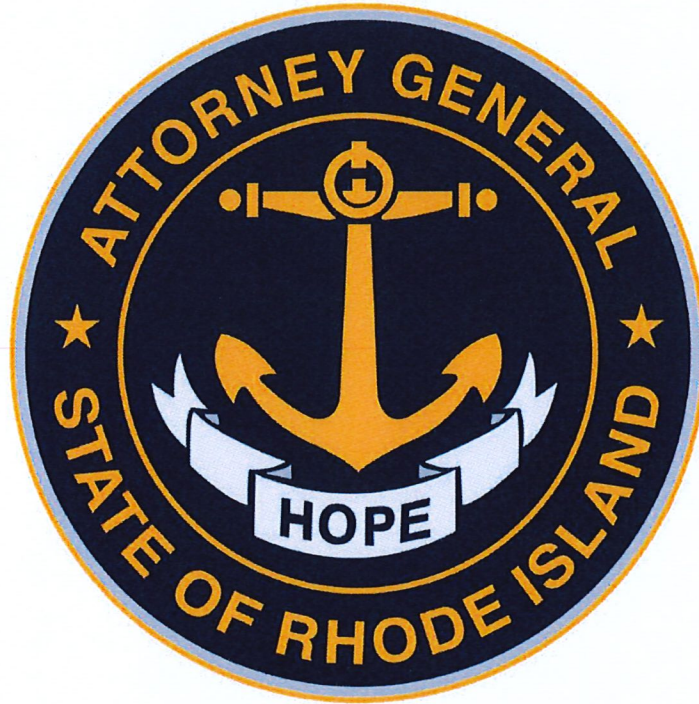


**STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL**

*Peter F. Neronha
Attorney General*



**INVESTIGATIVE REPORT
June 9, 2023**

Incident Type:	Officer-Involved Shooting
Incident Location:	Dove Street, Providence, R.I.
Incident Date:	January 28, 2022
Police Department:	Providence Police Department
Involved Officer:	Detective David Harrington

SUMMARY OF FINDINGS

The Office of Attorney General has concluded its review of the officer-involved shooting incident involving Providence Police Detective David Harrington on January 28, 2022. The investigation was conducted 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"), together with the Rhode Island State Police and the Providence Police Department. Based on this review, we conclude that Detective Harrington's use of force was legally justified.

A thorough account of the investigation may be found in the Rhode Island State Police Report of Investigation and attachments thereto which will be made publicly available following the release of this report. This Report focuses only on the facts most pertinent to our conclusion that Detective Harrington's discharge of his service weapon was objectively reasonable and necessary under the circumstances.

EVIDENCE REVIEWED

1. 911 calls (Irene Varea & Antoinette Pole)
2. Transcriptions of Chronological Police Radio Transmissions (11 pgs.)
3. Crime Scene Photographs (192)
4. RISP Report of Investigation (41 pgs.)
5. Body Worn Camera – Det. Sgt. John Kantorski
6. Police Witness Transcribed Statements
 1. Providence Detective David Harrington (9 pgs.)
 2. Providence Detective David Harrington (continuation) (4 pgs.)
 3. Providence Detective Sergeant Charles Viera (11 pgs.)
 4. Providence Detective Sergeant John Kantorski (10 pgs.)
 5. Providence Detective Everett Carvalho (16 pgs.)
 6. Providence Detective Francisco Colon (11 pgs.)
 7. Providence Detective Louis Marroquin (13 pgs.)
 8. Providence Detective Mark Hubbard (7 pgs.)
 9. Providence Detective Mitchel Guerra (13 pgs.)
 10. Providence Detective Robert Melaragno (6 pgs.)
 11. Providence Detective Joseph Pineau (17 pgs.)
7. Involved Party Statements
 - a. Kyle Bento (21 pgs.)
8. RISP Forensic Services Unit Report (FSU 22-018 / RISP 22RIX1-192-OF) (1 pg.)
9. Providence Police Incident Report (CCR: 2022-00006966) (8 pgs.)
10. Involved Officer Firearm Qualifications (1 pg.)
11. Providence Police Use of Force Policy (issued 1/5/2022) (15 pgs.)

