

County of Santa Clara

Office of the Sheriff

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Laurie Smith
Sheriff

MEMORANDUM

To: Undersheriff John Hirokawa

From: Sgt. Gregory Davis #1799 *gd 8/27/12*
Internal Affairs Unit

Date: August 27, 2012

Subject: Internal Affairs Case IA 11-027
Review of Officer Involved Shooting

Involved Parties:

Involved Employees: Deputy Fabian DeSantiago #2024
Deputy Christopher Hilt #2098
Deputy Lindsay Crist #2113

This report is an administrative review, conducted by Internal Affairs, of an officer-involved shooting involving Deputy Fabian DeSantiago #2024, Deputy Christopher Hilt #2098, and Deputy Lindsay Crist #2113, which occurred on 10/6/11. The complete case file, containing the Sunnyvale Department of Public Safety investigative report, three CD-ROM disks containing the involved deputies' interviews, and a CD-ROM of the radio traffic associated with the detail, is contained in a binder in Internal Affairs, filed in the "O.I.S." cabinet. The Sunnyvale Department of Public Safety report totals 108 pages, and contains a face sheet, one suspect page, 12 additional-parties pages, 40 evidence pages, 31 supplemental reports, and the main report, written by Detective Hyun Choi #14373. Also contained in the case file is the Sheriff's Office crime report of the incident, #11-279-00511, which totals 59 pages, and contains one face sheet, a suspect page, 13 supplemental reports, a crime scene entry log, and the main report, written by Sergeant Paula McAllister #1706.

Executive Summary:

In the early morning hours of 10/5/11, Shareef Allman discharged several weapons at his work site in Cupertino, killing 3 co-workers and wounding several others. Mr. Allman fled the area

and attempted to carjack, and subsequently shot, a female driver in the Hewlett-Packard parking lot. Mr. Allman was reported to be armed and dangerous, last seen in the area of Homestead Road and was believed to be moving north through the neighborhood.

On 10/5/11 Deputy DeSantiago, Deputy Hilt, and Deputy Crist were assigned to patrol this area in order to provide an enhanced law enforcement presence in the area as well as potentially locate Mr. Allman. All three deputies attended a briefing before the shift and officially learned about Mr. Allman's shootings and killings. Deputy DeSantiago was driving a solo marked patrol unit. Deputy Hilt and Deputy Crist were paired up driving an unmarked police vehicle, Deputy Hilt was driving and Deputy Crist sat in the front passenger seat. All three deputies were wearing full Sheriff's Office uniforms.

On 10/6/11 at approximately 0735 hours, all three deputies had completed a security check at in Sunnyvale. While seated in their patrol vehicles facing west and parked next to each other to converse, Deputy DeSantiago saw in his rearview mirror a black, male adult wearing a dirty white T-shirt (Mr. Allman) rise into view, as if coming up off the ground in the middle of the street. Mr. Allman walked east on the south side of Lorne Way away from the deputies. Deputy Hilt noticed Deputy DeSantiago's attention was diverted and asked what caught his attention. Deputy DeSantiago told Deputy Hilt to turn around but did not describe what he saw. Deputy Hilt looked but did not see to what Deputy DeSantiago referred. Deputy Crist noticed the abrupt end to the car-to-car conversation and asked what happened. Deputy Hilt said he believed Deputy DeSantiago saw something.

Deputy DeSantiago made a U-turn in the court at the west end of Lorne Way while Deputy Hilt executed a three-point turn. This placed Deputy Hilt in the lead as both patrol vehicles headed east on Lorne Way. Deputy DeSantiago was able to see Mr. Allman walk south into the driveway of Deputy Hilt and Deputy Crist did not know what they were looking for and still did not see Mr. Allman. They drove slowly past Deputy DeSantiago saw Mr. Allman walking clockwise (south to west) around a van in the driveway of Deputy DeSantiago made eye contact with Mr. Allman, believed he had reasonable suspicion Mr. Allman could be the suspect from the Cupertino shooting, and decided to stop and address him.

Deputy DeSantiago immediately stopped the patrol vehicle in the street, exited, and ran to the rear of his patrol vehicle. Deputy Hilt looked in his rearview mirror and saw Deputy DeSantiago exit his vehicle in front of Deputy Hilt also saw Mr. Allman in the rearview mirror and knew Deputy DeSantiago was addressing someone. Deputy Hilt and Deputy Crist exited the unmarked vehicle. Deputy Crist turned around and faced west; she saw Mr. Allman and recognized him within one or two seconds. Deputy Hilt and Deputy Crist saw Deputy DeSantiago draw his firearm. Deputy Hilt drew his firearm and walked toward Deputy DeSantiago drew his firearm and ran south onto the south sidewalk and grass in front of as Mr. Allman stood between the van and the garage door. Mr. Allman looked toward Deputy Hilt briefly, and then faced Deputy DeSantiago. Deputy Crist drew her firearm when she saw Deputy DeSantiago draw his firearm. Deputy DeSantiago gave Mr. Allman commands including, "Sheriff's Office! Let me see your hands! Let me see your fucking hands!"

Mr. Allman placed both hands in the air. Deputy DeSantiago saw a black handgun in Mr. Allman's right hand.

