

## NOTICE OF FILING

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### Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number:	NSD1486/2018
File Title:	BEN ROBERTS-SMITH v THE AGE COMPANY PTY LTD ACN 004 262 702 & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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

Dated: 17/08/2018 9:32:19 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.

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## Statement of Claim

No. of 2018

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

**Ben Roberts-Smith**

Applicant

**The Age Company Pty Limited ACN 004 262 702** 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 Age and Sunday Age Newspapers;
  - (c) the publisher of material on the website located at the URL address [www.theage.com.au](http://www.theage.com.au) (**the Age Website**);
- 3 The Second, Third and Fourth Respondents are journalists employed or engaged by the First Respondent or one of its related corporations.

{00404702.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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(include state and postcode)

## 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 Age newspaper entitled “SAS’s Day of Shame” and “Did the SAS kick a cuffed man off cliff?” 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 Age newspaper in the Australian Capital Territory, Victoria 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, 5, 6, 7, 13, 16, 17, 19, 20, 21, 22, 23, 28, 31, 33, 34, 36, 37, 39, 41, 44, 45, 46, 48, 59, 66, 69, 70, 71, 77, 78, 79, 80, 83, 87, 94, 95, 96, 97, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 140, 141, 148 and 149.
- (b) Imputation 5(b): 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 33, 34, 36, 37, 39, 41, 44, 48, 59, 66, 69, 70, 71, 74, 77, 79, 80, 81, 82, 83, 94, 95, 96, 97, 109, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 131, 135, 136, 137, 140, 141, 148 and 149.
- (c) Imputation 5(c): 2, 3, 5, 6, 7, 8, 12, 13, 16, 17, 19, 20, 21, 22, 23, 28, 29, 31, 33, 34, 36, 37, 39, 41, 44, 45, 46, 48, 59, 66, 70, 71, 74, 77, 79, 80, 83, 87, 88, 94, 95, 96, 97, 109, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 131, 135, 136, 140, 141, 148 and 149.

#### ***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 Age 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 Age Website;
- (b) the publication was made available for download on and from 8 June 2018 at the address <https://www.theage.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 Sunday Age newspaper entitled "*Blood ties*" 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 Respondents in the Sunday Age newspaper in Victoria 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, 4, 7, 12 and 16.
- (b) Imputation 9(b): 5, 6, 9, 12 and 15.
- (c) Imputation 9(c): 10, 11 and 12.
- (d) Imputation 9(d): 5, 6, 9, 12 and 15.

***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 Age 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 Age Website;
- (b) the publication was made available for download on and from 9 June 2018 at the address <https://www.theage.com.au/politics/federal/special-forces-rookie-blooded-by-executing-an-unarmed-man-20180605-p4zjmw.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 Age newspaper entitled "*The cracks in a war hero's facade*", "*Beneath the bravery*" and "*Beneath lauded soldier's bravery*" 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 Respondents in The Age newspaper in Victoria 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): 15, 16, 17, 30, 31, 101, 102, 103, 104, 105 and 112.
- (b) Imputation 13(b): 30, 59, 101, 102, 103, 104, 105 and 112.
- (c) Imputation 13(c): 19, 21, 22, and 38.
- (d) Imputation 13(d): 19, 21, 22, 24, 36, 39, 40, 41, 42 and 45.
- (e) Imputation 13(e): 19, 21, 22, 24, 36, 37, and 43.

(f) Imputation 13(f): 19, 21, 22, 25, 49, 50, 57 and 58.

(g) Imputation 13(g): 19, 21, 22, 25, 70 and 76.

(h) Imputation 13(h): 19, 21, 22, 24, 36, 43 and 71.

- 14 On or about 10 August 2018 the First, Second, Third and Fourth Respondents published of and concerning the Applicant on the Age 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 Age Website;
- (b) the publication was made available for download on and from 10 August 2018 at the address <https://www.theage.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



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 'M. O'Brien', written over a horizontal line.

Signed by Mark Geoffrey O'Brien  
Lawyer for the Applicant

**KICK MORE GOALS**TV boss' plan to save footy  
**PAGE 50**S A T U R D A Y  
STATE LIBRARY OF NSW  
**THE AGE**  
Published in Melbourne since 1854**WHO, ME?**Leading questions for Albanese  
**PAGE 23**

\$4 SATURDAY, JUNE 9, 2018

I N D E P E N D E N T A L W A Y S

theage.com.au

**EXCLUSIVE**

# SAS's day of shame

An elite Australian soldier is alleged to have taken part in executions in Afghanistan, a special investigation by **Nick McKenzie** and **Chris Masters** reveals.

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 witnesses.

The revelations are the first corroborated accounts of alleged war crimes involving the Special Air Service Regiment in Afghanistan. They are the most serious cases to face the Australian military in years, not only because of 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 that 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.

Yesterday *The Age* published a leaked 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, which are primarily comprised of the SASR and the Commandos.

The alleged incidents of war crimes come as a secretive inquiry into what Defence has described as "rumours" of inappropriate special forces conduct enters its third year. The International Criminal Court is also deciding whether to launch an investigation into atrocities committed by all sides in the Afghanistan conflict.

Labor yesterday urged the public release of the confidential Defence report, labelling it "deeply concerning". Defence Minister Marise Payne said the allegations against special forces soldiers were being thoroughly investigated

**Continued Page 10****NICK MCKENZIE****SPECIAL REPORT**

'During the Afghan campaign, there was a group of individuals who believed they were immune from the law.'

**PAGES 10-13****CHRIS MASTERS****WEATHER**

**Today** Shower or two clearing  
**Tomorrow** Morning fog, then mostly sunny  
**Monday** Morning fog, then sunny  
**Details**

**10-15**  
**7-15**  
**6-16**  
Page 35

**ODDSPOT**

A man in Texas almost died after the head of a rattlesnake he found in his backyard and decapitated sank its fangs into his hand and held on for 30 seconds. By the time Jeremy Sutcliffe's wife got him to hospital he was in septic shock and bleeding internally. He survived, thanks to 26 doses of antivenom.

**Business**

What Apple does next is the trillion-dollar question  
**JOHN MCDULING**  
Page 8

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# Did the SAS kick a cuffed man off cliff?

## SPECIAL REPORT



BY



NICK MCKENZIE



CHRIS MASTERS

An Afghan father set off to get flour. He ran into some Australian soldiers. He never came home.

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 in New York, 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.

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

Major General Jeff Sengelman (pictured) was worried that the nation's most revered group of soldiers was "no longer holding itself to account".



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. 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 in Darwan.

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. The Age has spent months looking into Ali Jan's fate as part of a 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 Age 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 Age 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. The 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, 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 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 to the top-secret Australian Z Special Unit that fought during World

## SAS's day of shame: Elite Australian soldier allegedly took

From Page 1

independently from the chain of command.

The silver lining for the Defence Force is that 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. This is despite the potential impact on the reputation of serving and former members.

The prisoner of war allegedly

kicked off a cliff was detained by the SASR in the Afghan village of Darwan, in Oruzgan province, on September 11, 2012. He was arrested as Australian soldiers searched the village for Afghan army sergeant Hekmatullah, who days earlier had murdered three Australian soldiers and injured two others at a patrol base.

The SASR soldier, nicknamed "Leonidas" by a fellow soldier, after a Spartan warrior, kicked the handcuffed detainee 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 Age unsuccessfully sought to interview Leonidas, who cannot be named for legal reasons.

An Afghan freelance reporter working on assignment for Fairfax Media has spoken to the family of the man who was allegedly executed as well as other villagers from Darwan. They said Ali Jan, a father of seven who worked as

a shepherd, was arrested and had been detained by the SASR before he was allegedly executed. The villagers also claimed that Ali Jan had been forced over a cliff edge prior to his death, but did not directly witness this event or his later shooting.

The second alleged summary execution involving Leonidas occurred in October 2012. It has also been described in detailed testimony by two direct Defence Force witnesses. Both alleged that Leonidas instructed an Afghan soldier working with the Australians to execute an unarmed prisoner of war

suspected to have secreted a cache of arms in the wall of a house.

"If you won't do it, I will," the SASR soldier told the Afghan soldier, according to an Australian soldier who witnessed the alleged execution. A second Defence witness alleged Leonidas was "peer pressuring" the Afghan soldier to execute the unarmed man.

The two alleged summary executions are among several serious and credible accounts of war crimes uncovered by The Age involving a small SASR patrol and a small





An artist's impression of the 2012 incident, based on witness testimony. Illustrations: Matt Davidson

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.

