

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 15/08/2018 5:43:10 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number:	NSD1485/2018
File Title:	BEN ROBERTS-SMITH v FAIRFAX MEDIA PUBLICATIONS PTY LTD (ACN 003 357 720) & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Warwick Soden".

Dated: 17/08/2018 9:27:52 AM AEST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



## Statement of Claim

No. of 2018

Federal Court of Australia  
District Registry: New South Wales  
Division: General Division

**Ben Roberts-Smith**

Applicant

**Fairfax Media Publications Pty Limited ACN 003 357 720 and others**

Respondents

The Applicant relies on the following facts and assertions:

### THE APPLICANT

- 1 The Applicant is a former soldier and member of the Special Air Service regiment (**SASR**) who was deployed on multiple occasions to Afghanistan.

### THE RESPONDENTS

- 2 The First Respondent is and was at all material times:
- (a) a corporation liable to be sued in its own corporate name and style;
  - (b) the publisher of the Sydney Morning Herald and Sun Herald Newspapers;
  - (c) the publisher of material on the website located at the URL address [www.smh.com.au](http://www.smh.com.au) (**the SMH Website**);
- 3 The Second, Third and Fourth Respondents are journalists employed or engaged by the First Respondent or one of its related corporations.

{00404700.doc-v}

Filed on behalf of (name & role of party)	Ben Roberts-Smith, Applicant
Prepared by (name of person/lawyer)	Mark Geoffrey O'Brien
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## FIRST AND SECOND MATTERS COMPLAINED OF

- 4 On or about 9 June 2018 the First, Second and Third Respondents published of and concerning the Applicant articles in the Sydney Morning Herald newspaper entitled “SAS’s *Day of Shame*” and “*Troops kept ‘kill board’: SAS’s day of shame*” copies of which are set out in Annexure “A” hereto (**together, the first matter complained of**).

### ***Particulars of Publication – UCPR Rule 15.19(1)(a) and 15.19(1)(b)***

- (a) The first matter complained of was published by the First Respondent in The Sydney Morning Herald newspaper in the Australian Capital Territory, New South Wales and in the other States and Territory of Australia.
- (b) The Second and Third Respondents were the authors of the First Matter Complained Of.
- (c) Further particulars of publication of the first matter complained of will be supplied following discovery and interrogatories.

- 5 The first matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant.

### ***Particulars of Imputations***

The first matter complained of carried the following defamatory imputations of and concerning the Applicant:

- (a) The Applicant while a member of the SASR, murdered an unarmed and defenceless Afghan civilian, by kicking him off a cliff and procuring the soldiers under his command to shoot him;
- (b) The Applicant broke the moral and legal rules of military engagement and is therefore a criminal;
- (c) The Applicant disgraced his country Australia and the Australian army by his conduct as a member of the SASR in Afghanistan.

### ***Particulars of parts of the first matter complained of***

The Applicant relies on the whole of the first matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the first matter complained of, adopting the paragraph numbering in schedule 1 at Annexure “A-1” hereto, as follows:

- (a) Imputation 5(a): 3, 6, 7, 10, 13, 15, 27, 28, 32, 33, 34, 35, 37, 39, 42, 43, 44, 46, 57, 59, 67, 68, 74, 75, 76, 83, 89, 90, 91, 101, 102, 103, 104, 106, 107, 108, 109, 110, 111, 122, 128 and 129.
- (b) Imputation 5(b): 2, 3, 6, 7, 8, 9, 10, 13, 15, 16, 18, 25, 26, 27, 28, 32, 42, 46, 54, 57, 59, 62, 64, 67, 68, 71, 74, 76, 77, 78, 79, 89, 90, 91, 99, 101, 102, 103, 104, 106, 107, 108, 109, 110, 111, 116, 119, 120, 122, 128 and 129.
- (c) Imputation 5(c): 2, 3, 6, 7, 10, 13, 15, 16, 27, 28, 31, 32, 33, 34, 35, 37, 39, 42, 43, 44, 46, 57, 59, 62, 64, 67, 68, 71, 74, 76, 79, 83, 84, 89, 90, 91, 99, 101, 102, 103, 104, 106, 107, 108, 109, 110, 111, 116, 119, 122, 128 and 129.

#### ***Particulars of Identification***

- (a) The Applicant is the most distinguished Australian veteran and SASR member of the Afghanistan campaigns. He was awarded the Victoria Cross.
- (b) The Applicant was deployed to Afghanistan in 2006, 2007, 2009, 2010 and 2012.
- (c) The Applicant was operating as a patrol commander at or around the Darwan area along with other teams from 2 Squadron SASR in or around September 2012.
- (d) In this context the references to "Leonidas", described as a person "deployed repeatedly to Afghanistan" (including specific references to 2009, 2010 and 2012) with "impeccable connections up the chain of command" point inexorably to the Applicant, the most decorated and most notorious Australian soldier from this period.

- 6 On or about 8 June 2018 the First, Second and Third Respondents published of and concerning the Applicant on the SMH Website an article entitled "*Abdul's brother went out to buy flour. He never came home.*" a copy of which is set out in Annexure "B" hereto (**the second matter complained of**).

#### ***Particulars of Publication***

- (a) the second matter complained of was published by the First Respondent by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for download to a large number of users in each State and Territory of Australia of the SMH Website;



- (b) the publication was made available for download on and from 8 June 2018 at the address <https://www.smh.com.au/politics/federal/abdul-s-brother-went-out-to-buy-flour-he-never-came-home-20180607-p4zk38.html>;
- (c) The second matter complained of was in fact downloaded and read in each State and Territory of Australia.
- (d) The Second and Third Respondents were the authors of the second matter complained of;
- (e) Further particulars of publication of the second matter complained of will be supplied following discovery and interrogatories

7 The second matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant.

***Particulars of Imputations***

- (a) The Applicant while a member of the SASR, murdered an unarmed and defenceless Afghan civilian, by kicking him off a cliff and procuring the soldiers under his command to shoot him;
- (b) The Applicant broke the moral and legal rules of military engagement and is therefore a criminal;
- (c) The Applicant disgraced his country Australia and the Australian army by his conduct as a member of the SASR in Afghanistan.

***Particulars of parts of the second matter complained of***

The Applicant relies on the whole of the second matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the second matter complained of, adopting the paragraph numbering in schedule 2 at Annexure “B-1” hereto, as follows:

- (a) Imputation 7(a): 2, 3, 8, 9, 11, 12, 15, 18, 20, 21, 23, 39, 42, 43, 50, 52, 53, 56, 60, 67, 68, 69, 70, 77, 85, 86, 87, 88, 89, 90, 91, 92, 94, 95, 96, 97, 113, 114, 120 and 121.
- (b) Imputation 7(b): 2, 8, 9, 11, 12, 15, 18, 23, 39, 41, 42, 43, 47, 50, 53, 54, 55, 56, 67, 68, 69, 70, 77, 83, 85, 86, 87, 88, 89, 90, 91, 92, 94, 95, 96, 97, 104, 108, 109, 110, 113, 114, 120 and 121.

- (c) Imputation 7(c): 2, 3, 8, 9, 11, 12, 15, 18, 20, 21, 23, 39, 41, 42, 43, 47, 50, 53, 55, 56, 60, 61, 67, 68, 69, 70, 77, 83, 85, 86, 87, 88, 89, 90, 91, 92, 94, 95, 96, 97, 104, 108, 109, 113, 114, 120 and 121.

***Particulars of Identification***

- (a) The Applicant repeats the particulars appended to paragraph 5 above.
- (b) In addition, on and from 6 July 2018 when the First, Second and Third Respondents named the Applicant (and no other person) in their article “VC winner *Ben Roberts-Smith among subjects of defence investigation*” as “one of a small number of soldiers subject to investigation” by the Brereton inquiry, and as a person facing allegations including “*breaches of the law of armed conflict*” additional readers would have identified the Applicant as the person referred to as “Leonidas” in the first and second matters complained of.
- (c) In addition, on and from 10-11 August 2018, when the Respondents named the Applicant (and no other person) in their article “*Beneath the bravery of our most decorated soldier*” as a person responsible for the brutal mistreatment of unarmed Afghan civilians (in 2009, 2010 and 2012) and emphasising his leadership role, additional readers would have identified the Applicant as the person referred to as “Leonidas” in the first and second matters complained of.
- (d) In addition, as at from at the latest 15 August 2018 and continuing, persons searching the Applicant’s name using the Google search engine are given auto-complete responses including “ben roberts-smith leonidas”.

**THIRD AND FOURTH MATTERS COMPLAINED OF**

- 8 On or about 10 June 2018 the First, Second and Third Respondents published of and concerning the Applicant an article in The Sun Herald newspaper entitled “*Special Forces Rookie ‘blooded’ by executing an unarmed man*” a copy of which is set out in Annexure “C” hereto (the third matter complained of).

***Particulars of Publication – UCPR Rule 15.19(1)(a) and 15.19(1)(b)***

- (a) The third matter complained of was published by the First Respondent in The Sun Herald newspaper in New South Wales and in the other States and Territories of Australia.

- (b) The Second and Third Respondents were the authors of the third matter complained of.
  - (c) Further particulars of publication of the third matter complained of will be supplied following discovery and interrogatories.
- 9 The third matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant.

***Particulars of Imputations***

The third matter complained of carried the following defamatory imputations of and concerning the Applicant

- (a) The Applicant while a member of the SASR committed murder by pressuring a newly deployed and inexperienced SASR soldier to execute an elderly, unarmed afghan in order to "blood the rookie";
- (b) The Applicant while a member of the SASR, committed murder by machine gunning a man with a prosthetic leg;
- (c) The Applicant while a member of the SASR, murdered an unarmed and defenceless Afghan civilian, by kicking him off a cliff and procuring the soldiers under his command to shoot him;
- (d) The Applicant having committed murder by machine gunning a man in Afghanistan with a prosthetic leg, is so callous and inhumane that he took the prosthetic leg back to Australia and encouraged his soldiers to use it as a novelty beer drinking vessel.

***Particulars of parts of the third matter complained of***

The Applicant relies on the whole of the third matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the third matter complained of, adopting the paragraph numbering in schedule 3 at Annexure "C-1" hereto, as follows:

- (a) Imputation 9(a): 1, 3, 5, 8 and 14.
- (b) Imputation 9(b): 2, 6, 7, 11 and 14.
- (c) Imputation 9(c): 12, 13 and 14.

(d) Imputation 9(d): 2, 6, 7, 11 and 14.

***Particulars of Identification***

(a) The Applicant relies on the particulars appended to paragraph 5 above.

10 On or about 9 June 2018 the First, Second and Third Respondents published of and concerning the Applicant on the SMH Website an article entitled "*Special forces rookie 'blooded' by executing an unarmed man*" a copy of which is set out in Annexure "D" hereto (**the fourth matter complained of**).

***Particulars of Publication***

(a) the fourth matter complained of was published by the First Respondent by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for download to a large number of users in each State and Territory of Australia of the SMH Website;

(b) the publication was made available for download on and from 9 June 2018 at the address <https://www.smh.com.au/politics/federal/special-forces-rookie-blooded-by-executing-an-unarmed-man-20180605-p4zimw.html>;

(c) The fourth matter complained of was in fact downloaded and read in each State and Territory of Australia.

(d) The Second and Third Respondents were the author of the fourth matter complained of;

(e) Further particulars of publication of the fourth matter complained of will be supplied following discovery and interrogatories

11 The fourth matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant.

***Particulars of Imputations***

(a) The Applicant while a member of the SASR committed murder by pressuring a newly deployed and inexperienced SASR soldier to execute an elderly, unarmed employee in order to "blood the rookie";

(b) The Applicant while a member of the SASR, committed murder by machine gunning a man with a prosthetic leg;

- (c) The Applicant while a member of the SASR, murdered an unarmed and defenceless Afghan civilian, by kicking him off a cliff and procuring the soldiers under his command to shoot him;
- (d) The Applicant having committed murder by machine gunning a man in Afghanistan with a prosthetic leg, is so callous and inhumane that he took the prosthetic leg back to Australia and encouraged his soldiers to use it as a novelty beer drinking vessel;

***Particulars of parts of the fourth matter complained of***

The Applicant relies on the whole of the fourth matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the fourth matter complained of, adopting the paragraph numbering in schedule 4 at Annexure "D-1" hereto, as follows:

- (a) Imputation 11(a): 1, 6, 10, and 17.
- (b) Imputation 11(b): 7, 8, 9, 14, and 17.
- (c) Imputation 11(c): 15, 16 and 17.
- (d) Imputation 11(d): 7, 8, 9, 13, 14 and 17.

***Particulars of Identification***

- (a) The Applicant repeats the particulars appended to paragraph 5 above.
- (b) In addition, on and from 6 July 2018 when the First, Second and Third Respondents named the Applicant (and no other person) in their article "*VC winner Ben Roberts-Smith among subjects of defence investigation*" as "*one of a small number of soldiers subject to investigation*" by the Brereton inquiry, and as a person facing allegations including "*breaches of the law of armed conflict*" additional readers would have identified the Applicant as the person referred to as "Leonidas" in the third and fourth matters complained of.
- (c) In addition, on and from 10-11 August 2018 when the Respondents named the Applicant (and no other person) in their article "*Beneath the bravery of our most decorated soldier*" as a person responsible for the brutal mistreatment of unarmed Afghan civilians (in 2009, 2010 and 2012, and emphasising his leadership role, additional readers would have identified the Applicant as the person referred to as "Leonidas" in the third and fourth matters complained of.

- (d) In addition, as at from at the latest 15 August 2018 and continuing, persons searching the Applicant's name using the Google search engine are given auto-complete responses including "ben roberts-smith leonidas".

## **FIFTH AND SIXTH MATTERS COMPLAINED OF**

- 12 On or about 11 August 2018 the First, Second, Third and Fourth Respondents published of and concerning the Applicant articles in the Sydney Morning Herald newspaper entitled "*War hero fires back over abuse claims*" and "*Beneath the bravery of our most decorated soldier*" copies of which are set out in Annexure "E" hereto (together, the fifth matter complained of).

### ***Particulars of Publication – UCPR Rule 15.19(1)(a) and 15.19(1)(b)***

- (a) The fifth matter complained of was published by the First Respondent in The Sydney Morning Herald Newspaper in New South Wales and in the other States and Territories of Australia.
- (b) The Second, Third and Fourth Respondents were the authors of the fifth matter complained of.
- (c) Further particulars of publication of the fifth matter complained of will be supplied following discovery and interrogatories.

- 13 The fifth matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant.

### ***Particulars of Imputations***

The fifth matter complained of carried the following defamatory imputations of and concerning the Applicant

- (a) The Applicant committed an act of domestic violence against a woman in the Hotel Realm in Canberra;
- (b) The Applicant is a hypocrite who publicly supported Rosie Batty, a domestic violence campaigner, when in private he abused a woman;
- (c) The Applicant as deputy commander of a 2009 SASR patrol, authorised the execution of an unarmed Afghan by a junior trooper in his patrol;
- (d) The Applicant during the course of his 2010 deployment to Afghanistan, bashed an unarmed Afghan in the face with his fists and in the stomach with his knee

and in so doing alarmed two patrol commanders to the extent that they ordered him to back off;

- (e) The Applicant as patrol commander in 2012 authorised the assault of an unarmed Afghan, who was being held in custody and posed no threat;
- (f) The Applicant engaged in a campaign of bullying against a small and quiet soldier called Trooper M which included threats of violence;
- (g) The Applicant threatened to report Trooper J to the International Criminal Court for firing at civilians, unless he provided an account of a friendly fire incident that was consistent with the Applicant's;
- (h) The Applicant assaulted an unarmed Afghan in 2012;

***Particulars of parts of the fifth matter complained of***

The Applicant relies on the whole of the fifth matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the fifth matter complained of, adopting the paragraph numbering in schedule 5 at Annexure "E-1" hereto, as follows:

- (a) Imputation 13(a): 1, 3, 29, 30, 87, 88, 89, 90 and 96.
- (b) Imputation 13(b): 8, 15, 16, 29, 87, 88, 89, 90 and 96.
- (c) Imputation 13(c): 18, 20, 21, and 35.
- (d) Imputation 13(d): 18, 20, 21, 22, 23, 34, 36, 37, and 38.
- (e) Imputation 13(e): 18, 20, 21, 22, 34, and 39.
- (f) Imputation 13(f): 3, 18, 20, 21, 24, 43, 49, 50, and 51.
- (g) Imputation 13(g): 18, 20, 21, 24, 62, and 65.
- (h) Imputation 13(h): 18, 20, 21, 22, 34, 39, and 63.

- 14 On or about 10 August 2018 the First, Second, Third and Fourth Respondents published of and concerning the Applicant on the SMH Website an article entitled "*Beneath the bravery of our most decorated soldier*" a copy of which is set out in Annexure "F" hereto (**the sixth matter complained of**).

***Particulars of Publication***

- (a) the sixth matter complained of was published by the First Respondent by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for download to a large number of users in each State and Territory of Australia of the SMH Website;
- (b) the publication was made available for download on and from 10 August 2018 at the address <https://www.smh.com.au/politics/federal/beneath-the-bravery-of-our-most-decorated-soldier-20180801-p4zuwp.html>;
- (c) The sixth matter complained of was in fact downloaded and read in each State and Territory of Australia.
- (d) The Second, Third and Fourth Respondents were the authors of the sixth matter complained of;
- (e) Further particulars of publication of the sixth matter complained of will be supplied following discovery and interrogatories

15 The sixth matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant.

***Particulars of Imputations***

The sixth matter complained of carried the following defamatory imputations of and concerning the Applicant

- (a) The Applicant committed an act of domestic violence against a woman in the Hotel Realm in Canberra;
- (b) The Applicant is a hypocrite who publicly supported Rosie Batty, a domestic violence campaigner, when in private he abused a woman;
- (c) The Applicant as deputy commander of a 2009 SASR patrol, authorised the execution of an unarmed Afghan by a junior trooper in his patrol;
- (d) The Applicant during the course of his 2010 deployment to Afghanistan, bashed an unarmed Afghan in the face with his fists and in the stomach with his knee and in so doing alarmed two patrol commanders to the extent that they ordered him to back off;



- (e) The Applicant as patrol commander in 2012 authorised the assault of an unarmed Afghan, who was being held in custody and posed no threat;
- (f) The Applicant engaged in a campaign of bullying against a small and quiet soldier called Trooper M which included threats of violence;
- (g) The Applicant threatened to report Trooper J to the International Criminal Court for firing at civilians, unless he provided an account of a friendly fire incident that was consistent with the Applicant's;
- (h) The Applicant assaulted an unarmed Afghan in 2012;

***Particulars of parts of the sixth matter complained of***

The Applicant relies on the whole of the sixth matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the sixth matter complained of, adopting the paragraph numbering in schedule 6 at Annexure "F-1" hereto, as follows:

- (a) Imputation 15(a): 30, 32, 110, 111, 112, 113, and 120.
- (b) Imputation 15(b): 14, 15, 30, 110, 111, 112, 113, and 120.
- (c) Imputation 15(c): 18, 21, 22, and 42.
- (d) Imputation 15(d): 18, 21, 22, 24, 39, 40, 43, 44, 45, 46 and 48.
- (e) Imputation 15(e): 18, 21, 22, 24, 39, 41 and 49.
- (f) Imputation 15(f): 18, 21, 22, 25, 55, 56, 64, 65 and 66.
- (g) Imputation 15(g): 18, 21, 22, 25, 78 and 82.
- (h) Imputation 15 (h): 18, 21, 22, 24, 39, 49 and 79.

**DAMAGE**

- 16 By reason of publication of the matters complained of, the Applicant has been greatly injured and his business, personal and professional reputation has been and will be brought into public disrepute, odium, ridicule and contempt.
- 17 The Applicant claims damages, including aggravated damages, interest and costs.

***Particulars of Aggravated Damages***

- (a) The Applicant's knowledge of the falsity of the imputations.
- (b) The conduct of the Respondent in presenting the publication of the matters complained of in an over-sensationalised manner.
- (c) The failure of the First Respondent to remove the matter complained of from its website despite being informed by the Applicant that the matters are false and defamatory. See letters from MOBL dated 18 October 2017, 30 May 2017, 14 June 2018 and 3 August 2018.
- (d) Further particulars of aggravated damages will be provided in due course.

Date: 15 August 2018

A handwritten signature in black ink, appearing to read 'Mark Geoffrey O'Brien', written over a horizontal line.

Signed by Mark Geoffrey O'Brien  
Lawyer for the Applicant

This pleading was prepared by Bruce McClintock SC and Matthew Richardson of Counsel.

**Certificate of lawyer**

I, Mark Geoffrey O'Brien, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 15 August 2018

A handwritten signature in black ink, appearing to read 'MGO'Brien', written over a horizontal line.

Signed by Mark Geoffrey O'Brien  
Lawyer for the Applicant

**Daniel Arzani is a teenager set to make World Cup history**

DOMINIC BOSSI  
SPORT



**20-year-old Julia Cooney buys Sydney home for \$8.7m**

NEWS PAGE 8



**EXCLUSIVE**  
**A porn king, a right-wing poster boy and a drug bust**

ANDREW HORNER  
PS PAGE 18



**Weekend**

**ANNEXURE "A"**

# The Sydney Morning Herald

Issue No. 56,367 \$4 (inc GST)

INDEPENDENT. ALWAYS.

June 9-10, 2018



An Australian Special Operations Task Group soldier in Afghanistan.  
Photo: Australian Department of Defence

**HERALD INVESTIGATION**

## SAS's DAY OF SHAME

**War crime allegations: bound detainee kicked off cliff and executed**

**EXCLUSIVE**

**Nick McKenzie  
Chris Masters**

An Australian special forces soldier kicked a handcuffed Afghan detainee off a cliff before endorsing his summary execution, according to allegations made by direct witnesses.

The case is one of two alleged executions involving a single Special Air Service Regiment soldier in late 2012, and which have been described in detailed testimony of first-hand witnesses.

Yesterday, the *Herald* published



leaked details of a Defence Force inquiry from 2016 that described "unsanctioned and illegal application of violence on operations" and a "complete lack of accountability" involving some of Australia's elite special forces.

Federal Defence Minister Marise Payne has said the allegations of war crimes in Afghanistan are being "thoroughly examined", while Labor has demanded a confidential report containing the claims be made public.

The revelations are the first

**Continued Page 10**

**EXCLUSIVE**

## Get Real? Champs eye off Sydney

Champions League winners Real Madrid are eyeing off an opportunity to play in Sydney next year, but a major promoter says the NSW government has taken a "hiatus" from attracting major international sporting teams.

**NEWS PAGE 9**

**EXCLUSIVE**

## Albo: People's Choice to lead

Friends say Anthony Albanese stands ready to lead as Bill Shorten fails to inspire people with Labor trailing in a number of seats for upcoming byelections.

**NEWS REVIEW PAGE 21**

**EXCLUSIVE**

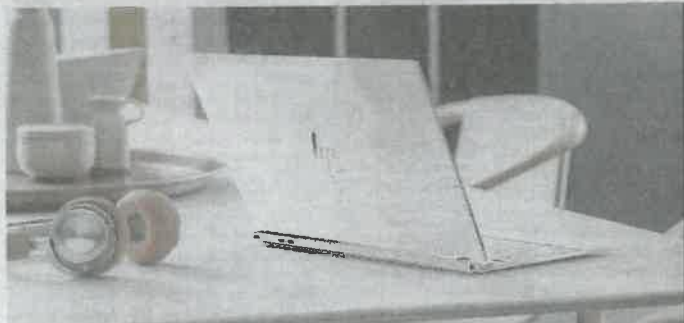
## NGA's ambitious new director

Nick Mitzevich says he wants to change everything in Australian art. Artist Bill Henson photographed the incoming director of the National Gallery of Australia for the cover of today's magazine.

**GOOD WEEKEND NEWS PAGE 17**

**EXCLUSIVE**

**\$50m FOR GREAT NSW WALKS**  
NEWS, PAGE 2



**HP Spectre 13" Ceramic White.**  
8th Generation Intel® Core™ i5 processor,  
8GB RAM, 360GB SSD, shared graphics,  
13" Full HD touchscreen, Bang & Olufsen  
audio, Windows 10. \$2499. 2V-Q13FA



Available at **Harvey Norman**

**DUNAYNE JOYCE MAYNE**

Ends 17/06/18. UltraBook, Celeron, Celeron Inside, Core Inside, Intel, Intel Logo, Intel Atom, Intel Atom Inside, Intel Core, Intel Inside, Intel Inside Logo, Intel vPro, Itanium, Itanium Inside, Pentium, Pentium Inside, vPro Inside, Xeon, Xeon Phi, Xeon Inside, and Intel Optane are trademarks of Intel Corporation or its subsidiaries in the U.S. and/or other countries.

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NR 11058A1 A201



## HERALD INVESTIGATION

# Troops kept 'kill board': SAS's day of shame

One kick is raising serious questions about the culture and command structure of Australia's most trusted fighting force, write **Nick McKenzie** and **Chris Masters**.

**T**he Australian special forces soldier led his prisoner towards a ridge above a dry creek bed near the Afghan village

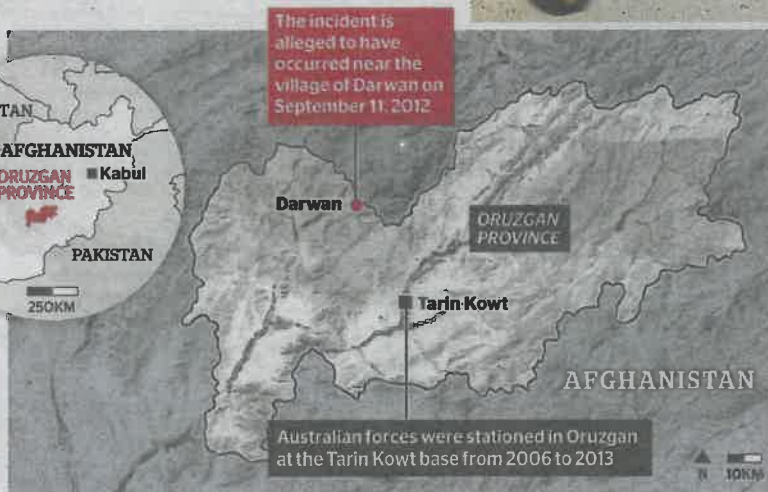
of Darwan. The prisoner's fate lay in the hands of the man leading him to the edge. His own hands were bound.

It was September 11, 2012 – 11 years to the day after planes piloted by al-Qaeda ploughed into the World Trade Centre, leading Australia to enter what would become the nation's longest war.

The handcuffed detainee was Ali Jan, a shepherd in his late 30s from a village three hours walk from Darwan, where his wife's family owned a plot of land. The day before, he'd travelled by donkey to Darwan to get flour. He'd left his pregnant wife, Bibi, and seven young children behind, telling them he'd be back soon.

After arriving in Darwan, Ali Jan had dinner and settled in for the night at a relative's home, a mud house brightened with carpets and the chatter of children. He planned to return home the next morning.

But when the sun rose on what was to be the last day of Ali Jan's life, it revealed a group of heavily armed Australian soldiers sweeping through Darwan on a manhunt.



They were searching for a rogue Afghan National Army sergeant called Hekmatullah who, days earlier, shot dead three unarmed and unsuspecting diggers and injured two others as they played cards at a coalition patrol base.

By the time the Australian special forces soldiers arrived in Darwan, the wanted man had vanished. Hoping to trace his whereabouts, they began arresting dozens of local men for

questioning. At some point, Ali Jan was also detained.

Most of the men were released, but Ali Jan never arrived home. Soon, word reached his wife that something terrible had happened at Darwan.

Since then, speculation about what happened in that village in the hills of Afghanistan's central Oruzgan province has only intensified, travelling across continents and time zones. In the

Perth barracks of Australia's most elite fighting unit, the Special Air Services Regiment, the incident is discussed in hushed tones. In central Afghanistan it evokes grief.

Now, five years after Ali Jan was walked towards the cliff edge, rumour has hardened into allegations, and then into evidence. The *Herald* has spent months looking into Ali Jan's fate as part of a broader investigation into the

## War crime allegations: bound detainee kicked off cliff

From Page 1

corroborated accounts of alleged war crimes involving the Special Air Service Regiment in Afghanistan. They are the most serious to face the Australian military in years, not only due to the gravity of the alleged conduct but also because they allegedly involve a small number of the nation's most elite soldiers.

The alleged breaches of the Geneva Convention – international laws which are meant to protect civilians and detainees in war zones – also raise serious questions about a command failure to oversee SASR soldiers during Australia's

longest war, with evidence suggesting one small team of soldiers went rogue over several years.

Ms Payne said it was well known that special operations soldiers – made up primarily of the SAS and commandos – operated in “a complex, chaotic and very dangerous environment to defend our freedoms”.

But she said allegations that “unsanctioned and illegal application of violence on operations”, as well as claims of a lack of accountability to the military chain of command, were being investigated.

