



YDMUN'25



Study Guide

THE ROSENBERG CASE

Open Agenda

Under Secretary General: HAFIZE BETÜL KAYA

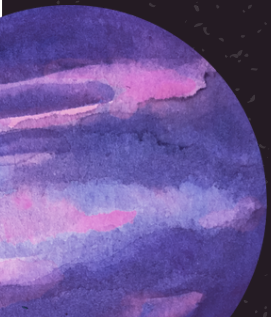
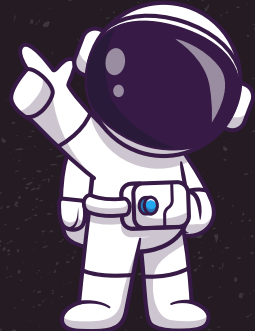




Table Of Contents

1. How the Rosenberg Case Began?
 2. The trial
 3. The verdicts and sentences
 4. The appeals
 5. The aftermath and legacy
 6. The Federal Courts and Their Jurisdiction
 - *U.S. District Court for the Southern District of New York*
 - *U.S. Court of Appeals for the Second Circuit*
 - *Supreme Court of the United States*
 7. The defendants
 - Julius Rosenberg
 - Ethel Rosenberg
 - Morton Sobell
 8. The Witnesses
 - David Greenglass
 - Ruth Greenglass
 - Harry Gold
 9. The lawyers
 - *Irving Saypol*
 - *Roy Cohn*
 - Emanuel Boch
 10. The Jurists
 - Irving Kaufman
 - Jerome Frank
 - William. O. Douglas
 - Felix Frankfurter
 11. The Judicial Process: A Chronology
 12. Sources
- 

1. HOW THE ROSENBERG CASE BEGAN?

During the cold war, there was a climate of rising suspicion and fear all around US, especially in the first decade after the end of WW2 in 1945. The Soviet Union emerged from the war as a world power; seemingly and ideologically opposed to everything US and its allies stood for. A conflict between them were inevitable.

When USSR developed their first atomic bomb in 1949 it raised the terrifying possibility of a war between them leading to a complete destruction. As a result, both parties waited for moments to gain an edge on each other including espionage. When Julius and Ethel Rosenberg were arrested in 1959, accused of being the ring leaders of a Soviet spy ring in the US, this confirmed many Americans worst fear at the time: American citizens were so 'devoted' to the idea of Communism that they would betray their own country to do so. The Rosenberg couple were duly convicted of espionage in federal court and 3 years later they were executed for their crimes in the electric chair.

However, years later people begin to ask questions. The review of documents pertaining not the investigation and trial revealed a litany of malfeasance. Dirty dealing, and outright deception on the part of people who prosecuted and executed the Rosenbergs, leading to a speculation that they had been framed. This led to the rise of questions as "Did they deserve to die?" after all Rosenbergs were the only people during Cold War period who were executed for espionage in United States.

Ethel Greenglass who was born in 1915 and Julius Rosenberg who was born in 1918 both come from similar backgrounds. Working class Jewish families who immigrated to New York City from Eastern Europe. Julius studied electrical engineering at City College of New York CCNY. Ethel was not allowed to attend university, since her mother believed the proper thing to do was her daughter to marry a Jewish man and bear his children. Both were politically active in 1930s, growing attached to the philosophy of Communism. The political philosophies of Marx and Lenin were popular among New York's Jewish community, especially among those who were well educated.

Julius and Ethel met in 1936 and it didn't take them long to fall in love with each other, considering their similar interests and backgrounds in life. Their wedding was held in June 1939. Julius took a job in the US Army signal Corps in Fourth Monmouth New Jersey as an engineer.

In order to secure the job with the signal core, Julius had to lie on the application. He claimed he never been a member of the communist party which he was. Investigated and cleared 1941 by the FBI. Then he was fired in January 1945 as a "potential security risk". Important research on electronics, communications, radar and guided missile controls was undertaken at Fort Monmouth during WWII. It has been established that Julius Rosenberg had been acting as a spy for the Soviet Union since at least 1942, passing on classified information from his workplace to his handlers who were agents in the NKVD posing as Soviet diplomats. What was worse, he was actively recruiting others into his spiring including his wife's brother David Greenglass. David Greenglass was a soldier who was stationed at Los Alamos where the top secret project to develop the atomic bomb was a topic. David Greenglass was not an engineer and the information he delivered to his brother-in-law to pass on to his Soviet handlers was "rudimentary" at best. Other spies recruited by Julius included three of his classmates. Morton Sobell, William Perl and Joel Barr who passed on information about defense projects they were working on. Rosenberg hardly took any money from his Soviet handlers for his work, instead he thought that advancing the cause of World socialism was the right thing to do.

Rosenberg provided thousands of classified reports from Emerson Radio including a complete proximity fuze. Perl supplied Feklisov, under Rosenberg's direction, with thousands of documents from the National Advisory Committee for Aeronautics, including a complete set of design and production drawings of Lockheed's P-80 Shooting Star, the first U.S. operational jet fighter. Feklisov learned through Rosenberg that Ethel's brother David was working on the top-secret Manhattan Project at the Los Alamos National Laboratory ; he directed Julius to recruit David Greenglass.

In February 1944, Rosenberg succeeded in recruiting a second source of Manhattan Project information, engineer Russel McNutt, who worked on designs for the plants at Oak Ridge National Laboratory. For this success Rosenberg received a \$100 bonus. McNutt's employment provided access to secrets about processes for manufacturing weapons grade uranium.

In the August of 1949, the American government was alarmed to discover that the Soviets had detonated their first atomic bomb years ahead of when they were expected to. For many, including the FBI director Jay Edgar Hoover the only explanation for this premature end to America's nuclear monopoly was that spies had passed on information to the Soviets. However, Lavrenty Beria, the head official of the Soviet nuclear project, used foreign intelligence only as a third-party check rather than giving it directly to the design teams, whom he did not clear to know about the espionage efforts, and the development was indigenous.

The arrests and indictments

In February 1950, British authorities arrested Klaus Fuchs, a German-born scientist living in England, on suspicion of providing the Soviet Union with classified information regarding the American atomic bomb program in Los Alamos, New Mexico, on which he had worked. Fuchs' confession led to the arrest in May 1950 of Philadelphia chemist Harry Gold, who served as a courier between Fuchs and Fuchs' Soviet handler, Anatoli Yakovlev. Gold made a full confession as well, informing the FBI of his June 1945 encounter with a U.S. Army officer who provided him with classified information from Los Alamos, which Gold then turned over to Yakovlev. Gold's description of the man he met led the authorities to Sergeant David Greenglass, whom authorities arrested in June 1950.

Like Fuchs and Gold, Greenglass quickly confessed, admitting that his wife, Ruth, had been involved in espionage as well. Both David and Ruth Greenglass soon agreed to cooperate with the government's investigation. They blamed David's sister Ethel Rosenberg and her husband Julius, who, they claimed, had indoctrinated them with Communist beliefs and recruited them into their espionage ring. Although they made no formal deal with the government, the Greenglasses hoped that their cooperation would secure a lighter sentence for David and spare Ruth from prosecution. U.S. Attorney Irving Saypol and his assistant, Roy Cohn, repeatedly warned the couple that Ruth Greenglass could be charged as well if they did not disclose all

they knew, particularly regarding Ethel Rosenberg, about whom little evidence had emerged. As a result of the Greenglasses' claims, Julius Rosenberg was arrested on July 17.

Two days later, confronted by Julius's refusal to discuss his espionage activities or to reveal the names of other spies, FBI Director J. Edgar Hoover suggested to Attorney General J. Howard McGrath that to bring about a "change in [Julius'] attitude," "proceeding against his wife might serve as a lever in this matter." The following month, federal prosecutors began to present the espionage case to a grand jury in New York City, and immediately after testifying before the grand jury, Ethel Rosenberg was arrested as well.

On August 17, 1950, the federal grand jury for the Southern District of New York indicted Julius Rosenberg, Ethel Rosenberg, and Anatoli Yakovlev, who was no longer in the United States, charging them with conspiracy to spy for the Soviet Union in violation of the Espionage Act of 1917. Although the indictment defined the object of the conspiracy broadly as the transmission of information relating to the national defense of the United States, public statements by Hoover made clear that government prosecutors believed that the Rosenbergs conspired to give the Soviet Union secret information regarding the atomic bomb. The charge of conspiracy, rather than espionage, required the prosecution to prove a common plan among the defendants and at least one overt act in furtherance of that plan, but did not require proof that the defendants succeeded in transmitting classified information to the Soviets.

The day after the indictment of the Rosenbergs, the FBI arrested engineer Morton Sobell, Julius Rosenberg's college classmate and friend, on suspicion that he was a member of the espionage conspiracy. The grand jury soon added as defendants Sobell and David Greenglass, whose earlier indictment in New Mexico had been dismissed so that his case could be combined with those of the New York defendants. David Greenglass was the only defendant to plead guilty. Ruth Greenglass and Harry Gold had been named as co-conspirators in the original indictment but not charged. (Gold had pleaded guilty to espionage in federal court in Philadelphia.)





