

County of Santa Clara

Office of the Sheriff

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Laurie Smith
Sheriff

MEMORANDUM

To: Undersheriff Neusel

From: Sergeant Adam A. Valle #10466
Internal Affairs Unit *A.A. Valle - 10466*

Date: August 1, 2017

Subject: Statement of Findings
Internal Affairs Case: #2016-00351

Involved Parties:

Involved Employee: Sheriff's Correctional Deputy Leonel Groba #10527

Complainant: Office of the Sheriff

Allegations Pertaining to Sheriff's Correctional Deputy Leonel Groba #10527:

- I. Violation of Santa Clara County Merit System Rule A25-301(a) (1): "Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict with this article."
- II. Violation of Santa Clara County Merit System Rule A25-301 (b) (1): "Guilty of gross misconduct, or conduct unbecoming a County officer or employee which tends to discredit the County or County service."
- III. Violation of Santa Clara County Merit System Rule A25-301(b) (2): "Guilty of immoral conduct or a criminal act."
- IV. Violation of D.O.C. Policy 3.31.II.D – Employee Relationships with Inmates: "Employees shall treat inmates with respect, courtesy and firmness. They shall not use profane, demeaning, insulting and threatening language toward an inmate. Employees shall not engage in an argument or shouting match with an inmate."
- V. Violation of D.O.C. Policy 3.31.II.G – Employee Relationships with Inmates: "Employees must maintain a good staff-inmate relationship to ensure effective discipline and order."
- VI. Violation of D.O.C. Policy 3.31.IV.A – Employee Conduct: "County Charter, Merit System Rules, Personnel Regulations, Department's Code of Ethics Policy, and all other Departmental policies shall guide an employee's conduct."
- VII. Violation of D.O.C. Policy 3.31.IV.J.1.a: "Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules and all laws applicable to the general public."
- VIII. Violation of D.O.C policy 3.31.IV.J.3.a – Use of Force: "Employees shall only use force in accordance with the law and the Department Policy 9.01, Use of Force Restraints."
- IX. Violation of D.O.C policy 3.31.IV.J.9.a.7: "An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude. Examples of conduct unbecoming include, but are not limited to, the following:

- X. Violation of D.O.C policy 3.31.IV.J.10.b: - Neglect of Duty/Unsatisfactory Performance: “Unsatisfactory performance is demonstrated by an inability or unwillingness to perform assigned tasks, failure to take appropriate action in a situation needing attention, or failure to conform to work standards established for the employee’s rank, grade or position.”
- XI. Violation of D.O.C policy 3.31.IV.15.a. - Courtesy: “Employees shall, at all times, be courteous and discreet to all persons, maintain decorum and command or temper, and avoid the use of violent, insolent or obscene language.”
- XII. Violation of D.O.C. Policy 9.01.I.A.3.a.b. – Use of Force: “a. Badge staff may escalate the use of force, as necessary and appropriate, but will not progress to higher level of force unless lower levels of force are inadequate, inappropriate or unreasonable for the situation and under the circumstances. b. There is no requirement to utilize a lesser level of force before progressing to a higher one, as long as the level of force utilized is objectively reasonable under the circumstances.”
- XIII. Violation of D.O.C. Policy 9.01.III.A.2.a.b.c.d.e.f. Officer Responsibilities: “When force options of level 3 or above are imminent and necessary prior to the arrival of a supervisor or support officers, involved officers shall: a. Defend themselves as necessary b. Call and request officer assistance as soon as possible c. Attempt to restrain the person until assistance arrives using the appropriate level of force based on the circumstances d. Exercise self-control and deescalate the level of force to a level commensurate with the person’s level of compliance, if the person ceases aggression and resistance e. Maintain control of the person until assistance arrives at the scene f. Verbally notify the supervisor of the circumstances as soon as practical”

The rule violations listed herein may be amended based upon findings reached as a result of this investigation.

Basis for Allegations:

On August 18th, 2016 Correctional Deputy Groba #10527 was involved in an on-duty use of force incident at the Santa Clara County Men’s Elmwood Facility. During this incident, Correctional Deputy Groba allegedly used unreasonable and/or excessive force against Inmate [redacted]. The Major Crime Unit contacted Internal Affairs regarding the use of force and their investigation into the incident.

If the allegations are true, Correctional Deputy Groba committed violations of the Departmental Policies and County Merit System Rules.

Notification:

On March 9, 2017 Lt. Valenzuela #1841 reassigned this case to me after being investigated by Internal Affairs Sergeant Rocha-Sanchez #10406. I reviewed the originating reports from the Elmwood Men’s Facility on August 18th, 2016. The complaint was regarding a use of force incident which occurred in the M-8 building located at the Elmwood Men’s.

Investigation:

I requested all the reports associated with this investigation from the Elmwood Men’s Jail Administration. I read and reviewed all of the documentation compiled via Sheriff’s Sergeant Signorino # 10218 ,the associated Employee’s Reports regarding IR #15-60613, and CR #16-231-0311J written by Sergeant Davis #1729. I also reviewed the classification file on the subject [redacted] involved. There was no negative documentation on Inmate [redacted] leading up to the incident on August 18, 2016.

I reviewed the following employee/division-related reports:

- Employee’s Report – Deputy Groba #10527
- Employee’s Report – Officer Grima #1526
- Employee’s Report – Deputy Wu #10525
- Employee’s Report – Deputy Terry #10357
- Supervisor’s Summary – Sergeant Signorino # 10218
- Crime Report – Sergeant Davis #1729

From the above-listed sequence, I summarized each report as follows:
The following are compilations of the written Employee’s Reports IR #16-68521 and are not verbatim translations or transcriptions of the reports. If a comprehensive transcription of the written reports is required, please review the case file.

Deputy Groba #10527 / IR#16-68521:

On August 18th 2016, Deputy Groba was assigned to the M-8H unit at the Elmwood Men's Facility located in Milpitas, CA. At approximately 0610 hours, he announced the AM court notices to each inmate who was on the list. Every inmate responded to each call and Deputy Groba advised them to be ready in 15 minutes. At approximately 0630 hours Deputy Wu #10525 announced via intercom for all the AM courts to come out of the units and report to the core area.

At approximately 0635 hours all courts were out except for one inmate out of M8-H by the name of [REDACTED]. Deputy Groba looked through the classification cards to identify Inmate [REDACTED] and the location of his assigned bed in the unit. Deputy Groba noticed it was the same inmate [REDACTED] who was late for court the day prior.

Deputy Groba entered M8-H and went to the top tier and to Inmate [REDACTED] assigned bunk. He told Inmate [REDACTED] to wake up and go to court. Inmate [REDACTED] looked at Deputy Groba without responding. Deputy Groba told Inmate [REDACTED] "I wasn't his mother" and he needed to wake up. Inmate [REDACTED] got out of his bunk in a quick manner and faced Deputy Groba. Again, Deputy Groba told Inmate [REDACTED] he needed to go to court. Inmate [REDACTED] responded, "Okay you filthy Russian." Deputy Groba didn't feel the need to address his disrespectful comment at the time due to Inmate [REDACTED] waking up late and possibly missing the court bus. He would address the issue upon Inmate [REDACTED] return from court in the afternoon.

According to Deputy Groba, he told Inmate [REDACTED] to walk downstairs. He followed behind Inmate [REDACTED] closely and ordered him to continue walking. Inmate [REDACTED] appeared to be purposely walking slowly to delay Deputy Groba and began saying (mocking fashion), "blah, blah, blah."

As both Deputy Groba and Inmate [REDACTED] moved to the bottom floor and started to walk towards the M8-H entrance door, Deputy Groba passed on Inmate [REDACTED] left side in an attempt to reach the door and hold it open for the both of them. According to Deputy Groba, he felt his lower right leg and right side of his foot being scrapped by Inmate [REDACTED] foot in an attempt to step on his right foot or kick him.

Deputy Groba responded to the physical contact and turned towards Inmate [REDACTED] who was extremely close to him. In his opinion, Deputy Groba felt threatened due to Inmate [REDACTED] close proximity, physical stance and the fact that he [REDACTED] just assaulted him. Deputy Groba yelled out loud, "Did you just kick me?" As Inmate [REDACTED] was about to respond, Deputy Groba felt it necessary to defend himself and punch him with a closed left fist to the right side of

Inmate [redacted] face. Both Inmate [redacted] and Deputy Groba stood facing each other. Officer Grima responded to the incident and grabbed Inmate [redacted] and escorted him out of the M8-H.

At approximately 0640 hours, Deputy Groba contacted Sergeant Gill #10437 and informed him of the incident. Nurse [redacted] arrived on at the scene and medically assessed Inmate [redacted]. Inmate [redacted] had light swelling on the right of his face, but no visible bruising. Deputy Groba did not sustain any injuries.

Officer Grima # 1526 / IR 16-68521:

On August 18th 2016, Officer Grima was assigned to the M8-B unit at the Elmwood Men's Facility. At approximately 0630 hours, he was in the M8 Control Station with Deputies Vidito #10236 and Souza #10116. Officer Grim noticed what to appear as an argument between Deputy Groba #10527 and an unidentified inmate while looking at the H-Dorm video monitor located at the Control Station.

Officer Grima exited the Control Station and walked into the M8 West corridor towards the M8-H Dorm. As he walked to the entrance door of the H-Dorm, he overheard and observed a verbal argument between Deputy Groba and Inmate [redacted].

According to Officer Grima, he heard Inmate [redacted] shout numerous aggressive expletives at Deputy Groba, including "*Fuck you Russian, you hit me. Let's go mother fucker.*" He heard Deputy Groba repeatedly say to Inmate [redacted] "*You kicked me.*" Due to the large amount of inmates housed in the dorm, Officer Grima felt it necessary to immediately remove Inmate [redacted] from the area in fear of inciting other inmates in the dorm, and his threatening aggressive behavior towards Deputy Groba.

Officer Grima stepped into the dorm and in-between Deputy Groba and Inmate [redacted]. He ordered Inmate [redacted] to put his hands behind his back several times. Inmate [redacted] reluctantly complied with his verbal commands however continued to yell at Officer Grima stating, "*I'm not fucking doing anything. Fuck him!*"

Based on Inmate [redacted]'s agitated behavior, Officer Grima escorted him out quickly without handcuffing him due to the concern of an uprising from other inmates housed in the area. Officer Grima physically grabbed Inmate [redacted]'s left arm above the elbow with his right hand and led him by the arm. Officer Grima did not have to utilize any pain compliance techniques as he led Inmate [redacted] out of the dorm. Inmate Ellingsen was escorted to the M8 Core Area, where Deputy Souza #10116 assisted in placing him in a holding cell.

Deputy Wu #10525 / IR #16-68521:

On August 18th 2016, Deputy Wu #10525 was assigned to M8-F Dorm at the Elmwood Men's Facility located in Milpitas, CA. At approximately 0615 hours Deputy Groba #10527 notified Inmate [redacted] and all the other inmates housed in H-Dorm that they had court and to be ready for the 0630 transport. At approximately 0630 hours most of the inmates that were notified of their court appearance were ready and waiting outside their designated dorms in the M8 West Core Area. Inmate [redacted] did not come out with the other inmates from M8-H Dorm and Deputy Wu notified Deputy Groba of the missing inmate [redacted]. Deputy Groba went inside M8-H Dorm to wake up Inmate [redacted]. Deputy Terry # 10357 stood at the entrance door to M8-G Dorm calling another inmate who did not come out.

While Deputy Wu checked off the all the inmates who responded out to the Core Area, using the printed court list, Deputy Wu saw Deputy Groba approach Bunk #2 (assigned to [redacted] on the top tier of M8-H Dorm. As Deputy Wu continued to check off the inmates' names and reassessing Deputy Groba's welfare, he saw Deputy Groba walking behind Inmate [redacted] down the stairs nearest the bathroom. Deputy Wu then again looked away and down at his court list.

According to Deputy Wu, he looked up again to check on Deputy Groba and Inmate [redacted]. He saw what appeared to be Deputy Groba lose his balance as he walked past Inmate [redacted]. Deputy Groba then turned to face Inmate [redacted] and struck him with a closed fist to the right side of Inmate [redacted]'s face. Deputy Wu quickly responded to the M8-H entrance door and pulled it open. Deputy Wu overheard Deputy Groba say something about Inmate [redacted] kicking him, and Inmate [redacted] saying something regarding him (Groba) being Russian. Officer Grima also responded to the incident and entered the dorm. Officer Grima ordered Inmate [redacted] to come out of the dorm and he was then escorted out of the M8 West Core Area.

At approximately 0640 hours Deputy Groba went to the M8 West Side Officer's Station and called the Team Administrative Sergeant's Office to notify Sergeant Signorino # 10218 of the incident.

Deputy Terry #10357 / IR #16-68521:

On August 18th 2016 Deputy Terry # 10357 was assigned to the M8-G Dorm at the Elmwood Men's Facility located in Milpitas, CA. Deputies Groba #10527 and Wu #10525 were also assigned to the M8 West Side, (had conducted the morning count and notification of AM court appearances.) Deputy Groba used the PA notification system to call for all inmates appearing in court to report to the core area for check in.

Deputy Wu checked all of the morning courts by calling their names and having the inmates repeat their associated PFN's for verification. After the initial check by Deputy Wu, he notified Deputy Terry and Deputy Groba that two inmates did not report to the core area. One inmate was assigned to G-Dorm and the other from H-Dorm. Deputy Terry referred to the classification cards for the M8-G Dorm and located the assigned bunk number for the missing inmate, who was identified as . Deputy Terry approached the entrance door to G-Dorm and after opening the door, he made a verbal announcement for Inmate to come out and report to the core area.

As Inmate approached the G-Dorm entrance door, Deputy Terry heard yelling and shouting coming from the M8-H Dorm. He heard an inmate who was later identified as shouting. Inmate stated, *"I'm pressing charges on this officer. He hit me in the face."*

According to Deputy Terry, he immediately responded to the M8-H Dorm and noticed Deputy Groba had his hands up by his chest area, in response to Inmate aggressive behavior. Inmate yelled and screamed at him saying, *"You punk ass CO" and "You bitch. You hit me on my face."*

Before Deputy Terry could intervene, Officer Grima #1526 stepped between Inmate and Deputy Groba. Officer Grima gave Inmate several verbal commands to turn around in order to secure him in restraints. Inmate reluctantly complied and was escorted out to the M8 Core Area.

As Inmate was being escorted out of the area, he continued shouting verbal insults towards Deputy Groba. Deputy Terry was concerned for Deputy Groba's well-being and asked him what happened. Deputy Groba told him that Inmate had kicked him and he hit Inmate in the face.

After checking on Deputy Groba, Deputy Terry went back to make sure all the inmates were accounted for and secured.

Sergeant Signorino #10218 / Supervisor Summary #16-68521:

On August 18th 2016 Sergeant Signorino was assigned as the Minimum Compound and M8 Sergeant at the Elmwood Men's Facility located in Milpitas, CA. At approximately 0640 hours, Sergeant Signorino was in the Team Administrative Sergeant's Office with Sergeants Gill #10437, Flavetta #10283, and Mallett #10510 when he received a phone call from Deputy Groba #10527.

According to Sergeant Signorino, Deputy Groba said while escorting an inmate in M8, the inmate kicked him. Deputy Groba said he reacted to the assault and "*punched the inmate in the face.*" Sergeant Signorino asked Deputy Groba if he had been hurt due to the incident, and he said no.

Sergeant Gill notified Lt. Davis, and Sergeant Davis from the Jail Crimes Unit of the incident. Sergeants Flavetta, Mallett and Signorino went to the M8 building and met with Deputy Groba at the M8 West Officer's Station. Sergeant Signorino asked Deputy Groba again if he was injured, and he said no. Sergeant Signorino asked Deputy Groba to follow him to the Sergeant's Office in the M8 building for further investigation into the incident. While in the office, Deputy Groba told Sergeant Signorino that he had gone into the M8-H Dorm to get Inmate [redacted] for morning court. Deputy Groba said Inmate [redacted] had not come out of M8-H Dorm with the other inmates and he had the same issue the prior day.

According to Deputy Groba, he approached Inmate [redacted] bunk (#8, top tier), and told him "*I'm not your mother*" and to get up for court. Inmate [redacted] stood up quickly from his bunk and said. "*Okay you filthy Russian.*" Deputy Groba did not address the inmate's inappropriate behavior at the time to expedite getting him to court. Deputy Groba intended to address the issue upon his return from court.

Deputy Groba walked behind Inmate [redacted] down the stairs to the first floor. As they reached the bottom of the stairs, Deputy Groba moved to go around Inmate [redacted], passing by his left side. Deputy Groba felt Inmate [redacted] foot touch the top of his right outside calf area, and move down his leg to the side of his right foot. In Deputy Groba's opinion, he believed that Inmate [redacted] attempted to attack him. Deputy Groba responded to the physical contact, turned to his right, faced Inmate [redacted] who was very close to him, and reacted by using his closed fist to strike Inmate [redacted] on the right side of his face (upper cheek).

During the interview with Deputy Groba, Sergeant Signorino could tell that he was shaken up from the incident. He was having a difficult time articulating the facts of the incident. English is a second language to Deputy Groba, and it appeared that this, coupled with his current emotional state, was making it difficult for him to clarify the information about the incident.

