

Former police chief blasts CMC over mysterious shotgun killing

By Susann Kovacs

Former Queensland Police Commissioner Noel Newnham has condemned the Crime and Misconduct Commission's (CMC) reasons for refusing to deal with the possible misconduct of police investigating the shooting death of a Brisbane man in 1990.

Mr Newnham said it was "incomprehensible" that a man found wounded at the scene of the killing in suburban Brisbane had never been interviewed by police.

"Why isn't the CMC jumping up and down and ensuring there will be no repetition?" Mr Newnham said.

The man, Brendan Ryan Turbane, confessed to the Newmarket killing in 2002, twelve years after the incident.

At his trial in September 2003, it was revealed Mr Turbane was found with the victim, who had suffered a shotgun blast to his upper chest, suffering a shotgun wound of his own and with a double-barrelled shotgun lying nearby.

Although Mr Turbane spent two months in hospital recovering from his wound, he was never questioned by police.

No inquest was ever held into the victim's death.

A New Farm resident, Mr Robert Althaus, raised the matter with the Queensland Premier after the story was covered by University of Queensland journalism students' *Justice Project*.

Mr Beattie referred Mr Althaus' letter to the Crime and Misconduct Commission.

In its reply to Mr Althaus, the CMC said: "No suspicion of 'misconduct' on the part of any public official is raised by your complaint or in any of the other information obtained."

The letter went on to note: "... in any event, the police officer who was the investigating officer in 1990 in relation to the fatal shootings is no longer employed by the QPS (Queensland Police Service)."

Mr Newnham said this reasoning was an "absurd proposition," because a single police officer would not have managed such an investigation.

"There is a shooting and someone has been killed - it is incomprehensible that one person carried all of the responsibility in respect of that matter," he said.

Mr Newnham said there was no reason the CMC could not hold the officer's superiors accountable.

Mr Newnham was Police Commissioner at the time of the killing.

"If the primary line of responsibility is no longer in the service, well we have no assurance that the superiors are not still in the service," he said.

"There might have been only one main investigator but, no matter what, a report would have been forwarded.

"Who read it and who gave it a tick of approval?" he said.

Although unaware of the incident at the time, Mr Newnham said he acknowledged some of the responsibility rested with him.

"Now this incident occurred on my watch, so let me be right up-front with you - I have an interest in this case," Mr Newnham said.

"Who let this slipshod go undetected?"

"Well ultimately, it might have been me.

"I had no knowledge of it at the time but below me there should have been people that knew, and done something about it," he said.

Mr Newnham also said the CMC's refusal to investigate the matter may be contrary to its own objectives.

"The CMC not only has a role in pursuing individual cases but also in pursuing the responsibility of the service as a whole," he said.

"It is pretty obvious that this case has disclosed some remarkable deficiencies in operational procedures and we need to be assured that those deficiencies are corrected, or have been corrected.

"There is a systemic fault here.

"The system needs to be double checked."

However, in its response to the Althaus complaint the CMC said it considered dealing with this matter would be an "unjustifiable use of resources".

Former Police Commissioner Newnham said the incident pointed to a need for law reform.

"There is a third arm to all of this," he said.

"If the CMC has a role in law reform and if, as I am told, the law is defective in not ensuring that a Coroner's inquest is held into this and similar cases, then that is a deficiency that needs to be corrected as a matter of urgency.

"I cannot imagine in this day and age how a person can be killed with a shotgun - and there is no Coroner's inquest.

"I cannot comprehend that," he said.

Mr Newnham said he regretted that he was not made aware of the incident during his time as Queensland Police Commissioner.

"It is probably not too late for me to apologise to the family that they've been done badly," he said.

More: See www.eastes.net/justiceproject

No investigation? And no inquest? So what's wrong with that? This is Queensland mate!

By Jeremy Lyne



On the 1st of September 1990, police were called to a community hall on Newmarket's Ashgrove Avenue, an unlikely setting for what had appeared to be a brutal and indiscriminate act of violence.

Witnesses on the scene were reluctant to cooperate with the police, but eventually it became apparent that at approximately 10:20 pm, a drive-by shooting had taken place resulting in two serious casualties - Leonard James McAvoy, aged 25, and his cousin, Brendan Ryan Turbane, 16, both seriously wounded by blasts from a double-barrelled shotgun.

