

# County of Santa Clara

Office of the Sheriff

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Laurie Smith  
Sheriff

## MEMORANDUM

To: Undersheriff John Hirokawa *JH1257*

From: Sergeant Paula McAllister 1706  
Internal Affairs Unit

Date: May 4, 2016

Subject: Internal Affairs Case 13-036  
Review of Officer Involved Shooting

**Involved Employees:** Deputy Aldo Groba #1816 (shooting officer)  
Deputy Kristin Anderson #1871  
Deputy Mark Navarette #9338

**Sheriff's Office Event Number:** 13-344-0148S

This report is an administrative review conducted by Internal Affairs of an officer-involved shooting (OIS) involving Deputy Aldo Groba, Deputy Kristin Anderson, and Deputy Mark Navarrete which occurred on December 10, 2013 near the intersection of McFarland Avenue and Saratoga Avenue in Saratoga, California.

The complete case file containing the Santa Clara County Sheriff's Office Investigative Report, thirty-four CD-ROM disks containing interviews with the involved deputies and witnesses, two CD-ROM disks of the radio traffic associated with the event, and thirteen CD-ROM disks of scene photographs is contained in a binder in Internal Affairs, filed in the "O.I.S." cabinet.

### **Deputy Background Information:**

On December 10, 2013, Deputy Groba had been a deputy sheriff for approximately

twelve years. Prior to that, Deputy Groba was a Correctional Officer at the Santa Clara County Department of Correction for three years. In his time with the Sheriff's Office, he had been assigned to work in the Court Security Division, the Civil/Warrants Division and the West Valley Patrol Division. Deputy Groba had never been involved in an OIS incident prior to this event.

Deputy Anderson had been a deputy sheriff for approximately eleven years and had been assigned to the Court Security Division, the Investigations Division and the West Valley Patrol Division. Deputy Anderson had never been involved in an OIS incident prior to this event.

Deputy Navarrete had been a Reserve Deputy Sheriff with the Sheriff's Office for about fifteen months prior to this incident. Before joining the Sheriff's Office, he had worked as a reserve officer for the San Jose Police Department for approximately fifteen years.

On December 10, 2013, Deputy Groba was assigned to patrol the unincorporated areas of the West Valley Patrol Division, and his call sign was 71W1. Deputy Anderson was assigned to patrol the contract city of Saratoga, and her call sign was 71S5. Deputy Navarrete was working a "pay job" at Prospect High School.

#### **Brandon Marshall Background:**

In December 2013, Brandon Marshall was forty-three years of age. He was approximately 6 feet and 2 inches tall and weighed about 220 pounds. He had been married to his wife, \_\_\_\_\_, for sixteen years. They had no children. He had been employed at Roku for about a year as a Quality Assurance engineer.

Mr. Marshall also suffered from a history of mental health issues. According to his medical records, he had been treated for major depressive disorder, bipolar spectrum disorder, alcohol abuse, panic disorder, insomnia and hypochondria since 2010. He and his wife had been attending marriage counseling for about eight years. Over the course of his mental health treatment, he had been prescribed Zoloft, Clonazepam and Ambien. He also had a medical marijuana card. He and \_\_\_\_\_ believed that the combination of his prescription medication and marijuana were beneficial to his mental health.

Prior to December 10, 2013, Mr. Marshall had begun to display signs of increased paranoia and delusions. In October of 2013, Mr. Marshall had gone to the Vice President of Human Resources at Roku and told him that someone was damaging his motorcycle and spreading negative things about him on the internet which he thought could potentially lead to his death.

These issues caused a strain on Mr. Marshall's marriage, which resulted in several separations. These separations would cause Mr. Marshall to become depressed.

On December 9, 2013, Mr. Marshall and [redacted] had a large argument. Later, [redacted] recalled that during the argument Mr. Marshall made some very odd comments but at the time she did not think anything of them.

**Scene Description:**

This incident occurred in and near Roku, Mr. Marshall's place of employment. Roku is located at 12980 Saratoga Avenue in Saratoga, California, on the corner of Saratoga Avenue and McFarland Avenue.

McFarland Avenue is a two lane divided roadway with a designated left turn lane from eastbound McFarland Avenue into the Roku parking lot. Dividing the eastbound and westbound lanes is a raised center median. At the intersection with Saratoga Avenue, the median is wider and contains several trees and shrubs but it narrows as it continues east.

As the incident unfolded, fire personnel parked their fire truck on the south edge of McFarland Avenue, just east of the intersection with Saratoga Avenue. Deputy Anderson parked her patrol vehicle (09703) along the south curb line of McFarland Avenue, facing west. This is where deputies encountered Mr. Marshall, and the shooting took place between Deputy Anderson's vehicle and the fire rig.

