

Sheriff

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29 May 2013

Mr. Walt Bogdanich
Investigative Reporter
New York Times
620 Eighth Avenue
New York, New York 10018

Dear Mr. Bogdanich,

The first and only time I met you we had a brief conversation during which I shared that I was pleased that someone with your background and credentials was going to "investigate" and "report" this case. I knew this was a complex case and when we spoke I already had a very good idea of the misconduct perpetrated by Florida Department of Law Enforcement (FDLE) Agents Pape and Rodgers; misconduct that could easily have resulted in the prosecution of an innocent man for a crime that never occurred. I also advised you that upon the conclusion of our case review I would talk with you for as long as you wanted about any matters related to this case. Additionally, I indicated that I would speak with you before I spoke with other members of the media. My only request was that you maintain your objectivity during your review of the case.

I have changed my position. I will not discuss this case or any part of it with you. Please do not interpret this as an attempt to shield myself from the media. On the contrary, I will discuss this case with any other members of the print or film media. I would also be more than willing to speak with any other reporter from the New York Times about this case as long as they have had no contact with you regarding it. In fact, our Sheriff's Office is a subscriber to the New York Times and I hold the newspaper in high regard. I was fascinated by the recent story, "Review of 50 Brooklyn Murder Cases Ordered" by Frances Robles and N.R. Kleinfield. I actually saw parallels in that story with what Agent Rodgers perpetrated in our case. It is only fair to articulate the reasons I will not discuss this case with you and I have listed many of them below:

1. The first time you came by our office and spoke with Commander Mulligan, you asked Commander Mulligan if I was going to "fess up" regarding our failures in this case. You asked for the "Command Directed Inquiry" file on the "Ford Street Incident" which occurred several years ago. We found this an odd request because the only relationship between the O'Connell case and the "Ford Street Incident" is that two



deputies involved in that case were also involved in the O'Connell case. Also, FDLE Agent Rodgers assisted our agency with conducting our "internal investigation" of the "Ford Street Incident" and he was not satisfied with part of its outcome.

2. The second time you came by our office you asked Commander Mulligan how it was that we could continue to employ Deputy Banks, which was a clear indication to us that you believed that Banks was culpable in the death of Michelle O'Connell. You also indicated that you thought Scott O'Connell (brother of the victim) was not treated fairly when you stated, "didn't Scott O'Connell get a bum deal" due to the fact that he was terminated by me from his position as a Deputy Sheriff. Concerning Scott O'Connell getting a "bum" deal, at the time the answer was "no." However, since our case review and obtaining additional information the answer now is "yes", but I am confident you would not agree why the answer is now "yes."

3. During our brief visit you stated that you had not spoken with anyone from FDLE including Agent Rodgers regarding this case. You also told me that several of my deputies believed that Deputy Banks killed Michelle O'Connell. In a later phone conversation with me you indicated that what you really said was, "some of my deputies had questions about the case." Commander Mulligan and I specifically and independently remember you making the former statement not the latter. I'm not sure why you wanted to alter your statement because in reality, at the time you made it, the statement was true. It was not until later that we learned that Rodgers had actually met with some witnesses (including deputies) before his "official" interview where he told them that in his opinion the case was a homicide and that it was perpetrated by Banks. Rodgers would then spend a significant amount of time convincing these witnesses of his opinion using false and misleading information. After these "preliminary" conversations he would turn on the audio recorder and conduct the "official" interview for the record.

4. Shortly after our meeting I learned that you went to the law office of Ann Marie Gennussa to ask her questions about me. Though she did not talk to you, she did convey to me that she found it odd in light of the fact that she has no connection to or knowledge of the O'Connell case. She has however brought suit against my agency on an unrelated issue. When I brought this up to you during a March 28, 2013, telephone conversation, you stated you did this in an attempt to get to "learn" more about me.