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 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.

Continued Page 12

## Payne promises all claims will be investigated

David Wroe

The Turnbull government has vowed it is taking seriously allegations that some elite Australian special forces soldiers committed war crimes in Afghanistan, while Labor has demanded a confidential report containing the claims be made public.

Defence Minister Marise 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 of "un-sanctioned and illegal application of violence on operations", as well as claims of a lack of accountability to the military chain of command, were being thoroughly investigated. "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.

Foreign Minister Julie Bishop said there were; "very serious allegations" but the ADF was taking them seriously. "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 the Defence Minister. "We will also be seeking, subject to national security considerations, as much of this report as possible be brought to the public domain. Information in a report as significant as this should not be coming to light via leaks to newspapers," Mr

Marles said in a statement. He said military personnel, especially special forces, operate in "difficult and complex environments" and Australians should be assured they are working in a professional and legal way.

Liberal MP Andrew Hastie, a former SAS officer, told ABC radio: "I don't want to go into any specific allegations, but they should be taken seriously."

Former defence minister David Johnston said he'd never seen any indication of "problems within the elite units. "I think we have the best, highest level, highest standard special forces in the world and I'm very, very surprised that there would be aspersions cast upon them," he said.

*I'm very, very surprised that there would be aspersions cast upon them"*

Former defence minister David Johnston

Neil James, executive director of the Australia Defence Association, said there was "definitely a serious problem" but added there should be more attention on the causes – singling out the fact that special forces personnel were sent on too many operations.

"Governments of both persuasions have had such an aversion to casualties because they think it will lose them votes. That's driven them to overuse special forces for lots of things that could have been done by conventional military."

"And high operational tempo in an elite group is the type of scenario where you're going to get cultural problems and where those problems are going to become institutionalised over time."

## part in Afghanistan executions, investigation reveals

number of other SASR soldiers. The allegations extend to soldiers covering up the deaths of civilians.

It is understood the incidents are known to an inquiry under the auspices of the Defence inspector general and led by NSW judge and Paul Brereton.

But several serving and former SASR soldiers have broken ranks to brief reporters because there is no guarantee the findings of the Brereton inquiry will ever be publicly tabled, and doubt about whether the Australian Federal Police has the capability to conduct its own war crimes investigation, a prerequisite to any prosecution.

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.

It is understood that for two years until April, Justice Brereton had worked as a full-time judge while also overseeing the inquiry in his spare time.

Multiple sources also questioned if Defence and the government were prepared to examine major failures of oversight among some senior officers who, they say, ignored red flags, including that soldiers such as Leonidas were allegedly operating with no regard for the law.

The 2016 Defence inquiry detailed accounts from special forces insiders that some soldiers had allegedly committed war crimes, described as involving a "disregard for human life and dignity", during Australia's deployments to

Afghanistan between 2001 and 2013.

The inquiry was commissioned in 2016 by then Special Operations commander Sengelman, and was backed by incoming Defence Force chief Campbell.

The report also describes "enormous and difficult challenges" facing the Australian government in combating the issue, warning the misconduct goes "well beyond blowing off steam" and involves "problems deeply embedded in the culture" of the elite group at the centre of Australia's military response in Afghanistan.

The inquiry also warns that Australia's national security is being

damaged by "major gaps in knowledge" across government about the capability and culture of Special Operations Command, and poor co-ordination between its two key units, the Special Air Service Regiment and the Commandos.

The inquiry was conducted by Defence Department consultant Samantha Crompvoets, who interviewed special forces personnel, senior military leaders and top national security officials, including Defence Department secretary Greg Moriarty. The later and still ongoing inquiry by Justice Brereton was prompted by Dr Crompvoets' investigation.



SPECIAL  
REPORT

# Evidence mounts of SAS role in execution of cuffed man

From Page 11

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. 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.

Crompvoets was given free rein. She spoke to people from the Chief of Defence Force down in preparing her highly confidential 2016 report, which *The Age* 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, Crompvoets 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".

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

Crompvoets, 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.

## SPARTA AND HOLLYWOOD

Questions inside the regiment about Leonidas, who *The Age* 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."

## As he plunged, his face smashed into rocks.

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.



Abdul Ahmad, the brother dead shepherd Ali Jan.

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.

## RUMBLINGS AND DISCONTENT

By 2010, there were disparate rumblings about incidents involving Leonidas' patrol on the battlefield. A prisoner of war was



Killer: Hekmatullah.

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".

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.





The body of an alleged "spotter" was sighted by a soldier from his helicopter. Illustration: Matt Davidson.

### '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 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".

Villagers tracked down by an Afghan journalist working with

*The Age* 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

### Accounts concerned 'disregard for human life'

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 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 for questioning. This year, many more have been grilled.

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.

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 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 commanders.

The Commandos – the other major component of

Australian special forces – do not appear to be facing allegations as serious as those in SASR.

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".

Cromptvoets also warned of "a deep impediment to change because of the extent to which leaders with SOF [special operations 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 over 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 *The Age* 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.



## ANNEXURE "A-1"

### SCHEDULE 1 – FIRST MATTER COMPLAINED OF

THE AGE: Published: 9-10 June 2018

1.	<b>EXCLUSIVE</b>
2.	<b>SAS's DAY OF SHAME</b>
3.	An elite Australian soldier is alleged to have taken part in executions in Afghanistan, a special investigation by Nick McKenzie and Chris Masters reveals.
4.	<b>STILL IMAGES [Special Air Service Insignia; Silhouette of soldier; Nick McKenzie and Chris Masters]</b>
5.	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.
6.	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 witnesses.
7.	The revelations are the first corroborated accounts of alleged war crimes involving the Special Air Service Regiment in Afghanistan. They are the most serious cases to face the Australian military in years, not only because of the gravity of the alleged conduct but also because they allegedly involve a small number of the nation's most elite soldiers.
8.	The alleged breaches of the Geneva Convention - international laws that 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.
9.	Yesterday The Age published a leaked 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, which are primarily comprised of the SASR and the Commandos.
10.	The alleged incidents of war crimes come as a secretive inquiry into what Defence has described as "rumours" of inappropriate special forces conduct enters its third year. The International Criminal Court is also deciding whether to launch an investigation into atrocities committed by all sides in the Afghanistan conflict.
11.	Labor yesterday urged the public release of the confidential Defence report, labelling it "deeply concerning". Defence Minister Marise Payne said the allegations against special forces soldiers were being thoroughly investigated <b>Continued Page 10</b>
12.	<b>SPECIAL REPORT</b> 'During the Afghan campaign, there was a group of individuals who believed they were

	immune from the law.' PAGES 10-13
13.	SAS's day of shame: Elite Australian soldier allegedly took part in Afghanistan executions, investigation reveals
14.	<b>From Page 1</b> independently from the chain of command.
15.	The silver lining for the Defence Force is that 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. This is despite the potential impact on the reputation of serving and former members.
16.	The prisoner of war allegedly kicked off a cliff was detained by the SASR in the Afghan village of Darwan, in Oruzgan province, on September 11, 2012. He was arrested as Australian soldiers searched the village for Afghan army sergeant Hekmatullah, who days earlier had murdered three Australian soldiers and injured two others at a patrol base.
17.	The SASR soldier, nicknamed "Leonidas" by a fellow soldier, after a Spartan warrior, kicked the handcuffed detainee 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".
18.	The Age unsuccessfully sought to interview Leonidas, who cannot be named for legal reasons.
19.	An Afghan freelance reporter working on assignment for Fairfax Media has spoken to the family of the man who was allegedly executed as well as other villagers from Darwan. They said Ali Jan, a father of seven who worked as a shepherd, was arrested and had been detained by the SASR before he was allegedly executed. The villagers also claimed that Ali Jan had been forced over a cliff edge prior to his death, but did not directly witness this event or his later shooting.
20.	The second alleged summary execution involving Leonidas occurred in October 2012. It has also been described in detailed testimony by two direct Defence Force witnesses. Both alleged that Leonidas instructed an Afghan soldier working with the Australians to execute an unarmed prisoner of war suspected to have secreted a cache of arms in the wall of a house.
21.	"If you won't do it, I will," the SASR soldier told the Afghan soldier, according to an Australian soldier who witnessed the alleged execution. A second Defence witness alleged Leonidas was "peer pressuring" the Afghan soldier to execute the unarmed man.
22.	The two alleged summary executions are among several serious and credible accounts of war crimes uncovered by The Age involving a small SASR patrol and a small number of other SASR soldiers. The allegations extend to soldiers covering up the deaths of civilians.

