



Review and Analysis

Of

St. Johns County Sheriff's Office

Review of Michelle O'Connell's

Death Investigation

Prepared by:

Detective Sergeant Joe Matthews (ret.)

Supervisor in Charge of Homicide · Miami Beach Police Department

Senior Cold Case Investigator · America's Most Wanted

April 22, 2013



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Sheriff David B. Shoar
St. Johns County Sherriff's Office
4015 Lewis Speedway
Saint Augustine, Florida 32084

RE: Review of Michelle O'Connell's Death Investigation

Sheriff Shoar,

As per your request a comprehensive review of St. Johns County Sheriff's Office "Review of Michelle O'Connell's Death Investigation" report was conducted. The opinions of this writer were formulated based solely on the information that was provided by SJSO and the belief that the information contained in their report was true and/or documented as being true in official investigative reports by both SJSO and FDLE.

In an attempt to minimize confusion and to eliminate being repetitive I noted in my report the section and page that I was quoting from in SJSO Review Report. I then offered my independent opinion of that specific quoted issue.

Respectfully Submitted,

Joseph Matthews

EXECUTIVE SUMMARY

Important Dates and Time

January 18, 2011 – Requested FDLE to conduct an independent review of this case

February 2011 – (specific date unknown) – FDLE began their review in conjunction with staff from the State Attorney's Office of the 7th Judicial Circuit.

SJSO's investigation revealed that the death was the result of a suicide. Two days after her death, a Medical Examiner ruled her death a suicide. A few months after the death, I contacted the Florida Department of Law Enforcement (FDLE) to ask that they review the case. I contacted FDLE because of the family relationship involved and the family's belief that the victim's death was the result of a homicide. I also asked for the review because even though our findings were the same as the medical examiner, it was my belief that we did not do a thorough enough investigation.

BACKGROUND

01. Sections 1, Page 2:

FDLE, under the supervision of Special-Agent-in-Charge (SAC) Dominic Pape began their review of the case. Sac Pape assigned the case to a subordinate, Agent Rusty Rodgers, a retired law enforcement officer who spent his career with the Jacksonville Sheriff's Office (JSO); his specialty during his career at JSO was "vise" investigations.

Analysis:

Based on the fact that SJSO requested FDLE to conduct an independent review of a case that SJSO investigated that involve one of their own deputies and the death (suicide) of that deputy's girlfriend, Michelle O'Connell, one would think that FDLE would assign this case to their most experienced and most qualified homicide investigator.

If in fact, Agent Rodgers was not qualified to take on an undertaking such as this, the burden falls on the supervisor who assigned him this difficult task. I suggest, through a public information request, the personnel files of Agent Rodgers be obtained from Jacksonville Sheriff's Office, to determine his career assignments, what experience he had in death investigations, what specialized training did he complete that focused on Investigative Interviewing/Interrogation, Homicide Investigation, the Investigation of Suicide, Accidental and Unattended Deaths, Cold Case Homicide Investigations and Investigative Report Writing, in an attempt to verify his qualifications as a homicide investigator and his qualifications to review an investigation of a suicide.

02. Sections 1, Page 2:

Very early on in his investigation, Agent Rodgers told the Undersheriff that there was no way the event could have occurred as Deputy Banks had stated. Rodger's logic for his belief at the time was that if Ms. O'Connell had placed the gun in her mouth using her weak hand, her wrist would have been "limp" and when firing a firearm like the one used, a "limp" wrist would have resulted in the gun "stove piping" or rather getting jammed.

Analysis:

Even though I do not feel this is an issue that must be addressed, I do feel there are logical explanations that would discount Agent Rodgers theory. That being; Two shots were heard, two shell casings were found, therefore one can assume with confidence that Deputy Bank's service firearm was fired twice. Based on the physical evidence, that being the defect in the bedroom floor carpeting that contained bullet fragments and the found remnants of a projectile, logic dictates that the first shot was a test fire

or due to an accidental discharge. Either way, the hammer was back and the firearm needed a minimal amount of pressure to pull the trigger for the second shot.

In the report that I reviewed, there is no indication as to whether or not Michelle O'Connell was familiar with the use of firearms. If in fact she was, could it be assumed she would have been able to free the jammed bullet, then after doing so, place that bullet, where it was found, on the dresser? The question is, did Agent Rodgers, who theorized the "stove piping", have the crime lab examine that bullet for markings that would have indicated it was the bullet that caused the gun to jam. If Ms. O'Connell were not familiar with a semi-automatic pistol and the gun jammed after the first round was fired, she would not have been able to fire the second round. Whatever the scenario was or was not, the gun was fired twice.

03. Sections 1, Page 2/3:

Agent Rodgers had inappropriate relationships with members of the family and friends of Michelle who believe that she was a victim of homicide.

Rodgers met dozens of times with these individuals to the point where he became their advocate and enabler, not an investigator conducting an objective review/investigation.

Analysis:

Whenever possible, the lead investigator should make a sincere attempt to maintain a good rapport with the family of the deceased. The investigator should make himself available to answer their questions when appropriate and to reassure the family that their case is considered a priority. But, under no circumstances, does an investigator compromise his investigation in order to advocate for the family. They have to know that the priority of the investigator is to conduct a proper, unbiased and thorough investigation.

04. Sections 1, Page 4:

On more than one occasion during the time when Agent Rodgers was working the case in conjunction with the SAO 7th, Undersheriff Bolante contacted SAC Pape and voiced his concerns about Agent Rodgers' conduct and what appeared to be his preordained conclusion that Deputy Banks killed Ms. O'Connell. Initially, SAC Pape shared some of Bolante's concerns. After FDLE received a report from one paid expert that called into question Deputy Bank's version of events, SAC Pape no longer shared Bolante's concerns.

Analysis:

Based on the fact that SAC Pape's opinion of Agent Rodgers work ethics and product could be influenced by a third party's report, speaks volumes. The supervisor of a homicide investigation play's a major roll in the investigation. If in fact, SAC Pape, was not an experienced homicide investigator, how could he be expected to properly supervise, critique, overlook, suggest, acknowledge, evaluate and criticize the work product of Agent Rodgers? Why would he have had to depend on a crime scene expert's opinion if he (Pape) was able to formulate his own opinion? Based on the assumption that SAC Pape was not a trained homicide investigator nor did he know how to supervise a homicide investigation, that would explain his decision for selecting an agent who had no experience in the investigation of homicides and suicides. Obviously, SAC Pape, did not realize the expertise that was needed to properly conduct a review of SJSO suicide investigation, nor did he realize the expertise that was needed to conduct a proper homicide investigation.

05. Sections 1, Page 5:

On December 6, 2011 the Governor of Florida assigned this case to the State Attorney for the 5th Judicial Circuit (SAO 5th), Mr. Brad King.

On March 15, 2012, Mr. King and members of his staff travelled to St. Augustine to meet with the victim's family and share with them their investigative findings. During this meeting the brother of the victim (Deputy Scott O'Connell) had an outburst in which he made threatening comments towards Mr. King and Mr. King's daughter.

06. Sections 1, Page 9:

Deputy O'Connell advised that he felt this way because over the course of about a year he had become friends with the lead investigator on the case. Agent Rusty Rodgers and that they were on a "first name basis." O'Connell went on to say that he had numerous conversations with Agent Rodgers where he and Agent Rodgers discussed the investigation in detail leading him to the only conclusion of this being a homicide committed by Deputy Banks.

Analysis:

This, I believe, is the expected behavior and the reaction of a family member who had unfulfilled expectations. I suspect, as a result of Agent Rodgers decision to align himself with the decedents family rather than maintain his role as an impartial investigator, he validated their opinion without having the necessary evidence to do so. A homicide investigation has to develop and come to a conclusion based on facts not opinions and a homicide investigator has to remain impartial and maintain the image of a professional with unquestioned integrity. If in fact, Agent Rodgers remained impartial and based his investigation on facts and not his personal opinion, and if he was perceived as a true professional with unquestioned integrity, would Deputy O'Connell and his family's reaction to the finding of the State Attorney's Office, that classified his sister's death a suicide, be as aggressive as it was? I would suspect, if Agent Rodgers conducted a proper investigation and gained their trust as a true professional, they would have accepted his professional opinion and the findings of the State Attorney's Office, even if they concurred with the findings of SJSO.

07. Sections 1, Page 6:

On April 4, 2012 I received information that on March 28, 2012, SAC Pape took the unprecedented step of having a letter "hand delivered" to State Attorney King at Mr. King's office. The substance of the letter was that SAC Pape was requesting that Mr. King invoke an esoteric law on the books where he (King) would hold an "inquest" that would examine this case and the proceedings would be presided over by a County Judge and the public would have an opportunity to participate. In a subsequent conversation I asked SAC Pape if he had ever employed this law before or if he was aware of it ever being used, his answer was, "No".

Analysis:

I question the motive of SAC Pape's request for an "inquest". At times, one's vision is distorted and their priorities become self-serving in an attempt to save face. Therefore, the issues change and the ultimate goal is no longer to seek the truth but to be proven right or justify ones behavior.

Summary of Facts and Evidence Supporting The Official Finding of Suicide

08. Sections 2, Page 4:

On 2 September 2010 (day of the incident), M. O'Connell sent several text messages from her cell phone to family members that demonstrated her state-of-mind.

09. Sections 2, Page 6:

These text messages were sent by M. O'Connell the evening leading up to her death. The text messages clearly depict a despondent state-of-mind. So much so, that O'Connell's sister, Chrissy replied, "r u ok, What do u mean, and what's going on im scared".

Note: These text messages were negated by FDLE during their investigation. These messages were not accurately presented to FDLE's expert (Jerry Findley) and/or the Medical Examiner. In addition, Special Agent Rodgers completed a lengthy PowerPoint Presentation in support of his investigation but failed to accurately detail M. O'Connell's text messages leading up to her death.

