

EXHIBIT BC

CONFIDENTIAL MEDICAL REPORT

22 January 2003

Office of the Director of Public Prosecutions,
Attn: Ms Laurel Baglee,
Locked Bag A8,
SYDNEY SOUTH NSW 1232

Re: Kathleen FOLBIGG
Cases No. 2114320
Listed 3/2/2003 at Sydney Supreme Court

Thank you for asking me to provide an opinion in this matter.

I understand it is alleged that Kathleen Folbigg murdered each of her four children between 1989 and 1999, when the children were aged between 19 days and 19 months. I understand that Mrs Folbigg has also been indicted for inflicting grievous bodily harm on her second child, Patrick, when he was four months old, resulting in him becoming blind and suffering epilepsy.

I understand the issue of infanticide has been raised.

I have read the documents provided by you:

- Statement of the prosecution case
- Coincidence schedule
- ERISP of Mrs Folbigg on 23 July 1999
- Statement of Craig Folbigg, dated 19 May 1999
- Diaries of Mrs Folbigg
- Letters written by Mrs Folbigg
- Kathleen Folbigg's DOCS file
- Statements by Deirdre Marlborough, dated 26 July 1999
- Statement of Lea Bown, dated 24 July 1999
- Statement of Carol Newitt, dated 27 July 1999

My qualifications for preparing this report are set out in the attached Certificate of Expert Evidence.

Background

The DOCS records show that Kathleen Folbigg was born Kathleen Megan Britton on 14 June 1967.

Her mother was murdered by her de facto husband, Mr Thomas Britton. He was charged with murder and was in custody. On 9 January 1969 Kathleen appeared at Minda Court as a neglected, destitute child and was made a ward of the state and placed in the care of Mr and Mrs Platt. It seems that the Platts were anxious to care for the child on a permanent basis. The Platts had adopted a baby boy through a Catholic adoption agency, Gregory David Elphick born on 4/9/68. The foster parents were the maternal aunt and uncle of Kathleen and the other person residing with them was the maternal grandmother. It was noted that a very close bond of friendship existed between all the persons and Kathleen had stayed with her aunt and uncle for extended periods in the past and on one occasion for about five months. According to a report by the DOCS district officer, at that time the natural mother agreed to allow Mr and Mrs Platt to adopt the child and even signed a document to that extent and this was given to a solicitor. Later she declined to allow the adoption to go through and withdrew the child from the care of Mr and Mrs Platt.

I note that Kathleen had a number of name changes and was known to the Platt family as "Lisa". In January 1970 she was reported to be making good progress. She was reported to be speaking well and to be reasonably bright. However, at a home visit on 18 May 1970, Mrs Platt indicated that she was experiencing difficulties with Kathleen. These included an assessment by Mrs Platt that Kathleen was of low intelligence, had difficulty in learning basic requirements of hygiene and acceptable manners and behaviour, had severe temper tantrums, and was aggressive. She was reported to be on occasions screaming and crying incessantly. It was reported that she had a preoccupation with sexual problems. Her foster mother took her to the child health section where a medical officer considered it likely that Kathleen had been abused by her father during infancy. The assessing medical officer considered the possibility that the foster mother and maternal grandmother may have had a distorted impression of the child's behaviour. It was considered that the maternal grandmother was a particularly destructive influence on the child. It was recommended that the maternal grandmother should be separated from the family, or perhaps that Kathleen should be transferred to another foster situation.

In June 1970 a home visit was carried out. The foster mother indicated that Kathleen's behaviour was deteriorating. It was felt that the point had been reached where Kathleen was such a disturbing influence in the home that the relationship between adult members was starting to suffer as well. On 11 June Mrs Platt contacted the office, stating that the family were no longer able to care for Kathleen.

On 29 July 1970 Kathleen underwent psychological and education assessment at Bidura. She was assessed as having an IQ of 77, borderline retarded. However, it was noted that this was a doubtful assessment as little rapport was established during testing. The child remained remote during the contact, spoke little and did not

respond to conversation or enter into shared activities. She was restless and inattentive, giving little impression of any desire to cooperative or please.

It was concluded that she was a very disturbed little girl who exhibited numerous behavioural difficulties, was aggressive to other children and did not respond to usual social and emotional demands placed on her at Bidura. It was considered that she did not seem suitable for foster placement because of her emotional and management difficulties and that she required therapeutic treatment within a stable environment.

