

**OFFICE OF ATTORNEY GENERAL
INVESTIGATION AND REPORT
OFFICER INVOLVED SHOOTING
(Anthony Larocco - October 20, 2007)**

INTRODUCTION

The South Dakota Division of Criminal Investigation (DCI) conducted an inquiry on behalf of the South Dakota Highway Patrol into an officer involved shooting which took place about a mile north and a mile east of Harrold, South Dakota, on the evening of October 20th, 2007. DCI took control of the shooting scene about five minutes after the shot was fired and immediately began the investigation. Photographs were taken. Location of the motor vehicles present at the shooting were marked, the shooting scene was later reconstructed for aerial photography. Interviews or reports were obtained from all the officers who were present at the shooting. All 911 tapes and dispatch logs were obtained and reviewed together with in-car video camera tapes. Medical and other records of the decedent were obtained and reviewed. An autopsy of the decedent was performed. In addition, blood samples from the decedent and the officer involved were taken and processed for toxicology and blood alcohol. The weapons in the possession of the officer involved and the decedent were secured and sent to the South Dakota Forensics Lab for examination. Family members and other witnesses were interviewed. The evidence gathered up to this point indicates the following.

FACTUAL SUMMARY

At 7:30 p.m. a volunteer crisis counselor from the Missouri Shores crisis line called the Pierre Police Dispatch Center. The counselor reported that a phone call had been forwarded to her by a 411 operator. The male caller said his name was Anthony. Anthony was swearing into the phone at the counselor. He told her that if she sent law enforcement to his house "people are gonna die." He said he was bipolar, manic depressive, and had two small children. Anthony told the counselor that if she didn't believe him, he was going to start shooting people. It was then that she thought she heard gunshots in the background.

At 7:34 p.m. a male subject called 911. During this call, the male said he was armed with a "9 millimeter." He said he was going to shoot himself in the head. Throughout the call he was

angry, rude and cursing. He threatened that if he saw headlights coming towards him he was going to pull his gun out and pull the trigger. He said he would have the officers in his sights before they got to him. He said he had been drinking and was "very f***g dangerous." He said he would blow up five fuel pods if he saw the police responding. Shortly after that the caller hung up.

At 7:37 p.m. the male again called 911. This time he said he had two children in his trailer. He said he wanted law enforcement to come to his residence. He said, "I'll be waiting for them and when they show up, I'll be ended." He said, "I was on top of the Harrold bar before."¹ The caller said something like, "I will put a gun to the officers and they will shoot me". He added, "They are allowed to shoot me with no problem." During the phone call the male said, "[members of his girlfriend's family] all put me through too much and I can't handle it no more and I'm telling you I got a pistol in my pocket and I'm done with this and I can't handle it no more and I just want somebody to help me." At one point the caller put a male child on the phone with the dispatcher. After the child made a brief comment, the caller took the phone back and said, "Ma'am, you know the deal, let them know to be ready to shoot a m*** f*** when they get here."

The dispatcher contacted Hughes County Deputy Sheriff Bob Duncan and other law enforcement officers and forwarded the information from the 911 calls, including the statement that "shots had been fired." The tactical response plan was for the responding law enforcement officers to stage at the Harrold airstrip until there were enough officers to approach Larocco's residence. While Duncan, Sully County Deputy Sheriff Mike Varilek and GFP Conservation Officer Casey Griffith were parked at the Harrold airstrip awaiting the arrival of more law enforcement officers, a w/m later identified as Anthony Larocco arrived at the airstrip in a red Ford pickup and deliberately drove in a circle at a quick speed and initiated a vehicle pursuit. The vehicle

¹ - On February 11, 2007, the Hughes County Sheriff's Office responded to a call from a bar in Harrold indicating that a man was threatening to kill people in the bar with a knife. When the officers arrived, the man (Anthony Larocco) had climbed onto the roof of the bar and thrown the knife to the ground. Larocco then stripped bare to the waist and threatened to kill himself by jumping. On several occasions, he grabbed onto an electrical power line connected to the bar. After a couple of hours, Larocco was convinced to climb down and was hospitalized.

pursuit lasted approximately seventeen minutes and reached speeds of over seventy miles per hour on gravel roads.

