 4 - BUREAU (RM)
(1 - FBI Laboratory) (Encl. 3)
1 - ALBUQUERQUE (65-50) (Info) (RM)
1 - NEW YORK

REC-28

101-2483-1672

10-18

1 SEP 29 1966

EX-104

PFD:mfd (#331)
(8)

ENCLOSURE

C. G. Yack

Approved: *m/gib*

Special Agent in Charge

Sent

M. Per

SEVEN
SOVIET
SECTION

let to Mr. D. Walter Yeagley 10/14/66
Encl. 2

1 - NY
3042: PLJ

NY 100-37158

the Department feels that any interview with her or the obtaining of her handwriting samples should be held in abeyance until such time as it may be necessary in connection with an evidentiary hearing (NY teletype 9/15/66).

KING advised that in indicating that full investigation regarding cards should be held in abeyance, he meant specifically the interview of Mrs. HOCKINSON and the obtaining of handwriting specimens from her or from other individuals formerly employed by the hotel. KING stated he did not mean to infer that the Bureau should not conduct other investigation deemed advisable in an effort to establish procedures of the hotel or in attempting to establish the disposition of the original cards.

KING requested that the enclosed Photostats be re-submitted to the FBI Laboratory for examination at this time. He stated that although handwriting samples are not now available from the hotel clerk or clerks who apparently prepared the cards, he would like the Laboratory to examine the cards at this time and if possible comment on the following:

1. Could the writing of numerals and initials on the last line of the 6/3 and 9/19 cards have been prepared by the same person?

2. Are there indications in this writing that it was prepared by different individuals?

3. Is it possible from examination of a Photostat to determine if there had been erasures or eradicated figures on the original document?

4. Do the initials of the clerk on the 6/3 card appear to be those of "ak", or do they appear to be the initials of another person. (In this regard it is noted that the defense attorneys of subject have assumed that these are purported to be the initials of "ak", and that these initials and the other writing on this card was forged by the FBI in an effort to copy the writing of clerk "ak" from the 9/19/45 card. Albuquerque teletype, dated 9/21/66, in captioned matter, reflects that office has located an individual by the name of AGNES HULEN, who was also employed as a Room Registration Clerk at the hotel in June, 1945. This would suggest the possibility of the 6/3 card having been prepared by AGNES HULEN rather than by ANNA KINDERKNECHT.)

NY 100-37158

5. Any other comments the Laboratory may be able to make concerning the Photostats themselves or the report of ELIZABETH MC CARTHY concerning her examination of these cards which would assist the USA in refuting the allegation by the defense that the 6/3/45 card was forged by the government.

KING stated he realized that the Laboratory would not at this time be able to identify the handwriting on these cards. If it should become necessary, this would be requested later following the obtaining of necessary handwriting samples.

For the possible assistance of the Laboratory, a review of NYO files reflects the following in relation to the above cards:

No previous investigation was conducted by the Bureau regarding the cards themselves. The original of these cards were obtained in 1950 and submitted to the FBI Laboratory solely for the purpose of comparing the handwriting of HARRY GOLD appearing on the cards with known samples of GOLD's handwriting. The original of the 9/19/45 card was submitted to the Lab by Albuquerque letter of 5/24/50, and was the subject of FBI Lab report 5/26/50, entitled, "HARRY GOLD." The original of the 6/3/45 card was submitted to the Lab by Albuquerque letter of 6/7/50. Laboratory report dated 6/12/50, relative to the latter, indicated that photographs of the card were being retained by the Laboratory. In the event such photographs of the original cards are still in the possession of the Laboratory, these may be of great assistance in connection with the present examination since the original of both cards has been destroyed.

NY files also reflect that the original of the 6/3/45 card was prepared in pencil. The writing instrument used to prepare the 9/19/45 card is not known to the NYO. It would appear that the known samples (from their description) utilized by the defense handwriting expert, ELIZABETH MC CARTHY, of the hotel clerk ANNA KINDERKNECHT's handwriting were written in pen and ink. The Laboratory may therefore desire to comment on whether it is possible to compare a pencil written Photostat with original pen and ink writing.

NY 100-37158

The enclosed cards must eventually be returned to the USA, SDNY, as they are part of the trial exhibit file. It is requested, however, that the Laboratory retain these cards until a determination regarding them is made by the Court inasmuch as it may be necessary in the near future to submit handwriting samples in an effort to identify the writing thereon.

*not necessary
photos are better
than photos
Jee
9/30*

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

October 7, 1966

1 - Mr. Lee

MORTON SOBELL
ESPIONAGE - RUSSIA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-4-87 BY 3042/ELT/C/S

Reference is made to our letter dated September 26, 1966.

In connection with the question concerning the handwriting on the registration cards for the Hilton Hotel, Albuquerque, New Mexico, in the name of Harry Gold for June 3, 1945, and September 19, 1945, the FBI Laboratory has conducted an examination of photographs of the original cards with the following results.

It is not possible to state that the last lines of the handwriting on these two cards were made by the same person or by different persons since there is not a sufficient number of comparable letters and letter combinations present to permit an adequate handwriting comparison. The handwriting on the last line of the September 19, 1945, registration card shows that a rather formal style of writing was executed whereas the handwriting on the last line of the June 3, 1945, registration card shows a more careless or rapid style of writing.

It may be possible to detect erasures, alterations, or eradications on an original document from an examination of a photostat of the document if the erasures, alterations, or eradications were very poorly done causing dark smudges or if fragments of the original writing were still visible and would therefore be reproduced in the photostat.

The initials of the clerk on the June 3, 1945, card appear to be "aK." To read these initials as "aH" or "ah" would require an unusual manner of writing the "H" or "h."

The Laboratory has good clear photographs of the original registration cards and these were used in reviewing the report of Elizabeth McCarthy contained in the affidavit of Marshall Perlin dated September 11, 1966. Many of the

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

REC-2101-2483-1672

JPL:sal
(5)

1 - New York (100-37158)

SEE NOTE PAGE TWO

MAIL ROOM TELETYPE UNIT

REC'D-READING ROOM

11 30 AM '66

Mr. J. Walter Yeagley

characteristics referred to by her do not appear in the Laboratory photographs. The things she makes reference to are, for the most part, the normal markings of a document which has been handled extensively, and the markings that do not appear in the Laboratory photographs are probably due to dirty photostat equipment or processing defects.

Set forth below are comments of the FBI Laboratory pertaining to the various "findings" listed in the McCarthy report. The same reference numbers are used.

Items 1a, 1b, and 1d appear to be a piece of lint or fiber not showing in the Laboratory photograph.

Item 1c appears in the Laboratory photograph and appears to be dirt or a piece of foreign substance imbedded in the paper. This is also true of Item 1g.

Item 1e appears to be a slight smudge on the original card.

Item 1f appears to be a pen drag or ink smear on the original card.

Item 1h is not in the Laboratory photograph and may be dirt on the photostat equipment.

Item 2a appears to be water spots or areas of incomplete development and is not on the Laboratory photograph.

Item 2b appears to be a rubber stamp drag mark and is on the Laboratory photograph.

Item 2c is on the Laboratory photograph and appears to be an ink smear or ink transfer.

Item 2d is not on the Laboratory photograph and appears to be a processing smear.

None of the characteristics described by Elizabeth McCarthy which appear in the Laboratory photographs could be interpreted as erasures, alterations, or eradications. It should be pointed out that an alteration or eradication, if done well enough, might not show in a good photograph and certainly would not show in a photostat.

Mr. J. Walter Yeagley

The body and last line of the writing on the September 19, 1945, registration card are written in ink. The body of the June 3, 1945, registration card is written in ink and the last line was written in pencil. It is normally possible to compare a photostat of pencil writing with original known writing in ink.

For your information, there are attached a photograph of the June 3, 1945, and a photograph of the September 19, 1945, registration cards referred to above.

Enclosures - 2

NOTE: Elizabeth McCarthy is a handwriting examiner retained by the defense in this case and she has examined photostats of the registration cards of Harry Gold and has suggested strongly that the June 3, 1945, card is a forgery prepared to buttress the testimony of Harry Gold that he met David Greenglass in Albuquerque, New Mexico, on June 3, 1945.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan

DATE: 9/28/66

FROM : W. A. Branigan

SUBJECT: MORTON SOBELL
ESPIONAGE - RUSSIA

1 - Mr. DeLoach
1 - Mr. Conrad
1 - Mr. Wick
1 - Mr. W. C. Sullivan
1 - Mr. W. A. Branigan
1 - Mr. James P. Lee

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

photograph This memorandum recommends that the Laboratory examine photostats of the hotel registration cards of Harry Gold at the Hilton Hotel, Albuquerque, New Mexico, for June 3 and September 19, 1945, to determine if the initials of the clerk on the cards appear to be the same.

