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Nonprotesting filmmaker wonders why he was shot

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A filmmaker and pro-free trade businessman questions why he was shot by police with a beanbag weapon during FTAA talks when he was on the sidewalk with other media, not in the street protesting.

It was late afternoon on Nov. 20, 2003, the bloodiest day of protests against the Free Trade Area of the Americas summit in Miami.

Police and demonstrators had been skirmishing since mid-morning. About 4 p.m., police in riot gear began pushing protesters off Biscayne Boulevard onto Northeast Third Street.

A local commercial filmmaker named Carl Kesser found himself caught between heavily armed Miami police and Broward Sheriff's Office deputies and retreating protesters.

Kesser, 57, was unprotected. He steadied his video camera atop a concrete sidewalk planter just west of Northeast Second Avenue, on the north side of the street, then ducked behind the planter for cover.

Miami Police Chief John Timoney rode his bicycle onto the south sidewalk. Less than a minute later, the police line began to move, and so did Kesser: "running for my life," he says.

Suddenly, blood spattered across Kesser's lens. A woman screamed, "Oh my God! He's been hit!"

A "drag stabilized" beanbag had torn through the skin over his cheekbone and kept moving, lodging under the outer edge of his eyebrow.

The next day, a photo of Kesser appeared in The Herald, one of the most shocking images from the day's violence. The newspaper mistakenly identified him as an unnamed protester.

Soaked in blood, open-mouthed and gasping, he was tended by a protest-movement medic. His fashionable glasses were askew. The projectile formed a hideous lump at his temple.

Two months later, the right side of his face remains partially paralyzed and his right eyelid droops.

A bandage still covers part of his ear and the raw slash where 35 stitches closed a golf ball-size hole.

His days on camera are over, Kesser said.

“The doctor tells me the nerve is gone and will never come back.”

That Carl Kesser was among the most seriously injured during FTAA is more than ironic. He's a Porsche-driving, Brickell-area businessman and father of five who calls himself “the most Miami person you'll ever meet.”

He specializes in real estate and tourism films.

Advertising-industry and film festival awards dating back 30 years line the walls of his Art Deco offices.

Kesser Stock Library, his company, has sold film clips to a slew of Hollywood movies -- including Ace Ventura and Analyze This -- and television shows such as CSI Miami and Saturday Night Live.

The lifelong Coconut Grove resident is best known for the educational documentary Our Miami, the Magic City, a history of Miami aimed at middle-school students. Commissioned by the Junior League of Miami in 1981, it features voice-overs by actor Cliff Robertson and won three Emmys.

Kesser and Miami historian Arva Moore Parks, who wrote the script, are planning a second update, which might include FTAA footage.

Kesser, said Parks, “has got a little filmmaker in him, but he's kind of an establishment person -- not at all a rabble rouser. He went down there because he was pro-FTAA.”

In fact, Kesser said he went downtown 'to do a pro-FTAA thing -- a `feel good piece' -- and give it to the delegates. I'm on their side. . . I'm not political. My thing was that FTAA will create jobs.

“I figured I'd show how the police handled this. I didn't think anything could happen here. And if it did, I was out of there.”

‘POSTER CHILD’

Now, said Lida Rodriguez-Taseff, president of the Miami chapter of the American Civil Liberties Union, Kesser is “a poster child” for a police tactic developed in Miami for the FTAA. “What you saw in Miami was police taking aim at the media and innocent bystanders,” she said.

The ACLU represents Kesser, who has not yet filed a lawsuit.

“Don't I have the right to be on the sidewalk shooting [video] . . . ?” he asked.

The bag that hit Kesser was launched inside a standard plastic shell fired from a 12-gauge, pump-action shotgun.

A soft cloth sack containing sesame seed-size lead shot, it weighs about as much as a C-cell battery. Four, two-inch fabric tails -- the drag stabilizers that keep it traveling straight -- make it look like a baby octopus.

Sgt. Anthony Utset, Timoney's senior executive assistant, said that only SWAT team members used beanbags during FTAA.

He has viewed Kesser's video and that of freelance cameraman Roger Prehoda of Hollywood, who was shooting for NBC News on Third Street that afternoon.

Neither tape shows Kesser getting hit, so who shot him and why remains unknown.

But Utset acknowledged that Kesser ``was not a protester or a threat. . . . I'm confident it was definitely done accidentally."

Prehoda isn't so sure. He's convinced that journalists were targeted.

