

# CCC offers a peep inside a murder inquiry

Perhaps nothing better illustrates how the infamous Mallard case came unstuck than the way police allegedly treated their star eye-witness in the days and weeks after the brutal murder of Mosman Park jeweller Pamela Lawrence.

She was 13-year-old St Hilda's schoolgirl Katherine Barsden.

She had seen a man thought to be the one who bludgeoned Mrs Lawrence to death inside her shop, Flora Metallica, in 1994.

But Miss Barsden's memory of what she saw changed between the night of the murder and her evidence to the jury 18 months later, after a process described this week by acting commissioner John Dunford as "fundamentally improper".

It was a major contributing factor to the conviction of Andrew Mallard, he said.

Mr Mallard is now seeking millions of dollars compensation for his wrongful conviction.

The ugly detail, as told by the Corruption and Crime Commission, was laid out on Tuesday when Judge Dunford made public his long-awaited report into the case.

Questions about how and why Miss Barsden and others changed their evidence have already had a devastating effect on the careers of two of the state's most senior police officers, and may lead to their sacking.

More devastated was Mr Mallard who, at the age of 31, lost 12 years of his freedom for a murder he did not commit.

David Caporn and Mal Shervill, now assistant commissioners of police, were at the centre of the original murder investigation.

But for them the case is far from over. Their boss stood them down from



*Katherine Barsden outside the CCC hearings last year.*

duty on full pay the day the report was released.

Police Commissioner Karl O'Callaghan said this week they should have the opportunity to reply to the allegations.

"I have to make sure that confidence in the WA Police is preserved," he said.

Any fair reading of the original trial shows that Miss Barsden's evidence in court must have had a strong influence on jury members who wrongly decided Mr Mallard was Mrs Lawrence's murderer.

Miss Barsden, whose mother Jacqueline worked in Flora Metallica, was, and is, an intelligent, articulate, artistic and observant young woman and is now an architect.



*Beard and scarf, a sketch Katherine Barsden made just after the murder.*

Alleged influences on the evidence she eventually gave in court are best described by Judge Dunford in his explosive report.

"The commission is in no doubt that Miss Barsden was endeavouring to tell the truth," he wrote.

"But she was at the time an impressionable 13-year-old who probably felt she had an important part to play in the conviction of the brutal murderer of her mother's employer.

"She was anxious to help the police in any way she felt she could."

Over three chilling pages of his 178-page report, Mr Dunford dissects the sequence of events that led up to Miss Barsden's damning evidence that helped convict the wrong man.

After 12 years in jail, Mr Mallard was released when the High Court ruled police had not disclosed all the evidence in the case, including what Miss Barsden first said to police in a hand-written statement the morning after the murder.

This differed in critical aspects from what she said in court, but matched what was in a typed statement she signed a week after the murder.

"To put it bluntly, the person in the shop whose original description by Miss Barsden did not fit Mr Mallard now becomes "probably Mallard", Mr Dunford wrote.

How this allegedly came about is a bit difficult to condense, but stay with me.

Katherine's mum Jacqueline worked in Flora Metallica and had finished work at 3pm on the day of the murder, leaving Mrs Lawrence, a popular and attractive mother of two teenage girls, alone in the shop.

Katherine was picked up from school by her grandmother, Marion Wood, and they were driving home to Swanbourne when the car stopped at the lights at Glyde Street and Stirling Highway, right outside the shop, at about 5pm.

Katherine looked left and saw a man inside the shop, in an area not open to the public.

She could not see Mrs Lawrence, and the front door was shut.

She said she saw the man looking at her, and he ducked down.

When she got home she drew a sketch of what she had seen.

Next day when her family heard there had been a murder in the shop, they contacted police.

Katherine drew more sketches and showed them and the original to investigating officers.

She described the man as about 30-35, of medium build, with a fair complexion, a longish face and a short orangey beard.

He was wearing a gypsy-type scarf on his head tied tight over his hair; it was of light material, coloured blue and green with an orangey border, she said.