SUMMARY OF THE FACTS

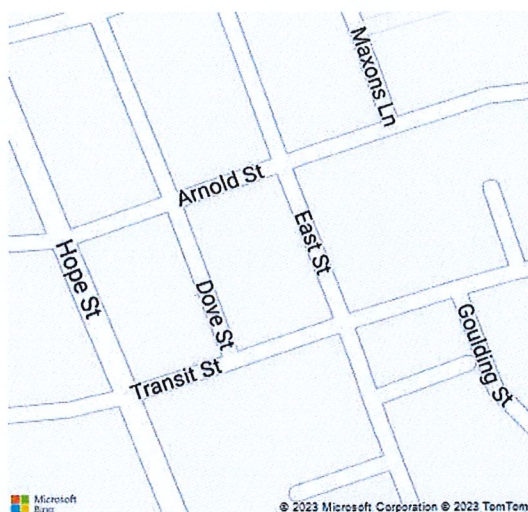
During the late evening hours of Friday, January 28, 2022, approximately ten members of Providence Police Department, dressed in plain clothes, were conducting surveillance in the East Side of Providence, specifically in the Fox Point neighborhood. It was a cold winter night and the weather conditions deteriorated as it began to snow. The target of the Providence Police surveillance was Kyle Bento (DOB [REDACTED] 1973), of 75 Dyer Avenue, Cranston, Rhode Island, who was a suspect in multiple breaking and entering and burglary offenses occurring in the area over a significant period of time. Providence Police identified a red Nissan Maxima bearing RI registration ZY-399 as a car used by Mr. Bento ("target vehicle"). The investigation established that the target vehicle was located near the premises of multiple locations that were burglarized. On more than one occasion during the course of that investigation, Mr. Bento eluded police who attempted to apprehend him shortly after a break-in and/or burglary in the area.¹

During the course of the investigation, the Providence Police Department Office of Professional Responsibility and the Rhode Island State Police Detective Bureau obtained statements from Providence Police Detective David Harrington², Providence Police Detective Sergeant John Kantorski, and Providence Police Detectives Charles Viera, Everett Carvahlo, Francisco Colon, Louis Marroquin, Mark Hubbard, Mitchel Guerra, Robert Melaragno, and Joseph Pineau who were all involved in surveillance activities that night. Statements were also obtained from several civilians who were occupants of multifamily dwellings located in the vicinity of the incident in question. One of these civilians was the victim of a breaking and entering and burglary allegedly committed by Mr. Bento shortly before his arrest. Another civilian observed some of the surveillance activity in the area and heard the gunshots but did not see the incident in question. Aside from Detectives Harrington, Pineau, and Marroquin no other officers, or civilians interviewed, witnessed the events immediately leading up to and including Detective Harrington discharging his service weapon.

As previously noted, detectives, aided by a GPS tracking device, tracked the target vehicle to the Fox Point neighborhood on the East Side of Providence on the night of January 28, 2022. Sometime after 10 p.m., the target vehicle was located parked in the area to the rear of 77 Hope Street which is a multi-unit dwelling unit. Shortly after the target vehicle was observed, Detective Carvahlo observed Mr. Bento in the area walking towards the target vehicle. Mr. Bento was carrying a bag. This was communicated through radio transmissions that the members of the surveillance team were monitoring. As a result, various members of the surveillance team approached the area to the rear of 77 /81 Hope Street in an effort to apprehend Mr. Bento before he left the scene.

¹ Mr. Bento has a criminal history dating back to 1993. He was previously convicted of breaking and entering of a dwelling house in 2016 for which he was sentenced to six years, 21 months to serve and 4 years and three months suspended. He was still on probation for that offense at the time of this incident.

² This statement was initially provided pursuant to *Garrity* warnings, but Det. Harrington subsequently agreed, through counsel, to provide his statement to the Attorney General in connection with this review.



Area in question

Detectives Marroquin,³ Pineau, and Harrington proceeded to the location of the target vehicle on Dove Street after hearing the radio transmissions. Dove Street is a narrow alleyway lined with multi-family dwellings, garages, and a parking lot that runs parallel to Hope Street. Detective Marroquin was operating an unmarked vehicle on Arnold Street. He reversed direction and made a right turn onto Dove Street. While Detective Marroquin proceeded slowly down Dove Street towards Transit Street, he noticed the target vehicle parked against a fence behind him to his right. Detective Marroquin realized he had already passed the target vehicle, so he pulled over and parked in the lot behind 77 Hope Street. He exited his vehicle on foot and approached the target vehicle, walking up Dove Street.

