



~~UNCLASSIFIED//FOUO~~

DEPARTMENT OF DEFENSE  
JOINT TASK FORCE 435  
APO AE 09356

JUL 17 2010

IN REPLY REFER TO:  
JTF-435-LO

MEMORANDUM FOR Commander, Task Force Protector, Bagram Airfield, Afghanistan  
Director, Legal Operations, Bagram Airfield, Afghanistan

SUBJECT: 9 June 2010 Detainee Review Board (DRB) Recommendation to Transfer ISN 4197 to Afghan Authorities for Consideration of Criminal Prosecution.

1. I reviewed the findings and recommendations of the DRB conducted on 9 June 2010 concerning the internment of Detainee ISN 4197. By a vote of 3 to 0, the board members found that internment was not necessary to mitigate the threat ISN 4197 poses and recommended transfer to Afghan authorities for criminal prosecution. After consideration, I direct that ISN 4197 continue to be interned at the Justice Center in Parwan (JCIP) and considered for prosecution locally by Afghan prosecutors and judges at the JCIP.
2. The DRB's recommendation that ISN 4197 not be assessed as an Enduring Security Threat is approved.
3. The point of contact for this memorandum is CAPT <sup>(b)(3), 10 USC 130b; (b)(6)</sup> Director of Legal Operations, JTF 435, at DSN (b)(2)

A handwritten signature in cursive script, reading "Robert S. Harward".

ROBERT S. HARWARD  
Vice Admiral, U.S. Navy

~~UNCLASSIFIED//FOUO~~ Bagram-CENTCOM-DRB-680

~~SECRET//NOFORN~~



REPLY TO  
ATTENTION OF:

DEPARTMENT OF DEFENSE  
JOINT TASK FORCE 435  
APO AE 09354



JTF-435-LO

9 June 2010

MEMORANDUM FOR Deputy Commander, Joint Task Force 435, Kabul, Afghanistan, APO  
AE 09356

SUBJECT: 9 June 2010 Detainee Review Board Recommendation for the Criminal Prosecution  
of Tela Khan (ISN 4197)

1. The Detainee Review Board (DRB) met on 9 June 2010 and made the following findings and  
recommendations concerning the internment of Tela Khan (ISN 4197):

- a. Tela Khan (ISN 4197) does meet the criteria for internment.
- b. Continued Internment is not necessary to mitigate the threat Tela Khan (4197) poses.
- c. Tela Khan (ISN 4197) should be transferred for Afghan prosecution. He should be  
considered for reintegration programs while interned awaiting prosecution.
- d. Tela Khan (ISN 4197) is not an Enduring Security Threat.

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

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

captured Tela Khan (ISN 4197) at

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

~~SECRET//NOFORN~~

Bagram-CENTCOM-DRB-681

JTF-435-LO

SUBJECT: 9 June 2010 Detainee Review Board Recommendation for the Release of Tela Khan (ISN 4197)

5. During his 9 June 2010 DRB, Tela Khan (ISN 4197) denied having any weapons. He then said he and his family had to have weapons for protection as he lived on the border (with Pakistan). He denied being Taliban, saying he is a farmer and preacher. He says just one room in the compound was his, so it was not possible that he could have had Taliban meetings. He says there is a strong ANA presence in his village. Tela Khan (ISN 4197) said that his village knows the Taliban is not good from the time when the Taliban was in power, and they do not want to go back to that. The Coalition Forces fix roads, and he works construction, and he would never say anything against them or his government. His tribe has animosity with local nomads. He says his teacher gave him the name Hayatullah, but he goes by Tela Khan at home. When he preaches at the mosque, he preaches peace. When shown slide 3 of the Unclassified Exhibits, he said it was common in his area to have grenades. People wear them around to show their power because of all the animosity in the area. He says there is no Taliban presence in his village and government people walk freely there. He has been to Pakistan once. (b)(6) is a nomad with whom he has a land dispute. (b)(6) is a fellow villager. Tela Khan (ISN 4197) denied ever transporting foreign fighters from Pakistan to Afghanistan. He denied recruiting Taliban members. He has never seen Taliban in his area or in Khowst province, which is "completely peaceful". He denied ever training suicide bombers and does not think they are martyrs. There are Coalition Forces in his village who help the village. Suicide is never acceptable. Conflict with nomads stems from when nomads took land in Taliban time, and then his village took it back. (b)(1); (b)(2); (b)(5)