2. The trial

The trial of Julius Rosenberg, Ethel Rosenberg, and Morton Sobell opened on March 6, 1951, before Judge Irving Kaufman of the U.S. District Court for the Southern District of New York. Kaufman, a former federal prosecutor, had been on the bench less than two years, but already had a reputation as a staunch anti-Communist. A few months before the Rosenberg case, Kaufman presided over the trial of Abraham Brothman and Miriam Moskowitz, Communists

accused of conspiring to obstruct justice by convincing Harry Gold to lie to a federal grand jury investigating espionage in 1947.

After the defendants were convicted, Kaufman gave them the maximum sentence, castigating them for attempting to “destroy” the United States. U.S. Attorney Irving Saypol, the chief prosecutor on the Brothman case and an assistant prosecutor in the Hiss and Dennis trials, headed up the Rosenberg prosecution. Emanuel Bloch, Julius Rosenberg’s attorney and the head of the defense team, was well known in New York City for working on behalf of a number of leftist causes and had represented Communists in other cases.

The prosecution’s case rested primarily on the testimony of four witnesses—David and Ruth Greenglass, Harry Gold, and Max Elitcher. Elitcher, a classmate of Julius Rosenberg and Morton Sobell at the City College of New York in the late 1930s, was the only witness to name Sobell as a member of the Rosenberg espionage ring. David and Ruth Greenglass provided the only testimony linking the Rosenbergs to espionage. Together they described a series of events that were at the center of the prosecution’s case. According to Ruth, the Rosenbergs in November 1944 asked her to visit David, who was stationed at Los Alamos, and to convince him to steal classified information about the atomic bomb program. Ruth said that she persuaded David to participate in the espionage scheme and that she returned to New York with the requested information. David claimed that he returned to New York City on furlough in January 1945, whereupon he gave Julius sketches he had drawn of high-explosive lens molds used in the atomic bomb, and he described his work at Los Alamos to an unnamed Russian to whom he had been introduced by Julius. The Greenglasses testified that in June 1945, by which time Ruth was living with David in New Mexico, they passed stolen information to a courier who arrived at their home and uttered the predetermined phrase, “I come from Julius.” Julius, they claimed, had set up the meeting in January. Julius had given Ruth half of a torn Jell-O box and promised that the courier would arrive bearing the matching half. Harry Gold, the courier in question, took the witness stand and corroborated the Greenglasses’ testimony. In the most damaging account, David Greenglass testified that he returned to New York City on another furlough in September 1945 and gave Julius several pages of handwritten notes and sketches regarding the atomic bomb. When the prosecution introduced replicas of the notes and sketches, Bloch asked that the documents be “impounded” and that Judge Kaufman bar spectators and reporters from the courtroom while Greenglass testified about the material. Although Bloch was attempting to impress the jury with his and the defendants’ concern for national security, his request was seen by many observers—including the prosecutors, Sobell’s lawyers, and at least some of the jurors—as a major blunder that lent credibility to the prosecutors’ contention that the material in question did, in fact, contain “the secret of the atomic bomb.”

David and Ruth claimed that Ethel typed a copy of David’s notes for delivery to the Soviets.

Without this testimony, the prosecution would have had little evidence of Ethel’s involvement in espionage beyond her supposed role in asking Ruth Greenglass to recruit her husband into the

spy ring in November 1944. In his closing argument, Irving Saypol told the jury that Ethel “sat at that typewriter and struck the keys, blow by blow, against her own country in the interests of the Soviets.”

The testimony that sealed Ethel Rosenberg’s fate was almost certainly false. The Greenglasses made no mention of it in their initial confessions or in their subsequent interviews with the FBI, and Ruth did not bring it up in her testimony before the grand jury. It was not until shortly before trial, when Ruth still feared she would be indicted, that she first implicated Ethel in preparing the notes. David corroborated Ruth’s testimony on this point, but admitted years later that he had done so only to protect his wife.

Upon the conclusion of the prosecution’s case, Julius and Ethel Rosenberg took the stand to testify in their own defense. The Rosenbergs offered rote denials of the government’s allegations, and when they were asked whether they were Communists, they invoked their Fifth Amendment right to refuse to answer. Julius, while proclaiming allegiance to the United States and respect for its system of justice, admitted that he admired the accomplishments of the Soviet Union and felt that it was primarily responsible for the defeat of the Nazis. The New York Times described Julius as “glib” and “self-assured” during direct examination but beset by “nervousness” and “hesitation” when cross-examined. Jurors later recalled the Rosenbergs as displaying no signs of emotion in court; one juror called Ethel Rosenberg “a steely, stony, tight-lipped woman.”

3. The verdicts and sentences

After the three-week trial and eight hours of deliberation, the jury returned its verdicts on March 29, 1951, finding Julius Rosenberg, Ethel Rosenberg, and Morton Sobell guilty of conspiring to commit espionage for the benefit of the Soviet Union. Judge Kaufman told the jurors, “My own opinion is that your verdict is a correct verdict.”

Prior to sentencing the defendants on April 5, Kaufman announced that because of the gravity of the case, he had not asked the prosecution for a sentencing recommendation, preferring to bear sole responsibility for his decision. Kaufman, however, had privately solicited the views of the prosecution, other judges, and Department of Justice officials. In his sentencing statement, Kaufman explained that the sentence was presented “in a unique framework of history” defined by democracy’s “life and death struggle with a completely different system.” He accused the Rosenbergs of trying to destroy the United States, characterizing their crime as “worse than murder.” He also assigned them at least partial blame for the outbreak of the Korean War, “with the resultant casualties exceeding 50,000 and who knows but that millions more of innocent people may pay the price of your treason.” Kaufman then sentenced Julius and Ethel Rosenberg to death, as authorized by the Espionage Act of 1917 in cases of wartime spying, and ordered that Morton Sobell spend thirty years in prison, the maximum term allowed under the statute. The following day, Kaufman sentenced David Greenglass to a reduced term of fifteen years in prison, citing his cooperation with the government.

4. The appeals

For more than two years after the sentencing, Julius and Ethel Rosenberg fought to avoid the electric chair. They appealed their conviction to the U.S. Court of Appeals for the Second Circuit and then to the Supreme Court of the United States. They returned to the district court to request a rehearing and a reduced sentence, and when those efforts failed they appealed again to the Court of Appeals, and on several occasions to the Supreme Court. They and other lawyers directly petitioned the Supreme Court for writs of habeas corpus and stays of their execution pending arguments on new appeals and new evidence. The Rosenbergs also petitioned President Harry Truman for executive clemency in January 1953. Truman left office later that month without acting on the petition, and his successor, Dwight Eisenhower, denied the request in February. Subsequent clemency petitions, one accompanied by a personal letter from Ethel Rosenberg, met with the same denial by Eisenhower.

In their appeals, motions, and petitions, the Rosenbergs and their lawyers argued at one point or another that both newspaper publicity and Judge Kaufman's hostility toward the defendants had unfairly prejudiced the jurors; that the defendants were essentially being tried for treason without the constitutional protections guaranteed in treason prosecutions; that witnesses, including David Greenglass, committed perjury with the knowledge of the prosecutors; that the lead prosecutor was guilty of misconduct when he held a press conference announcing the indictment of a Rosenberg associate scheduled to give testimony; that the death penalty was cruel and unusual punishment because associates convicted of similar crimes received lighter sentences; that the prosecutors had violated the rules enforcing the constitutional right to cross-examine witnesses; and, in one of the last appeals, that the Rosenbergs should have been sentenced under a more recent act of Congress that required a jury recommendation for imposing the death penalty on defendants convicted of transmitting atomic secrets to a foreign nation.

The courts ordered several stays of execution to await further appeals or petitions, but none of the courts modified the sentences or ordered a new trial, and the Supreme Court never heard arguments on the Rosenbergs' conviction. When asked to reduce their sentence to something less than death, Judge Kaufman refused and offered a strident defense of his decision. The Rosenbergs, he declared, "chose the path of traitors" and if ever released would resume their work for the Soviet Union; they maintained "a devotion which has caused them to choose martyrdom and to keep their lips sealed." "The fact that the acts of the defendants were not characterized as treason" did nothing to mitigate the enormity of their crime, which exposed "millions of their countrymen to danger or death."