BACKGROUND:

Morton Sobell is serving a 30-year sentence as a result of his 1951 conviction of espionage conspiracy along with Julius and Ethel Rosenberg. His sixth motion to set aside his conviction is currently under consideration. In this motion he charges, among other things, that the Government knowingly used forged documents to convict him.

The defense claims that the hotel registration card for the Hilton Hotel, Albuquerque, dated June 3, 1945, for Harry Gold was forged by the FBI. This is based primarily on the fact that the face of the card has a handwritten date of June 3, 1945, and the reverse side has a time stamp of June 4, 1945. When we first obtained this card in 1950 this discrepancy was noted and the hotel manager said all cards for June 3 had a time stamp of June 4 due to an error in the operation of the machine. A photostat of this card was introduced into evidence and the original was returned to the hotel and destroyed.

Gold also stayed at this hotel on September 19, 1945. The defense has retained Elizabeth McCarthy as a handwriting expert. She is the same person who appeared as a defense witness in the Alger Hiss case. She has compared photostats of both cards and stated that the initials of the clerk "A. K." do not appear to have been written by the same person which is then cited to support the defense's allegation of forgery.

101-2483

Enclosures - 2 (Photographs)

JPL:sal
(7)

66 OCT 24 1966

OCT 13 1966

CONTINUED - OVER

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

NEW MEXICO

New York has raised the possibility that one of the cards was initialed by Anna Kinderknecht and the other by Agnes Hulen, another room clerk. This might account for the fact that the initials for the clerk on both cards appear to be different. Paul Vincent, Departmental Attorney, on September 27, 1966, made telephonic request of Special Agent James P. Lee, Soviet Section, that these cards be compared by the Laboratory in order to determine if both sets of initials appear to be "A. K." or if one could possibly be "A. H." Both the United States Attorney, Southern District of New York, and Departmental Attorney Vincent have specifically requested that the clerk, Anna Kinderknecht, not be interviewed at this time since the defense has already spoken with her and has indicated that she will be called as a witness in the event a hearing is ordered. United States Attorney has advised that he will further discuss with the Department possibilities of interviewing the clerk.

ACTION:

It is recommended that the FBI Laboratory examine the attached photostats of these hotel registration cards in order to determine if it is possible that the initials of the clerk are different.

Law *Jo* *P*

JPL



RECEIVED
SEP 19 12 34 PM '45

HILTON HOTEL
ALBUQUERQUE

5-23-50

65-6

7.1.8

[Handwritten signature]

RECEIVED
SEP 19 12 34 PM '45

65-57449

240

FHB

RECEIVED

JUN 4 12 36 PM '45

HILTON HOTEL
ALBUQUERQUE

65-57449

Q5

Welcome

Hilton



Hotel

Nº 78783

NAME

WE RESERVE THE RIGHT TO LIMIT THE LENGTH OF YOUR STAY, IN COMPLIANCE WITH GOVERNMENT REGULATIONS TO MAKE ROOMS QUICKLY AVAILABLE TO THE MILITARY OR OTHER UNITED STATES GOVERNMENT.

Sold

CITY *Philadelphia 24*

Laboratories, New York City

MONEY, JEWELS AND OTHER VALUABLE PACKAGES MUST BE PLACED IN OFFICE OTHERWISE THE MANAGEMENT WILL NOT BE RESPONSIBLE FOR LOSS

ARRIVED	ROOM	RATE	CLERK	BAGGAGE
<i>9-19-45</i>	<i>521</i>	<i>5.00</i>	<i>AK</i>	

REMARKS:

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE *5-4-87* BY *3042/PWJ/C/S*

Welcome

Hilton



Hotel

Nº 65841

NAME

WE RESERVE THE RIGHT TO LIMIT THE LENGTH OF YOUR STAY, IN COMPLIANCE WITH GOVERNMENT REGULATIONS TO MAKE ROOMS QUICKLY AVAILABLE TO THE MILITARY OR OTHER UNITED STATES GOVERNMENT.

Harry Gold

STREET *6223 Kindred St* CITY *Phila 24, Pa*

FIRM *Harry & Subert*

MONEY, JEWELS AND OTHER VALUABLE PACKAGES MUST BE PLACED IN OFFICE OTHERWISE THE MANAGEMENT WILL NOT BE RESPONSIBLE FOR LOSS

ARRIVED	ROOM	RATE	CLERK	BAGGAGE
<i>1-3-45</i>	<i>1001</i>	<i>12.00</i>	<i>AK</i>	

REMARKS:

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE *5-4-87* BY *3042/PWJ/C/S*

65-57449 05

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Conrad *mc*

DATE: 9/29/66

FROM : W. D. Griffith *W.D.G.*

SUBJECT: MORTON SOBELL
ESPIONAGE - RUSSIA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-4-87 BY 3042/PLI/CS

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

Memo dated 9/28/66 from W. A. Branigan to Mr. W. C. Sullivan recommended Laboratory compare initials of hotel clerk on registration cards of Harry Gold at the Hilton Hotel, Albuquerque, New Mexico, for June 3, 1945, and September 19, 1945, to determine if the initials on both cards were written by the same person.

BACKGROUND: Sobell, serving a thirty year sentence for a 1951 espionage conspiracy conviction, has presented for consideration his 6th motion to set aside his conviction alleging the Government knowingly used forged documents to convict him. Specifically, the defense claims the Hilton Hotel registration card dated June 3, 1945, was forged by the FBI. Their basis for this allegation is a difference in the handwritten date June 3, 1945, on the front of the card and the machine stamped date June 4, 1945, on the back of the card. This discrepancy was noted in 1950 and was explained by the hotel manager as being due to an error in the operation of the time stamp machine. A handwriting examiner, Elizabeth McCarthy, who also appeared as a defense witness in the Alger Hiss case, has compared photostats of the two registration cards and has stated that the initials of the clerk "A. K." on the cards do not appear to be the writing of the same person. McCarthy's statement is then cited to further support the defense's allegation of forgery.

RESULTS OF LABORATORY EXAMINATION: The Laboratory has compared the clerk's initials on the two registration cards and has found that the extremely limited nature of the writings consisting of the letters "A. K." does not provide an adequate basis for determining whether both cards were initialed by the same hotel clerk. In spite of Elizabeth McCarthy's suggestion that the clerk's initials on the two cards were written by different persons, it is believed that no competent handwriting examiner could ever reach a definite conclusion in this regard based on such extremely limited writing.

Enclosures (2) *ENCLOSURE*
101-2483

1 - Mr. Mohr
1 - Mr. DeLoach
1 - Mr. Wick
1 - Mr. James P. Lee

1 - Mr. W.C. Sullivan
1 - Mr. W. A. Branigan

FLD:mb (9)
62 OCT 24 1966

11 OCT 13 1966

Memorandum to Mr. Conrad
Re: Morton Sobell

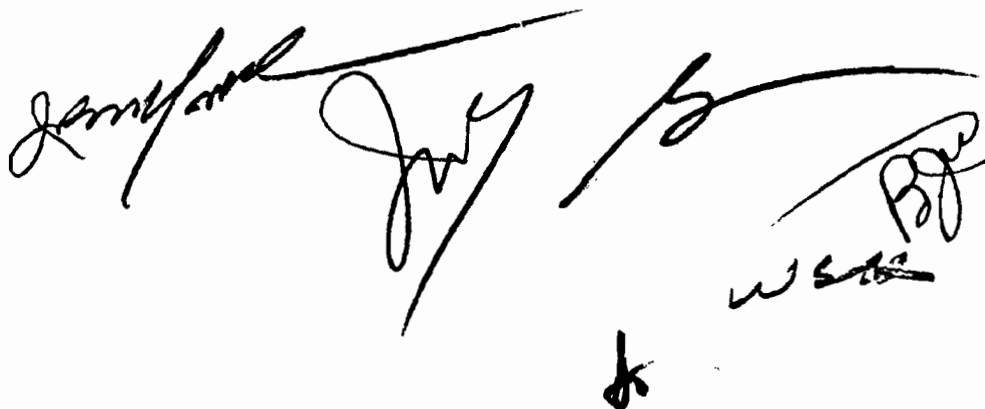
The Laboratory found similarities in the formation of the clerk's initials "A. K." on both cards. Some variations were also noted but these are believed to be within the normal range of one person's handwriting characteristics. The variations could also be due to the differences in writing instruments used, the position of the writer or the writing surface.

