

FMA**Forensic Medicine Associates****Professor Johan DUFLOU**

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Consulting Forensic Pathologist**EXPERT OPINION****INQUEST INTO THE DEATH OF ANTHONY CAWSEY**

1. My name is Johan DUFLOU.

2. **TRAINING, STUDY AND EXPERIENCE:** I am a specialist forensic pathologist. My professional qualifications are:

- Bachelor of Medicine, Bachelor of Surgery.
- Master of Medicine in Forensic Pathology.
- Fellow of the Royal College of Pathologists of Australasia.
- Fellow of the Faculty of Forensic & Legal Medicine of the Royal College of Physicians (London).
- Diploma in Aviation Medicine.

I hold a number of professional appointments, including consulting forensic pathologist, senior forensic pathologist at the Forensic Medicine Centre in Canberra ACT, Clinical Professor in the Central Clinical School of the University of Sydney, and Conjoint Associate Professor at the National Drug & Alcohol Research Centre of the University of NSW.

I have performed a large number of investigations into stab wounds and other sharp force injuries sustained by persons, both living and deceased, during my career as a medical practitioner and a forensic pathologist over a period in excess of 30 years. Such sharp force injuries extend from the clinically trivial to those which have caused death. In many instances, I have had access to various weapons which have been suspected of causing the injuries, and in those cases I have been asked to comment on the likelihood or otherwise of various items having caused the injuries in question.

Since the mid 1980's I have presented expert evidence on numerous topics in forensic pathology before Courts and other Tribunals in many jurisdictions in Australia and internationally.

As part of my academic appointments, I teach undergraduate and postgraduate students and

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other professional groups in the field of forensic medicine and forensic science, including specifically on the topic of injuries, their description and interpretation, including an assessment of the mechanisms whereby they may have been sustained.

I have also had published in excess of 120 peer reviewed scientific articles in many scientific and medical journals, including the results of research on injuries sustained in a range of circumstances.

I enclose a copy of my resume.

3. **ACKNOWLEDGEMENT:** I acknowledge that I have read the Expert Witness Code of Conduct set out in schedule 7 of the NSW Uniform Civil Procedures Rules 2005, and I agree to be bound by it. I have made all inquiries which I believe are desirable and appropriate (save for any matters identified explicitly in the report), and no matters of significance which I regard as relevant have, to my knowledge, been withheld from the court.

4. **PURPOSE OF REPORT:** I understand that Mr Cawsey died as a result of a stab wound to his chest. Subsequently, Mr Moses Kellie was identified as a person of interest in this case, and he was charged and convicted of a number of offences with similar circumstances to those of Mr Cawley's death. During the investigations into those offences a number of knives were located. I have been handed five of those knives for examination, and descriptions of those and a sixth knife have been provided. I have been asked whether the stab wound injury sustained to the deceased's left chest is consistent with the use of any of the knives seized by police. My review of the provided material commences at paragraph 7 of this report. My opinions, which are wholly based upon my specialised knowledge, commence at paragraph 13 of this report.

5. **MATERIAL RECEIVED:** I have received and considered the following material in relation to this case:
 - Letter of Instruction of Ms Tracey Howe of the NSW Crown Solicitor's Office, dated 24 October 2017.
 - Form P79A (Report of death to the Coroner).
 - Autopsy report compiled by Dr Rebecca Irvine, dated 14 December 2009.
 - Certificate of Analysis (toxicology report), dated 21 October 2009.
 - Statement of Detective Sergeant Richard Crimmins, dated 26 September 2009, which includes numerous photographs of the scene and of the deceased.
 - Statement of Crime Scene Officer Anna Wood, dated 27 July 2010, which includes numerous

photographs of items of interest.

- Photographs of six knives.
 - A DVD containing scene photographs and autopsy photographs of the deceased.
 - Five knives.
6. I have not previously been involved in the autopsy examination or any other aspect of the investigation of this death. I was the Clinical Director of the Department of Forensic Medicine in Sydney at the time that Dr Irvine performed the autopsy in this case. It is possible I may have seen the body of the deceased and discussed the case with Dr Irvine at the time. If so, I have no recollection of this taking place.

