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**Subject:** Final statement re. Sunderland review  
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ABC Statement in Response to Interim Independent Review Report Posted 5 Nov 2024  
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### **Statement by Director, News Justin Stevens**

In September 2024 the ABC commissioned an independent review into concerns raised over three related stories published in September 2022, one online article and two 7.30 stories known as the 'Line of Fire' stories, which investigated activities by Australian commandos during a 2012 deployment in Afghanistan. You can read the interim report [here](#)

The stories reported on several matters of public importance.

While no specific Australian soldiers were named in the reports, they were identified as being members of the 2nd Commando Regiment. The three stories, comprising two broadcast on 7.30 and one online, included segments of 'helmetcam' footage that had been captured by the commandos and obtained by the ABC. Only one of the substantive public interest issues raised in the 'Line of Fire' stories, regarding two scenes of shots being fired from a helicopter towards a figure running and a figure in a compound, was the subject of public complaints and concerns.

The review investigated how editing errors introduced additional gunshot sounds in a video of helmetcam footage which was embedded in an online article and used during part one of the 7.30 broadcast. It also looked into concerns relating to how some parts of the vision were visually depicted; editing of an interview with former US Drug Enforcement Administration leader Bret Hamilton in one of the 7.30 stories; and why an email to the ABC about the editing of the helicopter footage almost two years earlier had not been acted on.

The review was commissioned by ABC Managing Director David Anderson and conducted by distinguished journalism leader Alan Sunderland. The ABC has committed to publicly releasing the review. We have received an interim report from Mr Sunderland. The ABC will provide an update once it receives the final report.

The review found that in the 56 second video clip in the online article five additional sounds of gunshots were inadvertently but inaccurately introduced into footage showing a commando firing from a helicopter. The review found additional sounds of gunshots were also inadvertently

but inaccurately introduced into the 7.30 video, but at different points than in the online video.

Mr Sunderland said: “To be clear, I find no evidence that anybody, at any stage, made a conscious or deliberate decision to introduce additional gunshots. It appears to be an inadvertent consequence of attempts to create clean, accurate and effective sequences in the story (...)

“I have found no evidence to support the conclusion that any of this was done at the direction of the journalists involved or on the initiative of the video editor in order to doctor or deliberately distort the depiction of the events that occurred. On the contrary, what evidence there is suggests it was not a deliberate editorial decision to include additional gunshot audio in order to mislead or deceive.”

The review said the errors were not picked up because “there was nothing about the two scenes of shots being fired from a helicopter ... that led anyone to believe that there was an issue to review, or to consider that the sequences may have been edited in a way that introduced additional gunshot audio”.

There was “no evidence that anyone at the ABC ... deliberately doctored, falsified, manipulated or distorted information, material or evidence in order to mislead audiences. On the contrary, there was significant care taken to ensure the stories were checked, discussed, reviewed and upwardly referred.”

The ABC sincerely regrets and apologises for the editing errors in the video clips, including to members of the 2nd Commando Regiment. The video has been removed.

Mr Sunderland rejected complaints over a section of the footage being slowed down, zoomed in and highlighted, saying this wasn’t misleading, inappropriate or problematic.

He said: “To be clear, the only inaccuracy I have found relates to the additional sounds of gunshots. I do not consider any other aspects of the way the sequences were depicted to be materially inaccurate.”

The review found Mr Hamilton’s final comment in an interview that alleged war crimes should always be investigated was not in proper context and therefore did not accurately represent him as talking about allegations of war crimes in general rather than referring to any specific allegations. The review found this was potentially misleading. It found Mr Hamilton’s views were otherwise accurately represented.

ABC News sincerely regrets and apologises to Mr Hamilton as well as our audience members for this. That was not the meaning we intended

to convey.

A correction will be published on the Corrections and Clarifications page regarding the editing errors and an Editor's Note will be appended clarifying the context of Mr Hamilton's comment.

Importantly, the review found the editing errors did not misleadingly alter the central focus of the 'Line of Fire' stories, saying the issues they raised were significant and the stories remained of public importance.

"The 'Line of Fire' stories covered issues of the highest importance, dealing with the behaviour of Australian troops in a conflict overseas," the review said. "They were of public importance at the time the stories were published and broadcast, and they remain of public importance now.

Although no individuals were identified in the stories themselves, the issues raised ... were significant and important."

Mr Sunderland has made five recommendations:

Editorial policies and guidance should be reviewed to ensure that the importance of maintaining the integrity of crucial source material is maintained, particularly in investigative stories.

Training should be reviewed, in particular for non-editorial staff working in investigative areas, to ensure everyone is aware of key editorial principles, including the need to maintain the integrity of source material.

Editing practices should be reviewed to ensure there is regular, timely and detailed face-to-face contact between editors, reporters and researchers during the editing process.

When multi-platform stories are being prepared, consistent and equal scrutiny should be applied to all elements of the story across all platforms.

News should review the guidance note on interviews and discuss.

The ABC stands by the vital importance of its investigations into the alleged conduct of Australian soldiers. The editing errors, while deeply regrettable, do not weaken the value of the ABC's reporting over many years on these crucial issues.

When errors occur we correct them and strive to ensure they are not repeated. In addition to Mr Sunderland's recommendations I will be looking into any further actions we may need to take to ensure this does not happen again.

We must always continue to encourage our journalists to be brave in

their pursuit of important journalism on matters of significant public interest that, if it weren't for their work, would never otherwise see the light of day.

**Justin Stevens**

Director of News

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**INDEPENDENT REVIEW INTO  
ABC COVERAGE OF  
2nd COMMANDO REGIMENT  
OPERATION OF 2012,  
PUBLISHED SEPTEMBER 2022**

**FINAL REPORT**

**Alan Sunderland  
December 2024**

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# Introduction

In September 2022, the ABC published a series of stories that raised questions about the conduct of members of the Australian 2nd Commando Regiment during a deployment in Afghanistan in 2012. The stories are often referred to as the 'Line of Fire' stories, since this was the name given to them when they were broadcast on the 7.30 program.

The stories were done by *ABC Investigations*, an investigative team working within the organisation's News Division, and were the result of several months of extensive research and investigating, including two trips to parts of Afghanistan by locally-engaged reporters to gather information. The stories were done in collaboration with the 7.30 program. The research was originally done by the Investigations Unit for some months, and then taken to 7.30 for a collaboration.

At the time the stories were broadcast and/or published, the ABC was aware that defamation proceedings had commenced against it involving earlier separate and unrelated stories that had been published in 2020 and 2021, also concerning events in Afghanistan involving the same regiment, and a specific platoon within that regiment. A claim had been filed, although the trial itself did not begin until several months after the stories aired. That trial ended in October 2023 with a judgement against the ABC and the awarding of damages to Mr. Heston Russell, a former platoon commander in the 2nd Commando Regiment. The 'Line of Fire' stories that are the subject of this review are separate and unrelated to the stories that were the subject of the defamation case.

The 'Line of Fire' stories do not mention Mr Russell by name and in relation to several of the key allegations in the stories, it is specifically mentioned that commanders and other leaders of the relevant regiment were not present when certain controversial things allegedly occurred. Nevertheless, Mr Russell was contacted by the ABC prior to the stories being published and broadcast, and offered an opportunity to comment.

However, in its defence filed against the defamation charges related to the earlier stories from 2020 and 2021, the ABC linked one of the alleged incidents from the Line of Fire stories (shots fired from a helicopter towards seemingly unarmed individuals on the ground) specifically to Mr Russell. This link was not made in the story. Mr Russell himself has stated publicly that at one point he advised those investigating the alleged incidents that he believed (mistakenly as it turns out) that he himself was involved in at least some of the shots being fired. This background helps explain Mr Russell's ongoing and publicly stated concerns about ABC stories on these subjects.

On 15th September 2024, almost two years after the Line of Fire stories had run, the Spotlight current affairs program on Channel Seven devoted an episode of its program to criticisms of the ABC and its reporters and producers, including criticisms from Mr Russell. Although some of the Spotlight program covered the earlier stories and the resulting defamation case, there were new criticisms of the 2022 Line of Fire stories as well. Those criticisms were picked up and reported widely in the media, and commented on by senior politicians in Canberra.

Following these concerns being raised, the ABC examined the stories, acknowledged that they contained editing errors, removed the relevant stories from the ABC website and established this review. Another online story from September 2022, which deals with some of the concerns raised about the actions of members of the 2nd Commando Regiment but does not contain any of the material complained about, remains online.

In conducting my review I have been mindful of past events and earlier stories, and taken note of the judgement and associated findings in the defamation case involving Mr Russell and the ABC. This is particularly the case where they touch on the content of the Line of Fire stories, which were broadcast and published in the months leading up to the commencement of the trial itself.

