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# WHEN WORLDS COLLIDE



## Criminal Investigative Analysis, Forensic Psychology, and the Timothy Masters Case

**This article is approved by the following for continuing education credit:**

The American College of Forensic Examiners International provides this continuing education credit for Diplomates.

**After studying this article, participants should be better able to do the following:**

1. Understand the difference between criminal investigative analysis and forensic psychology.
2. Consider ethical considerations when offering forensic psychological opinions.
3. Implement *Daubert* factors when evaluating the appropriateness of forensic testimony.

**KEY WORDS:** Reid Meloy, Timothy Masters, criminal investigative analysis, forensic psychology, Roy Hazelwood, sexual homicide, motive fantasy, pseudo-profile

**TARGET AUDIENCE:** Criminal investigators and psychologists

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**DISCLOSURE:** The author has nothing to disclose.

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**T**his paper offers an analysis of the series of events that occurred when a homicide detective contacted an international expert in forensic psychology to assist in the arrest process and the prosecution of a targeted sexual homicide suspect. The forensic psychologist developed a psychological profile of a killer using narrative and drawings made by the suspect to conclude that the suspect's fantasy was the motive and behavioral preparation for the sexual murder, regardless of the fact that the forensic psychologist knew that there was no direct or physical evidence linking the suspect to the crime. In this article, the authors examine the case of Timothy Masters, who was arrested and convicted of sexual murder based on the testimony of a forensic psychologist while the opinion of a criminal investigative analyst was ignored.

### Introduction

It is not uncommon for lay persons to erroneously believe that criminal investigative analysis, commonly referred to as "criminal profiling," is synonymous with forensic psychology, especially with the rise in popularity of television programs on profiling that incorporate psychological concepts. Further confusion may occur because practitioners in both fields read the same research, interview the same criminals, attend the same seminars, develop professional relationships, and cite one another's scholarship. However, what happens when forensic psychologists advance opinions about criminal matters based on the extrapolation of academic research on psychological concepts involving sexual homicide cases and reject the opinions of professional criminal profilers who incorporate law enforcement analysis coupled with criminal evidentiary considerations into their work?

**Timothy Masters**, who spent over 9 years in a Colorado prison for the murder of Peggy Hettrick, was released on January 22, 2008. Shortly thereafter, all homicide charges were dropped based on new DNA evidence pointing to other suspects. Masters, who always maintained his innocence, was convicted largely on the testimony of **forensic psychologist, Dr. Reid Meloy**. His violent sketches and stories produced when he was an adolescent were used as evidence to arrest and convict him in 1999 of killing **Peggy Hettrick** in 1987, a conviction that was upheld by the Colorado Court of Appeals and the Colorado Supreme Court. Masters's prosecution raises troubling questions, primarily because it pivoted on the controversial opinions of a board certified forensic psychologist who analyzed Timothy's sketches and con-



▲ Timothy Masters at the age of 15



▲ Timothy Masters when released from prison

cluded the drawings reflected specific personality traits, a motive and behavioral preparation to commit sexual homicide. Masters was convicted without a single shred of direct evidence, such as a confession, or physical evidence such as DNA, and was sentenced to life in prison without parole.

In this article, the authors review the sexual homicide investigation leading to the arrest of Timothy Masters, analyze the reasoning of the forensic psychologist's theories used to justify the prosecution, include **former FBI profiler Roy Hazelwood's analysis** of the sexual homicide that was never revealed to the defense, and provide an analysis of the legal implications of the case together with recommendations for forensic psychological practitioners.

### The Sexual Homicide Investigation

In 1987, 15-year-old high-school sophomore Timothy Masters lived with his father in Fort Collins, Colorado, a university town on the plains east of the Rocky Mountains. On February 11, 1987, the murdered body of Peggy Hettrick was found in a field not far from his residence. Hettrick's private areas were mutilated; with surgical precision, her killer removed her left nipple, areola, and part of her vulva. She was stabbed in the lower back causing a rib to break and then dragged into a field as evidenced by the drag marks in the soil. The body had been partially disrobed and positioned on its back with the legs slightly apart and arms over the head, exposing the

right breast and pubic area. After the delivery of the fatal wound, a bloody trail indicated that the perpetrator dragged the victim's body 103.5 feet into the field where it was found.

According to law enforcement, Timothy Masters was an early suspect because he saw the body on the way to school but failed to report it. Without consulting an attorney, he and his dad allowed detectives to search their home and Tim's school locker, where the police retrieved his writings, sketches, and survival-knife collection. Timothy's school locker contained a hand-drawn map of what appeared to be the field where Hettrick's body was found and a sketch of a person dragging a body. In his backpack were two Mother's Day cards he had made years before, while his mother was still alive. The detectives also found a calendar with a date circled reflecting the date that Timothy's mother died four years earlier. Peggy Hettrick had been murdered one day shy of the February 12th anniversary of the death of Timothy's mother. **Detective Francis Gonzales** found Masters at school, and Masters told him he



**“Officers found no blood and no body parts in the house. There was no fiber, hair, skin, fingerprints, or other evidence that linked Masters to Hettrick, or an eyewitness.”**

had seen Hettrick's body but assumed it was a mannequin put in the field by his friends in an attempt to trick him. Indeed, even the bicyclist who reported the body told police that he too thought it was a mannequin (Yager, Smith, & Goldbaum, 2008).

The detectives also found what would become the most prejudicial of the prosecution's evidence a decade later when Masters was put on trial for Hettrick's murder: hundreds of extremely violent drawings and stories in his bedroom. Many of the pictures showed stabbings with knives and swords; much of the violence was directed at women. A sketch that would be particularly damning showed a figure that had been shot with arrows being dragged by another figure in the same manner police believe Hettrick's killer dragged her. While Masters's volume of drawings raised questions, they did not trigger his arrest because the bedroom and its contents were equally notable for what officers did not find. Officers found no blood and no body parts anywhere in the house. There was no fiber, hair, skin, fingerprints, or other physical evidence that linked Masters to Hettrick, or any eyewitness. The survival knives were tested at the Colorado Bureau of Investigation and found to have no trace of the victim's blood or DNA. There were footprints, but he lived next to the field and walked through it every day, so his footprints would be present.

The police also found a suitcase containing pornographic photographs and a large number of writings and drawings Masters had produced. Additional sets of drawings and writings were seized by police in 1998 when the defendant was arrested. In all, police seized approximately

2,200 pages of material produced by Masters; over 1,000 of these were admitted at trial.

#### **Drawings by Timothy Masters During His Adolescent Years**

During the interrogation, Timothy's father sat outside the interview room. After reading Timothy his Miranda rights, officers prodded him to talk about killing, to think like a killer, to talk about what weapons he might use, and where he might put a body, yet Timothy did not confess. By the sixth hour, it was **Detective James Broderick's** turn to tell Timothy to come clean about how he fulfilled a fantasy by killing Hettrick: “Why can't you just say it? Why is it so hard for you to tell me? You got to admit it when it's over. People get killed in battle, right? Their friends die! A piece in you just died just a minute ago. It's over. You're not free anymore” (Moffeit, 2008a). Timothy was interrogated for more than 10 hours without a lawyer. According to Broderick, Timothy failed a lie detector test, but the official report of the test results are lost (Yager et al., 2008). At age 15, Timothy Masters was not arrested, and after high school he joined the navy.

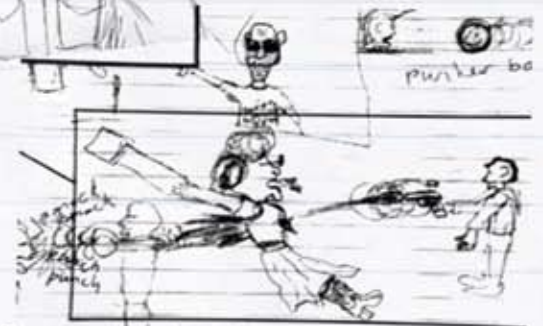
In 1992, **Detective Linda Wheeler-Holloway** thought she had a break on the case when one of Masters's friends said Masters had told him Hettrick's nipple was missing. “That's it. That's holdback information that only the cops knew” (McLaughlin, 2008). Wheeler-Holloway and Detective Broderick interviewed Masters for 2 days while he was still in the navy, in what was called a “tag-team” interrogation. Timothy had known about the nipple, but a girl in his art class had told him about it (Moffeit, 2008a).

The detectives checked out the story, and it turned out to be true. Broderick kept battering Masters with questions and at one point forced him to break down in tears (Moffeit, 2008a). The interviews were also witnessed by members of Naval Intelligence and the Federal Bureau of Investigation; a naval intelligence officer asked her, "You sure you got the right guy?" "I don't know," Wheeler-Holloway replied (McLaughlin, 2008).

Wheeler-Holloway, however, was impressed that Masters disclosed the same story he had 5 years earlier—that he did not report Hettrick's body because he thought it was a mannequin/prank, and his stories and drawings stemmed from his ambition to write horror stories like Stephen King. According to court records, Wheeler-Holloway later wrote in a police report, "The FBI agents here believe Tim Masters is innocent, and so do I" (Campbell, 2007). Troubled by a seeming reluctance by the police department to pursue other suspects and to have the FBI perform a profile at her request, Wheeler-Holloway filed the case as cold and later left the department for the Colorado Bureau of Investigation. Even **Detective Troy Krenning** believed it improbable that a boy could have pulled off such a sophisticated, fetishistic killing.