At this point, Deputy DeSantiago recognized Mr. Allman as the suspect in the Cupertino shooting. Deputy Hilt and Deputy Crist believed Deputy DeSantiago yelled, "Drop the gun!" and "Put the gun down!" Deputy Hilt then saw a dark-colored handgun in Mr. Allman's hand; Deputy Hilt believed it was pointed at Mr. Allman's head. Mr. Allman said something to the effect of "Kill me!" or "I just want to kill myself!" Deputy Crist saw Mr. Allman raise a black firearm up from behind the van and point the handgun straight toward Deputy DeSantiago, and then pointing it more toward Mr. Allman's own head. Mr. Allman made a "punching" motion with the handgun toward Deputy DeSantiago. Deputy DeSantiago discharged his weapon sixteen times at Mr. Allman. Deputy Hilt lost sight of Mr. Allman's handgun as Mr. Allman's arm moved behind the van. Believing Mr. Allman pointed the handgun at Deputy DeSantiago because Deputy DeSantiago began discharging his weapon, Deputy Hilt discharged his firearm twelve times at Mr. Allman. Deputy Crist heard a one shot, believed Deputy DeSantiago's life was in danger, and discharged her firearm sixteen times toward Mr. Allman.

After handcuffing Mr. Allman, Deputy DeSantiago put out a radio broadcast advising shots were fired and medical attention was needed. Numerous deputies and Sunnyvale Department of Public Safety officers responded. Sunnyvale DPS took control of the scene.

Administrative Investigation

Lieutenant Wise and Sergeant Oberst responded to the Sunnyvale Department of Public Safety Investigations Bureau and, throughout the remainder of that afternoon and evening, monitored all interviews conducted by the SDPS investigators. At the conclusion of the interviews, Sergeant Oberst compelled a blood sample from each of Deputy DeSantiago, Deputy Hilt, and Deputy Crist, which were submitted to the County Crime Lab for processing. On December 8, 2011, the Crime Lab faxed to Internal Affairs the results of their testing of the three samples. The Crime Lab's Report showed 0% of any alcohol or narcotic in any of the three samples.

Sunnyvale DPS listed 26 of the 30 rounds recovered from Deputy DeSantiago's duty magazines as "ball rounds." I viewed 11 of the rounds at SDPS and saw they were full metal jacket rounds with copper jackets and white metal casings. The stamp on the casings was "R-P 40 S & W." The Sheriff's Office Range does not carry this type of ammunition, nor is it authorized for duty ammunition. Sunnyvale DPS did not determine if any of the rounds discharged from Deputy DeSantiago's weapon were full metal jacket rounds.

Mr. Allman fired a single shot during the incident; this was determined by the single shell casing found near Mr. Allman's body. The preliminary autopsy results indicated Mr. Allman shot himself in the head. The wound at the point of entry was consistent in shape and size with the end of the barrel of Mr. Allman's handgun. Mr. Allman's death was caused by this self-inflicted gun shot.

Review:

Beginning the afternoon of occurrence, and over the next several weeks, the Sunnyvale Department of Public Safety (SDPS) conducted what I find to be a thorough and detailed investigation of this shooting. The SDPS Homicide Unit Investigators:

- contained and professionally processed the scene,
- obtained potentially evidentiary video footage of Mr. Allman from the surveillance camera of a nearby business,
- conducted an extensive canvas of neighboring residences, evaluated the area for suspect activity and obtained 39 statements as a result,
- interviewed the Sunnyvale Fire and EMS personnel who responded to the scene,
- interviewed all residents at the residence where the incident occurred,
- obtained supplemental reports from all of their own personnel who responded to the scene,
- interviewed the three deputies involved in the shooting

Nothing in any interview conducted, no physical evidence found at the scene, and no statements from witnesses or officers at the scene, in any way contradict or call into question the official statements made by Deputies DeSantiago, Hilt and Crist, whose narratives formed the Executive Summary written above. Several of the residents told the Sunnyvale investigators that they heard gunfire; multiple witnesses also heard commands from the deputies, just prior to hearing the gunshots and immediately following the gunshots. One witness reported the commands included, "Get down!"

After reviewing the numerous resident interviews conducted following the incident, reviewing the recorded interviews with Deputies DeSantiago, Hilt, and Crist conducted the same evening, comparing all of those interviews with the written summaries and evaluations contained in Sunnyvale's report, reviewing the original radio dispatches, reviewing the Medical Examiner's findings, completing a thorough review of the Sheriff's Office Incident Report and completing a thorough review of Sunnyvale's total investigation, it is my finding that:


While performing their lawful assigned duties, Deputy DeSantiago encountered and attempted to detain a multiple-murder suspect armed with a firearm, who resisted Deputy DeSantiago's verbal orders to drop the weapon and raised the firearm in the direction of Deputy DeSantiago, Deputy DeSantiago, fearing for his safety and that of his partners, lawfully discharged his weapon in their immediate defense. Deputy Hilt and Deputy Crist, fearing for the safety of Deputy DeSantiago and themselves, lawfully discharged their weapons in Deputy DeSantiago's and their own immediate defense.

I did not find any violation of departmental policy or procedure by Deputy Hilt and Deputy Crist, up to and including the use of their firearms in this incident. I did not find any violation of policy or procedure by Deputy DeSantiago, regarding the use of deadly force with his firearm. In regards to Deputy DeSantiago's ammunition, a separate Internal Affairs investigation will address General Order 12.01.A.1: Sheriff's badge personnel while on duty shall carry only those

firearms and ammunition that have been issued to them by the Sheriff's Office or have been authorized as secondary backup weapons by this order.

At the time of this report, the Sunnyvale Department of Public Safety report has been submitted to the Santa Clara County District Attorney's Office for review; there is no time estimate available as to when that agency will decide if any further action is required by their office.

End of report.


Sgt. Gregory Davis
Internal Affairs