

South Dakota Highway Patrol Shooting Summary detailing events that took place on September 6th, 2011

On 9-6-2011, the South Dakota Division of Criminal Investigation was called upon by the Custer County Sheriff's Office and the South Dakota Highway Patrol to conduct an investigation into an officer involved shooting that occurred at the intersection of Mt. Rushmore Rd & 6th St. in Custer, SD. This shooting resulted in the death of Cody Engen. The following information is a synopsis of the events that occurred on 9-6-2011, as determined by the investigation that was conducted by the Division of Criminal Investigation.

SYNOPSIS

On 9-6-2011, at approximately 1:50 am Cody Engen left the Gold Pan Bar, traveled to his residence and obtained a .45 caliber handgun. Upon leaving his residence, Engen fired off a round from his handgun, got into his pickup and drove away.

At approximately 1:56 am, Engen made a 911 call to Custer County Dispatch advising that he was drunk, had a loaded .45 and wanted to kill a law enforcement officer. Engen continued to make numerous 911 calls to the Custer County Dispatch, again stating that he was armed with a .45 cal. handgun and that he wanted to kill a law enforcement officer. There were also several 911 calls made by civilians living in Custer advising that a subject was driving at a high rate of speed through town, that a subject was driving erratically, in possession of a firearm, and shooting from his vehicle. At this time Custer County Dispatch asked law enforcement personnel from the surrounding area to assist in this incident.

Shortly after the initial 911 call, Engen was located by Custer County Deputies in the area of the Custer High School. He fired two rounds from his handgun at the Deputies and then proceeded back into town. Engen arrived at the Sheriff's Office and talked to Custer County Dispatch on a phone located outside the building and continued to threaten to kill law enforcement.

Engen then left the Sheriff's Office and walked down Mt. Rushmore Rd. where he threatened several civilians by pointing a gun at them. Engen attempted to force his way into a civilian's apartment. Other witnesses also viewed Engen on Mt. Rushmore Rd. during this time period.

Engen next made his way to the Custer County Dispatch, which is located in the basement of the county courthouse. Engen spoke with Dispatch through the outside speaker phone and stated that he has a loaded .45 and wanted law enforcement to respond. During this time, dispatch relayed information to responding law enforcement.

Engen then went back to the Sheriff's Office, entered his vehicle and rammed through the front door and gained access to the building. Engen exited his vehicle, walked into the Sheriff's Office and ransacked the office area. He then barricaded himself inside of the Sheriff's Office for approximately 30 minutes. Engen continued to have several conversations via telephone and police radio with Dispatch stating that he wanted to be killed by law enforcement or kill a law enforcement officer. During this time area law enforcement began to show up for this call to service.

At approximately 3:45 a.m., Engen exited the backdoor of the Sheriff's Office on foot and walked north on 5th St. Engen then turned and began walking East on Mt. Rushmore Rd. During this time, law enforcement observed Engen as still being in possession of a handgun. Engen continued east on Mt. Rushmore Rd. toward the intersection of 6th St. and Mt. Rushmore Rd., where two Custer County Deputies and Trooper Todd Albertson were posted as perimeter security. Trooper Albertson observed Engen walking in his direction with a handgun in his right hand. Trooper Albertson ordered Engen to drop

the gun, three different times. Engen refused to comply, continued to walk in the direction of Trooper Albertson, at which time Trooper Albertson fired his duty issued 223 rifle at Engen, striking him three times. Engen died from his injuries at the scene.

Three law enforcement officers were present when the shooting occurred, two Custer County Sheriff's Deputies and South Dakota Highway Patrol Trooper Todd Albertson. All three were interviewed. It was determined that Trooper Albertson was the only law enforcement officer that fired his weapon during the incident.

INTERVIEWS AND CRIME SCENE

Interviews conducted with the two Custer County Deputies were consistent with statements made by Trooper Albertson. Both Deputies stated that Engen was told several times by them and Trooper Albertson to drop the gun. Engen refused and with a gun in his hand, continued to walk in the direction of law enforcement. Trooper Albertson then shot his weapon several times until Engen fell to the ground.

An interview was conducted with South Dakota Highway Patrol Trooper Todd Albertson. Trooper Albertson advised that he received a call at his home on 9-6-2011, at approximately 3:07 am and was advised that a subject was inside the Custer County Sheriff's Office with a weapon and had barricaded himself there.

After responding to the incident, Trooper Albertson was ultimately directed to the intersection of 6th St. and Mt. Rushmore Rd. in an effort to set up a perimeter and stop traffic from coming into the area. Trooper Albertson received information that a subject had driven his vehicle through the front door of the Sheriff's Office. Trooper Albertson was told that the subject was Cody Engen, he had a gun, that Engen had fired the gun and Engen wanted to kill a law enforcement officer. He posted his patrol vehicle at 6th St. and Mt. Rushmore Rd. on the north side of the intersection. He then exited his patrol car, retrieved his duty issued 223 rifle and stood at the rear of his vehicle.