**Incident Summary:**

On December 10, 2013 at approximately 1200 hours, Mr. Marshall entered a meeting that was being held in a conference room at Roku. The meeting was attended by [redacted] (who was the reporting party). Mr. Marshall was not an invitee to the meeting, but he entered, sat down, and started eating a sandwich. He put the sandwich down and produced a small prescription bottle containing yellow pills. He poured some pills into his hand and ate them. He then took some additional pills, began making noises, and tried to make himself vomit by sticking his fingers down his throat. Mr. Marshall used the conference room speakerphone to call his father, [redacted]. Mr. Marshall told his father he was having a problem and needed to be picked up. [redacted] told his son to call him back on his cell phone.

Mr. Marshall exited the conference room and went into the lobby, where he took more

pills and again attempted to induce vomiting before exiting the building. After Mr. Marshall left the conference room, [redacted] called 911 because he thought Mr. Marshall was trying to overdose. While [redacted] was on the phone with the 911 operator, [redacted] followed Mr. Marshall into the parking lot. He observed Mr. Marshall on the phone and called to him to return inside. [redacted] heard Mr. Marshall tell the person on the phone "They're chasing me." Mr. Marshall was also talking about the secret service and Illuminati. [redacted] decided to return inside based on what Mr. Marshall was saying and his behavior.

Initially, [redacted] called 911 on the conference room speakerphone. As he watched Mr. Marshall in the parking lot, he asked dispatch to call him back on his cell phone so he could go outside and follow Mr. Marshall to make sure he didn't run into traffic.

When County Communications received the 911 call, they dispatched it to deputies as a possibly suicidal subject with a possible drug or medication overdose. They also dispatched it as a medical call.

The fire personnel were first to arrive on scene. By this time, Mr. Marshall had made his way to McFarland Avenue. When Mr. Marshall saw the fire truck arrive, he ran toward the driver, [redacted] was behind Mr. Marshall. Mr. Marshall said he needed help because people were after him and he had taken twelve Clonazepam pills. Mr. Marshall was speaking quickly and had a yellow pasty substance around his mouth. Mr. Marshall was taken to the curb to be assessed.

Mr. Marshall initially seemed agitated, but seemed to calm down while sitting on the curb. Shortly after Mr. Marshall sat on the curb, Deputy Anderson arrived. Fire Fighter [redacted] approached Deputy Anderson and asked her to stay back as they continued to assess him. He explained to Deputy Anderson he was a psychiatric patient who seemed to be having issues with his medication.

While sitting on the curb, Mr. Marshall asked to call his father. Mr. Marshall handed the phone to [redacted] who talked with [redacted] told [redacted] that he needed to come and pick up his son.

While that was occurring, Deputies Navarette and Groba arrived and parked behind the fire truck. When Deputy Anderson saw them, she approached them and told them that fire personnel had asked that they stand back. Deputy Groba and Deputy Navarette stayed near the rear of the fire truck while Deputy Anderson moved near the front of the fire truck. The fire personnel were standing around Mr. Marshall, continuing with their assessment and trying to keep him calm. Around this time the paramedics arrived.

Deputy Anderson decided to start a dialogue with Mr. Marshall in an attempt to build some rapport. She talked with him about his shoes, and asked about the yellow substance around his mouth. Mr. Marshall told her that it was from his medication. While talking with her, Mr. Marshall started to become agitated again and pulled out a long chain with keys on one end and a silver kubaton on the other end. This caused Deputy Anderson to take a step backwards. Mr. Marshall did not like that, and told her to return to where she was standing. Mr. Marshall also wanted the "long guns" off him. When it was explained there were no long guns pointed at him, he became more agitated and told Deputy Anderson the kubaton was a deadly weapon and threatened to kill her. Deputy Anderson told Mr. Marshall to put the kubaton away, and initially he complied.

During her confrontation with Mr. Marshall, Deputy Anderson looked toward Deputy Groba and Deputy Navarette, wanting to make sure they were seeing the increased agitation being displayed by Mr. Marshall. Deputy Groba had seen Mr. Marshall display the kubaton and saw that he was in a tense and rigid stance, so he started moving toward Mr. Marshall. Deputy Groba considered Mr. Marshall to be "semi-threatening." He believed Mr. Marshall could hurt someone with his weapon, so he removed his handgun from its holster and held it by his side with the muzzle pointed towards the ground. He told the firemen and paramedics to move further away from Mr. Marshall. This made Mr. Marshall upset, so he displayed the kubaton again and began yelling at everyone. Deputy Groba raised his handgun to a "ready" position and ordered Mr. Marshall to the ground. Instead of complying, Mr. Marshall took off running towards the street yelling. Deputy Groba believed Mr. Marshall was attempting to flee so he returned his handgun to the "low ready" position. However, Mr. Marshall stopped, turned towards Deputy Groba, and raised the kubaton above his head. Deputy Groba raised his arm to protect his head and block the blow from Mr. Marshall's kubaton. The kubaton struck Deputy Groba on his arm, causing an immediate sharp pain. Deputy Groba thought he had been stabbed, and turned to face Mr. Marshall while trying to retreat. Mr. Marshall pursued him. Fearing for his life and the life of others, Deputy Groba fired a single shot into Mr. Marshall's abdomen. Immediately after firing, Deputy Groba notified County Communications of the shooting.