As Detective Marroquin proceeded towards the target vehicle, he saw it pull out from the rear of the lot (closer to the back of 81 Hope Street) and take a right-hand turn onto Dove Street towards Transit Street. The vehicle was heading directly at Marroquin. This action caused Marroquin to stop and raise his hands, and yell “Stop. Stop. Stop. Stop”⁴ towards the target vehicle. His commands were not obeyed, forcing him to step to the side of the road as the target vehicle swerved around him, making no attempt to slow down.⁵ Marroquin stated he was so close that he could “probably reach out and touch the car.”⁶ He stated that immediately after the car drove past him, he heard “two pops” and then he “saw the vehicle turn” onto Transit Street.⁷ Marroquin initially did not realize that these were shots fired and believed that he heard tires pop.⁸ Marroquin described the road conditions as slippery and stated that as the car drove

³ Detective Guerra was riding with Detective Marroquin that night, however they split up shortly before the encounter with Mr. Bento, with Guerra canvassing the area on foot. Although Detective Guerra was also on Dove Street at the time detectives first encountered Mr. Bento, he was walking up towards Arnold Street at the time the target vehicle drove towards detectives Pineau and Harrington, and therefore he had his back to the incident. Detective Guerra stated that he heard the target vehicle accelerate before hearing two shots, but he did not see what happened. Once he turned, he could see detectives giving chase to the car.

⁴ See Det. Marroquin wit. statement, at 6.

⁵ See Det. Marroquin wit. statement, at 12.

⁶ Id.

⁷ See Det. Marroquin wit. statement, at 6.

⁸ See Det. Marroquin wit. statement, at 8.

towards him it was going “at a pretty decent . . . speed”.⁹ According to Marroquin the car did not slow down as it approached him.¹⁰

Detectives Pineau and Harrington responded to the broadcast location of the target vehicle on foot, walking on Transit Street from East Street towards Dove Street. Detective Pineau was in front, followed by Detective Harrington. When Pineau turned onto Dove Street, he observed the target vehicle to be “...backed all the way against a fence on the far side.”¹¹ Pineau saw one of the unmarked police cars pull into the parking lot, as the target vehicle pulled out into Dove Street. As Pineau walked up Dove Street, he observed the target vehicle drive straight at him, and he attempted to halt the vehicle by raising his hand. Pineau thinks he “might have yelled, stop the car.”¹² Detective Pineau felt that the vehicle was not going to stop based upon the sound of the engine and the spinning of the tires. He noted that the car, “clearly wasn’t stopping,” forcing Pineau to move out of the way as it passed.¹³ Pineau also believed his badge was visible as Mr. Bento was driving straight at him, but he was not certain of that fact.¹⁴

Once the target vehicle passed him, Detective Pineau observed the vehicle bear down directly upon Detective Harrington. According to Pineau, “the car was swerving, I think due to the wet surface . . . and that’s when he was going straight at Detective Harrington.”¹⁵ Pineau estimated the distance between Harrington and the target vehicle to “...it was in feet – within feet. It wasn’t far.”¹⁶ It appeared to Pineau that Harrington was skipping or running backwards “awkwardly” to avoid being struck by the car. “If Dave [Harrington] didn’t move, he . . . would have run him over.”¹⁷ As the target vehicle got close to Harrington while in the process of turning onto Transit Street, Pineau heard two gunshots. Detective Pineau estimated it was “less than two seconds” between the time Mr. Bento’s vehicle passed him (Pineau) to the time the vehicle turned left onto Transit Street.¹⁸ According to Pineau, Detective Harrington was at the intersection of Dove and Transit Street when the target vehicle was about to hit him. Pineau did not recall seeing the brake lights of the target vehicle illuminate and noted that the target vehicle did not come to a stop immediately after the shots were fired.¹⁹ The target vehicle continued down Transit Street away from their location, across East Street, until finally stopping in front of 237 Transit Street. This address is approximately 175 feet from the intersection of Dove Street and Transit Street where the shots were fired by Detective Harrington. According to Pineau, Detective Harrington would certainly have been hit by Mr. Bento’s vehicle if he had not moved out of the vehicle’s path.²⁰

Detective David Harrington, while on scene and in the presence of counsel, described the events leading up to his discharge of his weapon at Kyle Bento. This description was provided

⁹ See Det. Marroquin wit. statement, at 11.