The failed appeals and the vehemence of Judge Kaufman obscured the doubts expressed by other judges and the inner deliberations of the courts. Justice Felix Frankfurter wrote in his private notes that the published record of the Rosenberg case in the Supreme Court "does not

tell the story. Indeed, it distorts the story; it largely falsifies the true course of events.” Similar comments might have been offered about the district court and the court of appeals. In the court of appeals, Jerome Frank, who was among those counseling Kaufman not to impose the death penalty, noted that precedent prohibited the appeals court from revising a sentence, but he suggested that the Supreme Court might want to revisit that rule. Frank privately wrote a prominent law professor that the trial had been fair, but that the sentence was not justified. In response to the alleged misconduct of the prosecutor who had held a press conference to announce perjury charges against a witness, Judge Thomas Swan wrote for the court of appeals that the apparent conduct of the prosecutor was “highly reprehensible” and “cannot be too severely condemned,” but the court denied the defendants’ appeal in part because the defense lawyers had made no motion for a mistrial when the incident occurred in the midst of the trial. Other decisions denying the Rosenbergs’ appeals cited the defense lawyers’ failure to ask for a change of venue or a mistrial or to raise related objections during the trial.

The appeals process played out against the backdrop of continuing public interest in the case and the fate of the defendants. The Rosenberg trial attracted international attention, and the death sentences intensified the fervor surrounding the case. Many on the left, including intellectuals, artists, and writers, protested the death sentences and urged clemency based on the belief that the Rosenbergs were innocent victims of anti-Communist hysteria gripping the United States. Communists played a significant role in opposing the executions, but many others, especially clergy, fought for clemency because of religious and moral objections to the death penalty. In 1952, a reporter for the National Guardian, a left-wing New York City newspaper, led the creation of the National Committee to Secure Justice in the Rosenberg Case, which sought a new trial or clemency. Its members picketed the White House and emphasized that the Rosenbergs’ two young sons, Michael and Robert, would be orphaned if the death sentences were carried out. The Committee included both Communists and non-Communists, but its leadership maintained distance from the Communist Party USA in order to avoid alienating mainstream liberals.

By late spring of 1953, as opposition to the death sentences grew, many in the mainstream press and a number of government officials warned that the execution of the Rosenbergs might damage the international reputation of the United States in the Cold War battle for public opinion. The editorial writers for the Washington Post, who considered the trial fair and the evidence of the Rosenbergs’ guilt overwhelming, suggested “that the value of this case to the international Communist propaganda would have been far less if the milder penalty had been imposed.” Still, the Post noted, “the unhappy truth is that whether the Rosenbergs live or die, Communist propaganda stands to benefit.” The U.S. ambassador to France, C. Douglas Dillon, writing through the secretary of state, urged President Eisenhower to appraise the Rosenberg sentence “in terms of higher national interest” and warned of the “long term damage that execution of Rosenbergs would do to foreign opinion of US and of our whole democratic processes.” Even the many French who accepted the guilt of the defendants, Dillon reported, “are overwhelmingly of [the] opinion” that the death penalty was unjustified.

Despite the large number of people who wanted to see the Rosenbergs spared, many Americans strongly favored the executions based on a deep-seated animus toward Communism and the belief that the Rosenbergs had brought the United States closer to nuclear devastation by delivering to the Soviets the key to the atomic bomb. Several members of Congress denounced Julius and Ethel as traitors who deserved the death penalty, and Representative W.M. Wheeler of Georgia sought to impeach Justice William O. Douglas after he granted the Rosenbergs a stay of execution. Douglas's chambers were also deluged by angry letters and telegrams, some of them from members of the military and their families. The legal appeals in defense of the Rosenbergs culminated in the Supreme Court.

In October 1952, the Supreme Court, by a vote of 5 to 3, denied a petition for certiorari in the appeal of the conviction, with Justices Hugo Black, Harold Burton, and Felix Frankfurter in dissent. Over the next eight months, Black consistently voted to hear arguments on the various appeals from the Rosenberg trial, and Frankfurter became convinced that public acceptance of the verdict in this highly publicized trial would depend on the Supreme Court's full review of the trial and conviction. The Court in November 1952 rejected a petition for a rehearing, and, after several shifts in the justices' votes in their private conference, the Court rejected another certiorari petition in May 1953. Although five justices had at one point or another agreed, in private conference or in recorded votes, to accept some sort of appeal from the Rosenbergs, at no point were there sufficient votes to accept a particular petition or appeal.

On June 17, 1953, two days before the rescheduled execution of the Rosenbergs and after the Supreme Court had adjourned for the summer, Justice Douglas, who until late May had voted to deny each Rosenberg appeal, granted a stay of execution to allow the lower courts to determine the validity of the new argument that Kaufman should have sentenced the Rosenbergs under the Atomic Energy Act of 1946, which required a jury recommendation for the death penalty. The evening before, Justice Robert Jackson arranged a meeting between Attorney General Herbert Brownell and Chief Justice Fred Vinson, who promised to call the full Court into session to vacate any stay from Douglas. The justices, some of whom had left for annual vacations, returned to Washington and on June 18 heard arguments on a motion to vacate the stay. On June 19, by a vote of 6 to 3, the Supreme Court lifted the stay, and in a per curiam, or unsigned, opinion announced that "the question is not substantial" and "further proceedings to litigate it are unwarranted."

Bloch made a final, futile appeal to Kaufman for a stay and to the president for clemency, but the Supreme Court decision to vacate Douglas's stay cleared the way for the Rosenbergs' execution, scheduled for that night at 11. In anticipation of the executions, thousands of people, some of them demonstrating in front of American embassies, rallied in support of the Rosenbergs in London, Paris, and other foreign cities as well as in the United States. After defense attorneys asked Judge Kaufman to prevent the executions from occurring on the Jewish Sabbath, which began at sundown, the judge ordered that the time be moved up to 8 p.m. On June 19, 1953, at 8:06 and 8:16 p.m., respectively, Julius and Ethel Rosenberg were pronounced dead in the electric chair at Sing Sing Prison in Ossining, New York. They were the only American citizens to be put to death for espionage.

In July 1953, the Supreme Court issued signed opinions explaining the decision of June 19. Chief Justice Vinson's opinion for the Court majority cited no precedent or statutory authority for the unusual decision to vacate a justice's stay before the lower courts heard related arguments. Frankfurter's dissent acknowledged the apparent "pathetic futility" of an opinion released after the execution, but noted that "history also has its claims," and "this case is an incident in the long and unending effort to develop and enforce justice according to the law." "The fact that Congress and not the whim of the prosecutor fixes sentences," Frankfurter concluded, demanded that the Supreme Court should have addressed the question of the proper sentencing statute, regardless of how late the question appeared in the appeals. Douglas agreed that "no man or woman should go to death under an unlawful sentence merely because his lawyer failed to raise the point."

5. The aftermath and legacy

In the sixty years since Julius and Ethel Rosenberg died in the electric chair, their case has lived on in public memory as a landmark event in the Cold War. For decades following the trial, the memory of the Rosenberg case served as an ideological battleground for those who decried the criminal prosecutions resulting from the Red Scare and those who insisted that the government had acted appropriately in response to a grave threat to national security.

Numerous books on the Rosenbergs were published between the 1950s and the 1990s, many of which reflected particular views of the Cold War and the impact of anti-Communism on the United States in the 1950s. Among those arguing for the Rosenbergs' innocence were their sons, Michael and Robert, who took the last name Meeropol after being adopted following their parents' deaths. In the mid-1970s, the brothers co-authored a book arguing that their parents had been framed, and they successfully sued the federal government for the release of FBI records relating to the case. But the end of the Cold War and public statements of other defendants shifted the terms of the debate to focus on the degree of Julius's culpability, the strategic value of the information he provided to the Soviets, and the justification for the death penalty.

In 1995, after the collapse of the Soviet Union, the U.S. National Security Agency released intercepted cables, which, along with declassified documents from the Soviet archives, confirmed that Julius Rosenberg did spy for the Soviets throughout the 1940s and was part of a larger spy ring within the United States. As many suspected given the paucity of the evidence against her, Ethel Rosenberg, while likely an accessory, was almost certainly not a spy. A Soviet cable from 1944 stated that Ethel was "sufficiently well developed politically" and that she knew about her husband's espionage activities, but noted, "in view of delicate health [she] does not work."

In 1960, David Greenglass was released from prison and rejoined his wife and children, who were living under assumed names.

In 2001, Greenglass publicly admitted committing perjury on the stand in order to save Ruth from prosecution. Morton Sobell was released in 1969 and maintained his innocence until 2008, when he admitted in interviews that he had been a Soviet spy.

The iconic status of the Rosenberg case kept it alive in popular culture as well, through frequent references in music, novels, movies, plays, and television shows. Filmmaker Woody Allen, for example, had his character in the 1989 film *Crimes and Misdemeanors* proclaim of a loathed in-law, “I love him like a brother—David Greenglass.” Playwright Tony Kushner’s 1993 play *Angels in America* included scenes in which prosecutor Roy Cohn was haunted on his deathbed by the ghost of Ethel Rosenberg. In 2003, the fiftieth anniversary of the executions, Robert Meeropol published another book regarding the case, and the following year Michael Meeropol’s daughter, Ivy, premiered her documentary film, *Heir to an Execution*. While the Meeropols acknowledged Julius’s guilt, they and many other Americans continued to view the case—and Ethel Rosenberg’s death in particular—as evidence of the nation’s overreaction to the Communist threat.