Analysis:

In reference to the text messages that were found on Michelle O'Connell's cell phone on the eve of her death, the writer of SJSO Review Report, made the following comments that addressed his concerns, "These text messages were negated", "These messages were not accurately presented", and "failed to accurately detail M. O'Connell's text messages". If in fact this were true, that information and evidence was intentionally withheld, distorted or misrepresented, in an attempt to reclassify a suicide, I would identify this action as a blatant attempt to deceive others and to obstruct justice.

We are all very much aware of the fact that many of those who commit suicide fail to leave a final message, but those that do leave a suicide note or their last message are not obligated to follow any guide lines as to how it is to be delivered. Those who have committed suicide have been known to mail letters, leave recordings, leave a note wherever it may be seen, and send emails and text messages or whatever else they decide to do. There are no rules as to how the messages are conveyed. It is the interpretation of the message that is important. What is apparent, the text messages that Chrissy received from her sister concerned her, and the text messages that Michelle O'Connell sent should have been properly documented and included in the equation as to whether or not Michelle O'Connell committed suicide.

10. Sections 2, Page 7-9:

As noted in SJSO Review Report, the last three people that were with the victim prior to her death, that being, Andrew Garris, Crystal Cercado, and Jeremy Banks were interviewed. A co-worker and former co-worker of the decedent, Jennifer Lindblom and Amanda Kenny were interviewed. Michelle O'Connell's sister, Chrissy O'Connell was interviewed. Deputy Maynard, who was interviewed, stated, "while delivering the death notification to the O'Connell family, they expressed concerns that they had received text messages from M. O'Connell stating if anything ever happened to her (M. O'Connell) take care of '----'." Cherrie Kidd, who was also interviewed, stated, "while conducting grief counseling with Patty O'Connell, she recalled a conversation regarding Michelle's past state-of-mind. C. Kidd stated P. O'Connell told her Michelle previously had suicidal thoughts;"

Analysis:

In a death investigation, the interview of primary and secondary witnesses play a major roll in being able to determine the facts of the case. Whenever possible, witness statements should be recorded and taken under oath.

It is unfortunate if the above noted interviews were the only ones that were conducted by SJSO investigators. As soon as it was possible each and every family member should have been interviewed separately. The likelihood exists; it would have been at that time, the information provided by the family

would have been truthful. In most cases, early in the investigation, the statements from the family members will not be tarnished, because of guilt, the influence of others or civil action.

Analysis of SJSO's Investigation

11. Sections 3, Page 1:

Analysis of SJSO's Investigation

As a result, the following conclusions have been made as a result of this investigative review:

- >A canvass should have been conducted.
- >No interviews were conducted with Paramedics;
- >Interviews were not conducted with decedent's family members.
- >Interviews with the recipients of M. O'Connell's text messages were not conducted.
- >J. Banks' cellphone was never collected and/or forensically downloaded by the SJSO.
- >J. Banks should have been initially isolated, photographed, and interviewed in a structured environment and all of his clothing should have been collected in an abundance of caution.
- >No formal timeline was established...
- >No cellphone records (incoming and outgoing) were subpoenaed (J. Banks or M. O'Connell)
- >No crime scene log was initiated.
- >Key supplements are absent from the report...
- >None of the evidence collected from the scene was sent by the SJSO to the FDLE Crime Lab for forensic processing.

Analysis:

I very much agree with SJSO's assessment as to deficiencies in this investigation that they identified. There is a logical reason as to why each and every issue should have been addressed and a follow-up investigation implemented.

I also agree with SJSO assessment that it was a questionable supervisory decision to assign two relatively inexperienced detectives to investigate a case that directly and indirectly involved multiple SJSO employees and a case that the news media would have an interest in.

I very much agree with SJSO assessment, that it was due to the experience of Sgt. Beaver and the initiative of Deputy Hawley to take photos of the crime scene prior to the arrival of Rescue personnel. The eight photos that were taken prevented major conflicts on issues concerning the original position of the body, the original position of the gun belt and the firearm.

At this point in time I find one noticeable flaw in the processing of the crime scene. Based on the fact that the witness (Deputy Banks), heard two shots fired and the fact that two casings were found in the immediate area of the decedent's body, and the fact that there was noticeable damage to the floor carpeting within the primary crime scene, in addition to photographing the damage to the carpeting, CST should have examined the damage in search of the projectile from the first shot that was fired. The search for the projectile should have continued until it was found, photographed and recovered.

I also agree it was poor judgment on the part of Sgt. Faircloth not to properly maintain the chain of custody, by failing to place the spent, deformed projectile that was found at the crime scene by Deputy Banks, approximately one month after the incident occurred, into evidence.

12. Sections 3, Page 2:

Another issue was the fact that the SJSO failed to properly address the Family's concerns regarding the initial investigation.

Analysis:

This is a problem that plagues police departments throughout the country. They fail to take the time to maintain a line of communication with the victim's family. In most cases, the family members are not seeking confidential information; they just want to know the basics. Share with them beforehand the information that you are planning to release to the news media. The professional relationship that is established between the investigators and the family could be, as it is in many cases, the key of solving the case.

Analysis of FDLE's Investigation

13. Sections 4, Page 1:

18 Jan 2011, Sheriff Shoar requested FDLE to conduct an independent review of SJSO's investigation regarding the death of Michelle O'Connell. Copies of the SJSO investigation were provided to FDLE Special Agent Rusty Rodgers.

18 Jan 2011, the report reflects the receipt of SJSO written reports regarding the SJSO investigation. Rodgers begins referring to the scene as "crime scene," in the FDLE report.

Analysis:

Based on the fact that an unattended death should be investigated as a homicide until proven otherwise and based on the fact that it is a crime to attempt to commit suicide, to assist in a suicide, and to commit a suicide, the scene of a suicide would be considered a "crime scene".

14. Sections 4, Page 1:

19 Jan 2011, Rodgers' review of 911 call made by Dep. Banks:

In the report, Rodgers writes, "the contents of the 911 call was suspicious in nature based on Banks' obvious personality and emotional changes during the call." Rodgers continues by writing, "...he (banks) informed the dispatcher he was no longer going to lie and identified himself as Deputy Jeremy Banks."

Analysis:

I agree with SJSO assessment concerning Deputy Banks communication with the dispatcher and the emotional state that he was in at that time.

The issue that concerns me is what Banks actually said to the dispatcher, compared to what Rodgers claimed he said in his report. There is a big difference in meaning when one says, "Let me tell you the truth", then, "...he (Banks) informed the dispatcher he was no longer going to lie..."

Whenever the writer of a report could quote six words and it successfully conveys the message, why would he explain what was said if it takes twice the amount of words to do so. What was Agent Rodgers motive for distorting the truth and misleading the readers of his report?

15. Sections 4, Page 3:

24 Jan 2011, Rodgers completes FDLE report documenting his interview of Brittany Edwards, a previous co-worker of Michelle O'Connell. This interview was not audio or video recorded.

Analysis:

The issue is not what information Rodgers obtained from the witness; the issue is why was the interview not recorded. Witness interviews are so very important and it is foolish for investigators to not properly

document what they are told. With today's technology there is no excuse for an investigator's failure to record all witness interviews.

16. Sections 4, Page 3:

27 Jan 2011, details a meeting between Rodgers and Paul Gaumont (ex-boyfriend of Michelle). Rodgers reported taking possession of a computer from Gaumont which had previously belonged to Michelle.

Analysis:

Not knowing the details as to why Michelle's ex-boyfriend had possession of her computer and when he obtained it, I will not address those issues. But the issue of recovering the computer that was in the possession of a suspect or victim is so very important. If the SJSO investigators had the opportunity to recover Michelle O'Connell's computer from the crime scene, but failed to do so, that would have been a big mistake. Had they the opportunity to recover Deputy Banks computer but failed to do so, that too would have been a mistake. Through a search warrant a forensic search would provide useful information that may be relevant to the investigation. The question is, what information did Agent Rodgers obtain from Michelle's computer? Did the crime lab access data that was in any way relevant to the subject of suicide? Was a forensic search conducted on Deputy Banks' computer? If so, was that information documented in either SJSO or FDLE's supplemental reports?

17. Sections 4, Page 3:

Gaumont stated prior to this interview he reviewed the police reports and photos related to Michelle's death and found inconsistencies in the clothing Banks was wearing at the concert Banks and Michelle attended immediately preceding her death.

Analysis:

Based on SJSO Review Report, the inconsistencies in the clothing Banks was wearing at the time in question was explained to their satisfaction.

The issue that I feel should be addressed is why was a witness allowed to review police reports and photos related to Michelle O'Connell's death. Only under certain circumstances would an investigator allow a witness to view photos that are related to their death investigation and that is done during the recorded interview or after the interview, if a specific issue is to be clarified. Then after the clarification is made it should be documented by recording the clarification and noting it in the investigator's report.

18. Sections 4, Page 4:

In a FDLE case presentation PowerPoint prepared and presented by Rodgers to the Medical Examiner, Dr. Hobin (FDLE report #113), Rodgers writes, "O'Connell would leave work early, and on occasion fail to report due to the ongoing psychological abuse by Banks."

Analysis:

Based on SJSO Review Report, it states, "This quote makes reference to Michelle working at Molly Maids and is a misrepresentation of the context of witness statements. None of the witnesses said Banks was "psychologically abusive" towards Michelle, and the witnesses only said that they believe the relationship between Michelle and Banks was the cause of her grief."

It is obvious that Rodgers did not quote or properly interpret what the witness stated. This is the cause of a major concern. An investigator cannot interview with the intention of validating his own hypothesis and opinions.

Early in my review and analysis of SJSO Review Report, I detect a negative pattern forming in reference to Agent Rodgers report writing. It appears to me that the misquotes and statements that were taken

out of context were not mere mistakes. They were calculated falsehoods that were formulated to have a negative impact on SJSO's findings that Michelle O'Connell committed suicide.

19. Sections 4, Page 4:

02 Feb 2011, report documenting the interview with and transcript of Stacy Boswell, which took place on 01 Feb 2011. She alleged to have heard the incident between Banks and Michelle.

Analysis:

Based on SJSO Review Report, it states, "It is unknown how Rodgers learned of Boswell and Heather Ladley, as it is not documented in any of the investigative reports."

