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REPLY TO
ATTENTION OF:

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

CJTF-82

OCT 23 2009

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

1. The DRB conducted on 15 October 2009 reviewed the internment of Jai (GUL) ISN 3952 and made the following findings and recommendation:

- a. ISN 3952 does not meet the criteria for internment;
- b. That internment is not necessary to mitigate the threat ISN 3952 poses;
- c. That ISN 3952 should not continue to be interned at the Bagram Theater Internment Facility (BTIF); and
- d. That ISN 3952 is not an Enduring Security Threat.

2. I approve the release of ISN 3952.

3. The point of contact for this memorandum is CPT ^{(b)(3), 10 USC 130b; (b)(6)}, TF Protector, at DSN (318) 431-4778 or ^{(b)(2); (b)(3), 10 USC 130b; (b)(6)}

^{(b)(3), 10 USC 130b; (b)(6)}

3 Encls

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

Colonel, USA
Deputy Commanding General,
Support

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Bagram-CENTCOM-DRB-206

Detainee New Board Report of Findings and Recommendations

<u>Date of Board</u>	<u>Detainee Name</u>	<u>Detainee ISN</u>
15 OCT 09	JAJ Gul	3952

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

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

UNCLASSIFIED SUMMARY ISN 3952

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

2. ISN 3952 is a person whom 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.

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

[Detainee 3952 entered the boardroom and took his seat in front of the board members.]

[The members of the board were sworn.]

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 3952 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 3952 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 0806, 15 October 2009.]

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

ISN 3952 was captured (b)(1); (b)(2); (b)(5)

he

(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 3952, made the following statement to the board:

I am a poor man. I was happy when America and the Coalition Forces came to Afghanistan. I am a small farmer and I was waiting on Spring to come. (b)(1); (b)(2); (b)(5)

When I was detained, the American Army hit me. (b)(1); (b)(2); (b)(5)

The president allowed the board to ask the following questions of Detainee 3952:

QUESTIONING OF ISN 3952

Questions by Member 1:

My village is called Wurzana Kalay. I know nothing of Taliban there because I have not seen them. I am busy with my own work and I am poor. My younger brother is a very bad and hated person in my village.

Questions by the President:

Everything is good here but the detainees. The food, guards, and everything is good but the detainees are loud and bang on the cages because some of them are on strike. I get treated better here than I ever did at home. I have never received good treatment like this in my whole life. I try to be nice.

Questions by Member 2:

If I were released, I would go to my garden and plant seedlings and take care of it. I would be enough to feed and provide for my family.

Captain ^{(b)(2), 10 USC 1305; (b)(6)} asked that the board inquire deeper into the abuse of the detainee at the time of capture.

Questions by the President:

The army guard at capture hit me when I told him that I did not do anything wrong. He slapped the right side of my face and it caused my head to hit the wall.

[The detainee lifted his right hand and placed it on his right cheek and simulated a motion that looked like his head was hitting a wall.]

Questions by Member 1:

I do not remember what the guard looked like because I was dizzy and bleeding after I got hit.

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:

Please help me because there is no one to feed my family and they have no source of income.

[The unclassified hearing adjourned at 0832, 15 October 2009.]

[Detainee 3952 withdrew from the boardroom.]

[The classified hearing was called to order at 0833,
15 October 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 3952. The votes were then collected and handed to the legal representative.

[The classified session adjourned at 0839, 15 October 2009.]

[END OF PAGE]