“As Australians would expect, these allegations must be – and are being – thoroughly examined, independently from the chain of

**‘These allegations must be thoroughly examined.’**

Defence Minister Marise Payne

command.” She said an inquiry by the Inspector General of the Australian Defence Force had been going on since May 2016.

Minister for Foreign Affairs Julie Bishop said they were “very serious allegations”.

“I regard the soldiers of the SAS as some of our finest. These are men who are prepared to put their life on the line in conflict situations

to defend us and to defend our freedoms,” she said.

Labor defence spokesman Richard Marles labelled the reports “deeply concerning” and said the opposition would seek a briefing from Ms Payne.

“We will also be seeking, subject to national security considerations, as much of this report as possible be brought to the public domain,” Mr Marles said in a statement.

The International Criminal Court is also deciding whether to launch an investigation into atrocities committed by all sides in the Afghanistan conflict.

The alleged war crimes have

been exposed by SASR whistleblowers who have been backed by certain high-ranking officers, including now former major-general Jeff Sengelman and incoming Defence Force chief Angus Campbell.

The prisoner of war was allegedly detained by an SASR soldier in the Afghan village of Darwan, on September 11, 2012, and allegedly kicked off a cliff, badly injuring his face, two Defence Force insiders who witnessed the event said.

As the detainee lay injured, hands still bound, the two witnesses say SASR soldier “Leonidas” was party to the decision among soldiers to “get him out of his misery”.

additional reporting David Wroe





## RECREATION OF ALLEGED ATTACK

The prisoner's fate lay in the hands of the man leading him to the edge. His own hands were bound.

Illustration: Matt Davidson

behaviour of SASR forces in Afghanistan. The investigation involved interviews with dozens of current and former soldiers and senior officials, and unearthed highly confidential documents and briefings. The *Herald* also hired an Afghan journalist to find Darwan villagers and Ali Jan's family to tell their story.

Among the special forces soldiers risking their careers to brief *Herald* reporters are those who have also been summoned to give evidence to a special inquiry now being held into the actions of Australians in Afghanistan. This inquiry is run by a Supreme Court judge with the backing of top military officials.

Behind closed doors, the words "war crimes" are being used. Not only specific incidents, but the entire culture and command structure of Australia's most renowned and trusted fighting force is now under scrutiny in a manner unprecedented in Australian military history.

### SOTTO VOCE: THE QUIET VOICE

In May 2015, a newly minted Special Operations Commander issued a memo. It had been 18 months since the Special Operations Task Group, comprised principally of the SAS Regiment and its younger special forces siblings, the Sydney-headquartered Commandos, had

withdrawn from Australia's longest war. During 13 years on the battleground in Afghanistan, the SASR had sent 23 rotations involving thousands of men and hundreds of missions. Many of the 41 Australians killed in Afghanistan served with these two elite forces.

Major General Jeff Sengelman, an intense and cerebral officer known for speaking his mind, began his report by describing three concerning incidents: an SASR member had been caught stealing explosives, another had been arrested for armed robbery, and a third had lost weapons. Sources say a fourth incident, which involved an SASR soldier drawing a pistol on an Australian spy in Afghanistan, had also deeply troubled Sengelman.

These incidents, wrote the new commander, were symptoms of something deeper and more worrying: a "gradual erosion of leadership and accountability across the full span of command responsibilities".

Then he switched to plainer language. He was worried, he said, that the nation's most revered group of soldiers was "no longer holding itself to account".

Sengelman urged SASR members to write to him personally about their concerns. It was a bold move.

Tracing its beginnings back to the top-secret Australian Z Special Unit

## Editorial: Behind the lines, not beyond the law

NEWS REVIEW  
PAGE 28

that fought during World War II and operating under the motto "Who Dares Wins", those in the regiment receive intensive training to carry out dangerous and sensitive military missions.

As the SASR has adapted to modern conflict, hunting terrorists in Iraq and Afghanistan and leading spy missions in Africa, its historical penchant for secrecy has remain unchanged. Everything is classified until it is not.

The 700-odd members – half of whom are active "operators" who must pass a gruelling selection course testing their physical and mental capacity – cannot be photographed or discuss their work, ostensibly for operational and national security reasons. They are men used to anonymity, and who tend to resent anyone, including one of their own, breaking ranks. "They love the mystique," is how one special forces insider described it in a leaked defence report charting the special forces' culture, "and the government loves it. And everybody loves it."

It wasn't just this culture that Sengelman was challenging, but also a bond of brotherhood, forged at its deepest in blood and bravery.

Historian Charles Bean describes Australia's "big" discovery in WWI – the "character of men" – as forged by the Anzacs who "rushed the hills at Gallipoli and held out there during the long afternoon and night".

The SASR's character and place in Australia is shaped by its own stories. Most recently, certain battles in Afghanistan have helped define the regiment: the courageous fight at Tizak in 2010, which involved many SASR soldiers displaying extraordinary heroism under fire; and the bravery displayed during a fierce firefight with the Taliban in 2008 at Khas Oruzgan. Both battles led to multiple awards being presented to SASR members, including two Victoria Crosses, the Commonwealth's highest honour.

But in spite of this fierce pride and the taboo about breaking ranks, members began writing to Sengelman after he issued his memo. Over time, serving and former regiment members have also briefed reporters working on this story. They speak of an untold story from Afghanistan involving a small number of regiment members who began to confuse secrecy with impunity; men whose actions exist in the shadowy margins of proper behaviour in combat.

Continued Page 12

*What  
happened at  
Darwan and  
elsewhere isn't  
right'.*



# SAS's day of shame



Australian Special Forces Task Group soldier during a training activity in Afghanistan. Photo: Australian Department of Defence

## From Page 11

As one highly decorated Afghanistan SASR veteran puts it: "I'm all for dropping the hammer [shooting people] when the time comes. But that doesn't mean killing civilians or getting up your 'kill count' when you can take a prisoner instead."

Says another who fought at Tizak: "I've got no problem with taking out bad fellas. But what happened at Darwan and elsewhere isn't right."

As the letter count grew, Sengelmann called his boss, then Chief of Army Angus Campbell, himself a former SASR officer. Together, they commissioned a defence consultant, Dr Samantha Cromptvoets, to dig further.

Cromptvoets was given free rein. She spoke to people from the Chief of Defence Force downwards in preparing her highly confidential 2016 report, which the *Herald* has seen. Cromptvoets wrote of SASR "insiders" initially disclosing information "sotto voce" or in the quiet voice. Over time, she wrote, these insiders got "much louder . . . and difficult to ignore".

At their most serious, Cromptvoets wrote, their accounts concerned the "unsanctioned and illegal application of violence on operations, disregard for human life and dignity, and the perception of a complete lack of accountability".

Her report reinforced a fear held by some in Perth that the SASR's character had been compromised by a small group inside the regiment.

Cromptvoets, Sengelmann and Campbell all declined to be interviewed. But by the end of 2016, all three were acutely aware that one SASR soldier was being whispered about more than most. He had deployed repeatedly to Afghanistan and formed impeccable connections up the chain of command.

One SASR officer, to himself, called this man "Leonidas", after a fearsome warrior of ancient Sparta. Leonidas was part of the sweep through Darwan on September 11, 2012. And it was Leonidas who had allegedly led Ali Jan to the edge.

## SPARTA AND HOLLYWOOD

Questions inside the regiment about Leonidas, who the *Herald* unsuccessfully sought to interview and who cannot be named for legal reasons, began to be asked in 2009. At the time, he was part of an SASR patrol that was increasingly dividing the regiment. A warrior culture was being embraced by some special forces troops but loathed by others. It involved tattoos and a devotion to the Hollywood movie *300*, which glorifies the fighting prowess of the ancient Spartans, and whose climactic moment involves an enemy soldier being kicked off a ridge.

Several former SASR officers say this rock-star ethos emboldened certain soldiers to test the elasticity of the rules of engagement - rules that govern when a soldier can take a life.

"The regiment over time prided itself on being an organisation that broke the rules but not the law," explains one former officer.

"What happened, though, was during the Afghan campaign, there was a group of individuals who believed they were immune from the law."

A specialist embedded with the SASR noted two distinct personalities emerging as one four-month rotation blurred into the next and the regiment

honed its ability to kill or capture militants, men placed on the coalition's Joint Priority Effects List, the modern version of a wanted poster.

The specialist says some soldiers sought redeployment in Afghanistan because they loved the hunt. Others came to feel uneasy as an escalating enemy body count was not matched by progress in achieving the US-led NATO mission.

Former SASR captain Andrew Hastie, who served in Afghanistan in 2018 and is now a Liberal MP, recalls the latter group of soldiers "grasping for operational clarity in a fog of strategic ambiguity".

The patrol Leonidas belonged to appeared unburdened by such introspection. In this group, sources say, junior members were pushed to kill rather than detain.

In time, members of this patrol tacked a "kill board" to the wall of their patrol room. Members of another patrol heard Leonidas urging his fellow patrol members on - "only two more to go, boys" - a suspected reference to reaching a desired kill count.

Sources say the patrol fused a warrior ethos with the regiment's secretive culture. Its aggressive approach drew some admirers, including officers who believed it was needed on Afghanistan's asymmetrical battlefield. Leonidas, too, had his fierce backers, including regiment members who believed his assertive soldiering was setting an example for others. Those bagging Leonidas, they said, were jealous of his courage and resolve.

Less aggressive patrols risked unofficial sidelining. One patrol commander was regarded by his peers as overly cautious after he told his soldiers they had to be comfortable with everything they did in battle.

"He told us we needed to be able to get to sleep at night when we were grandparents," says a patrol member. Subsequently, this member says the patrol started being overlooked for missions.

## RUMBLINGS AND DISCONTENT

By 2010, there were disparate rumblings about incidents involving Leonidas' patrol. A prisoner of war was found dead in suspicious circumstances by a member of another patrol; an SASR soldier discovered the bodies of two farmers in a field without weapons; one of Leonidas' colleagues was quietly complaining about another shooting on patrol.

In each case, Leonidas' patrol had failed to conduct a proper "site sensitive exploration". This is supposed to involve scouring for items that can be exploited for intelligence, such as radios, but it also helps document the circumstances of a killing, such as whether a person was armed.

But it was not until two years later, in 2012, that witnesses began emerging with vivid, first-hand testimony about what Samantha Cromptvoets later described as "unsanctioned and illegal application of violence".

By the second-last year of Australia's deployment, the coalition's Afghanistan strategy was on life-support. Soldiers and diplomats viewed Afghanistan's criminal justice system as a revolving door for militants. According to a former SASR officer, small, combat-fatigued cliques inside the regiment were embracing "special warrior" rules



of combat. They were enabled, he says, by wilfully blind colleagues and an embattled command system.

On August 29, 2012, Afghan sergeant Hekmatullah shot dead three Australian soldiers. The murdered trio were meant to be Hekmatullah's comrades, but he killed them in cold blood and fled. One defence insider embedded with the SASR as it began the hunt for Hekmatullah describes a "change of attitude, a change of eyes". Some soldiers, he says, were out for blood.

When satellites intercepting phone calls gathered intelligence that placed Hekmatullah near Darwan, the Australians moved fast. For them, he was the most wanted man in Afghanistan.

### 'ONE SPOTTER K-I-A'

The radio message crackled into the earpieces of the special forces soldiers: "Three minutes till wheels up". The Darwan mission was ending. The helicopters were about to take the Australians and a small number of villagers for additional questioning back to the district capital, Tarin Kowt.

Soon after, the 50 or so detainees crammed into a compound at Darwan received their own blunt warning. "If you come outside before the helicopters are gone, you'll be shot," an SASR patrol commander barked.

The Afghans waited, some with heads bowed, listening for the whirr of rotor blades that would signal the end of their ordeal. Then the radio crackled again, this time relaying a message from Leonidas: "One spotter K-I-A [killed in action]," he said.

One of the SASR members on the ground, a respected and experienced operator, describes feeling a distinct pang of suspicion. "I thought to myself, something's not right."

The SASR had already spent hours searching compounds and rounding up dozens of men, designated "PUCs" (Persons Under Confinement) so they could be interrogated.

The soldier who felt something was awry was a member of a six-man patrol with a clear line of sight up the dry creek bed, but at a distance of about 50 metres from detainees being guarded by a patrol that included Leonidas. If a spotter – an enemy surveillance operative who reports coalition soldiers' movements to militants – had emerged, the soldier reckoned he would have seen him. It also made little sense, the soldier thought, for an active spotter to approach the Australians so late into their Darwan mission.

"We didn't require any spotting – we had come in like an elephant and made our presence well known," the SASR soldier recalls. As his helicopter lifted off, he remembers glancing down from a helicopter, seeing what looked like a body at the bottom of a cliff and asking himself: if it wasn't a spotter who was K-I-A, who was it?

A short time later, an SASR soldier responsible for securing the Darwan detainees separately approached two senior regiment members with an answer. The junior soldier described a scene he'd witnessed which was haunting him. It involved an irate and frustrated Leonidas grabbing one of the handcuffed PUCs and walking him to the edge of a cliff perhaps 10 metres high.

Leonidas gave himself a short run-up then kicked the detainee. As he plunged, his face smashed into rocks. Then the injured man was executed, the junior soldier told his superiors.

A second witness serving with the



SASR during the Darwan mission has corroborated that story. He says he saw Leonidas kicking "the hell" out of an Afghan detainee. This witness says this incident mirrored the climactic "kick" scene from the Spartan movie, 300. As the PUC lay injured, hands still bound, this second witness says Leonidas conferred with a small number of soldiers, explaining the injured prisoner "was acting suspicious". Then the man, says this witness, was executed in some scrub out of the view of the other detainees and most of the other soldiers.

Stories differ about the precise sequence of events, although both witnesses say Leonidas was party to the decision to "get him [the PUC] out of his misery".

Villagers tracked down by an Afghan journalist working with the *Herald* provide further corroboration. Darwan's village elders claim that several innocent residents were slain when the SASR swept through on September 11, 2012. Among their tally of the dead were two men killed in a compound filled with almonds. These two deaths match reports filed by SASR members save for a critical difference: the soldiers say the two men were armed, the villagers say they were not.

The villagers also describe a detainee who was forced over a cliff by an Australian soldier and then executed.

When the soldiers had flown away, the villagers recognised the dead man as Ali Jan, a shepherd from a nearby village. They dispatched a young boy to run to a village three hours away with the news. Expecting her husband to return home with flour and gossip, Ali Jan's pregnant wife, Bibi, instead received word that he was dead.

Ali Jan's brother, Abdul Ahmad, recalls reeling in disbelief that "a person who went to get flour" could somehow end up dead. When the news sunk in, it brought despair.

"Then the screams started," Ahmad says. "Ali Jan's mother was crying day and night for a week. His two elder daughters were screaming and running after their grandmother" in a state of bewilderment, pleading to be told their father was alive.

### A SECRET HEARING

In late 2017, an SASR soldier who had been at Darwan received an unexpected call from a defence investigator working for NSW Supreme Court judge Paul Brereton. Justice Brereton, the investigator explained, wanted the soldier to attend a secret hearing.

Several weeks later, another SASR member was summoned. This year,



Abdul Ahmed, top, the brother of Ali Jan; Hekmatullah shot dead three Australian soldiers in 2012, above left; Army chief Angus Campbell, above right; Samantha Crompvoets, below left; Major-General Jeff Sengelman, below right.



many more have been grilled.

In 2016, and partly as a result of the Crompvoets inquiry, Justice Brereton was commissioned by the then Chief of Army, Angus Campbell, to investigate what the defence department described as "rumours" of special forces' misconduct in Afghanistan.

Brereton refuses to be interviewed by the media, but those who know the 60-year-old judge describe him as determined and fiercely independent. He also has military credibility, having enjoyed a decorated career as an army reservist. His father, NSW judge Russell Brereton, prosecuted Japanese soldiers for war crimes after WWII.

Two soldiers who have been interviewed by Brereton say many of his questions were directed to events at Darwan. "I was blown away by the detail he had," says one interviewee.

Yet both soldiers, and several others who've been interviewed, say they are unsure if Brereton has the power and backing not only to breach the SASR code of silence but expose all that he finds. Some senior defence officials insist Brereton's inquiry, which operates under the aegis of the secretive watchdog, the Inspector General of Defence, is limited to a "scoping" exercise and that any credible evidence of war crimes will need to be referred to the Australian Federal Police.

In a statement, the defence force said the Brereton inquiry would make "recommendations" about how to deal

with any substantiated allegations of war crimes. "The IGADF Afghanistan Inquiry has, for some time, been aware of allegations of significant issues involving the Special Operations Task Group in Afghanistan, which are within the scope of the Inquiry," the statement said.

Senior federal police privately say they are wary of inheriting from Brereton a politically sensitive probe involving a cold evidence trail on a foreign battlefield.

And yet evidence is mounting, extending beyond Leonidas and his collaborators, to a small number of other SASR members. This evidence points to other summary executions or attempts to cover up civilian deaths. While the allegations involve a tiny minority, they also raise questions about the blindness and competency of some of their commanders.

The commandos – the other major component of Australian special forces – do not appear to be facing as serious allegations as those in SASR.

In her confidential report, Crompvoets warned the issues she had uncovered should not be dismissed as soldiers "blowing off steam". Rather, she wrote, they involved "problems deeply embedded in the culture" of the special forces, which would resist "simple or cosmetic solutions".

Crompvoets also warned of "a deep impediment to change because of the extent to which leaders with SOF [special operation forces] backgrounds, highly placed throughout the ADO [defence] and beyond, were compromised by their own participation or complicity in problematic behaviours of the past".

Yet it is also clear that some of those who are fighting behind the scenes for transparency are serving or former SASR members. Angus Campbell, who in April was selected to become the next Chief of the Defence Force, appears to be among them.

One of his last moves as Chief of Army has been to restrict soldiers from wearing clothing adorned with controversial symbols. It was met with howls of resistance from many in Defence and some in the media.

Those inside the SASR pushing for greater accountability say the public must be told how a small group of soldiers could act with apparent impunity even as those in command were ostensibly overseeing them.

Such a public reckoning, they say, could also consider the damage wreaked by those few soldiers who allegedly cared more for adding to their tally of dead than the Afghans they'd been sent overseas to protect.

By many accounts, the coalition's mission in Afghanistan failed. The Taliban now controls over 10 of Afghanistan's 407 districts, including the village of Darwan.

The freelance reporter who tracked down Ali Jan's family for the *Herald* worked under the constant threat that the Taliban might uncover his activities. Using a network of tribal elders, the freelancer arranged for Ali Jan's brother, Abdul Ahmad, to travel to a safe house to tell their story. Ahmad said Ali Jan's death had left his wife, Bibi, struggling to put food on the table. They can no longer afford meat or to send the children to school.

But the family had been blessed, he said. Three months after Ali Jan's death, Bibi gave birth to a baby girl. Ali Jan's youngest daughter, Razia, is five.

Reporting in Afghanistan by Sharif Khormani.

**The  
blooding  
of young  
SAS  
recruits**  
THE  
SUN-  
HERALD  
Tomorrow



## ANNEXURE "A-1"

### SCHEDULE 1 – FIRST MATTER COMPLAINED OF

**SYDNEY MORNING HERALD: Published: 9-10 June 2018**

1.	<b>Herald Investigation</b>
2.	<b>SAS's DAY OF SHAME</b>
3.	<b>War crime allegations: bound detainee kicked off cliff and executed</b>
4.	<b>EXCLUSIVE</b> Nick McKenzie Chris Masters
5.	<b>STILL IMAGE [Special Air Service Insignia]</b>
6.	An Australian special forces soldier kicked a handcuffed Afghan detainee off a cliff before endorsing his summary execution, according to allegations made by direct witnesses.
7.	The case is one of two alleged executions involving a single Special Air Service Regiment soldier in late 2012, and which have been described in detailed testimony of firsthand witnesses.
8.	Yesterday, the <i>Herald</i> published leaked details of a Defence Force inquiry from 2016 that described "unsanctioned and illegal application of violence on operations" and a "complete lack of accountability" involving some of Australia's elite special forces.
9.	Federal Defence Minister Marise Payne has said the allegations of war crimes in Afghanistan are being "thoroughly examined", while Labor has demanded a confidential report containing the claims be made public.
10.	The revelations are the first
11.	<b>Continued Page 10</b>
12.	<b>STILL IMAGE [Silhouette of an Australian Special Operations Task Group Soldier]</b> An Australian Special Operations Task Group soldier in Afghanistan. Photo: Australian Department of Defence
13.	<b>War crime allegations: bound detainee kicked off cliff</b>
14.	<b>From Page 1</b>
15.	corroborated accounts of alleged war crimes involving the Special Air Service Regiment in Afghanistan. They are the most serious to face the Australian military in years, not only due to the gravity of the alleged conduct but also because they allegedly involve a small

	number of the nation's most elite soldiers.
16.	The alleged breaches of the Geneva Convention – international laws which are meant to protect civilians and detainees in war zones – also raise serious questions about a command failure to oversee SASR soldiers during Australia's longest war, with evidence suggesting one small team of soldiers went rogue over several years.
17.	Ms Payne said it was well known that special operations soldiers – made up primarily of the SAS and commandos – operated in “a complex, chaotic and very dangerous environment to defend our freedoms”.
18.	But she said allegations that “unsanctioned and illegal application of violence on operations”, as well as claims of a lack of accountability to the military chain of command, were being investigated.
19.	“As Australians would expect, these allegations must be – and are being – thoroughly examined, independently from the chain of command.” She said an inquiry by the Inspector General of the Australian Defence Force had been going on since May 2016.
20.	<b>INSET [<i>‘These allegations must be thoroughly examined. Defence Minister Marise Payne</i>]</b>
21.	Minister for Foreign Affairs Julie Bishop said they were “very serious allegations”.
22.	“I regard the soldiers of the SAS as some of our finest. These are men who are prepared to put their life on the line in conflict situations to defend us and to defend our freedoms,” she said.
23.	Labor defence spokesman Richard Marles labelled the reports “deeply concerning” and said the opposition would seek a briefing from Ms Payne.
24.	“We will also be seeking, subject to national security considerations, as much of this report as possible be brought to the public domain,” Mr Marles said in a statement.
25.	The International Criminal Court is also deciding whether to launch an investigation into atrocities committed by all sides in the Afghanistan conflict.
26.	The alleged war crimes have been exposed by SASR whistle-blowers who have been backed by certain high-ranking officers, including now former major-general Jeff Sengelman and incoming Defence Force chief Angus Campbell.
27.	The prisoner of war was allegedly detained by an SASR soldier in the Afghan village of Darwan, on September 11, 2012, and allegedly kicked off a cliff, badly injuring his face, two Defence Force insiders who witnessed the event said.
28.	As the detainee lay injured, hands still bound, the two witnesses say SASR soldier “Leonidas” was party to the decision among soldiers to “get him out of his misery”.
29.	<b>Additional reporting David Wroe</b>

30.	<b>HERALD INVESTIGATION</b>
31.	<b>Troops kept 'kill board': SAS's day of shame</b>
32.	<b>One kick is raising serious questions about the culture and command structure of Australia's most trusted fighting force, write Nick McKenzie and Chris Masters</b>
33.	<p><b>STILL IMAGE [Map of Oruzgan Province noting location of Tarin Kowt and Darwan – INSET: Map of Afghanistan and neighbouring countries noting location Oruzgan Province and Kabul]</b></p> <p>The incident is alleged to have occurred near the village of Darwan on September 11, 2012.</p> <p>Australian forces were stationed in Oruzgan at the Tarin Kowt base from 2006 to 2013.</p>
34.	The Australian special forces soldier led his prisoner towards a ridge above a dry creek bed near the Afghan village of Darwan.
35.	The prisoner's fate lay in the hands of the man leading him to the edge. His own hands were bound.
36.	It was September 11, 2012 – 11 years to the day after planes piloted by al-Qaeda ploughed into the World Trade Centre, leading Australia to enter what would become the nation's longest war.
37.	The handcuffed detainee was Ali Jan, a shepherd in his late 30s from a village three hours walk from Darwan where his wife's family owned a plot of land. The day before, he'd travelled by donkey to Darwan to get flour. He'd left his pregnant wife, Bibi, and seven young children behind, telling them he'd be back soon.
38.	After arriving in Darwan, Ali Jan had dinner and settled in for the night at a relative's home, a mud house brightened with carpets and the chatter of children. He planned to return home the next morning.
39.	But when the sun rose on what was to be the last day of Ali Jan's life, it revealed a group of heavily armed Australian soldiers sweeping through Darwan on a manhunt.
40.	They were searching for a rogue Afghan National Army sergeant called Hekmatullah who, days earlier, shot dead three unarmed and unsuspecting diggers and injured two others as they played cards at a coalition patrol base.
41.	By the time the Australian special forces soldiers arrived in Darwan, the wanted man had vanished. Hoping to find any trace of his whereabouts, they began arresting dozens of local men for questioning. At some point, Ali Jan was also detained.
42.	Most of the men were released, but Ali Jan never arrived home. Soon, word reached his wife that something terrible had happened at Darwan.
43.	Since then, speculation about what happened in that village in the hills of Afghanistan's central Oruzgan province has only intensified, travelling across continents and time

	zones. In the Perth barracks of Australia's most elite fighting unit, the Special Air Services Regiment, the incident is discussed in hushed tones. In central Afghanistan it evokes grief.
44.	Now, five years after Ali Jan was walked towards the cliff edge, rumour has hardened into allegations, and then into evidence. The <i>Herald</i> has spent months looking into Ali Jan's fate as part of broader investigation into the behaviour of SASR forces in Afghanistan. The investigation involved interviews with dozens of current and former soldiers and senior officials, and unearthed highly confidential documents and briefings. The <i>Herald</i> also hired an Afghan journalist to find Darwan villagers and Ali Jan's family to tell their story.
45.	Among the special forces soldiers risking their careers to brief <i>Herald</i> reporters are those who have also been summoned to give evidence to a special inquiry now being held into the actions of Australians in Afghanistan. This inquiry is run by a Supreme Court judge with the backing of top military officials.
46.	Behind closed doors, the words "war crimes" are being used. Not only specific incidents, but the entire culture and command structure of Australia's most renowned and trusted fighting force is now under scrutiny in a manner unprecedented in Australian military history.
47.	<b>SOTTO VOCE: THE QUIET VOICE</b>
48.	In May 2015 a newly minted Special Operations Commander issued a memo. It had been 18 months since the Special Operations Task Group, comprised principally of the SAS Regiment and its younger special forces siblings, the Sydney-headquartered Commandos, had withdrawn from Australia's longest war. During 13 years on the battleground in Afghanistan, the SASR had sent 23 rotations involving thousands of men and hundreds of missions. Many of the 41 Australians killed in Afghanistan served with these two elite forces.
49.	Major General Jeff Sengelman, an intense and cerebral officer known for speaking his mind, began his report by describing three concerning incidents: an SASR member had been caught stealing explosives, another had been arrested for armed robbery, and a third had lost weapons. Sources say a fourth incident, which involved an SASR soldier drawing a pistol on an Australian spy in Afghanistan, had also deeply troubled Sengelman.
50.	These incidents, wrote the new commander, were symptoms of something deeper and more worrying: a "gradual erosion of leadership and accountability across the full span of command responsibilities".
51.	Then he switched to plainer language. He was worried, he said, that the nation's most revered group of soldiers was "no longer holding itself to account".
52.	Sengelman urged SASR members to write to him personally about their concerns. It was a bold move.
53.	Tracing its beginnings back to the top-secret Australian Z Special Unit that fought during World War II and operating under the motto "Who Dares Wins", those in the regiment

	receive intensive training to carry out dangerous and sensitive military missions.
54.	<b>INSET [Editorial: Behind the lines, not beyond the law NEWS REVIEW PAGE 28]</b>
55.	As the SASR has adapted to modern conflict, hunting terrorists in Iraq and Afghanistan and leading spy missions in Africa, its historical penchant for secrecy has remain unchanged. Everything is classified until it is not.
56.	The 700-odd members – half of whom are active “operators” who must pass a gruelling selection course testing their physical and mental capacity – cannot be photographed or discuss their work, ostensibly for operational and national security reasons. They are men used to anonymity, and who tend to resent anyone, including one of their own, breaking ranks. “They love the mystique,” is how one special forces insider described it in a leaked defence report charting the special forces’ culture, “and the government loves it. And everybody loves it”.
57.	<b>INSET [<i>‘What happened at Darwan and elsewhere isn’t right’.</i>]</b>
58.	It wasn’t just this culture that Sengelman was challenging, but also a bond of brotherhood, forged at its deepest in blood and bravery.
59.	<p><b>STILL IMAGE [Illustration of soldier kicking prisoner]</b></p> <p>RECREATION OF ALLEGED ATTACK</p> <p>The prisoner’s fate lay in the hands of the man leasing him to the edge. His own hands were bound</p> <p>Illustration: Matt Davidson</p>
60.	Historian Charles Bean describes Australia’s “big” discovery in WWI – the “character of men” – as forged by the Anzacs who “rushed the hills at Gallipoli and held out there during the long afternoon and night”.
61.	The SASR’s character and place in Australia is shaped by its own stories. Most recently, certain battles in Afghanistan have helped define the regiment: the courageous fight at Tizak in 2010, which involved many SASR soldiers displaying extraordinary heroism under fire; and the bravery displayed during a fierce firefight with the Taliban in 2008 at Khas Oruzgan. Both battles led to multiple awards being presented to SASR members, including two Victoria Crosses, the Commonwealth’s highest honour.
62.	But in spite of this fierce pride and the taboo about breaking ranks, members began writing to Sengelman after he issued his memo. Over time, serving and former regiment members have also briefed reporters working on this story. They speak of an untold story from Afghanistan involving a small number of regiment members who began to confuse secrecy with impunity; men whose actions exist in the shadowy margins of proper behaviour in combat.
63.	<b>Continued Page 12</b>
64.	<b>SAS’s Day of Shame</b>

