Australia: coroner's findings whitewash police role in death of TJ Hickey

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In a provocative ruling issued on August 17, the New South Wales coroner John Abernathy exonerated state police officers over the death of 17 year-old Aboriginal youth, Thomas "TJ" Hickey. Despite overwhelming evidence of lies and cover-up, the court found that the police actions did not "contribute in any way to [TJ's] death".

Hickey died on February 15 when he crashed his bicycle and was impaled on a metal fence in the inner-city Sydney suburb of Redfern. After witnesses reported seeing cops chase TJ to his death, a violent confrontation erupted between local Aboriginal residents, mostly young people, and around 200 police.

The state Labor government's response to TJ's death and the subsequent riot has been to further boost police numbers and resources, and to step-up surveillance and raids in the predominantly Aboriginal section of Redfern known as "The Block". By rejecting evidence that police contributed to the youth's death by pursuing him, the state coroner has effectively provided full endorsement for the government's strategy.

Prior to the ruling, the Carr Labor government issued a number of public statements in defence of the police, supporting their insistence that they did not chase TJ. The contortions and contradictions contained in Abernathy's judgment can only be understood in the context of this determined political campaign. Both the Labor Party and the coroner were well aware of the potentially explosive consequences of any admission of police responsibility for the youth's death.

After describing what happened as a "freak accident", the coroner attacked the Hickey family and the Aboriginal community in Redfern. "Sadly the family knew something of the allegation [that police had chased TJ to his death] but elected, no doubt on advice from their community—very poor advice—not to make the allegation to appropriate police with precision and promptitude," Abernathy said, looking directly at TJ's mother, Gail Hickey. "Had that been done at the outset, this matter would have followed a very different path."

In this extraordinary statement, the coroner blamed the Hickey family for not immediately speaking to police—including those suspected of direct involvement in his death—and, by implication, for the subsequent riot. But the reason they did not is obvious. Redfern police are notorious for their racist policing methods and their regular harassment of young Aborigines, particularly those who frequent The Block. Abernathy chose to ignore these realities of everyday life.

"I urge you now ... to put the matter behind you," he continued, reproaching the Redfern community for spreading what he called "rampant gossip and innuendo" in the aftermath of the youth's death. But his aggressive approach to the Aboriginal community stood in marked contrast to the way he dealt with the police.

Throughout the two-week coronial inquest, Abernathy repeatedly promised to issue his findings on the final day of proceedings. Only at the last minute did he withhold his judgment, declaring that "rushed justice is no justice". In reality, the delay was motivated by the need to carefully formulate a sufficiently plausible whitewash.

Constables Ruth Rocha and Alan Rimmel, who saw TJ moments before his fatal crash, were cleared of any wrongdoing. "I am satisfied that the version they gave is actually very close to the truth," the coroner declared, noting only an "air of defensiveness" in their testimony.

He accepted without qualification Rocha and Rimmel's claim that they had immediately dismissed TJ as a "person of interest" when they first saw him. This was despite evidence that they had every reason to be interested in him. The Aboriginal youth was seen cycling at high speed without a helmet, coming from the area in which an alleged bag snatcher had been sighted in the company of an unidentified person just minutes earlier. Both TJ and the suspect were Aboriginal and wearing dark-coloured clothing.

The coroner dismissed these considerations, insisting that "TJ Hickey looked nothing like [the alleged bag snatcher], beyond the fact that they were both indigenous Australians". Abernathy also rejected any consideration of the probability that any of the police involved were familiar with TJ. This was despite the fact that the young man had been identified as a "high risk suspect" and his profile had been on the wall of the Redfern station's lunch room for eight months. It was updated just three days before his death.

The two other officers involved, Constables Maree Reynolds and Michael Hollingsworth, who were in the police vehicle known as Redfern 16, also denied having any interest in TJ when they first encountered him. After seeing the youth cycle at high speed, the two officers drove to the bottom of the Renwick Street cul-de-sac, mounted the kerb and followed TJ down a pedestrian pathway. Moments later he catapulted off his bicycle, suffering fatal neck and chest injuries.

