

Backgrounder: Application to reopen the inquest into Graeme Jensen's death

17 December 2015

On 11 October 1988, Graeme Jensen was shot dead in the back of the head by Detective Robert Hill of the Armed Robbery Squad. Hill was accompanied by seven other members of the Armed Robbery Squad at the time of the fatal shooting.

Graeme Jensen's death was investigated as part of a group of seven fatal police shootings by the then State Coroner Hal Hallenstein.

At the original inquest, the police argued that they had shot Graeme Jensen during a lawful arrest during which they had been threatened with a gun and had shot Jensen in self-defence.

A central issue for determination by the Coroner was whether Graeme Jensen had a gun in his car with him prior to his death. If Jensen did not have a gun, the police had no self-defence justification to shoot him. It was universally accepted at the Inquest that it was not lawful to fatally shoot a person who is merely fleeing arrest.

At page 295, of the 31 October 1994 findings the then State Coroner found that:

"There was suspicion and assertion expressed in Inquest that the sawn-off .22 calibre rifle and two .22 calibre bullets found in Jensen's vehicle immediately after the shooting had been planted there by police generally and in particular by Grimshaw. It was suggested in Inquest that Grimshaw may have had the .22 calibre sawn-off rifle (and the two .22 calibre bullets) in his possession prior to Jensen being shot. It was suggested that after Jensen had been shot and after his car had crashed that Grimshaw could have carried the firearm and bullets in a towel to the front passenger side of Jensen's car, entered the front passenger door of the car, leaned over to the driver's side and placed the gun and the bullets on the floor in the vicinity of Jensen's feet. It was suggested in Inquest that Grimshaw could have then used the same towel to cover Jensen's head.

It is accepted that Grimshaw entered the front passenger side of Jensen's crashed car and leaned across to the driver's side and with intent to move away or pick up the gun at Jensen's feet. However, although it is accepted that Grimshaw had opportunity to do what was suggested, there is no evidence that Grimshaw ever

possessed the .22 sawn-off rifle and the two .22 bullets and there is no evidence that Grimshaw placed anything inside Jensen's car in the area of Jensen's feet.By considering Jensen's criminal history involving firearms and armed robbery and in the absence of any evidence of the firearm being seized, retained and planted as alleged, it is concluded in Inquest that the firearm was in Jensen's possession prior to and at the time of intercept and prior to his fatal injury with resulting vehicle collision."

Some of the members of the armed robbery squad gave evidence that they saw Jensen with a gun and that he had threatened one or more of them with it.

However there was also evidence presented at the original inquest that was not consistent with Graeme Jensen holding a gun, including:

- Contemporaneous statements made to Dr Jari Hryckow who attended the scene by Armed Robbery Squad member Ferguson which made no mention that police had been threatened with a gun. Indeed Hryckow was told Jensen was "trying to get away when shots were fired."
- No civilian witnesses saw Jensen with a gun or heard the police say anything like "he's got a gun" during the incident.
- Other than the police testimony, there was no positive evidence that the gun had been in Jensen's possession ie, no fingerprint evidence, no evidence that Jensen owned a .22 calibre gun and no bullets at his home that would fit that kind of gun.

The Office of Public Prosecutions ('OPP') obtained sufficient evidence to charge Robert Hill with murder, other Armed Robbery Squad members as accessories and assert that Grimshaw had planted the gun. Detective Robert Hill was tried for murder and acquitted. Charges did not proceed against any other officer.

The application to reopen the inquest into Graeme Jensen's death relies upon new evidence, including from former Detective Malcolm Rosenes and a former member of the Armed Robbery Squad member, which has never been tested by a Court and which was never presented to the then State Coroner, Hal Hallenstein.

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