

homicides, white collar crime, and conducting surveillance and covert investigations. I have written, executed, and assisted with numerous investigative subpoenas, search warrants and arrest warrants over my career. I have also participated in numerous training opportunities related to the investigation of homicide cases. I offer the following STATEMENT OF PROBABLE CAUSE IN SUPPORT OF WARRANT OF ARREST:

2. During August of 2005, Martin MacNeill was married to Michele Marie MacNeill, though he was having a sexual relationship with Gypsy Willis and another woman, Anna Osborne. Anna Osborne reported that she expected Martin to join her in Oklahoma and to hear Michele was found dead. Anna believed Martin would kill Michele; however, by October (2005), Martin apparently decided to stay with his family.

3. On January 22, 2006, Anna Osborne informed her psychiatrist she was having an affair with a serial killer. She told her psychiatrist that Martin told her he attempted to kill his mother when he was young, but his sister called 911 and revived her. Martin informed Anna he killed his brother, Rufus Roy MacNeill, who repeatedly attempted suicide for attention, and had become an embarrassment. According to Anna, Martin told her he found his brother in the tub with both of his wrists bleeding, and that he pushed his brother's head under the water drowning him. This office confirmed Rufus Roy MacNeill was found dead in a tub while the family lived in New Jersey. Martin also told Anna he wanted to kill his daughter, Vanessa, because her drug addiction made her an embarrassment to his family (after Michele's death, Martin approached Vanessa and offered to kill her so she could have peace from her drug addiction). In another conversation, Martin offered to kill Anna's husband to relieve her of an abusive relationship. Martin also informed Anna about a JAMA (Journal American Medical Association) article he

claimed to have authored regarding euthanasia. This article was written by an assumed physician promoting “mercy killing” and gave an example of doing so during his residency. He told Anna he too had killed, showing mercy to handicapped patients. Martin also explained to her when a person dies from a heart attack, their potassium levels appear elevated. According to Anna, Martin told her all he had to do was inject potassium into the individual he wanted dead to make it look like a heart attack. A toxicology report on Michele’s blood showed elevated levels of potassium.

4. In February of 2006, Martin MacNeill moved his family from a large home in Orem, to a modest sized home in Pleasant Grove. No one in the family wanted to move from the Orem house, except Martin. Martin placed their new Pleasant Grove home in Michele’s name.

5. According to Alexis, about December of 2006, Martin began telling his family he was not feeling well and he had cancer. Martin began seeing numerous doctors.

6. On January 28, 2007, Martin took out two million dollars of life insurance on himself. He included Michele and Alexis as beneficiaries. At this point, Martin expressed he believed he would die before his wife. He placed their home in Michele’s name. Investigators believe this was part of Martin’s plan to deflect attention away from him and to later remove himself from the events that would unfold on April 11, 2007. (On January 8, 2008, Martin requested a change of the beneficiary to Jillian MacNeill, sole beneficiary. Jillian is an alias Gypsy Willis used.)

7. On, or about, February 2, 2007, Martin told Michele he had multiple sclerosis (MS) accompanied by other medical conditions and did not have long to live. He attended the Mayo Clinic in Phoenix, Arizona on February 12, 2007, for three days. While at the Mayo Clinic he went through a battery of physical and psychiatric testing. Unbeknownst to his family, this

testing was for hereditary neuropathy with liability to pressure palsies or HNPP and psychiatric testing. He told his family he was being treated for cancer and other medical issues.

8. About February 4, 2007, the first Sunday of the month, Martin announced to his church congregation he had cancer and MS and did not have long to live, causing everyone to believe he was dying.

9. Martin also told Doug and Kristi Daniels (the MacNeill's neighbors) he would die in six months. Promptly after the death of Michele, Kristi asked Martin if he was still going to die. Instead of answering her question, Martin told them as a result of his diagnosis which would lead to his death in six months, he and Michele put all of their possessions in Michele's name; "because I was going to die." Martin told the Daniels about getting the property back in his name because everyone expected Martin to die first. At the time these statements were made, Martin MacNeill knew he was not dying of cancer or of any other ailment. Martin told the doctor at the Mayo Clinic he had death ideations, but they were under control.

10. On February 21, 2007, Martin and Michele's wedding anniversary, Martin went back to the Mayo Clinic for the same battery of tests. He stopped by Alexis's apartment in Henderson, Nevada, to change vehicles with her because he felt a convertible would be more fun. While Martin was busy in the apartment, Alexis went to his vehicle and in his trunk found a number of articles of luggage which appeared to belong to a woman. In opening one, she found makeup and women's clothing. Once Martin left her apartment, Alexis called Michele and told her about the items found in the trunk of Martin's vehicle. Michele called Martin immediately questioning him as he drove away from Alexis's apartment. Martin was so upset he returned to scream at Alexis for alleging any type of infidelity on his part toward Michele. Martin claimed

the female articles belonged to an employee at the Developmental Center in American Fork. The following day, Martin continued his trip to Arizona.

11. During an interview with Gypsy Willis, she admitted being with Martin during the trip to Phoenix, and stayed in a hotel that night in an effort to deceive Alexis and Michele. She further admitted being picked up the following day resuming their trip to Arizona where they shared a hotel room and engaged in sexual relations.

12. Rachel and Giselle MacNeill reported they observed their father singlehandedly carrying sheets of dry wall into and around the house with the intention of enlarging Elle's (MacNeill's adopted daughter from the Ukraine) room in the basement of their Pleasant Grove home during the months of February, March, and April of 2007. This exertion of physical strength by Martin is important because, as will be shown below, some of his claims and statements surrounding the circumstances of the alleged murder include him not being able to lift Michele from the tub where she was found dead others and himself.

13. During February of 2007, Gypsy Willis moved into a rental home Martin himself was renting in Lehi, Utah. Martin paid for Gypsy's utilities on February 26, 2007.

14. In February or March of 2007, Martin approached Angie Aguilar (another MacNeill neighbor) requesting she ask the Guthries, who lived a few houses north of Angie, about getting a nurse he knew, "Jillian," to house-sit for them while they were out of town for a few months during the winter. The Guthries live within the gated community near the MacNeills. Angie Aguilar asked Doug Daniels to query the Guthries about Jillian house-sitting for them since Doug knew the Guthries. The Guthries declined the offer. Martin told Angie he was just trying to help the nurse.

15. In an interview with Gypsy Willis, she related Martin told her in February of 2007, his wife wanted to have plastic surgery; however, according to Alexis, Martin suggested plastic surgery to Michele around March 11, 2007. Based on interviews with Gypsy Willis, it appears Gypsy Willis knew about Michele's plastic surgery prior to Martin suggesting it to Michele. Gypsy stated she first found out about Michele's surgery in the middle of March but didn't "recall" and later in the interview, stated February of 2007. Martin refused to prescribe medication to Michele. He also refused to be the family doctor. This was unusual since Michele and the family rarely went to doctors because Martin had taken care of all their medical needs and prescriptions over the years. According to Alexis, the facelift was all Martin's idea, and it was only upon his insistence Michele went through with it. While Martin refused to prescribe Michele medication for hypertension, on March 15, 2007, he prescribed Gypsy Willis Phentermine to assist with her weight loss.

16. Around this same time, Martin located a plastic surgeon in a newspaper ad. The doctor was fairly new to Utah and his practice was located in Layton, Utah, quite a distance from Utah County. Doctor Scott Thompson agreed to perform the operation. Martin, Michele, and Alexis attended a number of pre-operation meetings where preparations for the operation were discussed. I believe Martin found a doctor who would provide the drugs Martin wanted to give to Michele.

17. On March 16, 2007, Michele and Alexis opened an envelope mailed to Martin from the Mayo Clinic. This envelope contained the hospital's report. This report indicated Martin did not have MS, cancer, or any life threatening diseases, contrary to what he told people.

18. The Utah County Attorney's Office, Bureau of Investigations, as a result of a federal search warrant, recovered numerous documents related to psychological evaluations completed on two separate occasions at the Mayo Clinic in Arizona. Martin stated to the Mayo Clinic psychiatrists he was bi-polar and had complete control over his condition through medication. According to the documents recovered in this search warrant, Martin told the doctors at the Mayo Clinic he was a psychiatrist who headed up a psychiatric unit in a Utah hospital.

19. On March 16, 2007, Alexis (Martin's daughter who was attending medical school in Las Vegas, Nevada, at this time) came back to the MacNeill home for the weekend. Martin had become very possessive of his cell phone and rarely let it out of his sight. Michele became worried about the cell phone situation and who Martin was talking to. Alexis approached her father about downloading a new ring tone to the phone. He allowed Alexis to take it briefly. Alexis went on-line to the T-Mobile website and requested Martin's password be sent to the phone. The password was sent to the phone. After acquiring the password, Alexis deleted the message and gave the phone back to her father. Later that evening, Michele and Alexis went on the internet and reviewed Martin's cell phone records back to January of 2007. They observed one phone number in particular, (801) 671-5788, they did not recognize, a number called at all hours of the night. They noticed this number was called back as early as January.

20. On March 20, 2007, Alexis called the phone number three different times. On the third call, at approximately 5:41 PM, a female answered the phone, but Alexis did not speak with her and hung up.

21. On March 21, 2007, Alexis ran an internet phone number check and background on the person who had the phone number. Alexis discovered the phone number belonged to Gypsy Jillian Willis. Alexis gave the information to her mother.

22. Records show Martin did pay for an apartment on Trinimann Lane in Lehi, Utah, for at least two to three months prior to Michele's death. During an interview with Gypsy and her attorney at the U.S. Attorney's Office, Gypsy admitted living in the apartment on Trinimann Lane, and informed investigators Martin paid for the rent and other expenses.

23. According to family members, and confirmed by Gypsy Willis in interviews, Martin was having an affair with Gypsy at the time of Michele's death. As previously stated, the frequency of phone calls and overall relationship between Gypsy and Martin intensified.

24. On March 22, 2007, Michele and Martin drove to Layton, Utah, for her first pre-operation consultation with Dr. Thompson. Dr. Thompson told us he had just come into town about nine months before meeting the MacNeills. He placed an ad in the newspaper advertising the facial plastic surgery process. It appears Martin found a plastic surgeon relatively far away from Utah County and new to Utah to ensure the physician did not know Martin or his reputation. It also appears that this made it easier for Martin to obtain the drugs he wanted to give his wife. Dr. Thompson recalled Martin asserting he was a licensed psychiatrist and an attorney. Martin told Dr. Thompson not to worry; he had not sued anyone ever. Martin was not a psychiatrist.