Officer Grima #1526 arrived to the incident and took control of Inmate [redacted] and escorted him to an interview room in the M8 Core Area. Deputy Terry had been standing at the door to M8-G during the incident. Deputy Wu was standing in the M8 West Officer's Station checking off the inmates for court, as the inmates were standing in the M8 West Core Area. Deputy Groba had no further contact with Inmate [redacted] after he was removed from the incident. Inmate [redacted] was medically assessed by RN [redacted] and cleared of any injuries at the time. Inmate [redacted]

told RN ; he had slight pain on his right cheek, but there were no visible signs of the injury at the time of the assessment.

After receiving the information regarding the incident, Sergeant Signorino met with Sergeant Davis, who had just arrived. Sergeant Signorino relayed the information he received to Sergeant Davis, and he decided to interview Deputy Groba.

According to Sergeant Signorino, Deputy Groba explained the incident to Sergeant Davis, but continued to have a difficult time relaying the information. Deputy Groba also expressed concern he would be in trouble because he used his fist to strike an inmate. Deputy Groba believed at the time it was necessary to defend himself in such a way, but believed that the current views by the Santa Clara County Sheriff's Office Administration, in reviewing the use of force incidents, could result in disciplinary actions anyway. Sergeant Davis and Sergeant Signorino told him he just needed to be truthful regarding the incident.

At one point, Deputy Groba said he turned to face Inmate . after the assault, said, "*Did you just kick me?*" and struck Inmate . Deputy Groba added that Inmate started to respond when Deputy Groba struck him. From Deputy Groba's description, it was unclear how much time passed from when the inmate assaulted him, and when he struck Inmate

I could not determine if Deputy Groba had turned, said "*Did you just kick me?*", waited for a response from Inmate and then struck the inmate, or if Deputy Groba struck the inmate as soon as he turned to face Inmate Sergeant Davis and Sergeant Signorino tried to get clarification from Deputy Groba, but he was having difficulty explaining the timing for the chain of events. At that point Sergeant Signorino stopped asking Deputy Groba any further questions regarding the incident, since his actions could possibly result in disciplinary actions due to the use of force utilized during the incident.

Upon completion of the interview, Sergeant Davis told Sergeant Signorino that he needed to contact his chain of command regarding the incident. Sergeant Davis said it was likely that the Major Crimes Unit would need to further investigate into the incident based on Deputy Groba's interview. Sergeant Signorino told Sergeant Davis that he would have to meet with Lt. Davis and inform him of the incident.

After Sergeant Davis meet with Lt. Davis, Sergeant Signorino returned to the M8 building and saw several sergeants from the Detective Bureau had arrived to begin interviews with all the inmates housed in the M8-H Dorm. They also interviewed the deputies who were on scene during the incident. Sergeant Signorino contacted Lieutenant Davis and informed him of the situation.

Summary of Sergeant Davis #1728 CR#16-231-0311J:

On August 18th 2016, Sergeant Davis #1729 was working as a Jail Crimes Detective Sergeant assigned to the Elmwood Correctional Facility and the Main Jail. He took the initial investigation into the incident that occurred in the M8 building.

At 0644 hours, Sergeant Davis received a text message from Correctional Sergeant Gill #10437 stating, "Possible assault on Deputy Groba at M8." Sergeant Davis responded from the Main Jail and arrived at the Elmwood Correctional Facility at approximately 0700 hours. At that time, Sergeant Davis contacted Sergeant Gill in the Elmwood Administrative Sergeant's Office. Sergeant Gill advised him that Deputy Groba had been assaulted by Inmate [redacted]. Sergeant Gill provided him a CJIC packet with Inmate [redacted] booking information and Sergeant Davis responded to the M8 building.

Sergeant Davis arrived to the M8 building at approximately 0715 hours and contacted Deputy Groba and Correctional Sergeant Signorino #10218 in the M8 Sergeant's Office. Deputy Groba was seated in front of a computer typing. Sergeant Davis asked Deputy Groba about the incident and he told Sergeant Davis the following.

Statement of Deputy Groba # 10527:

Deputy Groba stated that Inmate [redacted] previously had problems waking up for court. On 08/17/2016, Deputy Groba had to wake Inmate [redacted] for court and today he had to wake Inmate [redacted] again. At approximately 0630 hours, Deputy Groba went to Inmate [redacted] bunk and woke him up. Upon waking up Inmate [redacted] Deputy Groba told Inmate [redacted] "I'm not your mother and I'm not here to wake you up. I woke you up yesterday." Deputy Groba stated that Inmate [redacted] replied "Fuck you, you Russian bitch."

Deputy Groba stated Inmate [redacted] jumped up, got out of bed and stood within one foot facing him directly in front of him. Deputy Groba said Inmate [redacted] did not appear to be confrontational with him and he did not feel threatened by Inmate [redacted].

Deputy Groba told Inmate [redacted] to go down the stairs in preparation for court. Deputy Groba stepped back and let Inmate [redacted] walk past him toward the stairs. Deputy Groba followed directly behind Inmate [redacted] as he walked down the stairs. Deputy Groba said Inmate [redacted] began mocking him saying, "Blah, blah, blah" as they walked down the stairs.

When they got to the bottom tier to exit the dorm, Inmate [redacted] stopped at a table that was in front of the entrance/exit door. Deputy Groba said Inmate [redacted] back was to him as he went around the left side of Inmate [redacted] to open the door. As Deputy Groba walked past Inmate [redacted] he felt "a brush" against his right shin and right foot. Deputy Groba said he turned toward Inmate [redacted] and stated "you just kicked me." Deputy Groba stated that Inmate [redacted] replied "what are you talking about?" and at that time Deputy Groba used his left balled fist to strike Inmate [redacted] in the face.

Deputy Groba said he is right handed and would normally use his right hand to strike. Deputy Groba said he used his left hand because it was a spontaneous reaction to realizing that Inmate [redacted] had touched him. Deputy Groba stated he did not use much force when he struck Inmate [redacted] because "what's going on around here, you know people are getting walked off. I realized I just hit this guy and he was not trying to kill me."

Sergeant Davis' Summary Continued CR #16-231-0311J:

Sergeant Davis attempted to clarify the initial physical contact between Deputy Groba and Inmate [redacted]. Sergeant Davis asked Deputy Groba if Inmate [redacted] kicked him, attempted to trip or leg sweep him. Deputy Groba stated he felt contact made with his leg; his leg was touched and or brushed by Inmate [redacted]. Sergeant Davis asked Deputy Groba if he was in any pain or discomfort and he stated "No, but I still kind of feel something on my leg." Sergeant Davis asked Deputy Groba to tell me what he was thinking before striking Inmate [redacted]. Deputy Groba said he realized "this guy just touched me. I did not hit him hard and in the middle of my swing, I thought maybe I should not hit this guy because people are being walked off." Sergeant Davis asked Deputy Groba if he ever felt threatened or feared for his safety. Deputy Groba said "No."

Inmate [redacted] had been handcuffed, removed from M8-H Dorm and placed in an interview room outside of the M8-H Dorm. Sergeant Davis contacted him there. Sergeant Davis introduced himself to Inmate Ellingsen and informed him of the purpose for the interview. As Sergeant Davis began to read Inmate [redacted] his Miranda Rights, he stated (although he was in disbelief) "Wait, hold it, I'm being arrested for something". He advised Inmate [redacted] that he was investigating the incident and at the moment he was considered to be a suspect. Sergeant Davis advised Inmate [redacted] that he would read him his Miranda Rights for his own protection. Inmate [redacted] agreed and let Sergeant Davis proceed.

Sergeant Davis read Inmate [redacted] his Miranda Rights from his department issued Miranda card. After each advisement, Inmate [redacted] stated "Yes" indicating he understood and he stated he wanted to talk to Sergeant Davis.

Statement of Inmate

Sergeant Davis proceeded with the initial interview with Inmate [redacted] regarding the incident. Inmate [redacted] said he arrived to M8-H Dorm on August 16th 2016. Inmate [redacted] stated that this morning he was woken by Deputy Groba. Inmate [redacted] did not know Deputy Groba's name and stated "the one that assaulted me." Deputy Groba said he has never had any previous interaction with Deputy Groba. Inmate [redacted] stated that Deputy Groba kicked his bunk and continued saying "get up you punk bitch." Inmate [redacted] got up and began walking down the stairs. As they walked down the stairs, Deputy Groba followed Inmate [redacted] while taunting him saying "it's every fucking day with you, you bitch." Inmate [redacted] said he argued with Deputy Groba because Deputy Groba "was not even calling me by my name." When they got to the bottom of the stairs, Inmate [redacted] asked Deputy Groba why he was talking to him in that manner. At that time, Deputy Groba walked past him, turned back toward Inmate [redacted] and struck him in the face. Inmate [redacted] stated, "He punched me. He gave me a left fucking hook down at the bottom of the stairs next to the door." Upon being struck in the face, Inmate [redacted] asked Deputy Groba "Did you really just punch me in the face? I want charges pressed."

Inmate [redacted] said he never kicked Deputy Groba and never made any physical contact with him. Inmate [redacted] said he never threatened Deputy Groba and did not do anything to make Deputy Groba believe he was a threat.

Sergeant Davis' Summary Continued CR #16-231-0311J:

Upon Sergeant Davis terminating the interview with Inmate [redacted] he contacted Lieutenant Rivera and informed him about the incident. Lieutenant Rivera advised Sergeant Davis that he would be sending out the Sheriff's Office Major Crimes Unit to assist in conducting the investigation.

At approximately 1030 hours, Detective Sergeant Cardenas #1683, Detective Sergeant Brown #1688, Detective Sergeant Singleton #1904 and Detective Sergeant Omori #1991 from the Major Crimes Unit arrived. Sergeant Davis provided them a briefing of the incident. Sergeant Singleton led the investigation. Sergeant Singleton advised Sergeant Davis that he and Sergeant Brown would conduct the staff interviews while Sergeant Cardenas, Sergeant Omori and Detective Vandegraaf would conduct the interviews of the inmates in M8H Dorm. Sergeant Singleton asked Sergeant Davis to handle the "logistics" in coordinating the interviews (refer to their reports for those interviews).

After the staff interviews and the interviews of the inmates housed in M8-H were completed, Sergeant Omori and Sergeant Davis conducted interviews of the inmates housed in the outer surrounding dorms. Sergeant Davis interviewed the inmates housed in M8-F Dorm. All inmates housed in M8-F Dorm stated they were not witnesses and were not aware of the incident that occurred in M8-H Dorm.

Summary of Sergeant Davis Supplemental of CR # 16-231-0311J Continued:

On December 7th 2016, Sergeant Davis was working as a Jail Crimes Detective Sergeant and assigned to the Main Jail and Elmwood Correctional Facilities. At approximately 0900 hours, Sergeant Davis received a phone call from Sergeant Singleton. Sergeant Singleton asked him to conduct interviews of Correctional Deputy Souza, Correctional Deputy Vidito, and Inmate [REDACTED]. They provided Sergeant Davis the following statements.

Statement of (W04) Correctional Deputy Kevin Souza #10116:

On August 18th 2016, Deputy Souza was assigned to the M8 Core Control Room. At the time of the incident, Deputy Souza, Deputy Vidito, and Officer Grima were the M8 Core Control Room. At some point, Officer Grima told Deputy Souza and Deputy Vidito that there was some sort of disturbance inside Module M8H. Officer Grima left and assisted inside Module M8-H. Deputy Souza stated he did not see the incident on the control panel.

Statement of (W05) Correctional Deputy Matthew Vidito #10529:

On August 18th 2016, Deputy Vidito was assigned to the M8 Core Control Room. Deputy Vidito, and Deputy Souza heard Officer Grima say, "I think there is a fight." Officer Grima left the control room towards the West-Side and entered the module. Deputy Vidito and Deputy Souza remained inside the M8 Core Control Room. Deputy Vidito did not view the incident on the control panel.

Statement of (W06) Inmate

Inmate [REDACTED] recalled the incident on August 18th 2016. Inmate [REDACTED] said Deputy Groba woke the inmates for morning court; "around 6:30 in the morning." Deputy Groba yelled upstairs to Inmate [REDACTED] and told him to come down stairs for court. Inmate [REDACTED] said he believed Deputy Groba became upset because Inmate [REDACTED] was not ready for morning court. Inmate [REDACTED] said Deputy Groba walked up the stairs to get Inmate [REDACTED]. Inmate [REDACTED] said he could hear Inmate [REDACTED] and Deputy Groba yelling and cursing at each other. Inmate [REDACTED] walked down the stairs while Deputy Groba followed behind. When Inmate [REDACTED] t

reached the exit door, Inmate [redacted] heard commotion and then heard Inmate [redacted] say, "He struck me."

Inmate [redacted] stated he did not see Deputy Groba strike Inmate [redacted]. Inmate [redacted] said he did not see an injury to Inmate [redacted] and he did not see Inmate [redacted] holding his face or head.

Investigation continued:

I reviewed the Crime Report #16-231-0311J that was originated by Sergeant Davis #1729 and then turned over to Sergeant Singleton #1904 of the Major Crime Unit to lead the investigation into the incident. The following badge staff assisted in the investigation into the incident;

- Sergeant Singleton #1904 – Original Report #16-231-0311J
- Deputy Varghese #2047 – Supplemental Report (Interviews)
- Sergeant Davis #1729 – Supplemental Report (Initial Investigation / Interviews)
- Sergeant Omori #1991 – Supplemental Report (Interviews)
- Sergeant Cardenas #1683 – Supplemental Report (Interviews)
- Sergeant Vandegraaf #1787 – Supplemental Report (Interviews)

The following are compilations of the written Criminal Reports # 16-231-0311J and are not verbatim translations or transcriptions of the reports. If a comprehensive transcription of the written reports is required, please review the case file.

Sergeant Singleton received statements on August 18th 2016, from the following individuals furthering his investigation into this incident.

Summary of Sergeant Singleton CR #16-231-0311J:

Interview of Correctional Deputy (W01) Jing Wu:

At approximately 1010 hours, Sergeant Brown and Sergeant Singleton interviewed Correctional Deputy Wu regarding his involvement with the incident at the Santa Clara County Jail, Elmwood Complex M-8, located at 701 S. Abel Street, Milpitas, California.

Deputy Wu stated during the morning he was working at Elmwood M-8 with Deputies Terry and Groba. Deputy Wu said an inmate named, [redacted] did not wake up to attend court after a notification had been made to all inmates who were scheduled for court that day.

Deputy Wu stated Deputy Groba had to enter the H-Pod in order to wake up Inmate [redacted] for court. Shortly thereafter, he saw Deputy Groba appear to trip or lose his balance as he walked

past Inmate [redacted] on the ground floor of the module (between the stairs and module door) as they were walking to exit the H-Pod. Deputy Groba said something to Inmate [redacted] before he saw Deputy Groba punch Inmate [redacted] in the face with his left hand. Deputy Wu could not hear what Deputy Groba told Inmate [redacted] before punching him.

Deputy Wu told Deputy Groba and Inmate [redacted] to stop, at which point they separated. Inmate [redacted] said he wanted to press charges against Deputy Groba for punching him. Deputy Wu stated Officer Grima entered the H-Pod and took control of Inmate [redacted] by giving him verbal commands and escorting him out of the module.

Interview of Correctional Deputy (W02) Phillip Terry:

At approximately 1057 hours, Sergeant Brown and Singleton interviewed Correctional Deputy Terry regarding his involvement with the incident at the Santa Clara County Jail, Elmwood Complex M-8, located at 701 S. Abel Street, Milpitas, California.

Deputy Terry confirmed he was working with Deputies Wu and Groba this morning at Elmwood M-8. Deputy Terry stated this morning Deputy Groba made an announcement into all of the pods for the inmates who had court to wake up. Deputy Terry saw Deputy Groba go to each pod and make the morning court announcement; however he could not hear what Deputy Groba said because noises are muffled when the pod doors are closed. Deputy Terry stated all of the inmates scheduled for court from Pods E, F, G, and H had exited their respective pods and they were standing in the core area awaiting further instructions from the deputies. The deputies discovered two inmates, Inmate [redacted] housed in the H-Pod and another unknown inmate housed in G-Pod were not present in the core area.

Deputy Terry went to the G-Pod to locate the missing inmate from that area while Deputy Groba went to H-Pod to locate Inmate [redacted]. Deputy Terry stated while he was chastising the inmate from the G-Pod for being late, he heard Inmate [redacted] yelling about pressing charges against Deputy Groba for punching him. Deputy Terry did not see the physical altercation between Deputy Groba and Inmate [redacted].

Deputy Terry stated shortly thereafter, Officer Grima arrived and took control of Inmate [redacted] who was escorted out of the area. Deputy Terry heard Inmate [redacted] call Deputy Groba a "Bitch", a "Punk ass pussy" and "Russian ME'." Inmate [redacted] was escorted out of the module without further incident.

Interview of Correctional Officer (W03) James Grima:

At approximately 1137 hours, Sergeant Brown and Singleton interviewed Correctional Officer Grima regarding his involvement with the incident at the Santa Clara County Jail, Elmwood Complex M-8, located at 701 S. Abel Street, Milpitas, California.