6. The Federal Courts and Their Jurisdiction

U.S. District Court for the Southern District of New York

The Rosenberg trial took place in 1951 before Judge Irving Kaufman of the U.S. District Court for the Southern District of New York. After the defendants were convicted in a jury trial and sentenced by Judge Kaufman, the district court denied them posttrial relief four times between December 1952 and June 1953, declining to overturn or reduce their sentences and refusing to grant them a new trial. The district courts were established by the Congress in the Judiciary Act of 1789,

and they serve as the trial courts in each of the judicial districts of the federal judiciary. The U.S. District Court for the Southern District of New York was established in 1814, when Congress divided New York into two judicial districts. New York was subsequently divided into three and then four judicial districts, but the Southern District has always included Manhattan. The court’s jurisdiction over the Rosenberg trial was based on the Espionage Act of 1917, a federal law making it a crime to conspire to transmit to a foreign power information relating to the national defense of the United States.

U.S. Court of Appeals for the Second Circuit

Julius Rosenberg, Ethel Rosenberg, and Morton Sobell appealed their convictions to the U.S. Court of Appeals for the Second Circuit. Their appeal was heard by a three-judge panel consisting of Jerome Frank, Thomas Swan, and Harrie Chase. In February 1952, the panel affirmed the convictions in an opinion authored by Judge Frank. In April, the court denied a rehearing of the appeal. The court of appeals also affirmed each of the district court's denials of posttrial relief and denied the defendants' motion for an order requiring the district court to modify their sentences. The U.S. courts of appeals were established by Congress in 1891. A court of appeals in each of the regional judicial circuits was established to hear appeals from the federal trial courts, and the decisions of the courts of appeals are final in many categories of cases. The Second Circuit consists of New York, Vermont, and Connecticut, and the Second Circuit court of appeals has always met in Manhattan.

Supreme Court of the United States

The Supreme Court never reviewed the Rosenbergs' convictions, but it considered multiple petitions related to the case, and in the final hours before the executions the Court heard arguments about one justice's decision to grant a stay of execution. In October 1952, the Supreme Court had voted 6 to 3 to deny the Rosenbergs' certiorari petition appealing their conviction. In November, the court denied their petition for a rehearing. In May, the Court denied a second certiorari petition, this one an appeal of the lower courts' rejection of the defendants' assertion of prosecutorial misconduct. In June, on the final day of the term, the Court denied a request for a stay, for hearing arguments on newly discovered evidence of perjury on the part of David Greenglass, and for rehearing the arguments on the rejected certiorari petition, and a majority of the justices also denied a petition for a writ of habeas corpus related to the evidence of perjury.

On June 17, 1953, after the Court had adjourned, Justice William Douglas exercised an authority available to individual justices and granted a stay of execution to allow the lower courts to consider whether the Atomic Energy Act of 1946, rather than the Espionage Act of 1917, should have governed the Rosenbergs' sentences. In an extraordinary special session two days later, the Supreme Court took the unprecedented step of vacating an individual justice's stay before the lower courts heard arguments on the question. The Court's decision, by a vote of 6 to 3, cleared the way for the Rosenbergs' executions that evening.

The Supreme Court was established by Article III of the Constitution, which granted the Court limited jurisdiction. The Constitution also authorized Congress to grant the Supreme Court jurisdiction over appeals, and Congress provided for various types of appeals from state and federal courts. The so-called Judges' Bill of 1925 fundamentally redefined the Supreme Court's role within the federal judiciary by repealing much of the mandatory jurisdiction of the Court. The act preserved an automatic right of appeal to the Supreme Court in a few types of cases, but in other areas cases would come to the Court only when the justices granted a writ of certiorari in response to a petition from a party in a case before a lower court.

7. The defendants

Julius Rosenberg

Julius Rosenberg was propelled to worldwide notoriety when he and his wife, Ethel, were arrested and charged with conspiracy to commit espionage on behalf of the Soviet Union. After his death, his name became virtually synonymous with Cold War threats of Communist subversion and atomic warfare between the Soviet Union and the United States.

Rosenberg was born on May 12, 1918, into a poor family of Eastern European Jewish immigrants living on New York City's Lower East Side. While attending the City College of New York, he organized the school's chapter of the Young Communist League. After graduating with a degree in electrical engineering in 1939—the same year, according to the FBI, he joined the Communist Party—he married Ethel Greenglass, who had attended the same high school as Julius but was three years older. Julius and Ethel had two sons, Michael and Robert, who were born in 1943 and 1947, respectively.

In 1940, Julius began work as an engineer in a civilian position with the U.S. Army Signal Corps, a job from which he was dismissed in 1945 on the grounds that he had concealed his membership in the Communist Party. His firing from the Signal Corps occurred after the FBI sent U.S. Army Intelligence evidence of his party membership. Moreover, FBI informants who had infiltrated the party reported that Julius and his wife were active members in the 1940s. After his dismissal, Rosenberg opened a small machine shop with his brother-in-law David Greenglass, who had just finished a tour of duty in the army, and they remained in business together until 1949. Julius, whom the Soviets code-named “Antenna” and later, “Liberal,” had been a Soviet spy since 1941, leading a small espionage cell consisting of four other engineers, all of whom were Communists.

The group at first focused primarily on obtaining classified information regarding radio engineering and aviation, and by 1942, its Soviet supervisors considered it to be productive. Between 1944 and 1945, Rosenberg contributed to Soviet efforts to steal information from the American atomic bomb project at Los Alamos, New Mexico. After his dismissal from the Signal Corps in 1945, the Soviets instructed him to keep a low profile and cease his supervisory activities, but by 1946 or 1947, he had resumed an active role in espionage.

Observers at the Rosenbergs' conspiracy trial described Julius as maintaining a calm demeanor and displaying virtually no emotion, even when he and his wife were sentenced to death. After the sentencing, however, guards at the prison where the Rosenbergs were held reported that

the couple sang to each other from their adjoining cells. In the two years between sentencing and execution, Julius wrote Ethel a large number of letters declaring his love for her and his anguish at being separated from her and their sons. Julius's letters also expressed anger at what he claimed was persecution by the government and bias on the part of the press. Ethel was not the only intended audience for these complaints; to gain support for the clemency movement, some of the Rosenbergs' letters were published in the *National Guardian* and, shortly before their deaths, in book form. Evidence made public after the fall of the Soviet Union—including Soviet intelligence cables the United States intercepted and decrypted during World War II as part of the Venona project—proved that Rosenberg had spied for the Soviets. The notion that Rosenberg gave the Soviets “the secret of the atomic bomb”—as the prosecution claimed and for which Judge Kaufman imposed the death penalty—did not stand the test of time, having been discredited years later by leading atomic scientists, who stated that the atomic information Julius passed to the Soviets was of little value.

Ethel Rosenberg

Ethel Rosenberg, born Ethel Greenglass, was accused of conspiring with her husband Julius to commit atomic espionage on behalf of the Soviet Union and was executed along with him in 1953. The evidence against her at trial consisted solely of the testimony of her brother and sister-in-law, David and Ruth Greenglass, that she had participated in a few conversations and typed notes about the atomic bomb. Crucial elements of that testimony were later revealed to have been fabricated. Government documents released years after the trial suggested that Ethel was prosecuted mainly so that Julius would feel pressured to inform on other spies. A memo written by FBI Director J. Edgar Hoover proposed using Ethel as part of a “lever strategy,” and Assistant U.S. Attorney Myles Lane told the Joint Congressional Committee on Atomic Energy that convicting Ethel would help to “break” Julius and convince him to talk. Like her husband, Ethel Rosenberg came from a family of Jewish immigrants living on New York City's Lower East Side. She was born on September 28, 1915, to a Russian father and an Austrian mother. After high school, she found a job as a clerk for a shipping company, from which she was fired four years later after organizing a strike among female employees. Ethel also took instruction in stenography and typing, and later studied voice, modern dance, and child psychology. She and Julius married in 1939, and the couple had two sons, Michael and Robert. Ethel was a devoted adherent to Communist ideology, and, according to FBI informants, a member of the Communist Party USA. At her trial for conspiracy to commit espionage, she described herself as a housewife.

Ethel struck many observers at her trial to be the most calm and self-assured of any of the defendants, and as seeming to be almost contemptuous of the proceedings. She displayed no emotion when her brother, David Greenglass, testified against her, or when Judge Irving Kaufman sentenced her to death. One juror later described her as “a steely, stony, tight-lipped woman.” Ethel's resolve, which she displayed by keeping her composure on the way to the electric chair, led many, including President Eisenhower, to assume that she was the driving force behind the espionage conspiracy and was in control of her younger husband. While Ethel maintained a stoic demeanor in public settings, her prison letters to Julius were, like his, full of

emotion, including avowals of love for him and longing for a reunion between the couple and their sons.

