

Last Night DIY Internal Investigation

Investigator: Deputy Chief Kevin Vogel

Date Opened: January 25, 2006

Date Closed: February 6, 2006

Last Night DIY Internal Investigation

Table of Contents

1. Summary of Findings – Deputy Chief Kevin Vogel
2. Interview Summary - Lt. Rudy Escalante
3. Interview Summary - Officer Carter Jones
4. Interview Summary - Officer Wesley Hansen
5. Interview Summary - Wes Modes
6. OIC Report from 10-29-05
7. OIC Report from 12-17-05
8. SCPD Crime Report #06S-00171
9. Email Correspondence – Deputy Chief Vogel
10. Email Correspondence – Lt. Escalante
11. Email Correspondence – Lt. McMahon
12. Email Correspondence – Lt. Sepulveda
13. Last Night DIY Website Information
14. Last Night DIY Parade Flyer and Santa Cruz Trash Orchestra Flyer
15. Santa Cruz Police Department New Years Eve Operations Order
16. New Years Eve City Council Staff Report and Resolution
17. Interview Notes from Deputy Chief Vogel
18. Correspondence to Wes Modes, Jennifer Bushard and John Hirst
19. Public Records Act Request from Sherry Conable and Mark Schlosberg
20. Questions for Staff from Santa Cruz City Council re: Internal Investigation
21. City of Santa Cruz Special Event Application Packet
22. DVD (Video Footage of Parade) & CD (Audio of Wes Modes' Interview)
23. Santa Cruz Sentinel Newspaper Articles
24. Metro Santa Cruz Newspaper Articles
25. Santa Cruz Indy Media Postings



MEMORANDUM
POLICE DEPARTMENT
"Your Police, Our Community"

DATE: 02-09-06

TO: City Manager

FROM: Chief of Police *RP*

SUBJECT: Review of Investigation

I have reviewed the investigation on the actions of the police department related to the LastNightDIY event. A thorough review found that no violations of existing department policies or practices occurred. As we did not have a policy that specifically addressed this type of situation, I have implemented a policy that directs members of the department to coordinate with community organizations when we become aware of a planned event. This policy (#610 Undercover Operations) focuses on direct and open communication, whenever possible, with community organizations in an effort to respect the rights to freely associate while upholding the duties given to the police department by local and state statutes. I have attached a copy for

Section
610

SANTA CRUZ POLICE DEPARTMENT

UNDERCOVER OPERATIONS

610.1 Purpose and Scope

The Santa Cruz Police Department supports the right of citizens to freely associate without government interference and respects the protections afforded Americans by the First and Fourth Amendments to the Constitution of the United States. The following policy has been established for undercover operations.

610.2

Members of the Santa Cruz Police Department shall not undertake undercover operations within community organizations unless there is reasonable cause to believe that the group, or individuals within the group, are involved in the planning of or intending to, engage in illegal and/or violent activity. The Police Department will seek to gather information about these types of activity by members of these organizations through direct and open communication with them or their members, and/or make use of other less intrusive tactics, whenever possible, before engaging in undercover operations within such groups. Tactics employed by police personnel will comply with existing law, will not constitute entrapment, nor further criminal acts when dealing with community organizations.

} group or individuals within a group
any illegal activity

610.3 Documentation

The Police Department shall keep no files or information on community organizations or their members gathered by undercover operations unless they are directly related to the planning of illegal and/or violent action. The maintenance of any files, documentation, photographs, etc. shall comply with all state and federal laws and disposed of pursuant to the Public Records Act and the City of Santa Cruz Records Retention Schedule. This provision does not interfere with police filming or photographing public events where police engagement is reasonably expected.

} any illegal activity including civil disobedience
No limit on public surveillance

610.4 Approval-Reporting

Prior approval by a Deputy Chief is required before any operations are conducted involving community organizations. On an annual basis, the Chief of Police shall report to the Public Safety Committee of the City Council the number of undercover operations conducted inside of community groups during the previous year.



