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MEMORANDUM
POLICE DEPARTMENT
"Your Police, Our Community"

DATE: January 25, 2006

TO: File

FROM: Deputy Chief Vogel

SUBJECT: Lieutenant Escalante's interview, reference Last Night DIY investigation

On January 25, 2006, I interviewed Lieutenant Rudy Escalante in regards to the Last Night DIY internal investigation. The internal investigation resulted from two undercover Santa Cruz police officers attending a planning meeting for a parade that was held on December 31, 2005 in downtown Santa Cruz. The group responsible for organizing the parade has identified themselves as Last Night DIY. I conducted the interview with Lieutenant Rudy Escalante in my office which is located within the Operations division of the Santa Cruz Police Department. The interview commenced at 14:15 hours. The interview with Lieutenant Escalante concluded at 15:25 hours.

Lieutenant Escalante indicated he first became aware of the Last Night DIY parade when he received an email pertaining to the event from Deputy Chief Vogel on October 27, 2005. Escalante said the email he received from Deputy Chief Vogel contained the website www.lastnightdiy.org. The email indicated that Last Night DIY had advertised a planning meeting for New Years Eve on Saturday, October 29, 2005, from 18:00 to 20:00 hours, at the big yellow house located at 742 North Branciforte Avenue. The email further indicated that additional planning meetings were being advertised on the website at the same location on November 19, 2005 and December 17, 2005. Prior to receiving the email from Deputy Chief Vogel on October 27, 2005, Lieutenant Escalante said he had not heard of an organized event that was being planned for downtown on New Years Eve, except the midnight event at the Town Clock.

Lieutenant Escalante said he examined the Last Night DIY website and discovered information on the website that was of concern to him because it would have a direct impact on public safety downtown on New Years Eve. Lieutenant Escalante pointed out the information that concerned him during my interview with him. The Last Night DIY website indicated, "This is not a paid gig, not something organized or well-planned." Another statement posted on the website that concerned Escalante indicated, "We're not asking for permits or permission. We're just gonna do it." The website further indicated, "It's our city, not nine semi-elected folks who meet now and then to tell us what we can and can't do. I don't expect them to approve. But then we're not asking for their approval either." Additional information contained on the website indicated, "Who's willing to take the risk of truly living without limits?" The website indicated they were planning a drum and dance party and a trash orchestra hoe-down at a surprise location.

I asked Lieutenant Escalante if he had any additional concerns he had regarding this event. Lieutenant Escalante indicated the event would most likely take place on a public street, therefore he had safety concerns about pedestrians and vehicles being in the roadway at the same time without any provisions being made for street closures or traffic controls. Escalante reflected on the riot that occurred on New Years Eve in downtown Santa Cruz on December 31, 1993, when several police officers from the Santa Cruz Police Department were injured as a result of an unruly gathering of people downtown. Escalante recalled that someone had thrown a dirt clod at him and struck him in the chest when he was working as a police officer in Downtown Santa Cruz on New Years Eve, 1993. Escalante also recalled champagne bottles being thrown through the air on this same night. Escalante indicated he was concerned this year because there was no organized event planned for downtown throughout the evening as there has been in years past. Escalante pointed out that First Night Santa Cruz was no longer hosting the First Night event downtown that has been a tradition for the past decade, or so. Escalante said he had overriding concerns about the safety of the general public based upon the information he read on the Last Night DIY website as well as his personal experiences over the years as a police officer.

Lieutenant Escalante said he and Lieutenant McMahon were responsible for planning the Police Department's deployment of personnel resources on New Years Eve this year and felt he needed to have as much information as possible about this Last Night DIY event in order to make operational plans and allocate Police Department personnel resources. Escalante said he was concerned because he did not know what to expect from the Last Night DIY parade. Based upon information printed on the Last Night DIY website, Lieutenant Escalante indicated he believed their motivation for having this event included violating the law. Escalante said the information on the Last Night DIY website indicated the organizers of this event were not planning on participating in the special event permit process to receive approval from the City for their event. Escalante said New Years Eve is traditionally an extremely busy night for the Police Department downtown. Escalante said the Santa Cruz Police Department deploys all of its personnel resources on New Years Eve and brings in additional law enforcement resources from other agencies in the county to assist with policing the downtown celebration on New Years Eve.

Escalante said the information contained on the Last Night DIY website led him to believe the event organizers had no intention of cooperating with city officials because they made it clear that they would not seek permits for their event. For this reason, Lieutenant Escalante felt the best way to gather information about this event was to have undercover police officers attend the Last Night DIY planning meetings that had been advertised on the Last Night DIY website. There were three planning meetings advertised on the website encouraging people who wanted to become involved in the event to attend. All three planning meetings were scheduled to occur at a residence located at 742 North Branciforte Avenue in the city of Santa Cruz. The first planning meeting was scheduled for Saturday October 29, 2005. The second planning meeting was scheduled for Saturday November 19, 2005 and the third planning meeting was scheduled for Saturday December 17, 2005. Lieutenant Escalante said he put together a plan, with the concurrence of Deputy Chief Vogel, to send two undercover police officers to the planning meeting on October 29, 2005. Escalante said he selected Officers Carter Jones and Wesley Hansen. Escalante made arrangements for Officers Jones and Hansen to report to the Santa Cruz Police Department on Saturday, October 29, 2005, at 17:30 hours, for a briefing before the

officers went to the planning meeting. Escalante said he did not prepare a tac plan for this detail. Escalante selected Officer Wendy Bynes to participate in this detail. Bynes was wearing a police uniform and driving a marked police unit. Her role in this detail was to park at a location near 742 North Branciforte Avenue and standby while Officers Jones and Hansen attended the meeting. In the event that Officers Jones and Hansen required assistance, they could call Officer Bynes and she would be available to assist them.

Officers Jones and Hansen were attired in casual dress for this detail. This direction was provided to them by Lieutenant Escalante when he first approached them about this undercover detail a day or two earlier. Lieutenant Escalante said he told Officers Jones and Hansen that they did not have to identify themselves as police officers at the planning meeting, if asked. Escalante told Jones and Hansen not to use their real names because someone in attendance at the meeting may have been arrested in the past by Jones or Hansen and Escalante did not want to risk having the officers identified at the meeting because someone recognized their names. Escalante told Jones and Hansen that they could participate in discussions at the meeting. Escalante said he gave no specific direction other than telling them they could participate in discussion because if they just sat there and listened, it might raise suspicions by others in attendance at the meeting. Escalante gave them specific direction that they were not to participate in any illegal activity should it occur at the meeting. Escalante said he told them they could ingest a small amount of alcohol at the meeting if it was offered. Escalante said he wanted Jones and Hansen to fit in at the meeting and believed if they were offered alcohol and consumed some, others at the meeting would not suspect they were police officers. Escalante gave specific direction to Jones and Hansen that they were not to consume alcohol to the point that they were under the influence.

Escalante told Jones and Hansen to gain any and all information that they could as it related to the Last Night DIY parade. Escalante said he wanted to know the parade organizers intent as well as the number of people who would potentially be involved in the parade. Escalante told Jones and Hansen to determine the time, location and identities of those persons within the Last Night DIY organization who appeared to be in-charge. Escalante said he was interested in whether the group was organized and if they were, to what extent. Escalante directed Jones and Hansen to carry their badge, gun, ID card and a portable radio. Escalante estimated the briefing lasted between 15 and 20 minutes. At the conclusion of the briefing, Escalante said Jones and Hansen left the Police Department and rode to the address at 742 North Branciforte Avenue on bicycles that had been borrowed from the Police Department. The bicycles that were used were bicycles that had been collected by the Police Department as found property.

Escalante said the Last Night DIY planning meeting lasted approximately 90 minutes. At the conclusion of the meeting, Jones and Hansen returned to the Santa Cruz Police Department and debriefed with Lieutenant Escalante. Escalante said they provided information about a planned demonstration that was scheduled to occur in front of the Victoria's Secret store at the Capitola Mall on November 3, 2005. Escalante said he subsequently relayed this information to the Capitola Police Department. Additional information gained from the officers' attendance at the planning meeting was documented in an OIC report that was generated by Officer Jones on October 29, 2005 after he and Hansen debriefed Lieutenant Escalante. Escalante said Jones and Hansen also obtained some literature pertaining to marches and parades while at the meeting. That information was attached to the OIC report prepared by Officer Jones.