25. On March 25, 2007, the MacNeill's celebrated Ada's (Martin's and Michele's daughter) birthday at their home in Pleasant Grove. In reviewing a videotape of the celebration, one scene shows the front of the MacNeill home; the video very clearly shows a silver

Volkswagen Bug parked in front of the home. Rachel (Martin's and Michelle's daughter) related she asked who was parked in her normal parking location, but no one seemed to know. Investigators printed a picture from the video of the Volkswagen Bug. Michelle Savage (Gypsy's former roommate) identified the car as Gypsy Willis's. On October 11, 2010, Doug Witney interviewed Gypsy Willis in prison at Fort Worth, Texas, and showed her the picture of the car. Gypsy asserted the car looked like hers, but she could not remember if she was at the MacNeill home that day. Gypsy said if she was at the house, it was because Martin requested she be there. While Gypsy asserted she could not remember the purpose of her potentially being at the MacNeill house, it is obvious Gypsy did not participate in any of the birthday celebration because no one else, besides Martin, would have known she was at the house.

26. On March 26, 2007, Elle and Sabrina (Martin's and Michelle's adopted daughters) were sealed (a ceremony in the LDS faith believed to bind families together forever) in an LDS temple to Martin and Michele. Michele was attempting to make the day a very special day for the family and the girls. On a day that should have been rewarding and joyful, Michele later cried because Martin was very angry and mean to her the entire day.

27. About the last week of March 2007, Martin started using a cane, claiming he was dying from cancer and had approximately six months to live. Alexis and Michele discreetly read the Mayo Clinic report. They did not tell Martin she had read the report. Martin spoke to the children about his impending death, and how he had taken out a life insurance policy on himself. Martin used the cane intermittently up until the day of Michele's burial. In a conversation around this same time between the Daniels (MacNeill's neighbors), Martin reiterated he was supposed to die first. After Michele's death, Doug and Kristi Daniels, confronted Martin about his

impending death, wherein he denied he was going to die and wanted to know where they had gotten that impression. Martin never tried to explain away his earlier statements expressing he was going to die.

28. Rachel MacNeill stated a couple of days before her mother died, she offered to help Martin carry sheets of dry wall down the stairs to the basement because he was carrying the heavy sheet rock by himself. He refused the help and, according to Rachel, carried them easily himself. According to Gypsy's family members, a couple of weeks after Michele's death, Martin accompanied Gypsy Willis to Wyoming where he helped Howard Willis, Gypsy's father, haul hay.

29. As a result of the above mentioned federal search warrant, documents from the Mayo Clinic were located confirming Martin did not have any form of cancer or MS and was in good health. These documents further confirm Martin attended the Mayo Clinic on a number of occasions. The first was on February 12, 2007, where he appears to have stayed three days. He next attended the clinic on February 21, 2007, through February 23, 2007. The testing procedures involved examination of one of Martin's large toes which showed a hereditary condition and not cancer, as he had been telling everyone. Another examination involved psychiatric testing with interesting admissions from Martin. He told the Mayo Clinic his father was a Harvard graduate, which is not true, and he was a psychiatrist heading up a hospital psychiatric unit, which was also untrue. Martin further told the psychiatrists at the Mayo Clinic he had complete control over his bi-polar disorder, was doing well in society, and in his position as a physician. Contrarily, Martin had been telling the Veterans Administration during this time

he was suffering from anti-social disorders and had no job and no education because he could not control the disorder.

30. Whatever ailments Martin claimed to suffer from at the time of his wife's death appear to have been contrived. He used this weakness as an excuse to explain why he could not pull his wife out of the bath tub on April 11, 2007. In addition, these ailments seem to be used as a method of obtaining sympathy from those close to the family and thereby diverting any possible suspicion of complicity in Michele's death.

31. The Physician's Desk Reference (PDR) is a book, which in part, lists the various prescription drugs, their makeup, short and long term effects, and for what they are commonly used. On March 27, 2007, Alexis and Rachel observed Martin reading the PDR, something he seldom did. Alexis stated the PDR was covered with dust and it surprised them he was reading it so intently. Shortly thereafter, Alexis overheard Martin telling Dr. Scott Thompson which medications he wanted prescribed to his wife. Dr. Thompson confirmed Alexis's statement and added he would not have prescribed that combination of drugs if Martin had not been a physician and agreed to monitor the administration of the drugs.

32. In the latter part of March 2007, and in an effort to avoid postponing surgery, Martin contacted an associate, Dr. Von F. Welch, who practiced medicine in American Fork. Dr. Welch stated when Martin contacted him, Martin played the friend card and had him squeeze her into his busy schedule with the understanding he did not want to delay the surgery. Dr. Welch made arrangements for Michele to come to his office on March 29, 2007, for a physical examination. Dr. Welch claimed Martin came with his wife, introduced the two, and commented he was very interested in the facial surgery going forward on schedule. Dr. Welch noted, however, Michele

was hesitant to have it done. Dr. Welch stated Michele was suffering from depression and did not appear to be happy in her marriage. He found her blood pressure elevated and prescribed Lisinopril for high blood pressure and Zoloft for depression. Dr. Welch reported he examined a “healthy woman,” though Michele was depressed and anxious, and Martin was more urgent for the surgery than Michele. Dr. Welch felt Michele should have her blood pressure under control prior to the operation. Even though Michele was in favor of such a delay, Martin insisted the operation move ahead as scheduled.

33. Members of the MacNeill family were very concerned about the speed in which the scheduling, pre-operation, and operation took place. Martin's scheduling of the facial reconstruction, and his insistence that the procedure not be delayed, coincided with family members finding out about his affair with Gypsy Willis.

34. Dr. Welch related he was shocked upon hearing Michele passed away only 12 days after their visit. He reported that other than the high blood pressure and depression, she was a healthy young woman. Dr. Welch's statement regarding Michele's reluctance to have the facial surgery, as well as statements from Michele's children, contradict Martin's claims to a number of individuals on the day of Michele's death and subsequent days, that it was her idea and she insisted on having the operation as scheduled.

35. Alexis stated on March 30, 2007, while driving to Dr. Thompson's office, an argument ensued between her parents. Alexis related Michele told Martin she wanted to postpone the surgery until the summer so she would have time to lose some weight and get her blood pressure regulated. Martin became very upset and told Michele it would not be possible to delay the surgery.

36. On suspicion that Martin was having an extramarital affair, Michele asked Alexis to drive by the Developmental Center to see if she could see her father's car. Alexis did so and could not find her father's car.

37. April 1, 2007 was the last consultation with Dr. Thompson prior to Michele's surgery. Michele was still hesitant to go through with the surgery. At the conclusion of the consultation with Dr. Thompson, Martin gave Dr. Thompson a list of medications he wanted prescribed to his wife. Martin previously discussed these drugs over the phone with Dr. Thompson. Michele received Lortab (Hydrocodone) in liquid form, seven tablets of Ambien (Zolpidem) 10 mg., fifteen pills of Valium (Diazepam) 5mg, ten tablets of Phenergan (Promethazine) 25 mg., and thirty Percocet pills (Oxycodone). Dr. Thompson made a note in his files showing Martin requested certain drugs. He stated he usually prescribes Ambien so the patient can sleep at night. He said he also usually prescribed Lortab. Martin also requested a prescription for Valium, stating his wife was anxious and would probably need something to calm her down. Dr. Thompson admitted, "the Valium and the Percocet were out of my usual routine."

38. On April 1, 2007, Martin gave three of his children, Alexis, Rachel, and Damian, \$5,000 each. There was no reason given for issuing them money. At this time, Martin was still carrying on the ruse he was dying.

39. On April 3, 2007, Michele had cosmetic surgery. The surgery began at 8:00 AM, and she was admitted into recovery at 3:00 PM. Because of the length of the surgery and being under anesthesia, Dr. Thompson suggested Michele stay overnight at the hospital. According to Alexis, Martin was upset at the suggestion because he wanted to take her home, but he

eventually relented. On the day of Michele's surgery, Martin and Gypsy sent 24 text messages to each other. These text messages began at 6:21 AM and continued through 9:16 PM.

40 On April 4, 2007, Dr. Thompson evaluated Michele and released her to go home. Alexis stayed at Michele's side to assist her mother. Alexis reported her father came to her that night and told her he would look after Michele while she got some sleep. Alexis was extremely tired and worn out, so she went to bed. On this day, there were 16 text messages between Martin and Gypsy.

41. On April 5, 2007, upon returning to her mother's bedside at 6:00 AM, she found Michele listless and unresponsive. When Alexis confronted Martin about her mother's physical state, he told her he may have over-medicated her. At this time, Alexis was in her first year of medical school. Alexis also stated that she and her father both knew her mother was very medication sensitive. Alexis became angry, telling Martin that Michele had only requested medication from her occasionally while she had been with her, and she only requested a single Percocet daily. She demanded to know what motivated him to give her so much medication. Martin responded he thought she needed them. Martin then proceeded to tell Alexis he gave her some of each prescription, including Ambien. According to Alexis, Michele was not having a problem sleeping and did not need or want the Ambien. After the surgery, Alexis kept a record of each drug and the time it was administered to Michele. When Alexis arrived on April 11th, after Michele died, this record was missing. On April 5th, six days before Michelle's death, Martin and Gypsy texted each other 25 times. The times Martin and Gypsy texted each other include 12:44 A.M.; 12:49 A.M.; 12:51 A.M.; and 12:52 A.M. They started texting each other again at 7:11 A.M. Also, during the early morning hours of April 5th, Martin received cell phone

calls from a blocked phone number at 12:00 A.M.; 12:31 A.M.; 12:41 A.M.; 1:52 A.M.; 8:11 A.M.; and 8:53 A.M.

42. During the evening of April 5th, Alexis assisted her mother with a bath. Michele told Alexis she feared Martin was trying to over medicate her and asked Alexis to let her feel the pills and identify them so she would know what she was taking. Alexis related a conversation she had with her mother: “When she woke up she told me that my dad kept giving her medication. She said that she did not know what he was giving her, but he kept on telling her to swallow. She told me that she threw up during the night, after my dad had given her the pills. He had given her a bunch of pills and liquid Lortab. She said, ‘your dad, last night, he just kept, or the day before, he just kept handing me things.’ And at that time she had her bandages. She couldn’t see what he was giving her. She said, ‘He just kept giving me stuff. I said, I don’t need it. He said, yes, you need this.’” Michele then told Alexis, “If anything happens to me make sure it wasn’t your dad.” Michele then began to cry.

43. On April 6, 2007, Martin and Michele drove to Layton for her second post-op meeting with Dr. Thompson. Dr. Thompson noted she was healing well and Michele was in good spirits.

44. On April 6, 2007, after Michele’s post operation examination, she confronted Martin about his phone records. Alexis stated she was standing in the room next to her parents and overheard her mother confront Martin about his phone records. Alexis understood her mother was not going to let her father get away with hiding his records and his relationship with Gypsy. Martin and Gypsy texted each other four times on the 6th.

