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Posted: Sunday, July 30, 2006 12:00 am

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Investigator calls GPD analysis flawed

Editor's note: The following articles comprise the second installment in a three-week series on the suspicious gunshot death in 2002 of Gilroy resident Jon Robbins. In some places in the following story, references are made to Robbins' "friends." While the names of these friends are clearly stated in police reports and follow-up investigations, The Pinnacle has elected not to repeat the names for the protection of their privacy. Other names have been changed to protect the safety of those involved in the case. The first installment of this three-part series may be viewed online at www.pinnaclenews.com.

A family failed

The investigation following the death of Jon Robbins failed to include an autopsy of the body nor a comprehensive search for the bullet in the bedroom of his home where he was found dead.

From the beginning of the police investigation into the shooting death of Jon Robbins, there was an overarching presumption of suicide – after all, the 33-year-old Gilroy man's body was found in his own bed, a gunshot wound to his head, a short-barreled .38-caliber Rossi pistol underneath him as though he collapsed on top of it, and perhaps most glaringly, in the crease of Robbins' left elbow was a photo of he and his girlfriend, "Debra."

All that was seemingly left for Gilroy Police Det. Dan Zen to do was collect evidence of suicide and determine the motive. Case closed.

But the collection of physical evidence at the scene began to go awry the night Robbins' body was discovered by Debra – Sept. 29, 2002.

In a follow-up investigation launched roughly four months after Robbins' death, Morgan Hill private investigator Ed Elliott, a former police officer and detective with experience in homicide investigations, began to piece together alarming problems with the investigation that led to the suicide conclusion. There are some disturbing lapses in the investigation, including evidence that was never obtained or was destroyed before it could be tested.

For example, it will never be known whether the bullet that killed Robbins was actually fired from the revolver that was found under his body. Coroner's reports obtained by The Pinnacle clearly show there was an entrance wound on the right side of Robbins' head near the temple and an exit wound on the left side of the head lower than the entrance wound. But no bullet was ever recovered, and Robbins' body was cremated without an autopsy and without a head X-ray (see related story).

"Consequently, the ability to perform an autopsy was lost due to negligence," Elliott wrote in a report totaling more than 100 pages chronicling his investigation. "This must be laid at the feet of the then Santa Clara County Medical Examiner ... and at the feet of Gilroy police Det. Zen. Both of these individuals had the authority and responsibility to act prudently concerning the preservation of evidence."

Also, blood spatter patterns on a wall next to Robbins' bed were remarkably lower than would seem likely if a 6-foot, 7-inch man had shot himself in the head while kneeling on a bed.

The search for a bullet is described by Elliott as "cursory" and the mattress on Robbins' bed was taken out to the garage that same evening,

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upon request by Gilroy police, without an "inch-by-inch" search for a bullet. The mattress was soon thereafter disposed of at the county dump.

Cpt. Jack Robinson, who investigated the shooting along with Det. Zen, responded late this week to a telephone and e-mail request for interviews, but indicated he would not be available until after Aug. 10.

Critical to any gunshot death is determining the time of death. In official documents, Robbins' death occurred at 6:06 p.m. That was not the time of death; it was the time he was declared dead by firefighters. In reality he could have died any time between 1:30 a.m. on the 29th, the last time Debra spoke to Robbins on the phone, and 6 p.m. when his body was discovered.

A short-barreled .38 is "extraordinarily loud," Elliott notes. Yet in his interviews with neighbors immediately adjacent to Robbins' home, none heard the sound of a gunshot, including one next-door neighbor – a self-described light sleeper. The distance between Robbins' bedroom window and the neighbor's house is roughly 50 feet, yet in 1977, in the same general neighborhood, a homicide occurred in which a firearm was used. One neighbor reported hearing the shot several houses away and across the street. Another said it was heard more than a block away.

At the time of Robbins' death, the next-door neighbor had an infant in a bedroom closest to Robbin's bedroom. Debra noted that a baby monitor attached to the crib was sensitive enough to pick up the sound of a dog barking in Robbins' back yard, yet a gunshot went unheard.

Those facts lead Elliott to believe the shot was likely muzzled. If so, why would a man in the act of killing himself be concerned about muzzling the blast?

The fact that no one heard the shot is only one of many unanswered questions in the investigation. Another that was not addressed in any of the police reports obtained by The Pinnacle, was that Robbins was found with a comforter pulled up to his neck – an odd fact for two reasons.

The week of Robbins' death was the week following the Croy Road fire. It was hot and muggy, with temperatures reported in the 100s. Robbins was a large man, prone to being too warm. His family and girlfriend both reported that he always slept with the window open and with a ceiling and oscillating fan on in the room, yet he was found with a thick down comforter wrapped around him. Debra found Robbins with the fans turned off and the window closed. No explanation has ever surfaced.

