



**SPECIAL  
INVESTIGATIONS  
GROUP, INC.**

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November 10, 2004

Mr. Daniel J. Russo, Esq.  
521 Georgia St.  
Vallejo, Ca 94590

**CONFIDENTIAL ATTORNEY WORK PRODUCT**

***Re: People v John Doe***

***Subj: Jim Smith (5/15/75); 123 Idora Street, Apt.5, Fairfield, Ca 554-9115***

Dear Mr. Russo,

Pursuant to your request to conduct investigation into this matter, I submit to you the following:

On November 7, 2004, through a neighborhood canvass, I knocked on the residence of 123 Idora Street and contacted Jim Smith. I explained to Smith who I was and the nature of the canvass. Smith was cordial and agreed to talk to me. During my interview with Smith, he advised me that his brother Bob was also a witness to the shooting.

On November 10, 2004 I contacted Bob Smith and introduced myself to him. I informed him of the nature of the investigation and he agreed to provide a statement.

I asked Smith if he was present the day of the shooting, and he said he was, that he was outside watching from the beginning to the end. I asked Smith if he gave a statement to the police, and he said, "No." I asked him why not, and he said that the police never attempted to get a statement from him. He said he was actually quite surprised that the police didn't come to his residence and attempt to get a statement since he and his brother and uncle were eyewitnesses and had seen the situation from beginning to end.

Smith said that he was in the living room and heard yelling. He said he overheard the victim yelling at Doe. He said the victim threatened to "kick Doe's ass," and he could hear Doe telling the victim to "get your ass out of here." Smith said the victim approached Doe's house and one of the victims friends walked up to Doe's porch where Doe was standing. Smith said the victim and his friend Hank were on Doe's property, yelling at Doe. Smith said the victim was advancing on Doe while Hank was standing within just a few feet of Doe. Smith said it appeared that the victim was going to try and hit Doe.

**CONFIDENTIAL ATTORNEY WORK PRODUCT**

***Re: People v Chris Gilbreath***

***Subj: Fidel Smith (5/15/75); 320 Idora Street; 554-9115***

Smith also said it appeared that Hank was trying to distract Doe and take his attention off the victim. Smith said Doe looked like he was pretty scared.

Smith said the victim and Hank were both trying to get close to Doe, and Doe really looked scared. He said then Bill came out of the victims house and he too went over to Doe's house. Smith said Bill got within about 10 feet of the victim before the victim got shot. He said Doe was being advanced on by Hank and Bill, and Bill was coming across the yard. He said Doe pulled the gun and was trying to keep both Hank and the victim at bay. He said the victim kept saying he was going to "kick Doe's ass," and Doe held him at bay for about one to two minutes before he discharged the gun. Smith said Doe only discharged the gun because Hank and the victim were advancing on him. He said it appeared to him that Doe was trying to defend himself.

Smith said after the victim was shot, he fell to the ground and was looking at his injury. He said Bill and Hank then dragged the victim across the yard to the victims property. Smith said he saw Hank remove something out of the victims pockets and hand it to Bill, who hid the items in the garage. He said it was pretty chaotic at that time. He was watching them all running around. Smith said he remembers seeing a female present as well, a friend of the victims, who was running in and out of the house during the incident.

Smith said he never had a problem with the victim but there were always problems at the victims house. He said there were lots of fights in front of the victims house, and the victim's house always housed people who had obvious substance-abuse problems. He said there was an incident not too long ago when a woman with a young seven-or-so year-old child was standing in the street in front of the victims house, yelling at the victims residence how she hated him and couldn't believe she had to walk home with this child.

Smith said the confrontation between the victim and Doe actually started between Gary, the neighbor down the street, and the victim; but the victim was very, very drunk, and the victim was confrontational between Gary and Doe. Smith said the victims behavior was irrational and uncontrollable. He closed by telling me that Bill split before the police arrived.

Sincerely,

Eugene E. Borghello