

Prof. Leo's Evaluation

Supplement attached to the Pleading on the Merits



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April 19, 2002
Lori Voepel
Attorney at Law
Kimerer & Derrick
XXX XXXX XXXXXXXXXXXX Ave.
Phoenix, Arizona XXXXX
Re : Debra Milke

Dear Ms. Voepel,

At your request, I've reviewed the materials enumerated below in the case of Debra Milke in preparation for the report that follows :

R. Flynn's Police Report dated 12/2/89
R.G. Lee's Police Report dated 12/2/89
K. McCann's police report dated 12/2/89
T. Bartlett's police report dated 12/6/89
R. Jones' police report dated 12/17/89
F. DiModica's reports dated 12/3/89
Detective Masino's report dated 12/13/89
Detective Masino's report dated 12/4/89
Detective R. Kavanagh's report dated 12/5/89
Detective Meenk's reports dated 12/3/89
Detective Davis' report dated 12/5/89
Detective MacIver's reports dated 12/4/89
Detective MacIver's report dated 12/6/89
Detective Townsend's reports dated 12/4/89
Detective Yost's Police Reports dated 12/3/89
Supplemental Report of Detective Saldate dated 12/5/89
Detective Mills' report dated 12/5/89
Detective Mills' report dated 12/6/89
Detective Hamrick's reports dated 12/5/89
Detective House's report dated 12/4/89
Detective Olson's reports dated 12/4/89
Detective Kavanagh's report dated 12/5/89
Officer Criswell's report dated 12/5/89
Detective Hutson's report dated 12/3/89
Detective Kavanagh's report dated 12/6/89
K. Krogh's report dated 12/2/89
Detective Meenk's report dated 12/6/89
Detective Armitage's report dated 12/3/89
Detective Saldate's report dated 12/6/89
Detective Kavanagh's report dated 12/4/89
Detective Hamrick's report dated 12/6/89

[Officer Petrosino's report \(undated\)](#)
[Detective Mills' report dated 12/5/89](#)
[Detective Armitage's reports dated 12/6/89](#)
[Detective Hamrick's report dated 12/6/89](#)
[Detective Mills' report dated 12/7/89](#)
[Detective Scott's report dated 12/4/89](#)
[Detective House's report dated 12/7/89](#)
[Detective Mills' report dated 12/17/89](#)
[Detective Saldate's report dated 12/20/89](#)
[Detective Mills' report dated 1/3/90](#)
[Detective Mills' Supplemental report dated 1/31/90](#)
[Memo from Jim Corey to Detective Buckner dated 5/6/90](#)
[Phoenix Police Department Supplemental Report dated 6/15/90](#)
[Phoenix Police Department Supplemental Report dated 6/23/90](#)
[Phoenix Police Department Supplemental Report dated 6/30/90](#)
[Phoenix Police Department Supplemental Report dated 7/6/90](#)
[Phoenix Police Department Supplemental Report dated 7/7/90](#)
[Phoenix Police Department Supplemental Report dated 7/19/90](#)
[Phoenix Police Department Supplemental Report dated 7/22/90](#)
[Phoenix Police Department Supplemental Report dated 8/14/90](#)
[Maricopa County Attorney's Office Supplemental Report dated 10/22/90](#)
[Maricopa County Attorney's Office Supplemental Report dated 10/24/90](#)
[Pinal County Sheriffs Office Offense Report Dated 10/29/90](#)
[Phoenix Police Department Supplemental Report dated 10/31/90](#)
[Pinal County Sheriff's Office Offense Report dated 7/20/98](#)
[Pinal County Sheriffs Department Evidence & Control of Property dated 12/3/89](#)
[Interview of Armando Saldate dated 5/3/90 \[should read : 06/26/1990\]](#)
[Voluntariness Hearing transcript, State of Arizona vs. Debra Jean Milke, Dated 9/10/90](#)
[Voluntariness Hearing transcript, State of Arizona vs. Debra Jean Milke, Dated 9/10/90](#)
[Voluntariness Hearing transcript, State of Arizona vs. Debra Jean Milke, Dated 9/11/90](#)
[Transcript of trial testimony in State of Arizona v. Debra Jean Milke, dated 9/12/90](#)
[Testimony of Armando Saldate in State or Arizona v. Debra Jean Milke dated 9/13/90](#)
[Pinal County Sheriff's Office Offense Report dated 10/29/90, written by Robert Soules](#)
[Supplemental Report of Detective H.E. Hamrick dated 12/5/89](#)
[Supplemental Report of Detective DiModica dated 12/3/89](#)
[Transcript of grand jury proceedings dated 12/8/89](#)
[Habeas Corpus Petition with Index of Exhibits](#)
[Transcript of Detective Saldate's June 26, 1990 Interview](#)
[Affidavit of Dr. Garcia](#)
[Affidavit of Bob Benson](#)
[Affidavit of Ken Lindley](#)
[Debra Milke's trial testimony pertaining to Detective Saldate's interrogation](#)
[Affidavit of Robert Chermak](#)
[Detective Saldate's Supplemental Report regarding his interview with Sandra Pickinpaugh](#)
[Transcript of Detective Saldate's interview with Sandra Pickinpaugh](#)
[Affidavit of Renate Janka](#)
[Affidavit of Roland Steinle](#)
Excerpts of Detective Mills' Testimony relating to Roger SCOTT Roger SCOTT's statements to police