In 1995, the National Security Agency released translations of Soviet intelligence cables that the United States intercepted and decrypted during World War II as part of the Venona project. One such cable, dated November 27, 1944, mentioned Ethel by name and stated, "Knows about her husband's work. . . . In view of delicate health does not work."



Julius and Ethel Rosenberg are taken from the courthouse after being found guilty New York World-Telegram and the Sun Newspaper Photograph Collection Prints and Photographs Division, Library of Congress [LC-USZ62-117772]

Morton Sobell

Morton Sobell, Julius Rosenberg's college classmate and fellow Communist, was the least prominent defendant in the Rosenberg espionage case. Recruited by Rosenberg to spy for the Soviet Union, Sobell helped to provide the Soviets with non-atomic military secrets.

Sobell was born on April 11, 1917, to an immigrant family in New York City. He attended City College of New York, where he joined the Young Communist League, and graduated in 1938. After working as an engineer in the Navy Bureau of Ordnance in Washington, D.C., from 1939 to 1941, Sobell earned a master's degree in electrical engineering from the University of Michigan in 1942. While in Washington, he was a member of the Communist Party USA, but dropped out prior to World War II. During the war, he worked in the aircraft and marine engineering division of General Electric in Schenectady, New York. Prior to his arrest, Sobell was working as a radar engineer at the Reeves Instrument Corporation in New York City. He lived in Queens with his wife Helen, whom he married in 1947, and their two children. On June 21, 1950, five days after the arrest of David Greenglass, Sobell and his family abruptly left for Mexico. The trip was supposedly a vacation, but the government alleged that Sobell was seeking to escape arrest and prosecution by fleeing to the Soviet Union, supporting the claim with evidence that he had used aliases when checking into hotels in Mexico City.

On August 18, Mexican authorities seized him and drove him across the border, delivering him to agents of the Federal Bureau of Investigation in Laredo, Texas. Sobell, accompanied by U.S. marshals, was promptly flown back to New York City and later indicted on charges of participating in the Rosenberg espionage conspiracy.

Based on the testimony of one witness, Max Elitcher, and evidence regarding his flight to Mexico, Sobell was convicted. On the advice of his attorney, who felt that the trip to Mexico would be difficult to explain, Sobell declined to testify at the trial. Because he was not accused of conspiring to disclose secrets regarding the atomic bomb, he was spared the death penalty and instead sentenced to thirty years in prison. After the Rosenbergs were executed, many involved in the campaign to win them clemency initiated an effort to clear Morton Sobell and have him released from prison. Although he was not exonerated, Sobell was released in January 1969 after serving more than seventeen years of his sentence. Sobell maintained his innocence after his incarceration, claiming that he had fled to Mexico only to escape persecution for his previous membership in the Communist Party and for having falsely taken an oath that he had never been a Communist in order to obtain employment with the government.

In 1974, he published a book, *On Doing Time*, in which he again insisted that neither he nor the Rosenbergs had ever engaged in espionage. In interviews published in 2008 and 2010, however, Sobell admitted that he and Julius had spied for the Soviets, and he provided details of their activities.



Morton Sobell (left) is escorted into federal court by a U.S. marshal

Acme Newspictures photo, New York World-Telegraph and the Sun

Newspaper Photograph Collection

Prints and Photographs Division, Library of Congress [LC-USZ62-123563]

8. The witnesses

David Greenglass

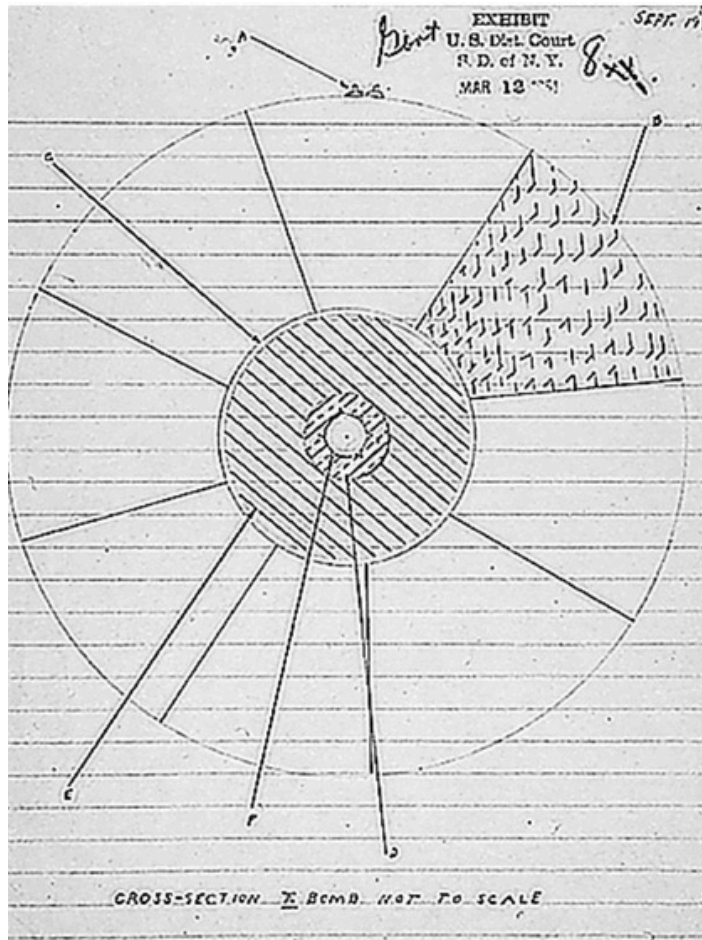
David Greenglass, who spied for the Soviet Union while a U.S. Army soldier stationed at the atomic research facility at Los Alamos, New Mexico, implicated his sister, Ethel Rosenberg, and her husband, Julius, in the espionage conspiracy. After his release from prison, he lived anonymously, as his wife and children had already begun to do, in order to escape the notoriety he earned through his activities as a Communist spy and his role in sending the Rosenbergs to the electric chair.

Greenglass was born on March 3, 1922, and grew up on New York City's Lower East Side. He looked up to his older sister and her then-boyfriend, and later claimed that his "hero worship" of Julius had led him to embrace Communism and to join the Young Communist League at age sixteen. In 1942, David married Ruth Printz, with whom he later had a son and a daughter. After attending several technical schools and beginning work as a machinist in New York, Greenglass was inducted into the U.S. Army as a private in April 1943. He worked as a machinist for the Army at various locations throughout the United States until being assigned in August 1944 to the Manhattan Project at Los Alamos. From 1944 to 1945, David used his position to gather classified information from the facility for transmission to the Soviets. The letters David wrote to Ruth during his Army service revealed that he continued to embrace Communist ideals and followed the fortunes of the Communist Party USA with avid interest. Moreover, soldiers with whom David served remembered him as continually engaging in heated political rants in which he espoused left-wing ideals and praised the Soviet Union, making his Communist sympathies abundantly clear.

After his discharge from the Army as a sergeant in February 1946, Greenglass returned New York, where he and Julius went into business, opening a machine shop. The business was not very successful, and in 1949 Greenglass obtained a new job with an engineering corporation. In February 1950, after atomic scientist Klaus Fuchs was arrested for spying for the Soviets, Julius warned David to leave the United States, but he declined. As Rosenberg had feared, Fuchs' arrest led the authorities to courier Harry Gold, who in turn identified Greenglass as a spy who had stolen classified material from Los Alamos. Greenglass quickly confessed, implicating his brother-in-law and sister as the primary figures in the espionage ring.

Citing David's cooperation, Judge Irving Kaufman sentenced him to only fifteen years in prison. Ruth Greenglass, who also confessed to espionage and testified against the Rosenbergs, was not indicted. David Greenglass claimed later that Assistant Attorney General James McInerney had promised his lawyers that he would receive a suspended sentence or, at most, five years in prison, but there is no known record of such a pledge. Released on parole in 1960, David Greenglass rejoined Ruth and their two children, who were living under assumed names. In 2001, Greenglass admitted that he lied on the stand when he claimed that

Ethel Rosenberg had typed notes relating to the atomic bomb—the testimony most responsible for her conviction and death sentence. As of 2013, David Greenglass continued to live in the New York metropolitan area under his assumed name.



Cross-section of atomic bomb drawn by David Greenglass for use at trial and impounded at request of Emanuel Bloch

National Archives

Ruth Greenglass

Ruth Greenglass, born Ruth Printz, was the wife of David Greenglass and the sis-

ter-in-law of Julius and Ethel Rosenberg. Although the government named her as a of the conspiracy to commit espionage for the Soviet Union, she avoided prosecution by joining her husband in testifying against Julius and Ethel. Her trial testimony, which David corroborated, contributed significantly to the Rosenbergs' convictions and death sentences. Born on April 30, 1924, Ruth was the oldest of four children. Like her husband and the Rosenbergs, she grew up

on the Lower East Side of New York City, and she and David Greenglass, whom she married in 1942, were childhood sweethearts. Like her husband, Ruth believed strongly in Communist ideology and was at one time a member of the Young Communist League, serving briefly as president of a local club.