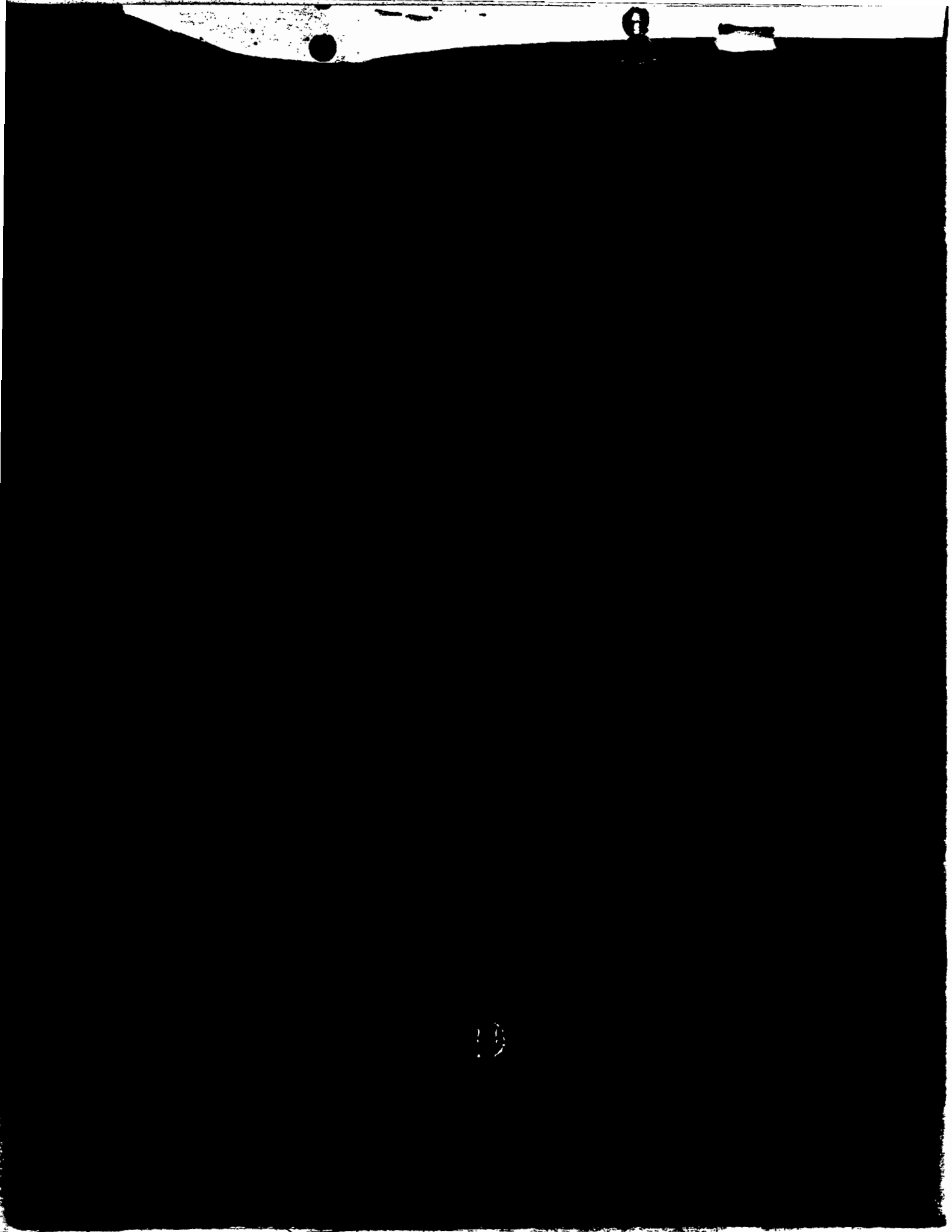
The Laboratory has noted that the clerk's initials on the hotel registration card dated June 3, 1945, were written with a somewhat dull-pointed pencil resulting in a poorly defined line quality. The clerk's initials on the hotel registration card dated September 19, 1945, were written in ink.

There are no significant characteristics in the clerk's initials on the June 3, 1945, card to indicate that these initials are "A. H." rather than "A. K."

Samples of the initials of hotel clerks employed at the Hilton Hotel, Albuquerque, New Mexico, in 1945 and written during this period of time may possibly be helpful in a further comparison, if such is desired.

ACTION: It is recommended that this memo and attached photographs of the two hotel registration cards be forwarded to the Soviet Section of the Domestic Intelligence Division.

The block contains several handwritten signatures and initials. On the left, there is a signature that appears to be 'L. J. ...'. In the center, there is a large, stylized signature that looks like 'J. ...'. To the right of that, there is a signature that looks like 'B. ...'. Below these, there are several smaller initials and marks, including 'BGP', 'W. ...', and a small 'd'.



RECEIVED
SEP 19 12 30 PM '45

HILTON HOTEL
ALBUQUERQUE

5-23-50
65-6
7.1.8
[Handwritten signature]

65-57449 2

FHB

RECEIVED
JUN 4 12 30 PM '45

HILTON HOTEL
ALBUQUERQUE

65-57449 Q5

Welcome

Hilton



Hotel

Nº 78783

NAME

WE RESERVE THE RIGHT TO LIMIT THE LENGTH OF YOUR STAY. IN COMPLIANCE WITH GOVERNMENT DIRECTIVES TO MAKE ROOMS QUICKLY AVAILABLE TO THE MILITARY AND OTHER URGENT BUSINESS.

Sold

Philadelphia 24

Laboratories, New York City

MONEY, JEWELS AND OTHER VALUABLE PACKAGES MUST BE PLACED IN OFFICE OTHERWISE THE MANAGEMENT WILL NOT BE RESPONSIBLE FOR LOSS

ARRIVED	ROOM	RATE	CLERK	BAGGAGE
<i>9-19-45</i>	<i>521</i>	<i>5.00</i>	<i>AK</i>	

REMARKS:

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE *5.4.87* BY *3042/PWT/CLS*

Welcome

Hilton



Hotel

Nº 65841

NAME

WE RESERVE THE RIGHT TO LIMIT THE LENGTH OF YOUR STAY. IN COMPLIANCE WITH GOVERNMENT DIRECTIVES TO MAKE ROOMS QUICKLY AVAILABLE TO THE MILITARY AND OTHER URGENT BUSINESS.

Harry Gold

Philadelphia 24, Pa.

Harry & Robert

MONEY, JEWELS AND OTHER VALUABLE PACKAGES MUST BE PLACED IN OFFICE OTHERWISE THE MANAGEMENT WILL NOT BE RESPONSIBLE FOR LOSS

ARRIVED	ROOM	RATE	CLERK	BAGGAGE
<i>6-8-45</i>	<i>1001</i>	<i>12.00</i>	<i>AK</i>	

REMARKS:

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE *5.4.87* BY *3042/PWT/CLS*

TELETYPE UNIT

SEP 27 1966

ENCODED MESSAGE

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	_____

FBI NEW YORK ///09///

5:38 PM EDT URGENT 9/27/66 M.F.R.

TO DIRECTOR /// ENCODED ///

FROM NEW YORK -2P-

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

MORTON SOBELL; ESP DASH R.

DATE 5-4-87 BY 3042/PST

RE ALBUQUERQUE TEL, NINE TWENTYONE SIXTYSIX.

FILES REFLECT BUREAU CONDUCTED NO INVESTIGATION RE IDENTITY OF HOTEL CLERK WHO FILLED OUT GOLD REGISTRATION CARD SIX THREE FORTYFIVE. ASSUMPTION IT WAS ANNA KINDERKNECHT MADE IN SCHNEIR'S BOOK.

REFERENCED TEL REFLECTS AT LEAST TWO ROOM REGISTRATION CLERKS HILTON HOTEL JUNE NINETEEN FORTYFIVE, ANNA KINDERKNECHT AND AGNES HULEN. FIRST NAMES OF BOTH BEGIN WITH A AND FIRST LETTERS OF LAST NAMES OF BOTH MIGHT BE EASILY CONFUSED. THE K ON NINE NINETEEN FORTYFIVE CARD IS CLEAR, BUT ON SIX THREE FORTYFIVE COULD BE EITHER K OR H. APPEARS POSSIBLE AGNES HULEN REGISTERED GOLD SIX THREE FORTYFIVE AND ANNA KINDERKNECHT ON NINE NINETEEN FORTYFIVE.