HOWARD SKERRY
Chief of Police



MEMORANDUM
POLICE DEPARTMENT
"Your Police, Our Community"

DATE: February 6, 2006

TO: Chief of Police

FROM: Deputy Chief Vogel

SUBJECT: Summary of Findings - Last Night DIY Internal Investigation

Complainant: Internal

Involved Parties: Deputy Chief Kevin Vogel

155 Center Street
Santa Cruz, CA 95060
(831) 420-5800

Lt. Rudy Escalante
155 Center Street
Santa Cruz, CA 95060
(831) 420-5800

Officer Carter Jones
155 Center Street
Santa Cruz, CA 95060
(831) 420-5800

Officer Wesley Hansen
155 Center Street
Santa Cruz, CA 95060
(831) 420-5800

Wes Modes
548 Redwood Road
Felton, CA 98018
(831) 335-3109 (home)
(831) 417-3104 (cell)

Jennifer Bushard
548 Redwood Road
Felton, CA 95018
(831) 335-3109 (home)

John Hirst
742 N. Branciforte Avenue
Santa Cruz, CA 95062
(831) 421-9557 (home)
(831) 359-7247 (cell)

Grant Wilson
Unknown Address
(831) 426-2292 (home)

Summary of Incident:

On October 27, 2005, I became aware of a local group that was identifying themselves as Last Night DIY. I don't recall specifically how I learned about this group, however it came to my attention that this group posted a webpage at www.lastnightdiy.org advertising a parade that was being planned for downtown Santa Cruz on December 31, 2005. I reviewed the website which indicated that the Last Night DIY group was planning a do-it-yourself parade without the help of professional organizers. The website indicated there were three upcoming planning meetings for the Last Night DIY parade, the first one being scheduled for Saturday, October 29, 2005. The meeting was scheduled to occur at 742 North Branciforte Avenue beginning at 18:00 hours. There were two additional planning meetings posted on the Last Night DIY website. The two additional planning meetings were scheduled for Saturday, November 19, 2005 and Saturday, December 17, 2005. The website indicated all three meetings were scheduled to occur at 742 North Branciforte Avenue and begin at 18:00 hours.

The do-it-yourself parade information posted on the Last Night DIY website was a source of concern for me because I was not aware that the police department had been contacted regarding this event. The Santa Cruz Police Department is responsible for reviewing and issuing all special event permits in the City of Santa Cruz, including parade permits. I reviewed the police department special event files and there was not a file associated with the Last Night DIY parade, nor had a special event permit been issued. If a special event permit had been issued, the event would have been conditioned so that police officers would have been required to provide traffic control and other public safety functions.

I reviewed the information posted on the Last Night DIY website and found several statements that led me to believe the organizers of the Last Night DIY parade had no intention of contacting the police department for assistance, or obtaining permits for their event through the City of Santa Cruz Special Event process. Furthermore, based upon the statements provided on the Last Night DIY website, I did not believe we would gain any cooperation from this group, even if we reached out to them and contacted them directly. My opinion was based upon statements included on the Last Night DIY website that had a tone of defiance toward the City process for obtaining a special event permit. In order to prepare operational plans and provide adequate public safety resources in response to the Last Night DIY parade, I decided to have plainclothes officers from the Santa Cruz Police Department attend the Last Night DIY parade planning

meeting for the purpose of gathering information that would assist the police department in planning for this event.

I had additional concerns about the Last Night DIY parade that were based upon past incidents of violence that have occurred in Downtown Santa Cruz during large scale gatherings where there was no City sanctioned event. Examples of gatherings in Downtown Santa Cruz that turned violent and were both large scale and non-City sanctioned include New Years Eve in 1993 and Halloween 2004. In 1993, there was no organized event in Downtown Santa Cruz on New Years Eve. A riot occurred in Downtown Santa Cruz on New Years Eve in 1993 in which several Santa Cruz Police Officers were injured as a result of being struck by bottles and rocks after an unorganized, unruly gathering of people turned violent. In 2004, a large scale gathering in Downtown Santa Cruz on Halloween resulted in two stabbings. In both stabbing cases, the victims were transported to Dominican Hospital via ambulance and then flown to Bay Area Trauma Centers via helicopter.

