

## NOTICE OF FILING

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### Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)  
File Number: NSD1487/2018  
File Title: BEN ROBERTS-SMITH v THE FEDERAL CAPITAL PRESS OF AUSTRALIA PTY LTD ACN 008 394 063 & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 17/08/2018 9:36:32 AM AEST

Registrar

A handwritten signature in blue ink, appearing to read "Warwick Soden".

### 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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Form 17  
Rule 8.05(1)(a)

## Statement of Claim

No. of 2018

Federal Court of Australia

District Registry: New South Wales

Division: General Division

**Ben Roberts-Smith**

Applicant

**The Federal Capital Press of Australia Pty Limited ACN 008 394 063 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 Sunday Canberra Times newspaper;

(c) the publisher of material on the website located at the URL address  
[www.canberratimes.com.au](http://www.canberratimes.com.au) (the **Canberra Times Website**);

3 The Second, Third and Fourth Respondents are journalists employed or engaged by the First Respondent or one of its related corporations.

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|   |   |
|---|---|
| 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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[Form approved 01/08/2011]

## FIRST MATTER COMPLAINED OF

4 On or about 8 June 2018 the First, Second and Third Respondents published of and concerning the Applicant on the Canberra Times 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 "A" hereto (**the first matter complained of**).

### *Particulars of Publication*

- (a) The first 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 the Australian Capital Territory and the other States and Territory of Australia of the Canberra Times Website;
- (b) the publication was made available for download on and from 8 June 2018 at the address <https://www.canberratimes.com.au/politics/federal/abdul-s-brother-went-out-to-buy-flour-he-never-came-home-20180607-p4zk38.html>;
- (c) The first 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 first matter complained of;
- (e) 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*

- (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): 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 5(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 5(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 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.
- (e) 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 matter complained of.

- (f) 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 matter complained of.
- (g) 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".

## **SECOND AND THIRD MATTERS COMPLAINED OF**

- 6 On or about 10 June 2018 the First, Second and Third Respondents published of and concerning the Applicant an article in the Sunday Canberra Times newspaper entitled "*S.A.S rookie told to shoot unarmed man*" a copy of which is set out in Annexure "B" hereto (**the second matter complained of**).

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

- (a) The second matter complained of was published by the First, Second and Third Respondents in the Sunday Canberra Times newspaper in the Australian Capital Territory and in the other States and Territories of Australia.
  - (b) The Second and Third Respondents were the authors of the second matter complained of.
  - (c) 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***

The second 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 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): 1, 3, 6, 9 and 15.
- (b) Imputation 7(b): 4, 5, 11 and 15.
- (c) Imputation 7(c): 12, 13 and 15.
- (d) Imputation 7(d): 4, 5, 11 and 15.

***Particulars of Identification***

- (a) The Applicant relies on the particulars appended to paragraph 5 above.
- 8 On or about 10 June 2018 the First, Second and Third Respondents published of and concerning the Applicant on the Canberra Times Website an article entitled “*Special forces rookie ‘blooded’ by executing an unarmed man*” a copy of which is set out in Annexure “C” hereto (**the third matter complained of**).

***Particulars of Publication***

- (a) the third 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 Canberra Times Website;
  - (b) the publication was made available for download on and from 9 June 2018 at the address <https://www.canberratimes.com.au/politics/federal/special-forces-rookie-blooded-by-executing-an-unarmed-man-20180605-p4zjmw.html>;
  - (c) The third 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 third matter complained of;
  - (e) 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***

- (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 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, 6, 10, and 17.
- (b) Imputation 9(b): 7, 8, 9, 14, and 17.
- (c) Imputation 9(c): 15, 16 and 17.
- (d) Imputation 9(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 second and third 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 second and third 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".

