

## **SPEECH AT TKS YEAR OF '67 LUNCHEON – 12 November 2021**

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Our son, Robert, was serving in Afghanistan with the final Australian Mentoring Task Force in 2012. On 29 August Robert and two other Australian soldiers were killed during an insider attack, also known as a green on blue. Soldiers from this task force returning from Afghanistan were telling the three families that the chain of command was incompetent and responsible for the incident. The Army conducted an internal Inquiry Officer Report into the incident and found no systemic issues. This is a perfect fit for the definition of a conflict of interest. Defence investigated itself and Defence cleared itself. On the basis of what the families had been told, we knew the internal Inquiry Report had omitted a litany of incriminating facts. The Report was also excessively redacted to deliberately render it unintelligible. The three families called for a Coronial Inquest which was held in October 2014 and remains today the only inquest into combat deaths in the 200-year history of the Australian Army.

An Inquest is supposed to be an inquisitorial process to determine all the facts associated with a death, but Defence turned it into an adversarial process. Defence was as obstructive as possible with legal tactics to withhold evidence, and stifle the inquest. In so doing it contravened model litigant legislation as it habitually does in such cases using uncapped taxpayer funds without sanction. Nevertheless, evidence against the chain of command was so strong that five systemic failures associated with the incident were identified during the Inquest. This completely contradicted the findings in the internal report of no systemic issues. This recidivist conduct by Defence is reminiscent of a famous epigram by Sir Walter Scott – “Oh what a tangled web we weave, when first we practice to deceive”.

At the end of World War II, American General Dwight Eisenhower insisted on photography and documentation of the horrors of the Nazi concentration camps so that future generations would not ignore history and repeat its mistakes. He said, *“Get it all on record now – get the films – get the witnesses – because somewhere down the road of history some bastard will get up and say that this never happened”*. I feel that if the matters raised in my book are not recorded in the annals of history, then in the words of General Eisenhower, somewhere

down the road of history some bastard will get up and say that this never happened. The public will have difficulty believing the revelations in this book because they are so unbelievable.

Following the Inquest, I decided it was very much in the public interest to write this book, *Failures of Command*, which is based largely on the Coroner's findings. My research for this book inspired me to drill down beneath the Coroners findings to analyse the nature of officer selection, officer training and the culture within the chain of command of the commissioned ranks of the Army. I have based this book on facts, not hindsight vision or speculation.

The general public has blind faith that the Australian Army is well led by highly competent officers, as did Robert, my wife Janny and I when Robert joined the Army. This is the product of a clever sales pitch which has been regurgitated by the Army to the public for decades, drawing on the successes of its soldiers in the lower ranks to give credibility to senior commanders, most of whom have never walked in the shoes of a soldier in either training or in combat. Claims for success in battles always travel up the chain of command to senior officers who, almost invariably, have been nowhere near the action; but failures are always diverted down the chain of command, usually to the lower ranks of boots on the ground who have faced enemy fire. The findings of the Inquest and related matters exposed in this book seriously question the validity the public's blind faith.

A former Chief of Army, LT GEN David Morrison, stated the Army has a contract with the nation. This is quite correct, but the nation has a very limited ability to participate in this contract.

Osama binLaden was head of the terrorist organisation, Al-Qaeda, which claimed responsibility for the 9/11 attacks during which two passenger jets were flown into the World Trade Centre in New York. binLaden was killed in May 2011. Soon afterwards the US announced it would draw down its forces from Afghanistan and leave by 2014. This led to an escalation in attacks by the Taliban against the ANA (Afghan National Army) and Western coalition forces to give the impression that the Taliban was driving the invading forces out. Insider attacks also began to escalate exponentially. General John Allen, the commanding general of the 50 nations that comprised the International Security Assistance

Force fighting the Taliban, described insider attacks at that time as the “signature tactic of the Taliban”. In response, on the 13<sup>th</sup> August 2012, General Allen issued an Order known as FRAGO 13 which required a number of specific measures to be implemented to upgrade force protection, to mitigate further insider attacks. However, these mandated security upgrades were basically ignored by the chain of command of this Australian Task Force. The insider attack in which Robert was killed occurred 16 days after General Allen’s Order had been issued. The reasons for this critical failure in command became the central issue for the inquest.

At the time of the attack, Robert was part of a small platoon of 24 men on a ten-day mission to mentor a company of 60 Afghan National Army soldiers from a remote patrol base. This platoon was unaware that insider attacks had become the signature tactic of the Taliban. They had not been told that FRAGO 13 had been issued which mandated certain additional force protection procedures be implemented to mitigate the escalation in insider attacks. They did not know that the area in which the patrol base they had travelled to the previous day for a 10 day mentoring mission was within an area of Afghanistan where the Taliban was strongest. They did not know the Afghan National Army contingent they were mentoring had friends in the Taliban. And they did not know the risk of an insider attack at that patrol base had been elevated from LOW to HIGH two hours before the incident occurred. But **all** these facts were known by senior officers in the chain of command.