Escalante said the information gained by Jones and Hansen at this meeting was important and would assist him in preparing the Police Department's operational plan for New Years Eve. Specifically, Escalante said the officers were able to determine the parade would occur at approximately 17:00 hours and would include fire dances, stilt walkers and clowns. Other valuable information that came out of the first meeting indicated the Last Night DIY parade would be a peaceful gathering and there was no intent to start a riot or create a violent situation downtown. No information was made available at the first planning meeting regarding the number of people who might show up for this parade. Escalante said the information that the parade would occur at approximately 17:00 hours was extremely helpful and would cause Escalante to deploy additional Santa Cruz Police Department personnel resources earlier than originally planned in the downtown corridor on New Years Eve.

Escalante said he had made arrangements with Jones and Hansen to attend the second Last Night DIY planning meeting which was scheduled to occur on Saturday, November 19, 2005. One of the officers was unavailable to work on November 19th, therefore no one from the Santa Cruz Police Department attended this last night DIY planning meeting.

Lieutenant Escalante made arrangements for Officers Jones & Hansen to attend the third Last Night DIY planning meeting which was scheduled to occur on Saturday December 17, 2005. The meeting time was scheduled for 18:00 hours and the meeting location was 742 North Branciforte Avenue. Escalante said he arranged for Jones and Hansen to report to the Police Department at 17:30 hours for briefing. Officers Albert and Butler provided uniformed assistance to Officers Jones and Hansen during this undercover detail. Escalante said they spent very little time during the briefing because the direction he gave them was the same as the direction he gave when he briefed them prior to the meeting on October 29, 2005. Escalante said it was important for Jones and Hansen to attend this meeting because they had missed the last meeting which occurred on November 19, 2005. Escalante wanted the officers to gather as much information as they could about what had transpired at the meeting on November 19, 2005 as well as gather information at the meeting they were preparing to attend.

Escalante said Jones and Hansen drove to this meeting in Officer Jones' personal vehicle. According to Escalante, this meeting lasted approximately 90 minutes. Upon Jones and Hansen's return to the Santa Cruz Police Department, they debriefed with Lieutenant Escalante. As a result of attending the meeting on December 17, 2005, Jones and Hansen were able to identify the main organizer of this Last Night DIY event as Wes Modes. There were nine people present at this meeting, only two of which were present at the previous meeting, excluding Jones and Hansen. The two people present at this meeting who were also present at the first meeting were Wes Modes and Jennifer Bushard. Everyone else at the meeting on December 17, 2005 were people who had not attended the meeting on October 29, 2005. In addition to gathering information about the Last Night DIY parade, Jones and Hansen received information there would be a protest at the Gap store on Pacific Avenue on the following day, December 18, 2005 between 15:00 and 17:00 hours. This event was described by people at the meeting as, "corporate Christmas caroling." The group solidified the time and location they would meet for the Last Night DIY parade on December 31, 2005. Anyone participating in the Last Night DIY parade was supposed to meet at 5:00 p.m. in the parking lot behind the Saturn Cafe at the intersection of Pacific Avenue and Laurel Street. Additional information that was revealed at

this meeting included the parade route. The planned starting point for the parade was Pacific Avenue just south of Laurel Street. The parade route was the entire length of Pacific Avenue terminating at the Town Clock. The group planned to meet at an undetermined location after the parade to have a "drum circle." Finally, there was one last planning meeting that was scheduled to occur on Thursday, December 29, 2005, at 18:00 hours, in the breezeway adjacent to the north side of Gelato Mania on Pacific Avenue. Information gained from the officers' attendance at the planning meeting was documented in an OIC report that was generated by Officer Jones on December 17, 2005 after he and Hansen debriefed Lieutenant Escalante.

Escalante reiterated the importance of the information that had been provided by Jones and Hansen as a result of their attendance at the meetings on October 29, 2005 and December 17, 2005. Again, Escalante said this information was extremely valuable in the Police Department's operational planning and deployment of personnel resources on New Years Eve.

Escalante said Jones and Hansen attended the fourth meeting on Thursday, December 29, 2005. They reported for duty at the Santa Cruz Police Department at approximately 17:30 hours and briefed with Lieutenant Escalante for approximately 15 minutes. The same information was discussed at this briefing as had been discussed at the previous two briefings. No one was specifically assigned to provide uniformed support to Jones and Hansen because they were meeting in a public location on Pacific Avenue. Escalante said Jones and Hansen went to the meeting location at 18:00 hours and returned to the Police Department within 30 to 45 minutes. Upon their return to the Police Department, they debriefed with Lieutenant Escalante. Escalante said Jones and Hansen told them that Wes Modes, also known as Rico Thunder, was the only person who showed up. Escalante said Jones and Hansen made small talk with Modes for approximately 20 minutes, however they did not discuss the parade because no one else showed up for the meeting. Escalante said Jones and Hansen reported that a male subject had taken photographs of them while they were seated at a table in the breezeway located on the north side of Gelato Mania. Escalante said Jones and Hansen felt it was somewhat suspicious that this unidentified individual had taken their photographs while they were seated at the table in the breezeway. Escalante said there was no further information regarding this person who took their photographs. At Lieutenant Escalante's direction, Jones and Hansen did not complete an OIC report following this last scheduled planning meeting because there was no discussion about the New Years Eve parade.

Escalante said he made changes to the Police Department's operational plans for New Years Eve based upon the information provided to Officers Jones and Hansen at the Last Night DIY planning meetings. Specifically, Escalante said that 12 uniformed police officers were deployed at 17:00 hours on December 31, 2005 in preparation for the Last Night DIY parade. These officers were originally scheduled to report for duty later in the evening in anticipation of the large numbers of people who traditionally gather downtown closer to the midnight hour. In addition to deploying these 12 police officers at 17:00 hours, Lieutenant Escalante made arrangements to have a police videographer present at 17:00 hours to videotape the Last Night DIY parade. The videographer for the Last Night DIY parade was a uniformed community service officer employed by the Santa Cruz Police Department. Escalante said the majority of Santa Cruz police officers did not report for duty on New Years Eve until 21:00 hours. The 12 officers that were deployed at 17:00 hours for the Last Night DIY parade would have originally

been deployed at 21:00 hours with everyone else had the Police Department not received information regarding the Last Night DIY parade beginning at approximately 17:00 hours. Escalante said there were Santa Cruz Police Department Downtown Unit officers deployed through the day on Pacific Avenue, however there were not sufficient personnel resources to address the Last Night DIY parade without deploying additional officers downtown at 17:00 hours. According to Escalante, the information gained by Officers Jones and Hansen by their attendance at the Last Night DIY planning meetings was invaluable to the Police Department's operational planning and personnel deployment on New Years Eve.

I concluded my interview with Lt. Escalante on January 25, 2006 at 15:25 hours.



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DATE: January 25, 2006
TO: File
FROM: Deputy Chief Vogel
SUBJECT: Officer Jones' interview, reference Last Night DIY Investigation

On January 25, 2006, I interviewed Officer Carter Jones in regards to the Last Night DIY internal investigation. The internal investigation resulted from two undercover Santa Cruz police officers attending planning meetings for a parade that was held on December 31, 2005 in downtown Santa Cruz. The group responsible for organizing the parade has identified themselves as Last Night DIY. I conducted the following interview with Officer Jones on January 26, 2006. The interview began at 15:35 hours. I conducted the interview in my office which is located within the Operations Division of the Santa Cruz Police Department. The interview with Officer Jones concluded at 16:45 hours.

Officer Jones indicated he was approached by Lieutenant Escalante on the evening of Thursday, October 27, 2005, regarding a planning meeting for a parade that was scheduled to occur in downtown Santa Cruz on December 31, 2005. Jones said Escalante told him the parade had not been approved through the city of Santa Cruz special event process. Escalante asked Jones if he was available to work in an undercover capacity and attend a planning meeting for the Last Night DIY parade. According to Jones, the planning meeting was scheduled to occur on Saturday, October 29, 2005, at a private residence located at 742 North Branciforte Avenue in the city of Santa Cruz. The planning meeting was scheduled to occur at 18:00 hours. Officer Jones agreed to participate in this assignment. Officer Jones indicated that Santa Cruz police officer Wesley Hansen was also selected to participate in this assignment by Lieutenant Escalante.