45. On April 9, 2007, Martin reviewed his will with Michele, Rachel, and Alexis. At the time Alexis was designated as the executor of the will. As Martin was going through the will, he said a number of times if anything happened to him Alexis would be in charge of the will. Michele was disturbed by this because if he died, she would be in charge and Alexis would be in charge only after Michele's death. It seemed odd to Michele, Rachel, and Alexis that Martin was reviewing with them his will, knowing he was not dying of cancer or any other disease.

46. Also on April 9, 2007, Rachel drove by the Developmental Center at her mother's request to see if her father's car was there because he claimed he had to work. His car was not there; this upset Michele. Michele tried to check Martin's phone records and found that he had changed his password on his T-Mobile cell phone account. She wanted to know if he was true to his word: Martin had committed to have no more contact with Gypsy.

47. Later, Martin came back into the room and asked Michele if she wanted to go on a two-week cruise to recover if he could get the clearance from Dr. Thompson. Michele thought it a nice gesture, but told Alexis she did not believe Martin would take her on a cruise; from April 7th - 9th, 2007, Martin and Gypsy texted each other 28 times.

48. On Tuesday, April 10, 2007, Martin, Michele, and Alexis drove to Layton to see Dr. Thompson. Dr. Thompson noted Michele was seeing, walking, and talking well, and she was even joking. He indicated there was no cause for concern or alarm and Michele was healing well. Martin asked Dr. Thompson if Michele would be healthy enough to go on a cruise the next Sunday, April 15th. Dr. Thompson said he wanted her to relax and heal. There is no evidence that Martin ever arranged for a cruise or other vacation.

49. During this visit, Michele reported to Dr. Thompson that she was only taking 1 - 2 Percocet (Oxycodone) pills a day, yet Martin called in requesting another prescription for 30 pills of Oxycodone for Michele. Dr. Thompson approved the prescription. He stated he normally would not fill the prescription, but did so this time because Martin was a physician. This is odd because Michele was nearly off all medication at this point.

50. On the evening of April 10, 2007, knowing her mother was able to go to restaurants, walk around the home on her own, and drive a car, Alexis told her mother it was necessary for her to return to school and resume her studies, which she did reluctantly. Alexis stated that she called her mother several times on the way back to Nevada. These calls are confirmed by subpoenaed phone records. Alexis called her mother's home phone at approximately 8:00 PM from Henderson upon arriving at her residence.

51. Also on April 10, 2007, Martin and Gypsy exchanged 22 text messages. The texting began at 8:16 A.M., with Martin transmitting three pictures to Gypsy. There is a break between 8:52 A.M. and 7:40 P.M. The texting began again after Martin dropped Alexis off at the airport. Approximately 19 text messages were sent after 7:40 P.M.

52. Martin told Dr. Frikke, Deputy Medical Examiner, he went to work at 6:00 A.M. on April 11, 2007. At approximately 6:48 A.M., Martin called Gypsy from his work phone. The duration of the call lasted zero minutes indicating Gypsy may not have answered the phone. At approximately 7:40 A.M., Martin drove into his home driveway and honked for the girls to get into his car. Sabrina (Martin's and Michelle's daughter) reported when she woke up her father was not at home; Michele told her Martin would be back to take her to school. He left with Sabrina, Elle, and Gisselle, (all daughters of Martin and Michelle) to take them to Pleasant Grove

Jr. High School. Ada (daughter) went with them but was dropped off at another school nearby. He told the children, Michele was not feeling well. The children stated Michele was dressed in a dark jogging outfit, with her hair pulled back. According to Alexis, Martin's assertion to the children about their mother not feeling well was a direct contradiction to the impression Alexis got from Michele when speaking to her a few minutes later in a phone conversation: that she was feeling fine and in good spirits. According to the MacNeill children, their father was unusually angry and impatient with them as he drove them to school.

53. At about 8:30 A.M., Martin dropped Ada off at the American Heritage School, which is near the American Fork Developmental Center. From 8:30 A.M. to 9:00 – 9:30 A.M., Martin's whereabouts are unknown. He told Dr. Frikke he did not return to work until 9:00 – 9:30 A.M.

54. At 8:41 A.M., Alexis called the MacNeill home phone. There was no answer. At 8:44 A.M., Michele called Alexis from her cell phone. During this conversation, they discussed Martin's demeanor and Michele seemed happy and optimistic about her relationship with Martin and excited about her plans for the day. It is believed that because Martin's and Michele's relationship had been so poor and combative, Martin would have had to go out of his way to be nice to Michele.

55. Based on how Michele was feeling, her plans for the day, her previously expressed concern for her safety, and the fact that she was down to 1 – 2 pain pills a day, it seems highly unlikely Michele would have knowingly taken the number and amounts of medication later found to have been in her blood that morning. The drugs included Ambien, a sedative sleep aid, Valium, a sedative anti-anxiety drug, Percocet, a sedative pain killer, and Phenergan, a sedative

anti-nausea medication. The combined effects of these drugs would have left her unresponsive and unable to function for the day, which is entirely inconsistent with how she presented that morning.

56. Martin told Dr. Frikke he went back to work at 9:00 – 9:30 A.M. Martin claimed he only left Michele alone for approximately two hours.

57. At approximately 9:10 A.M., Alexis received a call from Martin who called from his office phone at the Developmental Center. Martin left a voice message expressing concern for Michele, claiming he was having trouble with her mother doing too much and wanted Alexis to call her to tell her to stay in bed. This confirms Martin's statement to Dr. Frikke that he returned to work at about 9:00 A.M. and demonstrates he had just left his wife. Martin would not have known what Michele was doing at home unless he was with her and observing her actions. He had been gone from the house since before the children woke for the day and honked for them to come out to the car when he took them to school.

58. Alexis was in class and unable to answer the phone and speak to her father. This was an interesting call for a couple of reasons. One, Martin didn't regularly call Alexis. Two, it appears as if Martin wanted a record of him calling from his office at that time of the morning.

59. At approximately 9:14 A.M., Martin called Michele's cell phone from his work with zero duration of minutes or seconds. At 9:17 A.M., he called again from his work phone to Michele's cell phone; the duration of this call was 36 seconds. Vanessa (Martin's and Michelle's daughter) reported Martin left a voice message on Michele's phone around this time and stated in the message he was going to come home and make her lunch. Vanessa and Alexis said that was extremely out of character for their father. Vanessa used Michele's cell phone after her death

and found the messages Martin left. Vanessa reported Martin's message was as follows: "Michelle don't you dare, don't you dare go anywhere. Don't you go anywhere. Take it easy. Please I'm very concerned, um, you, you know just stay where you're at. I'm coming home. I'm going to make you a sandwich and we'll have a lovely lunch together, but just don't call anybody and don't go anywhere." Vanessa reported Martin left a similar message on the phone around 11:00 A.M.

60. At approximately 9:26 A.M., Martin called Gypsy's cell phone from his work phone; the duration of this call was 24 seconds (this time is more specific because Martin's work phone captures phone call duration by the second not by the minute, like most phone records).

61. Martin told Dr. VanWagoner he left his wife for about two hours. Dr. Frikke's notes indicate either he told her he arrived at the office between 9:00 A.M. and 9:30 A.M., or he arrived at work about 9:00 A.M. and went back home at 9:30 A.M. Either time frame is plausible. At these times, Martin was supposed to be manning a booth at the Developmental Center Safety Fair on (the morning of April 11th). He did not show up at the booth and personnel at the Developmental Center did not know where Martin was and what he was doing from approximately 9:30 A.M. to 11:00 A.M. He told Dr. Frikke that he only left his wife for two hours.

62. At approximately 10:50 A.M., Alexis got out of class and heard the recording from her father. Alexis stated she was terribly concerned, first of all because of the call from her father, which she stated was highly unusual since he almost never called her. Secondly, she found his tone frightening, she described that "a shiver ran down my spine." Alexis said the call also concerned her because it came from the Developmental Center. According to her, Martin

did not know her cell phone number by memory; Martin calling from his office was extremely out of the ordinary and disconcerting. Alexis related her father would have needed his cell phone in his hand in order to make the call since he did not know her number by heart. If that was the case, Alexis questioned why he would make this call from the Developmental Center instead of using his cell phone. Alexis attempted to call her mother numerous times and received no response. It is believed Martin's call to Alexis is likely a pretext call, being made from Martin's place of employment, an attempt at an alibi.

63. At approximately 11:00 A.M., Martin's work phone was used to place a 1-800 phone call for six minutes. We do not know if Martin made this call.

64. Around 11:00 A.M., Martin MacNeill attended a Safety Fair put on by the Developmental Center. He exuded a belligerent and nervous attitude at this meeting, to the extent Roma Henrie, an employee taking pictures for the company at the meeting, filed a complaint. Ms. Henrie filed the complaint with David Laycock, stating Martin was very insistent she take a photograph of him so "people would know that he was present." Martin's short tempered, belligerent attitude was experienced throughout the entire morning, including reports from the MacNeill children. Martin kept telling people at the Developmental Center he had to hurry and leave in order to pick up Ada from school; however, he told Melissa Frost, the Developmental Center's Risk Manager, he needed to go home and take care of his sick wife.

65. At approximately 11:32 A.M., Martin again called Michele's cell phone. As mentioned above, this is based on statements from Vanessa MacNeill (Martin's and Michelle's daughter), who related she took over Michele's phone after she died. She noticed a voice mail

from Martin at around 9:00 A.M. and 11:00 A.M., on April 11th, 2007, stating he would be coming home to make Michele a “lovely” lunch.

66. After his attendance at the Safety Fair award ceremony, Martin apparently left the facility and picked up his six year-old adopted daughter, Ada, at the American Heritage School. The school is approximately two minutes away from the Developmental Center. Martin picked her up at about 11:35 A.M. Ada related she was not expecting her father to pick her up and he was about five minutes late. Sometime between 11:35 - 11:46 A.M., Martin arrived home with Ada. Ada related she went into the home with her father. Martin went into the kitchen and after Ada searched for her mother, she found her in the tub. According to family members, it was Ada’s custom to immediately run into the house after school and find her mother.

67. Ada reported when she entered the bathroom her mother was in the tub, which was about one-quarter full of reddish-brown water. Ada asserted she walked up to the tub and saw Michele fully clothed in a dark jogging suit, presumably the same jogging suit she had on when they left for school, with her head above the water level. Michele was laying in the tub with her back against the wall of the tub her head near the faucet and her feet at the opposite end of the tub. Ada observed Michele’s hair floating towards the drain. After looking at her mother, Ada said she thought her mother was dead. This account is much different from Martin’s description of the way he found Michele when he explained it to Alexis, Rachel, Dr. Frikke (the medical examiner that performed the autopsy), and a colleague at the Developmental Center.