6. In making its recommendation the DRB considered the Recorder's unclassified and classified exhibits (b)(1); (b)(2); (b)(5)

– the 29 April 2010 Detainee Criminal Investigation Detachment Report of Investigation, and the Theater Internment Facility Progress Report. The Personal Representative submitted copies of Tela Khan's (ISN 4197) Initial Interview Checklist and Notification Worksheet, as well as a letter from nine tribal leaders on "Hayatullah Tela Khan's" innocence and false reporting in their area, signed and sealed by the district chief and Khowst province deputy. The DRB considered also Tela Khan's (ISN 4197) testimony, as well as his responses to questions posed to him by all parties to the DRB.

7. The Personal Representative called the following witnesses, all of whom testified in the open session and in the presence of Tela Khan (ISN 4197):

a. (b)(6), a university teacher from Khowst, testified that he knows Tela Khan (ISN 4197) as a fellow villager with whom he has a close relationship. They have known each other since childhood. Tela Khan (ISN 4197) was a farmer before he was captured. Tela Khan (ISN 4197) worked hard to take care of his family. He thinks Tela Khan (ISN 4197) should be

JTF-435-LO

SUBJECT: 9 June 2010 Detainee Review Board Recommendation for the Release of Tela Khan (ISN 4197)

released because he's never done anything against his government or people. He also warned against false reports, which are common in his area. People do not commonly have grenades.

b. (b)(6) a village elder and farmer from Kadam village in Khowst, testified that he knows Tela Khan as a fellow villager. Tela Khan was a farmer before his capture. He has known Tela Khan since his childhood and thinks he is a good person. He recommends his release. Tela Khan is a poor person whose family needs him. Lots of villagers have AK-47s but they do not have grenades.

c. (b)(6) , a farmer from Kadam, Ali Sher, Khowst, testified that he knows Tela Khan as a fellow villager and implied that he has known him for a long time. Tela Khan was a farmer and preacher before his capture. Tela Khan is a good person. He would help Tela Khan reintegrate back into the village if released. Villagers have guns but not grenades in their homes.

8. In determining whether continued internment is necessary to mitigate the threat Tela Khan (ISN 4197) may pose, the DRB assessed his level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. The DRB considered (b)(1); (b)(2); (b)(5)

The DRB found support to a preponderance of the evidence for the internment of Tela Khan (ISN 4197). The DRB found that Tela Khan (ISN 4197) should be transferred to Afghan authorities for criminal prosecution for his possession of illegal weapons.

9. The point of contact for this review is Capt <sup>(b)(3), 10 USC 130b; (b)(6)</sup>, Joint Task Force 435 at DSN (b)(2) or (b)(2); (b)(3), 10 USC 130b; (b)(6).

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

2 Encls.

1. DRB Voting Packet

COL, QM

2. Summarized Testimony with Exhibits

President, Detainee Review Board

<u>Date of Board</u> 9 June 2010	<u>Detainee Name</u> Iela Khan	<u>Detainee ISN</u> (b)(2) -004197 DP
-------------------------------------	-----------------------------------	--

**STEP 1 (FINDINGS):** By a preponderance of the information presented, as a member of the Detainee Review Board (DRB), I find that:

The detainee DOES NOT MEET THE CRITERIA for internment and will be released. *Stop here and sign at the bottom.*

OR

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he 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; *(Continue to Step 2)* OR

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he 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. *(Continue to Step 2)*

**STEP 2 (THREAT ASSESSMENT RECOMMENDATION):** After taking into account the detainee's potential for rehabilitation, reconciliation, and eventual reintegration into society, by a preponderance of the information, I find that continued internment:

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

IS NOT NECESSARY to mitigate the threat the detainee poses; *(Go to Step 3A)*

OR

IS NECESSARY to mitigate the threat the detainee poses (\* the detainee will remain at the Detention Facility in Parwan (DFIP) to ensure detention required to mitigate his threat) *(Go to Step 3B;*

Explain the facts presented at the DRB which led to your recommendation/  
(Mandatory regardless of which threat assessment is made):

**STEP 3A:** If your Recommendation in STEP 2 is that continued internment is not necessary to mitigate the threat the Detainee poses, then make one of the following recommendations: In light of the findings listed above, I recommend that the detainee be (PICK ONLY 1):

- Released without conditions; or
- Transferred to Afghan authorities for their consideration of criminal prosecution.
- Transferred to Afghan authorities for participation in a reconciliation or reintegration program.
- (For non-Afghan and non-U.S. third-country national): Transferred to a third country for: criminal prosecution // participation in a reconciliation program // or release. *(circle one)*

**STEP 3B:** If your Recommendation in STEP 2 is that continued internment is necessary to mitigate the threat the Detainee poses, make the following further recommendation, and then Go to Step 4.