Jones said he and Hansen reported to the Santa Cruz Police Department on Saturday, October 29, 2005, at 17:30 hours for briefing. Those persons present during the briefing were Lieutenant Escalante, Sergeant LeMoss, and Officers Jones, Hansen and Bynes. Jones said the briefing lasted approximately 15 to 20 minutes. There was no tac plan provided to the officers at the briefing. Jones said Lieutenant Escalante briefed he and Hansen verbally on their assignment for this detail. Jones said their mission consisted of ascertaining as much information about the Last Night DIY parade as they could from other individuals attending the planning meeting. They were directed to report back to Lieutenant Escalante with any information that they received at the planning meeting that would assist the Santa Cruz Police Department in developing an operational plan for the parade that was scheduled to occur in Downtown Santa Cruz on December 31, 2005.

Jones said he and Hansen utilized two bicycles as their mode of transportation from the Santa Cruz Police Department to the address at 742 North Branciforte Avenue. The bicycles that were

utilized for transportation were found property that had been collected by the Santa Cruz Police Department. Jones said Officer Bynes was in uniform and driving a marked Santa Cruz Police Department patrol vehicle. Officer Bynes' function was to maintain a position within close proximity to the address of 742 North Branciforte Avenue in the event that Jones and Hansen required the assistance of a uniformed police officer. As Jones and Hansen rode up to the residence at 742 North Branciforte Avenue on their bicycles, they observed five unknown individuals on the front porch of the residence. Three of these people were identified as Wes Modes, Jennifer Christine Bushard and John Hirst. Jones said the other two individuals who were on the porch when they arrived were never identified and did not attend any of the other planning meetings for this event. Jones said that Modes and Bushard do not reside at 742 North Branciforte Avenue, however Hirst is a resident of that address. According to Jones, there were seven people present on the porch at 742 North Branciforte Avenue which included the five previously mentioned individuals as well as Jones and Hansen. Jones said the planning meeting began when Wes Modes called for introductions by all of the people present at the meeting. Jones said everyone introduced themselves to the group. Jones said he introduced himself as Wes Freely. Jones identified Modes as the facilitator for the meeting. Jones said that while Modes facilitated the discussion at the meeting, he made it clear to everyone at the meeting that he was not in-charge. Jones said Modes absolved himself of all responsibility by emphasizing the point that this parade was intended to be a community gathering of people and that no one particular person was in-charge of the event. Jones said it was clear by Modes' remarks that he did not want to take responsibility for this event.

Jones noted that the five individuals who were present on the porch when they arrived were all attired in Halloween costumes.

After everyone introduced themselves at the meeting, Jones said that Modes facilitated a discussion by asking the group what everyone expected to get out of the parade and what everyone would be able to contribute to the parade. Jones said this resulted in a roundtable discussion in which everyone took a turn and responded to the questions that had been posed by Modes. During this discussion, Modes said that he was involved in the Free School Trash Orchestra. Jones said that Modes told them he builds trash orchestra instruments and he invited those present at the meeting to participate in building and practicing with the trash orchestra instruments prior to the next Last Night DIY planning meeting that was scheduled to occur on November 19, 2005. Jones said Modes invited everyone to come early to the next planning meeting and they would build and practice with their trash orchestra instruments prior to the planning meeting. Jones said Modes suggested everyone arrive one to two hours prior to the planning meeting which was scheduled to take place at 18:00 hours on November 19, 2005, to build and practice with the trash orchestra instruments.

During further discussion about the parade, Modes asked the planning meeting attendees if they had thought about any potential participants in the Last Night DIY parade. Modes said he would be able to bring groups whom he identified as the Porn Clowns, stilt walkers and fire dancers. Modes provided a list of eight to ten other groups whom he said would be participating in the Last Night DIY parade. Modes told the group of attendees at the meeting that he was involved

in a group that identified themselves as the Guerilla Drive-In. Modes said he would be able to solicit others who were involved with the Guerilla Drive-In to participate in the Last Night DIY parade. Eventually, Jones and Hansen were given the opportunity to speak to the group about who they would be able to bring to the Last Night DIY parade. Jones told the group that he would be able to bring his entire family and said they would participate in the parade as the "Razor Scooter Brigade". According to Jones, Hansen told the group that he had connections with the Surfrider Foundation and he would try and encourage members of the Surfrider Foundation to participate in the Last Night DIY parade. Jones said this piqued Modes' interest and Modes asked Hansen if the members of the Surfrider Foundation would be willing to follow the parade up Pacific Avenue and clean up any trash left in the street as a result of the parade. Jones said Modes believed the Surfriders would not object to fulfilling this role in the parade because they are concerned about the environment.

Jones said the meeting was still occurring on the front porch of the residence and it was beginning to get cold and dark outside. According to Jones, a group of females walked by the residence and stopped to talk with them. During this conversation, the females mentioned a protest that was planned for the following week at the Victoria's Secret store located in the Capitola Mall. A short while later, approximately six to seven additional people arrived at the residence to participate in the Last Night DIY planning meeting. Jones said there was now a total of approximately 13 to 14 people present at the planning meeting. According to Jones, Modes decided to move the meeting inside of the residence because it was getting cold and dark on the porch. The entire group of people moved inside of the residence where they continued their meeting in an area of the residence that Jones described as a large room located near the back of the residence. Jones said that by all indications, Wes Modes was in-charge of the meeting and invited the group to continue the meeting inside of the residence, however Wes Modes does not reside at 742 North Branciforte Avenue. In short, Wes Modes invited the group of individuals into the residence in which he does not reside. Jones said they were invited to enter the residence freely and were never given any indication by anyone that they were not welcome inside the residence.

Jones said that once inside of the residence, Modes facilitated a discussion in which he attempted to gain consensus from the group about the time that the Last Night DIY parade should begin. Jones said they discussed having the parade start somewhere between 5:00 and 6:00 p.m. and also having the parade start later in the evening at approximately 10:00 p.m. According to Jones, the group was split on whether to have the parade begin early or late. In a roundtable discussion, Jones said everyone was asked to give their opinion on what time they believed the parade should begin. When it was Jones' turn to speak, he told the group that he had been arrested in downtown Santa Cruz last year on New Years Eve and it was his opinion that there were more cops out on the street later in the evening. Jones suggested that they have their parade begin between 5:00 and 6:00 p.m. because there would be less police officers out on the street. Jones elaborated on this point by telling me that he made the suggestion to have the parade begin earlier in the evening because he felt it would have less impact on the Police Department. Jones said he knew that the Police Department resources would be taxed as the evening grew closer to the midnight hour due to the large numbers of people that traditionally show up downtown for the midnight celebration at the Town Clock. Jones said he believed that the Police Department would be better equipped to respond to the Last Night DIY parade if it occurred either late in the

afternoon or early in the evening as opposed to late in the evening. Jones said that when he made the suggestion to the group that the parade begin sometime between 5:00 and 6:00 p.m. because there would be less police officers on the street at that time compared to later in the evening, he received consensus from the group that the optimal start time for the parade would be sometime between 5:00 and 6:00 p.m. Jones said the group decided that the parade should begin at 6:00 p.m.

Jones said Modes facilitated further discussion in which they talked about how they would be able to attract more people to participate in the Last Night DIY parade. Jones said he told the group that he would tell all of his friends and encourage all of them to participate in the parade. Jones said that Modes discussed the protocol if the Last Night DIY parade were confronted by the Police. According to Jones, Modes said they wanted to utilize people whom he referred to as, "cop tamers". Modes described these people whom he referred to as "cop tamers" as people who would be able to distract the Police in the event that the Police attempted to intervene in the parade. Modes told the group that there would be a select group of people participating in the event who were well-spoken, polite and had no criminal history. These people would be deemed, "cop tamers" and would be responsible for speaking with the Police if the Police contacted the group as they marched up Pacific Avenue. Modes explained to the group that these types of individuals whom he deemed as "cop tamers" would be able to effectively deal with the Police and create a distraction so that the parade could continue up Pacific Avenue.

Jones said they discussed the route of the parade should they be confronted by the Police. The plan was to have the parade travel north on Pacific Avenue from the area where the parade was scheduled to begin at the intersection of Pacific Avenue and Laurel Street. Modes told the group that if the Police intervened in the parade, the plan was for the parade to travel away from Pacific Avenue via the closest side street, travel northbound on either Cedar Street or Front Street to the next cross street, and then return to Pacific Avenue via the side street. Once back on Pacific Avenue, the plan was for the parade to continue northbound on Pacific Avenue.