From a public safety perspective, the Last Night DIY event caused concern for me. I did not want there to be a repeat of past violence downtown as a result of a large scale gathering of people in Downtown Santa Cruz who were planning some type of parade and were clearly defying the City processes for having such an event. I believed that it was important for the Police Department to gather as much information about the intentions of the Last Night DIY group so that we could develop our own operational plans to properly respond to such an event.

My concerns for public safety at large scale gatherings where there is not a City sanctioned event were reinforced two days after the first Last Night DIY planning meeting when there were seven reported stabbings in Downtown Santa Cruz on Halloween, 2005. In five of the seven stabbing cases, the victims were flown to Bay Area Trauma Centers via helicopter.

After learning of the Last Night DIY group and reviewing their website, I sent Lieutenant Rudy Escalante an email advising him of this meeting and asking him about his thoughts on having an undercover officer attend the meeting. I sent this email to Lieutenant Escalante on Thursday, October 27, 2005 at 9:54 a.m. with a carbon copy sent to Lieutenant Colleen McMahon. Lieutenants Escalante and McMahon were responsible for developing the operational plan and allocating police resources to downtown Santa Cruz on New Years Eve. The email that I sent to Lieutenants Escalante and McMahon read as follows:

] back pedal

"Rudy – The Last Night DIY website is advertising a planning meeting for New Years Eve this Saturday, 10-29-05 from 1800 to 2000 hours at the big yellow house at 742 N. Branciforte Avenue. What do you think about having a UC attend the meeting? They are also advertising planning meetings at the same time and location on November 19th and December 17th. www.lastnightdiy.org."

Lieutenant Escalante received my email and responded back to me on October 27, 2005 and 13:35 hours. Lieutenant Escalante's response was as follows:

"I agree. Any thoughts as to a candidate. How about Kayla or Northrup. Rudy." Upon receiving this email from Lieutenant Escalante, I responded to him on October 27, 2005 at 13:50 hours. My email response to Lieutenant Escalante indicated was as follows:

"I'd rather it be a cop and not a CSO. Northrup would be fine."

For clarification, "Kayla" is a community service officer and Northrup is a police officer, referred to in my email as a cop. This was the extent of my communication regarding this issue with Lieutenant Escalante on October 27, 2005.

On Saturday, October 29, 2005, at 00:32 hours, Lieutenant Escalante sent an email to me regarding plans to send two plainclothes officers to attend the Last Night DIY planning meeting that was being held on Saturday October 29, 2005. The email from Lieutenant Escalante to me, with a CC to Sergeant LeMoss, read as follows:

"PO Hansen and PO Jones will be attending this meeting in an undercover capacity. I have briefed them on their duties and responsibilities. This is an intelligence gathering mission only. An operations order will be completed and briefing will occur at SCPD at 1730. Sergeant LeMoss will oversee the briefing. A downtown officer will be posted in the area in a marked unit while the UC's are attending the meeting. The officers will be carrying a radio to communicate if necessary. Rudy."

This email was sent to me on Saturday, October 29, 2005 at 00:32 hours. I did not receive this email until returning on Monday, October 31, 2005.

} did not receive email

Officers Carter Jones and Wesley Hansen were selected by Lieutenant Escalante to attend the first of a series of three Last Night DIY planning meetings that had been advertised on the Last Night DIY website. At the conclusion of the meeting that Officers Jones and Hansen attended on October 29, 2005, Officer Jones prepared an OIC report for Lieutenant Escalante. The OIC report is a standard police department report that is generally prepared whenever officers work any type of detail outside of their regular assignment. OIC stands for officer in charge. This report is prepared by the officer who works a special detail and then presented to the officer's supervisor. The purpose of the report is to memorialize the event. In this case, the OIC report was utilized to memorialize information that had been gathered at the Last Night DIY planning meeting. A copy of the OIC report dated October 29, 2005 is attached to this investigation. The OIC report identified three people as the primary organizers of the Last Night DIY parade. These three persons are Wesley Allan Modes, Jennifer Christine Bushard and John Hirst. The OIC report identified Modes as the main organizer.