23.	It is understood the incidents are known to an inquiry under the auspices of the Defence inspector general and led by NSW judge and Paul Brereton.
24.	But several serving and former SASR soldiers have broken ranks to brief reporters because there is no guarantee the findings of the Brereton inquiry will ever be publicly tabled, and doubt about whether the Australian Federal Police has the capability to conduct its own war crimes investigation, a prerequisite to any prosecution.
25.	In a statement, the Defence Force said the Brereton inquiry would make "recommendations" about how to deal with any substantiated allegations of war crimes.
26.	"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.
27.	It is understood that for two years until April, Justice Brereton had worked as a full-time judge while also overseeing the inquiry in his spare time.
28.	Multiple sources also questioned if Defence and the government were prepared to examine major failures of oversight among some senior officers who, they say, ignored red flags, including that soldiers such as Leonidas were allegedly operating with no regard for the law.
29.	The 2016 Defence inquiry detailed accounts from special forces insiders that some soldiers had allegedly committed war crimes, described as involving a "disregard for human life and dignity", during Australia's deployments to Afghanistan between 2001 and 2013.
30.	The inquiry was commissioned in 2016 by then Special Operations commander Sengelman, and was backed by incoming Defence Force chief Campbell.
31.	The report also describes "enormous and difficult challenges" facing the Australian government in combating the issue, warning the misconduct goes "well beyond blowing off steam" and involves "problems deeply embedded in the culture" of the elite group at the centre of Australia's military response in Afghanistan. The inquiry also warns that Australia's national security is being damaged by "major gaps in knowledge" across government about the capability and culture of Special Operations Command, and poor coordination between its two key units, the Special Air Service Regiment and the Commandos.
32.	The inquiry was conducted by Defence Department consultant Samantha Cromptvoets, who interviewed special forces personnel, senior military leaders and top national security officials, including Defence Department secretary Greg Moriarty. The later and still ongoing inquiry by Justice Brereton was prompted by Dr Cromptvoets' investigation.
33.	<b>Did the SAS kick a cuffed man off cliff?</b>
34.	<b>SPECIAL REPORT</b> An Afghan father set off to get flour. He ran into some Australian soldiers. He never came home.
35.	<b>STILL IMAGES [Special Air Service Insignia; Nick McKenzie; Chris Masters and</b>

	<p><b>Jeff Sengelman]</b></p> <p>Major General Jeff Sengelman (pictured) was worried that the nation's most revered group of soldiers was "no longer holding itself to account".</p>
36.	The Australian special forces soldier led his prisoner towards a ridge above a dry creek bed near the Afghan village of Darwan.
37.	The prisoner's fate lay in the hands of the man leading him to the edge. His own hands were bound.
38.	It was September 11, 2012 – 11 years to the day after planes piloted by al-Qaeda ploughed into the World Trade Centre in New York, causing Australia to enter what would become the nation's longest war.
39.	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.
40.	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.
41.	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.
42.	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.
43.	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. Ali Jan was also detained.
44.	Most of the men were later released, but Ali Jan never arrived home. Soon, word reached his wife that something terrible had happened in Darwan.
45.	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.
46.	Now, five years after Ali Jan was walked towards the cliff edge, rumour has hardened into allegations, and then into evidence. The Age has spent months looking into Ali Jan's fate as part of a 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 Age also hired an Afghan journalist to track down Darwan villagers and Ali Jan's family to tell their story.
47.	Among the special forces soldiers risking their careers to brief Age 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. The inquiry is run by a Supreme Court judge with the backing of top military officials.
48.	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.
49.	<b>SOTTO VOCE: THE QUIET VOICE</b>
50.	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.
51.	During 13 years on the battle-ground in Afghanistan, the SASR had sent 23 rotations involving thousands of men and hundreds of missions.
52.	Many of the 41 Australians killed in Afghanistan served with these two elite forces.
53.	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.
54.	Sources say a fourth incident, which involved an SASR soldier drawing a pistol on an Australian spy in Afghanistan, had also deeply troubled Sengelman.
55.	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".
56.	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".
57.	Sengelman urged SASR members to write to him personally about their concerns. It was a bold move.
58.	Tracing its beginnings 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.
59.	<b>STILL IMAGES [Illustration of soldier and prisoner on cliff; illustration of soldier kicking prisoner off cliff]</b>  An artist's impression of the 2012 incident, based on witness testimony. Illustrations: Matt Davidson
60.	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 security reasons.
61.	They are men used to anonymity, and who tend to resent anyone, including one of their own, breaking ranks.
62.	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."
63.	It wasn't just this culture that Sengelman was challenging, but also a bond of brotherhood, forged at its deepest in blood and bravery. <b>Continued Page 12</b>
64.	<b>STILL IMAGES [Special Air Service Insignia; Abdul Ahmad and Hekmatullah]</b> Abdul Ahmad, the brother dead shepherd Ali Jan. Killer: Hekmatullah
65.	<b>SPECIAL REPORT</b>
66.	<b>Evidence mounts of SAS role in execution of cuffed man</b>
67.	<b>From Page 11</b> 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".
68.	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.
69.	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.
70.	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."
71.	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."

72.	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.
73.	Cromptvoets was given free rein. She spoke to people from the Chief of Defence Force down in preparing her highly confidential 2016 report, which The Age 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".
74.	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".
75.	Cromptvoets' report reinforced a fear held by some in Perth that the SASR's character had been compromised by a small group.
76.	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.
77.	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.
78.	<b>SPARTA AND HOLLYWOOD</b>
79.	Questions inside the regiment about Leonidas, who The Age unsuccessfully sought to interview and who cannot be named for legal reasons, began to be asked in 2009.
80.	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.
81.	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.
82.	"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."
83.	<b>INSET QUOTE [Unattributed quote]</b> <i>As he plunged, his face smashed into rocks.</i>
84.	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.
85.	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.
86.	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".
87.	The patrol Leonidas belonged to appeared unburdened by such introspection. In this group, sources say, junior members were pushed to kill rather than detain.
88.	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.
89.	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.
90.	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.
91.	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.
92.	"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.
93.	<b>RUMBLINGS AND DISCONTENT</b>
94.	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.
95.	In each case, Leonidas' patrol had failed to conduct a proper "site sensitive exploration", according to sources at the scenes.
96.	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.
97.	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".
98.	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.
99.	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.
100.	Then, on August 29, 2012, Afghan sergeant Hekmatullah shot dead three Australian soldiers.
101.	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.
102.	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.
103.	<b>STILL IMAGE [Illustration]</b> The body of an alleged "spotter" was sighted by a soldier from his helicopter. Illustration: Matt Davidson
104.	<b>'ONE SPOTTER K-I-A'</b>
105.	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 selected for additional questioning back to the district capital, Tarin Kowt.
106.	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.
107.	The Afghans waited, some with heads bowed, listening for the whirl of rotor blades that would signal the end of their ordeal.
108.	Then the radio crackled again, this time relaying a message from Leonidas: "One spotter K-I-A [killed in action]," he said.
109.	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."
110.	The SASR had already spent hours searching compounds and rounding up dozens of men, designated "PUCs" (Persons Under Confinement) so they could be interrogated.
111.	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.
112.	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.
113.	"We didn't require any spotting - we had come in like an elephant and made our presence well known," the SASR soldier recalls.
114.	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?
115.	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.
116.	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.
117.	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.
118.	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.
119.	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.
120.	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".
121.	Villagers tracked down by an Afghan journalist working with The Age 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.
122.	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.
123.	The villagers also describe a detainee who was forced over a cliff by an Australian soldier and then executed.

124.	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.
125.	<b>INSET QUOTE [Unattributed quote]</b> <i>Accounts concerned 'disregard for human life'.</i>
126.	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.
127.	"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.
128.	<b>A SECRET HEARING</b>
129.	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.
130.	Several weeks later, another SASR member was summoned for questioning. This year, many more have been grilled.
131.	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.
132.	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 after WWII.
133.	Two soldiers who have been interviewed by Brereton say many of his questions were directed to events at Darwan.
134.	"I was blown away by the detail he had," says one interviewee.
135.	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.
136.	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.

