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UNAUTHORIZED BOMBING OF MILITARY
TARGETS IN NORTH VIETNAM

REPORT

OF THE

ARMED SERVICES INVESTIGATING
SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

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SECOND SESSION

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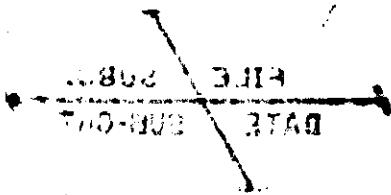


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UNAUTHORIZED BOMBING OF MILITARY TARGETS IN NORTH VIETNAM

INTRODUCTION

On March 8, 1972, General John D. Ryan, Chief of Staff, U.S. Air Force, was furnished a copy of a letter addressed to Senator Harold Hughes from an Air Force non-commissioned officer in Vietnam. The writer's signature had been deleted. That letter alleged that the Rules of Engagement were being violated by 7th Air Force, and that there were irregularities in reports of its protective reaction strikes. On the following day, General Ryan sent the Air Force Inspector General, Lieutenant General Louis L. Wilson, Jr., to Vietnam to investigate the allegations. On March 23d, General Wilson reported to General Ryan that some missions had been flown by 7th Air Force, which did not conform to the Rules of Engagement, and also that there were irregularities in some of its operational reports. He also reported that General John D. Lavelle, Commander, 7th Air Force, had admitted those irregularities.

After ascertaining that General Lavelle had not been authorized to deviate from the Rules of Engagement by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, or the Commander-in-Chief, Pacific, General Ryan summoned him to Washington to discuss the irregularities. When General Lavelle admitted that 7th Air Force had conducted a relatively small number of strikes, which did not conform to the letter of the Rules of Engagement, General Ryan offered him the option of reassignment at his permanent Air Force grade of Major General, or retirement. Since General Lavelle had been receiving medical attention for a heart murmur, emphysema and a spinal disc condition, he chose to apply for disability retirement. His application, filed March 31, 1972, was accepted.

On April 6th General John W. Vogt was selected to replace General Lavelle. His appointment and General Lavelle's retirement were announced on April 7th. With respect to General Lavelle, the announcement merely stated that he was retiring "for personal and health reasons." However, rumors began circulating almost immediately suggesting that the Air Force announcement was less than complete. Telephone inquiries to the Air Force, seeking additional information, were met with stoney silence.

On May 4th, at the request of Congressman Pike, Chairman F. Edward Hebert directed the staff of the Investigating Subcommittee to make an immediate inquiry into the matter. Thereafter on May 15th, the Air Force publicly admitted General Lavelle had been relieved of command of the 7th Air Force "because of irregularities in the conduct of his command." Because of the vagueness of this announcement, the Subcommittee staff concentrated its efforts on uncovering evidence of the specific "irregularities" involved.

On June 12, 1972, the Investigating Subcommittee held hearings at which General Ryan and General Lavelle were the only witnesses. The morning session was open to the public. But in view of the discussion of highly classified information, the Subcommittee met in executive session during the afternoon.

THE RULES OF ENGAGEMENT—OPERATING AUTHORITIES

The Rules of Engagement as amended, among other things, establish the boundaries within which our military may conduct operations. They establish areas of sanctuary for the enemy, but authorize "protective reaction strikes" within those sanctuaries under certain conditions. An interpretation of this protective reaction authorization is the crux of this controversy. An examination of the Rules is essential for any definitive resolution of the matter. Unfortunately, however, the Department of Defense refused to comply with the Subcommittee's request for a copy of the pertinent Rules. At the hearing General Ryan presented a summary of the pertinent Rules for fighter aircraft, from June 29, 1970 to February 1972. While that information was helpful, it was not an adequate substitute for an examination of the text of the Rules.

Generals Ryan and Lavelle testified that the Rules of Engagement were written, as were all amendments or revisions. They testified that the Rules, rather than being a book, are a collection of directives, wires and messages which set forth the conditions and circumstances under which enemy aircraft or weapons systems can be attacked by U.S. aircraft. They stated that 7th Air Force had consolidated those directives into a manual of "Operating Authorities" which is disseminated to the Wings. That manual of Operating Authorities is then made available for examination and study by pilots. The manual, according to General Lavelle, is as close as the operational air crews come to the text of the Rules of Engagement. According to the witnesses, the air crews are briefed on the Rules of Engagement as a part of their pre-mission briefings.