} John Hirst was not at any mtg

The OIC report indicated there were a total of 13 people in attendance at the meeting. According to the OIC report, all persons in attendance except Wes Modes voiced the opinion that they did not want to be arrested on New Years Eve. Modes opinion was that he did not mind going to jail. The OIC report indicated that there would be fire dancers, stilt walkers and clowns participating in the parade. The OIC report indicated that Officers Jones and Hansen were instrumental in convincing the entire group to have the parade at approximately 17:00 hours so

} did not mind?

} instruments in setting parade that not true but interesting

as not to attract additional police attention by having it later in the evening. The OIC report also identified a demonstration that was scheduled to occur at the Capitola Mall in front of Victoria's Secret on November 3, 2005. This information was relayed to the Capitola Police Department who has jurisdiction over this Capitola Mall. In checking with the Capitola Police Department regarding this demonstration, I determined the actual demonstration occurred on Saturday, November 5, 2005. The OIC report incorrectly identified the date of the demonstration as November 3, 2005. The OIC report indicated that the Last Night event was going to be a peaceful gathering. According to the report, the group specifically mentioned that they did not want to start a riot and were not looking for any type of violent reaction.

typed off
Capitola
police at
protest

The OIC report from the October 29th Last Night DIY planning meeting was presented to Lieutenant Escalante. Lieutenant Escalante reviewed this OIC report and believed that it contained valuable information that would assist he and Lieutenant McMahon in the operational plans and personnel deployment of the Santa Cruz Police Department on New Years Eve. Since the first Last Night DIY planning meeting provided valuable information to the Police Department, Lieutenant Escalante said he believed it was important for the plainclothes officers to continue to attend the Last Night DIY planning meetings in an effort to gather additional information. The first meeting that the plainclothes officers attended did not provide any indication as to how many people would be participating in the parade. This is a vital piece of information for the Police Department to properly plan for the allocation of personnel resources. The first planning meeting provided information on some of the groups that would be attending the parade, however the question still remained as to the size of the group that would actually participate in the parade. Officer Hansen was not able to attend the planning meeting on Saturday, November 19, 2005. Lieutenant Escalante had concerns about sending one plainclothes officer to the planning meeting by himself, therefore Lieutenant Escalante opted not to send anyone to the planning meeting on November 19, 2005.

continued
monitoring
justification
through valuable
info on
other group

The next planning meeting that had been advertised on the Last Night DIY website was scheduled for Saturday, December 17, 2005 at 742 North Branciforte Avenue. The meeting was scheduled to begin at 18:00 hours. Officers Jones and Hansen attended this meeting. At the conclusion of the meeting on December 17, 2005, Officers Jones prepared an OIC report. The OIC report again identified Wes Modes as the primary organizer responsible for the implementation of the Last Night Do-it-yourself parade. The OIC report identified Jennifer Bushard, as being in attendance at the meeting. The OIC report indicated there were a total of nine people in attendance at the meeting. The OIC report identified groups who would be participating in the Last Night DIY parade as fire dancers, stilt walkers and porn clowns.

Additional information that was gathered at this meeting and contained in the OIC report included a demonstration that was planned in the front of The Gap store on Pacific Avenue on December 18, 2005 between 15:00 and 17:00 hours. A group that was planning to have a demonstration in front of The Gap was going to be performing, "corporate Christmas caroling". Additional information gathered at the planning meeting included the parade route, the time that participants should meet prior to the parade and the location where participants should gather for the start of the parade. The parade route was identified as being northbound Pacific Avenue to the Clock Tower. The group planned to meet at 17:00 hours in the parking lot to the rear of the Saturn Cafe which is located at the intersection of Pacific Avenue and Laurel Street. The parade

spying on
other group
no evidence
any illegal
activity

organizers planned to meet at an undetermined location to have a "drum circle" at the conclusion of the parade. The final piece of information that was obtained by Officers Jones and Hansen at the planning meeting on December 17, 2005, was the date and time for one final planning meeting that was to occur two days prior to New Years Eve. This fourth and final planning meeting was scheduled for Thursday, December 29, 2005, in the breezeway next to Gelato Mania on Pacific Avenue. This meeting was scheduled to begin at 18:00 hours.

