

State of Connecticut  
OFFICE OF INSPECTOR GENERAL



Report Concerning  
Use of Deadly Force by the East Haven Police Department on January 5, 2023

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Inspector General

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## *Acknowledgments*

*The Office of Inspector General acknowledges the assistance provided to this investigation by the following agencies:*

- *Connecticut State Police Eastern District Major Crime Squad*
- *Connecticut State Police, Troop G*
- *East Haven Police Department*
- *Branford Police Department*
- *Milford Police Department.*

## INTRODUCTION

This case concerns East Haven Police Lieutenant Joseph Finoia, who fired his duty pistol at Nicholas Gambardella on January 5, 2023 in Milford.<sup>1</sup>

On December 14, 2022, four arrest warrants were issued for Gambardella after he failed to appear in court for various cases out of the New Haven and East Haven police departments. An informant provided police information that Gambardella might be armed. On December 19, 2022, an East Haven officer received information that Gambardella was operating a white Honda Accord. On January 5, 2023, Officer Anthony Fiorillo observed the Honda in a driveway at 115 Frank Street, East Haven. Police officers began following the vehicle as it moved to various locations in Madison and Branford. At a Burger King drive-through, several marked and unmarked vehicles converged on the Honda with lights and sirens on. Officer Luke Rasile exited his vehicle and approached the Honda with his firearm drawn. He determined Gambardella was the lone operator. The vehicle had a heavy tint and Lieutenant Finoia, who was present, used his firearm to shatter the rear passenger-side window of the Honda. The Honda reversed, striking several marked police vehicles and also nearly hit several officers who had exited their vehicles. The Honda then left the parking lot at a high rate of speed.

Police pursued Gambardella as he entered Interstate 95 south. He exited at Exit 36 and struck a guardrail, disabling the vehicle on Plains Mills Road in Milford. Gambardella then fled on foot, running across both lanes of I-95. The officers, one of whom was Lt. Finoia, chased Gambardella on foot. After crossing the highway, Gambardella climbed a grass median. Finoia yelled for him to get on the ground and threatened to shoot him. Gambardella then slowed and turned to the officers and reached into his waistband. He raised his hands and extended his arms in front of his chest as if he were pointing something at officers. Finoia then fired his duty pistol three times at Gambardella, who was not hit, but fell to the ground. He was subsequently taken into custody.

The investigation establishes that at the time that Lt. Finoia discharged his firearm, Gambardella presented himself in a manner consistent with his imminent use of deadly force and Finoia reacted reasonably in attempting to eliminate the threat. Accordingly, I conclude that under the circumstances presented, Finoia's use of deadly force was justified.

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<sup>1</sup> At the time, Gambardella was a 27-old Caucasian and Finoia was a 38-year-old Caucasian with no disciplinary history in 15 years with the department.

## INVESTIGATION

### Warrants issued for Gambardella

On December 14, 2022, Nicholas Gambardella was scheduled to appear in court on four cases from multiple agencies. The charges included the following:

- New Haven Police Department
  - Possession of Narcotics with Intent to Sell
  - Violation of Probation (three counts)
  
- East Haven Police Department
  - Threatening in the First Degree
  - Violation of Probation (three counts)
  
- East Haven Police Department
  - Robbery in the Third Degree
  - Assault in the Third Degree
  - Larceny in the First Degree
  - Reckless Endangerment in the First Degree
  - Criminal Mischief in the Third Degree
  
- East Haven Police Department
  - Criminal Mischief in the Third Degree

Gambardella did not appear in court as required. Additional charges of failure to appear were added in each file and the court set surety bonds totaling \$151,500. Gambardella's license to operate a motor vehicle was also under suspension at this time.

### Locating Gambardella and the White Honda

On December 19, 2022, East Haven Officer Rasile was detailed to a joint task force called FBI-New Haven Safe Street Task Force. Rasile received information from a confidential informant that Gambardella was operating a white Honda Accord with Connecticut registration AA40279 in the town of East Haven and that he might be in possession of a firearm. Officer Rasile relayed this information to Officer Fiorillo who then notified Lieutenant Kevin Klarman, who was the supervisor of the department's Motor Vehicle Enforcement Unit.