5. After an article appeared in the Florida-Times Union concerning our case review on March 28, 2013, Commander Mulligan shared with me that he spoke with you on the telephone and you were upset because the Florida-Times Union had reported on the case and I had told you I would speak with you first. I called you shortly after your conversation with Mulligan and your initial greeting to me on the phone was, "it's the leaker!" After your opening comment the conversation became acrimonious and only lasted a few minutes. To your credit you called me back and we both apologized and you seemed magnanimous stating that we should "rewind" and move forward because

you stated that my "voice" in this matter was important. I was very relieved after you called and thought that even with my concerns about your objectivity we still might be able to develop a trusting relationship. Incidentally, I did not "leak" anything. I provided the case review to Jim Schoettler of the Florida Times-Union, a highly respected investigative reporter, because prior to our phone conversation I was beginning to have significant concerns about your objectivity and commitment to the truth in this case. When I provided the document to Mr. Schoettler I told him to feel free to use my name because this case involved issues of great importance and I have never hidden behind "confidential source" status. One of the outcomes of releasing the case review to the local media was that many folks contacted us with important additional information, especially in regards to Agent Rodgers and Michelle O'Connell. We have been contacted by several of Rodgers' former colleagues at the Jacksonville Sheriff's Office (JSO) and a number of Duval County attorneys, many of whom served as prosecutors during the same time Rodgers worked for JSO. Their experiences with Rodgers has confirmed for us what we think motivated him to do what he did in this case. You may have possibly met some of these individuals in your attempts to "learn" more about Rodgers. One of these calls, after the article was published by Schoettler, resulted in us locating records in the St. Johns County Clerk of the Courts office and the St. Augustine Police Department that graphically and tragically portray Michelle O'Connell's past troubles and her state of mind. I would hope that during your investigation you have accessed these very important records; Rodgers certainly didn't.

6. Soon after the publication of the Florida Times-Union article we sent you a copy of our case review. On March 28 and 29, 2013, you and I exchanged a series of e-mails. The focus of the e-mails had to do with a conversation FDLE Agent Brutnell had with my General Counsel, Matt Cline, back in February 2013 that was described in the beginning of our case review. Agent Brutnell relayed to Mr. Cline that he spoke with you for around thirty to forty minutes and that he "played defense" for most of the conversation. However, Brutnell did state that you agreed with FDLE's position that Michelle O'Connell's wound was not self-inflicted. This statement confirmed for me my concerns about your objectivity and that I was correct in ordering our case review. In your e-mails to me you conveyed that Brutnell never said anything to you and that he refused to discuss the case. Interestingly, during his conversation with Cline, Brutnell also indicated that you stated you had hired an "expert" in firearms and that you had actually been on a firing range conducting some type of "firearms tests." You also shared this information with Commander Mulligan during one of your visits with him. Mulligan never knew that Brutnell heard you make this comment and he never knew that Brutnell shared it with Cline.

7. In one of your e-mails you asked for my General Counsel's cell phone number so you could call and question him about his conversation with Brutnell; I willingly provided you with his number. Shortly afterward, my General Counsel called me and

advised that he spoke with you briefly and that you were "rude" and "unprofessional." He also conveyed that during the brief conversation you stated that either he (Cline) was "lying" or Brutnell was "lying." Shortly afterwards you e-mailed me again emphatically stating that Brutnell never would speak with you during your visit with him. In your e-mail you alleged that either Brutnell was "lying" to "curry favor" with me because his spouse works at the Sheriff's Office or my General Counsel has a "bad memory." The problem with your position is and I stated so in an e-mail to you is that it defies logic. What Brutnell reported as the substance of your comments to him would certainly not "curry favor" with me for obvious reasons and if my General Counsel had a "bad memory," he certainly could have "remembered" something far more advantageous to me than what he reported, (incidentally, he did submit a contemporaneous memorandum to me regarding the substance of his conversation with Brutnell). Just for the record, I am not certain if Brutnell said anything during his meeting with you but I am confident you made the statement that you agreed with FDLE's position that Michelle's wound was not self-inflicted and that you also spoke with Brutnell about test firing weapons on a range with an "expert." Incidentally, your belief that Michelle O'Connell's wound was not self-inflicted is not FDLE's position, it is Agent Rodgers' position who is currently on emergency suspension from FDLE while they conduct their "criminal" and "internal" investigations concerning his conduct.

