

# What really happened to poor Phillip Walsham?

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By Bret Christian

The controversial death of Phillip Walsham is now officially an unsolved mystery.

The doctor who treated him in casualty at Sir Charles Gairdner Hospital expressed the opinion that Mr Walsham's injuries were consistent with a car impact.

A document recording this was withheld from the appeal on a judge's ruling.

But the question remains: how did Phillip Walsham really die that fateful night nine years ago?

What did happen to the lone 21-year-old in the last 15 minutes of his last night out?

What did he do during that time and where did he go?

He was last seen moving on the bottom steps of the footbridge to the Stirling railway station.

He had been kicked twice in the head, his friends had left him, he had \$20 in his pocket and he could see the taxi rank across the freeway at the station.

The shortest route to the taxis was across the road.

He was drunk, had refused help and said he felt "happy".

Fifteen minutes after he was last seen on the steps, he was found dying on the south-bound freeway on-ramp near the overhead footbridge.

Did he wander a few metres on to the freeway where he was hit by a car?

Evidence, some of it not heard at the trials and appeal, suggests this might be the case.

Last Friday three appeal judges dismissed as "entirely speculative" the possibility that Mr Walsham might have been hit by a car instead of having died in a fall from the footbridge.

However, the Court of Criminal Appeal considered only the same evidence that the jury heard at the 2006 murder trial, after rejecting anything new.

It was concerned about whether the three men had received a fair trial, and the appeal was not a search for alternative reasons for Mr Walsham's death.

Police have not jumped in with a cold-case review into the cause of his death.

But a full-scale investigation could turn up some new twists and turns in this baffling case.

One of the biggest barriers is that none of the original investigators considered the death could be the result of a car crash instead of a fall until the fourth day after Phillip Walsham was found dying on the freeway on-ramp.

By that time forensic evidence had been obliterated by thousands of passing cars.

On the night Mr Walsham was found, the first police on the scene took photos of him lying on the road - photos that could be vital in telling how he died.

But there was no film in the camera, the officer said.

Major Crash inquiry police were not called, and the scene was not taped off to the public and traffic.

Even the next day, a police car was photographed parked on what would have been the point of impact, had Mr Walsham been hit by a car.

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Since then, police procedures have changed.

The Walsham Three were cleared of any involvement in Mr Walsham's death in 1998, then six years later were charged with his wilful murder.

The prosecutor at their 2006 trial dismissed the car crash scenario, saying there was no evidence for it.

The now-exonerated men say there was no evidence because its collection at the time was botched.

It was not their job to collect it, and six years later, they would have no chance of doing so, they say.

Most perplexing is the evidence of three doctors, plus the doctor who treated Mr Walsham in hospital before he died.

At the first murder trial in 2005, the doctor who performed the autopsy on Mr Walsham gave evidence that his injuries were consistent with falling from a bridge.

Asked if he could instead have been hit by a car, Dr Karin Margolius said she would expect his legs to be broken.

By the second, 2006 trial, the defence had engaged former police crash investigator Robert Davey to assess the evidence.

He discovered an autopsy report signed by Dr Margolius in which a pedestrian had been killed by a vehicle but his legs remained unbroken.

The prosecution opposed Mr Davey giving evidence, arguing that he was not medically qualified and could not give medical evidence.

The judge agreed, but allowed Mr Davey to give other physical evidence, some of which he said pointed to a vehicle crash.

Dr Margolius, at the second trial, did not mention broken legs.

But she said that Mr Walsham's skin lacked "brush-burn" marks that she would expect to see from skidding on the road after a car impact.

She said the deep cut on one of Mr Walsham's hands was suffered when his arms flailed as he bounced off the road when falling from the footbridge.

Dr Margolius said from the injuries she had examined, a fall was far more likely than a motor vehicle impact.

She said she would feel more comfortable with a vehicle impact scenario if someone had witnessed it.

After last year's conviction and life imprisonment of the three men, the defence engaged leading American pathologist Dr Daniel Spitz to review the autopsy evidence and photographs.

His report was refused an airing in the appeal court on technical legal grounds.

But he said that brush-burn marks were apparent on Mr Walsham's skin, and the hand injury was most likely caused by impact with part of a motor vehicle, possibly a mirror.

Dr Spitz said the most likely cause of death was a side-swipe from a motor vehicle.

Both doctors Margolus and Spitz say that there was no possibility that Mr Walsham both fell from the bridge and was struck afterwards by a vehicle.

Significantly, Dr Spitz totally contradicts the emphatic evidence of witness Clare Pigliardo that she saw a body bounce at least a metre into the air, and possibly as high as a car.

Dr Spitz said bodies did not bounce.

Defence lawyers suggested to Ms Pigliardo that she may have described an optical illusion - that she saw a body being flung into the air after being hit by a car and thought it had come off the footbridge.

She emphatically denied this.

It is often reported that Mr Walsham was found under the footbridge, but he was at least 3.7 metres south, and diagonally up to five metres from the point Ms Pigiardo said she saw him fall.

A physicist told the court that 3.7 metres was the outer range of where a person of Mr Walsham's size could jump or be thrown.

A witness at the trial, motorist Joseph Lione, said he saw a person lying on the road some metres north of the footbridge, and stopped and blew his horn at him.

Defence lawyers said if this was Mr Walsham, he got to the south of the bridge by being propelled there by another car that hit him when he stood up.

The appeal judges said little weight should be given to Mr Lione's evidence because he described the body in a different position and at an earlier time than it was eventually found by a passing taxi driver.

Police have said they will examine any new evidence presented.