Five months to the day, after the death of Michelle O'Connell, Agent Rodgers identifies two individuals as witnesses, yet there is no documentation in his report as to how he was made aware of their existence. If family or friends of the victim referred the witnesses to Agent Rodgers, what information were they provided before being interviewed? His failure to properly document the information that is necessary to validate their claim of being a witness concerns me.

20. Sections 4, Page 5:

Boswell reported hearing a women yelling and screaming ... She stated she could hear a women yell help and then heard a gun shot. The other voice was deep and that of a male. She stated 1-2 minutes elapsed and she again heard a women yell help and a second gun shot. She stated 10-15 minutes later she heard sirens. Boswell stated, "We didn't think anything about it..." She said, "...its not odd for us to hear gunshots around here..."

Analysis:

I agree with SJSO's assessment as to the validity of Boswell's statement.

Based on the time line of events, the facts that Boswell provided to Agent Rodgers were not only wrong, they were illogical. If, as the witness stated, "we didn't think anything about it", then why, five months later, did they think about it and come forward? If they didn't think anything about it, why would they remember the details of the incident? Did Agent Rodgers provide the witnesses with the date of the incident? If not, how did they know it was Sept. 2nd? Did Agent Rodgers ask them how they remembered that specific date and the specific time of the incident?

Based on the fact that Agent Rodgers asked no follow-up questions on noted specific issues, that would indicate he had his own agenda and his only concern was to obtain the answers to his specific questions. This would not be considered a proper investigative interview and I question the validity of it.

21. Sections 4, Page 6:

Rodgers never asks Boswell if she knew Banks or Michelle O'Connell or if Boswell spoke with any of the family or friends of either of these two subjects since the incident. No questions were asked of Boswell indicating if she read any of the internet postings or articles concerning this case.

Analysis:

These were all important yet basic questions that Agent Rodgers should have asked the alleged witnesses.

It is my opinion; Agent Rodgers either knew or didn't want to know the answers to these questions. Either way, there is no excuse for Agent Rodgers not asking the proper questions and documenting the answers in his report.

22. Sections 4, Page 6:

The interviews with Boswell and Ladley were conducted on the same date, at the same location; one was interviewed at 7:00 p.m., one was interviewed at 7:20 p.m. (It is unknown if these two individuals were interviewed separately or together).

Analysis:

Proper report writing on the part of Agent Rodgers would have indicated whether or not the two witnesses were separated and interviewed alone.

23. Sections 4, Page 6/7:

Rodgers then directs Ladley to "...the second of September, uh, 2010" and explains to Ladley that her name has been provided to Rodgers as someone who may have information regarding what she may have seen or heard on that evening.

Ladley stated at approximately 10:30-11:00 p.m., she and Boswell were sitting in Boswells garage talking and smoking.

Rodgers then asks Ladley to confirm what she heard and Ladley describes she "heard arguing and then we heard her yell, 'Help' and there was one gunshot and then there was...she yelled, 'Help' again and there was a second gunshot and then I didn't hear any commotion after that."

Rodgers asks Ladley what she did next and Ladley says, "...um nothing happened next. I went in, went to bed.

Analysis:

Based on the fact that Agent Rodgers provided Ladley with the date of the incident, I question the validity of their statement. Based on the fact that the incident occurred five months prior to their meeting with Agent Rodgers and since the incident they never reported to the police or to anyone else what they allegedly heard that night, I question the validity of their statement. Based on the fact that Ladley and her friend Boswell, recalled sitting in their driveway on the night in question and they stated that they regularly smoke marijuana while in the driveway but they could not recall if they had smoked marijuana that night, I question the validity of their statement. Based on the fact, when they heard the two gunshots that night they "didn't think anything about it", I question the validity of their statement. Based on the fact, when asked by Agent Rodgers, "how far would you say you're...um, the area you were standing..."? Ladley responded, "Not very far, I mean probably the length of two football fields", I question the validity of their statement. I believe, based on the accumulative facts that they provided and the unknown facts that they were provided, the credibility of her statement is more than questionable.

On section 4, page 9, of SJSO Review Report, it states "Despite the fact that Rodgers believes these witnesses heard the incident on the night in question, he failed to conduct a canvass of residences surrounding Ladley and Boswell.

If in fact, Agent Rodgers thought he had two credible witnesses, one would think he would have canvassed the area of their neighborhood, with hopes of finding others that heard arguing and the yell for help and the sound of gunshots. If he had interviewed neighbors he could have possibly obtained information as to the mental stability and veracity of his witnesses.

In addition to conducting an area canvass, Agent Rodgers could have conducted a non-scientific, informal test to determine, if in fact, based on the weather conditions on the night in question, a yell for help from within a house with the windows open or closed, could be heard from a distance of approximately 200 yards and from a house that could not be seen from the driveway where Boswell and Lanley were sitting.

Hypothetically, if Boswell and Ladley were provided the time and date of Michelle O'Connell's death for the purpose of their interview with Agent Rodgers, the logical thinking of those, who were not privy to

all of the facts of the case, would be that Ms. O'Connell was shot sometime between 10:30-11:00 p.m. The same time that Boswell and Ladley allegedly heard the yell for help and the two gunshots. Based on SJSO investigator's time line, the two friends of Deputy Banks and Ms. O'Connell, that were present that night at the home of Deputy Banks, did not depart until after 11:00 p.m. and at approximately 11:20 p.m., SJSO received a 911 call from Deputy Banks, reporting that his girlfriend, Michelle O'Connell had just shot herself.

Had witnesses Boswell and Ladley been aware of the time discrepancies, would their statements have changed? Would they have alleged that they heard the gunshots between 11:00-11:30 p.m.?

24. Sections 4, Page 7:

Rodgers asks Ladley if she ever told anybody this and Ladley replies; "uh, I didn't really; I didn't really know who to tell. We hear gunshots around here a lot but I don't usually hear people yelling afterwards and then the news crew came around the next day and told Stacy that ...uh an officer killed his wife."

As stated in SJSO Review Report:

Rodgers does not ask Ladley to recall the exact date of any other incidents when she heard gunshots. The media did not report on this case until much later, and they never referred to it as a law enforcement officer killing his wife.

Rodgers never inquired what media outlet made this comment.

Analysis:

Investigative Interviewing is not only an art it is a science. I question whether or not Agent Rodgers has ever had any type of formal training in Interviewing Techniques. What firsthand experience has he had interviewing a subject and being able to determine truth and deception?

Whenever an investigator interviews a witness, the investigator's goal is to either validate the statement as being truthful or discredit it. The investigator is not to ask leading questions and is discouraged from asking closed end question. Follow-up questions are necessary in order to clarify an issue or to obtain additional information. By Agent Rodgers allowing Boswell and Ladley to make statements without being challenged, he obtained fragmented statements that have no validity and this allowed others to question Agent Rodgers motives for doing so.

25. Sections 4, Page 8:

Rodgers asks Ladley if she went to school with Michelle. Ladley stated she went to school with Michelle during elementary and middle school. Ladley explains Michelle was a couple of grades ahead of her.

As stated in SJSO Review Report:

In listening to this interview, it appears Rodgers prompted Ladley, indicating he already knew the answer to the question that he possibly learned from a previous discussion with Ladley prior to the "official" interview.

Analysis:

It is recommended that all witness interviews be recorded. Whenever an investigator conducts a pre-interview he is doing so to determine if in fact the witness has anything to offer on a particular case. General questions are asked in an attempt to unofficially qualify them as being a witness. This process should take only a few minutes and specific questions are not asked. In most cases the pre-interview is not recorded and the formal interview is recorded. When dealing with qualified witnesses the investigator should only conduct a formal interview (recorded interview).

26. Sections 4, Page 9:

02 Feb 2011, detailing an interview with Ciara Morris (friend of Michelle O'Connell)

Based on SJSO Review Report, it states, "During one portion of the interview Rodgers asks Morris, "is that the same picture I showed to you earlier?" and Morris agrees. This shows an interview was conducted with Morris prior to the recorded interview.

Analysis:

Whenever a subject, witness or suspect, is addressed during a recorded interview about an issue that was previously discussed during an unrecorded session, the interviewer is obligated to explain, while being recorded, what was discussed and the circumstances surrounding the discussion. This process would eliminate suspicion and it would have addressed the above noted issue concerning Ms. Morris.

27: Sections 4, Page 10:

02 Feb 2011, this report documents information received from Morris where she advised Rodgers that Banks had two different shirts on the night of Michelle's death (the report does not indicate how Morris received this information).

Analysis:

If Agent Rodgers felt it was important enough, which it was, to document in his report that Banks was seen wearing two shirts on the night in question, it was just as important for him to have followed up on the issue by trying to determine the original source of the information. Then an effort should have been made to determine why Deputy Banks had two different shirts on that night, and that information should have been documented in Agent Rodgers report.

28. Sections 4, Page 10:

07 Feb 2011, this report details GSR (Gunshot Residue) lab results from FDLE.

The report indicates the following:

GSR was identified on the GSR swabs taken from Michelle. The report also states the analysis cannot determine whether or not an individual discharged a firearm, it merely indicates the presence of gunshot residue. 'The presence of GSR on the hands may be the result of activities such as firing a weapon, being in close proximity to a firearm during discharge, or handling an item (such as a firearm or spent cartridge) whose surface bears gunshot residue, GSR may also be expected to be found on samples from victims of gunshot wounds.'

Analysis:

The above noted section concerning GSR could be considered a general definition or explanation but it is far from being complete. I get the impression, from what was written, that an attempt was made to discount the importance of obtaining a GSR samples for analysis. When one reads the possible side effects that may occur when taking a specific form of medication, even though it may be very effective, the remote possibility of having the side effects may discourage that person from taking the medication. Certain patterns of gunshot residue appear on a hand or hands when holding a gun and firing it. The quantity of gunshot residue may be indicative of firing the gun or being in the close proximity of the gun when it was fired. Transfer of residue could occur from one person to another or from a person to an item. The type of firearm and the type of bullet fired effects the amount of residue that is deposited. Of course, the finding of gunshot residue on an individual is not proof positive that he/she was holding the gun when it was discharged, but it does give the investigator a perspective, depending on the quantity and location of the residue, and the circumstances surrounding the firing of the weapon, as to whether or not the gun was in the hand of that individual when it was fired.