68. Martin showed and demonstrated to Alexis and Rachel how he found Michele; she was draped over the side of the tub, head first, with her head in the water. Martin also gave this same description to Dr. Frikke, claiming it looked like she had fallen into the tub head first.

Alexis prepared a diagram of Martin's explanation of the position Michele was in when he found her. Ada was adamant she saw Michele fully clothed in the tub. Martin told others Michele did not have anything on her lower extremities when he found her.

69. Ada ran out of the room to get her father. She found him in the kitchen, grabbed his hand, and tried to rush Martin to the bathroom. According to Ada, Martin walked very slowly even though she was trying to pull him along and telling him mother needed help. She could not understand why Martin was walking so slowly when she told him her mother needed his help. When Martin entered the bathroom, he ordered Ada out of the room, and directed her to find a neighbor that could help. After going to Kristin Riggs's house and finding no one there, she found Kristi Daniels in the next home she tried. According to Ms. Daniels, Ada told her, Angie Aguilar, and Kathie Lytle, another neighbor who was visiting teaching Kristi at the time, something was wrong with her mother and her father needed help. Ms. Daniels and Ms. Aguilar responded immediately to the home. Martin told Dr. Frikke he found Michele completely submerged in the tub with her legs hanging out over the edge of the tub as he described to Alexis. He also stated the faucet was not running, and the water in the tub was slightly cool. He related there was no water on the floor causing Michele to slip into the tub. Martin said the pajama pants Michele was allegedly wearing were next to the bed in their bedroom. She was actually wearing a jogging outfit and the bottoms were never found.

70. At approximately 11:46 A.M. and 11:48 A.M., Martin's subpoenaed cell phone records indicate he called 911 twice. Heidi Johnson, Pleasant Grove City Dispatcher, was assigned the phones, and received a call from the Utah County Sheriff's Office Dispatch because Martin used his cell phone to place the 911 call. The County Dispatcher told Heidi she had an

irate male calling in an emergency. When she answered the phone, the man on the phone, which she later identified as Martin, was “just screaming at me.” Heidi related, “I’ve taken a lot of 911 calls, but I’ve never taken one where someone was screaming at me like this man.” Heidi reported she actually spoke with him twice. Heidi stated Martin told her he found his wife in their tub, she was not breathing, and he needed an ambulance. He then hung up. Heidi saw the MacNeill phone number on the 911 screen, called him back and asked him to calm down and talk quieter so she could understand him. During the second call, Martin told her his wife had just received a face lift and he was gone from the home and upon returning, found her in the tub. He told her he had started CPR and Heidi assumed she was on the floor at that time. Michele was still in the tub at this time - not on the floor, and CPR had not begun. Also, Kristi Daniels had not arrived yet. Martin told Dr. Frikke he lifted Michele’s head, checked her pulse and did not find one, pulled the drain plug in the tub and started “rescue breathing.” Martin observed sparse foam from Michele’s nose. He asserted once the tub drained, he started chest compressions until the neighbors arrived to help him pull Michele out of the tub. Medical experts have informed us that proper performance of CPR could not be administered under these conditions. Martin also asserted Michele’s skin was cool to the touch. Everyone else who worked on her claimed she was cold. Martin also related to Dr. Frikke he never saw Michele’s chest rise when he gave her breaths. Heidi then tried to help him administer CPR but he cut her off, telling her he was a physician and hung up again. Heidi called him back again, but Martin did not answer.

71. During an interview with Heidi Johnson (911 Dispatcher), she stated she had never dealt with anyone as angry and emotionally upset as Martin was, especially when it pertained to

the death of a spouse. Heidi asserted it was Martin's anger and belligerence that caused her to record the call and save it for training purposes, because of its unusual content and nature. According to Heidi, all she was trying to do was help Martin complete CPR and offer life-saving advice, but he kept telling her he was a doctor and knew what he was supposed to do. She stated Martin was aggressive, angry, and condescending to her when she tried to help him administer CPR and hung up on her. Heidi related that to this day, she can still hear his abrasive yelling. This 911 call was recorded and a copy of it is in evidence.

72. The Pleasant Grove Police records indicate Martin's 911 call for assistance was dispatched to police officers and paramedics at 11:52 A.M. Martin's cell phone records also indicate Heidi, Pleasant Grove City Dispatcher, called him back at 11:52 A.M. Martin told the dispatcher he let the water out of the tub. He also stated a wrong address for his residence that caused further delay to emergency responders.

73. When Kristi Daniels and Angie Aguilar approached the MacNeill home, the front door was already open and they heard Martin yelling, "Help, help, I need some help. Help me!" Upon entering the house, Kristi told Martin she would call 911. Martin told her he had already called. Martin informed her he needed a "man's help" to get his wife out of the tub. Kristi is a fairly young, physically fit flight attendant trained in CPR. Kristi asserted she felt the three of them could have gotten Michele out of the tub. She further related she relied on what Martin told her because he was a doctor. Kristi observed Michele's head near the top of the tub, near the faucet. Kristi returned home to get her cell phone, called her husband, and asked him to respond to the emergency. While Kristi, made the call to her husband, Ms. Aguilar remained in the room with Martin. According to Ms. Aguilar, Martin did not perform CPR while Kristi was

gone. He paced nervously around the room with his hands on his head. Upon returning to the MacNeill home, Kristi observed Michele still in the tub with her head exposed near the rim of the tub, by the faucet, just as Ada described; however, the water had been drained out of the tub. Martin showcased an attempt to drag Michele out of the tub, but appeared unable to do so. Kristi stated she knew Martin had been sick, at least that was what he was telling everyone, and he had been using a cane at times, so at first it was not unusual to her that he could not lift his wife out of the tub. Kristi also observed Martin bending over Michele, appearing to be giving her breaths and cradling her head. Martin did not invite the two adult women to help him get Michele out of the tub even though Doug (Kristi's husband) arrived shortly after them. This may suggest Martin had no interest in or intention of performing CPR correctly on his dying wife, even though he told numerous individuals, including the 911 Dispatcher and Dr. Frikke with the Medical Examiner's Office during the investigative interview, he had.

74. Kristi reported Michele was only clothed in a dark, long sleeve shirt. Doug Daniels and Angie Aguilar believed the shirt to be white and pulled up exposing Michele's breasts. The black shirt was on over Michele's white LDS under garments and the shirt was pulled up exposing these garments and breasts. The long, black sleeved shirt, the garment tops, and bra were all cut by paramedics when they arrived on the scene. Also, from the time Ada observed her mother fully clothed in the tub, it appears Martin removed the clothes on Michele's lower extremities prior to Kristi arriving. All three neighbors observed Michele was not wearing any pants and was completely naked from the waist down.

75. Doug related he was close to the MacNeill home when he received his wife's phone call. Upon Doug's arrival, Martin, holding Michele's arms, stood up, at which time Doug

assisted him in pulling Michele from the tub, onto the tile floor where CPR was performed. Kristi performed compressions initially while Martin gave Michele breaths. After administering approximately 10 breaths, Martin stopped Kristi from giving compressions, yelled at Michele for having the surgery, and pounded his fist on Michele's chest three or four times. Doug relieved his wife and began doing compressions. Doug reported he did not see Michele's chest rise when Martin was giving her breaths. This is consistent with Martin's statement to Dr. Maureen J. Frikke, M.D., Assistant Medical Examiner, as recorded in her notes. Dr. Frikke made these notes in reference to a telephonic conversation she had with Martin after Michele's death. According to Doug, when Michele was in the tub and after being placed on the floor, she had considerable mucous discharge coming from her nose, extending to her upper lip. Doug related he gave Martin a towel to wipe Michele's face, yet Doug believed it was unusual because Martin did not have any mucous transferred to his own face.

76. Kristi stated Martin was dressed in slacks and both the Daniels agreed he had a doctor's lab coat on. Angie Aguilar reported when she entered the MacNeill bathroom with Kristi Daniels, the tub was drained, Michele's head was at the faucet end of the tub, and yellowish pink mucus was coming from Michele's nose and mouth. She also related Michele's hair was partially wet.

77. At approximately 11:55 A.M., Pleasant Grove Police Officers Josh Motsinger and Ray Ormand were the first to arrive at the scene. Kristi or Doug Daniels met them at the front door. The officers were directed to the bathroom where they observed Martin performing CPR on Michele next to the tub. Officer Motsinger described Martin as being hysterical, performing compressions on Michele, and yelling. Officer Motsinger saw Martin slam his fist down on

Michele's chest, which he thought was unusual. Martin was also cursing his wife for having the surgery, taking the medications, and he was cursing God. During a conversation, Martin told Officer Motsinger his wife had been taking a lot of medication and he found her hunched over the tub, with her head in the water. He also informed the officers his wife had cosmetic surgery recently. It appears Martin intentionally mislead the officers because she had not been taking large amounts of medication, even though a toxicology report showed positive for a number of prescription drugs. When Martin spoke with Dr. Thompson on April 11th, 2007, shortly after Michele died, he reported Michele was only taking one or two Percocet a day and she was not taking any of the other medication he prescribed, in contradiction to his statements to emergency personnel. Alexis confirmed this; she was at her mother's bedside for days after her surgery and knew exactly what Michele was taking. Officer Motsinger observed Martin was wearing a doctor's white coat and believed he was a doctor.

78. The police officers took over performing CPR on Michele. Officer Motsinger began compressions and Officer Ormand breaths. Due to cramped conditions, they moved Michele partially into the bedroom, onto the carpet, where they continued CPR efforts. Officer Motsinger noticed fluid coming out of Michele's mouth. Officer Motsinger reported the paramedics took over CPR efforts upon their arrival. At this point, Michele threw up a lot of clear liquid. The liquid appeared to be water. Officer Motsinger stated she threw-up a lot of clear water all over his uniform and at the conclusion of this call, he was forced to change his uniform. Another officer was also forced to change his uniform because of the water thrown-up by Michele.

79. Once the paramedics took over CPR, Martin's continuous, belligerent attitude caused the officers to remove him from the home and the work area. They recalled Martin being loud

and very vocal. Officer Wright stated in his career, he'd never seen anyone as angry and belligerent as Martin MacNeill was on the morning of April 11th. Officer Beckstrom related the only time Martin became focused was when he started questioning the paramedics while they were taking Michele out of the home to the ambulance. Martin asked what they had done to save her.

80. The officers recalled Michele wearing some clothing on the top portion of her torso, believing it to be a white garment top pulled up above the breasts. Officer Wright, who also responded to the scene, asserted to his recollection; Michele had on a white garment top, bra, and dark, long sleeved jogging top. All of the officers agreed there was no clothing on Michele's lower extremities. The clothing she was wearing appeared to be soaking wet, along with Michele's face and hair being wet. Officer Motsinger described Michele's skin as being white and colder than usual. The officer did not recall seeing any lividity in the upper chest area which seemed to surprise him. If she was as cold and white as she was, it would be expected and consistent with her body temperature to have seen some lividity in the upper chest area where she was supposed to have been slumped over into the tub, according to how Martin reported she was found. At the emergency room, Dr. VanWagoner observed lividity on Michele's buttocks and back portion of her legs while she was being worked on in the American Fork Hospital ER, which is consistent with Ada's description of finding Michele (along with the neighbors' descriptions of how she was found inside the bathtub).