**FOURTH MATTER COMPLAINED OF**

- 10 On or about 10 August 2018 the First, Second, Third and Fourth Respondents published of and concerning the Applicant on the Canberra Times Website an article

entitled "*Beneath the bravery of our most decorated soldier*" 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 Canberra Times Website;
  - (b) the publication was made available for download on and from 10 August 2018 at the address <https://www.canberratimes.com.au/politics/federal/beneath-the-bravery-of-our-most-decorated-soldier-20180801-p4zuwp.html>;
  - (c) The fourth 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 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***

The fourth 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 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): 30, 32, 110, 111, 112, 113, and 120.
- (b) Imputation 11(b): 14, 15, 30, 110, 111, 112, 113, and 120.
- (c) Imputation 11(c): 18, 21, 22, and 42.
- (d) Imputation 11(d): 18, 21, 22, 24, 39, 40, 43, 44, 45, 46 and 48.
- (e) Imputation 11(e): 18, 21, 22, 24, 39, 41 and 49.
- (f) Imputation 11(f): 18, 21, 22, 25, 55, 56, 64, 65 and 66.
- (g) Imputation 11(g): 18, 21, 22, 25, 78 and 82.
- (h) Imputation 11(h): 18, 21, 22, 24, 39, 49 and 79.

**DAMAGE**

- 12 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.

13 The Applicant claims damages, including aggravated damages, interest and costs.

***Particulars of Aggravated Damages***

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

Date: 15 August 2018

A handwritten signature in black ink, appearing to read "MGO".

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



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Signed by Mark Geoffrey O'Brien  
Lawyer for the Applicant

**ANNEXURE "A"****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 &amp; 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.

8/14/2018

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





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

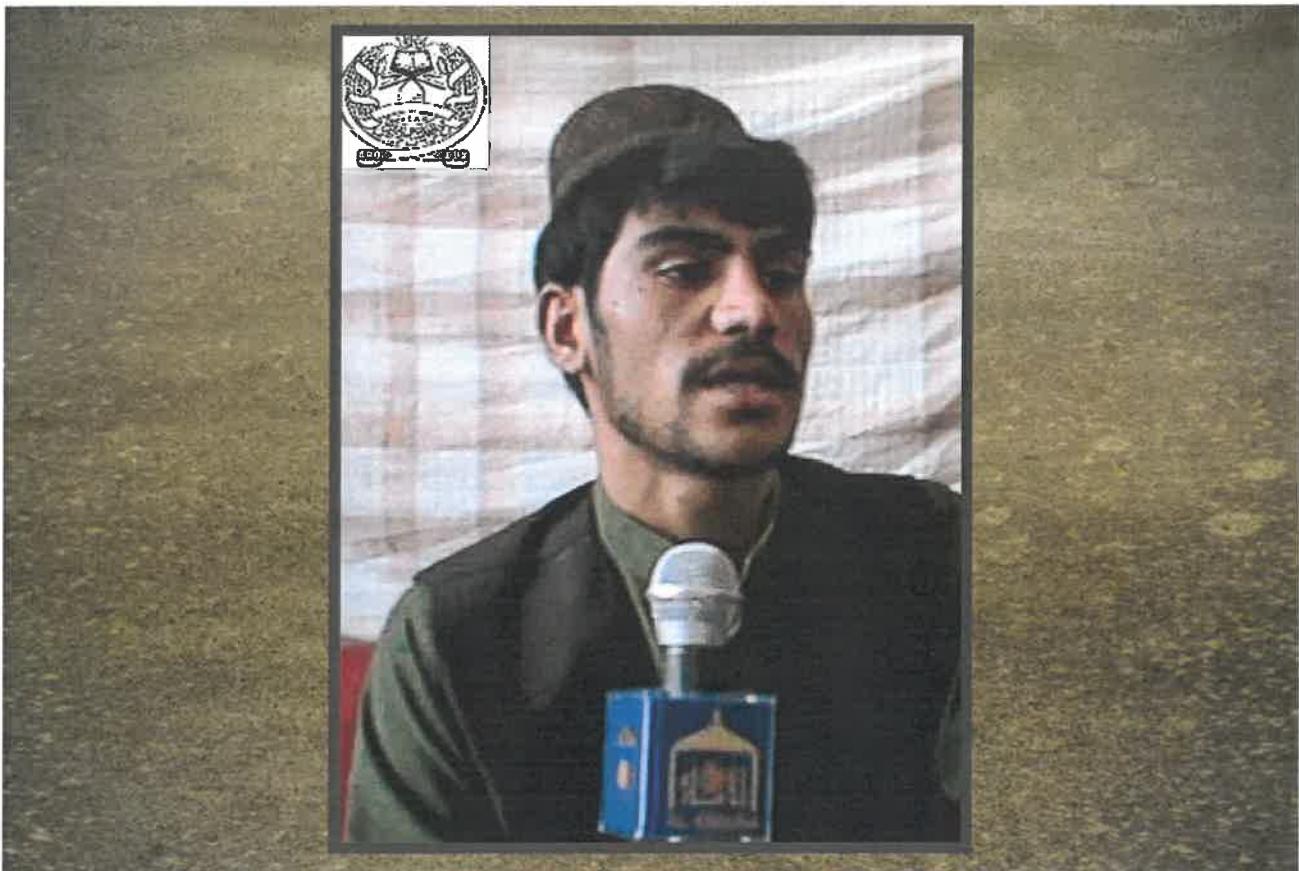
After arriving in Darwan, Ali Jan had dinner and settled in for the night at a relative's home, a bare mud house brightened with carpets and the chatter of children. He planned to return home the next morning.

