

TV got it wrong: police

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By Bret Christian

Police have defended their investigation that led to the conviction of three men for the murder of Phillip Walsham, saying an ABC Australian Story series on the murders was inaccurate and lacked objectivity.

Police Commissioner Karl O'Callaghan slammed the programme as "advocacy".

The case officer for Mr Walsham's death, Inspector Scott Higgins, twice said on radio this week that errors in the programme included allegations that records of time-trials had gone missing.

Inspector Higgins also attacked criticism of the Walsham case from Dutch doctor Selma Schieveld.

He said: "It's just an opinion, not based on investigation. I've been told that she has not done one post-mortem."

He said he preferred the opinion of Dr Karen Margolius, a WA pathologist who had done more than 9000 post-mortems.

Dr Schieveld said: "I believe that this is a miscarriage of justice."

She said photographs of injuries to Mr Walsham were much more likely to be the result of being hit by a car than falling from a bridge.

She said the evidence of the case did not support the conclusion that Mr Walsham had been pushed or thrown from a bridge.

Inspector Higgins said there were factual errors in The Australian Story report.

He said time-trials with stop-watches had not been conducted to see whether the convicted men had time to get back to the death scene in time.

He said: "The fingernail clippings didn't go missing; time-trial notes didn't go missing.

"There were no stop-watches, no time-trials. They simply didn't happen."

Evidence of stop-watches and time-trials was given by the accused, not the police, Inspector Higgins said.

Transcripts of the first trial in 2005 show that Detective Senior Sergeant Allan Adams and a Constable Cabbage both gave evidence that on April 2 they drove in a police car with the accused men over routes the men said they had taken on the night of Mr Walsham's death.

Both police officers told the court that times taken for various legs of the journey were written down and put to the accused men at later interviews.

Detective Adams made reference to "stop-watch time".

That first trial ended with a hung jury.

Police Inspector Jon Tuttle said this week that Detective Adams made notes of the times the men had said they were at specific locations, but not of his own journey times.

He said those notes had gone missing.

He said time-trials were conducted in 2005 by Detective Adams and other officers to see whether the men had the opportunity to return to the railway station, the scene of Mr Walsham's death.

This was just before their first trial, more than a year after the men were arrested and kept in custody.

At the second trial, a video of a 1998 news clip was shown to the jury featuring Detective Sergeant Adams.

He said in the interview that the three convicted men had been excluded from any involvement in Mr Walsham's death.

Three defence subpoenas failed to turn up fingernail clippings.

"Our advice from Forensic Biology is that the fingernail clippings did not go missing," Inspector Tuttle said.

"WA police did not have custody of these items and similarly the X-rays are the property of the Health Department.

"Evidence was given at the first trial that they were received but not tested."

Defence sources said this week that attempts to subpoena the X-rays from the Health Department were met with indications that they could not be located.

Inspector Higgins said the jury had the benefit of hearing all the evidence during a 10-week trial and they had reached a verdict of guilty.

He said: "My opinion isn't relevant - it's the jury's opinion that counts."

He said the scene had not been sealed off until days later because police initially thought they were dealing with a fall from the bridge, not a murder.

He said there were a couple of minor errors in the investigation, but not flaws.

He said it was regrettable that there had been no film in a camera used by a police officer to photograph the scene.

Inspector Higgins said on radio (ABC 720) that the original investigators had kept at the job and had investigated the possibility that a car could have hit Mr Walsham.