- A) Detective Jones' supplemental report
- B) Detective Jones' subsequent supplemental report
- C) Detective Jones' supplemental report regarding interview with Roger SCOTT at 4:18 a.m. and transcription of that interview
- D) Detective Masino's supplemental report
- E) Detective Mills' supplemental report regarding interview with ROGER SCOTT at 11:00 a.m.
- F) [Detective Saldate's supplemental report regarding interview with ROGER SCOTT](#)
- G) Detective Millls' supplemental report regarding interview with Roger SCOTT at approximately 8:00 p.m. and transcription of that interview

[Exhibit 15 to Debra Milke's Habeas Corpus Petition](#)
[Roger SCOTT's Habeas Corpus Petition](#)
[Dr. Donald Tatro's report on ROGER SCOTT dated August 2, 1990](#)
[ROGER SCOTT'S Pre-sentence Investigation Report](#)
[Testimony of JAMES LYNN STYERS \(October 29-30, 1990\)](#)
[Interview of JAMES STYERS \(December 3, 1989\)](#)
[Suspension notice of Armando Saldate dated August 31, 1973](#)
[Order by Judge Robert C. Broomfield dated April 3, 2001](#)
[Phoenix Police Department's Operations Order Number C-5 "General Investigative Procedures" dated 5/92](#)
[Audio-tapes of interviews of Roger SCOTT on December 3, 1989](#)

REPORT

The purpose of this report is to evaluate the above materials and render an opinion about the quality of interrogation practices used by Detective Saldate and whether they likely resulted in a fabricated or false confession from Debra Milke.

I. Background

I am an expert in the area of police interrogation practices, coercive interrogation techniques, false confessions and miscarriages of justice. I have conducted extensive research on police interrogation and confessions since 1990. In this time, I have analyzed over 800 cases involving interrogations and confessions; I have researched, written and published numerous peer-reviewed articles on interrogation and confession in scientific journals; and I am currently completing a book on the history, law and psychology of American police interrogation practices. In addition, I have consulted on more than 300 cases involving disputed interrogations and/or disputed confessions, and I have testified in state, federal and military courts on sixty six (66) occasions on the subject of interrogation and confession in sixteen (16) different states. As a result of my extensive research and publication, I am regarded as a national authority on police interrogation practices, coercive influence techniques, and false confessions.