REVIEW OF PROVIDED MATERIAL

7. **RELEVANT CIRCUMSTANCES:** According to information extracted from the provided material, I understand that Mr Cawsey was found dead in Centennial Park at about 05:55 hours on 26 September 2009 by a member of the public. Police were contacted and a single stab wound was found on the body. Subsequently, a post mortem examination was conducted by Dr Irvine and the Homicide Squad of the NSW Police Force established Task Force Annand to investigate the death.
8. Mr Moses Kellie was identified as the sole person of interest in this matter. He was a homeless man living in Centennial Park during that time, and he was charged and convicted of other offences that occurred in similar circumstances and at around the same time as Mr Cawsey's death. He was also investigated in relation to a further assault, but no charges were laid. The common features of the offences were that they involved unprovoked violent attacks and the use of knives or bladed weapons, took place in the immediate vicinity of Centennial Park, and they all occurred within a month period between September and October 2009. I understand there was no forensic link established between Mr Cawsey and Mr Kellie from items found at the crime scene, Mr Kellie's campsites in the Park, or DNA evidence of Mr Cawsey's clothing. No knife was found which was definitely used to stab Mr Cawsey. However, a number of knives were located by police during their investigations, which Mr Kellie has reportedly stated he had exclusive use of.

9. **AUTOPSY FINDINGS:** Dr Irvine conducted an autopsy on the body of Mr Cawsey on 29 September 2009. She made the following pertinent observations:

- 37 year old man, body weight 65.5 kg, body length 1.76m.
- X-ray of the chest was done prior to autopsy - no metal fragments were identified.
- Stab wound of left chest: Following re-approximation of the wound edges the injury was described as a 2.7 cm long stab wound with a superior blunt edge measuring 0.3 cm. Adjacent to the stab wound were a 0.2 cm diameter round abrasion at the 7 o'clock position and a 0.5 x 0.1 cm abrasion at 6 o'clock position. The track of the stab wound passed upwards and backwards passing through the tissues of the anterior chest wall and entering the heart. The defect in the anterior pericardial sac measured 2 cm in length, that on the surface of the heart measured 1.4 cm in length, and that on the inner surface of the right ventricle measured 1.2 cm in length. The wound track was about 10 cm in length. Associated with the injuries were a large collection of blood in the pericardial sac and a smaller amount of blood in the left chest cavity.
- Clothing: Two defects were described on the front panel of the shirt. These were described as a 2 cm long shallow "V" shaped defect and a 2 x 0.6 cm notched defect, both with cut edges.
- Other injuries:
 - Areas of abrasion on under-surface of chin, on the left forearm, the dorsum of the right hand, the left mid-shin, the left thigh, and the left shin.
 - A 0.7 cm diameter lesion at the distal border of the left great toenail with an adjacent wavy 1 cm superficial possible sharp force injury.
 - Petechial haemorrhages on the face and eyes, the anterior neck and the left upper chest wall.
- Natural disease: Nil identified.
- Toxicology: Alcohol 0.005 g/100mL, methylamphetamine 0.2 mg/L and evidence of cannabis consumption.
- Cause of death: HAEMOPERICARDIUM due to STAB WOUND OF THE LEFT CHEST.

10. **PROVIDED DESCRIPTIONS OF KNIVES:** The following descriptions have been provided:

- Waverley Item 1/D725319: A brown handled, long bladed knife.
- Maroubra Item 1/D794172 "A": A 23 cm long kitchen knife with a black plastic handle and a

serrated edge on the 11.5 cm blade.

- Maroubra Item 2/D794172 "B": A black handled knife.
- Maroubra Item 3/D794172 "C": A long-bladed black handled bread knife.
- Maroubra Item 4/D794172 "D": A 22 cm long kitchen knife with a curved black plastic handle. The blade was 11 cm in length with a serrated edge and a bent tip.
- Maroubra Item 5/D794172 "E": A black handled knife.

For ease of description, I will further describe the items as the Waverley knife, and Maroubra knives "A" through "E".

11. **EXAMINATION OF KNIVES:** Constable Melanie Staples of the Homicide Squad delivered five knives. All knives were received in transportation tubes, which in turn had been placed in sealed evidence bags. I have been informed that Maroubra knife "D" has been destroyed and is not available for examination. I make the following observations on the provided knives, with all measurements being approximate:

- **WAVERLEY KNIFE:** The knife has a brown handle and is 298 mm in length. The wooden handle is 112 mm long, maximum 15 mm wide and 12 mm in thickness. The blade of the knife has a sharp point and is serrated for most of its length. It has a single cutting edge. The blade is 187 mm long, has a maximum width of 25 mm, and a maximum thickness of 1 mm. Ten cm from the tip of the blade, the blade is 23 mm wide.
- **MAROUBRA KNIFE "A":** The knife has a black handle and is 225 mm in length. The plastic handle is 107 mm long, has a maximum width of 27 mm and a maximum thickness of 13 mm. The blade of the knife has a slightly blunted sharp point and is serrated for most of its length. It has a single cutting edge. The blade is 118 mm long, has a maximum width of 17 mm, and a maximum thickness of less than 1 mm. Ten cm from the tip of the blade, the blade is 17 mm wide.
- **MAROUBRA KNIFE "B":** The knife has a black handle and is 235 mm in length. The plastic handle is 107 mm long, has a maximum width of 27 mm and a maximum thickness of 13 mm. The blade of the knife has a sharp point and is serrated for most of its length. It has a single cutting edge. The blade is 128 mm long, has a maximum width of 18 mm, and a maximum thickness of less than 1 mm. Ten cm from the tip of the blade, the blade is 18 mm wide.
- **MAROUBRA KNIFE "C":** The knife has a black handle and is 325 mm in length. The plastic handle is 124 mm long, has a maximum width of 33 mm and a maximum thickness of 18 mm. The blade of the knife is slightly bent, has a blunt end and has fine serrations for most of its length. It has a single cutting edge. The blade is 200 mm long, has a maximum width of 24

