

CONFIDENTIAL

Notes made during telephone call from a source in California 1/4/67

Holds no brief for Larry Schiller. Knows little about him or his background. Has good reputation as sports photographer. Describes himself as journalist also. If KLAC has any axe to grind - it is personal concern re. "journalism-by-check-book".

He is strictly concerned with broadcast journalism. Has great respect for journalism on TV - radio. Knows its great power. Believes it is a mature and responsible news medium. Is concerned about many things going on, i.e. backroom attempts to curtail freedom of information; Supreme Court attempts to restrict information. He is interested in freedom of speech and press and "Journalism-by-Checkbook" is real and growing threat to freedom of press.

People are buying and selling news; they are dedicated to what is "saleable", not to what is true.

A man cannot serve two masters. Has found there were so many inconsistencies they are hard to list, with regard to what occurred on the purchase of Ruby's secret tape by Schiller, for himself or for Capitol Records.-

Not too sure what the Capitol Records - Schiller relationship is.

To enumerate:

Capitol gave all newsmen copy of the record, played it like the latest Bobby Darin, and a press release.

Joe Pyne had a conversation with Joe Tom~~ah~~hill, who was gracious but angry with the Ruby family. He got no money for devoting a lot of time and dedication. Joe Tom~~ah~~hill told Crane that Capitol Records paid between \$10,000 and \$25,000 to Ruby family - Right after Ruby died.

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Many papers of 3 January 1967 and wire services were reporting with transcripts that Schiller had obtained the interview with Ruby; they reported this before Ruby died or was even comatose.

It came to Crane's attention - via Joe Pyne's producer, Hal Parets - that Schiller had approached Parets on Tuesday, December 27th and offered to appear on taped Joe Pyne program for national syndication. He was taped on 28 December, to be played first in Los Angeles at KTTV (Metro-Media sister to Channel 5 NY), on Pyne, as local program on following Tuesday, i.e. 3 January 1967; then to be syndicated around the country at later dates and times.

The release date for record was the week of January 1 - 7. To get on the Pyne program for that week, he had to "get in" early.

He promised Parets solemnly - and asked solemn promise in return - not to divulge the existence of the Ruby (or Walthers or Penn Jones) segments of the record. He played 50-60 seconds of the Ruby tape. It was taped, with Schiller and Pyne, and recordings of the three participants, including a portion of the Ruby secret tape. Schiller was treated with the utmost respect. Nothing was said at that time about any payment to the Ruby family: Schiller gave impression of scoring a journalistic "scoop",

The Schiller tape was "in the can", signed, sealed and delivered. A pact was made that Pyne could promote the fact that he had something "sensational", nothing more. (Pyne has daily live radio show; he is a personal friend of Crane.) Crane and the whole news department were also sworn to absolute silence.

On Saturday 31 December 1966 the assistant program director (Jim Ramsberg) was called by a Capitol Records record-promoter who offered him a "real hot exclusive" - not as a journalistic venture but a record promotion. Also offered on a personal basis to disc jockies and other Capitol Records confidants on New Year's weekend.

Crane talked to Schiller on 3 January 1967 and he said that on 31 December he had contacted Tom Pettit of NBC and, according to Schiller, he played the full track of the album on 31 December for Tom Pettit without any restrictions imposed. He had already offered it for public consumption to NBC news, three days before it was to be given to Pyne exclusively.

On the day of Ruby's death (3 January 1967) - Pyne's date to break the exclusive story - death occurred 8.30 a.m. Dallas time or 6.30 Los Angeles time. At 10.32 a.m. KMPC radio (Golden West Broadcasters) played the whole Ruby record segment.

They (KLAC) had been betrayed. With co-operation, they got an audio track of Schiller's canned appearance on the Joe Pyne show. They got a "photo tip" 11.15 a.m. of a press conference at Capitol Records (Los Angeles) to play Ruby secret tape.

Scrambling at KLAC, somehow got audio track from KTTV and about 11.30 a.m. - i.e. 15 minutes after the news conference - KLAC played the entire audio (10 minutes) of Schiller's appearance on Pyne's show, including 50 seconds of Ruby's voice (and Jones and Walthers) originally intended for that night. Wyman went to the news conference (He was in Dallas two days before Christmas appealing for a "pool" to tape Ruby's last words - as CBS News Departments in Dallas and Los Angeles; Radio Television News Directors Associations; Sigma Delta Chi representatives all agreed there was an urgent need that Ruby get his last wish - i.e. a lie detector test. A Polygraph expert volunteered to do it, to pay his own way to Dallas etc. They were told it was impossible because because of the tube in Ruby's chest, mental condition, etc. Urgent efforts were made by Metro-Media news branches all over the USA as a news organization to get agreement to such a last Ruby statement. All news media in general were behind a pool arrangement - KLAC volunteered to supply the tape etc. They contacted Elmer Gertz in Chicago, about

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ten days before Christmas; Gertz said he thought it couldn't be done for health and other reasons but "will consider your suggestions"; however, there was not much hope it could be done (at this time he had already sold the Ruby statement to Capitol Records and the tape was recorded on Friday or Saturday 16 or 17 December 1966).

