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Headquarters
International Security Assistance Force
KABUL AFGHANISTAN



COMISAF

08 September 2009

MEMORANDUM FOR

MG-C. S. "Duff" Sullivan, CAN, ISAF Air Component Element Director and Deputy Director, Joint Operations (Board President)

LTC Björn V. [REDACTED], DEU, [REDACTED]

Col Keith D. M. [REDACTED], USA, [REDACTED]

SUBJECT: Appointment of Joint Investigation board into the Airstrike that Occurred in Regional Command-North in Kunduz Province on 4 September 2009.

1. References.

a. ISAF SOP 302, Operational Reports and Returns, dated 13 December 2008.

b. SACEUR Memorandum [REDACTED], Guidance for ISAF Investigations, dated 14 November 2008.

2. In accordance with ISAF SOP 302, you are hereby appointed as a Joint Investigation Board to conduct an operational investigation into the circumstances involving the ISAF airstrike that occurred on 4 September 2009 in the Kunduz Province. You are to inquire into all facts and circumstances surrounding the airstrike and any potential civilian casualties and preserve all available relevant evidence. You are not authorized to make findings or render opinions or recommendations regarding potential violations of the law of armed conflict or potential criminal liability. You are not authorized to make recommendations, nor express opinions regarding disciplinary or administrative action or proceedings.


3. This investigation is your primary duty until completed and takes precedence over all other duties and assignments. You are to apply the procedures in References 1.a. and 1.b. The terms of reference for the board are contained in the enclosed convening order.

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4. In accordance with reference 1.b., you will not take written sworn statements from witnesses. Instead, you will produce summaries of interviews, notes, and copies of pertinent documents and attach them to the report of the investigation.
5. Lt Col Keith E [REDACTED] will be the legal advisor for the Joint Investigation Board. You will be briefed by the legal adviser before commencing the investigation and should seek legal advice on any matter of procedure and any aspect of the investigation and reporting process you deem necessary.
6. The investigation report is to be presented to me at the conclusion of your inquiries.


STANLEY A. McCHRISTAL
General, U.S. Army
Commander,
United States Forces - Afghanistan/
International Security Assistance
Force, Afghanistan

Enclosure:

Convening Order dated 08 Sep 09.

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CONVENING ORDER FOR A JOINT INVESTIGATION BOARD

1. The following officers will convene at HQ ISAF, Kabul, as a Joint Investigation Board on 8 Sep 09 or as soon as is practicable thereafter to inquire into the circumstances of the ISAF airstrike that occurred on 4 September 2009 in the Kunduz Province:

MG C. S. "Duff" Sullivan, CAN, ISAF Air Component Element Director and Deputy Director, Joint Operations (Board President)

LTC Björn V. [REDACTED] DEU, [REDACTED]

Col Keith D. M. [REDACTED] USA, [REDACTED]

2. The investigation and report will include findings of fact and recommendations in accordance with the following terms of reference:

- a. The chronological sequence of events;
- b. The facts known and intelligence available to the ground force commander prior to the airstrike;
- c. The ISAF rules of engagement (ROE), standard operating procedures, tactics, techniques and procedures and any other ISAF directives or procedures applicable in this situation and those implemented and followed;
- d. The actual ROE that the ground force commander relied upon for the airstrike, and whether the airstrike was proper under the ROE used;
- e. The basis of the ground force commander's positive identification (PID) of personnel on the target site, and was that PID reasonable under the circumstances;
- f. Whether the situation on the ground constituted a "troops in contact" (TIC) situation and whether the ground force commander used a TIC to justify the targeting procedure used;
- g. The appropriate targeting procedures that should have been used, given the situation on the ground;
- h. The actual targeting procedures used and whether they were appropriate for the situation, to include Collateral Damage Estimation (CDE), Target Engagement Authority, and National Asset Approval;
- i. Whether the Joint Terminal Attack Controller (JTAC) who called in the strike was qualified and used the appropriate procedures;
- j. The actions of the aircrews in response to the JTAC request for close air support (CAS) and whether their actions were appropriate;

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- k. The number and extent of civilian casualties, if known, and status of those injured as a result of the airstrike;
- l. The number, extent and status of enemy personnel on the target, if known;
- m. Actions taken by the ground force and RC(N) after the airstrike, to include air and ground battle-damage assessment, security of the site, and mitigation, if any;
- n. Whether the actions taken by the aircrew, JTAC and ground force commander were consistent with stated COMISAF intent and guidance, to include the Tactical Directive of 01 July 2009.
- o. Any recommendations for amendments to the ISAF ROE, targeting procedures, and ISAF policy or guidance;
- p. Any other findings or recommendations that the Board deems relevant.

3. The following additional guidance is provided:

- a. All available data should be collected and recorded.
- b. Recommendations and findings of the Board must be clearly based on the facts.
- c. Findings should be supported with rationale.
- d. If possible, based on the facts available, as much detail as possible regarding the cause of any deaths or the status of any victims should be provided.
- e. The investigation should cease if there is evidence that a criminal offence or violation of the law of armed conflict has been committed, and the matter immediately referred to the appropriate Troop Contributing Nations through HQ ISAF.

08 Sep 09


STANLEY A. McCHRISTAL
General, U.S. Army
Commander,
United States Forces - Afghanistan/
International Security Assistance
Force, Afghanistan

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