Several witnesses testified that Reynolds and Hollingsworth were in the vehicle that pursued TJ. Much of the coroner's judgment was concerned with their evidence and the three separate statements they gave to police investigators. These were marked by a number of striking contradictions.

Prior to making their initial statements, the two officers had discussed what had taken place with Rocha and Rimmel, and with senior detectives in the Redfern station. In their statements, both Reynolds and Hollingsworth falsely claimed to have performed a u-turn at the bottom of Renwick Street. Under cross examination at the inquest, Constable Reynolds described her failure to admit driving down the pathway as an "oversight", and insisted that it was a "coincidence" that both she and her partner had made the same mistake.

The false statements indicated that the two cops had concocted a story—in collusion with their senior colleagues—to conceal their role in TJ's death. For the coroner, however, such evidence was dismissed as irrelevant. "Frankly ... I am not prepared to give much weight to the omission of mention of the pathway from the initial statement," he declared, suggesting that the traumatic effect of seeing TJ impaled on the fence was sufficient to account for it.

The coroner made no attempt to explain how trauma could have had such an identical effect on the statements of the two officers, and ignored

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the evidence of collusion. Abernathy also chose to overlook the numerous contradictions in Constable Hollingsworth's three separate statements to police investigators. Hollingsworth, the driver of Redfern 16, refused to testify before the inquest, on the grounds that he might incriminate himself. The coroner instructed the media that no adverse inference could be drawn from Hollingworth's refusal and that, in any case, incrimination would relate solely to possible police disciplinary action, not criminal charges.

Abernathy went out of his way to praise the officer. "I commend him for his leadership and his effort," he said, referring to Hollingsworth's treatment of TJ at the scene of the crash.

Reynolds' testimony was so obviously inadequate that the coroner felt compelled to issue a limited criticism. "Constable Reynolds was quite a poor witness with an extraordinary lack of memory of what I would have thought were significant events," he noted.

Abernathy's assessment of the actions of Hollingsworth and Reynold formed the most significant section of the ruling. In what amounted to an open refutation of the officers' own account, the coroner concluded that they "did, on the whole of the evidence, follow the boy." But, he added, "I cannot say why they did so." His failure to draw the obvious conclusion—the police followed TJ to question and arrest him—was, yet again, based on his refusal to place the events of the day in the wider context of everyday life in Redfern.

To remove any hint of guilt from the officers, Abernathy then proceeded to draw a distinction between *following* and *pursuing*. While finding that Redfern 16 had been *following* TJ, Abernathy insisted that at no time did the officers *pursue* him. This was a critical distinction, because police regulations forbid caged vehicles such as Redfern 16 from pursuing suspects, while following someone is considered legitimate.

The distinction essentially rests on the intentions of the police concerned—if they hope to stop and question the suspect then they are deemed to be in pursuit, otherwise they are regarded as merely observing. The coroner claimed that the evidence "gives no indication at all of speed on the part of the police vehicle, nor of any attempt to stop the boy". But he made no attempt to assess the officers' intent in relation to TJ.

"The task of assessing Redfern 16 has been made all the more difficult by the excusing of Senior Constable Hollingsworth from giving evidence," he declared. "On the evidence before me, I am satisfied that the driver of Redfern 16 did follow TJ Hickey down Renwick Street, causing his vehicle to traverse most of the length of the pathway. At some point on Renwick Street, the driver of Redfern 16 determined to follow TJ Hickey as a person of interest. Whether this was a determined interest or a casual interest I could only obtain by hearing evidence from Constable Hollingsworth."

But the coroner had himself previously excused Hollingsworth from giving evidence on the grounds that nothing would be gained from his testimony. "There is always the need for an honest, accurate and reliable account from material witnesses," he said during the inquest. "Would I be confident that I get that, should he step into the witness box? Frankly, it is difficult to feel confident that I would, because the versions he has given [in his initial three statements] are self-contradictory and not susceptible to resolution to an appropriate standard."