65.	<b>STILL IMAGE [Australian Soldier]</b> Australian Special Forces Task Group soldier during a training activity in Afghanistan. Photo: Australian Department of Defence
66.	<b>From Page 11</b>
67.	As one highly decorated Afghanistan SASR veteran puts it: "I'm all for dropping the hammer [shooting people] when the time comes. But that doesn't mean killing civilians or getting up your 'kill count' when you can take a prisoner instead."
68.	Says another who fought at Tizak: "I've got no problem with taking out bad fellas. But what happened at Darwan and elsewhere isn't right."
69.	As the letter count grew, Sengelman called his boss, then Chief of Army Angus Campbell, himself a former SASR officer. Together, they commissioned a defence consultant, Dr Samantha Cromptvoets, to dig further.
70.	Cromptvoets was given free rein. She spoke to people from the Chief of Defence Force downwards in preparing her highly confidential 2016 report, which the <i>Herald</i> has seen. Cromptvoets wrote of SASR "insiders" initially disclosing information "sotto voce" or in the quiet voice. Over time, she wrote, these insiders got "much louder ... and difficult to ignore".
71.	At their most serious, Cromptvoets wrote, their accounts concerned the "unsanctioned and illegal application of violence on operations, disregard for human life and dignity, and the perception of a complete lack of accountability".
72.	Her report reinforced a fear held by some in Perth that the SASR's character had been compromised by a small group inside the regiment.
73.	Cromptvoets, Sengelman and Campbell all declined to be interviewed. But by the end of 2016, all three were acutely aware that one SASR soldier was being whispered about more than most. He had deployed repeatedly to Afghanistan and formed impeccable connections up the chain of command.
74.	One SASR officer, to himself, called this man "Leonidas", after a fearsome warrior of ancient Sparta. Leonidas was part of the sweep through Darwan on September 11, 2012. And it was Leonidas who had allegedly led Ali Jan to the edge.
75.	<b>SPARTA AND HOLLYWOOD</b>
76.	Questions inside the regiment about Leonidas, who the <i>Herald</i> unsuccessfully sought to interview and who cannot be named for legal reasons, began to be asked in 2009. At the time, he was part of an SASR patrol that was increasingly dividing the regiment. A warrior culture was being embraced by some special forces troops but loathed by others. It involved tattoos and a devotion to the Hollywood movie <i>300</i> , which glorifies the fighting prowess of the ancient Spartans, and whose climactic moment involves an enemy soldier being kicked off a ridge.
77.	Several former SASR officers say this rock-star ethos emboldened certain soldiers to test the elasticity of the rules of engagement – rules that govern when a soldier can take a

	life.
78.	"The Regiment over time prided itself on being an organisation that broke the rules but not the law," explains one former officer.
79.	"What happened, though, was during the Afghan campaign, there was a group of individuals who believed they were immune from the law."
80.	A specialist embedded with the SASR noted two distinct personalities emerging as one four-month rotation blurred into the next and the regiment honed its ability to kill or capture militants, men placed on the coalition's Joint Priority Effects List, the modern version of a wanted poster.
81.	The specialist says some soldiers sought redeployment in Afghanistan because they loved the hunt. Others came to feel uneasy as an escalating enemy body count was not matched by progress in achieving the US-led NATO mission.
82.	Former SASR captain Andrew Hastie, who served in Afghanistan in 2013 and is now a Liberal MP, recalls the latter group of soldiers "grasping for operational clarity in a fog of strategic ambiguity".
83.	The patrol Leonidas belonged to appeared unburdened by such introspection. In this group, sources say, junior members were pushed to kill rather than detain.
84.	In time, members of this patrol tacked a "kill board" to the wall of their patrol room. Members of another patrol heard Leonidas urging his fellow patrol members on – "only two more to go, boys" – a suspected reference to reaching a desired kill count.
85.	Sources say the patrol fused a warrior ethos with the regiment's secretive culture. Its aggressive approach drew some admirers, including officers who believed it was needed on Afghanistan's asymmetrical battlefield. Leonidas, too, had his fierce backers, including regiment members who believed his assertive soldiering was setting an example for others. Those bagging Leonidas, they said, were jealous of his courage and resolve.
86.	Less aggressive patrols risked unofficial sidelining. One patrol commander was regarded by his peers as overly cautious after he told his soldiers they had to be comfortable with everything they did in battle.
87.	"He told us we needed to be able to get to sleep at night when we were grandparents," says a patrol member. Subsequently, this member says the patrol started being overlooked for missions.
88.	<b>RUMBLINGS AND DISCONTENT</b>
89.	By 2010, there were disparate rumblings about incidents involving Leonidas' patrol. A prisoner of war was found dead in suspicious circumstances by a member of another patrol; an SASR soldier discovered the bodies of two farmers in a field without weapons; one of Leonidas' colleagues was quietly complaining about another shooting on patrol.
90.	In each case, Leonidas' patrol had failed to conduct a proper "site sensitive exploration". This is supposed to involve scouring for items that can be exploited for intelligence, such as radios, but it also helps document the circumstances of a killing, such as whether a

	person was armed.
91.	But it was not until two years later, in 2012, that witnesses began emerging with vivid, first-hand testimony about what Samantha Crompvoets later described as “unsanctioned and illegal application of violence”.
92.	By the second-last year of Australia’s deployment, the coalition’s Afghanistan strategy was on life support. Soldiers and diplomats viewed Afghanistan’s criminal justice system as a revolving door for militants. According to a former SASR officer, small, combat-fatigued cliques inside the regiment were embracing “special warrior” rules of combat. They were enabled, he says, by wilfully blind colleagues and an embattled command system.
93.	On August 29, 2012, Afghan sergeant Hekmatullah shot dead three Australian soldiers. The murdered trio were meant to be Hekmatullah’s comrades, but he killed them in cold blood and fled. One defence insider embedded with the SASR, as it began the hunt for Hekmatullah describes a “change of attitude, a change of eyes”. Some soldiers, he says, were out for blood.
94.	When satellites intercepting phone calls gathered intelligence that placed Hekmatullah near Darwan, the Australians moved fast. For them, he was the most wanted man in Afghanistan.
95.	<b>'ONE SPOTTER K-I-A'</b>
96.	The radio message crackled into the earpieces of the special forces soldiers: “Three minutes ‘til wheels up.” The Darwan mission was ending. The helicopters were about to take the Australians and a small number of villagers for additional questioning back to the district capital, Tarin Kowt.
97.	Soon after, the 50 or so detainees crammed into a compound at Darwan received their own blunt warning. “If you come outside before the helicopters are gone, you’ll be shot,” an SASR patrol commander barked.
98.	The Afghans waited, some with heads bowed, listening for the whirl of rotor blades that would signal the end of their ordeal. Then the radio crackled again, this time relaying a message from Leonidas: “One spotter K-I-A [killed in action],” he said.
99.	One of the SASR members on the ground, a respected and experienced operator, describes feeling a distinct pang of suspicion. “I thought to myself, something’s not right.”
100.	The SASR had already spent hours searching compounds and rounding up dozens of men, designated “PUCs” (Persons Under Confinement) so they could be interrogated.
101.	The soldier who felt something was awry was a member of a six-man patrol with a clear line of sight up the dry creek bed, but at a distance of about 50 metres from detainees being guarded by a patrol that included Leonidas. If a spotter – an enemy surveillance operative who reports coalition soldiers’ movements to militants – had emerged, the soldier reckoned he would have seen him. It also made little sense, the soldier thought, for an active spotter to approach the Australians so late into their Darwan mission.



102.	"We didn't require any spotting – we had come in like an elephant and made our presence well known," the SASR soldier recalls. As his helicopter lifted off, he remembers glancing down from a helicopter, seeing what looked like a body at the bottom of a cliff and asking himself: if it wasn't a spotter who was K-I-A, who was it?
103.	A short time later, an SASR soldier responsible for securing the Darwan detainees separately approached two senior regiment members with an answer. The junior soldier described a scene he'd witnessed which haunting him. It involved an irate and frustrated Leonidas grabbing one of the handcuffed PUCs and walking him to the edge of a cliff perhaps 10 metres high.
104.	Leonidas gave himself a short run-up then kicked the detainee. As he plunged, his face smashed into rocks. Then the injured man was executed, the junior soldier told his superiors.
105.	<p><b>INSET STILL IMAGES [Abdul Ahmed, Hekmatullah, Angus Campbell, Samantha Crompvoets, Jeff Sengelman]</b></p> <p>Abdul Ahmed, top, the brother of Ali Jan: Hekmatullah shot dead three Australian soldiers in 2012, above left; Army Chief Angus Campbell, above right; Samantha Crompvoets, below left; Major-General Jeff Sengelman, below right.</p> <p><b>INSET [The bleeding of young SAS recruits THE SUN-HERALD Tomorrow]</b></p>
106.	A second witness serving with the SASR during the Darwan mission has corroborated that story. He says he saw Leonidas kicking "the hell" out of an Afghan detainee. This witness says this incident mirrored the climactic "kick" scene from the Sparta movie, 300. As the PUC lay injured, hands still bound, this second witness says Leonidas conferred with a small number of soldiers, explaining the injured prisoner "was acting suspicious". Then the man, says this witness, was summarily executed in some scrub out of the view of the other detainees and most of the other soldiers.
107.	Stories differ about the precise sequence of events, although both witnesses say Leonidas was party to the decision to "get him [the PUC] out of his misery".
108.	Villagers tracked down by an Afghan journalist working with the <i>Herald</i> provide further corroboration. Darwan's village elders claim that several innocent residents were slain when the SASR swept through the village on September 11, 2012. Among their tally of the dead were two men killed in a compound filled with almonds. These two deaths match reports filed by SASR members save for a critical difference: the soldiers say the two men were armed, the villagers say they were not.
109.	The villagers also describe a detainee who was forced over a cliff by an Australian soldier and then executed.
110.	When the soldiers had flown away, the villagers recognised the dead man as Ali Jan, a shepherd from a nearby village. They dispatched a young boy to run to a village three hours away with the news. Expecting her husband to return home with flour and gossip, Ali Jan's pregnant wife, Bibi, instead received word that he was dead.
111.	Ali Jan's brother, Abdul Ahmad, recalls reeling in disbelief that "a person who went to get flour" could somehow end up dead. When the news sunk in, it brought utter despair.

112.	"Then the screams started," Ahmad says. "Ali Jan's mother was crying day and night for a week. His two elder daughters were screaming and running after their grandmother" in a state of bewilderment, pleading to be told their father was alive.
113.	<b>A SECRET HEARING</b>
114.	In late 2017, a SASR soldier who had been at Darwan received an unexpected call from a defence investigator working for NSW Supreme Court judge Paul Brereton. Justice Brereton, the investigator explained, wanted the soldier to attend a secret hearing.
115.	Several weeks later, another SASR member was summoned. This year, many more have been grilled.
116.	In 2016, and partly as a result of the Cromptvoets inquiry, Justice Brereton was commissioned by the then Chief of Army, Angus Campbell, to investigate what the defence department described as "rumours" of special forces' misconduct in Afghanistan.
117.	Brereton refuses to be interviewed by the media, but those who know the 60-year-old judge describe him as determined and fiercely independent. He also has military credibility, having enjoyed a decorated career as an army reservist. His father, NSW judge Russell Brereton, prosecuted Japanese soldiers for war crimes after WWII.
118.	Two soldiers who have been interviewed by Brereton say many of his questions were directed to events at Darwan. "I was blown away by the detail he had," says one interviewee.
119.	Yet both soldiers, and several others who've been interviewed, say they are unsure if Brereton has the power and backing not only to breach the SASR code of silence but expose all that he finds. Some senior defence officials insist Brereton's inquiry, which operates under the aegis of the secretive watchdog, the Inspector General of Defence, is limited to a "scoping" exercise and that any credible evidence of war crimes will need to be referred to the Australian Federal Police.
120.	In a statement, the defence force said the Brereton inquiry would make recommendations" about how to deal with any substantiated allegations of war crimes. "The IGADF Afghanistan Inquiry has, for some time, been aware of allegations of significant issues involving the Special Operations Task Group in Afghanistan, which are within the scope of the Inquiry," the statement said.
121.	Senior federal police privately say they are wary of inheriting from Brereton a politically sensitive probe involving a cold evidence trail on a foreign battlefield.
122.	And yet evidence is mounting, extending beyond Leonidas and his collaborators, to a small number of other SASR members. This evidence points to other summary executions or attempts to cover up civilian deaths. While the allegations involve a tiny minority of the regiment, they also raise questions about the blindness and competency of some of their commanders.
123.	The commandos – the other major component of Australian special forces – do not appear to be facing as serious allegations as those in SASR.

124.	In her confidential report, Cromptvoets warned the issues she had uncovered should not be dismissed as soldiers "blowing off steam". Rather, she wrote, they involved "problems deeply embedded in the culture" of the special forces, which would resist "simple or cosmetic solutions".
125.	Cromptvoets also warned of "a deep impediment to change because of the extent to which leaders with SOF [special operation forces] backgrounds, highly placed throughout the ADO [defence] and beyond, were compromised by their own participation or complicity in problematic behaviours of the past".
126.	Yet it is also clear that some of those who are fighting behind the scenes for transparency are serving or former SASR members. Angus Campbell, who in April was selected to become the next Chief of the Defence Force, appears to be among them.
127.	One of his last moves as Chief of Army has been to restrict soldiers from wearing clothing adorned with controversial symbols. It was met with howls of resistance from many in Defence and some in the media.
128.	Those inside the SASR pushing for greater accountability say the public must be told how a small group of soldiers could act with apparent impunity even as those in command were ostensibly overseeing them.
129.	Such a public reckoning, they say, could also consider the damage wreaked by those few soldiers who allegedly cared more for adding to their tally of dead than the Afghans they'd been sent overseas to protect.
130.	By many accounts, the coalition's mission in Afghanistan failed. The Taliban now controls over 10 of Afghanistan's 407 districts, including the village of Darwan.
131.	The freelance reporter who tracked down Ali Jan's family for the <i>Herald</i> worked under the constant threat that the Taliban might uncover his activities. Using a network of tribal elders, the freelancer arranged for Ali Jan's brother, Abdul Ahmad, to travel to a safe house to tell their story.
132.	Ahmad said Ali Jan's death had left his wife, Bibi, struggling to put food on the table. They can no longer afford meat or to send the children to school.
133.	But the family had been blessed, he said. Three months after Ali Jan's, Bibi gave birth to a baby girl. Ali Jan's youngest daughter, Razia, is now five.
134.	Reporting in Afghanistan by Sharif Khoram.

## ANNEXURE "B"

## AFGHANISTAN

# Abdul's brother went out to buy flour. He never came home

In the barracks of Australia's most elite fighting unit, the incident is discussed in hushed tones.

By Nick McKenzie & Chris Masters

8 JUNE 2018



A special forces soldier and his prisoner in Darwan, Afghanistan. Illustration by Matt Davidson based on witness account.



The Australian special forces soldier led his prisoner towards a ridge above a dry creek bed near the Afghan village of Darwan.

The prisoner's fate lay in the hands of the man leading him to the edge. His own hands were bound.

It was September 11, 2012 – 11 years to the day after planes piloted by al-Qaeda ploughed into the World Trade Centre, causing Australia to enter what would become the nation's longest war.

The handcuffed detainee was Ali Jan, a shepherd in his late 30s from a village three hours walk from Darwan where his wife's family owned a plot of land.

The day before, he'd travelled by donkey to Darwan to get flour. He'd left his pregnant wife, Bibi, and seven young children behind, telling them he'd be back soon.







Abdul Ahmad, the brother of Ali Jan, tells his brother's story. *Photo: Supplied*

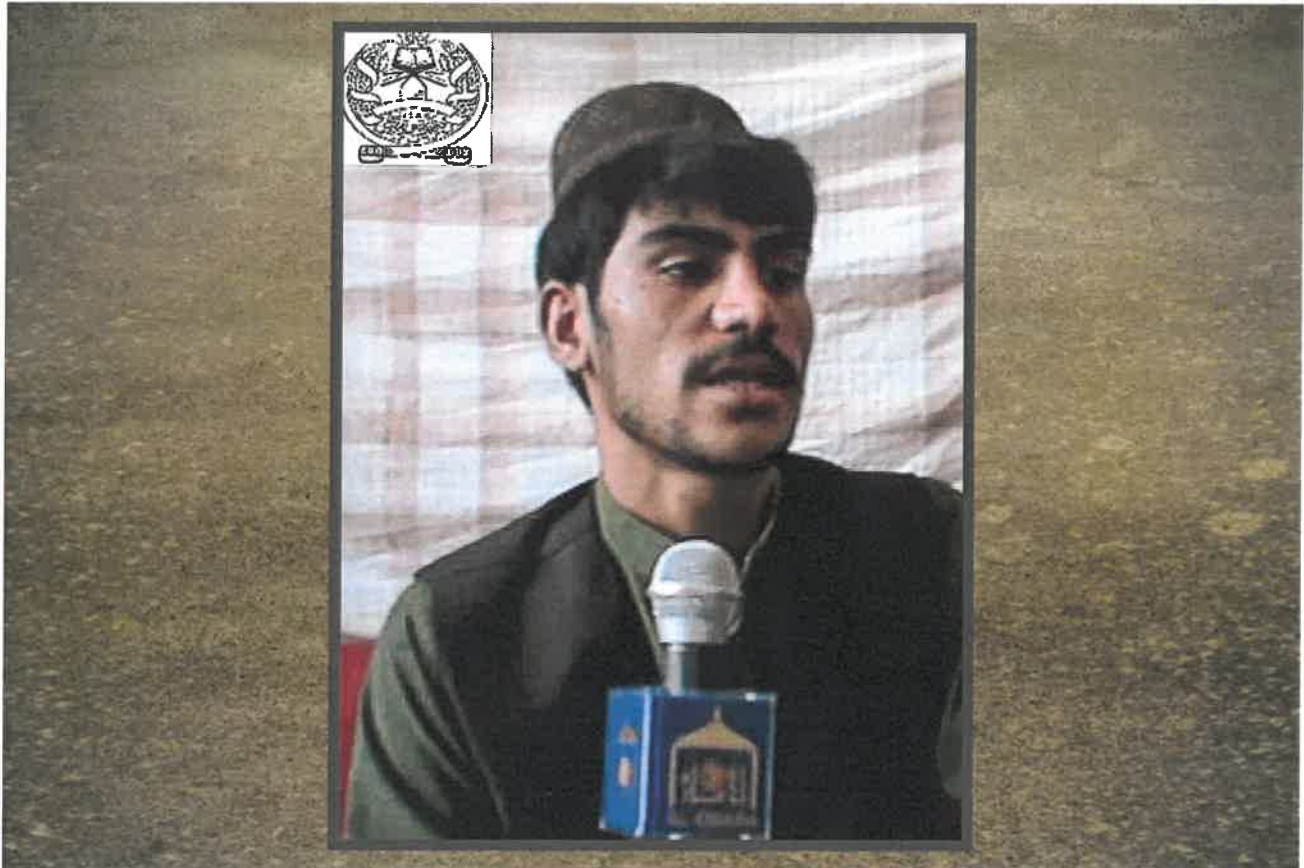
After arriving in Darwan, Ali Jan had dinner and settled in for the night at a relative's home, a bare mud house brightened with carpets and the chatter of children. He planned to return home the next morning.

But when the sun rose on what was to be the last day of Ali Jan's life, it revealed a group of heavily armed Australian soldiers sweeping through Darwan on a manhunt.

They were searching for a rogue Afghan National Army sergeant called Hekmatullah who, days earlier, shot dead three unarmed and unsuspecting diggers and injured two others as they played cards inside a coalition patrol base.

By the time the Australian special forces soldiers arrived in Darwan, the wanted man had vanished. Hoping to find any trace of his whereabouts, they began arresting dozens of local men for questioning. At some point, Ali Jan was also detained.

Most of the men were later released, but Ali Jan never arrived home. Soon, word reached his wife that something terrible had happened at Darwan.



Hekmatullah posted by the Taliban on Twitter in 2012. *Photo: Supplied*

Since then, speculation about what happened in that village in the rugged hills of Afghanistan's central Oruzgan province has only intensified, travelling across continents and time zones. In the Perth barracks of Australia's most elite fighting unit, the Special Air Services Regiment, the incident is discussed in hushed tones. In southern Afghanistan it evokes grief.

Now, five years after Ali Jan was walked towards the cliff edge, rumour has hardened into allegations, and then into evidence. Fairfax Media has spent months looking into Ali Jan's fate as part of broader investigation into the behaviour of SASR forces in Afghanistan. The investigation involved interviews with dozens of current and former soldiers and senior officials, and unearthed highly confidential documents and briefings. Fairfax Media also hired an Afghan journalist to track down Darwan villagers and Ali Jan's family to tell their story.

Among the special forces soldiers risking their careers to brief Fairfax reporters are those who have also been summoned to give evidence to a special inquiry now being held into the actions of Australians in Afghanistan. This inquiry is run by a Supreme Court judge with the backing of top military officials.



Behind closed doors, the words “war crimes” are being used. Not only specific incidents, but the entire culture and command structure of Australia’s most renowned and trusted fighting force is now under scrutiny in a manner unprecedented in Australian military history.



The village of Darwan in Afghanistan. *Photo: Fairfax*

### **Sotto voce: the quiet voice**

In May 2015, as the colder nights advanced on Canberra, a newly minted Special Operations Commander issued a memo.

It had been 18 months since the Special Operations Task Group, comprised principally of the SAS Regiment and its younger special forces siblings, the Sydney-headquartered Commandos, had withdrawn from Australia’s longest war. During 13 years on the battleground in Afghanistan, the SASR had sent 23 rotations involving thousands of men and hundreds of missions. Many of the 41 Australians killed in Afghanistan served with these two elite forces.

Major General Jeff Sengelman, an intense and cerebral officer known for speaking his mind, began his report by describing three concerning incidents: an SASR member had

been caught stealing explosives, another had been arrested for armed robbery, and a third had lost weapons. Sources say a fourth incident, which involved a SASR soldier drawing a pistol on an Australian spy in Afghanistan, had also deeply troubled Sengelman.

These incidents, wrote the new commander, were symptoms of something deeper and more worrying: a “gradual erosion of leadership and accountability across the full span of command responsibilities”.

Then he switched to plainer language. He was worried, he said, that the nation’s most revered group of soldiers was “no longer holding itself to account”.

Sengelman urged SASR members to write to him personally about their concerns. It was a bold move.

Tracing its beginnings back to the top-secret Australian Z Special Unit that fought during World War II and operating under the motto "Who Dares Wins", those in the regiment receive intensive training to carry out the nation's most sensitive and dangerous military missions.



The SAS logo: Who Dares Wins *Photo: Ken Irwin*

As the SASR has adapted to modern conflict, hunting terrorists in Iraq and Afghanistan and leading spy missions in Africa, its historical penchant for secrecy has remain unchanged. Everything is classified until it is not.

The 700-odd members – half of whom are active “operators” who must pass a gruelling selection course testing their physical and mental capacity – cannot be photographed or discuss their work, ostensibly for operational and national security reasons.

They are men used to anonymity, and who tend to resent anyone, including one of their own, breaking ranks.

“They love the mystique,” is how one special forces insider described it in a leaked defence report charting the special forces’ culture, “and the government loves it. And everybody loves it”.

It wasn’t just this culture that Sengelman was challenging, but also a bond of brotherhood, forged at its deepest in blood and bravery. Historian Charles Bean describes Australia’s “big” discovery in WWI – the “character of men” – as forged by the ANZACs who “rushed the hills at Gallipoli and held out there during the long afternoon and night”.

***“I’m all for dropping the hammer when the time comes. But that doesn’t mean killing civilians or getting up your ‘kill count’.”***

A highly decorated SASR veteran

The SASR’s character and place in Australia is shaped by its own stories. Most recently, certain battles in Afghanistan have helped define the regiment: the courageous fight at Tizak in 2010, which involved many SASR soldiers displaying extraordinary heroism under fire; and the bravery displayed during a fierce firefight with the Taliban in 2008 at Khas Oruzgan. Both battles led to multiple awards being presented to SASR members, including two Victoria Crosses, the Commonwealth’s highest honour.

But in spite of this fierce pride and the taboo about breaking ranks, members began writing to Sengelman. Over time, serving and former regiment members have also briefed reporters working on this story. They speak of an untold story from Afghanistan involving a small number of regiment members who began to confuse secrecy with impunity; men



whose actions exist in the shadowy margins of what constitutes proper behaviour in combat.

As one highly decorated Afghanistan SASR veteran puts it: "I'm all for dropping the hammer [shooting people] when the time comes. But that doesn't mean killing civilians or getting up your 'kill count' when you can take a prisoner instead."

Says another who fought at Tizak: "I've got no problem with taking out bad fellas. But what happened at Darwan and elsewhere isn't right."

As the letter count grew, Sengelman called his boss, then Chief of Army Angus Campbell, himself a former SASR officer. Together, they commissioned a defence consultant, Dr Samantha Crompvoets, to dig further.



Army chief Angus Campbell. Photo: Alex Ellinghausen

Crompvoets was given free rein. She spoke to people from the Chief of Defence Force downwards in preparing her highly confidential 2016 report, which Fairfax Media has seen. Crompvoets wrote of SASR "insiders" initially disclosing information "sotto voce" or in the quiet voice. Over time, she wrote, these insiders got "much louder ... and difficult to ignore" as they spoke of "extremely serious breaches of accountability and trust".

At their most serious, Cromptvoets wrote, their accounts concerned the “unsanctioned and illegal application of violence on operations, disregard for human life and dignity, and the perception of a complete lack of accountability”.

Cromptvoets’ report reinforced a fear held by some in Perth that the SASR’s character had been compromised by a small group inside the regiment.

Cromptvoets, Sengelman and Campbell all declined to be interviewed. But by the end of 2016, all three were acutely aware that one SASR soldier was being whispered about more than most. He had deployed repeatedly to Afghanistan and formed impeccable connections up the chain of command.

One SASR officer, to himself, called this man “Leonidas”, after a fearsome warrior of ancient Sparta. Leonidas was part of the sweep through Darwan on September 11, 2012. And it was Leonidas who had allegedly led Ali Jan to the edge.



Defence consultant Dr Samantha Cromptvoets. *Photo: Fairfax and the roadhome.com.au*

## Sparta and Hollywood

Questions inside the regiment about Leonidas, who Fairfax Media unsuccessfully sought to interview and who cannot be named for legal reasons, began to be asked in 2009. At the time, he was part of an SASR patrol that was increasingly dividing the regiment. A warrior culture was being embraced by some special forces troops but loathed by others. It involved tattoos and a devotion to the Hollywood movie *300*, which glorifies the fighting prowess of the ancient Spartans, and whose climactic moment involves an enemy soldier being kicked off a precipice.

Several former SASR officers say this rock-star ethos emboldened certain soldiers to test the elasticity of the rules of engagement – rules that govern when a soldier can take a life.

“The Regiment over time prided itself on being an organisation that broke the rules but not the law,” explains one former officer. “What happened, though, was during the Afghan campaign, there was a group of individuals who believed they were immune from the law.”

A specialist embedded with the SASR noted two distinct personalities emerging as one four-month rotation blurred into the next and the regiment honed its ability to kill or capture militants, men placed on the coalition’s Joint Priority Effects List, the modern version of a wanted poster.

The specialist says some soldiers sought redeployment in Afghanistan because they loved the hunt. Others came to feel uneasy as an escalating enemy body count was not matched by progress in achieving the US-led NATO mission.

Former SASR captain Andrew Hastie, who served in Afghanistan in 2013 and is now a Liberal MP, recalls the latter group of soldiers “grasping for operational clarity in a fog of strategic ambiguity”.

The patrol Leonidas belonged to appeared unburdened by such introspection. In this group, sources say, junior members were pushed to kill rather than detain.

In time, members of this patrol tacked a “kill board” to the wall of their patrol room. Members of another patrol heard Leonidas urging his fellow patrol members on – “only two more to go, boys” – a suspected reference to reaching a desired kill count to record on the board.

Sources say the patrol fused a warrior ethos with the regiment’s secretive culture. Its aggressive approach drew some admirers, including officers who believed it was needed on Afghanistan's asymmetrical battlefield. Leonidas, too, had his fierce backers, including regiment members who believed his assertive soldiering was setting an example for others in the regiment. Those bagging Leonidas, they said, were jealous of his courage and resolve.

