OFFICE OF THE DISTRICT ATTORNEY

JOHN KELLNER, DISTRICT ATTORNEY

18TH JUDICIAL DISTRICT

SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

April 26, 2023

Sheriff Darren Weekly

Douglas County Sheriff’s Office

4000 Justice Way

Castle Rock, Colorado 80109

**RE: Findings for the October 25, 2022, Officer Involved Shooting at the RTD Lincoln**

**Station in Lone Tree, Douglas County, CO (CIRT Case Number 2022-09)**

Dear Sheriff Weekly,

The 18th Judicial Critical Incident Response Team (“CIRT”) has completed their investigation,

into the Officer Involved Shooting at the RTD Lincoln Station, 10203 Station Way, Lone Tree,

Colorado. Aurora MCU Detective Fanning, Aurora MCU Detective Jonsgaard, and Douglas

County Sheriff’s Detective Tinsley were the lead CIRT investigators. I have completed my review

of this investigation. Below is my summary of the facts, investigation, legal analysis and

conclusion.

**EXECUTIVE SUMMARY**

My review is limited to the question of whether Douglas County Sheriff’s Deputy Arnone, Deputy

Gregorek, Deputy Savelkoul, Deputy Werder, Deputy Moore, and Deputy Genevish committed a

crime in the course of this incident. Based on my review of all materials, I find the evidence does

not support any criminal charges against Deputy Arnone, Deputy Gregorek, Deputy Savelkoul,

Deputy Werder, Deputy Moore, and Deputy Genevish.

**THE STATUTORY FRAMEWORK FOR INVESTIGATIONS INTO**

**OFFICER-INVOLVED SHOOTINGS**

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shootings.

This statute provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall

develop protocols for participating in a multi-agency team, which shall include at

least one other police department or sheriff's office, or the Colorado bureau of

investigation, in conducting any investigation, evaluation, and review of an incident

1involving the discharge of a firearm by a peace officer that resulted in injury or

death. The law enforcement agencies participating need not be from the same

judicial district.

C.R.S. § 16-2.5-301(1).

The investigation into this shooting incident was conducted by a multi-agency team consisting of

personnel from the Douglas County Sheriff’s Office, the Arapahoe County Sheriff’s Office, the

Parker Police Department, and the 18th Judicial District Attorney’s Office.

C.R.S. § 20-1-114 provides, in relevant part:

The district attorney shall, if no criminal charges are filed following the completion

of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and

publicly disclose the report explaining the district attorney's findings, including the

basis for the decision not to charge the officer with any criminal conduct. The

district attorney shall post the written report on its website or, if it does not have a

website, make it publicly available upon request.

C.R.S. § 20-1-114(1).

This document constitutes a report of the findings of the District Attorney for the 18th Judicial

District, and includes the basis of the decision not to charge the involved officer with any criminal

conduct.

**MATERIALS REVIEWED AND INFORMATION CONSIDERED**

I have been provided investigative materials produced by the 18th Judicial Critical

Response Team, the Parker Police Department, Aurora Police Department, and the Douglas

County Sheriff’s Office into the shooting and related criminal activity. The materials I reviewed

include:

• All reports completed by members of the Douglas County Sheriff’s Office, the Parker

Police Department, and the 18th Judicial Critical Incident Response Team.

• Body Worn Camera videos of Deputy Gregorek, Deputy Savelkoul, Deputy Werder,

Deputy Moore, Deputy Genevish, Deputy Montgomery, Deputy Burek, Deputy West,

Deputy Maracine, Deputy Noordt, Deputy Murphy, Deputy Engel, Deputy Levy.

• Photographs of the scene, involved vehicles, and physical evidence.

• Dispatch Recordings

• Recorded Interviews of Deputy Gregorek, Deputy Savelkoul, Deputy Werder, Deputy

Moore, and Deputy Genevish.

2**SUMMARY OF THE FACTS**

On October 25, 2022, Douglas County Sheriff’s Office (DCSO) Deputy Nicholas Arnone was on

duty working as a member of the Pattern Crimes Unit (PCU). One of the unit’s functions is to

locate and investigate stolen vehicles. During routine patrol, Deputy Arnone entered the RTD

(Regional Transportation District) Lincoln Station parking garage, located at 10203 Station Way,

in unincorporated Douglas County, Colorado, and observed a black Kia Optima, backed into a

parking space, close to a cement wall. The Kia was parked on the first level of the parking garage,

with the rear and driver’s side of the vehicle close to a cement dividing wall. The vehicle’s

windows were darkly tinted and there was a sunshade in the front windshield. The Kia’s wheels

appeared to have been spray painted.