Officer Grima stated he was inside the M-8 Control Station when he saw an incident on the video monitor that caught his attention. Officer Grima saw Deputy Groba standing outside the H-Pod and Inmate [redacted] was standing just inside the H-Pod area. Officer Grima stated, based on his experience, it did not look like Deputy Groba and Inmate [redacted] were having a "normal conversation." Officer Grima exited the control station and walked quickly to the H-Pod area to assist. Officer Grima was halfway down the hallway when he heard Inmate [redacted] say that Deputy Groba hit him. Officer Grima stated he heard Deputy Groba say that Inmate [redacted] kicked him. Officer Grima stated he instructed Inmate [redacted] to obey his commands and walk out of the module; Inmate [redacted] complied and was escorted to another cell out of the area. Officer Grima did not know if Deputy Groba or Inmate [redacted] were injured during the incident.

Interview of Correctional Deputy (S01) Leonel Groba:

At approximately 1210 hours, Sergeant Brown and Singleton interviewed Correctional Deputy Groba regarding his involvement with the incident at the Santa Clara County Jail, Elmwood Complex M-8, located at 701 S. Abel Street, Milpitas, California.

Deputy Groba stated that in the morning around 0615 hours, he made an announcement for all inmates who had court to wake up in preparation for catching the transport bus to court. He announced Inmate [redacted] name three times before he heard him acknowledge his name being called. Deputy Groba stated Inmate [redacted] was late for court the prior day.

Inmate [redacted] never exited the module to attend court. Deputy Groba had to physically enter the H-Pod in order to wake Inmate [redacted] up for court. Deputy Groba stated he went upstairs to bunk #8 to wake up Inmate [redacted]. He went by himself to wake up Inmate [redacted], something that was not unusual or against policy/procedure. He arrived at bunk #8 and saw Inmate [redacted] still sleeping. Deputy Groba told Inmate [redacted] he was not his mother and that he needed to wake up to attend court. Deputy Groba stated Inmate [redacted] woke up about six seconds later and said something about him being a "Filthy Russian" as he walked past him. Deputy Groba said there was no indication at that time that Inmate [redacted] was going to be physically assaultive towards him.

Deputy Groba stated Inmate [redacted] appeared to be unhappy based on his purposely slow walk as he walked downstairs toward the exit of the H-Pod. He told Inmate [redacted] to hurry up (because he was late to catch the transportation bus to court), to which Inmate [redacted] replied, "Blah, blah, blah" (unspecified). Deputy Groba walked about a step behind Inmate [redacted] the whole way until they got close to the exit door of the H-Pod. Deputy Groba stated that Inmate [redacted] had not made any verbal or physical threats towards him up to that point. As Deputy Groba passed by the left side of Inmate [redacted] in order to open the door to exit the pod Deputy Groba felt something on his lower right leg and foot like Inmate [redacted] either kicked or scraped his leg with his foot (Inmate [redacted] was wearing jail issued sandals). Deputy Groba said the feeling was not painful, but he felt the pressure of, what felt like, something scraping his leg. He believed it was Inmate [redacted] that scraped his leg because there was nothing else close by that could have touched his leg.

Deputy Groba felt surprised, angered, and enraged, that Inmate [redacted] would scrape his leg. He immediately turned to face Inmate [redacted] while simultaneously asking him, "Did you just kick me?" Inmate [redacted] was facing him, about 1 ¼ feet away, had his hands down by his side, and had a serious and/or mad look on his face with his eyebrows squinted close to his eyes. Deputy Groba simultaneously reacted by striking Inmate [redacted] one time on the right side of his face/cheek with a closed left fist. He felt it was a bona fide reaction from Inmate [redacted] touching his leg, but looking back on it now, he felt he overreacted. Deputy Groba stated he felt Inmate [redacted] was a threat to him at that time because he did not know what his intentions were.

Deputy Groba stated Officer Grima arrived and took control of the situation by escorting Inmate [redacted] out of the module. Deputy Groba called the sergeant's office and notified Sergeant Gill of the situation. He also contacted the on-site nurses to respond and medically evaluate Inmate [redacted]

Deputy Groba remembered Inmate [redacted] was previously incarcerated in E-Pod; however he never had any problems with him until today.

According to Deputy Groba, he felt pressure in his leg immediately after the incident, which lasted for another 10-15 minutes, and has since dissipated.

Interview of Inmate (V01)

At approximately 1326 hours, Sergeant Brown and Singleton interviewed Inmate [redacted] regarding his involvement with the incident at the Santa Clara County Jail, Elmwood Complex M-8, located at 701 S. Abel Street, Milpitas, California.

Inmate . remembered an officer calling his name for court in the morning; however he ended up falling back sleep. He awoke to an officer (Deputy Groba) kicking his bed and telling him to wake up for court. Inmate was confused because Deputy Groba was calling him by a different name. Inmate stated Deputy Groba called him a “Bitch” and a “Punk bitch.”

Inmate stated as he was walking downstairs, Deputy Groba continued to call him a “Punk bitch.” Inmate said calling someone that name in a custodial setting is disrespectful and could cause the other inmates to view him as weak (vulnerable to attack, harass, threaten, etc.). He continued to tell Deputy Groba he was not a “Punk bitch” as they walked toward the H-Pod exit door.

Once they got to the first floor, Deputy Groba passed by him (unknown side) in order to open the pod door. Inmate stated he was suddenly punched in the right side of his face by Deputy Groba who used a closed left fist to punch him. According to Inmate he never tried to trip or scrape Deputy Groba prior to being punched. There was no physical touch, not even incidental contact, between him and Deputy Groba prior to being punched in the face. Inmate did not remember Deputy Groba asked him if he kicked/scraped his leg prior to punching him in the face.

Inmate started walking towards the exit door of the pod when another officer (Officer Grima) arrived and gave him commands. Inmate stated he followed Officer Grima’s commands and was escorted out of the pod to a holding cell out of the area.

Inmate was checked by a nurse after the incident. His pain level at the time of the interview was about a 3 out of 10.

Inmate has seen Deputy Groba while previously incarcerated, but never had a problem with him. He could not think of any reason why correctional staff would want to retaliate against him and that he never had any other correctional officer use inappropriate force against him.

Inmate never saw the punch coming nor did he have time to react to it. He was surprised to be punched by a correctional officer and wanted to press charges.

Summary of Sergeant Singleton Supplemental of CR # 16-231-0311J Continued:

On December 9th 2016, Sergeant Singleton attempted to interview potential witnesses who were out of custody. Sergeant Singleton used CJIC records and commercial/law enforcement databases to locate phone numbers of the below subjects and attempt an interview for this investigation:

were called but no contact was made for an interview.

Interview of (W14) Inmate

On December 9th 2016 at approximately 1200 hours, Sergeant Singleton called Inmate [redacted] at telephone number [redacted] to interview him regarding this investigation.

According to Inmate [redacted] he was walking out of G-Dorm at the time of the incident. He saw a couple of deputies (Unknown) speaking with Inmate [redacted] inside H-Dorm. Inmate [redacted] saw a verbal altercation between the deputies and Inmate [redacted], then one of the deputies punched Inmate [redacted]. Thereafter, four to five unidentified deputies rushed into H-Dorm and tackled Inmate [redacted] to the ground and used excessive force by “twisting him up.” Inmate [redacted] said he didn’t see anything else because he minded his own business.

Interview of (W15) Inmate

On December 9th 2016 at approximately 1440 hours, Inmate [redacted] returned Sergeant Singleton’s call from telephone number [redacted]. Inmate [redacted] stated he did not remember anything about the incident that occurred on August 18th 2016 while housed in the M8 building.

Summary of Sergeant Singleton Supplemental of CR # 16-231-0311J Continued:

On December 7th 2016, Sergeant Singleton called [redacted], the FAF Work Center Manager at the Elmwood Jail Complex. He confirmed the cameras within the M8 building do not record and was for viewing only.

Summary of Detective Varghese Supplemental of CR # 16-231-0311J:

On December 12th 2016, Deputy Varghese #2047 was working as a detective assigned to the Jail Crimes Unit in the Investigations Division of the Sheriff’s Office He was tasked with interviewing inmates who were housed in the M-8 building that were scheduled for court on August 18th 2016.

At approximately 2300 hours, Deputy Varghese started interviewing the inmates who were still housed in the M-8 building. The six inmates Deputy Varghese interviewed were staged in a holding cell in the core area of the M-8 building. Each inmate was questioned individually and away from the presence of one another.

The inmates were interviewed in the following chronological order. None of these inmates Deputy Varghese interviewed in the M-8 building witnessed or recalled an altercation involving Deputy Groba or Inmate

Interview of (W13) Inmate

At approximately 2330 hours, Deputy Varghese interviewed Inmate [REDACTED] in an interview room located inside the Information Center building. Inmate [REDACTED] recalled being housed in the M-8 building and having court on August 18th 2016, but did not witness or recall anything when he left his dorm for court.

Interview of (W14) Inmate

At approximately 2341 hours, Deputy Varghese interviewed Inmate [REDACTED] in an interview room located inside the M-5 building. Inmate [REDACTED] remembered being housed in M-8 (E-Dorm) and having court on August 18th 2016. He didn't see anything but heard about an inmate housed in H-Dorm that accidentally "bumped" into a deputy and the deputy hit him. Inmate [REDACTED] reiterated the fact that he didn't actually see the incident but only heard about it from the other inmates housed inside his dorm when he returned from court.

Summary of Sergeant Omori Supplemental of CR # 16-231-0311J:

On August 18th 2016, Sergeant Omori responded with several other Sheriff's Office Detectives to the Santa Clara County Jail – Elmwood Facility, which is located at 701 S. Abel Street in Milpitas, California. Sergeant Omori was assigned to interview and identify possible witnesses within the housing unit to this incident. The following are the interviews conducted.

Statement of (W56) Inmate

Inmate [REDACTED] was housed in M8-H Module and was inside the housing unit earlier that morning. Inmate [REDACTED] didn't remember the names of the Correctional Deputies assigned to his module aside from Deputy Wu, but knew that all three Correctional deputies present that

morning were assigned to that module. Inmate [redacted] knew an incident occurred between an inmate and Correctional Deputy earlier that morning. The incident happened approximately 6:10 am on the bottom tier of the module. Inmate [redacted] was leaning against the railing on the top tier when the incident happened. When asked to explain what happened, Inmate [redacted] stated that the incident actually started earlier in the morning.

Inmate [redacted] was woken up by a Correctional Deputy cursing at an inmate (only known to him as [redacted] and kicking his bed because he wasn't waking up for court. The Correctional Deputy called the inmate a "cocksucker" and "piece of shit," which Inmate [redacted] thought was disrespectful. (Inmate [redacted] indicated the type of language the Correctional Deputy engaged in was typically only heard during conflict between inmates and not from the correctional staff.) The inmate eventually got up from his bed and told the Correctional Deputy to watch what he was saying because he was talking "crazy."

The inmate then walked down the stairs to the bottom of the tier. The Correctional Deputy continued cursing at the inmate and followed him down the stairs right on his heels. The inmate slowed down as he got to the bottom floor and the Correctional deputy bumped into him. The Correctional Deputy confronted the inmate and asked, "Why did you push me?" Inmate [redacted] did not see the inmate push the Correctional Deputy. The Correctional Deputy then maneuvered to where he was face to face with the inmate and then punched him on the right side of his face with his left fist. The inmate grabbed his face and told the Correctional Deputy, "You just punched me in the face. I want to press charges." The inmate was then removed from the housing unit by other Correctional Deputies.

Inmate [redacted] described the involved inmate as a Caucasian male with red hair and freckles. Inmate [redacted] knew the inmate was assigned the second bed in from the main walkway in Pod 1 (top tier). Inmate [redacted] thought the Correctional Deputy's name was something like "Garbroza." He stated that the Correctional Deputy is typically "pretty cool" with the inmates and has never seen him do something like this before.

Statement of (W57) Inmate

Inmate [redacted] was housed in M8-H and was inside the housing unit on the morning of August 18th 2016. Inmate [redacted] knew an incident occurred that morning before morning court, which is at approximately 6:30am. Inmate [redacted] was assigned to the top bed of the double bunk in Pod 1 (top tier). The inmate in question was also assigned to Pod 1. Inmate [redacted] described the inmate as a Caucasian male with red hair and has a tattoo on his neck.

Inmate [redacted] attention was drawn to the incident because the Correctional Deputy was cursing and calling the inmate a "cocksucker" as well as kicking the inmate's bed. He described

the involved Correctional Deputy as a clean-shaven Latino male approximately 40-50 years old and was wearing a Correctional Deputy uniform.

According to Inmate _____, this is not was the normal interaction between a Correctional Deputy and an inmate. The inmate eventually got up and started walking down the stairs. Inmate _____ saw the Correctional Deputy push the inmate down the stairs as he walked causing the inmate to grab the railing so he wouldn't fall down. Once on the bottom tier, the Correctional Deputy "walked through" the inmate and caused him to trip. The Correctional Deputy punched the inmate on the left side of his face with his right fist. The involved Correctional Deputy told other Correctional Deputies that the inmate pushed him to justify his actions. The inmate placed his hands behind his back, but didn't know what happened to the inmate following the altercation.

Statement of (W58) Inmate

Inmate _____ was housed in the M8-H Module and assigned the third bed back from the main walkway in Pod 3 (top tier). He heard rumors of the incident which occurred but did not see anything. He was asleep when the incident happened.

Statement of (W59) Inmate

Inmate _____ stated he wish to exercise his "5th Amendment Rights" and declined to give a statement.

Statement of (W60) Inmate

Inmate _____ : was housed in M8-H Module and assigned to the top bed of the double bunk in Pod 6 on the bottom tier. Inmate _____ : did have court in the morning and that court call is typically around 6-6:30 am. Inmate _____ : was unaware of any altercation in the housing unit because he was sleeping. He usually sleeps from 11:00 pm to about 8:00 am.

Statement of (W61) Inmate

Inmate _____ was housed in M8-H and assigned to the 2nd bed back from the main walkway in Pod 2 (Top Tier). Inmate _____ was asleep when he was awakened by a "little commotion" between the deputy and an inmate during court call at approximately 6:00 am. Inmate _____ described the involved deputy as a "Caucasian" male with black hair. He recognized the deputy from working in the module the past several days. Inmate _____ did not remember the name of the inmate, but knew he was assigned a bed in Pod 1 on the top tier. He described the inmate as a "Caucasian or Hispanic" male with red hair. Inmate _____ described the "commotion" as arguing

between the deputy and inmate. By the time Inmate [redacted] got up from his bed, the inmate was on the bottom tier and requesting to press charges. He did not know why the inmate was requesting to press charges. Inmate [redacted] never witnessed any altercation between the deputy and the inmate.

Statement of (W62) Inmate

Inmate [redacted] was housed in M8-H module and assigned to the top bed of the bunk furthest back from the main walkway in Pod 6 (bottom tier). Inmate [redacted] did have court that morning and advised court call is typically around 6-6:30 am. He was unaware of any altercation in the housing unit because he was sleeping.

Statement of (W63) Inmate

Inmate [redacted] was housed in M8-H and assigned to the first bed in from the walkway in Pod 1 (top tier). He did have court that morning and advised the court call is typically around 6:00 am. Inmate [redacted] was asleep and was awakened by a deputy cursing and kicking the bed of his neighbor. The deputy told the inmate, "Get out of bed you stupid mother fucker." The inmate immediately replied, "Watch your mouth." Inmate [redacted] did not know the name of the deputy, but described him as a tall clean-shaven Hispanic male. Inmate [redacted] did not know the name of the inmate but knew he had only been in the housing unit for about 2 days. Inmate [redacted] described the inmate as a "white boy" with red hair. Inmate [redacted] never got up out of his bed and didn't hear anything once the deputy and inmate arrived at the bottom tier.

Statement of (W64) Inmate

Inmate [redacted] did not speak English, so Sergeant Omori used Lt. Rivera to assist with the Spanish to English translation.

Inmate [redacted] was housed in M8-H and assigned to the second bed in from the main walkway in Pod 4 (Top Tier). Inmate [redacted] did not have court that morning and explained court call was at about 5:50 am. Inmate [redacted] heard someone say "Not to touch my face," but did not see anything else. He did not know what happened, but saw a deputy escort an inmate from the top tier. He did not know the involved inmate's name, but knew he was assigned the third bed in Pod 1.

Statement of (W65) Inmate

Inmate [redacted] was housed in M8-H and assigned to the second bed in from the main walkway on the left side of Pod 5(bottom tier). Inmate [redacted] woke up to a deputy and an inmate arguing

loudly as they came down the stairs from the top tier. He didn't hear exactly what was said, but described the situation as raised voices. Inmate [REDACTED] did not know the deputy, but was told by other inmates that his name was something similar to "Gruba." The involved inmate was known to Inmate [REDACTED] as "red" and described him as a white guy with red hair.

At the bottom of the stairs, Inmate [REDACTED] watched the deputy step around the inmate and then punched him in the face with a left fist. The inmate replied, "Did you just punch me?" The inmate was immediately escorted out of the module. Inmate [REDACTED] had never observed any altercation between the involved deputy and inmate prior to this incident. He has never seen the involved deputy touch any inmate inappropriately before this incident.

