

***A Selection of Documents from Records Request
RE Police Spying of Last Night Santa Cruz
Parade Planning Meetings***

This represents a selection of documents from over 200 pages of documents received as part of a Public Records Act Request. The request is included at the end of this selection.

Other items in the packet from the police include:

- Print outs of the entire Last Night website
- Print outs of all Indymedia posts and comments on the subject
- Print outs of all Tribe.net posts and comments on the subject
- Copies of all fliers posted for the event
- Photographs of some of the organizers, including me
- DVD of the parade
- Crime report filled out with my name, address, phone number, and social security number

This selection of documents represents a trail of responsibility for the decision to infiltrate the parade planning organization.

There are 19 categories of documents that have been omitted from the Public Records Act fulfillment. By law, public agencies are required to fulfill a request within 10 days of the request.

Mark Schlosberg, Police Policy Practices Director of the Northern California ACLU is filing another records request to get the missing documents.

Wes Modes
31 January 2005
408.218.2782

Kevin Vogel

From: Rudy Escalante
Sent: Saturday, October 29, 2005 12:32 AM
To: Kevin Vogel
Cc: Christian Lemoss
Subject: RE: Last Night DIY Planning Meetings

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 hours. Sgt. 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

From: Kevin Vogel
Sent: Thursday, October 27, 2005 1:50 PM
To: Rudy Escalante
Subject: RE: Last Night DIY Planning Meetings

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

-----Original Message-----

From: Rudy Escalante
Sent: Thursday, October 27, 2005 1:35 PM
To: Kevin Vogel
Subject: RE: Last Night DIY Planning Meetings

I agree. Any thoughts as to a candidate. How about Kayla or Northrup.

Rudy

From: Kevin Vogel
Sent: Thursday, October 27, 2005 9:54 AM
To: Rudy Escalante
Cc: Colleen McMahon
Subject: Last Night DIY Planning Meetings

Rudy-

The Last Night DIY website is advertising a planning meeting for New Years Eve this Saturday 10-29-05 from 1800-2000 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

Kevin Vogel
Deputy Chief of Police

1/11/2006

Kevin Vogel

From: Kevin Vogel
Sent: Wednesday, December 14, 2005 2:23 PM
To: Colleen McMahon
Subject: RE: New Years Eve

Thank you.

-----Original Message-----

From: Colleen McMahon
Sent: Wednesday, December 14, 2005 2:20 PM
To: Kevin Vogel
Subject: RE: New Years Eve

Kevin,

I printed the website up and Rudy and I looked at it. It still looks like they are extremely disorganized and they are just hoping that some people show up. I put the information into the New Year's Eve file and we will continue to monitor it.

-Colleen

-Lieutenant Colleen McMahon

Operations Division

(831) 420-5857

fax (831) 420-5851

Work Schedule: Sunday through Wednesday, 4 pm to 2 am

From: Kevin Vogel
Sent: Wednesday, December 14, 2005 1:32 PM
To: Colleen McMahon; Rudy Escalante
Subject: FW: New Years Eve

Colleen & Rudy-

FYI. More about New Year's Eve. Take a look at the Indy Media website (link located below).

Kevin

From: Ceil Cirillo
Sent: Wednesday, December 14, 2005 12:10 PM
To: Richard Wilson; Howard Skerry; Dannettee Shoemaker; Mark Dettle
Subject: FW: New Years Eve

Are we aware of the event on the web page and whether it's for real?

-----Original Message-----

From: Julie Hendee
Sent: Wednesday, December 14, 2005 11:55 AM

1/11/2006

Colleen McMahon

From: [Kevin Vogel](#)
Sent: Tuesday, December 13, 2005 9:22 AM
To: [Rudy Escalante](#); [Colleen McMahon](#)
Subject: FW: [SCPEL] Last Night Santa Cruz

The reply to Cynthia Mathews email was not received.

FYI.

From: [cynthia mathews \[mailto:mathews@cruzio.com\]](mailto:mathews@cruzio.com)
Sent: Monday, December 12, 2005 7:46 PM
To: [Howard Skerry](#)
Cc: [Martin Bernal](#)
Subject: Fwd: [SCPEL] Last Night Santa Cruz

Howard: Have you or any of your dept. had any contact whatsoever with the organizers of this event? If so, or even if not: what do you anticipate as the prevailing mindset. Anti-establishment, for sure, but beyond that: confrontational? unpredictable? If you think I could be of help in supporting even informal communication, I'd be happy to be involved.

Begin forwarded message:

From: Rico Thunder <thespoon@thespoon.com>
Date: Sun Dec 11, 2005 5:27:54 PM US/Pacific
To: scpel@panna.org
Subject: [SCPEL] Last Night Santa Cruz

The Santa Cruz Progressive Email List (SCPEL)

What are you doing for New Year's? Want to join this year's New Year's Eve Parade?