Lieutenant Escalante decided it was important for Officers Jones and Hansen to attend the fourth and final Last Night DIY planning meeting that was scheduled to occur on Thursday, December 29, 2005. This was the last planning meeting that had been scheduled prior to the New Years Eve event and Lieutenant Escalante believed it would be prudent to have our plainclothes officers attend this meeting and obtain any recent information about the parade, including any changes in the parade organizer's plans. On December 29, 2005, Officers Jones and Hansen went to the fourth Last Night DIY planning meeting in the breezeway adjacent to the Gelato Mania on Pacific Avenue. When they arrived at this meeting, they observed Wes Modes inside of Gelato Mania. Jones and Hansen sat down at a table located in the breezeway. Modes came outside and met them in the breezeway. They conversed for 15 to 20 minutes while waiting for others to show up for the planning meeting. No one else showed up for the meeting. At one point, an unidentified male subject walked past Jones, Hansen and Modes and appeared to take their photographs. Jones, Hansen and Modes all appeared surprised and puzzled by the fact that someone had taken their photographs. Soon after their photographs were taken, Modes said he had to leave. They agreed to meet each other on New Years Eve behind the Saturn Cafe at approximately 17:00 hours. This concluded their meeting. Officers Jones and Hansen returned to the Santa Cruz Police Department where they contacted Lieutenant Escalante and briefed him about the fourth and final planning meeting. Lieutenant Escalante told them not to write an OIC report because no new information had been provided or discussed at this meeting.

On Friday, December 30, 2005, Lieutenant Escalante was contacted by a reporter from the Santa Cruz Sentinel newspaper who was inquiring about the plainclothes officers who had attended the Last Night DIY planning meetings. The reporter told Lieutenant Escalante that she had received a press release from a group identifying themselves as Last Night DIY and the press release indicated there had been plainclothes police officers attending their parade planning meetings. During the conversation with the reporter, Lieutenant Escalante confirmed that plainclothes police officers had attended the planning meetings. Escalante told the reporter that the two plainclothes officers attended a public meeting about a public event with public safety in mind.

Following the public disclosure that plainclothes police officers had attended the Last Night DIY planning meetings, the Chief of Police called for an internal investigation into this incident. I was selected by the Chief of Police to be the Santa Cruz Police Department representative responsible for conducting the internal investigation. I began my investigation into this incident on Wednesday, January 25, 2006.

} Vogel chose

On January 25, 2006, I interviewed Lieutenant Escalante and Officer Carter Jones regarding their involvement in this incident.

Lieutenant Escalante said he received an email from me on October 27, 2005 informing him of the Last Night DIY parade planning meetings. 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. Specifically, Lieutenant Escalante was concerned about a few pieces of information that were contained on the website. The Last Night DIY website indicated, "This is not a paid gig, not something organized or well-planned. We're not asking for permits or permission. We're just gonna do it. 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. Who's willing to take the risk of truly living without limits?" Escalante indicated the event would take place on a public street, therefore he had public 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 recalled champagne bottles being thrown through the air on the same night. Escalante indicated he was concerned this year because there was no organized event planned for downtown Santa Cruz 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.

context?