¹⁰ See Det. Marroquin wit. statement, at 11-12.

¹¹ See Det. Pineau wit. statement, at 4. This is the area closer to the rear of 81 Hope Street.

¹² See Det. Pineau wit. statement, at 5.

¹³ Id. See also Det. Pineau wit. statement, at 14 (“He didn’t look like he was . . . When he initially accelerated, I know he wasn’t gonna drive around me.”).

¹⁴ See Det. Pineau wit. statement, at 12-13.

¹⁵ See Det. Pineau wit. statement, at 6

¹⁶ Id.

¹⁷ See Det. Pineau wit. statement, at 14.

¹⁸ See Det. Pineau wit. statement, at 12.

¹⁹ See Det. Pineau wit. statement, at 14

²⁰ Id.

following *Garrity* warnings but was subsequently voluntarily disclosed to investigators. Detective Harrington described that just prior to encountering the target vehicle, he was walking on Transit Street behind Detective Pineau.²¹ He stated that he rounded the corner onto Dove Street, around a “blue house” at the corner, following Pineau. Immediately, Harrington observed the target vehicle facing them coming down Dove Street. He observed that the vehicle accelerated towards Detective Pineau who was nearly struck: “the vehicle wasn’t stopping, it accelerates toward Joe Pineau so he ends up jumping off to the side”²² Harrington described how the target vehicle was coming in his direction and still gaining speed. In his statement to investigators on scene that night, Harrington stated, “...that’s when the vehicle accelerated again and started swerving... I didn’t know which way to jump that’s when I got most concerned.”²³ Harrington was asked if he felt he was in danger at this point, and he answered, “Yes.”²⁴

According to Detective Harrington, “I pulled my firearm at the same time he’s swerving and accelerating...I thought he was going to hit me, so I ended up discharging my weapon twice.”²⁵ “[M]y biggest concern was the fact that he’s accelerating and swerving and I... didn’t know which way...to jump towards to get out of the way.”²⁶ Harrington explained that he was trying to move when he discharged the firearm: “I was pointing it [firearm] at the subject who was driving as I stepped ... but I, I was moving...on the move.”²⁷

Detective Sergeant Kantorski was also interviewed in connection with this incident. Sgt. Kantorski was in his unmarked vehicle on Transit Street when he heard a radio transmission that the target vehicle was observed on Dove Street off Transit Street. Kantorski did a three-point turn to change his direction of travel on Transit Street when heard two gunshots. Although he did not observe the shooting, he told interviewers that immediately following the two gunshots he observed the target vehicle take a hard left onto Transit Street. Kantorski said that he saw “the car whipping out of the street like . . . on two wheels.”²⁸

Mr. Bento’s vehicle made no attempt to stop and continued down Transit Street, eventually coming to an involuntary stop in front of 237 Transit. Detectives Harrington and Pineau pursued Mr. Bento’s vehicle on foot. Once the car came to a stop, Detective Pineau removed Mr. Bento from the vehicle and placed him under arrest with the assistance of Sgt. Kantorski, Det. Harrington and others. The arrest, which took place without incident, was captured on Sgt. Kantorski’s body worn camera. As Mr. Bento was being handcuffed, officers immediately inquired if he was shot and checked him for injuries by turning him over. Mr. Bento denied any injuries and none were found. Officers asked Mr. Bento if he had any weapons and he responded that he had a screwdriver. Officers recovered a screwdriver tucked into his underwear. Snow can be seen falling in the background as the arrest was taking place.

²¹ See Det. Harrington wit. statement, at 3-4.

²² Id.

²³ See Det. Harrington wit. statement, at 5.

²⁴ Id.

²⁵ Id.

²⁶ See Det. Harrington cont. wit. statement, at 1-2.

²⁷ Id.

²⁸ See Sergeant Kantorski wit. statement, at 5.

Providence Police BCI processed two scenes under the observation of the Rhode Island State Police Forensic Services Unit. By that time, as can be seen in the photos, snow had started accumulating on road and sidewalk. The first processed scene was in the area of Detective Harrington's weapon discharge at the intersection of Transit and Dove Streets.