137.	In a statement, the Defence Force said the Brereton inquiry would make "recommendations" about how to deal with any substantiated allegations of war crimes.
138.	"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.
139.	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.
140.	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.
141.	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 commanders.
142.	The Commandos - the other major component of Australian special forces - do not appear to be facing allegations as serious as those in SASR.
143.	In her confidential report, Cromptvoets warned the issues she had uncovered should not be dismissed as soldiers "blowing off steam".
144.	Rather, she wrote, they involved "problems deeply embedded in the culture" of the special forces, which would resist "simple or cosmetic solutions".
145.	Cromptvoets also warned of "a deep impediment to change because of the extent to which leaders with SOF [special operations forces] backgrounds, highly placed throughout the ADO [Defence] and beyond, were compromised by their own participation or complicity in problematic behaviours of the past".
146.	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.
147.	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.
148.	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.
149.	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.
150.	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 and, according to US government figures, it is building its influence in many more.
151.	The freelance reporter who recently tracked down Ali Jan's family for The Age 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.
152.	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.
153.	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
154.	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*

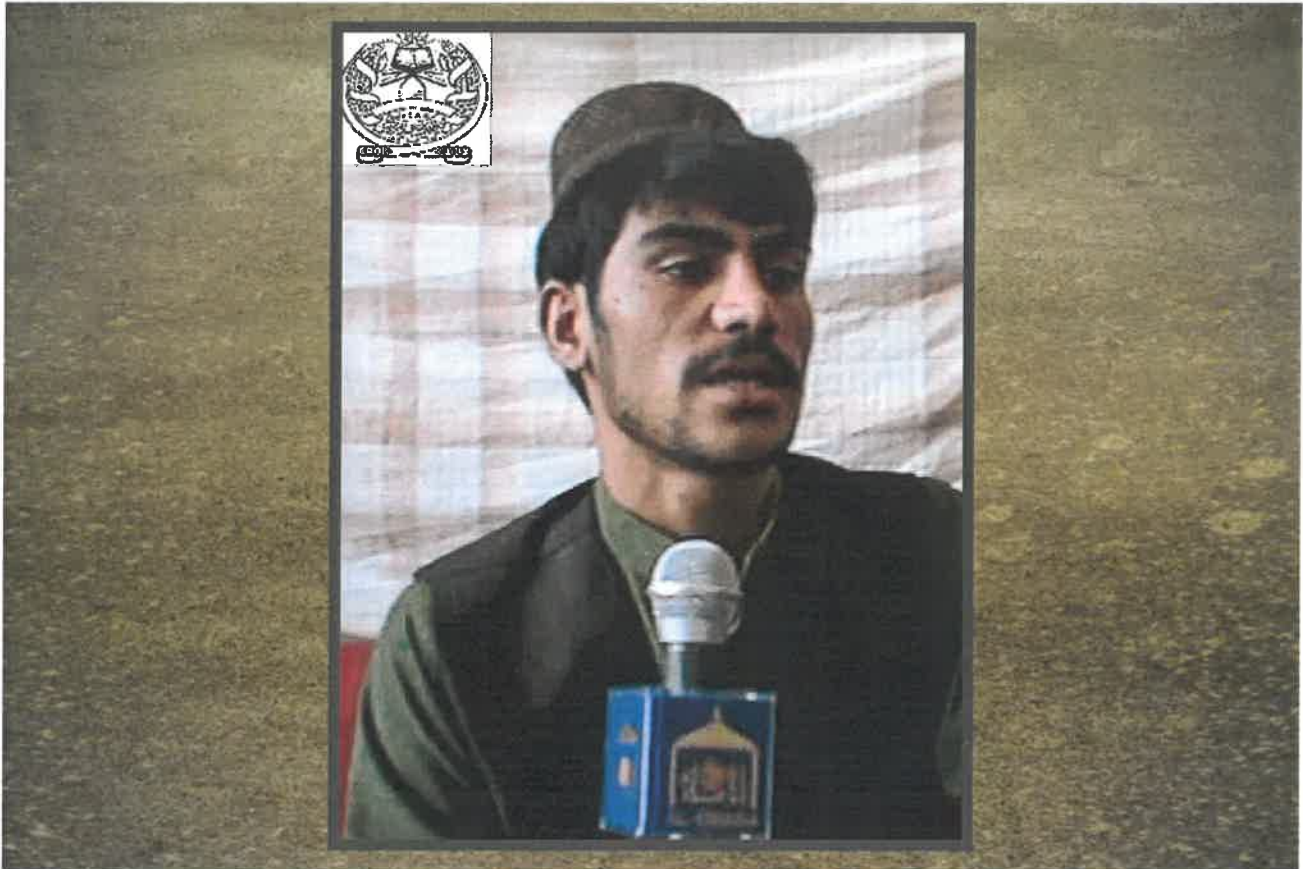
After arriving in Darwan, Ali Jan had dinner and settled in for the night at a relative's home, a bare mud house brightened with carpets and the chatter of children. He planned to return home the next morning.

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”.

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***“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 Cromptvoets, to dig further.



Army chief Angus Campbell. Photo: Alex Ellinghausen

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”.



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

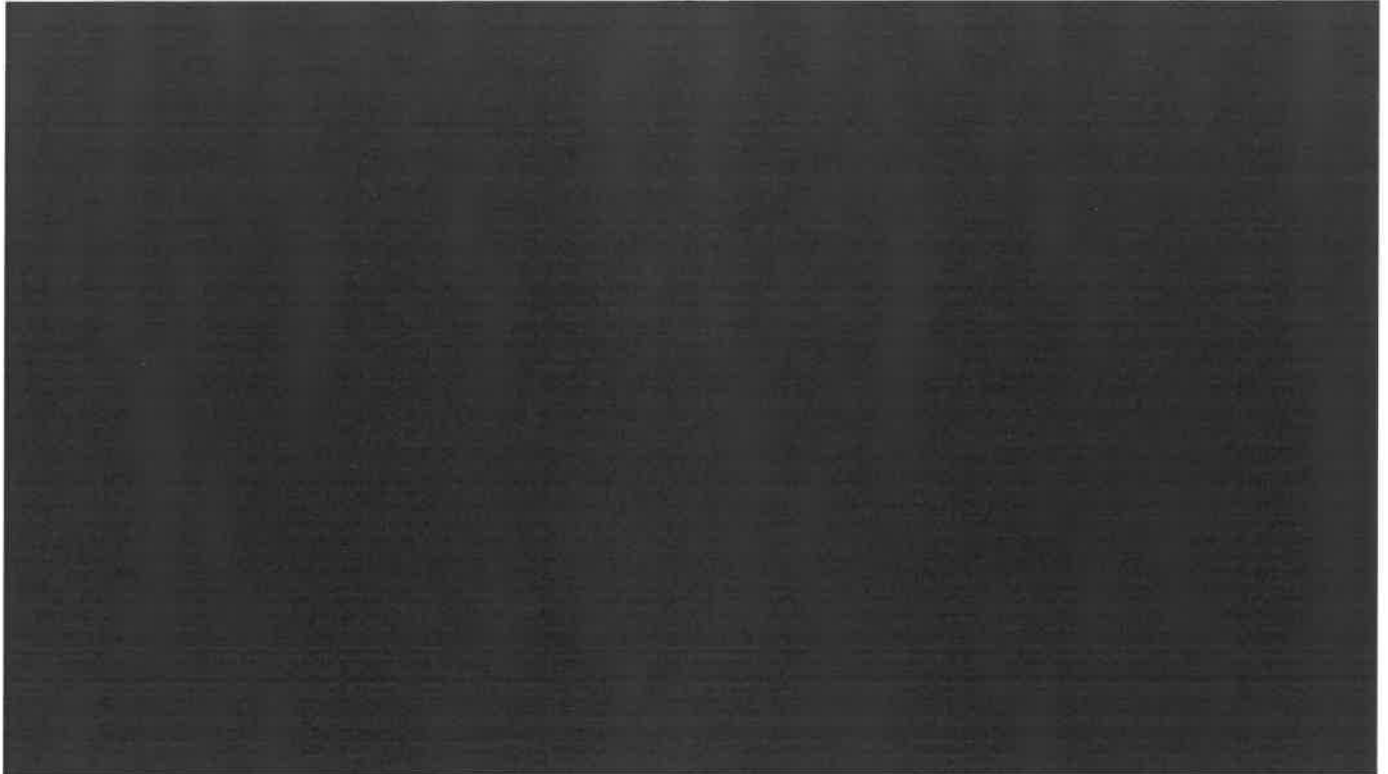
By 2010, there were disparate rumblings about incidents involving Leonidas' patrol on the battlefield. A prisoner of war was found dead in suspicious circumstances by a member of another patrol; an SASR soldier discovered the bodies of two farmers in a field without weapons; one of Leonidas' patrol colleagues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



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 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.

