

Hanratty's ghost haunts the Walsham case

The ghost of a small-time crook named James Hanratty haunts those of us who have serious concerns about mistakes in WA's criminal justice system.

The worry goes like this: what if hard evidence emerges down the track to prove the police and prosecutors were right all along in some of WA's doubtful conviction cases?

Hanratty (25) went to the gallows in England in 1962, vehemently protesting his innocence.

He was hanged for the murder of scientist Michael Gregsten and the rape and multiple shooting of Gregsten's mistress Valerie Storie at Deadman's Hill in Bedfordshire - the infamous A6 murder.

Hanratty's family and supporters took up the condemned man's death-wish to clear his name.

The case became a cause celebre as the years and the campaign rolled on.

Hanratty's outspoken supporters figured it was a similar case to the posthumous exoneration of Derek Bentley, whose name was cleared 45 years after he was hanged for the death of a policeman.

But it was not to be. DNA, which was unknown forensically until 20 years after Hanratty's execution, put his guilt beyond doubt in 2001.

His family clings to the theory that the DNA came from cross-contamination of exhibits.

But the appeal judge said there was no doubt.

Hanratty's DNA was a perfect match with the DNA found on Ms Storie's briefs and a handkerchief wrapped around the murder weapon, a .38 revolver.

Earlier this year, scanning the eyes of the jury for clues in the jarrah-lined Court 3 for much of the 10-week trial over the death of Phillip Walsham, my mind sometimes wandered to those 12 English jurors who convicted the cocky young Hanratty all those years ago.

Did they hear the full story? Were the allegations true that the police fudged and hid evidence to make sure he swung?

If so, karma got him, in a rough justice sort of way.

But other questions raised their ugly heads.

Did Hanratty's judge send the jury out of the courtroom while he resolved seemingly endless arguments from lawyers in the jury's absence?

Since the conviction of three young men for Walsham's murder, the loudest voices have been those that say: "The critics and do-gooders should shut up.

"Twelve impartial jurors heard all the evidence over 10 weeks and decided the three men were guilty. End of story."

But even that jury will be surprised to learn of the evidence it didn't hear.

The judge banned a professor of psychology, Professor Don Thomson, from giving evidence.

He had a fascinating story he wanted to tell the jury - a story that may have made jurors look in a different way at the reliability of evidence of the state's star witness.

Dr Thomson's evidence was about the suggestibility of witnesses who are interviewed many times and have made many statements over a long period, especially where the story has evolved.

And especially when the witness volunteers for hypnosis by a police hypnotist, as did Clare Pigliardo, then a 19-year-old psychology student.

Ms Pigliardo was one of three people in a car stopped at a red light 92 metres from the footbridge, but the only person who said she saw Mr Walsham "backflip" from the bridge.

Another witness who did not give evidence was Dr Thomas Gibson, a professor of biomechanics.

He was to say that tests he conducted showed that men of the stature of Sam Fezzari and Jose Martinez in 1998 could not have thrown Mr Walsham 3.7 metres out from the bridge.

Dr Gibson was not called to court by the defence after it became evident that the trial would be bogged down in unwieldy detail as the prosecution insisted on calling as witnesses all people present at the tests.

Car crash expert Robert Davey was also barred from giving any evidence that related to injuries suffered by pedestrians hit by cars.

It was a defence contention that rather than being thrown from the footbridge, Mr Walsham had been hit on the road by a car and flung under the bridge, where he was found very shortly afterwards (POST, 5/8).

The prosecution said the three men had murdered Mr Walsham by throwing him off the footbridge. The jury agreed.

But at the first trial last year, which ended in a hung jury, state pathologist Karin Margolius said Mr Walsham's legs would have been broken had he been hit by a car.

They were not broken, she said.

Mr Davey obtained an autopsy report of another pedestrian death in WA where the victim's legs had not been broken.

The pathologist in that case was also Dr Margolius.

The trial judge this year stopped Mr Davey from presenting any evidence of a medical nature to the jury, including the unbroken leg comparison.

While the jury was out of the courtroom, Justice Heenan ruled that Mr Davey was not qualified to give evidence of this kind.

The defence was further frustrated by the fact that the x-rays of Mr Walsham's leg bones after his death have been lost.

Police have accused an ABC Australian Story series on the Walsham case of errors of fact (POST, 5/8).

One of the "errors" was a statement that the x-rays were lost.

But a Health Department letter to the defence says that the x-rays have been mislaid.

Checks by the POST have revealed that other so-called errors in the program criticised by police have turned out not to be errors.

Appeal papers have yet to be lodged on behalf of the three convicted men.

The team preparing the appeal is convinced they do not have another James Hanratty on their hands.

More like a Derek Bentley, John Button, Darryl Beamish, Peter and Ray Mickelberg, Andrew Mallard and Rory Christie, they say.