However, my findings and recommendations in this review are specifically confined to the matters described in the terms of reference.



# Terms of Reference

The reviewer is to investigate concerns raised about a September 2022 ABC News online article and 7.30 story regarding operations by the 2<sup>nd</sup> Commando Regiment during a 2012 deployment in Afghanistan. Those concerns relate to the editing of audio in some of the helmet cam footage captured by the commandos and the editing of an interview with Mr Bret Hamilton.

The reviewer is to make findings, and any necessary recommendations, about the following matters:

1. What decisions were made, and by whom, in relation to the editing of the helmet cam footage, and the reasons for those decisions.
2. Whether the editing of the helmet cam footage accurately represented what was shown on the helmet cam footage.
3. What decisions were made, and by whom, in relation to the editing of the interview with Mr Hamilton, and the reasons for those decisions.
4. Whether the editing of the interview with Mr Hamilton accurately represented Mr Hamilton's views as conveyed to the ABC.
5. Whether the relevant journalists saw the stories in their final form before they were published, and if not, when they first saw them.
6. When did the ABC and its journalists first become aware of any potential problems with the editing of the helmet cam footage and/or the interview with Mr Hamilton, and what actions, if any, did they take in response.
7. When did the ABC and its journalists first receive complaints in relation to the editing of the helmet cam footage and/or the interview with Mr Hamilton, and what actions did the ABC take in response.
8. Having regard to the matters above, whether the ABC complied with its Editorial Policies and Editorial Guidance in relation to the stories, and if not, in which respects.

# Process

The review is to be conducted by the reviewer having regard to the following matters:

1. The reviewer will be provided with access to all relevant recordings, footage, logs and transcripts, both edited and unedited, by the ABC.
2. The reviewer may consider any other relevant material, including formal complaints made prior to the review commencing, about the coverage and reports or investigations into the issue carried out by other media organisations.
3. The reviewer may request the ABC to provide information or documents as specified by the reviewer in writing.
4. The reviewer may conduct such interviews or make such inquiries as he sees fit.
5. All materials gathered during the course of the review are to remain in the possession of the reviewer and held by him securely and confidentially until the final report is provided to the ABC.
6. Upon the conclusion of the review, the reviewer is to return any materials gathered from the ABC during the course of the review.
7. Before making a finding critical of any specific individual's conduct, the reviewer should ensure that the substance of the finding has been put to the individual at some point during the review so that they have an opportunity to respond.
8. Nothing in the above process is intended to require the ABC or any interviewee to produce to the reviewer any material or information that would, or would be likely to, reveal the identity of a confidential source. If requested to do so by the reviewer, the ABC will provide the reviewer with a list of the material or information which has been withheld or redacted on this basis.
9. Nothing in the above process is intended to require the ABC or any interviewee to produce to the reviewer any material or information which would be the subject of a claim of legal professional privilege by the ABC or the interviewee. If requested to do so by the reviewer, the ABC will provide the reviewer with a list of the material or information which has been withheld or redacted on this basis.
10. The reviewer's report, containing findings and recommendations as well as a summary of the methodology used in the review, is to be provided to the ABC Managing Director by COB Thursday 31 October 2024.

# Methodology

In accordance with the process, I sought access to all necessary materials and spoke to a wide range of people.

When it announced this review, the ABC committed to the process being independent. I felt free to approach anyone I wished to approach and ask for any materials I felt I needed, subject to the obvious limitations necessitated by the protection of confidential journalist sources and legal privilege.

The material I accessed included, but was not limited to:

- The original 7.30 and online stories from November 2022
- Significant amounts of source material used for those stories
- Edited and unedited versions of the helicopter helmet cam footage used the stories
- Edited and unedited versions of the Hamilton interview used in the story
- Early 'work in progress' versions of the story'
- Emails and other written communications between journalists, editors, editorial managers and third parties relevant to the terms of reference
- Various materials related to an earlier court case
- The Channel Seven 'Spotlight' program that raised concerns over the stories
- Other media coverage and correspondence raising concerns over the stories
- The results of forensic examination of the edit process that produced the stories

I was able to speak either face to face, via phone or online link or via email, with a wide range of individuals inside and outside the ABC.

In particular, I was given full access to everything and everyone I sought access to at ABC News, sometimes involving multiple requests for information and multiple conversations with individuals. I also received information from ABC Legal and was able to hear from all those I sought access to at ABC Legal.

I was conscious during the conduct of this review that I needed to thoroughly examine the allegations and criticism surrounding these stories, and that involved contacting all of the relevant parties both inside and outside the ABC, including some former ABC staff who have since left the organisation. I also needed access to all relevant materials.

At the same time, I was also conscious of the need to proceed promptly and to produce a timely report, given the seriousness of the issues raised, while at the same time affording procedural fairness to everyone involved.

Drafts of relevant excerpts were provided to individuals when extra information was required or to give individuals the opportunity to comment.

# The stories

The stories (collectively known as the 'Line of Fire' stories) consisted of a two-part 7.30 story run over two nights on September 20th and 21st, 2022, and an accompanying online story published on 20th September 2022. A second, related online story was also published on 21st September 2022 but is not the subject of this review. The stories were done by the ABC Investigations team in collaboration with the 7.30 program.

Collectively and broadly speaking, the stories covered the following four substantive issues of public importance:

1. Australian soldiers may have fired shots from a helicopter in a manner that breached the rules of engagement, by seemingly firing at unarmed civilians;
2. Australian soldiers, in preparing for a mission, had discussed among themselves a 'quota' that needed to be met during the operation;
3. Australian soldiers may have shot Afghan prisoners after they were detained. This also included reporting of alleged comments made by an unnamed former commando confirming he had shot and killed one prisoner.
4. An Afghan man on the ground was being beaten with a stick by an Afghan soldier in the presence of Australian commandos. The Australian commandos watch on but do not appear to speak or intervene. This issue was only raised in the online version of the story. I have been advised it was not included in the 7.30 broadcast version of the story due to time constraints.

In all cases, no specific Australian soldiers were named in the reports, but they were identified as being members of the 2nd Commando Regiment.

In the process of preparing the stories, both the Department of Defence and a number of individuals were approached for comment.

It is important to note that only one of the substantive public interest issues raised in the Line of Fire stories is the subject of the public complaints and concerns that have led to this review.

It is only the first one (the shots fired from a helicopter that may have been towards unarmed civilians, and may have breached rules of engagement) that is the subject of complaints, and those complaints relate to inappropriate editing that resulted in the inclusion of audio of too many gunshots..

The only other complaint that is the subject of this review is that an interview with Mr Bret Hamilton, which refers to the need for certain matters to be investigated, has been used out of context and in a misleading way.

# Responsibility for the stories

Across the ABC, a significant number of people were involved in researching, reporting, producing and editing the stories, as well as being involved at various stages in providing editorial and legal pre-publication advice and in reviewing and approving the broadcast and publication of the stories via the ABC's upward referral and legal processes.

In the body of this review, I will refer to a range of those involved in the stories by reference to the roles they held at the time, and my observations and recommendations focus on the errors of process and of judgement that were made and the steps that, in my view, need to be taken to minimise the risks of similar errors in the future.

Apart from the reporter, video editor, producer and researcher who worked on the stories, I have also looked at the actions taken, decisions made and advice provided by those involved in the process of upward referral for the stories. This includes those who approved the story at various stages, those who provided legal and editorial advice and those who were responsible for managing the teams who worked on the stories.

Within ABC News, the two content areas directly involved in the stories were ABC Investigations and the 7.30 program.

The story was ultimately approved for broadcast and publication by the Director of News, but was also referred to the editors and producers of both 7.30 and ABC Investigations as well as broader news management during the production process.

It was also subject to advice from ABC Legal (including external counsel) and ABC Editorial Policy.

It is important to note the way that upward referral and managerial oversight on stories works at the ABC.

It is not the case that at each point of upward referral (from reporters and producers to unit managers, Executive Producers, heads of program areas, Directors of News, etc..) all aspects of the entire journalism exercise are re-done. This would be impractical and wasteful. It is expected that the material being reviewed has had basic checks completed and is reflective of the source material. That is not to prevent pertinent and probing questions being asked and suggestions made, but it would be neither possible nor practical for every frame of what is usually hours of source material or every moment of every raw interview to be re-watched and every source re-contacted.

For example, in the case of the Line of Fire stories, issues that were raised during the upward referral process included questions about whether parts of the story had been provided to external parties for response and what those responses were, questions about potential identification of individuals, questions about the sources of music, context for certain sequences, various elements of the script and structure, as well as a range of questions about the research, factual basis and source material. The

stories were also checked for any legal issues and for compliance with editorial policies. Rough cuts and final versions of the stories were viewed more than once by a wide range of senior journalists and managers within News.