Always bring up the riot that the police escalated in '93

overriding concerns

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 plainclothes police officers attend the Last Night DIY planning meetings that had been advertised on the Last Night DIY website. Escalante initially considered utilizing a community service officer for this detail as indicated in his email to me, however at my direction, Escalante decided to utilize plainclothes police officers instead.

did not try to contact

Escalante said that information received by the plainclothes officers at the Last Night DIY planning meetings resulted in changes to the Police Department's operational plans for New Years Eve. Escalante said that twelve uniformed police officers were deployed at 17:00 hours on December 31, 2005, in preparation for the Last Night DIY parade. Had there not been a parade, these officers would have been 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 the deployment of twelve police officers for the parade, 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 and allied agency personnel reported for duty on New Years Eve at 21:00 hours. Escalante said there were Santa Cruz Police Department downtown unit officers

told by Vogel that parade represents no chance

deployed throughout the day on Pacific Avenue, however there were not sufficient personnel resources to address the Last Night DIY parade without deploying additional officers downtown for the parade. 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.

verification through usefulness

Lieutenant Escalante briefed the plainclothes officers prior to the Last Night DIY planning meetings and he gave them direction not to identify themselves as police officers, 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 in the event that someone recognized their names. Escalante gave specific direction to Jones and Hansen to gain any and all information that they could as it related to the Last Night DIY parade. Escalante was interested in knowing the intent of the parade organizers 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 was interested in knowing whether the group was organized and if they were, to what extent. Escalante said he told the officers that 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.

also said info only

?!

On January 25, 2006, I interviewed Officer Carter Jones regarding his involvement in this incident. Officer Jones provided the following additional information regarding the Last Night DIY planning meetings that had not been included in his OIC report.

Jones said the facilitator at the planning meetings was an individual who is identified as Wes Modes. Jones said that while Modes facilitated the discussion at the meetings, he made it clear to everyone at the meetings 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.

responsibility just facilitate

Jones identified three groups in his OIC report that would be participating in the Last Night DIY parade. In addition to these three groups, Jones indicated that Modes identified eight to ten other groups that would be participating in the parade. The only other group that Jones was able to identify by name was the Guerilla Drive-In. According to Jones, Modes spoke of the Guerilla Drive-In and indicated that they had a sound system that could be used for the Last Night DIY parade. Jones said the group discussed the time that the parade should begin. Jones said he suggested the parade begin between 5:00-6:00 p.m. because there would be less police officers on the street. Jones said he made this suggestion because he felt it would have less impact on the Police Department if the parade began in the late afternoon or early evening, as opposed to beginning later in the evening. Jones said his suggestion to have the parade earlier was out of concerns for public safety. 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. According to Jones, he believed the parade would have less impact on

intrave
GDI
Never said sound system could be used
set parade time?

traffic and there would be less people downtown impacted by a late afternoon or early evening parade. Based upon Jones' suggestion, the group decided that the parade would begin at 6:00 p.m.

Jones said he and Hansen did not provide their own names or email addresses at the meeting at the direction of Lieutenant Escalante. Jones said they introduced themselves at the meeting and they wrote their names and emails address down on a sign-up sheet. Jones said he identified himself to the group as Wes Freely and he wrote that name down on the sign-up sheet. Additionally, Jones wrote down the email address of trashmaster169@hotmail.com.

Jones said he consumed approximately 1/2 of a twelve ounce can of Tecate beer while attending the planning meeting that occurred on December 17, 2005. Jones said he accepted the beer because he did not want to raise the suspicions of anyone at the meeting that he may be an undercover police officer.

? :
only one
beer at
mtg!

Jones said they were never able to determine the exact number of participants who would show up for the parade on New Years Eve. Jones said Modes told the group that there would be "cop tamers" present during the parade. Jones had not heard this term before. Jones said 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. Jones said these people were described by Modes as well-spoken, polite individuals who had no criminal history. Jones said Modes told the group at the meeting that these individuals would be able to effectively deal with the Police and create a distraction so the parade could continue up Pacific Avenue.

no referenc
to cop
liaison or
responsibilit
of this
approach

Jones said they discussed the route of the parade should the group be confronted by the police. According to Jones, 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. If the police intervened in the parade, the plan was for the parade to travel away from Pacific Avenue via the closest cross street, travel northbound on either Cedar Street or Front Street to the next cross street, and then return to Pacific Avenue via the next cross side street. Once back on Pacific Avenue, the plan was for the parade to continue northbound on Pacific Avenue. Jones said that while Wes Modes absolved himself of all responsibility for leading the Last Night DIY group, he was clearly the one that was facilitating the planning meetings and his actions gave Jones the impression that he was leading and organizing this group, despite his verbal disclaimer that he was not in-charge.

lack of
understand
of DIR
culture

The entire text of my interview with Officer Jones is contained under Tab #3 of this investigation. The information from Jones that I included in this summary report is information that was gained at the planning meetings, however was not included in the OIC reports prepared by Jones after the first two meetings that he attended.