KLAC thought it was dealing in good faith. Wyman went to Dallas. Decker told him (22 or 23 December) that four conditions must be met:

- (1) permission of the authorities, i.e. the D.A. and those under him;
- (2) doctors;
- (3) family and their lawyers;
- (4) the Court-appointed lawyer (i.e. Phil Burleson).

If all agreed, it would be OK, but under no other circumstances.

All this was after the secret tape, but he feels Decker did not know. Burleson said - he is a silent protester, does not like whole Capitol Records deal, but Gertz and Earl Ruby set it up - But he stayed silent, again, because he was sworn to secrecy. Burleson said "I don't think you will be able to do it". Opposed, but did not wish to buck the client or other attorneys. So Wyman got nowhere on this with Burleson. Talked of Burleson's personal and professional sacrifices for the Ruby case.

Talked with Peter Geilich of Parkland Hospital, who stated exactly as Decker the four conditions. He did not seem aware of the secret tape.

Crane on phone with Gertz, Rabbi Silverman, etc., all in good faith. (Silverman had been asked by Burleson to give Ruby spiritual comfort). No go.

Wyman went to Alan Livingston's news conference armed with Townhill's statement that \$10,000 - \$25,000 was paid for secret tape. Livingston "copped out" and said, "No, not that much." In press release, nothing

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is said about any money paid for the secret tape. Nothing on album jacket about money being paid.

How much was paid?? Schiller at simultaneous conference in NYC had distributed the album for general use. No one called Pyne to "regret" or apologise. Livingston said "not as much as \$10,000" then said he paid an advance, "a normal advance", later a "nominal advance" (just as to any artist). Wyman asked if normal royalties would be paid to Ruby's ~~wife~~^{medical} and legal costs. He said "Yes, royalties will be paid".

Crane called Schiller in NYC on "Beeper" and interviewed him (at Drake Hotel) by phone. Asked him, "What did you pay?" He answered "Not a payment. It was a donation. An infinitesimal amount of the usual amount." "No royalties, no nothing" would be paid.

Right after Livingston said, "Yes, royalties will be paid".

Crane then called Burlleson, who said his understanding was that the proceeds would go to the Kennedy Library fund. (Burlleson had been given the sugar pill of the Kennedy Library).

The Kennedy Library has denied it would accept funds from any commercial venture such as this.

Livingston and Schiller contradict each other, despite the fact that Schiller works for Livingston. Burlleson says his impression was that money was not the major consideration to Ruby, who really wanted to say something. But the motive was different for the family - the Ruby's really need the money. They owe Belli, ~~Tor~~hill and lots of people. Gertz found a way to get the money for them.

Livingston said Gertz and Burlleson were in the room when the secret tape was made. Burlleson denied that and said he was never in the room, he had nothing to do with it.

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Who made the arrangements? Schiller replied, "I did, on 9 December 1966 when Ruby was taken to Parkland Hospital. I happened to be there in Dallas." "Burleson was not contacted; he was entirely ignorant." But Burleson says Schiller called him and he turned him over to Gertz. Livingston, on the contrary, said "Capitol Records" made the contact.

Schiller said "I don't work for Capitol Records".

Schiller contradicts Livingston on who made the contact and on whether Schiller works for Capitol Records.

Alan Livingston said, 17 minutes were taped, of which Capitol Records Co. excerpted a 3-4 minutes segment. He said the Company was in possession of 17 minutes of tape and had selected for the album 3 1/2 minutes.

Schiller said, not 17 minutes - 12. What happened to the rest? "I don't know!" Who edited it? "I did, in a hotel room in Dallas. 20 minutes after it was recorded I left Dallas with 4 minutes of tape. I don't know where the rest is - it would be available to the press, but I don't know where it is".

He said he would have to call Gertz in Chicago to find out if the rest was "still in existence" (8 minutes) (vs. Livingston, 13 minutes).

Unclear how he could leave Dallas with 4 minutes and still be under the impression there were 8 minutes "somewhere". Livingston reiterated "17, not 12 minutes". 13-minute segment is being made available to members of the Warren Commission or "interested or concerned officials" (i.e. Government people on local, State or Federal level).