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 remained 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 Crompvoets, to dig further.



Army chief Angus Campbell. Photo: Alex Ellinghausen

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

At their most serious, 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 inside the regiment.

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.



Defence consultant Dr Samantha Crompvoets. Photo: Fairfax and [theroadhome.com.au](http://theroadhome.com.au)

## Sparta and Hollywood

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

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

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

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

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

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

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

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

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

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

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



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

## Rumblings and discontent

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

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

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

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

## Journalist Chris Masters on "kill counts"



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

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

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

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

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



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

## 'One spotter K-I-A'

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

"Then the screams started," Ahmad says.

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



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

## A secret hearing

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

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

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

Brereton refuses to be interviewed by the media, but those who know the 60-year-old judge describe him as determined and fiercely independent. He also has military credibility, having enjoyed a decorated career as an army reservist, 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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AFGHANISTAN INVESTIGATION TERRORISM



**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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Feedback

**ANNEXURE "A-1"**

**SCHEDULE 1 – FIRST MATTER COMPLAINED OF**

**THE CANBERRA TIMES: Published: 8 June 2018**

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| 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><br>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><br>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.  |

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| 16. | <p>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.</p>  |
| 17. | <p>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.</p>   |
| 18. | <p>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.</p>  |
| 19. | <p><b>STILL IMAGE [Afghan National Army sergeant Hekmatullah]</b><br/>Hekmatullah posted by the Taliban on Twitter in 2012. <i>Photo: Supplied</i></p>   |
| 20. | <p>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.</p>  |
| 21. | <p>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.</p> |
| 22. | <p>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.</p>  |
| 23. | <p>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.</p>   |
| 24. | <p><b>STILL IMAGE [Map of Afghanistan and neighbouring countries noting location of Kabul and Darwan]</b><br/>The village of Darwan in Afghanistan. <i>Photo: Fairfax</i></p>  |
| 25. | <p><b>Sotto voce: the quiet voice</b></p>  |
| 26. | <p>In May 2015, as the colder nights advanced on Canberra, a newly minted Special Operations Commander issued a memo.</p>  |

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| 27. | <p>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.</p> |
| 28. | <p>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.</p>                    |
| 29. | <p>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".</p>  |
| 30. | <p>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".</p>   |
| 31. | <p>Sengelman urged SASR members to write to him personally about their concerns. It was a bold move.</p>  |
| 32. | <p>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.</p>   |
| 33. | <p><b>STILL IMAGE [Special Air Service Insignia]</b><br/>The SAS logo: Who Dares Wins <i>Photo: Ken Irwin</i></p>   |
| 34. | <p>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 remained unchanged. Everything is classified until it is not.</p>   |
| 35. | <p>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.</p>  |
| 36. | <p>They are men used to anonymity, and who tend to resent anyone, including one of their own, breaking ranks.</p>   |
| 37. | <p>"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".</p>   |
| 38. | <p>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</p>   |

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|     | 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><br>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 Crompvoets, to dig further.   |
| 45. | <b>STILL IMAGE [Angus Campbell]</b><br>Army chief Angus Campbell. Photo: Alex Ellinghausen   |
| 46. | Crompvoets was given free rein. She spoke to people from the Chief of Defence Force downwards in preparing her highly confidential 2016 report, which Fairfax Media has seen. Crompvoets wrote of SASR “insiders” initially disclosing information “sotto voce” or in the quiet voice. Over time, she wrote, these insiders got “much louder … and difficult to ignore” as they spoke of “extremely serious breaches of accountability and trust”.   |
| 47. | 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”.   |
| 48. | Crompvoets’ 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. | 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  |

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|     | 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><br>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><br><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  |