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**



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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5

OPINION /



6

OPINION / The 'cats' have their own rules, but alleged wrongdoing by special forces should surprise us



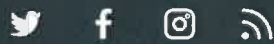
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## ANNEXURE "B-1"

### SCHEDULE 2 – SECOND MATTER COMPLAINED OF

THE AGE: 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 Crompvoets]</b> Defence consultant Dr Samantha Crompvoets. 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

	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>



JUNE 10, 2018

DISPLAY



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## BLOOD TIES

**Exclusive**  
Chris Masters  
Nick McKenzie

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.

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 which has been uncovered by an *Age* investigation and corroborated by special forces insiders.

The grey-haired, bearded Afghan man executed by the "rookie" was, according to 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 Sunday Age* will call "Leonidas".

Leonidas is also implicated in the killing of a detainee three years later in September 2012 during a SASR mission in the village of Darwan. Leonidas allegedly 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,

who were interviewed last week by an Afghan journalist on assignment with *The Age*.

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

■ Continued Page 2

### INSIDE THE SAS

EXTRA


**WHO DARES SPEAK?**

### COOL CHANGE

 Jane Kennedy's  
rock'n'roll makeover  
SUNDAYLIFE


### WORLD CUP

 Teams, draw, and  
our experts' picks  
SPORT


RUSSIA 2018

**Weather** TODAY Fog then sunny 7-15 TOMORROW Mostly sunny 6-16 Page 31

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## DIGITAL SUNDAY



## PHOTO

Rebecca Howson got into the spirit of things at the Melbourne Oz Comic-Con at the Convention Centre yesterday. Go online to see a gallery of the event.

## ONLINE

We're counting down to the 21st FIFA World Cup in Russia. Go online for our World Cup 2018 fixture interactive.

## INSIDE

## NEWS

Australia's largest online GP booking business 'HealthEngine' has been caught altering negative patient reviews and publishing them as "positive customer feedback", potentially misleading users.

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## WORLD

Chinese government hackers have compromised the computers of a US Navy contractor, stealing highly sensitive data related to undersea warfare - including secret plans to develop a supersonic anti-ship missile for use on US submarines by 2020.

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## EXTRA

Aspiring immigrants to the United States are turning to fake marriages in testing times.

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## OPINION

Women are the losers in *Meanjin's* botched politics of symbolism, writes Julie Szego.

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## PLUS



NATASE A002 BA

# Parliament target for cyber strike

■ Andrew Brown

A third of all cyber attacks investigated in the past financial year by Australia's cyber security agency targeted the federal government.

Figures from the Australian Cyber Security Centre revealed that of the 671 cyber security incidents in 2016-17 that warranted an operational response, 33 per cent of those were aimed at Federal Parliament.

According to the centre, almost 14 per cent of threats were aimed at state or territory governments. However, the Australian Signals Directorate declined to comment on the statistics for specific jurisdictions.

Of the remaining cyber threats, more than 29 per cent targeted industry. All other attacks made up just less than 28 per cent.

An Australian Cyber Security Centre spokesman said threats were on the decline.

"As the security of government agencies and awareness of the threats have increased, the ASCS has been required to respond to fewer incidents," the spokesman said.

"The federal government continues to constitute the majority of targets, followed by industry and state and territory governments."

The decrease in the number of cyber attacks Australian Cyber Security Centre investigated comes as a bipartisan deal was reached in Federal Parliament to introduce laws that will crack down on foreign interference.

The laws were introduced following warnings of unprecedented espionage damaging the national interest.

Attorney-General Christian Porter said last week that tougher measures were needed.

"There's an unprecedented level of foreign intelligence activity in Australia and that means more foreign agents and more foreign powers using more tradecraft and more technologies to engage in espionage and foreign interference and the attempted foreign influence of our democratic processes," Mr Porter said.

Analysis by the Australian Cyber Security Centre revealed cyber crime is estimated to cost

Australians \$1 billion a year.

However, some estimates state the real impact to the nation is about \$17 billion annually.

"As people and systems become increasingly interconnected, the quantity and value of information held online has also increased and, unfortunately, so have the efforts to steal and exploit that information," the Cyber Security Centre spokesman said.

Among the most frequent types of cyber security threats was ransomware, as well as malware targeting businesses.

"It affects individuals and organisations alike, and can impose significant costs in both recovery and downtime," the spokesman said. "Trusted third parties access continues to be exploited, regardless of organisation size."

The figures on cyber security threats to the federal government comes after a \$9 million cyber security operations centre for Parliament House was announced in last month's federal budget.

Cyber crime costs Australians \$1 billion a year.

The Department of Parliamentary Services said seven staff members were expected to work in the new centre, which will be set up in the 2018-19 financial year to focus on protecting the parliamentary computer network.

UNSW Canberra cyber security strategy and diplomacy professor Greg Austin said while there was a significant number of cyber security threats in 2016-17, the true number may never be known.

"The relationship between cyber security awareness and the actual cyber security of the federal and state governments aren't that strongly connected," he said.

"Governments and corporations talk about their cyber security awareness as if it's the solution to the problem, when there's about 1000 other more important things to do to monitor cyber security than just promote awareness."

The Cyber Security Centre is expected to hand down its next report on cyber threats in October.



## Hurry up or lose childcare

■ Eryk Bagshaw

More than 360,000 families are set to lose their childcare benefits in less than a month, leaving them hundreds of dollars out of pocket for failing to sign up to the Turnbull government's new childcare package.

The government has urged families to get a move on as it looks to encourage more women back to work with its personal income tax cuts and \$2.5 billion childcare boost.

The existing two-tiered system - the Child Care Benefit and Child Care Rebate - will end from July 1, as families rush to get paperwork together for the new all-in-one online platform.

The overhaul, which new Education Department figures show 750,000 families have already signed up for, will pair childcare subsidies to the amount of work, study or volunteering a parent does, with the primary caregiver given a means-tested subsidy of up to 50 hours a week for 24 hours of activity. The figures show that more than 360,000 families have still to sign up.

The new system will eliminate a cap on childcare that has led to thousands of families earning up to \$187,000 running out of government payments before the end of the year.

"When people run out, typically between March and May, they start looking to cut back those hours of care, or they just do it really tough for those couple of months," said Goodstart early learning advocacy manager John Cherry.

Federal Education Minister Simon Birmingham said the package was the most significant change to childcare in 40 years.

The reforms "are about putting more money back in the pockets of families and tackling those disincentives to work," he told *The Sunday Age*. "The system that's evolved over time means too many mums, dads and carers drop out of the workforce."

Labor says it is "deeply concerned" that one-in-four families could be worse off under the changes, particularly those with one stay-at-home parent who does not meet the minimum four hours of activity to access the subsidy.

## SAS rookie 'blooded' by

■ From Page 1

Defence Force) following a scoping study instigated by then special forces commander Major-General Jeff Sengelman, and conducted by Dr Samantha Crompto.

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 Crompto's report came to detail "unsanctioned and illegal application of violence on operations" and a "complete lack of accountability" involving Australia's elite special forces.

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 generated a culture allowing 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



The souvenired prosthetic leg.





Jan Thima, with her children Boobuchua, 5, and Longthara, 3.  
Photo: Jason Smith

## How does it work?

Three factors determining the childcare rate

**1. Combined family income:** will determine the percentage of subsidy.



**2. Hours of activity | Hours of subsidy (maximum)**

For families earning up to \$66,958 <sup>a</sup>	
Less than 8 hours	24 hours
For families earning up to \$351,248 <sup>a</sup>	
8 to 16 hours	36 hours
More than 16 to 48 hours	72 hours
More than 48 hours	100 hours

<sup>a</sup>per fortnight

**3. Type of childcare service:** calculated per hour.

Centre-based day care:	\$11.77
Family day care:	\$10.90
Outside school hours:	\$10.29
In home care:	\$25.48 (per family)

## Odds shorten on poll in spring

**Analysis**  
Mark Kenny

Labor is quietly preparing for a spring election, despite Malcolm Turnbull's continued assurances of a 2019 poll.

Sources confirm the opposition has recently stepped up its internal processes for completing policy documents, finalising candidates, and mapping out its media buys.

The flurry of activity reflects Labor's hard-headed assessment of the electoral landscape spearheaded by a wariness about the Super Saturday byelections on July 28.

The feeling is that the byelections could lead quickly to a general election if the government improves its vote or parliamentary majority.

