

DEATH INVESTIGATION OF GLENN A. RIGHTSSELL  
OFFICE OF THE MONTGOMERY COUNTY PROSECUTOR  
JOSEPH R. BUSER, PROSECUTOR

## EVIDENCE REVIEWED

The Indiana State Police (“ISP”) provided the Office of the Montgomery County Prosecutor an investigative report regarding the December 28, 2018 officer-involved shooting of Glenn Rightsell. Investigators with ISP included the following items in the report:

- Interviews of four southbound travelers on U.S. 231 at the time of the shooting;
- Interview of, and video footage from, a homeowner residing west of the scene;
- Body camera and in-car camera video and audio recordings of Crawfordsville Police Department officers and Montgomery County Sheriff’s Office deputies who responded to the scene;
- Reports from the law enforcement officers with the Indiana State Police, Montgomery County Sheriff’s Office, and Crawfordsville Police Department who responded to the scene;
- Interview of Trooper Daniel Organ;
- Audio recordings and written transcript of radio traffic from Montgomery County Dispatch and Indiana State Police Dispatch;
- Interviews of emergency medical technicians who responded to the scene;
- Interviews of medical personnel who treated Glenn Rightsell at Franciscan St. Elizabeth Hospital;
- Photographs of the scene and FARO 3D imaging scans of the scene;
- Autopsy report from Dr. Roland Kohr;
- Interview of Gloria Rightsell;
- Documentation regarding Glenn Rightsell’s prior encounters with law enforcement;
- Interview of Indiana State Police Dispatcher.

Three attorneys in the Office of the Montgomery County Prosecutor reviewed this evidence, along with ISP training lessons regarding traffic stops and the use of force.

## PRELIMINARY FACTS

On December 28, 2018, at 3:00 p.m., Trooper Daniel Organ commenced his shift with ISP. Mr. Organ is a one year State Trooper who is assigned to multiple counties, including Montgomery County, Indiana. He primarily works from ISP Post 14, located in Lafayette, Indiana. Detectives with ISP confirmed that Mr. Organ has no prior reprimands or write-ups in his file for the use of excessive force.

No evidence indicates that Mr. Organ and Glenn Rightsell had contact before December 28, 2018. Though Mr. Rightsell had prior interactions with law enforcement, the evidence does not show that Mr. Organ knew of these encounters.<sup>1</sup>

### Mr. Organ Tags the Tahoe as an Abandoned Vehicle

On December 28, 2018, while travelling to the ISP Post in Lafayette, Mr. Organ investigated a disabled black Chevrolet Tahoe parked adjacent to the northbound lane of U.S. 231 between County Roads 400 and 550 in Montgomery County, Indiana. Photographs of the Tahoe show that Mr. Organ placed an abandoned vehicle sticker on the Tahoe at 3:30 p.m. Mr. Organ then proceeded to the Lafayette post.

### Mr. Rightsell Contacts Montgomery County Dispatch

Montgomery County Dispatch records indicate that Mr. Rightsell contacted Montgomery County Dispatch at approximately 3:54 p.m. on December 28, 2018, and he advised that the Tahoe had blown a hose. Further, Mr. Rightsell stated that he did not want the vehicle to receive a ticket and that he would return to either repair or move the vehicle. Mr. Rightsell provided his contact information to Montgomery County Dispatch.

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<sup>1</sup> Consequently, pursuant to the Indiana Rules of Evidence and precedent regarding claims of self defense, Mr. Rightsell's prior encounters would not be admissible at trial and are irrelevant to the present analysis.

Montgomery County Dispatch informed Mr. Rightsell that the abandoned vehicle tag was likely from ISP. Montgomery County Dispatch then contacted ISP Dispatch in Lowell, Indiana, and informed ISP Dispatch that Mr. Rightsell called. Also, Montgomery County Dispatch provided ISP Dispatch with Mr. Rightsell's contact information, in case the officer needed it. ISP dispatch did not broadcast or transmit this information to officers in the field, including to Mr. Organ. No evidence suggests that Mr. Organ was aware of Mr. Rightsell's call at the time of the shooting.