REC-41 (01) - 2483-1675

END PAGE ONE

56 OCT 19 1966

EX-108

OCT 19 1966

memo Brangan to W.C. Sullivan 9/28/66 Enc 2

F308
cc Lee

[Handwritten signatures and initials]

PAGE TWO

NY 100-37158

ALSO POSSIBLE INITIALS SIX THREE FORTYFIVE CARD THOSE OF ANNA KINDERKNECHT OR MADE BY SOMEONE ON HER BEHALF, BUT REST OF CARD FILLED IN BY ONE OF PERSONS SUGGESTED RE TEL.

FOREGOING DISCUSSED AUSA KING THIS DATE AND POSSIBILITY MENTIONED INTERVIEWING AGNES HULEN TO SEE IF IT IS HER WRITING ON SIX THREE FORTYFIVE CARD. IF NOT SHE MAY RECOGNIZE WRITING ON THAT OF ANOTHER HOTEL EMPLOYEE. POSSIBILITY DISCUSSED OF ALSO EXHIBITING REGISTRATION CARDS TO WANDA MC MULLAN AND LINDA HUGHES. KING ADVISED IN VIEW OF PREVIOUS DECISION NOT TO INTERVIEW ANNA KINDERKNECHT, HE DESIRED TO REPRESENT QUESTION OF INTERVIEWING INDICATED EMPLOYEE WITH DEPARTMENT.

BUREAU'S ATTENTION DIRECTED TO FOREGOING SINCE INQUIRY MAY BE RECEIVED FROM DEPARTMENT.

AIR MAIL COPY TO ALBUQUERQUE.

EUD

WA..AKJ

FBI WASH D C

FBI

Date: 10/13/66

Transmit the following in _____

(Type in plaintext or code)

AIRTEL

REGISTERED MAIL

(Priority)

TO: DIRECTOR, FBI (101-2483)
FROM: SAC, PHILADELPHIA (65-4372)
SUBJECT: MORTON SOBELL
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/10/86 BY 3042 *fwf-rfe*

Re New York telephone call and New York airtel 10/10/66

Re New York airtel requested Philadelphia to contact the attorneys for HARRY GOLD and obtain either the original or copies of material contained in the files of GOLD's attorney in order to compare these copies with material that is now in the hands of defense attorney MARSHALL PERLIN. AUSA ROBERT L. KING, SDNY, wanted to make sure that the copies in the hands of the defense had not been altered.

AUGUSTUS S. BALLARD, Attorney, was contacted by SA CHARLES SILVERTHORN on 10/11/66, at which time BALLARD agreed to make available the material requested, with the exception of the 65 page statement that HARRY GOLD wrote concerning his analysis of the book of WALTER SCHNEIR entitled "Invitation To An Inquest." BALLARD informed that he would have to speak to HARRY GOLD and then he would telephonically contact AUSA ROBERT L. KING regarding this item, because he

- 5 - Bureau (Encl. 3)(RM)
- 3 - 101-2483
- 1 - 65-57449 (HARRY GOLD)
- 1 - 62-106323 (WALTER SCHNEIR)
- 4 - New York (Encl. 2)(RM)
- 2 - 100-37158 (MORTON SOBELL)
- 1 - 65-15324 (HARRY GOLD)
- 1 - 100-135206 (WALTER SCHNEIR)
- 2 - Philadelphia
- 1 - 65-4372
- 1 - 65-4307 (HARRY GOLD)

CS:EMR
(11)

REC 40

101-2483-1676

Approved: *Blc. E. Wick*
540 Special Agent in Charge

Sent

SOVIET SECTION

UNRECORDED COPY FILED IN 65-57449-67-106323

PH 65-4372

felt if he made this available to the government and the defense requested everything in the government's possession, this item would fall into the hands of defense attorney MARSHALL PERLIN. BALLARD felt that this would lead to HARRY GOLD being called as a witness, which he was trying to avoid.

BALLARD requested contacting agent to return on 10/12/66 to help him search through the files for the material.

BALLARD was recontacted on 10/12/66 and a search was made of his files for the requested material. At this time he informed that he had been in telephonic contact with HARRY GOLD and also with AUSA ROBERT L. KING regarding GOLD's analysis of the book and at this time it was tentatively agreed that this item would not be made available. After an exhaustive search of the files of BALLARD and JOHN D.M. HAMILTON, GOLD's attorneys, most of the items requested were located. BALLARD requested that contacting agent return on 10/13/66, at which time he would have a letter prepared directed to AUSA ROBERT L. KING, listing all of the items and making these items available to contacting agent for forwarding to New York.

BALLARD was recontacted on 10/13/66, at which time the material and the letter in question enclosing the items were obtained.

Enclosed herewith for the Bureau and New York is one copy of the letter dated 10/13/66 from AUGUSTUS BALLARD directed to ROBERT L. KING, AUSA. There is also enclosed to New York a separate envelope containing the letter in question along with the items requested.

New York should refer to page two of referenced airtel. Mr. BALLARD lists as his enclosures the items in numerical order as they are listed in re New York airtel.

Referring to item two in re New York airtel and as indicated in BALLARD's letter of 10/13/66, the correct date should be 9/30/60 rather than 9/30/66.

Referring to item seven on page two of re New York airtel and as indicated in BALLARD's letter of 10/13/66, he could not find any excerpt from a statement given by GOLD on 5/22/50.

PH 65-4372

Referring to item nine, the correct dates should be 6/15/50 and 6/16/50 rather than 7/15/50 and 7/16/50.

Referring to item eleven, as indicated in BALLARD's letter he could not locate a letter to HAMILTON dated 4/28/54.

Regarding item twelve, the correct date should be 3/22/51 and 3/24/51, rather than 4/22/51 and 4/24/51.

In addition to the above, BALLARD referred to a letter he had received from AUSA KING dated 9/19/66. KING had requested copies of certain items in his letter referred to as Item C through Item G. They are listed in BALLARD's letter of 10/13/66 as items 13 through 15.

He said "C" in KING's letter was described as an eight-page statement, "Chronology of Work for the Soviet Union" by HARRY GOLD dated 6/15-16/50. (This is enclosed as item 9 in BALLARD's letter of 10/13/66).

Item "D" in KING's letter was described as a two-page "Chronology of Life" by HARRY GOLD dated 6/28/50. (This is item 13 in BALLARD's letter dated 10/13/66.)

Item "E" in KING's letter of 9/19/66 was referred to as a 26-page statement in GOLD's handwriting dated 7/20/50. (BALLARD states that KING informed him that he already has this item in his office.)

Item "F" in KING's letter of 9/19/66 to BALLARD was described as a 76-page statement of HARRY GOLD dated 10/23/50 and this is item 14 in the letter of 10/13/66.

Item "G" was described as a 12-page statement in GOLD's handwriting dated 12/3/50 and this is item 15 in the letter of 10/13/66.

As indicated in the letter of 10/13/66, receipt of the original letter and the material therein was acknowledged by SA CHARLES SILVERTHORN on 10/13/66.

PH 65-4372

Mr. BALLARD requested that after the items have served their purpose, they be returned to him inasmuch as copies have not been made and for the most part they are the originals.

LEADS

NEW YORK

Will furnish the original letter of Mr. BALLARD dated 10/13/66 and the items enclosed therein to ROBERT L. KING, AUSA, SDNY.

PEPPER, HAMILTON & SCHEETZ

ATTORNEYS AT LAW

123 SOUTH BROAD STREET

PHILADELPHIA, PENNSYLVANIA 19108

CABLE "PEPFIL PHILADELPHIA"

215-KINGSLEY 5-1234

October 13, 1966

Mr. Robert L. King
Assistant United States Attorney
United States Attorney's Office
Southern District of New York
United States Court House
Foley Square
New York, New York 10007

RE: Morton Sobell vs. United States of America
66 Civil
1328

Dear Mr. King:

In reply to your letter of September 19, 1966 and also in connection with your request to the Philadelphia office of the Federal Bureau of Investigation I am delivering this letter to Mr. Charles J. Silverthorn, Special Agent, together with my file copies of the following:

1. A letter from James Bennett to John Hamilton dated July 11, 1955.
2. File copy of letter from Mr. Hamilton to the Parole Board dated September 30, 1960.
3. Letter from Harry Gold to John Hamilton dated October 16, 1953.
4. Two page document in hand writing of Harry Gold listing interviews with the Federal Bureau of Investigation between May 22 and July 19, 1950.
5. Letter from Hamilton to Cornelius dated June 5, 1950.
6. Letter from Hamilton to Cornelius dated June 7, 1950.