Jones said this concluded the discussion at the first planning meeting for the Last Night DIY parade. Jones said the meeting lasted approximately two hours. During the course of the meeting, the group was asked to introduce themselves twice. As previously mentioned, the group of seven introduced themselves to each other on the porch when the meeting first began. Once the meeting moved inside of the residence and the others joined the meeting, they introduced themselves to each other a second time. During the course of the meeting, a sign-in sheet was distributed to those attending the meeting. Jones said they were each asked to write down their name, telephone number and email address. Jones said he wrote down the name Wes Freely which is the name by which he introduced himself. Jones could not remember the telephone number that he wrote down and believed he had written down a random number. Jones wrote down the email address of trashmaster169@hotmail.com. When the meeting ended, Wes Modes thanked everyone for coming to the meeting. Jones said he and Hansen left the meeting and returned to the Police Department on their bicycles. Upon returning to the Santa Cruz Police Department, they were debriefed by Lieutenant Escalante. The debriefing lasted approximately 10 to 15 minutes. During this time, they provided feedback to Lieutenant Escalante about the information they had learned at the meeting. Jones indicated that he completed an OIC report

and submitted the report to Lieutenant Escalante prior to going off duty. This concluded Jones' participation in the Last Night DIY planning meeting that occurred on October 29, 2005.

At the direction of Lieutenant Escalante, Jones and Hansen were supposed to attend the second Last Night DIY planning meeting that was scheduled to occur on November 19, 2005. Jones said there was a conflict with he and Hansen attending the second Last Night DIY planning meeting, therefore they did not attend. No one from the Santa Cruz Police Department attended the November 19, 2005 Last Night DIY planning meeting.

Jones said he was directed by Lieutenant Escalante to attend the third Last Night DIY planning meeting which was scheduled to occur on December 17, 2005 at 18:00 hours, at 742 North Branciforte Avenue. Jones said he and Officers Hansen, Butler and Albert were briefed by Lieutenant Escalante at 17:30 hours on December 17, 2005. Officers Butler and Albert's role in this third Last Night DIY planning meeting was to provide uniformed support to Officers Jones and Hansen in the event that they requested assistance while attending the meeting. Officers Butler and Albert were in uniform and driving a marked patrol vehicle. They staged at a location in close proximity to 742 North Branciforte Avenue while Jones and Hansen were attending the Last Night DIY planning meeting.

Jones said he and Hansen drove to the meeting in Jones' personal vehicle. When they arrived at the meeting location, there was a sign on the front door of the residence at 742 North Branciforte Avenue indicating the location of the meeting had been changed to the back shack. Jones and Hansen were met by an unidentified woman while they were at the residence trying to determine the location of the meeting. Jones, Hansen and the unidentified woman walked around to the rear of the residence at 742 North Branciforte Avenue. There is a smaller building to the rear of the main residence that Jones described as a barn-type structure. As they approached this secondary residence on the property, the unidentified female went inside of a backdoor to the main residence where she contacted someone inside of the residence. She inquired as to the location of the meeting and she was told by someone inside of the main residence that the meeting would be held in the building to the rear of the main residence which was identified as the, "shack". According to Jones, they learned that the rear structure was referred to as "the shack" because there was a red and white Radio Shack sign affixed to the structure in which only the word "shack" was visible. The sign had apparently been procured from the Tandy Corporation which owns the chain of Radio Shack electronic stores. Jones said there was a ladder propped against the side of the residence known as the "shack". At the top of the ladder, there was a door leading into the second level of this structure. Jones said he and Hansen climbed the ladder and entered the "shack" through the door at the top of the ladder. Upon entering the structure, there were seven people already present inside. Jones said that there were a total of ten people inside of this small space after he, Hansen, and the unidentified female entered the structure. Jones described the room as being extremely small with very little room to accommodate ten people.

Upon entering the room located on the second level of the "shack", Jones said he was immediately greeted by Wes Modes who was inside of the structure. Jones said Modes greeted them as if they were old friends and told them, "great to see you guys". Jones said Modes asked he and Hansen where they had been and why they had missed the last meeting. According to

Jones, Hansen told Modes that they had been out of town in the Humboldt County area of California. Jones said they did not recognize anyone at this third Last Night DIY planning meeting except for Wes Modes and Jennifer Bushard. Jones said that none of the other people, except Modes and Bushard, had been at the Last Night DIY planning meeting on October 29, 2005. Jones said Modes was clearly the facilitator of this meeting as he had been at the previous meeting that he and Hansen attended. Modes called for introductions from those in attendance at the meeting. Jones said they went around the room and introduced themselves. Jones said he again introduced himself as Wes Freely.

Jones said he had been told by Lieutenant Escalante during the briefing that he was authorized to consume an alcoholic beverage if he were offered one at the meeting. Jones said Lieutenant Escalante told he and Hansen that he wanted them to blend in with the group and was concerned that if they refused an alcoholic beverage if one were offered, this may raise the suspicions of others at the meeting. With this direction from Lieutenant Escalante, Jones said he was offered a beer at the meeting and he accepted. Jones said he was given a 12 ounce can of Tecate beer. Jones said he opened the beer and consumed approximately ½ of the can of beer while at the meeting. Jones left the remaining portion of the beer at the residence at the conclusion of the meeting. Jones estimated the beer can was approximately ½ full when he left the meeting.

Jones said the primary discussion that occurred at this meeting addressed the parade route, the time the parade would begin, the people and groups that would be participating in the parade and a discussion about how to involve more people in the parade. Jones said the group attending the meeting agreed that the parade participants should meet at the empty patch of dirt located behind the Saturn Cafe at the corner of Pacific Avenue and Laurel Street. Jones described another issue that was discussed at the meeting regarding corporate caroling. Jones said there was an individual at the meeting who was encouraging those in attendance to participate in a demonstration in front of the Gap Store on Pacific Avenue at some future date where they were going to be singing in front of the store in what was deemed as "corporate caroling". Jones said he expressed interest to this individual in participating in the corporate caroling. Jones said there was no further discussion about this issue. At the conclusion of the meeting, Wes Modes expressed interest in holding one last planning meeting that was to occur a day or two prior to December 31, 2005. The purpose of this final planning meeting was to solidify the plans for the Last Night DIY parade. Jones said they agreed to meet at the Gelato Mania store on Thursday, December 29, 2005, at 18:00 hours. Once the date and time for the final meeting had been set, the planning meeting adjourned. Jones and Hansen left the meeting and returned to the Santa Cruz Police Department where they were debriefed by Lieutenant Escalante.

Jones said he and Hansen were directed to attend the fourth and last planning meeting for the Last Night DIY parade. This meeting was scheduled for Thursday, December 29, 2005, at 18:00 hours, at Gelato Mania on Pacific Avenue. Jones said he and Hansen met Lieutenant Escalante at the Santa Cruz Police Department at approximately 17:30 hours on Thursday, December 29, 2005 to brief prior to attending the meeting. At the conclusion of the briefing, Jones and Hansen went to Gelato Mania at approximately 18:00 hours. Jones said they were supposed to meet in the breezeway area of the building located on the north side of Gelato Mania. When he and Hansen arrived, they were unable to locate anyone from the previous Last Night DIY planning meeting at the location adjacent to Gelato Mania. Jones said he looked inside of Gelato Mania

through the windows and saw Wes Modes standing at the counter preparing to purchase something. Modes saw Jones and Hansen and acknowledged them by waving at them. Jones said he and Hansen sat down at a table and waited for Modes. Within a few minutes, Modes met them at their location. Jones said he and Hansen made small talk with Modes for 15 to 20 minutes, however no one else showed up.

Jones said while he and Hansen were talking with Modes, Jones attention was drawn to a male subject who was taking photographs in the breezeway area where they were sitting. Jones said the photographer was at the east end of the breezeway and appeared to be taking "random photos". Jones said he thought it was odd because he didn't really see anything that this person could have been taking photographs of. Eventually, this individual walked in a westbound direction toward Jones, Hansen and Modes. Jones said as he was watching this individual, he announced to Hansen and Modes, "this guy is suspicious". Jones said Modes responded by saying "Oh this is suspicious. Do you think the cops would take pictures of us?" Jones said he responded to Modes comment by simply stating "no". Jones said the individual walked past them as they were seated at the table and appeared to discreetly take their photographs as he passed by them. Jones said he thought this was odd and now realizes that this is the individual who took their photographs and posted the information on the Santa Cruz Indy Media website. Jones said he had never seen this individual prior to having his photograph taken by him. Jones said at approximately 18:25 hours, Modes said he had some place that he had to go and he departed. Jones said Modes walked southbound on Pacific Avenue from their location and he and Hansen walked northbound on Pacific Avenue. This was Jones' last contact with Wes Modes.