29. Sections 4, Page 10/11:

15 Feb 2011, this report details a subpoena for the cellular phone records of Banks. Cellular phone records of Michelle O'Connell, Scott O'Connell and Chrissy O'Connell.

Analysis:

Obtaining the cell phone records and reviewing them not only provides important information, the records could validate a claim, they could discredit a source and they could lead the investigator to individuals that have no other link to the investigation other than a single phone contact.

SJSO investigators should have obtained the cell phone records of those who had contact with the victim on the day of her death and who had contact with Deputy Banks just prior to and soon after her death.

Based on the information that is obtained through the phone records, follow-up interviews are then conducted when necessary.

30. Sections 4, Page 11:

During this canvass Rodgers writes in his report he noticed Banks' patrol car in the driveway of his residence at 4700 Sherlock Place. Rodgers stated he and Brutnell approached the residence and noticed the garage door and interior garage door leading into the house were open. Rodgers said he, "Yelled out to Banks who responded in a very loud aggressive voice, 'Who's there?'" Rodgers said he identified himself and Brutnell. Rodgers writes, Bank walked into the garage area and said, 'I just stopped by to get rid of some of her shit from the house.'" Rodgers continues writing, "Banks immediately corrected himself and apologizes then said, 'I apologize, I mean pack up some of her stuff.'"

Analysis:

During any homicide/suicide investigation, at the time, it may not be known what the true significance is of a statement or what appears to be evidence. In this case the investigator should take note, as he does during an interview, of what was said, how it was said, the behavior and mannerisms of the subject in question. It should be noted for the case file but not necessarily included and highlighted in a report, unless it significantly fits a pattern of behavior that is relevant to the investigation.

31. Sections 4, Page 12:

16 Feb 2011, this report provides details of an interview of Melinda Fox (self-reported 'best friend' of Michelle)

Fox describes speaking with a friend of Banks at the funeral named "Austin". Fox stated Austin told her at the funeral that he (Austin) was present at the house when Michelle shot herself.

As stated in SJSO Review Report:

During the course of this investigation, two search warrants were written by Rodgers. These two search warrants were both signed by the judge on 12 Apr 2011. In each of these warrants, Rodgers refers to the interview of Fox. Rodgers states in each Search Warrant Affidavit that Fox described Taylor was present at the time of Michelle's death. The affidavit also states Banks has provided two interviews concerning this case and has not disclosed Taylor being present at the time of Michelle's death. No mention is made in either affidavit of the interview with Taylor and his exculpatory statements detailed in the above report dated 18 Feb 2011. At the time he sought the Search Warrants, Rodgers already knew that Taylor was not present during the night of the incident.

Analysis:

The above noted report, prepared by SJSO, speaks volumes. If in fact this information is true and could be proven to be true, one may consider Agent Rodgers actions of providing false information to obtain a search warrant as a grievous and premeditated criminal act and his actions should be reported to SJCSAO.

32. Sections 4, Page 14:

01 Mar 2011, report details a meeting between State Attorney Investigator Rob Hardwick, FDLE Agent Rodgers, and FDLE Agent Mark Brutnell with Medical Examiner Dr. Fredrick Hobin. The report also makes reference to Michelle's right (second from the middle) front tooth appears to be damaged or broken in the autopsy photos. The condition of the tooth could not be determined conclusively by viewing the photos and Dr. Hobin had no recollection of the tooth being damaged. The autopsy report completed by Dr. Hobin indicates the teeth are "natural" with no defects noted.

Analysis:

It should be determined if the tooth that was identified above was capped. Recently, I reviewed a Palm Beach County homicide investigation of a young white male who had two of his front teeth capped. When he fell, face first onto the pavement, he lost both caps. The autopsy report indicated that his teeth were "natural" with no defects noted. The Associate Medical Examiner who performed the autopsy explained to me that it was not noted in her report because the teeth were natural but filed down for cosmetic reasons.

33. Sections 4, Page 15:

The report states, "Dr. Hobin clarified his position by stating the pistol would have entered Michelle's mouth sideways (horizontal) and could not have entered the mouth in the up-right (vertical) position."

Analysis:

Allow me to base my opinion, not on a reenactment using the same type of pistol with a light attached, but on the photo of the recovered weapon, which is included in SJSO Review Report. Whether or not the gun was held in a vertical, horizontal, upright or upside down position, it wouldn't matter, as long as the victim's mouth was wide open and she incased the tip of the barrel with her lips. Therefore, if the victim held the gun upside down and pulled the trigger with her thumb with a minimal amount of pressure because the gun was already cocked due to the previous discharge, and if the barrel was in her mouth just deep enough to be encased by her lips, when shot, it would have been free from her mouth and it would have allowed the flashlight portion of the gun to strike the victim's eye.

34. Sections 4, Page 15:

03 Mar 2011, report details the request and receipt of the EMS report related to the on scene medical treatment of Michelle by St. Johns County EMS and transportation of the body by the Medical Examiner's Office.

Analysis:

The EMS report, related to the on scene medical treatment of Michelle O'Connell, should have been obtained and reviewed by the SJSO lead investigator who was assigned to the case. The information contained in the EMS report should have been documented in the investigator's supplemental report and a copy of the EMS report should have been included in the case file.

35. Sections 4, Page 16:

04 Mar 2011, report details information regarding a meeting between Rodgers, State Attorney Investigator Hardwick, and Jerry Findley. The report indicates Findley is a recognized expert in "crime scene, blood splatter (proper term should be spatter), and blood stain analysis."

Analysis:

An experienced homicide investigator or a novice who attended a basic homicide investigation training course would know the correct word that describes bloodstain patterns is "blood spatter" not "blood splatter". There are no "Blood Splatter Experts". An error by an investigator, such as this, is indicative that he does not investigate homicides.

36. Sections 4, Page 17/18:

10 Mar 2011, report details an interview of SJC Rescue Paramedic Crystal Cuzzort with Rodgers. It should be noted an opinion provided by Cuzzort during the interview with Rodgers is bolded in Rodgers' report and it states; "Cuzzort observed that Michelle O'Connell was very healthy, attractive, and "just didn't fit the picture of a typical suicide."

Analysis:

I would suspect that the logical explanation of what Agent Rodgers credits Cuzzort of saying to him while discussing her observation of Michelle O'Connell was taken out of context. I would suspect, she may have said, based on her observation, Michelle O'Connell appeared to have been healthy or she looked healthy but not, she "was very healthy".

I also question whether or not Cuzzort's opinion was that Michelle O'Connell "just didn't fit the picture of a typical suicide". The question is who and what fits the picture of a typical suicide? Did Cuzzort mean, based on her experience and the suicide calls that she has responded to in the past, this one is not typical to what she is used to seeing? I would also like to know what was Agent Rodgers' motive for including, in bold print and in his official report, Cuzzort's opinion concerning her observation of the victim's health, beauty and profile?

37. Sections 4, Page 19:

11 Apr 2011, report details the request for a polygraph examination of Stacy Boswell and also, the completion of the polygraph examination.

During the examination of Boswell on the polygraph machine Boswell was asked two questions:

"Did you hear any of those noises on that night?"

"Did you hear any of those noises that night from that direction?"

The examiner indicated in his report that "No deception indicated to all relevant question."

Analysis:

Once again, based on the terminology used by Agent Rodgers in his report describing the polygraph instrument as a polygraph machine, it is obvious that he is not familiar with the subject of polygraph. As a former state certified polygraph examiner and a state certified polygraph instructor who owned The Southern Institute of Polygraph, a licensed school that taught law enforcement officers throughout the United States the Art and Science of Polygraph and as the Chief Polygraph Examiner for the City of Miami Beach Police Department, I question the validity of the formulated polygraph examination questions that are documented in Agent Rodgers' report.

Based on the minimal information that has been provided to me concerning the polygraph examination of both Boswell and Ladley, I am unable to evaluate said examinations. I am confident that a Secret Service Polygraph Examiner would be more than qualified to conduct a specific polygraph examination. I am confident that there is a logical explanation as to why such vague relevant questions were asked, but the only explanation that I could offer would be that the examiner formulated his questions to suite the vague statements that were provided by the witnesses.

I would suspect, the reason the examiner asked questions without including the day, date and time, was because Boswell and Ladley did not personally know the day, date and time of the incident they

reported. I would also suspect, the reason the examiner asked the question about “any of those noises” was because neither of the two witnesses could honestly say that the noises they heard were the sounds of someone yelling “help” and two gunshots. Finally, I would suspect, the reason the examiner asked the question, that included “from that direction”, was only because the witnesses were not exactly sure from what direction they heard “any of those noises”.

The purpose of administering a polygraph examination as an investigative tool is to assist the investigator in determining truth and deception. Depending on the issue, and the proper formulation of questions that pertain to that specific issue, dictates the success of the testing procedure. The specific issue to be addressed is decided by the investigator who requested the polygraph examination, in this case, Agent Rodgers. The examiner formulates the relevant questions, specifically for the subject being tested and they are based on the information that is provided by the subjects during their pre-test interview. The examiner, who polygraphed Boswell and Ladley, was able to offer an opinion based on their physiological reactions to the relevant questions that were asked, that being, there was “No deception indicated”. Therefore, based on a logical evaluation and deduction, the above noted polygraph examinations were of no value. It was not determined through the polygraph examination process as to whether or not Boswell and Ladley were telling the truth about hearing a yell for help and the sound of two gunshots between the hours of 10:30 p.m. and 11:00 p.m. on September 2nd, 2010. The only benefit derived from the polygraph examinations of Boswell and Ladley was for Agent Rodgers to be able to document in his report that they passed a polygraph examination with “No deception indicated”.

38. Sections 4, Page 24/25:

In each affidavit, Rodgers writes “When deputies arrived on scene, they found Michelle O’Connell dead inside the residence.”