It is also important to note that the role of Editorial Policies and Legal is to provide advice, not to make decisions about content. The decision to publish remains with the relevant content division, which in this case was News. The final decision to publish on this occasion lay with the Director of News.

## The allegations/criticisms

Since the broadcast of the Spotlight program on Channel Seven, there have been a range of concerns reported by that program and elsewhere, including by other media outlets and also by the ABC's own Media Watch program.

The criticisms fall into three categories:

- That the helicopter footage of Australian soldiers firing at people on the ground has been misrepresented through the addition of extra gunshot sounds, so that it appeared more shots had been fired than was the case. In the Spotlight program, specific mention was made of a key sequence in the online version of the story that related to the firing of what was described as a single 'warning shot', but it later emerged that concerns were also being expressed about other sequences in the 7.30 story where it appeared that extra gunshot sounds had also been added. Concern has also been raised in relation to how some parts of the vision were visually depicted, including by being zoomed in, slowed down or highlighted in ways that could be potentially misleading.
- That an interview with former US DEA representative Bret Hamilton had been edited in such a way as to mislead viewers about his views, specifically to make it sound as though a broad, in principle remark he made about the importance of investigating allegations of war crimes was in fact a more particular remark about the 2nd Commando Regiment, or more generally of the wider Task Force 66 missions.
- That specific concerns had been raised with the ABC about the editing of the helicopter footage almost two years earlier, and in particular about the addition of extra gunshot audio, and these concerns had been ignored.

In the body of this review, I will address each of these three allegations/criticisms in turn, before making a series of findings and recommendations.

# The helicopter footage

Concerns about the way in which the ABC edited and depicted the footage of members of the 2nd Commando Regiment firing at people on the ground have been the most prominent and significant complaints made publicly against the ABC in relation to these stories..

Most notably, those concerns were central to the Spotlight program that was broadcast on Channel Seven on September 15th, 2024.

The first thing to note is that, at the time the ABC produced the Line of Fire stories, unlike the Spotlight program, it did not have access to a clean, unedited version of the helicopter footage. The only available material was incomplete, and was included in a heavily edited compilation video.

The Spotlight program reported that a sequence showing a single gunshot (described in the program as a warning shot) fired by an Australian commando towards a figure running on the ground had been altered so that six gunshots could be heard instead. The alteration was shown as occurring in a 56 second video clip included in the online version of the story.

Although this was the key allegation made in the Spotlight program in relation to the helicopter footage, it needs to be noted that, in addition, further concerns were raised about the ABC's broader use of the helicopter footage in subsequent media reporting and/or in correspondence sent to the ABC by lawyers representing Heston Russell in 2022. Some of these additional concerns were raised with me by people outside of the ABC that I spoke to directly during the course of this review.

These additional concerns were that:

- Other helicopter sequences shown in the 7.30 broadcast version of the story had also had additional gunshot sounds inserted. This included a sequence showing six shots being fired towards a person in a compound, where around 3 or 4 additional shots can be heard in the 7.30 version.
- A section of the helicopter video had been slowed down and zoomed in, potentially leaving the impression that the shots had been fired from a closer distance than was actually the case.
- The way in which the single 'warning shot' video had been altered (via the addition of extra gunshot sounds) made it appear that the shooting had been towards more than one person, and the reporter voiceover referring to 'unarmed civilians' reinforced this.

During this review, I have tracked down and read carefully through all of these allegations and watched the Spotlight program. I met with, spoke to, communicated with or heard from those who had raised or reported on the allegations against the ABC in case they had any further information to provide. In particular, I asked for any evidence that substantiated the allegation that these changes had been made as a form of deliberate 'doctored', in order to give a false impression about what had occurred, and/or that it had been a deliberate editorial decision of the journalists involved in the story to mislead.



I met, spoke to, communicated with or heard from all of those at the ABC who had been involved in the preparation of the stories, including the reporters and producers, the video editor, the senior managers responsible for pre-publication editorial advice and/or approving the stories for broadcast, and I was provided with information from the files of ABC Legal, as well as contacting a number of people at ABC Legal and/or speaking directly to them.

I also accessed the editing 'project' in the ABC system and arranged a viewing of it, which allowed me to examine in detail, among other things, the various audio tracks in the story. This revealed where any additional audio had been added to the story during the editing process.

Finally, I was able to view two earlier versions of the 7.30 story while it was a work in progress (the 'WIP' files). These relate to early incomplete edits of the story produced and circulated to the reporter, producer and a range of others by the video editor on September 8th and September 12th, 2022.

As a result of this process, as well as reading through the original scripts for the stories (which contained detailed edit instructions), the following things were clear:

1. The audio of different, additional gunshots had indeed been included into both the online and the 7.30 stories at various points, and were audible to me.
2. The places where those additional shots had been added differed between the 7.30 version and the online version.
3. In particular, the sound of additional gunshots can be heard in the 56 second online video at the point where, in reality, a single 'warning' shot was fired, apparently towards a figure running on the ground.
4. That same shot (of a single shot being fired from a helicopter) in the 7.30 story, does not contain any additional gunshot audio. Only the original single shot can be heard.
5. The 7.30 story does include the sounds of additional gunshots at various other points in the story, including in vision where several shots are being fired from a helicopter towards a figure inside a roofless compound.
6. In the earlier work-in-progress versions of the 7.30 story (the 'WIP' files), which were circulated to the reporter, producer and other editorial managers in News approximately twelve days and eight days before the story aired, the sound of additional gunshots can be heard in the video where only a single 'warning' shot had actually occurred, despite this not being in the final 7.30 broadcast version.
7. In the 7.30 story, some vision of shots fired from the helicopter towards a figure on the ground has been slowed down, zoomed in and highlighted.

It is perhaps easiest to deal with the seventh point first.

Although I noted the section where vision had been slowed down and zoomed in, I did not consider that to be inappropriate or problematic. There were sequences that clearly showed the nature of the interaction between the helicopter and those on the ground and provided a good perspective of what was occurring. It seemed to me (and this was confirmed by the editorial team of reporter and producer who had asked for this to be done) that the purpose of the slowed down and zoomed in shot was to

provide the audience with a reasonable opportunity to see clearly what was being discussed, since the original shot was quite fleeting. In the circumstances, I did not consider that this was misleading or inappropriate and I have no further comment to make on it.

It is certainly true that the vision showing a single 'warning shot' goes on long enough for a second person to be visible. When combined with references in the script to 'unarmed civilians' and 'these figures', together with the fact that one version of this sequence (the digital online clip, not the 7.30 version) contains the sounds of more than one gunshot, it is arguable that a reasonable viewer might conclude multiple warning shots were fired at multiple people, rather than a single shot as a warning to a single individual.

However, I consider that it would have been clear to someone viewing these stories, whether the 7.30 or the online clip, that questions were being asked about all of the shots being fired from a helicopter towards, near or at people on the ground who appeared to be unarmed. This includes both the single shot at a figure on the road, described by some as a 'warning shot', and at a later series of shots fired at a figure in the compound. Both of these sequences were specifically referenced as the reporter in the story was showing an expert in these matters the material and asking for their opinion as to whether they warranted further investigation. Equal weight appeared to be attached to each incident as potentially problematic. In those circumstances, I consider that a reference to persons or civilians rather than a person or a civilian was reasonable. Highlighting the two figures who were clearly in vision at a time when a gun was being fired was reasonable and unlikely to materially mislead.

What remains, then, is the consideration of how and why the additional audio of gunshots came to be in the stories at all, since there is no doubt in my mind that this occurred, and a close examination of the edit confirms this.

This is what emerged during my review:

- There are no instructions anywhere in the written scripts for the edits of the 7.30 stories (which include detailed editing instructions and time codes of relevant vision in a column on the left hand side of the page) that request additional gunshots from any source to be added into the stories at any point, or for the audio to be changed or replaced in relation to the crucial sequences of shots being fired from a helicopter.
- It is noteworthy that the most complained about 'additional shots', which were the focus of the Spotlight program and which relate to the sound of six shots being audible when a single 'warning' shot is fired, did not occur in the 7.30 story.
- Both the reporter and the producer on the story, who had responsibility for overseeing the edit of the story, are adamant that they did not ask for or direct that additional gunshot audio should be added at any point, and at no stage prior to the public concerns being raised some two years later were they aware that it had occurred.
- All of the ABC staff that I contacted, who were involved in reviewing, advising on or approving the final versions of the story prior to publication and broadcast, are adamant that they were not aware of the addition of gunshot audio at any point in either the 7.30 story or the digital online

clip. They did not notice it, it was not brought to their attention and there were no discussions in relation to it..