Less aggressive patrols risked unofficial sidelining. One patrol commander was regarded by his peers as overly cautious after he told his soldiers they had to be comfortable with everything they did in battle.

“He told us we needed to be able to get to sleep at night when we were grandparents,” says a patrol member. Subsequently, this member says the patrol started being overlooked for missions.





Former SASR captain, MP Andrew Hastie. *Photo: Alex Ellinghausen*

## Rumblings and discontent

By 2010, there were disparate rumblings about incidents involving Leonidas' patrol on the battlefield. A prisoner of war was found dead in suspicious circumstances by a member of another patrol; an SASR soldier discovered the bodies of two farmers in a field without weapons; one of Leonidas' patrol colleagues was quietly complaining about another shooting on patrol.

In each case, Leonidas' patrol had failed to conduct a proper "site sensitive exploration", according to sources at the scenes.

This is supposed to involve scouring for any items that can be exploited for intelligence, such as radios, but it also helps document the circumstances of a killing, such as whether a person was armed.

But it was not until two years later, in 2012, that witnesses began emerging with vivid, first-hand testimony about what Samantha Crompvoets later described as "unsanctioned and illegal application of violence".

## Journalist Chris Masters on "kill counts"



Chris Masters, who was the only journalist to have been embedded with Australian special forces soldiers (SASR) in Afghanistan, believes a desensitisation occurred within the forces that allegedly allowed a "kill count mentality to develop".

By the second-last year of Australia's deployment, the coalition's Afghanistan strategy was on life support. Soldiers and diplomats viewed Afghanistan's criminal justice system as a revolving door for militants. According to a former SASR officer, small, combat-fatigued cliques inside the regiment were embracing "special warrior" rules of combat. They were enabled, he says, by wilfully blind colleagues and an embattled command system.

Then, on August 29, 2012, Afghan sergeant Hekmatullah shot dead three Australian soldiers.

The murdered trio were meant to be Hekmatullah's comrades, but he killed them in cold blood and fled. One defence insider embedded with the SASR, as it began the hunt for Hekmatullah, describes a "change of attitude, a change of eyes". Some soldiers, he says, were out for blood.

When satellites intercepting phone calls gathered intelligence that placed Hekmatullah in the vicinity of Darwan, the Australians moved fast. For them, he was the most wanted man in Afghanistan.



A special forces soldier kicks an Afghan prisoner. *Photo: Illustration by Matt Davidson based on eyewitness account.*

### **'One spotter K-I-A'**

The radio message crackled into the earpieces of the special forces soldiers: “Three minutes ‘til wheels up.” The Darwan mission was ending. The helicopters were about to take the Australians and a small number of villagers selected for additional questioning back to the district capital, Tarin Kowt.

Soon after, the 50 or so detainees crammed into a compound at Darwan received their own blunt warning. “If you come outside before the helicopters are gone, you’ll be shot,” an SASR patrol commander barked.

The Afghans waited, some with heads bowed, listening for the whir of rotor blades that would signal the end of their ordeal.

Then the radio crackled again, this time relaying a message from Leonidas: “One spotter K-I-A [killed in action],” he said.

One of the SASR members on the ground, a respected and experienced operator, describes feeling a distinct pang of suspicion. “I thought to myself, something’s not right.”

The SASR had already spent hours searching compounds and rounding up dozens of men, designated “PUCs” (Persons Under Confinement) so they could be interrogated.

The soldier who felt something was awry was a member of a six-man patrol with a clear line of sight up the dry creek bed, but at a distance of about 50 metres from detainees being guarded by a patrol that included Leonidas. If a spotter – an enemy surveillance operative who reports coalition soldiers’ movements to militants – had emerged, the soldier reckoned he would have seen him. It also made little sense, the soldier thought, for an active spotter to approach the Australians so late into their Darwan mission.

“We didn’t require any spotting – we had come in like an elephant and made our presence well known,” the SASR soldier recalls.

As his helicopter lifted off, he remembers glancing down from a helicopter, seeing what looked like a body at the bottom of a cliff and asking himself a question: if it wasn’t a spotter who was K-I-A, who was it?

Some time later, an SASR soldier responsible for securing the Darwan detainees separately approached two senior regiment members with an answer. The junior soldier described a scene he’d witnessed which was playing on an endless loop in his head, haunting his dreams. It involved an irate and frustrated Leonidas grabbing one of the handcuffed PUCs and walking him to the edge of a rocky cliff perhaps 10 metres high.

Leonidas gave himself a short run-up then kicked the detainee off the edge. As he plunged, his face smashed into rocks. Then the injured man was executed, the junior soldier told his two superiors.

A second witness serving with the SASR during the Darwan mission has corroborated that story. He says he saw Leonidas kicking “the hell” out of an Afghan detainee, causing him to tumble down the rocky incline. This witness says this incident mirrored the climactic “kick” scene from the Sparta movie, *300*.

As the PUC lay injured, hands still bound, this second witness says Leonidas conferred with a small number of soldiers, explaining the injured prisoner “was acting suspicious”. Then the man, says this witness, was summarily executed in some scrub out of the view of the other detainees and most of the other soldiers.



Stories differ about the precise sequence of events leading to the fatal bullet being fired, although both witnesses say Leonidas was party to the decision to “get him [the PUC] out of his misery”.



Darwan and the place where the prisoner was attacked. Photo: Fairfax, Google Maps

Villagers tracked down by an Afghan journalist working with Fairfax Media provide further corroboration. Darwan's village elders claim that several innocent residents were slain when the SASR swept through the village on September 11, 2012. Among their tally of the dead were two men killed in a compound filled with almonds. These two deaths match reports filed by SASR members save for a critical difference: the soldiers say the two men were armed, the villagers say they were not.

The villagers also describe a detainee who was forced over a cliff by an Australian soldier and then executed.

When the soldiers had flown away, the villagers recognised the dead man as Ali Jan, a shepherd from a nearby village. They dispatched a young boy to run to a village three hours away with the news. Expecting her husband to return home to the hills with flour and gossip from the village, Ali Jan's pregnant wife, Bibi, instead received word that he was dead.

Ali Jan's brother, Abdul Ahmad, was with her. He recalls reeling in disbelief that "a person who went to get flour" could somehow end up dead. When the news sunk in, it brought utter despair.

"Then the screams started," Ahmad says.

"Ali Jan's mother was crying day and night for a week. His two elder daughters were screaming and running after their grandmother" in a state of bewilderment, pleading to be told their father was alive.



A body was seen from a helicopter near the village of Darwan. Illustration by Matt Davidson based on witness account.

## A secret hearing

In late 2017, a SASR soldier who had been at Darwan received an unexpected call from a defence investigator working for NSW Supreme Court judge Paul Brereton. Justice Brereton, the investigator explained, wanted the soldier to attend a secret hearing.

Several weeks later, another SASR member was summoned for questioning. This year, many more have been grilled.

In 2016, and partly as a result of the Cromptoets inquiry, Justice Brereton was commissioned by the then Chief of Army, Angus Campbell, to investigate what the defence department described as “rumours” of special forces’ misconduct in Afghanistan.

Brereton refuses to be interviewed by the media, but those who know the 60-year-old judge describe him as determined and fiercely independent. He also has military credibility, having enjoyed a decorated career as an army reservist, including as a commander of the fifth brigade. His father, NSW judge Russell Brereton, prosecuted Japanese soldiers for war crimes after WWII.

Two soldiers who have been interviewed by Brereton say many of his questions were directed to events at Darwan.

“I was blown away by the detail he had,” says one interviewee.

Yet both soldiers, and several others who’ve been interviewed, say they are unsure if Brereton has the power and backing not only to breach the SASR code of silence but expose all that he finds.

Some senior defence officials insist Brereton’s inquiry, which operates under the aegis of the secretive watchdog, the Inspector General of Defence, is limited to a “scoping” exercise and that any credible evidence of war crimes will need to be referred to the Australian Federal Police for a subsequent inquiry.

In a statement, the defence force said the Brereton inquiry would make “recommendations” about how to deal with any substantiated allegations of war crimes.

“The IGADF Afghanistan Inquiry has, for some time, been aware of allegations of significant issues involving the Special Operations Task Group in Afghanistan, which are within the scope of the Inquiry,” the statement said.

Senior federal police privately say they are wary of inheriting from Brereton a politically sensitive probe involving a cold evidence trail on a foreign battlefield.

And yet evidence is mounting. During research for this story, two first-hand witnesses provided detailed, corroboratory accounts of Leonidas’ directing an Afghan partner-force soldier to execute a prisoner of war in October 2012.

Evidence also extends beyond Leonidas and his collaborators, to a small number of other SASR members. This evidence points to other summary executions or attempts to cover up civilian deaths. While the allegations involve a tiny minority of the regiment, they also raise questions about the blindness and competency of some of their commanders.

The commandos – the other major component of Australian special forces – do not appear to be facing as serious allegations as those in SASR.

In her confidential report, Samantha Crompvoets warned the issues she had uncovered should not be dismissed as soldiers “blowing off steam”. Rather, she wrote, they involved “problems deeply embedded in the culture” of the special forces, which would resist “simple or cosmetic solutions”.

Crompvoets also warned of “a deep impediment to change because of the extent to which leaders with SOF [special operation forces] backgrounds, highly placed throughout the ADO [defence] and beyond, were compromised by their own participation or complicity in problematic behaviours of the past”.

Yet it is also clear that some of those who are fighting behind the scenes for transparency are serving or former SASR members. Angus Campbell, who in April was selected to become the next Chief of the Defence Force, appears to be among them.

One of his last moves as Chief of Army has been to restrict soldiers from wearing clothing adorned with controversial symbols, such as death heads and Spartan warrior iconography. It was met with howls of resistance from many in Defence and some in the media.

Those inside the SASR pushing for greater accountability say the public must be told how a small group of soldiers could act with apparent impunity even as those up the chain of command were ostensibly overseeing them.

Such a public reckoning, they say, could also consider the damage wreaked by those few soldiers who allegedly cared more for adding to their tally of dead than the Afghans they'd been sent overseas to protect.

By many accounts, the coalition's mission in Afghanistan failed. The Taliban now controls more than 10 of Afghanistan's 407 districts, including the village of Darwan, and, according to US government figures, it is building its influence in many more.



The freelance reporter who recently tracked down Ali Jan's family for Fairfax Media worked under the constant threat that the Taliban might uncover his activities. Using a network of tribal elders, the freelancer arranged for Ali Jan's brother, Abdul Ahmad, to travel to a safe house to tell the family's story.

Ahmad said Ali Jan's death had left his wife, Bibi, struggling to put food on the table. They can no longer afford meat or to send the children to school.

But the family, he said, had also been blessed. Three months after Ali Jan was allegedly kicked off a cliff by an Australian soldier, Bibi gave birth to a baby girl. Ali Jan's youngest daughter, Razia, is now five.

**Reporting in Afghanistan by Sharif Khoram. Got a tip? Contact the reporters on this [encrypted, secure and anonymous online platform](#)**

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Nick McKenzie is a leading investigative journalist. He's won Australia's top journalism award, the Walkley, seven times and covers politics, business, foreign affairs and defence, human rights issues, the criminal justice system and social affairs.

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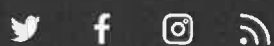


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## ANNEXURE "B-1"

### SCHEDULE 2 – SECOND MATTER COMPLAINED OF

SYDNEY MORNING HERALD: Published: 8 June 2018

1.	<b>AFGHANISTAN</b>
2.	<b>Abdul's brother went out to buy flour. He never came home</b>
3.	<b>In the barracks of Australia's most elite fighting unit, the incident is discussed in hushed tones.</b>
4.	By Nick McKenzie & Chris Masters
5.	8 June 2018
6.	<b>STILL IMAGE [Illustration of a special forces soldier and his prisoner in Darwan, Afghanistan.]</b>  A special forces soldier and his prisoner in Darwan, Afghanistan. Illustration by Matt Davidson based on witness account.
7.	<b>Share Icons [Facebook, Twitter, WhatsApp, Email]</b>
8.	The Australian special forces soldier led his prisoner towards a ridge above a dry creek bed near the Afghan village of Darwan.
9.	The prisoner's fate lay in the hands of the man leading him to the edge. His own hands were bound.
10.	It was September 11, 2012 – 11 years to the day after planes piloted by al-Qaeda ploughed into the World Trade Centre, causing Australia to enter what would become the nation's longest war.
11.	The handcuffed detainee was Ali Jan, a shepherd in his late 30s from a village three hours walk from Darwan where his wife's family owned a plot of land.
12.	The day before, he'd travelled by donkey to Darwan to get flour. He'd left his pregnant wife, Bibi, and seven young children behind, telling them he'd be back soon.
13.	<b>STILL IMAGE [Abdul Ahmad]</b>  Abdul Ahmad, the brother of Ali Jan, tells his brother's story. Photo: Supplied
14.	After arriving in Darwan, Ali Jan had dinner and settled in for the night at a relative's home, a bare mud house brightened with carpets and the chatter of children. He planned to return home the next morning.
15.	But when the sun rose on what was to be the last day of Ali Jan's life, it revealed a group of heavily armed Australian soldiers sweeping through Darwan on a manhunt.

16.	They were searching for a rogue Afghan National Army sergeant called Hekmatullah who, days earlier, shot dead three unarmed and unsuspecting diggers and injured two others as they played cards inside a coalition patrol base.
17.	By the time the Australian special forces soldiers arrived in Darwan, the wanted man had vanished. Hoping to find any trace of his whereabouts, they began arresting dozens of local men for questioning. At some point, Ali Jan was also detained.
18.	Most of the men were later released, but Ali Jan never arrived home. Soon, word reached his wife that something terrible had happened at Darwan.
19.	<b>STILL IMAGE [Afghan National Army sergeant Hekmatullah]</b> Hekmatullah posted by the Taliban on Twitter in 2012. <i>Photo: Supplied</i>
20.	Since then, speculation about what happened in that village in the rugged hills of Afghanistan's central Oruzgan province has only intensified, travelling across continents and time zones. In the Perth barracks of Australia's most elite fighting unit, the Special Air Services Regiment, the incident is discussed in hushed tones. In southern Afghanistan it evokes grief.
21.	Now, five years after Ali Jan was walked towards the cliff edge, rumour has hardened into allegations, and then into evidence. Fairfax Media has spent months looking into Ali Jan's fate as part of broader investigation into the behaviour of SASR forces in Afghanistan. The investigation involved interviews with dozens of current and former soldiers and senior officials, and unearthed highly confidential documents and briefings. Fairfax Media also hired an Afghan journalist to track down Darwan villagers and Ali Jan's family to tell their story.
22.	Among the special forces soldiers risking their careers to brief Fairfax reporters are those who have also been summoned to give evidence to a special inquiry now being held into the actions of Australians in Afghanistan. This inquiry is run by a Supreme Court judge with the backing of top military officials.
23.	Behind closed doors, the words "war crimes" are being used. Not only specific incidents, but the entire culture and command structure of Australia's most renowned and trusted fighting force is now under scrutiny in a manner unprecedented in Australian military history.
24.	<b>STILL IMAGE [Map of Afghanistan and neighbouring countries noting location of Kabul and Darwan]</b> The village of Darwan in Afghanistan. Photo: Fairfax
25.	<b>Sotto voce: the quiet voice</b>
26.	In May 2015, as the colder nights advanced on Canberra, a newly minted Special Operations Commander issued a memo.

27.	It had been 18 months since the Special Operations Task Group, comprised principally of the SAS Regiment and its younger special forces siblings, the Sydney-headquartered Commandos, had withdrawn from Australia's longest war. During 13 years on the battleground in Afghanistan, the SASR had sent 23 rotations involving thousands of men and hundreds of missions. Many of the 41 Australians killed in Afghanistan served with these two elite forces.
28.	Major General Jeff Sengelman, an intense and cerebral officer known for speaking his mind, began his report by describing three concerning incidents: an SASR member had been caught stealing explosives, another had been arrested for armed robbery, and a third had lost weapons. Sources say a fourth incident, which involved a SASR soldier drawing a pistol on an Australian spy in Afghanistan, had also deeply troubled Sengelman.
29.	These incidents, wrote the new commander, were symptoms of something deeper and more worrying: a "gradual erosion of leadership and accountability across the full span of command responsibilities".
30.	Then he switched to plainer language. He was worried, he said, that the nation's most revered group of soldiers was "no longer holding itself to account".
31.	Sengelman urged SASR members to write to him personally about their concerns. It was a bold move.
32.	Tracing its beginnings back to the top-secret Australian Z Special Unit that fought during World War II and operating under the motto "Who Dares Wins", those in the regiment receive intensive training to carry out the nation's most sensitive and dangerous military missions.
33.	<b>STILL IMAGE [Special Air Service Insignia]</b>  The SAS logo: Who Dares Wins <i>Photo: Ken Irwin</i>
34.	As the SASR has adapted to modern conflict, hunting terrorists in Iraq and Afghanistan and leading spy missions in Africa, its historical penchant for secrecy has remain unchanged. Everything is classified until it is not.
35.	The 700-odd members – half of whom are active "operators" who must pass a gruelling selection course testing their physical and mental capacity – cannot be photographed or discuss their work, ostensibly for operational and national security reasons.
36.	They are men used to anonymity, and who tend to resent anyone, including one of their own, breaking ranks.
37.	"They love the mystique," is how one special forces insider described it in a leaked defence report charting the special forces' culture, "and the government loves it. And everybody loves it".
38.	It wasn't just this culture that Sengelman was challenging, but also a bond of brotherhood, forged at its deepest in blood and bravery. Historian Charles Bean describes Australia's "big" discovery in WWI – the "character of men" – as forged by the ANZACs who "rushed the hills at Gallipoli and held out there during the long afternoon

	and night”.
39.	<b>INSET [“I’m all for dropping the hammer when the time comes. But that doesn’t mean killing civilians or getting up your ‘kill count’.”]</b> A highly decorated SASR veteran
40.	The SASR’s character and place in Australia is shaped by its own stories. Most recently, certain battles in Afghanistan have helped define the regiment: the courageous fight at Tizak in 2010, which involved many SASR soldiers displaying extraordinary heroism under fire; and the bravery displayed during a fierce firefight with the Taliban in 2008 at Khas Oruzgan. Both battles led to multiple awards being presented to SASR members, including two Victoria Crosses, the Commonwealth’s highest honour.
41.	But in spite of this fierce pride and the taboo about breaking ranks, members began writing to Sengelman. Over time, serving and former regiment members have also briefed reporters working on this story. They speak of an untold story from Afghanistan involving a small number of regiment members who began to confuse secrecy with impunity; men whose actions exist in the shadowy margins of what constitutes proper behaviour in combat.
42.	As one highly decorated Afghanistan SASR veteran puts it: “I’m all for dropping the hammer [shooting people] when the time comes. But that doesn’t mean killing civilians or getting up your ‘kill count’ when you can take a prisoner instead.”
43.	Says another who fought at Tizak: “I’ve got no problem with taking out bad fellas. But what happened at Darwan and elsewhere isn’t right.”
44.	As the letter count grew, Sengelman called his boss, then Chief of Army Angus Campbell, himself a former SASR officer. Together, they commissioned a defence consultant, Dr Samantha Cromptvoets, to dig further.
45.	<b>STILL IMAGE [Angus Campbell]</b> Army chief Angus Campbell. Photo: Alex Ellinghausen
46.	Cromptvoets was given free rein. She spoke to people from the Chief of Defence Force downwards in preparing her highly confidential 2016 report, which Fairfax Media has seen. Cromptvoets wrote of SASR “insiders” initially disclosing information “sotto voce” or in the quiet voice. Over time, she wrote, these insiders got “much louder ... and difficult to ignore” as they spoke of “extremely serious breaches of accountability and trust”.
47.	At their most serious, Cromptvoets wrote, their accounts concerned the “unsanctioned and illegal application of violence on operations, disregard for human life and dignity, and the perception of a complete lack of accountability”.
48.	Cromptvoets’ report reinforced a fear held by some in Perth that the SASR’s character had been compromised by a small group inside the regiment.
49.	Cromptvoets, Sengelman and Campbell all declined to be interviewed. But by the end of 2016, all three were acutely aware that one SASR soldier was being whispered about more than most. He had deployed repeatedly to Afghanistan and formed impeccable



	connections up the chain of command.
50.	One SASR officer, to himself, called this man "Leonidas", after a fearsome warrior of ancient Sparta. Leonidas was part of the sweep through Darwan on September 11, 2012. And it was Leonidas who had allegedly led Ali Jan to the edge.
51.	<b>STILL IMAGE [Samantha Cromptvoets]</b> Defence consultant Dr Samantha Cromptvoets. Photo: Fairfax and theroadhome.com.au
52.	<b>Sparta and Hollywood</b>
53.	Questions inside the regiment about Leonidas, who Fairfax Media unsuccessfully sought to interview and who cannot be named for legal reasons, began to be asked in 2009. At the time, he was part of an SASR patrol that was increasingly dividing the regiment. A warrior culture was being embraced by some special forces troops but loathed by others. It involved tattoos and a devotion to the Hollywood movie 300, which glorifies the fighting prowess of the ancient Spartans, and whose climactic moment involves an enemy soldier being kicked off a precipice.
54.	Several former SASR officers say this rock-star ethos emboldened certain soldiers to test the elasticity of the rules of engagement – rules that govern when a soldier can take a life.
55.	"The Regiment over time prided itself on being an organisation that broke the rules but not the law," explains one former officer. "What happened, though, was during the Afghan campaign, there was a group of individuals who believed they were immune from the law."
56.	<b>YOUTUBE VIDEO [Titled '300 - This is Sparta! (HD -720p)']</b> <i>[The linked video depicts a scene from the film 300 where the main protagonist Leonidas, King of Sparta, shouts "This is Sparta!" and kicks a Persian Messenger into a large well]</i>
57.	A specialist embedded with the SASR noted two distinct personalities emerging as one four-month rotation blurred into the next and the regiment honed its ability to kill or capture militants, men placed on the coalition's Joint Priority Effects List, the modern version of a wanted poster.
58.	The specialist says some soldiers sought redeployment in Afghanistan because they loved the hunt. Others came to feel uneasy as an escalating enemy body count was not matched by progress in achieving the US-led NATO mission.
59.	Former SASR captain Andrew Hastie, who served in Afghanistan in 2013 and is now a Liberal MP, recalls the latter group of soldiers "grasping for operational clarity in a fog of strategic ambiguity".
60.	The patrol Leonidas belonged to appeared unburdened by such introspection. In this group, sources say, junior members were pushed to kill rather than detain.
61.	In time, members of this patrol tacked a "kill board" to the wall of their patrol room. Members of another patrol heard Leonidas urging his fellow patrol members on – "only two more to go, boys" – a suspected reference to reaching a desired kill count to record

	on the board.
62.	Sources say the patrol fused a warrior ethos with the regiment's secretive culture. Its aggressive approach drew some admirers, including officers who believed it was needed on Afghanistan's asymmetrical battlefield. Leonidas, too, had his fierce backers, including regiment members who believed his assertive soldiering was setting an example for others in the regiment. Those bagging Leonidas, they said, were jealous of his courage and resolve.
63.	Less aggressive patrols risked unofficial sidelining. One patrol commander was regarded by his peers as overly cautious after he told his soldiers they had to be comfortable with everything they did in battle.
64.	"He told us we needed to be able to get to sleep at night when we were grandparents," says a patrol member. Subsequently, this member says the patrol started being overlooked for missions.
65.	<b>STILL IMAGE [Andrew Hastie]</b> Former SASR captain, MP Andrew Hastie. Photo: Alex Ellinghausen
66.	<b>Rumblings and discontent</b>
67.	By 2010, there were disparate rumblings about incidents involving Leonidas' patrol on the battlefield. A prisoner of war was found dead in suspicious circumstances by a member of another patrol; an SASR soldier discovered the bodies of two farmers in a field without weapons; one of Leonidas' patrol colleagues was quietly complaining about another shooting on patrol.
68.	In each case, Leonidas' patrol had failed to conduct a proper "site sensitive exploration", according to sources at the scenes.
69.	This is supposed to involve scouring for any items that can be exploited for intelligence, such as radios, but it also helps document the circumstances of a killing, such as whether a person was armed.
70.	But it was not until two years later, in 2012, that witnesses began emerging with vivid, first-hand testimony about what Samantha Cromptvoets later described as "unsanctioned and illegal application of violence".
71.	<b>Journalist Chris Masters on "kill counts"</b>
72.	<b>VIDEO [Titled 'Who dares wins', but at what cost?]</b> Chris Masters, who was the only journalist to have been embedded with Australian special forces soldiers (SASR) in Afghanistan, believes a desensitisation occurred within the forces that allegedly allowed a "kill count mentality to develop".
73.	By the second-last year of Australia's deployment, the coalition's Afghanistan strategy was on life support. Soldiers and diplomats viewed Afghanistan's criminal justice system as a revolving door for militants. According to a former SASR officer, small, combat-fatigued cliques inside the regiment were embracing "special warrior" rules of combat. They were enabled, he says, by wilfully blind colleagues and an embattled command

	system.
74.	Then, on August 29, 2012, Afghan sergeant Hekmatullah shot dead three Australian soldiers.
75.	The murdered trio were meant to be Hekmatullah's comrades, but he killed them in cold blood and fled. One defence insider embedded with the SASR, as it began the hunt for Hekmatullah, describes a "change of attitude, a change of eyes". Some soldiers, he says, were out for blood.
76.	When satellites intercepting phone calls gathered intelligence that placed Hekmatullah in the vicinity of Darwan, the Australians moved fast. For them, he was the most wanted man in Afghanistan.
77.	<b>STILL IMAGE [Illustration of a special forces soldier kicking an Afghan prisoner]</b> A special forces soldier kicks an Afghan prisoner. Photo: Illustration by Matt Davidson based on eyewitness account.
78.	<b>'One spotter K-I-A'</b>
79.	The radio message crackled into the earpieces of the special forces soldiers: "Three minutes 'til wheels up." The Darwan mission was ending. The helicopters were about to take the Australians and a small number of villagers selected for additional questioning back to the district capital, Tarin Kowt.
80.	Soon after, the 50 or so detainees crammed into a compound at Darwan received their own blunt warning. "If you come outside before the helicopters are gone, you'll be shot," an SASR patrol commander barked.
81.	The Afghans waited, some with heads bowed, listening for the whirl of rotor blades that would signal the end of their ordeal.
82.	Then the radio crackled again, this time relaying a message from Leonidas: "One spotter K-I-A [killed in action]," he said.
83.	One of the SASR members on the ground, a respected and experienced operator, describes feeling a distinct pang of suspicion. "I thought to myself, something's not right."
84.	The SASR had already spent hours searching compounds and rounding up dozens of men, designated "PUCs" (Persons Under Confinement) so they could be interrogated.
85.	The soldier who felt something was awry was a member of a six-man patrol with a clear line of sight up the dry creek bed, but at a distance of about 50 metres from detainees being guarded by a patrol that included Leonidas. If a spotter – an enemy surveillance operative who reports coalition soldiers' movements to militants – had emerged, the soldier reckoned he would have seen him. It also made little sense, the soldier thought, for an active spotter to approach the Australians so late into their Darwan mission.
86.	"We didn't require any spotting – we had come in like an elephant and made our presence well known," the SASR soldier recalls.

87.	As his helicopter lifted off, he remembers glancing down from a helicopter, seeing what looked like a body at the bottom of a cliff and asking himself a question: if it wasn't a spotter who was K-I-A, who was it?
88.	Some time later, an SASR soldier responsible for securing the Darwan detainees separately approached two senior regiment members with an answer. The junior soldier described a scene he'd witnessed which was playing on an endless loop in his head, haunting his dreams. It involved an irate and frustrated Leonidas grabbing one of the handcuffed PUCs and walking him to the edge of a rocky cliff perhaps 10 metres high.
89.	Leonidas gave himself a short run-up then kicked the detainee off the edge. As he plunged, his face smashed into rocks. Then the injured man was executed, the junior soldier told his two superiors.
90.	A second witness serving with the SASR during the Darwan mission has corroborated that story. He says he saw Leonidas kicking "the hell" out of an Afghan detainee, causing him to tumble down the rocky incline. This witness says this incident mirrored the climactic "kick" scene from the Sparta movie, 300.
91.	As the PUC lay injured, hands still bound, this second witness says Leonidas conferred with a small number of soldiers, explaining the injured prisoner "was acting suspicious". Then the man, says this witness, was summarily executed in some scrub out of the view of the other detainees and most of the other soldiers.
92.	Stories differ about the precise sequence of events leading to the fatal bullet being fired, although both witnesses say Leonidas was party to the decision to "get him [the PUC] out of his misery".
93.	<b>STILL IMAGE [Image of Afghanistan landscape depicting location of cliff and village]</b>  Darwan and the place where the prisoner was attacked. Photo: Fairfax, Google Maps
94.	Villagers tracked down by an Afghan journalist working with Fairfax Media provide further corroboration. Darwan's village elders claim that several innocent residents were slain when the SASR swept through the village on September 11, 2012. Among their tally of the dead were two men killed in a compound filled with almonds. These two deaths match reports filed by SASR members save for a critical difference: the soldiers say the two men were armed, the villagers say they were not.
95.	The villagers also describe a detainee who was forced over a cliff by an Australian soldier and then executed.
96.	When the soldiers had flown away, the villagers recognised the dead man as Ali Jan, a shepherd from a nearby village. They dispatched a young boy to run to a village three hours away with the news. Expecting her husband to return home to the hills with flour and gossip from the village, Ali Jan's pregnant wife, Bibi, instead received word that he was dead.
97.	Ali Jan's brother, Abdul Ahmad, was with her. He recalls reeling in disbelief that "a person who went to get flour" could somehow end up dead. When the news sunk in, it brought utter despair.

