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**Independent forensic  
 consultant covering**

- Ballistics
- Firearms
- Ammunition
- Explosives
- Bombings
- Scene Investigations

## Report on the Shooting of Wendy Waine

I am a self employed, independent consultant in firearms, ammunition and explosives. My qualifications and experience are given in the CV at Annex A to this report.

I have been engaged by Rhys Carvosso, solicitor assisting the Special Commission of Inquiry into LGBTIQ hate crimes, to provide opinions on some firearms aspects in this matter.

I acknowledge for the purpose of Rule 31.23 of the Uniform Civil Procedure Rules 2005 that I have read the Expert Witness Code of Conduct in Schedule 7 to the said rules and agree to be bound by it.

The opinions in this report are based wholly or substantially on my specialised knowledge acquired from my training, study and experience. I have not examined the exhibits and any opinions given in this report may be revised if I should do so, and/or further evidence is provided for analysis.

Sources I have used to prepare this report include:

A brief containing:

- Inquest findings of Coroner Glass dated 18 September 1986
- Statement of [REDACTED] **I227** dated 30 April 1985
- Interview of [REDACTED] **I232** on 1 May 1985
- Statement of Michael Francis McCarthy dated 7 May 1985
- Statement of [REDACTED] **I242** dated 30 April 1985
- Statement of [REDACTED] **I239** dated 3 May 1985
- Autopsy report of Dr Thomas Oettle dated 15 October 1985
- Statement of FCC Raymond Constable dated 4 May 1986
- Statement of DS Stephen Desmond McCann dated 22 July 1986
- Expert report of Dr Linda Iles dated 28 October 2022
- Crime scene and autopsy photos labelled SCOI.82948 and SCOI.82934

## Summary of Opinions

- The lack of firearms evidence precludes the identification of the firearm used, as well as the number of firearms used.
- Removal of firearms evidence from the scene suggests a planned rather than opportunistic shooting, and a knowledge of the value of that evidence.
- The muzzle abrasions/impressions on the victim's skin are typical of a close contact wound where the firearm was pressed against the skin when fired.
- The distinctive muzzle imprint around the wounds to the back and neck are typical of those caused an automatic pistol, perhaps similar in appearance to a Colt model 1911.
- It is difficult to estimate the size/calibre of a firearm from a gunshot wound; but clearly the wounds seen in the photographs are larger than those expected from a 22inch to 32inch, or similar calibre firearm.
- The number of shots fired is not known for certain, but was probably 2 or 3.
- Although I have seen no reports of the shots being heard, I do not believe a suppressor/silencer was used.
- There appears to be little scope for further investigation or evidence analysis that might identify the firearm used and/or the shooter.

## Opinions

The questions below in bold italics are from the solicitor's instructions to me, and my opinions and comments are indented and in plain text.

***I would be grateful if you could address the following matters in your report, having regard to the material with which you are briefed and to the extent that they are matters which fall within your expertise:***

### ***1. The likely calibre of the weapon used to shoot Ms Waine;***

The lack of firearms evidence - fired projectiles, fired cartridge cases, and the firearm itself – all thought to be removed by the shooter - precludes:

- The certain identification of the type, make model and calibre of the firearm used.
- How many firearms were used – clearly at least one, but it could be more, and
- Identification of the type of ammunition fired; although the lack of fragments in the wounds suggest that full metal jacket projectiles, as opposed to plain lead alloy projectiles, may have been fired.

The removal of that evidence suggests:

- A planned rather than an opportunistic shooting.
- Some knowledge by the shooter of the value of firearms evidence.
- That the firearm might be readily traceable from that evidence.
- It would have taken some time to search for and retrieve the 2 or 3 sets of projectiles and fired cases, perhaps as much as 10 or 15 minutes.

Photos of a firearm next to the back wound suggest an automatic pistol was used because of the distinctive muzzle imprint around the wound.

Without evidence from the projectiles and cases, it cannot be said for certain that there was only one firearm and one shooter, although both are possible.