The inquest was open to the public and the names of all who gave evidence both in court and in sworn written Statements were announced during open court and are included in the Coroner’s findings which is a public document, and in the Brief of evidence which is available on request. The names of these officers were also mentioned in media reports during the inquest. Therefore, their names are also mentioned in my book. However, this book is not a malicious exercise against those named. Rather, its purpose is to inform the Australian public about the parlous state of leadership in the commissioned ranks of the Australian army with the hope that long-overdue structural reforms in officer selection, training and culture will be implemented.

The name of the rogue Afghan National Army soldier who killed these three Australian soldiers in pre-meditated cold-blooded murder was Hekmatullah. He

escaped under the cover of darkness after his cowardly attack and, with assistance from the Taliban, made his way to Quetta in Pakistan. His name was immediately added to the top of the Joint Prioritised Effects List, known by an acronym as JPEL, which was a list of high value insurgents to be killed on sight, whether armed or not. Hekmatullah's whereabouts in Pakistan were subsequently located by Australian intelligence agencies. However, rather than target Hekmatullah with a Hellfire missile from a predator drone, as the US did in such circumstances, his location was reported to Pakistan authorities who were requested to take him into custody on behalf of the ADF. This of course contradicted the purpose for his name being on the JPEL list - to be killed. It took eight months for Pakistan authorities to hand over Hekmatullah to the Australian Defence Force who then handed him over to Afghan authorities. This series of events was a big strategic mistake by the ADF.

I would suggest that if any of the three men who were killed by Hekmatullah had been the son of a senior Australian army officer or a politician, Hekmatullah would have been targeted with a drone strike. Over 3,000 senior Taliban commanders were killed outside Afghanistan by missile strikes from predator drones during the war. Furthermore, most of these drone strikes were coordinated from the secretive Pine Gap facility near Alice Springs. As I stated earlier, if Hekmatullah had been killed after his whereabouts had been located it would have been within with the rules of engagement at that time.

In 2013 Hekmatullah was tried in the Supreme Court of Afghanistan and he proudly confessed to all four charges against him - the murder of three Australian soldiers, the wounding of two, treason and membership of a terrorist organisation. He was sentenced to death. However, Hekmatullah has not been executed. The main reason is that Western Governments, including Australia, and Amnesty International teamed-up to apply pressure on the Government of Afghanistan to cease executions. Furthermore, thanks to the Americans, Hekmatullah has since been released. I will deal with this in greater detail later.

We learned during the Inquest that the Internal Inquiry Officer had the immunity of a high court judge, even though he had no legal credentials. This was a legislated immunity provision and meant the inquiry officer could not be called to be cross examined in any court or tribunal on the contents of his inquiry report, and more particularly, on the omission of significant facts from the

Report which he was fully aware of and which were of direct relevance to the incident. Many of these facts were presented at the Inquest from transcripts of witness interviews which the inquiry officer had conducted but were absent from his Report. This legal protection for the inquiry officer does not apply to any police officer in Australia who investigates a murder and prepares a brief of evidence for the trial. How this legal protection was ever passed into an act of law for the ADF is just beyond comprehension. This legal escape clause is a shameful abomination which has only served to reinforce failures and may well explain why so many previous mistakes recurred time and again following earlier internal inquiry reports. If you always do what you have always done you will always get what you have always got. What the Australian public has been getting since the end of our previous longest war, the Vietnam War, is a steady decline in the standard of senior leadership which is directly correlated with an escalation of recurring failures of Command and Control in the Australian Army, many of which I have detailed in this book.

The insider attack occurred at 9:45 pm on 29 August 2012. Twelve of the 24 Australian soldiers were sitting down playing a board game and their last hand of poker before bedding down for the night. Hekmatullah fired 26 rounds from the 30 round magazine of his fully automatic NATO issued M-16 assault rifle. If he had also deployed a couple of grenades he could potentially have killed all 24 Australian soldiers of that platoon.

The ADF has been so used to getting away with cover-ups with its uncapped funding of taxpayers' money to fight taxpayers, rather than to fix the causes of its recurring mistakes, that Defence appeared to view the forthcoming inquest into this incident as yet another successful cover-up by hiring high profile civilian barristers at great cost from taxpayer funds. However, this time its well-established default policy to close ranks, deny and cover-up failed. The facts were so overwhelming that they could not be swept under the carpet. As noted earlier, five systemic failures were identified during the Inquest, all of which are disclosed in detail in the book.