98.	"Then the screams started," Ahmad says.
99.	"Ali Jan's mother was crying day and night for a week. His two elder daughters were screaming and running after their grandmother" in a state of bewilderment, pleading to be told their father was alive.
100.	<b>STILL IMAGE [Illustration of body on the ground]</b> A body was seen from a helicopter near the village of Darwan. Illustration by Matt Davidson based on witness account.
101.	<b>A secret hearing</b>
102.	In late 2017, a SASR soldier who had been at Darwan received an unexpected call from a defence investigator working for NSW Supreme Court judge Paul Brereton. Justice Brereton, the investigator explained, wanted the soldier to attend a secret hearing.
103.	Several weeks later, another SASR member was summoned for questioning. This year, many more have been grilled.
104.	In 2016, and partly as a result of the Cromptvoets inquiry, Justice Brereton was commissioned by the then Chief of Army, Angus Campbell, to investigate what the defence department described as "rumours" of special forces' misconduct in Afghanistan.
105.	Brereton refuses to be interviewed by the media, but those who know the 60-year-old judge describe him as determined and fiercely independent. He also has military credibility, having enjoyed a decorated career as an army reservist, including as a commander of the fifth brigade. His father, NSW judge Russell Brereton, prosecuted Japanese soldiers for war crimes after WWII.
106.	Two soldiers who have been interviewed by Brereton say many of his questions were directed to events at Darwan.
107.	"I was blown away by the detail he had," says one interviewee.
108.	Yet both soldiers, and several others who've been interviewed, say they are unsure if Brereton has the power and backing not only to breach the SASR code of silence but expose all that he finds.
109.	Some senior defence officials insist Brereton's inquiry, which operates under the aegis of the secretive watchdog, the Inspector General of Defence, is limited to a "scoping" exercise and that any credible evidence of war crimes will need to be referred to the Australian Federal Police for a subsequent inquiry.
110.	In a statement, the defence force said the Brereton inquiry would make "recommendations" about how to deal with any substantiated allegations of war crimes.
111.	"The IGADF Afghanistan Inquiry has, for some time, been aware of allegations of significant issues involving the Special Operations Task Group in Afghanistan, which are within the scope of the Inquiry," the statement said.



112.	Senior federal police privately say they are wary of inheriting from Brereton a politically sensitive probe involving a cold evidence trail on a foreign battlefield.
113.	And yet evidence is mounting. During research for this story, two first-hand witnesses provided detailed, corroboratory accounts of Leonidas' directing an Afghan partner-force soldier to execute a prisoner of war in October 2012.
114.	Evidence also extends beyond Leonidas and his collaborators, to a small number of other SASR members. This evidence points to other summary executions or attempts to cover up civilian deaths. While the allegations involve a tiny minority of the regiment, they also raise questions about the blindness and competency of some of their commanders.
115.	The commandos – the other major component of Australian special forces – do not appear to be facing as serious allegations as those in SASR.
116.	In her confidential report, Samantha Cromptvoets warned the issues she had uncovered should not be dismissed as soldiers "blowing off steam". Rather, she wrote, they involved "problems deeply embedded in the culture" of the special forces, which would resist "simple or cosmetic solutions".
117.	Cromptvoets also warned of "a deep impediment to change because of the extent to which leaders with SOF [special operation forces] backgrounds, highly placed throughout the ADO [defence] and beyond, were compromised by their own participation or complicity in problematic behaviours of the past".
118.	Yet it is also clear that some of those who are fighting behind the scenes for transparency are serving or former SASR members. Angus Campbell, who in April was selected to become the next Chief of the Defence Force, appears to be among them.
119.	One of his last moves as Chief of Army has been to restrict soldiers from wearing clothing adorned with controversial symbols, such as death heads and Spartan warrior iconography. It was met with howls of resistance from many in Defence and some in the media.
120.	Those inside the SASR pushing for greater accountability say the public must be told how a small group of soldiers could act with apparent impunity even as those up the chain of command were ostensibly overseeing them.
121.	Such a public reckoning, they say, could also consider the damage wreaked by those few soldiers who allegedly cared more for adding to their tally of dead than the Afghans they'd been sent overseas to protect.
122.	By many accounts, the coalition's mission in Afghanistan failed. The Taliban now controls more than 10 of Afghanistan's 407 districts, including the village of Darwan, and, according to US government figures, it is building its influence in many more.
123.	The freelance reporter who recently tracked down Ali Jan's family for Fairfax Media worked under the constant threat that the Taliban might uncover his activities. Using a network of tribal elders, the freelancer arranged for Ali Jan's brother, Abdul Ahmad, to travel to a safe house to tell the family's story.

124.	Ahmad said Ali Jan's death had left his wife, Bibi, struggling to put food on the table. They can no longer afford meat or to send the children to school.
125.	But the family, he said, had also been blessed. Three months after Ali Jan was allegedly kicked off a cliff by an Australian soldier, Bibi gave birth to a baby girl. Ali Jan's youngest daughter, Razia, is now five.
126.	<b>Reporting in Afghanistan by Sharif Khoram. Got a tip? Contact the reporters on this encrypted, secure and anonymous online platform</b>

# Special forces rookie 'blooded' by executing an unarmed man



The newly deployed SAS soldier came under immense pressure to kill, write **Chris Masters** and **Nick McKenzie**.

## SPECIAL INVESTIGATION

**A** Special Air Service Regiment trooper on his first deployment to Afghanistan was pressured to execute an elderly, unarmed detainee by fellow higher-ranking soldiers as part of a "blooded" ritual, according to defence insiders who were witnesses at the scene.

And on the same mission, another man with a prosthetic leg was killed by machine-gun fire. His plastic leg was souvenired and later taken back to SAS headquarters in Perth to be used as a novelty beer drinking vessel.

The summary execution of the elderly detainee on Easter Sunday, 2009, is one of several incidents involving a rogue SASR team operating in Afghanistan that has been uncovered by a *Herald* investigation and corroborated by special forces insiders.

The grey-haired, bearded Afghan man executed by the "rookie" was, say some SASR members, a suspected Taliban member, but at the time presented no threat to Australian soldiers. The newly deployed soldier allegedly shot the man after being prompted by two more senior soldiers, one of whom was earlier overheard proclaiming a need to "blood the rookie".

One of the sources said the killing was less abhorrent than the pressuring.

"If shit needs to be done, do it yourself," the soldier said. SASR sources claim the man with the prosthetic leg was machine-gunned by a soldier that, for legal reasons, *The Sun Herald* will call "Leonidas".

Leonidas is also implicated in the killing of a detainee three years later in September 2012 during an SASR mission in the village of Darwan. Leonidas kicked handcuffed detainee Ali Jan off the edge of a small cliff, badly injuring his face, according to claims of two defence force insiders who witnessed the event.

As the detainee lay injured, hands still bound, the two witnesses say Leonidas was party to the decision among soldiers to "get him out of his misery". The claims have been backed by the relatives of Ali Jan and they were interviewed this week by an Afghan journalist on assignment with the *Herald*.

The allegations, which have circulated among insiders for years, have now been corroborated by various sources across the globe during a six-month *Herald* investigation.

They are likely to be central to inquiries that began two years ago by the Inspector General of the Australian Defence Force, assisted by NSW Supreme Court Judge, Major General Paul Brereton.

The IGADF inquiry was commissioned by then Chief of Army, Lieutenant General Angus Campbell (soon to become Chief of the Defence Force), following a scoping study instigated by then



Special Forces commander, Major General Jeff Sengelman, and conducted by Dr Samantha Crompvoets.

At the time, General Sengelman took what must have been an unpopular stand among some of his peers by lifting the lid on the secrets of the SASR, but also raising questions about command failure.

Dr Crompvoets' report came to detail "unsanctioned and illegal application of violence on operations" and a "complete lack of accountability" involving Australia's elite special forces. The main combat elements of Australian Special Forces are the Special Air Service Regiment and the Commandos.

Observers say Australia's longest war was allowed to bleed on, desensitising Special Forces operators engaged in too many deployments. Over time, the secretive status of Special Forces



Top: Troops from the Australian Special Operations group lift off as part of the Shah Wali Kot Offensive in Afghanistan; above: an Afghan man, whose right leg is a prosthetic, was killed in 2009; left: the prosthetic leg "trophy" that was taken back to the Perth headquarters of the SAS.

generated a culture that allowed mateship to overwhelm accountability.

The IGADF inquiry into "rumours of the possible breaches of the Laws of Armed Conflict" parallels an International Criminal Court investigation into alleged atrocities committed in Afghanistan by Taliban, militants and coalition forces.

The ICC's interest is likely to be one reason the ADF wants to stay ahead of the curve for the sake of its international reputation.

Dr Crompvoets' report describes "enormous and difficult challenges" facing the Australian government in combating rogue actions by soldiers, warning the misconduct goes "well beyond blowing off steam" and involves "problems deeply embedded in the culture of the Special Forces".

In a statement, the Defence Force said the ongoing inquiry by

Justice Brereton would make "recommendations" about how to deal with any substantiated allegations of war crimes.

"The IGADF Afghanistan Inquiry has, for some time, been aware of allegations of significant issues involving the Special Operations Task Group in Afghanistan, which are within the scope of the inquiry," the statement said.



Inside the secret 'blooded' rituals of the SAS  
Extra, Page 27

## ANNEXURE "C-1"

### SCHEDULE 3 – THIRD MATTER COMPLAINED OF

THE SUN HERALD: Published: 10 June 2018

1.	<b>Special forces rookie 'blooded' by executing an unarmed man</b>
2.	<b>STILL IMAGE [Soldiers in helicopter, Prosthetic Leg and Body of Unidentified Male]</b>  Top: Troops from the Australian Special Operations group lift off as part of the Shah Wali Kot Offensive in Afghanistan; above: an Afghan man, whose right leg is a prosthetic, was killed in 2009; left: the prosthetic leg "trophy" that was taken back to the Perth headquarters of the SAS.
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4.	<b>SPECIAL INVESTIGATION</b>
5.	A Special Air Service Regiment trooper on his first deployment to Afghanistan was pressured to execute an elderly, unarmed detainee by fellow higher-ranking soldiers as part of a "blooding" ritual, according to defence insiders who were witnesses at the scene.
6.	And on the same mission, another man with a prosthetic leg was killed by machine-gun fire. His plastic leg was souvenired and later taken back to SAS headquarters in Perth to be used as a novelty beer drinking vessel.
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9.	One of the sources said the killing was less abhorrent than the pressuring.
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11.	SASR sources claim the man with the prosthetic leg was machine-gunned by a soldier that, for legal reasons, <i>The-Sun Herald</i> will call "Leonidas".
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13.	As the detainee lay injured, hands still bound, the two witnesses say Leonidas was party to the decision among soldiers to "get him out of his misery". The claims have been backed by the relatives of Ali Jan and they were interviewed this week by an Afghan journalist on assignment with the <i>Herald</i> .
14.	The allegations, which have circulated among insiders for years, have now been corroborated by various sources across the globe during a six-month <i>Herald</i> investigation.
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16.	The IGADF inquiry was commissioned by then chief of army, Lieutenant-General Angus Campbell (soon to become chief of the Defence Force) following a scoping study instigated by then special forces commander, Major General Jeff Sengelman, and conducted by Dr Samantha Crompvoets.
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## ANNEXURE "D"

INVESTIGATION POLITICS FEDERAL AFGHANISTAN

## Special forces rookie 'blooded' by executing an unarmed man

By Chris Masters & Nick McKenzie  
9 June 2018 – 4:51pm



A Special Air Service Regiment trooper on his first deployment to Afghanistan was pressured to execute an elderly, unarmed detainee by fellow higher-ranking soldiers as part of a "blooding" ritual, according to defence insiders who were witnesses at the scene.



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And on the same mission, another man with a prosthetic leg was killed by machine-gun fire. His plastic leg was souvenired and later taken back to SAS headquarters in Perth to be used as a novelty beer drinking vessel.



This man, whose right leg is prosthetic, was among Afghans killed in 2009 in incident that involved alleged war crime. We have chosen to blur the image.

*Photo: Supplied*

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The allegations, which have circulated among insiders for years, have now been corroborated by various sources across the globe during a six-month Fairfax Media investigation.

They are likely to be central to inquiries commenced two years ago by the Inspector-General of the Australian Defence Force, assisted by NSW Supreme



The prosthetic leg of the dead Afghan man mounted and used as a novelty drinking vessel by SASR troops.

*Photo: Supplied*

#### RELATED ARTICLE



Court Judge, Major-General Paul Brereton.

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#### AFGHANISTAN

Abdul's brother went out to buy flour. He never came home

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An Australian SAS officer on an operation.

*Photo: Supplied*

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**Nick McKenzie**



Nick McKenzie is a leading investigative journalist. He's won Australia's top journalism award, the Walkley, seven times and covers politics, business, foreign affairs and defence, human rights issues, the criminal justice system and social affairs.

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62 COMMENTS

MY COMMENTS

Comments are now closed

ALL COMMENTS

SORT BY

**R. Ambrose Raven** 1 MONTH AGO

Obviously both the public and the military themselves have become victims of their own mass-promoted Anzac mythology.

We are now attributing almost mystical powers to those we endow with that phrase always used with bated breath - "special forces" - when the Iraqis consider them so special they preferred to make our super-heroes setting out to get ISIS wait for two months for legal clearance (ultimately our government gave them diplomatic passports). But then the media adulation and promotion of



its pin-up of the day - whether Rudd or the SAS - has far more to do with ratings and manufacturing consent than with reality or reporting.

Anzac Mythology is being promoted to reinforce a culture of mindless support for State violence, the criminal invasion of Iraq being a classic example. People criticise minorities for importing overseas conflicts of no legitimate relevance to us, then do the same with an Imperial war fought not by Australians but by British subjects, not under the Australian flag but under the British one. Great War celebrations are most certainly used not only to maximise public support for further reckless wars, but worse, to vilify domestic groups such as trade unions, for equally cynical political advantage.

Third AIF productivity is measured by the number of favourable photo-ops, press releases, sound bites, Iraq visitation opportunities, Prime Ministerial excursions to Afghanistan, poses with U.S. Presidents in suitably martial circumstances, Anzac mono-, bi-, tri-, quad-centenary celebrations, ceremonial occasions (Victoria Crosses preferred, swords and gold braid essential), purchases of toys, a local military industry shut down as convenient to allow buying of favours from a foreign leader, and the mythologies exploitable by senior government politicians.

RESPECT  2



#### Ossian 1 MONTH AGO

I'm sure this will be investigated and I hope a complete public report is released.  
but I do wonder how Fairfax come up with "Leonidas". This name means, "Son of the Lion". Leonidas I (c. 530-480 B.C.) was was a warrior king of Sparta who died at Thermopylae fighting the Persian army  
Perhaps you might have selected another, more neutral, cryptonym?

RESPECT  2



#### Mika 1 MONTH AGO

Very disappointing. First up, yet another pointless war where our 'leaders' just blindly follow the US into whatever they decide to do - no matter whether it's a good idea or makes any sense to our nation. And despite all this Anzac remembering rubbish our pollies have taken to absurd lengths lately - the whole point is missed: we're just as ready to follow our BIG PROTECTOR into whatever idiocy they offer up.

Secondly, these are supposed to be our finest soldiers, in a fine, exceptional army, from an exceptional country of course! Yet this looks fairly systemic - in the Afghan theatre where these guys operated. How could the officers not know? They knew. They let it happen, and it sounds like they encouraged the environment that allowed it to fester. Serious clean up time.

RESPECT  3



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## ANNEXURE "D-1"

### SCHEDULE 4 – FOURTH MATTER COMPLAINED OF

**SYDNEY MORNING HERALD: Published: 9 June 2018**

1.	<b>Special forces rookie 'blooded' by executing an unarmed man</b>
2.	By Chris Masters & Nick McKenzie
3.	9 June 2018 — 4:51pm
4.	By Nick McKenzie & Chris Masters
5.	<b>Share Icons [Facebook, Twitter, WhatsApp, Email]</b>
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12.	"If shit needs to be done, do it yourself," the soldier said.
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25.	<b>STILL IMAGE [Australian SAS Soldier]</b> An Australian SAS officer on an operation. Photo: Supplied
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# The Sydney Morning Herald

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INDEPENDENT.ALWAYS.

August 11-12, 2018

## War hero fires back over abuse claims

Victoria Cross recipient Ben Roberts-Smith has denied accusations of bullying and domestic violence, that are under investigation. Last night in the Federal Court he failed to stop publication of this story.

**BY NICK MCKENZIE, DAVID WROE  
AND CHRIS MASTERS**  
NEWS PAGES 8-10

Ben Roberts-Smith in front of his portrait  
at the Australian War Memorial  
Photos: Jay Cronan



## Labor MP Husar cleared of lewd conduct and sexual harassment

Nick O'Malley, Deborah  
Snow, Fergus Hunter

Two days after announcing she would not recontest her key seat of Lindsay, Labor MP Emma Husar has been cleared of the most serious allegations against her, that she had exposed herself to a fellow MP and sexually harassed members of her staff.

An assessor found those allegations were not supported, and concluded "there is no basis for Ms

**Change needed in  
political culture**  
EDITORIAL PAGE 30

**For or against her, all  
agree on one thing**  
NEWS REVIEW PAGE 23

Husar to resign". "I'll always regret not being able to recontest Lindsay," Ms Husar told the *Herald*. "With the smears and speculation I had no other choice".  
FULL STORY PAGE 4



## Two new lungs and ready to run

With remarkable determination, Adam Wells will take on the City2Surf less than 10 months after a double lung transplant.

EXCLUSIVE PAGE 13

## Wood loses millions in failed lawsuit

Gordon Wood has lost a malicious prosecution case after he was wrongfully convicted of killing his girlfriend Caroline Byrne.

NEWS PAGE 2

## Energy policy lags as prisoner of politics

Malcolm Turnbull's flagship energy policy has become a prisoner of politics, thrown into a holding cell for a month to learn its fate. He'll have another chance in September.

DAVID CROWE PAGE 12

## Robots and our jobs

With automation, there are fears our future income won't be shared fairly.

BUSINESS  
PAGE 6



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# Beneath the bravery of our

A Victoria Cross recipient and Father of the Year, Ben Roberts-Smith is a highly respected public figure. Why are so many questions being asked about his past? Nick McKenzie, David Wroe and Chris Masters investigate.

When Malcolm Turnbull gave a speech four months ago about the struggle some veterans faced readjusting to civilian life, it was hard to ignore the man towering behind him in the Great Hall of Parliament House.

Hands clasped and head slightly bowed, Australia's most decorated Afghanistan veteran, Ben Roberts-Smith, stood on stage with the Prime Minister as a living testament to success after the military.

Having received a Victoria Cross for bravery during an assault on the Afghan village of Tizak in 2010 – an award that was preceded by a Medal for Gallantry and followed by a Commendation for Distinguished Service – Roberts-Smith was in the midst of a seemingly successful transition to corporate life.

The transformation from battlefield to boardroom was significant. For 10 years, Roberts-Smith had served with Australia's Special Air Service Regiment, a unit of elite soldiers who are mostly not allowed to speak about their work. Receiving the Commonwealth's ultimate bravery award made Roberts-Smith an instant celebrity. His agent began charging thousands to corporate clients to hear not only from "the most decorated soldier in the Commonwealth" but a man who had also been named "Australian Father of the Year".

He was appointed chairman of the Australia Day Council, the deputy chairman of the Prime Minister's defence mental health committee and veterans' employment committee. He became the public face of a campaign against "one punch" violence and the "Stay Kind" campaign, which urges people to look after vulnerable mates. He helped select domestic violence campaigner Rosie Batty as an Australian of the Year. The award ceremony produced an evocative image of the 196-centimetre warrior gently comforting a tearful Batty.

The photograph fitted his public ethos, which was to value "moral courage" above physical prowess and "cherish your family every single day". But as he stood behind Turnbull at a veterans' function at Parliament House on March 28, serious doubts about his conduct were being discussed in senior defence circles. Among the generals and politicians in the Great Hall that night were some who had trouble reconciling disturbing allegations about Roberts-Smith's behaviour in Afghanistan and back home with the grand public image.

Over almost a year, the *Herald* has interviewed dozens of veterans, officials and people with knowledge of Roberts-Smith's personal conduct, including decorated soldiers who served alongside him. Their claims include bullying, intimidation and his involvement in small SAS teams suspected of the abuse of unarmed civilians and the use of force that goes well beyond what is acceptable in the theatre of war. Indeed, some of the most important people in the room that night knew of the allegations.

At the VIP table sat the unflappable



Ben Roberts-Smith comforts Rosie Batty after she is announced as Australian of the Year in 2015; right, Roberts-Smith with the Special Operations Task Group in Afghanistan. Photos: David Flannery, Australian Defence Force

Chief of Army and special forces veteran, Lieutenant-General Angus Campbell. Two years earlier, Campbell had commissioned the Inspector-General of the Defence Force to begin an inquiry into the nation's special forces – the most penetrating inquiry in the recent history of the military.

## DISTURBING RUMOURS

By the time of the Great Hall event, it was clear to an inner circle in defence that disturbing rumours about small SAS patrol teams – typically consisting of five to six men including a patrol commander and deputy commander – involved serious allegations about their conduct in Afghanistan. The patrols under scrutiny featured Roberts-Smith as a key player, either as a deputy or lead patrol commander. Those making the allegations were from the SAS itself and had served alongside Roberts-Smith's patrols.

The allegations concerned the patrols' treatment of detainees or unarmed Afghans. They included claims that the patrols may have failed to report accurately incidents in which Afghans had been subjected to the use of force, including acts of brutality perpetrated against unarmed men.

SAS veterans have also alleged Roberts-Smith bullied and intimidated fellow soldiers, including two junior operators who made internal complaints about the impact of his conduct on their mental health.

Witnesses allege one was punched in the head by an angry Roberts-Smith after a battlefield bungle.

But it wasn't only Roberts-Smith's conduct as an SAS operator that would prompt scrutiny. That evening at the Great Hall would result in further allegations that suggest he was struggling with living up to all that was expected of him.

Sitting on the same VIP table as Lieutenant-General Campbell, between ADF deputy chief Vice-Admiral Ray Griggs and Veterans' Affairs Minister Darren Chester, was a female lawyer whom Roberts-Smith had brought as his guest, and whom he'd introduced to military figures earlier that day as a client of his employer, Channel Seven. After



completing a master's of business administration in 2016, the former army corporal had been appointed general manager of the TV network's Queensland operations by media tycoon Kerry Stokes. But the woman wasn't a Channel Seven client. Instead, Roberts-Smith was in the midst of an extramarital relationship with her.

Sources at the event questioned why Roberts-Smith risked revealing that he was having an affair by taking his mistress to a high-profile function where, beyond the Prime Minister, he was the most prominent guest. But, far more concerning, senior defence officials later learnt of allegations she raised with police about what happened later that night at the Hotel Realm in Canberra: an alleged act of domestic violence and intimidation.

Roberts-Smith yesterday issued an emphatic denial of the allegations, labelling them a "catalogue of lies, fabrications and misrepresentations". He said he would vigorously defend himself against the "malicious" claims.

"I do want to say today that I unequivocally deny any physical abuse of any woman at any time ever, and that I have not at any stage been interviewed by police about any purported complaint by any woman," he said in a statement.

## RISKING ALL

Shortly after the guns fell silent at Tizak in 2010, the sneakers Roberts-Smith wore during the famous battle were photographed. The white shoes were splattered with blood, evoking the image of a man racing towards danger, risking all. His Victoria Cross citation describes an "extreme devotion to duty" paired with "a total disregard for his own safety" as Roberts-Smith

"stormed the enemy position killing the... machine gunners".

During his deployments to Afghanistan in 2009 and 2010, Roberts-Smith was deputy commander of a small SAS patrol. In his last overseas deployment, before leaving the army in 2013, he was appointed patrol commander. The *Herald* has confirmed with multiple special forces insiders that among the allegations made to the Inspector-General's inquiry is that patrols he helped lead brutally mistreated unarmed Afghans. Four defence insiders have alleged they observed patrols under Roberts-Smith's direct or deputy leadership severely mistreat unarmed Afghans on four occasions.

A member of Roberts-Smith's 2009 patrol allegedly encouraged a more junior trooper to execute a detainee – a suspected militant – and was later overheard boasting about it. The *Herald* has obtained a photo of the dead man and two witness accounts describing the circumstances of his death.

One experienced SAS soldier described intervening to stop Roberts-Smith bashing an unarmed Afghan who two patrol commanders were seeking to arrest in 2010. The bearded man had frozen in the fetal position when Roberts-Smith entered the room, wearing Kevlar gloves. The insider describes Roberts-Smith unexpectedly attacking the man, pummeling him in the face with his fists, and in the stomach with his knees.

"RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts. I went, 'Whoa whoa whoa. Back off mate. We have this under control.'"

"The fella's face immediately blew up. We stepped back and gave the fella

**'RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts.'**

SAS insider



# most decorated soldier



some space. We then arrested him."

Two alleged incidents have been separately recounted by other SAS members and involve men under the control of a patrol being led by Roberts-Smith. Both involve the alleged mistreatment of Afghan men who witnesses claim were posing no threat and could have been arrested without force. One of the men harmed was in custody and posing no threat at all when he was allegedly assaulted.

Sources from inside the SAS say this alleged mistreatment was not only unnecessary but potentially counter-productive. An essential purpose of the Afghanistan mission was the protection of the local population and the generation of confidence in the coalition and government forces. The sources also concede that, while the allegations caused deep concern, and were discussed informally and sometimes raised with more senior SAS soldiers, they were not immediately reported to senior command in Canberra.

## A NEW CAREER

Keeping secrets is part of being in the SAS. Yet by late 2012 and early 2013, as Roberts-Smith was preparing to start his new career as a corporate and community leader and mental health champion, some SAS colleagues were asking if he might have shirked scrutiny because less experienced soldiers were worried about challenging him. Much of the concern held by senior military officers about the cultural problems within the SAS have involved keeping quiet about behaviours that needed confronting. A report in March 2016 by then Special Operations Commander Major-General Jeff Sengelman described a

culture of impunity that may have normalised allegedly disturbing behaviour. Sengelman's report also identified serious "governance and behavioural lapses" and helped spark the Inspector-General's inquiry.

A record of a discussion between two long-serving SAS patrol commanders reveals some experienced soldiers in the regiment were worried Roberts-Smith's apparent bullying meant some in his patrol were scared to question battlefield incidents or those which allegedly occurred back at base or in training. The two patrol commanders identify that the first time Roberts-Smith came to attention for alleged bullying was in 2006, during his first deployment to Afghanistan.

After a hair-raising battle early in the deployment, Roberts-Smith fell out with two members of a six-man patrol, in part over whether it was necessary to kill an Afghan who had earlier walked past an observation post.

One of the two patrol members later insisted the Afghan appeared to be an unarmed teenager whose death could have been avoided. But it was a perilous circumstance and a tough call apparently made in the fog of war. Roberts-Smith's version of events was backed by other patrol members.

The young male was presumed to be a "spotter". This meant he might have seen the observation post and planned to report it to the Taliban, who could then attack. Roberts-Smith and other patrol members also said he was armed with a smoke grenade, which exploded after he was shot.

The conflicting accounts are mirrored in official reports to senior officers. Some post-incident reports describe an anti-coalition militant posing a "threat". Some reports go

further, falsely stating the dead male was armed with an automatic rifle.

Roberts-Smith accused the two critical patrol members of cowardice and failing to prepare their weapons.

Multiple sources contend Roberts-Smith followed up this critique with repeated bullying of the smaller and quieter of the two patrol members, Trooper M. (The Herald cannot name a serving SAS soldier but have confirmed he is still serving and has been promoted to patrol commander.)

More than one witness claims to have overheard Roberts-Smith threatening to harm Trooper M.

The two patrol commanders alleged "years of bullying that RS [Roberts-Smith] put him through" and which affected his mental health. A bullying complaint against Roberts-Smith was lodged inside the SAS by Trooper M, which led to mediation.

## LEADERSHIP ROLE

Roberts-Smith's promotion to patrol commander left him responsible for mentoring junior soldiers. It was an appointment he relished, a realisation of leadership ambitions. Some other SAS soldiers were pleased, considering Roberts-Smith a fierce and impressive soldier now able to pass on his knowledge.

