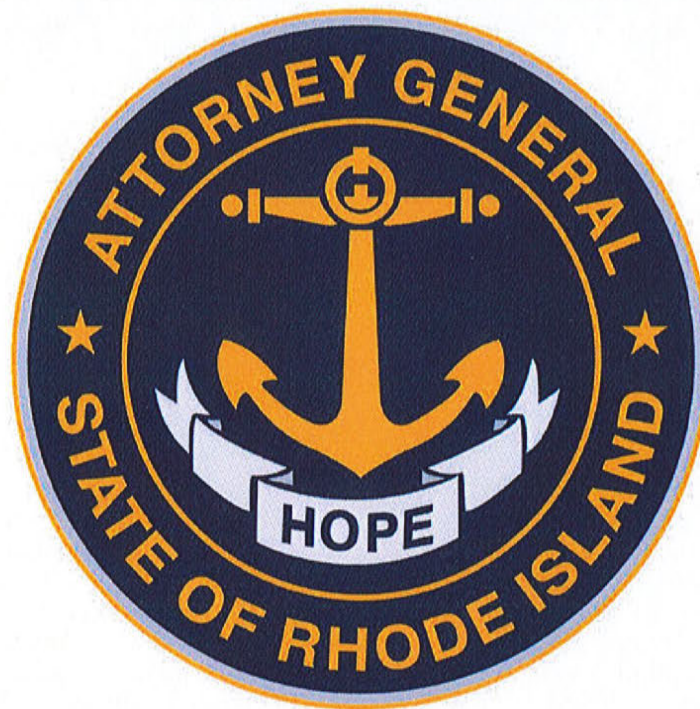


**STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL**

*Peter F. Neronha
Attorney General*



**INVESTIGATIVE REPORT
November 28, 2022**

Incident Type:	Officer Involved Shooting/Use of Deadly Force
Incident Location:	Cranston Street and Washington Avenue, Cranston, RI
Incident Date:	December 7, 2019
Police Department:	Cranston Police Department
Officer Involved:	Officer John Mastrati

Pursuant to The Attorney General's Protocol for the Review of Incidents Involving the Use of Deadly Force, Excessive Force, and Custodial Deaths ("the Attorney General Protocol"), this Office, together with the Cranston Police Department (CPD) and the Rhode Island State Police (RISP), has reviewed the use of force Cranston Police Officer John Mastrati on December 7, 2019, in the course of conducting a traffic stop on Cranston Street in Cranston, Rhode Island. This Office conducted a full review of the applicable law as well as the facts and circumstances surrounding Officer Mastrati's discharge of his department issued side-arm during this encounter. This review was substantially assisted by the investigation of the Rhode Island State Police Forensic Services Unit (RISP FSU). Based on our review, and for the reasons set forth below, we find Officer Mastrati's use of force to be objectively reasonable.

EVIDENCE REVIEWED

- RISP Officer Involved Shooting Investigation Report signed by Detective Robert J. Hopkins – 20 pages
- RISP Incident Report re: Officer Involved Shooting – 4 pages
- RISP Arrest Report re: arrest of Anthony McKinney – 4 pages
- CPD Incident Report re: Anthony McKinney – 2 pages
- Narrative for Officer Stephen Lang – 1 page
- Narrative for Officer John Mastrati – 2 pages
- Supplemental Narrative for Detective David Tirrell – 1 page
- Supplemental Narrative for Detective Salvador Sanchez, Jr. – 1 page
- Supplemental Narrative for Officer Dyanna Detroia – 1 page
- Supplemental Narrative for Officer Kim Carroll – 1 page
- Supplemental Narrative for Officer Ryan Viens – 1 page
- Supplemental Narrative for Sergeant Jon Pariseault – 2 pages
- Audio/Transcript of Witness Statement of Trooper James Hudson – 7 pages
- Audio/Transcript of Witness Statement of Sergeant Jon Pariseault – 6 pages
- Audio/Transcript of Witness Statement of Officer John Mastrati – 10 pages
- Audio/Transcript of Witness Statement of Anthony McKinney – 59 pages
- Audio/Transcript of Witness Statement of [REDACTED] – 14 pages
- Search Warrant for 2018 Nissan Sentra – 10 pages
- RISP Forensic Services Unit(FSU) Report with Supplement – 14 pages
- RISP Forensic Services Unit Photo CD – 384 images
- RISP Request for 911 Call Information and E-911 Response – 2 pages
- CPD Dispatch Log / Scene Log – 4 pages
- Cranston Fire Department Run Report – 3 pages
- Criminal Background Records of Anthony McKinney – 18 pages
- Medical Record of Anthony McKinney – 46 pages

- CPD Use of Force Policy re: weapons – 19 pages
- Officer John Mastrati's Firearms Qualification Record dated November 7, 2019 – 1 page
- CPD Radio Recordings related to incident – 19 recordings
- RISP Radio Recordings related to incident – 10 recordings

Summary of Facts¹

On December 7, 2019, at approximately 11:00 a.m., Officer John Mastrati of the Cranston Police Department (CPD) conducted a motor vehicle stop on Cranston Street at Washington Avenue in the City of Cranston. He was uniformed and driving a marked CPD cruiser with overhead lights. As he was clearing that traffic stop and preparing to re-enter the travel lane of Cranston Street, he noticed a passing motorist not wearing his seatbelt. The operator was later identified as Anthony McKinney, and he was the only occupant of a red Nissan Sentra with a Rhode Island license plate.