A Soviet agent reported in September 1944 that Julius and Ethel Rosenberg recommended Ruth “as an intelligent and clever girl” who was among recent recruits. The agent added that Ruth’s husband was working on the atomic energy project in New Mexico. Prior to their arrests for conspiracy, Julius Rosenberg had urged David Greenglass to flee the country. Greenglass was reluctant to do so in any case, but when Ruth was badly burned in a household accident in February 1950, requiring her to be hospitalized for several months while pregnant with second child, flight became impossible.

When David was arrested a few months later, he revealed that Ruth had been involved in the espionage conspiracy as well. Although there is no known record of a formal deal with the government, David hoped that Ruth could avoid indictment if the couple cooperated with the authorities.

At the time of the trial, Ruth was working as a stenographer for Louis Lefkowitz, a Republican assemblyman who later became the state attorney general. In 1956, she was fired from her job with Assemblyman Lefkowitz as a result of publicity surrounding David’s testimony before Congress on the subject of Communist subversion. Although she soon found work elsewhere, the incident motivated Ruth to change the family surname.

Ruth’s most significant contribution to the Rosenberg trial was her testimony that Ethel Rosenberg had typed notes about the atomic bomb for transmission to the Soviets. Without this testimony, which David corroborated, the government’s evidence of Ethel’s direct participation in espionage would have been almost nonexistent. FBI documents declassified in the 1980s as well as Ruth’s grand jury testimony, released in 2008, made clear that Ruth made this allegation only very shortly before trial, when it was still uncertain whether or not she would be indicted. David Greenglass admitted in 2001 that he had no recollection of Ethel’s typing and had lied to protect Ruth. Ruth Greenglass continued to live in the New York area under her assumed name until she died on April 7, 2008, at the age of eighty-three. Her death was made public in June of that year when the federal government agreed to release the grand jury testimony of consenting or deceased witnesses.



David and Ruth Greenglass

National Archives

Harry Gold

Harry Gold, born Heinrich Golodnitsky, was a biochemist from Philadelphia who spied for the Soviets on and off from 1936 until his arrest in 1950. Gold was not a Communist, but admired the Soviet Union and began his spying career by committing industrial espionage in order to aid that nation's development. Only later did Gold begin to steal military secrets from the United States government. In the postwar period, Gold acted mainly as a courier, ferrying information from atomic scientist Klaus Fuchs to Soviet spy handler Anatoli Yakovlev. In 1947, he was subpoenaed, along with his employer, engineer Abraham Brothman, to testify before a federal grand jury investigating espionage, but Gold was not indicted. Although he never met the Rosenbergs, Gold became a crucial link in the chain that ultimately led to their arrests.

Gold was born on December 12, 1910, in Berne, Switzerland, to Russian parents. He and his family came to the United States in 1914 and eventually obtained American citizenship, after which the family name was changed to Gold, and he became known as Harry. After graduating from South Philadelphia High

School in 1928, Gold worked on and off at the Pennsylvania Sugar Company between 1929 and 1946. He also pursued higher education, attending the University of Pennsylvania, earning an undergraduate degree in chemical engineering from Drexel University in Philadelphia in 1932, and earning a Bachelor of Science degree from Xavier University in Cincinnati in 1940. At the time of his arrest for espionage on May 23, 1950, he worked as a biochemist at a Philadelphia hospital.

Gold confessed to espionage and identified David Greenglass as a spy that had passed him classified information from Los Alamos, resulting in the arrest of Greenglass followed by those of the Rosenbergs. After pleading guilty in the U.S. District Court for the Eastern District of Pennsylvania, Gold was sentenced to thirty years in prison—five more than the government had requested—by Judge James McGranery, who resigned in 1952 to become the attorney general of the United States. Gold was paroled in 1966, after which he worked at John F. Kennedy Memorial Hospital in Philadelphia, doing research on heart ailments. He died on August 28, 1972, while undergoing a heart operation at the hospital where he worked. His death was not announced publicly until 1974, after it was discovered by the producer of a television documentary on the Rosenberg case.



Harry Gold

National Archives

9. The lawyers

Irving Saypol

Irving Saypol, the U.S. attorney for the Southern District of New York, was the chief prosecutor on the Rosenberg case. His aggressive handling of the case, combined with a penchant for seeking publicity, won him popular acclaim and helped propel him to a state judgeship shortly after the trial. Saypol was born September 3, 1905, and like the Rosenbergs, came from New York City's Lower East Side. After attending New York City public schools, he studied at St. Lawrence University and Brooklyn Law School and was admitted to the bar in 1928. He first worked in the office of the city's corporation counsel, which he left to found his own law firm in 1934. In 1945, Saypol began work at the U.S. attorney's office in Manhattan, and he served as the U.S. attorney for the Southern District of New York from 1949 to 1951.

Working as chief federal prosecutor for the Southern District of New York, which included Manhattan, during the height of the Cold War, Saypol built his reputation on cases involving Communists, including the leaders of the Communist Party USA. Next to the Rosenberg case, the most prominent was the perjury case against Alger Hiss, the State Department official convicted of lying about having leaked government secrets to the Soviets through admitted spy Whittaker Chambers.

In November 1951, Saypol was elected to a fourteen-year term as a justice of the Supreme Court of the State of New York, the state's second-highest court; he was reelected in 1965, having enjoyed bipartisan support in both elections. In 1976, he was accused of using his power to appoint lawyers to court assignments to benefit his son financially, and was indicted by a grand jury on bribery and perjury charges. The charges against him were dismissed in January 1977. On July 1 of that year, Saypol died at the age of 71, only a few months before he was scheduled to retire from the bench.

Roy Cohn

Roy Cohn, an assistant U.S. attorney, was perhaps the only participant in the Rosenberg trial who became known primarily in connection with events unrelated to the case. Cohn's most significant contribution to the trial was his direct examination of key witness David Greenglass, which produced testimony devastating to Julius and Ethel Rosenberg. Two years later, Cohn embarked on the most memorable phase of his career, serving as chief counsel to Senator Joseph McCarthy in his investigations into alleged Communist subversion of the federal government.

Cohn was born February 20, 1927, in New York City, and grew up in Manhattan. His father, Albert, was a justice of the Supreme Court of the State of New York, the state's second-highest court, and a prominent member of the Democratic Party. The family's political connections allowed Cohn to secure a job with the U.S. attorney's office in the Southern District of New York at the age of twenty-one, after graduating from Columbia Law School at twenty. He quickly rose to prominence in the office, specializing in prosecutions of individuals charged with subversive activities and working on several important cases. In 1950, U.S. Attorney Irving Saypol made Cohn his confidential assistant. Cohn's participation in the Rosenberg trial brought him further attention, and in 1952, he became a special assistant to U.S. Attorney General James McGranery.

Once in Washington, Cohn developed a reputation as a staunch anti-Communist, leading Senator McCarthy to appoint him chief counsel to his Senate investigations subcommittee in 1953. McCarthy, Cohn, and Cohn's friend David Schine teamed up to conduct aggressive investigations of the State Department and other government agencies, looking for Communist infiltration. After Schine was drafted into the Army, Cohn's alleged efforts to secure special treatment for him led to formal charges against both McCarthy and Cohn.

Although the two were cleared, the televised Army-McCarthy hearings of 1954 that resulted from the charges contributed heavily to McCarthy's eventual loss of credibility and influence. After leaving McCarthy's subcommittee in 1954, Cohn returned to New York City and began the private practice of law. He was extremely successful, possessing a roster of high-profile clients, and building a reputation as a tough and brilliant litigator. Despite his professional success, Cohn found himself beset by legal troubles, including frequent IRS audits, liens for millions of

dollars in back taxes, and federal charges including conspiracy, bribery, and fraud, of which he was acquitted in separate trials in 1964, 1969, and 1971. Cohn attributed his brushes with the law to vendettas on the part of his enemies, most notably U.S. Attorney General Robert Kennedy and Robert Morgenthau, the U.S. attorney for the Southern District of New York.

After several accusations of unethical conduct as an attorney, Cohn was disbarred by the state of New York in June 1986. Already gravely ill by the time of his disbarment, Cohn died at age fifty-nine on August 2, 1986, while receiving treatment at the National Institutes of Health in Bethesda, Maryland.