On the first anniversary of Hettrick's death, Krenning was instructed to sit in a mobile home opposite Masters's house to perform surveillance of the crime scene in case the killer came back. Krenning stated, however, "My perspective was to get off Masters and take a look at maybe someone else... We seem to be focused on one" (Moffeit, 2008a). Krenning recalled pressing his colleagues for evidence proving that Masters was a legitimate suspect and his colleagues challenging his position by stating, "Prove that Masters did not commit the crime" (Moffeit, 2007b). Krenning replied that his colleagues' investigatory strategy was the exact opposite of how an investigation unfolds (Moffeit, 2007b).

Yet, even with numerous law enforcement colleagues in his own department and the FBI not convinced that Timothy had anything to do with the murder, Detective Broderick was not satisfied with the belief that Timothy was innocent. Broderick said a search of Masters's bedroom, school locker, and backpack revealed numerous drawings and narratives suggesting the teen was fixated on death and violence. Broderick felt the artwork and stories fit the axiom that sexual homicide suspects generally fantasize about what they are going to do before they do it; in essence, the "fantasy's a template for the murder they actually commit" (McLaughlin, 2008).



Timothy's sketches



Aerial view of Hettrick's body



Hettrick's body on the field

### Undisclosed Evidence

By the time the case went to trial in 1999, there were investigative and prosecutorial issues that related to exculpatory evidence that could be used to show that the alleged defendant was not the culprit, but that was not revealed to the defense. For example, prosecutors never told defense attorneys about a sex offender and surgeon living near the field and close to Timothy's residence where Hettrick's body was found. Police initially considered **eye surgeon Dr. Richard Hammond** as, at the very least, a "person of interest" in 1987 (Darst, 2007). In 1995, police confiscated more than 300 homemade videos and over \$10,000 worth of pornography when a housesitter found a hidden camera positioned in Hammond's bathroom where women's private areas were videotaped (Reed, 2007). Other cameras were found in a guest bedroom. After bonding out of jail, Hammond checked himself in to the Mountain Crest Hospital in Fort Collins for counseling, where he talked little but revealed on paper an unhappy life, lonely childhood, and voyeuristic tendencies since his teen years (Moffeit, 2008a).

In addition, **plastic surgeon Christopher Tsoi** revealed to **police investigator Marsha Reed** in early 1998 his belief that Hettrick's genital wounds reflected the proficiency of a surgeon (Darst, 2007). Though police released a report showing that Reed set up an appointment with Tsoi, no report detailing their conversation has ever been released (Darst, 2007). In addition, during the autopsy of 1987 murder victim Peggy Hettrick, the medical examiner remarked, "A doctor could have done this" (Moffeit, 2007a). **Coroner Dr. Patrick Allen's** surprise at the surgical precision of her wounds was only recently recounted in an interview with Masters's defense team and fits the defense's contention that a 15-year-old could not have pulled off such a sophisticated slaying (Moffeit, 2007a).

Dr. Allen later found the most puzzling wounds, unnoticed by officers. They were "neatly" executed cuts inside her genitalia that, like the one on her left breast, must have been made with an extremely sharp knife, an instrument different from the one used to stab her. In 21 years of performing autopsies, Allen told colleagues, he had never seen wounds like these (Moffeit, 2008). Broderick stated that he never talked to Allen about whether someone with surgical skill must have inflicted Hettrick's wounds: "I can assure you if Dr. Allen's finding was that only a surgeon could have made those cuttings, that would have been forensic information he would have certainly told us" (Moffeit, 2008). Interestingly, Meloy also indicated that the wounds on Hettrick appeared to be surgical, but Broderick never disclosed Meloy's over 250-page report (Yager et al., 2008).

**Dr. Warren James, prominent Fort Collins OB-GYN,** indicated that "the perpetrator would not have been able to cut Ms. Hettrick's upper labia and clitoris if her jeans were pulled up above her knees as demonstrated by the crime scene photos during the surgical procedure. Ms. Hettrick would have to have been positioned in a major frog leg position during the surgical procedure. Based on the surgical precision of the excision, a general physician would not have been able to conduct this procedure, and in fact, most surgeons would not be able to perform this type of procedure given the preciseness of the cut. I find it **highly unlikely** that any 15-year-old could perform this precise surgical procedure given the advanced anatomical knowledge required and the skill necessary to excise the skin tissue of the fraenum, clitoral gland, and nipple as most surgeons cannot perform this procedure" (Moffeit, 2007b).

In addition, Masters's defense team indicated the police did not look hard enough into Hammond's background, which included secret credit cards, a possible fake name, and a Denver residence where Hammond taped sexual encounters with another woman. Hammond was arrested for the illegal taping, but he committed suicide before Masters was convicted. Defense attorneys argued that Hammond was never really investigated because he was a social acquaintance of **lead prosecutor Terry Gilmore**. Prosecutor Gilmore initially denied the claim, but later indicated that he was indeed a social acquaintance of Dr. Hammond (Hartman, 2008). Prosecutor Gilmore and Dr. Hammond had been known to go out together and socialize (Hughes, 2008b).

The authors comment on Dr. Hammond not to imply that he was the killer, but rather to indicate that the arguments used by the police and the prosecution against Timothy applied equally or more to Dr. Hammond in terms of investigating him as a possible suspect, especially with the belief that the murder was a sexual homicide. Yet **Prosecutor Blair** argued, "Who else could it possibly be? Nobody else had a motive, nobody else had the opportunity, nobody else had the weapon" (Hartman, 2007a). "It wasn't just the fact that he had these drawings ... but the number, the sheer number we found," she said. Blair added, "What we needed to do is demonstrate that this wasn't just a passing fancy of this kid, this was complete obsession with death, specifically the death of a woman, and try to draw parallels between the drawings and our crime scene" (Campbell, 2008). "We're talking about fantasy that becomes obsessive" (Moffeit, 2008a).

During the trial, the prosecution argued that it was Timothy's familiarity with the area that the body was found and his love for knives that linked him to the crime. It is apparent that the prosecution was not interested in considering other suspects as possible culprits, especially when Dr. Hammond had his own links to the crime—familiarity with the area, an obsession with women's private areas and an interest in sexual deviance, ownership of surgical tools that could be used to kill and mutilate, the skills to perform the type of cuts observed by other doctors, as well as the opportunity to commit the crime. Prosecutor Gilmore stated, "I had absolutely no reason to believe he [Hammond] was involved

in any way with Peggy Hettrick's murder ... it just never occurred to us" (Hartman, 2008). Prosecutor Blair indicated that "Dr. Hammond wasn't even a blip on the screen ... no one thought of him, no one talked of him ... the crimes that he apparently perpetrated are so much different than the Peggy Hettrick homicide" (Hartman, 2008). However, **Officer Jack Taylor** disputed Blair's comments, indicating that Hammond and his possibility as a suspect was common knowledge (Hartman, 2008).

In addition, Broderick stated that there was no reason to investigate Hammond for Hettrick's murder: "Where's the violence? Show me that pattern of violence... We searched [Hammond's] entire house, and there was nothing to link him to Hettrick's murder" (Moffeit, 2008a). The special prosecutor reviewing the case indicated that there was no evidence tying Dr. Hammond to the murder because there was no evidence of blood, blood splatter, DNA, fingerprints, hair fibers, confessions, or persons to whom Hammond confessed the crime (Hartman, 2008). Who destroyed Hammond's video tapes, and why? "I had a lot to do with that," Broderick says. "It was an ethical decision. Should we re-victimize all these women by telling them they are victims? So it really was an effort to protect them, to preserve these victims' rights" (Moffeit, 2008a).

After viewing several of the videotapes, **Officer Mickelson** started making connections: the doctor's close proximity to the Hettrick crime scene and his obsession with women's genitalia and breasts. He told **Detective Tony Sanchez** that Hammond should be investigated for Hettrick's murder. In August 1995, investigators had slated for destruction every piece of evidence they seized from Hammond. "Don't do it, save the evidence," Officer Mickelson recalls telling Sanchez after he heard about the plan, knowing that they had reviewed only a small portion of the tapes (Moffeit, 2008a). Mickelson wanted to see if Hettrick may have appeared in any of the tapes, but he testified that at one point he was threatened with

the loss of his job if he continued to pursue the Hammond evidence issue (Hartman, 2008). Sanchez, without elaborating, said there were legal issues behind the destruction, even though Sanchez indicated that Hammond should be investigated; "The seized evidence burned for approximately 8 1/2 hours," according to an August 15, 1995, report by Sanchez (Moffeit, 2008a).

Detective Krenning could not believe they burned every piece of evidence, stating, "I can't recall one other case where the evidence was taken to a landfill, mashed up with a grater, and then burned" (Moffeit, 2008a). Nine weeks after Hammond's possessions were destroyed, Broderick phoned forensic psychologist Reid Meloy to have him study Masters's artwork (Moffeit, 2008a). Also, newly discovered records not disclosed to the defense show that a witness reported seeing a man running in shorts expose himself near where Hettrick's body was found; the woman who saw the man said he fit Hammond's description and was seen going in a nearby house (Hughes, 2007c). Prosecutors and police stated in Masters's trial that Hettrick's killer could get sexual satisfaction from passing near where he posed her body (Hughes, 2007c).