General Ryan presented the following oral summary of the Rules of Engagement which pertained to the missions under examination:

JCS, in their message of June 1970, restated the authority as Fighter aircraft, including Iron Hand, were authorized to strike any SAM anti-aircraft artillery site in North Vietnam below 20 degrees north which fired at, or was activated against, U.S. aircraft conducting missions over Laos or North Vietnam. This authority was limited to immediate protective reaction, no subsequent retaliation was authorized.

If I may explain a minute here, an Iron Hand aircraft is our anti-radiation missile-carrying aircraft, the F-105s that carry the Shrike and the Standard Arm, so if a Fan Song radar came up they were authorized to fire the anti-radiation missile.

Later on the 26th of January 1972, authorization was given to employ anti-radar missiles against primary GCI sites, ground control intercept sites, which direct the enemy fighters, such as Bar Lock, Big Bar, and associated height finders, outside of Route Pack 6 when MIGs were airborne and indicated hostile intent. "Route Pack 6" is the designation of the area generally north of the parallel running through Hanoi.

As I said, outside of Route Pack 6 when MIGs were airborne and indicated hostile intent.

Those were the Rules of Engagement which pertained to these particular strikes.

A RECCE airplane going over to take pictures of an objective would be escorted by fighter aircraft. If the RECCE airplane was fired at, the fighter aircraft could roll in and destroy the ack-ack or the SAM site.

The Iron Hand aircraft could launch their missile against a Fan Song. They have an indicator in their cockpit which shows that the Fan Song is tracking them, and they can swing around, head into that site and launch their missile.

General Ryan referred to modifications of those Rules, which prevailed during two periods, December 26 through December 31, 1971 and February 16-17, 1972. The Subcommittee, however, was not supplied with the modifications of the Rules, or the Operating Authorities, which were in effect during those periods. General Ryan stated that, during the five-day period in December, the strikes for which General Lavelle was relieved would have been permissible. He stated that the strikes would not have been permissible during the February 16-17 period, since they occurred north of the operational area included in that change of the Rules. He also testified that, as a result of changes in the Rules of Engagement in March 1972, 7th Air Force aircraft would now be allowed to strike any of the targets which are the subject of this inquiry.

PROTECTIVE REACTION STRIKES

The issue in dispute was whether the strikes authorized by General Lavelle conformed to the principle of protective reaction. According to General Ryan:

In essence the Rules of Engagement have been constant on our protective reaction strikes, escorting our reconnaissance aircraft, that they would be fired on before you took offensive action against the site.

He added that the authority was limited to immediate reaction and did not allow for subsequent retaliation. He criticized the strikes authorized by General Lavelle stating that, "they were not protective reaction strikes, they were briefed before the pilots ever took off, to go and hit a target, whether any reaction came or not". He said the targets were preselected and were not always Fan Song radars or anti-aircraft but, in some instances, had been trucks.

On the other hand, General Lavelle, while conceding that the intent of the protective reaction principle required that a U.S. aircraft be at least tracked before reaction was warranted, believed that his strikes were justified under a liberal interpretation of the Rules of Engagement. While admitting that the Rules were specific, General Lavelle stated that he believed they allowed some interpretation or judgment factor on the part of the commander. In support of his belief that the actions he took against airfields, radars, missile sites, missiles on transporters, and equipment with them, and heavy guns were authorized, he cited the clause "or was activated against U.S. aircraft".

In explaining his interpretation of that clause, General Lavelle stated that, when the above-described Rule was promulgated, firing of the enemy SAM missiles was controlled solely by Fan Song radars at the missile sites. General Ryan testified that, in accordance with the Rule, U.S. fighter aircraft were authorized to strike any SAM site in North Vietnam below 20 degrees north latitude, if the Fan Song radar were activated against them. The witnesses testified that, when the Fan Song was tracking, it activated the homing and warning equipment in

U.S. aircraft, thus alerting the aircraft to the tracking and permitting it to take evasive action or to evacuate the area.