Mr. Rightsell later drove a white Dodge Challenger affixed with a Colorado license plate to the disabled Tahoe. Mr. Rightsell previously rented the car from Enterprise due to his own vehicle being damaged in a collision. Mr. Rightsell parked the Challenger north of the Tahoe off of the roadway on U.S. 231 North. Mr. Rightsell then worked on repairing the Tahoe and opened the hood of the Tahoe and the trunk of the Challenger.

Mr. Rightsell possessed a valid Indiana handgun carry permit. On December 28, 2018, Mr. Rightsell carried a functional and loaded semi-automatic pistol in an open top holster on his right hip.

#### Mr. Organ Returns to the Scene

Shortly before 6:35 p.m. on December 28, 2018, Mr. Organ was driving his fully marked ISP commissioned vehicle southbound on U.S. 231. He observed a white passenger car in front of the black Tahoe that he previously tagged as an abandoned vehicle. Mr. Organ saw the hood of the Tahoe was open and that there was a male under the hood. Mr. Organ drove southbound, turned around, and stopped his vehicle offset behind the Tahoe.

Mr. Organ activated his red and blue emergency lights, two overhead white takedown lights, and a driver's door spotlight. At the time, Mr. Organ was dressed in an ISP uniform,

wearing a windbreaker with shoulder patches and an ISP stocking cap. The citizens driving near the scene at the time of the shooting indicated that, based on the emergency lights and Mr. Organ's clothing, it was clear to them that Mr. Organ was a law enforcement officer.

#### Mr. Organ Shoots Mr. Rightsell

At 6:35.35 p.m., Mr. Organ radioed dispatch that he would be out with a vehicle. He walked northbound toward the Tahoe, and observed a male, later identified as Mr. Rightsell, dressed in dark clothing leaning into the engine compartment. Mr. Organ saw a handgun in Mr. Rightsell's waistband on his right side. He then walked further to the north and to the west, where he saw the white Challenger with Colorado plates.

At that time, Mr. Organ did not know if other individuals were inside of the vehicles. Mr. Organ drew his service weapon and held it down near his right leg, while he held a flashlight in his left hand. Mr. Organ stated that he turned his flashlight on and stated, "Hello. Trooper Organ, Indiana State Police. Don't reach for your gun. Do you need help?"

According to Mr. Organ, Mr. Rightsell looked at Mr. Organ and pushed his body away from the Tahoe, rolling upon his left hip. Mr. Rightsell also brought his right hand back. To Mr. Organ, this motion was consistent with drawing a handgun. Mr. Organ reported that Mr. Rightsell then reached back and placed his right hand on the handgun.

Mr. Organ then raised and fired his service pistol. Mr. Organ initially recalled firing three shots but later observed more than three casings on the ground. Subsequent examination of Mr. Organ's service pistol and the shell casings recovered from the scene show that Mr. Organ fired six shots. Photographs of the Tahoe indicate that two rounds struck the front left quarter panel of the Tahoe, and another round struck the hood. The medical records and autopsy report show that one round struck Mr. Rightsell. Two projectiles remain unaccounted for.

### Law Enforcement Reaction Following the Shooting

Mr. Organ stated that he retreated to the rear of his ISP vehicle, losing sight of Mr. Rightsell. Mr. Organ next saw Mr. Rightsell lying on his back with his feet facing south. Mr. Organ reloaded his pistol and contacted dispatch with shots fired information at 6:36.36 p.m. The next dispatch occurred at 6:37.12 p.m., indicating that the person was down with hands up and that a county officer was present at the scene.

Deputy Michael Taylor with the Montgomery County Sheriff's Office arrived shortly after the shooting. Video from Deputy Taylor's department-issued body camera shows that Mr. Organ was standing at the rear of Mr. Organ's vehicle with a rifle pointed towards Mr. Rightsell. Mr. Organ tells Deputy Taylor, "I told him not to reach for it, and he grabbed it," referring to the handgun. Deputy Taylor advises dispatch that Mr. Rightsell "still has a gun . . . still in possession . . . and he is down."

Additional law enforcement officers from the Montgomery County Sheriff's Office and Crawfordsville Police Department arrived on the scene. While a group of law enforcement officers kept firearms trained on the vehicles, another group instructed Mr. Rightsell to crawl on his knees with his hands in the air to the officers. Body camera from Officer Ferrin of the Crawfordsville Police Department shows Officer Ferrin disarming Mr. Rightsell and handcuffing him at 6:45.46 p.m. Emergency medical personnel treated Mr. Rightsell at the scene beginning at approximately 6:56 p.m.

