



NEWS

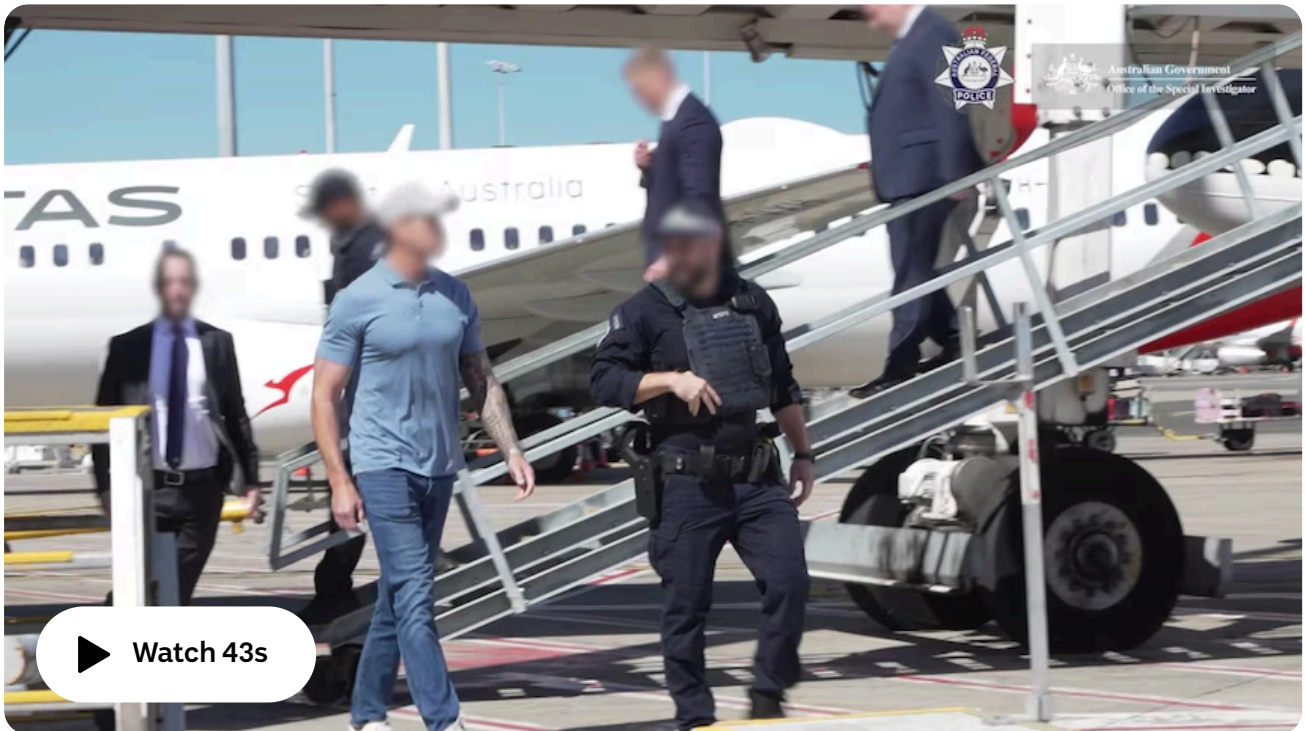
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# Victoria Cross recipient Ben Roberts-Smith charged with war crimes, taken into custody

Courts

Tue 7 Apr 2026 at 11:50am



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Ben Roberts-Smith was arrested at Sydney Airport. (Supplied: Office of the Special Investigator)

## In short:

Former soldier and Victoria Cross recipient Ben Roberts-Smith was arrested and charged over allegations of war crimes following a five-year investigation.

The 47-year-old was charged with five counts of the war crime of murder relating to his time serving in Afghanistan between 2009 and 2012.

The criminal charges carry a maximum penalty of life imprisonment.

One of Australia's most decorated soldiers, Ben Roberts-Smith, has been charged with five counts of the war crime of murder.

The Victoria Cross recipient was arrested at Sydney Airport's domestic terminal after a flight from Brisbane this morning.

On Tuesday afternoon, he was charged with five counts of war crime and refused bail.

He was taken to Silverwater Prison Complex in the city's west, where he will remain in custody and is due to appear in Bail Division Court on Wednesday.



Ben Roberts-Smith was charged and taken to Silverwater Prison Complex on Tuesday. (ABC News)

The former special forces soldier's arrest comes after a mammoth defamation trial against Nine Newspapers that, in 2023, ended in a court finding that, on the balance of probabilities, allegations he was responsible for, or complicit in the deaths of four detainees in Afghanistan, were substantially true.

There have been no findings of guilt against Mr Roberts-Smith to a criminal standard.