Jones said he and Hansen returned to the Santa Cruz Police Department where they were debriefed by Lieutenant Escalante. Jones said Lieutenant Escalante told him not to complete an OIC report because no information had been gathered from their attendance at this fourth and final Last Night DIY planning meeting.

I concluded my interview with Officer Jones on January 25, 2006 at 16:45 hours.



MEMORANDUM
POLICE DEPARTMENT
"Your Police, Our Community"

DATE: January 26, 2006
TO: File
FROM: Deputy Chief Vogel
SUBJECT: Officer Hansen's interview, reference Last Night DIY investigation

On January 26, 2006, I interviewed Officer Wesley Hansen in regards to the Last Night DIY internal investigation. The internal investigation resulted from two undercover Santa Cruz police officers attending planning meetings for a parade that was held on December 31, 2005 in downtown Santa Cruz. The group responsible for organizing the parade has identified themselves as Last Night DIY. I conducted the following interview with Officer Hansen on January 26, 2006. The interview began at 07:20 hours. I conducted the interview in my office which is located within the Operations division of the Santa Cruz Police Department. The interview with Officer Hansen concluded at 08:15 hours.

Officer Hansen indicated he was approached by Lieutenant Escalante a few days prior to the first of a series of three Last Night DIY planning meetings which was scheduled to occur on Saturday, October 29, 2005. Hansen said the planning meeting was for a parade that was supposed to take place on Saturday, December 31, 2005 in Downtown Santa Cruz. Hansen said Escalante told him the parade had not been approved through the City of Santa Cruz special event process. Hansen said Escalante asked him if he would be available to work in an undercover capacity and attend the planning meeting on October 29, 2005. Hansen told Escalante that he was available to work this detail. According to Hansen, Escalante had assigned Officer Carter Jones to work this undercover detail along with Officer Hansen.

Hansen said he and Jones reported to the Santa Cruz Police Department on Saturday, October 29, 2005, at 17:30 hours for briefing. Those present during the briefing were Lieutenant Escalante, Sergeant LeMoss and Officers Jones, Hansen and Bynes. Hansen said the briefing lasted approximately 15 to 20 minutes. There was no tac plan provided to the officers at the briefing. Hansen said Lieutenant Escalante briefed he and Jones verbally on their assignment for this detail. Hansen said they were told to gather as much intelligence information about the Last Night DIY parade as possible. Hansen said he was directed to report back to Lieutenant Escalante with any information that they received at the planning meeting that would assist the Santa Cruz Police Department in developing an operational plan for the parade that was scheduled to occur on December 31, 2005. Hansen said Escalante told he and Jones that they may participate in discussion at the meeting. Hansen said Escalante told he and Jones that they could ingest alcohol at the meeting if it were offered, however they were directed not to drink to the point that they were under the influence of alcohol. According to Hansen, Escalante did not want any of the other attendees at the meeting to become suspicious that Hansen and Jones may be police officers. This is the reason they were permitted to ingest alcohol if it were offered.

Hansen said Escalante told them they were not permitted to engage in any illegal activity while attending the meeting. Hansen said he reported for duty dressed in casual attire and was given no specific direction from Lieutenant Escalante about how he should attire himself.

Hansen said he and Jones utilized two bicycles as their mode of transportation from the Santa Cruz Police Department to the address at 742 North Branciforte Avenue. The bicycles that Hansen and Jones used were bicycles that had been collected by the Santa Cruz Police Department as found property. Hansen said Officer Bynes was in uniform and driving a marked Santa Cruz Police Department patrol vehicle. Officer Bynes' function was to maintain a position within close proximity to the address at 742 North Branciforte Avenue in the event that Hansen and Jones required the assistance of a uniformed police officer. As Hansen and Jones rode up to the residence at 742 North Branciforte Avenue on their bicycles, Hansen said there were two or three people on the porch of the residence. Hansen identified the three persons present when they arrived as Wes Modes, aka Rico Thunder, Jennifer Bushard and another unidentified person. Hansen said when he and Jones arrived at 742 North Branciforte Avenue, they were greeted and invited on to the porch of the residence by Wes Modes. Hansen said Modes introduced himself as Wes. Hansen said the other individuals present on the porch seemed to know each other and they referred to Wes Modes as Rico.

Hansen said when they arrived, Modes said, "How did you hear about it?" Hansen said he responded by saying, "At the Farmer's Market." After introducing themselves to the others on the porch they began to have a discussion about the Last Night DIY parade. Hansen said the discussion centered around the contributions that each other person present at the meeting would be able to make to the parade. Hansen said Wes Modes appeared to be in-charge of the meeting as he was clearly facilitating the discussion, however Modes told the group that no one should be individually responsible or in-charge. Modes told the group that the Last Night DIY parade was a community event and involved everyone. Hansen said it was clear by Modes' statements that he was trying to absolve himself of all responsibility for the parade. Hansen said the discussion on the porch continued and everyone talked about what they would be able to contribute to the parade and what benefit they expected to result from the parade. Hansen said the gathering on the porch lasted for approximately 20 minutes before it moved inside of the residence. During the period of time that Hansen and Jones were on the porch, others showed up at the meeting. Hansen said it began to get cold and dark, therefore the group moved inside of the residence approximately 20 minutes after Hansen and Jones arrived. Prior to going inside of the residence, Hansen said Modes distributed some literature to everyone in attendance at the meeting. That literature was attached to the OIC report prepared by Officer Jones and submitted to Lieutenant Escalante on October 29, 2005.

According to Hansen, Wes Modes invited those in attendance at the meeting to join him inside of the residence for a continuation of the meeting. Hansen said he was under the impression that Wes Modes resided at 742 North Branciforte Avenue. Hansen said this was based upon the fact that Modes was facilitating the meeting and invited the group inside of the residence leading Hansen to believe that Modes was a resident at 742 North Branciforte Avenue. Hansen said the group went inside of the residence and convened in a room downstairs. Hansen said everyone introduced themselves to each other once they were inside of the residence. Hansen estimated there were approximately 15 to 20 people now present at the meeting. In a roundtable

discussion, each attendee at the meeting was asked what they would be able to contribute to the parade. When it was Hansen's turn to speak, he identified himself to the group as Tim. Hansen said he did not provide a last name. Hansen told the group he was from Southern California and came to Santa Cruz to attend UCSC. Hansen said he told the group that he participated in a demonstration at the university when the students took over the administration building. Hansen told the group that he wanted to participate in the Last Night DIY parade simply to have a good time. Hansen said a sign-up sheet was passed around at some point during the meeting. Hansen wrote his name down on the sign-up sheet as "Tim" and he gave a bogus email address. Hansen was not able to recall the email address that he used, however he believes the domain name that he used was either hotmail or junio.

Hansen said as the conversation moved around the room someone mentioned that the parade would need to have a "sweeping tail" to clean up any trash that was left behind by those participating in the parade. Hansen said he spoke up at this point and said he would volunteer to contact members of the Surfrider Foundation to try and arrange for people to fulfill the role of the "sweeping tail." Hansen said there was discussion regarding the logistics should the police show up for the parade. According to Hansen everyone at the meeting agreed that no one wanted to be taken in to custody and sent to jail as a result of the parade. The group decided that they would just ignore the police when they showed up and go around them. Hansen said the group planned on having critical mass bicyclists participate in the parade. The critical mass would be used to block intersections on Pacific Avenue. Hansen said the group began to discuss the time that the parade should start. The initial conversation centered around starting the parade later in the evening at approximately 10pm. Hansen said he told the group that he got busted downtown last year on New Years Eve sometime after 10pm and was taken to jail by the police. Hansen said he suggested the parade begin either late in the afternoon or early in the evening because there would be less cops, less traffic, and the parade would be similar to the traditional First Night parade that has been downtown for the past several years. Hansen said his primary motivation for suggesting an earlier start time for the parade was driven by his concern over the public safety impact that a late night parade would have. Hansen said he believed there would be more people downtown later in the evening, both on foot and in vehicles. A late night parade would create a traffic impact that would be unsafe for those participating in the parade and it would tax the police resources that were on duty later in the evening for the large gathering of people that typically go downtown on New Years Eve for the midnight celebration. Hansen said that from a public safety perspective, he believed it was safer for this group to have their parade earlier in the evening as opposed to later.

