

Lawyer charged for exposing Australian war crimes in Afghanistan

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A former Australian military lawyer, once a captain in Britain's Special Air Service (SAS), has been charged over the alleged leak of documents to journalists containing evidence of war crimes committed in Afghanistan by Australia's Special Forces.

David McBride, 55, appeared in the Australian Capital Territory Magistrates Court last Thursday, accused of leaks to Australian Broadcasting Corporation (ABC) and Fairfax Media reporters during 2014 to 2016.

The charges relate in part to an ABC investigation published in 2017, called "The Afghan Files: Defence leak exposes deadly secrets of Australia's special forces." It provided some detail about long-suppressed official investigations into alleged war crimes.

Most of the documents, which the ABC did not release, reportedly covered "at least 10" incidents between 2009 and 2013 in which military investigators summarily cleared Special Forces soldiers of killing civilians, including children, or other war crimes.

Among the investigations mentioned were cases relating to the death of a man and his six-year-old child during a raid on his house, and the killing of a detainee who was alone with a soldier.

In 2013, troops commanded by Australian SAS officer Andrew Hastie, now a Liberal Party member of parliament who chairs the Joint Parliamentary Committee on Security and Intelligence, severed the hands of alleged dead Taliban fighters. This followed a training session where soldiers were told such methods could be used for identification purposes.

Some of the atrocities, such as the killing of the captured detainee, were already known. Despite some derisory compensation payments, each incident inflamed popular hostility in Afghanistan to the

Australian and other occupying forces. They also underscored the inherently criminal character of the US-led Afghanistan war.

McBride entered no pleas. Instead, speaking to the media outside court, he said he had admitted handing over the documents but would defend his actions on legal grounds.

"I saw something illegally being done by the government and I did something about it," he said. "I'm seeking to have the case looking purely at whether the government broke the law and whether it was my duty as a lawyer to report that fact."

McBride suggested a cover-up at the highest levels of the military. He stated: "I have a duty to look after Australia, if that means reporting illegal activity by the top brass of the ADF [Australian Defence Force] I'm going to do it... If I was afraid of going to jail, why would I have been a soldier?"

The ex-ADF lawyer said he first sought an internal inquiry through the defence department and then went to police. When police did not act, he went to the media. He said he gave the documents to the ABC, the *Sydney Morning Herald* and journalist Chris Masters, but only the ABC published a report.

The lawyer is charged with theft and three counts of breaching the Defence Act, for being a member of the defence force and communicating information. The charges, if prosecuted on indictment, have maximum penalties of an unlimited fine or imprisonment for any term.

McBride faces a further charge under Criminal Code secrecy provisions, which were expanded and subjected to harsher penalties as part of last year's "foreign interference" legislation. Imprisonment for up to 10 years can be imposed for an "aggravated" offence of leaking official secrets that allegedly prejudice

Australia's military defence or security.

McBride said he had been living in Spain, but was arrested at Sydney airport last September after a brief visit to his daughter. He is next due in court on May 13.

The government and the military are insisting that McBride's trial must be conducted in secret, in order to suppress the details of the leaked documents. A Legal Aid representative for McBride told the court that his office was having difficulty finding a lawyer with the necessary security clearance to represent McBride.

McBride's actions point to concerns within the military-intelligence establishment itself that the abuses committed by the Special Forces in Afghanistan have been so egregious that they have publicly discredited the "elite" units, on which Australian and allied governments rely for military interventions.

After studying at Sydney University and Oxford, McBride joined the British army. He spent six years with the Queen's household cavalry, and also served with the SAS and in Northern Ireland and Afghanistan. In 2002, he stood unsuccessfully as a Liberal Party candidate in a New South Wales (NSW) state election.

The ABC reported that some of the cases were being probed by an inquiry run by NSW Supreme Court judge Paul Brereton, an army reserve major general, which was set up in 2016 by General Angus Campbell, who is now Chief of Defence.

The leaked material provided only a partial glimpse of Australia's war crimes. It was published by the ABC in an effort, accompanied by belated military inquiries, to clean up the reputation of the Special Forces by blaming a minority of "bad apples" supposedly caught up in a "warrior culture."

In reality, any brutal "culture" in the ADF is an inevitable result of the neo-colonial wars of occupation in the Middle East, which treat the populations as a whole as the enemy and involve the killing of anyone who resists.

Accounts of war crimes committed by Australian Special Forces are not new. Internal investigations, in recent conflicts alone, go back to the Australian military intervention in East Timor in 1999.

The military's actions have been whitewashed at the highest levels of the ADF, with the full support of successive governments. In May 2013, Stephen Smith, the defence minister in the last Labor government, rejected complaints by Afghan detainees that they were

subjected to humiliating public searches of groin and buttocks areas, as well as poor food and cold cells.

Last June, in a damage control operation, the current Liberal-National government belatedly revealed a third closed-door inquiry into alleged war crimes. After a Fairfax Media investigation reported further killings by Australian commandos, the Defence Department announced that earlier last year, military chiefs commissioned David Irvine, a former intelligence chief, to conduct an inquiry.

This "independent assessment" was designed as another official cover-up, seeking to cloak the barbaric character of the US-led occupation of the impoverished country. Such wars necessarily require the recruitment and training of soldiers to become hardened killers.

In addition to Hastie, ex-military commanders are prominent throughout the political and military establishment. Duncan Lewis, the current Australian Security Intelligence Organisation (ASIO) director-general, is a former SAS officer.

Government Senator Jim Molan headed allied military operations in Iraq during 2004-05. A Labor Party MP and ex-minister, Mike Kelly, was a colonel and Director of Army Legal Services, which would have handled complaints against Special Forces members.

Brutal Special Forces operations are part of expanded preparations for use at home, as well. Alongside deployments to neo-colonial wars, the commandos train to suppress social unrest, in the name of combatting terrorism or "domestic violence."



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