

## **South Dakota Highway Patrol Officer Involved Shooting Summary Detailing Events That Took Place on August 9, 2023**

On August 9, 2023, the South Dakota Highway Patrol (SDHP) requested the South Dakota Division of Criminal Investigation (DCI) investigate an officer involved shooting that occurred in Sturgis, SD. This event occurred during the Sturgis Motorcycle Rally. Wyatt James Fluty was shot multiple times during an armed confrontation with a SDHP Trooper and an off-duty law enforcement officer. Fluty sustained significant injuries as a result of being shot. The following is a synopsis of the events that occurred on August 9th, and the subsequent investigation that was conducted by the DCI and other law enforcement partners.

### **SYNOPSIS**

On July 27, 2023, Rawlins Wyoming Police Department identified Wyatt James Fluty as the perpetrator behind stealing a red Chevrolet pickup truck and four (4) firearms, one of which was described as a black Taurus 9mm handgun with wooden hand grips.

On August 7, 2023, Wyatt James Fluty was suspected to have committed an armed robbery in Pennington County. Fluty approached a vehicle stopped on the side of a county road and confronted the driver and passenger of the vehicle. Fluty pointed a handgun at them and demanded their money and phones. The passenger gave Fluty his money, phone and additional property, which included a black backpack. Fluty discharged his handgun into the driver side mirror. Fearing for their lives, the driver sped away and Fluty continued to discharge the handgun toward them, striking the vehicle several times. The victims described Fluty as driving a red pickup truck. Evidence was collected from the scene of this shooting.

On August 8, 2023, the South Dakota Highway Patrol began an investigation into Wyatt James Fluty after he fled from a motorist assist in rural Meade County. During the subsequent investigation, Fluty was connected to both the Rawlins Wyoming investigation and the Pennington County investigation. Trooper #1 was the primary officer on scene when Fluty fled. It was also at this time that Trooper #1 became familiar with Wyatt James Fluty and the criminal acts he allegedly was involved in.

On August 9, 2023, at approximately 10:00 AM, Trooper #1 was driving east on Dickson Drive, Sturgis, S.D. As Trooper #1 approached Junction Avenue, Trooper #1 identified Wyatt James Fluty walking southbound. Trooper #1 quickly exited their police unit, drew their firearm, and verbally engaged Fluty. Fluty quickly turned away from Trooper #1 and started running. Trooper #1 holstered their firearm and transitioned to their taser. Trooper #1 deployed the taser with a failed result. Fluty continued to run into the ditch. Fluty produced a handgun from his waistband and quickly turned toward Trooper #1. Fluty leveled his firearm at Trooper #1 and fired. Trooper #1 immediately fell to the ground. Fluty again leveled the firearm and shot at Trooper #1 while they were on the ground.

Fluty ran toward Trooper #1's unsecured patrol vehicle parked at the intersection. Trooper #1 regained their footing and discharged several rounds at Fluty. Fluty was able to access the patrol vehicle through the driver's side door. Trooper #1 ran into the ditch seeking cover behind a large utility box.

An out of state Off-Duty Deputy witnessed the shooting incident from the adjacent Big D convenience store. The armed Off-Duty Deputy ran across Junction Avenue toward Trooper #1's location. Trooper #1 and the Off-Duty Deputy both discharged their firearms, striking the

patrol vehicle and Fluty. Fluty eventually tossed his handgun out of the patrol vehicle. Trooper #1 and the Off-Duty Deputy stopped firing when Fluty surrendered the weapon. Trooper #1 and the Off-Duty Deputy approached Fluty, secured him, and began life saving measures. Fluty sustained multiple gunshot wounds and was transported to the hospital.

The shooting incident was captured on video from the Big D convenience store. Additional video footage with audio was captured from witnesses of the incident. The in-car camera system was not activated by Trooper #1.

DCI Agents determined that both Trooper #1 and the Off-Duty Deputy fired their weapons during the incident. Trooper #1 fired their duty issued Sig Sauer .40 caliber handgun, and the Off-Duty Deputy fired a Smith & Wesson 9mm handgun. Trooper #1's firearm was secured by a SDHP Supervisor on scene. The Off-Duty Deputy's firearm remained on-scene.

The Meade County Sheriff's Office and the Sturgis Police Department secured the scene until DCI Agents arrived.

DCI Agents contacted the two Officers involved in the incident.