For a shotgun discharged from a passing vehicle, the blasts were unusually precise, one hitting Leonard in the chest and the other taking Brendan in the leg.

Tragically, Leonard would die in hospital later that night. Brendan's promising career as an indigenous dancer was cut short, replaced by a life of continuous surgical procedures and criminal offences.

The impact of the murder was especially hard on Brendan. Although he and Leonard were cousins, they were raised together in the same household, growing up to regard each other as brothers.

Grief was further compounded by confusion. What Brendan had later found puzzling was that despite being a major witness in Leonard's death, police never questioned him over the incident. In fact, neither did anyone from the Department of Family Services even though Brendan was under a care and protection order.

Former Queensland Police Commis-

sioner Noel Newnham told the *Independent Monthly* that he was shocked to learn Brendan was never questioned.

"It just defies imagination that that person wasn't interviewed ... utterly incomprehensible," he said.

"There is no part of it that makes sense to me. I'm not going to say that it was deliberate in the sense of covering something up, or laziness, or ineptitude, or sheer incompetence or anything else because I just don't understand how that could've come to pass and how it could've been tolerated".

Mr. Newnham said the failure to question Brendan was a serious omission.

"There ought to be a number of people concerned about this. The investigators, whoever they may be [and] their superior officers who should have been responsible for signing off on the case".

But somehow it was tolerated, and this false story of a drive-by shooting in Newmarket remained the official explanation for Leonard James McAvoy's death for the next 13 years.



As Breakfast Creek trickles past behind its wooden frame, the community hall also faces a major intersection where Ashgrove Avenue meets Enoggera Terrace and Edmonstone Street.

The backyard of the hall is barely a few metres wide, yet extends deep along the length of the building. Clearly, a shotgun fired from Ashgrove Avenue into the backyard would have little chance of hitting a particular target in this constricted area, especially from a moving vehicle. Another obstacle to the drive-by shooter would be the distance

of an extra 15 feet from the road where the backyard is fenced off.

Theoretically, a shooter would have to be feeling game enough to be traveling in a car slow enough to shoot within a width of just a few metres and at a target at least 20 feet away. Game enough, it seems, to then abandon the weapon involved which was later found at the scene of the crime.

This unlikely scenario and the nature of Leonard McAvoy's wounds point to another explanation, one that rules out any likelihood of any "drive-by shooting".

Ballistic Forensics expert, Dr. Astrid Vallati, told *"The Independent Monthly"* that it would have been obvious to tell on the scene of the crime whether the two men were hit in a drive-by shooting or by shots taken at close range.

The forensic analysis performed on Leonard just after the shooting confirmed the two blasts came from the same gun. But it also revealed that his wound contained wadding from the shotgun blast, and thus declared that Leonard was just three feet away from the shotgun when it fired.

Dr. Vallati said that when a shot fired at a such a distance "...the wadding opens out like a parachute and virtually stops dead and drops to the ground".

And if the shot was fired at close range?

"Definitely [Leonard] would have the wadding in his chest."



The events of that night continued to have a profound and disturbing

effect on the survivor of that night's shooting.

Although Brendan Turbane escaped with his life, the leg wound he sustained had removed any chance of his pursuing the dancing career that had begun so promisingly.

Because of muscle damage Brendan must sleep with a pillow between his legs, severe swelling of the leg from cellulitis requires constant antibiotic medication, and nerve damage has caused parts of his leg to be over-sensitive while other parts are rendered numb.

Brendan also suffers back problems as a result of the effect the wound has on his posture when walking. Needless to say, he suffers a good deal of pain.

A pain compounded further by the ensuing guilt and confusion over that incident.

It is known that both Brendan and Leonard had consumed a large amount of alcohol that night, and that other witnesses were uncooperative with police in their questioning.

Over the years, Brendan heard second-hand accounts of internal family disputes that had arisen from the shooting. Later at a funeral of another family member, his uncle, Owen McAvoy, told Brendan he held him responsible for Leonard's death, but then cryptically suggested they were now "even". Apparently, Owen had found a reason to forgive Brendan.

Brendan's personal struggle with the shooting came to a head when on January 1, 2002 after an argument with his mother. Brendan walked into the Dutton Park Police Station and confessed to the murder of Leonard James McAvoy.

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