

Dear Jim,

Transcript of your Rather interview

8/13/75

By the time the bus started today the effects of the eyedrops had worn off enough for me to read. I did read and make a few notes on this transcript and began to read another documents about which I'll write separately.

(The car was frightfully hot and the automatic gate of the parking lot refused to function for a while, making me too hot and tired to complete the second when I did get home.)

In general I do not share your misgivings. I think you did very well. My impression is that editing it to make you look bad will not be easy. If you are unhappy about some of the language there is no need to be. It was extemporaneous. Some of the questions were not easy to answer in a simple way with the cameras rolling, which gives no time for thinking.

Not unreasonably from its view TV generally avoids advance indication of these tougher questions, preferring the spontaneity that results. I do not think there is anything in Rather's questioning that is unfair or intended to be antagonistic.

Nor do I think there is anything McRae, for an example, can resent.

For the record it might have been better if the first time Rather went into questions of fact about the assassination as distinguished from Ray's defense it would have been better if you had told Rather you'd prefer that he ask me these things. You did later. I thought we'd discussed this but perhaps we didn't. I make this suggestion largely for a similar situation in the future, if there is one to which it would be appropriate. It would in this case have changed the character and effect of his questions and your answers and would have explained, if they come across this way, why some of your answers appear to be halting.

One way of putting it would be something like, "My role as lawyer is to defend James Earl Ray. This is not identical with investigating the assassination itself. Questions like these should really be addressed to the investigator, Harold Weisberg, partly because ~~the~~ investigation, necessarily went farther than what the lawyers would use in court and partly because this kind of inquiry was necessary to his ~~writing~~ investigation and to the thinking that went into his writing. You should understand that defeding a client charged with murder does not ~~require~~ require proving who really did commit the crime. If it did few innocent people would ever be found innocent of crimes of which they are innocent."

One reason for having something like this early on is because you can expect every interviewer to want of you a solution to the crime, in every case. I have often been asked similar questions about Oswald and Ray.

This thinking, which is typical, is reflected in the handwritten marginal note on the first page, "You say Ray didn't ~~shoot~~ Who did? That is your unanswered question."

False. It is TV's and the country's but not the defense's unanswered question.

On page three there is a factual error you want to insist be corrected or eliminated, again stemming from the lawyer addressing the questions that did not come up in court. He asked, on the previous page, if Ray took the rifle into the flophouse. By the time of the answer it is, "I think that the answer ~~is~~ to that is yes, he did take a rifle to that building?" The ? is in the transcript. There is neither proof that he did nor reason to believe it and he told me that he did not, that he had surrendered it the night before, at the New Abel.

A beginning such as I've suggested would have made it easier on you on 4, where he goes into "a list of checkpoints" and the wants of "a person in his or her living room," followed by "There 's speculation, rumor, rhetoric, what are the most important things?..." The way to answer something like this is ~~it~~ to say there are two manners of responding, journalistic and legal. Journalistically the facts prove Ray innocent. Legally the facts prove Ray not guilty, which is going farther than saying the State can't prove him guilty, which it can't, the real reason it opposes a trial so strongly. The journalistic interest is in solving the crime. The lawyer's interest and obligation is in defending his client. The two do not coincide. Again your position would have been different and he'd not have been able to press with this kind of questioning. It is not right to do this of the lawyer. It is right for TV.

On 7 there is a similar case and one that while it is not essential to correct should be if there is a chance. You say there were two white Mustangs, "that one of the white Mustangs parked in front of the street was gone at the time that the shot was fired..." This admits that there were two white Mustangs, that one was there at the time ~~xxx~~ the shot was fired, and leaves the inference that it is possible, just possible, that we are arguing the missing one was not Ray's. The facts are there was anothe white car, not a Mustang, and that it was in a different position, and that Ray's was gone at the time the shot was fired. We have witnesses on this.

On 13 Rather's question includes "You question the evidence that out him behind bars, but where's the evidence the case should be reopened?"

Two bad concepts and you should have told him that there was no trial and there is no evidence that put Ray behind bars. A deal ~~with~~ by his lawyer with the State and with the judge improperly involved put Ray away. Not any evidence. Nor is it only on the basis of evidence that the case "shuld be reopened." This also gets back to my first suggestion, for he had you in the wrong role, of solving the crime rather than as defense counsel in this formulation. Miscarriages of justice, such as conflicts of interest, improper rulings, suppression of evidence and a number of other factors require that cases be reopened. It is when they are tried that this evidence becomes a fact. Evidence alone is not the ~~ix~~ only reason for a court ordering a trial.

One omkssion in all of this is that it at no point tells anyone that Ray never had a trial - that this monstrous crime is officially declared solved without a trial, and that especially in terrible cases like this is it essential that we adhered to the American system, which requires a public trial.

A minor point, in ticking off other reasons, you do not say Constitutional rights.

On 15, the interception of Ray's correspondence, if you face this again lay it out in the effective full detail we have, beginning with the ordering of this violation of anyones most basic constotutional rights and include the actual xeroxing by the named member of the prosecution staff, which also issued the orders.

Down toward the bottom, the kind of thing that always happens to all of us: you refer to the interception of only one page of Ray's notes. There were two that we recovered and each is more than a statement of innocence. It is his worksheets to be active in his own defense, one in which he actually figured out what had to have happened. If this comes up again, don't forget to recall their dive into the toilet to recover his notes. Admitted in the hearing.

Top 20, another of the kinds of things we can't avoid. If this question comes up again we were denied all labor reports, part of the evidence denied the defense and pressed upon the press, including CBS. Of this the autopsy pictures is an example on which I remind you again to get a statement from Esther for use in the appeal.

Not yours but on 22 Rather has his conjectured conspiracy including "investigators." If he meant FBI he didn't say this and we do not say that prior to now Ray had any real investigation.

On 32 I hope the error is in transcription. At has you saying Battle "sort of said, ~~the~~ Wow, what's going on here?" You mean "should have said."

34. similarly with "shallowy world."(shadowy)

42, unclear where you say "we had to exclude much of the material." You mean we were foreclsced from it.

If there is a retake I urged you to insist that it begin with a distinction between the needs and interestof the defense and that of solving the crime. They can include it and should. Remember what clothes you wore, too.

You did well. I have a suggestion for the future: there is nothing wrong with your asking question and if in interviews of this kind you don't you'll always appear to be defensive. Sometimes questions are the only way. Best,