On January 5, 2023, at 8:13 a.m., Officer Fiorillo was operating an unmarked patrol vehicle and saw a white Honda Accord that matched the description of Gambardella's vehicle in the area of Main Street and Forbes Place in East Haven. The description included matching characteristics such as dark window tints, black rims, and driver's side door damage. Fiorillo then went to 115 Frank Street, the address listed on the vehicle registration and also the residence of a woman named Alyssa Golia, a girlfriend of Gambardella. Fiorillo noticed the vehicle was in front of the house and was occupied and running. Fiorillo followed the Honda as it got on Interstate 95. Lt. Klarman radioed to other patrol units not to enter I-95 and ordered Officer Fiorillo to exit at Exit 57 in Guilford and discontinue following the Honda.

Detective Lieutenant Finoia, however, radioed that he observed the vehicle at a Subway in Madison rest area on I-95 south. He reported a female departed the vehicle and it continued south on I-95 towards East Haven. Finoia and other detectives then saw the Honda leave the highway at Exit 54 in Branford. They followed it until it entered a Burger King Drive-thru at 880 West Main Street in Branford. Lt. Klarman, in duty uniform and in a fully marked patrol vehicle, entered Burger King and pulled directly in front of the Honda and turned on his emergency lights to indicate he was conducting a motor vehicle stop. Several other police vehicles, both marked and unmarked, some from Branford Police, converged on the Honda from various angles. Klarman recognized Gambardella to be the operator and lone occupant of the vehicle. Gambardella put the Honda in reverse and nearly struck several officers who had excited their vehicles. Klarman moved his vehicle towards the Honda. He exited, drew his firearm, pointed it at Gambardella and ordered him out of the car. Klarman saw Gambardella raise his hands although he would not exit the vehicle as ordered. Lieutenant Finoia was on scene as well, approaching with his weapon drawn from the rear of the Honda. Finoia carried a Sig Sauer P365XL 9mm pistol equipped with a Sig Sauer Romeo Zero red dot optic.

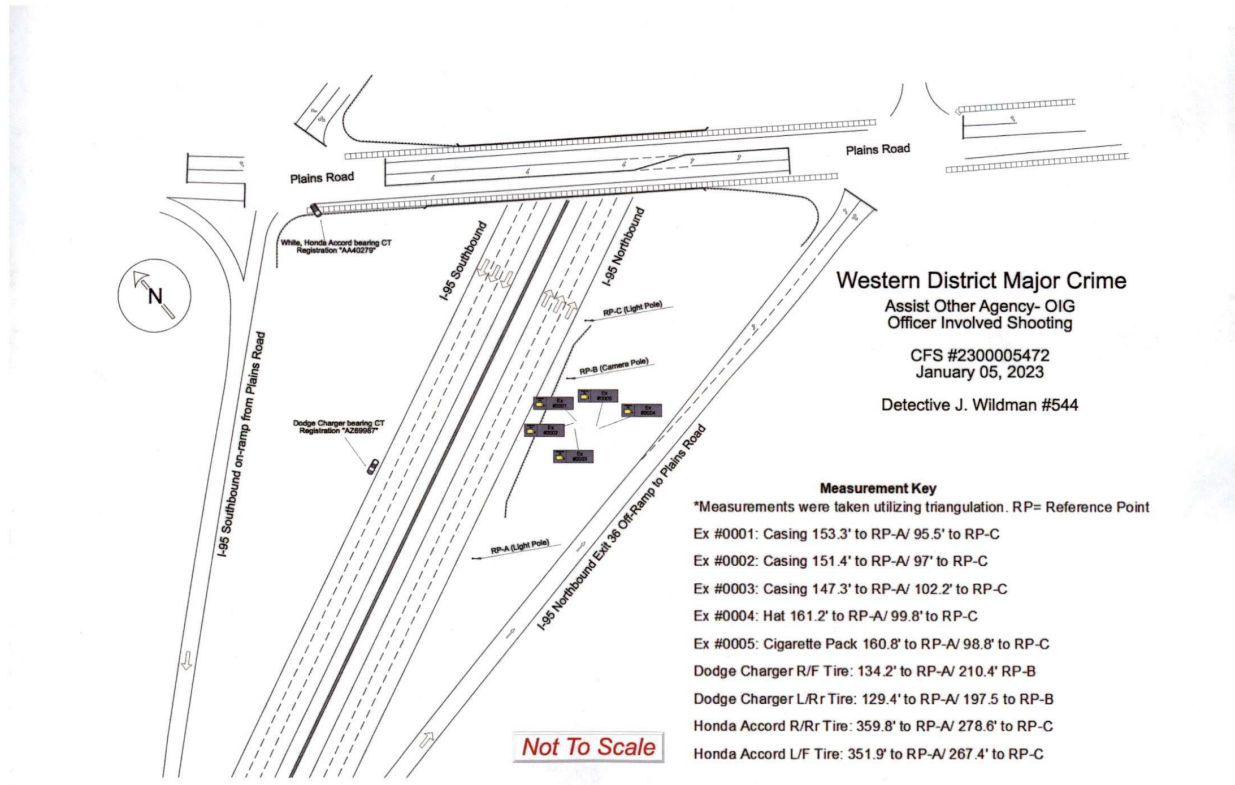
Finoia used his firearm to break the driver-side rear window. In his statement to inspectors from the Office of Inspector General, he said he did this in order to better see inside the Honda. Gambardella then immediately drove the car in reverse, again nearly hitting officers, including Finoia, and then drove forward striking police vehicles, including Klarman's. He exited the Burger King parking lot with officers in pursuit.