SJSO Review:

This statement is not true. In fact when deputies arrived, they discovered her with a traumatic injury, which caused them to assess her condition.

Rodgers never acknowledged this critical detail. The fact that Michelle is still alive when deputies arrived is directly contrary to Rodgers’ theory that Michelle was shot at approximately 11:00 p.m. This is supported because had she been shot at the time Boswell and Ladley reported, Michelle would not have been likely to sustain life for that extended length of time (11:00-11:33 p.m.) after suffering an intraoral gunshot wound that severed her spinal cord.

Analysis:

In search of an explanation as to how a mistake such as this could have been made, that being, “When deputies arrived on scene, they found Michelle O’Connell dead inside the residence”, I find none, but I do have a theory. Agent Rodgers would have had to know that Michelle O’Connell was still alive upon the arrival of deputies and EMS personnel, due to the reports that he reviewed and the interviews that he conducted. Therefore, the statement he made in his report had to have been calculated, in an attempt to validate his theory and justify his decision of identifying Deputy Banks as the murderer of Michelle O’Connell. If it were true that Michelle O’Connell’s death was a homicide and it was Deputy Banks who shot her in the mouth, would he have not wanted to make sure that she was dead before reporting to the police that she shot herself? Why would he take the chance of his girlfriend surviving his attack and identifying him as the shooter? By Agent Rodgers documenting in his report that Michelle O’Connell was dead upon the arrival of police he eliminates this question being asked by readers of his report that would not have known the situation at the scene.

39. Sections 4, Page 25:

SJSO Review:

Rodgers also writes in the affidavits that, "Banks further advised Det. Hines that at the time of the shooting he was alone with O'Connell inside the residence." While this is technically accurate, the fact is Banks stated he was in the garage sitting on his motorcycle and O'Connell was in the master bedroom with the door closed when he heard the first of two shots. By writing Banks was "alone with O'Connell inside the residence" one might deduce Banks stated he was in the immediate vicinity of Michelle O'Connell when she was shot.

Analysis:

Florida's law enforcement officers are trained in proper report writing and they would be cautious not to document any information in a report that could be misinterpreted. Based on the fact that Agent Rodgers retired from Jacksonville Sheriff's Office and was considered qualified to become a FDLE agent, one could assume he was very much aware of the importance in properly documenting information in his reports and especially in affidavits to obtain search warrants.

By the time Agent Rodgers was preparing his affidavits for search warrants, he would have known the details of Michelle O'Connell's death and the details of SJSO's suicide investigation. He would have known, while Michelle was in the bedroom packing to leave, Deputy Banks stayed out front with their friends Crystal Cercado and Andrew Garris. He would have known that Michelle had asked Banks to tell their friends to leave and they did. He would have known while Michelle locked herself in the master bedroom to pack her belongings, Banks was in his garage sitting on his motorcycle. He would have known that Banks remained in the garage until he heard the first of two shots, then he had to kick open the locked door to enter the bedroom. He would have known that it was then, Banks found Michelle lying on her back bleeding from her mouth. Therefore, I do not believe it was an innocent mistake in report writing on the part of Agent Rodgers when he stated in a sworn affidavit, in his attempt to obtain a search warrant, "Banks further advised Det. Hines that at the time of the shooting he was alone with O'Connell inside the residence." I interpret a pattern of misinterpretations, omission of facts, fabrications and the distortion of the truth, in what I believe was Agent Rodgers attempt to discredit the suicide investigation that was conducted by SJSO investigators and in his attempt to validate the homicide investigation that he conducted to prove that it was Deputy Banks who shot and killed Michelle O'Connell.

40. Sections 4, Page 40/41:

19 April 2011, report detailing an interview of Christine (Chrissy) O'Connell (sister of Michelle O'Connell with Rodgers and Brutnell.

Chrissy described a conversation earlier in the day with Michelle and stated Michelle was talking about breaking up with Banks.

SJSO Review:

Rodgers writes in his report that Chrissy said Michelle told her, 'she wanted to terminate the relationship with Banks but was scared and wanted to make it look like it was his idea.' The actual context of the conversation (which was not included in Rodgers' report) was described by Chrissy, as Michelle being fearful that if she broke up with Banks it would have some type of negative backlash on her brother Scott O'Connell. (Scott introduced Banks to Michelle and Scott worked with Banks as a Deputy at the St. Johns County Sheriff's Office.)

Analysis:

This is another example of Agent Rodgers picking and choosing the statements that he wanted and didn't want to include in his report and affidavit. Based on my review and analysis of SJSO Review Report, it is apparent that Agent Rodgers had his own agenda, that being, he avoided including in his

report the documentation of any mitigating circumstances that were relayed to him through the interviewing process concerning Deputy Banks. He also made an aggressive effort to include and to exaggerate the aggravating circumstances of this case that confirmed his suspicion that Deputy Banks shot and killed Michelle O'Connell.

41. Sections 4, Page 43/44:

21 April 2011, report documenting an interview with SJSO Evidence Manager Angela Hosford with Rodgers and Brutnell.

Hosford also confirmed in her audio-recorded statement that the master bedroom door was in the locked position; however this information was omitted from Rodgers report and was misrepresented in a search warrant affidavit four days later.

Analysis:

Once again, this was a mitigating circumstance that should never have been omitted from Agent Rodgers report and affidavit. By virtue of the fact that Ms. Hosford specifically recalled noticing that the bedroom door lock was still in the locked position after the door had been kicked open by Deputy Banks, it explained and justified the deputy's actions. Ms. Hosford's statement was consistent with that of Deputy Banks statement, yet, not included in Agent Rodgers report nor was it included in his affidavit to obtain a search warrant. I then ask the question, what was Agent Rodgers motive for ignoring such an important fact.

42. Sections 4, Page 46:

26 April 2011, report documents an interview conducted with Sergeant Scott Beaver with Rodgers and Brutnell.

Sgt. Beaver recounted responding to the scene the night of the incident, specifically ordering Banks out of the room, and directing Deputy Hawley to get his camera and photograph the scene prior to the manipulation of evidence and/or O'Connell's body.

Analysis:

As noted earlier in this report, I commend Sgt. Beaver for taking the initiative, as a supervisor, and realizing the urgency and importance of photographing the scene prior to it being compromised by EMS personnel.

43. Sections 4, Page 46:

Sgt. Beaver recalled speaking with Deputy Maynard who told him that Patty O'Connell stated that Michelle made phone calls to all of her siblings and said "goodbye" to them "in one way or another." As Sgt. Beaver was elaborating, Rodgers interrupted him and Beaver never completed his thoughts in reference to this information. This part of the interview is omitted from Rodgers report.

Analysis:

As an experienced law enforcement officer one would think that Agent Rodgers would have known better then to interrupt a witness when the witness was relating a specific issue that was directly or indirectly relevant to his investigation. As noted above, the relevance and importance of Michelle O'Connell's phone calls to each of her siblings to say goodbye was more than a significant lead in the investigation of her death. Her goodbyes were critical evidence in the case. It could have been one of the deciding factors that would have identified Michelle O'Connell's death as a suicide. I do not believe there could be any logical reason as to why this information was omitted from Agent Rodgers report.

44. Sections 4, Page 52:

27 April 2011, this report details a meeting between Rodgers and Scott O'Connell in which a consent to search (from Scott O'Connell) was obtained to download Michelle O'Connell's phone.

Analysis:

SJSO investigators made an obvious error in not placing into evidence the cell phone that the deceased had in her pocket at the time of her death. The cell phone should have been forensically downloaded and that information should have been reviewed and evaluated. I agree with the findings of SJSO, as noted in their Review Report, that the error was due to the lack of experience on the part of the assigned investigators and the lack of supervision.

45. Sections 4, Page 53:

04 May 2011, this report details the interview of Karen Battell with Rodgers and Brutnell.

K. Battell is a former employee (dispatcher) of the SJSO and was previously involved in a romantic relationship with Banks.

Rodgers asks Battell, "With your background and knowledge in psychology is it normal for women to shoot yourself in the face or the mouth?" Battell replies, "No."

Rodgers continued. "Is it more normal for them to take over dose and kill themselves by pills on a nationwide statistical basis?" Battell agreed, but stated, "That doesn't mean it doesn't happen depending on what is available to you at the time, and depending on how desperate you are feeling."

Analysis:

Based on the fact that Agent Rodgers asked Karen Battell, if she felt it was normal for a women to shoot herself in the face or the mouth, and based on the fact that he asked her a question based on nationwide statistics, it brings to mind an issue that I question as to whether or not there exists statistical data.

I am not aware of any study that determines if the rate of females that have committed suicide by self-inflicted gunshot wounds to the head is any higher if the victim was related to or was in a relationship with a law enforcement officer. I would assume that those in law enforcement would agree, if the victim committed suicide as a result of a domestic problem with a law enforcement officer, the ultimate revenge against that officer would be to use his service weapon to shoot themselves.

I also believe it is the responsibility of investigators to conduct proper interviews and it is their goal, based on the interview, to obtain information that will assist them in their investigation. It is neither accepted nor condoned for investigators to offer facts of the investigation to a witness in an attempt to sway the witness to their way of thinking.

46. Sections 4, Page 54:

04 May 2011, the report details an interview of Deputy Sheriff Paul Clark with Rodgers and Brutnell.

Rodgers starts off the interview stating, "We are here today in reference to what started off as a death investigation is now a "homicide" investigation in the death of Michelle O'Connell."

Analysis:

I question Agent Rodgers motive for beginning his interview by informing the witness the he, as the investigator, has determined that Michelle O'Connell's death was the result of a homicide. When conducting a witness interview the goal is to obtain truthful information that will allow the investigator to conduct an unbiased investigation. By Agent Rodgers' decision to inform the witnesses that he was investigating the death of Michelle O'Connell as a homicide and not a suicide, he was inadvertently or intentionally trying to sway the witness. Based on the fact that Agent Rodgers' homicide suspect

(Deputy Banks) is employed by SJSO and his victim's brother, Scott O'Connell, was a SJSO deputy and her mother Patti, a SJSO clerk, those who were not originally involved in the investigation are now taking sides and those who are considered witnesses could be innocently influenced, and if so, they become biased and their testimony is tainted.

