

**OFFICE OF ATTORNEY GENERAL
INVESTIGATION AND REPORT
OFFICER INVOLVED SHOOTING
(Michael Wayne Croyle - December 13, 2006)**

INTRODUCTION

The Division of Criminal Investigation of the South Dakota Attorney General's Office (DCI) was contacted by the Rapid City Police Department on the evening of December 13th, 2006, and asked to conduct an inquiry into an officer involved shooting in Rapid City, South Dakota, earlier that evening. DCI and the Pennington County Sheriff's Office began an investigation immediately. Within the next several hours, multiple interviews were conducted with the participants and other eye witnesses. Reports from officers responding to the scene were compiled and reviewed. Blood and urine sample were obtained from Michael Wayne Croyle for analysis and several items of physical evidence were gathered and processed. The evidence gathered to this point suggests the following.

SUMMARY

At about 8:50 p.m. on December 13, 2006, Officer Spencer O'Bryan of the Rapid City Police Department was on duty and operating a patrol vehicle in the area of 426 E. Fairlane Drive. O'Bryan had been dispatched to that area on an unrelated call but was flagged down by a male driving a pickup. The man

reported a disturbance in Apartment D6 at 426 East Fairlane and asked for the officer's assistance. O'Bryan turned his vehicle around and proceeded to the address given. He parked his vehicle on the north side of Building E. O'Bryan was met in the parking lot by the man who had originally contacted him. The man told O'Bryan that his sister and her husband were engaged in a disturbance with each other in Apartment D6. The man indicated his mother was also in the apartment and had telephoned him about the disturbance.

Officer O'Bryan said that as he approached Apartment D6, he saw an older female standing in the doorway and heard what he thought was an argument coming from the apartment. He went to the door and she invited him into the apartment. When he entered the apartment he identified himself as the police. He also heard someone say "someone's here" or "Company's here." When he entered the apartment, he observed a female sitting on the couch and a male (later identified as Michael Wayne Croyle) standing or kneeling in front of her. As he walked in, Croyle reached his right hand to his right rear pocket. As Officer O'Bryan began to question the occupants, Croyle started toward the exit of the apartment. Croyle tried to walk past Officer O'Bryan. Officer O'Bryan put his arm out to impede Croyle and asked him to identify himself. Croyle did not respond but pushed past Officer O'Bryan and out the door. At this point,

the older woman stated "and he's got a gun." Croyle then ran out of the apartment and Officer O'Bryan pursued him. Officer O'Bryan immediately called for emergency backup using the Rapid City Police Department code "Signal 40."

Croyle ran west from the apartment along the south side of the building. There is a new building under construction going on the south side of the Apartment Complex. Croyle turned south along the west side of the building under construction. As Croyle turned to the south along the west side of that building, O'Bryan drew his weapon believing that Croyle was armed with a gun. The chase proceeded to the southwest corner of the new building and Croyle turned back to the east on the south side of the building. Officer O'Bryan could see Croyle "flailing his arms" trying to get his jacket off. Throughout the foot pursuit, Officer O'Bryan was giving Croyle commands to "Stop" and "Get down!" Croyle kept running and turned back to the north on the east side of the building. As he made the turn, Officer O'Bryan could see that Croyle had something in his hand and was heading back directly towards Apartment D6. Officer O'Bryan then heard two gunshots and saw the muzzle flashes come from Croyle's gun. Officer O'Bryan thought that Croyle may be shooting at the people in Apartment D6. Officer O'Bryan saw the muzzle flashes very close to the silhouette of Croyle's head as he was running away. Officer O'Bryan stated that when he made

the decision to use deadly force, he was concerned for the safety of the individuals in and around Apartment D6. After Croyle fired his weapon, O'Bryan stopped, took aim and fired his weapon. O'Bryan thought that he had fired four rounds. The investigation disclosed that he fired five times. One round struck Croyle in the back just to the left of his spine. The bullet proceeded through Croyle's abdomen and lodged just under the skin on the right side of the abdomen just above his right hip. Croyle proceeded a short distance after being struck by the bullet and then went to the ground. Officer O'Bryan then approached Croyle and found the weapon on the ground approximately eight feet away. Officer O'Bryan controlled the scene until backup officers arrived a short time later.

Evidence gathered at the scene and witness interviews are consistent with the information provided by Officer O'Bryan. Five 40 caliber shell casings were recovered at the location indicated by Officer O'Bryan as the place from which he fired. A .22 caliber nine-shot snub nosed revolver containing seven live rounds and two spent rounds was recovered about eight feet from the spot Croyle went to the ground after having been wounded. As Croyle was taken into custody, he removed a Smith and Wesson SWAT knife from his right front pocket and gave it to the arresting officer.

DCI interviewed Croyle at the hospital. He admitted having the .22 revolver in his possession. Croyle indicated he ran from police believing there was a warrant outstanding for his arrest. He also knew he was prohibited from possessing a firearm because he has a prior felony conviction. He admitted firing the weapon but denied aiming it at anyone. He explained he fired the weapon straight up in the air in order to slow the officer down, thus allowing him to escape or discard the weapon. DCI obtained body fluid samples from Croyle for analysis. The results were positive for the presence of marijuana, cocaine, methamphetamine and the drugs administered by the hospital staff. The analysis for the presence of blood alcohol was negative.

The South Dakota Attorney General's Office concludes that Officer O'Bryan acted appropriately in the discharge of his weapon. O'Bryan was called to the scene of a domestic disturbance. Such incidents have a relatively high potential for violence. Croyle refused to identify himself and ran out of the apartment. Croyle had displayed a handgun to the occupants of the apartment earlier in the evening. The occupants told O'Bryan that Croyle had a gun. O'Bryan pursued Croyle and on several occasions ordered him to stop and get down. Croyle continued to run from O'Bryan and circled back to the entrance of Apartment D6 where Officer O'Bryan observed Croyle fire his

weapon twice. O'Bryan returned fire and one round struck Croyle. Because Croyle had fired a firearm and created potential risk to the residents in the area, Officer O'Bryan was justified in responding with his firearm.