A video of the encounter at Burger King can be seen [here](#).

### **Encounter on I-95 Median**

The following paragraphs summarize the events from the departure from Burger King to the discharge of gunfire by Lieutenant Finoia. The summary contains information obtained from a review of body-worn cameras (BWC) from Finoia and Klarman, and the dashboard

camera of Klarman, as well as reports written by Klarman, Officer Anthony Fiorillo, and Detective John Fraenza.<sup>2</sup>



[Sketch map depicting area of car crash and shooting]

Officers pursued Gambardella along several roads as he eventually turned onto I-95 southbound. The pursuit lasted about 17 miles before Gambardella exited at Exit 36, the Plains Road exit, in Milford. He left the interstate at the last second despite traveling at a high rate of speed, in what appeared to be an attempt to elude officers. Klarman was following immediately behind Gambardella. At the end of the ramp, Gambardella crashed the Honda against a guardrail, exited the car and ran down an embankment to the travel lane of I-95 South.

<sup>2</sup> It should be noted that a state trooper monitored the encounter live from a Department of Transportation traffic camera. Although generally consistent with officer reports and other video reviewed, the DOT cameras do not have sound and only offer an aerial view of the scene. The trooper thought Gambardella looked like he had been tased.



He was pursued by Lt. Klarman, Lt. Finoia, and Detective John Fraenza. Finoia and Fraenza had been traveling in the same vehicle and exited together. While running from officers, Gambardella attempted to enter a black Chevrolet Malibu that had slowed down in the median. The woman who was driving the car told police she knew “he was coming for her car.” She immediately locked her doors as he approached her car. She said Gambardella banged on the hood and yelled, “get out!” She said he grabbed her door handle, but she managed to drive away.

Gambardella continued across the highway, climbing over the center cement barrier and running across the northbound travel lanes. Klarman followed immediately behind Gambardella, telling him to “get on the fucking ground” and “get on the ground or I’m going to kill you! On the mother fucking ground!” Klarman states in his report:

“Gambardella then continued up the grass median ignoring my commands, then suddenly slowed, turning towards me. Gambardella then reached into the front of his



waistband, as if he was about to pull something out. Fearing that he was retrieving a weapon, specifically a firearm, I yelled to him “don’t do it” as it led me to believe he was preparing to shoot me. I then observed him rapidly pull his right hand from his waistband and did not see a firearm as he just as quickly reaches back in reaching lower this time. As Gambardella started to reach back into his waist area, I removed my department issued firearm from my holster preparing to return fire as I was certain he was trying to shoot me.”