Another problem with the way the comforter was found is a matter of gravity. The police theory goes that Robbins knelt, with a gun in his right hand and a photo of he and Debra in his left hand. He then shot himself and fell forward on the bed. With both his hands occupied, one with the gun, the other with the photo, what hand held the comforter up to his neck?

Elliott, in reviewing the photographs of the crime scene, notes that there is significant blood spray near Robbins' body and head. Yet the photo was pristine – not a drop of blood.

"Astonishingly, the photograph in question had not the slightest amount of blood spray or blood pooling, even though the photograph was found in the crease of Jon's elbow," Elliott reported. "One might also, reasonably, conclude that the most likely reason for the lack of blood on the photograph was that it was placed in its 'found' location after Jon was dead and after cessation of blood pooling."

While it would seem a matter of common sense to fingerprint the photo, none were ever taken.

All of these unanswered questions, and the fact that no suicide note was left, clearly raises legitimate questions about why the case was ruled suicide so quickly, particularly in the absence of any motive. Zen himself, in a supplemental report filed on Oct. 3, 2002, stated he found no indications for motive of suicide.

At the scene and later in interviews at the police station, Debra and friends of Robbins' all told the same story: There was no reason for Robbins to kill himself, and several expressed doubt that he did. In an Oct. 1 report, Zen wrote that in addition to Debra and Ludlow, he "spoke to surrounding neighbors regarding Jon Robbins' state of mind the day before his death."

But Ludlow insists that the only time she was asked any questions was the night of Robbins' death and that the only neighbor Zen spoke to was the next door neighbor who ran over when he heard Debra's screams. The neighbors all agreed that he was in good spirits and "if anything had a couple of beers only."

A friend of Robbins who was interviewed by Zen at the police station indicated that Robbins was in "good spirits, healthy and had no problems with his job," according to police reports.

"[The friend] says he finds it difficult to believe that Jon committed suicide," Zen reported. "I asked [the friend] if he knew of anybody or any reason someone would try to or take the life of Jon Robbins. [He] said no, he didn't have any idea or know of anyone that would harm [Robbins]."

A clue to Zen's thinking and ultimately why he ruled the death a suicide may lie in an Oct. 2 report following an interview with another of Robbins' friends, who, like other family and friends, told Zen that there was no reason for Robbins to kill himself.

"I asked her if [Robbins] was jealous and she said no," Zen wrote. "After talking to her a little bit further she said he was a little jealous."

Jealousy plays a role because during the interview Zen focused on a trip that the friend and Debra took to a motorcycle event in Reno, Nev. the weekend Robbins died – a trip that both women told their partners was to a day spa in Sacramento. Robbins' friend told Zen the reason for the tale was because her husband was "extremely jealous" and "would not have liked it."

"I asked her why [Debra] didn't tell Jon and she said she didn't know, but that [Debra] did not tell him," Zen reported.

Debra told police she had not told Robbins where she was going because she was concerned Robbins would tell Debra's friend's husband. She told police that she told Robbins she was going out of town because her friend "needed time away from home." Another Gilroy detective, Jack Robinson, interviewed Debra at a later date and filed a report clearly stating what police believe happened that night.

"I told Debra that from all appearances, her conversation with Robbins [at 1:30] that morning might have been regarding her whereabouts, deception and the function she was attending," Robinson wrote in a report. "It appeared at first blush that Jon could not take the conditions of their relationship, or possibly her betrayal of it, and took his own life while holding a photograph of her in his hand."

Debra disputes that characterization, saying the conversation involved small talk about each other's day – where Robbins was planning to

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watch a NASCAR race, and then ended with Debra and Robbins telling each other "I love you," according to police reports.

"I did not want him to have to lie [to his friend], so I told him I would tell him everything later," Debra said. "We went on trips like this every year for the seven years I was with him – it was nothing new to him."

Indeed, phone records obtained by The Pinnacle show that the conversation lasted roughly six minutes, not a great amount of time for a jealous partner to allege infidelity and escalate it to the point of suicide.

"It's as though a conclusion was drawn before the investigation began, and then the entire investigation revolved around this erroneous conclusion," Sandy Ludow said.

Earlier this week Sandy and Debra stood in Robbins' old room, holding each other tightly and allowing tears to flow once again. They cried for their loss and for the specter of Robbins death that four years later continues to haunt their waking lives and their dreams. And they cried in frustration and a pervasive anger that time has failed to soothe.

Sandy released Debra and wiped her cheek with the back of her hand. A stern look passed over her face.

"People need to understand," she said. "Somebody else is going to go through this."

Next week: A suspect emerges

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