Officer Mastrati followed Mr. McKinney to the intersection of Cranston Street and Niantic Avenue in Providence. When the traffic signal turned green, Officer Mastrati activated his emergency lights and the red Sentra pulled over in the right lane of travel on Cranston Street at Niantic Avenue. When Officer Mastrati got out of his cruiser and walked to the driver's side of the vehicle, the Sentra pulled away at a high rate of speed. Officer Mastrati returned to his cruiser and as he entered his vehicle, he saw the red Sentra collide with another vehicle on Cranston Street. According to Officer Mastrati, Mr. McKinney's vehicle was wedged in between two vehicles.

During his Mirandized interview with the RISP, Mr. McKinney denied trying to evade Officer Mastrati and he claimed he did not know he hit another car.² There is, however, a significant amount of evidence to the contrary. [REDACTED] spoke with RISP about the incident. She was stopped at the traffic light on Cranston Street in the left turning lane when Mr. McKinney's "red vehicle" hit her Jeep Compass in the driver's side rear bumper. The impact was enough that her "whole car jerked forward." She saw the Sentra reverse and attempt a three-point turn. RISP FSU found broken taillight debris in the left turn lane of Cranston Street that was consistent with the taillights of [REDACTED] vehicle as well as damage to her bumper and driver's side rear taillight. There was corresponding damage to Mr. McKinney's Sentra as well. In addition, [REDACTED] said Mr. McKinney hit another vehicle next to her that was travelling in the opposite direction, but the damage was so minimal that that driver did not bother to remain at the scene. This evidence indicates without a doubt that Mr. McKinney was actively evading any interaction with Officer Mastrati in the middle of a very congested area of Cranston Street.

¹ A full recitation of the facts may be found in the RISP Officer Involved Shooting Investigation Report of Detective Robert J. Hopkins and attachments thereto. This summary only relates the salient facts pertinent to our finding.

² "I didn't try to run...I ain't gonna lie, I blacked out." Just a few moments later in the same interview, "I'm not going to lie, I blacked out...I don't remember fuckin' hitting the car..." (Transcript of McKinney interview – pg. 28-29)

Officer Mastrati drove a short distance and parked his cruiser. According to him, as he got out of his car Mr. McKinney reversed quickly in his direction. Officer Mastrati got behind his cruiser and saw the Sentra continue in reverse as Mr. McKinney turned the wheel until the Sentra had cut across three lanes of travel and stopped when it came in contact with the guardrail on Cranston Street.

The evidence found at the scene fully supports this version of events. RISP FSU found tire marks in the roadway that correspond to this type of reverse maneuver and they lead directly back to the position where the Sentra came to rest. [REDACTED] also saw the Sentra reversing and attempting a "three-point turn." Both the guardrail immediately behind the Sentra and the Sentra itself show signs of contact with each other. There is paint transfer on the guardrail and marks on the Sentra's rear bumper including a unique round impression that corresponds to a defect in the metal railing.

By the time the Sentra backed into the guardrail, Officer Mastrati had already pulled out his service weapon (9mm Glock pistol). Officer Mastrati pointed the firearm at Mr. McKinney and gave him commands to stop. Mr. McKinney put the car in drive and accelerated toward Officer Mastrati.³ According to Officer Mastrati, "I felt my life was in danger at that time and couldn't ... get out of that situation." Officer Mastrati fired one shot from his service weapon at the vehicle. Following that shot, the car came to "an abrupt stop" and Mr. McKinney put his hands up.

Trooper James Hudson was nearby and on-duty. He heard the shot and saw the blue police lights of the Cranston Police cruiser. He navigated his way through the traffic and then came running up to the scene. He approached Mr. McKinney with Officer Mastrati yelling commands for Mr. McKinney to show his hands. Both officers had their weapons out and pointed at Mr. McKinney. They approached Mr. McKinney at the driver's side of the vehicle. Trooper Hudson re-holstered his firearm and began to take Mr. McKinney out of the car. At this point, Mr. McKinney informed the officers that the car's transmission was in the drive position, and he couldn't turn it off because it has a push start/stop. As Trooper Hudson took Mr. McKinney out of the vehicle, the car moved forward slightly until Officer Mastrati placed the car in park.