47. Sections 4, Page 54:

Clark stated Banks thinks he is being "railroaded" and he thinks "this is a big conspiracy that FDLE is gonna to come up with a big investigation based off of him and he Banks is gonna go to jail and you all are gonna look like stars, when he didn't do it."

Analysis:

Based on my analysis, I believe Deputy Clark's profound statement and Deputy Banks belief of being "railroaded" may very well be valid.

48. Sections 4, Page 55:

Based on other parts of this review where it became evident that Rodgers was discussing the case with witnesses prior to the "official" and recorded interview, Clark was contacted for clarification. Clark stated Rodgers spent an hour with him, "off the record" showing him the alleged facts and evidence against Banks. Clark stated Rodgers was compelling and convinced him that Banks would be arrested within the week and it would be in Banks best interest to come into FDL E and fully provide his side of the story. Rodgers solicited Clark to make contact with Banks and convince him (Banks) to meet with Rodgers. Clark advised later that day, he met with Banks at Starbucks and relayed the message from Rodgers. Clark stated during the meeting, Banks observed a Chevy Impala in the parking lot and immediately believed that Clark was setting him up. The meeting was then abruptly terminated as was their relationship. Nowhere in the official record is this "off the record" conversation recorded. Additionally nowhere is it documented on the record that Agent Rogers engaged this witness to act as an agent on his behalf.

Analysis:

I find the situation between Agent Rodgers and Deputy Clark to be troubling in many ways. Since when does an investigator (Agent Rodgers) prepare a witness (Deputy Clark), by providing him with case file information of facts and evidence against the individual that he, the witness, is going to testify about, during his truthful and unbiased statement that is made under oath? Why would Agent Rodgers initiate and perpetuate rumors within St. Johns Sheriff's Office of the upcoming arrest of Deputy Banks? Rather than conducting an independent and impartial investigation, it appears, Agent Rodgers is coordinating a campaign to elicit support within the Sheriff's Office against Deputy Banks. And finally, what authorization did Agent Rodgers obtain to solicit a deputy from SJSO to act as an agent on behalf of FDLE? Did Agent Rodgers seek a legal opinion from the State Attorney's Office before doing so? Did Agent Rodgers obtain permission from his supervisor to solicit the services of a law enforcement officer from another agency to assist FDLE in their investigation and did he obtain the permission from the Sheriff of St. Johns County to do so.

49. Sections 4, Page 63:

"The two recovered shell casings (verified by FDLE lab / matched Banks Gun)."

SJSO Review:

Rodgers attempts to claim the location of the casings proves Michelle did not fire the weapon. This assumption is complete speculation and cannot be made definitively without considering an infinite number of variables.

Analysis:

Based on the fact that there were multiple responders to a scene with limited space it would not be uncommon that evidence, such as a shell casing, could have inadvertently been moved.

During the processing of the crime scene, measures could have been and may have been taken to determine the approximate location from where the first shot was fired. A line should be drawn from point A (damaged carpet where bullet fragments were found), to point B (point of impact on wall, dresser, etc. It should be close to where Banks found the projectile) and that will determine point C (the path of the projectile from where the gun was fired).

50. Sections 4, Page 66/67:

SJSO Review:

The injury to Michelle's eye was caused by the gun being inverted and the tactical light causing the impact injury (Bulic and Cogswell). Dr. Bulic documented with an overlay photograph that perfectly matched the tactical light as causing the eye injury. Rodgers described in his slide the "splitting skin" injuries as noted by Dr. Hoban as being "impact injuries". These injuries are in fact, "splitting skin" attributed to the expanding gases filling the mouth of Michelle after the firearm was fired. The gas expands in the mouth and splits the corners of the mouth expelling the gases. This is very indicative of an intra-oral gunshot wound, not an impact. Rodgers makes reference to "scratches" on Michelle's neck. Dr. Bulic stated these marks are result of life saving measures by Rescue personnel (tracheotomy) and not the result of a struggle.

Analysis:

Dr. Bulic's logical explanation as to how and what caused the injuries to Michelle O'Connell's eye and mouth is based on fact, scientific study and experience. Agent Rodgers explanation is indicative of his lack of knowledge and lack of experience.

I recommend that a review be conducted of Agent Rodgers', Jacksonville Sheriff's Office, personnel file, to determine what areas of expertise does he have? What training courses has he attended and successfully completed? What experience, if any, does he have in conducting homicide and suicide investigations?

I believe, if Agent Rodgers attends the basic training courses that are offered in Homicide / Suicide Investigations, he will realize that the errors he made in his investigation of Michelle O'Connell's death are overwhelming and his poor judgment negatively affected not only the investigation but the lives of innocent people. I believe, if Agent Rodgers behavior during this investigation was intentional, the FDLE and the State Attorney's Office should initiate their own investigation on Agent Rodgers and hold him accountable for his actions.

51. Sections 4, Page 73:

"Michelle tells Chrissy that she is tired of being physically and psychologically abused by Banks."

This is not true. Nowhere in the record does it show that Michelle told Chrissy that she was the victim of "physical or psychological abuse."

"Michelle tells Chrissy that she is scared of Banks and has to make the break-up looked like it was his idea."

The record reflects Chrissy said the following; Michelle describes breaking up with Banks and making it look like Banks idea because of the working relationship between Banks and Michelle's brother, Scott O'Connell. Michelle was concerned that breaking up with Banks would place Scott in an adverse situation with Banks. The statement Rodgers' uses regarding Michelle being "scared" is a misrepresentation of the statement made by Chrissy during her interview.

Analysis:

Had the originally assigned SJSO investigators conducted recorded statements from the family members of Michelle O'Connell, it would have eliminated many of the conflicts that exist today. Interviews of witnesses should be conducted as soon after notification is made of the subject's death as possible. It is at that time the investigator will obtain an untarnished statement and be able to lock the witness in, thus, eliminating the risk of the witness being influence or forgetting important issues that should have been addressed.

52. Sections 4, Page 74:

The above text messages are sent from Michelle's cell phone to her sister, Chrissy O'Connell. The phone records indicate the times of these texts are not correct and possibly out of order as they appear on the slide. Furthermore, the text message listed at 10:58 does not exist on any of the records reviewed. These text messages also incomplete and deletion of relevant messages changes the context and meaning of the entire conversation.

Not included in the above messages are responses from Chrissy to Michelle asking if "she was okay," and telling Michelle she was, "scared" as a result of receiving messages from Michelle.

Analysis:

Based on SJSO Review Report it appears that Agent Rodgers selectively chose what text messages he wanted to document in his report and what messages he wanted to ignore. It appears, based on the overall pattern of Agent Rodgers investigation, he would include in his report the inculpatory evidence against Deputy Banks and he would omit from his report the exculpatory evidence.

Whenever an investigator feels that he is justified in being able to pick and choose only the evidence that corroborates his theory and he feels that he is justified in ignoring the rest, the reviewer of his reports will expect to find evidence, not of a flawed investigation, but of a corrupted investigation.

53. Sections 4, Page 75:

A photo slide that was included in Agent Rodgers PowerPoint presentation.

Title: Evidence (Circumstantial) 2 September 2010 (FDLE)

Content: 3 Photos, 1) Photo of Deputy Banks. 2) Photo of lap top computer, with the words "Google search topics (shared computer). 3) Photo of Michelle O'Connell.

Note: Listed below photos are the dates and titles of searches that were conducted on Michelle O'Connell's computer.

06/09/10 "Murder, The unlawful"

06/07/10 "Made to look like a suicide"

05/28/10 "Making murder look suicide – accident"

11/25/09 "Cops killing their wives/girlfriends"

08/08/09 "Police and domestic violence Cops who kill and make it look like suicide"

There is no evidence on the record on where or how Rodgers obtained the dates listed in the above slide. In fact, the record reflects Rodgers did not get any final forensic results regarding this computer until well after the day he presented this slide to Dr. Hobin and the findings do not support the above. Additionally, Rodgers interviewed Patty O'Connell who confirmed she made similar title searches utilizing Michelle's laptop computer after Michelle's death.

Analysis:

Based on the fact that Agent Rodgers documented the computer searches and dates for his presentation, as seen on the above noted slide, he would have or should have been obligated to present

documentation verifying the sources from where he obtained this information and the circumstances explaining how he obtained the information. Who had possession of the computer in question from 08/08/09 - 06/09/10? What interviews were conducted to determine who it was that conducted these searches and the reason for doing so?

If Agent Rodgers is unable to explain the history of the dates and the title searches, then how will he be able to explain why he used this information in his presentation? If in fact the searches were conducted after Michelle's death and the dates are fraudulent, Agent Rodgers will have to explain who provided this information to him and what he did to validate the search dates. If it was Agent Rodgers who provided the fraudulent dates in his attempt to falsely incriminate Deputy Banks then he should be held accountable for his criminal actions.

54. Sections 4, Page 81:

28 June 2011, report documenting the receipt of dental records of Michelle by subpoena. It does not appear these records hold any evidentiary value, however, were placed into the investigative file.

Analysis:

As noted previously in this report, the dental records of Michelle O'Connell may be useful in determining if in fact any of her teeth were capped. If so, this may explain why it was reported her tooth was chipped as a result of the intra-oral gunshot wound and the autopsy report indicating that her teeth were natural and without damage.

55. Sections 4, Page 82:

08 July 2011, report details the return of forensic evidence recovered from Michelle's laptop computer from the FDLE Crime Lab in Tallahassee.

No details are included in this report concerning any findings or items recovered from the laptop.

Analysis:

As noted by Agent Rodgers, "No details are included in this report concerning any findings or items recovered from the laptop". If in fact, there were no details included in "this" report, then what report were the details included in?

56. Sections 4, Page 83:

31 May 2011, report details a voicemail message from Michelle to her mother Patty O'Connell on September 2, 2010 see report number 107.