Statement of (W66) Inmate

Inmate [REDACTED] was housed in the M8-H Module and assigned to the bed furthest from the main walkway in Pod 5 (bottom tier). Inmate [REDACTED] did not have court that morning, but said the morning court call is typically right around 6:00 am. Inmate [REDACTED] was sleeping that morning and did not see any altercation, arguments or physical confrontation between a Correctional Deputy and an inmate.

Statement of (W67) Inmate

Inmate [REDACTED] housed in M8-H and assigned to the top bunk on the second bed from the back in Pod 6 (bottom tier). He did not have court that morning and said morning court call is typically between 6-6:15 am. Inmate [REDACTED] did not observe any altercations, but overheard an inmate say something to the effect of "The C.O said that I pushed him and he punched me. I want to press charges." Inmate [REDACTED] did not know the name of the involved deputy, but described him as being of Middle Eastern decent. He didn't know the name of the involved inmate, but described him as a red-headed guy that was assigned to the top tier. He had not seen any altercation between the deputy and the inmate before. Inmate [REDACTED] did not sit up from his bed when the altercation happened. He did not see the inmate touch the deputy or vice versa. Inmate [REDACTED] did not think there was any urgency in the inmate's voice as what would be expected if the deputy punched him as hard as he could. Inmate [REDACTED] had prior contact with the involved deputy and described him as being friendly around us.

Statement of (W68) Inmate

Inmate [REDACTED] was housed in the M8-H Module and assigned to the top bunk on the third bed in the middle of Pod 5 (bottom tier). Inmate [REDACTED] did not have court this morning, but typically the morning court call is around 6:00 am. He was asleep during the court call that morning and did not see or hear anything unusual. Inmate [REDACTED] did not wake up till approximately 8:00 am.

Summary of Sergeant Cardenas Supplemental of CR # 16-231-0311J:

On August 18th 2016, Sergeant Cardenas was assigned as a detective in the Sheriff's Office Investigation Division, Major Crimes Unit. At approximately 0930 hours, Sergeant Cardenas responded to the Elmwood Correctional Facility to assist Sergeant Singleton with this investigation. Sergeant Cardenas assisted by interviewing several inmates who were housed in the M8 building on August 18th 2016. All interviews were conducted in an interview room which was out of view from other inmates and away from Correctional staff.

Statement of (W61) of Inmate

Inmate [redacted] was housed in M8 for approximately three days, including August 18th 2016. He said there was nothing unusual about the morning of August 18th 2016. The only difference was that another inmate woke him up to go to a narcotics rehabilitation class. This was the first day he was scheduled to attend the class, however, the class was canceled due to an issue with the instructor.

Inmate [redacted] did not know Inmate [redacted] or Correctional Deputy Groba. He did not know anything about a physical altercation between an inmate and staff.

Statement of (W62) Inmate

Inmate [redacted] was housed in M8 for approximately two weeks. Sergeant Cardenas asked him if he knew anything about the incident that occurred earlier in the morning. He replied, "No I was asleep. I heard something but I didn't pay attention." [redacted] said he only remembers hearing yelling but didn't know what was being said. He tries to mind his own business. [redacted] didn't know Inmate [redacted] or Correctional Deputy Groba.

Statement of (W63) Inmate

Inmate [redacted] did not want to talk to Sergeant Cardenas regarding the incident and asked to be taken back to his cell.

Statement of (W64) Inmate

Inmate [redacted] had been assigned to M8 for approximately one month. He woke up to go to his narcotics rehabilitation class but, the class was canceled before he left M8. Sergeant Cardenas asked Inmate [redacted] to tell him what he knew about the incident with staff that morning. Inmate [redacted] laughed and said, "I didn't know there was, sir."

Sergeant Cardenas asked if he knew Inmate [redacted] and he said, "I never heard of that last name." Sergeant Cardenas asked him if he knew Correctional Deputy Groba but he did not. Inmate [redacted] believed the correctional staff at M8 was fair and he had no concerns about their conduct towards the inmates.

Statement of (65) Inmate

Inmate [redacted] was housed in M8 since April 2016. He heard a commotion and yelling in which caused him to get out of bed. The first thing Inmate [redacted] saw when he looked towards the commotion was Deputy Groba and Inmate [redacted] standing near the bottom of the stairs in M8. He heard Deputy Groba tell Inmate [redacted] not to push him. Inmate [redacted] yelled that he had been hit and wanted to press charges. Inmate [redacted] did not see any of the physical altercation. He was not familiar with Inmate [redacted], but only saw him on two occasions. Inmate [redacted] said he was familiar with Deputy Groba though. Inmate [redacted] stated, "He cool, I get along with him. He's not like one of these other officers that takes things to another level." Inmate [redacted] said he's never seen Deputy Groba have any altercation with any other inmate.

Statement of (W66) Inmate

Inmate [redacted] has been house in M8-H since July 20th 2016 and was assigned to bunk #8, which is a top bunk in Pod 1. Inmate [redacted] said he knows the inmate involved as [redacted] (Inmate [redacted]) since they have served time together previously. He was woken by the sound of a deputy giving orders to [redacted] to get out of bed. He looked to see what was going on and saw Deputy Groba kick [redacted] bed and say, "Get out of bed, you piece of shit; it's time to go to court." Deputy Groba told [redacted] that it was the second time he had overslept for a court appearance. [redacted] got out of bed and began getting ready to leave to court. As he was doing so, he told Deputy Groba, "You need to be careful how you talk to me." [redacted] and Deputy Groba began walking down the stairs from [redacted] bunk area. Deputy Groba was walking behind [redacted] and was talking to him [redacted] like he was a "bum". Deputy Groba said, "Shut up you cocksucker, you red-headed fucker' or words to this effect." It was Inmate [redacted] opinion, that Deputy Groba was antagonizing [redacted] He said [redacted] stopped walking and Deputy Groba bumped into him. [redacted] said something similar to, "Hey, man" before Deputy Groba walked to a position in front of [redacted]

Inmate [redacted] said, "From what I seen, he took a punch with his right hand and hit him [redacted] on the left side of his cheek." [redacted] said, "Man, you just hit me." Deputy Groba responded, "You pushed me." Other deputies came into the dorm and ordered [redacted] to put his hands behind his back. [redacted] complied while telling them he wanted to press charges against Deputy Groba. Inmate [redacted] did not see [redacted] push Deputy Groba, but speculated that it may have happened. He did see Deputy Groba punch [redacted] in the face.

Inmate [redacted] said he felt uncomfortable relaying what he saw to investigators. He said it was against “the code” of being an inmate, since it’s more customary for inmates to mind their own business. Inmate [redacted] felt this situation was different since he saw the deputy punch an inmate. He said [redacted] had only been back in custody for a few days. Inmate [redacted] believed [redacted] was probably “coming down” from using narcotics while he was out of custody, which is why he was oversleeping and not responding as quickly as staff wanted him to respond.

Inmate [redacted] was not sure if the deputies attempted to wake up [redacted] prior to the altercation, but assumed they tried to wake him up. He said, “That’s typically how it works; they give you a heads up.” Inmate [redacted] had been housed with [redacted] on two separate occasions and indicated he has a nickname known as [redacted] because of his red hair. Inmate [redacted] has not seen [redacted] have any altercations with anyone. He described the deputies as, “It’s pretty chill; I like the deputies here. I respect them, they respect us.” Inmate [redacted] was not too familiar with Deputy Groba but said, “He seemed cool. Maybe he woke up on the wrong side of bed.”

Statement of (W67) Inmate

When Sergeant Cardenas started the interview with Inmate [redacted], he immediately said, “I was asleep.” Inmate [redacted] explained that he had been sleeping and was awakened by a Correctional Deputy to come speak with me. Inmate [redacted] did not see or hear anything on the morning of August 18th 2016.

Statement of (W68) Inmate

[redacted] was housed in M8-H and his bunk was on the lower tier. He said he didn’t know anything about the incident since he was asleep at the time. Inmate [redacted] didn’t know the involved inmate at all. He was familiar with Correctional Deputy Groba and his interactions with him were always respectful. Inmate [redacted] didn’t have any other information to share.

Statement of (W69) Inmate

Inmate [redacted] was housed in M8-H for over two months prior to the incident. His assigned bunk was in pod 1, bunk 3. [redacted] said the guy’s [redacted] my neighbor. He didn’t know the inmate’s name but described him as a white guy with red hair. The cop called him out to go to court from the door and he didn’t get up. So about five minutes later he (Deputy Groba) came back in, the same cop, comes up stairs and kicks his bed and said, “Get up you red-head piece of shit. You fucking bitch, get the fuck up.” [redacted] said inmate [redacted] replied, “Don’t talk to me like that.” Eventually, [redacted] stood up and walked down the stairs to the lower tier with Deputy Groba walking behind him.

told investigators, "I've never seen him react like that. He's been cool. I've never seen him angry" (Referring to Deputy Groba). had never seen inmate have any discipline problems in his short stay in M8.

Statement of (W70) Inmate

was in custody and housed in M8-H for one and a half weeks prior to the incident in question. sleeps with ear plugs in but was awoken by a commotion. By the time he took the earplug out, Inmate heard; "You fucking piece of shit or something like that" (Coming from the bottom tier). He didn't get up because he wasn't that interested in seeing what was going on. Inmate eventually did get out of bed and looked toward the swearing. Inmate saw Inmate say to Deputy Groba, "you just hit me" and clarified that he did not see Deputy Groba punch Inmate or Inmate push Deputy Groba.

Statement of (W71) Inmate

When Sergeant Cardenas interviewed Inmate ; and told him the interview was voluntary, Inmate immediately responded, "Uh, ya, I was asleep so I don't know." Inmate confirmed again that he didn't know anything that occurred on in M8 on August 18th 2016.

Statement of (W72) Inmate

Inmate was housed in M8H for three weeks prior to the incident. His assigned bunk was on the lower tier and he had an obstructed view of the lower portion of the stairs as well as the common area of the lower module. Inmate said he was already awake due to a toothache. One of the deputies kept coming back into M8H because two inmates would not wake up for court. Inmate remembered the deputy calling out to inmate , who then woke up and left the bunk area for court. A few minutes later, the deputy returned into M8H and called out for the second inmate but did not get a response. The deputy walked up to the top tier and continued calling out to the inmate. Inmate didn't recall exactly what the deputy said.

Inmate saw the deputy walking down the stairs with the inmate behind him. They were not talking as they walked down the stairs. When they reached the lower floor, Inmate said, "The C.O just turns around and clocks him in the jaw." The inmate asked why he was punched and the deputy replied, "You pushed me." The inmate then said he wanted to press charges as he called out to other inmates.

Inmate [redacted] estimated the inmate was walking approximately three feet behind the deputy as they walked down the stairs. They maintained this distance between each other as they walked onto the floor of the lower tier. Inmate [redacted] said, "The C.O. just turned around." Inmate [redacted] also said the deputy always walked in front of the inmates.

Inmate [redacted] said the inmate's hands were behind his back as he walked down the stairs and onto the floor of the lower tier. Once the deputy punched him, the inmate immediately put his hands above his head as he asked, "What's that for?" Inmate [redacted] saw the deputy use his right fist to punch the inmate. Sergeant Cardenas asked Davidson if he saw the inmate do anything that he believed would be perceived as a threatening gesture. Inmate [redacted] replied, "Probably, it took a couple times for him to wake up. And the C.O, he looks like the kind of guy, well I would never expect that from him. Uh, it probably could've been a misunderstanding or something." Inmate [redacted] didn't see the inmate challenge the deputy.

Inmate [redacted] did not have much interaction with the inmate [redacted]. He said the inmate had been spending most of his time sleeping. Inmate [redacted] said this of Groba, "He's pretty funny; nice guy." He's never seen Deputy Groba have an altercation with any other inmate.

Statement of (W73) Inmate

[redacted] had been housed in M-8 for approximately ten months. I asked [redacted] to tell me about the incident that occurred in M-8. He replied, "I can't, I was asleep." [redacted] said he woke up to the sounds of a "scuffle, a bunch of noise." He didn't pay attention to the sounds because the dorm is typically very noisy.

I asked [redacted] if he knew inmate [redacted] and had ever seen him have any problems with correctional staff. He said there were never any incidents and he described [redacted] as "a very mild person." [redacted] described Correctional Deputy Groba by saying, "He's arrogant. He's a pushy, 'shovey' kind of guy." He elaborated by saying Groba was not patient with some of the inmates and their needs.

Statement of (W74)

Sergeant Cardenas was conducting an introduction to Inmate [redacted] regarding the investigation. Inmate [redacted] interrupted Sergeant Cardenas and said, "Ya, I saw it. Basically the dude wasn't getting up for court for like the second day in a row." Sergeant Cardenas asked him who he was referring to and he said, "The dude with the red hair, the guy that got punched."

According to Inmate [redacted], Deputy Groba walked up the stairs to inmate [redacted] bed and said, "Get up you punk piece of shit." Inmate [redacted] then saw Inmate [redacted] walking down

the stairs with Deputy Groba walking closely behind him. Deputy Groba was still swearing at Inmate [redacted] as he walked approximately one foot behind him. Inmate [redacted] couldn't remember exactly what Deputy Groba had said but he did remember him calling Inmate [redacted] a "bitch."

Inmate [redacted] said he watched as Deputy Groba and Inmate [redacted] walked down the stairs to the lower tier. He heard [redacted] say, "You should watch what you're saying." Inmate [redacted] said Deputy Groba was "berating him" as they walked. As they reached the bottom of the stairs, Deputy Groba used his shoulder to bump into Inmate [redacted] as he walked past him. Deputy Groba then responded, "Don't push me" and then punched Inmate [redacted] on the right side of his face. Inmate [redacted] then yelled that he wanted to press charges.

Sergeant Cardenas asked Inmate [redacted] what he knew about both Inmate [redacted] and Deputy Groba. Inmate [redacted] said he didn't know anything about Inmate [redacted] and that he had been sleeping most of the time. Inmate [redacted] said (Referring to Groba), "He's pretty cool. He's never, I mean, I don't know? I think he just had it with that dude. I think the reason he was mad was cuz some other guy wasn't waking up either. And then the dude ended up punching, it was like his second day in a row not getting up for court. So, honestly it was pretty annoying. I kinda wanted to punch him too."

Statement of (W75)

Inmate [redacted] was housed in M8H for approximately one month. When asked about the incident that occurred in M8H, he replied, "I was asleep." Inmate [redacted] nothing else to provide.

Statement of (W76)

Inmate [redacted] was housed in M8 since May 2016. According to Inmate [redacted], Deputy Groba entered the dorm and called for the individuals who had court. Deputy Groba called each individual by name. Deputy Groba then returned a few minutes later and called to Inmate [redacted]. Deputy Groba walked up the stairs and kicked Inmate Ellingsen's bed two or three times. Deputy Groba called Inmate [redacted] "a bitch" before Inmate Ellingsen told Deputy Groba, "You need to watch what you're saying." Inmate [redacted] also remembers Deputy Groba calling Inmate [redacted] "a cocksucker."

Inmate [redacted] watched as Inmate [redacted] walked down the stairs to the lower tier with Deputy Groba walking behind him. Inmate [redacted] said there was not a lot of distance between inmate [redacted] and Deputy Groba as they walked down the stairs. The two continued to talk as they walked down the stairs but Inmate [redacted] couldn't hear what was being said. As he exited the stairs and stood on the floor of the lower tier, Deputy Groba walked around Inmate [redacted] and

stood face to face with him. Deputy Groba then used his left fist to punch Inmate [REDACTED] on the chin. Inmate [REDACTED] did not fall down, but it looked like he was in shock. Inmate [REDACTED] yelled out, "He hit me; I wanna press charges."

Inmate [REDACTED] believed that Inmate [REDACTED] did not pose a threat to Deputy Groba. It is also his opinion that Deputy Groba deliberately walked in front of Inmate [REDACTED] once they got to the bottom of the stairs. Inmate [REDACTED] did not see any physical contact between the two, other than Deputy Groba punching Inmate [REDACTED] in the face.

Inmate [REDACTED] had not seen Inmate [REDACTED] have any conflicts with the badge staff. When asked about Deputy Groba's behavior, he said, "I've never seen him act like that."

Statement of (W77)

Inmate [REDACTED] was housed in M8H for approximately two months prior to the incident. His assigned bunk is upstairs in pod 1, and two bunks away from Inmate [REDACTED] bunk. According to Inmate [REDACTED], he was awakened by yelling. He got out of bed to see what was going on. Inmate [REDACTED] did not want to wake up for court so Deputy Groba walked up to his bunk and kicked his bed. Deputy Groba said, "Get up you lazy mother fucker." Inmate [REDACTED] told Deputy Groba to calm down but Deputy Groba responded by calling him a "cocksucker." Inmate [REDACTED] and Deputy Groba walked down the stairs to the lower tier. Inmate [REDACTED] estimated that Deputy Groba was walking approximately three feet behind Inmate [REDACTED]. When they walked onto the floor of the lower tier, Deputy Groba "crossed him up, hit him with a left hook." Inmate [REDACTED] yelled out, "He punched me" and Deputy Groba replied, "He pushed me."