Transit St. looking up Dove St.



Dove street (abutted by parking lot) looking at Transit Street

The second processed scene was the immediate area surrounding the target vehicle in front of 237 Transit Street. Providence BCI noted apparent ballistic damage to the passenger side of the hood of the target vehicle and more damage to the lower portion of the front passenger door near the wheel well. The vehicle sustained engine damage which rendered it inoperable. BCI detectives noted the target vehicle's gearshift to be in "Drive" mode while still at rest in roadway.

The following summarizes the BCI narrative:

- A. Area of Dove Street and 223 Transit Street: Ballistic items, labelled 1, 2 and 3, were located on scene in the immediate area of each other. Items #1 and #2 were Winchester

.40 caliber cartridge casings located in the roadway of Transit Street. Item #3 is a projectile fragment.

- B. Area of 237 Transit St / Red Nissan Maxima RE Reg. ZY-399. The target vehicle was observed on Transit Street facing eastward, with the headlights on, and gearshift in “D” mode. Ballistic damage was observed to the right front hood area and to the right-front passenger door, lower-level adjacent to the wheel well. A craftsman screwdriver was located near the vehicle as well in the roadway. It had been removed from the defendant’s underwear during a search incident to arrest and placed in the roadway by Providence officers. A weapon-mounted light was found in the roadway and later determined to belong to Det. Harrington. A black hat belonging to Officer Marroquin was also located.



Ballistic damage to hood of vehicle

The Providence Police detectives involved in the operational surveillance of Kyle Bento were doing so in plain clothes and were not equipped with body worn cameras during this incident and arrest. As noted, Det. Sgt. Kantorski responded to the scene after the call of shots fired and was involved in the arrest of Mr. Bento. His body worn camera was operational and activated, but only captured Mr. Bento being taken into custody by members of Providence Police. No other surveillance camera footage depicting the incident was obtained.

RISP Detective Robert Hopkins and Providence Police Detective Sergeant David Tejada interviewed Mr. Bento in the early morning hours of January 29, 2022. Mr. Bento was advised of his Miranda rights at the start of the interview, which was recorded. Mr. Bento admitted to breaking into the two-family residence on Hope Street earlier that night.²⁹ He stated that he got into his vehicle and drove down the alley way when he saw “a whole bunch of guys,” come in “out of nowhere.”³⁰ According to Mr. Bento he did not know that they were police, but just thought they were regular guys. He admitted that two had to move out of his way but the third (Det. Harrington) was in front of his vehicle when Mr. Bento took a left turn onto Transit Street.³¹ It was at that point that Mr. Bento stated that Harrington fired his gun at his vehicle.³²

²⁹ See Bento wit. statement, at 4.

³⁰ See Bento wit. statement, at 4-5.

³¹ See Bento wit. statement, at 16.

³² See Bento wit. statement, at 9.

Mr. Bento denied hearing any of the officers issue commands to him to stop his vehicle before shots were fired.³³ Mr. Bento admitted that he was in a hurry to get out of there.³⁴

Mr. Bento stated that he realized the people he saw were police once he “...seen the officer pull the gun out.”³⁵ He claimed he did not know them to be police when he first saw them approach him. Mr. Bento stated that he saw the officer in front of him, but he took a left and did not stop.³⁶ Mr. Bento also admitted that were he in Detective Harrington’s position, he would have acted in the same manner stating, “I probably would do the same thing he did.”³⁷ Asked why, Mr. Bento responded, “Because he’s probably thinking I’m gonna run him over or something.”³⁸ Mr. Bento denied that he was trying to drive over the officer, saying that he “was just trying to get out of there,”³⁹ and “wanted to get this day over.”⁴⁰ Mr. Bento admitted that he did not stop the vehicle voluntarily but that the car stopped because the vehicle’s engine sustained damage due to the shots being fired.⁴¹

LEGAL ANALYSIS

Applicable Law

When considering a police officer’s actions which involve the use of force in his/her capacity as a peace officer a two-part analysis is required. First, it must be determined if the officer’s use of force in arresting or detaining the suspect was necessary and reasonable. If an officer’s conduct is found to be necessary and reasonable, then the inquiry ends, and no criminal charges will stem from the incident. If, however, it is determined that the use of force was not necessary and not reasonable then an inquiry must be made as to whether the use of force meets the elements of the applicable criminal statute, in this case Felony Assault, R.I. Gen. Laws § 11-5-2. In this case, as we find that Detective Harrington’s actions were objectively reasonable, we do not engage in the second prong of the analysis.