As the police line advanced west on Third Street, "it turned into a real shooting gallery," Prehoda said. ``There were no protesters and only media."

According to Miami police reports, Miami officers fired 227 pepper balls, 32 sponges and 71 beanbags -- 12-gauge and 40mm -- on Third Street between 4 and 6 p.m.

Two Miami SWAT commanders submitted hourly logs about what happened on Nov. 20. Lt. Rene Landa, heading SWAT Unit 20, wrote that at 4:30 p.m., ``less lethal and pepper ball were deployed at individuals that were throwing rocks, bottles, ball bearings and other objects at field force."

Lt. Armando Guzman's log at 5 p.m. stated: ``Less lethal and pepper ball deployments were against individuals that were throwing objects such as glass bottles, rocks, paving stones against law enforcement personnel."

Both men declined to be interviewed until the city's Civilian Investigative Panel finishes its probe into the police's actions.

SPECIFIC PROTOCOL

Miami police had a specific protocol for the use of less-lethal weapons during FTAA. Despite numerous verbal and e-mailed requests to various police personnel, including Timoney, the department would not release it to The Herald.

Miami police Sgt. Robert Baker trained the city SWAT personnel who worked the FTAA. He said they must recertify in the use of less-lethal weapons twice a year.

Beanbags are "target-specific," he said. "If someone was wielding a knife and you didn't want to kill him, the blunt force of the impact would numb your arm and you'd drop the knife. . . . It's designed to get an initial jump on someone."

Drag-stabilized beanbags are most accurate between 20 and 50 feet, according to product literature. Kesser said he was hit at 30 feet.

The department "brought in a lot of this ammo for FTAA," Baker said. "We don't normally keep a lot of it on hand. They trained heavily on it."

Baker, who said he has never seen a beanbag round penetrate skin: "I never advise [officers to aim] for the head. All of the less lethal [weapons] are designed to stay away from the head. These are very specifically less lethal. They can kill you, but if used correctly, shouldn't."

Maj. Steve Ijames of the Springfield, Mo., police department, is an expert on less lethal weapons and has testified in dozens of beanbag injury cases, some from riot situations.

Though he is unfamiliar with Miami police less-lethal training, he said standard practice is to use beanbag rounds as "an extremity-type tool," like an extension of a nightstick.

"A lot of chest shots result in fatalities."

Head shots would "depend on the circumstances based on threat."

Beanbags travel slowly, he said -- 300 feet per second -- and drop quickly.

"If you aim perfectly parallel to the ground, it will be in the dirt at 80 feet. . . . The round is low energy [with] about the same energy as a thrown fastball."

Ijames would not theorize about Kesser's situation, but said that when someone is hit in the head, it is often because the officer missed his intended target or because the officer aimed at the torso just as the suspect ducked.

Ijames has been investigating police shootings for 25 years and doubted anyone shot Kesser intentionally.

"I'd be blown away by anyone who did it on purpose," Ijames said. "This isn't the 1950s, and there will be investigations. Officers understand there's an accounting for serious injury."

HARD TO BELIEVE

Carl Kesser did not want to believe that someone took aim at him because he was in the media. But he could not get past the reality that he was in a crowd of journalists on the sidewalk and the protesters were in the street.

"Nothing was happening" when the barrage began, he insisted, and Roger Prehoda confirmed. ``Police said they had issued repeated warnings. I heard not one. I'm not a radical, and I'm not trying to make a big deal of this, but they're not supposed to shoot at the head."

Kesser conceded that he was "naive" about the FTAA. He never imagined getting hurt on the streets of his hometown. But it did cross his wife's mind.

Martha Salas-Kesser, 44, came to South Florida in 1980 from Venezuela, returned to Venezuela in 1992, then came back to the United States in 1998, after Venezuelan political conditions deteriorated.

Until Nov. 20, 2003, "everything in the States was something for me admirable," she said. ``From that day, I started wondering. I hope what we go through legally will prove me wrong. . . . Things were done the wrong way, and someone needs to accept that."

It appears that someone has.

On Thursday afternoon, two Miami officers showed up at Kesser's office and told his staff they wanted to see him.

He wasn't there, but says he later spoke to Deputy Chief Frank Fernandez on the phone.

"They wanted to say they were sorry," Kesser said. ``They discovered that one of their SWAT guys shot me. I thought it was pretty cool that they'd stand up and do that."

Fernandez couldn't be reached late Saturday.