**Tom Bevel, a 1999 prosecution witness and blood-spatter expert**, told jurors he believed Hettrick was killed at Landings Drive and dragged or carried to the spot where she was found by a bicyclist the next day. Bevel later stated that police failed to provide him "a litany of items" that he had now seen and that led him to believe Hettrick was killed elsewhere and driven to Landings Drive before being dragged to where she was found (McLaughlin, 2008). Bevel was not aware of Hettrick's clothing until August 2005 when he got a call from



Close-up of Hettrick's body

**Barie Goetz**, another **forensic expert** who headed a Colorado Bureau of Investigation crime lab from 1999 to 2004, who stated, “He was never given the physical evidence until I took it to him” (McLaughlin, 2008). Bevel added that Goetz also provided photos and reports he had not seen; “I was never aware all those were available” (McLaughlin, 2008). Bevel said he has never experienced a miscommunication of this level in more than 35 years of testifying as an expert (McLaughlin, 2008).

Also, a defense expert recently identified at least a dozen tracks running alongside the blood drag-trail leading to Hettrick’s body as prints from Thom McAn manufactured shoes, not worn by Masters. Yet Broderick’s testimony at trial alluded to only one Thom McAn print and discounted the chance it was tied to the killing (Moffeit, 2007a). Moreover, Masters’s new defense counsel discovered that the FBI had made high-quality casts of footprints in the “drag trail” leading to the spot where Hettrick’s body was found. The prints did not belong to Masters, nor was the defense notified of the FBI results (Banda, 2008).

### **The Opinion of Forensic Psychologist Dr. Reid Meloy**

Honorably discharged in 1998 after serving eight years in the navy, Masters moved to California, bought a house in the desert town of Ridgecrest, and began work as an aircraft structural mechanic. Detective Broderick was less convinced of Masters’s in-

nocence even after his colleagues and the FBI indicated that they believed Timothy was innocent. Broderick sought the opinion of **forensic psychologist Dr. Reid Meloy**, member of the American Board of Professional Psychology (ABPP). Dr. Meloy received details of the case along with more than 2,000 of Masters’s drawings, stories, crime scene videotapes, Broderick’s interpretation of Masters’s drawings, police interviews with Masters, photographs, maps, and transcripts in order to see if there was a relationship between Masters and the murder. Meloy would eventually conclude from Masters’s drawings and stories that Masters fit the profile of a killer because he was a loner, he came from an isolated or deprived background, he often had violent fantasies, and harbored hidden hostility toward authorities and women (Moffeit, 2008a).

However, not turned over to the defense were Broderick’s own interpretations of Masters’s artwork that filled dozens of pages that were dated long before Meloy joined the prosecution’s efforts. On July 24, 1998, Detective Broderick updated prosecutors Gilmore and Blair on the status of Meloy’s work, and in his letter Broderick wrote that he sent Meloy a draft of Masters’s arrest warrant and was waiting for his “approval” (Vaughn, 2007). Meloy was so convinced that Timothy was the culprit that he sent a pretrial letter to then-**Larimer County DA Stuart Van Meveren** in which

he hoped the work of “superb professionals” Gilmore and Blair “will result in a successful prosecution” (Vaughn, 2007). Besides the inclusion of Dr. Meloy as a prosecution witness, there was no new evidence to link Timothy to the murder. By this time, Timothy’s appearance as an adult helped the prosecution’s cause: he had grown into an imposing figure and looked

capable of committing the crime, as contrasted to a skinny 15-year-old adolescent (Yager et al., 2008).

Meloy stated, “In my 18 years of doing this kind of work I have never seen such voluminous productions by a suspect in a sexual homicide; that tells us he was preoccupied with sexual violence, violence, sexually sadistic images, images of domination and degradation of women, and he was also fascinated by knives.” Meloy further stated, “After spending six months on the case, I felt I understood the motivations for this homicide and that I had become convinced that Timothy Masters was the individual that had committed this homicide” (Banda, 2008). “Young Timothy killed Hettrick . . . and, by doing so, had symbolically killed his own mother. A classic case of ‘displaced sexual matricide’ brought on by feelings of abandonment” (Banda, 2008). In court, the prosecution bombarded the jury with Masters’s violent pictures that were shown on a large video monitor. Meloy pointed out features of the drawings that he testified showed a pairing of sex and violence, which was evidence of “picquerism,” the sadistic pleasure derived from stabbing. He also claimed that Masters was interested in the degradation of women and fascinated with weapons and death (Campbell, 2008a).

Although Meloy was barred from giving his opinion about whether or not he believed Masters’s pictures and stories implicated him in Hettrick’s murder or that his productions reflected his belief that it was a displaced matricide, Meloy drew a very clear correlation between the circumstances of her death and Masters’s artwork as motive for the homicide. He testified about the characteristics of a sexual homicide and went into detail about how Masters’s productions could be considered a “fantasy rehearsal,” especially a doodle on Masters’s math homework of a knife-wielding hand cutting a diamond shape that Meloy interpreted as a vagina (see left), “which may have been a rehearsal of the genital mutilation” (Campbell, 2008a).

According to Meloy, because some of Tim’s drawings were of stabbings, dragging, and so on, they were logically relevant to the defendant’s motive, intent, and plan to commit the crime. The psychologist defined a sexual homicide as one in which there is “primary sexual activity usually involving semen or ejaculation”; yet despite labeling this a sexual homicide, there was no semen found in, on, or near the body (Hartman,



2007a). He showed how specific pictures could be interpreted to reflect the crime; several showed “blitz attacks,” depicted stabbings that Meloy interpreted as sexual in nature and depicted women as murder victims. He opined that Timothy’s retreat into a fantasy world combined to create a boiling kettle of latent violence just waiting to erupt; “A retreat into such a compensatory narcissistic fantasy world, replete with sexuality and violence, works for awhile, but at a great cost. The unexpressed rage continues, depression may ensue, and anger toward women as sources of both pain (abandonment) and erotic stimulation builds” (Campbell, 2008a).

**Equally prejudicial** was Meloy’s interpretation of a picture Masters drew the day after he saw Hettrick’s body. It depicted one figure dragging another, which was apparently wounded or dead, from behind. The wounded figure was riddled with arrows and blood seemed to flow from its back (see above right).

Entirely discounting the presence of the arrows, which had nothing to do with the murder, Meloy wrote in his report that this picture represented the crime as it actually happened. “This is not a drawing of the crime scene as seen by Tim Masters on the morning of February 11 as he went to school. This is an accurate and vivid drawing of the homicide as it is occurring. It is unlikely that Tim Masters could have inferred such criminal behavior by just viewing the corpse, unless he was an experienced forensic investigator. It is much more likely, in my opinion, that he was drawing the crime to rekindle his memory of the sexual homicide he committed the day before” (Campbell, 2008a).

Meloy stated, “Sexual homicide represents the solution, particularly in the form it took in this case: If I kill a woman, she cannot abandon me; if I desexualize her (genital mutilation), she cannot stimulate me” (Banda, 2008). “These are not conscious thoughts for Tim Masters, but likely represent the unconscious beliefs that drove his behavior the night of Feb. 11, 1987, when he killed and sexually mutilated Peggy Hettrick, a victim of choice and opportunity. Ms. Hettrick represented all women to Tim Masters” (Banda, 2008). Meloy indicated that either a conflict with a woman in authority or grief over the death of a loved one triggered his murderous outburst (Banda, 2008). According to Meloy, “A trigger mechanism or precipitating event



is a particular occurrence in the life of the perpetrator which causes him to act out his fantasies in the real world” (Banda, 2008). Dr. Meloy testified that such an event could be conflict with one’s spouse or girlfriend, grief over the death of a loved one, or conflict with women of authority in a school or employment setting” (Banda, 2008). In this case, Meloy stated that Timothy’s trigger mechanism, which was the catalyst for Timothy to kill, consisted of the argument he had with a female teacher at school about a month prior to the murder. The argument ensued between the female teacher and Timothy because the teacher took away a military manual he possessed.

### **Retired FBI Agent Roy Hazelwood’s Analysis**

**The crux of Masters’s position** during the post-conviction process was that Detective Broderick and Prosecutors Gilmore and Blair withheld information from the defense lawyers that could have been used to contradict their case that Masters was a killer; specially-appointed prosecutors agreed that the original prosecutors violated pretrial discovery rules. It was during the review of the violation of pretrial discovery rules that the defense learned that Hazelwood was a retired special agent with the FBI who specialized as an FBI profiler and also had published research on the specific type of crime in question. Moreover, it was learned that Hazelwood’s opinion contradicted the direction the investigation took, the theory of the prosecution, and testimony of the forensic psychologist who was the main prosecution witness. Specifically, among the material not disclosed that should have been were notes Broderick took after a conversation with Hazelwood (Hughes, 2007b)

as well as faxed memos from Hazelwood to Broderick (Goodbee, n.d.). Hazelwood told Broderick that tying the pictures to the crime, since none of them reflected what happened, was “overreaching” (Hughes, 2007b). Hazelwood eventually withdrew from the case after he had concerns over the prosecutors’ trial strategy and psychological theories to be used at trial (Campbell, 2008b.)