ENCLOSURE

101-2483-1676

Handwritten: 12/10/86
Stamp: OCT 19 1966
Stamp: INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
Stamp: 3042 put file

October 13, 1966

7. I cannot find in my file any excerpt from a statement given to the Federal Bureau of Investigation by Harry Gold on May 22, 1950.
8. Letter from Hamilton to Cornelius dated August 9, 1950.
9. Hand-written document of Harry Gold dated June 15, 1950 and continuation dated June 16, 1950 consisting of eight pages.
10. Letter from Hamilton to the Federal Bureau of Investigation dated October 21, 1953.
11. We cannot find letter from the Federal Bureau of Investigation to Hamilton dated April 28, 1954.
12. Letter from Hamilton to Gold dated March 22, 1951 and Gold's reply dated March 24, 1951.

In addition, there are enclosed the following:

13. Two page "chronology of life" by Harry Gold dated June 28, 1950 which is item D in the Schneir affidavit of August 19, 1966.
14. Seventy-six page statement in Gold's handwriting entitled "The Early Life of Harry Gold -- A Report" dated October 23, 1950 which I believe is item F in the Schneir affidavit.
15. Twelve page statement in Gold's handwriting entitled "Money Accounting of My Espionage Work" dated December 3, 1950 which is item G in the Schneir affidavit.

The above listed documents are furnished to you to enable the government to verify the authenticity of copies of same which may be offered in evidence by counsel for Morton Sobell and you are authorized to make such use of them as may be necessary or proper to accomplish this purpose. Please do not make any other use of this material without consulting Mr. Hamilton or myself.

Very truly yours,

Augustus S. Ballard
Augustus S. Ballard

Receipt of original letter and material referred to therein is hereby acknowledged.

Charles Silverthorn
Charles Silverthorn
Special Agent, Federal Bureau of Investigation

NOTICE

THE BEST COPIES OBTAINABLE ARE INCLUDED IN THE REPRODUCTION OF THE FILE. PAGES INCLUDED THAT ARE BLURRED, LIGHT OR OTHERWISE DIFFICULT TO READ ARE THE RESULT OF THE CONDITION AND OR COLOR OF THE ORIGINALS PROVIDED. THESE ARE THE BEST COPIES AVAILABLE.

F.O.I.A.

JULIUS ROSENBERG ET AL.

FILE DESCRIPTION

UQ

FILE

SUBJECT

Morton Sobell

FILE NO.

101-2483

VOLUME NO.

43 Part 2 of 2

SERIALS

1631 to

1707

FBI

Date: 10/10/66

Transmit the following in _____
(Type in plain text or code)Via AIRTEL _____
(Priority or Method of Mailing)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP - R
(OO: NY)

Re NY airtel, 9/19/66.

AUSA ROBERT L. KING, SDNY, advised 10/10/66, that he has completed his review of the Sound Scriber discs of the pre-trial interviews of HARRY GOLD with his attorneys. Defense Attorney MARSHALL PERLIN had reduced to written form the tape recordings of the above which were in the possession of defense attorneys. KING stated that he has had a series of conferences with PERLIN in which they reviewed the above written transcript and corrected it from listening to the original discs.

- 4- Bureau (RM)
(1- 65-57449) (HARRY GOLD)
- 3- Philadelphia (RM)
(1- 65-4307) (HARRY GOLD)
- 1- NY 65-15324 (HARRY GOLD)
- 1- New York

PFD:jc
(11)

REC-61

101-2483-1677

EX 106

OCT 11 1966

51 OCT 25 1966

Approved: _____

Special Agent in Charge

Sent _____

SOVIET SECTION

Mem. Bransford to Sullivan
10-17-66
JPL/mp:zal

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/10/86 BY 3042 jmt-DSE

unrecorded
65-57449-1

NY 100-37158

KING stated that the above transcript, together with the original recording discs, would be furnished to USDJ WEINFELD within the next few days.

According to KING, PERLIN mentioned that in addition to making the above interviews of HARRY GOLD available to the court, he also wants to furnish to the court copies of other material which was obtained from HARRY GOLD's attorneys, as follows:

1. A letter from WILLIAM BENNETT, Bureau of Prisons, to JOHN D. M. HAMILTON, dated 7/11/55.

2. A letter from HAMILTON to the Parole Board dated 9/30/66.

3. A letter from HARRY GOLD to HAMILTON, dated 10/16/53.

4. A two page document listing time spent in interviews with the FBI between 5/22 and 7/19/50.

5. A letter from HAMILTON to ARTHUR CORNELIUS dated 6/5/50.

6. A letter from HAMILTON to CORNELIUS, dated 6/7/50.

7. A one paragraph excerpt from a statement given to the FBI from HARRY GOLD, dated 5/22/50.

8. A letter from HAMILTON to CORNELIUS, dated 8/9/50.

9. A handwritten document of HARRY GOLD, dated 7/15/50, and a continuation dated 7/16/50. (PERLIN mentioned that this was referred to by the HUCA report dated 4/26/66.

NY 100-37158

10. A letter from HAMILTON to Philadelphia FBI Office, dated 10/21/53, itemizing material forwarded therewith.

11. A letter from the Philadelphia FBI Office to HAMILTON, dated 4/28/54, returning the material mentioned in #10.

12. A letter from HAMILTON to GOLD, dated 4/22/51, and GOLD's reply dated 4/24/51.

It appears that the above were obtained by WALTER SCHNEIR from the law offices of Pepper, Hamilton and Scheetz, Philadelphia, at the same time he obtained copies of the above mentioned recordings.

AUSA KING advised that before he will agree to allow the defense to submit the above documents to the court, he desires to make certain that they are authentic. He, therefore, requests that the Philadelphia Office furnish Xerox copies of the above if they are available in the files of that office. He requests that copies of any which are not in the FBI files be obtained from HARRY GOLD's attorneys in Philadelphia.

AUSA KING also advised that several weeks ago, while in conversation with Attorney JOHN HAMILTON, the latter mentioned that after the publication of the book of WALTER SCHNEIR, "Invitation to an Inquest", HARRY GOLD submitted to them a 65 page statement concerning his analysis of the book. KING stated he does not know if this was furnished to the FBI, but he desires that a copy of it be obtained for his information and assistance.

Philadelphia is requested to promptly furnish copies of the above as AUSA KING desires to make them available to Judge WEINFELD as soon as possible.

UNITED STATES GOVERNMENT

Memorandum

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

TO : Mr. W. C. Sullivan

DATE: 10/17/66

FROM : W. A. Branigan

- 1 - Mr. DeLoach
- 1 - Mr. Wick
- 1 - Mr. W. C. Sullivan
- 1 - Mr. W. A. Branigan
- 1 - Mr. J. P. Lee

SUBJECT: MORTON SOBELL
ESPIONAGE - RUSSIA

This memorandum summarizes certain documents relating to Harry Gold, admitted Soviet agent, which the defense counsel for the subject wants to furnish to the court in connection with Sobell's current motion to set aside his conviction.

BACKGROUND:

Morton Sobell was convicted along with Julius and Ethel Rosenberg of conspiracy to commit espionage in 1951, and is serving a 30-year sentence. He has pending his sixth motion to set aside his conviction. One basis for this motion is that Harry Gold, admitted Soviet agent who appeared as a Government witness, committed perjury. At the trial, Gold testified to being a courier between Klaus Fuchs and Anatoli Yakovlev, a Soviet superior. Fuchs was the British atomic scientist working at Los Alamos during World War II who admitted to acting as a Soviet agent. After serving his sentence in a prison in America, Fuchs went to East Germany.

Gold, on one of his trips to New Mexico to see Fuchs in June, 1945, was instructed to contact David Greenglass, which he did, and obtained information from him. Greenglass was the brother-in-law of Julius Rosenberg and was a soldier working at Los Alamos.

