

DA'S REPORT MADE PUBLIC AT LAST

On December 10, under pressure from SCFFD and civil-liberties attorney Ed Frey, DA Danner finally released at least part of the investigation to the city manager. As one of her first acts as the new mayor of Santa Cruz, Celia Scott had the police reports placed in the public library — an unusual move and in contradiction to predictions made by the police department and the DA's office. Readers can clearly see that the DA's report bypassed nearly all the witnesses and based its conclusions on the witness whose story most exonerated Officer Carey — Carey's longtime friend Ben Newman, the nightclub bouncer in the back of the police car.

The day after the DA's investigation was wrenched from its hiding place, the *Santa Cruz Sentinel* quickly backpedaled and called for an independent investigation and full public hearings — a position obviously forced on them by the public disclosure of the eyewitness testimony. However, their lead story reiterated the prior police/DA cover story that Dine had a toy gun in his hand pointed at the police, a conclusion which no independent eyewitness confirmed.

NEWMAN'S TESTIMONY CONTRADICTORY

Newman's personal relationship with Carey and his own direct involvement in the case would make his account questionable in any case. Further, Newman makes several claims that do not match any of the other witness statements: "The officers told him to 'freeze' at least 5 times." "He pulled out a gun and pointed it back and forth between the two officers." "He was advancing towards the officers when he was shot." More than a dozen witnesses contradict these statements. In fact, none of the non-police witnesses reported anything of the kind.

Newman even contradicts himself, saying at one point he witnessed the entire shooting and at another point he had ducked down and did not see the actual shooting. Officer Carey said of Newman: "I don't know if he had a clear view of actually what I did on the scene... I think that side has a grid in front of it." Yet Newman's contradictory account was made the official story.

None of the witnesses used the words "combat stance," but Chief Belcher told reporters Newman had used those words. They were repeated in Danner's press release on November 21. Subsequently, the autopsy (which revealed there was no combat stance) and the other witnesses (who testified there was no weapon in his

hand pointed at the police) largely discredited Newman's account.

DA'S WITNESSES SAW NO WEAPON

According to the DA's report, Lianna Forest, Leslie Plumblee, Margaret Bonacker and Shannon Gannon were all eyewitnesses to the shooting. Bonacker was in the far lane of traffic across Soquel Ave., perhaps 200 yards away, in a vehicle slowing for a red light. Her fiancée, Shannon Gannon, who was driving the vehicle at the time, is a friend of Officer Carey. Bonacker reports seeing "the police car headlights shining on a male," but later said she "could not see the male's hands because of darkness." Gannon said he heard the officer who was driving yell, "Get down." He said he saw the male standing on the sidewalk reach towards his waist and make a motion "like he was taking something out" before being shot. He saw the other officer approach the man lying on the sidewalk and saw that officer kick something away.

Lianna Forest, 62, a writer and teacher, was driving the vehicle in the lane directly behind the police car before it suddenly swerved into the right lane to accost Happy John Dine at the bus stop. As she slowly drove past the scene, she saw Dine raise his right hand just above his waist immediately before or as he was being fired upon. She specifically did not see a gun.

Leslie Plumblee was in her GMC pickup truck, and said in an interview that Dine "may have swung up one arm." Plumblee then saw officers stand over Dine's body, which was "convulsing like he was having a grand mal seizure," and shouting, "Don't move! Don't move!" None of these witnesses, including Leslie Plumblee, saw a toy gun in Happy John's hand.

Tom Murphy, who, according to police reports filed that fatal night, was "10-15 feet" away from the suspect at the time of the shooting, was dropped completely from the final list of witnesses. Officer Dave LaFaver interviewed Murphy at the scene. Murphy told him, "I didn't see any weapon or anything! It was just pure murder. The cops murdered that guy!"

DA investigators Alan Johnson and Marty Krauel made no attempt to view videos from Santa Cruzans for Full Disclosure which documented Tom Murphy's eyewitness testimony, and also recorded his concern that he was twice threatened by local police officers because of his testimony in the Dine shooting. Nor has witness Clinton Hanes been interviewed by the DA, although videotapes of his testimony of having seen Officer Over

"strip search" John Dine's mortally wounded body, take something out and throw it on the ground, have already aired on Community TV on December 9.

The DA's investigation reveals that not one witness (except police and those associated with them) actually saw a toy gun in John Dine's hand. Four claim they saw an officer (probably Over) remove a weapon from Dine's clothing and throw it to the ground. And four witnesses state that the police warned Dine not to move after, not before, the shots. John Blake, manager of McWhorters across the street from the sidewalk shooting, said he heard the words, "Fuck off!" (presumably from Dine), followed by two shots, followed by "Don't move. Don't move." David and Leslie Plumblee and Lee Charron told police they heard the verbal warnings after, not before, the fatal shots were fired.

CITIZENS POLICE REVIEW BOARD

The Citizens Police Review Board looks over the shoulder of the police department but has neither independent investigatory power nor disciplinary powers of its own. It held no emergency meeting in the weeks that followed the slaying. It took no action on an independent investigation at its regular meeting, and refused to schedule a special public hearing on the Dine case. It simply continued "regular processes" by scheduling a closed hearing on the Dine case on December 29. Its past record of rubber-stamping police misconduct gives little cause for hope.

SCFFD asked the Police Review Board to request funding from the City Council for an independent investigator; hold public hearings on the case; and call for Over and Carey to be suspended until the hearings and investigation are concluded.

Some people are calling for a tribunal that will weigh the evidence in the Dine case and go further to investigate general harassment of the homeless community in Santa Cruz. Former Berkeley Citizens Police Review Commissioner Osha Neumann has agreed to sit on this body.

Dine marched in a parade against police brutality on October 18, and spent many hours supporting homeless rights at the seven-month City Hall Sleepers Protest last year. About 70 people kept a vigil for Dine the night after he was

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