A report in the DOCS file describes her as a fair haired, delicate looking child with a pretty, but very emotionally flat face. She was described as unresponsive and withdrawn. She rarely smiled or spoke if shown individual attention. It was reported that she was reassured by being close to an adult, and immediately screamed and became aggressive if this position was at all threatened by another child. She was seen by Dr Spencer at the Child Guidance Clinic who concluded that she was an emotionally disturbed child who would need specifically qualified foster parents. Kathleen was transferred from Bidura to Corelli. Her behaviour improved, she was less withdrawn and able to chat to her peers and staff. She was still considered aggressive with her peers.

The foster placement appeared to progress very well. In February 1994 Mrs Marlborough telephoned to complain that she could no longer cope with Kathleen and needed some assistance. However, when a home visit was conducted, she stated that she had been upset when she telephoned but was very fond of the child and wanted to keep her. It seems the problem arose when Mrs Marlborough's daughter left her two-year-old son to be minded. Kathleen appeared to be experiencing sibling rivalry and displayed temper tantrums. In October 1974 Kathleen was left with Mrs Marlborough's daughter, Mrs Lea Bown while Mrs Marlborough visited relatives in America. The temporary arrangement proved quite satisfactory. In February 1984 Kathleen requested that the name on her birth certificate should be changed to Kathleen Megan Marlborough.

Little is known about Kathleen's early life or her relationships with her parents. In a letter dated 8 January 1993, she states that her mother had been described as kind, generous, flighty and would never settle down in one place. She was also told that her mother was hard working and independent to the point of leaving her other two daughters behind with their fathers. She was told that the eldest was left with her father. She was told that the second ended up in an orphanage in New Zealand because her father reportedly did not want her. She was almost 40 when Kathleen was born. She states that after talking to her half-sisters, she was told that her father was "no good".

Kathleen Folbigg describes what she was told about her background by social workers and others, but states that she has no memories of her parents. She describes herself as feeling insecure. In the same letter she states that she was 16 years old before she was told the reason she was placed in foster care, and 22 years old before she met her half-sisters. She states, "I don't have many flashes of this time except of fighting, crying, being scared but never allowing myself to show that. Even now I still regard some feelings as a form of weakness. And love was never said or shown from me."

In a letter written on 19 June 1999, Mrs Folbigg described her feelings about her background: "Unwanted at birth. A father who was so selfish and unthoughtful that he took my mother from me and ruined my life from that one action. Shuffled about for whatever reasons."

Circumstances surrounding the deaths of the Folbigg children

Craig Folbigg and Kathleen Marlborough were married on 6 September 1987. They had four children together. They lived together until after the death of their fourth child.

On 1 February 1989 Kathleen gave birth to her first child, Caleb Gibson Folbigg at Newcastle. The pregnancy had been full time and the baby was healthy at birth. He was taken home five days after his birth. He slept in a cane basinet in a room adjacent to the main bedroom. The parents consulted a paediatrician, Dr Springthorp when he experienced difficulty in breathing and feeding simultaneously. Dr Springthorp diagnosed the condition as "lazy larynx".

On 19 February 1989, at about 8 p.m., Mrs Folbigg put Caleb to bed in the basinet. The parents checked him at about 10 p.m. and he was asleep. At about 2.50 a.m., Craig Folbigg was awoken by the screams of his wife. He ran to the bedroom and saw Caleb lying in his basinet. Mrs Folbigg was standing over Caleb with her hands on her forehead. She was screaming something to the effect, "My baby, something is wrong with my baby". He was apparently not breathing. Craig Folbigg conducted cardio-pulmonary resuscitation whilst Kathleen Folbigg telephoned for an ambulance. Attempts to revive him were unsuccessful. An autopsy was conducted by Dr Cummings. He thought that Caleb's death resulted from Sudden Infant Death Syndrome.

On 3 June 1990, Kathleen Folbigg gave birth to her second child, Patrick Folbigg, at Newcastle.

On 17 October 1990, Patrick was placed in his cot to go to sleep. At about 3.30 a.m. the following morning Craig Folbigg was awoken by the screams of his wife. He rushed in and saw his wife standing over Patrick who was lying in his cot. Craig Folbigg attempted to resuscitate Patrick whilst his wife rang for an ambulance. The ambulance officers administered oxygen and Patrick responded almost immediately to that treatment.