81. Officer Ormand reported Martin told him Michele must have fallen into the tub and had some kind of reaction to the medication. Officer Motsinger related Martin told him he found her slumped into the tub. The officer described his feelings at the time, by the way Martin was

explaining it; she had been standing next to the tub and had fallen head first into the tub. Officer Wright asserted Martin was quite wet. His arms were wet up past the elbows. Martin told Officer Wright someone, maybe Doug Daniels, had let the water out of the tub. This was not true because he told the 911 Dispatcher, Heidi, he had let the water out of the tub, and the first neighbors responding (prior to Doug) had seen the tub was drained. Additionally, Martin told Dr. Frikke he let the water out of the tub.

82. At about 11:57 A.M., Paramedic Marc Sanderson walked Martin out to the front porch of the house. While doing so, Martin told Marc his wife overdosed on medication and that was the cause of her death. Martin continued to tell him he assumed Michele slipped, tripped, or somehow fell into the tub. Martin related to the paramedic he had only left Michele for about ten minutes and upon his return found her totally submerged in the tub full of water. This account is important because Martin asserted he believed Michele died of a drug overdose and at this time no one knew the cause of Michele's death.

83. At 11:59 A.M., Alexis called the home phone and spoke with Martin. Martin told her he was performing CPR, Michele was in the tub not breathing, and hung up on Alexis. At this point in time, the police officers had been on scene performing CPR and some paramedics had recently arrived. In fact, Marc Sanderson had already taken Martin to the front porch area. Martin was not performing CPR at that time. Martin's statement to Alexis is contradicted by what was actually going on at the time.

84. At 12:00 P.M., Pleasant Grove City ambulance arrived. The paramedics arriving at this time with the ambulance recalled Martin standing outside waving his arms to bring them to the right door.

85. At 12:03 P.M., Martin called Jim VanZant, a physician at the Developmental Center, requesting assistance at his home. Steve Mickelson, a Physician's Assistant at the Developmental Center, was approached by Jim VanZant, and asked to drive to Martin's home to help him. Steven left immediately and upon arriving noticed the numerous police and medical vehicles. He also observed Martin on the front lawn speaking to officers.

86. At 12:05 P.M., Alexis called Martin's cell phone. Martin answered and told Alexis, "We're doing CPR." and immediately hung up the phone.

87. At 12:07 P.M. or 12:17 P.M., Martin used his cell phone to call Alexis back. When she answered the phone, Martin gave his cell phone to Steven Mickelson. When he handed the phone to Steven, Martin appeared distraught, and stated, "Tell Alexis, I can't." Steven told Alexis her mother was "coding" and she needed to come home as soon as possible. This call lasted approximately two minutes. From 12:13 P.M. through 12:17 P.M., Martin and Alexis called each other four times.

88. Steven related when he first arrived at the MacNeill home, Martin told him to go into the house and help with Michele. He expressed concern about Martin letting the water out of the tub, believing it could have held evidence. He wondered who would have taken time to let the water out when someone needed immediate medical attention. Steven further stated Martin attended a number of individuals who passed away at the Developmental Center and he knew Martin was aware of how to care for a death scene. Steven reported having a conversation with Martin one week after Michele's death regarding her death. Martin told Steven he found his wife face down with her head towards the faucet in their bathtub. Martin also related the tub was full of bloody water. Martin explained to Steven it was Ada who found Michele in the tub. She

ran to Martin and told him “something was wrong with mommy.” Martin also told Steven he pulled Michele out of the tub and started CPR without explaining he first required help to get her out of the tub. Steven asserted Martin was strong enough to pull Michele out of the tub by himself and that Martin’s injured toe would not have been an issue.

89. At approximately 12:19 P.M., the Pleasant Grove City Ambulance left the MacNeill home and headed to American Fork Hospital.

90. After Michele was transported by ambulance, Doug spoke with the police. The officers asked a few questions and then left asking him to lock up the home. Doug stated he immediately thought of cleaning up the bathroom, but could not find any towels in the bedroom or bathroom. Upon walking down the hallway to the laundry room, he found some soiled towels in the laundry. He took one of them and started wiping up the blood and water. Doug stated he could not get all of the blood out of the light colored carpet but did wipe up blood and water off the carpet, the tile, and a little off of the tub. Neither Doug nor Kristi Daniels recalled seeing any bottoms to the outfit Michele was wearing. This is important because the garment bottom and jogging pants were never found by Doug or anyone else when cleaning up. It seems likely that if Michele was really going to take a bath, they would have been in the bathroom or bedroom. Martin told Dr. Frikke, Michele’s pajama bottoms, inferring she was wearing pajamas, were in the master bedroom next to the bed. Michele was not wearing pajama bottoms nor was any pajama bottom found next to the bed.

91. At approximately 12:24 P.M., the ambulance arrived at American Fork Hospital. Dr. VanWagoner, Emergency Room Physician, reported he was at Michele’s bedside almost immediately upon her arrival. Dr. VanWagoner related the emergency personnel were still

administering CPR as they entered the hospital area and his attention was immediately drawn to the surgical incisions on or about her face. He stated it was obvious the scars and/or incisions were in various stages of healing. He also stated Michele was turning blue from the breasts up, which is consistent with someone having a pulmonary embolism or where a clot had broken free and was lodged in the heart, not allowing it to pump blood effectively. Dr. VanWagoner said his observations were strictly supposition, based on an outward visual examination of the body without the aid of body scans or other medical procedures.

92. Dr. VanWagoner reported Martin came into the Emergency Room right after Michele arrived. Martin told Dr. VanWagoner Michele had been experiencing some mild nausea, but was otherwise okay. Dr. VanWagoner reported Martin told him Michele had passed out in the bathtub; he pulled her from the tub, and started CPR. Martin told Dr. VanWagoner he left her alone in the home for approximately one and a half hours. Martin also told him Michele was only taking "a" pain killer (Percocet) and antibiotics, leaving out the Ambien, Phenergan, and Valium, all of which he had requested from Dr. Thompson, all of which were found in her blood at the time of her death, and all of which had been administered to her by Martin upon returning home from surgery on the 4th of April, 2007.

93. Dr. VanWagoner asserted their efforts were probably futile from the onset depending upon how long Michele had been unresponsive. He went on to say, he was confused at why the CPR efforts in the field had not had more of an effect on the patient. In his experience color would have returned and the patient would not have appeared the way she did in the emergency room, pale and cold. He stated there was no heart beat from the time she entered the hospital. Dr. VanWagoner was asked about Michele's chest not rising during CPR, an observation Doug

and Kristi reported, as well as Martin, who told Dr. Frikke, as found in her Medical Examiner's notes. Dr. Van Wagoner asserted any certified CPR administrator would have repositioned the body, cleared the airway, and started again; this process should be continued until the chest rises.

94. Dr. VanWagoner wrote in his report he noticed lividity was forming on the back of the legs and buttocks areas indicating she died on her back, not on her stomach. This lividity corroborates Ada's description of finding Michele in the tub on her back-side and shows Martin lied to several people about finding Michele slumped over face-forward in the tub. According to the physicians and medical personnel I have spoken to, lividity takes approximately 25-30 minutes to begin to develop after the actual death of the individual, excluding outside stimuli and/or temperatures.

95. Stephanie Hansen is an Emergency Room nurse who assisted in Michele's care. When Michele came in to the American Fork Hospital Emergency Room, she observed emergency personnel still administering CPR. Ms. Hansen reported she personally remembered Michele and recalled her skin color was not good and there were a number of incisions on her face, some closed and some open. She also said Michele's body was "mottled" or showed signs of being dead for some time before they received it.

96. Ms. Hansen related Martin was pacing quickly and angrily; she recalled him throwing papers for some reason. She claimed Martin was loud and at times may have used profanity. She said he did not use a cane and to her knowledge was not limping. She recalled Martin telling them he was angry because Michele had cosmetic surgery, saying, "I told her not to do this" and she was the mother of six children. Martin's statements at the home and in the emergency room are directly contradictory of previous statements made in conversations

between Martin and Michele about her cosmetic facial surgery. These conversations were witnessed by their daughter, Alexis. Ms. Hansen did not understand his reactions or the agitation he was exhibiting. She said after a code, it is usually a very solemn time, but because of the agitation Martin exhibited, feelings among the staff were negative towards him. The medical personnel who witnessed Martin's behavior found it very inconsistent with a bereaving husband; they were taken aback, and some were even offended. She also recalled there was a son (likely Damien, Martin's and Michele's son) upset with Martin and she recalled him yelling at his father during this time.

97. At approximately 1:03 P.M., Dr. VanWagoner ended the resuscitation efforts. Dr. VanWagoner related he received the "oddest request that I have ever had doing emergency resuscitation." He stated that "he (Martin) offered me \$10,000 if I would not cease my resuscitative efforts. He offered me ten grand. It put me in a tough spot." Dr. VanWagoner said they had been working on Michele for almost 40 minutes and even though she was young, her chances of being resuscitated after such a long time were slim.

98. Sometime between 1:15 P.M. - 1:30 P.M., Spencer Cannon, Utah State Medical Examiner Investigator, was notified of Michele's unattended death. Spencer stated he responded to the hospital and obtained information about the death. Dr. VanWagoner reportedly told Spencer some of the incisions on Michele's face appeared to have opened as a result of a fall, though it did not look like a drowning, and she may have died due to an embolus, though Dr. VanWagoner had very little information from the scene at this time in order to help him with his conclusion.

99. At approximately 2:00 P.M., Utah time, Alexis flew out of Las Vegas and arrived at the Salt Lake Airport at about 3:15 P.M.

100. Around 2:00 P.M., upon returning home from the hospital, Martin asked his son's girlfriend (Eileen Hang) to destroy the remaining drugs prescribed to Michele following the surgery. In an interview with Eileen Hang, Damian MacNeill's girlfriend at the time of Michele's death, she stated after arriving at the MacNeill home, Martin asked them to destroy the medications because he could not bear to have them as a reminder of her death. Without thinking, Eileen poured the medications contained in the prescription bottles into the toilet and threw the empty bottles into the garbage. She told us later that day, she regretted having done so. She later questioned why Martin would have her do such a thing. Ms. Hang believed those medications could have been evidence, especially the number of pills remaining compared to the number prescribed. Martin's background as a physician, attorney, and Medical Director at the Developmental Center, qualify him with knowledge of how to handle situations like Michele's death. I believe he would have known the importance of not destroying or altering potential evidence. Steven Mickelson stated Martin attended a number of patients who died while he was serving as Medical Director of the American Fork Developmental Center. Martin and Steven were aware of the necessity of maintaining drugs related to the patient.

