

Jury rejects police story, denies murder charge

The jury rejected the story of twenty-one Portland and Multnomah police officers who testified that they loudly announced their identity before they broke into the Outsider's clubhouse on North Lombard on December 12th. They also rejected Deputy District Attorney John Ray's theory that Robert Christianson knew the people breaking in the front door were police and purposefully shot and killed Officer David Crowther to delay their entry into the building.

The jury rejected Ray's plea to find Christianson guilty of murder - punishable by death - but did not follow the logical conclusion and find him innocent by reason of self defense, instead convicting him of First Degree Manslaughter. Defense Attorney Des Connall has indicated that he will file a motion for arrest of judgement to nullify the verdict.

Procedures and practices of the Portland Police Bureau were brought into serious question by the defense: the use of and the judgment of the reliability of informants; lack of recording by the police officers of narcotics buys and by the State Crime Lab of the testing of narcotics; knock and entry procedures with a search warrant; search for homicide evidence without a search warrant.

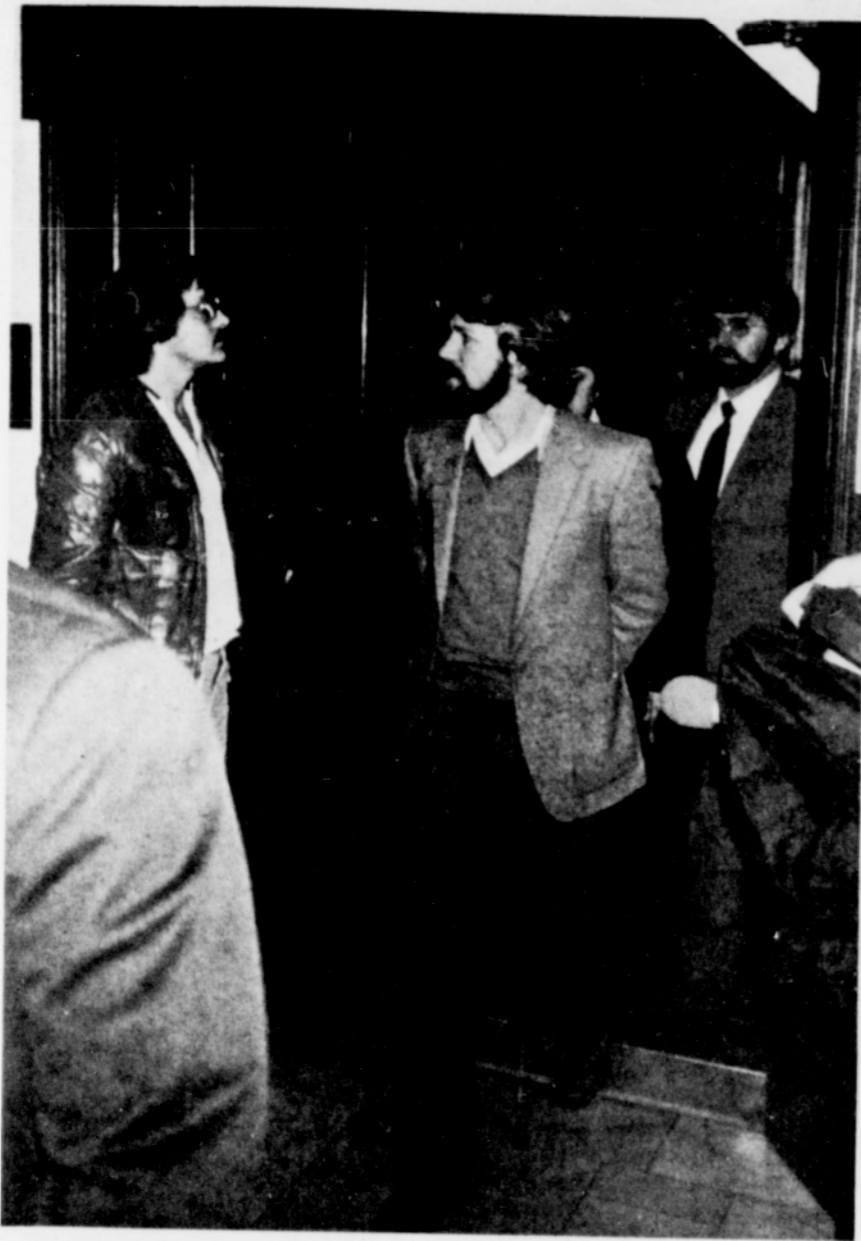
Prior to the selection of the jury Connall questioned the legality of the search warrant issued by Judge Abraham. The warrant was issued on the advice of a "reliable" informant and the defense sought to show that the reliability of the informant (if there was one) had not been sufficiently tested.

Officer Gearhart told the court that he and officer Crowther had received information from the informant that residents of two houses on NE 29th were selling amphetamines. He made a successful buy of heroin at one of the houses. Gearhart testified that the heroin was taken to the state crime lab for analysis and a later call confirmed that it was.

There was no record of this test or of the buy. Employees of the crime lab testified that they do occasionally test material brought by individual officers without making a record of the tests. No prosecution was attempted on that buy.

Gearhart said the informant also purchased a small amount of heroin from the Outsiders clubhouse and tested it himself. On that occasion, he said, the informant used his own money for the purchase.