In 1965, Walter Schneir wrote a book which claimed that Gold committed perjury and that Sobell and the Rosenbergs were convicted on the basis of perjury and fabricated evidence. During research for the book, Schneir obtained, with Gold's permission, access to information in the possession of John Hamilton, attorney for Gold. This information has been turned over to Marshall Perlin, attorney for Sobell.

CURRENT INQUIRY:

Perlin has indicated to the United States Attorney, Southern District of New York, that he wants to furnish the court with 12 items obtained from Gold's attorney. New York airtel, October 10, 1966, lists these items and requested the Philadelphia Office to obtain them and furnish them to the New York Office.

101-2483

JPL:nlp:sal

(6)

CONTINUED - OVER

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 5-4-87 BY 3042/awj/ab

REC-67-2483-1678

OCT 21 1966

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

A review of Bureau files shows that eight of these items are in Bureau files. They are as follows:

1. Letters from Hamilton dated June 5 and 7, 1950, to Arthur Cornelius, then Special Agent in Charge of the Philadelphia Office, which letters dealt with continuing the interviews of Gold after Hamilton had been appointed his attorney.
2. A one paragraph excerpt from a statement given by Gold on May 22, 1950. The statement is several pages long and the specific reference is not known.
3. Letter from Hamilton to Cornelius dated August 9, 1950. The contents of this letter were telephonically furnished to the Bureau by Special Agent in Charge Cornelius and it dealt with a change which Gold wanted to make in testimony he had given the Federal Grand Jury in New York City.
4. A letter from Hamilton to the Philadelphia Office dated October 1, 1953, and a response to Hamilton dated April 28, 1954, relating to examination of material in Hamilton's possession at that time.
5. A handwritten document prepared by Gold dated July 15 and 16, 1950, which, according to Perlin, is included in the report of the House Committee on Un-American Activities for April 26, 1956. This statement is dated June 15 and 16, 1950, and is included in a report of the Senate Judiciary Committee of the same date. This report incorporated Gold's document, and he mentions on the page which is dated June 16, 1950, the information he obtained from Greenglass and states, "Earlier, I have said that I believe the information to have been unimportant but I have since learned it was highly valuable." The defense also has a tape of an interview of Gold by his attorney on June 14, 1950, in which Gold stated the information, according to Yakovlev, was not important. The defense, claims that Gold was coached by the Government since he testified at the trial in April, 1951, that Yakovlev said the information was extremely valuable.
6. Another item is a two-page document written by Gold which lists the times spent in FBI interviews between May 22 and July 19, 1950. This shows that Gold's attorney interviewed him on July 14, 1950.

ACTION: This memorandum is prepared for informative purposes. In the event we receive any inquiries concerning these items from the Departmental Attorney handling this case, he will be appropriately advised that the above-mentioned items are available for his review.

P *✓* *W.A.B.* *John* *W.C.S.* *ENC*

F B I

Date: 10/18/66

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

TO : DIRECTOR, FBI (101-2483)

FROM : SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP - R
(OO:NY)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/10/86 BY 3042 put etc

ReNYairtel 10/10/66, and Philadelphia airtel 10/13/66

The items enclosed for New York with referenced Philadelphia airtel, including the letter from Attorney AUGUSTUS S. BALLARD, were personally delivered to AUSA ROBERT L. KING, SDNY, on 10/14/66.

Enclosed herewith for the information of the Bureau is one copy of a "Memorandum of the U. S. Attorney Concerning Pre-Trial Statements of HARRY GOLD to His Attorneys," which contains the Government's answer to charges made by subject's defense attorneys concerning the recorded interviews of GOLD with his attorneys made in 1950. The above was furnished by AUSA ROBERT L. KING on 10/17/66.

KING advised that defense attorney MARSHALL PERLIN has advised him that he intends to file with the court in the next few days a memorandum concerning certain documentary evidence which was previously obtained by the defense from the attorneys of HARRY GOLD. He also mentioned to KING

REC 32

- 4 - Bureau (Encl. 1) (RM) (1 - 65-57449) (HARRY GOLD)
 - 2 - Philadelphia (Info) (RM) EX-113 (1 - 65-4307) (HARRY GOLD)
 - 1 - New York (65-15324) (HARRY GOLD)
 - 1 - New York
- PFD:eah
(10)

"ENCL. BEHIND FILE"

OCT 19 1966

"ENCL. BEHIND FILE"

SOVIET SECTION

C.C. Wick

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

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NY 100-37158

that he will also file an additional affidavit from a third Scientist regarding the value of the GREENGLASS sketch and testimony relating thereto.

KING advised that he will have an opportunity to answer anything additional filed by the defense, and in this connection, will have the benefit of the original documents which were in the possession of GOLD's attorneys.

The Bureau will be kept advised of future developments in this matter.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
MORTON SOBELL, :

Petitioner, :

-v- :

66 Civ. 1328

UNITED STATES OF AMERICA, :

Respondent. :

-----x
MEMORANDUM OF THE UNITED STATES
OF AMERICA CONCERNING PRE-TRIAL
STATEMENTS OF HARRY GOLD TO HIS
ATTORNEYS.

Preliminary Statement

At the oral argument of the above-captioned motion of petitioner Morton Sobell to set aside his sentence and judgment of conviction pursuant to 28 U.S.C. §2255, petitioner belatedly offered for consideration in support of his motion certain recordings of oral statements of Harry Gold to his attorneys, John D.M. Hamilton and Augustus S. Ballard, made on

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101-2483-1679

June 6, 8, 14, 23 and August 9, 1950. It is petitioner's contention that these pre-trial statements demonstrate (1) that Harry Gold perjured himself when he testified at the March, 1951 trial of petitioner and his co-defendants, Julius and Ethel Rosenberg, that he met with David and Ruth Greenglass in Albuquerque, New Mexico on June 3, 1945, and (2) that the Government knowingly used this perjured testimony. (Amended Petition, August 22, 1966, ¶¶64-66, 81, 83-87).

As properly authenticated transcripts of the Gold recordings were not prepared until after the oral argument of the motion on September 12, 1966,* the Government had no occasion at that time to discuss their applicability to the allegations of the instant motion. This memorandum is submitted, therefore, to show that the Gold recordings, to the extent they are pertinent to the pending motion, serve only to corroborate the veracity of Gold's testimony concerning his meetings in Albuquerque with the Greenglasses on June 3, 1945.

* The transcripts now before the Court were corrected and authenticated by the Government by reference to the original recordings, which were made available for this purpose by Mr. Gold's attorneys on September 15, 1966.

STATEMENT OF FACTS

On June 1, 1950, John D.M. Hamilton and Augustus S. Ballard, members of the Philadelphia bar, agreed to serve as court-appointed counsel for Harry Gold in connection with charges then pending against him (T.(1) 3-6).^{*} Gold informed his attorneys on that same day that it was his intention to enter a guilty plea with respect to those charges (T.(1) 6).

On June 6, 1950, Gold's attorneys commenced a series of recorded interviews of Gold at Holmesburg County Prison, where Gold was incarcerated (T.(1) 12). Their first concern was that Gold understood the charges then pending against him (T.(1) 12-13). With knowledge of the contents of the complaint filed against him, and the statute on which it was based, Gold reiterated his intention to plead guilty (T.(1) 13). In view of

^{*} References with the prefix "T" are to the transcripts of the aforesaid Gold recordings; the number in parenthesis following the "T." refers to the reel of tape from which the transcript was taken; references with the prefix "R." are to the stenographic transcript of the trial.

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Gold's determination, Mr. Hamilton informed Gold that he would then direct his efforts toward demonstrating to the sentencing court that Gold's offense did not involve an intent to injure the United States and toward bringing forth "any other ameliorating circumstances . . . that might affect the judge in fixing your sentence" (T.(1) 15).

Mr. Hamilton then set the pattern for the subsequent recordings by delineating three areas of discussion which he felt were important to a plea for leniency in sentence: (1) Gold's general background and life, including family, education and work, apart from the offenses charged against him; (2) information about the offenses themselves; and (3) Gold's motives in committing these offenses (T.(1) 17).

By and large, the subsequent recordings followed this pattern. The discussion of Gold's life apart from the charges against him begins on page 18 of the transcript of Reel 1 and continues to page 16 of the transcript of side 2 of Reel 2, and encompasses the remainder of the

interview of June 6, 1950 and the beginning of a second interview which took place on June 8, 1950. Gold then began a chronological account of the facts underlying the charges pending against him, which consumed the remainder of the June 8 interview, all of the third interview which took place on June 14, 1950, and a portion of the next interview on June 23, 1950, terminating on page 41 of the transcript of Reel 6. Discussion of the third topic, Gold's motives which prompted him to commit the offenses, completed the June 23, 1950 interview, and terminates on page 66 of Reel 6.