Analysis:

As noted by Agent Rodgers, Michelle O'Connell left a her mother a message via voicemail on Sept. 2nd, 2010, at 12:31 p.m. Was this message recorded by Agent Rodgers, including the date and time and was that recording placed into evidence?

Did Agent Rodgers have the recording transcribed by a second party and was that transcription included in report # 107?

As noted by Agent Rodgers, "the call made on 02 Sept 2010 was not retrieved from voicemail until 03 Sept 2010 so the billing shows the date as 03 Sept 2010". What means of verification are available to verify that specific voicemail was left by Michelle at the above noted date and time?

57. Sections 4, Page 91/92:

The Blood Evidence Presented by Findley:

"Blood is identified on the duty belt located to the left of her body."

“There are numerous impact stains on the right sleeve of the black shirt identified as being recovered from Ms. O’Connell.”

“Impact stains are located on the left shoulder of the black shirt but not on the sleeve or arm.”

“Two impact stains are located on the left front of the blue jeans identified as being recovered from Ms. O’Connell.

“Impact stains are present on the back of her right hand.”

“Impact stains are located on the inside of her right arm traveling toward her hand Two impact stains are located on the outside of the left hand.”

“Impact stains are located on the inside of her right arm traveling toward her hand.”

“A transfer stain is located on her upper left chest area just below her neck.”

Analysis:

Mr. Findley was provided with the eight photos taken by SJSO prior to EMS’s arrival. Why did he fail to identify the absence of bloodstains on Ms. O’Connell’s clothing and on her body, as did the writer of SJSO’s report.

58. Sections 4, Page 93:

The Weapon Evidence Presented by Findley:

“The weapon is lying on her left side on the gun belt. Even though it is J. Banks duty weapon, the only DNA found on the weapon belonged to Ms. O’Connell.

Analysis:

In Section 2, Page 18 of SJSO’s “Review of Michelle O’Connell’s Death Investigation” report, a photo of Deputy Banks service firearm can be seen. Under the photo it states, “This photograph depicts Banks firearm after it was moved to the bathroom counter by Corporal Shand. The gun was swabbed for the presence of DNA and processed by FDLE (Item # 7.1 swab of pistol barrel and grip. Lab results indicated M. O’Connell’s full DNA profile on the swab.

Based on the above notation, it appears that FDLE’s Crime Lab never had possession of Deputy Banks firearm nor did FDLE have the responsibility of swabbing the firearm for DNA evidence. FDLE relied upon SJSO Crime Scene Technicians to extract DNA samples from the weapon. FDLE’s Item #7.1 indicates that the only swabs tested for DNA were the ones that swabbed the pistol barrel and grip. There is no indication that any other parts of the firearm were swabbed, such as the hammer, the trigger, the trigger guard, the attached tactical light, the tactical light lens, the two tactical light switches, the magazine release button, the magazine base plate, the decock lever and the slide lock. The parts of the firearm that have been noted are all visible with easy access. Therefore, what should have been documented in the investigative reports was that the DNA of Deputy Banks was not found on the swabs that were used to obtain the DNA from the barrel and grip of his firearm.

59. Sections 4, Page 93:

“In order for the shell casings to eject to the location where they were recovered, the ejection port would have to be in a downward position and pointed to the left. This is consistent with the shots being fired with a left hand not a right-hand.”

Analysis:

Based on SJSO’s Review Report, as many as nine first responder were within the primary crime scene prior to the processing of the scene. It would be highly unlikely, with so many present within a confined area and with so much activity going on, that the two shell casings weren’t innocently kicked or moved from their original position.

60. Sections 4, Page 96:

The "Conclusion" of Findley's report:

A. "Ms. O'Connell was in a sitting or kneeling position when the shot was fired."

G. "If Ms. O'Connell fired the weapon, it would have to be with her left hand for the shell casing to land where it was recovered. Her left hand would be the weaker as she was right-handed.

Analysis:

In most cases, whenever a suicide is committed within a confined area, the victim positions themselves in a specific place within that confined area. For example, if death is the result of an intentional overdose, the victim will most likely be found in bed, on the couch or a recliner, in the bathtub or in the front seat of the vehicle. If they are found on the floor, most likely, but not always, the victim, especially if a female, will position her body in the position that she wants to be in when found. Based on my experience and the review of suicide investigations of both male and females, I have deduced that most of the suicides, when committed by a self-inflicted gunshot wound within a confined area; the victim is either kneeling or seated. At the time the firearm is discharged they may be sitting at the kitchen table, at a desk, in a chair, on the side of the bath tub or on the toilet, and in many cases, they may be sitting on the side of a bed. Basing my opinion solely on the crime scene photos that I reviewed, I refer to photograph #5. It does not appear that the victim sat on the side of the bed, towards the center. The reason being, no wrinkles could be seen on the blanket. But when facing the bed, to the left, there appears to be wrinkles on the blanket as if it had been sat on. The area of the bed that I am referring to is on the left side, directly in front of what appears to be two articles of clothing that are on the floor. One being light blue and the other green. If I am not mistaken, directly in front of the pool of blood that flowed into the green article of clothing, there appears to be the markings of the accidental discharge or the test fire that damaged the carpeting. If in fact this is all true, the following opinion could be an explanation as to what may have occurred immediately before the shots were fired. Ms. O'Connell extracts the firearm from the holster. With pistol in hand she sits on the side of the bed but is unable to push back the trigger with her finger due to the amount of pressure that is needed to engage the double action for the first shot. It is then that she decides to hold the gun in her left hand in order to use her strong right hand and thumb to pull back the hammer. Now, without realizing what little pressure is needed on the trigger pull, there is an accidental discharge and that caused the damage to the carpet or she test fired the gun to make sure that there was a bullet in the chamber.

This theory could be verified or discounted depending on where the projectile hit after it ricocheted off the carpeted floor.

Since the possibility exists that Ms. O'Connell neither knew nor realized that the hammer returned to the cocked position after the initial shot, she may have decided not to take the chance of accidentally firing the gun before she was ready. Knowing that or thinking that she didn't have the strength to pull the trigger with her finger, she would have held the gun upside down in order for her to use her thumb to pull back on the trigger.

If in fact the first shot was due to an accidental discharge, it may have startled Ms. O'Connell and that may explain why she would have gotten up from the bed and relocated her position. Then, while holding the gun upside down in her left hand, she starts to kneel down or while kneeling down she opens her mouth and places the barrel to her lips and with minimal pressure from her thumb she pulls the trigger. The end result being, Ms. O'Connell falling back and facing up, as seen in the first crime scene photo of section #2.

61. Sections 4, Page 96:

B. "The weapon would not have fallen in that location. The spinal cord was severed precluding any movement of her hands after the injury."

Analysis:

I agree with SJSO's response to the above noted statement made by Mr. Finley. Without having firsthand information as to how the weapon was held when fired, and the exact position of the body when the gun was fired, how was Mr. Finley able to make such an unequivocal statement?

62. Sections 4, Page 96:

C. "She fell back and did not change position. This is based on the blood flow on her face."

Analysis:

Agreed by all involved.

63. Sections 4, Page 96:

D. "She was struck above her right eye by the front sight of the weapon."

Analysis:

Mr. Findley's theory that the front sight of the weapon caused the injury that was above the victim's right eye was proven to be false by the medical examiners analysis of the wound size, shape and location. The Medical Examiner proved that the injury to Michelle O'Connell's right eye was from the lens side of the tactical light that was attached to firearm just below the barrel.

64. Sections 4, Page 96:

E. "The blood on the duty belt is inconsistent with the lack of blood between her body and the duty belt."

F. "The lack of J. Banks' DNA on the weapon is suspicious because it is his duty weapon."

Analysis:

In response to the above noted statement concerning the lack of Deputy Banks' DNA on his weapon, please refer to my analysis of "The Weapon Evidence Presented by Finley".

In response to the blood that was found on the duty belt, that is inconsistent with the lack of blood between the body and the belt, I believe SJSO's logical explanation addresses that issue. The crime scene photos that were taken prior to the arrival of EMS personnel indicate no blood was seen on the carpet between the body and the gun belt. Therefore, unless blood spatter was found on the belt the only other explanation of blood being on the belt would be due to a blood transfer. And that transfer would have most likely been as a result of EMS's efforts to save the life of Ms. O'Connell. The issue that I do not believe has been address is whether or not SJSO Crime Scene Technicians processed Deputy Banks' gun belt and holster for Michelle O'Connell's DNA, other than from the blood samples that were taken from the belt. One would suspect that she used her bare hands to extract Deputy Banks service weapon from his secure holster and in doing so she may have left samples of her DNA, by just touching his gun belt and holster.

65. Sections 4, Page 96:

H. "The combat light was turned on, this required two actions."

I. "The absence of blood on her left arm and sleeve is not consistent with her using her left hand to fire the weapon. This is based on the injury to the left corner of her mouth which would have left impact stains on her left arm had she used her left hand to fire the weapon."

J. "The presence of impact stains on her right arm and sleeve is consistent with a defensive posture."

Analysis:

Deputy Banks gave a logical explanation as to why "two actions" were not necessary to turn the light on. It was properly explained by SJSO in their Review Report.

The absence of blood on the victims left arm and sleeve and the presence of impact stains on the victim's right arm and sleeve was adequately explained by SJSO in their Review Report.

66. Sections 4, Page 97:

"One shot was fired into the floor to the right and close to her body."

Analysis:

Mr. Findley documented in his report that "One shot was fired into the floor ..." The facts of the investigation and the evidence that was found at the crime scene contradicts Mr. Findley's statement of fact. No shot was fired "into" the floor. The shot that was fired hit the floor but ricocheted and was found by the dresser. Had Ms. O'Connell held the gun and it was facing directly down when it discharged, and shot into the floor, then Mr. Findley's findings would be accurate. Since the projectile hit the floor on enough of an angle to have ricocheted, I then give my theory more credibility.