Inmate [REDACTED] clarified the actions of Deputy Groba and Inmate [REDACTED] while they walked down the stairs. While Deputy Groba was walking behind Inmate [REDACTED] on the stairs, there were some words exchanged. Deputy Groba called Inmate [REDACTED] "a lazy fuck." Inmate [REDACTED] replied, "Fuck you, what the fuck, I'm up already." Inmate [REDACTED] later said he actually didn't see Deputy Groba punch Inmate [REDACTED] and he only heard what sounded like someone being punched. Inmate [REDACTED] didn't see either of them push the other.

Statement of (W78) Inmate

Sergeant Cardenas told Inmate Fass that the conversation with him was voluntary and he could end it at any time. Inmate [REDACTED] immediately replied, "I didn't see anything."

Statement of (W79) Inmate

Sergeant Cardenas told Inmate [redacted] that the conversation with him was voluntary and he could end it at any time. Inmate [redacted] immediately replied, "I just wanna go back. I was asleep anyways."

Statement of (W80) Inmate

During the criminal investigation, Inmate [redacted] said, "Well, I kinda got a glimpse of what happened." According to Inmate [redacted], Deputy Groba had tried a few times to wake up Inmate [redacted] so he could go to court. Inmate [redacted] wouldn't wake up so Deputy Groba walked upstairs, kicked his bed and said, "Get up mother fucker." Deputy Groba and Inmate [redacted] walked down the stairs to the lower tier as Deputy Groba continued "talking shit." As they got to the lower tier, Deputy Groba brushed up against Inmate [redacted] as he walked past him. Deputy Groba acted like he was pushed by Inmate [redacted]. Inmate [redacted] said, "Then he hit him with a left, boom." Inmate [redacted] said he returned to his bed because he did not want to see anymore. Sergeant Cardenas asked Inmate [redacted] if he thought Inmate [redacted] did anything that could have been viewed as a threat. In Inmate [redacted] opinion, he believed, "There's no reason why he should have done that, I mean, being fair on both side. If the inmate did push him, do what you gotta do, straight up." Inmate [redacted] clarified that he was not actually awake to see Deputy Groba walk up the stairs to Inmate [redacted] bed. Inmate [redacted] woke up when he heard the commotion of the bed being kicked and Deputy Groba yelling at Inmate [redacted]

Statement of (W81) Inmate

Sergeant Cardenas told Inmate [redacted] the conversation with him was voluntary and he could end it at any time. Inmate [redacted] immediately replied, "I missed the whole thing, I was in the shower."

Statement of (W82) Inmate

Inmate [redacted] only spoke Spanish and Sergeant Cardenas utilized Lieutenant Rivera as a translator for his interview. According to Inmate [redacted], he was coming out of the bathroom in M8-H. Deputy Groba told Inmate [redacted] "not to be pushing me." Inmate [redacted] was handcuffed as he was being walked out of the dorm.

Inmate [redacted] said as he exited the bathroom on the lower tier, he saw Inmate [redacted] "hip check" Deputy Groba as Deputy Groba walked past him towards the door. Deputy Groba then turned and punched Inmate [redacted] in the face with his right fist. Inmate [redacted] heard arguing during the incident but he didn't know what was said since he doesn't speak English.

Inmate [redacted] then saw three deputies near the door to M8H and Inmate [redacted] was handcuffed as he walked to the door.

Statement of (W83) Inmate

Inmate [redacted] was housed in M8 for approximately two months prior to the incident. His assigned bed was in pod 3 and the 2nd bunk from the back wall of the top tier. Inmate [redacted] was reading in his bed on the morning of August 18th 2016, when he heard Deputy Groba call inmates for courts. Inmate [redacted] heard someone kicking the bunk of a bed and then heard Deputy Groba calling Inmate [redacted] a “lazy mother fucker” and “bitch.” Inmate [redacted] then got out of his bed and walked to the railing to watch as Inmate [redacted] and Deputy Groba began walking down the stairs to the lower tier. Deputy Groba walked closely behind Inmate [redacted] as they walked down the stairs.

According to Inmate [redacted] as both of them walked down stairs to the lower floor, he saw Deputy Groba walk past Inmate [redacted]. Deputy Groba brushed up against him, touching his shoulder. Inmate [redacted] started to turn toward Deputy Groba but Deputy Groba immediately punched Inmate [redacted] in the face with his left hand. Deputy Groba said, “Don’t push me.” It was in Inmate [redacted]’s opinion that it seemed as though Deputy Groba was trying to make it seem like Inmate [redacted] instigated the altercation. Inmate [redacted] put his hands up and walked toward the door to M8H. Inmate [redacted] recalled Inmate [redacted] said something in regards to filing a lawsuit.

Inmate [redacted] said he didn’t see any threatening behavior from Inmate [redacted] during the altercation. He said Inmate [redacted] did not instigate the incident, “other than he was slow playing him. You know like taking his time, kinda being an asshole about it.” Inmate [redacted] said he had never seen any similar conduct from Deputy Groba. Inmate [redacted] said, “He’s one of our better officers around here. If he sees something he doesn’t like, he lets us know. He’s not harassing us.”

Statement of (W84) Inmate

Inmate [redacted] was in custody for approximately four months and housed in M8-H for one month. He was sleeping in his bed when he was awakened by the sound of Deputy Groba yelling at Inmate [redacted]. Inmate [redacted] said, “He was yelling ‘Get up, you pussy faggot’ all kinds of stuff.” He looked up and saw Deputy Groba standing next to Inmate [redacted]’s bed. Inmate [redacted] was able to see the incident from his bunk in pod 4 because his bed is the top bunk.

According to Inmate [redacted] he saw Deputy Groba and Inmate [redacted] walk down the stairs as Deputy Groba continued to yell at Inmate [redacted]. He said, “Deputy Groba was in his face”

yelling at him. Sergeant Cardenas asked Inmate Hurd to explain if Deputy Groba was actually walking in front of inmate . Inmate paused and said, "I, uh, well I just woke up. I saw it, but I wanna say the C.O. was in front of him but, I, uh, I wouldn't say for sure because, like I said, I just woke up."

Inmate said once Deputy Groba and Inmate walked onto the floor of the lower tier, "the cop was still up in his face and everything, and he just hit him." Inmate said, "You just hit me" and told the Deputies at the station that Deputy Groba just hit him. Inmate could not remember any other details of the incident.

Statement of (W85) Inmate

Inmate said on the morning of the incident, he was pulled out of the M8-H Unit for a court appearance. He was waiting by the big glass window of the M8-H entrance, which looked into the dorm. Inmate heard Deputy Groba talking as the door to the dorm was opened. Inmate looked inside the dorm and saw Deputy Groba step back away from Inmate . Inmate didn't see what happened but he said it looked like Deputy Groba had been pushed. Inmate said, "From his reaction, it was if he had been pushed. And then he stood back up to the guy and said, 'you son of a bitch' and he hit the guy in the jaw." Inmate said he saw Deputy Groba punch Inmate with his left fist.

Inmate did not know anything about Inmate , He said, "The impression I got from other people is that he's a hot head or an asshole. Inmate had never seen Inmate get into any altercations with staff or other inmates. Sergeant Cardenas asked if he knew anything about Deputy Groba and he replied, "Oh man, that officer's hella cool. He's fair with everyone."

Summary of Sergeant Vandergraaf Supplemental of CR # 16-231-0311J:

On 08-18-16, Sergeant Vandergraaf was working as a Jail Detective assigned to the Main Jail and the Elmwood Correctional Facility. At approximately 0930 hours, he was requested to respond to the Elmwood Correctional Facility to assist with a non-going investigation. He arrived at the M8 building and was directed to take statements from inmates in the M8-H Dorm. The following are summaries of the inmates audio recorded statements.

Statement of (W76) Inmate

Inmate had been in custody and housed in M8-H when the incident occurred. He woke up when Deputy Groba and Inmate were walking down the stairs. Inmate

I heard Deputy Groba yell something similar to “Bum” “You’re a fucking bitch, “Son of a bitch.”

Inmate I got up from his bunk and saw Deputy Groba and Inmate at the bottom of the stairs. Inmate heard Deputy Groba say, “Why did you push me.” Inmate never saw Inmate push Deputy Groba, but saw Deputy Groba punch Inmate with his left fist against the right side of his face. Inmate then said, “He hit me. He hit me. I’m gonna file a lawsuit.” Inmate said the incident occurred around 0630 hours.

Statement of (W77) Inmate

Inmate I told criminal investigators that he was asleep and woke up to someone calling another person a “Bitch.” Inmate I heard the sound of someone being slapped. He then heard someone say, “Did you just punch me?” Inmate I then heard someone say, “You pushed me.” Inmate I got up from his bunk and saw Deputy Groba and inmate near the door to the entrance of the dorm on the lower floor. Inmate I did not see the incident.

Statement of (W78) Inmate

Inmate I said he was asleep during the incident. He did not wake up and did not see or hear the incident between Deputy Groba and Inmate I.

Statement of (W79) Inmate

Inmate I said he was asleep during the incident. He did not see the incident between Deputy Groba and Inmate I.

Statement of (W80) Inmate

According to Inmate I, he was sitting at the table when he saw Inmate I and Deputy Groba at the bottom of the stairs. Inmate I heard Deputy Groba say, “Hey, why did you push me?” Deputy Groba then turned and faced Inmate I. Deputy Groba punched Inmate I with his left hand. Inmate I heard Inmate I say, “Did you hit me?” Inmate I saw Inmate I back away and place his hands behind his back. As Inmate I was leaving the dorm, Inmate I said, “Did you just hit me? I want to press charges.”

Statement of (W81) Inmate

Inmate [redacted] said he was new to the dorm and did not know any names. He saw Deputy Groba bump Inmate [redacted] with his right shoulder. Inmate [redacted] saw Deputy Groba "throw a left hook" against Inmate [redacted] and hitting him in the face on the right side. Inmate [redacted] described the punch of not having a lot of power and really quick as if to "check" Inmate [redacted]. Inmate [redacted] did not fall or stumble. Inmate [redacted] turned his face and appeared to be "shocked" that Deputy Groba had hit him. Inmate [redacted] said, "Did you just hit me right now?" Immediately after, Deputy Groba said, "You pushed me." Inmate [redacted] said Deputy Groba hit inmate [redacted] near the door. Besides this incident, he described Deputy Groba as a "Down to earth guy."

Statement of (W82) Inmate

Inmate [redacted] said he did see anything. He was awake but did not leave his bunk. Inmate [redacted] heard comments such as, "Bitch, Cocksucker, going to court, you punched me, you pushed me."

Statement of (W83) Inmate

Inmate [redacted] heard other inmates talk about the incident but did not see or hear the incident.

Statement of (W83) Inmate

Inmate [redacted] was sleeping during the incident. He did not have any information regarding the incident.

Statement of (W84) Inmate

Inmate [redacted] was sleeping during the incident. He was tired and did not wake up until after the incident was over.

Statement of (W86) Inmate

Inmate [redacted] was on the bottom tier when the incident occurred. Inmate [redacted] heard Deputy Groba call Inmate [redacted] name for court. Inmate [redacted] acknowledged Deputy Groba but then went back to sleep. Deputy Groba went upstairs to get Inmate [redacted]. Inmate [redacted] heard Deputy Groba say, "You son of a bitch, get up." Inmate [redacted] got up and went down stairs with Deputy Groba. Inmate [redacted] saw Deputy Groba hit inmate [redacted] in the face. Inmate [redacted] heard inmate [redacted] say, "Lawsuit." They both left the dorm without further incident.

Statement of (W87) Inmate

stated he was sleeping during the incident and did not have any information.

Statement of (W88) Inmate

Inmate : is a Spanish speaker and Lt. Rivera assisted Sergeant Vandergraaf with the translation. Inmate : said he was sleeping during the incident. He heard someone talking in English at approximately 0630 hours. He did not know they were saying.

Statement of (W89) Inmate

Inmate : said he was asleep and did not see anything. He woke up but did not get out of his bunk. He heard someone say, "Why'd you hit me in the face." He did not hear anything else.

Statement of (W90) Inmate

Inmate : said he was asleep and did not see anything. He woke up several times but he was not awake during the incident. He got out of bed after 0800 hours.

Statement of (W91) Inmate

Inmate : did not see anything but he heard Deputy Groba yelling at an inmate. Inmate : did not know who Deputy Groba was yelling at. He heard comments like, "Bitch, Cocksucker, and Piece of shit." Inmate : described Deputy Groba as a "Good Officer." He believed Deputy Groba was having a bad day and said this was not Deputy Groba's normal behavior.

Statement of (W92) Inmate

Inmate : was awake during the incident and saw Deputy Groba go up to Inmate : bunk and kick it. Inmate : heard Deputy Groba yell, "Wake up you drunk mother fucker! Get the fuck downstairs. You got court." Inmate : saw Deputy Groba follow Inmate : down the stairs. When Deputy Groba and Inmate : reached the mailbox near the door, Inmate : saw Deputy Groba bump Inmate : from behind. Inmate : kept his hands down to his side. Deputy Groba moved past Inmate : then turned towards him. Inmate : saw Deputy Groba hit Inmate : with his left hand to the right side of Inmate : face.

Inmate ; never saw Inmate push Deputy Groba. Inmate i then said, "Did you just hit me? I want to press charges." Another deputy came and took Inmate out of the dorm.

Statement of (W93) Inmate

Inmate . said he was asleep and he did not see the incident. Inmate did not wake up until 0743 hours.

Statement of (W94) Inmate

Inmate . said he was asleep and he did not see the incident. Inmate did not wake up until 0800 hours.

Statement of (W95) Inmate

Inmate : did not have any information.

Statement of (W96) Inmate

Inmate said he was asleep. He did not have any information regarding the incident.

Investigation Continued:

After reviewing the reports, I then examined a PDF copy of one hundred twenty-eight (128) photographs captured of the scene and both Deputy Groba and Inmate . There were a total of sixty-seven (67) photographs of the scene, thirty-three (33) photos of Deputy Groba, and twenty-eight (28) of Inmate . These photos were numbered DSC_0102 through DSC_0168 and DSC_1330 through DSC_1390; they are characterized as the following:

Photos of both parties

DSC_1330, DSC_1331, and DSC_1334 = three (3) Mid-range photos of Deputy Groba's outer right leg area. Dated 08/18/2016.

DSC_1332, DSC_1333, and DSC_1337 = three (3) Close-up photos of Deputy Groba's right leg. Some slight visible redness on outer side of right calf area. Dated 08/18/2016.

DSC_1335 and DSC_1336 = two (2) Close-up photos of Deputy Groba's right foot. Dated 08/18/2016.

DSC_1338 = one (1) Close-up photo Mid-range photo of Deputy Groba's right leg to his right foot. Dated 08/18/2016.

DSC_1367, and DSC_1368 = two (2) Far-range photos of Deputy Groba (Profile) in his uniform of the day. Dated 08/18/2016.

DSC_1369, and DSC_1370 = two (2) Close-up photos of Deputy Groba's hands and fingers (Palms/Knuckles). No visible injuries or markings. Dated 08/18/2016.

DSC_1371 through DSC_1379 = nine (9) Mid-range photos of Deputy Groba's left leg. Dated 08/18/2016.

DSC_1380 through DSC_1385 = six (6) Mid-range photos of Deputy Groba's left leg. Photos from the knee down to the ankles and of all areas of his leg. Dated 08/18/2016.

DSC_1386, through DSC_1390 = five (5) Close-up photos of Deputy Groba's left calf area depicting some type of discoloring and/or mark. Dated 08/18/2016.

DSC_1339 through DSC_1345 = seven (7) Mid-range photos of Inmate [redacted] depicting his head and face. Dated 08/18/2016.

DSC_1346 through DSC_1349 = four (4) Close-up photos of Inmate [redacted] right cheek area. Slight visible redness under the right eye and cheek area. Dated 08/18/2016.

DSC_1350 through DSC_1353 = four (4) Mid-range photos of Inmate [redacted] (Profile). Dated 08/18/2016.

DSC_1354 and DSC_1355 = two (2) Close-up photos of Inmate [redacted] hands. Right pinkie finger is bandaged. Dated 08/18/2016.

DSC_1356 through DSC_1359 = four (4) Mid-range photos of Inmate [redacted] face and head. Dated 08/18/2016.

DSC_1360 through DSC_1366 = seven (7) Close-up photos of Inmate [redacted] right cheek area. Slight visible redness under the right eye and cheek area. Dated 08/18/2016.

On August 20th 2016 (two days after the incident), Sergeant Vandergraaf met with Inmate [redacted] at the Main Jail. He took additional photos of Inmate [redacted] to document any changes to his injury. Inmate [redacted] told Sergeant Vandergraaf he did not feel any pain in the area where he was struck.

Investigators Notes:

There were no photos attached to the crime report that the Internal Affairs Unit received pertaining to the investigation. The photos were only documented and dated in Sergeant Vandergraaf's supplemental report.

Investigation Continued:

On May 24th 2017 at 1000 hours, Deputy Groba was ordered to appear for an Internal Affairs interview regarding IAU Case #2015-00351. The interview was conducted at the Santa Clara County Sheriff's Office Internal Affairs Interview Room. Present with me and assisting me during the interview was Internal Affairs Sergeant Ryan McGuire #1910. Deputy Groba's legal representative, Attorney _____ of the _____ was also present. All parties were aware the interview was being recorded. Deputy Groba was provided a copy of the allegations and an Employee's Report in which he and the complainant were named in an incident.