There's no First Night in Santa Cruz this year, so we're going to do it ourselves. It's our parade. It's your parade. No city-sponsorship. No corporate donors. We make it happen together. We're calling it

THE LAST NIGHT SANTA CRUZ DIY PARADE
(diy stands for do-it-yourself)

Let's get a group together. Start a marching band. Build puppets. Get our bicycle friends together. Form a dancing troupe. Organize our kid's play group. Anything and everything!

Committed so far: Art & Revolution, Village Drumming Circles, The Opera Lady, the Santa Cruz Trash Orchestra, the Man in Black, firedancers, stilt walkers, Peace Walk, Santa Cruz Moontribe, puppets, bunnies, clowns, and bike kids. (We'd still like to see Samba bands, marching bands, more music, political groups, a coalition of homeless folks, art cars, zombies, pirates, more kids and parents, and more more of everything in our community)

1/11/2006



Undercover officer photographed at meeting
in private home



Undercover officer photographed at meeting
in private home

Rudy Escalante

From: Rudy Escalante
Sent: Saturday, December 17, 2005 8:32 PM
To: Colleen McMahon; Kevin Vogel; Mark Sanders; Lee Sepulveda
Subject: FW: Last Night DIY - UC Meeting
Attachments: OIC Report (12.17.2005).DOC

From: Carter Jones
Sent: Saturday, December 17, 2005 8:23 PM
To: Rudy Escalante; Colleen McMahon
Subject: Last Night DIY - UC Meeting

Lt. Escalante & Lt. McMahon,

Attached is the OIC report for the Last Night DIY meeting Ofc Hansen and I attended as UC personnel. Please note that there is a plan to start a protest via Anti-Corporate Christmas Caroling in front of the Gap on Pacific Av tomorrow, 12/17/2005 at 1500 hours running until 1700 hours

CARTER JONES # 169
Santa Cruz Police Department:
155 Center Street, Santa Cruz, CA 95060
OFFICE (831) 420-5009 x4841
FAX (831) 420-5851

1/11/2006



MEMORANDUM
POLICE DEPARTMENT
"Your Police, Our Community"

WHERE IS
OIC FROM
OCT?

DATE: December 17, 2005
TO: Lt. Escalante #106
FROM: Carter Jones #169 OIC
SUBJECT: Last Night Santa Cruz DIY (Do It Yourself)

OFFICERS ASSIGNED:

PO Jones #169 (undercover)
PO Hansen #173 (undercover)
PO Albert #124 (uniform cover if needed)
PO Butler #172 (uniform cover if needed)

Four officers for
three meetings of
two hours each at
the taxpayer's
expense

NARRATIVE:

On 12/17/2005 at approximately 1730 hours, Ofc Hansen and I attended the last of three, Last Night Santa Cruz meetings. This final gathering consisted of meeting the main organizer of the event and planning the logistics for the actual event itself. The following person is the primary organizer who is responsible for the implementation of the Last Night Do It Yourself parade, and his wife was also in attendance:

Main organizer: Wesley Allan Modes AKA: "Rico" [REDACTED]
His wife: [REDACTED]

There were a total of 9 people in attendance. Groups included in the Last Night Parade were "Fire Dancers, Stilt Walkers and Porn Clowns" in addition to the groups mentioned on the DIY website. The meeting ran approximately two hours long and concluded just before 2000 hours.

It should also be noted that a group of people is planning a protest at The Gap on Pacific Av on 12/18/2005 between 3pm and 5pm. They protesters claim that this is the 6th year they have done, "Corporate Christmas Caroling."

The Last Night Santa Cruz event plans to meet behind the Saturn Café at 5pm and run the "parade" the entire route of north bound Pacific Av to the clock tower. After the event, the group plans to meet at an undetermined location to have a "drum circle." There is also one last meeting downtown on 12/29/2005 at approximately 6pm next to Gelato Mania.

Respectfully,

Carter Jones #169

Rudy Escalante

From: Rudy Escalante
Sent: Saturday, December 17, 2005 8:11 PM
To: Colleen McMahon; Kevin Vogel
Subject: DIY meeting

According to PO Jones and PO Hansen, there were only 9 people at the DIY meeting tonight. This included them and one person from the Metro, which meant there were six people in the group. They are still very much disorganized and they estimate to have approximately 15 people who have committed to a parade on New Years Eve. PO Jones will be writing a report for us. They have one more meeting scheduled for 12/29 at Gelatos downtown. I wonder what they would do if I showed up in uniform.