Ben Roberts-Smith was arrested in Sydney as part of an investigation into alleged war crimes. (AAP: Flavio Brancalone/File photo)

Mr Roberts-Smith's appeal in the Federal Court was dismissed in May last year, when the Full Court upheld the findings of the trial judge, Justice Anthony Besanko.

In maintaining his innocence after the High Court refused to hear his case in September, Mr Roberts-Smith described the allegations against him in the defamation case as "egregious" and "spiteful".

Australian Federal Police (AFP) Commissioner Krissy Barrett told the media before Mr Roberts-Smith was charged that it would be alleged the victims were unarmed Afghan nationals who "were not taking part in hostilities at the time of their alleged murder".



There are not yet any findings of guilt against Mr Roberts-Smith to a criminal standard. (AAP: Bianca De Marchi)

She said the charges came as a result of a "complex" investigation that was undertaken "thoroughly and meticulously" since 2021 by the AFP and Office of the Special Investigator (OSI).

**"It will be alleged the victims were shot by the accused or shot by subordinate members of the ADF in the presence of, and acting on the orders of the accused," Commissioner Barrett said at a media conference in Sydney.**



Krissy Barrett says investigations have been ongoing since 2021. (ABC News: Ian Cutmore)

The maximum penalty for the offence is life imprisonment.

The allegations include that he intentionally caused the death of a person in April 2009 and in another offence "aided, abetted, counselled or procured" someone to cause the death of someone on the same day in Kakarak, Uruzgan Province.

The three other charges accuse the former soldier of causing the murder of — and procuring the murder of — civilians in Darwan and Syahchow in September and October, 2012.

Mr Roberts-Smith was expected to face a NSW court on Wednesday.

### **A 'challenging' investigation**

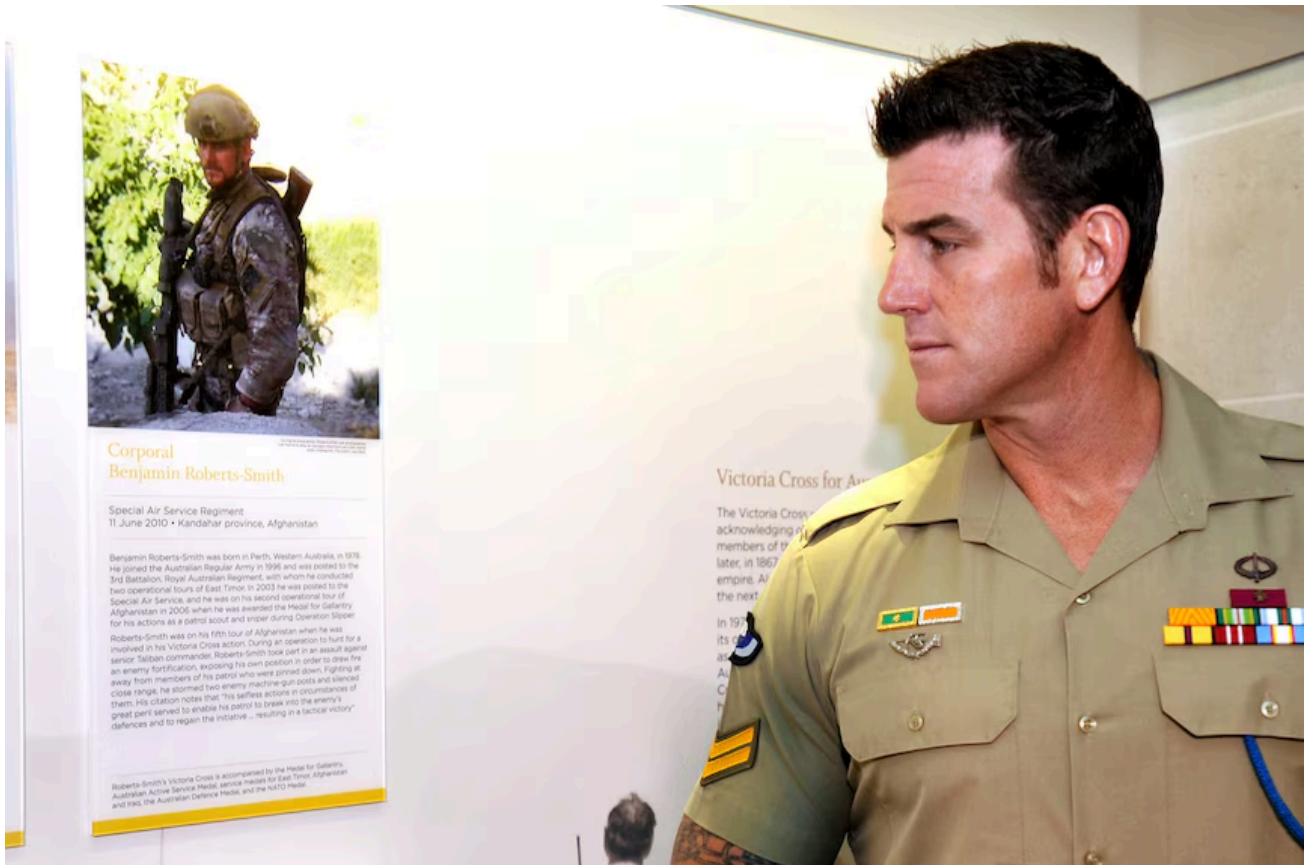
OSI director of investigations Ross Barnett said Mr Roberts-Smith's arrest was a "significant step" under "challenging circumstances" and he was "entitled to the presumption of innocence until determined otherwise".