Roy Cohn

New York World-Telegraph and the Sun Newspaper Photograph Collection Prints and Photographs Division, Library of Congress [LC-USZ62-117816]

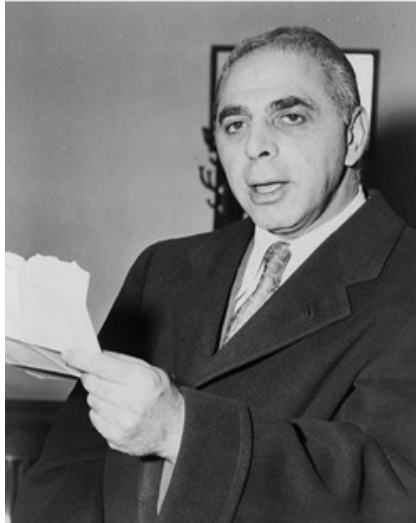
Emanuel Bloch

Emanuel Bloch, who defended the Rosenbergs at trial along with his father and law partner, Alexander, was hailed for his exhaustive efforts to defend his clients and save them from the

death penalty, but also criticized for several crucial errors that may have hurt the Rosenbergs' already slim chances of acquittal, retrial, or a reduced sentence.

Immediately after Julius Rosenberg was arrested in July 1950, he retained the services of Bloch, a Manhattan lawyer with a good reputation who had defended Communists and other leftists. Shortly before the Rosenberg case, Bloch had represented some of the "Trenton Six"—a group of African American youths accused of killing an elderly shopkeeper; students at the City College of New York who were arrested while demonstrating against two professors accused of anti-Semitism and racial discrimination; and William Rosen, who was sentenced to prison after refusing to answer questions before the federal grand jury investigating the Alger Hiss perjury case. Based on Bloch's association with the left-wing National Lawyers Guild, as well as tips from informants, the FBI believed Bloch to be a Communist, and J. Edgar Hoover suggested that the Bureau open an investigative file on him at the conclusion of the Rosenberg case. Throughout the trial and the more than two years of appeals that followed it, Emanuel Bloch spared no energy in attempting to rescue Julius and Ethel Rosenberg from the electric chair. He raised a multitude of arguments in the district court, court of appeals, and Supreme Court, and sought executive clemency from Presidents Harry Truman and Dwight Eisenhower. Bloch continued to seek stays of execution until the last possible moment, and after the Rosenbergs were executed, he played a major role in seeing to the welfare of the couple's sons, Michael and Robert, acting as a temporary guardian and helping to arrange their adoption. In the trial, however, Bloch failed to offer many of the challenges that might have been the basis for successful appeals and motions for rehearings.

At the funeral of Julius and Ethel Rosenberg on June 21, 1953, Emanuel Bloch accused President Eisenhower, U.S. Attorney General Herbert Brownell, Jr., and Federal Bureau of Investigation head J. Edgar Hoover of "the murder of the Rosenbergs." As a result of his remarks, the New York City bar association sought the revocation of his law license. On January 30, 1954, eight days after being served with the complaint, Bloch died in his New York City apartment at the age of fifty-two.



Emanuel Boch

***United Press photo, New York World-Telegraph and the Sun Newspaper Photograph Collection
Prints and Photographs Division, Library of Congress [LC-USZ62-118203]***

10. The jurists

Irving Kaufman

Judge Irving Kaufman, despite a distinguished career of nearly forty-three years on the federal bench, was best known as the man who sentenced Julius and Ethel Rosenberg to die in the electric chair. In the decades following the trial, he was the subject of intense criticism from those who doubted the Rosenbergs' guilt as well as from those who believed the Rosenbergs to be guilty but viewed their sentences as unduly harsh. To others Kaufman was a brave defender of judicial independence.

When President Reagan awarded Kaufman the Presidential Medal of Freedom in 1987, he referred to the "international campaign to thwart the course of justice in the Rosenberg espionage case" and to Kaufman's "noble and heroic work" in "protecting the courts from political pressures."

Kaufman already had a reputation as a staunch anti-Communist judge by the time of the Rosenberg trial, and his hostility toward the defendants was particularly evident in his sentencing statement, which characterized the Rosenbergs as traitors whose crime was worse than murder. The appeals court found nothing in Judge Kaufman's conduct on the bench that would justify overturning the verdict, but the court dismissed some of the most serious charges against Kaufman because the defense lawyers had not adequately challenged those actions

during the trial. Unbeknownst to the defense lawyers, Kaufman had consulted with the prosecution and officials in the Justice Department during the trial and the appeals process.

Judge Kaufman did make public his personal struggle with the sentencing decision. The day after he delivered the death sentences, the New York Times reported that Kaufman had slept only “a bit more than ten hours” during the preceding week, and that “several times he went to his synagogue seeking spiritual guidance.” But Kaufman expressed no regrets after imposing the death sentence. In his decision denying the Rosenbergs’ motion for a reduced sentence, Kaufman used even stronger language in condemning their crime as “traitorous acts . . . of the highest degree.” The death penalty in espionage cases was based on the recognized need to deter others, a deterrent all the more “vital in the world in which we live, infiltrated as we are by the home grown Judge Irving R. Kaufman Associated Press photo, New York World-Telegraph and the Sun Newspaper Photograph Collection Prints and Photographs Division, Library of foreign variety of spies.”

Kaufman was born on June 24, 1910, in New York City and attended high school in the Bronx. After obtaining his law degree from Fordham University at age twenty, he alternated work in the private and government sectors. He began at the New York City law office of his future father-in-law, departing three years later for the U.S. attorney’s office in the Southern District of New York, where he remained from 1935 to 1940. After another stint in private practice, Kaufman served as a special assistant to the U.S. attorney general from 1947 to 1948. The following year, President Harry Truman appointed him a judge of the U.S. District Court for the Southern District of New York.

To Kaufman’s dismay, the Rosenbergs’ deaths in June 1953 became the most prominent

aspect

of his judicial career, despite the many other significant cases he handled, including his issuance in 1961 of the first order desegregating a public school in the North. Later in 1961, President John F. Kennedy appointed him to the U.S. Court of Appeals for the Second Circuit, and Kaufman served on the appellate court until his death on February 1, 1992. He was chief judge from 1973 to 1980, and took senior status, or semi-retirement, in 1987. While on the appeals court, he wrote several important opinions, including some that expanded First Amendment rights for journalists. In 1971, in *United States v. New York Times*, Kaufman dissented from the appellate court’s decision that publication of the Pentagon Papers could be restrained in the name of national security. The Supreme Court agreed with Kaufman’s position, reversing the decision.



Judge Irving R. Kaufman

***Associated Press photo, New York World-Telegraph and the Sun Newspaper Photograph Collection
Prints and Photographs Division, Library of
Congress [LC-USZ-117761]***

Jerome Frank

Jerome New Frank, a judge on the U.S. Court of Appeals for the Second Circuit, which sat in New York City, wrote the opinion in February 1952 affirming the convictions of Julius and Ethel Rosenberg and Morton Sobell. In reviewing the case as part of a three-judge panel, Frank rejected each of the Rosenbergs' arguments on appeal. Frank denied that the death penalty imposed on the Rosenbergs was cruel and unusual punishment, but privately he had advised Judge Kaufman not to sentence the Rosenbergs to death. In his opinion, he also suggested that the Supreme Court might want to revisit the questions about the death penalty for crimes similar to treason. Frank dissented from his two colleagues by voting to grant Morton Sobell a new trial. The jury, according to Frank, should have been permitted to decide whether Sobell had joined the other conspirators in their plan to send atomic information from Los Alamos to the Soviets, or had merely engaged in a separate, less significant conspiracy with Julius Rosenberg to transmit non-atomic information.

Frank was born on September 10, 1889, in New York City. After his family moved to Chicago when he was seven years old, Frank attended the city's public schools, the University of

Chicago, and the University of Chicago Law School, from which he graduated in 1912 with the highest grades in school history. After stretches in private practice in Chicago and New York, Frank moved into government service after the election of Franklin D. Roosevelt as president in 1932, and Frank soon became an ardent New Dealer. Between 1933 and 1941, he served as general counsel of the Agricultural Adjustment Administration, as special counsel to the Reconstruction Finance Corporation, and as both commissioner and chair of the Securities and Exchange Commission.

In 1941, Roosevelt appointed Frank to the court of appeals, where he remained until his death. As an appellate jurist, Frank became known as a staunch protector of civil liberties, and influenced the Supreme Court—both through his written opinions and his personal interactions with justices—to expand civil liberties protections as well. He was also a prolific writer, authoring several books on legal philosophy. His most influential book, *Law and the Modern Mind* (1930), made him a pioneer of the legal realism movement. Frank died at the age of sixty-seven on January 13, 1957, in New Haven, Connecticut.