Asked "why not available to the press?" Livingston said - Just not, but it exists. Schiller said - Just ask for it, but I don't know where it is or if it exists.

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Livingston was asked why the Ruby family did not designate a TV network or press organization. He said, because Capitol Records are a recording company. They wanted to get it electronically, whereas the press might make the Ruby statement subject to mis-interpretation.

So Capitol Records took the 17 minutes and took out the 3 1/2 minutes "we felt was pertinent" (i.e. Capitol Records' interpretation of pertinency). (No journalistic track record for either Schiller or Livingston).

Schiller says, part of the deal was that the album would not show Ruby's name "big" or out of proportion with names of other participants.

Livingston says (re balance of tape, a nebulous 8 or 13 minutes - who owns it? Where is it? Does it exist?): The family attorneys have restricted its use to Warren Commission or ex-Warren Commission personnel.

As a newsman, Crane is not inclined to take a stand - except on the availability of the segment of Ruby tape restricted by the attorneys. On legality: They questioned Livingston, who said their attorneys had said, "nothing illegal". Considers the project parallel to a magazine.

Wade, as D.A. of Dallas, Decker, etc., and Burluson, say: there is no law covering the situation, for or against.

Schiller said to Crane, he would not say if he was in the room, it would "compromise his journalistic independence".

The tape was given to Pettit Saturday - 3 days earlier - in any case.

If Schiller was in the room, even disguised as a doctor, no law was broken. Could not have madqueraded as police, though.

KLAC has Gertz on tape saying Schiller was not in room. Gertz says so.

What guarantees, what independent evidence, it is Ruby? Except from those directly concerned with the prosperous sale of the record?

Motivation? Livingston said it was a profit item - designed as a profit item.

Livingston said, we had hoped to create an album of living history; and because of the fortunate - or unfortunate - death of Ruby, it may become a best-seller.

When pressed further, Livingston said, this was not designed as a profitless item, no. Livingston implied that no action had been taken to promote the album before Ruby's death.

But Hal Parets said, Schiller came on our show to plug his record. No doubt about that. Parets said that Schiller had exploited him.

Schiller is proud that he got into this field of audio-journalism, has produced LSD, Homosexuality and Lenny Bruce albums.

Re pictures, Schiller said he had abjured the opportunity to take photos of Ruby's family in grief. He could have, but did not do it "to keep things in perspective."

Livingston said, I believe pictures were taken in the hospital room, yes. I have not seen them and if they exist, we do not have them. But Livingston believed pictures were taken.

Wade, today, asked if pictures were taken, said that Eva Grant took photos of Ruby in hospital room for Life Magazine.

Wade definitely says photos were taken by Eva Grant.

Gertz today said, absolutely no photos were taken by anyone.

Livingston said, he did not consult doctors because he did not think he would get permission.

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Police? "No, no", it would never have been given - i.e. He decided to by-pass both doctors and police.

Schiller implied, then denied, then implied, then denied again that he had sought advice from two Warren Commission counsel, and they told him it was "the right thing to do" - implying Warren Commission sanction of his secret tape.

Gertz said he was in and out of the room all day. Denied knowing exactly when tape was taken. Does not know when, how much, just either Friday or Saturday. Careful to give no other details. Will not say who made it, probably Earl Ruby. Further said, no pictures taken - Schiller was definitely not in the room.

No other tape left - Gertz denies any unused tape (though he does not know how much was taken).

Then retreated behind "protection of interests of the client" and refused to discuss any further. Gertz said, no royalties.

Ruby family debt: \$35,000.

Suggested Earl made tape.

The poor quality and background noises on the secret tape have been attributed to the air-conditioner in the hospital room. A check was made with the engineer at Parkland Hospital, who claimed that there is an all-year unit in Ruby's room.

The authenticity of Ruby's voice: People are asking how a man with a tracheotomy could speak so clearly. Livingston said there were tubes up both nostrils, tubes draining both sides of the chest, and a "precautionary" tracheotomy - and that a person with a tracheotomy was able to speak.

Schiller said that Capital Records did not have a "dip filter" to screen out the noise, but has done so since and made better-quality tapes. But it is known that Capital Records has the best audio-equipment in the world. Schiller says, take a voice print, it will prove it is Ruby's voice. Are there other tapes of Ruby's voice?

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An important marginal tape was put on record by Capital without using a dip filter - Are they covering up the voice or not? or did they botch the job? No one outside the power structure has seen Ruby in over a year. Schiller was not in the room when the tape was made; therefore he does not know whose voice it is and he cannot vouch for the authenticity of Ruby's voice but must accept the word of Elmer Gertz, Earl Ruby and other family members. They are selling it. So is Schiller.