That could see a snap poll called for September or October, sending unlucky voters in Mayo (SA), Longman (Qld), Braddon (Tas), Perth (WA), and Fremantle (WA) back to the ballot box.

While that would represent a backflip by the PM, even Labor insiders concede this "negative" for Turnbull would be shortlived.

Labor's strategic assessment looks past Turnbull's assurances to the politico-economic arithmetic, concluding that after nearly two years of fruitless toil, the equation is beginning to tilt the Coalition's way.

Economic growth of 1 per cent last quarter putting growth over the year to March at 8.1 per cent, well ahead of the 2.75 per cent budget prediction, was the government's best news since its near-death 2016 election win. Allied with record jobs growth and rising company profits, the expanding economy reinforces the Coalition's "jobs and growth" message.

Labor also points to the government's plan to put its blocked company tax and income tax bills to a vote before the winter break. This is despite trenchant opposition to company tax cuts and pressure to hive off the third stage of its seven-year income tax cuts plan.

Ordinarily, legislative defeat makes governments look feckless but Senate intransigence in the current context could help build the case that only a fresh general election can resolve parliamentary intransigence.

Much, of course, turns on the three seats the Liberal Party is contesting. If the government loses support, which is usual in byelections, it's back to Plan A. But any improvement would validate the Coalition complaint that the Parliament is demonstrably at odds with public opinion. A win would turbocharge that case.

In such circumstances, Turnbull would come under immediate internal pressure to simply junk his 2019 commitment and capitalise electorally at the ballot box.

Why wait? Last week's solid economic numbers have invited a new risk assessment in the Coalition: what if we stick to the 2019 timetable and the economy slips back again?

In a turbulent world, stranger things have happened.

Mother of two Farrah Millar was diagnosed with breast cancer on the day her second son was born, then her partner left her. "My family was turned upside down," she said.

She did not meet the activity threshold of the new system because she had to spend her time getting treatment, forcing her to spend days in a holding pattern with Centrelink to prove she was in exceptional circumstances.

It was only when she published a blog post on Kidspot that she was approved for a full subsidy.

"There is just a huge gap, I was fortunate that I was able to campaign for my case," she said. "It looks simplified... but for anyone who is new to the system or isn't computer savvy it isn't, and they can often be the people that need it most."

Labor's spokeswoman for early childhood education, Amanda Rishworth, said she has concerns about parents who work casually being forced to estimate the amount of hours they will receive to establish their subsidy entitlement.

"The parent might find themselves with irregular work and



won't get as many hours as they had before," she said. "They could end up with a debt to the Commonwealth."

She said the childcare centres in areas with high migrant populations and low incomes were struggling to get parents to sign up.

"One community centre has had to pay a translator to translate the process for families," she said.

The government maintains situations such as Ms Millar's are a hiccup in a system undergoing fundamental reform and that once the changeover is completed, the package will better at targeting spending and encouraging primary

carers - mostly women - to take up more work.

A Senate inquiry heard last week up to 90 per cent of a part-time working parent's wage was taken by childcare and a reduction in family tax benefits if they worked a fourth day per week.

"The biggest trap in the whole system is for people who work part time with kids in childcare," said the Grattan Institute's chief executive, John Daley.

"It's not surprising that women that respond to that very rare financial incentive, it's very hard to go back to work for nothing."

Mr Daley found Australia would be up to \$25 billion better off if it matched Canada's female workforce participation rate, which has soared on the back of generous childcare subsidies and low to middle-income tax cuts.

Moonee Ponds mother Jan Thima said without the extra childcare subsidy she will receive she would have had to cut back on toys and clothes for her three-year-old son.

"I want to be back at work, but I don't have any family here like a

grandma or grandpa, so the childcare is a solution to look after my kids."

She is about to start her practicum for her own early education diploma. The activity test means her study will now count towards the subsidy for an extra day, saving up to \$110 a week.

"Next month I can send him three days a week and it will cost almost the same amount," she said.

The Turnbull government believes its proposed 32.5 per cent flat tax for those earning \$40,000-\$200,000 a year, will complement the childcare package by reducing the amount of taxpayers that congregate just below a tax bracket increase, a phenomenon known as "bunching".

PricewaterhouseCoopers partner Paul Abbey said women having children and not returning to work full time was a key weakness of Australia's workforce participation.

"[The flat tax rate] takes bunching out of the equation for them, especially if they are self-employed and have flexibility," he said.

"The rate change will no longer be a disincentive to committing more time and effort."

## executing elderly, unarmed man

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," it said.

## **ANNEXURE "C-1"**

### **SCHEDULE 3 – THIRD MATTER COMPLAINED OF**

**THE AGE: Published: 10 June 2018**

1.	<b>BLOOD TIES</b>
2.	<b>STILL IMAGE [Silhouette of soldier on red background]</b>
3.	<b>EXCLUSIVE</b> <b>Chris Masters</b> <b>Nick McKenzie</b>
4.	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.
5.	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.
6.	The summary execution of the elderly detainee on Easter Sunday 2009, is one of several incidents involving a rogue SASR team operating in Afghanistan which has been uncovered by an Age investigation and corroborated by special forces insiders.
7.	The grey-haired, bearded Afghan man executed by the "rookie" was, according to 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".
8.	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.
9.	SASR sources claim the man with the prosthetic leg was machine-gunned by a soldier that, for legal reasons, The Sunday Age will call "Leonidas".
10.	Leonidas is also implicated in the killing of a detainee three years later in September 2012 during a SASR mission in the village of Darwan. Leonidas allegedly 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.
11.	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, who were interviewed last week by an Afghan journalist on assignment with The Age.
12.	The allegations, which have circulated among insiders for years, have now been

	corroborated by various sources across the globe during a six-month Age investigation.
13.	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 Court judge Major-General Paul Brereton.
14.	The IGADF inquiry was commissioned by then chief of army, Lieutenant-General Angus Campbell (soon to become chief of the <b>Continued Page 2</b>
15.	<b>STILL IMAGE [Prosthetic leg]</b> The souvenirised prosthetic leg.
16.	<b>SAS rookie blooded' by executing elderly, unarmed man</b>
17.	<b>From Page 1</b> Defence Force) following a scoping study instigated by then special forces commander Major-General Jeff Sengelman, and conducted by Dr Samantha Cromptvoets.
18.	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.
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23.	<b>INSET IMAGE [Snapshots of other articles published by The Age on Friday, June 8 and Saturday, June 9]</b>
24.	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," it said.



## 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 higher-ranking soldiers as part of a "blooding" ritual, according to defence insiders who were witnesses at the scene.

62

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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*

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

The grey-haired, bearded Afghan man executed by the "rookie" was, according to 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, Fairfax Media will call "Leonidas".

Leonidas is also implicated in the killing of a detainee three years later in September 2012 during a SASR mission in the village of Darwan. Leonidas allegedly 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 who were interviewed this week by an Afghan journalist on assignment with Fairfax Media.

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.

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 Cromptvoets.

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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 generated a culture allowing mateship to overwhelm accountability.



#### 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*

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.

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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

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ALL COMMENTS

SORT BY 

**R. Ambrose Raven** 2 MONTHS 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 2 MONTHS 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 



#### Mika 2 MONTHS 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 polities 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

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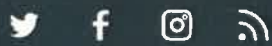


