

# 'Police failed on forensics'

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By Bret Christian

Police investigating the death of Phillip Walsham did not record enough information to establish whether Mr Walsham was hit by a car, an independent car-crash expert told the Supreme Court.

Robert Davey, a former police crash investigator, said the position of Mr Walsham's body on the side of the road indicated a possible motor vehicle hit-run.

"With the forensic evidence available and due to the lack of scene preservation, I cannot say positively that Phillip Walsham was a victim of a hit-run accident," Mr Davey said.

A tyre mark on a kerb 11m in front of the body had been photographed by police at the time because they considered it significant.

Mr Davey said that based on the on-ramp speeds he had observed, 36 to 43kmh, 11m was about the distance a body would be projected if struck by a motor vehicle.

"I'm not saying that I've got conclusive proof that was the point of impact," Mr Davey said.

Three young men are on trial for the wilful murder of Mr Walsham in the early morning of February 28, 1998.

Jose Martinez, Salvatore Fazzari and Carlos Pereiras, who were teenagers at the time, are alleged to have thrown Mr Walsham off the pedestrian bridge over the Mitchell Freeway at Stirling railway station.

Mr Walsham (21) was found by a taxi driver on the edge of the south-bound on-ramp, near the underpass, bleeding heavily.

He died in hospital three hours later.

Mr Davey told the court he had done work for both the defence and prosecution in other cases and was engaged by the Department of Public Prosecutions to prepare a report on the pedestrian crash tests conducted for the John Button appeal.

He said his job was to consider the objective physical evidence at a crash scene, not to see whether the objective evidence supported witness evidence.

"My calculations and scientific conclusions are not based on witness testimony," he said.

"If five witnesses say that a vehicle was doing 30 and skid-mark calculations show it to be doing 80kmh, you shouldn't bear that (the witness testimony) in mind," he said.

"You should go with what you've ascertained at the scene and the calculations - what you know to be correct from physical evidence and basic physics principles."

He said that accounts from perfectly honest different witnesses to the same incident did not tally with each other "in just about every single accident that I have knowledge of".

He said their accounts of the same event described "different cars, different colours, different direction of travel, different speeds".

"If you have two witness statements that are very similar it's highly unusual," he said.

He agreed that sometimes pedestrians could be impelled into the air but would not reach a height of 7m, the height of the pedestrian bridge.

Earlier in the trial, a forensic pathologist who examined Mr Walsham's body said she was "uncomfortable" with the car crash scenario (POST, 8/4).

Dr Karin Margolius, from the QEII Medical Centre, said: "What would make me more comfortable is if somebody witnessed it - what vehicle, what speed, what was the presenting point of the anatomy? I would re-look at the case."

She said she was not completely excluding a car crash but put it at the bottom of the scale.

"Some things are always possible," she said.

She was "very comfortable" with the scenario that Mr Walsham had fallen from the bridge on to the road.

This scenario was at the top of the scale, she said.