Deputy Arnone drove past the Kia and parked his unmarked patrol vehicle, a black Chevrolet

Tahoe, to the North of the Kia and out of sight. Deputy Arnone got out of his vehicle and walked

behind the center dividing wall to see if the vehicle had a license plate. There was no license plate

on the vehicle. Deputy Arnone additionally walked to the driver’s side of the vehicle and was able

to look through cutouts in the dividing wall. He noticed the vehicle’s door lock was punched.

Deputy Arnone believed the vehicle was stolen and initiated a “suspicious vehicle” call for service

over the radio at 11:36 p.m.

At that time, other members of the PCU began responding to Deputy Arnone’s location. Deputy

Arnone and the responding cover officers discussed a plan to approach the Kia. Deputy Michael

Gregorek and Deputy Isiah Savelkoul were the first to arrive on scene. Deputy Arnone’s unmarked

Tahoe was the only vehicle equipped with takedown lights. The Deputies decided that Deputy

Arnone would approach the passenger side of the Kia and use his takedown lights to illuminate

the vehicle. Deputy Savelkoul and Deputy Gregorek conducted a “soft pin” on the vehicle,

meaning they parked both of their vehicles (unmarked, black Chevy Tahoes) bumper to bumper

with the Kia, but did not make physical contact with the Kia. Deputy Gregorek’s vehicle was to

the left and Deputy Savelkoul’s vehicle was to the right.

The Deputies decided they would approach the vehicle on foot to attempt to locate the VIN (vehicle

identification number) and to see if the vehicle was occupied. Deputy Savelkoul and Deputy

Gregorek activated their forward facing red and blue emergency lights. Deputy Arnone stated the

VIN looked like it was either covered or obscured by condensation and he was unable to read it.

Deputy Gregorek approached the driver’s side of the vehicle from behind the cutouts in the cement

dividing wall. Deputy Gregorek looked at the Kia with his flashlight and was able to see whether

the driver’s seat was occupied. He described the vehicle’s window tint as a “homemade tent job.”

Deputy Arnone believed he could see two occupants in the vehicle. Deputy Gregorek then used

his flashlight to knock on the driver’s window and loudly announced “Sheriff’s Office,”

immediately after knocking. Deputy Savelkoul then additionally announced, “Sheriff’s Office,”

from his position near the passenger side of Deputy Gregorek’s patrol vehicle. Deputy Savelkoul

and Deputy Gregorek both announced, “Sheriff’s Office. Roll down your windows.”

Shortly after, Deputy Savelkoul said, “they’re moving around a lot in there.” Deputy Savelkoul

again announced, “Sheriff’s Office. Roll down your windows. Do it now.” The Kia’s engine

suddenly started, and Deputy Gregorek stated, “Stop now.” Deputy Savelkoul again announced,

“Roll down your windows. Do it now,” which was immediately followed by additional orders

3from Deputy Gregorek to roll down the windows. The vehicle’s occupants did not comply with

any of these orders.

As he made the above-mentioned announcements, Deputy Gregorek approached the driver’s side

of the Kia from behind the cutouts on the cement dividing wall. Deputy Gregorek had his firearm

drawn and pointed at the Kia’s driver’s side window. Simultaneously, the Kia attempted to drive

forward multiple times and was unable to move due to being pinned by Deputy Gregorek’s and

Deputy Savelkoul’s vehicles. Deputy Gregorek continued to order the occupants to roll the

windows down. Through the cutouts in the dividing wall, Deputy Arnone used a breaching tool

to try to break the Kia’s driver’s side rear passenger window. He was unable to break the rear

window and then moved to the cutout in the dividing wall that was closer to the driver’s side

window. As Deputy Arnone struck the driver’s side window with the breaching tool, two shots

were fired from inside the Kia out of the driver’s window at the Deputies.

Deputy Savelkoul fired four rounds from his handgun into the vehicle’s windshield directly after

the two shots were fired at the officers from the Kia. As Deputy Savelkoul fired, a shot was fired

from the Kia out of the front passenger window followed by at least three shots out of the front

windshield near the front passenger area. Deputy Gregorek then fired three rounds from his

handgun into the area of the driver’s window. Deputy Arnone fired two rounds from his handgun

toward the driver from near the rear of the Kia. At least two shots were fired out of the windshield

after Deputy Arnone fired. Deputy Savelkoul aired, “Shots fired. Shots fired.” Two additional

shots were fired from inside Kia after that. Deputy Savelkoul aired over the radio, “Shots fired.

They’re still…they’re shooting out of the vehicle.”