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” A “seizure” of a “person,” can take the form of “physical force” or a “show of authority” that “in some way restrain[s] the liberty” of the person. Terry v. Ohio, 392 U.S. 1, 19, n. 16 (1968). An arrest or seizure of a person carries with it the right of police officers to use some degree of force. Graham v. Connor, 490 U.S. 386, 396 (1989). “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).

³³ See Bento wit. statement, at 5.

³⁴ See Bento wit. statement, at 7-8.

³⁵ See Bento wit. statement, at 9.

³⁶ See Bento wit. statement, at 11.

³⁷ See Bento wit. statement, at 11.

³⁸ See Bento wit. statement, at 12.

³⁹ Id.

⁴⁰ See Bento wit. statement, at 20.

⁴¹ See Bento wit. statement, at 6, 10-11.

The Fourth Amendment instructs that the *degree* of force law enforcement officers are permitted to use must be “objectively reasonable” under the totality of the circumstances. Tennessee v. 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 officers or others, and whether he is actively resisting or attempting to evade arrest by flight.” Graham, 490 U.S. at 396. The reasonableness of an officer’s 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 Supreme Court has held that the determination of reasonableness must allow “for the fact that police officers are often forced to make split-second judgements – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Graham, 490 U.S. at 396-97. Critically, the reasonableness inquiry is an objective, not a subjective, 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. (emphasis added).

The Providence Police Department’s Use of Force Policy comports with the constitutional standards governing the use of deadly force. The Providence Use of Force Policy provides in relevant part, that an officer is authorized to use deadly force “to protect himself/herself, another officer, or other person(s) when the officer has a reasonable belief that an imminent or significant threat of death or serious bodily injury exists to himself/herself, another officer or other person(s). The Providence Police Use of Force Policy: General Order 300.01, states “an imminent or significant threat of death or serious bodily injury must be present for the use of lethal force.” See 300.01 Use of Force, Sec. I (A)(1).

The Providence Police Use of Force Policy discourages discharging a firearm at or from a moving vehicle; however lethal force is permitted to meet an imminent threat of death or serious injury to the officer, other officers, or others, but the police also provides that “...the officer must not constitute a greater hazard to any persons . . . than does the imminent or significant threat posed by the suspect, and [the officer’s use of force] must be the most reasonable course of action under the circumstances. Officers must weigh the need to use lethal force against the potential harm to other officers/persons/innocent bystanders caused by such use.” See 300.01 Use of Force, Sec. I (B).

The Providence Police Use of Force Policy: General Order 300.01 also provides that officers shall not discharge their firearms at a vehicle with the focus of disabling the vehicle, and furthermore that officers shall avoid placing themselves in a position where a vehicle may be used against them, and that escape from the path of an oncoming vehicle should be considered in lieu of implementation of lethal force, whenever escape is possible. See 300.01 Use of Force, Sec. I(C) (1-2).

Analysis

Having reviewed the evidence set forth above, we conclude that Detective Harrington’s use of deadly force was objectively reasonable under the circumstances as he was faced with the threat of imminent death or serious bodily injury due to the intentionally dangerous operation of a vehicle by Mr. Bento who was attempting to leave the scene of a breaking and entering and elude the police.

By all accounts, Mr. Bento was in a hurry to leave the scene of a breaking and entering for which he is currently facing felony charges. Mr. Bento admitted as much in his interview with investigators. According to the 911 caller and burglary victim, she caught Mr. Bento in the act, causing him to flee. Surely, he recognized that his window of escape was closing. Mr. Bento stated that that “he jumped in the car” and as he was pulling out of the lot he saw “a whole bunch of guys . . . coming out of nowhere.”⁴² He drove his vehicle directly towards multiple officers and did not attempt to stop. According to Detectives Marroquin and Pineau, they ordered Mr. Bento to stop, verbally and by putting their hands up, and it should have been apparent to him that they were police. Both stated that they had to quickly move out of the way of Mr. Bento’s vehicle to avoid being struck. Mr. Bento admits that two men had to step out his way but denies that they ordered him to stop or that he believed them to be police. Mr. Bento’s assertion, even if he did not observe any police badges, is not credible. Mr. Bento was just caught while in the process of breaking and entering into a person’s house. What is more, he must have known that law enforcement had been surveilling him for weeks as he had previously eluded them according to the police. This was not Mr. Bento’s first encounter with law enforcement. Furthermore, given the time of night and deteriorating weather conditions, it is unlikely that random pedestrians would have been out on the street at that time. Mr. Bento’s claim that officers said “stop the car” after the shots were fired⁴³ does not make sense as he was already past them at that point. Why would they wait until then to say it, and how would he have heard them if he was driving away from them. In any event, even if that was the case, clearly he had no intention of stopping the car.