101. At about 3:25 P.M., Chris Anderson, a close family friend, picked up Alexis from the airport and drove her directly to the American Fork Hospital. They found Michele was transported to the Utah State Medical Examiner's Office. They immediately went to the MacNeill home. Upon entering the home, Alexis saw her father Martin, Damien, Eileen Hang, and their bishop were there. Alexis observed many of her mother's personal clothing and

possessions had already been removed from the closets, drawers, and other parts of the bedroom, including her hospital bed which was also gone. Even the presents given to Michele after her surgery were found in the garbage can at this time.

102. Alexis also noticed her mother's drugs were gone and asked Martin where they were. He told her the police had taken the drugs, though the police did not take the drugs, and photographs taken by Detective Marc Wright show some of the medications by Michele's bedside in the master bedroom shortly after she was found in the tub, but prior to the time Martin had Eileen dispose of them.

103. According to Alexis and Rachel, during the afternoon or evening, Martin showed them how he had found Michele in the bathroom, demonstrating her position using his own body. He told them she was face down, head first with her head totally submerged in water, and that her legs and feet were outside of the tub. Martin demonstrated to his daughters by physically placing his body over the tub, face down, indicating Michele must have fallen face first into a full tub of water. This is inconsistent with the medical and physical evidence and inconsistent with Ada's description of finding her mother. Martin's explanation is also inconsistent with the neighbors' description of the location of Michele's body.

104. On the evening Michele died a group of women from the LDS Ward came to the MacNeill home and offered their condolences. Lorene Hernandez was one of the women and recalled hearing Martin speak mostly about the home remodeling he was going to be involved in and how he needed to adjust to life as a bachelor. Martin actually took Lorene on a tour of the house. She stated, in her opinion, Martin was not acting like a grieving husband.

105. Rachel (Martin's and Michele's daughter) related a conversation she and Martin had at their home on the evening of April 11th 2007. Martin told her, "We have to get this autopsy complete so people won't blame me for causing your mother's death." Rachel asked him why anyone would believe he was involved in Michele's death. Martin said, "Well, you have to be careful." Rachel expressed disbelief that such a thought would have entered Martin's mind.

106. On April 12, 2007, Dr. Mauren J. Frikke, Utah State Assistant Medical Examiner, performed an autopsy on Michele MacNeill. In the autopsy report, Dr. Frikke opined there was evidence Michele's immediate cause of death "appeared" to be from "chronic hypertension and myocarditis, which are capable of causing acute unexpected arrhythmias and sudden death." The manner of death was determined as "Natural." It is the opinion of this office Dr. Frikke did not have the pertinent investigative information to make an accurate determination regarding the possibility of an unnatural death. Martin called Dr. Frikke a number of times at the Medical Examiner's Office and gave false, misleading information he knew was not true.

107. Dr. Grey reviewed Dr. Frikke's autopsy report after our office presented him with evidence (including an expert toxicology report) we believe shows Michele died at the hands of her husband, Martin. This was the first time the Medical Examiner's Office had a criminal investigative report to rely upon. As a result of the investigative information presented to him, Dr. Grey issued an addendum to Michele's cause and manner of death. He listed the cause of death as: "Combined Effects of Heart Disease (Hypertension, Myocarditis) and Drug Toxicity (Diazepam, Oxycodone, Promethazine & Zolpidem)." Moreover, Dr. Grey changed the manner of death to "Undetermined." The Addendum was dated October 6, 2010. He also noted the

suspicious circumstances surrounding Michele ingesting the amount and mixture of medication she was found to have in her system at the time of her death. Moreover, Dr. Grey indicated his analysis when determining the manner of death is limited to portions of the evidence, which is different than a fact-finder in a court of law. He relies largely on evidence on the body when reaching his conclusions.

108. On April 12, 2007, Martin MacNeill and Gypsy Willis exchanged 12 text messages between their cell phones. The texting started at 11:15 A.M. and ended at 10:49 P.M. There were two pictures sent at 10:21 P.M. and 10:41 P.M. On April 13, 2007, Martin and Gypsy exchanged 17 text messages, starting at 1:20 P.M. and ending at 7:31 P.M.

109. On Saturday, April 14, 2007, a funeral was held for Michele. Without consulting his children, and against their desires, Martin planned the funeral. Martin refused to notify Michele's mother and siblings about her death and subsequent funeral arrangements. Michele's family was notified of her death, funeral, and internment by other individuals. Just prior to the funeral, Martin made it known to Michele's family they were not welcome at the funeral and internment, and would in fact be escorted away by the police if they tried to attend. According to family members, the family was stunned. Linda Cluff, Michele's sister, was an exception. Martin allowed Linda to come to the funeral. Gypsy Willis admitted to investigators she attended the funeral and burial services and confirmed Martin did not want Michele's side of the family there. Gypsy asserted Martin never felt close to Michele's side of the family and believed they were always judging him. Also note worthy, Gypsy and Martin exchanged over 20 text messages between their respective cell phones on this day, two during the funeral service.

110. At the luncheon held on the same day, Linda Cluff (Michele's sister) reported Martin turned to a gentleman sitting next to him, and in a joking manner said, "I am going to have to get used to the life of being a bachelor, just hanging out with buddies and playing golf." Then Martin kind of laughed. Linda thought this was an odd thing for Martin to say and then to laugh about.

111. Martin's military records, obtained from federal agents, indicate Martin and Jillian Giselle MacNeill (Gypsy) reported they were married on April 14, 2007. Martin used this, and other information to obtain a military dependent identification card for Gypsy Willis. Those military records were falsified in numerous ways, allowing Gypsy Willis, to function under the name of Jillian Giselle MacNeill. The military I.D. allowed her access to military bases and the ability to open bank accounts under her new name, which she did on a number of occasions. However, the evidence in this case show Martin MacNeill and Gypsy Willis were never married. According to Gypsy, Martin used the funeral date as he and Gypsy's alleged marriage date intentionally.

112. On April 14, 2007, three days after Michele's death and approximately four days before a staged meeting between Martin and Gypsy (explained below) outside of the American Fork LDS Temple regarding the nanny position, Lani Holliday, a neighbor and friend of the MacNeill family, approached Martin in the funeral home. Lani told Martin she was out of work and based on her experience and knowledge of the family and children, she would be willing to work for him as a nanny to help care for the children. Martin told Lani he already hired a nurse from the Developmental Center he worked with to be their nanny.

113. It should be noted, directly after Michele's death, Martin began telling the children he needed a nanny to help him with the children. Both Alexis and Rachel told their father a nanny would not be necessary because they were willing to care for the children. Martin became angry and told them he was going to go through a hiring process to find someone suitable to live in the home and care for the children.

114. The neighbors were taken back when within the first week after Michele's death, Martin showed up at many of their homes, accompanied by Gypsy Willis, who was introduced to them as the family's new nanny. Martin presented the neighbors with a bottle of non-alcoholic wine and other gifts.

115. About April 16, 2007, frustrated with how cold Alexis was treating him, Martin screamed at her in an inquisitive way, asking if she thought he killed her mother. Alexis told Martin she believed he killed her mother.

116. About April 18, 2007, Steve Mickelson met with Martin in Martin's office at the Utah State Developmental Center. During the course of conversation that day, Martin explained how Michele was found. Martin told Steve he picked up his daughter Ada at the American Heritage School and they drove home together. Upon arriving at home, Martin said Ada ran into the home looking for her mother, which according to Alexis and other siblings was usual behavior for Ada. Martin said he followed her into the bathroom where he saw Michele the "wrong way" in the tub, the tub was full of bloody water, and Michele was face down in the water. Martin told Steve he pulled Michele out of the tub and immediately started CPR. Steve asked Martin how he thought the accident happened. Martin told him he thought Michele had fallen and hit her head on the faucet or a tile surrounding the bathtub. Steve said, "I didn't

question that.” Martin related he thought Michele’s incident may also have had something to do with the cosmetic surgery. According to Ada, she had to go and find Martin in the kitchen and drag him to the bathroom because he was slow in responding. Secondly, Martin did not pull Michele out of the water by himself as he reported to Steve, and according to Angie Aguilar, he did not perform CPR as he stated. As explained above, Steve also related Martin had responded to a number of patient deaths at the Developmental Center and was familiar with post-death investigations and reports. Medication was preserved at these deaths and they would leave the scene the way they found it for an imminent death investigation. Steve asserted Martin knew better than to throw Michele’s medication away, drain the tub, and clean up the scene.

117. On about April 18, 2007, approximately seven days after Michele’s death and prior to Martin’s nanny interview process, Martin went to the temple with Rachel (MacNeill’s oldest daughter) at the Mount Timpanogos (American Fork) LDS Temple. After exiting the temple, and during a conversation between Martin and Rachel, Gypsy approached them both. She introduced herself as if she and Martin had never met. Martin played along with this game for some time and invited Gypsy to apply for the nanny job. Martin intentionally left Rachel and Gypsy alone wherein Gypsy repeatedly encouraged Rachel to apply for a nursing career. This appears to be an attempt to get Rachel on friendly terms with Gypsy. After numerous attempts to befriend her, Rachel told Gypsy she was grieving over her mother’s death and for her (Gypsy) to leave her alone. After Gypsy left, Martin returned and yelled at Rachel, telling her she was worthless. Rachel left sobbing. During an interview with Gypsy Willis at the U.S. Attorney’s Office, Gypsy admitted scripting and staging the meeting in front of the temple.

118. According to Damian's girlfriend, Eileen Hang, one of the people Martin selected to be on the hiring board, Gypsy was the only applicant who showed up. Since a number of the children were aware of her name and Martin's relationship with her prior to Michele's death, Eileen recommended he not select her. Martin disregarded Eileen's recommendation and all of his children's protests stating he was tired of being told what to do by his children, and brought Gypsy into the MacNeill home within one to two weeks after Michele's death.

119. About April 19, 2007, Gypsy Willis, moved into the MacNeill home. It became apparent to the MacNeill children, Gypsy had few interpersonal skills needed to qualify her to be a nanny, and did not get along with any of them, except for Giselle on occasion. There was a considerable amount of contention in the home until Martin ordered the older girls out and sent the younger girls to the Bledsoe family in California, whom the MacNeill family had known only briefly years before.

120. About April 19, 2007, Martin ordered Rachel to leave the MacNeill home and move back to her apartment. Rachel had quit her job to stay at the home and babysit the children. Martin became furious with her and sent her back to her Salt Lake City apartment, telling both Rachel and Alexis he wanted them to live their lives as before and he did not need help.