He also told Broderick that “**fantasy is not motive,**” contradicting one of the pillars of Meloy’s testimony (Campbell, 2008a). Hazelwood’s opinion is crucial in understanding why Broderick and the police department did not employ Hazelwood or a profiler from the FBI to develop a profile, but instead used the services of a forensic psychologist. The differences between FBI profiles and the forensic psychologist hired for the Hettrick investigation cannot be overstated and the following quote is instructive: “The difference is really a matter of the FBI being more oriented towards investigative experience than [academic psychologists] are,” says **retired FBI agent McCrary** (Winerman, 2004).

The investigative aspect and differentiation between disciplines that McCrary refers to includes trained and experienced law enforcement officers who understand practices and procedures of a criminal investigation, interview and interrogation, search and seizure, reviewing police reports, analysis of intelligence from both physical and witness evidence, evidentiary considerations as to how they impact courtroom testimony, and forensic laboratory reports. Academic forensic psychologists focus more on the offender class rather than attempting to solve an individual case. Academic forensic psychologists are more apt to look



at research of those who have already been caught, analyzing their characteristics and searching for patterns involving how they think, personality traits, and psychological/social data.

The study of the available records supports the observations of McCrary in that at some point Meloy believed that academic research on sexual homicide could replace solid law enforcement investigation protocol as evidence. The authors acknowledge that forensic psychologists can be involved in many different aspects of an investigation; however, one of the most overrated concepts of their work is criminal profiling, and this is where the investigation and prosecution of Timothy Masters strayed. Even **University of Wyoming criminal justice professor George Blau** considered the hidden Hazelwood commentary criticizing Meloy's theories particularly troublesome, stating that "Hazelwood destroys the argument of psychological validity" when Meloy attempts to "link the crime scene to Masters's drawings" (Moffeit, 2007a).

In addition to the problems associated with the building of a psychological profile that would have to either ignore or counter the opinions of Hazelwood, Hazelwood stated in a 1997 memo that Hettrick's death was a "crime of opportunity," contrary to the prosecution's theory that Masters snuck out of his trailer home, stalked Peggy, and killed and mutilated her without leaving a shred of evidence (Hughes 2007b). The court transcripts make it clear that Hazelwood never testified and that each of his cautions were rejected by the investigators, the prosecution, and the forensic psychologist. Hazelwood's opinion about the relevance of Masters's drawings to the crime directly contradicted Meloy's eventual testimony, but the conclusions of Hazelwood's report on the case were never introduced during the 1999 trial or disclosed to the defense (Hughes, 2007b). Masters's attorney, Fischer, stated, "We would have called Hazelwood as fast as we could have called him... We've got it backed up by the leading expert in the world, and these guys hid it from us" (Hughes, 2007b).

The formidable obstacle before the forensic psychologist is described by two **veteran FBI agents** who pioneered the bureau's psychological profiling program. In the early 1970s, **Howard Teten and Patrick Mullany** developed the modern investigative approach for the Behavioral Science Unit, which helps trainees to solve crimes

by studying the offender, his or her behavior, and the motivation behind it. Teten stated, "People get the wrong idea of what profiling is... It's not a psychic thing... You don't pick out the perpetrator with a profile... Not the individual... You pick out a type of personality" (Banda, 2008). Absent physical evidence, Teten and Mullany said, it would be a mistake to rely on that analysis alone to build a case. Mullany stated that, "We never intended that it would be the sole evidence that would move the case forward... We always intended that it could be a technique to ferret out a suspect... The only thing that should be in court is exact evidence: hair, fiber, DNA. Even if a guy confesses, these are things that need to be put in place" (Banda, 2008). Mullany's comment on the evidentiary aspects of profiling supports McCrary's observation that the FBI is oriented toward the investigative experience where evidence is still necessary for opinions of culpability to withstand legal scrutiny.

The position of McCrary, Teten, and Mullany is further supported in an article titled *The Academic and the Practitioner: Pragmatists' Views of Offender Profiling* (Alison & Goodwill, 2004). Using personality traits as the main foundation for a psychological profile that masquerades as criminal investigative analysis is of significant concern to professionals in the field (Alison et al., 2004). "While it is acceptable to create a profile as an investigative tool, it is not acceptable to focus investigations on the presumption that the profile is wholly accurate, especially when the consequences of such action might have significant detrimental effects on an individual and/or an investigation" (Alison et al., 2004). It is necessary to "distinguish between information that directs an investigation and information that proves guilt, arguing that while offender profiles have been helpful in police investigations, extending their use to provide evidence of guilt is dangerous" (Alison et al., 2004).

Moreover, as important as profiling is in terms of solving difficult cases, the reality is that professionals in the field should be aware that, to date, the empirical evidence does not support the scientific validity of profilers's predictive abilities from crime scene evidence (Eastwood, Cullen, Kavanagh, & Snook, 2006). The authors acknowledge that profilers provide services in addition to predictions about offender characteristics; however, this is arguably the

most frequently requested type of service and the most important task that they perform because the profilers believe about the type of person who committed the crime influences all subsequent types of profiling advice (Eastwood et al., 2006).

### Analysis of Dr. Meloy's Opinion

*"There have been incidences where juries relied on my opinion and in the aftermath those [opinions] were not supported by evidence."*

—Dr. Reid Meloy

There are several problems in the way Meloy was employed in this case. Although forensic psychologists may conduct research on criminal profiling, that fact does not make them a profiler. The forensic psychologists who are profilers have had training as profilers and incorporate far more than personality trait theory into their analysis. Regardless of the lack of evidence linking Timothy to the case and the opinion of Hazelwood, Meloy continues to push his own **reversed engineered psychological profile** matching Masters to the murder. This reverse profiling exists when one first determines who they want the suspect to be and then continues to add characteristics to that individual of the type of person who would commit such a crime by the type of evidence that is collected—in this case drawings and narratives.

Furthermore, Meloy did not reveal to the court that Hazelwood did not agree with his opinion, even though during Meloy's testimony he cites Hazelwood's scholarship as scholarship he would have relied upon. Meloy never employed any psychological tests to derive the assumptions of personality traits and was left to derive the assumption of Masters's personality traits from his interpretation of Masters's drawings, knife collections, and pornographic magazines. The authors believe that a serious ethical issue develops when a forensic psychologist offers a reason for the arrest warrant, assists in drafting the arrest warrant, and testifies on behalf of the prosecution as an expert in the same case he helped build.

**Criminal investigative analysis** is employed as a specific method to analyze crimes and develop a hypothesis about the characteristics of the person who might have committed such a crime; practitioners

of the field do not contend that such an analysis can identify the individual(s) who committed the offense. "In some ways, [profiling] is really still as much an art as a science," says psychologist Harvey Schlossberg, PhD, former director of psychological services for the New York Police Department (Winerman, 2004). "We as psychologists do look at database sets on known criminal groups, and that indeed does assist in completing analysis of specific criminal behavior, but such analysis is very different from simply guessing 'who did it'" (Winerman, 2004).

There was no objective analysis in Meloy's assessment of Timothy's behavior because he violates his own forensic psychological protocol. For example, Meloy's own scholarship emphasizes a protocol that, in addition to psychological testing as mentioned above, competent and thorough completion of the clinical interview and the gathering of independent historical data are critically important in arriving at a reliable, valid understanding of the individual (Meloy & Gacono, 1995). **Meloy never interviewed Timothy**, thus relying on speculation as to what the drawing and narratives signified (Hartman, 2007b). Because Meloy was not employed as a neutral party that would have been loyal to the court, there would have been no reason to subject Timothy to an evaluation by Meloy when Meloy already determined that Timothy was the culprit. According to ethical guidelines for forensic psychologists, "forensic psychologists realize that their public role as "expert to the court" confers upon them a special responsibility for fairness and accuracy in their public statements" (APA, 1991). It is incorrect to opine that fantasy is equivalent to motive when the forensic psychologist does not know the purpose or intent of the fantasy. Having fantasies is not synonymous with the intent to fulfill or perform those fantasies; one only needs to observe all the graphic horror films and novels available to the public.

The behavioral science approach mandates that a mental health professional sticks to behavior analysis and never testifies or tries to project psychological theories on to the specifics of a given case. Thus, once a mental health professional abandons this approach as well, the **prejudice** to a suspect can be insurmountable. Given that one of the authors is a clinical psychologist and has spent the last 20 years working in the criminal justice system providing forensic psychological analysis, the point authoritatively may be made that once the mental health professional begins to champion a cause or a theory as Meloy espoused (either for or against the individual before the court), the objective analysis owed to the court is lost.

In fact, according to the American Psychological Association, a forensic psychologist does not take a side; his or her job is to translate psychological terminology in such a way that is acceptable to the legal system (Brodsky, 1991). The reader should be aware of the fact that if the forensic psychologist is testifying for the defense or the prosecution, this does not mean that they are taking sides; the **forensic psychologist's loyalty is to the court**. Furthermore, what is interesting is that even Meloy indicated during his testimony that the research on sexual homicide was scant. Meloy testified that current scientific journals have reported that the relationship between sexual fantasies and sexual homicides is tentative and opined that no conclusions can be drawn linking fantasies to conduct.