IMPROVED ENEMY OFFENSE AND DEFENSE

In late 1971 the North Vietnamese took several actions which vastly improved and augmented their tracking capability. The most important was the netting of their early warning and surveillance radar and their anti-aircraft artillery radar with their SAM missiles. In that netted mode, the Fan Song, which alerted U.S. pilots to the surveillance, never came up, as the surveillance could all be conducted with the other radars. General Lavelle believed that, with those mutually supporting radar systems transmitting tracking data to the firing sites, the SAM missile system was activated against U.S. aircraft at any time they were over North Vietnam. He also learned, through bitter experience, that the probability of U.S. aircraft successfully evading the missiles was greatly reduced when the radars were so netted.

Another tactic which he claimed had improved the North Vietnamese tracking capability was the use of ground-controlled intercept radars (GCI) ordinarily used for the control of North Vietnamese Migs, to track U.S. aircraft. The azimuth information developed by the GCI surveillance was then fed to SAM fire control radars which could then be moved to the firing azimuth. Through that netting, tracking with the Fan Song was eliminated and more than one missile site could be directed against a single U.S. aircraft.

General Lavelle testified that he became convinced the North Vietnamese were netting their air defense radars with SAM sites in November or December 1971. He alerted his superiors to the enemy's netting of his radars and advised them that the North Vietnamese now possessed the capability of firing with little or no warning.

STRIKE AGAINST GCI SITE

After satisfying himself that the GCI radars were, in fact, being used for tracking U.S. aircraft, General Lavelle authorized a strike against a GCI site on January 5, 1972. The target was hit and destroyed and the mission accurately reported. Some time later a message from the Joint Chiefs of Staff inquired as to 7th Air Force authority to strike that target. In his reply to the Joint Chiefs' inquiry, General Lavelle stated that, since his aircraft were authorized to hit radars which controlled missiles or anti-aircraft artillery being fired, he believed they were also authorized to strike GCI radars which controlled enemy aircraft. He also reported that the particular GCI site had been responsible for the loss of [deleted] aircraft. He said he later received another JCS message which sympathized with him, but said he had no authority to strike a GCI radar, and that it should not be done again.

On January 26, 1972, the Rule was amended to authorize strikes against primary GCI sites when Migs were airborne and indicated hostile intent. Responsibility for determining the hostile intent of enemy aircraft rested with the U.S. air defense system. General Lavelle stated that he had established a guideline for that system in making its determination, i.e. any Mig south of 20 degrees north latitude should be considered hostile.

TARGETS—THE ENEMY DEFENSE SYSTEM

General Lavelle testified that his liberalized interpretation of the Rule did not authorize the striking of every target of opportunity. He said that, "We went in after those targets . . . which would hurt the enemy's defense system, so that we could operate." He cited an example of a January observation of 55 to 60 enemy tanks, approximately 11 miles north of the DMZ. He refused authorization to strike the tanks saying, "There is just no way we can make any liberalized interpretation that would authorize that strike." He said he requested permission to strike the tanks and was told to develop a plan, but that he never received authorization to conduct a strike.

NUMBER OF STRIKES

There was a conflict between the Generals with respect to the number of missions which violated the Rules of Engagement. General Ryan testified there had been 28 missions, while General Lavelle believed that the strikes "were in the neighborhood of 20, probably less." Each of the strikes involved six or eight planes, about 147 sorties, according to General Ryan's estimate (out of approximately 25,000 sorties flown during that period) and all were directed against missile sites, missiles on transporters, airfields, 122 mm and 130 mm guns, and radars. All of the strikes occurred between November 7, 1971 and March 9, 1972. General Lavelle also informed the Subcommittee that there were no civilian-populated areas involved and that there were no American planes or lives lost in these strikes.

FALSE REPORTING

General Ryan testified that, while the pilots' reports of all 28 questioned missions had not been correlated to determine their accuracy, it had been established definitely that false reports had been filed with respect to four of those missions. He stated that the Inspector General had also determined that the impetus for the false reporting had come from General Lavelle.