Patrick was treated at hospital over a number of days but began to experience seizures. He was diagnosed as suffering from a major form of epilepsy, neurological deficit caused by near asphyxiation, and blindness. These conditions were attributable to him having experienced the apparent life-threatening event involving an obstruction of his airways on 18 October 1990.

After he was discharged from hospital, Patrick required regular physiotherapy and daily medication.

On the morning of 13 February 1991 at about 10 a.m., Mrs Folbigg telephoned Craig Folbigg at his work and stated, "It's happened again". Craig Folbigg drove home and arrived just as an ambulance attended. Patrick was taken to a hospital in Newcastle where his life was pronounced extinct. He was eight months old at the time. A death certificate was issued where the cause of death was noted as asphyxiation as a result of airway obstruction due to an epileptic seizure. Dr Sing-Khaira and Dr Bishop performed an autopsy. They diagnosed an asystolic cardiac arrest as leading to Patrick's death.

On 14 October 1992 the third child, Sarah Kathleen Folbigg, was born at Newcastle. A "sleep apnoea" blanket was used to monitor her sleeping and provide an alarm if her breathing stopped. At about 1.30 a.m. on 30 August 1993, Craig Folbigg was woken by the screams of his wife, standing in the door way and his daughter apparently dead in her bed.

Laura Elizabeth Folbigg was born on 7 August 1997 at Singleton Hospital. With advice from Westmead Children's Hospital her sleep and breathing patterns were monitored. She was last seen by a medical practitioner in February 1999 for a routine vaccination.

On 1 March 1999 Laura was 19 months old. At about 8 a.m. Craig Folbigg went to work in Singleton. Kathleen Folbigg took Laura to the gym with her. At about 10.30 a.m. she took Laura to Craig Folbigg's work. She then took Laura back home. At about 12.05 p.m. she telephoned the emergency number to report that the child was not breathing. Dr Alan Cala performed an autopsy at the New South Wales Institute of Forensic Medicine at Glebe. He could not determine the cause of death.

Witness statements

1. Statement of Craig Folbigg

Craig Folbigg made a statement to police on 19 May 1999.

Craig Folbigg states that he met Kathleen Marlborough on 13 December 1985 at Newcastle. She told him that she was adopted and had a strained relationship with her adoptive mother. He met and visited her adoptive parents. He felt that neither of them showed any affection towards Kathy. He married Kathy on 5 September 1987. Her parents were not invited to the wedding because of strained relationships between them and Craig Folbigg although Deirdre Marlborough states she did attend. Mr Folbigg described how his son Caleb was born in February 1989. He thought that Kathy appeared tired, but seemed fairly happy to be a mother. He states that Caleb was not breastfed because Kathy told him that she did not wish to breast-feed. He thought that Kathy continued to appear tired but seemed to be handling the role of motherhood.

He describes how he saw his wife standing over the cot in her pyjamas, screaming that there was something wrong with the baby. He stated that he stayed with Kathleen and he grieved for months. He thought that Kathy appeared to get over the death more easily than he did and she did not like to talk about Caleb.

Craig Folbigg described that his wife was advised by the Department of Community Services that she had two natural sisters who wanted to contact her. They eventually told her that her natural father had murdered her natural mother when she was a baby. Kathleen later learnt that he went to jail and was deported to England. Craig Folbigg felt that the information did not distress Kathy and she seemed to take it in her stride. He thought that she was relieved to know why she was adopted.

Craig Folbigg described the birth of his second son, Patrick, on 3 June 1990. He noted that Patrick appeared to be healthy and he and his wife were "overcome with happiness". Patrick was fed with formula, as Kathy did not want to breastfeed. Mr Folbigg left his job to spend time with his family. After three months he returned to work. He describes the incident in November 1990 when Patrick had a hypoxic episode, resulting in epilepsy and blindness.

It was after this that Craig Folbigg found a diary with his wife's writing. He became concerned and enlisted the help of his sister Carol to assist himself and his wife. He notes that Patrick's management was difficult. Kathleen had to give Patrick medication and do physiotherapy as well as attend to the normal duties of caring for a baby. He thought that this appeared to be causing Kathleen extreme anxiety and he thought that she was depressed. She was not coping and she had to have other people to help because she could not manage these things by herself. He thought that she became stressed and upset over the smallest of things and he was worried about this.

He describes receiving a telephone call at about 10 a.m. on 13 February 1991.