The following statement is not a verbatim translation but a summary of the interview. The interview was recorded for the purposes of accuracy, and to free me from having to take hand-written notes. For verbatim translation, listen to the attached recording.

Statement of Deputy Groba:

I began by reading the standard admonitions and orders to Deputy Groba, outlining the Department of Correction Policy which specified he was required to answer our questions truthfully, and that Sergeant McGuire and I were acting as his superior officers by virtue of our Internal Affairs investigation. He acknowledged his understanding of these orders.

I read Deputy Groba the standard admonition which clarified that this was an administrative investigation only, and that nothing he said could be used against him in any criminal proceeding. Again, Deputy Groba acknowledged his understanding of this point.

I then confirmed that Deputy Groba was presently on-duty at the time of this interview. I made him aware that he could take a break at any time he needed one, and that if a re-interview was necessary in the future, he had the right to a copy of the recording of this interview, or a transcript of it. He acknowledged his understanding of this as well. Deputy Groba then signed the form documenting his understanding of all these points.

Deputy Groba has been employed with the Santa Clara County Sheriff's Office for approximately 14 years. Deputy Groba is currently on Administrative Leave but he was last assigned at the M-8 Building in the Elmwood Men's Facility of the Sheriff's Office located in the city of Milpitas, Ca.

Throughout Deputy Groba's 14 year career, he has been trained at the Main Jail Facility and Elmwood Facility. His training included all POJT, familiarization, and supplemental positions at the Main Jail and Elmwood facility. Deputy Groba had specialized C.I.T training while assigned at the Main Jail. He was assigned to the Acute Psychiatric Unit (8A) and specialized in the safety and security of the mental health inmates within the Main Jail.

On August 18th 2016, Deputy Groba stated he was assigned to the E-Dorm Unit on the west side of the M8 Building. He described the M8 building and each housing designation containing level 2 (medium security) general population inmates. The units held up to 64 inmates in an indirect

security open dorm environment. There could be approximately 256 inmates to 3-4 deputies (on average) to maintain the safety and security of the west side of the building. The entire M8 Building could hold up to 512 medium security inmates and a maximum of 10 deputies assigned to the building. On average, there were 8 deputies assigned to the building due to staff shortages.

Deputy Groba described the daily procedures of the badge staff assigned to the west side of the M8 Building. The deputies would retrieve a briefing from the shift prior to them coming on. The prior shift would give a detail description of any issues pertaining to the housing designation.

Upon beginning the shift, the deputies would conduct an inmate count and print out the AM court list and make a verbal announcement to the inmates inside each of the units. The deputy who would make the announcement would not leave the unit until a verbal confirmation from the inmate who was called upon.

The deputies would prep the necessary court list to verify each inmate that would be leaving the unit and document the in and out time. During this time, the deputies allow the inmates approximately 10 to 15 minutes to get ready for court prior to their departure from their assigned housing designation.

The deputy that is assigned to their unit would go inside and call out to each inmate and have them exit the unit and wait near the officer's station. While at the officer's station, a deputy will verify each inmate leaving with the AM court list and their inmate wrist band. The deputy would conduct a cursory search and also ask each inmate if they had a diet lunch or any necessary medication prior to them leaving. If there was an inmate missing, the deputies would verify the individual with the court list and the inmate's classification card. The deputy assigned to the unit would go back into the unit and attempt to locate the inmate and expedite the process in an attempt not to delay the departure of the transportation bus to the court house.

According to Deputy Groba, he and Deputy Wu had been working on the west side of the M8 Building together for three months. They were always working with less than the amount of deputies that were supposed to be assigned to the west side of the M8 building. Deputy Groba and Deputy Wu usually had an over-time deputy work on the west side with them to fill one of the two positions needed. Deputy Groba stated he and deputy Wu would do the majority of the work for the west side of the building due their familiarization of the inmate population housed to the units and being grateful for the overtime deputy being assigned to there.

Also, Deputy Groba would verbally announce all the AM courts in each unit due his voice projection and Deputy Wu's uncomfortableness with his accent. Both of them had an understanding on their working daily procedures and tasks, and how they would accomplish them.

During this incident in question on August 18th of 2016, Deputy Groba went into each unit on the west side of the building. While in each unit, Deputy Groba made a verbal announcement for each inmate scheduled for the AM court hearings and did not call out to the next inmate until he received a verbal acknowledgement.

However, Deputy Groba needed to go into the H-Unit which had no deputy assigned to that position. He went into the unit and made a verbal announcement for the AM courts. Each inmate that was called upon responded with a verbal acknowledgement. Deputy Groba then left the unit to the officer's station in preparation for all the inmates to be verified prior to their departure of the M8 Building and to their court hearings. Deputy Groba stated after the AM court announcement, the inmates would have approximately 15 minutes for the inmates to get ready for court.

At approximately 0615 hours, Deputy Wu made an announcement over the unit's intercom for the AM court inmates to exit the dorm. Deputy Wu started with E, F, G, and H-Unit to have the inmates exit and check in at the officer's station prior to them leaving for court. Deputy Wu noticed two inmates did not respond to the officer's station. Deputy Groba verified the two inmates that did not come out by their classification card and where their assigned bunk is located. Deputy Terry (overtime deputy) went into one unit and Deputy Groba went into H-Unit.

Additionally, Deputy Groba noticed the inmate that was missing _____ was the same inmate who was late for court the day prior. Deputy Groba had the trustee get him the day prior and doesn't recall any negative reaction from Inmate _____. Deputy Groba stated he told him, "Hey, I'd appreciate it if next time you be on time because you're holding everyone up."

Deputy Groba explained his intentions on locating and not delaying the transportation process. He described the initial incident as the following:

"And that happened before other times. Because, um, there been cases a person is sick - uh, who knows. There could be many reasons why the person didn't show up for court. So what we will do in cases like that I will walk into the door, go to the assigned bunk and see the inmate, tell him to get up and see what his situation was and during that time.

Um, so this person, uh, was just sleeping and I told him, 'Hey, you got to actually get up. I mean you need - you have to go to court.' Um, he would just move around. He wasn't getting up. I bang on the frame of the bed with my foot like in this motion for him to get up and then I say something like, 'Hey, I'm not your mother to come over and wake you up every time.' You know something to that effect. Um, then he stood up, kind of in a fast way and faced me. And I told him, 'Hey, you know, let's just go to court.' He say something like, uh, 'Filthy Russian,' or something to that effect. So I told him, 'Whatever. Just keep walking.'

Uh, as we going down the stairs since we were on the top tier, uh, he's in front of me. I'm behind him maybe like about one step behind him to his left and he's walking really slow which again nothing new. I mean that's what most inmates do is just when they're being bothered to get up and, um, be going down the

stairs. Uh, as - as, uh, we're walking down the stairs I keep telling him to keep on walking because, oh, he's - you know the demeanor of being really slow. And as - as I'm - as I'm telling him that, he keeps saying like, 'Blah, blah, blah.'

Oh, I don't know he was threatening- to make fun- or what his intentions were but, um, he was making those type of sounds as we walking down the stairs. Um, once we reached the bottom of the tier I pass him to his, uh, left side in an attempt to grab the door of the dorm - grab the doorknob to open the door. As I'm reaching towards the knob I felt co- uh, like a kick or a - a scrapping motion on my lower leg and top of my right - right foot. And at that I went - I - once I felt that I turn around and as I'm turning around towards him I said like, uh, 'Did you just kick me,' or and then he just looked - we facing each other. His eyebrows are down toward his sides. He looked upset and he said something like, 'Uh - uh,' or something to that emotion. And as I'm turning around asking him that I - with my l- left fist I punched him on the right cheek once and after that he say something like, 'I can't believe you punched me,' or something to that effect.

And Officer (Grima) responded into the dorm, grabbed him and told me to leave or with his hand some gesture for me to move away. I directly - I saw also Officer (Wu) and (Terry) approach the dorm so I feel secure enough for me to leave the dorm and contact my sergeant - at the time was Sergeant (Gill). I told him what just happened and he asked me if I was hurt and I told him no I was fine. Just upset. And then he told me, 'Okay, uh, make sure you contact the nurse to have the inmate checked by the nurse.' I say, 'Yes, sir.' I - once I hung up the phone I contacted, uh, nursing staff. I told her what the situation was and after that, uh, I have the Sergeant (Davis), uh, he wanted to talk to me and a lot of people wanted to talk to me after that."

I asked Deputy Groba a few follow up questions to clarify details on what occurred during the incident prior to the physical altercation and how he approached Inmate _____ inside the unit.

DEPUTY GROBA: ...I went to the closest set of stairs. The way the building is assigned this left set of stairs for some reason they're closer to the door than the right ones.

SGT. VALLE: Okay. Okay. Okay, so you went up there and you verbally asked him to wake up?

DEPUTY GROBA: Told him to wake up yeah.

SGT. VALLE: Okay. How many times did you ask him to wake up...

DEPUTY GROBA: Um, maybe...

SGT. VALLE: ...before he kinda acknowledged your presence?

DEPUTY GROBA: Uh, maybe like, uh, three times.

SGT. VALLE: Three times?

DEPUTY GROBA: Mm-hm.

SGT. VALLE: Okay. And it - it - it's fair to say you were telling him to wake up but probably in a, uh, a louder voice than how we're communicating right now, correct?

DEPUTY GROBA: Well, yeah it would get from lower tone to a louder tone but I don't think he even responded. That's when I started kicked on his bed frame.

SGT. VALLE: Okay.

DEPUTY GROBA: Not kicking. Like banging on it.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: Banging foot. I can't kick too hard because it's a metal frame. It will...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...actually hurt my foot. So, um, that's when he actually woke up in a - a fast manner.

SGT. VALLE: And so you're talking about kicking - kicking the bed. Is it more of a kicking or more of a tapping?

DEPUTY GROBA: Yeah, tapping.

SGT. VALLE: Okay.

DEPUTY GROBA: Yeah.

SGT. VALLE: And that's to get his acknowledgement to let you know...

DEPUTY GROBA: To attention...

SGT. VALLE: ...you were there?

DEPUTY GROBA: ...to wake up. Yeah.

SGT. VALLE: And to wake up?

DEPUTY GROBA: Right.

SGT. VALLE: Okay. Now on part of the bed frame where - where did you tap on it? Is it on the side or the foot of the bed?

DEPUTY GROBA: It's on the leg. Uh...

SGT. VALLE: Oh, okay.

DEPUTY GROBA: ...the bunk has four metal legs.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: It would be the furthest one - closer to me but...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...his head would be on the other - um, I mean the bottom of - of his bunk.

SGT. VALLE: Okay. And that's generally to - to like I said for him to get your acknowledgement where...

DEPUTY GROBA: Yeah.

SGT. VALLE: ...now it's...

DEPUTY GROBA: Yeah.

SGT. VALLE: ...it's more of a, uh - um, him to feel something...

DEPUTY GROBA: Mm-hm.

SGT. VALLE: ...vibrating on the bed, you know, he...

DEPUTY GROBA: Right. Because, uh, I won't like to grab him and (unintelligible) and shake his chest say, "Could you wake up," or something like that? Now, uh, shaking the bed I know it would wake...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...me up if I'm...

SGT. VALLE: Yeah.

DEPUTY GROBA: ...asleep. And I wanted to make sure maybe...

SGT. VALLE: Yeah.

DEPUTY GROBA: ...he's having some type of medical issue. I don't know.

SGT. VALLE: Okay. So it - it's fair to say you - you tapped the bed more or less for a safety issue rather than getting up and close because you don't know how they're gonna react?

DEPUTY GROBA: For all - for all combined.

SGT. VALLE: Okay. So once you tapped it - and once you tapped the bed how did he respond?

DEPUTY GROBA: Uh, I won't say he was happy. He stood up really quick and faced me.

SGT. VALLE: Okay. About how far away was he?

DEPUTY GROBA: I would say like about a foot.

SGT. VALLE: Okay.

DEPUTY GROBA: A foot and some inches.

SGT. VALLE: Okay. So you said he - he got up from the - from the bed...

DEPUTY GROBA: I mean...

SGT. VALLE: ...rapidly - real quick?

DEPUTY GROBA: Yes. Like in a hostile way but a...

SGT. VALLE: Okay.

DEPUTY GROBA: You know?

SGT. VALLE: What was his demeanor like - like...

DEPUTY GROBA: Angry.

SGT. VALLE: ...uh, facial expressions - anything?

DEPUTY GROBA: Uh, his eyebrows was down and he was kind of angry and (unintelligible) I saw (unintelligible) he made, you know, 'cause we - we still have to go - you still have to go to court he be like saying blah, blah, blah or trying to make fun. I don't know if he was trying to make fun with the...

SGT. VALLE: (Unintelligible).

DEPUTY GROBA: ...way I was talking or was just to make fun of the - of the whole - you know the situation...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...I couldn't tell you.

SGT. VALLE: Okay. So he got up quick and was about a foot away from you? Was he face to face towards you?

DEPUTY GROBA: Yes.

SGT. VALLE: Could you see his hands or anything like that? Did you...

DEPUTY GROBA: Mmm, no.

SGT. VALLE: ...maybe - maybe almost assessing if he might be a threat right then?

DEPUTY GROBA: Right. I - I would actually from his elbow up I be able to look at his arm. I couldn't look at his hands...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...'cause that's how close, you know, we actually were. But, um, I didn't sense he was gonna do - do nothing. Otherwise I would have reacted to it...

SGT. VALLE: Okay.

DEPUTY GROBA: ...if I felt any kind of, uh, danger.

SGT. VALLE: Um, so once he stood up and y- you're - are you giving him just like a verbal acknowledgement? Like, "Hey, you need to get up for court. I've called you."

DEPUTY GROBA: Yeah.

SGT. VALLE: You know what's going on or are you just trying to rush to get him downstairs so they can go?

DEPUTY GROBA: I - like I said before I like things to actually happen. I like to make things happen.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: And, uh, and I know people are waiting.

SGT. VALLE: Correct.

DEPUTY GROBA: So I mean I don't try to be over reacted or but I would as normal as possible when you tell somebody to - you know to hurry up.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: Um, I would try to do that. Um, also I forget to - to mention is as he started walking, uh, he passed by me he said something like, "filthy Russian," or something to that effect and that was it.

SGT. VALLE: Okay. And now as - as far as him, uh, he's already ex- exhibiting some type of negative behavior towards you?

DEPUTY GROBA: Yeah.

SGT. VALLE: Right? With -1- not getting up in time. It - it seems like you're telling me he - when he's saying, "Blah, blah, blah," it's almost in - in a mocking?

DEPUTY GROBA: I would say so. But again I'm you know been a few times, uh, I have to wake people up and they're not happy to be woken up.

SGT. VALLE: Correct.

DEPUTY GROBA: You know? So I - I wasn't like - it wasn't nothing new for me. You know?

SGT. VALLE: Mm-hm.

DEPUTY GROBA: I - I been insulted many times by better people and so him telling me that didn't...

SGT. VALLE: Yeah.

DEPUTY GROBA: ...faze me at all. Uh, I was going to you know once he came back from court we would have a little talk or something. That would be what I would do in cases like that. You know?

Even though Inmate _____ made negative verbal remarks towards Deputy Groba, he did not feel threatened at that time. Deputy Groba stated that he would address the demeanor and disrespect that Inmate _____ displayed when he returned from court. His main objective was to get Inmate _____ out of the unit and onto the transportation bus because he did not want to delay the process.

While descending down the stairway, Inmate _____ began to walk slowly in an attempt to delay Deputy Groba. Deputy Groba told him to keep walking and Inmate _____ responded in a mocking manner, "*Blah, blah, blah.*"

Deputy Groba continued to walk on the left side and behind Inmate _____ while descending on the stairs and onto the main floor. As both of them continued to walk from the stairway and towards the exit door, Deputy Groba attempted to pass by Inmate _____ ; left side to open the exit door of the unit for them.

Once Deputy Groba was approximately four (4) feet away from the exit door, he felt pressure on the lower part of his right leg and then it being scrapped down upon to the top of his foot.

DEPUTY GROBA: Uh, I turn around and I said, "Did you just kick me," or, "I can't believe you just kicked me," something to that effect. Uh, he goes like, "Uh - uh," something to that (type of sound).

SGT. VALLE: Like uh-uh as in no and or like...

DEPUTY GROBA: No, not like, "Uh-uh." Like more like "Uh - uh." Like again. Like...

SGT. VALLE: Oh.

DEPUTY GROBA: ...mocking or making fun...

...or something. As I'm turning around I'm already - uh, my mindset is I don't know if he's trying to trick me. Am I - if he's trying to attack me. I have - I have no idea what his intention- intentions were. Uh, I know that in the back of my mind we have a situation where another officer had been assaulted not too long ago so that's in the back of my mind. And again I'm by myself with 64 inmates, uh, anything can happen. So, um, I'm thinking like the worst, uh, at that time and - and as I'm turning around and I'm saying that, uh, he's answering back by going, "Uh - uh," or something like that I struck him in the left side of his cheek.

SGT. VALLE: Okay.

DEPUTY GROBA: Also I have - I have to mention that as I'm throwing the punch just it was like a involuntary reaction. I'm - in the back of my mind I'm trying to stop.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: And I didn't hit him full. It was more like half way.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: And so it wasn't a full blown punch.