Mr. McKinney asserts that the vehicle "was going backwards when he shot." The evidence, however, does not support this contention. Within hours of the incident,

³ Unfortunately, Mr. McKinney did not shed a lot of light on this critical moment of the incident during his interview with RISP. Throughout the interview, he gave conflicting accounts of the speed/direction of the Sentra just before, during and immediately after the officer's weapon was discharged. For example: "My feet were on the brake. [The Sentra] never went forward [towards the officer]." (pg. 14) RISP asked if the Sentra hit the guardrail and "jerked forward?" McKinney answered, "Yeah." (pg. 17) McKinney says when the trooper arrived, "[The car] was in reverse." (pg. 16) RISP asks which way would the car go if he let off the brake? McKinney answers, "It would have went forward." RISP then asks, "Even if it was in reverse?" McKinney again states, "Yeah, it woulda went forward." (pg. 16) When asked which way the Sentra moved when the police pulled him out of the car, McKinney answered "It was going backwards." (pg. 40) Finally, towards the end of the interview, he is asked "...when the cops pulled you out of the car...was the car in drive?" "Oh, I don't know" was McKinney's response. (pg.47) McKinney also asserts that the car "was going backwards when he shot... After he shot my hands went in the air." (pg. 19)

Trooper Hudson was interviewed by investigators. Two days later, Officer Mastrati gave a statement to investigators. Both officers were in agreement regarding the position of the gear shift in the Sentra being in the "drive" position. Their statement are also consistent with Mr. McKinney's comments to the officers on the scene about the car being in drive just before his arrest. Additionally, Mr. McKinney's credibility on this point is questionable considering his statements on other aspects of the incident. For example, he claims when reversing he never hit anything. He also claims he didn't "try" to flee from the police officer and says he didn't hit any other cars. When pressed on this point, he fell back to an assertion that he "blacked out." All of these statements are contradicted by the police statements, independent witnesses, the forensic investigation and/or common sense.

The weight of the evidence supports the statements of Officer Mastrati concerning the critical time immediately before he discharged his weapon. Mr. McKinney was clearly trying to get away from Officer Mastrati and he was willing to go to great lengths to do so. Mr. McKinney sped away from the initial traffic stop at Niantic Avenue into a wall of traffic and yet that wasn't enough of a deterrent to get him to stop his vehicle. He opted instead to try to force his way through the traffic jam by banging his way through the obstacles. After crashing into [REDACTED] Jeep and sideswiping a truck, he quickly reversed the Sentra in the middle of traffic in an attempt to turn his car around and flee in the opposite direction. [REDACTED] statement and the tire tracks in the road support the conclusion that this was a reckless maneuver in the face of clear commands of a law enforcement officer. Furthermore, when the Sentra hit the guardrail, it had to have mounted the curb to make the imprint it did on the bumper. And since, at the time of McKinney's arrest, the vehicle was located with all four wheels in the roadway it clearly must have come forward from that position on the curb. This evidence, coupled with the statements of Officers Mastrati and Hudson which indicate the Sentra's transmission was in the drive position when McKinney finally stopped, support the conclusion that the Sentra was traveling in the direction of Officer Mastrati after hitting the guardrail.

Legal Analysis

A. Applicable Law

Under the Rhode Island General Laws (RIGL), an arrest is made by the restraint of the person to be arrested or by his submission of his person to the custody of the person making the arrest. RIGL §12-7-7. An arrest carries with it the right for police officers to use some degree of force. Graham v. Connor, 490 U.S. 386, 396 (1989). No greater restraint than is necessary shall be used for the detention of any person, and no unnecessary or unreasonable force shall be used in making an arrest. RIGL §12-7-8. "All claims that law enforcement officers have used excessive force – deadly or not – in the course of an arrest... or other "seizure" of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard...." Graham, 490 U.S. at 395; Tennessee v. Garner, 471 U.S. 1 (1985).

Determining whether the force used to effectuate an arrest is reasonable requires the balancing of an individual's rights under the Fourth Amendment against the "countervailing government interests at stake." Graham, 490 U.S. at 396. The degree of force that is permissible depends upon the totality of the circumstances of the actual seizure. Garner, 471 U.S. at 8-9. Relevant facts include "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting or attempting to evade arrest by flight." Graham, 490 U.S. at 396. If a suspect "threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given." Garner, 471 U.S. at 11-12.

The reasonableness of a use of force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." Id. "The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving..." Graham, 490 U.S. at 396-97. The reasonableness inquiry is an objective one. The "question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Id. at 397.