Hansen said the various participants at the meeting talked about the groups that they would be bringing to the parade. One person at the meeting talked about fire dancers and the need to have a buffer zone between the fire dancers and the parade observers so that no one became injured by fire. Hansen said there was concern expressed by some attendees at the meeting that the fire dancers may draw the attention of the police. According to Hansen someone else at the meeting talked about bringing in a group called the Porn Clowns. Hansen said Wes Modes talked about his involvement with the Guerilla Drive-in. Modes said he had access to a sound system that he uses when he shows movies at the Guerilla Drive-in. Hansen said Modes offered the sound system for use at the Last Night DIY parade on New Years Eve. At one point during the meeting, Hansen said that Modes told the group that anybody present at the meeting could

potentially be a cop. Modes told the group that many of the people present at the meeting had not met each other before, therefore the possibility existed that there may be a cop present at the meeting. Hansen said Modes told the group, "That's okay. We don't have anything to hide." Hansen said he thought this was an odd statement for Modes to make, especially considering Modes' well publicized, after-the-fact perspective about undercover police officers attending the Last Night DIY planning meetings. Hansen said Modes talked about his involvement with the Free School Trash Orchestra and told the group that there would be a separate meeting where people could come and build trash orchestra instruments and practice with them for the Last Night DIY parade. Hansen said this concluded the meeting on October 29, 2005. Hansen said he and Jones left the meeting and rode their bicycles back to the Santa Cruz Police Department where they debriefed with Lieutenant Escalante. Hansen believed the meeting lasted approximately 90 minutes. After debriefing with Lieutenant Escalante, Hansen said Jones prepared the OIC Report for the meeting and submitted it to Lieutenant Escalante. Hansen said the next Last Night DIY planning meeting was scheduled to occur on Saturday, November 19, 2005 at the same time and location.

Hansen said he was unable to attend the meeting on November 19, 2005. For this reason, Officer Jones did not attend the meeting on November 19, 2005 either.

Officer Hansen said he and Officer Jones attended the third Last Night DIY planning meeting that occurred on Saturday, December 17, 2005. The meeting was held at the residence at 742 North Branciforte Avenue and began at 18:00 hours.

Hansen said he and Jones reported for duty at 17:30 hours on December 17, 2005. Hansen said Officers Albert and Butler assisted in the detail on December 17, 2005. Officers Albert and Butler were in uniform and driving a marked Santa Cruz Police Department patrol vehicle. Officers Albert and Butler's function was to maintain a position within close proximity to the address at 742 North Branciforte Avenue in the event that officers Hansen and Jones required the assistance of a uniformed police officer. Hansen said they all met at the Police Department at 17:30 hours and briefed prior to attending the Last Night DIY planning meeting. Hansen said the briefing was short because their mission was identical to that of the previous meeting that they had attended. At the conclusion of the briefing, Hansen said he and Jones drove to the meeting location in Officer Jones' personal vehicle. They parked in the shopping center parking lot next to Tony and Alba's Pizza adjacent to the residence at 742 North Branciforte Avenue. As they walked up to the residence, it appeared to be dark. Hansen said it looked like no one was home. Hansen said he and Jones hung out in front of the residence for a short period of time and eventually met a male subject on the porch of the residence. Hansen recalled seeing a sign on the front door of the residence, however he was not sure what the sign said. When the male subject appeared on the porch of the residence, he told Hansen and Jones that the sign on the front door to the residence indicated that the meeting had been moved to the residence located to the rear of the main house. Hansen said there is a carriage house located on the property to the rear of the main residence. Hansen said he, Jones and the other male subject walked around the rear of the main house to the carriage house.

Hansen said he recalled an unknown female subject who accompanied them to the carriage house. Hansen recalled this unknown female had introduced herself at the meeting as a reporter

with either the Good Times or Santa Cruz Metro newspaper. Hansen said he did not know this female's name. Upon arriving at the carriage house, Hansen recalled a Radio Shack sign on the residence, however all that was visible was the word "shack." Hansen said there was a very steep staircase leading to the 2nd floor of the carriage house. According to Hansen, the staircase was almost vertical and had no railings. Hansen said he, Jones and the unknown male and female subjects used the staircase and went upstairs and through a door that led into the 2nd story of the carriage house. Upon entering the carriage house, Hansen said there were seven to eight people inside which included Jones, Hansen, and the unknown male and female subjects. Hansen said Wes Modes and Jennifer Bushard were upstairs in the carriage house when they arrived. Hansen said he did not recognize anyone else who was present. According to Hansen, Modes and his Bushard were the only people, excluding Hansen and Jones, who were present at the first meeting that was held on October 29, 2005. Hansen said the area upstairs in the carriage house was extremely small and there was very little room for the seven to eight people who were inside. Hansen said he was greeted by Modes when he arrived. Modes told Hansen that he was sorry that he had missed the previous meeting, however was glad that he was able to make the meeting this evening. Hansen told Modes he had taken a trip to Northern California and was unable to attend the meeting on November 19th.

Hansen said the meeting began shortly after they arrived. Hansen said Modes again facilitated the meeting, but made it clear to everyone at the meeting that he was not in-charge. Hansen said he reiterated his point that this was a community organized event and that no one particular person was in-charge. Hansen said the discussion began with talking about the groups that would be present and participate in the parade. Hansen recalled discussion about the fire dancers. There was concern amongst the group that the fire dancers would attract the attention of the police because of the fire. Hansen said the group decided that the fire dancers would utilize L.E.D. balls instead of fire for their performance in the parade.

Hansen said the group discussed how they would interact with the police if they were confronted by the police during the parade. According to Hansen, Modes told the group that their response to the police would be dictated by the number of people who were present in the Last Night DIY parade. Modes told those in attendance at the meeting that the intent was to take over the entire downtown and not yield to the Police if the group participating in the parade were large enough. According to Hansen, Modes used the example of a group of a thousand participants in the parade confronting 20 police officers. Modes told the group that there was nothing that 20 police officers would be able to do to a group of a thousand parade participants. Modes said if the group of parade participants was not of adequate size to take over the entire downtown if confronted by the police, the direction was to simply take over the street. Hansen said it was clear that this group, being led by Modes, had no intention of complying with the police department during the parade.

Hansen said Modes discussed the idea of a "sweeping tail". Hansen said he told the group that members of the Surfrider Foundation would be able to act in the role as the "sweeping tail" and pick up litter and trash resulting from the parade. Hansen said a woman at the meeting planned to dress up in a pigeon costume and participate in the parade. Hansen said there was another person in attendance at the meeting that indicated he was a giant puppet maker and would be making puppets for the parade. Another person present at the meeting said he could assist in the parade

by making floats. Hansen said Modes spent a lot of time at the meeting trying to get everyone excited and "amped up" about the parade.

Hansen said Officer Jones consumed less than one 12 ounce can of Tecate beer while attending this meeting. According to Hansen, the beer was offered and Jones accepted. Hansen said Jones did not finish the 12 ounce can of Tecate beer. At the conclusion of this meeting, Hansen said either he or Jones made a suggestion that the group plan one more meeting just prior to the New Years Eve event to finalize their plans. Hansen was unable to recall if it was he or Jones who suggested the final meeting, however he said it was one of them who made the suggestion. Hansen said the group thought it was a great idea and they agreed to meet on Thursday December 29, 2005 at 18:00 hours in the breezeway just north of Gelato Mania on Pacific Avenue. Hansen said this concluded their attendance at this planning meeting. Hansen and Jones left the meeting, walked back to Jones' personal vehicle and drove back to the Police Department where they debriefed with Lieutenant Escalante. After debriefing with Lieutenant Escalante, Hansen said Jones prepared the OIC report for the meeting. Hansen estimated this meeting lasted between 45 minutes and one hour.

Officers Hansen and Jones reported for duty at 17:30 hours on Thursday, December 29, 2005 to brief prior to the Last Night DIY planning meeting. There were no uniformed police officers assigned specifically to this detail because the meeting was being held on Pacific Avenue in a public place. Hansen indicated the downtown unit officers were aware that they were meeting in the breezeway at Gelato Mania in the event that Hansen and Jones required assistance. Hansen said he and Jones arrived in the breezeway located on the north side of Gelato Mania. Hansen said there was a table located in the breezeway next to Gelato Mania. Hansen looked inside of the Gelato Mania store and saw Wes Modes standing at the counter preparing to purchase an item. According to Hansen, no one else had shown up for the meeting. Hansen said Modes came out of Gelato Mania and greeted them in the breezeway. Hansen said they made small talk and did not discuss any of the plans for New Years Eve because no one else was present at the meeting.