- The video editor of the stories, who no longer works for the ABC, has advised that their work was at all times subject to the appropriate upward referral, approval and sign off, but given the passage of time they have been unable to provide me with any confirmation that they added additional gunshot audio or any explanation of why that would have occurred. They have also never suggested that they were asked or directed to include additional gunshot audio, or that they raised this issue with anyone or disclosed that it had taken place.
- Finally, the video editor pointed out that the stories were complex and sensitive ones that required multiple last minute changes, which can be very challenging when dealing with stories (as was the case with this one) that have multiple video and audio tracks. In particular, the editor explained that, as a standard practice, if the original vision of a story was supplied with mixed audio including natural sound and music and this needed to be fixed to avoid audio problems, a scene showing (for example) the firing of a bullet would be matched with cleaner audio showing the firing of a bullet. However, the editor went on to explain that you would not deliberately put the audio of six bullets being fired under the vision of a single bullet being fired. They felt strongly they would not have consciously or deliberately done that.

This leaves a judgement to be made in this review as to whether, as alleged publicly in some quarters, the audio of the gunshots was deliberately added as part of a process of 'doctoring', to deliberately leave the misleading impression that more shots were fired than was the case at very specific moments, or whether there is some other explanation.

It is useful to point out at this stage that allegations that journalists have been involved in deliberately doctoring source material in order to mislead the public is an accusation of the most serious nature. It would represent one of the most egregious and serious breaches imaginable of fundamental journalistic ethics. Accordingly, I made it one of the central and most important parts of this review to look for evidence that this may have occurred.

What is not in dispute, in my view, is that the additional gunshot audio is there at different points in both the 7.30 story and the online clip, and that in certain instances it was inappropriate and potentially misleading to do so.

My examination of both the 7.30 and online versions revealed that:

- In the online clip only, you could hear the sounds of six gunshots under vision which showed a single 'warning' shot being fired. This was potentially materially inaccurate.
- In the 7.30 story, you could hear the sounds of extra gunshots (around 3 or 4 more) under vision which showed six shots being fired from a helicopter. Given that this sequence, along with the single 'warning' shot sequence, had been flagged by the story as potentially worthy of investigation, this was also potentially materially inaccurate, but less so than the online version as it was an incident that involved multiple gunshots. Nevertheless, the number of shots fired would be likely to be materially relevant to any investigation.

- In the 7.30 story, there were at least three other occasions where additional or replacement gunshot audio had been added to general combat sequences that were not material to the story. These were not potentially materially inaccurate.

I have found no evidence to support the conclusion that any of this was done at the direction of the journalists involved or on the initiative of the video editor in order to doctor or deliberately distort the depiction of the events that occurred.

On the contrary, what evidence there is suggests it was not a deliberate editorial decision to include additional gunshot audio in order to mislead, misrepresent or deceive.

The evidence that mitigates against it being a deliberate editorial choice includes:

- There are no written instructions asking for it to occur, despite extensive written instructions on all other aspects of the edit;
- Everyone involved in the edit process says they did not direct the inclusion of such additional audio, nor were they directed to include it by anyone else;
- Throughout the entire process of upward referral, legal checks and approvals to publish and broadcast, all those involved are consistent in telling me that the issue of additional gunshot audio was never discussed, observed or detected despite repeated viewings.
- The video editor who edited the story has made no suggestion that they were directed or asked to add in extra gunshots, nor any suggestion that this was discussed at any point;
- The video editor is clear that they made no such deliberate decision to add additional gunshot audio to specific sequences, and is at a loss to explain how it might have occurred.
- The fact that the key allegation of inserting five extra shots in addition to the single 'warning' shot in a critical piece of video only occurred in a 56 second online clip, and not in the full 7.30 story seems to me to be particularly instructive. If there had been a conscious and deliberate decision to manipulate that key piece of video, it would logically have been done in the main broadcast version of the story as well and not just in a short video clip towards the end of a long online story.
- Further to the point above, the fact that the five extra shots can be heard in the single 'warning shot' sequence of the 7.30 story in two earlier work-in-progress versions but not in the final broadcast version that went to air mitigates against the idea that they were deliberately added for editorial reasons, as it would make little sense to then remove them from some but not all of the final versions. It is far more likely that they found their way inadvertently into the sequences during the edit process, and as a multitude of last minute changes and edits were made they were lost from the 7.30 story but not from the clip provided to News Online.

The possibility that it was a deliberately misleading piece of doctoring by the journalists involved does not stand up to scrutiny once all of the facts and circumstances are examined.

Other likely explanations remain, and in order to examine them a little context is required.

First of all, an impression has been left by some of the public media coverage of the issue that the stories as a whole focussed on one key scene where a single shot was fired (said to be a warning shot) at a person running on the ground, and that by adding extra gunshots to this scene the central focus of the entire story was misleadingly altered.

In fact, as has been pointed out earlier in this review, the issue of shots being fired from helicopters was only one of a number of problematic actions raised in the story. There was also evidence of a 'quota' being discussed, as well as very serious allegations in the second of the two stories about the alleged deliberate killing of a prisoner or prisoners.

Furthermore, the helicopter shooting sequences highlighted and questioned by the ABC involved two separate incidents. One was the single 'warning' shot fired towards someone running on the ground and the other was several shots fired in the direction of someone inside a compound. Both of these incidents were described in the story as being worthy of further examination for potential breaches of the rules of engagement.

Over the two incidents, I have established that additional gunshot audio can be heard, although this is inconsistent between different versions of the story. The 7.30 story did not have any gunshot audio in the single shot vision, although it did have some additional gunshot sounds at the end of a sequence where multiple shots were fired. It also had examples of additional gunshot audio in general overlay or montage sequences earlier in the story where there was no material impact and where there was absolutely no reason to add them if the aim had been to deliberately mislead or 'doctor' content.

I mention all of this not to minimise the significance of the sounds of extra gunshots, but to suggest that journalists viewing a story where the key material moments shows multiple shots being fired from a helicopter inside and outside a compound may be less likely to notice extra gunshots than if they were focussing on a single piece of video showing a single shot being fired.

The second piece of context to keep in mind is the particular circumstances in which the stories were edited.

In my experience, the ideal environment for editing a long, complex piece of journalism (and in particular, a piece of investigative journalism) is one where the reporter, producer and video editor are in close daily contact as the edit proceeds.

It is certainly the case that video editors are often left alone to work on editing complex sequences, and there were plenty of complex sequences in the Line of Fire stories, involving mixed audio sources that were often 'contaminated' with loud music, multiple sources of video and detailed requirements about blurring or anonymising certain elements. Editors generally prefer to work without interruption, and even at times without the presence of others in the edit booth, when complex sequences requiring close concentration are being prepared.

Nevertheless, regular interaction and detailed communication between reporter, producer and video editor are an important part of checking progress, discussing key editorial and structural choices, and watching completed sections of the story closely.

In the case of the 'Line of Fire' stories, there were certainly efforts made to ensure this was done. However, the story was edited in Sydney and the reporter was in Brisbane. The producer assigned to the story has described to me dropping in regularly to check on progress. This was also still at a time when more people were spending more time working from home as we emerged from the realities of Covid. As a result, at least some of this checking, discussion and communication process during the edit was done via the circulation of 'WIP' or work in progress links, which allowed the journalists involved (and those to whom the story was upwardly referred for advice and approval) to view the rough emerging versions of the story on their own computers wherever they happened to be.

Under such circumstances, while the reporter and producer kept in regular contact with the video editor throughout the edit process, saw regular WIP files of the work that had been done, and appropriately referred the story to editorial managers and to ABC Legal for checking and approval, it may well be the case that there was not as much opportunity as there should have been to discuss, view or consider the specific details of how the edit had been handled or to see precisely what had been done with individual audio tracks in detail when the sequences were being assembled.

It may also be the case that the level of direct, face-to-face communication between the journalists and the video editor might not have been as extensive as would otherwise be the case if all parties were in the same location, spending more time in the edit booth and discussing the various editing decisions that were being made.

The third piece of context to keep in mind is the nature of the source material the video editor was working with when compiling the story.

The clean, comprehensive and chronological five minute piece of helmet cam footage which set out events in their correct sequence was not available to the journalists or to the video editor. This only came into possession of the ABC some months after the stories were broadcast and published. Instead, they had a collection of material supplied to them from a variety of sources, and some of the key material was in a heavily edited compile video with loud music under much of the action. Assembling a story in these conditions entailed the editor trying to isolate and use clear informative shots of the action taking place as well as a clean sound track with relevant effects and a minimum of jarring discordant music cuts.

All of these circumstances, together with the evidence I have been able to assemble, leads to the most likely scenario for how these gunshots were added.