Lt. Rudy Escalante
Santa Cruz Police Department
155 Center Street, Santa Cruz, CA 95060
Office (831) 420-5856
Fax (831) 420-5851

1/11/2006

Lee Sepulveda

From: Lee Sepulveda
Sent: Wednesday, January 04, 2006 2:36 PM
To: Carter Jones
Subject: Notes

If the notes that you gave me this morning are not on your own personal (H) drive please move them there immediately. The notes should not be stored on any other drive or available to anyone other than you.

Lee Sepulveda
Lieutenant, Patrol Section
Santa Cruz Police Department
155 Center St. Santa Cruz CA 95060
(831) 420-5859

We did not receive
the notes
referenced here.

My work schedule is Wednesday though Saturday from 700 a.m to 5:00p.m.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

1/11/2006

Subject: Things Missing from the Public Records Act Request Fulfillment

Date: Tue, 24 Jan 2006 12:08:04 -0800

From: Rico Thunder <thespoon@thespoon.com>

To: Mark Schlosberg <mschlosberg@aclunc.org>

Mark, here are the things I noticed that were missing from the Public Records Act request fulfillment:

1. Any information of surveillance or intelligence gathering of any other political group in the last three years (as req'd by Sherry and ref email re Anti-Corporate Xmas Carolling from R.Escalante to C.Mcmahon, K.Vogel, M.Sanders, L.Sepulveda 17 Dec)
2. Any evidence of a policy regarding undercover or plainclothes officers (as req'd by Mark, note: undercover officers are not confidential informants)
3. Any evidence of where police procedure and protection of civil liberties intersect. (as req'd by Mark Schlosberg in Public Records Request)
4. Any information regarding contact with outside state or federal agencies
5. The OIC report from infiltrated meeting October 19th
6. The OIC report from infiltrated meeting December 29th
7. The Operations Order re: surveillance (ref email from R.Escalante to K.Vogel 29 Oct)
8. Print outs of website from Dec 14th (ref from C.Mcmahon to K.Vogel 14 Dec - Note: all website printouts came from 6 Jan)
9. Complete email collection of K.Vogel re: parade & surveillance (ref numerous email - note: most emails received seem to have been garnered from C.Mcmahon's email collection)
10. Complete email collection of R. Escalante re: parade & surveillance (ref numerous email)
11. Complete email collection of UC Carter Jones and Officer Hansen re surveillance (ref numerous email)
12. Complete emails collection of Lee Sepulveda re parade and surveillance (ref numerous email)
13. Complete emails collection of M.Sanders re parade and surveillance (ref email re Anti-Corporate Xmas Carolling from R.Escalante to C.Mcmahon, K.Vogel, M.Sanders, L.Sepulveda 17 Dec)
14. Complete emails collection of Howard Skerry re parade and surveillance (ref email from C.Cirillo to R.Wilson, H.Skerry, D.Shoemaker, M.Dettle 14 Dec)
15. Any emails to or from K.Vogel preceding 27 Oct Re: decision to infiltrate the event (ref email from R.Escalante to K.Vogel 29 Oct)
16. Email reply to City Councilmember C.Mathews re: parade (ref email from K.Vogel to R.Escalante 13 Dec)
17. Confidential notes of Carter Jones moved to personal drive (ref email from L.Sepulveda to C.Jones 4 Jan)
18. Discussion about getting personal info of Wesley Modes and Christine Bushard (ref OIC report from C.Jones to R.Escalante 17 Dec)
19. Any follow-up on crime report case# 06S-00171 (ref CR-1 against Wesley Modes, filed by R.Escalante)

My general feeling is that we got a cursory (at best) review of the docs they have. I would not even call this an attempt at due diligence. I'm no expert and there are glaring holes.

So, just to keep myself focused, here's why I think it matters: I want to know 1) how extensive is police spying, 2) what controls they have on surveillance, 3) if our local PD worked with state or federal agencies, 4) how much or how little they view the importance of privacy and civil liberties of citizens, and 5) how much effort, time, and money they spent on their ridiculous paranoia.



January 11, 2005

Chief Howard Skerry
Santa Cruz Police Department
155 Center Street
Santa Cruz, CA 95060

Re: *Use of Undercover Officers / Public Records Act Request*

Dear Chief Skerry:

Over the past couple of weeks, the ACLU of Northern California has received complaints regarding, and there have been public reports indicating that, members of the Santa Cruz Police Department infiltrated planning meetings for the “Last Night Do It Yourself” (“LNDIY”) New Year’s Eve parade. I am therefore writing to seek information and documents related to the use of undercover officers to gather information on LNDIY planning meetings and the Santa Cruz Police Department’s policies and practices regarding using undercover officers to monitor organizations engaging in political or other protected expressive activity.