Indeed, the inconclusive nature of this research is apparent when one of the two studies relied upon by the prosecution's expert is also relied upon for the proposition that "normal people," that is, persons who do not commit criminal behavior, also engage in deviant sexual fantasies (MacCulloch, Snowden, Wood, & Mills, 1983). If both groups do engage in sadistic sexual fantasies, there is no one causative factor that explains why some act out their fantasies and others do not (MacCulloch et al., 1983). Surveys measuring sadistic fantasy make it clear that it is extremely common and the vast majority of it does not lead to sexual offending (Grubin, 1999). As to rehearsed sadistic fantasy, sadistic situations tend to be rehearsed many times in fantasy and at times are tried out in real life over a number of years (MacCulloch et al., 1983). There was no proof of rehearsal through Meloy's testimony considering that Meloy never interviewed Timothy to validate his conclusion.

Moreover, the defense did call a **prominent forensic psychologist, Dr. John Yuille**, who stated that the drawings meant nothing. Because research in sexual homicide is relatively new, Yuille does not believe that a correlation necessarily exists between fantasy and homicide; there is room for differing interpretations of the same evidence (Farrell, 1999). In his testimony regarding the current state of research on the relationship between fantasy and sexual homicide, Yuille stated, "the research is flawed" (Masters, 1999). In addition, he indicated that it is difficult to generalize about the link between fantasy and sexual homicide because the sample size in the research is small (Masters, 1999). Furthermore, the research on how frequently normal people engage in sexual fantasies and who do not commit sex crimes is inadequate (Masters, 1999).

The research on sexual homicide and its purported application to Masters is **simply incor-**



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He was a supervisor for more than 20 years with the FBI Behavioral Science group, and he remains active as a member of the Academy Group, an organization of former FBI agents and law enforcement officers.

He is now Affiliate Professor of Administrative Justice at George Mason University and has appeared as an expert on criminal investigations on numerous radio and television shows. Hazelwood is a commentator for The Forensic Echo.

Before joining the FBI, he achieved the rank of Major in the Army Military Police Corp. Holding a Master of Science from NOVA University, he also studied forensic medicine at the Armed Forces Institute of Pathology in Washington DC. He has received numerous awards and certificates from universities, criminal justice associations, and law enforcement agencies around the country.

Hazelwood's early interest in autoerotic fatalities initiated a groundbreaking study that compiled the results of over 150 cases. He also conducted the largest known survey of police attitudes toward rape. With Drs. Park Dietz and Janet Warren, Hazelwood interviewed incarcerated men convicted of sexually sadistic crimes. They then did an involved study of the wives and girlfriends of sexual sadists. With Dr. John Hunter of the University of Virginia, Hazelwood is now researching juvenile sex offenders.

Hazelwood is a Diplomate of the American Board of Law Enforcement Experts, and he spoke at the ACEFI 2005 National Conference as a featured presenter.

**rect.** For example, research indicated that those who engage in sexual murder tended to be isolated and engaged in anti-social behavior (Grubin, 1994). There is a relationship between sexual abuse in childhood and the mutilation of murder victims. Sexually abused murderers are more likely to mutilate victims than are those offenders not sexually abused (67% versus 44%) (Ressler, Burgess, Hartman, Douglas, & McCormack, 1986). We also see a positive relationship between adolescent sexual victimization and the mutilation of the murder victim (78% versus 42%) (Ressler et al., 1986). Furthermore, early fantasies often give rise to behavior tryouts that are precursors to criminal behavior (Burgess, Hartman, Ressler, Douglas, & McCormack, 1986). Lastly, what is most revealing is a study that found that the frequencies of deviant sexual fantasies in control groups representing “normals” tended to be higher than sex offenders (Langevin, Lang, & Curnoe, 1998).

In the Masters case we do not observe evidence of isolation, early try-out behaviors, or abuse. What is amazing is that Meloy relied on the very research that showed that someone like Timothy would be the *least* likely candidate to commit sexual murder to justify his belief that Timothy *did* in fact commit sexual murder. It is incorrect to assume that fantasy is a rehearsal to act out when it may serve a number of other purposes for the individual such as wish fulfillment, curiosity, or alleviation of sexual frustration (Langevin et al., 1998). Given that there are no certain behavioral indicators to exclusively confirm characteristics in sadistic sexual fantasy, fantasy does not appear to be associated toward a type of crime (Gray, Watt, Hassan, & MacCulloch, 2003).

In addition to the problematic position that the drawings represent sadistic sexual fantasy, Meloy then takes the position that the drawings represent an illustration of displaced matricide, indicating that he killed Peggy Hettrick because Peggy represented Timothy's deceased mother. The authors went to some length to gather research that would attempt to justify Meloy's position that Timothy's actions were a form of displaced matricide. The authors located what we believe to be the only study available prior to the trial, titled “Sexual Homicide by Adolescents,” of which Meloy would have been familiar. The study regards adolescents who commit sexual homicide and was based on the possibility that at least one

of the three cases of adolescent sexual homicide may have represented the adolescent's displaced rage onto a female victim—rage caused by the mother's threats of separation through suicide (Meyers, 1994).

It is interesting to contrast Meloy's views on a sexual homicide with what retired **FBI profiler John Douglas** states in his book *The Mind Hunter* (1995). Douglas describes a sexual homicide where the victim was found badly beaten. Her nipples had been cut off and placed on her chest, and there were bite marks on her legs and lacerations on her body; she was spread-eagled and tied with her belt and nylons, and an umbrella and pen were placed in her vagina (Douglas, 1995). One of the suspects was a 15-year-old boy who had found the victim's wallet. However, Douglas dismissed the boy

**“...Meloy relied on the very research that showed that someone like Timothy would be the *least* likely candidate to commit sexual murder to justify his belief that Timothy *did* in fact commit sexual murder.”**

as a suspect because the sexual fantasy that pertained to this killer would have taken years to develop (Douglas, 1995). However, Douglas goes on to comment about this particular case after the killer had been apprehended, candidly stating that acting out on fantasies to harm others is a crime, but that in themselves “bizarre and deranged fantasies are not a crime” (Douglas, 1995). Douglas's insight supports Hazelwood's commentary that fantasy is not necessarily motive, and MacCulloch et al.'s (1983) research that sadistic situations tend to be rehearsed many times in fantasy and at times tried out in real life over a number of years.

Moreover, one year after Timothy was found guilty, Meloy published an article titled “The Nature and Dynamics of Sexual Homicide: An Integrative Review” (2000) where he, on several occasions, mentions

Timothy Masters as a case study of sexual homicide. What is interesting about the article is that he describes characteristics that are common in sexual homicide and cites risk factors that are associated with displaced matricide that would be attributable to Masters—namely 1) a history of mistreatment of women or fantasies of assaulting women, 2) fetishism for female underclothing and destruction of female clothes, 3) expression of hatred, contempt, or fear of women, and 4) confusion of sexual identity. The authors could not find any behavioral evidence to support the inclusion of the above criteria to the Masters case.

Meloy's article attempts to show that Masters would have fulfilled the criteria for the motivation model of sexual homicide as developed by Burgess, Ressler, Douglas, and McCormack and elaborated upon by Ressler et al. in their book *Sexual Homicide* (1988), but the authors' next search for evidence to support this theory proved unsuccessful. The authors could not find evidence revealed by the police or Meloy that the criteria outlined in the sexual homicide model applied to Timothy; such evidence could include 1) an ineffective social environment, 2) formative traumatic events in their childhood such as abuse, 3) personality traits such as chronic lying, stealing, cruelty, and destroying property, 4) cognition processes entailing negativity and a desire to control and dominate others, 5) hyperarousal consistent with early trauma and hyperarousal consistent with psychopathy, 6) antisocial acts representing a displacement of aggression, and 7) a feedback filter (learning) where practice makes the crime more closely fit the perfect fantasy.

Meloy is, without question, an expert on narcissism and psychopathic personality traits, having published many peer review articles and either authored or edited many books dealing in part or in whole on the topic. Thus, when Meloy stated that “virtually all sexual homicide perpetrators evidence narcissistic and psychopathic personality traits” (Meloy, 2000), these authors were troubled as the traits are not clearly evident in the Masters documents. In a study titled the “**Characteristics of Sexual Homicides Committed by Psychopathic and Nonpsychopathic Offenders,**” the authors offer empirical research that is at odds with Meloy's findings that both psychopathic and non-psychopathic persons engage in sexual homicide (Porter, Woodworth, Earle, Drugge, & Boer, 2003). The authors found

that about 82% of the psychopathic offenders are more likely to engage in sadistic violence during the sexual homicide as opposed to about 52% of the non-psychopathic offender (Porter et al., 2003). Furthermore, the authors of the study indicated that the psychopathic killers more likely tended to kill for thrill and lacked empathy/remorse, while non-psychopathic killers murder because of negative emotions, rage, and/or anger (Porter et al., 2003). By deduction, if Meloy states that Timothy's drawings and narrative represent anger and rage toward women, the probability that Timothy is psychopathic according to Porter's research lessens, which would cast doubt on Meloy's position that all sexual homicide perpetrators evidence narcissistic and psychopathic personality traits.