Craig Folbigg states that his wife was employed as Babyco at Kotara as a sales assistant. He thought that she appeared to get on quite easily with her life. He was still grieving for the dead children, but he felt that his wife "never looked back". He found it difficult to understand how she could work at Babyco and deal with babies and pregnant women all the time.

Craig Folbigg states that in late 1991, his wife told him that she wanted to be mother again. He was uncertain about this because he did not want to go through the trauma and grieving over a baby's death. His wife became pregnant with their daughter Sarah who was born at John Hunter Hospital on 14 October 1992. The couple had obtained an apnoea blanket from the SIDS organisation. The machine was activated regularly. When this happened, Craig and his wife would respond by checking Sarah, but on all occasions found her to be breathing and asleep. He thought that his wife was stressed out by the blanket being activated and she complained about its continued use but Craig insisted that its use be continued. Kathy returned to work at Babyco on Saturdays and Sundays for a time. It seemed to Mr Folbigg that Kathy would always become stressed by being a mother, and she always wanted to hand the responsibility to someone else, as long as it did not disrupt her plans for the day. He thought that she easily became irritated and stressed with Sarah and him and their life. He noted that his wife left her job at Babyco in the middle part of 1993.

Craig Folbigg described that he made up a single bed in the main bedroom. They had stopped using the apnoea blanket for Sarah.

He heard Sarah crying because she did not want to go to bed. He believes that this made his wife angry. He described that Kathy brought Sarah into the lounge room where he was sitting. He states that she let go of Sarah, causing Sarah to fall into his lap so that he had to catch her. He had never seen Kathy do this before and it alarmed him. He felt that she was angry and irrational. He states that he settled Sarah down by nursing her and he put her to sleep.

At about 1 a.m. the following morning he awoke in bed. He saw that Kathy was not in bed but he saw Sarah lying in her bed.

At about 1.30 a.m. on the same morning he was woken by Kathy screaming. He sat up in bed and saw that the light was on and Kathy was standing in the doorway of the bedroom with the door open. He saw that Sarah was lying on her back on her bed. He attempted to resuscitate the child and his wife called the ambulance.

Following Sarah's death Craig Folbigg saw a counsellor, Steele Fitchett at Charlestown. His wife attended two of these sessions with him.

Craig Folbigg states that in 1996 his wife mentioned that she would like to have another baby. He insisted on receiving advice and got in touch with Dr Chris Seaton from Westmead Children's Hospital. He met with Dr Seaton before the baby was conceived. Their daughter Laura was born on 7 August 1997 at Singleton Hospital. Kathy was breastfeeding Laura because she wanted to do everything for the baby.

Craig Folbigg states that Kathy breastfed Laura for two weeks and then started giving her bottles of formula. She returned to the gymnasium after Laura was born. On occasions she gave Laura to a neighbour to care for until he came home. When Laura was three or four months old, Kathy was going to the gym five days a week. Craig Folbigg states that the relationship between him and Kathy lacked communication and they were both going through a very stressful period.

In early February 1999 Kathy returned to work at Retravisio on a casual basis. She had Laura cared for while she was at work. There were tensions in the marriage and Kathleen threatened to leave. He describes that his wife was agitated on the morning of 1 March 1999 and that he argued with her about Laura's management. He states that Kathy and Laura came to his work at about 11 a.m. that morning. At about lunchtime he was told that he should attend Singleton Hospital. At the conclusion of the interview, Craig Folbigg states, "having watched Kathy as a mother and saw the joy these children gave her, then to watch that disappear, I don't and can't believe that Kathy killed my children".

2. Statement of Deirdre Marlborough

Kathy's foster mother, Deirdre Marlborough states that she had never been close to Kathy. She states that she and her husband did not have a good relationship with Kathy at the time of her marriage to Craig Folbigg and they were not invited to the wedding. However, Mrs Marlborough said that she went to the church anyway and saw them married. After they married they still kept in touch.

She states that when Kathy had her first baby, Caleb, she thought that Kathy was very happy about being a mother. Kathy telephoned her after Caleb died.

She states that she had much contact with Kathy after she gave birth to her second son, Patrick. She thought that Kathy always seemed to be a devoted mother to Patrick and her other children.

She states that after the birth of Sarah, Kathy was a typical excited mother. She did not think that Kathy suffered depression after the birth of any of her children. Kathy attended the memorial service of her foster father after Laura was born.