If Mr. Findley had conclusive evidence that Ms. O'Connell was holding the gun in her right hand when she fired into the carpeted floor then he could say with confidence that the shot was fired "to the right and close to the body". But, if my theory were correct, as I previously explained, then one would say that the shot was fired to the left.

67. Sections 4, Page 97:

"The wound track is front to rear and slightly downward."

Analysis:

I agree with SJSO's response to the above noted statement, that being, "the angle of the wound is not evidence of suicide or homicide". The wound track being front to rear and slightly downward is only indicative of the gun being pointed slightly downward at the moment it was discharged. It is unknown why the victim pointed the gun on a slightly downward angle assuming she she was even aware of how she was holding the gun and the position of the barrel. That angle may have been the result of the head tilting down which could have caused the barrel to point slightly downward just before the gun was fired. In anticipation of the gun firing there could have been an involuntary defensive movement of the head. Just like the shutting of ones eyes at the very last second before an impact.

68. Sections 4, Page 97:

M. "There are two eyewitnesses who stated they heard a woman cry for help, then a shot, another cry for help, and another shot."

Analysis:

Earlier in this report I gave detailed explanations as to why I believe that the two individuals that Mr. Findley identified as "eyewitnesses" have no credibility. I also question the competence of Agent Rodgers for identifying them as witnesses.

69. Sections 4, Page 98:

N. "Ms. O'Connell's blood is located on the inside of the yellow T-shirt, however, the photographs are not clear enough to determine the pattern type."

Analysis:

The yellow T-shirt that Deputy Banks was wearing at the time of Ms. O'Connell's death was photographed, as indicated above, and placed into evidence. Based on the fact that it was in evidence and no doubt, it is still in evidence, why would FDLE's expert attempt to make an evaluation as to what type of blood pattern appeared on the T-shirt by viewing a photograph of said T-shirt? Had Mr. Findley made a visual examination of the T-shirt itself, there would not have been an issue as to what type of blood pattern appeared. Finding traces of Ms. O'Connell's blood on the inside of the T-shirt, that was worn on the night in question by Deputy Banks in a blood spatter pattern, that would have indicated that the under side of the T-shirt was exposed up close to the victim at the moment she was shot. If through Mr. Findley's examination he saw that the blood pattern indicated a blood transfer that would have been an indication that Ms. O'Connell's blood was transferred from her body, as suspected from her hand, to the hand of Deputy Banks. I would then suspect, from his hand to his face, and from his face to the inside of his T-shirt, as described by an officer on the scene.

I would find it of interest if the SJSO Property Receipt Log indicates whether or not Agent Rodgers / Mr. Findley had access to the T-shirt for examination purposes.

OPINION AND CONCLUSION

Upon my review and analysis of St. Johns County Sheriff's Office "Review of Michelle O'Connell's Death Investigation", allow me to conclude my report with the following comments.

Even though SJSO investigators are deserving of some constructive criticism, their behavior appears to have been professional and their intent to solve the death of Michelle O'Connell was honorable. I agree with SJSO assessment that it was a questionable supervisory decision to assign relatively inexperienced detectives to investigate a case that directly or indirectly involved multiple SJSO employees and a case that the news media would have an interest in. There is also an indication that there was a lack of supervision of the homicide investigators and that had a negative effect on the final outcome of SJSO's investigation, but the ultimate goal was reached to solve the case and the proper determination was made that Michelle O'Connell's death was the result of suicide.

In reference to FDLE's response to SJSO's request to review a suicide investigation that involved members of the Sheriff's Office, Special Agent in Charge, Dominic Pape's had the responsibility and obligation to select an experienced and qualified homicide investigator to take on such a task. As a result, SAC Pape's poor decision to assign Agent Rusty Rodgers, a retired deputy from Jacksonville Sheriff's Office, whose specialty at JSO was "vise" investigations, was quite disturbing. If SAC Pape, had no experience supervising homicide investigations and if he was not, once himself, a homicide investigator, how did he expect to properly supervise, review, critique, evaluate, advise, suggest, acknowledge, notice and criticize the work product of Agent Rodgers?

Due to agent Roger's lack of experience in conducting homicide investigations he aligned himself with the decedent's family rather than maintain his role as an impartial investigator, and by doing so he validated their opinion that Michelle O'Connell did not commit suicide but was murdered. I believe Scott O'Connell's behavior and the reaction of the O'Connell family was indicative of the behavior of one who has had unfulfilled expectations.

My review and analysis of SJSO's Review Report indicates that evidence and pertinent information concerning Ms. O'Connell's suicide was intentionally withheld, distorted and misrepresented, by Agent Rodgers, in an attempt to reclassify Ms. O'Connell's suicide to that of a homicide. If in fact this were true, I would identify Agent Rodgers actions as a blatant attempt to deceive others and to obstruct justice.

Luckily, because of Sgt. Beaver's experience and foresight and the initiative of Deputy Hawley, photograph's of the crime scene, prior to the arrival of EMS personnel, were taken and included as a permanent record in the investigative file. Their actions prevented major conflicts, that would have otherwise, not have been avoided, on issues concerning the original location and position of the body, the original position of the gun belt and firearm, and the lack of blood on the carpeting between the body and the gun belt.

It is also my opinion, based on the fact that Deputy Banks heard two shots fired and the fact that two shell casings were found in the immediate area of the decedent's body, even though bullet fragments were found in the damaged carpeting, more of an effort should have been made to recover the projectile from the first shot, that was eventually found by Deputy Banks.

I do agree with the assessment of SJSO that more of an effort should have been made by SJSO investigators to properly address the O'Connell Family's concerns regarding the initial investigation. I believe this is an ongoing problem with most police departments. Whether it is due to time restraints, insensitivity, or lack of priority, there is no legitimate excuse for not sharing with family members, the basic, non-sensitive information that would normally be given to the news media.

With today's technology there is no excuse for an investigator's failure to record all witness interviews. By doing so it eliminates the possibility of misquoting and misinterpreting what was said. In many instances, it was obvious that Agent Rodgers did not quote nor properly interpret what certain individuals stated. This, I believe, should be a major concern of FDLE's; not only on this specific case, but also on past and future cases that Agent Rodgers was and will be assigned to investigate.

An investigator cannot interview with the sole intention of validating his own hypothesis and opinions, as did Agent Rodgers. I detected, based on my review of SJSO report, a pattern in Agent Rodgers report writing. It appears to me that his misquotes and the statements that were taken out of context were not mere mistakes. They appear to be calculated falsehoods that are formulated to have a negative impact on the finding of a suicide related death. It is also my opinion that Agent Rodgers either knew and ignored or didn't ask because he didn't want to know the specific information that was available to him that would have been in conflict with his theory of homicide.

I believe it was a travesty for Agent Rodgers to allow Stacy Boswell and Heather Ladley to make statements without being challenged and for him to identify them as reliable witnesses. Agent Rodgers' attempt to validate their claims, that they heard five months earlier but failed to report, an argument, a women's yell for "help", and the sound of two gun shots between the hours of 10:30 and 11:00 p.m. on Sept. 2nd, 2010, and by noting in his PowerPoint presentation to Dr. Hobin that they passed a polygraph test, was an insult to the Secret Service Polygraph Examiner, to FDLE, to SJSO, and to the family of Michelle O'Connell.

As noted in my report, I question the validity of Boswell and Ladley's polygraph examination based on the formulated relevant questions that were asked during the testing procedure, as documented in

Agent Rodgers' report. As a former adjunct faculty member of Nova Southeastern University, Center of Psychological Studies, who taught "The Art and Science of Polygraph, Clinical and Forensic", I am confident that the Secret Service Polygraph Examiner, was more than qualified to conduct the above noted polygraph examinations of Agent Rodgers' two witnesses. I am also confident that he was authorized by Agent Rodger to ask the vague and insignificant questions that were asked only because they were the only type of questions that his witnesses could answer truthfully. It is also my opinion, that the only reason Agent Rogers proceeded with the testing by having vague questions asked, was to be able to document in his report that "No Deception Was Indicated" in the polygraph examinations of Stacy Boswell and Heather Ladley, and those that didn't know any better, would then identify them as being truthful and viable witnesses. I also believe, had the Secret Service Polygraph Examiner suspected, in any way, that his services were being used by Agent Rodgers in his attempt to manipulate the system by discrediting SJSO's investigation and by falsely validating, through a polygraph examination, that the statements of his two star witnesses were true, he would have never agreed to conduct the tests.

As explained in my report, I also negate Agent Rodgers assumption, based on DNA testing, that Deputy Bank's DNA was not on his service weapon, which was processed by SJSO Crime Scene Technicians after Michelle O'Connell's suicide. Based on Agent Rodgers report, FDLE's DNA lab found no DNA of Deputy Banks on the swabs presented to them for analysis that was used to swab the grip and barrel of Deputy Banks' gun. I found no documentation in SJSO's Review Report that indicates any additional parts of Deputy Banks' gun being swabbed for DNA analysis other than the grip and the barrel. Therefore, how could it be said that there was no DNA of Deputy Banks on his gun, when in fact, there was no DNA found on the swabs of just the grip and barrel of his gun.

Based on SJSO Review Report, it appears that Agent Rodgers selectively chose what text messages he wanted to document in his report and what messages he wanted to ignore. It appears based on the overall pattern of Agent Rodger's investigation, he would include in his report the inculpatory evidence against Deputy Banks and he would omit from his report any exculpatory evidence.

Whenever an investigator feels that he is justified in being able to pick and choose only the evidence that corroborates his theory and he feels just as justified in ignoring the rest, the reviewer of his report will expect to find evidence not of a flawed investigation but of a corrupted investigation.

In closing, I believe, if Agent Rodgers attends the basic training courses that are offered in Homicide and Suicide Investigations and the basic courses available in Investigative Interviewing, he will realize that the errors he made in his investigation of Michelle O'Connell's death are overwhelming and he will also realize how his poor judgment negatively affected, not only the investigation, but the lives of innocent people. I also believe, if Agent Rodgers' behavior, during this investigation, was intentional, as I believe it was, the FDLE and the State Attorney's Office should initiate their own investigation and hold him accountable for his actions.