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

REPLY TO
ATTENTION OF:

NOV 11 2009

CJTF-82

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: 15 October 2009 Detainee Review Board (DRB) Recommendation
Approval/Disapproval for transfer of ISN 3687 to the Afghan National Detention Facility.

1. The DRB conducted on 15 October 2009 reviewed the internment of Nazar (MOHAMMAD) ISN 3687 and made the following findings and recommendation:

a. That ISN 3687 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 3687 poses.

c. That ISN 3687 is not an Enduring Security Threat.

2. I approve ~~disapprove~~ the transfer of ISN 3687 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)

3 Encis

- 1. DRB Voting Packet
- 2. Status Summary
- 3. Legal Review

CURTIS M. SOAPARROTTI
Major General, USA
Commanding

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Bagram-CENTCOM-DRB-87

Detainee Review Board Report of Findings and Recommendations

| | | |
|-----------------------------------|--|-----------------------------|
| <u>Date of Board</u> 15 OCT 09 | <u>Detainee Name</u> NAZAR (MOHAMMAD) | <u>Detainee ISN</u> 3687 |
|-----------------------------------|--|-----------------------------|

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] 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) 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 3687 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 3687 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 3687 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 2026, 15 October 2009.]

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

ISN 3687 was captured (b)(1); (b)(2); (b)(5). Found near ISN 3687's point of capture were pressure plate IEDs, six pressure cooker IEDs, two propane tank IEDs, one PKM, three AK-47s, five chest rigs, two hand grenades, and multiple amounts of ammo. U.S. sworn statement states 3687 was seen fleeing the raid. (b)(1); (b)(2); (b)(5)

3687 was part of or supported Taliban or al Qaeda forces engaged in hostilities against U.S. and Coalition Forces.

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

The detainee, ISN 3687, made the following statement to the board:

I was "(b)(6)" farmer. I am new to this village, and I am just a farmer. All accusations are wrong. I am a poor farmer just trying to feed my family. (b)(1); (b)(2); (b)(5)
I have done nothing wrong. I have nothing to feed my family, and it is not good for my family that I am in here. I moved to Baqua to work for "(b)(6)". I have three daughters, two sons, and a wife. I have no idea on why you are holding me here.

The president allowed the board to ask the following questions of Detainee 3687:

QUESTIONING OF ISN 3687

Questions by the President:

I live at someone else's home. The house does not have a door. I was inside with my family. I will do labor job to feed my kids. (b)(1); (b)(2); (b)(5)

Questions by Member 1:

We are farmers. We have not seen our pictures yet. My nephew is in the picture but I don't know which one he is[looking at recorder exhibit R-3687-2].

Questions by the President:

After I was cuffed I was hit. I did not resist arrest. It was too dark to tell who hit me.

[Captain ^{(b)(3) 10 USC 130b; (b)(6)}, the legal representative, asked the board to inquire further into the abuse that the detainee received.]

Questions by President:

They hit me on the head and many other places. I was bleeding after being hit in the head. I was hit with a gun, and I was kicked. I talked to the investigators about it, many times. I have had a chance to pray. I am trying to learn to read and write.

SERGEANT ^{(b)(3), 10 USC 130b; (b)(6)}, U.S. Army, was called as a witness for the recorder **ed as follows:**

The detainee is not good with seeing himself in pictures because he is not used to it.

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 following final statement:

I am a poor person. I have nothing to say about the crime I am accused of. Please, let me go so I can take care of my family.

[The unclassified hearing adjourned at 2043, 15 October 2009.]

[Detainee 3687 withdrew from the boardroom.]

[The classified hearing was called to order at 2043, 15 October 2009.]

The recorder presented the following information to the board:

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

SERGEANT ^{(b)(3), 10 USC 130b; (b)(6)}, U.S. Army, was called as a witness for the
recorder ed as follows:

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

The personal representative presented the following information to the board:

Detainee was not engaged in the fire fight. I argue preponderance of the evidence.

The president and members of the board voted on ISN 3687. The votes were then collected and handed to the legal representative.

[The classified session adjourned at 2054, 15 October 2009.]

[The Detainee Review Board recessed at 2054, 15 October 2009.]

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