3. Statement of Lea Brown

Lea Bown made a statement to police on 24 July 1999. She states that after the birth of Caleb, Craig and Kathleen Folbigg were both very happy. She recalls Kathy telling her over the telephone that Caleb was a good baby. She did not report any problems with being a new mother. In particular she did not say anything about having post-natal depression. She states that Kathy dealt with the death of Caleb by putting up a wall, which no one could get through.

She states that after the birth of Patrick, Kathy appeared very happy and pleased.

Lea Bown spoke with Kathy after the birth of her daughter Sarah and reports that "she was absolutely thrilled". Kathleen did not report any problems with parenting and Lea Bown believed that she was genuinely enjoying being a good mother. She states that Kathy enjoyed taking Sarah everywhere and showing her off.

Lea Bown recalled when Kathy and Craig's fourth child Laura was born in August 1997. She states that "Kathy was absolutely beaming and the happiest I have known Kathy to be for a long time".

4. Statement of Carol Anne Newitt

Carol Anne Newitt made a statement to police dated 27 July 1990. She is the sister of Craig Folbigg. She describes being present shortly after Caleb's death.

She describes the circumstances surrounding the death of Patrick. She was telephoned by Kathleen Folbigg. When she arrived, Kathleen was sitting on the lounge, crying. She went through to the bedroom and saw the child lying on his back in the middle of his cot with his hands up behind his bed and with no covers on him and no pillow. He looked as if he were asleep.

Transcript of ERISP interview of Kathleen Folbigg with police on 23 July 1999.

Mrs Folbigg sets out her account of the circumstances surrounding the deaths of her children. She describes her interactions with the children. She acknowledges a certain degree of frustration in caring for the children. Mrs Folbigg also acknowledges problems in the marital relationship and occasional thoughts of separating from her husband. Mrs Folbigg was asked to explain some of the diary

entries. In relation to her frustration with the children, she denied that she felt particularly frustrated or that she ever disliked the children.

When asked what she meant by "obviously I'm my father's daughter", she replied that her natural father was "just a total big loser". She states that she was "thinking along the lines of am I a loser". She then told police that she had learned that her father killed her mother by stabbing her 20-odd times. She said that she had found out recently that he was actually one of Lennie McPherson's major hit men, used to go and do debt collecting and all that sort of thing. She was told that he was "a bit heavy handed with my mother" and that her mother was not much better, she was drunk and a gambler. She states that she found out when she was 15 or 16 about her mother. She states that she was told when she was about 14 or 15, that her father had killed her mother. Her original family contacted her a few years earlier. She states that she then wrote letters to her two half-sisters in Queensland.

With respect to the diary entries discussed with her at the time of the interview, Mrs Folbigg appears to explain these entries as writing her thoughts and feelings to ease her own feelings of frustration.

Kathleen Folbigg's diaries.

Kathleen Folbigg wrote entries in her dairy over an extended period. The diaries describe her thoughts and feelings at the time of writing.

I have read the diary notes provided. I did not find any evidence of formal thought disorder. I did not find any evidence of cognitive dysfunction. I did not find anything in the written material to suggest that Mrs Folbigg might have been suffering a significant depressive disorder.

Other Witness statements

Further statements by Craig Folbigg

Craig Folbigg made a further statement to police on 30 December 2002. In this statement he sets out further details of the days preceding the death of his daughter Laura. He describes that his wife Kathy went out with female friends on 26 February 1999, a Friday evening. He states that, at this time in their relationship this was a weekly event. He went to Macdonald's to dinner with Laura for dinner after dropping off his wife at the Singleton Bowling Club. He took his daughter home, played and watched television until she went to sleep cuddled up with him on the lounge. At approximately 11 pm he put Laura to bed. He states that he woke at about 3.30 am the next morning when his wife arrived home. He states that his wife was reluctant to get up in the morning to care for the child. He states that she was watching videos during the day when he returned home for lunch.

He describes conflict with his wife over Laura's management. He states that he discussed Laura's management with his wife, as "Laura and Kathy seemed to want to have nothing to do with each other all day." He said that his wife claimed "she has either got the shits with me or she is still upset with me about last night". He asked

why a baby would have "the shits" with its mother. He says that his wife replied that she "lost it" with her. He went on to state that his wife said that the child had been following her around all day and was crying. He states that she became frustrated with the child, turned around to yell at her and knocked her over.