A short time later, two Custer County Sheriffs Deputies arrived at the intersection of 6th St. and Mt. Rushmore Rd. and parked across the street. It was at this time that Trooper Albertson heard over the radio that Engen had just exited the Sheriff's Office and was on foot walking east. Trooper Albertson advised he then saw Engen walking in his direction, on the sidewalk in front of the Gold Pan Bar. At this point, Engen was approximately 1 block away from Trooper Albertson. Trooper Albertson could hear Engen yelling and screaming profanities and saying, "I see you, let's get this over with, let's get it on, this is gonna happen, let's get this over with, somebody just shoot me." Engen continued to walk to the middle of the street and in the direction of Trooper Albertson.

Trooper Albertson advised that Engen got approximately 50 yards away from him and he could then see that Engen had a pistol in his right hand. Engen then looked at Trooper Albertson and began walking directly at him. Trooper Albertson then yelled to Engen, "Put the gun down! Put the gun down! Put the Gun down!" After the 3rd verbal command to drop the gun, Engen did not comply and continued to walk at Trooper Albertson with the pistol in his right hand. Trooper Albertson then fired his rifle until Engen fell to the ground. Trooper Albertson was standing at the back left corner of his patrol vehicle when he fired his rifle. Trooper Albertson advised that it was dark and he was not able to clearly see his front sight on his rifle and had to fire looking over the top of his rifle. Trooper Albertson advised that he was in fear for his life and was concerned for the safety of other deputies in the area.

Investigation revealed that Trooper Albertson fired his rifle a total of 14 times, striking Engen 3 times. The distance between Trooper Albertson and Engen was approximately 36 yards.

Trooper Albertson was wearing his issued uniform at the time of the shooting. This consisted of his uniform, gun belt, a maroon pullover, stocking hat and black leather gloves. The maroon pullover had the Highway Patrol patch sewn on both shoulders and a badge sewn on the chest.

Additional information was obtained from numerous witnesses to different portions of Engen's crimes. One witness advised that he observed a subject driving very fast in his vehicle on Mt. Rushmore Rd. and the subject shot in the witnesses' direction while passing the witness. The subject was yelling loudly that he wanted to kill a law enforcement officer.

A second witness, who was walking to his apartment, noticed a subject walking down the middle of Mt. Rushmore Rd. with a gun in his hand and yelling loudly. After observing this, the witness ran into the apartment building and locked the door to the apartment. The subject came to the witnesses front door of the apartment and began kicking the door and yelling. The subject then left and the witness observed him standing in the street waving a gun towards the window.

A third witness reported that he viewed a subject on Mt. Rushmore Rd. yelling for law enforcement. This witness also reported that he viewed the subject with a gun and that the subject pointed the gun in his direction. This third witness also heard the subject shooting while the subject was driving his vehicle in the area.

A fourth witness reported that she viewed a subject with a gun in his hands on Mt. Rushmore Rd and this subject pointed the gun at her.

A fifth witness reported that he viewed Cody Engen in possession of a handgun and that Engen pointed the handgun at him. This witness described the vehicle Engen was driving as being a silver Chevy pickup.

There were a total of 27 individuals interviewed as witnesses to these events. Their statements were consistent with the 911 calls and the physical evidence obtained during the multiple scene investigation. Specific statements identified the demeanor of Engen as being very confrontational towards law enforcement throughout this incident. There were several times during the incident in which Engen, either shot at innocent bystanders or pointed his gun at innocent bystanders.

A drug screen and a blood alcohol test conducted on Trooper Todd Albertson and was negative.

The crime scene investigation conducted by the Division of Criminal Investigation is consistent with statements made by Trooper Todd Albertson, other law enforcement and the witnesses interviewed. Cody Engen was in possession of a .45 caliber pistol at the time of his death. The pistol was found to be empty.

FINAL AUTOPSY REPORT AND HISTORY

On 9-6-2011, an autopsy was conducted on Cody Engen. According to the autopsy report, Engen received 3 gunshot wounds. The first gunshot wound was identified as being to the center of his chest. The second gunshot wound was to his left shoulder area. The third gunshot wound was to his upper shoulder. Three bullets were recovered from Engen's body and all are consistent with being 223 caliber. Engen's blood alcohol content was .177. Engen was given a complete drug screen test and was negative for controlled substance.

The Division of Criminal Investigation conducted a criminal history check on Cody Engen. It was determined that Engen has no criminal history. A background check after the shooting incident revealed that Engen was recently honorably discharged from the military on 5-20-2011, after completing 4 years of service. Engen had been diagnosed by a doctor as having Post Traumatic Stress Disorder.

INVESTIGATION RESULTS

It is the conclusion of this report and the Attorney General that South Dakota Highway Patrol Trooper Albertson was justified in firing his weapon and using lethal force.