Video from officers' body cameras show that during this time law enforcement was unaware if other individuals were inside of the Tahoe or Challenger. From the dispatch records, at approximately 6:46 p.m., officers requested the multijurisdictional SWAT team respond to the scene to clear the vehicles. At 7:06.53 p.m., law enforcement cleared the vehicles after making a

decision to approach. At 7:07.53 p.m., a deputy from the Montgomery County Sheriff's Office called off the SWAT request.

#### Mr. Rightsell's Medical Treatment

According to medical records, Mr. Rightsell was admitted to the Franciscan St. Elizabeth Hospital in Crawfordsville, Indiana, at 7:10 p.m. after emergency medical technicians transported Mr. Rightsell to the hospital by ambulance. Medical professionals treated Mr. Rightsell for injuries due to a single gunshot wound to the face. At approximately 8:02 p.m., Mr. Rightsell first complained of difficulties with swelling in his throat. Mr. Rightsell again complained of swelling at 8:07 p.m. Commencing at approximately 8:12 p.m., the medical professionals attempted to intubate Mr. Rightsell but were unsuccessful. A doctor attempted a cricothyrotomy, but that procedure was also unsuccessful. The doctor pronounced Mr. Rightsell deceased at 8:48 p.m. Law enforcement was unable to interview Mr. Rightsell at the hospital due to his medical condition and preparation for transport to a trauma facility.

#### Interview of Daniel Organ

On December 31, 2018, Detective Rossi of ISP's Peru, Indiana Post conducted a recorded interview of Mr. Organ. Counsel for Mr. Organ was also present, along with two detectives from the Lafayette Post. During the interview, Mr. Organ recounted the incident. Mr. Organ stated that while driving past the Tahoe, he observed a man leaning into the engine compartment of the Tahoe. The Tahoe's hood was open. Mr. Organ passed the vehicle, turned around, and returned. He parked his police vehicle behind the northbound vehicles and advised dispatch that he would be out with a vehicle. According to Mr. Organ, he activated his red and blue lights, two overhead "take down" lights, and the spotlight on his marked commission.

Mr. Organ told the interviewers that as he approached the scene, he was able to observe through the opening between the back of the Tahoe's hood and the dash a man leaning into the engine compartment. Mr. Organ saw a pistol in a holster on the man's right side. He then proceeded further to the north and the west where he could observe a Colorado license plate on the white sedan. Mr. Organ drew his service pistol and held it by his right leg, while holding a flashlight in his left hand. Mr. Organ reported that he then said, "Hello. Trooper Organ, Indiana State Police. Don't reach for your gun. Do you need help?"

According to Mr. Organ, the man looked at Mr. Organ, rolled to the left, and pushed off of the Tahoe with his left arm. The man's right arm came around in a fashion of drawing a pistol, and the man placed his hand on the gun. Mr. Organ raised his service pistol and fired.

Mr. Organ told the interviewers that as soon as the man reached for the gun, "I feared for my life. I figured he would try to pull it out and shoot me. He's going to kill me or shoot me." Mr. Organ referenced an incident involving another ISP trooper who was shot while attempting to provide roadside assistance to an individual.

#### Physical Evidence Collected from the Scene

Evidence technicians photographed and collected physical evidence from the scene at U.S. 231 North. The technicians documented and collected six .45 caliber casings from Mr. Organ's service pistol on the west side of the Tahoe. The technicians located three casings in the northbound lane and three casings closer to the fog line on the road. Some of the casings displayed damage from having been run over by a vehicle.

Technicians also recovered a .380 Walther semi-automatic pistol, the pistol law enforcement removed from Mr. Rightsell's person. The pistol had a round in the chamber and a



full magazine. Subsequent testing by ISP Technician Perez showed the pistol to be a functional firearm.

Additionally, technicians located tools and new hosing under the Tahoe's hood. They also found tools and a cut hose in the Challenger's trunk.

A trained ISP technician used a FARO 3D scanner to create a 3D image of the scene in both artificial light and low light. From these images, from an angle approaching the Tahoe, it is possible to observe the Tahoe's engine compartment through the space between the back of the hood and the dashboard.

