

## **Rapid City Police Department and South Dakota Highway Patrol Shooting Summary detailing events that took place on January 10, 2012**

On 1-10-12, the South Dakota Division of Criminal Investigation was called upon by the Rapid City Police Department and the South Dakota Highway Patrol to conduct an investigation into an officer involved shooting that occurred at the Lacrosse St. on-ramp to Interstate 90 Westbound, in Rapid City, SD. This shooting resulted in James Baker being shot, after firing a handgun at officers. The following information is a synopsis of the events that occurred on 1-10-12, as determined by the investigation that was conducted by the Division of Criminal Investigation.

### **Synopsis**

On 1-10-12, at approximately 1:30 am James Baker was pulled over for a stop sign violation by Officer Michael Frybarger with the Rapid City Police Department. Baker was driving a 4 door GMC pickup. Officer Frybarger made contact with Baker on East St. Patrick Street in the area of Robbins Dr. in Rapid City and obtained verbal identification from Baker. Officer Frybarger checked the status of Baker's license and received information that Baker had an active arrest warrant in Campbell County, Wyoming for a probation violation. He was informed that Campbell County would extradite Baker to Wyoming. At this time Officer Frybarger requested backup and Officer Shyne arrived at the scene. Officers Frybarger and Shyne re-approached Baker and asked him to exit his vehicle. Baker then put his vehicle in drive and sped away at a high rate of speed. Officer Frybarger returned to his vehicle and initiated a pursuit using emergency lights and siren. Officer Frybarger pursued Baker at speeds of up to 80 mph through the city. There were 2 attempts by other Rapid City Police Officers to deploy road spikes in an attempt to stop the pursuit. One of these attempts was successful, leaving Baker's left front tire to slowly deflate, but the pursuit continued.

Officer Sean Doyle and SDHP Trooper Robert Rybak along with other Rapid City Police Officers joined in the pursuit as Baker drove on to I-90 westbound at Exit 61. Baker continued to drive westbound on I-90 and then took exit 59, drove across Lacrosse St. and continued down the on-ramp to I-90 westbound, at which time Baker came to an abrupt stop. Officer Frybarger stopped 15 feet directly behind Baker's vehicle. Baker immediately exited his vehicle on the driver's side with a handgun, pointed and fired a 9 mm Ruger at Officer Frybarger as he exited his patrol car. After shooting his handgun, Baker shielded himself using his pickup as cover. The round fired by Baker at Officer Frybarger struck his patrol car on the driver's side upper door frame as he was exiting. Officer Frybarger observed Baker pointing a gun at him and began returning fire with his duty issued Glock .40 caliber handgun. Officer Frybarger was in fear for his life and returned fire shooting his duty weapon a total of 11 times.

Officer Doyle, who was involved in the pursuit, was aware that Baker had a warrant for his arrest and that he was considered dangerous. Officer Doyle came to a stop to the left and slightly back from Baker's vehicle approximately 42 feet away. Officer Doyle observed Baker exit his vehicle and point a hand gun in the direction of him and other officers. He saw Baker fire one round and heard the round strike metal. Officer Doyle exited his vehicle and as he moved to the rear of his patrol car he drew his weapon. Officer Doyle believed Baker was a threat to him and all the other officers present and began firing his duty issued Glock .40 caliber handgun. Officer Doyle fired his duty weapon a total of 16 times.

Trooper Rybak, who was also involved in the pursuit, was aware that Baker had a warrant for arrest and that he was considered dangerous. Trooper Rybak came to a stop to the right and slightly back from Baker's vehicle approximately 30 feet away. Trooper Rybak observed Baker get out of his car at the same time he was exiting his patrol vehicle. Trooper Rybak heard a gunshot come from the direction of Baker. Trooper Rybak believed that he and other officers present were in danger and began shooting his duty issued Sig Sauer .40 caliber handgun. Trooper Rybak fired his duty weapon a total of 6 times.

A total of 33 rounds were fired by Officer Frybarger, Officer Doyle and Trooper Rybak. Baker was struck 3 times during this shooting incident. He was struck once in the right hand, once in the right cheek and once in the upper right chest area. Law Enforcement provided Baker medical attention and he was transported by ambulance to Rapid City Regional Hospital, where he is recovering from his injuries. Baker tested positive for amphetamine upon arriving at the hospital.

Officer Frybarger received an injury to his right hand, which required several stitches. This occurred as Baker resisted exiting his vehicle on the initial traffic stop. He also received a minor puncture wound to his right inner elbow. No other officers were injured during this incident.

### **Interviews and Crime Scene**

A crime scene investigation was conducted by the South Dakota Division of Criminal Investigation and assisted by the Pennington County Sheriff's Office and troopers from the South Dakota Highway Patrol. During this investigation, a Ruger 9 mm semi-automatic handgun and a magazine with 14 rounds was found on the ground near Baker's driver side door. The magazine was not in the gun. There was one 9 mm shell casing lying next to the gun. A subsequent search of Baker's vehicle identified a second handgun, which was a fully loaded Hi Point .380 semi-automatic handgun and crystal methamphetamine.

An associate of James Baker was interviewed and advised that Baker was aware that there was a warrant for him in Campbell County, WY. Baker told this individual that he had not shown up for a probation visit and a warrant was issued for his arrest at that time. He also said that he was not going back to jail, no matter what it took.

A second associate also stated that Baker told him that he was not going back to jail and believed that he was suicidal.

The Division of Criminal Investigation conducted a criminal history check on James Baker. It was determined that James Baker was wanted for a probation violation stemming from a theft charge out of Campbell County Wyoming. James Baker has been arrested for assault and possession of a controlled substance.

Drug screen and a blood alcohol tests were conducted on Officer Michael Frybarger, Officer Sean Doyle and Trooper Robert Rybak. All tests were negative.

### **Investigation Results**

It is the conclusion of this report and the Attorney General that the officers and trooper were justified in firing their weapons and using lethal force.

The crime scene investigation conducted by the Division of Criminal Investigation is consistent with statements made by Officer Michael Frybarger, Officer Doyle and Trooper Robert Rybak, along with other law enforcement that were present on the scene of the incident. The in-car camera video taken by several of the law enforcement vehicles present also provided documented evidence that is consistent with statements from law enforcement.

Criminal charges against Baker are pending with the Pennington County States Attorney's Office.