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November 28, 2016

President Barack Obama
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We write to request that you issue a proclamation or take other action to acknowledge the miscarriage of justice and broader implications presented by the trial, conviction, and execution of our mother, Ethel Rosenberg.

As described in our September 27, 2016 letter (sent to Ms. Jarett's attention at the Office of Public Engagement and enclosed for your review), the recent release of David Greenglass's grand jury testimony shockingly, but not surprisingly, confirmed that the key evidence supporting Ethel's conspiracy conviction – his testimony that she urged him to steal atomic secrets at Los Alamos and typed up the notes reflecting the fruits of his espionage – was inherently unreliable. Under oath before the grand jury, David Greenglass swore that he never spoke to Ethel Rosenberg about the subject of atomic espionage,ⁱ and he later admitted on national television that his testimony against Ethel was a lie.ⁱⁱ As an admitted perjurer, his entire testimony is suspect.

This revelation simply confirms what has long been understood from contemporaneous documents: the government knew there was little or no basis to prosecute Ethel and did so for tactical and political reasons. For example, before her arrest, an assistant attorney general told the FBI that there was “insufficient evidence” to charge Ethel, but that she could still be “used as a lever against her husband.”ⁱⁱⁱ A month before trial, a prosecutor told a congressional committee: “The case is not too strong against Mrs. Rosenberg. But . . . I think it is very important that she be convicted too, and given a severe sentence.”^{iv} And perhaps most astonishing, on the eve of the executions, the FBI created a list of questions to ask Julius Rosenberg in the event he agreed to cooperate. No such list was created for Ethel, and one of the questions posed for Julius was: “Was your wife cognizant of your activities?”^v

Although the atmosphere of anti-Communist hysteria (sometimes augmented with anti-Semitism), and the overhang of the Korean War, made it impossible for the Rosenbergs to receive a fair trial, two changes in criminal procedure law that came only a few years later would have given Ethel a fighting chance.

First, under *Brady v. Maryland*, 373 U.S. 83 (1967), the prosecution would have been obligated to provide the Rosenbergs with exculpatory evidence, such as David Greenglass's prior inconsistent statement that he never discussed espionage with Ethel. These statements could have been used to cross-examine Greenglass and severely undermine his credibility. Ruth Greenglass, who at trial backed up her husband David's story that Ethel typed up the stolen atomic information,

also could have been cross-examined with her own grand jury testimony, in which she stated that she wrote out the stolen information in long-hand and gave it to Julius Rosenberg to pass along.^{vi}

Second, under *Grunewald v. United States*, 353 U.S. 391 (1957), prosecutors would not have been permitted to cross-examine Ethel about asserting her Fifth Amendment right during her grand jury testimony, and Judge Kaufman would have been barred from drawing an adverse inference regarding her decision to exercise that right. Indeed, in his voting memorandum for Morton Sobell's fifth petition for *habeas corpus*, one of the most well-respected jurists of all time, Judge Henry Friendly noted, "we must admit that on a direct appeal today we would reverse [on this ground] not only as to Ethel but almost certainly as to Julius and very likely as to Sobell as well."^{vii}

The Rosenbergs' trial was further tainted by judicial and prosecutorial misconduct. FBI files memorialize a series of ex parte communications between trial judge Irving R. Kaufman and members of the prosecution team and other justice department officials, including discussions of Judge Kaufman's willingness to impose the death penalty.^{viii} Other inappropriate ex parte communications later came to light, including a meeting between Attorney General Brownell and Chief Justice Vinson at which they agreed, in the event that Justice Douglas stayed the Rosenbergs' execution, to re-convene the Court to vacate the stay, regardless of the legal justification for Justice Douglas's action. These events came to pass, facilitating the execution.^{ix}

Moreover, the government knew that David Greenglass had not actually stolen the secret of the atomic bomb, much less caused the Korean War, as Judge Kaufman asserted in sentencing the Rosenbergs to death.^x U.S. experts viewed the information he provided as nearly worthless.^{xi} Rather, the Rosenbergs and Greenglasses were stand-ins for the spies (including physicist Klaus Fuchs) who actually *did* turn over crucial secrets but largely escaped U.S. prosecution. The Rosenbergs were grossly over-punished because the government needed scapegoats.

In 1995, more than 40 years after Julius and Ethel Rosenberg were executed, the government released Soviet transmissions that had been intercepted and deciphered by the National Security Agency (NSA) in the 1940s. The government was aware of these intercepts, known as the "Venona Documents," at the time of the Rosenbergs' execution. While these documents appear to indicate that Julius functioned as a Soviet agent in some capacity, they further confirm the illegitimacy of Ethel's prosecution.

