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

REPLY TO
ATTENTION OF:

CJTF-82

OCT 20 2009

(b)(3), 10 USC 13c

120509

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 3877 to the Afghan National Detention Facility

1. The Detainee Review Board conducted on 24 September 2009 reviewed the internment of Shamsuddin (UL-RAHMAN) / ISN 3877 and made the following findings and recommendation:
 - a. That ISN 3877 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 3877 poses.
 - c. That ISN 3877 is not an Enduring Security Threat.
2. I approve ~~disapprove~~ the transfer of ISN 3877 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
 2. Status Summary
 3. Legal Review

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Bagram-CENTCOM-DRB-173

Detainee Review Board Report of Findings and Recommendations

<u>Date of Board</u>	<u>Detainee Name</u>	<u>Detainee ISN</u>
24 Sept 09	Shamsuddin	3877

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 ASSESMENT): 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)

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

[Detainee 3877 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 3877 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 3877 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 2315, 24 September 2009.]

(b)(3), 10 USC 130b; (b)(6) presented the following unclassified information to the board:

ISN 3877 was captured (b)(1); (b)(2); (b)(5)

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

The detainee, ISN 3877, made the following statement:

I am a poor man and my children have no one to take care of them. I am not Taliban and these are wrong accusations against me. I just want to go and take care of my kids. I am glad that America is here in Afghanistan because the overall pay has gone up. When I was captured, they searched my home and nothing was found. I will always prefer to have my family over Taliban. My uncle was with the government and, when the Taliban found out, they killed him. I hate the Taliban because of this. I am happy with the Americans and I just want to be with my family.

The president allowed the board to ask the following questions of Detainee 3877:

QUESTIONING OF ISN 3877

Questions by DAB recorder 3:

"(b)(6) " is my neighbor and, like me, he is a driver. I have no relationship with him by blood. He is only my neighbor.

Questions by the president of the board:

I do not deal with narcotics. They are very expensive. I drive a lumber truck for a living.

Questions by Member 1:

I have not seen "night letters" in all of my life. Everyone in my village hates the Taliban. Every Taliban is my enemy because they killed my uncle. I do not know why my name was mentioned on a Taliban radio when I was captured. If I was released, I would bring my whole family to Kabul so that I can work and they can go to good schools.

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 unclassified hearing adjourned at 2330, 24 September 2009.]

[Detainee 3877 withdrew from the boardroom.]

[The classified hearing was called to order at 2330, 24 September 2009.]

The recorder presented the following information to the board:

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

The president and members of the board voted on ISN 3877. The votes were then collected and handed to the legal representative.

[The classified session adjourned at 2334, 24 September 1644.]

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