Several times during the pursuit Larocco was seen waving what appeared to be a hand gun out of the window. Trooper Ryan Lantz caught up to the pursuit just as Larocco got out of his vehicle and ran into an adjacent field. Deputy Duncan was the first to drive into the field, eventually followed by Hughes County Sheriff Mike Leidholt and Trooper Lantz in Leidholt's vehicle. Trooper Lantz, armed with a .12 gauge shotgun loaded with 00 buckshot, had entered into Leidholt's vehicle shortly after the vehicle pursuit ended. Conservation Officer Griffith also entered the field in his own vehicle. SDHP Lieutenant Scott Sheldon, along with his K9 partner, entered the field and joined the others just prior the shooting.

All of the law enforcement officers present at the shooting were in uniform. All except Sheriff Leidholt were operating vehicles clearly marked as police vehicles. Portions of the events in the field were captured on three in-car video cameras. All officers witnessed Larocco holding a gun. Throughout the standoff Larocco put the gun to his own head and put it in his mouth. He alternated between pointing the gun at himself and at the law enforcement officers. At times he would stand and confront the officers, then he would walk backwards away from them.² The tapes disclose at least thirty times the officers ordered Larocco to drop his weapon but he refused. He yelled at them, saying things like "I'm gonna f***g kill myself" and "f*** you, I'm gonna kill you." All of the law enforcement officers at the scene were concerned for their own safety and for the safety of the others. During the incident Larocco's girlfriend (Gerry Ogle) approached an officer stationed outside the field and said the gun Larocco had was a BB gun. That information was radioed to the officers in the field, but they had absolutely no way to confirm that information.

Larocco continued to disregard the officers' orders to drop his gun, and he again started to back away from them. At one point Larocco began walking out of the wheat stubble and into a low draw that consisted of higher grass. Deputy Duncan tried to keep Larocco illuminated with his headlights and spotlight. It was then that Larocco started walking towards Deputy Duncan's vehicle, his arm extended, pointing the gun directly at Duncan. For his own safety, Duncan exited his vehicle and took cover behind it. He shouted to Larocco to not come any closer.

² - Larocco's movements in the field all seemed to be generally toward Harrold.

Larocco continued to come towards Duncan. At that point Leidholt and Griffith pulled their vehicles up near Duncan's. Larocco pointed his gun at them and backed a short distance away.

The law enforcement officers all exited their vehicles and again ordered Larocco to drop his gun but he did not. Lt. Sheldon shouted that he would release his K9 if Larocco did not drop the gun. Larocco did nothing that he was told, instead he continued to yell obscenities at the law enforcement officers.

Larocco then leaned toward Deputy Duncan and Trooper Lantz, who were at the same vehicle. He gripped his gun with two hands, crouched or knelt down, extended his arms and aimed the gun directly at them. Trooper Lantz then fired his shotgun once at Larocco and Larocco dropped. Lantz told investigators that he fired because he believed that he and the officers near him were in immediate danger and that his safety and the safety of his fellow officers required it.

Immediately after Larocco was shot, two of the law enforcement officers approached Larocco and handcuffed him behind his back. When he was rolled over, the officers observed his injuries, uncuffed him and began rendering first aid. His gun was found beneath his body. The distance between Lantz and Larocco at the time of the shooting was approximately 78 feet (26 yards). The weapon Larocco carried was a .177 caliber Daisy Powerline 008 Dual Ammo Semi-automatic co² powered gas pistol. It is very similar in size and appearance to a Sig Sauer .380 caliber semi-automatic pistol, which is the standard DCI duty weapon. (See the comparison photo attached to this report.)

Trooper Lantz said that he had an uneventful traffic contact with Larocco in the past; however he didn't recognize him during the standoff. There were no civilian witnesses to the actual shooting.

Dr. Denise Hanisch was the attending emergency room physician when Larocco was transported to St. Mary's Healthcare Center. Hanisch noted in her report an entrance wound to the left forearm, an entrance wound between the third and fourth ribs in the left chest wall, an entrance wound in the left temporal area, and an entrance wound to the anterior neck just to the right of the trachea. She also found an injury to the right pinkie which appeared to be related to a gunshot wound.