He stated that there were further arguments in which his wife claimed that he was making a "sook" out of his daughter by constantly picking her up. He states that his wife was trying to force feed Laura on the Monday morning. He says that he was angry with her, as his wife always seemed to make these situations out to be a "battle of wills" between her and Laura. He states that she had always done this with each of the children and he was fed up with it. He describes the morning when his wife attended his office for morning tea and then drove off with Laura.

Craig Folbigg made a further statement to police on 11 December 2002 in relation to the circumstances surrounding the births of their four children. He states that his wife Kathy did not appear depressed or otherwise concerned about the impending birth of Caleb. He states that after the birth Kathy appeared exhausted but happy. He says that on one occasion Kathy attempted to breast feed Caleb, but Kathy and Caleb seemed to be distressed by the attempt and she did not breast feed him after that. He states that from then on Kathy was tired and grumpy from lack of sleep. However, she appeared outwardly calm and comfortable with her situation.

Craig Folbigg stated that his wife did not breast feed Patrick and did not attempt to do so. He thought that, again she seemed happy after the birth and interacted well with Patrick. He did not think that she had any serious problems in coping with motherhood.

He states that after the birth of Sarah, Kathy did not seem as happy as she had been with Caleb or Patrick. He thought that she was emotionally erratic with Sarah, going from being very caring to appearing indifferent to the child's needs.

Craig Folbigg describes the circumstances surrounding the death of Laura, the most difficult birth of the four. He thought that she did not seem to derive a lot of happiness from the birth of Laura. He thought that she did not seem to be what he would have considered depressed. He thought she was irritable and cranky, but if something enjoyable happened she would lighten up and enjoy herself.

Medical records

1) Hospital records

The medical records of Mrs Folbigg's admissions to hospitals indicate that, at the time of each of her admissions, the hospitals were aware of her obstetric history.

I have read the hospital records and did not find any record of a complaint of emotional distress by Mrs Folbigg; nor did I find any record of an observation by nursing staff or others of behaviour suggesting psychological disorder. I did not find any evidence of cognitive dysfunction. I did not find anything in the Hospital records to suggest that Mrs Folbigg might have been suffering from a depressive disorder.

2) *Clinical records of Dr Marley's practice*

The notes of the general practitioner Dr Marley show that Kathleen Folbigg presented on 6 February 1989 following a forceps delivery the previous week. She complained of some "turns" when she blacked out during the pregnancy. A file note records the baby died at 16 days. It is noted that an autopsy found no abnormalities. On 16 April 1989 Kathleen Folbigg attended. She reported that she felt concerned about Caleb and she had a long talk with her about him and the thought of another baby. The notes record that she had consulted the general practitioner in 1990 when she was pregnant. In June 1990 she attended with her young baby. There were no problems reported or noted by the doctor. The doctor saw her in 1992 post-partum.

Throughout these notes I can find no record of any complaints of psychological problems or signs noted by the doctor of any psychological condition, or of any prescription for anti-depressants or other psychotropic medication.

Kathy Folbigg was seen by the after-hours doctor service on 20 February 1989. She was noted to be the mother of an 18-day-old baby who had died, apparently from cot death. She was described as "very upset but rational" and a diagnosis of grief reaction was made. Treatment recommended was no drugs.

3) *Clinical records of Dr Cash's practice*

The clinical records of Dr Cash show that on 26 November 1991 Mr and Mrs Folbigg were referred to the genetics unit of Western Suburbs for advice regarding the likelihood of possible problems with a third child. She had a "funny turn" during her first pregnancy and this was thought to be syncopal and an electro-encephalogram performed on 15 February 1989 was reported as normal. The notes indicate that Mrs Folbigg continued to consult doctors at the practice until 1998.

I have examined the clinical records of the medical practice and I am unable to find any reference to complaints of psychological symptoms or signs of any psychological condition; nor am I able to find any record of a prescription for anti-depressant or any other psychotropic medication.

4) *Statement of Dr Innes*

Dr Paul Innes prepared a report dated 12 April 1999. He examined Mrs Folbigg on 29 January 1999, 5 February 1999 and 4 March 1999. He states that on 4 March 1999 Mr and Mrs Folbigg came to see him to discuss their distress over the death of their child Laura. He prescribed a medication for sleeping, temazepam. He thought that Mr and Mrs Folbigg seemed shocked and distressed. He did not find Mrs Folbigg to be suffering from any abnormality.

DISCUSSION

Infanticide

Under the Crimes Act 1900, a woman may be considered guilty of infanticide where she by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effects of giving birth to the child or by reason of the effects of lactation consequent upon the birth of the child.

