

By Peter Davies

Unlike judicial scrutiny in the Watergate experience, such scrutiny of the evidence in the six-year-old Kent State University case has failed to provide us with answers to many of the nagging questions that remain as burning as ever, just as the possibility that the Ohio National Guard shootings resulted from some kind of decision reached at the national level remains as haunting a skeleton in the Kent State closet as it was two years ago.

Paramount among the unanswered questions: Who fired the .45-caliber pistol assigned to guardsman Frank Haas?

Testimony at last year's civil trial confirmed the fact that an unknown guardsman had Mr. Haas's weapon on May 4, 1970, fired it at least four times during the 13-second fusillade, and secretly returned it to the armory.

The Federal Bureau of Investigation, in its investigation of the incident, reported it had "four spent .45 cartridges which came from a weapon not belonging to any person who admitted he fired." During the trial it was disclosed that F.B.I. ballistics tests had proved that the cartridges belonged to the Haas .45 automatic. The F.B.I. also verified that Frank Haas was six miles away from the Kent State campus when his pistol was fired. The seriousness of this mystery cannot be lightly dismissed because the answer might turn out to be the key by which independent investigators are able to unlock the door behind which lies the "smoking gun" proof that the order to shoot at the student demonstrators was initiated somewhere much higher up than amidst the ranks of the guardsmen.

One of the reasons why we still do not have answers to this and other questions, such as who authorized the issuance of ammunition to troops armed with deadly M-1 rifles, and who gave the order to illegally suspend the students' constitutional right to peaceably assemble?, is that the cover-up continues to this very day.

For example, Capt. Ronald Snyder admitted in Federal court last summer that he had lied to a 1970 state grand jury when he testified to finding a gun on the body of Jeffrey Miller, one of the four students killed by the Ohio National Guard. He did so, he said,

to strengthen the story of self-defense. Mr. Snyder has yet to be prosecuted for perjury, and there is little likelihood he will be.

Since the civil trial concluded in a 9-3 verdict in favor of Ohio officials and guardsmen, allegations that the Governor, James A. Rhodes, violated Federal false-statement and perjury laws have been formally lodged at the United States Department of Justice.

Governor Rhodes flatly denied, on the stand, that he had spoken to Vice President Spiro T. Agnew immediately after the killings. Mr. Rhodes was contradicted by Sylvester I. Del Corso, then Adjutant General of the Ohio National Guard, and was reported to have told the 1974 Federal grand jury that he had talked to Mr. Agnew by phone the afternoon of May 4, 1970.

Assistant Attorney General Richard Thornburgh, head of the Justice Department's Criminal Division, confirms that the charges of perjury against Governor Rhodes are "under careful study." But again there is precious little likelihood of grand jury action.

The risk of cracking the shell that surrounds the questions, Who set the wheels in motion that led to the crime and why?, is inevitably heightened by any kind of prosecutorial intervention at this stage, even though in one instance the perjury has been admitted under oath in a Federal court.

In their book "The Final Days," Bob Woodward and Carl Bernstein describe the mounting fear that somewhere along the way the "smoking gun" would be found that would mean the end of Richard M. Nixon's Presidency.

The same is true, I believe, for Kent State.

When we finally find out who fired Mr. Haas's .45-caliber pistol, why Army intelligence contacted the campus police the day Governor Rhodes ordered the National Guard sent to Kent, and who the *agents provocateur* are who perfectly timed the burning of the R.O.T.C. building with the arrival of the troops in the town, we may well be on our way to finding out that Kent State was one of the White House "horror stories" that John N. Mitchell referred to when he appeared before the Senate Watergate Committee.

Peter Davies is author of "The Truth About Kent State: A Challenge to the American Conscience."