Gearhart said the informant had met him and Crowther under the Burnside bridge, giving them general information on the drug scene and that he provided information on a Southeast address



Robert Christianson leaves the courtroom during his trial. (Photo: Richard Brown)

where controlled substances were later found. However, the officer who investigated that case said he had received the information from a different informant. Gearhart was unable to show police records of any unable to show police records of

Connall objected to the fact that the Police Bureau homicide detail entered the house several hours after the shooting and searched it without a warrant. Judge Robert E. Jones remarked that this shouldn't happen again and suppressed evidence found by the homicide officers that was not in plain sight of the officers who had a search warrant for narcotics or to the burglary detail with a search warrant for stolen motorcycle parts.

Connall also attacked the death penalty and jury selection. Calling the death penalty unconstitutional, he also argued that the new death penalty law does not eliminate the prior aggravated murder law and that persons indicted for killing could be prosecuted under the prior law. The Courts' determination that the new law eliminates the old exposes all persons convicted of

homicide to the death penalty, since the District Attorney has the discretion to ask for the death penalty. "This could expose members of unpopular minority groups to the death penalty."

The Christianson case, he said, "demonstrates an absolute misuse of discretion. He (DDA John Ray) has the unbridled discretion to say a man will die or not die..." He charged Ray with ignoring the elements of the case in determining to use the statute allowing the death penalty when he should have used the intentional murder law.

Judge Jones expressed concern that the pre-existing aggravated murder law could still be in effect, although other courts have ruled that it is not, because the legislature has met and did not repeal the old law. This could imply their intent to retain it. He did rule that it does not exist and the case would be tried under the death penalty law.

Connall also challenged the jury selection process, which is based on random selection from registered voters, saying certain socio-economic groups are excluded. He had requested, and been denied, funds to do a survey to determine how opinions of persons selected for jury duty compare with those of non-registered persons. Only with that type of survey would there be evidence of whether the jury is a real cross-section of the community.

One of the main issues raised during the trial was whether the police - plainclothed and uniformed - who stormed the Outsiders clubhouse on December 12th knocked and announced their presence before breaking in the door and if the statement was made, whether it was done in a manner to allow the occupants in the house to hear. Connall told the court that his examination of police records of recent drug raids, provided to him by the court, showed "a habit on the part of these officers" and a "custom of the police department in this community" to make unannounced, illegal raids.

Under cross-examination officer Gearhart finally stated that his first kick on the door was done simultaneously with his calling "police". His demonstration in the courtroom showed that the attack with the battering ram followed almost instantly, leaving no time for a response from within.

Police officers testified as to their positions around the raid site, stating they had either called out "police," "search warrant," or had heard others. They also testified, in contradiction to their official reports written shortly after the incident, that officer Crowther was outside the door, that he did not have his gun drawn, and that when shot he fell straight forward into the hallway.

Officer Steve Harmon, who was standing directly behind Crowther,

said he had seen Crowther step through the doorway and raise his arm although he could not see a gun. Crowther's gun was found on the floor under him when he was drug out of the house.

An independent witness - Robert Johnson - testified that he was driving by the house when the action started, stopped to watch, but heard no shouts of "police" from the officer. He heard only, "come out of the damn house."

Additional testimony that contradicted the police statements was that of Michael Yaeger, who was sitting on the bed next to the window, in his third story bedroom smoking pot and feeding his snakes when the raid occurred. He testified that when the battering on the front door began he pulled his light, peeked out the curtain of the window and saw police cars through the block. He pulled up the window and stuck his hand out. He took his Fifth Amendment right when asked if he threw out the marijuana the police later found. Three police officers testified that they saw H.K. Howard go to the window, stand up in full view with lights in front and behind him, and throw out the marijuana even after they called to him to get back inside.

Bob Christianson testified that when the banging began he ran

down and called "who is it?" then, receiving no answer, ran back upstairs and got his shotgun. He sat on the second or third step from the top of the stairs, with his gun at his side, braced against the wall, still calling to ask who it was. He saw Crowther step through the door, look him in the eye and, slightly crouched, raise his gun toward him. Believing he would be killed, Christianson fired.

The jury heard a tape of a telephone call made by an Outsider after the first shot was fired, asking for police assistance. The voices of Christianson and Howard could be heard in the background, still calling to see who was there and pleading with them to stop firing, as well as gun shots.

The most convincing evidence was physical evidence provided by criminologist Bart Ried, who showed through ballistics and blood splatter tests that Crowther was inside the house when shot. The state criminologist, in Connall's words had "screwed up the crime scene" when she did not measure blood directionality, type the blood or distinguish human from dog blood.

Using the testimony of State Medical Examiner Dr. Brady that the shot had entered the center of Crowther's forehead at an upward angle, slightly from left to right, Connall demonstrated to the jury

that Crowther had to have been looking up the stairs at Christian's face when struck, not straight ahead as the officers testified.

In his closing remarks Connall told the jury that the Deputy District Attorney's theory that a man who was in a house surrounded by police, who knew they were coming in, would purposely kill a police officer was "absolutely preposterous."

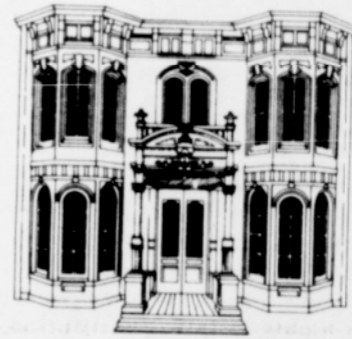
After discrediting Officer Neil Gearhart's testimony that "I have always in every search warrant that I have been a part of or a party to, have announced my identity as a police officer and my intent", through witnesses who testified that Gearhart and the other officers involved had broken into their houses unannounced, Connall told the jury: "He simply lied to you."

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