



RIGHT2KNOW

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10 June 2015

To: Chairperson of the Joint Standing Committee on Intelligence

Dear Chairperson,

On behalf of my organisation I would like to take the opportunity to submit public comment on Mr Cecil Burgess, one of the candidates shortlisted by the Committee for the position of Inspector General of Intelligence.

I am doing so in light of the requirement in the Intelligence Services Oversight Act that the person appointed as Inspector General must be “fit and proper” for the position.

I would like to draw the Committee’s attention to two aspects of Mr Burgess’s term as former chairperson of the Joint Standing Committee on Intelligence, from 2009 to 2014.

Failure to table annual reports to Parliament

During that time Mr Burgess neglected his duties in terms of the Intelligence Services Oversight Act to table annual reports of the Committee before Parliament, as called for in S6(1) of the Act:

The Committee shall, within five months after its first appointment, and thereafter within two months after 31 March in each year, table in Parliament a report on the activities of the Committee during the preceding year, together with the findings made by it and the recommendations it deems appropriate, and provide a copy thereof to the President and the Minister responsible for each Service.

Between 2010 and the early part of 2014, Mr Burgess failed to table the Committee’s annual reports for 2010/11, 2011/12 and 2012/13.

- The 2010/11 and 2011/12 reports were eventually tabled before Parliament on 6 March 2014, making them three years and two years late respectively.
- A report of the Committee's 2012/13 activities were incorporated into a report that spanned to February 2014, which was tabled on 10 April 2014, making it one year late and less than a month before Mr Burgess's term as Chairperson would come to an end.
- To this day, appendixes are missing from these reports. For one, the Designated Judge's 2012 presentation to the Committee on lawful interceptions is not among the appendixes of these reports, which means that the annual disclosures on Rica interceptions for that period have never been made public.

These lapses do not inspire confidence in Mr Burgess's capacity to execute the vital duties of the Inspector General efficiently or effectively, nor reflect well on the candidate's appreciation for the importance of prompt disclosure of information for effective oversight of the intelligence services. By failing to table these reports for up to three years, Mr Burgess neglected his duties as Chairperson of the Committee, per the Intelligence Services Oversight Act, as well as the oath of office for a Member of Parliament.

Complaints of interference by Anti-Corruption Task Team members

In a separate matter, I wish to raise concerns relating to information in a report by a Colonel Kobus Roelofse to the commander of the Anti-Corruption Task Team (ACTT) on 2 March 2012, which later surfaced in certain media reports. In referring to various acts of interference in the investigation of former Lieutenant General Richard Mdluli, Colonel Roelofse's report states that Major General Solly Lazarus approached Mr Burgess in his capacity as Chairperson of the Joint Standing Committee of Intelligence. According to the ACTT report:

The investigative team has also been informed that Major General Lazarus has approached the chairperson of the Joint Standing Committee on Intelligence, Cecil Burgess on various occasions without notifying his acting divisional head of these visits. Major General Lazarus is trying to convince

Burgess that this investigation compromises national security. A letter from Burgess stating that [Major-General Mark] Hankel must be removed from the investigation was sent to the acting divisional commissioner of CI. The investigative team has had insight to that letter.

This is a very serious allegation of improper interference by the former Chairperson of the Committee, and certainly such conduct would be improper for someone to take up the role of Inspector General of Intelligence. Considering the implications, it would be inappropriate for the Committee to consider recommending Mr Burgess for the position of Inspector General of Intelligence.

Sincerely,

Murray Hunter

on behalf of Right2Know Campaign