Most crucially, the Venona Documents confirm that Ethel was *not* a Soviet agent. The KGB gave its agents code names, and while the documents refer to Julius, David, and Ruth by their KGB-given code names, they demonstrate that Ethel was not given a code name and was therefore not considered an agent. Furthermore, one of the Venona transcripts states, in reference to Ethel, "in view of delicate health does not work."^{xii} The NSA's chief decrypter for the Venona Project, Meredith Gardner, understood this to mean that, consistent with her not having a code name, **Ethel did not work for or on behalf of the KGB.** Gardner wrote in a memo that the work that Ethel cannot do in view of her delicate health was not the earning of her bread and butter, but "conspiratorial work."^{xiii}

Those still arguing for Ethel's guilt have pointed to ambiguous statements contained in other purported KGB files of limited reliability – handwritten copies of Russian language decryptions of double-encrypted Russian translations of English summaries reportedly provided by Julius to KGB agents – that were smuggled out of Russia and translated into English. For example, some have

pointed to a KGB file stating that Julius reported that in response to Ruth Greenglass's agreement to participate in an alleged conspiracy, "Ethel here interposed to stress the need for utmost care and caution in informing David of the work in which Julius was engaged and that for his own safety all other political discussion and activity on his part should be subdued," as evidence of Ethel "urging caution so that their conspiracy would go undetected."^{xiv} Another plausible interpretation, however, is that Ethel was expressing hesitation about the operation as a whole, especially in light of her 18-month-old child. These same documents also suggest that David and Ruth Greenglass were eager and proactive Soviet agents – undermining their testimony that Ethel had to urge them to participate in spying.^{xv}

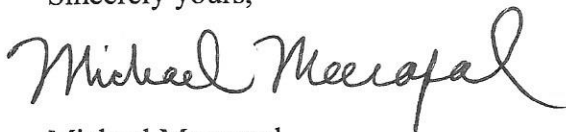
The available record as a whole does not affirmatively prove that Ethel Rosenberg was innocent of any possible crime. That was never her burden and is not our burden now. And given the passage of time and uncertain reliability of the Soviet documents, the true facts will always remain elusive. **But there can be no serious doubt that Ethel was wrongfully prosecuted and executed based on absolutely no physical evidence and the unreliable testimony of proven perjurers.** Her conviction and execution, alongside her husband, were a grotesque miscarriage of justice that needlessly and cruelly left us as orphans at the ages of six and 10 respectively.

We believe the Rosenberg case provides a compelling object lesson about the denial of justice and due process in times of hysteria and the abuse of government power against politically unpopular groups – a lesson that remains sadly relevant today, with Islamophobia, anti-immigrant animus, and racism still infecting our criminal justice system, electoral politics, and public policy. A proclamation or other action making this connection would not just provide a measure of justice for Ethel and her family, but would make this important political point at a particularly crucial moment in our history.

We enclose for your convenience: (1) our initial letter; (2) copies of the materials cited in this letter and in our prior submission; (3) the results to date of an on-going petition campaign urging Ethel's exoneration, currently supported by more than 40,000 signatures; and (4) a draft proclamation, partially modeled on the one issued by Governor Dukakis with respect to Sacco and Vanzetti, that we hope may be useful in preparing any proclamation or statement that you might decide to issue.

Please do not hesitate to contact us if we can provide any further information or answer any questions. We deeply appreciate your consideration of our request. Thank you very much.

Sincerely yours,



Michael Meeropol



Robert Meeropol

P.S. As you said earlier this year, "We've gone through moments in our history when we acted out of fear and we came to regret it. We've seen our government mistreat our fellow citizens and it has been a shameful part of our history."^{xvi} This statement is apropos to our request and applies with greater force today because Roy Cohn, who Donald Trump describes as his mentor, was a principle architect of our mother's wrongful execution.