Mr Roberts-Smith's case is one of 53 war crimes allegations the agency has investigated since 2021.

In total, 39 of those have been finalised with no charges, and 10 are currently ongoing.

Mr Barnett has not ruled out further arrests as investigations continue.

"If the evidence leads to other people needing to be charged, you can be assured that will happen," he said.



The investigation into Mr Roberts-Smith's alleged offences has been complex. (AAP: Alan Porritt )

This is the second time an Australian soldier has been charged with committing war crimes in Afghanistan.

In 2023, a different defence force soldier was charged with war crime murder, and his trial is expected to take place in February next year.

"The alleged conduct related to these charges is confined to a very small section of our trusted and respected ADF, which keeps our country safe," Commissioner Barrett said.

**"The majority of the ADF do our country proud."**



Ross Barnett is not ruling out further arrests as investigations continue. (Supplied: Australian Federal Police)

Mr Barnett said it was a "challenge" that investigators could not physically enter Afghanistan to investigate the claims against Mr Roberts-Smith.

"So the challenge for investigators is that because we can't go to that country, we don't have access to the crime scene," he said.

"We don't have photographs, site plans, measurements, the recovery of projectiles, blood spatter analysis, all of those things we would normally get at a crime scene.

"If you add to that that we don't have access to the deceased, there's no post-mortem. Therefore, there's no official cause of death."

Mr Barnett said families of the Afghan victims may not be aware of the development because it was "not safe" to make contact with them inside the Taliban-run nation.

### **Albanese declines to comment on Roberts-Smith's arrest**

Billionaire media mogul Kerry Stokes — who funded the legal defence for Mr Roberts-Smith's defamation trial — declined an interview with the ABC.

"As the matter is now before the court, we have no comment regarding Ben," Mr Stokes's spokesperson said.

Prime Minister Anthony Albanese also declined to comment when asked whether the Commonwealth Director of Public Prosecutions had sought authorisation from the federal government before Mr Roberts-Smith's arrest.



Anthony Albanese is declining to comment on the investigation into Mr Roberts-Smith. (ABC News: Callum Flinn )

"That is a matter that it's very important that there not be political engagement in what is a matter that is now the subject of legal proceedings," he said.

"I have no intention of prejudicing a matter that clearly is a legal matter, and that's before the courts, and any comment would do so."

Opposition Leader Angus Taylor said the legal process needed to be allowed to run its course.

"But it should not detract from the respect we show for our special forces in this country," he said.

Senator Pauline Hanson said she remained "steadfast in my support" of Mr Roberts-Smith.

"Ben, his immediate and broader defence family need the Australian people's support right now, and I will not abandon him like so many other politicians," she said on social media.

Nine News reporter Nick McKenzie, who broke the news of the allegations against Mr Roberts-Smith, said the arrest had come as a surprise.

**"This is a really grim day for Australia," he said.**

"Nobody can say what a jury will find. All we know is the trial process, which he will inevitably face, will be exhaustive and thorough and then it's over to a jury of his peers to decide if that evidence reaches that very high bar of beyond reasonable doubt."

Fellow investigative journalist Chris Masters told ABC's Radio National Hour he was surprised to learn the news of Mr Roberts-Smith's arrest.

"I first put questions to Ben Roberts-Smith back in 2017... that's nine years ago," he said.

"All reporting that Nick and I did, it's been a perilous time ... even though I'm clearly across the case and have been for a while, it shook me today."

The Australian War Memorial (AWM) in 2023 added information to a display's text about Mr Roberts-Smith's Victoria Cross to reflect the Federal Court's findings earlier that year.

"The plaque at the memorial that deals with the issues around the charges will be adjusted to reflect this latest development," AWM chairman Kim Beazley told the ABC today.

### Live Moment

Look back at how ABC readers and other Australians responded to this live moment.

Tue 7 Apr 2026 at 12:51pm

## Press conference has finished

AFP Commissioner Krissy Barrett and OSI director of investigations Ross Barnett have finished speaking for the time being.

You can keep across the latest details on the [ABC News](#) website.

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Tue 7 Apr 2026 at 12:49pm

## 'That's where we'll go': More arrests may come



Tue 7 Apr 2026 at 12:47pm

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