II. The Interrogation of Debra Milke

According to Detective Saldate, he interrogated Debra Milke with the intent of getting the truth, not necessarily a confession. Detective Saldate asserts that he took a straightforward approach with Ms. Milke, as he does with all suspects, in which he told her that he would tolerate no lies and, in a friendly manner, asked her to tell the truth. After informing her that her son was dead, Detective Saldate relates that Ms. Milke became visibly upset, that he instructed her to calm down and be quiet so that he could inform her of her Miranda rights, and that she voluntarily waived these rights. Shortly after he instructed Ms. Milke to tell the truth, Detective Saldate asserts that Ms. Milke began to spontaneously confess to killing her son, speaking in a largely uninterrupted and narrative format (Detective Saldate estimates that Ms. Milke carried 80% of the conversation during the interrogation), and seemed relieved after confessing to soliciting the murder of her young son. Detective Saldate reports that Ms. Milke told him that she not only felt relieved by confessing to him, but that she found in him a person whom she could speak to and that, while confessing to murdering her son as she spoke to him, she began to regain her self-esteem and felt that she had found a friend in Detective Saldate.

Detective Saldate's account is problematic, troubling, and at times altogether implausible, for several reasons.

First, Detective Saldate's assertion that he did not presume Ms. Milke's guilt from the start is contradicted by his behavior and statements prior to and during the interrogation of Ms. Milke. Police are trained only to arrest and interrogate suspects whom they believe to be guilty. Detective Saldate acknowledged before he left Phoenix for Florence that he was going to arrest Ms. Milke, and, according to his report, proceeded to arrest her upon entering the interrogation room - even before reading her Miranda rights and even before he says he told her he was there to get the truth. This is not how police detectives question individuals whom they presume to be innocent; rather, it is how they interrogate suspects whom they presume to be guilty. If Detective Saldate did not presume Ms. Milke's guilt, then he would have interviewed her in a non-custodial format. Instead, he arrested her prior to questioning her, instructed her to be quiet and calm down, and then read her Miranda rights -- all hallmarks of a custodial interrogation, not a non-custodial interview. It is telling that Detective Saldate early in the interrogation told Ms. Milke that she was not telling the truth when she denied committing the crime (before Detective Saldate had any basis for presuming the truth or falsity of what she was telling him and clearly contrary to any assertion of objectivity on his part). It is well-known in police work that while the purpose of a non-custodial interview is to get the truth by asking non-threatening and open-ended questions, the purpose of a custodial interrogation is to get a confession by using interrogation techniques that involve, among other things, accusing a suspect of having committed a crime, cutting off any denials, and pressuring them to confess. Detective Saldate's assertion that he was merely questioning Ms. Milke to find the truth, not to get a confession, is therefore not credible; Detective Saldate's report, statements and behavior all indicate that he presumed Ms. Milke's guilt from the start and thus that the purpose of interrogating her was to get a confession, which he presumed to be the truth. Moreover, Detective Saldate's rush to judgment appears to violate the Phoenix Police Department's stated investigation policy of keeping an open mind and allowing for the possibility that the suspect did not commit the crime.

Second, Detective Saldate's failure to record the interrogation means that no one, other than Detective Saldate and Debra Milke, can ever know with complete certainty what transpired during the interrogation. In effect, Detective Saldate's failure to record is tantamount to destroying the evidentiary record of the most significant piece of information in this case -- whether Debra Milke confessed to the murder of her small son and whether or not such a confession, if it occurred, was indeed by coercive and untrustworthy means. Detective Saldate's failure to record the interrogation is especially troubling in light of the fact that he was instructed by his superior to record his conversation with Ms. Milke and that tape recorders were readily accessible to him at the Phoenix Police

Department prior to his departure to question Ms. Milke. Under these circumstances, it was extremely unprofessional for Detective Saldate to fail to tape record or otherwise memorialize his interrogation of Ms. Milke.