But not all felt that way. Concerns about the treatment of the least-experienced member of Roberts-Smith's patrol, Trooper J, were raised in mid-2012, before deployment to Afghanistan. During a training exercise in Perth involving the mock capture of a prisoner, three soldiers witnessed Roberts-Smith instruct Trooper J to shoot the detainee.

"RS grabbed [Trooper J] by the shoulder and said, 'F—ing kill him, f—ing kill him'," an SAS soldier who claims to have witnessed the event said.

The soldier alleges Trooper J responded by half-heartedly simulating a mock execution ("he went 'bang' as a joke," recalls a witness).

This witness alleges Robert-Smith then said, "You good with that?" The witnesses who observed the order said that two patrol commanders

informally challenged Roberts-Smith, telling him to "pull your head in".

After arriving in Afghanistan in July 2012, the mentoring of Trooper J generated further controversy when a mission on July 15 to the Chora Valley to flush out the Taliban turned ugly, and one patrol member was nearly shot by a second SAS patrol in a bungle.

Trooper J wasn't responsible for the friendly fire but he was accused of breaching protocol by firing his weapon in response and

not adhering to Roberts-Smith's orders. He was formally investigated, placed on administrative duties with another patrol and soon after left the army.

According to statements later submitted to senior defence officials, Roberts-Smith ran his own, off-the-books disciplinary process. Multiple witnesses allege that Roberts-Smith castigated the trooper in front of his patrol, ordering Trooper J to stand up and then punching him in the head.

A further threat from Roberts-

Smith was allegedly made several months later: if the trooper's account about the incident and aftermath was not consistent with his version, Roberts-Smith would report him to the International Criminal Court at The Hague for firing near civilians.

The treatment of Trooper J by Roberts-Smith concerned several experienced patrol commanders, who were also troubled about other aspects of Roberts-Smith's mentoring and leadership in 2012. The most pressing issue discussed among a small number of senior SAS soldiers involved an alleged assault on an unarmed Afghan.

Those with concerns were surprised and angered when Defence in 2014 released a formal assessment of Roberts-Smith's 2012 service as it awarded him a Commendation for Distinguished Service, praising his exemplary "mentoring ... of his patrol and less experienced members".

Three patrol commanders, still serving with the regiment and also recognised for their service in Afghanistan, signed a complaint written by one of the trio, Sergeant L. It urged senior officers to investigate Roberts-Smith's mentoring, leadership and treatment of Trooper J.

"As SAS soldiers, we are responsible for accurate reporting and honesty, in the field and in camp. This citation is a contradiction of those values," the complaint said. For two years, the complaint went nowhere. But it is one of many documents handed to the Inspector-General.

## DENIALS AND CLAIMS

For his part, Roberts-Smith traces the complaints about his behaviour to the awarding of the VC in 2011. His forceful, driven personality — traits shared by many in the regiment — stoked resentment. When queried about this last year, he said: "I am hard, I get that, but there is no one I beat up harder than myself. You are supposed to be better. If not, you should not be there. Because if you make a mistake, someone is going to die."

Supporters say the allegations stem from envy, most particularly from disgruntled veterans. Roberts-Smith's defamation lawyer blames sensationalist journalists for seeking to bring down a war hero through a "smear campaign". Ross Coulthart — a former TV investigative journalist who is now a public relations consultant for a firm, Cato and Clegg — is working closely with Roberts-Smith and his lawyer on his own investigation into the Herald's reporting.

Coulthart has interviewed SAS soldiers close to Roberts-Smith and is privately insisting to people linked to Channel Seven there is no evidence of any wrongdoing. However, he and the PR firm's Sue Cato have declined to share their findings. Coulthart refuses to say publicly who he is working for.

Roberts-Smith has previously decried his critics as hypocrites, saying: "The bullying is what they do to me. Bullies are cowards. They stay in the shadows. This is about group cowardice. I don't like bullies. I am sick of it."

He has been unequivocal he has no questions to answer in respect of any of his actions in Afghanistan.

"I've been under the microscope for the last six years and, you know what, my record is spotless," he said in a newspaper interview when questions about his conduct in Afghanistan first emerged publicly in October last year.

Continued Page 10

*'I am hard, I get that, but there is no one I beat up harder than myself.... Because if you make a mistake, someone is going to die.'*

Ben Roberts-Smith



# Beneath a decorated soldier's bravery

From Page 9

But the argument that critical accounts of Roberts-Smith amount to tall-poppy syndrome sits uneasily with the testimony of many who have served in the SAS, including in Afghanistan.

Some sources note the reputations of that conflict's other Victoria Cross recipients Mark Donaldson and Dan Keighran (a VC was also awarded posthumously to Commando Corporal Cameron Baird) have faced no such challenges. Most significantly, the allegations about Roberts-Smith and his patrols have, according to regiment sources, been made under oath before the Inspector-General.

## PUSHING BACK

Roberts-Smith has also been pushing back, apparently aiming to paint those making allegations about him as disgruntled liars. Defamation lawyer Mark O'Brien, who is working for Roberts-Smith, separately wrote last year to the two soldiers who were members of Roberts-Smith's patrol in 2006 and who had expressed serious misgivings about his conduct.

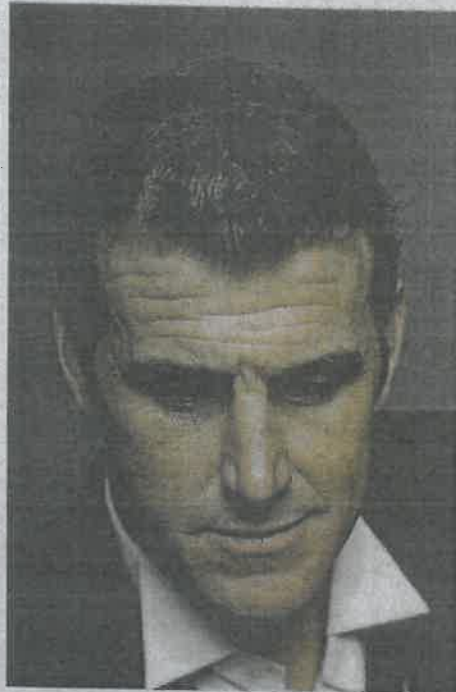
The lawyer accused the veterans of colluding to concoct false allegations. Roberts-Smith sent a letter to a third SAS veteran, also threatening litigation. Attention then shifted to a fourth SAS Afghanistan veteran, Sergeant L, who wrote the 2014 complaint that urged an investigation of Roberts-Smith's Commendation for Distinguished Service.

On October 18, in a letter sent to the *Herald*, Roberts-Smith's defamation lawyer attacked the credibility of Sergeant L, accusing him of smuggling weapons into Afghanistan in 2012. (The two other commanders who signed the complaint were not mentioned.)

By now, more missives attacking Sergeant L were also circulating, although who was responsible for these remains a mystery.

On October 20, *The Australian* newspaper received an anonymous email. The *Herald* had linked this email to a Queensland photographer, Nathan Richter, but he has said he was just acting as a middleman and refuses to say who wrote and sent it.

This email repeated the historic gun smuggling claim and added some dramatic detail. It claimed Sergeant L was at grave risk of gunning down civilians in Perth. The baseless



massacre allegation was also sent to Australian Federal Police in an apparent attempt to get police to raid Sergeant L. Days later, they did so, finding none of the weapons the writer had promised would be located.

Six months later, another mysterious writer emerged. In April, the lawyer Roberts-Smith had weeks earlier taken as his guest to the Great Hall of Parliament House also received an email. It was from a "Danielle Kennedy" and claimed to have been sent on behalf of Roberts-Smith. By then, Canberra sources say the lawyer was alleging Roberts-Smith had subjected her to an act of domestic violence and intimidation after the Great Hall event in late March.

According to senior sources in Canberra, a relative of the woman complained about the alleged incident to a politician, who alerted a more senior colleague, who in turn alerted defence officials. Later, the alleged victim told police of her claims. Police have been told she had been drinking at

the event, and as it ended, alleges Roberts-Smith appeared angry at her behaviour, worried it had exposed his affair to the military's top brass.

She stumbled and fell down some stairs at Parliament House as she left, causing further embarrassment. Police have been told that by the time the pair arrived back at the Realm Hotel, Roberts-Smith was allegedly furious and she was subjected to an act of domestic violence.

The *Herald* has decided not to name the lawyer due to the nature of her allegations. Defence and political figures who have been told of the allegations have said that once they learnt she had gone to police, they took no further action.

Police also have details of multiple phone and email accounts Roberts-Smith used to conduct the liaison before it ended on April 6, when the lawyer disclosed the affair to his wife.

On April 22, the lawyer received the email from "Danielle Kennedy", who claimed to "represent Mr Roberts-Smith" and be acting on his "instructions". The *Herald* could not locate any lawyer by the name of "Danielle Kennedy". The photo used in the email appears to have been stolen from the internet. It is of Anne Whelford, an administrator at Lincoln University in Christchurch.

After a university spokesman was supplied with a copy of the "Danielle Kennedy" email, he sent a statement saying: "Lincoln University was unaware of the use of Anne Whelford's photograph, as was she, and neither party sanctions its use in this way".

The use of the picture "is a matter which should be dealt with by the police", the statement said. The woman at the centre of allegations declined to comment.

Roberts-Smith has also declined requests to be interviewed, or to answer questions about any knowledge he might have of "Danielle Kennedy", or why a stolen photo was used, or to give his version of events.

It is understood that after he received questions, he told his public relations advisers no affair had ever occurred (a claim undermined by copious evidence) and the alleged domestic violence and intimidation is also a malicious invention. And on Wednesday - six days after he was alerted that the *Herald* knew of the allegations reported to police as well as the mysterious

"Danielle Kennedy" - Roberts-Smith contacted police claiming to be a victim of stalking by the lawyer.

In respect of the claims made by SAS soldiers, Roberts-Smith has also privately dismissed allegations he is a bully or that he ever assaulted or bullied a fellow soldier. Roberts-Smith privately and passionately dismisses all allegations he has ever breached the laws of armed conflict in Afghanistan. He recently retained a top Sydney barrister with expertise in military inquiries, Arthur Moses, SC.

In his recent public appearances, Roberts-Smith appears to have sought opportunities to burnish his image.

He appeared on a Channel Seven tourism and lifestyle program to highlight his family values - "family is the most valuable thing" - and his passion for supporting soldiers struggling with mental health problems.

## 'NO SHRED OF EVIDENCE'

In June, yet another mysterious letter writer was at work. A former member of Roberts-Smith's patrol received a letter from an anonymous source warning he should withdraw what the letter described as false information given to the Inspector-General, or risk having adverse information about his own activities exposed. The patrol member immediately reported the letter to the SAS Commanding Officer, who relayed it to the Inspector-General. The Inspector-General does not comment on investigations. But the patrol member has told colleagues he is not scared by the threat.

Roberts-Smith's supporters privately insist the Inspector-General will clear him of any wrongdoing and there is not a "shred" of evidence that suggests otherwise. Roberts-Smith's supporters also say the famous soldier is yet to give his version of events.

But SAS insiders aware of some of the adverse allegations about Roberts-Smith or the conduct of his patrols say credible evidence has already been placed on record and on oath.

Questions have dogged Ben Roberts-Smith from well before he became supersized by expectation, responsibility and pride in the spirit of the Anzacs. After two years of investigation, and having interviewed 200 witnesses on oath, the Inspector-General is expected to finalise his report in the coming months.

# War hero fails to stop publication over allegations

Michael Evans  
Kate McClymont

Decorated Australian war hero Ben Roberts-Smith has failed in a bid to win an injunction against Fairfax Media to prevent publication in today's *Sydney Morning Herald* and *The Age* newspapers of detailed allegations concerning the former corporal's behaviour.

Mr Roberts-Smith took action late last night in the Federal Court, arguing there had been a breach of confidentiality against federal law concerning an inquiry into Mr Roberts-Smith.

At 7.35pm, Justice Robert Bromwich ruled in Fairfax's favour.

The 4500 word story, authored by investigative journalists Nick McKenzie and Chris Masters, plus the *Herald's* defence correspondent David Wroe, was published on Fairfax Media websites yesterday morning with plans for publication in today's editions of the *Herald* and *The Age*. In court late yesterday, Arthur Moses, SC, for Mr Roberts-Smith suggested Fairfax Media's reporters had committed a criminal offence by publishing confidential military information. He sought removal of the story from Fairfax websites and a ban on publishing the story today in print.

The story involved "wanton publication in breach of Commonwealth Law", in reporting details from an inquiry by the inspector-general into Mr Roberts-Smith while a member of the special forces. He said "there is no public interest in publishing material in breach of Commonwealth Law".

Sandy Dawson, SC, for Fairfax said the action was misconceived and should be against the Commonwealth not the publisher, noting that the "horse has bolted" given the story was published at 6am yesterday and "has been read by thousands". "Where is the crime if the news-

paper publishes?" asked Mr Dawson. "If there is a crime, it has already happened."

After the judgment, Mr Moses asked for the matter to be referred to the Australian Federal Police to see if there was "aiding and abetting" by journalists.

Justice Bromwich said referrals from the Federal Court could only be made in the event of a determination by a court - and that would be a step too far.

Mr Roberts-Smith, who is one of three living recipients of the Victoria Cross, the nation's highest military honour, issued an emphatic denial of the allegations, labelling them a "catalogue of lies, fabrications and misrepresentations".

He said early yesterday he would vigorously defend himself against the "malicious" claims. "I do want to say today that I unequivocally deny any physical abuse of any woman at any time ever, and that I have not at any stage been interviewed by police about any purported complaint by any woman," Mr



Prime Minister Malcolm Turnbull said he was aware of the allegations. Photo: AAP

Roberts-Smith, now an executive at Channel Seven, said in a statement yesterday. "I am deeply troubled that alleged evidence given on oath before the [Inspector-General of the Australian Defence Force] inquiry has been canvassed in the press and that Fairfax has allegedly accessed it. Not only is it illegal, it is unfair to people who haven't given evidence and it has the potential to undermine the fairness of the inquiry."

The celebrated soldier said he was confident "direct witnesses will categorically demonstrate the falsity" of all the allegations made against him.

The Prime Minister Malcolm Turnbull was asked yesterday about the story and allegations against Mr Roberts-Smith, saying: "I am aware of the allegations, complaints have been made to police and they will be dealt with appropriately," Mr Turnbull said. "I can't make any comment on the specific matters because they are being dealt with by the police."



## ANNEXURE "E-1"

### SCHEDULE 5 – FIFTH MATTER COMPLAINED OF

**SYDNEY MORNING HERALD: Published: 11-12 August 2018**

1.	<b>War hero fires back over abuse claims</b>
2.	<b>Beneath the bravery of our most decorated soldier</b>
3.	Victoria Cross recipient Ben Roberts-Smith has denied accusations of bullying and domestic violence, that are under investigation. Last night in the Federal Court he failed to stop publication of this story.
4.	BY NICK MCKENZIE, DAVID WROE & CHRIS MASTERS
5.	NEWS PAGES 8-10
6.	<b>STILL IMAGE [Ben Roberts-Smith]</b> Ben Roberts-Smith in front of his portrait at the Australian War Memorial. Photos: Jay Cronan
7.	<b>Beneath the bravery of our most decorated soldier</b>
8.	<b>STILL IMAGE [Ben Roberts-Smith and Rosie Batty; Ben Roberts-Smith in Afghanistan]</b> Ben Roberts-Smith comforts Rosie Batty after she is announced as. Australian of the Year in 2015; right, Roberts-Smith with the Special Operations Task Group in Afghanistan. Photos: David Flannery, Australian Defence Force
9.	A Victoria Cross recipient and Father of the Year, Ben Roberts-Smith is a highly respected public figure. Why are so many questions being asked about his past? Nick McKenzie, David Wroe and Chris Masters investigate.
10.	When Malcolm Turnbull gave a speech four months ago about the struggle some veterans faced readjusting to civilian life, it was hard to ignore the man towering behind him in the Great Hall of Parliament House.
11.	Hands clasped and head slightly bowed, Australia's most decorated Afghanistan veteran, Ben Roberts-Smith, stood on stage with the Prime Minister as a living testament to success after the military.
12.	Having received a Victoria Cross for bravery during an assault on the Afghan village of Tizak in 2010 - an award that was preceded by a Medal for Gallantry and followed by a Commendation for Distinguished Service – Roberts-Smith was in the midst of a seemingly successful transition to corporate life.
13.	The transformation from battlefield to boardroom was significant. For 10 years, Roberts-Smith had served with Australia's Special Air Service Regiment, a unit of elite soldiers who are mostly not allowed to speak about their work. Receiving the Commonwealth's

	ultimate bravery award made Roberts-Smith an instant celebrity. His agent began charging thousands to corporate clients to hear not only from "the most decorated soldier in the Commonwealth" but a man who had also been named "Australian Father of the Year".
14.	He was appointed chairman of the Australia Day Council, the deputy chairman of the Prime Minister's defence mental health committee and veterans' employment committee. He became the public face of a campaign against "one punch" violence and the "Stay Kind" campaign, which urges people to look after vulnerable mates.
15.	He helped select domestic violence campaigner Rosie Batty as an Australian of the Year. The award ceremony produced an evocative image of the 196-centimetre warrior gently comforting a tearful Batty.
16.	The photograph fitted his public ethos, which was to value "moral courage" above physical prowess and "cherish your family every single day".
17.	But as he stood behind Turnbull at a veterans' function at Parliament House on March 28, serious doubts about his conduct were being discussed in senior defence circles. Among the generals and politicians in the Great Hall that night were some who had trouble reconciling disturbing allegations about Roberts-Smith's behaviour in Afghanistan and back home with the grand public image.
18.	Over almost a year, the Herald has interviewed dozens of veterans, officials and people with knowledge of Roberts-Smith's personal conduct, including decorated soldiers who served alongside him. Their claims include bullying, intimidation and his involvement in small SAS teams suspected of the abuse of unarmed civilians and the use of force that goes well beyond what is acceptable in the theatre of war. Indeed, some of the most important people in the room that night knew of the allegations.
19.	At the VIP table sat the unflappable Chief of Army and special forces veteran, Lieutenant-General Angus Campbell. Two years earlier, Campbell had commissioned the Inspector-General of the Defence Force to begin an inquiry into the nation's special forces - the most penetrating inquiry in the recent history of the military.
20.	<b>DISTURBING RUMOURS</b>
21.	By the time of the Great Hall event, it was clear to an inner circle in defence that disturbing rumours about small SAS patrol teams - typically consisting of five to men including a patrol commander and deputy commander - involved serious allegations about their conduct in Afghanistan. The patrols under scrutiny featured Roberts-Smith as a key player, either as a deputy or lead patrol commander. Those making the allegations were from the SAS itself and had served alongside Roberts-Smith's patrols.
22.	The allegations concerned the patrols' treatment of detainees or unarmed Afghans. They included claims that the patrols may have failed to report accurately incidents in which Afghans had been subjected to the use of force, including acts of brutality perpetrated against unarmed men.
23.	<b>INSET QUOTE [Quote from SAS insider]</b> <i>'RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the</i>

	<i>guts.'</i> SAS Insider
24.	SAS veterans have also alleged Roberts-Smith bullied and intimidated fellow soldiers, including two junior operators who made internal complaints about the impact of his conduct on their mental health.
25.	Witnesses allege one was punched in the head by an angry Roberts-Smith after a battlefield bungle.
26.	But it wasn't only Roberts-Smith's conduct as an SAS operator that would prompt scrutiny. That evening at the Great Hall would result in further allegations that suggest he was struggling with living up to all that was expected of him.
27.	Sitting on the same VIP table as Lieutenant-General Campbell, between ADF deputy chief Vice-Admiral Ray Griggs and Veterans' Affairs Minister Darren Chester, was a female lawyer whom Roberts-Smith had brought as his guest, and whom he'd introduced to military figures earlier that day as a client of his employer, Channel Seven.
28.	After completing a master's of business administration in 2016, the former army corporal had been appointed general manager of the TV network's Queensland Operations by media tycoon Kerry Stokes. But the woman wasn't a Channel Seven client. Instead, Roberts-Smith was in the midst of an extramarital relationship with her.
29.	Sources at the event questioned why Roberts-Smith risked revealing that he was having an affair by taking his mistress to a high-profile function where, beyond the Prime Minister, he was the most prominent guest. But, far more concerning, senior defence officials later learnt of allegations she raised with police about what happened later that night at the Hotel Realm in Canberra: an alleged act of domestic violence and intimidation.
30.	Roberts-Smith yesterday issued an emphatic denial of the allegations, labelling them a "catalogue of lies, fabrications and misrepresentations". He said he would vigorously defend himself against the "malicious" claims.
31.	"I do want to say today that I unequivocally deny any physical abuse of any woman at any time ever, and that I have not at any stage been interviewed by police about any purported complaint by any woman," he said in a statement.
32.	<b>RISKING ALL</b>
33.	Shortly after the guns fell silent at Tizak in 2010, the sneakers Roberts-Smith wore during the famous battle were photographed. The white shoes are splattered with blood, evoking the image of a man racing towards danger, risking all. His Victoria Cross citation describes an "extreme devotion to duty" paired with "a total disregard for his own safety" as Roberts-Smith "stormed the enemy position killing the ... machine gunners".
34.	During his deployments to Afghanistan in 2009 and 2010, Roberts-Smith was deputy commander of a small SAS patrol. In his last overseas deployment, before leaving the army in 2013, he was appointed patrol commander. The Herald has confirmed with multiple special forces insiders that among the allegations made to the Inspector-General's inquiry is that patrols he helped lead brutally mistreated unarmed Afghans.

	Four defence insiders have alleged they observed patrols under Roberts-Smith's direct or deputy leadership severely mistreat unarmed Afghans on four occasions.
35.	A member of Roberts-Smith's 2009 patrol allegedly encouraged a more junior trooper to execute a detainee - a suspected militant - and was later overheard boasting about it. The Herald has obtained a photo of the dead man and two witness accounts describing the circumstances of his death.
36.	One experienced SAS soldier described intervening to stop Roberts-Smith bashing an unarmed Afghan who two patrol commanders were seeking to arrest in 2010. The bearded man had frozen in the fetal position when Roberts-Smith entered the room, wearing Kevlar gloves. The insider describes Roberts-Smith unexpectedly attacking the man, pummelling him in the face with his fists, and in the stomach with his knees.
37.	"RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts. I went, 'Whoa whoa whoa. Back off mate. We have this under control.'
38.	"The fella's face immediately blew up. We stepped back and gave the fella some space. We then arrested him."
39.	Two alleged incidents have been separately recounted by other SAS members and involve men under the control of a patrol being led by Roberts-Smith. Both involve the alleged mistreatment of Afghan men who witnesses claim were posing no threat and could have been arrested without force. One of the men harmed was in custody and posing no threat at all when he was allegedly assaulted.
40.	Sources from inside the SAS say this alleged mistreatment was not only unnecessary but potentially counter-productive. An essential purpose of the Afghanistan mission was the protection of the local population and the generation of confidence in the coalition and government forces. The sources also concede that, while the allegations caused deep concern, and were discussed informally and sometimes raised with more senior SAS soldiers, they were not immediately reported to senior command in Canberra.
41.	<b>A NEW CAREER</b>
42.	Keeping secrets is part of being in the SAS. Yet by late 2012 and early 2013, as Roberts-Smith was preparing to start his new career as a corporate and community leader and mental health champion, some SAS colleagues were asking if he might have shirked scrutiny because less experienced soldiers were worried about challenging him. Much of the concern held by senior military officers about the cultural problems within the SAS have involved keeping quiet about behaviours that needed confronting. A report in March 2016 by then Special Operations Commander Major-General Jeff Sengelman described a culture of impunity that may have normalised allegedly disturbing behaviour. Sengelman's report also identified serious "governance and behavioural lapses" and helped spark the Inspector-General's inquiry.
43.	A record of a discussion between two long-serving SAS patrol commanders reveals some experienced soldiers in the regiment were worried Roberts-Smith's apparent bullying meant some in his patrol were scared to question battlefield incidents or those which allegedly occurred back at base or in training. The two patrol commanders identify that the first time Roberts-Smith came to attention for alleged bullying was in 2006, during his first deployment to Afghanistan.



44.	After a hair-raising battle early in the deployment, Roberts-Smith fell out with two members of a six-man patrol, in part over whether it was necessary to kill an Afghan who had earlier walked past an observation post.
45.	One of the two patrol members later insisted the Afghan appeared to be an unarmed teenager whose death could have been avoided. But it was a perilous circumstance and a tough call apparently made in the fog of war. Roberts-Smith's version of events was backed by other patrol members.
46.	The young male was presumed to be a "spotter". This meant he might have seen the observation post and planned to report it to the Taliban, who could then attack. Roberts-Smith and other patrol members also said he was armed with a smoke grenade, which exploded after he was shot.
47.	The conflicting accounts are mirrored in official reports to senior officers. Some post-incident reports describe an anti-coalition militant posing a "threat". Some reports go further, falsely stating the dead male was armed with an automatic rifle.
48.	Roberts-Smith accused the two critical patrol members of cowardice and failing to prepare their weapons.
49.	Multiple sources contend Roberts-Smith followed up this critique with repeated bullying of the smaller and quieter of the two patrol members, Trooper M. (The Herald cannot name a serving SAS soldier but have confirmed he is still serving and has been promoted to patrol commander.)
50.	More than one witness claims to have overheard Roberts-Smith threatening to harm Trooper M.
51.	The two patrol commanders alleged "years of bullying that RS [Roberts-Smith] put him through" and which affected his mental health. A bullying complaint against Roberts-Smith was lodged inside the SAS by Trooper M, which led to mediation.
52.	<b>LEADERSHIP ROLE</b>
53.	Roberts-Smith's promotion to patrol commander left him responsible for mentoring junior soldiers. It was an appointment he relished, a realisation of leadership ambitions. Some other SAS soldiers were pleased, considering Roberts-Smith a fierce and impressive soldier now able to pass on his knowledge.
54.	But not all felt that way. Concerns about the treatment of the least-experienced member of Roberts-Smith's patrol, Trooper J, were raised in mid-2012, before deployment to Afghanistan. During a training exercise in Perth involving the mock capture of a prisoner, three soldiers witnessed Roberts-Smith instruct Trooper J to shoot the detainee.
55.	"RS grabbed [Trooper J] by the shoulder and said, 'F—ing kill him, f--ing kill him'," an SAS soldier who claims to have witnessed the event said.
56.	The soldier alleges Trooper J responded by half-heartedly simulating a mock execution ("he went 'bang' as a joke," recalls a witness).