While assuming full responsibility for reporting those strikes as protective reaction, General Lavelle testified that he was not aware of the detailed inaccurate reporting until it was brought to his attention by the Inspector General on March 9, 1972. He stated, "I accepted responsibility for it even though I did not do it and did not have knowledge of the detail. It was my command and I should have known." He stated that he traced the probable cause of the false reporting to the first, planned "protective reaction" strike. That mission was directed against an airfield which had supported North Vietnamese attempts to down B-52s and RC-135s. He said that he had directed the strike from the Operations Center and that, when his lead pilot reported by radio that the target had been hit and that there had been no enemy reaction, he stated, "we cannot report 'No Reaction'." In the Op Rep 3 report on the mission, the Wing reported "Enemy reaction and triple A firing." General Lavelle explained that report of protective reaction by stating, "I could report enemy reaction, because we were reacted upon all the time."

As examples of the false reporting, General Ryan cited three missions flown on February 25, 1972, and another flown on March 4th, in

which the Op Rep 3's and 4's reported that anti-aircraft artillery sites had been hit. He stated that special messages subsequently submitted to 7th Air Force headquarters reported that the actual targets of those missions had been trucks. Those subsequent, accurate reports were not submitted to MACV, but only to 7th Air Force. General Lavelle testified that the specific targets of those missions were missiles and missile-associated equipment on trucks on the North Vietnamese side of Ban Karai pass. He said the missiles and trucks were awaiting bad weather in order to move across the pass into Laos. He said that, if the missiles and equipment had been observed on the Laotian side of the pass, they could have been hit. He also said that once the missiles were transported into Laos and emplaced, they would be a threat to his aircraft and would be very difficult to locate, since they only fired under cover of weather or darkness. Because of the difficulty of locating them in the jungle, he decided to hit them while they were in transit. General Lavelle testified that he believed missiles and associated equipment on transporters were within his liberal interpretation of the Rules of Engagement. He said he advised his operations officer that the actual bomb damage should be introduced into the computer base. Although he never saw the actual reports, he stated that he knew they were being received in his Operations or Reports sections. He said he was not concerned that the actual bomb damage reports reflected damage to trucks or missile transporters rather than to authorized targets, since they were missile-related equipment and thus within his interpretation of the Rules. General Lavelle testified that, as soon as the Inspector General showed him the misinformation which the reports contained, he ordered the inaccurate reports stopped immediately. He added, however, that he immediately assigned a group of three men to determine how he could continue such strikes and report them accurately. That study concluded that the reports demanded such detail that there was no way in which they could accurately report those strikes.

REPORTS TO MACV

General Lavelle testified that he believed his superiors were aware of some targets that he was hitting and knocking out. He said General Abrams was aware of the air defense buildup, that the North Vietnamese had netted their radars, and that they had radar-guided and optically-guided anti-aircraft artillery. He specifically recalled telling General Abrams about his plan to strike the trucks containing missiles and associated equipment. He stated that he personally reported to General Abrams at MACV and that those reports were accurate. He said:

I think General Abrams knew what I was doing. I am positive General Abrams, in his position at his level, had no idea what the reporting requirements were . . . I also believe that with his vast responsibilities he never concerned himself on a particular strike when he got a missile site, or an airfield, that he sat down and debated over the Rules of Engagement before we did it.

He said he had not had any specific discussion of the Rules of Engagement with General Abrams, "but it was constantly something we were concerned with and discussed, or commented on, from time to time". General Lavelle also testified that he orally reported observations of the North Vietnamese invasion buildup to MACV about January and requested authority to hit tanks and other targets. He

knew that MACV had passed the reports to higher authorities, since permission was received subsequently to hit the 130mm guns, but that permission to strike the tanks was withheld. General Ryan confirmed that the request for authority to strike those targets had been presented to the Joint Chiefs of Staff.

General Ryan said he had never asked General Abrams about the discussions testified to by General Lavelle. He further testified that he had informed the Secretary of Defense that General Lavelle told him he had discussed the strikes with General Abrams. He said the Secretary had replied that General Abrams said he had not given authority for the strikes. General Ryan, however, was unable to answer the crucial question, i.e. whether General Lavelle had informed General Abrams of his intention to conduct the strikes. In answer to that question, General Ryan testified, "I cannot answer that question, Mr. Pike, because I did not talk to General Abrams."