Third, Detective Saldate's assertion that he failed to record the interrogation because Ms. Milke did not permit him to do so is simply implausible and, in my opinion, severely undermines Detective Saldate's credibility. This assertion is implausible because Detective Saldate clearly took control of the interrogation early on when he told Ms. Milke to be quiet and calm down and when, he says, informed her of her Miranda rights. It is hard to imagine that someone who was so commanding at the beginning of the interrogation and during the reading of the Miranda rights would suddenly become so accommodating when asking for permission to tape. In fact, it is hard to imagine that Detective Saldate even asked Ms. Milke for permission to tape record the interrogation at all, for this would be both contrary to police training, contrary to police practice in general, contrary to Detective Saldate's practices in particular, and simply unnecessary. It is far more probable that, instead, Detective Saldate simply made up this statement in order to justify his failure to follow his superior's instruction, his inexplicable failure to bring a tape-recorder with him, and his failure to record the interrogation. Police interrogators are trained to take control over a suspect during an interrogation, not to ask suspects for permission for anything (in fact, asking a suspect for his or her permission for anything, other than the Miranda waiver that precedes interrogation, would be contrary to what is regarded as good police practice in the interrogation industry). In the more than 800 interrogations that I have either observed or studied, I cannot recall ever seeing an interrogator ask a suspect for permission to tape record the session; I have, however, often seen interrogators record the session without even mentioning this fact to the suspect. In this case, it is curious that Detective Saldate states on the final sentence in his report of Ms. Milke's interrogation that it was not tape recorded because she denied permission, when Detective Saldate does not make any such disclaimers on any of his other reports for his interviews and interrogations of Roger SCOTT, Mark Milke, Chris Landry or Sandra Pickinpaugh. In fact, Detective Saldate elsewhere acknowledges that it is simply not his practice to tape record interviews or interrogations.

Fourth, in addition to failing to tape record the interrogation, Detective Saldate's other behavior, both during and after the interrogation, also cast doubt on his credibility and his professionalism. The manner in which Detective Saldate states he elicited Ms. Milke Miranda waiver is troubling, if not illegal. The fact that there is no written Miranda waiver, that Ms. Milke alleges that she was bullied into waiving her Miranda rights, and that Detective Saldate destroyed his contemporaneous notes of the interrogation are also suspicious, especially in light of the other circumstances surrounding this case. They suggest that Detective Saldate may well have psychologically coerced Ms. Milke into responding to his questions, and that, once again, Detective Saldate destroyed the evidentiary records of what occurred during the interrogation in order to hide his illegal behavior and/or divert any suspicion from himself. It is highly unprofessional for police detectives to destroy their notes, especially in capital murder cases that are, or will soon be, the subject of intense scrutiny by other officials in the criminal justice system. It is extraordinary that Detective Saldate not only failed to tape record the interrogation and then destroyed his notes, but that he also failed to write out or have Ms. Milke sign a confession statement and that he wrote up his recollection of the interrogation and alleged confession three days later. This is an extraordinary lapse of professionalism, if not outright negligence, in any case - but especially in a high-profile capital murder case such as this in which there is no physical evidence corroborating the alleged confession. Moreover, Detective Saldate's failure to record or memorialize the interrogation, his failure to have Ms. Milke sign any written statement documenting that the disputed confession even occurred, and his decision to destroy his notes (the only contemporaneous record of the actual interrogation) all violated Phoenix Police Department Policy, which instructs detectives to "document everything said by the suspect."

Fifth, many of Detective Saldate's assertions about what occurred during the interrogation are simply implausible. For example, Detective Saldate's assertion that he did not use any interrogation techniques is very hard to believe. Police detectives are taught to use specific interrogation techniques to elicit confessions from criminal suspects and, beyond their classroom training, they learn to use additional interrogation techniques in the field. Everyone in the police business knows that suspects do not give spontaneous, unprompted, free-wheeling narratives to serious crimes such as murder. Yet this is exactly what Detective Saldate alleges occurred during his interrogation of Ms. Milke. His account, however, simply does not wash. It usually takes a lot of pressure to get an individual to confess to murder, and therefore interrogation, by design, involves accusation, confrontation, the overcoming of denials and objections, and the use of inducements and appeals to motivate the suspect to comply with the interrogator's demand that he or she confess. For these reasons, interrogators almost always do most of the talking during the interrogation, and they use a wide range of psychological techniques to influence, pressure and manipulate suspects into confessing. Suspects almost never dominate the discussion by issuing lengthy narratives, for this would be contrary to the very nature of the interrogation of suspects (as opposed to the interviewing of non-suspects). Detective Saldate states that in his interrogations the following pattern generally occurs - he talks for 10% at the beginning, the suspect talks for 80,% in the middle and he talks for 10% at the end - and that this pattern also occurred in the Milke interrogation. Here it is almost certainly the case that Detective Saldate is confusing what really did occur during the Milke interrogation with what he would like to believe occurred ex post facto. For it is completely contrary to police interrogation training and practice that a suspect would do 80% of the talking in any interrogation leading to an actual confession.