Judge Jerome N. Frank

Harris & Ewing Collection

Prints and Photographs Division, Library of

Congress [LC-DIG-hec-26352]

William O. Douglas

William O. Douglas was the longest serving justice in the history of the Supreme Court of the United States, sitting on the nation's highest court from 1939 until his retirement in 1975. The Rosenberg case became one of the more prominent episodes in his long judicial career when he granted Julius and Ethel Rosenberg a stay of execution on June 17, 1953, two days before they were put to death in the electric chair. Douglas faced enormous public criticism for the stay and for his published dissent asserting that the law should have prohibited the death sentence unless it was recommended by a jury. Douglas also faced harsh, though private, criticism from other justices for his shifting and seemingly inconsistent votes on the multiple petitions from the Rosenbergs. Douglas voted to deny the first petition for certiorari, the petition for rehearing, and, initially, the second petition for certiorari. After changing his vote on the second petition, he denied a petition for oral arguments on a stay related to the discovery of new evidence. Douglas's fierce rivalry with his colleagues, particularly Robert Jackson and Felix Frankfurter, complicated the already difficult conference discussions on the Rosenbergs' appeals. Born on October 16, 1898, in Maine, Minnesota, the son of a Presbyterian minister, Douglas spent most

of his early life in the state of Washington. He moved to New York City in 1922 to study at Columbia Law School, from which he graduated second in his class. After a short stint in private practice with a major Wall Street firm, Douglas embarked on an academic career, teaching at Columbia and Yale Law Schools.

In 1934, Douglas entered government service with the newly formed Securities and Exchange Commission and soon found himself a close confidant of President Franklin D. Roosevelt. By 1937, he had been named chairman of the SEC. Two years later, upon the resignation from the Supreme Court of Justice Louis Brandeis, Roosevelt nominated Douglas to fill the position. Douglas took his seat on the Court on April 17, 1939, at the age of forty, becoming the youngest justice since Joseph Story was appointed in 1811.

As a justice, Douglas was known as a fierce protector of individual liberty, especially regarding freedom of expression. In the 1950s, he decried what he felt were witch hunts for domestic Communists. He dissented from the Supreme Court's 1951 ruling in *Dennis v. United States* upholding the speech-based convictions of Communist leaders for conspiracy to overthrow the government, and from another ruling upholding a New York law requiring the firing of schoolteachers belonging to organizations the state board of regents deemed subversive. Douglas retired from the Court in November 1975 because of health problems, and he died in Washington, D.C., on January 19, 1980, at the age of eighty-one.



Justice William O. Douglas

Harris & Ewing Collection

Prints and Photographs Division, Library of Congress

[LC-USZ62-44543]

Felix Frankfurter

Felix Frankfurter served as an associate justice of the Supreme Court of the United States from 1939 to 1962. Throughout the Supreme Court's deliberations on the various petitions from the Rosenbergs, Frankfurter consistently voted to hear arguments on the case. As in many other cases, Frankfurter was concerned with the public image of the Court and in maintaining public confidence in the judicial process. In the final proceeding in the case before the Supreme Court, Frankfurter joined William Douglas and Hugo Black in dissenting from the Court's ruling that lifted the stay of execution Douglas had granted the Rosenbergs. Frankfurter believed that the questions regarding the sentencing provisions of the Atomic Espionage Act were too complex to be resolved without more time for consideration. Three years later, Frankfurter wrote the recently appointed Justice John Marshall Harlan that "the Rosenberg case is the most disgusting, saddest, despicable episode in the Court's history in my lifetime."

Frankfurter was born on November 15, 1882, to a Jewish family in Vienna, Austria. His family immigrated to the United States in 1894 and settled on New York City's Lower East Side. Frankfurter graduated from the College of the City of New York in 1902, and shortly thereafter entered Harvard Law School.

After law school and a short stint in private practice, Frankfurter served as an assistant U.S. attorney in the Southern District of New York under U.S. Attorney Henry Stimson. When Stimson was named secretary of war, he put Frankfurter in charge of the Bureau of Insular Affairs, which oversaw United States territories.

In 1914, Frankfurter was appointed the first Jewish professor at Harvard Law School and became one of the nation's leading legal scholars. He placed many of his students as law clerks to Supreme Court justices. He also participated in progressive causes, most notably by advocating a new trial for condemned Italian anarchists Nicola Sacco and Bartolomeo Vanzetti. Frankfurter frequently worked with the federal government during the New Deal, helping to draft legislation, including the Securities Act, the Social Security Act, the Revenue Act, and the Fair Labor Standards Act.

In 1939, Franklin Roosevelt nominated Frankfurter to replace Justice Benjamin Cardozo on the Supreme Court. Like many Progressives who came of age in the early twentieth century, Frankfurter believed in a kind of judicial restraint through which courts deferred to elected legislatures. This restraint often separated him from other Supreme Court justices in the years after the Second World War when the Court was more active in protecting civil liberties and defending federal authority. Frankfurter was a critic of the death penalty and believed the Supreme Court should accept any petition appealing a federal death sentence.

Throughout his tenure on the Supreme Court, Frankfurter frequently clashed with other strong-willed justices, and was particularly critical of Douglas and Black, even though he joined them in dissent in the Rosenberg case. Frankfurter retired from the Court in 1962, and died three years later, on February 22, 1965, in Washington, D.C.



Justice Felix Frankfurter

Harris & Ewing Collection

Prints and Photographs Division, Library of Congress

[LC-DIG-hec-21701]

11. The Judicial Process: A Chronology

July 17, 1950

Julius Rosenberg was arrested in New York City by the Federal Bureau of Investigation on suspicion of having conspired to commit espionage.

August 11, 1950

Immediately after testifying before a federal grand jury in New York City, Ethel Rosen-

berg was arrested by the FBI on suspicion of having conspired to commit espionage. August 18, 1950 Morton Sobell, suspected of conspiring with the Rosenbergs to commit espionage, was arrested by the FBI in Laredo, Texas, and subsequently brought back to New York City. January 31, 1951 The federal grand jury for the Southern District of New York issued its third and final indictment (the first two having been issued in August and October 1950), charging Julius and Ethel Rosenberg, Morton Sobell, David Greenglass, and Anatoli Yakovlev with conspiracy to commit espionage during wartime on behalf of the Soviet Union in violation of the Espionage Act of 1917. February 2, 1951 Julius and Ethel Rosenberg and Morton Sobell pleaded not guilty, while David Greenglass pleaded guilty. Anatoli Yakovlev was no longer in the United States. March 6, 1951 The trial of Julius Rosenberg, Ethel Rosenberg, and Morton Sobell began in the U.S. District Court for the Southern District of New York before Judge Irving R. Kaufman. March 29, 1951 The jury found all three defendants guilty of conspiracy to commit espionage for the Soviet Union.

April 5, 1951

Judge Kaufman sentenced Julius and Ethel Rosenberg to death and Morton Sobell to thirty years in prison.

April 6, 1951

Judge Kaufman sentenced David Greenglass to fifteen years in prison.

February 25, 1952

The U.S. Court of Appeals for the Second Circuit affirmed the Rosenbergs' convictions.

October 13, 1952

The Supreme Court declined to hear the case, denying the Rosenbergs' petition for certiorari.

December 10, 1952

Judge Sylvester Ryan of the district court denied the Rosenbergs' motion that their sentences be overturned.

December 31, 1952

The court of appeals affirmed Judge Ryan's December 10 decision declining to overturn the Rosenbergs' sentences.

January 2, 1953

Judge Kaufman denied the Rosenbergs' motion that their sentences be reduced from death to imprisonment.

February 11, 1953

President Dwight Eisenhower denied the Rosenbergs' petition for executive clemency.

May 25, 1953

The Supreme Court again denied the Rosenbergs' petition for certiorari.

June 1, 1953

Judge Kaufman denied the Rosenbergs' motion to reduce their sentences from death to twenty years' imprisonment.

June 2, 1953

The court of appeals denied the Rosenbergs' request that it order Judge Kaufman to resentence them to twenty years' imprisonment.

June 5, 1953

The court of appeals affirmed Judge Kaufman's June 1 refusal to reduce the Rosenbergs' sentences.

June 8, 1953

Judge Kaufman denied the Rosenbergs' motion for a new trial.

June 11, 1953

The court of appeals affirmed Judge Kaufman's June 8 decision denying a new trial.

June 15, 1953

The Supreme Court denied the Rosenbergs' petition for rehearing, their petition for a stay of execution, which had been presented to Justice Robert Jackson, and their petition for a writ of habeas corpus.

June 17, 1953

Supreme Court Justice William Douglas granted the Rosenbergs a stay of execution.

June 19, 1953

The Supreme Court lifted the stay of execution issued by Justice Douglas. After Judge Kaufman denied a further stay of execution and President Eisenhower rejected a final appeal for clemency, Julius and Ethel Rosenberg were put to death.

NOTE:

For Opening Speeches: It is sufficient that you introduce yourself to the committee.

Warning: every defendant/witness ought to work together with their attorneys.

12. Sources

YouTube

- Executed for Espionage: The Rosenbergs - Forgotten History
- The Rosenbergs: First Civillians executed for espionage
- Was Ethel Rosenberg Wrongly Convicted as a Russian Spy?
- Rosenberg Spy Affair - How the USSR got Nuclear Weapons - COLD WAR

Web

- Wikipedia
- Federal Judicial Center
- Britannica
- Rosenberg Fund for Children
- Eisenhower Presidential Library
- History.com
-