#### Examination of the Tahoe

On the scene, law enforcement observed two bullet holes in the Tahoe's driver's side front quarter panel. One hole is in front of the driver's side mirror, and another is farther forward on the quarter panel. At the ISP post, law enforcement recovered two projectiles from the quarter panel. They also noted and photographed a through-and-through projectile path in the Tahoe's hood.

#### Interviews of Civilians

ISP detectives located and interviewed four individuals who were present or near the scene at the time of the shooting. None of these individuals saw the shooting. Mr. L, his wife, Mrs. L, and their child were driving southbound on U.S. 231. Mr. L stated that he heard four shots. He was unable to see people due to the bright lights. Mr. L recalled seeing a white Challenger and believed that he saw two officers and two police vehicles. After hearing the shooting, Mr. L performed a U-turn and drove away from the scene in order to protect his family.

Mrs. L stated that she heard at least four consecutive gunshots. She recalled seeing two police cars in the northbound lane and two other vehicles, but she did not see any individuals. Mrs. L did not see an officer shoot another person.

ISP located and provided this Office with social media posts from Mrs. L. The information in the posts is not consistent with the information Mrs. L provided to ISP during the interview.

RT and AL were traveling in another vehicle in front of Mr. L and Mrs. L. As RT drove toward the police vehicle, RT heard gunshots, which she described as a bunch of popping. RT observed a man in the ditch with his feet pointed towards the north. She observed an officer with his weapon drawn giving instructions to the man in the ditch. RT saw the officer standing beside the closed door of his police vehicle, recalling that the police vehicle had its headlights and emergency red and blue lights activated. She did not recall a dark SUV being at the scene. RT stated that it was clear to her that the man holding the gun was a police officer. She believed that man was wearing a uniform with a badge on the sleeve.

AL, a passenger in RT's vehicle, observed lights from the police vehicle. He reported hearing a pop, pop, pop, a slight delay, and a final pop. AL did not see the shooting. As RT drove the vehicle closer, AL saw a uniformed officer at the front door of the police car with a handgun drawn. AL recalled the officer giving the command, "do not move." AL advised that the police vehicle's headlights, red and blue emergency lights, and spotlight were activated. AL recalled the police vehicle, a white vehicle, and a SUV present at the scene. He described the officer's driver's side door as open, with the officer standing behind the door. AL did not know who fired the shots.

### Interview of Homeowner

Prior to the shooting, a homeowner, KS who lived west of the shooting scene, observed a SUV with an orange sticker parked across from his residence. Later in the day, KS heard what he believed to be knocks on his door. KS stated that he was aware of a police car's red and blue lights being active at the time, as those lights were reflecting into his home.

KS observed a law enforcement officer giving commands not to move. He then saw additional officers arrive at the scene. KS filmed the subsequent events using a cell phone. KS observed law enforcement taking Mr. Rightsell into custody. He believed that he saw law enforcement remove a weapon from Mr. Rightsell. From his perspective, KS could not tell if other individuals were inside of the Tahoe or Challenger. KS did not observe the shooting or law enforcement subsequently clearing the vehicles.

### Interviews of Medical Personnel

JS was the initial emergency medical technician to provide medical care to Mr. Rightsell for a gunshot wound to the mouth. Mr. Rightsell told the EMT that Mr. Rightsell had pain to the face and jaw.

Firefighter M was also present at the scene. He stated that Mr. Rightsell was able to speak and breathe. Firefighter M recalled no difficulty with Mr. Rightsell's breathing. Firefighter M observed Mr. Rightsell being able to suction blood from his own mouth using a suctioning device.

A doctor ("MD") provided medical care to Mr. Rightsell at the emergency room. Initially, Mr. Rightsell was able to speak and stated that he was shot in the face three times. Mr. Rightsell was able to suction blood from his mouth. MD reported that arrangements were being made to transfer Mr. Rightsell to a Level 1 Trauma Center by helicopter. Prior to transport,

medical professionals attempted to address a complaint from Mr. Rightsell regarding tightness in the neck. MD attempted to intubate Mr. Rightsell; however, excessive bleeding rendered that procedure unsuccessful. MD then attempted a surgical intervention to establish an airway, but that procedure was also unsuccessful. MD pronounced Mr. Rightsell deceased at 8:48 p.m.