The video editor, in attempting to assemble a high quality and compelling piece of current affairs television in difficult circumstances with problematic source material, sourced clean audio of gunshots from other source material related to the story where clean audio was available, and combined it with the visuals available of people firing guns. In other words, vision of guns being fired was combined with

cleaner audio of guns firing. It needs to be stressed at this point that the editor who worked on the story, while noting that it is not unusual where an audio track is mixed with music and effects or problematic in other ways for appropriate clean audio to be sourced and used, has no recollection of this happening in relation to specific material shots in this story dealing with the shots fired from a helicopter, and does not believe it is something that would have occurred.

Nevertheless, If that was what occurred (and no other logical explanation exists for what occurred), then it occurred in such a way that it inadvertently introduced potentially misleading inaccuracies into some parts of the stories. These potential inaccuracies were different in different versions of the stories, and were clearly more significant in the online clip, where vision of one shot was underlaid with audio of six shots.

Finally, it is important to understand the nature of the extensive checking, legalling, upward referral and approval processes that the stories were subjected to, since none of these identified or rectified the problem.

Many of the most senior figures in ABC News, including the Executive Producer of 7.30, the Head of the Investigative Unit, the Head of Current Affairs & Investigations and the News Director, as well as the Manager of Editorial Policy who sits outside the News Division and provides editorial advice, have described to me the extensive and detailed scrutiny the story was subjected to.

They have explained to me that it was well understood that this was a particularly sensitive and significant story which required the utmost care. More than one senior editorial figure has said to me that they cannot recall a story that involved more pre-publication and pre-broadcast checks.

As is the case with all news content, pre-broadcast and pre-publication is provided (as advice only) by Legal and by Editorial Policies. The editorial decision-making is the responsibility of the relevant content decision - in this case News.

Those senior editorial managers have stressed that the issue of precisely how many shots had been fired did not emerge as a focus of attention. There was nothing about the two scenes of shots being fired from a helicopter (towards a figure running and towards a figure in a compound) that led anyone to believe that there was an issue to review, or to consider that the sequences may have been edited in a way that introduced additional gunshot audio. The focus, instead, was on fact checks of the key information included in the story, line-by-line reviews of all content and discussions about sources and other editorial matters.

None of this is a justification or an excuse for what occurred, but it emerges as the most likely series of explanations.

This will become particularly important later in this review when I turn to my findings and recommendations.



# The Hamilton interview

The second of the two 7.30 Line of Fire stories, which was broadcast on 21st September 2022, featured an interview and other material involving Mr Bret Hamilton, who was described in the story as heading a US Drug Enforcement Administration mission working closely with Australian commandos in Afghanistan in 2012.

The story described the ‘close bond’ Mr Hamilton forged with the commandos, quoting him as saying ‘they were the best operators we ever worked with. They were absolute consummate professionals.’

It goes on to describe a mission where Mr Hamilton was shot and injured, while an Australian engineer was killed on the same mission.

The story then goes on to explore the particularly close relationship Mr Hamilton developed with one particular platoon in the 2nd Commando Regiment, the Oscar platoon, and points out that in 2012, when he returned for another tour in Afghanistan, he was working with a different platoon who didn’t understand the mission as well. He was quoted in the story as saying to the Australian command ‘Look, I would prefer to stay with Oscar platoon. I think they’re more in line with our MO, and I think it would just be better for everyone if we stuck with one platoon, you know, for these Counter Narcotics operations.’

The story then goes on to outline allegations that, on a particular raid in Qarabagh in Afghanistan, some Afghans may have been killed unlawfully after being detained by Australian commandos.

The story then goes on to discuss an anonymous commando, referred to as Commando S, who allegedly spoke of his involvement in the raid, and says that the ABC understands the matter is now under investigation by the Office of the Special Investigator, the agency set up by the federal government to probe allegations of war crimes in Afghanistan.

The story then refers broadly to the two-decade NATO-led mission in Afghanistan, and the fact that the country is now back in the hands of the Taliban.

Mr Hamilton is quoted as saying that, while he is proud of what was achieved on the mission, he is ‘just absolutely disgusted with my government and my leadership for the way we left.’

The story ends this way:

Reporter: ‘Taking on the insurgency was just part of the mission. The commandos of Task Force 66 were also there to lay the groundwork for a peaceful and politically stable Afghanistan. But in a war with no clear battlelines, it appears those objectives may have been forgotten by a handful of soldiers.’

There is then a brief comment from an unidentified Australian commando talking to a camera in the field while on a mission, saying: ‘Hello. You just got f\*\*ked by TF-66.’



Bret Hamilton then says: 'Yes, they should definitely be investigated. We've got to be able to show that we've held our soldiers accountable.'

The story then ends with general sounds of gunshots over vision from a compilation video showing Australian commandos in action.

Mr Hamilton has complained that when he agreed to an interview he was told that the ABC wanted to tell a positive story, and he agreed on that basis. This is supported by evidence which emerged during the defamation case referred to earlier in this review. It showed that the reporter had a phone conversation with Mr Hamilton in November 2021, where they discussed covering positive aspects of the commandos. He claims he did the interview under false pretenses. He also says his final comments in the story, where he refers to things that 'should definitely be investigated', has been taken out of context in a seriously misleading way. He says that his comments were in answer to a broad theoretical question about whether alleged war crimes in general should be investigated when they involve our own forces, rather than any particular question about any alleged activities by the commandos he worked with in Afghanistan. Mr Hamilton says the way in which the comment was used makes it sound as though he is referring specifically to the commandos he worked with.

Mr Hamilton did not directly complain about the stories and the way in which his comments were used when copies of the stories were sent to him by the ABC immediately after they aired in 2022. However, he has made it clear to me that he was furious at the time he saw the stories, and immediately contacted friends and colleagues to explain that he had been seriously misrepresented. He later raised these concerns publicly, including during the Spotlight program.

In examining these concerns, I have been provided with and viewed the raw video of the entire interview with Mr Hamilton, which was done remotely (the reporter and producer were in Australia, while Mr Hamilton was in the United States). I have also spoken to the reporter and producer who were present for the interview, as well as hearing directly from Mr Hamilton himself.

Finally, I have spoken to a range of senior managers in ABC News who were involved in discussions, upward referral and approval of the story before it aired.

In relation to the question of whether the interview was obtained under false pretenses - for what was described as a positive story that turned out to be a negative one - there are some significant factors that need to be kept in mind.

By way of background, the reporter has advised that they spoke to Mr Hamilton on two occasions prior to conducting the interview, and that they both spoke about wanting to deal with positive aspects of the mission, but the issue of allegations of inappropriate conduct involving some members of the regiment did come up in discussions as well.

The story that resulted did spend a not insignificant amount of time dealing with positive aspects of the Australian commandos and their actions. It described at length the mission where Mr Hamilton was injured and an Australian engineer was killed, and referred to the fact that the mission was highly

effective in ‘smashing’ Taliban narcotics networks, and that Australian commandos were confronting ‘an enemy that ‘refused to obey the laws of war.’

During these positive sections of the story, Mr Hamilton was quoted offering unreserved praise for the Australian commandos generally.

In relation to the allegations of misconduct involving some Australian commandos, which were obviously the main focus of the story, it is clear to me when watching the full unedited interview with Mr Hamilton that he had prior knowledge of these allegations and seemed comfortable in referring to them. There is no evidence that the interview was in any way an ambush by raising for the first time matters that Mr Hamilton was unaware of or unprepared for.

Given Mr Hamilton’s concerns about the way his comments were used in the story, it is understandable that he may have felt misled about the likely nature and focus of the overall story when he agreed to the interview. If the story had raised nothing but negative aspects of the behaviour of Australian commandos in Afghanistan that would be one thing. However, given that both positive and allegedly negative aspects of the missions in Afghanistan were discussed without any concerns being raised during the course of the interview and that both positive and negative aspects of the missions were included at some length in the story, I am unable to conclude that the interview was obtained under false pretenses.. People who are interviewed for stories will sometimes find the final structure and focus of the story is not what they believed it would be when they agreed to be interviewed. In such circumstances, the most important thing is that their comments are used appropriately and not taken out of context, and that is what I wish to turn to now.

In the raw, unedited version of the interview, it is clear that Mr Hamilton is at pains not to make any seriously negative comments about Australian commandos from the 2nd Regiment. Although he is happy to discuss the fact that he expressed a preference to work with one particular platoon over another (and that is referred to in the story), he rejects any suggestions that one of the platoons might have been overly aggressive or moved too quickly, and said it was just a case that they were not as ‘in line’ with their way of operating and there was perhaps a maturity issue.