121. Also on April 19, 2007, Martin informed Alexis he found the perfect nanny. Her name was Jillian (later confirmed to be Gypsy Willis). Alexis immediately told him Michele thought he was having an affair with a Gypsy Jillian Willis and accused him of it. Martin held a family meeting and kicked Alexis out of the house for lying about the alleged affair. Alexis was ordered not to speak to any of the children again.

122. About June of 2008, Vanessa asserted she met with her father because she thought he wanted to get her into a detox program; however, instead of a detox program he offered to end her life. She related: "He said, 'take my hand and leave with me.' He said, 'I will end your life and I will end my own.' And he said that's the only way that you'll feel peace. He said, 'just don't be afraid. Take my hand.'" Vanessa began to cry and left her father, scared he would try to kill her. She called Alexis to get a ride and reported to her what had happened.

123. On April 2, 2010, our office received a letter from Dr. Gary Dawson, a forensic toxicologist in Boise, Idaho. Dr. Dawson has been certified in numerous trials as an expert witness and has trained law enforcement officers and prosecuting attorneys on the subject. Upon receipt and review of a packet of information from the Utah County Attorney's Office, Dr. Dawson submitted his findings in the form of a letter, dated March 31, 2010. In his letter, Dr. Dawson states myocarditis, a condition listed as the cause of death for Michele MacNeill, can be exacerbated by certain drugs, causing the electrical activity of the heart, a condition known as prolonged QT interval, to be altered. According to Dr. Dawson, this arrhythmogenic potential is known to occur with at least two of the drugs found in Michele's blood, oxycodone and promethazine. He states, "This interaction is often independent of the blood level of the exacerbating agent(s). This drug/disease interaction cannot be ruled out as a possible contributing factor in the victim's death." Dr. Dawson also stated the combination of all of the drugs found in Michele's blood (oxycodone, promethazine, zolpidem, and diazepam) is what he termed as a "potent cocktail of medications that have addictive central nervous system depressant properties." Dr. Dawson went on to state the combination of the above listed drugs "can be expected to produce profound CNS depression. This would include symptoms such as

difficulty to arouse, loss of consciousness, respiratory depression, and coma. Such a condition would likely render the victim unable to respond appropriately to her environment including potential threats to her safety.”

124. Dr. Douglas Rollins, MD, PhD, is a professor of Pharmacology and Toxicology at the University of Utah. In October of 2010, investigators employed Dr. Rollins to review the toxicology results from Michele’s autopsy report and the American Fork Hospital. Dr. Rollins analyzed the drugs found in Michele’s body and explained an approximate time frame when each would have been taken and how much of the drug was in her system. He wrote, “...it is my opinion that to a reasonable degree of medical probability that Michele MacNeill ingested or was administered diazepam, phenergan, and zolpidem within 1 – 2 hours of her death and that the central nervous system depressant effects of these drugs caused her respiration to become depressed and for her to become unresponsive. It is also probable that she either had already ingested oxycodone or was administered oxycodone on the morning of her death. It is also my opinion that the combined effects of diazepam, zolpidem, phenergan, and oxycodone in Michele MacNeill could potentially have had a lethal effect.”

125. Dr. Joshua Perper, MD, is a medical examiner from the State of Florida. The Utah County Attorney, Jeff Buhman, authorized an expert to review Michele MacNeill’s medical examiner’s report. Dr. Perper is a Forensic Pathologist and former Medical Examiner with many years of experience and was contacted to review the medical findings. This review included Medical Examiner’s report, photographs, etc., and police reports generated during this investigation. Dr. Perper wrote his findings in a document dated March 9, 2012.

126. Dr. Perper found the immediate cause of Michele MacNeill's death was drowning. He also determined that there was no evidence of acute or active myocarditis, despite Dr. Frikke's findings that there was, noting that her access to important data was limited. Dr. Perper was unable to state with a reasonable medical certainty what manner in which Michele died, although he specifically ruled out natural causes, accident, and suicide. He left the manner of death as "undetermined" but acknowledged the suspicious circumstances in which she died. Moreover, Dr. Perper acknowledged his analysis when determining the manner of death is limited to only portions of the evidence, whereas, a fact-finder in a court of law is entitled to consider the entire case.

127. The investigation shows Martin MacNeill led a life filled with contradictions, deception, and manipulation. I believe it was his intention to rid himself of his family and wife, and that he (Martin) set into action a series of events leading to Michele's death. Almost immediately upon calling 911, Martin started lying about the events surrounding Michele's death. He lied to the dispatcher claiming to administer CPR prior to the paramedics and officers arrival. He told neighbors who responded to Ada's plea for help he needed a man's help to move Michele's body from the tub, delaying any possible medical assistance, as well as the destruction of key evidence.

128. Upon the arrival of police and paramedics, Martin immediately started lying about the events surrounding Michele's death in an effort to hinder, delay or prevent any police investigation. He lied to law enforcement about how Michele was found in the bathtub, suggested explanations for her death that were inconsistent with the physical evidence and

witness statements, and otherwise distracted police and medical personnel from their respective duties. He also lied to the 911 dispatcher about performing CPR.

129. Martin contacted Steve Mickelson at the Developmental Center to come to the scene. While at the scene, Martin misled Mr. Mickelson about his resuscitation efforts performed on Michele and later lied to him about the position of her body in the bathtub.

130. Upon returning to the home, Martin directed Eileen Hang to destroy Michele's medication, which she reluctantly did. He then lied to Alexis and other family members telling them the police took the drugs as part of the investigation. Martin removed many items of clothing, gifts, the hospital bed, and anything belonging to Michele from the house by the end of the day, making it virtually impossible for any type of subsequent investigation to take place.

131. In a number of subsequent conversations with Dr. Frikke at the Medical Examiner's Office, Martin made misleading statements to Dr. Frikke for use in her examination of Michele's body. He misrepresented the way he found her, what drugs she had taken, and the efforts he made to revive her. Dr. Frikke placed question marks by the answers indicating that Martin's responses were questionable and may not have matched the evidence. Unfortunately, because of Dr. Frikke's death, all we have remaining are the notes she made at the time of her conversations with Martin. During this interview, Martin was aware that an official investigation into Michele's death was opened and ongoing, and intentionally misled the police, the paramedics, the investigative efforts of the Medical Examiner's Office, and even friends and neighbors who he knew could be potential witnesses.

132. Steve Mickelson, a Physician's Assistant at the Developmental Center, who worked with Martin at great length in the medical field, was shocked by Martin's treatment of the

potential evidence at the scene of the death. He stated he and Martin attended a number of deaths in the Developmental Center and they both knew what needed to be preserved for a routine death investigation. They both knew a death investigation followed every death. Michele was unattended in her death. Every physician who saw and examined Michele prior to her death was shocked upon hearing of her demise, claiming she was healthy.

133. On March 14, 2011, Gypsy Willis appeared in the Fourth District Court, in Provo, Utah, before Judge Howard and pled guilty to Identity Fraud, a Second Degree Felony, two counts of False or Inconsistent Material Statements, Second Degree Felonies, and Wrongful Lien, a Third Degree Felony. These charges resulted from a scheme that Martin MacNeill and Gypsy Willis were involved in together shortly after the death of Michele MacNeill. Martin previously pled to State charges resulting from this scheme. This scheme included Martin MacNeill assisting Gypsy Willis in changing her identity to the name of Jillian Giselle MacNeill, and using the social security number of Giselle Marie MacNeill, Martin's and Michele's adopted daughter who he had sent back to the Ukraine after this identity theft. This identity theft was accomplished apparently in the hope of being relieved of Gypsy's debts or bad credit. Gypsy Willis was released from Federal Prison on March 12, 2011, where she served two years for Aggravated Identify Theft, involving this same scheme. Martin MacNeill received a four year prison sentence federally, with the state sentence running concurrently.

134. While Gypsy and Martin were incarcerated in separate prisons in the State of Texas, I became aware they were exchanging mail by going through a third party, a violation of federal prison policy. Doug Witney (an assisting investigator) and I interviewed Gypsy while she was serving her prison sentence in Fort Worth, Texas. The primary purpose of interviewing Gypsy

was to ascertain her knowledge into the death of Michele MacNeill. We showed her copies of letters she and Martin had written each other; she admitted they were communicating only after being shown copies of their mail. It also became apparent she would mislead us until she knew we had evidence to support what we were telling her. For example, she told us she had learned her lesson and put Martin out of her life. We refuted her statement by showing her a document found in her mail wherein they were attempting to get married while still in prison. Only when presented with the document did she acknowledge the attempt and that Martin was still a very big part of her life.

135. Based on the information provided in this Affidavit Martin MacNeill had the motive, access, intent, and capability to murder his wife, Michele MacNeill. Anna Osborne thought Martin was going to murder his wife and join her in Oklahoma months before she read about her death. The series of events leading to Michele's death may be identified as preparation for murder. Martin's relationship with his wife became estranged. Martin made numerous out-of-state trips with Gypsy Willis, one of his lovers, the latest showing his contempt for his marriage, taking Gypsy to Arizona on Martin's and Michele's wedding anniversary. There was then an intensification of Martin and Gypsy's relationship, shown by their actions and confirmed through Gypsy's statements. Their intensified relationship, in turn, led to suspicion and estrangement of Michele and the family. Martin was the chief advocate for Michele's plastic surgery. This gave him the ability to obtain a lethal combination of drugs with another physician's name on the prescriptions in an effort to deflect suspicion from him. This in turn created the sudden, post-op death scenario we believe Martin relied upon. Even though his wife wanted to wait until she corrected her hypertension and had her weight under control, it appears

Martin insisted the operation move ahead as scheduled. Martin's family saw him reading, for the first time in their memories, the Physician's Desk Reference (PDR) just prior to Michele's surgery. When Dr. Thompson required a physical examination before he operated, Martin found a physician who would squeeze her into his busy schedule, and he was persistent.

136. Martin appears to have had a first attempt at killing his wife by administering drugs to Michele, on the evening of April 4, 2007 or early morning hours of April 5th, after Michele was released from the hospital. The medications caused Michele to become listless and unresponsive as described by Alexis MacNeill. Because Alexis refused to leave Michele's bedside for the next seven days, Martin had to wait until Alexis was no longer by her mother's bedside and out of the home before another attempt would be possible. On the evening of April 10, 2007, Alexis left to continue her medical schooling in Nevada. The next morning, Michele was dead. The toxicology report showed evidence of each of the drugs Martin asked Dr. Thompson to prescribe Michele. This mixture of drugs was the same toxic cocktail described by several experts as incapacitating; a mixture Martin would have known would incapacitate his wife and leave her defenseless. According to Alexis, Michele was only taking one to two Percocet pills a day when Alexis left to return to school. According to the family, Michele did not like taking medication; her prescription history supports this claim. According to Dr. Grey, Utah State Medical Examiner, the metabolic process and the breakdown of the drugs was such it is likely some of the drugs were administered less than an hour before her death. On the morning of April 11, 2007, investigators have confirmed Martin was in the home for parts of the morning and otherwise within five minutes drive of the home. Martin clearly had time to administer the drugs to Michele.