At that moment, Deputy Arnone discovered he was bleeding from the right side of his face. He

initially thought he had been shot in the face. He was able to stay behind cover and checked his

face in the side mirror of a white pickup truck parked nearby. Deputy Arnone learned he had not

been shot in the face and his injuries were caused by shards of glass. Deputy Arnone also noticed

a bullet hole in his right shirt sleeve. Shortly after Deputy Maracine arrived on scene, he checked

Deputy Arnone for other injuries. Deputy Arnone was able to remain behind cover until he was

later able to leave the parking garage.

Deputy Marc Werder arrived on scene and positioned himself behind the rear passenger side of

Deputy Arnone’s vehicle. Deputy Werder then said, “I’ve got movement on the passenger side.

They’re moving.” Deputy Werder ordered, “Put your hands up.” Suddenly, another gunshot was

fired from inside the Kia and Deputy Savelkoul immediately aired over the radio, “more shots

fired from the vehicle.” Deputy Werder ordered, “Put your fucking hands up.” Another single shot

was then fired from the Kia. A muzzle flash from both shots is visible through the front passenger

window in Deputy Arnone’s dash camera footage.

Immediately, Deputy Werder fired four rounds from his rifle into the Kia’s front passenger

window/door. One of Deputy Werder’s rounds struck the passenger side mirror of Deputy

Arnone’s vehicle. Deputy Werder immediately aired over the radio, “305A shots fired.” Deputy

Werder then told the other deputies he was “okay” and that “the suspect(s) were shooting out of

the passenger side of the vehicle.” Two additional shots were then fired from inside the Kia.

4Numerous cover officers arrived on scene, including Deputy Nicholas Moore and Deputy Ian Tyler

Genevish. Deputy Moore took a position behind the front passenger side of Deputy Burek’s patrol

vehicle, which was parked to the South, behind Deputy Arnone’s and Deputy Gregorek’s vehicles.

Deputy Genevish took a position at the rear passenger side of Corporal Nathan West’s patrol

vehicle, which was parked to the South and to East of Deputy Burek’s vehicle.

Shortly after, one shot was fired from inside the Kia. Deputy Moore then fired seven rounds from

his rifle into the front passenger door/window of the Kia. Moments later, a single gunshot was

fired from inside the Kia. A muzzle flash can be seen inside the Kia on Deputy Arnone’s dash

camera. Deputy Genevish then fired five rounds from his rifle into the front passenger

door/window of the Kia. One of Deputy Genevish’s rounds struck the passenger side mirror of

Corporal West’s vehicle.

No further shots were fired from the Kia. Deputy Arnone and Deputy Gregorek were eventually

able to safely leave the parking garage with Deputy Brad Burek. They were joined just outside of

the parking garage by Deputy Stefan Maracine and Sergeant Anthony Weiss. Deputy Arnone was

the only Deputy injured during the incident. He was transported to Sky Ridge Medical Center by

Deputy Brant Seeley and was released the same night. Officers were ultimately able to clear the

vehicle and establish that the vehicle’s two occupants, a male in the driver’s seat and a female in

the front passenger seat, were deceased. The male in the driver’s seat of the vehicle was identified

as David Strain (DOB: 05/13/1991) and the female in the passenger seat was identified as Clarissa

Daws (DOB: 02/16/1993).

The suspects’ vehicle, a 2015 Black Kia Optima (VIN/5XXGM4A76FG367837; CO temp tag

4486421 was identified as stolen from in front of 2012 North Salem Avenue, Pueblo, CO 81001.

The owner reported it stolen to the Pueblo Police Department on 09/29/2022.

A 10mm Smith & Wesson M&P (serial number NME9766) was located in Clarissa Daws’ lap.

There was one live round in chamber and six live rounds in magazine (15 round capacity). A .380

Ruger LCP (serial number 371317509) was located on the passenger floorboard, at Clarissa Daws’

feet. The chamber and six round capacity magazine were both empty. This gun was stolen out of

Pueblo.

During the search, investigators also located a 9mm Springfield Hellcat semi-automatic handgun

(serial number BY253934) beneath clothing in the rear of the Kia. The firearm was covered with

fine, pulverized glass debris. There was one round in the chamber and the safety was off. There

was one round in the magazine. This gun was also reported stolen out of Pueblo.

A total of 16 fired cartridge casings were recovered from inside the Kia:

• 9mm – Total of 9 recovered inside the Kia.

• 1 on the front passenger floorboard.

• 1 on the rear passenger floorboard.

• 1 on the rear driver’s side seat.