It is strange to say the least that from our 162 page case review and statement provided by Scott O'Connell, your only questions and concerns had to do with your conversation with Brutnell. Especially since the outcome of the review resulted in myself, as the head of a law enforcement agency, lodging extremely serious allegations against two state law enforcement officers. I believe one of the reasons that you became so upset after reading about the Brutnell/Cline conversation is that you may have come to realize that because of this exchange you have become a part of this "story" instead of someone simply reporting on it.

8. We also provided you with one of the consultant's reports that was produced to provide insights and opinions of our case review. The report that you received was written by Jim Casey whose credentials are impeccable. You called Mr. Casey and he reported to me that his conversation with you was brief and like General Counsel Matt Cline, he characterized your behavior as both "rude" and "unprofessional." Unbelievably, at one point in the conversation you actually asked Casey, "**Why are you picking on Rusty Rodgers?**" It is incomprehensible how you could ask that question after reading our case review and the statement provided by Scott O'Connell, the person you thought got a "bum deal."

9. Very recently Commander Mulligan advised me that you added a new condition to our scheduled interview. He advised me that you were bringing a "camera crew" to record our interview. Mulligan thought this was unorthodox because in the past he has always been contacted by the production team in advance of their arrival. When

he queried you on this matter you were evasive and only advised him that you were a "co-producer." It would certainly be disappointing if you have a personal financial interest in this story.

In addition to the above, there are three legal reasons why I will not discuss this case with you.

A. FDLE is currently in the process of conducting both an Internal Affairs investigation and a criminal investigation in regards to the conduct of Pape and Rodgers.

B. The United States Department of Justice's Civil Rights Division is in the process of reviewing this case based on a written complaint filed by me concerning the conduct of Agents Pape and Rodgers.

C. A "Notice of Intent to Sue" has already been filed against FDLE (including Pape and Rodgers) by Jeremy Banks' attorney and I would not be surprised if another one is filed by Scott O'Connell. In my opinion there is a strong possibility that you will be subpoenaed by Banks' attorney, not for the purposes of divulging the identity of your "confidential source," but rather in regards to your statements to Brutnell and Mulligan.

I withdraw my earlier comment that I was glad that someone with your background and credentials was going to be investigating and reporting this case. I believe that if you ever possessed objectivity in this case, you surrendered it long before your first visit to our office. Remarkably, what occurred in this case is so obvious it doesn't really require objectivity. My guess (and it is a far more educated one than the many guesses Rodgers made in his report) is that you have had long and detailed conversations with Rodgers and that early on you accepted his maligned view of this case. I make this educated guess because of some of the items listed above and because we have come to learn of Agent Rodgers' penchant for talking on the telephone. I am certain you will not find it alarming but Scott O'Connell provided a cursory review of his phone records listing incoming calls from Rodgers between April 30, 2011 and December 31, 2012. There were a total of eighty-nine (89) incoming phone calls from Rodgers for a total of eight hundred and seventy (870) minutes (14.5 hours!). These were phone calls that Rodgers has characterized as being made to simply tell Scott O'Connell to be "patient." It should be noted that Scott O'Connell, the brother of the victim and not a witness, feels so strongly about being victimized by Rodgers that he shared this unsolicited information with the very same agency that terminated his employment.

The fact is that you have become very predictable since our first contact. I am certain you are going to write a story on this case that will be extremely critical of myself and the St. Johns County Sheriff's Office, but will not be critical of Agents Pape and Rodgers. As much as that will be a travesty, I am perfectly fine with it. However,

writing and publishing a story on this case prior to FDLE completing their "internal" and "criminal" investigations involving Pape and Rodgers would be irresponsible and reckless.