Mr. Marshall fell to the ground and Deputy Navarette fell on top of him. Mr. Marshall began thrashing around and trying to get up. Deputy Navarette used his weight to hold Mr. Marshall down while Deputy Anderson tried to handcuff him. Mr. Marshall was able to grab the handcuffs and would not release them when Deputy Anderson ordered him to. Deputy Anderson struck Mr. Marshall three or four times on the arm with a baton while ordering him to stop resisting. Mr. Marshall still refused to release the handcuffs and continued to actively resist the deputies. Deputy Groba then struck Mr. Marshall

several times with a baton. When the baton strikes failed to gain compliance, Deputy Anderson moved to try and restrain Mr. Marshall's legs while Deputy Groba called for "Code 3" assistance. When Deputy Marcuccillo arrived, they were finally able to handcuff Mr. Marshall. Immediately after getting Mr. Marshall into handcuffs, the deputies allowed medical personnel to begin treating Mr. Marshall.

The paramedics assessed Mr. Marshall and found that he had been shot in the left upper quadrant of the lower abdomen/chest. Mr. Marshall was placed in the ambulance and transported to Valley Medical Center where he was pronounced deceased at 1513 hours.

### **Follow-up Investigation:**

During the subsequent investigation, it was determined Deputy Anderson's vehicle's in dash camera caught the beginning of the incident on video. However, Deputy Anderson manually turned off the camera prior to the shooting because video system was making a loud noise. There were cameras attached to the paramedics' vehicle, but they were not recording at the time of this incident.

The autopsy of Mr. Marshall showed he was shot one time in the abdomen. The track of the wound entered the abdomen, perforated and fractured the left sixth and seventh ribs, injured the transverse colon, injured the left kidney, and struck and fractured the lateral left side of the second lumbar vertebra. The wound path was front to back, left to right and downward. There was no exit wound. Initial toxicology results showed the presence of Ketamine (hospital anesthetic), Clonazepam metabolite, Ibuprofen, and sertraline (Zoloft). A closer examination by \_\_\_\_\_, revealed the presence of a high and potentially toxic concentration of an illegal recreational designer drug called 2C-P (commonly known as bath salts). 2C-P is a synthetic amine drug that causes a stimulant effect on the human body. It has been known to cause a heightened euphoric state, excitability, reduced inhibitions, delusion, hallucinations, paranoia and panic attacks. In some instances, it has been associated with unpredictable and violent behavior.

### **Administrative Investigation:**

Sergeant Rivera and Sergeant Alanis responded to the area of the shooting and conducted a walk-through of the scene. Later that evening, Sergeant Alanis compelled a blood sample from Deputy Groba, which was submitted to the County Crime Lab for processing.

Sergeant Rivera and Sergeant Alana monitored Deputy Groba's interview on December

10, 2013 at 2250 hours by Sergeant Quinonez and I. Deputy Groba was represented by

On December 17, 2013, the Crime Lab faxed the report associated to this case. The results showed no alcohol in Deputy Groba's blood.

**Conclusions:**

Beginning on the day of the occurrence and over the next several months, the Santa Clara County Sheriff's Office conducted what I find to be a thorough and detailed investigation of this shooting. The Homicide Unit Detective along with the Crime Scene Unit Detectives:

- contained and professionally processed the scene,
- conducted an extensive canvas of surrounding areas, including attempting to locate any possible video of the incident,
- photographed and documented the crime scene, and
- interviewed all the deputies who were present at the scene along with numerous witnesses to the incident.

Nothing in any interview conducted nor any physical evidence found at the scene in any way contradicted or called into question the official statements made by Deputy Groba, Deputy Anderson or Deputy Navarette.

After reviewing the numerous interviews conducted following the incident, reviewing the recorded interviews with Deputy Groba and the other involved personnel which were conducted the same evening, comparing all of those interviews with the written summaries and evaluations contained in the Santa Clara County Sheriff's Office Incident Report, and reviewing the original radio dispatches, it is my finding that:

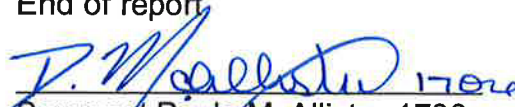
While performing his lawful assigned duties, Deputy Groba encountered Mr. Marshall, who assaulted him with a weapon and displayed a complete disregard for the safety of all persons at the scene. Mr. Marshall appeared ready to continue his assault on Deputy Groba and fearing for the safety of himself and his partners, Deputy Groba lawfully discharged his weapon in self-defense and in the defense of others.

I find no violation of any departmental policy or procedure by Deputy Groba up to and including the use of his firearm in this incident.

The Santa Clara County District Attorney's Office has reviewed this OIS pursuant to the Officer-Involved Incident Guidelines adopted by the Santa Clara County Police Chief's

Association on October 11, 2012. I have reviewed the District Attorney's Office report and included a copy of it in the Internal Affairs case binder. The report is dated April 18, 2016. The District Attorney's Office determined that Deputy Groba was legally justified in his use of force and that no criminal liability should be attached to his actions that day.

End of report.

  
Sergeant Paula McAllister 1706