At this point, at 9:13 a.m., Gambardella raises his arms and brings his hands together as if he is pointing something at Finoia, who was approaching from a different angle. Klarman shouts, “Don’t do it! Don’t fuckin’ do it!” Finoia shouts “get on the ground! Get on the ground now, I’ll fucking shoot you!” Finoia then fires three times. Gambardella falls to the ground, although he is not hit by any of the gunshots. Klarman lunged toward Gambardella, who again raised his hands, subduing him. Klarman asked Finoia if he was OK, not knowing if he had been shot. Neither Gambardella nor any officer was shot. No weapon was found with Gambardella.

Detective Fraenza provided a similar description in his report about seeing Gambardella reaching into his waist and then extending his arms towards officers. Fraenza said that he thought Gambardella had a gun. When he heard the gunshots, he thought they had been fired by Gambardella.

In the body-worn camera from the officers, Gambardella does appear to be trying to point his hands at the officers, as depicted in screen shots from the videos.



[Screen shot from Lt. Klarman’s BWC showing Gambardella and Lt. Finoia]



[Screen shot from Lt. Finoia's BWC showing Gambardella]

To view a portion of Lt. Klarman's body worn camera, click [here](#). To view a portion of Lt. Finoia's body worn camera, click [here](#).

### **Lieutenant Finoia's Statement**

On March 28, 2023, Lt. Finoia provided a sworn written statement regarding the incident. The relevant portion is provided below:

Gambardella made an exit from I-95 at exit 36 in Milford, Connecticut. As Gambardella exited the off-ramp, he collided with a guard rail which disabled his vehicle. Gambardella exited his vehicle and ran down the on ramp towards I-95 South. As I passed by the off ramp, I observed Gambardella running down an embankment towards the highway. I parked my vehicle on the right side of the highway and exited the vehicle. I saw Gambardella briefly stop at a passing car and it appeared he was trying to open the door of the vehicle, however, was unsuccessful and started crossing the highway on foot. I shouted to Gambardella, "Stop, stop right now!", and Gambardella continued running across the highway, jumping over the Jersey barrier into northbound traffic. I followed Gambardella and as I reached the other side of the highway and was

into the grassy area, I shouted for Gambardella to get on the ground and warned I would shoot.

I could see Lieutenant Klarman was chasing Gambardella on foot as well and was several paces behind Gambardella to my left. As I got closer to Gambardella, I saw him turn towards Lieutenant Klarman and put his right hand down the front his pants, and it appeared as though he was pulling something out of his pants. Then while still running, Gambardella extended his right hand towards Lieutenant Klarman and it looked like he was pointing something towards him, as if there was a firearm in his hand, however, due to the distance between myself and Gambardella, I could not quite be sure what was in his hand. I then unholstered my department issued Sig Sauer P365XL pistol and pointed it at Gambardella and warned him I would shoot. I was not able to see the red dot of my red dot optic affixed on the top of my firearm. At this time, I could see there was nothing in his hand and I made the decision not to fire my weapon at Gambardella but I would close the distance between us while keeping my firearm pointed at him.

Gambardella then looked directly at me, our eyes locked, and as they did, I could see his eyes widen and he once again put his right hand down the front of his pants all the while keeping his eyes locked with mine. I again warned I would shoot, and he started moving his hand straight back up. I feared Gambardella may have missed pulling the firearm he was recently seen with out of his pants and wasn't able to fire any shots in Lieutenant Klarman's direction. I also feared he now may have gone back into his pants in an attempt to pull a firearm out and shoot at me. As he pulled his right hand out of his waistband, both his right and left hands met, and he extended them as if he had a firearm and he was pointing it in my direction. Due to running after him, crossing several lanes of traffic on Interstate 95, Gambardella's decision to ignore officers' orders to submit to arrest, along with information from a Confidential Informant that Gambardella was recently seen with a firearm and was going to possibly use it against a police officer, I believed Gambardella was going to shoot me. I was in fear for my personal safety, that of other officers and for the safety of civilians in the area and having no time for any de-escalation measures, I fired my firearm at Gambardella three (3) times and I saw him fall to the ground.