• 1 on the dashboard (driver’s side) in front of the odometer.

• 2 on the floor under the front passenger seat.

• 1 on the floor under the driver’s seat.

5• 1 on the left side of front passenger seat beside the center console.

• 1 on the front left passenger seat rail.

• 10mm – Total of 2 recovered inside the Kia.

• 1 on the front passenger seat.

• 1 on the floor under the front passenger seat.

• .380 – Total of 5 recovered inside the Kia.

• 3 on the front passenger floorboard.

• 1 on the right side of driver’s seat beside center console.

• 1 on the driver’s side backseat (in glass).

• There was 1 live round (10mm) recovered from the front passenger floorboard.

The following items were also recovered from the vehicle:

• Two temporary vehicle tags belonging to Kia (located in the trunk)

• 4486421; expired 08/09/2022

• 4306827; expired 10/11/2022

• Handgun holster (on the front driver’s seat)

• Burnt foil with one round, blue pill stuck to the foil (front passenger floorboard)

• Lab analyses revealed presence of fentanyl and fluorofentanyl.

• Burnt foil with a small blue pill marked “M” (front driver’s floorboard).

• Lab analyses revealed presence of fentanyl and fluorofentanyl.

• Multiple clothing anti-theft tags (rear floorboard).

• Multiple discarded Ross price tags (rear floorboard).

• Miscellaneous clothing and duffel bags (rear of vehicle). Some of the clothing appeared

new/unworn, with price tags and an anti-theft security tag still attached.

• Three purses (front passenger floorboard).

• One of the purses was a Steve Madden brand purse. That purse contained

identifying items for Clarissa Daws, including a Colorado ID Card and multiple

credit/debit cards in her name. The purse also contained miscellaneous narcotics

paraphernalia and two glass vials, which contained a small, residual amount of a

white powdery substance.

- Lab analyses of one of the vials revealed the presence of

methamphetamine.

• Gun cleaning kit (from inside an olive green/drab colored backpack on Clarissa Daws’ lap).

• Three cell phones were collected from the vehicle:

• T-Mobile smart phone with a broken screen (located in blue Tommy Hilfiger

handbag in trunk).

• Motorola smart phone (located on the front passenger seat).

• LG smart phone (located on the front driver’s seat).

Investigators received several NIBIN (National Integrated Ballistic Information Network) leads

with information that the same firearms involved in this investigation were potentially used in

other incidents.

6The autopsy for Clarissa Daws showed the presence of high levels of methamphetamine and

fentanyl. The cause of death was found to be multiple gunshot wounds. The autopsy of David

Strain also showed very high levels of methamphetamine and fentanyl. The cause of death was

also found to multiple gunshot wounds. The autopsy report for both Clarissa Daws and David

Strain noted that other significant conditions included evidence of recent methamphetamine and

fentanyl use.

**OFFICER INTERVIEWS**

Members of the 18th Judicial Critical Incident Response Team (CIRT) and the members of the

DCSO Investigations Division responded to investigate the incident (CIRT case #2022-09). The

involved deputies who fired their duty weapons (Deputy Arnone, Deputy Gregorek, Deputy

Savelkoul, Deputy Werder, Deputy Moore, and Deputy Genevish) participated in interviews

conducted by members of CIRT at the Aurora Police Department Headquarters (APD; 15001 East

Alameda Parkway, Aurora, CO 80012).

Deputy Arnone was interviewed. Deputy Arnone explained that he is currently assigned to the

Pattern Crime Unit (PCU). On the evening of October 25, 2022, he was driving an unmarked

Chevy Tahoe with lights and sirens. He was in full uniform with shoulder patches, which had

“Sheriff” written on the back. Deputy Arnone explained that he drove through the lot to the North

of the RTD parking area, looking for stolen cars. Soon, Deputy Arnone drove into the RTD lot

where he observed the black Kia backed into a spot. Based on his training and experience, the Kia

appeared to be stolen. He described the Kia as having heavily tinted windows and a sunshade in

the windshield. Deputy Arnone told investigators that he drove past the Kia and got out of his car

to attempt to get the license plate number. The vehicle did not have a license plate. He observed

that the door lock on the driver's side was damaged. He then returned to his PCU car and aired the

vehicle over the radio. Other members of PCU began to respond, including Deputy Maracine,

Deputy Gregorek, and Deputy Savelkoul). Since his PCU car was the only one equipped with

takedown lights, the decision was made to have him approach the side of the Kia and use the lights

to illuminate the Kia.