If the facts and circumstances support a finding that the officer's use of force was objectively reasonable and necessary to effectuate the seizure, the inquiry ends there. If, however, the force used was objectively *unreasonable*, prosecutors must also analyze whether the officer's conduct met all the elements of the applicable criminal offense. This includes evidence that the officer acted with the requisite *mens rea*, or criminal intent, required to prove a specific criminal offense. Here, the applicable offense would be Assault and Battery with a Dangerous Weapon, R.I. Gen. Laws § 11-5-2.

The terms "assault" and "battery" have been given special meaning in our law. "An assault is an unlawful attempt or offer, with force or violence, to do a corporal hurt to another, whether from malice or wantonness. . . . A '[b]attery refers to an act that was intended to cause, and does cause, an offensive contact with or unconsented touching of or trauma upon the body of another, thereby generally resulting in the consummation of the assault.'" State v. McLaughlin, 621 A.2d 170, 177 (R.I. 1993) (internal citations omitted). In the context of this charge, malice means "wrongful intention", "[t]he intent, without justification or excuse, to commit a wrongful act" or "ill will...or wickedness of the heart." State v. Lomba, 37 A.3d 615, 620 (R.I. 2012). Wanton means "[u]nreasonably or maliciously risking harm while being utterly indifferent to the consequences." Manning v. Bellafiore, 139 A.3d 505, 525 (R.I. 2016).

B. Analysis

Applying Rhode Island law to the facts of this case, we conclude that Officer Mastrati's discharge of his firearm during the apprehension of Mr. McKinney was a reasonable and necessary use of force in meeting the threat that he presented. Based on

the evidence elicited during this investigation, the officers' conduct was not only objectively reasonable, but necessary to avoid an imminent threat of death or serious bodily injury to the officer and others.

On December 7, 2019 on Cranston Street, Officer Mastrati was faced with a highly dangerous situation. Mr. McKinney had just fled a routine car stop and was trying to force his way through a congested intersection in broad daylight. Mr. McKinney seemed desperate as he crashed into [REDACTED] vehicle and then attempted to cross over into oncoming, westbound traffic in order to get away. Because he was wedged in between two cars heading in opposite directions, he put the car in reverse and backed up so quickly and so forcefully that he left tire marks in the road before he mounted the curb and collided with the guardrail.

During this time, Mr. McKinney was clearly a danger to the public, in particular to the other motorists around. [REDACTED] vehicle had already been struck and a second car had been damaged although minimally. With Mr. McKinney going in reverse at a high rate of speed, others were also in danger of injury or possibly worse. Officer Mastrati took cover behind his vehicle as Mr. McKinney cut across two lanes of oncoming traffic. Once the Sentra cleared past him, Officer Mastrati positioned himself in front of the vehicle in an effort to stop him from further endangering the public.

What had started as a car stop for a seat belt violation had now morphed into a leaving the scene of an accident and reckless driving case, all within view of Officer Mastrati. Officer Mastrati did not know who the suspect was, but he could tell by his actions in this short span of time that he was willing to use violence to escape. He had already used his car as a battering ram in an effort to flee.

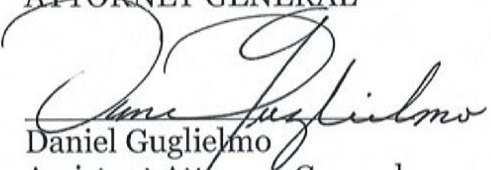
Officer Mastrati pointed his firearm at the vehicle to prevent further danger to himself and others. He didn't fire his service weapon until Mr. McKinney put the car in drive and started driving in his direction. As is evident from the proximity of the spent shell casing, which according to the RISP FSU expels from the firearm to the right and rear of the shooter, Officer Mastrati appears to be within ten feet from the Sentra. This is consistent with the estimate Officer Mastrati provided in his statement. At this point, it was objectively reasonable for Officer Mastrati to believe that Mr. McKinney presented an imminent danger of death or serious bodily injury to himself or others. Mr. McKinney's driving had been incredibly reckless, he was intent on escaping the police, and now he was directing his vehicle – a dangerous weapon in its own right – directly at the officer.

Officer Mastrati fired one shot, and it had an immediate effect. Mr. McKinney slammed on the brakes and put his hands up. The evidence supports the conclusion that Mr. McKinney was not willing to put an end to his dangerous behavior until he was met with superior force. After firing the one shot, Officer Mastrati re-evaluated the situation and gave additional commands. He used exactly the amount of force that was necessary and no additional force. McKinney was safely removed from the vehicle and the vehicle was disabled without further incident.

Conclusion

Fortunately, none of the individuals involved in this incident suffered any injuries, includer Mr. McKinney. Our review of the evidence, including the RISP FSU report, civilian witness accounts, and law enforcement interviews, support the conclusion that Officer Mastrati's use of deadly force was objectively reasonable and necessary under these circumstances. Mr. McKinney's reckless driving, and specifically his decision to drive his vehicle directly at the officer and onto the road where there were other motorists, created an imminent risk of death or serious injury to the officer and others.

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