mm, and a maximum thickness of 1 mm. Ten cm from the tip of the blade, the blade is 23 mm wide.

- **MAROUBRA KNIFE "E":** The knife has a black handle and is 222 mm in length. The plastic handle is 107 mm long, has a maximum width of 27 mm and a maximum thickness of 13 mm. The blade of the knife has a rounded, slightly blunted tip, is slightly curved, and has fine serrations for most of its length. It has a single cutting edge. The blade is 113 mm long, has a maximum width of 15 mm, and a maximum thickness of less than 1 mm. Ten cm from the tip of the blade, the blade is 13 mm wide.

12. **PHOTOGRAPHS OF KNIVES:** The various knives depicted in the photographs of knives provided have appearances consistent with those of the provided knives. Maroubra Knife "D" is not provided but is depicted in photographs on pages numbered 2283, 2284, 2285 and 2286. These photographs depict a black handled knife which is 218 mm in total length. The plastic handle is 114 mm long and has a maximum width of 25 mm. The blade of the knife has a slightly blunted tip and appears to have a single smooth cutting edge. The blade is 118 mm long and has a maximum width of 22 mm. Ten cm from the tip of the blade, the blade is 20 mm wide. I note this knife is described as having a serrated edge and a bent tip - neither of these features are visible to me in the provided photographs.

OPINIONS

13. **GENERAL COMMENTS:** Dr Irvine has performed a detailed autopsy which has been documented to a high standard. The photographs of the deceased reflect the described injuries. With the possible exception of Maroubra Knife "D", the appearances of the knives correspond to the photographs provided and approximate those of their initial descriptions.
14. **ASSESSMENT OF KNIFE WOUNDS:** In general terms, comments can be made in relation to the likelihood of a specific knife causing an observed injury on a body because of the physical characteristics of the knife and the appearances of the wound on the surface of the body and within the organs of the body. However, any such assessment is inherently unreliable because of a number of factors, including:
- With extremely few exceptions, knives do not have unique characteristics which allow an examiner to determine that a specific knife caused an injury to the exclusion of all others.

This is in contradistinction to for example spent bullets which I am informed can be reliably linked to a specific gun from which it has been fired. Of course, most knives are machine made and will have a very large number of near identical copies, while the nature of knife wounds is generally such that at best all that can be stated is that a knife with general class characteristics of a putative weapon may have caused the injury being assessed. An exception to this is where for example the tip of the knife has broken off and become retained in the body. If the retained tip matches the broken blade of the putative weapon, then a confident match can be made, and a statement can then be made that that specific knife caused the stab wound.

- Parts of the human body are elastic and deformable. For example, the skin can stretch and contract depending on the posture and positions of other parts of the body. This can have the effect of making a wound on the surface of the skin appear either smaller, larger or the same size as the width of the blade of the knife. This is illustrated in Dr Irvine's report, where on initial examination the wound was described as 2 cm long and gaping to 0.7 cm, yet when the edges of the wound were approximated the resultant defect was described as 2.7 cm in length with a superior blunt edge 0.3 cm in width. These latter measurements give a more accurate measure of the wound, and should be used for comparison with putative weapons.
- Additionally, the depth of a wound as determined at autopsy is only an approximation and in reality the knife may have entered the body for that distance or a shorter distance or a longer distance. This is dependent on variables such as the position of the deceased (and his internal organs) at the time the stabbing took place, the position of the organs when lying supine on the mortuary table, whether the deceased was exhaling or inhaling at the time of the stabbing, and any possible compression of the chest by the weapon.
- An altercation with the stabbing of a person is not a static event. In all likelihood, there is movement of the persons involved during the stabbing, and it is entirely possible for the weapon not only to enter and exit the body "cleanly" but for the cutting edge of the knife to expand the wound on the skin to make the wound appear larger than the knife blade width.
- A knife may be thrust into the body to the hilt, or may enter the body for only part of the blade length. Therefore, say a 20 cm blade which enters the body for only 5 cm could be erroneously interpreted as the knife likely having a blade not longer than 5 cm because an assumption may be made that the knife has entered the body for the full length of the blade.