In addition, Meloy discusses how he used the Hazelwood and Warren (1995) components that violent sexual fantasies in sexual homicide cases can be inferred by the perpetrator's productions, such as inanimate objects, dolls, videos, clothing, photos, drawings, or narratives (Meloy, 2000). Meloy fails to disclose, both in his trial testimony where he refers to Hazelwood and in his article, that Hazelwood indicated there was not enough evidence to suggest that Masters was the perpetrator. In addition, Meloy states that while adolescent sexual homicide perpetrators "are reared in chaotic family environments and are physically abused, most do not have a history of child sexual abuse" (Meloy, 2000). The authors could not find any evidence that Timothy was reared in a chaotic family environment or that he suffered from any type of abuse; in fact, the reports appear to show that he came from a stable household.

There were other methods, although none of them are ideal in terms of validity and reliability, for a forensic psychologist to collect information about a person's character and behavioral inclinations without interacting with the individual. Such methods appear familiar to Meloy as he has advertised that one of his specialties involves remote personality assessments—essentially assessments that do not involve meeting with and interviewing the person under analysis. The authors could not find evidence from Meloy's trial testimony or any other records that he used a well-known remote personality assessment inventory called the **Gittinger Personality Assessment System** to assist in his opinion of what behavioral traits Masters harbored, even though it

was available prior to Masters's arrest and trial. In addition, **Professor Gerald Post of George Washington University** considers other factors in remote personality assessment that have been known for years in the field, including cultural factors, social interaction factors, and peer group comparison factors. For those that do use remote personality assessments, the authors of these remote assessments go to great lengths to advise the reader of the research on their validity and reliability (Krauskopf, 1998).

For example, Timothy was placed in a special education class after a teacher discovered some of his disturbing artwork. An article in the *Denver Post* describes, "In the margins of his notebooks were sketches of dinosaurs with arrows through them, gruesome war scenes described by his Vietnam veteran dad, and horror flicks such as *Nightmare on Elm Street* that father and son watched together" (Moffeit, 2008a). Timothy enjoyed writing, and his goal was to be another Stephen King. In fact, the authors researched, beginning with the year 1987 and back, for publications by Stephen King that Masters may have read. The authors cross-referenced the themes in King's novels against themes in Masters's drawings and stories and were able to find some parallels. For example, the correlations between his drawings depicting murder, Nazi death camps, Nazi sadistic killers, Jews, and an adolescent male student are found in the *Summer of Corruption: Apt Pupil* (1982). With respect to the psychological dynamics of a 12-year-old son of a dying mother who must fight evil, the authors direct readers to *The Talisman* (1984). With respect to a son who kills his mother, the reader is referred to the short story *The Woman in the Room* published in the *Night Shift* (1978).

The authors could not find any evidence that Meloy cross-referenced the stories and drawings to what other adolescents produce, either at the national level or in the particular school Timothy attended. There was no evidence that there was any exploration as to the timing and manner of production of the narratives/drawings and what his thoughts and feelings were prior to, during, and following the productions. For example, Masters was never asked if through the use of his narratives/drawings he hoped to shock others, punish them, or ask for help; Meloy and the court system assumed that his pictures proved that he was a bigot and racist full of hatred for everyone. **Judith Challes**, the special edu-

cation teacher who knew him best, told his reading teacher, "You know, I'm not at all concerned about them [his writings and drawings]," because most of her kids scrawled horrific images (Moffeit, 2008a). There is no evidence that Meloy took the time to speak to family members or classmates about Timothy or whether they had ever seen his drawings and discussed their significance.

Perhaps Meloy or one of his proxies could have asked Ms. Challes if she had any knowledge that Timothy hated women, that he had a desire to commit acts that were depicted in his drawings, if he had hurt others, or if there was a connection between what he said and what he did. Given that one of the authors performs forensic psychological services, this would have been a fertile area to investigate and assist in a remote personality assessment; Timothy spent so much time in the company of those teachers, they would probably know him best. Did Timothy actually possess adolescent psychopathic qualities as Meloy argues in his article? This is an area in which Meloy has written extensively; perhaps interviewing others who knew Timothy may have revealed a behavioral pattern that pointed to him as someone other than a psychopath.

## Legal Implications

*"He admitted his guilt through pictures to us."*

*—a juror after convicting Timothy Masters*

What is introduced at a trial as evidence can have a profound impact on how lay persons serving on a jury perceive a person charged with a crime. Courts attempt to filter out evidence that may be inflammatory or prejudicial in order to assure that a defendant receives a fair trial and that he or she is not held accountable for an act because the jury does not like the individual's character. Courts generally do not allow what is known as a defendant's "other crimes, wrongs, or acts" to be used against them because of the fear that jurors would focus too much on these other matters and determine the culpability of the accused by how they perceive his/her character.

However, there is an exception in the law where a person's "other crimes, wrongs, or acts" can be entered as evidence in a trial to assist the jury in determining culpability if it goes to something other than a person's

character, such as the ability to commit the crime, a person's motive, state of mind, planning, identity, or if it reveals a modus operandi. Courts normally go through a balancing test to determine whether the probative value of letting in evidence of other crimes, wrongs, or acts outweigh the prejudicial effect that it may have on the accused. Thus, if the defendant's other wrongs or acts reveal motive that can be linked to the charged offense, the court may decide to let the evidence of other wrongs and acts be heard by the jury; even though it is prejudicial to the defendant, the benefit to the jury in linking motive to other evidence is probative in understanding why the crime occurred. The judges on the **Colorado Supreme Court** that upheld Timothy's conviction and believed that Meloy's testimony was useful—known as the majority—opined that Timothy's drawings and writings, as well as the testimony pertaining to them, were not being offered to prove his character, but to show that he acted in a way that proved his motive for the crime, his deliberation of the crime, his planning and preparation of the crime, his opportunity to commit the crime, and his subsequent knowledge of the crime.

The judges who did not believe that Meloy's testimony should have been allowed—referred to as the minority—opined that the tendency of juries to overvalue other crimes, wrongs, or acts as evidence disclosed at trial is supported by the findings of several empirical studies on jury behavior regarding a defendant's past activities (Masters, 2002). For example, the studies found that the distaste jurors may have for the defendant's past activities may tend to distort their perception of the degree of independent evidence necessary to meet the prosecution's burden of proving guilt beyond a reasonable doubt (Masters, 2002). In other words, the jury **disproportionately concentrates** on a defendant's past activities at the expense of considering if there is other evidence that does in fact prove the defendant guilty beyond a reasonable doubt. Yet, in this case there was no other independent evidence necessary to meet the prosecution's burden unless you accept the majority's belief of what constitutes incriminating evidence, such as the fact that the victim's hair was red like Timothy's mother, that Timothy was familiar with the area where the victim was found, or that Timothy had knives in his collection similar to the weapon possibly used against the victim.

The majority's assurance that the prosecution did not emphasize or rely on the inadmissible evidence described, in part, as the "sporadic use of ethnic slurs," mischaracterizes the nature of the inadmissible evidence and the trial proceedings. However, the prosecution emphasized to the jury numerous images drafted by the defendant that glorified the Ku Klux Klan; the Nazi party; killing; and torturing of people based on their racial, ethnic, and religious backgrounds, sexual orientation, and physical limitations, none of which had a connection to the Hettrick homicide but were used, through Meloy, to prove motive (Masters, 2002). The prosecution also highlighted many of these inadmissible, inflammatory examples of racial bigotry through the testimony of Broderick as being proof that the defendant committed this murder. For example, Broderick testified as to drawings that depicted the Nazi death camp welcoming "Each and Every Goddamn Jew" and the caption "Kill the Jew" (Masters, 2002). Broderick also testified as to another drawing that showed doctors using saws, machetes, and knives on people, with a caption stating "I've found the cure for AIDS" (Masters, 2002).

Research by Bright and Goodman-Delahunty titled "Gruesome Evidence and Emotion: Anger, Blame and Jury Decision-Making" (2006) concluded that when gruesome photographs, for example, are shown to a mock jury and while all other aspects of evidence remain the same, **the rate of conviction increases dramatically** as contrasted if no gruesome photographs are presented at trial. If those same gruesome photographs are accompanied by oral testimony describing the photograph, the rate of conviction increases even further (Bright & Goodman-Delahunty, 2006). The reason that the conviction rate dramatically increases just on the introduction of gruesome evidence is because there are emotional reactions that activate the desire to hold someone responsible for the gruesome acts (Bright & Goodman-Delahunty, 2006). Yet in a position contrary to Bright's research, when the majority is confronted with the issue of the prejudicial impact the hundreds of depictions of drawings and narratives would have on the jurors, they reasoned that the jury's exposure to violent images through admissible evidence is not substantially influential; in other words, the jury is desensitized to the disturbing images because of their extensive exposure to them (Masters, 2002).

The lead author of this article works as a criminal trial attorney and has participated in countless criminal jury trials, including homicides. Prior to introducing gruesome evidence in homicide trials, the trial judge places the burden on the party wanting to introduce the evidence to explain its relevance, fully understanding that pictures carry great weight in a juror's mind; as a result, trial judges frequently limit what jurors will be exposed to because the prejudicial impact of gruesome evidence that could be linked to the defendant is simply too prejudicial to admit. It has also been the experience of this author that jurors tend to stop listening to evidence when they are overcome with negative emotions. The volume of drawings and narratives that were introduced in the Masters trial resulted in the **case being decided before it ever began**. There was simply too much negative emotion to overcome to convince jurors, who have promised to listen to all the evidence before coming to a conclusion in order to maintain an open mind before deliberations. The Masters case overwhelmingly supports the research by Bright and Goodman-Delahunty (2006) that gruesome evidence can have a disproportionate impact on the willingness to convict and illustrates why it is crucial that the trial court filter evidence that can inflame jurors' passions and convict based on how they feel about the defendant's interests/lifestyle.

