

You said publicly that you've known Deputy Banks' parents for – quote -- “many, many many years.”

- **How do you know his parents?**
- **Describe your relationship with Mr. Banks' parents.**
- **Mr. Banks' lawyer said “family relationships” were one reason why you asked FDLE to reexamine the case. Describe those “family relationships.”**
- **Did you know Mr. Banks' biological father before he died? If so, how?**
- **Did your friendship with Mr. Banks' parents cloud your judgment in this case?**

Answer: I met Deputy Banks' parents around the same time that we published our case review (March 2013). I do not have a relationship with Deputy Banks' parents other than knowing them as Deputy Banks' parents. "Family relationships" is one of the reasons why I asked FDLE to review the case, the victim (Michelle O'Connell) had a brother who at the time of her death was serving as an SJSO Deputy Sheriff, the victim's mother was a civilian clerical employee of SJSO at the time of her death and she was dating a SJSO Deputy Sheriff. I did know Deputy Banks' biological father, he worked as a state law enforcement agent when I was a city patrol officer. I knew him through work but we did not have a personal/social relationship. He was an outstanding law enforcement officer and a wonderful person. Approximately 30 years ago he died unexpectedly from natural causes while he was on duty. Had I known Deputy Banks' parents I am certain it would not have "clouded" my judgment. During my 33 year career I have had to investigate and arrest friends, relatives of close friends and relatives of mine.

You said in your report that it was probably a mistake to assign relatively inexperienced detectives to such a “sensitive” case.

- **What made this case so “sensitive?”**

Answer: Anytime an employee has a family member or in this case several family members involved in a case occurring in our jurisdiction, the case is "sensitive." The tragic nature (death) of this case made it that much more "sensitive."

How much did your review of the O'Connell investigation cost taxpayers, including staff hours spent researching and preparing the report?

Answer: This question is virtually impossible to answer with any certainty. It is safe to say that the cost was significant because the effort required hundreds of work hours.

How much taxpayer money this year went to pay your private outside lawyer, John Kaney, for matters relating to the O'Connell shooting?

Answer: \$9,498.66

Please name the individuals in your office who researched and prepared your 154 page report reviewing the O'Connell investigation.

Answer: I am the author of the case review and I utilized numerous personnel throughout the agency in the research, preparation, formatting, and publication of the review.

In that report, you've acknowledged that your officers made mistakes while investigating the O'Connell shooting, but that those mistakes ultimately did not matter because they correctly concluded that O'Connell killed herself.

- **If all the important evidence was not collected, if all the necessary interviews were not conducted, how can you say that your officers got it right in the end without knowing the nature of the unexamined, uncollected evidence?**

Answer: I do not believe we have ever said or communicated that the “mistakes” in the O'Connell investigation “did not matter.” We did state that the shortcomings in our investigation were not fatal to ultimately finding the truth. We also stated, “Despite the issues identified in this review, it is important to note that the initial classification and outcome of this investigation was correct. The facts and evidence in this case strongly supports that Michelle O'Connell's death was the result of a self-inflicted, intra-oral gunshot wound and her manner of death is suicide.” (see case review Tab 3, page 2)

There were a few missed opportunities in the initial investigation, however, the scene was properly preserved and documented from a forensic perspective. The scene was extensively photographed and relevant evidence was collected for future examination. In addition, GSR kits were conducted /submitted on both the decedent and J. Banks, and some of his clothing (outer shirt) was collected for later forensic processing. One of our deputies on the scene had the presence of mind to take some photographs of the victim prior to the arrival of medical personnel. This very seldom occurs in a death investigation, most pictures are taken after medical personnel have moved the victim as a result of rendering medical assistance. These photos were vitally important during our case review.

In any case an investigative team can reflect back and identify missed opportunities and areas for improvement, even in cases where arrests have been made and convictions secured. The O'Connell case is no different. Unlike many organizations we identified our shortcomings and actually even published them in our case review.

Jeremy Banks, the only person in the house at the time of the O'Connell shooting, told Det. Hines during his second formal interview that he gained access to your department's investigative file on the case before his interview with Det. Hines.