Thus the law recognises that childbirth and the post-natal period is a time when many women suffer mental illness. It has long been recognised that psychoses occur during the post-partum period and that many women suffer severe depression following the birth of a child. Many women who kill their children are found to have been suffering at the time from a mental illness, either a psychotic episode or depression. Worldwide studies show that many cases of infanticide occur in circumstances of poverty, difficulties with parenting and low socio-economic status¹.

Three types of postpartum psychiatric illness are recognised². These are: mild depression ("postpartum blues"); moderate to severe depression; and postpartum psychosis. It is not known whether these disorders occur along a spectrum, or are distinct disorders. The cause of each of the disorders is probably multi-factorial, as the postpartum period is a time of major physiological, psychological and social change. It is generally considered that mothers are at risk of developing psychiatric illness up to a year after delivery. The risk of infanticide associated with postpartum psychosis is high. The risk to the infant of harm by neglect or intentional action on the part of the mother is relatively high when the mother is suffering from moderate to severe depression. Post partum psychosis is usually manifest with incoherence or bizarre behaviour recognised by the lay observer. Depression may be more insidious, but presents with significant changes in mood, lack of interest and motivation and reduced activity.

Phillip Resnick, in a review of maternal neonaticide³, thought that infanticide should be considered under a number of categories, with neonaticide (killing of the child within the first few days of its life) as a separate category. He considered a number of probable reasons for infanticide⁴ including: altruism (to relieve suffering or perceived suffering of the child and often accompanied by suicide or attempted suicide by the mother); acute psychosis; accidental killing; and spouse revenge.

Meadows⁵ has reviewed 81 cases of sudden infant death caused by a parent, with the aim of alerting paediatricians to some of the features that may enable earlier detection of infants at risk. He draws attention to some of the differences noted between these deaths due to sudden infant death syndrome.

SUMMARY AND OPINION

Mrs Kathleen Folbigg has been charged with a number of offences in relation to the deaths of her four children.

I have examined the documents provided, as set out above. I am not able to find any evidence to suggest that Mrs Folbigg might have been suffering from a mental illness or mental disorder. I am not able to find any evidence to suggest that she was suffering from a significant degree of depression. Craig Folbigg does state that he thought that his wife might have been suffering from depression while she was caring for their son Patrick after his hypoxic episode, and requiring constant care because of his disability. Depression occurring in these circumstances would be understandable. However, Mrs Folbigg appears to have coped reasonably well with the difficult task of attending to the needs of her disabled son.

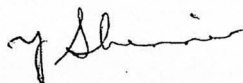
Kathleen Folbigg had an emotionally disturbed childhood, with her mother's death occurring when she was only about fifteen months old. She had an unsatisfactory foster placement, institutional placement and later a foster placement that proved more satisfactory. It would be expected that she might have emotional difficulties after these problems occurring during her childhood development. Most psychiatrists would agree that background history of such disturbance would lead to personality problems or possibly psychiatric disorder, but studies^{6,7} show that there is no recognisable link between such childhood emotional disturbance and a particular psychiatric disorder or psychological condition.

The deaths of Caleb, Patrick and Sarah Folbigg occurred during the first year of the child's life. The death of Laura, however, occurred at nineteen months, and, if found to have been caused by Kathleen Folbigg could not be considered as infanticide.

After carefully reviewing the documents provided, I am not able to find any evidence that Kathleen Folbigg might have suffered a postpartum psychiatric disorder. I did not find any evidence that she suffered any other psychiatric condition that might have affected her judgment or her capacity to cope.

Please contact me if I may be of further assistance in this matter.

Yours sincerely



Dr Yvonne Skinner
Consultant Psychiatrist

References

1. Kaplan HI and Sadock BJ. *Synopsis of Psychiatry*. 7th edition pp 1276-1283
2. Resnick, P.: Murder of the Newborn: A Psychiatric Review of Neonaticide. Amer, J, Psychiat. 1970; **216**: 58-64.
3. Resnick, P.: Child Murder by Parents: A Psychiatric Review of Filicide. Amer. J. Psychiat 1969; 126: 325-334.
4. Wissow, L.S.(1998): Infanticide. N Engl J Med 339: 1239-1241.
5. Meadows, R. Unnatural sudden infant death. Arch Dis Child 1999; **80**. 7-14.
6. Tyrer, P and Stein, G, *Personality Disorder Reviewed*. 1993. Royal College of Psychiatrists. Gaskell, London.
7. Fergusson, DM and Mullen, PE, *Childhood Sexual Abuse. An Evidence-based Perspective*. 1999. Sage Publications, California.