57.	This witness alleges Robert-Smith then said, "You good with that?" The witnesses who observed the order said that two patrol commanders informally challenged Roberts-Smith, telling him to "pull your head in".
58.	<p><b>INSET QUOTE [Quote from Ben Roberts-Smith]</b></p> <p><i>'I am hard, I get that, but there is no one I beat up harder than myself...Because if you make a mistake, someone is going to die.'</i></p> <p>Ben Roberts-Smith</p>
59.	After arriving in Afghanistan in July 2012, the mentoring of Trooper J generated further controversy when a mission on July 15 to the Chora Valley to flush out the Taliban turned ugly, and one patrol member was nearly shot by a second SAS patrol in a bungle.
60.	Trooper J wasn't responsible for the friendly fire but he was accused of breaching protocol by firing his weapon in response and not adhering to Roberts-Smith's orders. He was formally investigated, placed on administrative duties with another patrol and soon after left the army.
61.	According to statements later submitted to senior defence officials, Roberts-Smith ran his own, off-the-books disciplinary process. Multiple witnesses allege that Roberts-Smith castigated the trooper in front of his patrol, ordering Trooper J to stand up and then punching him in the head.
62.	A further threat from Roberts-Smith was allegedly made several months later: if the trooper's account about the incident and aftermath was not consistent with his version, Roberts-Smith would report him to the International Criminal Court at The Hague for firing near civilians.
63.	The treatment of Trooper J by Roberts-Smith concerned several experienced patrol commanders, who were also troubled about other aspects of Roberts-Smith's mentoring and leadership in 2012. The most pressing issue discussed among a small number of senior SAS soldiers involved an alleged assault on an unarmed Afghan.
64.	Those with concerns were surprised and angered when Defence in 2014 released a formal assessment of Roberts-Smith's 2012 service as it awarded him a Commendation for Distinguished Service, praising his exemplary "mentoring ... of his patrol and less experienced members".
65.	Three patrol commanders, still serving with the regiment and also recognised for their service in Afghanistan, signed a complaint written by one of the trio, Sergeant L. It urged senior officers to investigate Roberts-Smith's mentoring, leadership and treatment of Trooper J.
66.	"As SAS soldiers, we are responsible for accurate reporting and honesty, in the field and in camp. This citation is a contradiction of those values," the complaint said. For two years, the complaint went nowhere. But it is one of many documents handed to the Inspector-General.
67.	<b>DENIALS AND CLAIMS</b>

68.	For his part, Roberts-Smith traces the complaints about his behaviour to the awarding of the VC in 2011. His forceful, driven personality - traits shared by many in the regiment - stoked resentment. When queried about this last year, he said: "I am hard, I get that, but there is no one I beat up harder than myself. You are supposed to be better. If not, you should not be there. Because if you make a mistake, someone is going to die."
69.	Supporters say the allegations stem from envy, most particularly from disgruntled veterans. Roberts-Smith's defamation lawyer blames sensationalist journalists for seeking to bring down a war hero through a "smear campaign". Ross Coulthart - a former TV investigative journalist who is now a public relations consultant for a firm, Cato and Clegg - is working closely with Roberts-Smith and his lawyer on his own investigation into the Herald's reporting.
70.	Coulthart has interviewed SAS soldiers close to Roberts-Smith and is privately insisting to people linked to Channel Seven there is no evidence of any wrongdoing. However, he and the PR firm's Sue Cato have declined to share their findings. Coulthart refuses to say publicly who he is working for.
71.	Roberts-Smith has previously decried his critics as hypocrites, saying: "The bullying is what they do to me. Bullies are cowards. They stay in the shadows. This is about group cowardice. I don't like bullies. I am sick of it."
72.	He has been unequivocal he has no questions to answer in respect of any of his actions in Afghanistan.
73.	"I've been under the microscope for the last six years and, you know what, my record is spotless," he said in a newspaper interview when questions about his conduct in Afghanistan first emerged publicly in October last year. <b>Continued Page 10</b>
74.	<b>Beneath a decorated soldier's bravery</b>
75.	<b>STILL IMAGE [Ben Roberts-Smith]</b> Ben Roberts-Smith passionately dismisses allegations he has breached the laws of armed conflict. Photo: Nic Walker
76.	<b>From Page 9</b>
77.	But the argument that critical accounts of Roberts-Smith amount to tall-poppy syndrome sits uneasily with the testimony of many who have served in the SAS, including in Afghanistan.
78.	Some sources note the reputations of that conflict's other Victoria Cross recipients Mark Donaldson and Dan Keighran (a VC was also awarded posthumously to Commando Corporal Cameron Baird) have faced no such challenges. Most significantly, the allegations about Roberts-Smith and his patrols have, according to regiment sources, been made under oath before the Inspector-General.
79.	<b>PUSHING BACK</b>

80.	Roberts-Smith has also been pushing back, apparently aiming to paint those making allegations about him as disgruntled liars. Defamation lawyer Mark O'Brien, who is working for Roberts-Smith, separately wrote last year to the two soldiers who were members of Roberts-Smith's patrol in 2006 and who had expressed serious misgivings about his conduct.
81.	The lawyer accused the veterans of colluding to concoct false allegations. Roberts-Smith sent a letter to a third SAS veteran, also threatening litigation. Attention then shifted to a fourth SAS Afghanistan veteran, Sergeant L, who wrote the 2014 complaint that urged an investigation of Roberts-Smith's Commendation for Distinguished Service.
82.	On October 18, in a letter sent to the Herald, Roberts-Smith's defamation lawyer attacked the credibility of Sergeant L, accusing him of smuggling weapons into Afghanistan in 2012. (The two other commanders who signed the complaint were not mentioned.)
83.	By now, more missives attacking Sergeant L were also circulating, although who was responsible for these remains a mystery.
84.	On October 20, The Australian newspaper received an anonymous email. The Herald has linked this email to a Queensland photographer, Nathan Richter, but he has said he was just acting as a middleman and refuses to say who wrote and sent it.
85.	This email repeated the historic gun smuggling claim and added some dramatic detail. It claimed Sergeant L was at grave risk of gunning down civilians in Perth. The baseless massacre allegation was also sent to Australian Federal Police in an apparent attempt to get police to raid Sergeant L. Days later, they did so, finding none of the weapons the writer had promised would be located.
86.	Six months later, another mysterious writer emerged.
87.	In April, the lawyer Roberts-Smith had weeks earlier taken as his guest to the Great Hall of Parliament House also received an email. It was from a "Danielle Kennedy" and claimed to have been sent on behalf of Roberts-Smith. By then, Canberra sources say the lawyer was alleging Roberts-Smith had subjected her to an act of domestic violence and intimidation after the Great Hall event in late March.
88.	According to senior sources in Canberra, a relative of the woman complained about the alleged incident to a politician, who alerted a more senior colleague, who in turn alerted defence officials. Later, the alleged victim told police of her claims. Police have been told she had been drinking at the event, and as it ended, alleges Roberts-Smith appeared angry at her behaviour, worried it had exposed his affair to the military's top brass.
89.	She stumbled and fell down some stairs at Parliament House as she left, causing further embarrassment. Police have been told that by the time the pair arrived back at the Realm Hotel, Roberts-Smith was allegedly furious and she was subjected to an act of domestic violence.
90.	The Herald has decided not to name the lawyer due to the nature of her allegations. Defence and political figures who have been told of the allegations have said that once they learnt she had gone to police, they took no further action.

91.	Police also have details of multiple phone and email accounts Roberts-Smith used to conduct the liaison before it ended on April 6, when the lawyer disclosed the affair to his wife.
92.	On April 22, the lawyer received the email from "Danielle Kennedy", who claimed to "represent Mr Roberts-Smith" and be acting on his "instructions". The Herald could not locate any lawyer by the name of "Danielle Kennedy". The photo used in the email appears to have been stolen from the Internet. It is of Anne Whelford, an administrator at Lincoln University in Christchurch.
93.	After a university spokesman was supplied with a copy of the "Danielle Kennedy" email, he sent a statement saying: "Lincoln University was unaware of the use of Anne Whelford's photograph, as was she, and neither party sanctions its use in this way".
94.	The use of the picture "is a matter which should be dealt with by the police", the statement said. The woman at the centre of allegations declined to comment.
95.	Roberts-Smith has also declined requests to be interviewed, or to answer questions about any knowledge he might have of "Danielle Kennedy", or why a stolen photo was used, or to give his version of events.
96.	It is understood that after he received questions, he told his public relations advisers no affair had ever occurred (a claim undermined by copious evidence) and the alleged domestic violence and intimidation is also a malicious invention. And on Wednesday - six days after he was alerted that the Herald knew of the allegations reported to police as well as the mysterious "Danielle Kennedy" - Roberts-Smith contacted police claiming to be a victim of stalking by the lawyer.
97.	In respect of the claims made by SAS soldiers, Roberts-Smith has also privately dismissed allegations he is a bully or that he ever assaulted or bullied a fellow soldier. Roberts-Smith privately and passionately dismisses all allegations he has ever breached the laws of armed conflict in Afghanistan. He recently retained a top Sydney barrister with expertise in military inquiries, Arthur Moses, SC.
98.	In his recent public appearances, Roberts-Smith appears to have sought opportunities to burnish his image.
99.	He appeared on a Channel Seven tourism and lifestyle program to highlight his family values - "family is the most valuable thing" - and his passion for supporting soldiers struggling with mental health problems.
100.	<b>'NO SHRED OF EVIDENCE'</b>
101.	In June, yet another mysterious letter writer was at work. A former member of Roberts-Smith's patrol received a letter from an anonymous source warning he should withdraw what the letter described as false information given to the Inspector-General, or risk having adverse information about his own activities exposed. The patrol member immediately reported the letter to the SAS Commanding Officer, who relayed it to the Inspector-General. The Inspector-General does not comment on investigations. But the patrol member has told colleagues he is not scared by the threat.



102.	Roberts-Smith's supporters privately insist the Inspector-General will clear him of any wrongdoing and there is not a "shred" of evidence that suggests otherwise. Roberts-Smith's supporters also say the famous soldier is yet to give his version of events.
103.	But SAS insiders aware of some of the adverse allegations about Roberts-Smith or the conduct of his patrols say credible evidence has already been placed on record and on oath.
104.	Questions have dogged Ben Roberts-Smith from well before he became supersized by expectation, responsibility and pride in the spirit of the Anzacs. After two years of investigation, and having interviewed 200 witnesses on oath, the Inspector-General is expected to finalise his report in the coming months.

## ANNEXURE "F"

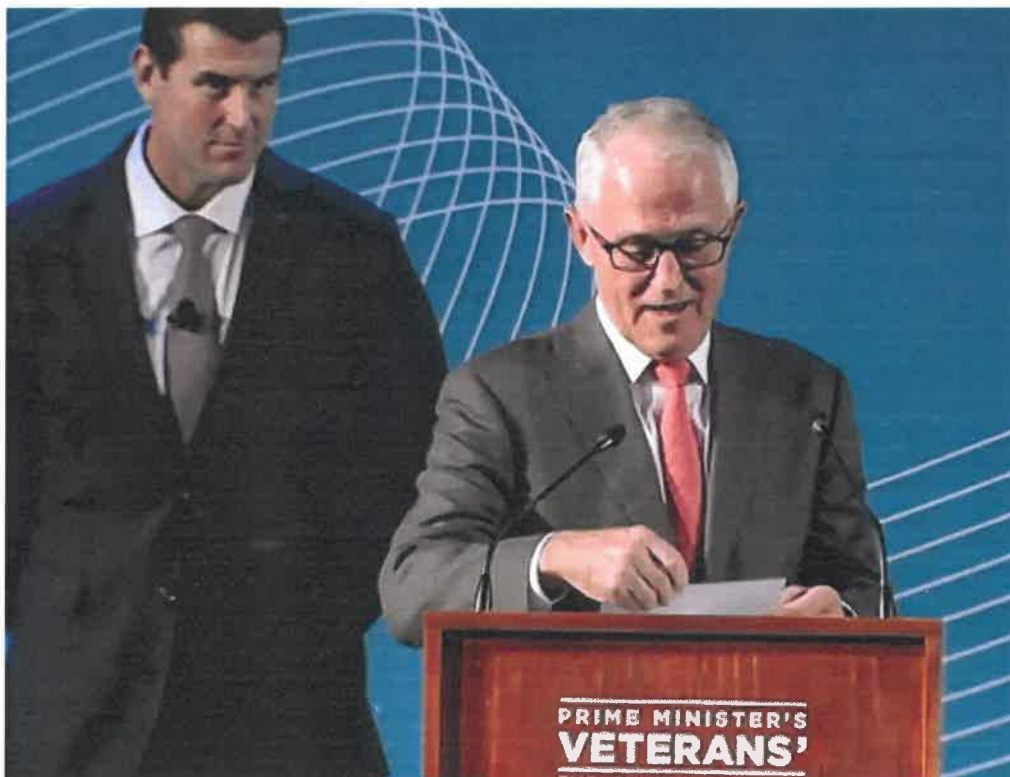
## DEFENCE

## Beneath the bravery of our most decorated soldier

Victoria Cross recipient, Father of the Year, business leader and mental health advocate - Ben Roberts-Smith is one of Australia's most respected public figures. So why are so many questions being asked about his past?

By Nick McKenzie, David Wroe & Chris Masters

10 AUGUST 2018



When Malcolm Turnbull gave a speech four months ago about the struggle some veterans faced readjusting to civilian life, it was hard to ignore the man towering

behind him in the Great Hall of Parliament House.

Hands clasped and head slightly bowed, Australia's most decorated Afghanistan veteran, Ben Roberts-Smith, stood on stage with the Prime Minister as a living testament to success after the military.

Having received a Victoria Cross for bravery during an assault on the Afghan village of Tizak in 2010 – an award that was preceded by a Medal for Gallantry and followed by a Commendation for Distinguished Service – Roberts-Smith was in the midst of a seemingly successful transition into corporate life.

The transformation from battlefield to boardroom was significant. For 10 years, Roberts-Smith had served with Australia's Special Air Service Regiment, a unit of elite soldiers who are mostly not allowed to speak about their work.

Receiving the Commonwealth's ultimate bravery award made Roberts-Smith an instant celebrity. His agent began charging thousands to corporate clients to hear not only from "the most decorated soldier in the Commonwealth" but a man who had also been named "Australian Father of the Year".

He was appointed chairman of the Australia Day Council, the deputy chairman of the Prime Minister's defence mental health committee and veterans' employment committee. He became the public face of a campaign against "one punch" violence and the "Stay Kind" campaign, which urges Australians to look after vulnerable mates.

He helped select domestic violence campaigner Rosie Batty as an Australian of the Year. The award ceremony produced an evocative image of the 196-centimetre warrior gently comforting a tearful Batty.

The photograph fitted his public ethos, which was to value "moral courage" above physical prowess and "cherish your family every single day".



Rosie Batty, having just been announced as 2015 Australian of the Year, is comforted by Ben Roberts-Smith, Chair of the National Australia Day Council. *Photo: David Flannery*

But as he stood behind Turnbull at a veterans' function at Parliament House on March 28, serious doubts about his conduct were being discussed in senior defence circles.

Among the assembled generals and politicians in the Great Hall that night were some who had trouble reconciling disturbing allegations about Roberts-Smith's behaviour in Afghanistan and back home with the grand public image.

Over almost a year, Fairfax Media has interviewed dozens of veterans, officials and people with knowledge of Roberts-Smith's personal conduct including decorated soldiers who served alongside him. Their claims include bullying, intimidation and his involvement in small SAS teams suspected of the abuse of unarmed civilians and the use of force that goes well beyond what is acceptable in the theatre of war.

Indeed, some of the most important people in the room that night knew of the allegations.

At the VIP table sat the unflappable Chief of Army and special forces veteran, Lieutenant-General Angus Campbell. Two years earlier, Campbell had commissioned the Inspector-

General of the Defence Force to begin an inquiry into the nation's special forces – the most penetrating inquiry in the recent history of Australia's military.

## **Disturbing rumours**

By the time of the Great Hall event, it was clear to an inner circle in defence that disturbing rumours about small SAS patrol teams – typically consisting of five to six men including a patrol commander and deputy commander – involved serious allegations about their conduct in Afghanistan.

The patrols under scrutiny featured Roberts-Smith as a key player, either as a deputy or lead patrol commander. Those making the allegations were from the SAS itself and had served alongside Roberts-Smith's patrols in Afghanistan.

The allegations concerned the patrols' treatment of detainees or unarmed Afghans. They included claims that the patrols may have failed to report accurately incidents in which Afghans had been subjected to the use of force, including acts of brutality perpetrated against unarmed men.

SAS veterans have also alleged to Fairfax Media that Roberts-Smith bullied and intimidated fellow soldiers, including two junior operators who made internal complaints about the impact of his conduct on their mental health.

Witnesses allege one was punched in the head by an angry Roberts-Smith after a battlefield bungle.

But it wasn't only Roberts-Smith's conduct as an SAS operator that would prompt scrutiny. That evening at the Great Hall would result in further allegations that suggest he was struggling with the difficult task of living up to all that was expected of him.

Sitting on the same VIP table as Lieutenant-General Campbell, between ADF deputy chief Vice-Admiral Ray Griggs and Veterans' Affairs Minister Darren Chester, was a female lawyer whom Roberts-Smith had brought as his guest, and whom he'd introduced to military figures earlier that day as a client of his employer, Channel Seven.

After completing a masters of business administration in 2016, the former Australian Army corporal had been appointed general manager of the TV network's Queensland



operations by media tycoon Kerry Stokes. But the woman wasn't a Channel Seven client. Instead, Roberts-Smith was in the midst of a extramarital relationship with the woman.

Sources at the event questioned why Roberts-Smith risked revealing that he was having an affair by taking his mistress to a high-profile function where, beyond the Prime Minister, he was the most prominent guest. But, far more concerning, senior defence officials later learnt of allegations she raised with police about what happened later that night at the Hotel Realm in Canberra: an alleged act of domestic violence and intimidation.



Roberts-Smith speaks on Anzac Day, 2017 in Melbourne. *Photo: AAP*

Through his lawyer, Roberts-Smith initially declined to respond to the allegations concerning his guest at the event.

He did not respond to questions about allegations being made separately by some of his former SAS colleagues and what knowledge, if any, he has about the mistreatment of Afghans.

Roberts-Smith is also silent on the question of whether he knows anything about who has been sending anonymous letters and emails to, or about, his accusers.

## Risking all

Shortly after the guns fell silent at Tizak in 2010, the sneakers Ben Roberts-Smith wore during the famous battle were photographed. The white shoes are splattered with blood. They evoke the image of a man racing towards danger, risking all.

His Victoria Cross citation puts this image in words, describing an "extreme devotion to duty" paired with "a total disregard for his own safety" as Roberts-Smith "stormed the enemy position killing the ... machine gunners".

During his deployments to Afghanistan in 2009 and 2010, Roberts-Smith was deputy commander of a small SAS patrol. In his last overseas deployment, prior to leaving the army in 2013, he was appointed patrol commander.

Fairfax Media has confirmed by speaking to multiple special forces insiders that among the allegations made to the Inspector-General's inquiry is that patrols he helped lead brutally mistreated unarmed Afghans.

***"RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts. I went, 'Whoa whoa whoa. Back off mate.'"***

A defence force insider

Four defence insiders have alleged that they observed patrols under Roberts-Smith's direct or deputy leadership severely mistreat unarmed Afghans on four occasions.

A member of Roberts-Smith's 2009 patrol allegedly encouraged a more junior trooper to execute a detainee – a suspected militant – and was later overheard boasting about it. Fairfax Media has obtained a photo of the dead man and two witness accounts describing the circumstances in which the Afghan died.

One insider, an experienced SAS soldier, has vividly described intervening to stop Roberts-Smith bashing an unarmed Afghan whom two patrol commanders were seeking to arrest in 2010.

The bearded man had frozen in the foetal position when Roberts-Smith entered the room, wearing Kevlar gloves.

The insider describes Roberts-Smith unexpectedly attacking the man, pummelling him in the face with his fists, and in the stomach with his knees.

"RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts. I went, 'Whoa whoa whoa. Back off mate. We have this under control.'

"The fella's face immediately blew up. We stepped back and gave the fella some space. We then arrested him."

Two alleged incidents have been separately recounted by other SAS members and involve men under the control of a patrol being led by Roberts-Smith. Both involve the alleged mistreatment of Afghan men who witnesses claim were posing no threat to Australian soldiers and could have been arrested without the use of force. One of the men harmed was in custody and posing no threat at all when he was allegedly badly assaulted.

Sources from inside the SAS say this alleged mistreatment was not only unnecessary but potentially counter-productive. An essential purpose of the Afghanistan mission was the protection of the local population and the generation of confidence in the coalition and government forces.

The sources also concede that, while the allegations caused deep concern, and were discussed informally and sometimes raised with more senior SAS soldiers, they were not immediately reported to senior command in Canberra.

## A new career

Keeping secrets is part of being in the SAS. Yet by late 2012 and early 2013, as Roberts-Smith was preparing to embark on his new career as a corporate and community leader and mental health champion, some of his SAS colleagues were asking if the decorated warrior might have shirked scrutiny because less experienced soldiers were worried about challenging him.

Much of the concern held by senior military officers about the cultural problems within the SAS have involved keeping quiet about behaviours that needed confronting. A report

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### RELATED ARTICLE



### DEFENCE

VC winner Ben Roberts-Smith among subjects of defence investigation

in March 2016 by then Special Operations Commander Major-General Jeff Sengelman described a culture of impunity that may have normalised allegedly disturbing behaviour. Sengelman's report also identified serious "governance and behavioural lapses" and ultimately helped spark the Inspector-General's inquiry.

A record of a discussion between two long-serving SAS patrol commanders, obtained by Fairfax Media, reveals some experienced soldiers in the regiment were worried that Roberts-Smith's apparent bullying meant some in his patrol were scared to question battlefield incidents or those which allegedly occurred back at base or in training.

The two patrol commanders identify that the first time Roberts-Smith came to attention for alleged bullying inside the SAS was in 2006, during his first deployment to Afghanistan.



SAS soldiers on patrol in Afghanistan in 2005. *Photo: Simon O'Dwyer*

Following a hair-raising battle early in the deployment, Roberts-Smith fell out with two members of a six-man patrol, in part over whether it was necessary to kill an Afghan who had earlier walked past the patrol's observation post.

One of the two patrol members later insisted to colleagues the Afghan appeared to be an unarmed teenager whose death could have been avoided.

But it was a perilous circumstance and a tough call apparently made in the fog of war. Roberts-Smith's version of events was backed by other patrol members.

The young male was presumed to be a "spotter". This meant there was a chance he might have seen the observation post and planned to report it to the Taliban, who could then attack. Roberts-Smith and other patrol members also said the male was armed with a smoke grenade, which exploded after he was shot.

The conflicting accounts are mirrored in official reports relayed by the patrol to senior officers and seen by Fairfax Media. Some post-incident reports describe an anti-coalition militant posing a "threat." Some reports go further, falsely stating the dead male was armed with an automatic rifle.

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More than one witness claims to have overheard Roberts-Smith threatening to harm Trooper M, an alleged threat Trooper M relayed to colleagues.

The two patrol commanders alleged "years of bullying that RS [Roberts-Smith] put him through" and which impacted his mental health. A bullying complaint against Roberts-Smith was ultimately lodged inside the SAS by Trooper M, which led to mediation.

## **Commended for leadership**

Roberts-Smith's promotion to patrol commander left him responsible for mentoring junior soldiers under his command. It was an appointment he relished, a realisation of leadership ambitions. Some other SAS soldiers were also pleased, considering Roberts-Smith a fierce and impressive soldier now able to pass on his knowledge to less experienced operators.

But not all felt that way. Concerns inside the SAS about the treatment of the least-experienced member of Roberts-Smith's patrol, Trooper J, were raised in mid-2012, just



prior to deployment to Afghanistan.

During a training exercise in Perth involving the mock capture of an Afghan prisoner, three SAS soldiers witnessed Roberts-Smith instruct Trooper J to shoot the detainee.

"RS grabbed [Trooper J] by the shoulder and said, 'F--ing kill him, f--ing kill him'," an SAS soldier who claims to have witnessed the event said.

The soldier alleges Trooper J responded by half-heartedly simulating a mock execution ("he went 'bang' as a joke," recalls a witness).

This witness alleges that Robert-Smith then said, "You good with that?" The witnesses who observed the order said that two patrol commanders informally challenged Roberts-Smith, telling him to "pull your head in".

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#### RELATED ARTICLE



#### DEFENCE

#### SAS ethics 'deeply compromised' by Afghanistan failings

Roberts-Smith would report him to the International Criminal Court at The Hague for firing in the vicinity of civilians.

The treatment of Trooper J by Roberts-Smith concerned several experienced patrol commanders, who were also troubled about other aspects of Roberts-Smith's mentoring and leadership in 2012. The most pressing issue being discussed among a small number of senior SAS soldiers involved his patrol's involvement in an alleged assault on an unarmed Afghan.

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***"I've been under the microscope for the last six years and, you know what, my record is spotless."***

Ben Roberts-Smith

Those with concerns were surprised and angered, therefore, when Defence in 2014 released a formal assessment of Roberts-Smith's 2012 service as it awarded him a Commendation for Distinguished Service, praising his exemplary "mentoring ... of his patrol and less experienced members".

Three patrol commanders, who are still serving with the regiment and who have also been recognised for their service in Afghanistan, signed a complaint written by one of the trio, Sergeant L. The complaint urged senior officers to investigate Roberts-Smith's mentoring, leadership and treatment of Trooper J.

"As SAS soldiers, we are responsible for accurate reporting and honesty, in the field and in camp. This citation is a contradiction of those values," the complaint said.

For two years, the complaint went nowhere. But it is one of many documents handed to the Inspector-General.

## **Denials and accusations**

For his part, Roberts-Smith traces the complaints about his behaviour to the awarding of the VC in 2011. His forceful, driven personality – one shared by many in the regiment – stoked resentment.

When queried about this last year, he said: "I am hard, I get that, but there is no one I beat up harder than myself. You are supposed to be better. If not, you should not be there. Because if you make a mistake, someone is going to die."

His supporters insist the allegations stem from envy, most particularly from disgruntled veterans. Roberts-Smith's defamation lawyer also blames sensationalist journalists for seeking to bring down a war hero through a "smear campaign".

Ross Coulthart – a former TV investigative journalist who is now a public relations consultant for a firm, Cato and Clegg – is working closely with Roberts-Smith and his lawyer on his own investigation into Fairfax Media's reporting.

Coulthart has interviewed SAS soldiers close to Roberts-Smith and is privately insisting to people linked to Channel Seven there is no evidence of any wrongdoing. However, he and the PR firm's Sue Cato have declined to share their findings. Publicly, Coulthart refuses even to say who he is working for.



Australian SAS troops in Afghanistan. *Photo: Forward Scout Films*

Roberts-Smith has previously decried his critics as hypocrites, saying: "The bullying is what they do to me. Bullies are cowards. They stay in the shadows. This is about group cowardice. I don't like bullies. I am sick of it."

He has been unequivocal he has no questions to answer in respect of any of his actions in Afghanistan.

"I've been under the microscope for the last six years and, you know what, my record is spotless," he said in a newspaper interview when questions about his conduct in Afghanistan first emerged publicly in October 2017.

But the argument that critical accounts of Roberts-Smith amount to tall-poppy syndrome sits uneasily with the testimony of many who have served in the SAS, including in Afghanistan.

Some sources note that the reputations of that conflict's other Victoria Cross recipients Mark Donaldson and Dan Keighran (a VC was also awarded posthumously to Commando Corporal Cameron Baird) have faced no such challenges.

Most significantly, the allegations about Roberts-Smith and his patrols have, according to regiment sources, been made under oath before the Inspector-General – a step for those witnesses that is well beyond simply muttering darkly to colleagues and journalists.

## Pushing back

Roberts-Smith has also been pushing back, apparently aiming to paint those making allegations about him as disgruntled liars.

In 2017, defamation lawyer Mark O'Brien, who is working for Roberts-Smith, separately wrote to the two soldiers who were members of Roberts-Smith's patrol in 2006 and who had expressed serious misgivings about his conduct.

The lawyer accused the two veterans of colluding to concoct false allegations. Roberts-Smith sent a letter himself to a third SAS veteran, also threatening litigation.

***"The bullying is what they do to me ... This is about group cowardice. I don't like bullies. I am sick of it."***

Ben Roberts-Smith

Attention then shifted to a fourth SAS Afghanistan veteran, Sergeant L. He'd written the 2014 complaint that urged an investigation of Roberts-Smith's Commendation for Distinguished Service and which was signed by two other patrol commanders.

On October 18, 2017, in a letter sent to Fairfax Media, Roberts-Smith's defamation lawyer attacked the credibility of Sergeant L, accusing him of smuggling weapons into Afghanistan in 2012. (The two other patrol commanders who signed the 2014 complaint were not mentioned in the letter).

By now, more missives attacking Sergeant L were also circulating, although who was responsible for these remains a mystery.

On October 20, 2017, *The Australian* newspaper received an anonymous email. Fairfax Media has linked this email to a Queensland photographer, Nathan Richter but he has said he was just acting as a middleman and refuses to say who wrote and sent it.

This email repeated the historic gun smuggling claim and added some dramatic detail. It claimed Sergeant L was at grave risk of gunning down civilians in Perth. The baseless massacre allegation was also sent to Australian Federal Police in an apparent attempt to get police to raid Sergeant L. Days later, they did so, finding none of the weapons the mystery writer had promised would be located.

Six months later, another mysterious writer emerged.

In April, the female lawyer Roberts-Smith had weeks earlier taken as his guest to the Great Hall of Parliament House also received an email. It was from a "Danielle Kennedy" and claimed to have been sent on behalf of Roberts-Smith. By then, Canberra sources say the lawyer was alleging Roberts-Smith had subjected her to an act of domestic violence and intimidation in the hours after the Great Hall event in late March.

According to senior sources in Canberra, a relative of the woman complained about the alleged incident to a politician, who alerted a more senior colleague, who in turn alerted defence officials. Later, the alleged victim told police of her claims. Police have been told she had been drinking at the event, and as it ended, alleges Roberts-Smith appeared angry at her behaviour, worried it had exposed his affair to the military's top brass.

She stumbled and fell down some stairs at Parliament House as she left the event, causing further embarrassment. Police have been told that by the time the pair arrived



back at the Realm Hotel, Roberts-Smith was allegedly furious and she was subjected to an act of domestic violence.

(Fairfax Media has decided not to name the lawyer due to the nature of her allegations. Defence and political figures who have been told of the allegations have said that once they learned she had gone to police, they took no further action.)

Police also have details of multiple phone and email accounts the married Roberts-Smith used to conduct the liaison prior to it ending on April 6, when the lawyer disclosed the affair to his wife.



Ben Roberts-Smith in front of his portrait at the Australian War Memorial in Canberra. *Photo: Jay Cronan*

On April 22, the lawyer received the email from "Danielle Kennedy", who claimed to "represent Mr Roberts-Smith" and be acting on his "instructions." Fairfax Media could not locate any lawyer by the name of "Danielle Kennedy". The photo used in the email appears to have been stolen by someone from the internet. It is of Anne Whelford, an administrator at Lincoln University in Christchurch, New Zealand.

After a university spokesman was supplied by Fairfax Media with a copy of the "Danielle Kennedy" email, he sent a statement saying: "Lincoln University was unaware of the use of Anne Whelford's photograph, as was she, and neither party sanctions its use in this way".