- **How did he gain access to that file? Was anyone disciplined for allowing him to read the file? If so, please identify those who were disciplined?**

Answer- We utilize a computerized reporting system that can be accessed by all of its users until such time a particular report is administratively restricted. Once the report is restricted, it can only be accessed by those involved in or supervising the investigation. In this case the report was not restricted until several days after the incident, which allowed digital viewing access agency wide. Fortunately, any activity beyond simply viewing would have been captured and documented in the historical transaction log. There was no such activity with this report. No one was disciplined for “allowing” Banks to view the report because at the time he accessed it there were no restrictions placed upon it. Also, Deputy Banks self-reported this issue. This was actually a lesson learned for us and now it is standard procedure to restrict access as soon as practical, allowing access only to those involved in working on or supervising the investigation.

In your review of the O'Connell investigation, you leveled a serious accusation against the two women who swore under oath that on the night of the fatal shooting they had heard a woman screaming for help followed by gunshots. The report released under your name stated that the two women had told investigators from the local prosecutor's office that they often smoke marijuana in the driveway and that they couldn't recall whether they were smoking marijuana on the night of the fatal shooting.

- **Do you have evidence to back up this accusation? If so, please describe that evidence in detail and make sure to include names and documents.**
- **Leanna Freeman, a lawyer for one of the women, said the above accusation is false and that she asked you to publicly correct the record, but that you have not done so. If what Ms. Freeman says is correct, why have you not corrected the record?**

Answer- This information was provided by Robert Hardwick who at the time was the Chief Investigator for the 7th Circuit State Attorney's Office. Whether it is true or not is immaterial and has no relevance to the case. As of November 22, 2013, I have had this reference redacted from the official report.

You called Dr. Predrag Bulic a hero -- why?

I called Dr. Bulic a "hero" because he was the first one to confront Rodgers and "call him out" so to speak for his flawed investigation. In my opinion there are only two other "heroes" associated with this case. Bill Gladson and John Tilley of the 5th Circuit State Attorney's office. They were both the first law enforcement personnel who "called out" Rodgers for the same reason Dr. Bulic did.

Michelle O'Connell had a bleeding cut above her right eye. Do you believe, as Brad King does, that cut was caused by the top of the tactical light as the gun kicked forward when the fatal shot was fired, rather than recoiling backwards?

- **Did your officers run any tests to verify that the tactical light moves forward rather than recoils after a shot?**

Answer- Regarding the first question I do not have an opinion and the answer to the second question is no.

Dr. Bulic said the distance from the top of the tactical light to the barrel is 3 inches – and that matches precisely with the distance from O'Connell's eye wound to her mouth. But we found that Dr. Bulic measured the gun incorrectly. The distance from the top of the tactical light to the top of the gun barrel is only 2 3/16inches, which means that if the gun barrel were in her mouth, the tactical light would not come anywhere near the cut above her eye.

- **Did your officers try to verify Dr. Bulic's measurement?**

Answer- No

Our ballistics expert said that if Michelle O'Connell held the gun the way Dr. Bulic says she did:

- **O’Connell’s hand most likely would have shown signs of injury due to the slide moving backward. No such wounds were found on her hand. Care to comment?**
- **The shell might not have ejected because her hand covered the ejection port. Or if the shell did eject it would have gone in the opposition direction from where it was found. Care to comment?**

Answer- I have found that often times experts disagree when examining the same case and at times are simply wrong on an issue. This case is an excellent example. Dr. Bulic and Dr. Cogswell believe that the eye injury was caused by the tactical light, Dr. Hobin and Dr. Bell thought it was caused by an ejected shell casing and Rodgers and Findley believed it was caused by the front sight of the firearm. I support Dr. Bulic's findings in this case. On rare occasions an expert witness can be manipulated and exploited or are simply incompetent. There is an excellent example in this case of an expert witness that not only is wrong but it can be demonstrated by photographic evidence that he is wrong. In Mr. Findley's report he stated blood was located on the duty belt and he thought this was suspicious because he went on to state, "Blood is identified on the duty belt located to the left of the body and there is no blood between the body and the duty belt." This is clearly wrong because a photograph exists that shows blood leading up to and in contact with the duty belt, (see Tab 4, Page 91 case review).

How would you describe your relationship with R. J. Larizza?

- **Do you consider him a friend? Do you belong to any clubs together?**

Answer- I have known R.J. Larizza for many years and I would characterize him as a "friend." We have a professional/working relationship but we do not have a personal/social relationship. I belong to many clubs, several of which I am not active in due to time constraints so I cannot be totally certain in answering this question. I do know for certain that we are both members of the Masonic Lodge.