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|     | 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><br>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 Crompvoets 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><br>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.  |

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|     | 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><br>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 whir 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.   |

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| 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><br>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.  |

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| 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><br>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 Crompvoets inquiry, Justice Brereton was commissioned by the then Chief of Army, Angus Campbell, to investigate what the defence department described as "rumours" of special forces' misconduct in Afghanistan.   |
| 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.  |

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| 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 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”.  |
| 117. | 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”.   |
| 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.                                  |

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| 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>   |

RELAX

# EXTREME MAKEOVER

HOW LOSING 50KG CHANGED THE LIFE OF ONE QUEANBEYAN MUM



# WHO WILL RISE UP?

EVERY TEAM WANTS IT, BUT ONLY ONE CAN LIFT THE WORLD CUP



# Sunday Canberra Times

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Sunday June 10, 2018

**A close connection**

Thousands of people make the pilgrimage to Old Parliament House each year, but Jim and Wendy Starkey's visit to the heart of Australian democracy was more special than most. Mr Starkey is the great-grandson of former prime minister Joseph Lyons and Mrs Starkey the great-granddaughter of former prime minister Billy Hughes. "It makes you feel proud that our forefathers changed the way Australia was shaped," Mr Starkey said.

**Full story - Page 6**

Jim and Wendy Starkey outside Old Parliament House.  
Photo: Sitthixay Ditthavong

**HOSPITAL** Daughter seeks answers

# Justice sought over death

**Andrew Brown**

Prior to being admitted to Calvary Hospital, Robyn, who did not want her surname published, said her 85-year-old mother Gwen was full of life and energy.

"She was able to drive herself around and she was living independently in Canberra. She was very lively," Robyn said.

However, that all changed when Gwen was taken to Calvary in late April last year, suffering from an infected leg ulcer.

During a weekend visit to see her mother in hospital in May 2017,

Robyn said Gwen's condition deteriorated rapidly after contracting sepsis in one of the wards.

"Mum had gone a very strange colour and she was struggling to breathe and she couldn't be roused," Robyn said.

Despite the pleas from Gwen's family, staff were unable to check her condition over the weekend, as regular doctors and specialists were only available on weekdays.

Robyn said staff told her doctors were not able to be called in for a fear of backlash and intimidation from senior staff.

It was these factors, Robyn al-

leged, that led to her mother's death just weeks later. Following her diagnosis of septic shock, Gwen was transferred to Calvary's intensive care unit and eventually discharged into a high-care nursing facility, before she died on July 6 last year.

Her daughter said negligence from staff as well as staff being intimidated as a result of a culture of bullying at the hospital contributed to her mother's death.

An investigation into the circumstances that led to Gwen's

# S.A.S. rookie told to shoot unarmed man

**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 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

**Continued Page 5**

**Continued Page 10**



## Push to get mothers back to work

**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 if they fail to sign up to the Turnbull government's childcare package.

The government has urged families to get a move on as it encourages more women back to work through income tax cuts and a \$2.5 billion childcare boost.

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

The overhaul, which new figures from the Department of Education show 750,000 families have signed up for, will have childcare subsidies paired 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. Department figures show that more than 360,000 families have still to sign up.

The new system will eliminate a cap on childcare that has had thousands of families earning up to \$187,000 run out of subsidies 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 system that's evolved over

time means too many mums, dads and carers drop out of the workforce."

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

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

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

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.

Melbourne 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 childcare is a solution to look after my kids."

The government believes its proposed 32.5 per cent flat tax for those earning between \$40,000 and \$200,000 a year will

complement the childcare package by cutting the number of taxpayers who congregate just below a tax bracket increase, known as "bunching". An ANU study of 160 million taxpayer records between 1999 and 2014 found bunching was most noticeable for mothers and self-employed.

The elasticity – or disincentive to work more – increased with the number of children they had.

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."

## S.A.S. rookie 'bloodied' by executing an unarmed man

**From Page 1**

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 kicked handcuffed detainee Ali Jan Faqir 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 Faqir and who were interviewed this week by an Afghan journalist on assignment with Fairfax Media.

**Australia's ugly turn in Afghanistan**  
**FOCUS Page 17**

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 Court Judge,

Major General Paul Brereton.

The IGADF inquiry was commissioned by then Chief of Army, Lieutenant General Angus Campbell (soon to be 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.