SUMMARY OBSERVATIONS AND CONCLUSIONS

Any examination of these air strikes must consider General Lavelle's record of more than 32 years as an Air Force officer. It is replete with advancements earned by diligent application of his talents within the military system. That he lived "by the book" is an inescapable conclusion, and there is nothing in his record which would cast the slightest shadow on his integrity or doubt on his ability. Under these circumstances, it might be reasonable to ask whether such an officer would, unilaterally, pursue a course apparently so diametrically opposed to the established pattern of his military life. Is it likely that such a man would jeopardize a brilliant career by engaging in actions which could bring him neither honor nor glory, but which could almost certainly bring him dishonor and disgrace? The law of probabilities would suggest a negative answer, and this, in turn, raises questions which cannot be ignored.

It is not necessary to catalog all of the probabilities which might be examined; but, they extend from possible tacit approval of General Lavelle's actions by his superiors, to possible civilian direction of the bombings. Vigorous denials by those who possibly were involved could neither be corroborated nor refuted without a review of all relevant documentary evidence. Such a review, however, was impossible when the Department of Defense refused to make that evidence available to the Subcommittee. How much of that evidence might still be available is questionable, for the incredible secrecy with which some DOD representatives have surrounded this case suggests that the files may have been thoroughly sanitized by this time.

It has been suggested by DOD that, at least initially, the secrecy which it imposed in this case was imposed to protect General Lavelle from embarrassment. But having just summarily relieved him of his command, reduced him in rank, and caused him to retire, it is difficult to understand how either the Air Force or DOD could have added to the General's embarrassment. Therefore, one might be excused for entertaining an uneasy feeling that someone other than General Lavelle could be receiving the benefits of this secrecy.

At the outset of our inquiry, DOD would not even divulge the whereabouts of General Lavelle and, thus temporarily prevented us from interviewing him. After several days, however, this ridiculous situa-

tion was finally resolved in our favor. Thereafter we requested copies of certain basic documents which are essential to the understanding of the case. These documents included the pertinent Rules of Engagement in effect at the time the first alleged incident took place, together with all subsequent modifications or changes to the Rules, plus a list of all alleged unauthorized bombings involved, indicating the date, time and place of each incident, with a brief description of the results. We also requested copies of all after-action reports filed in each case. These documents have been denied to the Subcommittee. Instead, we have been given a short paraphrase of the Operating Authorities, so general in nature that it is of little or no value for our purposes.

The Rules of Engagement

The lack of documentary evidence was most keenly felt in our attempt to resolve the basic conflict in this matter—did the strikes directed by General Lavelle violate those Rules of Engagement pertinent to protective reaction strikes. Without benefit of the best evidence, the Rules themselves, the Subcommittee had only General Ryan's summary (and a similar summary prepared by DOD) on which to rely. In this connection, General Ryan told the Subcommittee that “ * * * fighter aircraft, including Iron Hand, were authorized to strike any SAM anti-aircraft artillery site in North Vietnam below twenty degrees north which fires at, *or is activated against*, U.S. aircraft conducting missions over Laos or North Vietnam. This authority was limited to immediate protective reaction; no subsequent retaliation was authorized.” [Emphasis supplied]. This literal interpretation of the Rules apparently led General Ryan to conclude that General Lavelle's strikes were not protective reaction since they were pre-planned and were “briefed to hit a target whether any reaction came or not.”

The Subcommittee finds it difficult to fault “pre-planning”, in itself. After all, the 7th Air Force has flown enough sorties over North Vietnam to be able to predict with a high degree of accuracy precisely what kind of a reception to expect from the enemy. In view of this, the failure to adequately brief the pilots in a manner to insure maximization of the strike's effectiveness and the safety of the crews could be considered a dereliction of duty. Of course, in order to justify an actual attack under the Rules, the enemy would have to fire at or be activated against our aircraft. This raises the question: What is meant by “activated against”? Obviously, it does not refer to actual firing since radar tracking constitutes “activation”. There is also the question of what targets our planes could hit after they were “activated against”. Must they only strike the SAM/AA sites that track or fire at them, or could they fire at any installation, system or object activated against them? If so, would this include airfields protected by AAA or capable of launching Migs or other fighter aircraft against them? Perhaps with better cooperation from the Department of Defense, the Subcommittee would be able to answer these questions instead of asking them.