The use of the picture "is a matter which should be dealt with by the police," the statement said.

The woman at the centre of allegations declined to comment. Roberts-Smith has also declined requests from Fairfax Media to be interviewed, or to answer questions about any knowledge he might have of "Danielle Kennedy", or why a stolen photo was used, or to give his version of events.

It is understood that after he received questions, he told his public relations advisers that no affair had ever occurred (a claim undermined by copious evidence) and that the alleged domestic violence and intimidation is also a malicious invention. And on Wednesday of this week – six days after he was alerted that Fairfax Media knew of the allegations reported to police as well as the mysterious "Danielle Kennedy" – Roberts-Smith contacted a Queensland police station, claiming to be a victim of stalking by the lawyer.

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***"I am hard, I get that, but there is no one I beat up harder than myself"***

Ben Roberts-Smith

In respect of the claims made by SAS soldiers, Roberts-Smith has also privately dismissed allegations he is a bully or that he ever assaulted or bullied a fellow soldier.

Most significantly, Roberts-Smith privately and passionately dismisses all allegations he has ever breached the laws of armed conflict in Afghanistan. He recently retained a top Sydney barrister with expertise in military inquiries, Arthur Moses, SC.

In his recent public appearances, Roberts-Smith appears to have sought opportunities to burnish his image.

He recently appeared on a Channel Seven tourism and lifestyle program to highlight his family values – "family is the most valuable thing" – and his passion for supporting soldiers struggling with mental health problems.

**Not a shred of evidence**

In June, yet another mysterious letter writer was at work. A former member of Roberts-Smith's patrol received a letter from an anonymous source warning that he should withdraw what the letter described as false information given to the Inspector-General, or risk having adverse information about his own activities exposed.

The patrol member immediately reported the letter to the SAS Commanding Officer, who relayed it to the Inspector-General. The Inspector-General does not comment on ongoing investigations.

But the patrol member has told colleagues he is not scared by the threat.

Roberts-Smith's supporters privately insist the Inspector-General will clear him of any wrongdoing and there is not a "shred" of evidence that suggests otherwise. Roberts-Smith's supporters also say that the famous soldier is yet to give his version of events.

But SAS insiders aware of some of the adverse allegations about Roberts-Smith or the conduct of his patrols say credible evidence has already been placed on record and on oath.

Questions have dogged Ben Roberts-Smith from a time well before he became supersized by expectation, responsibility and pride in the spirit of the Anzacs. After two years of investigation, and having interviewed 200 witnesses on oath, the Inspector-General is expected to finalise his report in the coming months.

## **Roberts-Smith's response**

On Friday Roberts-Smith released a statement via Seven West about this story. It read:

"The article contains a catalogue of lies, fabrications and misrepresentations. It is the culmination of many months of malicious and highly damaging allegations, all of which will be vigorously defended.

"I do want to say today that I unequivocally deny any physical abuse of any woman at any time ever, and that I have not at any stage been interviewed by Police about any purported complaint by any woman.

"I am deeply troubled that alleged evidence given on oath before the IGADF inquiry has been canvassed in the press and that Fairfax has allegedly accessed it. Not only is it

illegal, it is unfair to people who haven't given evidence and it has the potential to undermine the fairness of the inquiry.

"If and when I am given the opportunity to defend each specific allegation, I am very confident that direct witnesses will categorically demonstrate the falsity of them all."

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### Nick McKenzie



Nick McKenzie is a leading investigative journalist. He's won Australia's top journalism award, the Walkley, seven times and covers politics, business, foreign affairs and defence, human rights issues, the criminal justice system and social affairs.



### David Wroe



David Wroe is the defence and national security correspondent for the Sydney Morning Herald and The Age, based at Parliament House

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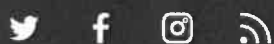


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## ANNEXURE "F-1"

### SCHEDULE 6 – SIXTH MATTER COMPLAINED OF

**SYDNEY MORNING HERALD: Published: 10 August 2018**

1.	<b>DEFENCE</b>
2.	<b>Beneath the bravery of our most decorated soldier</b>
3.	Victoria Cross recipient, Father of the Year, business leader and mental health advocate - Ben Roberts-Smith is one of Australia's most respected public figures. So why are so many questions being asked about his past?
4.	By Nick McKenzie, David Wroe & Chris Masters
5.	10 AUGUST 2018
6.	<b>STILL IMAGE [Prime Minister Malcolm Turnbull with Ben Roberts-Smith in background]</b>
7.	When Malcolm Turnbull gave a speech four months ago about the struggle some veterans faced readjusting to civilian life, it was hard to ignore the man towering behind him in the Great Hall of Parliament House.
8.	Hands clasped and head slightly bowed, Australia's most decorated Afghanistan veteran, Ben Roberts-Smith, stood on stage with the Prime Minister as a living testament to success after the military.
9.	Having received a Victoria Cross for bravery during an assault on the Afghan village of Tizak in 2010 – an award that was preceded by a Medal for Gallantry and followed by a Commendation for Distinguished Service – Roberts-Smith was in the midst of a seemingly successful transition into corporate life.
10.	The transformation from battlefield to boardroom was significant. For 10 years, Roberts-Smith had served with Australia's Special Air Service Regiment, a unit of elite soldiers who are mostly not allowed to speak about their work.
11.	Receiving the Commonwealth's ultimate bravery award made Roberts-Smith an instant celebrity. His agent began charging thousands to corporate clients to hear not only from "the most decorated soldier in the Commonwealth" but a man who had also been named "Australian Father of the Year".
12.	He was appointed chairman of the Australia Day Council, the deputy chairman of the Prime Minister's defence mental health committee and veterans' employment committee. He became the public face of a campaign against "one punch" violence and the "Stay Kind" campaign, which urges Australians to look after vulnerable mates.
13.	He helped select domestic violence campaigner Rosie Batty as an Australian of the Year. The award ceremony produced an evocative image of the 196-centimetre warrior gently comforting a tearful Batty.

14.	The photograph fitted his public ethos, which was to value "moral courage" above physical prowess and "cherish your family every single day".
15.	<b>STILL IMAGE [Ben Roberts-Smith with Rosie Batty]</b> Rosie Batty, having just been announced as 2015 Australian of the Year, is comforted by Ben Roberts-Smith, Chair of the National Australia Day Council. Photo: David Flannery
16.	But as he stood behind Turnbull at a veterans' function at Parliament House on March 28, serious doubts about his conduct were being discussed in senior defence circles.
17.	Among the assembled generals and politicians in the Great Hall that night were some who had trouble reconciling disturbing allegations about Roberts-Smith's behaviour in Afghanistan and back home with the grand public image.
18.	Over almost a year, Fairfax Media has interviewed dozens of veterans, officials and people with knowledge of Roberts-Smith's personal conduct including decorated soldiers who served alongside him. Their claims include bullying, intimidation and his involvement in small SAS teams suspected of the abuse of unarmed civilians and the use of force that goes well beyond what is acceptable in the theatre of war.
19.	Indeed, some of the most important people in the room that night knew of the allegations.
20.	At the VIP table sat the unflappable Chief of Army and special forces veteran, Lieutenant-General Angus Campbell. Two years earlier, Campbell had commissioned the Inspector-General of the Defence Force to begin an inquiry into the nation's special forces – the most penetrating inquiry in the recent history of Australia's military.
21.	<b>Disturbing rumours</b>
22.	By the time of the Great Hall event, it was clear to an inner circle in defence that disturbing rumours about small SAS patrol teams – typically consisting of five to six men including a patrol commander and deputy commander – involved serious allegations about their conduct in Afghanistan.
23.	The patrols under scrutiny featured Roberts-Smith as a key player, either as a deputy or lead patrol commander. Those making the allegations were from the SAS itself and had served alongside Roberts-Smith's patrols in Afghanistan.
24.	The allegations concerned the patrols' treatment of detainees or unarmed Afghans. They included claims that the patrols may have failed to report accurately incidents in which Afghans had been subjected to the use of force, including acts of brutality perpetrated against unarmed men.
25.	SAS veterans have also alleged to Fairfax Media that Roberts-Smith bullied and intimidated fellow soldiers, including two junior operators who made internal complaints about the impact of his conduct on their mental health.
26.	Witnesses allege one was punched in the head by an angry Roberts-Smith after a battlefield bungle.



27.	But it wasn't only Roberts-Smith's conduct as an SAS operator that would prompt scrutiny. That evening at the Great Hall would result in further allegations that suggest he was struggling with the difficult task of living up to all that was expected of him.
28.	Sitting on the same VIP table as Lieutenant-General Campbell, between ADF deputy chief Vice-Admiral Ray Griggs and Veterans' Affairs Minister Darren Chester, was a female lawyer whom Roberts-Smith had brought as his guest, and whom he'd introduced to military figures earlier that day as a client of his employer, Channel Seven.
29.	After completing a masters of business administration in 2016, the former Australian Army corporal had been appointed general manager of the TV network's Queensland operations by media tycoon Kerry Stokes. But the woman wasn't a Channel Seven client. Instead, Roberts-Smith was in the midst of a extramarital relationship with the woman.
30.	Sources at the event questioned why Roberts-Smith risked revealing that he was having an affair by taking his mistress to a high-profile function where, beyond the Prime Minister, he was the most prominent guest. But, far more concerning, senior defence officials later learnt of allegations she raised with police about what happened later that night at the Hotel Realm in Canberra: an alleged act of domestic violence and intimidation.
31.	<b>STILL IMAGE [Ben Roberts-Smith]</b> Roberts-Smith speaks on Anzac Day, 2017 in Melbourne. Photo: AAP
32.	Through his lawyer, Roberts-Smith initially declined to respond to the allegations concerning his guest at the event.
33.	He did not respond to questions about allegations being made separately by some of his former SAS colleagues and what knowledge, if any, he has about the mistreatment of Afghans.
34.	Roberts-Smith is also silent on the question of whether he knows anything about who has been sending anonymous letters and emails to, or about, his accusers.
35.	<b>Risking all</b>
36.	Shortly after the guns fell silent at Tizak in 2010, the sneakers Ben Roberts-Smith wore during the famous battle were photographed. The white shoes are splattered with blood. They evoke the image of a man racing towards danger, risking all.
37.	His Victoria Cross citation puts this image in words, describing an "extreme devotion to duty" paired with "a total disregard for his own safety" as Roberts-Smith "stormed the enemy position killing the ... machine gunners".
38.	During his deployments to Afghanistan in 2009 and 2010, Roberts-Smith was deputy commander of a small SAS patrol. In his last overseas deployment, prior to leaving the army in 2013, he was appointed patrol commander.
39.	Fairfax Media has confirmed by speaking to multiple special forces insiders that among the allegations made to the Inspector-General's inquiry is that patrols he helped lead

	brutally mistreated unarmed Afghans.
40.	<p><b>STILL IMAGE [Quote from a defence force insider]</b></p> <p><i>"RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts. I went, 'Whoa whoa whoa. Back off mate.'"</i></p> <p>A defence force insider</p>
41.	Four defence insiders have alleged that they observed patrols under Roberts-Smith's direct or deputy leadership severely mistreat unarmed Afghans on four occasions.
42.	A member of Roberts-Smith's 2009 patrol allegedly encouraged a more junior trooper to execute a detainee – a suspected militant – and was later overheard boasting about it. Fairfax Media has obtained a photo of the dead man and two witness accounts describing the circumstances in which the Afghan died.
43.	One insider, an experienced SAS soldier, has vividly described intervening to stop Roberts-Smith bashing an unarmed Afghan whom two patrol commanders were seeking to arrest in 2010.
44.	The bearded man had frozen in the foetal position when Roberts-Smith entered the room, wearing Kevlar gloves.
45.	The insider describes Roberts-Smith unexpectedly attacking the man, pummelling him in the face with his fists, and in the stomach with his knees.
46.	"RS [Roberts-Smith] repeatedly smashed this guy in the cheek and kneed him in the guts. I went, 'Whoa whoa whoa. Back off mate. We have this under control.'"
47.	<b>INSET LINK TO RELATED ARTICLE [Image of Ben Roberts-Smith – DEFENCE - VC winner Ben Roberts-Smith among subjects of defence investigation]</b>
48.	"The fella's face immediately blew up. We stepped back and gave the fella some space. We then arrested him."
49.	Two alleged incidents have been separately recounted by other SAS members and involve men under the control of a patrol being led by Roberts-Smith. Both involve the alleged mistreatment of Afghan men who witnesses claim were posing no threat to Australian soldiers and could have been arrested without the use of force. One of the men harmed was in custody and posing no threat at all when he was allegedly badly assaulted.
50.	Sources from inside the SAS say this alleged mistreatment was not only unnecessary but potentially counter-productive. An essential purpose of the Afghanistan mission was the protection of the local population and the generation of confidence in the coalition and government forces.
51.	The sources also concede that, while the allegations caused deep concern, and were discussed informally and sometimes raised with more senior SAS soldiers, they were not immediately reported to senior command in Canberra.

52.	<b>A new career</b>
53.	Keeping secrets is part of being in the SAS. Yet by late 2012 and early 2013, as Roberts-Smith was preparing to embark on his new career as a corporate and community leader and mental health champion, some of his SAS colleagues were asking if the decorated warrior might have shirked scrutiny because less experienced soldiers were worried about challenging him.
54.	Much of the concern held by senior military officers about the cultural problems within the SAS have involved keeping quiet about behaviours that needed confronting. A report in March 2016 by then Special Operations Commander Major-General Jeff Sengelman described a culture of impunity that may have normalised allegedly disturbing behaviour. Sengelman's report also identified serious "governance and behavioural lapses" and ultimately helped spark the Inspector-General's inquiry.
55.	A record of a discussion between two long-serving SAS patrol commanders, obtained by Fairfax Media, reveals some experienced soldiers in the regiment were worried that Roberts-Smith's apparent bullying meant some in his patrol were scared to question battlefield incidents or those which allegedly occurred back at base or in training.
56.	The two patrol commanders identify that the first time Roberts-Smith came to attention for alleged bullying inside the SAS was in 2006, during his first deployment to Afghanistan.
57.	<b>STILL IMAGE [SAS Soldier]</b> SAS soldiers on patrol in Afghanistan in 2005. Photo: Simon O'Dwyer
58.	Following a hair-raising battle early in the deployment, Roberts-Smith fell out with two members of a six-man patrol, in part over whether it was necessary to kill an Afghan who had earlier walked past the patrol's observation post.
59.	One of the two patrol members later insisted to colleagues the Afghan appeared to be an unarmed teenager whose death could have been avoided.
60.	But it was a perilous circumstance and a tough call apparently made in the fog of war. Roberts-Smith's version of events was backed by other patrol members.
61.	The young male was presumed to be a "spotter". This meant there was a chance he might have seen the observation post and planned to report it to the Taliban, who could then attack. Roberts-Smith and other patrol members also said the male was armed with a smoke grenade, which exploded after he was shot.
62.	The conflicting accounts are mirrored in official reports relayed by the patrol to senior officers and seen by Fairfax Media. Some post-incident reports describe an anti-coalition militant posing a "threat." Some reports go further, falsely stating the dead male was armed with an automatic rifle.
63.	Roberts-Smith accused the two patrol members critical of his actions of cowardice and failing to prepare their weapons.
64.	Multiple sources contend Roberts-Smith followed up this critique with repeated bullying of the smaller and quieter of the two patrol members, Trooper M. (Fairfax Media cannot

	name a serving SAS soldier but have confirmed he is still serving and has been promoted to patrol commander)
65.	More than one witness claims to have overheard Roberts-Smith threatening to harm Trooper M, an alleged threat Trooper M relayed to colleagues.
66.	The two patrol commanders alleged "years of bullying that RS [Roberts-Smith] put him through" and which impacted his mental health. A bullying complaint against Roberts-Smith was ultimately lodged inside the SAS by Trooper M , which led to mediation.
67.	<b>Commended for leadership</b>
68.	Roberts-Smith's promotion to patrol commander left him responsible for mentoring junior soldiers under his command. It was an appointment he relished, a realisation of leadership ambitions. Some other SAS soldiers were also pleased, considering Roberts-Smith a fierce and impressive soldier now able to pass on his knowledge to less experienced operators.
69.	But not all felt that way. Concerns inside the SAS about the treatment of the least-experienced member of Roberts-Smith's patrol, Trooper J, were raised in mid-2012, just prior to deployment to Afghanistan.
70.	During a training exercise in Perth involving the mock capture of an Afghan prisoner, three SAS soldiers witnessed Roberts-Smith instruct Trooper J to shoot the detainee.
71.	"RS grabbed [Trooper J] by the shoulder and said, 'F--ing kill him, f--ing kill him'," an SAS soldier who claims to have witnessed the event said.
72.	The soldier alleges Trooper J responded by half-heartedly simulating a mock execution ("he went 'bang' as a joke," recalls a witness).
73.	This witness alleges that Robert-Smith then said, "You good with that?" The witnesses who observed the order said that two patrol commanders informally challenged Roberts-Smith, telling him to "pull your head in".
74.	<b>INSET LINK TO RELATED ARTICLE [Image of soldiers – DEFENCE - SAS ethics 'deeply compromised' by Afghanistan failings]</b>
75.	After arriving in Afghanistan in July 2012, the mentoring of Trooper J generated further controversy when a mission on July 15 to the Chora Valley to flush out the Taliban turned ugly, and one patrol member was nearly shot by a second SAS patrol in a near fatal "friendly fire" bungle.
76.	Trooper J wasn't responsible for the friendly fire but he was accused of breaching protocol by firing his weapon in response and not adhering to Roberts-Smith's orders. He was formally investigated, placed on administrative duties with another patrol and soon after left the army.
77.	According to statements later submitted to senior defence officials, Roberts-Smith ran his own, off-the-books disciplinary process. Multiple witnesses allege that Roberts-Smith castigated the trooper in front of his patrol, ordering Trooper J to stand up and then

	punching him in the head.
78.	A further threat from Roberts-Smith was allegedly made several months later: if the trooper's account about the incident and aftermath was not consistent with his version, Roberts-Smith would report him to the International Criminal Court at The Hague for firing in the vicinity of civilians.
79.	The treatment of Trooper J by Roberts-Smith concerned several experienced patrol commanders, who were also troubled about other aspects of Roberts-Smith's mentoring and leadership in 2012. The most pressing issue being discussed among a small number of senior SAS soldiers involved his patrol's involvement in an alleged assault on an unarmed Afghan.
80.	<b>STILL IMAGE [Quote from Ben Roberts-Smith]</b> <i>"I've been under the microscope for the last six years and, you know what, my record is spotless."</i> Ben Roberts-Smith
81.	Those with concerns were surprised and angered, therefore, when Defence in 2014 released a formal assessment of Roberts-Smith's 2012 service as it awarded him a Commendation for Distinguished Service, praising his exemplary "mentoring ... of his patrol and less experienced members".
82.	Three patrol commanders, who are still serving with the regiment and who have also been recognised for their service in Afghanistan, signed a complaint written by one of the trio, Sergeant L. The complaint urged senior officers to investigate Roberts-Smith's mentoring, leadership and treatment of Trooper J.
83.	"As SAS soldiers, we are responsible for accurate reporting and honesty, in the field and in camp. This citation is a contradiction of those values," the complaint said.
84.	For two years, the complaint went nowhere. But it is one of many documents handed to the Inspector-General.
85.	<b>Denials and accusations</b>
86.	For his part, Roberts-Smith traces the complaints about his behaviour to the awarding of the VC in 2011. His forceful, driven personality – one shared by many in the regiment – stoked resentment.
87.	When queried about this last year, he said: "I am hard, I get that, but there is no one I beat up harder than myself. You are supposed to be better. If not, you should not be there. Because if you make a mistake, someone is going to die."
88.	His supporters insist the allegations stem from envy, most particularly from disgruntled veterans. Roberts-Smith's defamation lawyer also blames sensationalist journalists for seeking to bring down a war hero through a "smear campaign".
89.	Ross Coulthart – a former TV investigative journalist who is now a public relations consultant for a firm, Cato and Clegg – is working closely with Roberts-Smith and his



	lawyer on his own investigation into Fairfax Media's reporting.
90.	Coulthart has interviewed SAS soldiers close to Roberts-Smith and is privately insisting to people linked to Channel Seven there is no evidence of any wrongdoing. However, he and the PR firm's Sue Cato have declined to share their findings. Publicly, Coulthart refuses even to say who he is working for.
91.	<b>STILL IMAGE [SAS Troops]</b> Australian SAS troops in Afghanistan. Photo: Forward Scout Films
92.	Roberts-Smith has previously decried his critics as hypocrites, saying: "The bullying is what they do to me. Bullies are cowards. They stay in the shadows. This is about group cowardice. I don't like bullies. I am sick of it."
93.	He has been unequivocal he has no questions to answer in respect of any of his actions in Afghanistan.
94.	"I've been under the microscope for the last six years and, you know what, my record is spotless," he said in a newspaper interview when questions about his conduct in Afghanistan first emerged publicly in October 2017.
95.	But the argument that critical accounts of Roberts-Smith amount to tall-poppy syndrome sits uneasily with the testimony of many who have served in the SAS, including in Afghanistan.
96.	Some sources note that the reputations of that conflict's other Victoria Cross recipients Mark Donaldson and Dan Keighran (a VC was also awarded posthumously to Commando Corporal Cameron Baird) have faced no such challenges.
97.	Most significantly, the allegations about Roberts-Smith and his patrols have, according to regiment sources, been made under oath before the Inspector-General – a step for those witnesses that is well beyond simply muttering darkly to colleagues and journalists.
98.	<b>Pushing back</b>
99.	Roberts-Smith has also been pushing back, apparently aiming to paint those making allegations about him as disgruntled liars.
100.	In 2017, defamation lawyer Mark O'Brien, who is working for Roberts-Smith, separately wrote to the two soldiers who were members of Roberts-Smith's patrol in 2006 and who had expressed serious misgivings about his conduct.
101.	The lawyer accused the two veterans of colluding to concoct false allegations.
102.	Roberts-Smith sent a letter himself to a third SAS veteran, also threatening litigation.
103.	<b>STILL IMAGE [Quote from Ben Roberts-Smith]</b> <i>"The bullying is what they do to me ... This is about group cowardice. I don't like bullies. I am sick of it."</i>

	Ben Roberts-Smith
104.	Attention then shifted to a fourth SAS Afghanistan veteran, Sergeant L. He'd written the 2014 complaint that urged an investigation of Roberts-Smith's Commendation for Distinguished Service and which was signed by two other patrol commanders.
105.	On October 18, 2017, in a letter sent to Fairfax Media, Roberts-Smith's defamation lawyer attacked the credibility of Sergeant L, accusing him of smuggling weapons into Afghanistan in 2012. (The two other patrol commanders who signed the 2014 complaint were not mentioned in the letter).
106.	By now, more missives attacking Sergeant L were also circulating, although who was responsible for these remains a mystery.
107.	On October 20, 2017, The Australian newspaper received an anonymous email. Fairfax Media has linked this email to a Queensland photographer, Nathan Richter but he has said he was just acting as a middleman and refuses to say who wrote and sent it.
108.	This email repeated the historic gun smuggling claim and added some dramatic detail. It claimed Sergeant L was at grave risk of gunning down civilians in Perth. The baseless massacre allegation was also sent to Australian Federal Police in an apparent attempt to get police to raid Sergeant L. Days later, they did so, finding none of the weapons the mystery writer had promised would be located.
109.	Six months later, another mysterious writer emerged.
110.	In April, the female lawyer Roberts-Smith had weeks earlier taken as his guest to the Great Hall of Parliament House also received an email. It was from a "Danielle Kennedy" and claimed to have been sent on behalf of Roberts-Smith. By then, Canberra sources say the lawyer was alleging Roberts-Smith had subjected her to an act of domestic violence and intimidation in the hours after the Great Hall event in late March.
111.	According to senior sources in Canberra, a relative of the woman complained about the alleged incident to a politician, who alerted a more senior colleague, who in turn alerted defence officials. Later, the alleged victim told police of her claims. Police have been told she had been drinking at the event, and as it ended, alleges Roberts-Smith appeared angry at her behaviour, worried it had exposed his affair to the military's top brass.
112.	She stumbled and fell down some stairs at Parliament House as she left the event, causing further embarrassment. Police have been told that by the time the pair arrived back at the Realm Hotel, Roberts-Smith was allegedly furious and she was subjected to an act of domestic violence.
113.	(Fairfax Media has decided not to name the lawyer due to the nature of her allegations. Defence and political figures who have been told of the allegations have said that once they learned she had gone to police, they took no further action.)
114.	Police also have details of multiple phone and email accounts the married Roberts-Smith used to conduct the liaison prior to it ending on April 6, when the lawyer disclosed the affair to his wife.

115.	<b>STILL IMAGE [Ben Roberts-Smith]</b> Ben Roberts-Smith in front of his portrait at the Australian War Memorial in Canberra. Photo: Jay Cronan
116.	On April 22, the lawyer received the email from "Danielle Kennedy", who claimed to "represent Mr Roberts-Smith" and be acting on his "instructions." Fairfax Media could not locate any lawyer by the name of "Danielle Kennedy". The photo used in the email appears to have been stolen by someone from the internet. It is of Anne Whelford, an administrator at Lincoln University in Christchurch, New Zealand.
117.	After a university spokesman was supplied by Fairfax Media with a copy of the "Danielle Kennedy" email, he sent a statement saying: "Lincoln University was unaware of the use of Anne Whelford's photograph, as was she, and neither party sanctions its use in this way".
118.	The use of the picture "is a matter which should be dealt with by the police," the statement said.
119.	The woman at the centre of allegations declined to comment. Roberts-Smith has also declined requests from Fairfax Media to be interviewed, or to answer questions about any knowledge he might have of "Danielle Kennedy", or why a stolen photo was used, or to give his version of events.
120.	It is understood that after he received questions, he told his public relations advisers that no affair had ever occurred (a claim undermined by copious evidence) and that the alleged domestic violence and intimidation is also a malicious invention. And on Wednesday of this week – six days after he was alerted that Fairfax Media knew of the allegations reported to police as well as the mysterious "Danielle Kennedy" – Roberts-Smith contacted a Queensland police station, claiming to be a victim of stalking by the lawyer.
121.	<b>STILL IMAGE [Quote from Ben Roberts-Smith]</b> <i>"I am hard, I get that, but there is no one I beat up harder than myself"</i> Ben Roberts-Smith
122.	In respect of the claims made by SAS soldiers, Roberts-Smith has also privately dismissed allegations he is a bully or that he ever assaulted or bullied a fellow soldier.
123.	Most significantly, Roberts-Smith privately and passionately dismisses all allegations he has ever breached the laws of armed conflict in Afghanistan. He recently retained a top Sydney barrister with expertise in military inquiries, Arthur Moses, SC.
124.	In his recent public appearances, Roberts-Smith appears to have sought opportunities to burnish his image.
125.	He recently appeared on a Channel Seven tourism and lifestyle program to highlight his family values – "family is the most valuable thing" – and his passion for supporting soldiers struggling with mental health problems.

126.	<b>Not a shred of evidence</b>
127.	In June, yet another mysterious letter writer was at work. A former member of Roberts-Smith's patrol received a letter from an anonymous source warning that he should withdraw what the letter described as false information given to the Inspector-General, or risk having adverse information about his own activities exposed.
128.	The patrol member immediately reported the letter to the SAS Commanding Officer, who relayed it to the Inspector-General. The Inspector-General does not comment on ongoing investigations.
129.	But the patrol member has told colleagues he is not scared by the threat.
130.	Roberts-Smith's supporters privately insist the Inspector-General will clear him of any wrongdoing and there is not a "shred" of evidence that suggests otherwise. Roberts-Smith's supporters also say that the famous soldier is yet to give his version of events.
131.	But SAS insiders aware of some of the adverse allegations about Roberts-Smith or the conduct of his patrols say credible evidence has already been placed on record and on oath.
132.	Questions have dogged Ben Roberts-Smith from a time well before he became supersized by expectation, responsibility and pride in the spirit of the Anzacs. After two years of investigation, and having interviewed 200 witnesses on oath, the Inspector-General is expected to finalise his report in the coming months.
133.	<b>Roberts-Smith's response</b>
134.	On Friday Roberts-Smith released a statement via Seven West about this story. It read:
135.	"The article contains a catalogue of lies, fabrications and misrepresentations. It is the culmination of many months of malicious and highly damaging allegations, all of which will be vigorously defended.
136.	"I do want to say today that I unequivocally deny any physical abuse of any woman at any time ever, and that I have not at any stage been interviewed by Police about any purported complaint by any woman.
137.	"I am deeply troubled that alleged evidence given on oath before the IGADF inquiry has been canvassed in the press and that Fairfax has allegedly accessed it. Not only is it illegal, it is unfair to people who haven't given evidence and it has the potential to undermine the fairness of the inquiry.
138.	"If and when I am given the opportunity to defend each specific allegation, I am very confident that direct witnesses will categorically demonstrate the falsity of them all."
139.	Know more? Contact Nick McKenzie securely on this encrypted app.