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

combat elements of Australian Special Forces are the Special Air Service Regiment and the Commandos. Observers say Australia's longest war was allowed to bleed on, desensitising Special Forces operators engaged in too many deployments. Over time, the secretive status of Special Forces 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 be one reason the ADF wants to stay ahead of the curve for the sake of its

international reputation.

Dr Cromptvoets' 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 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.

**ANNEXURE "B-1"**

**SCHEDULE 2 – SECOND MATTER COMPLAINED OF**

**THE SUNDAY CANBERRA TIMES: Published: 9 June 2018**

|     |   |
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| 1.  | <b>S.A.S. rookie told to shoot unarmed man</b>  |
| 2.  | <b>Chris Masters</b><br><b>Nick McKenzie</b>  |
| 3.  | 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 "bleeding" ritual, according to defence insiders who were witnesses at the scene.  |
| 4.  | 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.   |
| 5.  | 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.   |
| 6.  | 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". |
| 7.  | One of the sources said the killing was less abhorrent than the pressuring.   |
| 8.  | "If shit needs to be done, do it<br><b>Continued Page 10</b>  |
| 9.  | <b>S.A.S. rookie blooded' by executing an unarmed man</b>   |
| 10. | <b>From Page 1</b><br>yourself," the soldier said.  |
| 11. | SASR sources claim the man with the prosthetic leg was machine-gunned by a soldier that, for legal reasons, Fairfax Media will call "Leonidas".   |
| 12. | 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 kicked handcuffed detainee Ali Jan Faqir off the edge of a small cliff, badly injuring his face, according to claims of two defence force insiders who witnessed the event.   |
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|     | backed by the relatives of Faqir and who were interviewed this week by an Afghan journalist on assignment with Fairfax Media.   |
| 14. | <b>Australia's ugly turn in Afghanistan</b><br><b>Focus Page 17</b>   |
| 15. | 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.  |
| 16. | 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.  |
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## ANNEXURE "C"

**INVESTIGATION** POLITICS FEDERAL AFGHANISTAN

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

By Chris Masters &amp; Nick McKenzie

9 June 2018 – 4:51pm

[A](#)[A](#)

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 "bleeding" ritual, according to defence insiders who were witnesses at the scene.

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



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

*Photo: Supplied*

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".

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"If shit needs to be done, do it yourself," the soldier said.

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

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



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

*Photo: Supplied*

#### RELATED ARTICLE



## Court Judge, Major-General Paul Brereton.

The IGADF inquiry was commissioned by then chief of army, Lieutenant-General Angus Campbell (soon to be become chief of the Defence Force) following a scoping study instigated by then special forces commander, Major General Jeff Sengelman, and conducted by Dr Samantha Crompvoets.

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### AFGHANISTAN

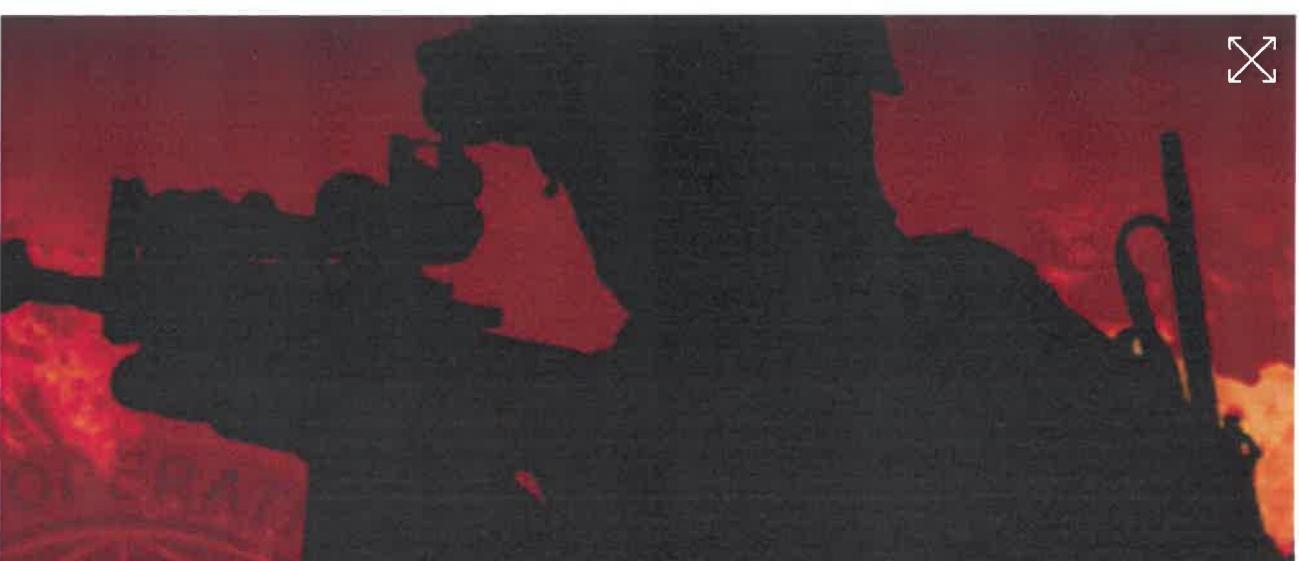
Abdul's brother went out to buy flour. He never came home

