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DEPARTMENT OF DEFENSE
HEADQUARTERS, COMBINED/JOINT TASK FORCE-82
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354

REPLY TO
ATTENTION OF:

OCT 20 2009

CJTF-82

(b)(3), 10 USC 130b; (b)(6)

MEMORANDUM THRU Staff Judge Advocate, Combined/Joint Task Force (CJTF)-82,
Bagram Airfield, Afghanistan, APO AE 09354

FOR Commander, Detainee Operations, Task Force Protector, Bagram Airfield, Afghanistan,
APO AE 09354

SUBJECT: 24 September 2009 Detainee Review Board (DRB) Recommendation
Approval/Disapproval for Transfer of ISN 3829 to the Afghan National Detention Facility

1. The Detainee Review Board conducted on 24 September 2009 reviewed the internment of
Bakhtyar (LNU) / ISN 3829 and made the following findings and recommendation:

a. That ISN 3829 is a person who was part of, or substantially supported, Taliban or al-Qaida
forces or associated forces that are engaged in hostilities against the United States or its coalition
partners, including any person who has committed a belligerent act, or has directly supported
hostilities, in aid of such enemy armed forces.

b. That internment is necessary to mitigate the threat ISN 3829 poses.

c. That ISN 3829 is not an Enduring Security Threat.

2. I ~~approve~~ /disapprove *us* the transfer of ISN 3829 to the Afghan authorities for criminal
prosecution.

3. The point of contact for this memorandum is CPT ^{(b)(3), 10 USC 130b; (b)(6)}, TF Protector, at DSN (b)(2)
(b)(2) or (b)(2); (b)(3), 10 USC 130b; (b)(6)

CURTIS M. SCAPARROTTI
Major General, USA
Commanding

- 3 Encls
- 1. DRB Voting Packet
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Bagram-CENTCOM-DRB-156

Detainee Review Board Report of Findings and Recommendations

| Date of Board | Detainee Name | Detainee ISN |
|---------------|---------------|--------------|
| 24 Sept 09 | Bakhtyar | 3829 |

STEP 1 (FINDINGS): By a preponderance of the information presented, the Detainee Review Board (DRB) determines:

The detainee meets the following criteria:

The detainee listed above is a person who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsible for those attacks;

The detainee listed above is a person who was part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.

The detainee does not meet the criteria for internment. *(Stop here and sign at the bottom. Otherwise, continue with Step 2).*

STEP 2 (THREAT ASSESSMENT): Taking into account the detainee's potential for rehabilitation, reconciliation, and eventual reintegration into society:

Internment is necessary to mitigate the threat the detainee poses
 [Yes/No]

STEP 3 (RECOMMENDATIONS): In light of the findings listed above, the DRB makes the following recommendation:

The detainee should be released without conditions.

The detainee should continue to be interned at the Bagram Theater Internment Facility (BTIF).

The detainee should be transferred to Afghan authorities for criminal prosecution.

The detainee should be transferred to Afghan authorities for participation in a reconciliation program.

(In the case of non-Afghan and non-U.S. third-country nationals): The detainee should be transferred to a third country for criminal prosecution, participation in a reconciliation program, or release.

STEP 4: The Detainee Review Board assesses that the detainee is (is not) (circle one) an "Enduring Security Threat." (See classified annex to this form).

(b)(3), 10 USC 130b; (b)(6)

DRB President Signature

(b)(1); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(3), 10 USC 130b; (b)(5); (b)(6)

3829-Unclassified Summary

1. Detainee 3829 was captured (b)(1); (b)(2); (b)(5)

3. He meets Internment criteria because he is part of, or substantially supported Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, ~~including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.~~ *and has committed a hostile act or has directly*

supported hostilities in aid of such enemy armed forces.

2. (b)(1); (b)(2); (b)(5)

1. (b)(1); (b)(2); (b)(5)

1. (b)(1); (b)(2); (b)(5)

3. (b)(1); (b)(2); (b)(5)

[Detainee 3829 entered the boardroom and took his seat in front of the board members.]

The detainee was advised by the president of how this board was not a criminal trial and how this board was to determine whether or not he met the criteria for further internment.

The president also notified the detainee that he may be present at all open sessions of the board permitting that he acted appropriately. ISN 3829 was also advised that he could testify under oath or unsworn if he wished to do so, that he had a personal representative which was present at the hearing, that he may present information at the hearing including the testimony of witnesses, and that he can examine documents presented to the board all of which the detainee understood.

Further, ISN 3829 was instructed that, at the conclusion of the board after the legal review, the board would determine whether he met the criteria for further internment at the Bagram Theater Internment Facility. The detainee understood the fact that if he does not meet the criteria, then he would be released as soon as possible. However, if he did meet the criteria, then he would be recommended for further internment, transferred to Afghan authorities, or released without conditions.

[The unclassified hearing was called to order at 1055, 24 September 2009.]

Captain ^{(b)(3), 10 USC 1306; (b)(6)} presented the following unclassified information to the board:

ISN 3829 was captured (b)(1); (b)(2); (b)(5); (b)(6)

[The recorder, Captain ^{(b)(3), 10 USC 1306; (b)(6)}, presented the board with Recorder Exhibit R-3829-1.]

Unclassified information continued as follows:

The detainee is part of or associated with the Taliban or associated forces.

[Per the recorders request, the president granted a classified hearing at the culmination of the unclassified hearing.]

The detainee, ISN 3829, made the following statement:

I don't have an education. If you can read the charges, then I can explain them one by one.

The president allowed the board to ask the following questions of Detainee 3829:

QUESTIONING OF ISN 3829

Questions by Member 2:

I have no education.

Questions by the president of the board:

Those weapons in the photo are not mine. I just transported the weapons from the village to the mosque. I hand carried the weapons. I transported them for money but I did not get paid. If I get released, I will be a farmer on my father's land and raise my brothers. I will not carry weapons for them again nor walk with them.

Questions by Member 2:

There is no Taliban or jihad movement in my area.

Questions by Member 1:

I am the oldest son of my family and I need to raise my brothers because my father is dead. I do not know who is supporting the Taliban in my area.

Questions by Member 2:

I do not know who "(b)(6)" is.

Questions from the president of the board:

I do not know who "(b)(6)" is.

Questions by Member 1:

"(b)(6)" is the other person in the photo(R-3829-1).

Questions by Member 2:

The village that I moved the weapons from is a 4 to 5-minute walk.

The president announced the conclusion of the unclassified hearing.

The president of the board instructed the detainee that he would be notified of the board's decision within a couple of weeks and that he would be released if the decision is made that further internment would not be required. However, if the board decided that further internment is required, he would be retained at the Bagram Theater Internment Facility, released to Afghan authorities for participation in a reconciliation program, or released without conditions. Furthermore, if continued internment was recommended, then an additional Detainee Review Board would be reconvened in 6 months.

The detainee made the final statement to the board:

I have no one else to support my brothers. Thank you. I will always help the Coalition Forces.

[The unclassified hearing adjourned at 1115, 24 September 2009.]

[Detainee 3829 withdrew from the boardroom.]

[The classified hearing was called to order at 1116,
24 September 2009.]

The recorder presented the following information to the board:

(b)(1); (b)(2); (b)(5)

The personal representative presented the following information
to the board:

(b)(1); (b)(2); (b)(5)

The president and members of the board voted on ISN 3829. The
votes were then collected and handed to the legal
representative.

[The classified session adjourned at 1122, 24 September 2009.]

[END OF PAGE]