I continued to close the distance towards him and as I did, I saw Lieutenant Klarman jump onto him and it looked like he was trying to gain control of Gambardella. I made several more commands for Gambardella to stop but he continued resisting Lieutenant Klarman and it looked like he was still trying to get his hands down the front of his pants in attempt to grab something. I re-holstered my firearm and grabbed Gambardella's right arm. Gambardella was still resisting and trying to get his hands toward his waistline. I was able to control his right hand and I grabbed handcuffs off the back of Lieutenant Klarman's duty belt. I secured one of the handcuffs onto his right wrist while other officers began to arrive and assist with controlling Gambardella. Detective Trinh arrived and told me he would take over for me. Knowing the gravity of what had just occurred and knowing I was in a position as a supervisor, I relived [sic] control Gambardella's right arm to Detective Trinh and backed away. I took control of radio communications on scene while the rest of the officers controlled Gambardella.

### **Evidence at Scene**

Members of the Connecticut State Police Western District Major Crime Squad (WDMCS) were assigned to the investigation. Detectives searched the area of the median off the highway where the shooting occurred. They found three silver Luger F.C. 9mm bullet casings. No gun was located where Gambardella was arrested. They found a black hat in the area where Gambardella was taken into custody. Detectives also examined Lt. Finioia's duty weapon, which was a 9mm Sig Sauer P365 pistol with a 15-round magazine. Thirteen loose Luger F.C. bullets rounds were recovered with the firearm.



[Area where cartridge casings were located, along with a hat dropped by the suspect]



[Close-up view of casing]



[Lieutenant Finio's pistol and unused bullets]

The Honda Accord that Gambardella crashed was seized, towed, and examined by WDMCS. Among the items found therein were a glass crack pipe, a scale, \$106 cash, and a clear medication bottle containing two bundles of wax folds containing a white substance. The substance was later turned over to the East Haven Police Department and field-tested positive for fentanyl.



[Suspected fentanyl seized from crashed Honda]

### Statements from Alyssa Golia

On January 5, 2023, inspectors from the Office of Inspector General interviewed Alyssa Golia at the Milford Police Department. Golia said Gambardella was using her 2015 Honda Accord during the incident with police. She told inspectors that she had been on the phone with Gambardella while he was being pursued by police. She said that Gambardella told her that he would rather be killed by the cops than do the 45 years of prison he had over his head. She said Gambardella was a “dope head” and used dope every day.

## **Interview with Nicholas Gambardella**

On June 22, 2023, police inspectors from the Office of Inspector General interviewed Gambardella at the Ansonia-Milford courthouse. He was not in custody at the time and agreed to discuss the incident. In the interview, Gambardella was very unfocused. The recollection of events he provided is, in part, inconsistent with the video footage and other physical evidence. For example, he claimed that officers opened fire on him at Burger King. However, this assertion is not supported by the videos from the officers or their vehicles.

Asked why he didn't just follow officers' instructions, he said he was afraid because officers were giving him conflicting instructions and he feared he would be shot if he did the wrong thing – so he drove off. He also claimed to be alarmed when Finoia broke out the window behind him. Gambardella also claimed that officers rammed into his car during the pursuit from Branford to Milford. He further said that when the Honda crashed into the guardrail, it was because a police officer slammed his car into it. He said instead of trying to steal the Chevy Malibu that was traveling on I-95, he was attempting to get run over by it. Shown a screen shot from Klarman's BWC that showed his hands together pointed at Finoia, he said he was showing his hands as instructed in order to surrender himself.