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### RELATED VIDEO



'Who dares wins', but at what cost?





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**

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

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**SCHEDULE 3 – THIRD MATTER COMPLAINED OF**

**THE CANBERRA TIMES: 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 "bleeding" 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><br>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  |
| 9.  | 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.   |
| 10. | 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". |
| 11. | One of the sources said the killing was less abhorrent than the pressuring.   |
| 12. | "If shit needs to be done, do it yourself," the soldier said.   |
| 13. | <b>STILL IMAGE [Prosthetic Leg]</b><br>The prosthetic leg of the dead Afghan man mounted and used as a novelty drinking vessel by SASR troops. Photo: Supplied  |
| 14. | SASR sources claim the man with the prosthetic leg was machine-gunned by a soldier that, for legal reasons, Fairfax Media will call "Leonidas".   |

|     |   |
|-----|---|
| 15. | 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. |
| 16. | 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.                              |
| 17. | 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.   |
| 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 be become chief of the Defence Force) following a scoping study instigated by then special forces commander, Major General Jeff Sengelman, and conducted by Dr Samantha Crompvoets.  |
| 21. | 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.   |
| 22. | Dr Crompvoets' report came to detail "unsanctioned and illegal application of violence on operations" and a "complete lack of accountability" involving Australia's elite special forces. The main combat elements of Australian Special Forces are the Special Air Service Regiment and the Commandos.                               |
| 23. | 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.   |
| 24. | <b>INSET LINK TO RELATED VIDEO ['Who dares wins', but at what cost?]</b>  |
| 25. | <b>STILL IMAGE [Australian SAS Soldier]</b><br>An Australian SAS officer on an operation. Photo: Supplied   |
| 26. | 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.  |
| 27. | The ICC's interest is likely to be one reason the ADF wants to stay ahead of the curve for the sake of its international reputation.  |

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|-----|--|
| 28. | Ms 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". |
| 29. | 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.  |
| 30. | "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.   |
| 31. | <b>Got a tip? Contact the reporters on this encrypted, secure and anonymous online platform</b>  |