Hansen said he noticed a photographer with a camera in the immediate vicinity of the breezeway where they were meeting with Modes. Hansen's attention was drawn to this individual because he was taking photographs of the wall inside of the breezeway and Hansen thought it was strange that he was taking photographs of the wall. Hansen said Jones saw the photographer surreptitiously taking photographs of them. Hansen said Modes was watching as this individual was taking photographs of them also. According to Hansen, Modes acted, "freaked out" and said, "Do you think the police are doing this?" Hansen said he and Jones told Modes that they did not believe the police were responsible for taking their photographs. Hansen said the photographer left after taking their photographs.

Hansen said Modes told them he had to leave at approximately 18:20 hours. At this time, Hansen, Jones and Modes parted company. Hansen said he and Jones left the breezeway walking northbound on Pacific Avenue while Modes walked southbound on Pacific Avenue. Prior to parting company, the three indicated that they would see each other in the parking lot behind the Saturn Cafe on New Years Eve at 17:30 hours. Hansen said he and Jones returned to the Police Department where they debriefed with Lieutenant Escalante. Hansen said Lieutenant

Escalante told them not to complete an OIC report because no information had from their attendance at this fourth and final Last Night DIY planning meeting

I concluded my interview with Officer Hansen on January 26, 2006. at 08:15 h



MEMORANDUM
POLICE DEPARTMENT
"Your Police, Our Community"

7

DATE: February 1, 2006
TO: File
FROM: Deputy Chief Vogel
SUBJECT: Wes Modes interview, reference Last Night DIY investigation

On February 1, 2006, I interviewed Wes Modes in regards to the Last Night DIY internal investigation. The internal investigation resulted from two undercover Santa Cruz police officers attending a planning meeting for a parade that was held on December 31, 2005 in downtown Santa Cruz. The group responsible for organizing the parade has identified themselves as Last Night DIY. I conducted the following interview with Wes Modes on February 1, 2006. The interview began at 08:07 hours. I conducted the interview in one of the interview rooms located adjacent to the public lobby of the Santa Cruz Police Department. The interview with Wes Modes concluded at 08:37 hours. Another individual who was present during this interview was Metro Santa Cruz reporter Sarah Phelan.

On Thursday, January 26, 2006, I sent Wes Modes a certified letter via the U.S. Postal Service requesting he contact me for an interview in regards to the Last Night DIY internal investigation. On Monday, January 30, 2006, I had not yet heard from Mr. Modes. I utilized the Alliance Records Management System at the Santa Cruz Police Department and located a home telephone number and a cell phone number for Modes. I called the home telephone and spoke to Modes. I introduced myself and explained to Mr. Modes that I wanted to speak with him regarding the internal investigation that I was conducting. Modes agreed to meet with me at the Santa Cruz Police Department on Wednesday, February 1, 2006, at the Santa Cruz Police Department. During my telephone conversation with Modes, he indicated that he had heard from his friend John Hirst and that Hirst had told him that he had received a certified letter from the Police Department regarding the Last Night DIY internal investigation. Modes said he assumed he would be receiving the same letter in the mail, however he had not received it as of the time we spoke on the telephone. I explained to Modes that I would also like to speak with Jennifer Bushard, regarding this matter. Modes said it would be very difficult for me to speak with her regarding this matter due to her schedule. Modes indicated he would be able to provide me with all of the information that I would need regarding this matter and I would not need to speak with Bushard. Modes indicated I should contact another individual whom he identified as Grant Wilson. Modes said Wilson may have additional information for the internal investigation. Modes provided Wilson's home telephone number to me. Modes also provided me with a home telephone number and a cellphone number for John Hirst so I could contact him. This concluded my telephone conversation with Mr. Modes.

Immediately following the telephone call I placed to Modes, I contacted Grant Wilson at the phone number that Modes had provided me with. Wilson answered the telephone and I

introduced myself. I explained to Wilson that I had just spoken with Wes Modes and Modes had provided me with Wilson's home telephone number. I asked Wilson if he would be willing to come to the Police Department to meet with me and provide a statement regarding the Last Night DIY investigation. Wilson said he probably did not have anything else to add to this investigation aside from what Modes would be able to provide. Wilson said he wanted to call Modes and speak to him before making a decision about whether he would submit to an interview regarding this matter. I asked Wilson if he would kindly call me back and let me know what his decision was regarding being interviewed after he had a chance to speak with Modes. I provided Wilson with my telephone number and he indicated that he would call me back after he spoke to Modes. As of February 2, 2006, I have not been contacted by Wilson.

Immediately following my conversation with Wilson, I called both the home telephone number and cell number for John Hirst that was provided to me by Modes. I left a voice mail message on both the home telephone number and the cellphone number explaining why I was calling and requesting Mr. Hirst to contact me regarding this matter. As of February 2, 2006, I have not been contacted by Hirst.

On February 1, 2006, Wes Modes arrived at the Santa Cruz Police Department at approximately 08:00 hours. I met Modes at the front door to the Police Department. Modes was in the company of an unidentified female. Initially, I thought this female may have been Jennifer Bushard. Upon introducing myself to Modes and the unidentified female, she identified herself as Sarah Phelan, a reporter with the Metro Santa Cruz. Modes asked me if she would be able to sit in and listen to the interview. I explained to Modes that I really wanted to speak to him alone and did not want any other parties present during the interview. Phelan was not a party to this investigation and therefore, I saw no purpose in her sitting in on the interview. Modes indicated he would be much more comfortable participating in the interview if Phelan were allowed to observe and listen. Modes also indicated that whatever was said during the course of the interview would become public information, therefore he saw no reason why she would not be allowed to observe the interview. I agreed with Modes assessment of this and I permitted Phelan to accompany us into the interview room and observe the interview with Modes.

Upon entering the interview room adjacent to the public lobby of the Santa Cruz Police Department, I explained to Modes the information that I would be seeking from him during the interview. Modes told me that he would try and be as helpful as he could, however he indicated there were probably some questions that I was going to ask him that he would refuse to answer. At this point, I started the tape recorder and I recorded the interview with Modes. Modes had a tape recorder with him and he also recorded the interview.

I began the interview with Modes at approximately 08:07 hours. At the beginning of the interview, I asked the reporter to state her name and spell it for me. She identified herself as Sarah Phelan and spelled her last name for the record. At the beginning of the interview, I explained to Modes that I wanted him to provide me with a narrative version of the chain of events as they relate to the Last Night DIY parade planning meetings.

Modes began the interview by saying that he was not the main organizer of this event, despite the fact that he has been referred to by others as the main organizer. Modes said a bunch of people

had the idea of organizing a do-it-yourself parade to replace the First Night parade. Modes said they considered getting permits for the parade, however the parade permit process is very difficult. Modes said there were flyers hung up all around town and emails circulated regarding the Last Night DIY parade. Modes said they had the first planning meeting on either October 27th or October 29th. Modes was not sure of the exact date. Modes said the two undercover officers (not known to be police officers at the time) showed up for the first planning meeting. According to Modes, they were the first to arrive at the planning meeting and they introduced themselves as "Wes" and "Tim". Modes said they circulated a sheet at the meeting for everyone to write down their email address. The purpose for obtaining email addresses was so the group could keep in touch with each other via email. Modes said the discussion at this first meeting centered around whether they wanted to have a parade and how various aspects of the parade would be handled. Modes said they made some agreements at this first meeting with those in attendance and Modes thought some of these agreements were very good. At this point Modes indicated that he had not been provided with a copy of the OIC report that had been prepared by the officers following the first planning meeting in October. Modes said that particular document had not been included in the packet of information that they received as a result of the Public Records Act request that was made of the Police Department. Modes confirmed that he had received a copy of the OIC report from the second meeting that the officers attended, however he had not received a copy of the first OIC report. Modes said the first meeting went very well and they were very happy with what they had discussed at the meeting. I asked Modes where this particular meeting had been held and he identified the location as the big yellow house on North Branciforte Avenue (describing 742 North Branciforte Avenue).

Modes indicated they were extremely happy that the two officers, unknown to them as this time, had shown up for the meeting. Modes said they were particularly happy that a couple of "surfer dudes" had attended the meeting which made him believe that their outreach had been successful. Modes expressed enthusiasm regarding their attendance because they were not artists or performers but they were interested in the parade.

Modes said they had another planning meeting at the big yellow house on November 19, 2005. According to Modes, the officers did not attend the meeting on November 19, 2005.