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- ⁱ Grand Jury Testimony of David Greenglass, *US v. Julius Rosenberg, et al.* August 7, 1950, pages 12, 30. <http://nsarchive.gwu.edu/news/20150715/Greenglass.pdf>.
- ⁱⁱ For details of Greenglass's admissions on *60 Minutes II* in 2001, see <http://www.cbsnews.com/news/cold-war-colder-brother/>.
- ⁱⁱⁱ Memo, A.M. Belmont to Ladd, July 17, 1950, FBI document, Julius Rosenberg Headquarters File # 188.
- ^{iv} Testimony of Assistant Attorney General Myles Lane before Joint Congressional Committee on Atomic Energy in executive session, February 8, 1951, page 6. Transcript available as part of Atomic Energy Commission documents released pursuant to a FOIA request in 1975.
- ^v Memo, W. A. Branigan to A. H. Belmont, June 17, 1953, FBI document, Julius Rosenberg Headquarters File # 1935.
- ^{vi} Grand Jury Testimony of Ruth Greenglass, *US v. Julius Rosenberg, et al.* August 3, 1950, page 9142. See also page 9154 where Ruth denies that her husband gave anything to either Harry Gold or Julius Rosenberg after June of 1945, in direct contradiction to her trial testimony about the alleged September 1945 meeting, one of the scenes of Ethel Rosenberg's alleged typing activities. <http://nsarchive.gwu.edu/news/20080911/rosenbergcasefiles-greenglass-ruth-pg9132to9161.pdf>
- ^{vii} David M. Dorsen, *Henry Friendly, Greatest Judge of his Era* (Boston: Harvard University Press, 2012), 219.
- ^{viii} The documents demonstrating Judge Kaufman's ex parte communications and other violations of the canons of judicial ethics are available in Hearings Before the Sub-Committee on Criminal Justice of the Committee on the Judiciary, House of Representatives 97th Congress, First and Second Sessions on Federal Criminal Law Revision, Serial No 132, Pt. 3, App.2, "The Death Penalty (Rosenberg Case)." December 16, 1982: 2337-2403. Among the important documents related to the decision to impose the death penalty are: Memo, A. M. Belmont to D. M. Ladd, March 16, 1951, FBI document, Julius Rosenberg Headquarters File #894, (op. cit: 2348) and Memo, Roy J. Barloga to file, April 3, 1951, Julius Rosenberg New York Field Office File #1579. A detailed description from the point of view of the original chief prosecutor is in Letter, Irving H. Saypol to FBI Director Clarence Kelley, March 13, 1975, Julius Rosenberg Headquarters File, #2498 (op. cit: 2391-2).
- ^{ix} Memo, A.M. Belmont to D. M. Ladd, June 17, 1953, FBI document, Julius Rosenberg Headquarters File # 1823 (op. cit: 2353).
- ^x *Transcript of Record*, Supreme Court of the United States, October Term, 1951, No. 111, V II, Book 4, p 1613-1616. [These were reprinted and distributed by the National Committee to Secure Justice in the Rosenberg Case.] In denying clemency, President Eisenhower blamed Julius and Ethel Rosenberg for any future nuclear war. *New York Times* June 20, 1953: 7.
- ^{xi} General Leslie Groves told a Congressional Hearing in 1954 (in executive session) that "the data that went out in the case of the Rosenbergs was of minor value." US Atomic Energy Commission In

the Matter of J. Robert Oppenheimer, Vol. IV, Washington, DC, April 15, 1954: 570. It was declassified and released in response to a FOIA lawsuit in 1979. In 1966, as a result of the unsealing of David Greenglass's testimony and sketch describing an implosion-type atomic bomb, two Manhattan Project Scientists, Phillip Morrison and Henry Linschitz, who worked at Los Alamos, New Mexico where Greenglass was stationed, signed affidavits arguing that the sketch and descriptive materials were incomplete (lacking dimensions), erroneous in certain ways, and therefore could not be considered in any way, shape or form, the "secret" of the atomic bomb. See Affidavit of Philip Morrison in *Sobell v. U.S.*, 66 Civ. 1328 D.C. S.D.N.Y. and Affidavit of Henry Linschitz in *Ibid*. The head of the Explosives (X) Division at Los Alamos Dr. George Kistiakowski told journalist Daniel Yergin that the Greenglass sketch was "uselessly crude" (quoted in David Yergin, "Victims of Desperate Age," *New Times Magazine*, May 16, 1975: 24). Dr. Victor Weiskopf, who had been the deputy leader of the Theoretical Division at Los Alamos, asserted that the sketch was "a baby drawing, it doesn't tell you anything," *Ibid*.

^{xii} Memo, New York to Moscow, November 27, 1944. Venona transcript (T9.2), No. 1657, May 1, 1975. Item #75 at <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/venona-soviet-espionage-and-the-american-response-1939-1957/part2.htm>

^{xiii} The Venona Transcripts only list Ethel Rosenberg by her given name, not a code name as with actual agents. While she was an active volunteer and mother, they say about her, "In view of her delicate health does not work." (Venona transcript, "revised translation of message on Antenna-Liberal's wife Ethel," 12 August, 1948). Meredith Gardner, chief NSA decrypter, interpreted this as follows: "The work that Ethel cannot do in view of her delicate health may not be the earning of her bread and butter, but conspiratorial work." (Comment on "Revised Translation of Message on Antenna-Liberal's Wife Ethel," Meredith Garner, August 12, 1948, comment 3).

^{xiv} Ronald Radosh and Steven Usdin, "What the KGB Files Show About Ethel Rosenberg (Letter to the Editor)," *New York Times*, August 13, 2015: A20.

^{xv} Walter Schneir, *Final Verdict: What Really Happened in the Rosenberg Case* (Brooklyn: Melville House, 2010), 112. See also *Alexander Vassiliev's Notebooks*, Yellow Notebook #1, pp 55-55, NY to Moscow, December 5, 1944, file 86191, page 16, <https://www.wilsoncenter.org/sites/default/files/Vassiliev-Notebooks-and-Venona-Index-Concordance.pdf>.

^{xvi} The White House, Office of the Press Secretary, "Remarks by the President After Counter-ISIL Meeting," June 14, 2016, <https://www.whitehouse.gov/the-press-office/2016/06/14/remarks-president-after-counter-isil-meeting>.