A nurse (“RN1”) was also present with Mr. Rightsell. RN1 recalled asking Mr. Rightsell, “What did you do?” Mr. Rightsell responded, “I don’t know. He just walked up and started shooting.” RN1 recalled Mr. Rightsell making this comment twice. She described Mr. Rightsell’s demeanor as calm and cooperative.

ISP detectives also interviewed another nurse (“RN2”) present with Mr. Rightsell. RN2 recalled Mr. Rightsell stating that he was trying to fix his daughter’s car when, out of nowhere, this officer shot him in the mouth. RN2 described Mr. Rightsell’s demeanor as calm, and his primary concern was someone contacting his wife for her to come to the hospital.<sup>2</sup>

Dr. Roland Kohr performed the autopsy on Mr. Rightsell’s body. Dr. Kohr spoke by telephone with the Montgomery County Prosecutor. Dr. Kohr found the manner of death to be homicide, which means the death was at the hands of another person. Dr. Kohr stated that this finding does not address the issue of whether or not a homicide is justified. Dr. Kohr found the cause of death to be a single gunshot wound. During the autopsy, Dr. Kohr located a projectile lodged in the posterior pharynx (the back of the throat). Dr. Kohr described the gunshot wound as “distant,” meaning that it was at a distance of at least 18 inches but unable identify the specific distance. The track of the wound was front to back and slightly downward.

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<sup>2</sup> Attorneys with this Office reviewed the Indiana Rules of Evidence and relevant precedent regarding the prohibition on hearsay, and it is unlikely Mr. Rightsell’s statements to RN1 and RN2 would be admissible at trial.

### Interview of ISP Dispatcher

As previously stated, Montgomery County Dispatch records and audio recordings confirm that Mr. Rightsell contacted Montgomery County Dispatch, and Montgomery County Dispatch passed that information to ISP Dispatch in Lowell. ISP detectives interviewed the ISP dispatcher who received the information from Montgomery County Dispatch. The dispatcher acknowledged that he never passed the information out on the air to officers in the field.

### LEGAL ANALYSIS

#### The Indiana Code and Self-Defense

Conduct that would otherwise be criminal is considered legally justified when a person has the legal authority to engage in that conduct. Ind. Code § 35-41-3-1. Statutes specifically authorize the use of force, including deadly force in certain circumstances, as set forth in Ind. Code § 35-41-3-2. The Legislature prefaced Indiana's self-defense statute by stating, in pertinent part, that: "The general assembly also finds and declares that it is the policy of this state that people have the right to defend themselves . . . from physical harm . . . The purpose of this section is to provide the citizens a lawful means of carrying out this policy." Ind. Code § 35-41-3-2(a).

"A person is justified in using deadly force, and does not have the duty to retreat if the person reasonably believes that the force is necessary to prevent serious bodily injury to the person . . ." Ind. Code § 35-41-3-2(c) (internal formatting and punctuation omitted). "No person in this state should be placed in legal jeopardy of any kind whatsoever for protecting the person . . . by reasonable means necessary." *Id.*

This statute applies to all citizens of the State of Indiana, including law enforcement officers. A law enforcement officer who is the defendant in a criminal prosecution has the same

right to assert self-defense as a legal justification for an act under Ind. Code § 35-41-3-3(f) as does any other citizen.

To justify the use of deadly force, the claimant must possess an honest and reasonable belief of imminent death or great bodily injury. Ind. Code § 35-31.5-2-85 defines “deadly force” as “force that creates a substantial risk of serious bodily injury.”

#### Framework for Application of the Facts of Immediate Case to the Law

The uncontroverted facts of this case demonstrate that Mr. Organ used deadly force against Mr. Rightsell. Therefore, the legal question regarding criminal culpability is defined as whether or not Mr. Organ was justified using that deadly force under the Indiana Code and the current state of Indiana’s law, as explained by the Indiana Supreme Court and the Court of Appeals of Indiana. Three attorneys in the Office of the Montgomery County Prosecutor reviewed the current Indiana case law precedent regarding self-defense.

The appropriate analysis for self-defense possesses both a subjective and objective element. The subjective element examines what the party claiming self-defense, in this case, Mr. Organ, perceived. The objective element considers whether an objectively reasonable person in Mr. Organ’s situation and knowing what Mr. Organ knew at the time of the shooting would reach the same result.