The remainder of the transcripts relate to an interview of Gold on August 9, 1950, which is divided between a discussion of (1) matters which Gold had either concealed or deliberately lied about in his earlier interviews; and (2) matters which he then wished to relate based upon subsequent recollection.

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The only portions of the transcripts having a direct relation to the instant motion are those in which Gold relates his recollection of the circumstances of his June 3, 1945 meetings with the Greenglasses and his Soviet contacts prior to and subsequent to these meetings. The first specific reference to this matter appears at the beginning of the June 14, 1950 interview, on pages 45-55 of Reel 4 of the transcripts. There, in recounting his first visit to Santa Fe, New Mexico on the first Saturday in June, 1945, to obtain atomic information from Klaus Fuchs, Gold makes several cursory mentions of an additional visit to a "GI" in Albuquerque, New Mexico, for a similar purpose. Stating that "this matter I believe had best be told separately" from his account of his activities with Fuchs, Gold said "this will be taken up further" (T.(4) 46). Gold explained later in the same interview that he would take up the matter of the GI "once we have completely finished the matter of Klaus Fuchs" (T.(4) 74). He did so on pages

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35 through 44 of Reel 5 of the transcripts, which also form part of the June 14, 1950 interview. No additional information concerning these June 3, 1945 meetings is given in Gold's later recordings of June 23 and August 9, 1950.

In point of time, Gold's account to his attorneys of his June 3, 1945 meetings with Greenglass preceded by a day the arrest or interview of David Greenglass. Greenglass was first interviewed by the FBI concerning these meetings in Albuquerque sometime after 2 P.M. on June 15, 1950 (R. 759, 806-07).*

Moreover, the material submitted by Gold to his attorneys discloses that Gold told the FBI of the Greenglass incident two weeks prior to Greenglass's interview of June 15, 1950. On June 1, 1950, when Gold met his attorneys for the first time and was advised by them of the importance of complete disclosure, Gold told FBI Agent T. Scott Miller, Jr.,

* David Greenglass testified that he had one prior interview with the FBI in February, 1950, but that he wasn't asked anything^{about}/espionage on this occasion (R. 801-05).

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of the Greenglass incident. See T.(1) 8 and Gold's Report of October 11, 1950, reproduced in Senate Internal Security Subcommittee Hearings on the Scope of Soviet Activity in the United States, 84th Cong., 2d Sess., Part 20, p. 1058 at p. 1085 (April 26, 1956). The sequential and chronological organization of Gold's recorded interviews with his attorneys, indicated above, accounts for Gold's delay until June 14, 1950, in recounting the Greenglass meetings to his attorneys.

GOLD'S RECORDED ACCOUNT OF HIS JUNE 3,
1945 MEETINGS WITH THE GREENGLASSES

In his recorded statements to his attorneys, Harry Gold gave in substance the following information concerning his meetings with the Greenglasses on June 3, 1945 and related events.*

* Compare Gold's trial testimony, which is summarized on pages 23-25 of the Government's memorandum, filed September 3, 1966, in opposition to the amended petition.

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Gold's espionage activities for the Soviet Union commenced in early 1935 when he discussed with Thomas Black, a Communist agent, the turning over of technical information belonging to Gold's employer, the Pennsylvania Sugar Company, and to its subsidiary, to the Soviets (T.(2) Side 2, pp. 18-19). His association with Black and his contact with various Soviet agents continued all the way up until the time of Gold's arrest in May, 1950. (See T(6) 12-15; T(7) 25-36.)

In February or March of 1944, Gold's then Soviet contact Sam (Semen Semenov) turned him over to a new Soviet contact John (Anatoli Yakovlev) (T.(4) 15-21). Gold's espionage association with John continued until December of 1946 (T.(5) 27, 45-53; T.(7) 24-25). Gold had meetings with Klaus Fuchs in New York commencing in February, 1944 and continuing until July or early August, 1944, and in Cambridge, Massachusetts in early January, 1945, and secured from Fuchs at these meetings information which he gave or reported to John (T.(4) 9-27, 39-43).

At the January, 1945 meeting, Fuchs and Gold arranged a further meeting on a Saturday in early June, 1945 in Santa Fe, New Mexico (T.(4) 42,49).

Just prior to his trip to Santa Fe in June, 1945, Gold met with John at a bar at Third Avenue in the neighborhood of 42nd Street in New York City (T.(4) 45). The purpose of this meeting was that John wanted to make certain that Gold was going to keep his June, 1945, appointment with Fuchs in Santa Fe, and wanted to make arrangements for meeting Gold upon his return (T.(4) 45-46). However, this meeting had an additional purpose -- John instructed Gold that on this trip he was to pick up information from another person in addition to Fuchs (T.(4) 46; T.(5) 35). He told Gold that this other person lived in Albuquerque, New Mexico, and gave Gold the man's name and his address there, saying that it was possible that this man might not be home and, if so, his wife would have the information. (T.(4) 53; T.(5) 35-36). Gold was also given a recognition sign,

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"... and while this is not the exact recognition sign, I believe that it involved the name of a man and was something on the order of 'Bob sent me' or 'Benny sent me' or 'John sent me' or something like that."
(T.(5) 40).

John also gave Gold \$500 to deliver to this man for expenses (T.(5) 36).

In the afternoon of the first Saturday in June, 1945 (June 2), Gold met Fuchs briefly in Santa Fe, New Mexico (T.(4) 47-52). He then took a bus to Albuquerque, arriving in the early evening. After an unsuccessful attempt to secure a hotel room, he went to the address John had given him, where an old man told him that the family he was looking for was not home and had gone out for the evening (T.(4) 53; T.(5) 36-38). At about midnight or one o'clock in the morning, Gold found a home which had been converted into a temporary rooming house, where he spent the night (T.(4) 53-54; T.(5) 38).*

* At the trial Gold testified that on this night "I finally managed to obtain a room in a hallway of a rooming house and then on Sunday morning I registered at the Hotel Hilton." (R. 1192)

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The following morning he returned to the designated address, this time finding the man and his wife at home (T.(4) 54; T.(5) 38-39). He was surprised to find that the man was a GI, as he had not expected to meet a soldier (T.(5) 39). Using his recognition sign, Gold was able to establish his identity to the GI's satisfaction (T.(5) 40).

"I know that I did not use my name, that I possibly used the name of Mr. Frank, possibly Raymond Frank, possibly Frank Martin. But I know that I did not use my name." (Ibid.)

A further meeting with the GI in the afternoon was required to secure the information (T.(4) 54; T(5) 39-41). During these meetings, there was talk of the difficulty of getting Jewish food in Albuquerque, of food packages from the man's or his wife's family, of the man's expectation of a furlough about Christmas of 1945,

". . . and he (the GI) gave me (Gold) the name or -- and the address, or much more likely, just the name and the telephone number of, I think, his father-in-law or possibly an uncle of his who lived somewhere in the Bronx of New York." (T.(5) 39-41).

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The GI also gave Gold an envelope containing several sheets, mostly typewritten but possibly handwritten, and one very small rough sketch (T.(5) 41-42). Gold gave the GI an envelope containing the \$500 given him by John, which the GI accepted after indicating he needed money to keep his wife in Albuquerque (T.(5) 42).

Gold rushed back to New York so as to keep a meeting with John in Brooklyn at the place where Metropolitan Avenue runs from Brooklyn into Queens (T.(4) 54). This meeting was very brief, possibly taking only a minute or so, and involved the transfer of the information to John and possibly arrangements for a meeting some weeks later (T.(4) 54-55).

"I turned the information over to John. John never mentioned anything about it, and on the one occasion when I did mention this man sometime in the late fall of 1945, John had said that we can forget all about him, that there wasn't much point in getting in touch with him. And I got from the manner in which he made the remark that apparently the information received had not been

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of very much consequence at all and that they believed that the risk attendant upon seeing him did not make any such effort worthwhile." (T.(5) 42-43).

In these recordings, Gold also recounts his September, 1945 visit with Fuchs and several additional meetings with John (T.(4) 56-73; T.(5) 20-27, 42-43, 46-53).