SGT. VALLE: Okay. And - and why - why wasn't it a full blown punch?

DEPUTY GROBA: Because, um, I'm thinking, um, going to my, uh, you know, the use of force. Uh, first there is, uh, you know, to calm my presence but oh you

know the command use of pepper spray. So in the back of my mind I felt like I'm skipping some of my, uh, use of force.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: Um, you know, so I know - so, um, actually it was a few things happen at the same time. I'm thinking, um, how we - everything we do is questioned. Um, how things are in the department right now. I knew that it wasn't gonna be good because of that.

SGT. VALLE: Okay. So how...

DEPUTY GROBA: (Unintelligible).

SGT. VALLE: ...how force is being r- reviewed?

DEPUTY GROBA: Right. I know I was gonna get questioned and...

SGT. VALLE: So...

DEPUTY GROBA: ...didn't want to be. I don't know what's gonna happen after that.

SGT. VALLE: Okay. Um, okay. Now on, uh, on - like say a punch scale 1 being the least - 10 being the most powerful where would you variate that punch on a scale...

DEPUTY GROBA: Uh...

SGT. VALLE: ...of 1 to 10?

DEPUTY GROBA: ...at a 4.

SGT. VALLE: A 4? Okay. Okay. So after you made the physical contact to him punching what was his reaction?

DEPUTY GROBA: He stood there in front of me, uh, and he said something like, "I can't believe you punched me." And then I see, you know, like Officer (Grima) walked in grabbing him. He motioned me - for me to leave and then Officer (Terry) and (Wu)...

SGT. VALLE: So how long - how long was it between you making contact with him...

DEPUTY GROBA: With...

SGT. VALLE: ...Officer (Grima) coming in and taking him away?

DEPUTY GROBA: I would say like a few seconds. Maybe like eight - eight seconds or so.

SGT. VALLE: Was he placed in handcuffs at the time?

DEPUTY GROBA: No. Uh, as soon as that happened I went straight to the phone to call my sergeant – Sergeant. I - I told him, “Hey, we - we just had a, you know, the situation.” And he asked me, “Okay, what happened?” And I said, “I just got kicked but he...”

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...”made - and I punch him back.” He asked me if I was okay. If I need any type of medical attention and I said, “No, I’m good.”

SGT. VALLE: Mm-hm.

DEPUTY GROBA: I didn’t feel any - any need for that. Then he said, “Okay, call the nurse, have him checked and start writing.”

During the interview, I had Deputy Groba reenact the incident. He utilized me as a role player (Inmate I had Deputy Groba position my body and utilized the interview room and exit door as a reference to the area where the incident took place. Deputy Groba estimated the distance between the exit door from where I was standing was two (2) to three (3) feet away. Then he positioned my body and himself, as we would be walking towards the exit door with him passing to the left side. Deputy Groba passed by the left side of me with an estimated six (6) to eight (8) inches between us while he attempted to walk past me and open the door.

SGT. VALLE: Okay. So I’m - I’m gonna go back to the actual use of force in itself. Um, you’re telling me you might be anywhere between five to six feet away from the door - uh, the entrance exit dorm itself.

DEPUTY GROBA: Right, right.

SGT. VALLE: Is there a wall to the left of you - a wall to the right of you as you’re trying to go in like close proximity?

DEPUTY GROBA: There is just a wall holding the door frame.

SGT. VALLE: Okay.

DEPUTY GROBA: Uh...

SGT. VALLE: About how far away is that wall? Like away from where you guys are standing?

DEPUTY GROBA: The closest point - because the wall is not like a straight wall.

SGT. VALLE: Right.

DEPUTY GROBA: It will, um, form like a corner towards the stairs. I would say maybe like about two feet away.

SGT. VALLE: Okay. So there's not a whole lot of room for you to perceive a threat and to try to get out of the way?

DEPUTY GROBA: No. I mean you know like I said, um, I didn't know what my partners were doing. All I know I'm there by myself with 64 inmates and knowing the history of officers being sent to the hospital all - and all that kind of stuff is in the back of my head. And something that I always tell my partner is, "We come together, we leave together," type of thing.

SGT. VALLE: Uh-huh.

DEPUTY GROBA: Um, you know, that's in there - in the back of my mind.

SGT. VALLE: Okay.

DEPUTY GROBA: You know.

SGT. VALLE: Okay, so after you made physical contact with him when you said you - you - you pretty much told him, "Did you just kick me?"

DEPUTY GROBA: Yeah. As...

SGT. VALLE: Like almost...

DEPUTY GROBA: As soon - as soon as I felt the contact.

SGT. VALLE: Was it almost li- almost like as a shock for you?

DEPUTY GROBA: Yeah. Um, like I said I've been there 14 years and I don't recall that ever happening. I mean I've been attacked but I - I can see the attack coming.

SGT. VALLE: Correct.

DEPUTY GROBA: But it was more like a surprise type of thing.

SGT. VALLE: Mm-hm. S...

DEPUTY GROBA: And...

SGT. VALLE: S- so how much in between the physical contacting with you and your response and you punching him how much time do you think that was?

DEPUTY GROBA: When - when you said response when I said - when I asked him, "Did you just kick me?"

SGT. VALLE: Mm-hm.

DEPUTY GROBA: Is that what you mean?

SGT. VALLE: Yeah.

DEPUTY GROBA: Um, I will say like say maybe like six seconds something like that.

SGT. VALLE: Okay. Well, I know that sometimes, uh, during use of force incidents and stuff like that, uh, a lot of times and stuff or - can be distorted, um, on a response time.

DEPUTY GROBA: Yeah.

SGT. VALLE: And, um...

DEPUTY GROBA: It's - it's kind of I mean I'm not watching on my...

SGT. VALLE: Correct.

DEPUTY GROBA: ...time so...

SGT. VALLE: And...

DEPUTY GROBA: ...and I'm just going by what I'm feeling.

SGT. MCGUIRE: Sure.

DEPUTY GROBA: You know?

SGT. VALLE: Okay.

DEPUTY GROBA: And when you're in situations like that I mean it could feel like an hour you know.

SGT. VALLE: Mm-hm.

SGT. MCGUIRE: Sure.

DEPUTY GROBA: I'm sure you've been there.

SGT. MCGUIRE: Sure.

SGT. VALLE: Yes. Okay. So - so it's fair to say as he's makes physical contact with your leg you're perceiving an assault or an attack towards you even if he's, uh, attempting to trip you right?

DEPUTY GROBA: Right.

SGT. VALLE: Okay. The consequences of you being tripped is probably you - you'd be in a vulnerable position on the ground. Correct?

DEPUTY GROBA: Yeah. To be taken hostage. Who knows?

SGT. VALLE: Or anything. Okay, so after that physical contact that he made with you - is it fair to say your actions - the use of force that you used was more of a flinch/startle reflex, uh, to any physical contact from an inmate to a law enforcement officer?

DEPUTY GROBA: Um, would you repeat the question again? Do you mind?

SGT. VALLE: With him making physical contact with you...

DEPUTY GROBA: Yeah.

SGT. VALLE: ...it's - is it fair to say your reactions - your use of force - was more of a - a flinch/startle reflex like an involuntary thing to his physical contact with you?

DEPUTY GROBA: I would say, uh, not 100% but part or, um, a big part of it yes.

SGT. VALLE: Okay. So it- it's fair to...

((Crosstalk))

SGT. VALLE: It's fair to say that the force that you utilized...

DEPUTY GROBA: Yeah.

SGT. VALLE: ...on him was a - a reactionary reflex...

DEPUTY GROBA: A big part of it. Uh...

SGT. VALLE: ...due to the perceived assault or threat towards you?

DEPUTY GROBA: Yes. Uh, al- also if I might say I'm - I'm 53-years-old. He's in his 20's. Um, my reflexes is not what they used to be.

SGT. VALLE: Okay. So when he - so in that close proximity that you had how far away were you guys when you tried to go past him?

DEPUTY GROBA: Um, it would be like - it won't be that far away. 'Cause I know - close - an- any time we just pass somebody...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...through the side, uh, it would be maybe like a few inches...

SGT. VALLE: Okay.

DEPUTY GROBA: ...distance you know?

SGT. VALLE: Okay. But it's not shoulder to shoulder where...

DEPUTY GROBA: No.

SGT. VALLE: ...there might be incidental contact? It has to be somebody who...

DEPUTY GROBA: No. I mean, um...

SGT. VALLE: ...deliberately does something?

DEPUTY GROBA: No, my - my focus is to open the door...

SGT. VALLE: Okay.

DEPUTY GROBA: ...again to make things happen - to make - get things - get things moving basically.

DEPUTY GROBA: He was really slow.

SGT. VALLE: So - so do you believe he intentionally either put his leg out or attempted to strike you?

DEPUTY GROBA: I mean I - I didn't have a clear view of it.

SGT. VALLE: Correct.

DEPUTY GROBA: But I'm going from - from what I felt.

SGT. VALLE: Correct.

DEPUTY GROBA: So I will have to say yes I can think, you know, the worst case scenario I will have to say yes.

SGT. VALLE: Okay. So during the use of force on . do you believe the force you used was reasonable at the time and from the threat that you perceived?

DEPUTY GROBA: When you say at the time at the real time as it's happening?

SGT. VALLE: Yes.

DEPUTY GROBA: Yes.

SGT. VALLE: Okay. So, um, we're gonna get - I'm gonna get back to the actual incident that occurred. Um, just wanna clarify some, um, sometimes, um, and proximities that you had with this person.

DEPUTY GROBA: Okay.

SGT. VALLE: Um, when you felt that initial contact from him, you were in- you said inches away, correct?

DEPUTY GROBA: Ah, yeah, as I'm passing him...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...to grab the door handle.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: Ah, it would be like a normal distant where I'm trying to pass anybody on the street...

SGT. VALLE: Okay.

DEPUTY GROBA: ...or in the hallway. Ah, I will give enough distance so there will be no type of...

SGT. VALLE: Okay.

DEPUTY GROBA: ...contact. You know, just...

SGT. VALLE: S...

DEPUTY GROBA: ...make my way...

SGT. VALLE: 'Kay.

DEPUTY GROBA: ...to the door.

SGT. VALLE: So after the contact, did you immediately turn around and face...

DEPUTY GROBA: Yes.

SGT. VALLE: ...him?

DEPUTY GROBA: Yes.

SGT. VALLE: Okay. Now, when you turned around and faced him, how far away were you?

DEPUTY GROBA: I would say, like, about a foot and a half, foot and a quarter. No - it was much l- it was less than two-feet...

SGT. VALLE: Okay.

DEPUTY GROBA: ...for sure.

SGT. VALLE: And that's because there wasn't a whole bunch of room for you to go from the door...

DEPUTY GROBA: Well, ah...

SGT. VALLE: ...to address the threat too, correct?

DEPUTY GROBA: Well, um, it - it happened because, ah, that's when I felt the contact that I turn around.

SGT. VALLE: Okay.

DEPUTY GROBA: So, um, well, for one side, no, because the wall was...

SGT. VALLE: Yeah.

DEPUTY GROBA: ...there was a table and a wall.

SGT. VALLE: Yeah.

DEPUTY GROBA: So I didn't have much room for one side.

SGT. VALLE: So you turned around to pretty - pretty much to face or address...

DEPUTY GROBA: What ha...

SGT. VALLE: ...what happened.

DEPUTY GROBA: What just happened, yeah.

SGT. VALLE: Okay. Now, when you turned to face him you said you were a couple inches apart. Um, and did you immediately tell him, "Did you just kick me?"

DEPUTY GROBA: Ah, a...

SGT. VALLE: Like in shock?

DEPUTY GROBA: ...actually, without even turn around I'm already saying that, "I can't believe you just kicked me," or, "Did you just kick me?"

SGT. VALLE: Okay.

DEPUTY GROBA: Something to that effect.

SGT. VALLE: S...

DEPUTY GROBA: As I'm turn around I'm saying that.

SGT. VALLE: Okay.

DEPUTY GROBA: I started - before even I turned my words were coming out already.

SGT. VALLE: So you were thinking it and saying it at the same time.

DEPUTY GROBA: Yeah.

SGT. VALLE: In shock.

DEPUTY GROBA: A surprise shock, yes.

SGT. VALLE: Okay. So you immediately turned around, close proximity. W- when you immediately turned around and faced him, were you already initiating a strike?

DEPUTY GROBA: Ah, I could feel my arm, ah, getting tense, and my fist is already...

SGT. VALLE: Okay.

DEPUTY GROBA: ...formed and - a - and - and it's coming, the punch is coming.

SGT. VALLE: Okay, so it's a - it's - it's real quick...

DEPUTY GROBA: Yeah - yeah.

SGT. VALLE: ...boom - boom - boom.

DEPUTY GROBA: Ah, I'm, again, that type...

SGT. VALLE: Okay.

DEPUTY GROBA: ...situation is everything goes, like, into, like, a, you know, like a slow motion, you know...

SGT. VALLE: Correct.

DEPUTY GROBA: ...ah, it's like a dream state.

SGT. VALLE: Correct.

DEPUTY GROBA: And...

SGT. VALLE: Do you believe you had any type of, um - um, what they call tunnel vision, auditory exclusion...

DEPUTY GROBA: Ah...

SGT. VALLE: ...um, where everything just starts focusing in just on him?

DEPUTY GROBA: Yeah, because I remember I was focused on his face.

SGT. VALLE: Okay. And w- w- what - what did his face or demeanor present to you right when you turned around?

DEPUTY GROBA: Ah, he look angry. His eyebrows were down to where his eyes...

SGT. VALLE: Okay.

DEPUTY GROBA: ...and, again, going, "Ah - ah," that - that...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...not many know - know...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...that way of saying, "Ah - ah," more like, "uh-uh" kinda like...

SGT. VALLE: Did it in mocking fashion?

DEPUTY GROBA: In a mocking fashion.

SGT. VALLE: Okay. So you immediately turned, faced him. And as you're facing him you're saying - well, one, thinking, and saying at the same time...

DEPUTY GROBA: Right.

SGT. VALLE: "...Did you just kick me?"

DEPUTY GROBA: Right.

SGT. VALLE: As you're turning and facing him, you already have your left hand in a clenched fist...

DEPUTY GROBA: Yeah.

SGT. VALLE: ...comin' up in a striking position.

DEPUTY GROBA: Yeah.

SGT. VALLE: Okay.

DEPUTY GROBA: Also for the record, I'm - I'm not right-handed.

SGT. VALLE: Okay.

DEPUTY GROBA: I'm not left-handed.

SGT. VALLE: Mm-hm.

DEPUTY GROBA: And because of the situation, where the inmate was, it would be very uncomfortable for me to use my right hand. So it was more, like, ah, turning and everything going in one motion.

SGT. VALLE: Hmm. 'Kay.

DEPUTY GROBA: You know.

SGT. VALLE: So it's fair to say that the six seconds wasn't really six seconds, it was probably about one and a half to two seconds and a reaction?

DEPUTY GROBA: Probably. But like I say, it felt like everything was, like, in a slow motion...

SGT. VALLE: Correct.

DEPUTY GROBA: ...it really feel longer than it really was.

SGT. VALLE: Okay. So once again, from what you're saying to me, it - it is - it's fair to say y- your reactions to this threat, to this force or physical contact by this inmate, um, was a startled reflex/flinch reaction to his physical contact to you.

DEPUTY GROBA: Yes.

SGT. VALLE: Okay. So in your opinion, take another deputy who has approximately the same - same amount of training is put in the same situation with the same contact, with the same type of individual, do you believe that this person will react the same as you did to defend themselves? Or to stop the situation?

DEPUTY GROBA: Um, I will say, I mean, we all, you know, the different in the way we react to certain situations. I would say maybe yes, maybe not. Maybe mine was the most extreme one, maybe mine was the lowest of them all, I don't know.

SGT. VALLE: Okay.

DEPUTY GROBA: But I will say yeah, this other people react in a different way...

SGT. VALLE: Mm-hm.

DEPUTY GROBA: ...to different situations.

SGT. VALLE: But it's fair to say that the - the people would react the same as you would faced with the same situation.

DEPUTY GROBA: I would - yes. If they put their selves in my same set of mind and same situation, I will say yes.

SGT. VALLE: Okay. So your reactions to this force, do you believe that they were reasonable at the time, knowing - due to the circumstances and knowing everything at the time?

DEPUTY GROBA: As - as this happening?

SGT. VALLE: Yes.

DEPUTY GROBA: Yes.

SGT. VALLE: Okay. At the time that everything is happening and ha- what you felt and everything, ah, do you believe it was reasonable and justified?

DEPUTY GROBA: At the time, yes.

SGT. VALLE: Okay. During the incident in which it occurred at that time that you used force was there anything in your mind that you believe that there's anything else that you could have done?

DEPUTY GROBA: You can...

SGT. VALLE: Or were you responding to the physical contact?

DEPUTY GROBA: I was responding to the...

SGT. VALLE: Okay.

DEPUTY GROBA: ...physical contact. Uh, looking back now then of course it's...

SGT. VALLE: Yeah.

DEPUTY GROBA: ...you know?

SGT. VALLE: Okay, but we - we want to talk about what you felt at that time.

DEPUTY GROBA: Okay.