Regardless of what the language of the Rules was at that time, it is the conclusion of the Subcommittee that in late 1971, the original conditions precedent to the exercise of protective reaction had been overtaken by events. At the time the protective reaction principle was established in 1968, each enemy SAM firing site was an independent weapons system which depended on its own Fan Song radars for target

tracking. Since that would immediately be reflected by the warning gear in U.S. aircraft, the pilot was alerted to his jeopardy and had the option of attacking the tracking site or of taking evasive action. However, by late 1971, through his integrated radar system, the enemy was able to launch his missiles without alerting the U.S. aircraft radar warning gear, thereby depriving the U.S. pilot of any warning of the threat. The inevitable result was greater loss of U.S. aircraft and pilots.

General Lavelle notified his superiors of this vastly-improved enemy capability. That notification, however, failed to bring about any relaxation of the protective reaction conditions. Likewise, his initial strike against a ground-control-intercept radar failed to convince them of the additional danger 7th Air Force pilots were exposed to as a result of the interlocking radars and the mutually-supporting missile firing sites. This apparent failure of his superiors to comprehend the altered tactical situation is one of the principal problems of attempting to direct a war at a distance of 10,000 miles. However, their partial modification of the conditions for protective reaction strikes in January 1972, and the total abolition of those conditions two months later clearly demonstrated that General Lavelle's efforts to give his pilots a fighting chance against the improved enemy system were not only proper, but essential. Perhaps if his superiors had been physically closer to the problem, they would have been convinced of the necessity for a revision of the Rules at a much earlier date.

False Reports

While the question of whether General Lavelle exceeded his authority in directing the air strikes might be debated, there appears little doubt that as Commander of the 7th Air Force, he must bear responsibility for the false reports filed in connection with at least four of those strikes. According to the testimony of General Ryan, the impetus behind the false reporting was General Lavelle. Without contradicting that testimony, General Lavelle stated that he had been unaware of the detail of the false reports since they were prepared at lower echelons of command and had not been seen by him. He further testified that he ordered a termination of the practice of filing such reports as soon as they were brought to his attention by the Inspector General.

It is understandable how General Lavelle's statement that "we cannot report 'no reaction'" could have been interpreted as an order to file a false report by one who strictly construed the Operating Authorities or Rules of Engagement, since such construction would virtually require visible evidence that the enemy was taking hostile action against U.S. planes. In effect, it gave the enemy the right to throw the first punch.

However, as has been noted above, it was General Lavelle's firm conviction that the enemy's greatly improved radar/missile network permitted U.S. planes to be placed in extreme jeopardy without advance warning and that, therefore, common sense and the law of survival compelled the assumption that SAM/AAA sites in North Vietnam were *always* "activated against" U.S. or allied aircraft. General Lavelle expressed the opinion that this assumption was valid and that the strikes which he authorized were permissible under the then-existing Rules of Engagement and Operating Authorities.

Therefore, his statement that "We cannot report no reaction", when interpreted in the light of this assumption, might reasonably suggest an entirely different conclusion than that reached by the strict constructionist.

General Lavelle feels that perhaps he had not made clear to his staff his objectives and his interpretation of the Rules and Operating Authorities, and that this resulted in the misunderstanding which led to the false reports. It should be pointed out, in fairness to General Lavelle, that at the time of the Subcommittee hearing, there were only four reports from the disputed strikes which were identified as containing false information.

Sanctuary

The Vietnamese war has had many peculiar aspects, but the one which must stand out above all others is the virtual sanctuary provided the whole of that enemy nation since 1968. After the bombing halt at that time, most air attacks against North Vietnamese points were prohibited. That prohibition led to the doctrine of protective reaction, which made an exception permitting an attack on missile sites if U.S. reconnaissance aircraft were attacked, or if the SAM system were activated against them. Of course, sanctuary has been extended in other conflicts, but this extension of the privilege to an entire enemy nation for a three-year period, during which it continued the war unabated, is believed unique. Throughout that period, U.S. aircraft could observe war materials being unloaded from ships at North Vietnamese ports and then moved by surface transportation across the country to the mountain passes on the Laotian frontier. Those military supplies could be transported across the belligerent nation with impunity. Only after they entered the adjacent neutral country of Laos were they subject to U.S. air attack. It is difficult to conceive a more unrealistic military situation.