## **FINDINGS**

1. On December 14, 2022, Nicholas Gambardella was wanted on several arrest warrants. East Haven Police developed several leads as to his whereabouts, including that he was driving a white Honda Accord and might be armed with a gun. On January 5, Officer Anthony Fiorillo spotted the car in a driveway at 115 Frank Street, the address of his girlfriend Alyssa Golia.
2. Police officers began following the vehicle as it moved through Madison and Branford with Gambardella and Golia inside. Golia got out of the car at a Subway restaurant in Madison. At a Burger King drive-through in Branford, police decided to arrest Gambardella. Several marked and unmarked vehicles converged on the Honda with lights and sirens on. The vehicle had a heavy tint and Lieutenant Finoia used his firearm to shatter the rear passenger-side window of the Honda. The Honda reversed, striking several marked police vehicles, and also nearly hit several officers. The Honda then exited the parking lot at a high rate of speed.
3. Gambardella got on I-95 and drove south. While driving, he called Golia and told her he would rather police kill him than he go to prison. He exited the highway abruptly at Plains Mills Road in Milford. At the end of the off ramp, he crashed the Honda into a guardrail and fled on foot, leaving a small quantity of fentanyl in the car.



4. Gambardella was chased on foot by Lieutenant Joseph Finoia, Lieutenant Kevin Klarman and Detective John Fraenza. Gambardella ran down an embankment to the travel lane of I-95 south. He attempted to steal a car, and when that was unsuccessful, he crossed both lanes of the interstate and ran up a grass median where he was confronted by Finoia and Klarman who were ordering him to get on the ground. Instead, he raised his arms and hands and pointed them in the direction of Klarman in a manner that mimicked that he had a gun. Finoia fired three shots at Gambardella from his duty pistol. None of the shots struck Gambardella, who was quickly taken into custody. Gambardella was not in possession of a firearm.

5. Gambardella made several allegations to investigators about the confrontation at Burger King, the pursuit, and his eventual capture. Almost all these statements are inconsistent with the balance of the physical evidence and the video evidence obtained as well as reports from multiple police officers involved. I therefore find him not to be a credible witness.

### LEGAL STANDARD

The use of force by a police officer is governed by General Statutes §53a-22. The version of that statute in effect on January 5, 2023, in relevant part, provides:

“(a)(1) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or prevent an escape from custody.

(2) A peace officer ... who is effecting an arrest pursuant to a warrant or preventing an escape from custody is justified in using the physical force prescribed in subsections (b), (c), and (d) of this section unless such warrant is invalid and known by such officer to be invalid.

(b) Except as provided in subsection (a) ... of this section, a peace officer ... is justified in using physical force upon another person when and to the extent that he or she reasonably believes such use to be necessary to: (1) Effect an arrest or prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense, unless he or she knows that the arrest or custody is unauthorized; or (2) defend himself or herself or a third person from the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(c) (1) ... a peace officer ... is justified in using *deadly physical force* upon another person for the purposes specified in subsection (b) of this section only when his or her actions are objectively reasonable under the circumstances, and:

(A) He or she reasonably believes such to be necessary to defend himself or herself or a third person from the use or imminent use of deadly physical force ..." (Emphasis added).

The statute further provides:

"For the purpose of evaluating whether the actions of a peace officer ... are reasonable under subdivision (1) of this subsection, factors to be considered include, but are not limited to, whether (A) the person upon whom deadly force was used possessed or appeared to possess a deadly weapon, (B) the peace officer ... engaged in reasonable de-escalation measures prior to using deadly physical force, and (C) any conduct of the peace officer ... led to an increased risk of an occurrence of the situation that precipitated the use of force," §53a-22 (c)(2).

Accordingly, a police officer is justified in using deadly physical force upon another person when the officer reasonably believes such force to be necessary to defend the officer or a third person from the use or imminent use of deadly physical force. "Deadly physical force" means "physical force that can be reasonably expected to cause death or serious physical injury." General Statutes § 53a-3(5). "Serious physical injury" means "physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ." General Statutes §53a-3(4).