SGT. VALLE: So do you think using any other less restricted means of force at that time...

DEPUTY GROBA: Uh...

SGT. VALLE: ...could have happened?

DEPUTY GROBA: ...again going for what I was feeling and what it was on my - back of my mind, uh, I wouldn't change anything.

SGT. VALLE: Ah, looking back at the incident, were there any incidents or cases that you knew of where there were assaults on deputies that might have made you a little hypervigilant? Um...

DEPUTY GROBA: Yes.

SGT. VALLE: Can you describe or, ah...

DEPUTY GROBA: Um...

SGT. VALLE: ...anything that you knew about?

DEPUTY GROBA: Ah, like, ah, a few months prior to my incident, in - M4, it was an assault of an officer, I believe it was on night shift, um, in which one inmate attacked the officer. The officer fell and then the rest of the inmates piled on the officer. And I know he went to the hospital, and I don't know what his situation is. Um, I know of another incident of, ah - ah, I forgot the officer's name, but he - we would know him by the name of (Lumpy). Um, when he got attacked also, and now he's suffering from seizures and some health problems. Um, also, an inmate, um, I would say maybe a few weeks prior to mine, an inmate, ah, shoulder-check an officer, ah, on - not on my- on B-team, but I believe it was on A-Team. Because on the, like, a squad-room meeting, ah, the sergeant was telling us about it, and that we have the right to defend ourselves and, you know, ah, don't (unintelligible), just let 'em, ah, shoulder-check you and don't do nothing about it and something to that effect. And that's what I can think of right now.

SGT. VALLE: S- so, um, when you're sayin' somebody shoulder-checked, they made physical contact with another deputy workin' there?

DEPUTY GROBA: I believe so...

SGT. VALLE: And there - there was no action taken?

DEPUTY GROBA: I believe the officer didn't do nothing about it.

SGT. VALLE: Okay.

DEPUTY GROBA: And you could tell the sergeant at the time, he was kind of, like, upset about it, and you should do something about it or just, ah, ignore it.

SGT. VALLE: Okay. So you have immediate supervisor giving you guy's reassurance that if there's a threat or assault towards you, you guys should react to it...

DEPUTY GROBA: Y- you w...

SGT. VALLE: ...in a reasonable manner.

DEPUTY GROBA: Right. You - you have the right to defend yourself. I believe...

SGT. VALLE: Correct.

DEPUTY GROBA: ...those were his, ah, his exact words...

Sergeant McGuire and I asked Deputy Groba questions regarding remarks that witnesses stated hearing from him during the incident. We gave direct quotes from witness statements.

SGT. VALLE: Okay. So at - at - at any time did you make any of these fo- following statements towards him? "Wake up cocksucker?"

DEPUTY GROBA: No.

SGT. VALLE: "Wake up you drunk mother-fucker?"

DEPUTY GROBA: No.

SGT. VALLE: "You're a piece of shit?"

DEPUTY GROBA: No.

SGT. VALLE: "Get out of bed you stupid mother-fucker. You lazy piece of shit?"

DEPUTY GROBA: Maybe lazy but not the piece of shit part I don't recall that.

SGT. VALLE: Okay. "Get out of bed you piece of shit. It's your time to go to court?"

DEPUTY GROBA: "Get up to go to court," or, "It's time maybe to - for him to go to court," yeah.

SGT. VALLE: Okay. "You red-headed fucker?"

DEPUTY GROBA: No.

SGT. VALLE: "You're a fucking bitch?"

DEPUTY GROBA: No.

SGT. VALLE: Okay. So is it fair to say some of these quotes doesn't, uh, sound like how you conduct yourself?

DEPUTY GROBA: Yeah, I mean, um, I haven't used that type of language when it comes to that type of situations.

SGT. VALLE: Okay. Would you use that type of language if it gets into a heated situation with somebody?

DEPUTY GROBA: Um...

SGT. VALLE: Verbally?

DEPUTY GROBA: ...I never been in that type of situation but I will assume if something - it would get really bad in a...situation that, uh, it's fair to say maybe. I'm not sure...

SGT. VALLE: It - it - so it's fair to say sometimes there is a type of situation where you need to use that type of language?

DEPUTY GROBA: Yeah, but I don't recall that ever happened.

SGT. MCGUIRE: Thanks, partner. Ah, Deputy Groba, ah, this goes off kinda feeds off, ah, Sergeant Valle's questioning earlier, when he was mentioning some of the, ah, the - the vulgar, profane comments. Um, if - if Inmate _____, if he alleged that you called him a "punk bitch," would that be true or would that be false?

DEPUTY GROBA: I would say false.

In conclusion of the interview, Deputy Groba made the following statement:

"I never tried to give a bad name to the, you know, to the department, and my name be in the newspaper and all that kinda stuff. I feel terrible about it, you know. And - but at the same time, something bad happened but this report (unintelligible) for my coworkers and something that I wasn't expecting. I was really surprised and in a good way. So something good came out of it too, you know. So that's all I have to say."

Investigation Continued:

Inmate _____ was released on April 20th 2017. I was unable to conduct an interview with him while he was in custody but made several attempts after his release. I called Inmate _____ last documented phone number _____, and was not able to leave a voice message to return my call. Each time I called the above number, I received a message stating; “the person is not receiving phone calls at this time.”

Conclusions Pertaining to Deputy Groba:

These conclusions are based upon the information obtained during the Internal Affairs investigation, including interviews, gathered evidence, and my own judgment in regards to the nature and substance of the allegations.

The investigation hinges on the ensuing factors:

- Was Deputy Groba's reaction to a perceived threat/assault unreasonable?
- Was there a deliberate and/or excessive force utilized with malicious intent?
- Were there other options available to Deputy Groba as a result of the perceived threat?
- What was Deputy Groba's mindset during and after the incident?

In regards to Deputy Groba's use of force during the incident and whether the force was reasonable, I believe the force used was an overreaction to the perceived threat by Inmate

When evaluating the nature and severity of this underlying event, I believe Deputy Groba used unnecessary force to mitigate a perceived physical threat. Once the perceived threat was diminished, Deputy Groba did not continue to use physical force on Inmate . He made a conscious assessment of the potential threat by Inmate and did not exert further physical force after his initial level of physical force was used. The below D.O.C Policies outline how force is to be used to bring a physical threat under control:

- **D.O.C. Policy 9.01** states: "It is the policy of the Department of Correction to ensure badge staff uses only that amount of force, which is objectively reasonable given the facts and circumstances known to the officer at the time of the event, to bring an incident under control."

Exigent Circumstances: A situation upon which a reasonable Officer would conclude from the available information that immediate action is necessary and that failure to act or delaying action would result in imminent danger to life, injury to staff or persons, or substantial destruction of property.

- **D.O.C. Policy 9.01-2** defines Objectively Reasonable Force as: that level of force, which is appropriate when analyzed from the perspective of a reasonable Correctional Officer in the same situation and possessing the same information as the officer who actually used force. Objectively Reasonable Force is not evaluated in hindsight, and will consider, where appropriate, that officers make rapid decisions regarding the amount of force to use in tense, uncertain and rapidly evolving situations.

- **D.O.C. Policy 9.01-7** defines personal body weapons, such as an officer's hands, feet, elbows and knees, as a Level 4 (Less Lethal Force) use of force. The policy further reads: This level of force may be used, as reasonable and necessary, when lesser levels of force have failed or are not reasonable under the circumstances:

After examining the witness interviews conducted during this investigation, I noticed there were contradictions within the accounts of what transpired. The statements varied in what was heard, partially seen, and overheard regarding the incident. Not one statement was consistent from the start of the incident to the end.

In terms of credibility, however, I have no reason to question the validity of Deputy Groba's description of what he believed transpired on August 18th of 2016. Deputy Groba was forthcoming and genuine during the initial investigation after the incident and his interview with Internal Affairs.

Upon making contact with Inmate [redacted] on the top tier, Deputy Groba admitted tapping the foot of the bunk with his boot in attempt to wake Inmate [redacted] up. Deputy Groba stated he did it due to Inmate [redacted] not responding to his voice and did not want to make physical contact in an attempt to wake up Inmate [redacted] for officer safety issues.

Inmate [redacted] did respond and woke up due to the physical contact with the bed. There was an exchange of words between Inmate [redacted] and Deputy Groba but there were inconsistencies on what was exchanged.

When descending down the stairway from the top tier to the lower level, Inmate [redacted] began to deliberately delay the process by walking very slowly. Deputy Groba told Inmate [redacted] to continue to walk down the stairs and towards the exit door. Inmate [redacted] responded, "Blah, blah, blah" in a mocking fashion while both of them walked to the lower level.

As they both were approximately two (2) to (3) feet away from the module door, Deputy Groba moved from right behind Inmate [redacted] to his left in an attempt to open the module door for them to exit. Deputy Groba believed he moved approximately six (6) to eight (8) inches to the left of Inmate [redacted] to pass him. Upon passing Inmate [redacted] Deputy Groba felt pressure from the outer portion to his right leg and calf area, and moved down towards his ankle. Due to the unexpected physical contact, Deputy Groba believed Inmate [redacted] attempted to trip, kick, or assault him while he passed by Inmate [redacted]. Deputy Groba immediately turned to face Inmate [redacted] in a defensive manner due to the physical contact.

As a result of the physical contact, Deputy Groba responded verbally saying, "Did you just kick me?" Consequently, Deputy Groba reacted to the physical contact by clinching his left fist and simultaneously throwing a single punch towards Inmate [redacted] face in an attempt to stop the threat.

Deputy Groba described his actions relevant to the physical force he used and he explained why he utilized such force. He recounted the incident and how he felt as the following:

“Actually, without even turn around I’m already saying that, ‘I can’t believe you just kicked me,’ or, ‘Did you just kick me?’ I surprised / shocked. I could feel my arm getting tense and my fist already formed, and it’s coming – the punch is coming.”

“I remember I was focused on his face. He looked angry. His eyebrows were down to his eyes.”

“And because of the situation, where the inmate was, it would be very uncomfortable for me to use my right hand. So it was more, like, ah, turning and everything going in one motion. Also for the record, I’m not left handed.”

“As I’m turning around I’m already - uh, my mindset is I don’t know if he’s trying to trick me. Am I - if he’s trying to attack me. I have - I have no idea what his intention-intentions were. Uh, I know that in the back of my mind we have a situation where another officer had been assaulted not too long ago so that’s in the back of my mind. And again I’m by myself with 64 inmates, uh, anything can happen. So, um, I’m thinking like the worst, uh, at that time and - and as I’m turning around and I’m saying that, uh, he’s answering back by going, ‘Uh – uh,’ or something like that I struck him in the left side of his cheek.”

“Also I have - I have to mention that as I’m throwing the punch just it was like a involuntary reaction. I’m - in the back of my mind I’m trying to stop. Because, um, I’m thinking, um, going to my, uh, you know, the use of force. Uh, first there is, uh, you know, to calm my presence but oh you know the command use of pepper spray. So in the back of my mind I felt like I’m skipping some of my, uh, use of force. Um, you know, so I know - so, um, actually it was a few things happen at the same time. I’m thinking, um, how we - everything we do is questioned. Um, how things are in the department right now. I knew that it wasn’t gonna be good because of that.”

In his opinion, Deputy Groba does not believe the physical contact was incidental due to the prior comments made by Inmate [redacted] to him and the distance between them. He believed the contact was intentional in nature.

During the Internal Affairs interview, I had Deputy Groba reenact the incident. He utilized me as a role player (Inmate [redacted]). I had Deputy Groba position my body and utilized the interview room and exit door as a reference to the area where the incident took place. Deputy Groba estimated the distance between the exit door from where I was standing was two (2) to three (3) feet away. Then he positioned my body and himself, as we would be walking towards the exit door with him passing to the left side. Deputy Groba passed by the left side of me with an estimated six (6) to eight (8) inches between us while he attempted to walk past me and open the door.

I believe that Deputy Groba could have exercised other force options that would have been consistent within the parameters of the arrest and control techniques to bring the perceived threat under control. Other measures such as; placing Inmate _____ in a position of disadvantage, an application of a control hold technique, or utilizing a physical takedown to a position of control. Deputy Groba did not attempt to gain time or distance from Inmate _____ once he believed there was a threat. In fact, after Deputy Groba used a personal body weapon (punch), he did not attempt to place restraints on Inmate _____ to secure the perceived threat. Deputy Groba merely removed himself from the incident and notified his supervisor. Based on the fact that Deputy Groba did not attempt to restrain or further control Inmate _____ it tends to lead credibility to my belief that Deputy Groba's strike was reactionary in nature.

It is in my opinion that Deputy Groba's force was neither malicious nor retaliatory in nature towards Inmate _____. Deputy Groba utilized one (1) physical strike with his weak off-hand (left) to Inmate _____ in response to the perceived physical contact. As a result of the perceived threat, Deputy Groba reacted by turning around towards Inmate _____, balling his left fist, and verbally responding, "Did you just kick me?" Deputy Groba did all this simultaneously within seconds. Deputy Groba also stated that he attempted to pull back the punch but could not.

Furthermore, on May 31st 2016 Deputy Groba pled "no contest" to a misdemeanor PC 149 (Assault Under the Code of Authority). Deputy Groba brought discredit to the Office of the Sheriff by his actions and his subsequent conviction of a misdemeanor crime. By the simple fact this incident was brought before the Criminal Justice System and resulted in a criminal conviction, it reflected poorly on the Office of the Sheriff.

In conclusion, supported by Deputy Groba's statements as to questioning "Did you just kick me?" at the same moment as he threw the punch, tends to indicate the use of force was an overreaction without the full assessment of the threat level. Deputy Groba's mindset during the incident and afterward, coupled with his misdemeanor criminal conviction of PC 149, are major factors in my conclusions.

Based on the totality of evidence collected during this investigation, I'm closing this case with the following dispositions:

Findings Pertaining to Deputy Leonel Groba #10527:

- I. Violation of Santa Clara County Merit System Rule A25-301(a) (1): “Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict with this article.”

Sustained
- II. Violation of Santa Clara County Merit System Rule A25-301 (b) (1): “Guilty of gross misconduct, or conduct unbecoming a County officer or employee which tends to discredit the County or County service.”

Sustained
- III. Violation of Santa Clara County Merit System Rule A25-301(b) (2): “Guilty of immoral conduct or a criminal act.”

Sustained
- IV. Violation of D.O.C. Policy 3.31.II.D – Employee Relationships with Inmates: “Employees shall treat inmates with respect, courtesy and firmness. They shall not use profane, demeaning, insulting and threatening language toward an inmate. Employees shall not engage in an argument or shouting match with an inmate.”

Not Sustained
- V. Violation of D.O.C. Policy 3.31.II.G – Employee Relationships with Inmates: “Employees must maintain a good staff-inmate relationship to ensure effective discipline and order.”

Sustained
- VI. Violation of D.O.C. Policy 3.31.IV.A – Employee Conduct: “County Charter, Merit System Rules, Personnel Regulations, Department’s Code of Ethics Policy, and all other Departmental policies shall guide an employee’s conduct.”

Sustained
- VII. Violation of D.O.C. Policy 3.31.IV.J.1.a: “Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules and all laws applicable to the general public.”

Sustained
- VIII. Violation of D.O.C policy 3.31.IV.J.3.a – Use of Force: “Employees shall only use force in accordance with the law and the Department Policy 9.01, Use of Force Restraints.”

Sustained

- IX. Violation of D.O.C policy 3.31.IV.J.9.a.7: “An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude. Examples of conduct unbecoming include, but are not limited to, the following: 7) Failure to cooperate with an investigation.”

Sustained

- X. Violation of D.O.C policy 3.31.IV.J.10.b: - Neglect of Duty/Unsatisfactory Performance: “Unsatisfactory performance is demonstrated by an inability or unwillingness to perform assigned tasks, failure to take appropriate action in a situation needing attention, or failure to conform to work standards established for the employee’s rank, grade or position.”

Sustained

- XI. Violation of D.O.C policy 3.31.IV.15.a. - Courtesy: “Employees shall, at all times, be courteous and discreet to all persons, maintain decorum and command or temper, and avoid the use of violent, insolent or obscene language.”

Not Sustained

- XII. Violation of D.O.C. Policy 9.01.IA.3.a.b. – Use of Force: “a. Badge staff may escalate the use of force, as necessary and appropriate, but will not progress to higher level of force unless lower levels of force are inadequate, inappropriate or unreasonable for the situation and under the circumstances. b. There is no requirement to utilize a lesser level of force before progressing to a higher one, as long as the level of force utilized is objectively reasonable under the circumstances.”

Sustained

- XIII. Violation of D.O.C. Policy 9.01.III.A.2.a.b.c.d.e.f. Officer Responsibilities: “When force options of level 3 or above are imminent and necessary prior to the arrival of a supervisor or support officers, involved officers shall: a. Defend themselves as necessary b. Call and request officer assistance as soon as possible c. Attempt to restrain the person until assistance arrives using the appropriate level of force based on the circumstances d. Exercise self-control and deescalate the level of force to a level commensurate with the person’s level of compliance, if the person cases aggression and resistance e. Maintain control of the person until assistance arrives at the scene f. Verbally notify the supervisor of the circumstances as soon as practical”

Sustained



Sergeant Adam Valle #10466
Internal Affairs Unit