Agents documented that Trooper #1 was wearing their South Dakota Highway Patrol issued uniform. Trooper #1's duty firearm was documented and inventoried as follows:

- Sig Sauer .40 caliber handgun containing 2 unspent rounds of ammunition (11 rounds short of full capacity).

## **SCENE INVESTIGATION**

The shooting scene investigation conducted by DCI produced items of evidence that confirmed statements given by Trooper #1 and the Off-Duty Deputy.

DCI collected items of evidence from the shooting scene, SDHP vehicle, Fluty's person, and from the involved Officers.

The 9mm Taurus semi-automatic pistol possessed by Fluty was recovered at the scene. The weapon's safety mechanism was in the fire position and the 15 round magazine was loaded with twelve (12) unfired Blazer brand cartridges. Agents identified a cartridge casing seated in the barrel of the pistol, which failed to eject, signifying a weapon malfunction.

A 9mm Smith and Wesson semi-automatic pistol possessed by the Off-Duty Deputy was recovered at the scene. The weapon's slide was locked in the open position and the eight-round magazine was empty.

Two empty Sig Sauer pistol magazines were recovered at the scene, consistent with Trooper #1's firearm.

A total of forty-two (42) cartridge casings were recovered during scene processing. Three (3) 9mm Blazer brand casings, thirty-two (32) .40 caliber Federal brand casings, and seven (7) 9mm Luger brand casings. The investigation determined that Fluty's weapon fired the three Blazer 9mm cartridges, Trooper #1 fired the thirty-two .40 caliber casings, and the Off-Duty Deputy fired the seven Luger 9mm casings. Agents identified that not all fired casings were recovered during the scene processing. This could be attributed to vehicle traffic traveling through the scene in the moments directly after the shooting incident.

A deployed taser belonging to Trooper #1 was located on the roadway of Junction Avenue, north of Dickson Drive.

A black backpack Fluty was wearing prior to the shooting was located near Trooper #1's patrol vehicle. This backpack was identified as belonging to the victim of the armed robbery in Pennington County. Investigators located 138 unfired Blazer 9mm cartridges and suspected marijuana inside the backpack. Suspected methamphetamine was recovered on the ground where Fluty was secured by law enforcement.

The SDHP vehicle sustained multiple bullet defects to the driver's side of the vehicle. A SDHP .223 caliber patrol rifle was located unsecured in the backseat of the vehicle. Expended cartridges were recovered during the vehicle processing.

The Rapid City Police Department assisted DCI with mapping and recording the incident scene. A copy of the map has been attached to this report.

### **INTERVIEW: TROOPER #1**

On August 11, 2023, DCI Agents interviewed Trooper #1. Trooper #1 described their involvement and thought process during the shooting incident, to include the events preceding the shooting.

On August 8, 2023, Trooper #1 was traveling on Vanocker Canyon Road when they observed a vehicle parked along the road appearing to have mechanical issues. Trooper #1 contacted the individual, later identified as Wyatt James Fluty. Fluty became confrontational with Trooper #1. Trooper #1 observed Fluty in possession of knives and a black backpack. Trooper #1 asked Fluty several times to place his weapons inside the vehicle. Fluty accused Trooper #1 of harassing him and failed to comply with commands. Fluty walked away from the scene, and Trooper #1 felt no reason to detain him. Trooper #1 then discovered Fluty's vehicle was stolen out of Wyoming. Fluty could not be located after he fled into the woods.

Trooper #1 contacted the Rawlins Wyoming Police Department and learned that Fluty was involved in stolen vehicles, stolen firearms and a pursuit with law enforcement. Trooper #1 was advised to use caution when dealing with Fluty.

Trooper #1 was contacted by the Pennington County Sheriff's Office and learned that Fluty was the suspect in an armed robbery that occurred on August 7, 2023. Trooper #1 searched Fluty's vehicle, locating 9mm ammunition and a 9mm handgun case.

On August 9, 2023, Trooper #1 was driving on Dickson Drive nearing the intersection of Junction Avenue. Trooper #1 saw Wyatt James Fluty walking toward the Big D convenience store. Trooper #1 exited the patrol car and contacted Fluty. Trooper #1 recognized the location as being very populated next to a busy convenience store. Trooper #1 attempted to get between the convenience store and Fluty. Trooper #1 gave Fluty verbal commands, but Fluty failed to comply and fled.