I have spoken with members of your profession (not Jim Schoettler), about our interactions and communications with you since February 2013. All of them have found your behavior inexplicable, disturbing and even "bizarre." Some have even suggested that you may be "obsessed" with this case and that might explain your numerous trips to St. Augustine all the while proclaiming to Commander Mulligan, myself and others that no one involved in the case will talk to you.

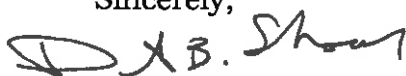
When you write your story or stories please do not write that my response to your questions was "no comment." In the spirit of fairness, please print this letter as part of your story so the public may be better informed. I have sent a copy of this letter to some executives at The New York Times. I am sending them copies, not in an attempt to stifle your reporting, but to make them aware that I believe your story will be one more miscarriage of justice in a case that has already seen its share of good people being damaged.

I am well aware that reporters have wide latitude in reporting on public officials especially elected ones like myself; it is part of the landscape that we accept when we assume our positions. But please remember that Jeremy Banks and Scott O'Connell are not elected officials. Both of these individuals are fine young men who have been victimized by Rodgers to the point where I am not certain either will ever fully recover. Deputy Banks has been stigmatized for life and the victim's brother Scott O'Connell, was terminated by me for misconduct, a decision I would not have made, had I been aware at the time I made it, of the manipulation and exploitation O'Connell suffered at the hands of Agent Rodgers. This case has been and always will be a suicide and you are in possession of enough information to know that and also know that both of these young men were targeted by a rogue law enforcement officer. Any innuendo or accusations by you against Jeremy Banks or Scott O'Connell concerning the death of Michelle O'Connell would be reprehensible and malicious.

One of the great ironies in this case is that though I will not talk with you, I believe that what occurred is so important that I am committed to informing the public about it through the media or any other means available. To demonstrate my commitment to full disclosure, in addition to sending this letter to some executives at The New York Times, I am providing a copy of it to several major news organizations (listed below) hoping that a journalist with no hidden agenda and who is objective will become interested in this case and honestly report it so that our citizens are made fully aware of what occurred.

In the event that you need any additional information from the St. Johns County Sheriff's Office please contact our General Counsel Matt Cline at (904) 209-2187.

Sincerely,



David B. Shoar
Sheriff

CC:

Arthur O. Sulzberger, Jr., Chairman & Publisher - New York Times
Mark Thompson, President & Chief Executive Officer - New York Times
Jill Abramson, Executive Editor - New York Times
Matthew Purdy, Investigative Editor - New York Times
Andrew M. Rosenthal, Editor, Editorial Page - New York Times
Kenneth A. Richieri, General Counsel - New York Times
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Edith Honan - Reuters
Jim Baltzelle - AP
Sean Hannity - Fox News
CNN
Jim Schoettler - Florida Times-Union
Frontline/WGBH
Rob Buchannan, Producer - NBC News
Honorable Brad King, State Attorney, 5th Judicial Circuit – State of Florida
Honorable R. J. Larizza, 7th Judicial Circuit – State of Florida
Honorable Charles J. Tinlin, 7th Judicial County Court Judge – State of Florida
Dr. Predrag Bulic, Medical Examiner, District 23 – State of Florida
Gerald M. Bailey, Commissioner – Florida Department of Law Enforcement
Cindy Sanz, Director of Executive Investigations – Florida Department of Law Enforcement
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William Gladson, Assistant State Attorney, 5th Judicial Circuit – State of Florida
Ms. Toni Chrabot, Assistant Special-Agent-in-Charge, FBI – State of Florida
Jim Casey, Special-Agent-in-Charge, FBI – State of Florida (Retired)
Joe Matthews, Sergeant - Miami Police Department (Retired)
Jeremy Banks, Deputy Sheriff, St. Johns County Sheriff's Office
Scott O'Connell