On January 26, 2006, I interviewed Officer Wesley Hansen in regard to this investigation. Hansen was not responsible for preparing the OIC reports that were submitted to Lieutenant Escalante, however Hansen provided information in his interview that was not included in the OIC reports that is pertinent to this investigation.

Hansen, like Jones, indicated that Wes Modes appeared to be in-charge of the meeting as he was clearly facilitating the discussion. Hansen said Modes told the group that no one should be individually responsible or in-charge. According to Hansen, 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.

responsibility

Hansen said that when they attended the first meeting, the meeting began on the porch of the residence at 742 North Branciforte Avenue. After meeting for a short period of time, the entire group was invited inside of the residence by Wes Modes. Hansen said he believed that Modes resided at the address where the meeting was being held. Hansen said that this was based upon the fact that Modes was facilitating the meeting and he was the one who invited the group inside of the residence. Hansen later learned that Modes does not reside at 742 North Branciforte Avenue.

aware it was private residence

Hansen said his contribution at the first meeting consisted of offering to contact members of the Surfrider Foundation to try and arrange for people to fulfill the role of the "sweeping tail." The sweeping tail is designed to clean-up any trash that was left behind by those participating in the parade. Hansen said the group initially discussed having the parade begin later in the evening at approximately 10:00 p.m. Hansen and Jones suggested the parade begin earlier. 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 pedestrians participating in the parade. There would be pedestrians and vehicles in the roadway at the same time creating significant risk of injury for the parade participants. Hansen said that a late night parade 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.

took on significant responsibility

intended always intended at usual parade time

trying to justify infiltration

Hansen said Wes Modes talked about his involvement with the Guerilla Drive-In. According to Hansen, Modes offered the sound system that they use at the Guerilla Drive-In for use at the Last Night DIY parade on New Years Eve.

venue. GDI has no independent sound system. GDI handbills were passed out.

Hansen said at one point during the meeting, Modes told the group that anyone 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. According to Hansen, 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.

nothing to hide. yet SCPD didn't try to contact group

Free School is also watched here

Hansen said Modes talked about how the group would interact with the police if they were confronted 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 1000 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 1000 parade participants. Modes said that 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.

The entire text of my interview with Officer Hansen is contained under Tab #4 of this investigation. The information from Hansen that I included in this summary report is information that was gained at the planning meetings, however was not included in the OIC reports prepared by Officer Jones after the first two meetings.

On February 1, 2006, I interviewed Wes Modes. I had spoken with Modes on the telephone on Monday, January 30, 2006. Modes agreed to come to the Police Department on Wednesday, February 1, 2006, for an interview. During my telephone conversation with Modes, he provided me the name of another individual whom he identified as Grant Wilson. Modes provided me with Wilson's home telephone number and suggested I contact Wilson because he might have information that would be helpful to the internal investigation. **Modes also provided me with telephone contact information for an individual identified as John Hirst. According to Modes, Hirst lives at the address where the planning meetings were held. Modes suggested I contact Hirst because he might have information that would be helpful to this investigation.**

interview.
did not give
John Hirst
contact info
when I asked
Vogel said he
got info from
the Victoria's
Secret protest
letter to Hirst
was already
received

I previously sent Hirst a certified letter requesting he contact me. The letter to Hirst and letters to Modes and Jennifer Bushard were mailed on Thursday, January 26, 2006. As of Monday, January 30, 2006, I had not heard from anyone I had sent certified letters to. I contacted Modes via telephone who put me in touch with Wilson and Hirst by giving me their telephone numbers. Modes indicated that Jennifer Bushard would not be able to speak with me due to her schedule. On Monday January 30, 2006, I contacted Wilson and spoke with him briefly on the telephone. Wilson seemed somewhat reluctant to be interviewed by me and indicated he needed to speak to Modes before he would submit to an interview. Wilson said he would call me back with his decision, however he never did contact me.