Trooper #1 said Fluty lifted the front of his shirt and produced a dark colored pistol and shot at Trooper #1. Trooper #1 fell to the ground and recalled telling themselves, "I'm not going to die." Trooper #1 drew their firearm and returned fire. Fluty shot at Trooper #1 while Trooper #1 was still lying on the ground. Trooper #1 observed Fluty run toward the patrol vehicle. Trooper #1 pursued Fluty while continuing to engage him. Trooper #1 took cover behind a transformer as Fluty entered the patrol car. Trooper #1 fired multiple rounds at Fluty from this position. Fluty

continued to point his handgun and shoot at Trooper #1 from inside the patrol vehicle. Trooper #1 recalled leaving an unsecured patrol rifle inside the vehicle, and it appeared Fluty was trying to reach for it.

Trooper #1 said the off-duty law enforcement officer arrived and engaged Fluty from their position of cover. Fluty eventually tossed his handgun from the vehicle. Trooper #1 approached Fluty, giving him verbal commands to get out of the vehicle. Fluty verbalized that he had been shot, and Trooper #1 observed apparent injury on Fluty's person. Fluty eventually fell out of the patrol vehicle where he was secured in handcuffs. Trooper #1 reported the shooting to dispatch, then began rendering medical aid to Fluty.

### **INTERVIEW: OFF-DUTY DEPUTY**

On August 11, 2023, DCI Agents interviewed the Off-Duty Deputy involved in the shooting incident. The Off-Duty Deputy described their involvement and thought process during the shooting incident.

On August 9, 2023, the Off-Duty Deputy was attending the Sturgis Motorcycle Rally. The Off-Duty Deputy was at the Big D convenience store with a group of friends.

The Off-Duty Deputy observed a law enforcement officer in a tan uniform with their gun pointed at someone standing in the ditch. The Off-Duty Deputy witnessed Fluty produce a gun and then heard gunshots. The Off-Duty Deputy observed Trooper #1 laying on the ground and believed they had been shot. Fluty then ran toward the parked patrol vehicle while Trooper #1 took cover behind a green electrical box.

The Off-Duty Deputy armed themselves and ran to Trooper #1's location of cover. Trooper #1 stated Fluty was "shooting at me". The Off-Duty Deputy heard a volley of gunfire. The Off-Duty Deputy observed Fluty moving around in the patrol vehicle but didn't have a direct line of sight. The Off-Duty Deputy engaged with their firearm, emptying the magazine. Trooper #1 stated that Fluty had thrown his gun. Trooper #1 and the Off-Duty Deputy approached the patrol vehicle, and Fluty was then secured. The Off-Duty Deputy began life saving measures on Fluty.

The Off-Duty Deputy believed that Fluty had access to an assault rifle or other guns inside the patrol vehicle. The Off-Duty Deputy described Fluty as desperate and having the ability to plow through a crowd of people. The Off-Duty Deputy stated that Fluty was a significant threat to everyone in the area; to include Trooper #1 and them. The Off Duty Deputy did not feel Fluty was going to stop without further intervention.

### **INTERVIEW: WYATT JAMES FLUTY**

On August 10, 2023, an interview was attempted with Wyatt James Fluty. Fluty was at Monument Health in Rapid City receiving medical attention. Fluty was given the opportunity to speak with law enforcement about the incident but requested legal counsel. Fluty made comments in the presence of law enforcement relating to his heightened level of paranoia.

### **WITNESS INTERVIEWS**

Fluty's family members were interviewed by DCI in an effort to establish his state of mind. Family members have had limited contact with him recently. They described him as a

methamphetamine user and experiencing paranoia when under the influence. They also described him as having regular contact with law enforcement since he was 14 years of age.

Throughout the course of this investigation, over 35 interviews were conducted with witnesses. Witnesses described Fluty as producing a gun and shooting at Trooper #1. Fluty fled toward the police car and attempted to steal it. Trooper #1 discharged their firearm at Fluty numerous times. The Off-Duty Deputy ran across the road and also discharged a firearm at Fluty.

## **VIDEO EVIDENCE**

Video evidence was recovered from multiple different sources. Surveillance cameras at the Big D convenience store captured the incident. The video was reviewed and found to be consistent with the statements provided by Trooper #1, the Off-Duty Deputy, and numerous other witnesses.