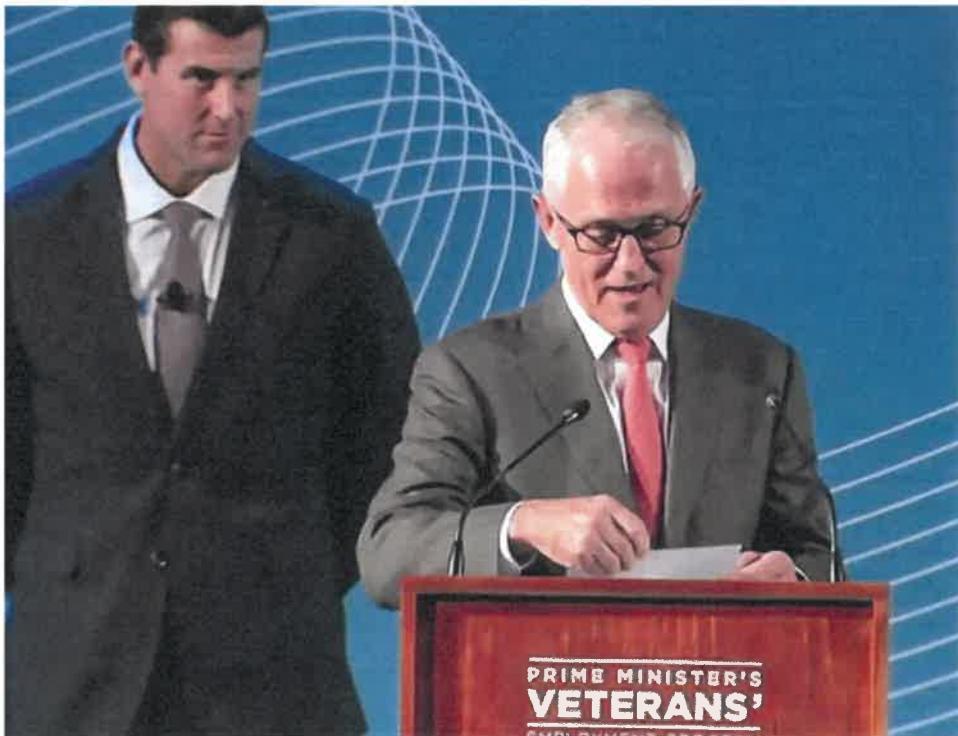
**ANNEXURE "D"****DEFENCE**

## 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



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**W**hen 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 concerningly, 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 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, 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.

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

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

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

Ben Roberts-Smith

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

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

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

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

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

Six months later, another mysterious writer emerged.

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

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

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

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

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



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

On April 22, the lawyer received the email from "Danielle Kennedy", who claimed to "represent Mr Roberts-Smith" and be acting on his "instructions." Fairfax Media

could not locate any lawyer by the name of "Danielle Kennedy". The photo used in the email appears to have been stolen by someone from the internet. It is of Anne Whelford, an administrator at Lincoln University in Christchurch, New Zealand.

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

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

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

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

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

Ben Roberts-Smith

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

Most significantly, Roberts-Smith privately and passionately dismisses all allegations he has ever breached the laws of armed conflict in Afghanistan. He

recently retained a top Sydney barrister with expertise in military inquiries, Arthur Moses, SC.

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

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

## **Not a shred of evidence**

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

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

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

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

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

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

## Roberts-Smith's response

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

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

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

“I am deeply troubled that alleged evidence given on oath before the IGADF inquiry has been canvassed in the press and that Fairfax has allegedly accessed it. Not only is it illegal, it is unfair to people who haven’t given evidence and it has the potential to undermine the fairness of the inquiry.

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

- Know more? Contact Nick McKenzie securely [on this encrypted app](#).

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DEFENCE INVESTIGATION

### Nick McKenzie



G+

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

### David Wroe



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

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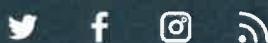
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**SCHEDULE 4 – FOURTH MATTER COMPLAINED OF**

**THE CANBERRA TIMES: Published: 10 August 2018**

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| 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.  |

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| 14. | The photograph fitted his public ethos, which was to value "moral courage" above physical prowess and "cherish your family every single day".  |
| 15. | <p><b>STILL IMAGE [Ben Roberts-Smith with Rosie Batty]</b></p> <p>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</p>  |
| 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.   |

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| 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 concerningly, 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><br>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   |

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|     | 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.   |

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| 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><br>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  |

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|     | 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   |

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|     | 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><br><i>"I've been under the microscope for the last six years and, you know what, my record is spotless."</i><br>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  |

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|      | 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><br>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><br><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>  |

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|      | 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.  |

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| 115. | <p><b>STILL IMAGE [Ben Roberts-Smith]</b></p> <p>Ben Roberts-Smith in front of his portrait at the Australian War Memorial in Canberra.<br/>Photo: Jay Cronan</p>   |
| 116. | <p>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.</p>   |
| 117. | <p>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".</p>  |
| 118. | <p>The use of the picture "is a matter which should be dealt with by the police," the statement said.</p>   |
| 119. | <p>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.</p>   |
| 120. | <p>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.</p> |
| 121. | <p><b>STILL IMAGE [Quote from Ben Roberts-Smith]</b></p> <p><i>"I am hard, I get that, but there is no one I beat up harder than myself"</i></p> <p>Ben Roberts-Smith</p>   |
| 122. | <p>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.</p>   |
| 123. | <p>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.</p>   |
| 124. | <p>In his recent public appearances, Roberts-Smith appears to have sought opportunities to burnish his image.</p>   |
| 125. | <p>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.</p>   |

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| 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.  |