On Monday January 30, 2006, I left messages on John Hirst's home telephone answering machine and cellular telephone voice mail requesting he contact me. I was not contacted by Hirst following the telephone messages that I left for him. I received a receipt from the U.S. Postal Service for the certified letter that was delivered to John Hirst. The receipt indicated the letter had been received by John Hirst on January 30, 2006. As of February 6, 2006, I have not received a receipt for either of the letters that I sent to Wes Modes or Jennifer Bushard.

On the morning of Wednesday, February 1, 2006, Wes Modes came to the Santa Cruz Police Department for an interview regarding this internal investigation. Modes brought Santa Cruz Metro reporter Sarah Phelan with him. I allowed Phelan to sit in on the interview with Modes. I advised Modes that I would be tape recording the interview. Modes did not object and he also tape recorded the interview. Modes began the interview by saying that he was not the main organizer of the event, despite the fact that he had been referred to by others as the main organizer. Modes described the Last Night parade as a group-organized event and said that no one particular person was in-charge. Modes said the group considered obtaining permits for the parade, however he described the parade permit process as being very difficult. Modes further 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 the 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 grassroots organizations to put on an event downtown. Modes did not answer my question about whether the Last Night DIY organization would have undertaken the permit process if it were less expensive and more streamlined.

I } after two
objecting

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 this question, Modes absolved himself of all responsibility regarding this event by stating that he was not the one who decided to have the event. I explained to Modes 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 at 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."

} nothing
to hide

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 meetings. 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 that people would have definitely wanted to speak freely, therefore they would have politely declined to allow a uniformed police officer to attend their meetings.

} politely
decline

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 parade planning meetings. Modes said he believed the Police Department probably 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 had every reason to share information with the Police Department about this parade in advance of the event.

The entire text of my interview with Wes Modes is contained under Tab #5 of this investigation.

Conclusions:

The Santa Cruz Police Department's role in the Last Night DIY parade, as with any parade or community event, was to provide public safety services and create a safe environment for everyone who participated in or observed the event. The sole purpose of having plainclothes police officers attend the Last Night DIY parade planning meetings was to gather information about the event so the police department would be able to develop operational plans and allocate resources to provide a safe environment for the Last Night DIY parade. The reason for having plainclothes police officers attend the planning meetings as opposed to the police department initiating direct communication with the Last Night DIY group revolved around which method would likely yield the most accurate information about the intentions of the Last Night DIY group. Had a uniformed police officer attempted to attend the Last Night DIY planning meetings, Wes Modes said that the group would have politely declined and not allowed them to attend.

interfacing
planning?
gathering
info on
other group

The planning meetings were advertised on the Last Night DIY website giving the impression that they were public meetings and open for all to attend. The officers attended the meetings in a plainclothes capacity. Upon arrival at the meetings, the officers were welcomed at the residence and invited into the residence by those who seemed to have standing at the residence. During my interview with Wes Modes, he acknowledged that the planning meetings held at 742 North Branciforte Avenue were, in fact, public meetings. The officers were welcomed freely into the meetings and were never asked to leave. According to Officer Hansen, there were three people present (five including Officers Jones and Hansen) on the front porch of the residence when they arrived for the first meeting on October 29, 2005. After approximately 20 minutes, the entire group moved inside of the residence. By the time the group moved into the residence, Hansen indicated the group had grown to 15-20 people. Hansen said Modes made a statement to the group that many of the people present at the meeting had not met each other before and the possibility existed that there may be a cop present at the meeting. Modes told the group, "That's okay. We don't have anything to hide." By all indications, this was a public meeting and open to everyone who showed up to attend. No one was turned away.

but as
clandestine
agents of the
PD

didn't know
were
officers,
of course

amazing
argument