Dr. Don Habbe in Rapid City conducted the autopsy. The preliminary autopsy results indicated that the shotgun pellets

perforated Larocco's brain, liver and right jugular. Habbe drew a sample for blood alcohol determination. Chemist Roger Mathison at the Department of Health determined Larocco's ethyl alcohol level was .293% by weight. Drug screens on Larocco were negative. Drug and alcohol screens on Trooper Lantz were negative.

Larocco's girlfriend of over seven years, Gerry Ogle was interviewed. The couple never married but they do have two sons, three and six years old.

Ogle said that Larocco has been diagnosed bipolar and has attempted suicide in the past. He has talked about suicide "quite a few times." She said that within the last year Larocco had an argument with one of her relatives in a bar and he became so upset that he climbed onto the roof of the bar and threatened to kill himself by jumping.

Ogle said that about one hour before the shooting, Larocco called her at her work several times. She remembered the last call specifically. He told her to go to the house and get their children. He told her how he was going to die. He said that he had already called the cops and they were on their way. He said he had his BB gun and that he was gonna have the cops shoot him by making them think it was a real gun. Ogle said Larocco has made comments in the past about getting the cops to kill him. According to Ogle, Larocco has said that he could never kill himself so he would have to get the cops to do it. Ogle said: "When he would get depressed...that's when he would make comments you know, well I'll just, you know, go grab the BB gun or I'll go, you know, I'm gonna go do something to make the cops shoot me." She said that Larocco's comments nearly always dealt with the cops being the ones to do it.³

Ogle and her father Jim Ogle, questioned why the law enforcement officer used deadly force to subdue Larocco. Jim Ogle observed some of the vehicle pursuit and asked a law enforcement officer for permission to go into the field and talk to Larocco. His request was denied. Jim Ogle did not hear or see the events in the field just prior to the shooting.

An examination of Larocco's records from Minnehaha County and Hughes County disclose the following: On July 29, 2002, while

³ -Ogle also reported a recent purchase of an accident and life insurance policy on Larocco with Ogle as the beneficiary. The policy amount was \$100,000. The policy excludes payment for self-inflicted death or injury. The policy became effective on August 17, 2007.

incarcerated in the Minnehaha County Jail on traffic charges, Larocco tried to hang himself from a bed in the jail cell. On December 1, 2002, a member of Larocco's family called the police and reported that he had overdosed on prescription medication. On November 22, 2004, a Larocco family member called the police indicating that Larocco had stated "the world would be better off without him." In addition Larocco stated "he had a rope up in one of the trees at Terrace Park."

CONCLUSION

The South Dakota Highway Patrol has a written use of force policy in effect. The Highway Patrol policy states in relevant part as follows:

Officers may use deadly force to protect themselves or others from what is reasonably believed to be an immediate threat of death or serious bodily injury....

The Policy also states

Officers are permitted to fire their weapons under the following circumstances. A. In defense of the human life, including the officers own life, or in defense of any person in immediate danger of serious physical injury; ...

The Highway Patrol policy is consistent with South Dakota statutes and U.S. Supreme Court precedent. The Attorney General's Office concludes that Trooper Lantz acted in accordance with shooting policy and relevant statutes and case law. The call which initiated the event from "Anthony" suggested that shots had been fired. Larocco intentionally provoked a confrontation with the police who spent over half an hour attempting to convince him to lay down his weapon and surrender. Trooper Lantz fired his weapon only after Larocco took an aggressive firing position and aimed his weapon from short range directly at Deputy Duncan and Trooper Lantz. The weapon which Larocco held, although a pellet gun, is virtually indistinguishable from a standard police issue semi-automatic pistol. The evidence is compelling that Larocco wanted to die and purposely maneuvered the police into shooting him.

Trooper Lantz acted in the reasonable belief that discharge of his weapon was necessary to protect himself and fellow officers. Such action is allowed by state and federal law. Thus, this office concludes that the shooting was justified.