Deputies Savelkoul and Gregorek then did a soft pin on the vehicle. Their vehicles were bumper

to bumper but did not contact the Kia. They then tried to verify the VIN to see if the Kia was

indeed stolen. However, the VIN was obscured, and they could not see it. Deputies began to

approach the Kia (without lights activated) and Dep. Gregorek shined his flashlight into the

passenger window. The Deputies noted the car was occupied. Deputy Arnone told investigators

that the Deputies retreated to their cars and activated their emergency lights. While Deputy Arnone

stayed back, Deputy Gregorek approached the Kia and banged on the window. At the same time,

Deputy Gregorek and Savelkoul began yelling announcements that they were law enforcement.

Deputy Arnone stated he didn’t give commands as Gregorek and Savelkoul commands were loud.

At that time, Deputy Arnone said he retrieved a 5.11 breaching tool from his PCU car.

Deputy Arnone explained to investigators that he returned to the KIA and noted that the car was

now running. The occupants of the Kia then tried to push through the DCSO cars even though the

Kia was in a soft pin. He described the Kia’s wheels spinning and the patrol cars rocking back

and forth due to the Kia trying to leave. Deputy Arnone then went to the passenger side of the Kia

and utilizing the 5.11 tool attempted to break the rear driver’s side window but was not successful.

7Deputy Arnone stated that he then moved and struck the driver’s side window with the 5.11 tool.

He hit the window once and it did not break. As Deputy Arnone described the scene, it was at this

point that Kia was now pushing forwards against the patrol cars. As he went to hit the window a

second time, a bullet was shot from the window from the interior of the Kia. He felt something hit

his face, and initially thought he had been shot, but later realized it was glass that had cut his face.

He immediately dropped the tool, spun away, and drew his handgun at which point he shot two

rounds into the driver’s seat of the vehicle.

After shooting, Deputy Arnone said he began self-checking for injuries. He told Deputy Gregorek

that he had been hit. He later realized that he had a bullet hole in his right uniform sleeve as well.

Deputy Arnone stated that he shot because he was in fear for his life and the lives of the other

deputies. He stated that his shots were in a downward trajectory to avoid crossfire and his shots

were at the driver’s side because that was where he was being shot from. Deputy Arnone said that

he stopped firing, as he was worried about a crossfire. Deputy Arnone told investigators that a

less lethal use of force was not an option as they could not see into the car and the purpose of

breaking the windows was to utilize less lethal. He said he also saw Deputy Gregorek shoot into

the driver’s side window of the Kia at about the same time he was shooting. Lastly, Deputy Arnone

clarified that the suspects had every opportunity to turn their car off and comply.

Deputy Gregorek was also interviewed. October 25, 2022, was a scheduled workday for him.

Deputy Gregorek said he was a solo officer in an unmarked 2013 vehicle with emergency lights.

He learned that Deputy Arnone had located a vehicle (the Kia), which he thought was suspicious,

with no plates on it. Once the Kia had a “Y-Pin” on it, they initiated takedown lights on the vehicle

to see if the vehicle was occupied. Deputy Gregorek exited his vehicle and investigated the Kia.

He immediately observed someone inside. The Pin was “cinched up” at this point and they turned

on their lights so that all red and blue lights were going. Deputy Gregorek moved around to the

driver’s side of the suspect vehicle that was backed into a parking spot. As he walked around the

driver’s side, he tried to peer into the back window, but could not see anything inside.

Deputy Gregorek decided he would knock on the driver’s side window to wake up the driver and

then move back to cover along the concrete partition. Deputy Gregorek said when he woke up

the driver, the Kia started shaking. Deputy Gregorek explained that multiple announcements were

made that they were the Sheriff’s Office and to roll the windows down. The suspects did not

comply. Deputy Gregorek moved around to the driver’s side of the cover vehicle he was behind

at this time. The Kia then started, so he and Deputy Arnone moved up to the concrete barrier. The

suspect vehicle then started ramming its way out of the pin even though the shade visor was still

up. The suspect vehicle was blindly driving and running into one of the patrol vehicles.

Deputy Gregorek told investigators he then moved around to an opening in the concrete. Deputy

Gregorek had the driver at gunpoint, while standing in the window. Deputy Gregorek heard Deputy

Arnone tell him to move over as he was going to break out the window to see inside. Deputy

Gregorek explained that it was at this moment when “they” began shooting at the Deputies. The

first shot was not recognized by Deputy Gregorek as a shot because it coincided with Deputy

Arnone’s movement to break out the window. The second shot was when Deputy Gregorek knew

they were shooting at them.

8Deputy Gregorek moved back and felt the heat of the gases expanding out of the suspect’s gun an