Precedent dictates that this analysis must occur from the perspective of the party claiming self-defense. Once raised, the State must disprove the claim of self-defense beyond a reasonable doubt.

This analysis requires the consideration of (1) whether Mr. Organ honestly perceived a necessity to fire his service pistol at Mr. Rightsell, and (2) whether Mr. Organ’s perception was objectively reasonable. In essence, would a reasonable person in Mr. Organ’s position, given all

of the same facts and circumstances known to Mr. Organ at the time of the shooting, reasonably believe himself or herself to be in imminent danger of great bodily harm or death, necessitating the use of deadly force to protect himself or herself.

The State Could Not Disprove Self-Defense Beyond a Reasonable Doubt at Trial

Based on the facts of the immediate case, the State could not disprove a self-defense claim beyond a reasonable doubt at a potential trial. Again, by law, this analysis must occur from Mr. Organ's perspective. This Office reached this conclusion based on the following facts:

- Mr. Organ possessed no knowledge of the identity or purpose of Mr. Rightsell at the time of the shooting. ISP Dispatch failed to broadcast information from Montgomery County Dispatch that an individual would be working on the disabled vehicle.
- Based on the interviews of the four civilians in vehicles, the homeowner near the scene, and the in-car camera and body-worn camera videos of other law enforcement officers, Mr. Organ was clearly identifiable as a law enforcement officer by his uniform and the activated red and blue lights on his police vehicle. The civilian witnesses were able to identify the red and blue lights while approaching the scene and on both sides of U.S. 231. The civilians who saw Mr. Organ were further able to identify him as law enforcement by his uniform. Finally, Mr. Organ audibly stated that he was a Trooper with the Indiana State Police.
- Mr. Organ observed a man armed with a firearm under the hood of a disabled SUV. He observed a white vehicle with an out of state license plate. He could not detect whether other individuals were present on the scene. The FARO 3D imaging scan of the scene confirms that it was possible for Mr. Organ to see Mr. Rightsell in the space between the Tahoe's hood and dashboard. Other law enforcement officers and the civilian homeowner

confirmed that they could not detect if anyone else was inside of the Tahoe and Challenger until clearing the vehicles.

- While approaching the Tahoe, Mr. Organ drew his weapon from his security holster and held it down by his leg, indicating that he was in fear for his safety. Mr. Organ stated, “Hello. Trooper Organ, Indiana State Police. Don’t reach for your gun. Do you need help?” According to Mr. Organ, Mr. Rightsell did not comply with Mr. Organ’s instruction, pushed off of the Tahoe’s engine compartment, and rolled to his left. Mr. Rightsell then made a motion with his right hand consistent with moving to draw his weapon. Mr. Rightsell placed his right hand on the handgun. At that time, Mr. Organ fired six shots from his service pistol. No evidence exists to show that Mr. Organ fired additional shots after reloading his service pistol or obtaining his rifle from his vehicle.
- The State possesses no evidence that it could introduce at a trial demonstrating that Mr. Organ acted inconsistently with the training he received in order to become an ISP Trooper.
- The State possesses no evidence that it could introduce at a trial to contradict the statements of Mr. Organ. Mr. Organ provided consistent statements to Deputy Michael Taylor at the scene, to Detective Brock Russell soon after the shooting, and to Detective Rossi during the formal interview. Even if Mr. Rightsell’s statements to the medical professionals were admissible at trial, they do not refute Mr. Organ’s version of the events.
- The State possesses no evidence that it could introduce at a trial to disprove Mr. Organ’s belief that Mr. Rightsell was drawing a weapon to shoot and seriously injure or kill Mr. Organ.



## CONCLUSION

To refute a claim of self-defense, the State must prove beyond a reasonable doubt that Mr. Organ's fear of serious bodily injury or death was either (1) dishonest or (2) objectively unreasonable. Sufficient evidence exists that Mr. Organ was subjectively in fear of death or serious bodily injury and that he honestly believed a gun was being drawn to shoot him. From the facts and circumstances known to Mr. Organ at the time of the shooting, there is insufficient evidence to prove beyond a reasonable doubt that Mr. Organ's actions were not objectively reasonable. The State cannot disprove self-defense beyond a reasonable doubt. This Office concludes that the State of Indiana will not file criminal charges against Daniel Organ.