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March 20, 2020

Hon. Linda Reynolds
Minister of Defence
PO Box 6100
Senate, Parliament House
CANBERRA ACT 2600

HUMAN
RIGHTS
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HRW.org

Re: Accountability for Alleged War Crimes by Australian Special Forces in Afghanistan

Dear Minister Reynolds,

I'm writing to you on behalf of Human Rights Watch regarding the March 16 ABC Four Corners investigation into possible war crimes by Special Air Service Regiment (SAS) forces in Afghanistan. As you know, that investigation found compelling evidence that a number of SAS members may have carried out extrajudicial executions of civilians and captured combatants in Uruzgan province, where SAS units were deployed. While evidence about a number of these allegations is currently part of the investigation that Judge Brereton is carrying out, some of the evidence is new and relates to cases the Australian Defence Force previously dismissed.

Given this new information, we urge you to ensure that the government conduct full and impartial investigations into all allegations that SAS forces carried out summary executions and other possible crimes against Afghan civilians and combatants, and that you re-examine cases previously dismissed for which there is now new evidence of possible criminal acts. We also urge that you ensure that all legal action against those who reported these incidents, including whistleblowers, lawyers and journalists acting in the public interest, be dropped.

One case detailed in the Four Corners report involved a member of an SAS 3 patrol unit who fatally shot an Afghan man, Dad Mohammad, in Deh Jawz-e Hasanzai, Uruzgan province, in May 2012. The Department had previously determined that the killing "was lawful" because the SAS member acted "in self-defence," but the video evidence contradicts direct witness testimony by SAS members involved. The video footage shows the man was shot at close range, was neither armed nor in possession of a radio or other communications devices. We appreciate that the Department has identified the SAS member who carried out the shooting (referred to in the video as "Soldier C") and has suspended him from duty.

Another case involves the alleged unlawful killing of a local imam, Haji Raz Mohammad, and his son Abdul Jalil in the village of Sola, in Uruzgan province, during a raid by 2 Squadron SAS on August 31, 2012. Witnesses told the ABC that Australian forces took the men into custody, cuffed and blindfolded. Local witnesses described finding the bodies, the father with a head wound and the son

shot through the mouth and the chest. There are more instances of unarmed Afghans allegedly killed in the custody of Australian SAS troops in the Four Corners episode, and the ABC reported that several of the soldiers implicated in these videos continue to serve in the SAS.

We are aware that SAS forces are currently under investigation by the Inspector General of the Australian Defence Force, led by New South Wales Judge Paul Brereton, in 55 cases of alleged unlawful killings and the cruel treatment of civilians and captured combatants and we hope this new evidence is included in that investigation.

We urge you to commit to these actions:

- Remove from active duty any soldiers identified in alleged acts of abuse in the Four Corners episode pending further defence and police investigations, and the outcome of the Brereton inquiry;
- Publicly voice your support for courageous whistleblowers like Braden Chapman and ensure they are offered witness protection and psychological support;
- Publicly voice your support to drop all charges against and investigations into those who exposed these allegations and evidence;
- Given the strong public interest, commit to making the full report of the Inspector General of the Australian Defence Force public, redacting only what is strictly necessary for genuine national security reasons;
- Ensure that all credible allegations that the Department of Defence officials or armed forces personnel committed, aided or suppressed evidence of war crimes or other human rights abuses in these operations are subject to an adequate and effective investigation by a fully independent body and appropriately prosecuted. Take all necessary steps to prevent political interference in such investigations and prosecutions;
- Ensure that all those responsible are held to account, including all those in the direct and indirect chain of command, such as senior officers and ministers responsible for the Australian Defence Force;
- Ensure unequivocal co-operation with the International Criminal Court prosecutor in any investigation her office may hold into these, or any other allegations of war crimes by members of the Australian Defence Force.

We would be happy to discuss these matters further with you and your team.

Sincerely,

Elaine Pearson
Australia Director
Human Rights Watch