Mr. Bento’s vehicle closed in on Detective Harrington who found himself squarely in front of the vehicle as he turned onto Dove Street from Transit Street. With slippery roads, little room to maneuver, and a fast-approaching vehicle, Harrington had few options. Detective Pineau observed the target vehicle accelerate towards Detective Harrington and it was his opinion that Detective Harrington would have “a hundred percent” been struck by the vehicle had he not succeeded in moving out of the way.⁴⁴ Detectives Marroquin and Guerra also heard the vehicle accelerating, and Sgt. Kantorski characterized the vehicle as “whipping” around the corner onto Transit Street. There is no evidence that Detective Harrington intentionally or recklessly placed himself in front of the oncoming vehicle. Rather it appears that the two converged at the intersection as officers rushed in to apprehend Mr. Bento. Det. Harrington stated that he continued to move out of the way as he discharged the weapon which account is corroborated by Det. Pineau’s description of Det. Harrington moving backwards.

Detective Harrington’s assertion that fired his weapon because he was unsure that he could successfully move out of the vehicle’s way and was afraid of being struck is corroborated not only by the account of Detective Pineau, but also by the BCI evidence. Mr. Bento’s vehicle was struck on the right front hood area and the right-front passenger door. This strongly suggests that Detective Harrington was in front of the vehicle when he discharged his weapon twice. In other words, he fired at a car that was coming towards him, not driving away from him. Detectives Pineau, Marroquin and Sgt. Kantorski all reported seeing the vehicle turn onto

⁴² See Bento wit. statement, at 4.

⁴³ See Bento wit. statement, at 5.

⁴⁴ See Pineau wit. statement, at 14.

Transit Street *after* the shots were fired. In other words, Detective Harrington discharged his weapon not to prevent Mr. Bento's flight, but to stop the vehicle from hitting him.

Detective Harrington represented the last obstacle in the way of Mr. Bento as he attempted to flee the police. Had Mr. Bento stopped his car on Dove Street, he would have been boxed in by the landscape and the officers who were in close proximity. Instead, he continued to drive. And he would have kept on driving were it not for the damage to his car's engine. The BCI photographs of Mr. Bento's car at the arrest location show the gear shift still in the "drive" position.

Under these circumstances, Detective Harrington's actions were objectively reasonable. Multiple detectives reported that Mr. Bento's vehicle was swerving, that there was no indication of slowing or stopping. The vehicle nearly struck Detectives Marroquin and Pineau before continuing directly at Detective Harrington. Detective Harrington had, at most, mere moments to react and remove himself from the pathway of the vehicle, which he clearly attempted to do. All of the individuals involved, including Mr. Bento, characterized the events as happening extremely fast.

Notably, Mr. Bento himself acknowledged that, had he been in Detective Harrington's position, he would have believed that Mr. Bento was going to hit him. Although Mr. Bento denies that this was his intention, Detective Harrington had no way of knowing that. Harrington was reasonably concerned that he would be struck by the vehicle given the circumstances. His weapon's discharge was in self-defense and a direct reaction to this perceived threat.

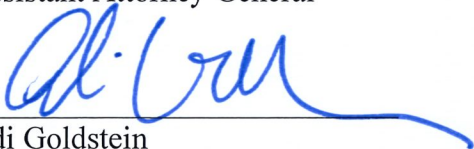
CONCLUSION

Detective Harrington found himself in a precarious situation on the night of January 28, 2022. Upon a full review of the evidence under applicable legal standards governing the use of deadly force, Detective Harrington's actions were objectively reasonable and necessary. This matter is therefore closed.

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