You’ve accused Rusty Rodgers of coaching witnesses and said for that reason his interviews are “tainted.”

- **Are you saying that because of his coaching,....some of your officers gave false, sworn statements to investigators?**
 - **If so, please name the officers who perjured themselves.**

Answer- It appears that you believe that if a law enforcement officer coaches or taints a witness and the resulting statement proffered by the witness is not accurate because it suffers from efforts of the offending officer then the witness is in effect culpable for committing "perjury." This logic is flawed. When a law enforcement officer, coaches, taints or intimidates a witness the officer is the only one culpable and the witness (even if the witness is a law enforcement officer) is considered a victim. Most people are aware of the rare case of an individual providing a "false confession" even for a serious crime that results in a long prison sentence. The phenomena of "false confessions" occurs for a variety of reasons with "coaching" being one of them. When these types of cases are discovered and the individual who provided the "false confession" is fortunately released from prison, we certainly would not want to charge them with "perjury."

In mentioning my officers, during Rodgers' interviews with them, listed below are three of the clearest examples of "coaching" and "tainting" that I have ever encountered.

Excerpts from Interview of Sgt. Faircloth (RF) by Agent Rusty Rodgers (RR)

RR: Was it your belief the night of responded to the scene and is it your belief now that Michelle O'Connell killed herself?

RF: It was my belief that night up until today you know when we talked before the interview here and you were telling me...

RR: Interrupts- What did we say or what did I say or what did you learn that would make you feel differently?

RF: Well just that you know...

RR: Interrupts- Because you haven't seen any evidence yet.

RF: No, no I have not. But I like I said I take people at their word and you know you had said that Jeremy um, basically was not being totally truthful about the you know, thing so you were talking about the left handed shooter thing.

RR: Interrupts- The evidence doesn't lie.

RF: Pardon

RR: Evidence doesn't lie

RF: Right. As a matter of fact that is one of the things you said. The evidence doesn't lie. So, that's why I told you you've rocked my world today.

RR: Are you OK? Do you need a break or anything?

3:27pm: Rodgers sits next to Faircloth and shares his "evidence" with him. Tab by Tab through his "Interview" book.

4:16pm Interview resumes:

RR: Now what do you think happened that night Ron? You're a cop. You've been around. This ain't your first Rodeo.

RF: Looks to me that except for the you know the execution style being behind the head. I mean. It looks like he freaking executed her.

RR: Do you believe the evidence you see?

RF: I mean evidence is evidence. You know?

RR: Right. Exactly, that is how we look at it.

RF: It's just so hard to believe. It really is.

RR: Okay. Now I am going to ask you. This is phase four of phase of the. Remember I told you there were three phases? First phase is we talked upstairs freely. The second phase is we came down and I took your statement. Third phase is I showed you the evidence. The fourth phase I have to do, I have to do, and I'm going to just come out and say it. Based on everything that you've seen today, everything you've heard today, are you okay with your statement that you have given today or do you want to change any portion of your statement at this time?

RF: No. I mean. I've told you everything that I you know can recall.

RR: I'm locking you in. *Unintelligible*

RF: I understand. I do.

RR: *Unintelligible*. I got to ask that question because that is the right thing to ask.

RF: Right.

RR: And if you're fine with the statement you've given then I'm fine with the statement you've given.

RF: Wow. It just. That just. It's just crazy.

RR: The only thing I can promise you if you trust me up to this point. I can tell you that the last seven tabs are 100 times worse than the 15 you've seen.

RF: Wow.

RR: Would you be surprised to learn that she was killed approximately, about 11 o'clock at night, we know exactly when, but as late as 10:58 PM she had text her sister and said I'll be there in a few minutes, I am leaving now.

RF: Wow.

RR: That is on her phone. That is on her sister's phone. It makes you wonder why Jeremy Banks wiped out all of his texts that night. He openly admits he was texting people. We see him texting people in the pictures. But yet, from September 2nd until about the first weekend of November, they're all gone. We're getting them. We are getting them anyway. Because you can get them even though they're deleted and they're gone.

RF: Right. Yeah. Whatever you put on is.

RR: Interrupts- We've got the software. We are pulling them now as we speak. We don't have them yet. The young man's got a problem. He really does. You got to make the evidence go away and you can't make the evidence go away.