***Without limiting the matters which you may consider relevant to this question, please outline your views regarding:***

***a) Whether you agree with Constable Raymond Constable's opinion that the bullet wounds were consistent with a large calibre projectile, with the muzzle of the weapon held in contact with the skin at the time of discharge? Why/why not?***

I agree with Const Constable and Dr Iles that, in the case of the back and neck wounds, the muzzle abrasions/impressions on the victim's skin are typical of a close contact wound where the firearm was pressed against the skin when fired. There is insufficient evidence to determine the type of gunshot wound to the hand.

***b) Whether you agree with the opinion that the wounds are consistent with having been caused "by large calibre projectiles possible .45 calibre"? Why/why not?***

When a bullet hits and passes through the skin it stretches and then contracts after the bullet has passed, which can make it difficult to estimate the size/calibre of a firearm from a gunshot wound. But clearly the wounds seen in the photographs are larger than those expected from a 22inch to 32inch, or similar calibre firearm.

The photo on page 34 shows a tape measure alongside the back wound, but no measurements appear to have been recorded, as Dr Iles notes.

"Large calibre" could include 45, 44, 40 and 38 inch calibres, as well as large metric calibres.

***c) What make and/or model of firearm is pictured in the photograph taken at autopsy.***

The photograph shows an automatic pistol. The actual pistol used would be similar to that seen on pp 30, 32 & 45, 136 of the brief; and similar in

appearance to a Colt 1911, of which there are many copies, variants and manufacturers. I cannot positively identify the gun shown, but it is probably not a Glock or SIG, because of the muzzle configuration and pistol grip logo.

## **2. The number and trajectory of fired bullets;**

The number of shots fired is not known for certain, possibly 2 or 3, and maybe more than one firearm was used.

At least two points are needed to estimate the external trajectory. Here there is only one for each shot – i.e. the bullet wounds; although the wound tract through the body can show the internal trajectory and suggest an external one. Dr Oettle's report gives the internal trajectories of the shots to the back and neck, and those are probably indicative of the external trajectories.

## **3. The position of the shooter(s) and victim at the time of discharge;**

The position and attitude of victim's body at the time of the shooting is not known for certain, although it seems likely she was initially shot while lying face down on the bed, followed by a second, and maybe a third shot, while lying on the floor. The shooter was most probably above the body when firing the shot in all cases. There is insufficient evidence to determine the angle of the gun relative to the victim's body although Dr Oettle's report gives some guidance.

## **4. Whether any (and if so, what) testing is possible on the flannelette sheet produced by police for gunshot residue or any evidentiary material;**

There are both presumptive and confirmatory tests for gunshot residues. The former are field tests which need later confirmation by analysis in a laboratory. I have seen no reports of either test being used in relation to this shooting.

Firearm debris, if found in the bedding, may not be helpful in identifying the type of firearm, but could identify the type of ammunition used.

A key principle underlying crime scene investigation is a concept known as Locard's Exchange Principle<sup>1</sup> which states that whenever someone enters or exits an environment, something physical is added to and removed from the scene. The principle can be summarised as: "Every contact leaves a trace".

Perhaps the shooter(s) left DNA or other traces on the bedding or in the premises; although DNA testing was not used in criminal matters in Australia until 1989<sup>2</sup>, and any evidentiary materials may have disappeared during the 38 years since the shooting.

<sup>1</sup> <https://www.forensicsciencesimplified.org/csi/principles.html>

<sup>2</sup> <https://research-repository.griffith.edu.au/bitstream/handle/10072/394184/Briody427148-Accepted.pdf>

**5. Any recommendations for further investigations with respect to determining the manner and cause of Ms Waine's death;**

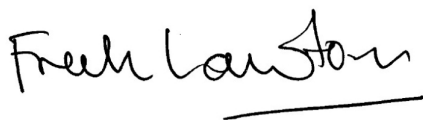
In my opinion there appears to be little scope for further investigation or evidence analysis that might identify the firearm used and/or the persons who were responsible for this shooting.

**6. Please provide any other comment, within your expertise, which you consider to be relevant to the manner and cause of Ms Waine's death.**

I have seen no reports of the gunshots being heard. I do not believe a suppressor/silencer was used because there is no impression of one around the back wound, only a muzzle impression. The body itself could have acted as a silencer, absorbing the energy and muffling the noise of the shot.