This radical departure from orthodox military doctrine placed U.S. forces at a tremendous tactical disadvantage and contributed to prolonging the war.

The Subcommittee notes the impact that elimination of the sanctuary has had upon the negotiations to end the war. The enlarged bombing offensive, beginning in April of this year, which subjected all military targets and all military lines of communications within North Vietnam to attack, appears to have resulted in a significant increase in the earnestness of the North Vietnamese peace negotiators. Those negotiations, which were noteworthy only for their lack of accomplishment from 1968 until the past Spring, have received top priority since the privileged sanctuary in North Vietnam has been eliminated.

Inspector General System

The Inspector General systems of the military services are intended to provide an internal procedure for the investigation of questionable military practices and activities. However, the fact that the present case and the My Lai incident were not initially uncovered by the Inspector General systems suggests they have failed in a critical area. While the systems serve some useful purpose, it appears that they are only responsive to commanding officers under whose aegis they operate.

These recent incidents demonstrate the need for improved procedures to make them responsive to the needs of the services rather than to the commanding officers, and to give the investigating agencies or bodies that degree of autonomy which complete and objective investigating demands.

In a recent letter, the Secretary of Defense said that the principal deficiency revealed by his investigation of this incident involved the Inspector General system. He noted that, while the Unified Commands have responsibility for military operations, those commands have no Inspectors General on their staffs. He speculated that, if an Inspector General had been on the staff of the Unified and sub-Unified Commands in 1971-72, it is probable that any deviations from operating authorities by the 7th Air Force could have been detected by the Inspector General of Military Assistance Command Vietnam. In order to correct that deficiency, he has initiated action to create an Inspector General system in the Unified Commands. He further noted that, in the past, Inspectors General have reported directly to the Chief of Staff of the particular service. He has directed that, in the future, the Inspectors will report directly to the Secretaries of the Military Departments, so that the Secretaries can be more currently informed and involved in the operation of the services.

While the Secretary's efforts to enlarge and improve the Inspector General system should provide some increased visibility in matters of unauthorized activities and strengthen civilian control, there is reason to believe that system will not expose incidents of this type.

During our My Lai investigation, we heard from the officer who had served as Inspector General for Military Assistance Command Vietnam from 1967 to 1970. Although knowledge of the incident was widespread among officers and enlisted personnel, he testified that his office had never received a report or complaint about it. His testimony, however, provided some insight into the principal weakness of the Inspector General system. In describing the function of the Inspector General, he stated:

He conducts investigations only at the direction of the commander and confines those to specific matters as directed by the commander. Investigation can be broadened or narrowed only with the approval of the commander.

According to that concept, the Inspector General is nothing more than a private investigator for the commander rather than a guardian of the integrity of the service. In view of those limitations upon his activities, it is easy to understand the lack of confidence in the Inspector General system. This lack of confidence has been demonstrated by the reluctance of lower ranking personnel to present complaints to the Inspector General. In several instances, they have sought congressional assistance rather than rely upon the military system. As long as the Inspector General remains the agent of the commander, acting only upon his direction, and limited by his instructions, this system will fail to reveal incidents which might embarrass the chain of command.

In order to establish confidence in this system, the Inspector General must be granted a large degree of autonomy. He should operate under the direct authority of the Secretary and should not be responsible to, or limited by, the commander. To the extent that he is responsible to the commander, his independence is diminished. If any reasonable ex-

pectation is to be held out for surfacing incidents such as this, or My Lai, the Inspector General must be made completely independent. He must be able to pursue any allegation of improper conduct which he deems worthy of investigation. While such an independent system would unquestionably create problems for commanders, it is believed essential if the system is to be made responsive and if confidence in it is to be restored.