What is equally amazing about the Masters case is that from a legal perspective, the circumstantial evidence was non-existent to extremely weak at best. According to Kevin Heller in his article titled "The Cognitive Psychology of Circumstantial Evidence," when there is no direct or physical evidence linking a defendant to a crime and the circumstantial evidence is weak, jurors are more willing to find the defendant not guilty because they are capable of thinking of different scenarios that may have explained Hettrick's death (Heller, 2006). The stronger the circumstantial evidence, meaning the fewer scenarios of alternative culpability, the stronger the probability of conviction based solely on circumstantial evidence (Heller, 2006). Given this author's trial experience with circumstantial evidence cases, the author would agree with Heller's position; yet interestingly, the Masters case tends to contradict Heller's position in that the jurors still found the defendant guilty without direct or physical evidence and non-existent or weak circumstantial evi-

dence. This observation further supports Bright's research that the impact gruesome evidence has on juror perceptions cannot be overstated.

Without admitting Timothy's drawings and narratives describing violent, hate-filled racist views, **there was no case against him**; this is aptly evidenced by what one juror stated after returning a verdict of guilty: "He admitted his guilt through pictures to us" (Farrell, 2000). This is not arguing that gruesome evidence should not be admitted because, by definition, certain crimes inherently have gruesome evidence attached to their acts; however, it is critical that a legal connection linking gruesome evidence to a crime be established so that the justice system can ensure fair proceedings. Yet, the mere fact that a forensic psychologist was permitted to theorize about the defendant's fantasies depicted in the drawings does not strengthen this weak evidentiary link.

The logical relevance of the defendant's uncharged fantasies is minimal when compared to the overwhelming power of these fantasies to depict the defendant as an evil and bad person (Masters, 2002). Even assuming that some of the drawings and writings would be admissible, there are hundreds and hundreds of pages that have nothing to do with this case. According to the minority, the writings and drawings are not even "acts" as contemplated by the law, but merely reflect, for the most part, a 15-year-old's fantasies; not one of these 1,000 drawings and narratives concerns this victim personally or reflects the manner in which the victim was killed (Masters, 1999). However, the prosecution was allowed to end their closing argument by urging the jury to convict the defendant because his fantasies proved that he committed this crime: "Please take the time to look at those drawings, read the narratives, study this evidence. The evidence is there. Sometimes it's hard to find. Sometimes you have to do a little thinking as to how the defendant could draw something like that unless he knew how it happened. Please look and read, study, dig into the paper bags. The evidence is there" (Masters, 1999).

In addition, courts have an obligation to ascertain whether expert testimony that is disclosed to a jury actually rises to the standard that it is in fact generally accepted within the scientific community as reliable to support expert opinion under *Daubert*. The concern is that jurors may rely on information to determine culpability that is un-

founded, creating a scenario where the prejudice to the defendant denies him/her of a fair trial under the Constitution. The majority indicated that the prosecution presented multiple theories of logical relevance to the Masters case and decided that the scientific principles underlying Dr. Meloy's testimony were reasonably reliable and that they would aid the jury. According to the majority, Dr. Meloy's testimony provided an explanation for the seemingly inexplicable, and without it, jurors cannot understand the defendant's motivation for murder. The Court stated:

Dr. Meloy relied on an objective, widely recognized psychological theory, one which was founded on research and study, and one which the trial court determined was generally recognized within the forensic community. His testimony consisted of an objective, complex, and highly developed analysis of the crime scene and Defendant's productions that had been refined by years of research. As such, it was reliable and insightful information that assisted the jury by placing the crime in context and helping them to understand bizarre and deviant behavior that was unlikely to be within the knowledge of ordinary citizens; it helped the jury understand the significance of material facts in the case. (Masters, 2002)

Unfortunately, in order to bolster their legal position on the appellate review of Masters, the majority opined the exact opposite of what the current research and Dr. Yuille indicated on the subject of sexual homicide, in that the role of fantasy is not generally accepted scientific fact in the forensic psychology community. The majority relies upon the prosecution's expert to link the defendant's fantasies to this crime, in spite of the failure of the fantasies to show a link to this specific victim and this specific crime. When there is **genuine scientific debate** over the validity of the expert's propositions, the non-character purpose of the uncharged acts is much weaker and the danger of use by the forbidden character inference much greater.

It is clear from the Masters case that the judicial ruling allowing Meloy to testify reflects the findings of the study titled "Asking the Gatekeepers: A National Survey of Judges and Judging Expert Evidence in a Post-Daubert World" (2001) that concluded judges, especially state court judges, do not know how to apply *Daubert* guidelines; do not understand scientific evidence; do not know how to ask experts the appropriate

questions, issues of statistical significance, distinctions between reliability, and validity of the hard sciences versus the behavioral sciences; and are in need of judicial education on frequent issues that are brought about by expert testimony such as error rates, validity, and reliability (Gatowski, Dobbin, Richardson, Ginsburg, Merlino, & Dahir, 2001). Moreover, research appears to suggest that jurors, perhaps nonconsciously, assume that all expert evidence admitted at trial has been "approved" by a judge, thus concluding too much about the quality of the evidence presented (Schweitzer et al., 2009).

Specifically, jurors assume trial judges review expert evidence before it is presented to them and that any evidence presented to them must be above some threshold of quality (Schweitzer et al., 2009). If trial judges do adhere to *Daubert* standards, the jurors' assumptions may make sense but the research indicates that trial judges do a poor job of screening expert evidence, which is unfortunate; the trial judge is implicitly lending credence to the testimony, thus increasing its persuasiveness (Schweitzer et al., 2009). Interestingly, as recent as March 2008, Meloy testified for the prosecution in a death penalty case and admitted under cross-examination and in reference to the Masters case that "there have been incidences where juries relied on my opinion and in the aftermath, those [opinions] were not supported by evidence" (Coberly & Campbell, 2008).

### Recommendations for Forensic Psychologists

*"What gets us in trouble is not what we don't know, it's what we know for sure that just ain't so."*

—Mark Twain

The introduction of *Daubert* standards changed the landscape for forensic psychology and as the Supreme Court of the United States stated, admissible expert testimony must be based on more than "subjective belief or unsupported speculation" (Daubert, 1993). The *Daubert* criteria encompass concerns within the psychological scientific community that expert testimony was at times admitted absent scientifically acceptable theories and methods to support the opinions expressed, and conversely that relevant expert testimony based on reliable, competent research was at times excluded. Judge Richard Posner characterized the

purpose of *Daubert* as “to protect juries from being bamboozled by technical evidence of dubious merit” (Lloyd, 2006).

The authors recommend that practitioners consider the *Daubert* factors so that legal requirements are upheld and ethical considerations are considered when offering expert testimony. Although not an exhaustive list, some of the *Daubert* factors used by courts in evaluating the reliability of expert testimony are 1) whether a method consists of a testable hypothesis, 2) whether the method has been exposed to peer review, 3) whether the method is generally accepted with a given community, 4) whether the method is valid and reliable, 5) any known error rates, and 6) is the theory developed “for litigation only.”

For example, Meloy uses Masters’s pictures as his measurement of the behavioral rehearsal of the Hettrick sexual homicide, yet there is no data to support his hypothesis. As to reliability, Meloy does not present research that a test used to measure the connection between fantasy and motive to commit sexual homicide produces consistent results that are reliable. As to error rates, how many times was a woman killed where it was argued to be displaced sexual matricide when in fact it was not a displaced sexual matricide? Meloy could not answer this question because there is no data on error rates on this issue.

The authors believe that practitioners should consider the ethical implications of their testimony given the impact it may have on an individual’s liberty, and forensic psychologists do have American Psychological Association (APA) ethical guidelines to consider. Too often courts have admitted **misleading psychological testimony** with the explanation that it could be countered by testimony from opposing experts and by vigorous cross-examination. From the lead author’s trial experience, there are practical situations where vigorous cross-examination may not make juries aware of what, to sophisticated observers, were obvious defects in the testimony, thus ethical considerations should not be ignored just because legal requirements appear fulfilled.

The APA, together with other professional organizations, established a set of ethical guidelines for forensic psychologists published in *Law and Human Behavior* (1991), and although the guidelines do not represent an official statement of the APA, they were endorsed by the American Academy

of Forensic Psychology. All of the guidelines are important, however, because when testifying, forensic psychologists have an obligation to all parties to a legal proceeding to present their findings, conclusions, evidence, or other professional products in a fair manner (APA, 1991). Forensic psychologists do not, by either commission or omission, participate in a misrepresentation of their evidence, nor do they participate in partisan attempts to avoid, deny, or subvert the presentation of evidence contrary to their own position (APA). For example, Meloy mentioned Hazelwood’s research during the trial, but he never disclosed Hazelwood’s opinion that attempting to stretch Timothy’s drawings into behavioral rehearsal and motive was over-reaching. The courtroom testimony clearly illustrates what can happen when opinions that do not support the position taken by the forensic psychologist are either avoided or subverted. The forensic psychologist’s responsibility to make sure that all legal parties understand the **validity and reliability** issues ensures that the checks and balances built into the legal system can function. Meloy committed a significant blunder by attempting to superimpose his expertise with the Rorschach test to bolster his testimony on the connection between Masters’s drawings and the homicide.