At one point during the interview, when he is asked about his feelings now that the Taliban is back in power in Afghanistan, Mr Hamilton himself raises unprompted the question of allegations of inappropriate conduct involving Australian troops, referring to the fact that he understands the Australian government are investigating certain commandos for ‘allegedly doing some bad stuff in a war zone where every single day they’re being shot at, and they’re just trying to survive’. He contrasts this with the lack of any accountability for those who allegedly mishandled the circumstances of the end of the mission as a whole in Afghanistan. While this exchange suggests that Mr Hamilton was aware of this issue prior to the interview, it also provides an insight into his perspective on the matter. In particular, he is at pains to stress the extremely difficult conditions under which the missions operated.

The key exchange in the interview, which resulted in the comments Mr Hamilton says were taken out of context in the 7.30 story, came towards the end the interview, when the reporter asks this question:

***'And you mentioned the issue of war crimes and accountability from the chain of command which we haven't really seen either there or in Australia, all the investigations dealing with the guys on the ground being shot at as you say. Philosophically, from a reflective point of view, should those sort of things be investigated and if they are, should everyone be investigated? How do you approach that issue of potential war crimes on the ground?'***

Mr Hamilton's response to that question in full was:

***'No, look, alleged war crimes should always be investigated, absolutely. Yeah, I mean we have to...I will say they have to be investigated through the eyes of a soldier, right? Of a soldier in combat especially. But yes they should definitely be investigated. I would never ever sit here and say that actual proven war crimes should be ignored, absolutely not. I mean we are civilised people, we are civilised nations. If we expect, you know, our future enemies to have any compassion whatsoever in future battles, we've got to be able to show that we've held our soldiers accountable when we've proven beyond any reasonable doubt that they've committed crimes.'***

In the context of the question, the word 'they' in the answer 'they should be investigated' clearly refers to any and all alleged war crimes, in response to a question that asks him to consider the issue 'philosophically, from a reflective point of view.'

If we turn back to the story, the context in which the comment from Mr Hamilton is used is that the reporter refers to 'a handful of soldiers' in Task Force 66 (the task force that involved Australian commandos) who may have diverted from the objectives of the mission. After a brief shot of a commando saying "Hello. You just got f\*\*ked by TF-66", Mr Hamilton says 'Yes, they should definitely be investigated. We've got to be able to show that we've held our soldiers accountable.'

It is my view that any reasonable person watching that story would conclude that when Mr Hamilton says 'they' should definitely be investigated, he is referring to the people that the reporter has just been referring to in the story, rather than referring to any and all alleged war crimes as a general proposition. It sounds as if his comment refers to some of those he personally worked with in Afghanistan. Listening to the entire interview, while it is clear that he accepts the general proposition that any claims of war crimes should be investigated, there is nothing in the interview to suggest that he believes the specific matters raised in the ABC stories necessarily constitute allegations that need to be investigated. It is a fine distinction but, in my view, an important one.

I believe the comment was taken out of context and used in a way which was potentially misleading.

In saying that, it is important to acknowledge the circumstances in which the comment was used. I have been advised by both the reporter and the producer that they were mindful of the need to ensure the comment was used appropriately and they duly considered that very carefully when compiling the story.

They considered that the structure of the story, and in particular the fact that towards the end of the story there had been a conscious decision to broaden the focus away from the particular issues raised in relation to the Qarabagh mission and onto the entire Afghanistan mission, meant that a reasonable viewer would understand that Mr Hamilton's comment was a general observation and not a comment about particular commando regiments or specific missions.

The reporter and producer have also explained that the context and appropriateness of the comment and the way it was used was extensively discussed and considered during upward referral, although those consulted would not have had the full transcript of the interview in front of them to review.

In my view, had the question been included in some form or another it may well have resolved the problem by making the context of Mr Hamilton's comments clear. However, in the absence of that and in the absence of any other contextualising, my view is that the upwardly referred decision to use Mr Hamilton's comment in that way was the wrong decision. There is no evidence that, during the upward referral processes or during earlier drafts of the script, the question had been included. Those involved were satisfied that the context was sufficiently clear.

This does not, however, alter my view that the use of the comment lacked appropriate context and was potentially misleading to a reasonable viewer.

## The handling of complaints

This section of the review deals with how the ABC handled the information once it was notified of editorial concerns about the ABC's broadcast and publication of helicopter helmet cam footage showing commandos firing shots in the direction of people on the ground (one of which shots has been described as a 'warning' shot).

On the 29th November 2022, around two months after the Line of Fire stories were published and broadcast, ABC Legal received a letter via email from lawyers representing Mr Heston Russell, who at the time had commenced defamation action against the ABC in relation to other stories separate from the Line of Fire stories. Despite the Line of Fire stories not being the subject of the defamation action, they came up in the context of the ABC's defence to the defamation action.

In this letter of 29th November, the ABC was notified of specific concerns about the way the helicopter footage was edited.

In particular, the letter pointed to the moment where a single shot was fired towards the ground, and then went on to point out that, in the depiction of this scene in the online video which formed part of the Line of Fire stories, 'In this instance however, multiple rounds can be heard being fired from the weapon.'

Describing this as a 'discrepancy', the letter goes on to point out that 'a similar discrepancy arises in relation to another segment of the post-deployment video shown on the 7.30 story'. The letter says that 'further helicopter footage appears to have been edited to add additional rounds which are not audible in the post-deployment video.'

The letter goes on to say 'Can you please explain the above discrepancies in the helicopter footage and the further helicopter footage?'

This is clearly a sufficiently detailed concern that it could and should have prompted the ABC to go back to the specific stories and check them for accuracy.

All of the journalists and managers I have spoken to in ABC News are consistent in saying that this letter was never drawn to their attention, and they had no idea that there were accuracy concerns about the way the audio of the helicopter footage was edited until the lead up to the Spotlight program.

This has been effectively confirmed by ABC Legal, who advised me that a search of their files indicated that 'it does not appear... that the November letter was the subject of any further action. There does not appear to be any record of it being passed on to ABC editorial staff.'

I have spoken directly to those to whom the email was addressed, and they have also confirmed that they have no recollection of passing the email onto staff in ABC News or discussing its contents with them.

ABC Legal went on to point out that the letter 'was received the day prior to a significant court hearing on 30 November 2022 in the defamation proceedings brought by Mr Russell in relation to ABC publications. There appears to be a significant amount of correspondence exchanged that day, both internally and externally, on the file.'

I have heard from those working in ABC Legal at the time, including those to whom the email and attached correspondence was sent, that it was one of a great many emails received that day. Clearly it was an extraordinarily busy time.

I have been advised that the email itself appeared to have been opened, but no one I spoke to can recall specifically reading the full attachment and noting the issue of altered audio. There are a number of possible reasons why this occurred, beyond the business of the day and the large amount of correspondence being received on a range of issues related to the defamation case running at the time.

These include that:

- The email and attachment was sent 'under the cover' of the existing proceedings, and it referred back to previous and ongoing correspondence in those proceedings..
- The subject line of the email did not indicate that a new and different matter was being raised in the body of the attached correspondence, above and beyond other issues which were already in progress.

Those who received the email have indicated that it is inconceivable to them that, had the letter been read and noted, it would have been ignored or its contents dismissed. I have been advised that staff in ABC Legal are well aware of the editorial significance of such matters, and concerns of this nature would have routinely been sent on to the relevant people in ABC News for comment and/or action. The fact that this did not occur, and that those who received the email had no recollection (once the matter became public some two years later) of the 'altered audio' issue, indicates to those involved that it was overlooked.

The email was later filed in the usual way (emails are commonly filed in bulk every few days) and this particular email and attached correspondence was also included in the 'court book', which is the collection of materials made available to the court and all parties during a court case, just prior to a court hearing.

ABC Legal advised me that they were unaware of any further correspondence on the specific issue of the editing of the footage, saying 'so far as we can ascertain, and noting the very substantial volume of material on the file and the court record, it does not appear that the matter was raised again in the litigation.'

ABC Legal does note that the issue was referred to once more very briefly in a short email received by them on 12th April 2023, around the time the ABC was arranging to obtain the unedited helmet cam footage. That email, from Mr Russell's lawyers, says 'Our client is understandably concerned about the

ABC's use of footage in relation to this matter and in particular the footage produced to him in these proceedings that has altered audio.'

It is arguable that this reference to 'altered audio' could have been a prompt to consider again what was being referred to, and what the editorial implications might be, although it should be noted that the source material relied on by the ABC when it compiled the story, which was an edited compilation video with added music, could itself be described as having altered audio. In addition, it has been put to me that this passing comment was not sufficiently detailed to alert staff in ABC Legal to the significance of the matter as one requiring follow up, particularly in circumstances where the original correspondence had been overlooked and was not referred to specifically in the April email.

Despite suggestions from Mr Russell that the issue was raised in 'multiple communications' between his lawyers and the ABC's lawyers, I have been unable to locate any other examples beyond the two I have discussed here. Despite seeking further examples from those inside and outside the ABC, none have been provided to me.