The video depicted Wyatt James Fluty walking southbound along Junction Avenue. A SDHP vehicle approached the intersection. Trooper #1 quickly exited their patrol vehicle and drew their firearm. Fluty was seen fleeing from the Trooper, who transitioned from their sidearm to the Taser while pursuing Fluty. During the chase, Fluty produced a handgun from his waistband. Fluty turned and leveled the handgun toward Trooper #1. Trooper #1 immediately fell to the ground. It appeared that Fluty fired at Trooper #1.

Fluty was observed running into the ditch away from Trooper #1. Fluty then turned and advanced with his firearm leveled toward Trooper #1, who was still in a prone position on the street. It appeared that Fluty fired at Trooper #1 a second time.

Fluty ran toward Trooper #1's unsecured patrol vehicle. Trooper #1 unholstered their sidearm and began to engage Fluty. Fluty entered the patrol vehicle driver's side door. Trooper #1 advanced toward Fluty while taking a position of cover behind a large utility box in the ditch. Trooper #1 continued to engage Fluty as he was in the patrol vehicle.

The Off-Duty Deputy ran across Junction Avenue toward Trooper #1's position of cover. The Off-Duty Deputy was observed carrying a handgun as they crossed the road. The Off-Duty Deputy took cover alongside Trooper #1.

Fluty could be seen tossing the handgun out of the patrol vehicle. Trooper #1 approached Fluty while the Off-Duty Deputy followed behind. Fluty removed himself from the vehicle and surrendered. Fluty was secured in handcuffs. Trooper #1 and the Off-Duty Deputy immediately began providing medical attention until other law enforcement and medical personnel arrived.

## **FORENSIC EXAMINATION**

The South Dakota Forensic Laboratory (SDFL) tested the forty-two (42) fired cartridge casings recovered from the scene. The SDFL concluded that 3 casings were fired from the 9mm Taurus handgun that Wyatt James Fluty possessed. Thirty-two (32) casings were fired from Trooper #1's handgun. Seven (7) casings were fired from the Off-Duty Deputy's handgun. All three firearms were found to be functional as intended by the manufacturers.

## **MEDICAL REPORTS AND CRIMINAL HISTORY**

A drug screen and blood alcohol test were conducted on Trooper #1 and the Off-Duty Deputy. The results were negative for both Officers.

A drug screen and blood alcohol test were conducted on Fluty. The drug screen results were positive for methamphetamine. There was no alcohol in Fluty's blood alcohol test.

Fluty's criminal background showed a history of criminal offenses to include reckless endangerment, obstructing/interfering with a police officer, drug offenses, resisting arrest and firearms related offenses.

### **INVESTIGATION RESULTS**

Based on the totality of the circumstances, reasonable officers' present at the scene utilized deadly force in a situation that was tense, uncertain, and building. Trooper #1 was part of an on-going investigation involving Wyatt James Fluty and was familiar with Fluty's alleged criminal acts leading up to the shooting incident. Trooper #1 immediately recognized Fluty as he was walking and attempted to detain him. Actions taken by Fluty placed the public and law enforcement in jeopardy. Fluty was a clear and present danger to the law enforcement officers present and the public. Trooper #1 and the Off-Duty Deputy both believed they were in a situation in which Fluty could inflict serious injury or death on them and the public. As a result, both Trooper #1 and the Off-Duty Deputy responded with deadly force.

It is the conclusion of this report and the Attorney General that Trooper #1 and the Off-Duty Deputy were justified in firing their weapons and using lethal force.



Highway Patrol Trooper #1 falls to the ground as suspect Wyatt James Fluty (right) fires his gun at the trooper. (Video from Big D Convenience Store.)



<b>Incident / Description</b> OIS Investigation - Close Up Areas - Full Scene (Edited)	<b>Investigating Agency</b> South Dakota Department of Criminal Investigation	<b>Report Number</b> SD DCI 20233410
<b>Location</b> Junction Avenue - Dickson Drive Sturgis (Meade County), South Dakota	<b>Lead Reconstructionist</b> Crash Reconstructionist Derek Mann (RCPD)	<b>Date of Incident</b> 8/9/2023 at 1005 hours
	<b>Drawn By</b> Crash Reconstructionist Derek Mann (RCPD)	<b>Date of Drawing</b> 8/9/2023

Diagram of the Officer Involved Shooting Aug. 9, 2023 in Sturgis. (South Dakota Division of Criminal Investigation)