137. In a phone call Michele made to Alexis at 8:44 A.M. on April 11, 2007, Michele expressed to her daughter she felt good and Martin was treating her better than he had in a long time. By 9:10 A.M., something changed. Martin left a message for Alexis telling her Michele was moving around too much and she needed to remain in bed. The call from Martin came from the Developmental Center. He would not have known the activities of his wife or lack thereof unless he was at the home or was making it up, or both.

138. Martin's behavior including, swearing, screaming, pounding his wife on the chest at their home and at the hospital, and cursing her for having an operation he insisted upon, appear (based on the evidence for motive described above) to be a facade. Medical personnel was surprised and in some cases offended when Martin offered them money to prolong life saving efforts, after spending nearly an hour trying to save Michele's life.

139. Martin's statement to his daughter, Rachel, while in the bathroom is telling. He said, "I want to make sure the autopsy is done right so no one believes I killed your mother." It seems unlikely he would make such a statement at this time, unless he felt guilt or simply was trying to feel out his oldest daughter's feelings. Martin already knew Alexis believed he killed her mother, based on their face to face conversations. Martin did not know what Rachel believed.

140. Martin's false statements relating to the death of his wife to numerous people is telling of his intentions. Michele was not face down in the water. She was only partially clothed by the time neighbors arrived to the home, likely because Martin removed some of her clothing off. Witness statements show he did not perform life saving CPR as he claimed and kept Michele in the tub for precious life saving minutes because he claimed he needed a male to help

him. Kristi Daniels is an airline stewardess who is knowledgeable in CPR and a strong, young woman who could have helped remove Michele from the tub. It was this same Kristi Daniels who ended up performing compressions on Michele during delayed CPR efforts. Dr. Frikke was never made aware of the volume of water in Michele's stomach related by Pleasant Grove Police Officer Motsinger.

141. The evidence gathered during the course of this investigation leads me to believe Michele MacNeill died in the tub located in an adjacent bathroom to her bedroom. Michele was incapacitated by a potentially deadly mixture of prescription drugs administered by Martin MacNeill, and then died in the tub in an upright, sitting position. In reference to the consumption of the toxic mix of drugs, Dr. Dawson and Dr. Rollins, both stated Michele would have been helpless to any attack or outside force. She had been made defenseless by Martin, her husband. Martin's attitude and actions show he wanted to be with Gypsy and Michele was keeping him from his new life. The consequences of divorce, including, paying for two homes, spousal support, child support, and dealing with the social fallout, were not a viable option. And his marriage to Michele seriously affected his ability to be with Gypsy.

142. This investigation shows, even years before Michele's death, Martin was no longer in love with and content with Michele. According to the family, he treated Michele very poorly; for example, she could not speak with neighbors without his permission. Dr. Welch stated Michele was depressed. Martin had chosen he had chosen Gypsy over his family and is evident when he attempted to give the younger children to the Bledsoe's, a family friend, to raise them following Michele's death, and his alienation of the older children.

143. The evidence also shows Gypsy wanted to be with Martin. During this investigation, I learned Gypsy placed a picture of Michele in her closet. According to Michele Savage (a former roommate of Gypsy), the reason for the picture in Gypsy's closet, related to her by Gypsy, was one has to "know their enemies." Gypsy proposed various scenarios to her roommate and schemed of how to get rid of Michele, including killing her. After setting up Gypsy in a Lehi rental, Martin attempted unsuccessfully to get his neighbor to allow Gypsy to house-sit for them while this neighbor was out of town. House-sitting in the neighborhood would place her closer to Martin. Martin and Gypsy's relationship continued to get stronger, and more intense, while at the same time Michele's and Martin's marriage grew increasingly strained because of Martin's extra-marital affair. The evidence suggests Martin's motive was to get rid of his wife, so he could continue his relationship with Gypsy in public without looking like he walked away from the marriage or was the one responsible for her death.

144. This investigation has revealed that Martin has reported to various doctors, including a record of admission on official military documents, he heard voices directing him to kill. Martin also asserted he killed family members and others. He told Anna Osborne (former mistress) he wrote an article about a mercy killing wherein he was a participant. He also, according to Anna, offered to kill her during a violent sexual episode. The investigation has also revealed Martin threatened previously to kill Michele and then himself in an Orem Police investigation of domestic violence, in which he was arrested. He threatened bodily harm to an individual who owed Gypsy money in a documented police report. He threatened and offered to kill his daughter, Vanessa, because she and her drug use were an embarrassment to the family

and it was the only way for her to obtain peace. Even Gypsy may have been physically abused by Martin and initially reported the beating to police, although she later withdrew her statement.

145. Evidence suggests Martin devised a scheme and creating opportunity to rid himself of Michele as a result of a plastic surgery operation. He knew his wife was drug sensitive and she was not interested in taking the medication prescribed for her, prescriptions given at Martin's request following the operation. Martin admitted to administering the prescribed drugs to Michele to the point he may have over-medicated her. After this incident Michele asked to touch the pills first so she could identify them (at least until the swelling and/or bandages surrounding and on her eyes subsided or were removed) Martin's statements and actions prior to and including the morning of April 11th, 2007, evidence his intent to kill his wife.

146. After reviewing in totality the known events of Martin MacNeill's life and the events leading up to the death of Michele MacNeill, Martin clearly had the motive, the intent, the opportunity, and the capability to kill his wife. The evidence also suggests Michele's death was planned in advance. Martin staged the death to appear as though it was related to Michele's surgery and unrelated to him. The post-mortem knowledge that Michele may have suffered from a cardiovascular disease, initially and unwittingly, created a cover for Martin; however, Martin's actions, together with his inconsistent, untrue statements along with the circumstantial and physical evidence shows Martin's intentions and how he carried out his plan successfully.

147. There is probable cause to believe Martin MacNeill committed Criminal Homicide, Murder, Utah Code Ann. § 76-5-203(2) (Supp. 2010). Additionally, probable cause exists he committed Obstruction of Justice, Utah Code Ann. § 76-8-306 (Supp. 2010).

148. Investigators believe Martin MacNeill is a serious threat to the community and a flight risk. Martin was released from federal prison on July 6, 2012. He is currently on federal and state court probation. Alexis Somers, daughter of Martin and Michelle MacNeill, and Linda Cluff, Michele MacNeill's sister, have reported they are concerned Martin will retaliate against them. A case is still pending before the Utah Appellate Court, where Martin was charged with forcible sexual abuse, the victim being his daughter, Alexis Somers. This incident occurred after the death of Michele MacNeill. Prior to entering federal prison, Martin MacNeill made threats that he would ruin Alexis Somers if she did not drop the Forcible Sexual Abuse charge.

149. As described above, Martin MacNeill has been involved with fraudulently changing the identities of others. He has lied to the courts in the 4th District and 3rd District Courts of Utah while acting as an attorney and as a co-conspirator involving Identity Fraud. He has a history of moving from one place to another throughout his life as he has gotten into trouble. During the Identity Fraud investigation, he moved from Utah to Washington. During that investigation our office discovered Martin defrauded both the Veterans Administration and Social Security out of hundreds of thousands of dollars by claiming he was disabled, asserting he was unable to work or go to school. He was eventually placed on 100% disability. He worked as a doctor and completed his law degree. On August 20, 2012, I spoke with Jennifer Johnson, Martin's federal Probation Officer. She informed me he was in the process of attempting to obtain financial assistance again from the Veterans Administration and Social Security.

150. While Martin MacNeill and Gypsy Willis were incarcerated in separate federal prisons for Aggravated Identity Theft, we found they were sending letters back and forth through a third party in order to hide the fact that they, two incarcerated felons, were communicating with

each other, in violation of Federal Bureau of Prisons policy. Some of these letters contained information about Alexis and the charges she was pursuing. They also discussed their love for each other and intentions to live together after prison. However, the state is not aware of any direct contact between Martin and Gypsy since their release from federal prisons.

151. Gypsy Willis is presently driving a vehicle registered in Martin MacNeill's name. The vehicle is: Make: BMW, Model: Z4 Convertible, year: 2005, Aluminum/Silver in color, with Utah license plate, #296NGV. In July of 2012, Gypsy hesitantly admitted to driving the BMW while Martin remained incarcerated. She originally told Adult Probation and Parole Officer, Jason Johnson, she did not have a vehicle to drive and friends gave her rides.

152. I believe Martin MacNeill is a flight and public safety risk. He has altered identities, moved from several locations as he gets in trouble; he is still facing a pending Sexual Abuse charge, and now Homicide and Obstruction charges. All of Martin's daughters are estranged from him and very afraid of him retaliating against them. He has made threats to ruin his daughter Alexis Somers if she did not drop the abuse charges. In the past Martin has threatened a previous boyfriend of Gypsy Willis with harm if he did not pay back a debt. Martin was arrested previously by Orem City Public Safety for threatening to kill Michele and himself with a knife. The Veterans Administration records indicate Martin reported earlier in his life, hearing voices urging him to kill a congressman. Gypsy Willis also reported Martin to police for committing an act of domestic violence against her, although she later retracted her statement. According to Anna Osborn, one of his mistresses, Martin told her he had killed a member of his family and patients. I do not have personal knowledge or evidence to show he actually committed these alleged homicides, only Martin's assertions to his former mistress. During one

terrifying sexual encounter with Martin, he nearly choked Ms. Osborn unconscious and asked her if she would like him to kill her. Anna believes Martin is a serial killer and so informed the Pleasant Grove Police Department shortly after Michele's death. After Michele MacNeill's death, Martin offered to take Vanessa MacNeill's (his daughter) life allegedly because of her drug addiction, and then take his own life. Martin has threatened to take his own life many times. Martin MacNeill is a public safety risk to himself and others.

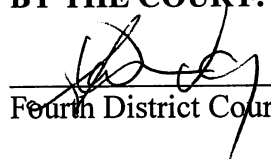
153. Martin potentially has access to large amounts of money. He is presently living in an upscale home in a gated community in Pleasant Grove, Utah, valued at approximately \$363,000 (according to Utah County Tax Records). However, the home was purchased for \$571,500 in 2006, and it is believed the market value of the home is well in excess of \$363,000. He owns the home outright (no evidence of any legitimate liens), although the home is the subject of litigation involving his daughter Alexis. He is presently unemployed, but nonetheless is able to meet his financial obligations suggesting access to money.

DATED this 24 day of August, 2012.


CHIEF JEFF ROBINSON
AFFIANT

SUBSCRIBED AND SWORN to before me this 24 day of August, 2012.

BY THE COURT:


Fourth District Court Judge