It has also been suggested to me that the specific issue of the altered audio was discussed in open court during the defamation case, including at times when senior ABC News staff may have been present. However, this has been firmly and consistently denied by the ABC, including by ABC News. Once again, despite seeking specific examples of this from those inside and outside the ABC, none have been provided to me. I have not read through every page of the transcript from what was a long and detailed case, but those who have searched for references to the specific issue of the altered audio have not been able to locate any.

It is certainly the case that the Line of Fire stories and, in particular, the use of the helicopter helmet cam video, was the subject of legal discussion during the court case. However, the focus of this discussion appeared to be the issue of the identity of the person firing, not the precise number of shots fired.

This became apparent when the ABC obtained a copy of the unedited helicopter helmet cam footage from Mr Russell's legal team in April 2023 during the court proceedings. After viewing that footage, the reporter confirmed in court that it was clear the person firing was not Mr Russell.

However, there is no evidence that the issue of audio editing was directly raised again. The focus was on the identity of the person shooting. The reporter, who at this stage was unaware (and remained so until September 24) that any concerns at all had been raised about the editing of audio in the Line of Fire stories, had no reason to look into the matter.

On all the evidence available to me, I am satisfied that it appears the matter was only raised in the November 2022 letter, and then briefly referred to again in the April 2023 email, some 4-5 months later.

That should, nevertheless, have been sufficient notice for the issue to be followed up without further action being required by the lawyers for Mr Russell. However, once it was overlooked by the ABC, it should be noted that the matter was not raised again more directly, no further requests for follow up or response were received, and no formal editorial complaint was raised.

In any event an opportunity to examine and deal with the editorial concerns within several weeks of them airing was missed, and the matter only came to the attention of the ABC some two years later.

I have been advised by the ABC's complaints handling team that no other formal editorial complaints about alleged issues with gunshot audio editing were raised with the ABC until after the Spotlight program had aired.



# Findings and recommendations

## Findings

Before moving on to my recommendations, I set out my findings below in relation to each of the eight terms of reference for this review.

The reasoning behind these findings can be found in detail in the sections above which deal with the three substantial issues of the editing of audio, the editing of an interview with Mr Hamilton, and the handling by the ABC of concerns about the stories.

1. *What decisions were made, and by whom, in relation to the editing of the helmet cam footage, and the reasons for those decisions.*

All the evidence available to me indicates that decisions relating to the editing of the audio of the helmet cam footage, and in particular the inclusion at certain points of additional gunshot audio, were made by the video editor in order to deal with a difficult audio edit containing music and not to deliberately mislead or doctor. The editing of these sequences was regularly shared with the reporter, the producer and senior managers in News via the circulation of 'work in progress' files. Despite that, the fact that additional or relocated gunshot audio had been included in a potentially problematic way was not specifically raised, noticed or discussed at any point. They were not detected by the reporter, the producers or anyone to whom the story was upwardly referred prior to broadcast. To be clear, I find no evidence that anybody, at any stage, made a conscious or deliberate decision to introduce additional gunshots. It appears to be an inadvertent consequence of attempts to create clean, accurate and effective sequences in the story.

2. *Whether the editing of the helmet cam footage accurately represented what was shown on the helmet cam footage.*

It did not.

In saying this, I want to stress here that I consider the inaccuracies to have been inadvertent rather than deliberate, as is clear from the body of this review and from term of reference 1 above.

I should also add that the inaccuracies I have identified in relation to the use of helmet cam footage are more significant in the 56 second digital clip used in the online story than in the use of the footage in the 7.30 story. The online story included the much discussed 'warning shot' sequence where one shot became six, while the 7.30 story depicted that moment accurately in the sense of having the original single shot. However, the inclusion in the 7.30 story of some additional gunshot audio in a second sequence where several shots were heard in the original footage was also inaccurate.

To be clear, the only inaccuracy I have found relates to the additional sounds of gunshots. I do not consider any other aspects of the way the sequences were depicted to be materially inaccurate.

3. *What decisions were made, and by whom, in relation to the editing of the interview with Mr Hamilton, and the reasons for those decisions.*

The initial selection of quotes to use from the interview with Mr Hamilton was made by the reporter, shared with the producer who was also present at the interview and later upwardly referred and discussed with Legal, News and Editorial Policy staff. Legal and Editorial Policy had a purely advisory role to play, while News management were responsible for decision making.

The decisions that were made were carefully considered and extensively discussed, and designed to properly reflect Mr Hamilton's views as expressed in his full interview.

In relation to his overall views of working with Australian commandos, his reflections on his experiences and his opinion of the circumstances surrounding the withdrawal from Afghanistan, those views were accurately and appropriately reflected.

However, despite the evident care taken and the upward referral involved, I believe the final comment used by Mr Hamilton lacked context and was potentially misleading.

In the circumstances where it appears Mr Hamilton was aware of the existence of concerns over some behaviour involving Australian commandos and was happy to refer to these while also focussing on positive comments which were themselves included at some length in the story, I do not consider that the interview was obtained under false pretenses.

4. *Whether the editing of the interview with Mr Hamilton accurately represented Mr Hamilton's views as conveyed to the ABC.*

As outlined above, while the majority of Mr Hamilton's views were accurately represented, one particular comment towards the end of the second 7.30 story was not in a proper context and was therefore not accurately represented.

5. *Whether the relevant journalists saw the stories in their final form before they were published, and if not, when they first saw them.*

Both 'work in progress' and final versions of the stories were seen by the reporter and producer as well as by senior managers in News prior to publication and/or broadcast.

6. *When did the ABC and its journalists first become aware of any potential problems with the editing of the helmet cam footage and/or the interview with Mr Hamilton, and what actions, if any, did they take in response.*

ABC Legal was notified of concerns about the editing of the helmet cam footage in November 2022, when the issue was raised in correspondence connected with legal proceedings concerning separate stories to the Line of Fire stories.

That correspondence was overlooked and not passed on to ABC News for separate consideration.

Accordingly, ABC journalists only became aware of the potential problems in the lead up to the broadcast of the Spotlight program. They immediately took action to acknowledge the editing error and remove the content, pending this more complete and detailed review.

7. *When did the ABC and its journalists first receive complaints in relation to the editing of the helmet cam footage and/or the interview with Mr Hamilton, and what actions did the ABC take in response.*

Other than the matters raised during legal proceedings (which there is no evidence that ABC News was aware of), the ABC received no editorial complaints about either the helmet cam footage or the interview with Mr Hamilton until after the Spotlight program had aired.

I have been advised that one complaint was received after the Spotlight story aired, requesting a thorough explanation of the alleged editorial failings. The complainant was advised about the independent investigation that had been announced.

8. *Having regard to the matters above, whether the ABC complied with its Editorial Policies and Editorial Guidance in relation to the stories, and if not, in which respects.*

As an independent reviewer, I am not in a position to formally declare that the ABC has breached any of its policies, including the Editorial Policies and associated Editorial Guidance.

It will be a matter for the ABC, having received this review, to determine if formal breaches have occurred, using whatever process is deemed appropriate for that task.

My role is limited to providing my own judgement, based on my experience and a close examination of the evidence, as to whether I consider the stories complied with the ABC's Editorial Policies.

In relation to both the audio editing of the helicopter footage and the interview with Mr Hamilton, I am of the opinion that the inaccuracies and misleading presentation of certain information are to some extent inconsistent with both 2.1 and 2.2 of the Accuracy Principle:

2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.

2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.

In saying that, it may be useful for me to be more specific about where the accuracy problems exist in relation to particular pieces of content.

In relation to the helicopter/helmet cam footage, I consider that the most significant accuracy problem lies in the 56 second online video clip, where the vision showing a single 'warning' shot includes audio of six gunshots.

The accuracy issue with the helicopter/helmet cam footage in the 7.30 story is less materially significant, as it accurately portrays the single shot vision. The second sequence of shooting from a helicopter, involving several shots being fired in the direction of someone inside a compound, shows several shots being fired (which was accurate) but there are more shots heard than were fired (which is inaccurate). I consider that, when dealing with descriptions of events that it is alleged are worthy of examining for wrongdoing on whatever basis, precision in depicting the events is materially important and so this inaccuracy is material.

The final accuracy issue relates to the way in which the final comment of Mr Hamilton about 'investigations' was included in the 7.30 story (it was not included in the online story). I consider that its use lacked sufficient context and therefore was potentially misleading.

In relation to the time taken to deal with the editorial concern raised about the altered audio, I consider that the ABC's actions were potentially inconsistent with Standard 3.1 of the Corrections and Clarifications Editorial Policy, which states:

3.1 Acknowledge and correct or clarify, in an appropriate manner as soon as reasonably practicable:

- a significant material errors that are readily apparent or have been demonstrated; or
- b information that is likely to significantly and materially mislead.