Sixth, there is a wide incongruity between how police are trained to interrogate, how they interrogate in practice, and how Detective Saldate states he supposedly questioned Ms. Milke in particular. Some of the statements that Detective Saldate imputes to Ms. Milke are simply not believable. Although police interrogators are trained to make appeals to conscience, and sometimes like to think that a suspect experiences some kind of moral or cathartic relief after confessing to them, in practice this almost never occurs. Very few suspects actually report feeling better after confessing to police detectives. It is therefore unlikely that Ms. Milke actually told Detective Saldate that she felt better or suddenly unburdened or as if she had taken a load off her shoulders after confessing to him. Or that she somehow regarded Detective Saldate as a friend (during merely one-half hour of interrogation !) or that she somehow felt comfortable with him because she knew she was under arrest and going to jail or that she felt relaxed when she left the interrogation. These assertions literally make no sense. Moreover, it is almost certainly the case that Ms. Milke did not ask Detective Saldate if she could get probation for life after confession to murder or ask if she could have her tubes tied in exchange for probation for life. These statements are simply too implausible, if not bizarre, to have been made during a police interrogation while confessing to the (first degree) murder of a small child in a state that strongly endorses the death penalty. It is also hard to believe that Ms. Milke, after confessing to first degree murder, would have told Detective Saldate that she finally found someone to whom she could speak her mind. Detective Saldate's assertion here borders on the ludicrous. The only plausible explanation is that Detective Saldate's self-serving statements seek to cast the interrogation occurred - that Detective Saldate used no interrogation techniques, that Ms. Milke did virtually all of the talking, that she experienced almost instantaneous bonding with, and moral catharsis from, Detective Saldate (as if speaking to a priest), because he was so uncommonly "straightforward" with her, and, in the short space of a half hour, felt rewarded because she had found a friend in Detective Saldate and was now at ease with herself because she had been arrested and knew she was going to be punished. Such assertions fly in the face of all reason, logic and experience. Detective Saldate's narrative of what occurred is widely implausible and, in my profession opinion, therefore cannot be credited.

Seventh, Detective Saldate's assertion about the meaning of Ms. Milke's "body language" and behavior during the interrogation is not credible. In his written reports, deposition and testimony, Detective Saldate too often treats his gut hunches, speculations and intuitions as if they are established facts, rather than treating them as hypotheses to be tested against the evidence. For example, Detective Saldate asserts that Ms. Milke feigned grief when told of her son's death and that she pretended to cry but that no tears were coming out, inferring that this is clear evidence of her disingenuousness and guilt. In fact, it is evidence of nothing other than Detective Saldate's presumption of guilt. It is well-known that suspects react to the stress of accusation and interrogation differently. Even if Ms. Milke had been crying without tears or acting hysterical, this is not a reliable indicator of guilt or deception. That Detective Saldate treats his perceptions of Ms. Milke's body language as if it constitutes evidence of her guilt suggests his bias against her, his poor training and his inability to objectively investigate this case.