CERTIFICATE OF EXPERT EVIDENCE
SECTION 177 OF THE EVIDENCE ACT, 1995

The document (and the report attached hereto) is a Certificate of Expert Evidence pursuant to Section 177 of the Evidence Act, 1995

In relation to: Kathleen Megan FOLBIGG

1. My name and address is: Dr Yvonne Skinner
 3/99 Elizabeth Street
 Sydney 2000


2. I currently hold the position of Consultant Psychiatrist

3. I have specialised knowledge based on my training, study and/or experience being:
 - I am a registered medical practitioner with the qualifications of Bachelor of Medicine, Bachelor of Surgery;
 - I am an elected member of the New South Wales Branch Council, RANZCP;
 - I am a fellow of the Royal Australian and New Zealand College of Psychiatrists;
 - I have had the experience of working for 10 years as visiting consultant psychiatrist to the New South Wales Prison Medical Service (now Corrections Health Service) and I have experience in the Juvenile Justice system;
 - I am a part time psychiatrist member of New South Wales Mental Health Tribunal, dealing with Forensic Patients;
 - I am Immediate Past President and New South Wales Branch President of the Australian and New Zealand association of Psychiatry, Psychology And Law;
 - I am a member of the Forensic Section of the Royal Australian and New Zealand College of Psychiatrists;
 - I am a member of the American Academy of Psychiatry and Law;
 - I am a member of the New South Wales Medical Legal Society;
 - I have lectured in the forensic psychiatry course run by the New South Wales Institute of Psychiatry;
 - In the course of my work in the New South Wales Prisons and with the Mental Health Review Tribunal, I had a particular interest in women's health. I was the convenor of a committee for women's health and prepared a report on the status of women's health in prison. I have assessed and treated more than one hundred women who have killed another person. In more than thirty of these cases, the victims were children. I have followed up many of these women over a period of years.

4. The opinion held by me and detailed in the report attached hereto is wholly or substantially based on the subject knowledge derived from my training, study and experience referred to in 3 above.

5. Annexed hereto is my report dated 22 January 2003 consisting of 13 pages.

Dated 22 January 2003

Signed. 

Appendix A

Curriculum Vitae Dr Yvonne Skinner

MB, BS	University of Sydney 1979
1979-80	Resident Medical Officer, Concord Hospital
1981-85	Registrar in psychiatry, Northside Clinic
May 1985	Admitted as Member, by examination, Royal Australian and New Zealand College of Psychiatrists (RANZCP)
1986	Admitted as Fellow, RANZCP
1986-7	Associate Psychiatrist, Northside Clinic
1987-	Consultant Psychiatrist in private practice
1985-94	Visiting Consultant Psychiatrist, Prison Medical Service
1989-94	Convenor, Committee for women's health, Prison Medical Service
1992-3 and 99-	Part-time Lecturer in Forensic Psychiatry, Institute of Psychiatry
1995-9	Member, Steering Committee, Mental Health, Central Area Health Service
1999-2000	Psychiatrist Member Pituitary Hormones Trust Board (Commonwealth Health Dept)
1999-2001	President, ANZAPPL International

Positions held

1992-	Psychiatrist member (part time) NSW Mental Health Review Tribunal
1994-	Editorial consultant, Journal of the Australian & NZ Association of Psychiatry, Psychology and Law
1995-	President Australian and New Zealand Association of Psychiatry, Psychology and the Law, (ANZAPPL) NSW Branch.
1999-	Authorised medical specialist, Work Cover NSW
1999-	Member, psychiatrist advisory panel, Motor Accident Authority
2000-	Member, Interim panel of psychiatrists, Motor Accident Authority
2001-	Member, advisory panel of psychiatrists, Work Cover NSW
2001-	Disputes assessor, Motor Accident Authority NSW
2001-	Disputes assessor, WorkCover NSW
2002 -	Elected member NSW Branch Council, RANZCP

Appendix A

Dr Yvonne Skinner Memberships

Member, Medico-Legal Society

Member, Academy of Forensic Sciences

Member, Forensic Section, RANZCP

Member, American Academy of Psychiatry and Law