Her sketches showed a man with a beard but no moustache and a scarf tied tightly around his head, with a solid, orange/red border, and the scarf blue/silver/white.

Later that day police questioned Andrew Mallard, who had a prominent moustache but no beard.

They had also seized a cap belonging to Mr Mallard, and obtained a statement from another witness who said Mr Mallard sometimes wore a cap backwards.

Police evidently believed that the "tight scarf" seen by Miss Barsden could have been this cap.

The cap, however, had different colours to those originally described by Miss Barsden.

She was shown the cap in 1994 and last year conceded this had influenced her final description of the headgear, Mr Dunford said.

A week after the murder, Miss Barsden signed a second statement witnessed by Detective-Sergeant Shervill, the case officer in the investigation.

The description of the scarf and the man had changed.

"The changes from her original statement to her statement of 1 July, 1994, were significant," Judge Dunford wrote.

The man's beard had become a light one.

The scarf now "looked like" a gypsy-type scarf.

It had changed colour to the same colours as Andrew Mallard's cap.

It had become red, yellow and black with a gold braid around the edge.

"Whereas previously it was right over his hair, it now looks to be right across his forehead and the sides of his head above his ears," Mr Dunford wrote.

"Not only that, all references to her sketches, made while the image was fresh in her mind, have been removed."

The sketches and the first statement did not surface at Mr Mallard's trial in 1995, when Miss Barsden's

evidence in the witness box matched that in her second statement.

"The person seen by her (Miss Barsden) at about 5.00 to 5.05 and originally described by her could not have been Andrew Mallard," Mr Dunford wrote.

"Her description did not fit him and he had no scarf matching her original description of her headgear."

She did not pick Mr Mallard's picture out from police photographs, but this fact was never told to Mr Mallard's trial.

Miss Barsden agreed she spoke to police many times. Police running sheets records show meetings with her on May 24, 25 and 29, June 3 and July 1, 1994.

"The commission is also satisfied that by the end of the trial she firmly believed the right man had been convicted," Judge Dunford said.

"So it is not surprising she became angry and upset when she and her family were approached by Andrew Mallard's supporters in about 2002."

Last year, Miss Barsden said that when she saw Mr Mallard in court, she recognised him as the man she had seen in the shop the year before.

In her evidence at the commission last year "she tried to dispute the colours of Mr Mallard's cap, which was produced for her inspection," Judge Dunford said.

He described this 2007 evidence as "not as satisfactory".

Back in 1994, Detective Shervill wrote in police running sheets that Miss Barsden's evidence had been amended to exclude inadmissible information.

"This entry was false," Judge Dunford said.

"There was nothing in her original statement, and particularly her description, which was inadmissible.

"But the effect to her statement was to change her description of the headwear worn by the person in the shop ... to possibly a cap worn back to front."

There was no evidence that Detective Caporn played a part in interviewing Miss Barsden but did with other witnesses.

Judge Dunford goes through a similar process of dissecting changes in evidence of four other witnesses at the Mallard murder trial.

"They (the changes) display a deliberate pattern of strengthening the case against Andrew Mallard by producing witnesses who supported the proposition that he was the person seen by Katherine Barsden in Flora Metallica," Judge Dunford says.

"The commission is satisfied that the (pattern) cannot have been accidental or a coincidence.

"The commission is satisfied that Detective-Sergeants Caporn and Shervill, who were together involved in the process, either by persistent and repeated questioning, or by deliberately raising doubts in the witnesses' minds until they became confused, uncertain or possibly open to suggestion, were instrumental in causing the witnesses to change their statements," he wrote.

The changed witness statements formed the basis of some of the commission opinions and recommendations that went against Mr Shervill and Mr Caporn.

Judge Dunford said that in his opinion the detectives had caused witnesses to change their statements "in a manner that was not honest or impartial".

He said it could constitute a breach of discipline that could provide reasonable grounds for termination of employment.