15. Serrated knives frequently result in characteristic appearing stab wounds, often with associated abrasion on the surface of the skin and a "scalloped" edge to the wound, as opposed to a

"cleaner cut" edge of a wound caused by a smooth bladed knife. Abrasions typically can replicate the serrations of the knife blade. In this case, there were no injuries characteristic of being caused by a knife with a serrated blade. However, the absence of scalloping does not exclude the possibility of a serrated knife being used, and it remains entirely possible for a knife with a serrated blade to have caused the stab wound seen in this case.

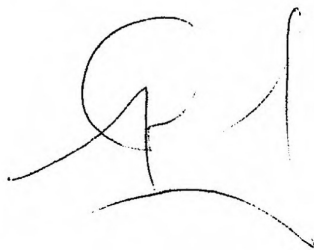
16. Generally, the more stab wounds sustained by the victim, the greater the possibility of providing assistance in determining the physical characteristics of the knife, because by having multiple wounds a pattern of injury characteristics can be obtained. If there is only a single stab wound, as is the case here, it is usually the case that only very general comments can be made, and often at best only various knives can be excluded.

17. **COULD ANY OF THE KNIVES PRESENTED HAVE CAUSED THE STAB WOUND?** I examine each of the knives in turn:

- **WAVERLEY KNIFE:** This knife has a blade with a sharp point. The blade is 187 mm long and is 23 mm wide 10 cm from the tip. In my opinion, this knife could have caused the injury sustained to the chest of the deceased. If so, the knife would not have been inserted for the full length of the blade. Given the greater size of the skin wound than the width of the blade at 10 cm from its tip, it is likely there would have been some movement of the deceased relative to the blade in addition to an in-and-out movement to account for the larger injury on the surface of the skin than the width of the blade.
- **MAROUBRA KNIFE "A":** This knife has a blade with a slightly blunted sharp point. The blade is 118 mm long, and is 17 mm wide 10 cm from the tip. In my opinion, this knife could have caused the injury sustained to the chest of the deceased. If so, the knife may have been inserted for the full length of the blade. It is very likely there would have been some movement of the deceased relative to the blade in addition to an in-and-out movement to account for the larger injury on the surface of the skin than the width of the blade.
- **MAROUBRA KNIFE "B":** This knife has a blade with a sharp point. The blade is 128 mm long, and is 18 mm wide 10 cm from its tip. In my opinion, this knife could have caused the injury sustained to the chest of the deceased. If so, the knife is unlikely to have been inserted for the full length of the blade. Given the greater size of the skin wound than the width of the blade at 10 cm from its tip, it is very likely there would have been some movement of the deceased relative to the blade in addition to an in-and-out movement to account for the larger injury on the surface of the skin than the width of the blade.

- **MAROUBRA KNIFE "C"**: This knife has a blunt end. The blade is 200 mm long, and 10 cm from the tip of the blade, the blade is 23 mm wide. Given the very blunt tip of the knife, it is my opinion that this knife very unlikely caused the stab wound seen on the deceased. If this knife had caused the stab wound I would have expected significant and more extensive abrasion around the wound edge, and possible fracturing of ribs give a large amount of force would have been required to penetrate the skin.
- **MAROUBRA KNIFE "D"**: This knife has a blade with a slightly blunted tip. The blade is 118 mm long and 10 cm from its tip the blade is 20 mm wide. In my opinion, this knife could have caused the injury sustained to the chest of the deceased. If so, the knife may have been inserted for the full length of the blade. It is likely there would have been some movement of the deceased relative to the blade in addition to an in-and-out movement to account for the larger injury on the surface of the skin than the width of the blade.
- **MAROUBRA KNIFE "E"**: This knife has a rounded, slightly blunted tip, and the blade is slightly curved. The blade is 113 mm long and 10 cm from its tip the blade is 13 mm wide. In my opinion, this knife could have caused the injury sustained to the chest of the deceased. If so, the knife may have been inserted for the full length of the blade. It is very likely there would have been some movement of the deceased relative to the blade in addition to an in-and-out movement to account for the larger injury on the surface of the skin than the width of the blade.

18. In summary, it is reasonably possible for any of the described knives, with the exception of Maroubra Knife "C", to have been used to inflict the stab wound which caused the death of Mr Cawsey. I also emphasise that it is entirely possible for a knife with similar dimensions to those not excluded to have caused the wound. It is also reasonably possible for a knife which has different appearances altogether from those which have been shown to me to have been used to inflict the fatal stab wound.



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