



# Behind Closed Doors

By MICHAEL WARE Monday, Aug. 21,

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## **Australia's Army covers up brutality in an elite unit-and undermines the military justice system**

By MICHAEL WARE

Private Jeremy Harris would have been expecting the visit. From the moment a fellow paratrooper at Sydney's Holsworthy Army base first raised an accusation of theft against him, he knew what would follow. But the young soldier couldn't have guessed it would come that morning in the latrine, as he stood facing the urinal. Two men from his unit, the 3rd Battalion, Royal Australian Regiment, marched up behind him just before seven o'clock. One of them tapped him on the shoulder and told him to defend himself. When he refused, the punishment beating began anyway. Another soldier's order earlier that day to leave him alone was ignored. An Army dentist had to repair Harris' teeth.

Harris' story is just one of at least 10 uncovered by an official inquiry launched into the brutality of one of Australia's elite fighting units. For almost two years the Army and the government have kept the investigation, and the evidence of abuse it uncovered, confidential. But Time has now found that a raft of charges were laid against 14 men, some of them senior officers. The Army top brass—including the new Chief of Army, Lieutenant General Peter Cosgrove, and Minister for Defence John Moore—have tried to ride the affair to a quick conclusion. But through a mix of institutional inertia, mishandling and maladministration, not one of the men charged has been convicted, raising questions about the effectiveness of military justice. Unless the system is seen to be efficient and impartial, the new image of the armed forces that the military establishment is striving to display—that of a professional, sophisticated and reliable force—will disintegrate. And along with it will go the high-quality recruits the military needs to attract, and the big budget it wants for expansion. As the now retired chairman of the Joint Standing Committee on Foreign Affairs, Defence and Trade, former Labor Senator David MacGibbon, puts it: "If a force is not disciplined, it is a threat to a democratic society and to members of its own ranks."

Brutality—or bastardization, as it is dubbed in the armed forces—has been a perennial problem for the military. The Australian public has been shocked by incidents at Duntroon, the Army officer-training college; videotapes of Equator-crossing rites on submarines; and "discipline tours" at Sydney's Holsworthy Correctional Centre. The Army has vowed to exorcise bastardization from the service. As Lieut. General Francis Hickling, Cosgrove's predecessor as Chief of Army, said in November, the incidents have harmed the armed forces. "The Chief of the Defence Force and three service chiefs are determined to ensure that people behave appropriately," he said, "and we will crack down very hard on those who do not." So far, those public words have not been matched by the military's behavior in private.

Back in 1997, at 3 RAR's Holsworthy barracks, the rules were simple: step out of line and the consequences would be swift and violent. This policy was actively condoned by key

superiors and widely employed. A military police investigation found that in the three years to April last year, 17 paratroopers received medical attention for assault-related injuries. Medical staff suspected that seven more had been beaten, but the patients claimed less suspicious causes. So alarming was the frequency of assaults that a civilian doctor says he raised concerns about the unit with a senior Army officer.

At the time of the attack on Pte Harris in November 1997, another young soldier had also been accused of stealing. As with Harris, the allegation against Pte Ryan Rutledge was far from proved, but he met a similar fate. Over three days Rutledge was bashed three times, even after locking himself in his room. One of the attackers said he had been ordered to assault Rutledge. During the last incident Rutledge was kicked in the kidney and lost consciousness for 30 minutes. Says one officer: "They really got stuck into him. It was quite a mess." Rutledge left the Army five months later.

Among other incidents investigated by military police at 3 RAR were:

- an attack on Private C. Tanin as he sat in his room watching television. He was suspected of having taken a comrade's Sony Playstation game;
- the beating to unconsciousness of a drunken cook who poked fun at the paratroopers and didn't stand when the unit colors were marched out of the mess;
- a physical training session to punish one soldier that was so extreme and gratuitous that the military police considered it an assault, and
- the "torture" of a lieutenant, over a 16-hour period, in an unapproved use of Resistance to Interrogation Training by a major known to dislike him.

The full breadth of these practices in this unit may never be known. Investigators found that, beside some complaints being withdrawn, witnesses and victims were reluctant to talk because of loyalty or fear of further retribution.

With a distinguished history, and having played a leading role in East Timor, 3 RAR have always considered themselves hard soldiers, ready to carry out the dirtiest jobs. "There's a high esprit de corps in 3 RAR," says a military insider. "After all, it has been one of the elite units of the Australian Army. But there's no excuse for this."

Yet the unit's ground rules were clear. "If you catch anyone thieving you should beat them to within an inch of their lives," one company sergeant major allegedly told a 3 RAR parade. "Drag them bleeding in front of my desk and nothing will be said about your actions." Freely admitting to military police that he had condoned the use of violence, the CSM said he did nothing when men reported for duty with black eyes and bruising. Not surprisingly, the investigation uncovered a "culture of violence" within the unit. Soldiers were placed in the battalion guard post whenever a claim of wrongdoing surfaced, to protect them from the others. It was part of the "unofficial unit policy," said another senior non-commissioned officer, for the sake of "unit cohesiveness and operational effectiveness."

