

2018

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Approval for inquiry into Operation Burnham



HON DAVID PARKER(/MINISTER/HON-DAVID-PARKER)

Attorney-General (/portfolio/labour-led-government-2017-2020/attorney-general)

Attorney-General David Parker has today announced a Government Inquiry will be held into Operation Burnham and related events.

The operation undertaken in Tirgiran Valley, Afghanistan, by NZSAS troops and other nations' forces operating as part of the International Security Assistance Force took place on 21-22 August 2010.

It was the subject of the book *Hit & Run* by authors Nicky Hager and Jon Stephenson which contained a number of serious allegations against New Zealand Defence Force (NZDF) personnel involved in the operation.

"In deciding whether to initiate an inquiry I have considered material including certain video footage of the operation," says Mr Parker.

"The footage I have reviewed does not seem to me to corroborate some key aspects of the book *Hit & Run*.

"The footage suggests that there was a group of armed individuals in the village.

"However, the material I have seen does not conclusively answer some of the questions raised by the authors.

"In light of that, and bearing in mind the need for the public to have confidence in the NZDF, I have decided in the public interest that an inquiry is warranted."



Commissioning this inquiry does not mean the Government accepts the criticisms of the actions of SAS forces on the ground, although their conduct is squarely within the inquiry's purview and will be thoroughly examined.

The inquiry, established under s 6(3) of the Inquiries Act 2013, will be undertaken by two persons of the highest repute, former Supreme Court judge Sir Terence Arnold and Sir Geoffrey Palmer. As required by statute, it will act independently, impartially and fairly.

Given the classified nature of some information that will be made available to the inquiry, it is possible that two forms of report will be provided; one a public version and a second version referring to classified or confidential information.

Mr Parker said the inquiry would seek to establish the facts in connection with the allegations, examine the treatment by NZDF of reports of civilian casualties following the operation, and assess the conduct of the NZDF forces, including compliance with the applicable rules of engagement and international humanitarian law and the authorisation – military and, if any, political - for Operation Burnham.

It will assess the status – civilian or insurgent – of the Afghan nationals in the area of the operation.

It will also assess the extent to which NZDF rules of engagement authorised “targeted killings” and whether this was clearly explained to those involved in approving the rules of engagement.

The accuracy of public statements made by NZDF and the accuracy of written briefings to ministers about civilian casualties will also fall within the inquiry's scope.

The inquiry will also be asked to examine whether NZDF's transport and/or transfer of suspected insurgent Qari Miraj in 2011 to the Afghanistan National Directorate of Security in Kabul was proper given, amongst other matters, the June 2010 decision of the High Court of England and Wales in *R (on the application of Evans) v Secretary of State for Defence*.

The inquiry, in common with all inquiries under the Inquiries Act, has no power to determine the civil, criminal, or disciplinary liability of any person. However it may, if justified, make findings of fault and recommend further steps be taken to determine liability.

Related Documents

Inquiry into Operation Burnham - Terms of Reference.pdf (http://www.beehive.govt.nz/sites/default/files/2018-04/Inquiry%20into%20Operation%20Burnham%20-%20Terms%20of%20Reference.pdf)	(179.35 KB)
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Media Q and A Operation Burnham.pdf (http://www.beehive.govt.nz/sites/default/files/2018-	(194.71 KB)
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