Modes said they had another planning meeting on December 17, 2005. Modes identified the meeting location for the December 17, 2005 meeting as the big yellow house on North Branciforte Avenue. Modes said they realized that they had not obtained telephone numbers from anyone at the first meeting, therefore they passed around a sign-up sheet at this meeting for everyone to write down their telephone number and email address. Modes said the officers identified themselves again as "Tim" and "Wes". Modes said they wanted telephone numbers on this sign-up sheet so they could contact people via telephone if necessary.

Modes said after this planning meeting, he was charged with the responsibility of creating an email distribution list to correspond with the meeting attendees via email. He created the email distribution list using the email addresses provided the attendees at the planning meeting. Modes indicated that he sent an email out using the email addresses provided at the meeting and the emails sent to the officers were bounced back to him. Modes found this to be interesting. Modes said he then attempted contact with the two officers via telephone, however the phone numbers

that had been provided at the meeting were disconnected numbers. Modes said he began to get suspicious after both the email addresses and telephone numbers that were provided by the two officers appeared to be invalid. Modes said it had not been confirmed that the two people present at their planning meetings were undercover police officers until a reporter from the Santa Cruz Sentinel newspaper spoke with Lt. Rudy Escalante and wrote an article that appeared in the Santa Cruz Sentinel newspaper on December 31, 2005.

I asked Modes if the two undercover officers contributed to the discussion at the meeting on October 29, 2005. Specifically, I asked Modes if they had made any suggestions at the meeting about the parade itself. Modes said he now knows that everything the officers said and did at the two meetings that they attended were just for "cover." Modes said they had a discussion at the meeting in which they talked about what everyone at the meeting is doing, what they have done and what they are interested in. Modes said one of the officers made up a lie about their family being "really into Razor scooters." Modes said the officer indicated his entire family would be at the parade and everyone would be on Razor scooters. Mode said one of the officers indicated he was a surfer and could attract members of the Surfrider Foundation to participate in the parade as the, "sweeping tail." Modes said this was disappointing to them when they found out they were police officers because they knew they would have to make other arrangements for the, "sweeping tail." The sweeping tail was responsible for picking up any trash that was left behind as a result of the parade. At the planning meeting held on December 17, 2005, Modes said the group decided to have one last meeting just prior to New Year's Eve to finalize the plans for the Last Night DIY parade. Modes said the two undercover officers assisted in setting the date, time and location for this fourth, unpublicized planning meeting. At the conclusion of the meeting on December 17, 2005, Modes said the group was unaware that Jones and Hansen were police officers.

Modes said that only he, Jones, and Hansen showed up for the meeting on December 29, 2005. The location for this meeting was the breezeway located on the northside of Gelato Mania on Pacific Avenue. I asked Modes if everyone knew that Jones and Hansen were police officers at this point. Modes indicated that only a very small core group of people suspected that Jones and Hansen were police officers at this point. Modes said he and others still believed that Hansen and Jones were just a couple of, "good-natured surfer dudes." I asked Modes about the photographer who was present in the breezeway adjacent to the Gelato Mania who took Hansen and Jones' photographs on the evening of December 29, 2005. Modes' response was, "I can't comment on that."

I spoke with Modes regarding the City's permit process for having a parade. Modes described the permit process as a significant barrier to free speech. I asked Modes if the permit process for having a parade were less expensive and more streamlined, would the Last Night DIY Organization had undertaken that process. Modes cited the one million dollar insurance policy requirement by the City, as well as fees for various city services as being obstacles for planning a special event in the City of Santa Cruz. Modes said the permit process, as well as the costs associated with obtaining permits from the City of Santa Cruz, make it completely prohibitive for a grassroots organization to put on an event downtown.

I asked Modes how he would have reacted if the police department had reached out to him in advance of this event and attempted direct communication with their group about the event. Prior to answering the question, Modes absolved himself of all personal responsibility regarding this event by reiterating that he was not the one who decided to have this event. He indicated the entire group was responsible, not just one individual person. I clarified my question by asking Modes what the response would have been from the Last Night DIY planning group if the police department had reached out to them and offered to help with their event. I explained to him that the police department's concern regarding an event of this nature revolved solely around the issue of public safety. Modes said that if they had received a telephone call or an email from someone from the police department, they would have been totally forthcoming. Modes said they have nothing to hide. Modes said they would have been happy to tell the police when they were meeting and what they were planning to do. Modes said he has no doubt the police department would have wanted their group to go through the permit process and, "jump through the right hoops."

I asked Modes if they would have welcomed the police department at their planning meetings if we had chosen to attend. Modes said that if a uniformed police officer had shown up at one of their meetings, they would have politely declined to allow them to attend. Modes said the group would have been happy to provide a uniformed officer who showed up at their meeting with telephone and email contact information, however he said they would not have welcomed the uniformed police officer at their meeting. Modes acknowledged that the planning meetings were public meetings, however he also indicated he felt the presence of a uniformed police officer at the meetings would be a deterrent to people being able to speak freely. Modes said, "For us, one of the significant barriers might well have been the police, right, in terms of putting on a grassroots parade." Modes said people would have definitely wanted to speak freely, therefore they would have politely declined to allow a uniformed police officer to attend their meetings, however they would have provided both telephone and email contact information and would have been forthcoming by telephone or by email. Modes pointed out that no one from the police department ever made contact with anyone from the Last Night DIY Organization. I confirmed this information for Modes by telling him that the Santa Cruz Police Department had not attempted to make contact with the Last Night DIY planning group prior to the first parade planning meeting. Modes said he believed the police department thought that no one from their group would talk to the police about this event prior to the event itself, however Modes indicated, "we probably would have." Modes acknowledged that the police are part of the community and have a responsibility to keep people safe, therefore the Last Night DIY planning group would have every reason to share information with the police department about this parade in advance of the event.

I asked Modes to describe how the parade participant would have reacted at the time of the event if they had been confronted by the police for not having the proper permits and if the police had attempted to intervene in their event. Modes indicated he would be speculating at best, and does not know how the group would have reacted if confronted by the police. Modes said the participants in the parade included people from all groups within the community, including moms and kids. I asked Modes if he had ever heard the term "cop tamer" before. Modes described people within the parade who were designated as police liaisons and conflict managers. Though Modes never referred to these people as "cop tamers", his description of the

people that I referred to as “cop tamers” were police liaisons and conflict managers. Modes described the conflict managers as the people that the police could talk to if there were questions. Modes also indicated the conflict managers would be prepared to deal with anyone who created a disturbance at the parade. Modes used a drunk subject causing a disturbance as an example of someone whom the conflict managers would be charged with dealing with. Modes used another example of an angry driver as someone whom the conflict managers would be responsible for dealing with.

I asked Modes if he had any issues with the two officers’ conduct at the Last Night DIY planning meetings, aside from the fact that they were attending the meetings in an undercover capacity.

Modes said the difficulty for him lies in the mission of the officers and not their conduct. Modes said he has issues with the conduct of police executives who made the decision to send the two officers to the planning meetings, however he has no issues with the officers’ conduct while attending the meetings. Modes said he hopes the focus of the internal investigation is on the reasons the officers were directed to attend the meetings as opposed to the officers’ conduct while at the meetings. I explained to Modes that the officers’ conduct at the meetings had not been called into question and that the focus of the investigation was on the reason that the officers were sent to the meetings. I also explained to Modes that the intent of this investigation was to explore all aspects of this event. Modes asked me if it felt odd for me to be involved in the internal investigation having also been involved in giving the order to send the two undercover officers to the planning meetings. I told Modes that I had not given an order for anyone to attend these meetings, that I merely made a suggestion to a Lieutenant to send undercover officers to the Last Night DIY planning meeting. I explained to Modes that it did not feel odd to me and told him that I was capable of conducting a fair and impartial investigation.

Modes asked me if we had any type of policy at the police department that governed police surveillance or undercover operations to which I responded that we do not. Modes asked me if the Santa Cruz Police Department had initiated communication with any state or federal agencies regarding the Last Night DIY parade. I told Modes that the Santa Cruz Police Department had not shared any information about the Last Night DIY parade with any state or federal agencies, nor had we shared the information with any other law enforcement agencies outside of the City of Santa Cruz. I told Modes there had been internal communication within various City departments about the Last Night DIY parade, however the information was not shared with any other law enforcement agencies by the Santa Cruz Police Department.

Victoria Scere
protest/Car
tola police

At the conclusion of this interview, I asked Modes if Jennifer Bushard, John Hirst or Grant Wilson would be contacting me to arrange an interview. Modes said they probably would not contact me. This concluded my interview with Wes Modes. The interview ended on February 1, 2006 at 0837 hours.