The wound to the hand was possibly caused by one of other two shots, or by a third shot. The evidence available is inconclusive.

***In answering the above questions, please comment where appropriate upon the opinions expressed by investigating officers at the time of the original police investigation.***



Frank Lawton

26 May 2023

## Annex A

### CV - FRANCIS WILLIAM LAWTON

I am a consultant in ballistics, ammunition, firearms and explosives. I am professionally qualified in these areas through training and experience as an ammunition technical officer (ATO) in the British Army. I spent over 14 years as an ATO, including more than 3 years employed on forensic intelligence and explosive ordnance disposal duties investigating shooting and explosives incidents. Later I was the technical manager for Army guided missiles in the British Army, and retired as a Lt Col in 1985. I then joined the Australian army and was the manager for army ammunition. When I left the army in 1987 I began consulting in this area.

I was trained on a 12 month full time course in ammunition, weapons and explosives in 1972 at the Royal Military College of Science and Army School of Ammunition in UK. The course covered the design, testing, effects, use, manufacture and storage of all types of ammunition, weapons and explosives. It included studies in:

- Weapon design, testing and proof
- Design, manufacture, ballistics and testing of ammunition
- The chemistry of all types of propellants and explosives
- Metallurgy and metal working
- Associated electronic systems

This was followed by 2 years employment in the UK with close involvement in the investigation of the scenes of weapons and explosive incidents and 4 months in Northern Ireland as the leader of a bomb disposal team.

I then established and led a technical intelligence team investigating shooting and bombing incidents in Northern Ireland. I worked closely with forensic specialists to examine the physical evidence and determine the type of weapons used. I became familiar with weapon and bullet identification from bullet and cartridge cases. This job also involved the examination of scenes of crime.

I was mentored by one of the UK's most prominent, independent forensic ballistics experts, the late Mr P J F Mead, who was an ex Army colleague.

I have assisted in the technical investigation of many shooting, weapon and explosive incidents and examined the physical evidence from them. I have studied many technical reports relating to shootings and bombings in several countries including Canada, USA, France, Germany, UK and Australia.

I have a self directed, professional development programme to maintain and update my technical knowledge, which includes:

- Reading extensively from sources around the world, including a comprehensive selection of forensic journals, books, case reports and other articles relating to weapons & ammunition, forensic ballistics and firearms discharge residues.
- Networking with other experts in this field.

- Research and study of techniques and case reports available from around the world via the Internet.

I follow the Codes of Conduct for Expert Witnesses applicable in each state of Australia and in New Zealand, and the Code of Professional Practice of the Australian and New Zealand Forensic Science Society.

I have given evidence in UK courts and have been accepted as an expert witness for criminal matters in the Supreme Courts of Victoria and New South Wales, and other courts in those states. I have worked on many firearms matters with solicitors and barristers in Victoria, South Australia, ACT, Queensland, Tasmania, WA, New South Wales, New Zealand and PNG where court appearances were not necessary.

I have assisted in more than 300 matters, including the following high profile incidents in Australia:

- Russell Street car bomb, Melbourne 1986
- Turkish Consulate bomb trial, Melbourne 1987
- Toorak bombing trial, Melbourne, 1989
- Tax Office letter bombs, ACT 1998
- Shooting murder of Mr John Newman, MP, trial, Sydney 2001
- Member of the advisory team, PIAC International Crimes Evidence Project 2013
- Trial of Glen McNamara & Roger Rogerson, Sydney 2016
- Trial of Leonard Warwick (NSW Family Court Murders) 2018 - 2020
- Inquest into the murder of Shirley Finn WA 2018/19
- Review of the shooting murders of Sgt Silk & SC Miller, Melbourne 2019

I gained a diploma in Management Sciences in 1979, and a master's degree by research in the same subject area in 1984, both from the University of Manchester in UK. I gained Certificate 4 in Training and Assessment in Australia in 2007 and was employed casually by Australian colleges to teach diploma level business studies at several universities and colleges in China until 2015.