Counsel Assisting the Coroner summed up the situation with these words. *"The families had successfully identified key gaps in the internal inquiry officer report. It was in Defence's interests, as much as the interests of the families, to further a more open and transparent investigation. It is difficult to escape the conclusion*

*that Defence has seen this inquest as an exercise in reputation management above all else. This made the inquiry process more difficult because, instead of Defence undertaking a motivated process to assist the Coroner to identify failings which may have contributed to these deaths, defence sought to minimise public harm by denying to the very last that the problems identified in the submissions even existed. If mistakes result in deaths, the Australian Defence Force must not hesitate to unflinchingly examine its own performance, with a view to identifying and correcting errors”.*

Two hours after the Coroner announced his findings of systemic failures, the response by Defence was to issue a media release, which included a joint statement by the then Chief of the Defence Force, Air Chief Marshal Mark Binskin, and the then Chief of Army, General Angus Campbell who is now Chief of the Defence Force which expressed their ‘*confidence in the leadership and actions of the members involved in this tragic incident*’. This was of course totally inconsistent with disclosures during the Inquest. In other words, there is nothing to see here, nothing happened, and there is nothing to learn.

Subsequently, all officers in the chain of command who were named by the Coroner as being associated with the incident were promoted. In fact the Commanding Officer was promoted from LT Colonel to full Colonel three months before the internal investigation report had even been completed.

On the final day of the two week Inquest, when the three families were emotional wrecks, we were called into a meeting room in the courthouse for a meeting with a Brigadier who was head of the CDF’s personal staff. He then threatened and intimidated us by saying we could face action by the Attorney General if we disclosed that mobile phone calls were being monitored by intelligence, but calls from this patrol base had not been intercepted.

I also critically examine the history of the Office of the Inspector General of the Australian Defence Force which is frequently touted as being an independent check on the ADF’s justice system for both the ADF and the general public. However, I have found that, in effect, the IGADF has an umbilical attachment to the ADF chain of command. The current Inspector General is a former Brigadier, and his staff are virtually all uniformed ADF officers. This does not accord with the concept of an arms-length independent body. The claim of independence of

the IGADF is yet a further clever sales spiel by the ADF to the public which enables it to conduct business as usual which is replete with cover-ups of recurring failures of command.

I also disclose some shocking examples of a caustic culture among senior officers who are unlikely to have ever seen combat. This culture has pushed many front line soldiers to the brink of suicide, and perhaps others to suicide.

I do acknowledge in the book that not all senior officers are poor performers. Janny and I have had the privilege of meeting some excellent leaders in the commissioned ranks who have been able to rise above and beyond, and lead from the front by example. These officers are thereby establishing the right standards for others to follow. It is difficult to soar with eagles when surrounded by turkeys, but we can only hope these good officers eventually do make it up the ladder to the most senior levels of command in the army.

There are also lessons for Australian Governments to learn from this war, particularly regarding Australia's military relationship with the US. In February 2020 the Trump administration commenced private meetings with the Taliban to broker a peace deal as a strategy for the US to get out of Afghanistan. Neither Australia nor any of the other 50 nations that fought with the US in Afghanistan were included in these negotiations. Not even the Government of Afghanistan was included. But the US agreed on behalf of the rest of the world with conditions for peace by the Taliban that 5,000 Taliban prisoners in Afghanistan must be released and the US must to withdraw from Afghanistan. Hekmatullah was one of those prisoners released. This is a damning indictment on the ANZUS Treaty. The Taliban did not stop fighting and the prisoners released under the so-called peace deal resumed fighting with the Taliban. Ultimately, when the Americans exited Afghanistan in August 2021, the outcome of the 20 years of war was that the Taliban was replaced with the Taliban.

The US has always been able to rely on Australia for military help in the wars it has created, but it is clear that Australia cannot rely on the US. It has been said that America does not have allies, it only has hostages, and very few escape.

Finally, I cannot let this occasion pass without commenting on the rate of veteran suicides. We know that more than 500 contemporary veterans have suicided since 2001. That is 13 times greater than the 41 who were killed in

action, and 18% greater than the national age-adjusted average, and it is still rising. A Senate Inquiry into veteran suicides in 2017, which I contributed to, made 24 recommendations, but few if any have been implemented. The Productivity Commission earlier found that the Department of Veteran Affairs is unfit for purpose. For years this Government strongly opposed calls for a Royal Commission into Veteran Suicides. However, as the result of public pressure and threats from some of its own MP's to cross the floor, the Government eventually agreed to hold a RC which is currently hearing evidence.

I am not much of a Christian these days but Paragraph 3 of Ecclesiastes has stuck with me – “For everything there is a season, a time for every activity under heaven”. It includes many ‘activities’, including:

- a time to love and a time to hate
- a time for war and a time for peace
- and significantly - **a time to be silent and a time to speak**

I see that I have a responsibility in my remaining years as a time to **speak** for those who are unable to in the hope that we may see long-overdue reforms in the selection, training and culture in the chain of command of the Australian Army. Our national security is critically dependent on these reforms.

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