The information we have received indicates the following: In the months prior to the LNDIY parade, two members of the Santa Cruz Police Department attended planning meetings posing as members of the community. They gave false names, phone numbers, and e-mail addresses and did not identify themselves as law enforcement officials. The LNDIY was being planned as a peaceful decentralized and somewhat spontaneous parade on New Years Eve and it was, in fact, a peaceful event. Department spokesperson Lt. Rudy Escalante acknowledged that officers attended planning meetings and indicated that officers routinely attend such planning meetings. Lt. Escalante – before the date of the parade – indicated that he did not foresee any problems associated with the event.¹

These events raise concerns regarding possible violations of California’s constitutional right to privacy. The right to privacy protects individuals and organizations engaging in expressive activity from government surveillance in the absence of reasonable suspicion of criminal activity. This standard comes from the seminal California Supreme Court case *White v. Davis* and, most recently, was affirmed by California Attorney Bill Lockyer in a set of guidelines he authored for local law enforcement.

¹ Cathy Smith, “Undercover Officers Rile New Year’s Eve Parade Planners,” *Santa Cruz Sentinel*, December 31, 2005.

QUINN DELANEY, CHAIRPERSON | LUZ BUITRAGO, BOB CAPISTRANO, SUSAN FREIWALD, JIM WESTON, VICE CHAIRPERSONS | NANCY PEMBERTON, TREASURER
DOROTHY M. EHRlich, EXECUTIVE DIRECTOR | MAYA HARRIS, ASSOCIATE DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR
ANN BRICK, MARGARET C. CROSBY, TAMARA LANGE, JULIA HARUMI MASS, JORY STEELE, STAFF ATTORNEYS
CHERI BRYANT, DEVELOPMENT DIRECTOR | ERIKA CLARK, COMMUNICATIONS DIRECTOR
NATASHA MINSKER, NICOLE A. OZER, MARK SCHLOSBERG, POLICY DIRECTORS
STEPHEN V. BOMSE, GENERAL COUNSEL



Accordingly, we are writing to request, pursuant to the California Public Records Act (Government Code Section 6250 et seq.), copies of any and all records and policies related to this incident. As you may know, the Act applies to all documents in the agency's possession regardless of whether those records were authored or generated by that agency. In other words, the department is required to respond to this request with respect not just to its own documents but also with respect to records in your possession that were provided to you by other outside agencies and sources.

For purposes of this request, the term "documents" includes but is not limited to all writings, reports, memoranda, correspondence, communications, documents, materials, intelligence, bulletins, policies, procedures, orders, alerts, e-mails, notes, messages, plans, contracts, agreements, logs, phone records, phone messages, and other information whether in paper (hard copy), electronic, digital, video, audio or other forms. This request includes but is not limited to any and all such documents that:

1. Describe the activities of the Santa Cruz Police Department officers who were present at planning meetings for the LNDIY parade, including their observations, the reason for their presence, the nature of the meetings they attended, and other individuals present at the event;
2. Describe any planning that took place, the rationale for using undercover officers, and the authorization for the use of undercover officers to attend LNDIY meetings;
3. Describe any communications sent or received by the Santa Cruz Police Department regarding the LNDIY event;
4. Contain information collected, observed and/or heard at this LNDIY parade and/or while officers were present at LNDIY planning meetings;
5. Contain information related to any law enforcement officer's or agency's interest in the LNDIY parade, the organizers and/or attendees, and/or the possible impact of this event on public safety;
6. Describe follow-up activities by your department or other agencies following the LNDIY parade;
7. Describe department procedures for gathering, retaining or accessing intelligence material including any documents referencing California's constitutional right to privacy and/or the Guidelines issued by the California Department of Justice entitled *Criminal Intelligence Systems: A California Perspective*;
8. Describe department procedures and policies regarding the use of undercover officers, the infiltration of organizing meetings, and/or protection of First Amendment rights.
9. Describe any Santa Cruz policies governing crowd control, crowd management, parade permits, and policing demonstrations or parades carried out without a permit.

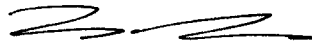
As you may know, the California Public Records Act obligates you within ten days to either:

- a. provide all the requested documents; or,
- b. with respect to any documents or portions of documents in your possession not provided, state the specific sections under the Act that you believe make them exempt from disclosure.

The ACLU will reimburse your agency for reasonable copying costs.

Thank you very much for your prompt attention to this matter. Should you have any questions, I can be reached at 415-621-2493 ext. 316.

Sincerely,



Mark Schlosberg
Police Practices Policy Director
ACLU of Northern California