So, having let Hollingsworth off the hook in court, Abernathy then used the absence of his testimony as an excuse for refusing to draw any conclusion about his or Constable Reynolds' intentions—the most vital issue in the entire case! This sleight-of-hand was indicative of the entire judgment.

Abernathy's finding that the police played no role in TJ's death also rested on his insistence that "there is simply no evidence that TJ Hickey was conscious of the police behind him", since "I do not have evidence as to what was in the boy's mind". In other words, because the young man was dead, and could not give testimony, nothing could be said about his state of mind.

In fact, the available evidence indicates that TJ was well aware that the cops were after him. He came within metres of two police vehicles, within seconds of each other. He was reportedly in possession of marijuana, and had an outstanding warrant against him. He had just left The Block, where, under his bail conditions, he was prohibited from entering. He had every reason to evade the police, and it is entirely implausible that he would not have been aware of their movements after he crossed their paths.

The gulf that separated the coroner's conclusions from the available evidence was revealed most clearly in his extraordinary admission that "[t]he manner in which TJ Hickey rode his defective bicycle *may* have been influenced by the proximity and path of the police vehicle Redfern 16" (Emphasis in published ruling).

This means that, according to the coroner's own assessment, there was no firm basis for his own definitive assertion that the police bore no responsibility for the youth's death. If it were possible that the police influenced the manner in which TJ was cycling, it follows that, at the very least, they could have contributed to what subsequently occurred.

Despite his finding that Reynolds and Hollingsworth repeatedly lied, the coroner failed to issue any condemnation of them or to recommend any disciplinary action. He merely described as "regrettable" the fact that the officers "were not completely candid from the start".

At the heart of his judgment was his insistence that, ultimately, the police had no reason to lie about their actions. The officers, Abernathy insisted, "may have had every reason to follow the deceased down that pathway". He did not explain what these reasons may have been, nor did he attempt to reconcile this assertion with his previous acceptance of the position that Redfern 17 took absolutely no interest in TJ.

Throughout the court's findings, the obvious question was never addressed—if the cops had done nothing wrong, and did not contribute to TJ's death, why then did they persist with their lies? The lie, after all, always serves a definite social function. In this case, the officers clearly hoped to conceal not only what they had done on the day, but their general mode of operation in Redfern.

The reaction from the Aboriginal community to the ruling was one of shock and anger. As Abernathy read out his findings, Bowie Hickey, TJ's cousin, shouted "No justice", before being ejected from the court. TJ's mother was similarly distraught, and was assisted out of the court by family members.

The police, on the other hand, immediately seized their victory. "The police on that day acted very bravely, courageously and in very tragic circumstances," Bob Pritchard, Police Association president, declared. "I believe that they carried out their duties completely professionally and bravely. The coroner has completely vindicated them and commended them on the actions on the day."

Police Commissioner Ken Moroney quickly ruled out any disciplinary proceedings against any of the officers involved. "I supported each and every one of my officers on the morning after the incident involving Thomas Hickey," he declared. "I supported [them] after the riot and my support remains for those officers".

As the *World Socialist Web Site* warned from the outset, the coronial inquest was held to conceal the truth of TJ Hickey's death, and the wider social and political issues behind it. Like the parliamentary report into conditions in Redfern and Waterloo, it has served as yet another justification for the Labor government's repudiation of any measure of social reform to alleviate the poverty suffered by Aborigines in Sydney. The sole response of the political establishment has been to intensify police repression.

The coroner delivered the expected result—TJ's death was a "freak accident". To even admit the possibility that the police bore some responsibility would inevitably raise the question of their more general

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role in working-class areas. In fact, there was nothing exceptional about the police actions on February 14. The surveillance and pursuit of working class youth, Aboriginal and non-Aboriginal, is a daily occurrence in inner-Sydney. And it was this constant harassment that contributed to the anger and frustration that erupted in the Redfern riot.

Any objective ruling would have raised the necessity for a wide-ranging investigation into poverty and unemployment in the area, the aggressive gentrification of Redfern, and the accompanying police intimidation of the most oppressed layers of the working class.

These are all questions to which the state Labor government, and more broadly the capitalist system, has no adequate answers.

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