In order to avoid undue influence from financial gain, the forensic psychologist maintains professional integrity by examining the issue at hand from all reasonable perspectives, actively seeking information that will differentially test plausible rival hypotheses (APA). In this case, the forensic psychologist made it clear, by way of his own scholarship, that he is interested in and supports psychoanalytic theories. It is evident that the desire to “push” the legitimacy of projectives techniques, at least as practiced by him, as a valid and reasonable method for assessing culpability lead to a tragic error accepted by the Colorado Supreme Court.

For example, there is no evidence that Meloy tested a plausible rival hypothesis that the drawings did not reflect what the forensic psychologist projected into the drawings or that perhaps Timothy’s violent stories did not mean that his fantastical imagination gave him a motive to kill. In fact, Timothy indicated that, “My peers seemed to approve of them. . . . They liked those drawings . . . they would offer suggestions so that encouraged me to draw

even more. . . . We would draw horrible gruesome scenes and share it with a guy . . . ‘Oh, that’s cool,’ and pass it back” (Yager et al., 2008). Meloy had access to Timothy’s school records and knew the media adolescents were exposed to; he learned that Timothy was in a special education class, that his peer group liked to draw, and that many of them even thought Timothy’s drawings were cool. Meloy could have used all of this information to form an alternative hypothesis.

Meloy was also provided information concerning what Timothy’s fellow students were exposed to by the media. Meloy testified during the trial that he categorized Timothy’s drawings into over thirty themes; however, these were themes that fit into a sexual homicide hypothesis. He never considered a military theme, even though he admitted that many of the drawings had a military theme to them. He never considered that the drawings had a Freddy Krueger horror movie theme or, as Timothy stated, were a reflection of the work of **Stephen King**—all possibilities that could have been used to form an alternative hypothesis as to why he wrote stories or drew pictures that were violent. Interestingly, in an article Meloy co-authored titled, “Investigating the Role of Screen Violence in Specific Homicide Cases,” he considered relevant the content of movies viewed by a sexual homicide defendant named Lucas Salmon (Meloy & Mohandie, 2001). Lucas Salmon, together with George Woldt, abducted a 22-year-old female, took turns vaginally raping her, and stabbed, cut, and smothered the woman to death as she lay naked on the pavement (Meloy & Mohandie, 2001). Meloy wrote of the common theme in the movies his client watched, such as *Blood In, Blood Out* . . . *Bound By Honor* and *A Clockwork Orange* to explain his pairing of sex and violence and how it would impact Lucas’s behavior.

Compare and contrast how Meloy took Timothy’s drawings and cross-referenced the classifications used in sexual homicide such as blitz attack, mutilating etc., but not to any other type of classification that would have formed a different hypothesis. For example, Meloy would have known of Timothy’s books and movies that the police recovered from his home and his desire to write like Stephen King because Timothy revealed this to the detectives on several occasions. Meloy does not appear to extend the same analysis of developing theme consistencies for Timothy as alternative hypotheses. It

is plausible Meloy did not develop alternative hypotheses because he knew that some of the major drawings would have more in common with non-sexual homicide themes as opposed to the voluminous military, horror movie, and Stephen King themes.

The fatal error in not actively seeking information that will differentially test a plausible rival hypothesis is a caution that forensic psychologists should heed. The **ACFEI** code of conduct also forbids **ACFEI** forensic examiners from engaging in dual roles, not developing and considering alternative hypothesis, and from creating pseudo profiles. Consider that **ACFEI** members are not advocates for one side or the other and must maintain objectivity. Members should not intentionally withhold or omit any findings or opinions discovered during a forensic examination that would cause the facts to be misinterpreted or distorted.

Moreover, forensic psychologists must avoid giving written or oral evidence about the psychological characteristics of particular individuals when they have not had the opportunity to conduct an examination of the individual as it pertains to conclusions to be drawn by the forensic psychologist (APA, 1991). Forensic psychologists must make **every reasonable effort** to conduct such examinations and when not feasible, they must make it clear the impact of such limitations on the reliability and validity of their professional testimony (APA, 1991). Meloy had the opportunity to uphold this guideline when he testified by disclosing that there were reliability issues as to his testimony because he did not conduct an examination on Masters, but he did not.

Upon Timothy's release from prison, Dr. Meloy stated that Detective Broderick and the prosecutors "intentionally manipulated his professional opinion by misrepresenting the physical evidence and providing him only a portion of the evidence necessary to make a judgment with respect to Mr. Masters's psychological state" (Moffeit, 2008b). Meloy indicated that had he known of Dr. Hammond, then he would not have considered Masters to be the killer (Moffeit, 2008b). Meloy reversed his prior opinion believing that Timothy was the killer when he indicated that relative to Dr. Hammond's likely perpetration, the "probability that Mr. Masters committed the Hettrick homicide was incredibly small" (Carroll, 2008). It was not until it was discovered that Timothy was telling the truth that Meloy offered to create yet

another reverse-engineered pseudo-profile that implicated Dr. Hammond as the more likely suspect, even though Dr. Hammond was irrelevant in terms of Meloy's analysis of the drawings. Again, Meloy had no known direct, physical, or circumstantial evidence that pointed to Dr. Hammond as a more likely suspect.

In addition, Meloy never disclosed Hazelwood's position that is independent of what the police did or did not tell him about the evidence. Moreover, Meloy's position that he was manipulated is flawed; he would have known that there was no direct or physical evidence used against Timothy, other than his own testimony, because he was present at the trial. The evidence or **lack of evidence** presented at trial put Meloy on notice as to what exactly was used against Timothy. Furthermore, it was Meloy, independent of what the police disclosed to him, that presented his credentialed testimony as "science" and defended the scientific nature of his testimony as reliable before the jury that used his testimony to find Timothy guilty.

## Conclusion

Timothy's drawings and their perceived significance to the case proved to be the **fatal flaw** that produced a series of disasters, the first of which began with a distorted criminal investigation leading to the hiring of a forensic psychologist. The second disaster occurred when the psychologist engaged in projective analysis of the drawings without sound research to support his opinion. This mistake led to the third disaster: a prosecution that ignored all other evidentiary considerations, resulting in the conviction of an innocent person. This conviction created the fourth disaster, which represented the Colorado Supreme Court upholding the flawed testimony of the forensic psychologist while ignoring the most fundamental aspects of *Daubert*.

Forensic analysis clearly has its benefits, as we have seen with Timothy being excluded as a source of DNA on the victim's clothing, leading to his freedom. However, we also observe that there is a precarious side to forensics that cannot be discounted, especially when we have lay persons who serve as jurors and can be swayed by an expert's testimony involving drawings. It is critical that if law enforcement does rely on profiling services or forensic psychologists to assist in their investigation, the evidentiary aspects of an investigation should not be

ignored. As of 2008, Timothy appears to suffer from **post-traumatic stress disorder** (Moffeit, 2008c). His attorneys have encouraged him to see a psychologist, but he is weary, stating that "**A psychologist helped put me away**" (Moffeit, 2008c).

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After studying this article, participants should be better able to do the following:

1. Understand the difference between criminal investigative analysis and forensic psychology.
2. Consider the ethical considerations when offering forensic psychological opinions.
3. Implement *Daubert* factors when evaluating the appropriateness of forensic testimony.

**KEY WORDS:** Reid Meloy, Timothy Masters, criminal investigative analysis, forensic psychology, Roy Hazelwood, sexual homicide, motive fantasy, pseudo-profile

**TARGET AUDIENCE:** Criminal investigators and psychologists

**PROGRAM LEVEL:** Basic

**DISCLOSURE:** The authors have nothing to disclose.

**PREREQUISITES:** None

## ABSTRACT

This paper offers an analysis of the series of events that occurred when a homicide detective contacted an international expert in forensic psychology to assist in the arrest process and the prosecution as an expert witness against a targeted sexual homicide suspect. The forensic psychologist developed a psychological profile of a killer using narrative and drawings made by the suspect to conclude that the suspect's fantasy was the motive and behavioral preparation for the sexual murder regardless of the fact that the forensic psychologist knew that there was no direct or physical evidence linking the suspect to the crime. In this article, the authors examine the case of Timothy Masters, who was arrested and convicted of sexual murder based on the testimony of a forensic psychologist while ignoring the opinion of a criminal investigative analyst.

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**1 Picquerism is a form of**

- a. sadism.
- b. narcissism.
- c. psychosis.
- d. neurosis.

**2 Meloy is a**

- a. medical doctor.
- b. forensic psychiatrist.
- c. forensic psychologist.
- d. investigator.

**3 Masters desired to write like**

- a. John Steinbeck.
- b. Plato.
- c. James Joyce.
- d. Stephen King.

**4 Timothy Masters was found guilty based on**

- a. direct evidence.
- b. circumstantial evidence.
- c. physical evidence.
- d. character evidence.

**5 According to Meloy, which would not be a displaced matricide risk factor?**

- a. history of mistreatment of women.
- b. fetishism of female clothing.
- c. lack of confusion over sexual identity.
- d. expression of hatred for women.

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