RF: No (Faircloth takes a brief call)

RR: Would it surprise you that eight of the ten people we interviewed from your own Sheriff's Office that were on scene that night don't believe she killed herself?

Excerpts from our case review (see Tab 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.”
- Rodgers asks Clark if he understands Banks is a person of interest in this ‘Homicide’ investigation.
- Clark tells Rodgers and Brutnell that Banks has never told him anything that was incriminating and Banks has maintained his innocence.
- Clark stated Banks thinks he is being “railroaded” and he thinks “this 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.”
- **It was learned while conducting this review that Clark abruptly terminated his friendship with Banks after his [Clark’s] interview with Rodgers and Brutnell. Nothing in the “official” and recorded interview offered any reason why Clark would terminate this friendship so abruptly. 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.**
 - **The following information was learned after a brief conversation with Clark, seeking 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 FDLE 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 Rodgers engaged this witness to act as an agent on his behalf.**
 - ❖ As a result of his “off the record” and “official” interview with Rodgers, Clark stated he is conflicted to this day because he felt like he supported a murderer and even allowed Banks to stay in his home with his kids after the incident occurred. Clark stated Rodgers effectively convinced him of Banks’ guilt based on the nature of the facts and evidence he was presented.

(Excerpt from our case review (see Tab 1, Page 4)

During this case review, Chief Hardwick stated that while he was investigating the case as a member of the State Attorney's Office (7th) that shortly after conducting an interview with former Deputy Sheriff Debra Maynard, who was one of the responding deputies, the deputy called Hardwick back soon after the interview was completed and stated that she had some more information. The deputy advised Hardwick that the night of the incident, Banks smelled like, a "fresh shower." When Hardwick asked what was meant by a "fresh shower" the deputy advised that at the scene, Banks smelled like he had just taken a "fresh shower." Shortly after this call, Agent Rodgers called Hardwick and asked if the deputy he (Hardwick) had just interviewed had called him back. Chief Hardwick stated she had called and he (Hardwick) surmised that the deputy he had interviewed had spoken with Agent Rodgers after the interview and that conversation resulted in the deputy calling back to offer new information about a "fresh shower."

You've written that Brad King concluded Michelle O'Connell killed herself. Please identify any documents, interviews or speeches where Mr. King *specifically* said she killed herself.

Answer - If I have written this or said then technically I was wrong because prosecutors only determine whether or not probable exists that a crime has been committed and if there is enough evidence to bring an individual to trial for committing that crime. It is the medical examiner/authorities who determine manner of death (homicide, suicide, accidental etc.)

Looking back, do you have any regrets on how all this played out?

Answer- I will delay answering this question until it has actually "played out." This case will be "played out" only when Special Prosecutor Cervone renders his findings regarding his criminal investigation of Rodgers for "official misconduct", only when FDLE finishes their internal investigation of Rodgers and Pape for misconduct and only after the civil suits filed by Jeremy Banks and soon to be filed by Scott O'Connell have been litigated.

What lessons, if any, do you take away from the O'Connell case?

Answer: There are many lessons that can be taken away from this case and I will list just a few. Though I met with the victim's mother and brother in the days after the event I should have met with the entire family at the same time. I should never have cancelled the appointment that was scheduled for April 5, 2012 with Commissioner Bailey, myself, State Attorney King and State Attorney Larizza to discuss with the commissioner the conduct of Pape and Rodgers. Just before the findings of the internal affairs investigation on Scott O'Connell were published, Director Art May met with O'Connell and O'Connell made some statements that implied an inappropriate relationship between himself and Rodgers (May wrote a contemporaneous memorandum about this conversation). I should have met with O'Connell because I believe he would have shared with me far more information than he did with May. We did not know until much later that Rodgers would often tell O'Connell how close he was to our Undersheriff and Director May. Scott O'Connell's wife Beth tried to contact me several times around the time he was terminated and I never returned her calls, I should have.

The International Association of Chiefs of Police have recommended that police departments adopt the association's model rules on domestic violence within police families. The rules say that all complaints, including 911 calls, must be investigated and that all 911 calls should be handled by a supervisor when an officer is involved. The rules also say that the police chief should uphold all administrative findings.

Have you fully adopted the association's model rules?

Answer: Yes, all complaints of domestic violence are investigated. First line supervisors and above are in the process from start to finish to include the initial criminal investigation and subsequent internal affairs investigation. The agency head should uphold all administrative findings unless there are aggravating or mitigating circumstances. The final decision rests with the agency head and there should be no rule that diminishes his or her discretion.