The reasonableness of a police officer's belief under § 53a-22 is evaluated pursuant to a subjective-objective formulation. *State v. Smith*, 73 Conn. App. 173, 185, 807 A.2d 500, cert. denied 262 Conn. 923, 812 A.2d 865 (2002). Under this test, the first question is whether, on the basis of all of the evidence, the police officer in fact honestly believed that deadly force was necessary to defend himself/herself or a third person. *Id.* If it is determined that the police officer honestly believed that deadly force was necessary, the second part of the test asks whether the police officer's honest belief was reasonable from the perspective of a reasonable police officer in the officer's circumstances. *Id.* at 198.

The United States Supreme Court has explained this test in a civil rights case: "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on scene rather than with the 20/20 vision of hindsight. ... [T]he calculus of reasonableness must embody allowance of the fact that police officers are often forced to make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor*, 490 U.S. 386, 396-97, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989).

## ANALYSIS

Under Connecticut law as applicable here, a determination as to whether a police officer's use of deadly force was objectively reasonable requires, in part, consideration of four questions:

1. Did the officer, as a matter of fact, actually – that is honestly and sincerely – believe that he/she or a third person was facing either the actual or imminent use of deadly force when the officer used deadly force?

2. Was that actual belief reasonable in the sense that a reasonable police officer in the officer's circumstances at the time of the officer's actions, viewing those circumstances from the officer's point of view, would have shared that belief?

3. Did the officer, as a matter of fact, actually – that is honestly and sincerely – believe that the use of deadly force was necessary to defend himself/herself or a third person from such threat?

4. Was that actual belief reasonable, in the sense that a reasonable police officer in the officer's circumstances at the time of the officer's actions, viewing those circumstances from the officer's point of view, would share the belief that deadly force was necessary?

Additionally, the reasonableness of the officer's conduct also turns on whether (1) the other person possessed a deadly weapon (or appeared to), (2) the officer attempted reasonable de-escalation measures, and (3) the situation was not precipitated by the officer's own conduct.

In this case, Lieutenant Finoia received information that Nicholas Gambardella might be in possession of a firearm. His was the lead vehicle in a high-speed pursuit from Branford to Milford. When the pursuit ended in a crash, he and two other officers followed Gambardella on foot as he descended the highway embankment, appeared to possibly attempt to carjack a vehicle, and crossed both northbound and southbound lanes of the highway before running up another embankment. Gambardella turned quickly, reached into his pants, and appeared to be pointing something by extending his arms and hands toward Finoia. Based on the circumstances, it would be reasonable for Finoia to conclude that a firearm was being pointed at him endangering his life and the lives of other officers nearby. Furthermore, this conclusion would be shared by another reasonable officer faced with the same situation.


Regarding the additional analysis required of the officer's conduct, it certainly appeared from his actions that Gambardella possessed a deadly weapon. De-escalation measures would not have been appropriate or safe under the circumstances, although it should be noted that both Klarman and Finoia warned Gambardella of their intention to use deadly force. Finally, we must consider whether Finoia's own actions in any way created a situation triggering the use of

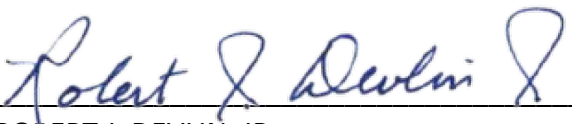
deadly force. Although it's possible the action of shattering of Gambardella's car window contributed to his decision to flee, that tactical decision, the wisdom of which is not questioned here, was too attenuated an event to have precipitated the use of deadly force following his flight, crash, and foot pursuit.

### CONCLUSION

The investigation establishes that Lieutenant Finoia used deadly force against Nicholas Gambardella in order to defend himself and other officers from what he reasonably believed was the use of deadly force. I therefore conclude that his use of force was justified under Connecticut law. The Office of Inspector General will take no further action in this matter.

Submitted, this 22<sup>nd</sup> day of March 2024.

  
\_\_\_\_\_  
ANDREW J. SLITT  
SUPERVISORY ASSISTANT STATE'S ATTORNEY

  
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INSPECTOR GENERAL