The fact that this failure to acknowledge and rectify material errors and/or information likely to mislead was inadvertent and a consequence of the concern being overlooked and not passed on from ABC Legal to ABC News does not excuse the ABC as a whole for its failure to act promptly, even though the way in which the concern was raised was not through the normal editorial complaint mechanisms..

## Recommendations

- 1. Editorial policies and guidance should be reviewed to ensure that the importance of maintaining the integrity of crucial source material is maintained, particularly in investigative stories.**

There is often a gap in news organisations between what is assumed and what is clearly stated in policies and guidance.

In the case of this review, it was said to me more than once that ‘everyone knows’ you should not alter in any substantive way any crucial source material - whether it be documents, video or audio - that is being relied on as material evidence in a story, particularly in an investigative story. When creating sequences in stories using general ‘overlay’ vision, or adapting and using library vision, various editing techniques are regularly employed to create compelling sequences. Cutting together video from a range of sources inevitably involves editing the audio as well to avoid jarring cuts or transitions, remove unwanted or extraneous sounds, or to add music and other effects.

However, when it comes to the use of important source material that is evidence of something important, there should be no manipulation or ‘tidying up’ that might have the unintended consequence of undermining the accuracy of something important.

While there is no suggestion such a thing was deliberately done on this occasion, I recommend that these important principles be more clearly embodied in the ABC’s editorial policies and guidance, to provide clear examples of when, why and how the need to preserve the integrity of material relied upon as evidence outweighs the need to create polished content.

- 2. Training should be reviewed, in particular for non-editorial staff working in investigative areas, to ensure everyone is aware of key editorial principles including the need to maintain the integrity of source material.**

Policies do little unless they are brought alive through discussion and training.

In order to reduce the risk that breakdowns in communication, assumptions or inattention to detail lead to unintended consequences, the ABC should increase the training of non-editorial staff in newsrooms. This includes camera operators, audio operators and editors, all of whom play a vital editorial role despite often not being trained journalists themselves.

Editorial policies generally, and in particular the proper use of sensitive source material, should be the subject of face-to-face training sessions that put journalists and non-journalists in a room together discussing how best to handle these issues.

In particular, such training would include discussion of the level of communication and discussion that should exist between all those involved in creating investigative stories to ensure that knowledge and awareness is shared rather than assumed.

**3. Editing practices should be reviewed to ensure there is regular, timely and detailed face-to-face contact between editors, reporters and researchers during the editing process.**

Newsrooms and current affairs teams are increasingly busy, with multiple and often conflicting demands to create content across several different platforms. This can have the effect of reducing the time available for careful, close and ongoing oversight of things like complex video edits or multi-media online stories.

In relation to the editing of video stories, steps should be taken to ensure that reporters and producers are freed up to spend more time with the editors of those stories, in order to keep across all elements of the edit as it happens.

Particularly in the case of complex investigative stories, relying on 'work in progress' versions of stories circulated to be watched on computers may not be sufficient to ensure proper scrutiny.

**4. When multi-platform stories are being prepared, consistent and equal scrutiny should be applied to all elements of the story across all platforms.**

When different versions of a story are produced by several journalists across a range of platforms, there needs to be a single, consistent source of overview and scrutiny.

If, for example, a broadcast version of a story is seen and approved using a different process to the one used when the accompanying story is seen and approved for online, differences can creep in and go unnoticed.

In the example that led to this review, some of those with the closest knowledge of the story and its source material had a better and clearer opportunity to view the broadcast version than they did all the elements of the online version.

In some cases, it was assumed that the key online clip of helicopter footage, for example, would not diverge significantly from the broadcast story it was 'clipped' from.

A single and consistent step (at some point of the approval and review process) of carefully examining all elements together would reduce the risk of error.

**5. News should review the guidance note on interviews and discuss.**

The ABC's current Guidance Note on Interviewing has one short section dealing with the need to 'take care to ensure that as far as possible you are properly reflecting the gist of the person's position on the key issues being discussed.'

It has become apparent to me during the course of this review that opinions vary significantly on the extent to which that aim was achieved in relation to a particular quote from the interview with Mr Hamilton.

Given that I have concluded the aim was not achieved and the end result was potentially misleading, I recommend that the ABC make it a priority to expand that section of the Guidance Note and follow up with training and/or senior level discussions to review how best to ensure this aim is achieved in the future.

**6. Steps should be taken to ensure effective communication between News and Legal to follow up any editorial matters raised during legal proceedings.**

I consider the problem that arose in relation to the Line of Fire stories, where editorial concerns raised during the course of legal proceedings were not passed back to News to consider and manage, to be a rare occurrence, and the result of very particular circumstances that led to those concerns being overlooked.

I have been advised that, had the matter not been overlooked due to the factors already discussed in this review, it would have, as a matter of course, been referred to News for instruction and/or action.

I have been further advised that there is, as standard practice, consideration given at the end of every significant legal matter at the ABC, to any editorial implications or lessons.

Nevertheless, the impact of the missed opportunity in this case was significant. It led to an editing error being missed for close to two years, and as a result a substantial impact on a significant public interest story.

It is certainly true that the original editorial error itself was the single biggest cause of the negative impact both on the story and on the ABC's trust and reputation, and that error had been published and broadcast for around two months before it was raised in communication with ABC Legal.

But because the matter was unresolved for such a substantial period of time after it was raised, the ABC's perceived inaction contributed to that impact.

It is important that all possible steps be taken to minimise any risk of that situation happening again.

The best way to prevent that would be to ensure that clear, unambiguous and consistent processes exist to ensure that, both during and at the conclusion of any legal considerations or processes, active consideration is given to whether there are any remaining issues that, while not legal, might have editorial implications that need to be followed up. I have been advised that such processes already exist, but it would be timely to review and reinforce them.



**7. Steps should be taken to ensure adequate staff and resources are available to deal with complex and demanding legal matters.**

It became apparent to me during the course of this review that a small number of staff in ABC Legal were handling an enormous amount of work.

In addition to the challenging and voluminous correspondence received in relation to the defamation proceedings discussed in this review (it was suggested to me by senior people in ABC Legal that it was more than they had seen on any other similar action), these events occurred at a particularly busy time for ABC Legal.

I have been advised that, in the months leading up to this case, there had been an enormous number of 'open' matters being handled by Legal, at a time when there were a range of staffing issues creating additional pressure.

Budgets will always be finite and staff numbers limited at a public broadcaster like the ABC (or any media organisation, for that matter), but attention should be given to ensuring that resources are sufficient to ensure nothing is overlooked.

## Concluding comments

Investigative journalism is difficult, important and challenging work, with a strong and obvious public interest.

At the same time, it needs to be done rigorously and thoroughly, and the more serious the issues being investigated, the greater the rigour needs to be.

The Line of Fire stories covered issues of the highest importance, dealing with the behaviour of Australian troops in a conflict overseas. They were of public importance at the time the stories were published and broadcast, and they remain of public importance now.

Although no individuals were identified in the stories themselves, the issues raised - the possible killing of prisoners, possible actions that may have breached the rules of engagement and possibly inappropriate discussions of unidentified 'quotas' in the lead-up to missions - were significant and important.

There is strong evidence of rigorous and thorough journalism in the preparation of the Line of Fire stories. This included information gathering from a range of sources (including confidential sources), the examination of a large amount of material over an extended period (including significant amounts of video material) and sending local reporters to Afghanistan on two occasions to gather evidence, including eye-witness accounts. The stories themselves, and the issues they raise, remain important.

There is also no evidence that anyone at the ABC, from the reporter to the video editor to the producer and to all those involved at higher levels in the ABC News and Legal divisions deliberately doctored, falsified, manipulated or distorted information, material or evidence in order to mislead audiences.

On the contrary, there was significant care taken to ensure the stories were checked, discussed, reviewed and upwardly referred.

It is all the more disappointing, therefore, that through a combination of reasons, the stories contained flaws which in my view undermined their accuracy and their impact, and had the potential to mislead audiences.

At a time when the ABC was facing an ultimately successful defamation claim in relation to its other reporting about the 2nd Commando Regiment, there was an even greater need to ensure the journalism in the Line of Fire stories was thoroughly checked in all respects.

There is ample evidence that the stories were indeed subjected to extensive discussion and review, including upward referral within News all the way to the Director of News, and to close legalising as well.

Despite that, the errors identified here occurred.

For a public broadcaster that relies on its reputation for rigorous journalism and seeks the trust of Australians, that is not an acceptable outcome.

All media organisations make errors, and it is encouraging that the ABC has sought to transparently and comprehensively examine the errors identified here. It is to be hoped that the recommendations in this review will assist in putting in place better processes, policies and practices to learn from these mistakes and do better in the future.