In reviewing domestic abuse complaints within your department, we found three cases in which one or both of these rules were not followed. They are:

- **Halford Bubba Harris II**
- **Burton Bonjour**
- **Roger Colee**

Any comment?

Answer- I am not sure which one of these "model" rules you are referring to when you say that they were not followed so I will summarize our agency's actions in each of the three cases listed above.

Roger Colee - Commander Connie Reams was contacted by the victim and the victim conveyed to her that she had broken up with Colee and since the termination of the relationship there had been a few occasions where Colee showed up at different locations where the victim was. The victim was very uncomfortable and thought that this might be "stalking" type behavior. Commander Reams filed an internal affairs complaint, internal affairs determined that this could involve criminal conduct and directed the case to the Special Victims Unit of our Detective Division. Sergeant Werle directed the victim to obtain a domestic violence injunction and she obtained one on June 10, 2011. Colee was placed in an administrative position until case the was investigated.

Detectives from our Special Victims Unit arrested Colee on August 4, 2011. He was charged with felony Aggravated Stalking and placed on administrative suspension. On September 6, 2011, Colee resigned before the completion of the investigation. When the internal affairs investigation was completed, it sustained multiple serious charges against Colee. Colee eventually pled to criminal charges from his August 4, 2011 arrest.

In early March of 2012, the victim contacted our agency again and indicated that Colee was continuing his stalking behavior. On March 7, 2012, Colee was once again arrested by our

agency on multiple charges. On September 28, 2012 Colee pled guilty in Circuit Court and was sentenced to five years in state prison.

On December 10, 2012, the Florida Criminal Justice Standards and Training Commission permanently revoked Colee's criminal justice certification.

Burton Bonjour - Bonjour was charged in Duval County with domestic battery on May 21, 2010. The charges were ultimately dropped in Duval County. An internal affairs investigation was conducted. As a result of the internal investigation Bonjour was suspended for one day. The case was forwarded to the Criminal Justice Standards and Training Commission and they imposed an additional five day suspension and his law enforcement certificate was placed on probation for one year.

On August 16, 2012, we responded to Bonjour's home in reference to a domestic disturbance. Upon arrival there were no indications that domestic violence had occurred, both spouses denied that anything happened and neighbors were checked with no reports of any problems.

On March 13, 2013, while investigating a landlord tenant dispute involving Bonjour, two neighbors came forward and stated that they had witnessed Bonjour committing domestic violence on his spouse back in August 2012. An investigation was conducted that resulted in our obtaining a warrant for Bonjour's arrest for domestic violence and on March 21, 2013, we arrested him. As a result of an internal affairs investigation, Bonjour's employment was terminated on April 8, 2013. His case is still pending before the Criminal Justice Standards and Training Commission.

Halford "Bubba" Harris II - On December 24, 2008, we were dispatched to Harris's home in reference to a domestic disturbance. An internal affairs investigation was immediately ordered. As a result of the internal affairs investigation, the following charges were sustained: commission of a criminal act, conduct unbecoming of an officer, insubordination, and being untruthful. During the disciplinary hearing process I dismissed the "insubordination" and "failure to speak the truth" due to what I believed was a failure to meet the preponderance of the evidence standard. Harris was suspended without pay for ten days, ordered to counseling and given a last chance letter. A month or so later Harris resigned from the agency. Harris case was not referred to the Criminal Justice Standards and Training Commission and it should have been.

Records show that you overruled your internal affairs department's disciplinary recommendations for Tom Quintieri and Brian Alli for their conduct in the so-called Ford Street incident where, records show, your officers broke up a peaceful high school graduation in an African American neighborhood, firing pepper gas, unleashing a police dog, brandishing shotguns and making arrests. The conduct of your officers, under Mr. Quintieri, caused your insurer to pay \$275,000 to neighbors who said they were victimized. Internal affairs recommended that Mr. Quintieri be suspended, and Mr. Alli be terminated. You overruled both, records show. In the following months, Mr. Alli would repeatedly engage in misconduct before being fired. Care to comment?

Answer - I assume at the time, I felt that it was the right thing to do. Disciplinary decisions are one of the most difficult decisions that Chief Executive Officers have to make and most of the time we get them right, sometimes we get them wrong and very often people have different opinions about what the outcome should have been.