There is some sympathy within the services for the paratroopers' predicament, particularly that of the senior NCOs. That they had to resort to such measures "to get the job done" was evidence of a service-wide malaise, a serving soldier says. Administrators run the Army now, hamstringing on-the-ground commanders. It was that kind of frustration, says Michael O'Connor, a former naval intelligence officer and now executive director of the Australia Defence Association, that caused the breakdown in discipline in the Canadian forces, leading

to a royal commission in 1997. "I suspect that something like this is going to have to happen in Australia before much longer," he says. "What you have is a failure of command: too many bureaucrats, too many lawyers, not enough commanders." Others see the problem as born of a heightened sense of brotherhood and necessity: these men have to be hardened, mentally and physically, to perform particularly unsavory tasks. Says one politician with experience in defense: "They are in the killing business."

Ron Price, the 3 RAR Association president and a 25-year Army veteran, knows that business. Asked if the same disciplinary violence was used during his time with the unit - which included the costly Korean War battle for the Kapyong Valley-Price responds: "Absolutely not. In Korea we were a very disciplined unit, and always had been. I hope I'm doing the right thing speaking about this." Former Senator MacGibbon agrees. Tabling the joint standing committee's report on military justice last year, he recognized that soldiers "literally die on orders" and are asked to carry out "extreme violence but to do so in a very disciplined way." Without that control, MacGibbon said, depravities like the 1993 case of Canadian peacekeepers in Somalia torturing and murdering local civilians can occur.

At Holsworthy, accused soldiers had little choice but to submit to the "barrack-room discipline." Access to the legitimate military justice system, according to the evidence uncovered by the military police, was blocked. Brought before a senior NCO, Pte Harris-who'd been beaten in the latrine a few days earlier-asked for a lawyer. He was allegedly berated for getting "smart" and wanting to "play lawyer," and was purportedly warned "special interest" would be taken to "make sure you will go to jail." Elsewhere, when proof of an assault on another soldier was collected, complete with confessions, the same senior NCO failed to report it to the military police. He has now been charged for sitting on that evidence. He claimed he didn't pass on the information on the advice of Army legal staff, who, he said, told him to await the completion of a "ministerial investigation." And despite Pte Tanin reporting his assault to a paratroop sergeant and seeking medical aid, no official action was taken.

The military police investigation into 3 RAR ended on April 29, 1999. It is believed charges were laid against all 14 of the men named. But, continuing the policy of silence that has shrouded this affair, the military last week declined to confirm to Time that this was the case. Shortly after the charges were brought and the joint standing committee handed down its report in June last year, Cosgrove, then a major general in command of 1 Division, met with Defence Minister Moore to discuss the affair, according to information given to an aborted court martial. Then, on June 30, 1999, he issued an order requiring 3 RAR's commanding officer, Lieut. Col. Nick Welch, to refer the defendants to a higher authority.

Cosgrove's well-meaning edict neutered Welch as the military equivalent of a magistrate at a committal hearing-a role designated by the Defence Force Discipline Act. Cosgrove's efforts to expedite the proceedings were genuine, say many of those involved, but the law proved unsuited to rough manipulation. Instead of streamlining the process, his intervention stymied it. Welch later testified that Cosgrove had wanted to avoid perceptions that the problem was being dealt with in house and to prevent questions of "systematic or institutionalized bashing" arising in the "broader Army community."

But on July 21 this year, when the prosecutions against the first two defendants went before a Defence Force magistrate, the cases were thrown out. The magistrate found Cosgrove's order had been an act of command interference that had perverted due process. Counsel even raised

the question whether Moore's communications with Cosgrove shortly before the order was issued had amounted to a "direction." The effect was, in legal terms, cataclysmic: the order had covered seven of the defendants, not just the two at the first trial, and similar orders were reportedly issued in respect of the others, so all of the charges are now in abeyance.

In the wake of this unsuccessful attempt at justice, the military and its minister have put up a wall of silence. Written questions sent by Time to Cosgrove's and Moore's offices have gone unanswered. Indeed, no one outside a small clique has been made aware of the problem until now. Those kept in the dark include two official inquiries into military justice—one by the Commonwealth Ombudsman and the other by the joint standing committee—which continued to gather submissions throughout the life of the military investigation. Says the committee's deputy chairman, Labor M.P. Roger Price: "It's a disgrace. I can't believe we weren't told."

The sole public reference to the affair has been in two vague statements by the Minister Assisting the Minister for Defence, Bruce Scott, in response to questions asked in Parliament. In May 1999 Scott told Parliament that an investigation (which he failed to outline) into an army unit (which he failed to identify) was ongoing. In fact, it had been signed off 13 days before. Scott now attributes the anomaly to a delay by the Parliamentary Tables Office in publishing his written answer.

The only way these incidents have surfaced in the public arena, says one former member of the joint standing committee, is through leaks: "Unless you know the right question to ask, you never find out. This is very disturbing." A former senior military officer agrees: "If you ask, Defence will confirm it for you, but they won't volunteer anything. They never have." It's an inadequate way of solving the military's problems. "If we want to attract the best quality young people," said Senator Chris Schacht last year, "we have to show that they will be treated in the Defence Force in a manner that the rest of the community thinks is reasonable."

The joint standing committee's June 1999 report—which considered introducing radical changes to the military justice system but, reportedly to the armed forces' relief, did not finally propose them—called for a review of its recommendations after three years. The committee hoped the Army would respond to its finding within three months, but it didn't. Whether the Army is trying to find its own solutions, or retains its confidence in the military justice system, remains unknown. Perhaps it is time for it to break its silence.

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