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## **ANNEXURE "D-1"**

### **SCHEDULE 4 – FOURTH MATTER COMPLAINED OF**

**THE AGE: 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>
6.	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.
7.	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.
8.	<b>STILL IMAGE [Unidentified male]</b>  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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18.	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 Court Judge, Major-General Paul Brereton.
19.	<b>INSET LINK TO RELATED ARTICLE [Image of man – AFGHANISTAN - Abdul's Brother went out to buy flour. He never came home]</b>
20.	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 Cromptoets.
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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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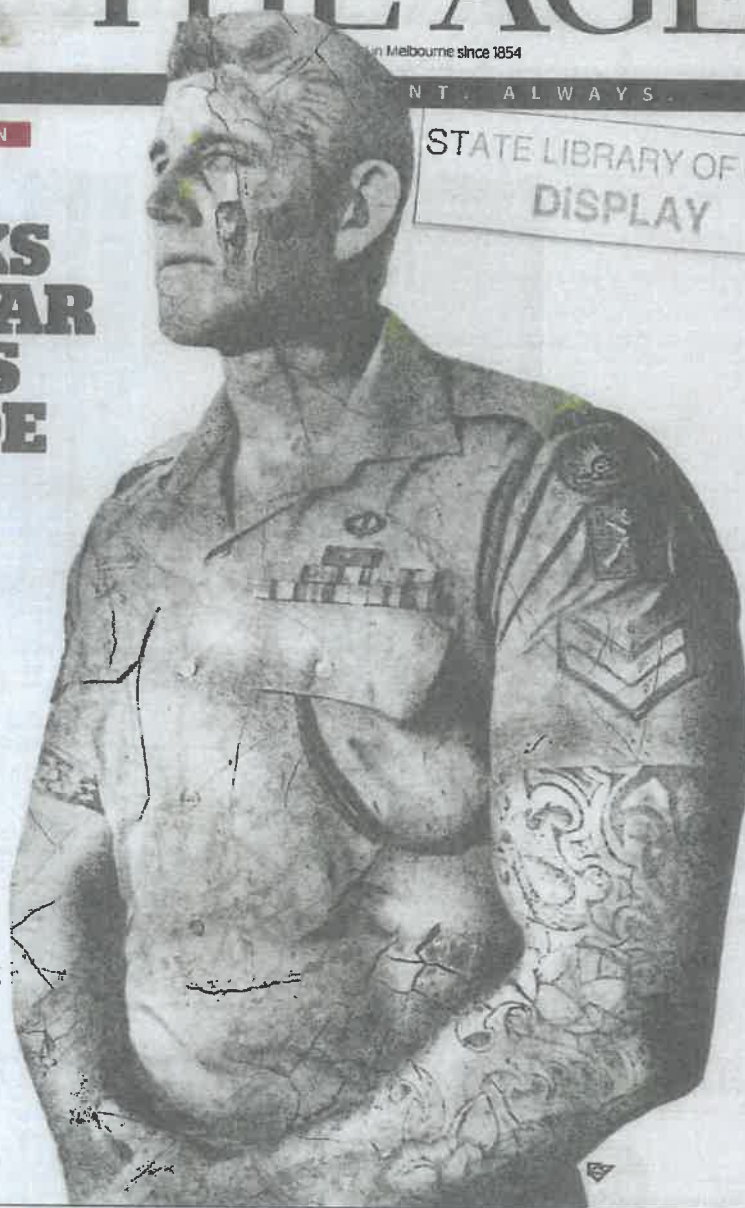
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**SPECIAL INVESTIGATION**

## THE CRACKS IN A WAR HERO'S FACADE

Ben Roberts-Smith — Victoria Cross recipient, Father of the Year, business leader and mental health advocate — is one of Australia's most respected public figures. But serious questions have been raised about his past, and the Prime Minister has confirmed the former SAS soldier is under police investigation. Roberts-Smith denies allegations made against him.

Nick McKenzie  
David Wroe  
Chris Masters

**PAGES 8-10**STATE LIBRARY OF NEW  
SOUTH WALES  
DISPLAY

## Police blitz on teen crime

**Joe Hinchliffe**

Police have arrested 14 people including a 14-year-old boy and seized stolen cars and a military assault rifle following a "terrifying" spree of carjackings and aggravated robberies across Melbourne's south-eastern suburbs.

Three have been charged with a string of offences, including armed robbery, aggravated carjacking and possession of a prohibited weapon, handling stolen goods and unlicensed driving.

Police expect to make more arrests and lay further charges in coming days.

All of those arrested whose ages have been released are teenage males.

Officers arrested the 14 suspects on Thursday and yesterday in Cranbourne, Pakenham, Dandenong South, Officer, Narre Warren South, Clyde North, Cranbourne North and Doveton.

Detective Inspector Shayne Pannell said there were "more people we want to speak to".

"The investigation will continue past today and we do expect further arrests early next week," he said yesterday afternoon.

He also indicated more charges would be laid against those already arrested.

Victoria Police said its investigators recovered two stolen vehicles: a black Holden

**Continued Page 4****TRAVELLER**

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**8-13**  
**5-14**  
**9-15**  
**Page 33**

**ODDSPOT**

A man has been charged with walking a pig on a busy street in Norwich — without a lead. Police were called to Prince of Wales Road, where they found the pig "running around" with a dog, which bit one of the officers. The animals' owner has been charged with having an out-of-control dog and an untethered pig.

**BUSINESS**

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A recipient of the ultimate bravery award, Ben Roberts-Smith has become a leading figure in Australian public life. Why are so many questions being asked about his past? Nick McKenzie, David Wroe and Chris Masters report.

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, and 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 tall 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 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, *The Age* 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 *The Age* 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-

# Beneath the bravery



Admiral Ray Griggs and Veterans' Affairs Minister Darren Chester, was a female lawyer whom Roberts-Smith had brought as his guest, and whom he had 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 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 an 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

had happened later that night at the Hotel Realm in Canberra: an alleged act of domestic violence and intimidation.

Yesterday Roberts-Smith issued a denial of the allegations, calling them a "catalogue of lies".

#### 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. *The Age* 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.

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. *The Age* 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

## Roberts-Smith fails in move to stop

Fergus Hunter  
Dana McCauley

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

Mr Roberts-Smith took action last night in the Federal Court, arguing there had been a breach of

confidentiality against federal law concerning an inquiry into him.

Prime Minister Malcolm Turnbull said yesterday he was aware of a police investigation into a domestic violence allegation against Mr Roberts-Smith, declining to comment on specifics but declaring that Australia has "zero tolerance" for violence against women.

Responding to an *Age* investigation into Mr Roberts-Smith's conduct while serving in Afghanistan with the elite Special Air Service Regiment and

accusations relating to an incident in Canberra, the Prime Minister said a police inquiry was under way.

"I am aware of the allegations, complaints have been made to police and they will be dealt with appropriately," Mr Turnbull said yesterday.

He condemned any violence against women, adding that disrespect towards women "is how violence against women begins".

Mr Roberts-Smith, who is one of just three living recipients of the Victoria Cross issued an emphatic

denial of the allegations, labelling them a "catalogue of lies". He said he would vigorously defend himself against the "malicious" claims.

"I unequivocally deny any physical abuse of any woman at any time ever, and I have not at any stage been interviewed by police about any purported complaint by any woman," he said.

He said he was confident "direct witnesses will categorically demonstrate the falsity" of all the allegations.

Based on interviews with





Ben Roberts-Smith speaks at an Anzac Day dawn service in Melbourne last year (main picture) and Roberts-Smith with Malcolm Turnbull at the Prime Minister's Veterans' Employment Awards in Canberra this year. Photos: AAP, ABC

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, and 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 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 counterproductive. An essential

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

SAS insider

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.

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 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 *The Age*, 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.

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 *The Age*. 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 patrol members critical of his actions 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 Age* cannot name a serving SAS soldier but has 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, 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 'hang' as a joke," recalls a witness).

This witness alleges that Roberts-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 near fatal "friendly fire" 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 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.

Those with concerns were

## publication of Age's story

veterans, officials and people familiar with Mr Roberts-Smith's personal conduct. *The Age* detailed his involvement in small SAS patrols accused of bullying, intimidation and the mistreatment of unarmed Afghans.

The allegations are among those being considered by an inquiry into SAS conduct.

*The Age* also reported that Mr Roberts-Smith had an extramarital relationship with a female lawyer who accused him of an alleged act of domestic violence

at the Hotel Realm in Canberra this year.

Former Australian of the Year and domestic violence campaigner Rosie Baty voiced her support for Mr Roberts-Smith, warning against a rush to tear down heroes through unproven allegations.

Ms Baty, who met the Victoria Cross winner when the Australia Day Council he led selected her as Australian of the Year in 2015, said he had always behaved in a kind and caring manner in her presence.

She said the veteran was "a target

for women" due to his high profile, in reference to the alleged extramarital affair that was the backdrop of the incident being investigated by police.

"I don't want to disbelieve people, because I do think we too readily disbelieve people, but you've got to be careful what mud we throw and how that sticks and how it ruins people," Ms Baty said. "If there is a proper investigative process it should be taking its due course and we shouldn't be trying to throw mud until we know exactly the outcome."



Ben Roberts-Smith with domestic violence campaigner Rosie Baty.

Continued Page 10



# Beneath lauded soldier's bravery

From Page 9

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 *The Age'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.

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



Ben Roberts-Smith at the unveiling of his portrait at the Australian War Memorial in 2014. Photo: Jay Cronan

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.

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.

## Credibility attacked

Attention then shifted to a fourth SAS Afghanistan veteran, Sergeant L. He has 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. *The Age* 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 historical 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

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

Ben Roberts-Smith

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.