Eighth, Detective Saldate's demonstrable investigative bias is deeply troubling in this case in light of the salient fact that there is no evidence, other than his word, that Debra Milke confessed to the capital murder of her only child and that, as a result, she now awaits execution. As mentioned above, Detective Saldate presumed Ms. Milke's guilt from the beginning (even prior to questioning Ms. Milke) and immediately set out to confirm this belief by getting a confession from her. Detective Saldate's rush to judgment and investigative bias explain, in my opinion, how he could interpret her body language and behavior during interrogation in such self-serving, if utterly implausible, ways and how Detective Saldate could generate an equally implausible scenario of how and why Ms. Milke allegedly confessed to the murder of her son (i.e., virtually spontaneously in a largely uninterrupted narrative format) and how she supposedly felt about the act of murdering her son (i.e., relieved) and of how she felt about Detective Saldate himself (i.e., that she had found in him a friend to whom she could unburden herself and who would allow her to regain her self-esteem). Although Detective Saldate failed to record or otherwise preserve his interrogation of Ms. Milke and subsequently destroyed his notes, he did interview Ms. Milke's sister, Sandra Pickinpaugh, who chose to record the interview. This interview demonstrates two key facts with regards to Detective Saldate's bias against Ms. Milke. First, it reveals that Detective Saldate is attempting to persuade and influence Ms. Pickinpaugh's perceptions of Ms. Milke's guilt rather than merely soliciting information from Ms. Pickinpaugh as if his role is to be an advocate rather than an investigator. Detective Saldate's behavior here is contrary to any expectations of objectivity and contemporary standards of professional police investigation. Second, Detective Saldate's investigative bias can also be demonstrated by the discrepancies between his portrayal of what was said during his interview of Pickinpaugh and what the transcript of the recorded interview reveals was actually said.

Ninth, all of the above concerns are especially troubling in light of Detective Saldate's history and pattern of alleged and proven misconduct in criminal cases involving disputed interrogations and/or confessions. The cases that I have reviewed reveal that Detective Saldate has repeatedly either been accused of or shown to violate suspect's Miranda rights (as alleged here), that Detective Saldate has repeatedly exploited vulnerable suspects (as alleged here), and that Detective Saldate has repeatedly rushed to judgment and manipulated information and construed evidence in order to build a case against the person whom he believes to be the perpetrator rather than objectively or dispassionately investigate and assemble case facts (as alleged here). Perhaps needless to say, the pattern of alleged

and proven investigative and interrogation misconduct by Detective Saldate in the eighteen (18) cases under review cast considerable doubt on Detective Saldate's credibility, integrity and professionalism. So too does Detective Saldate's disciplinary record with the Phoenix Police Department. It is especially troubling to learn that Detective Saldate once pursued sexual favors from a female motorist in exchange for not arresting her on a traffic warrant and then lied to a supervisor about this act of corruption, leading the Phoenix Police Department to question his "honesty, competency and overall reliability" (Detective Saldate admitted to pursuing sexual favors from an fugitive female motorist and then lying to a supervisor only after he failed a polygraph and was interrogated).

Finally, the statements that Detective Saldate elicited from ROGER SCOTT to implicate Ms. Milke are inherently unreliable and, in my opinion, cannot reasonably be construed to corroborate Ms. Milke's alleged, but undocumented, confession. By his own admission, Detective Saldate used coercive interrogation techniques to elicit statements from MR. SCOTT. We know, for example, that Mr. SCOTT was detained for eighteen hours; that he was not given food or medication for eleven hours; that he was left alone for long periods of his interrogation; that Detective Saldate threatened to go to the apartment of MR. SCOTT's mother (who was in poor health) and interrogate her if he did not cooperate. These coercive tactics - the threat to interrogate a vulnerable relative in poor health, the deprivation of food and medication, and the lengthy, incommunicado interrogation - could easily have caused a person of normal intelligence and hardiness to make false statements to please his interrogator. The risk of coercing false statements from Mr. SCOTT was heightened by his weak personality and history of psychological problems. According to Dr. Tatro, MR. SCOTT, who is a Vietnam veteran with a history of mental illnesses and medical problems, has a "passive dependent personality," and is, by his nature, highly suggestible, submissive, and compliant. The statements from MR. SCOTT'S trial lawyers - that he would agree to or sign anything they put before him, even if he did not comprehend it or it is not the truth, just to please them and avoid conflict - bear our Dr. Tatro's diagnosis. Such a personality is at marked risk for making false statements in response to minimal police pressure, let alone the kinds of interrogative pressures that Detective Saldate brought to bear here. It is, perhaps, not surprising that over the course of eighteen hours, MR. SCOTT changes his story five times and, at times, appears to give confused, illogical, disjointed and/or inconsistent statements. While MR. SCOTT may have been an accessory to, or aider and abettor of, the murder of Christopher Milke, his interrogation-induced statements about the alleged role of Ms. Milke in this crime appear to be inherently unreliable and do not, in my opinion, serve as corroboration for her undocumented, unsigned and disputed confession. The weight of the evidence I have reviewed in this case suggests that MR. SCOTT's statement that Ms. Milke orchestrated the murder of her child is not accurate. The combination of all these risk factors - the coercive interrogation, Mr. SCOTT's psychological disabilities, and a disputed confession that was neither documented nor signed nor corroborated - strongly raise the possibility that the ultimate miscarriage of justice may have occurred here : the wrongful conviction of a factually innocent person who awaits execution.