ARGUMENT

THE GOLD RECORDINGS CORROBORATE
THE TRUTHFULNESS OF GOLD'S TESTIMONY
-- THEY AFFORD NO BASIS FOR A FINDING
EITHER OF PERJURY OR OF KNOWING USE
THEREOF.

It is apparent from the foregoing that on June 14, 1950, prior to David Greenglass's arrest or interview, Gold gave to his attorneys an account of his June 3, 1945 meetings which was substantially in accord with his trial testimony. He pinpointed these meetings to the very date; and he related times, places and conversations with substantial accuracy. Undoubtedly there are omissions and minor discrepancies from his

trial testimony in this account, but by far its most striking feature is its substantial completeness less than a month after Gold's arrest and only two weeks after he first disclosed this incident to the FBI.

Not only do these recordings corroborate the truthfulness of Gold's testimony, but they also to some extent corroborate the authenticity of the June 3, 1945 Hotel Hilton registration card. In describing his successful attempt to direct the FBI to the exact location of the GI's apartment, Gold relates:

"I have gone over and I have drawn a map of the area as well as I know. I have looked at maps of Albuquerque. I have looked at dozens of reels of motion pictures, starting with the Hilton Hotel and going all the way past undoubtedly the street where this GI lived."
(T.(5) 43; emphasis added.)

One may well ask -- why start at the Hilton Hotel, unless that is where Gold started when he went to the apartment? Moreover, the following additional facts related by Gold also corroborate the authenticity of the registration card: (1) the fixing of the Greenglass meetings on the

day following the first Saturday in June, 1945 (i.e., Sunday, June 3, 1945, the date handwritten on the card); (2) Gold's statement that he used his own name in connection with the hotel registry and made little effort at concealment on his trips to the Southwest (T.(4) 73); (3) the correctness of the Kindred Street address which appears on the card (T.(1) 7, 9; T.(4) 77); and (4) his employment at the firm of Terry & Siebert, the firm listed on the card (T.(4) 75; T.(5) 2).

Thus, now that petitioner's so-called "newly-discovered evidence" has belatedly been produced, it is apparent that that evidence can only afford an additional basis for a denial of his pending motion.

The Allegations of the Amended Petition

The amended petition claims that the Government:

"knowingly presented false and perjured evidence through the testimony of David Greenglass as well as Gold in relation to an alleged meeting between Greenglass and Gold on June 3, 1945 in Albuquerque, New Mexico.
... " Amended Petition, ¶8(g).*

* Why Ruth Greenglass is not included in this allegation is unclear, since she also gave substantially similar testimony at the trial about the June 3, 1945 meetings.

The fact should not be obscured that the principal allegation of perjury in this respect is that these June 3, 1945 meetings never took place. See id at paragraphs 62, 63, 65, 70, 74, 78 and 79.

" . . . [T]he 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. . . ." Id. at ¶63.

The verbal gymnastics and tortured reasoning by which petitioner arrives at this conclusion from recordings which show precisely the contrary will now be examined.

Petitioner alleges that Gold's foregoing account of his Greenglass meetings to his attorneys on June 14, 1950 was a "reference -- and then in only the most ephemeral way" to these alleged meetings. Amended Petition, ¶84(d). Presumably the thought behind this allegation is that Gold's account on June 14, 1950 was so devoid of facts as to cast doubt on whether the meetings in fact took place. On this aspect, the Government is satisfied to rest on the recordings themselves.

But in apparent contradiction of the foregoing allegation, the amended petition alleges that the Gold statements to his attorneys about the Greenglass meetings "were significantly contrary to testimony given by him at the trial" (§ 64) and were "wholly inconsistent statements substantially and vitally at variance with testimony given at the trial itself" (§ 81). The alleged inconsistencies are set forth in paragraphs 84-86 of the amended petition.

Since these inconsistencies purportedly establish that the Gold-Greenglass meetings never occurred, one would expect them to relate to the date of these meetings, or the time thereof, or the place, or the persons present. But here not one inconsistency appears.

In fact, a careful examination of petitioner's allegations discloses that they relate to omissions in Gold's pre-trial statements, not inconsistencies. Thus it is alleged that, in his June 14, 1950 statement to

his attorneys, Gold omitted the following details of his June 3, 1945 meetings about which he testified at the trial on March 15, 1951:

1. the name of Greenglass (Amended Petition, ¶¶ 84(a) and 85(b));
2. his address (Id. at ¶¶ 84(c) and 85(b));
3. the exact recognition sign by which Gold identified himself to Greenglass (Id. at ¶¶ 84(e) and 85(c));
4. the jello box (Id. at ¶¶ 84(f) and 85(a));
5. staying at the Hilton Hotel on this June trip (Id. at ¶¶ 84(g) and 85(d)); and
6. being given the name of Julius Rosenberg or his address or phone number (Id. at ¶ 85(e)).

There are undoubtedly other equally trivial matters which petitioner could have alleged along these same lines, such as that Gold did not mention until June 16, 1950 the fact that at these meetings Greenglass gave him information on possible espionage recruits, and that Gold stated on June 14, 1950 that the Greenglass information contained only one sketch whereas he mentioned a couple of sketches in his trial testimony.

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But it is time to stop and put these allegations in context. It is true that Gold did not state Greenglass's name and address on June 14, 1950, but that very recording shows he was able through his description to direct the FBI to the very house, even though that house had been altered after 1945 to substitute a living room for a porch (T.(5) 43-44), and that he was able to identify Greenglass as the GI even though Greenglass had put on considerable weight since 1945 (T.(5) 44).*

It is also true that Gold was unable on June 14, 1950 to remember the exact recognition sign "I come from Julius", but he did remember that a sign was used and he recalled correctly that it involved the name of a man and was something on the order of "[man's name] sent me" (T.(5) 40). While Gold didn't mention staying at the Hilton Hotel in his June 14, 1950 statement, he

* The caution in making a positive identification evident in this portion of the transcript certainly belies petitioner's claim that Gold's statements were contrived by his interrogators.

did mention in that very statement that in trying to locate the Greenglass apartment he looked at films "starting with the Hilton Hotel" (T.(5) 43). And he didn't mention being given the name of Julius Rosenberg or his address or phone number, but he did mention being given the name and address, or name and phone number of the GI's "father-in-law or possibly an uncle of his who lived somewhere in the Bronx of New York" (T.(5) 41). In the context of his trial testimony, it is evident Gold in the earlier statement mistook "father-in-law" for "brother-in-law."

One other apparent inconsistency is alleged in the amended petition. This relates to Gold's pre-trial statements that Yakovlev told him or gave him the impression that the Greenglass information was unimportant or of no value as contrasted with his trial testimony that Yakovlev said the information was very

valuable. See Amended Petition, ¶86.* The possibility never seems to have occurred to petitioner that it was Yakovlev, not Gold, who was inconsistent in this respect; i.e., that Yakovlev did in fact tell Gold some two weeks after Gold passed the Greenglass information to him on June 5, 1945, that the information was very valuable, as Gold testified

* Petitioner also tries to tie this point into his claim in the first portion of his petition that the Government attempted to mislead the jury and defense counsel about the value of Government Exhibit 8, the sketch of the cross-section of the atomic bomb. Amended Petition, ¶58. But the two should not be confused. Government's Exhibits 6 and 7 were turned over to Gold by Greenglass at the June 3, 1945 meeting, and the authenticity of these sketches was testified to by Dr. Walter S. Koski, whose scientific qualifications and veracity appear to be conceded by petitioner. See *id.* at ¶¶ 21-22.

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at the trial (R. 1201), but that "subsequently",*
"on the one occasion when I did mention this man
[Greenglass] sometime in the late Fall of 1945,**
Yakovlev, "with intent to mislead,"* gave Gold the
impression that the information received from Greenglass
was unimportant or of no value.

It must be remembered that Gold testified
at the trial about his meeting with Yakovlev in
November, 1945, at which time he raised with Yakovlev
the suggestion that he get in touch with Greenglass'
brother-in-law Julius since Christmas was approaching
and Greenglass had mentioned in June that he might
be coming to New York on furlough and could be reached
through Julius at that time. Yakovlev's response was
to firmly discourage this contact. (R. 1214-15.) When

* Senate Internal Security Subcommittee Hearings on
the Scope of Soviet Activity in the United States,
84th Cong., 2d Sess., Part 20, p. 1058 at 1085 (April
26, 1956).

** T.(5) 42-43.