(*The Age* 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 the married Roberts-Smith used to conduct the liaison prior to it ending on April 8, 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 Age* 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 *The Age* 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 *The Age* 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 this week - six days after he was alerted that *The Age* 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.

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 super-sized 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.

**SCHEDULE 5 - FIFTH MATTER COMPLAINED OF**

**THE AGE: Published: 11 August 2018**

1.	<b>SPECIAL INVESTIGATION</b>
2.	<b>STILL IMAGE [Ben Roberts-Smith appearing in stone]</b>
3.	<b>The cracks in a war hero's facade</b>
4.	Ben Roberts-Smith - Victoria Cross recipient, Father of the Year, business leader and mental health advocate - is one of Australia's most respected public figures. But serious questions have been raised about his past, and the Prime Minister has confirmed the former SAS soldier is under police investigation. Roberts-Smith denies allegations made against him.
5.	Nick McKenzie, David Wroe, Chris Masters PAGES 8-10
6.	A recipient of the ultimate bravery award, Ben Roberts-Smith has become a leading figure in Australian public life. Why are so many questions being asked about his past? Nick McKenzie, David Wroe and Chris Masters report.
7.	<b>Beneath the bravery</b>
8.	<b>STILL IMAGES [Ben Roberts-Smith; INSET - Prime Minister Malcolm Turnbull with Ben Roberts-Smith in background]</b>  Ben Roberts-Smith speaks at an Anzac Day dawn service in Melbourne last year (main picture): and Roberts-Smith with Malcolm Turnbull at the Prime Minister's Veterans' Employment Awards in Canberra this year. Photos: AAP, ABC
9.	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.
10.	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.
11.	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.
12.	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.

13.	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, and 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.
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 tall 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.
18.	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.
19.	Over almost a year, The Age 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.
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 The Age 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 had introduced to military figures earlier that day as a client of his employer, Channel Seven.
29.	After completing a master's 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 an 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 had happened later that night at the Hotel Realm in Canberra: an alleged act of domestic violence and intimidation.
31.	Yesterday Roberts-Smith issued a denial of the allegations, calling them a "catalogue of lies".
32.	<b>Risking all</b>
33.	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.
34.	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".
35.	During his deployments to Afghanistan in 2009 and 2010, Roberts-Smith was deputy commander of a small SAS patrol.
36.	In his last overseas deployment, prior to leaving the army in 2013, he was appointed patrol commander. The Age 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.
37.	Four Defence insiders have alleged that they observed patrols under Roberts-Smith's direct or deputy leadership severely mistreat unarmed Afghans on four occasions.



38.	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 Age has obtained a photo of the dead man and two witness accounts describing the circumstances in which the Afghan died.
39.	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.
40.	The bearded man had frozen in the foetal position when Roberts-Smith entered the room, wearing Kevlar gloves.
41.	The insider describes Roberts-Smith unexpectedly attacking the man, and 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 kned him in the guts. I went, 'Whoa, whoa, whoa. Back off mate. We have this under control.'
42.	"The fella's face immediately blew up. We stepped back and gave the fella some space. We then arrested him."
43.	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.
44.	Sources from inside the SAS say this alleged mistreatment was not only unnecessary but potentially counterproductive. 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.
45.	<b>INSET QUOTE [SAS insider quote]</b> <i>'RS [Roberts-Smith] repeatedly smashed this guy in the cheek'</i>
46.	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.
47.	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.
48.	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.



49.	A record of a discussion between two long-serving SAS patrol commanders, obtained by The Age, 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.
50.	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.
51.	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.
52.	One of the two patrol members later insisted to colleagues the Afghan appeared to be an unarmed teenager whose death could have been avoided.
53.	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.
54.	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.
55.	The conflicting accounts are mirrored in official reports relayed by the patrol to senior officers and seen by The Age. 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.
56.	Roberts-Smith accused the two patrol members critical of his actions of cowardice and failing to prepare their weapons.
57.	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 Age cannot name a serving SAS soldier but has confirmed he is still serving and has been promoted to patrol commander.)
58.	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.
59.	<b>STILL IMAGE [Ben Roberts-Smith with Rosie Batty]</b> Ben Roberts-Smith with domestic violence campaigner Rosie Batty.
60.	<b>Commended for leadership</b>
61.	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.
62.	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.
63.	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.
64.	"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.
65.	The soldier alleges Trooper J responded by half-heartedly simulating a mock execution ("He went 'bang' as a joke," recalls a witness).
66.	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".
67.	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.
68.	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.
69.	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.
70.	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.
71.	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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73.	<b>Beneath lauded soldier's bravery</b>
74.	<b>STILL IMAGE [Ben Roberts-Smith]</b>

	Ben Roberts-Smith at the unveiling of his portrait at the Australian War Memorial in 2014. Photo: Jay Cronan
75.	<b>From Page 9</b> 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".
76.	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.
77.	"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.
78.	For two years, the complaint went nowhere. But it is one of many documents handed to the Inspector-General.
79.	<b>Denials and accusations</b>
80.	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.
81.	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."
82.	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".
83.	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 Age's reporting.
84.	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.
85.	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."
86.	He has been unequivocal he has no questions to answer in respect of any of his actions in Afghanistan.
87.	"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.
88.	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.
89.	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.
90.	Roberts-Smith has also been pushing back, apparently aiming to paint those making allegations about him as disgruntled liars.
91.	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.
92.	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.
93.	<b>Credibility attacked</b>
94.	Attention then shifted to a fourth SAS Afghanistan veteran, Sergeant L. He has 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.
95.	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.)
96.	By now, more missives attacking Sergeant L were also circulating, although who was responsible for these remains a mystery.
97.	On October 20, 2017, The Australian newspaper received an anonymous email. The Age 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.
98.	This email repeated the historical 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.
99.	<b>INSET QUOTE [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
100.	Six months later, another mysterious writer emerged.
101.	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.
102.	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.
103.	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.
104.	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.
105.	(The Age 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.)
106.	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.
107.	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 Age 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.
108.	After a university spokesman was supplied by The Age 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."
109.	The use of the picture "is a matter which should be dealt with by the police", the statement said.
110.	The woman at the centre of allegations declined to comment.
111.	Roberts-Smith has also declined requests from The Age 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.



112.	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 this week - six days after he was alerted that The Age 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.
113.	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.
114.	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.
115.	In his recent public appearances, Roberts-Smith appears to have sought opportunities to burnish his image.
116.	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.
117.	<b>'Not a shred of evidence'</b>
118.	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.
119.	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.
120.	But the patrol member has told colleagues he is not scared by the threat.
121.	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.
122.	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.

## 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.

Roberts-Smith accused the two patrol members critical of his actions 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. (Fairfax Media 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, 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".

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.

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,

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#### 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.

***“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.

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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.

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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.

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

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Ben Roberts-Smith

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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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## 6 Werribee landfill set for major expansion



202 COMMENTS

MY COMMENTS

Comments are now closed

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SORT BY

**Mrs Smith** 2 DAYS AGO

Reading the comments, it looks like RS's PR machine is out in full force!

RESPECT 5



**Saffron** 2 DAYS AGO

Why was Australia even in Afghanistan or Iraq? Neither country did anything to us - except for Iraq buying our wheat.

RESPECT 7



**Sarah Bentley** 2 DAYS AGO

I really don't want to know any of this. As a society we ask these SAS men to go overseas into battle zones most of us couldn't even imagine accurately, to defend our notion of freedom against an enemy with no moral code or sense of fair play.

RESPECT 13



**Kapow** 2 DAYS AGO

i don't recall our "society" asking these men to go to Afghanistan. They were told and that's the path they chose. I hope "our notion of freedom", "moral code" and "sense of fair play" was displayed by our SAS men, otherwise, our efforts are diminished.

RESPECT 11



**Gina Di Paolo** 2 DAYS AGO

You don't want to know if Australian SAS soldiers breach their sworn moral and professional code of conduct when deployed in a foreign country because (according to your logic) they are defending 'our notion' of freedom???



SARAH HARRISON / GETTY IMAGES

You draw no distinction between enemy and unarmed civilians?  
And you think they [the undefined enemy] have no moral code or sense of 'fair play'?  
Maybe you just don't want to know anything beyond your own notions of right and wrong.

RESPECT 16

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*A relationship banned under  
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## ANNEXURE "F-1"

### SCHEDULE 6 – SIXTH MATTER COMPLAINED OF

THE AGE: 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.