III. Conclusion

In my professional opinion, much of Detective Saldate's account of what transpired during his interrogation of Debra Milke is not credible. For example, Detective Saldate's reporting of Ms. Milke's body language during the interrogation, even if true, does not support his inferences about her guilt. Or to take another example, Detective Saldate's assertion that he used no recognizable interrogation techniques but simply implored Ms. Milke, in a friendly manner, to tell the truth is plainly not credible in light of what we know about police interrogation training and practice. Nor is Detective Saldate's assertion that Ms. Milke spoke for 80% of the interrogation in an unprompted, freewheeling, narrative fashion. The examples of Detective Saldate's misrepresentations and interrogation misconduct in other disputed confession cases, including his failure to read or honor a suspect's Miranda warnings, also casts substantial doubt on Detective Saldate's assertions. In short, much of Detective Saldate's account of what occurred during his interrogation of Ms. Milke is simply not plausible or credible.

In addition, it is my opinion that much of Detective Saldate's account reveals an inexcusably low level of professionalism that casts considerable doubt on his assertions about Ms. Milke's interrogation, as well as his integrity. For example, it is remarkable that Detective Saldate failed to tape record the interrogation even though he was instructed to do so by his superior. That he destroyed his notes from this interrogation, failed to obtain a signed Miranda waiver or confession statement from Ms. Milke, and waited three days to produce a summary report of the interrogation is also highly suspicious and highly unprofessional. Properly trained professional interrogators acting in good faith simply do not destroy the record of the only meaningful evidence-gathering in a capital murder case.

Because of Detective Saldate's inexcusable failure to tape record and thus preserve the record of Ms. Milke's interrogation, it is impossible to know with complete certainty exactly what transpired during this interrogation. It is therefore impossible to know with complete certainty whether Detective Saldate fabricated or coerced a confession from Ms. Milke or whether, as he asserts, she provided a voluntary and truthful statement of guilt. However, because many of Detective Saldate's representations about his interrogation of Ms. Milke are either implausible or contrary to established police interrogation training and practice, they cast considerable doubt on the professionalism and reliability of his judgments. Although it is not possible, based on the materials that I have reviewed, to

conclude with 100% certainty that Ms. Milke's confession was fabricated, it is my professional opinion that Detective Saldade's account of the interrogation and alleged confession is too untrustworthy to support a conviction (especially a capital conviction), and that he may very well have fabricated or coerced a false or non-existent confession from Debra Milke. In the hundreds of cases I have studied, I have never seen a conviction rest on nothing more than a disputed, undocumented and unsigned confession.

If you have any questions about my analysis or conclusion in this report, please do not hesitate to contact me.

Sincerely yours,
Richard A. Leo
Associate Professor of Criminology, Law & Society; and
Associate Professor of Psychology and Social Behavior
University of California, Irvine

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