While the Detainee remains interned at the DFIP, he SHOULD / SHOULD NOT *(circle one)* be considered for Reintegration programs within the DFIP.

**STEP 4:**  The Detainee IS or  IS NOT an Enduring Security Threat *(circle one)*.

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

DRB President's Signature

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

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

(U//FOUO) [ISN (b)(2)-004197DP, Tela Khan, entered the boardroom, took his seat in front of the board members, and the unclassified hearing was called to order at 1050, 9 June 2010.]

(U) Persons Present:

- (U) COLONEL (b)(3), 10 USC 130b; (b)(6), PRESIDENT OF THE BOARD;
- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER ONE;
- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER TWO;
- (U) CAPTAIN (b)(3), 10 USC 130b; (b)(6), DETAINEE REVIEW BOARD  
RECORDER T
- (U) LIEUTENANT (b)(3), 10 USC 130b; (b)(6), PERSONAL  
REPRESENTATIVE
- (U) CAPTAIN (b)(3), 10 USC 130b; (b)(6), LEGAL REPRESENTATIVE; and
- (U) SPECIALIST (b)(3), 10 USC 130b; (b)(6), PARALEGAL.

(U) [The recorder was previously sworn.]

(U) 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.

(U) The president also notified the detainee that he may be present at all open sessions of the board permitting that he acted appropriately. ISN 4197 was also advised that he could testify under oath or unsworn if he wished to do so, that he had a personal representative who 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.

(U) Further, ISN 4197 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 Detention Facility in Parwan. The detainee understood the fact

that if he does not meet the criteria, 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.

(U) CAPTAIN <sup>(b)(3), 10 USC 130b; (b)(6)</sup> presented the following unclassified information to the board:

(U//~~FOUO~~) ISN 4197, Tela Khan was captured (b)(1); (b)(2); (b)(5)

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

Although the detainee denied Taliban membership, he admitted that his name is Tela Khan.

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

The Detainee meets the internment criteria IF this board determines he was part of, or substantially supported the Taliban 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.

(U) The detainee, ISN 4197, made the following statements to the board:

(U//~~FOUO~~) First of all I don't have any weapons. You can ask all of my villagers. We live in an area with 12 houses so there were 12 houses that were searched. These weapons belong to all 12 families and are for our protection because we live on the border. None of us have heavy

weapons; just small weapons for protection. All of these weapons are not just mine. I am not involved with the Taliban; I am just a farmer. Sometimes when I don't farm I preach to people. The compound I own only has one room so there can't be any meetings in my compound because I barely have room for my family. I must pray for peace in my country. There is always ANA or Americans that come in our village and they never get fired on when they visit. We have a good relationship with the Coalition Forces. ANA always come in our village and use our mosque and drink tea and nothing bad happens to them. We know that when we were under the Taliban we were not treated right and we know that they are not good people. My brother had a car and he was traveling and was stopped to pay the Taliban money so they are not good people. Now we can build things and when the Taliban were in charge they would not let us build anything. Americans can go to my village and see how the people respect them and treat them. Americans never had anything against us and are helping us so how can I be against my government or the Americans? They always come into our village and help our village. I always pray for peace and stability in my country. I would never do or say anything against the Coalition Forces. We also have animosities against our neighboring tribes so that is another reason we keep all of these weapons. There was also a lot of construction in our village and I worked for that construction so there was no reason I was involved with the Taliban.

**(U) DETAINEE TESTIMONY**

**(U//~~FOUO~~)** Tela Khan, (b)(2)-004197DP, was called for the board and testified, in substance, as follows:

**(U) DIRECT EXAMINATION**

**(U) CAPTAIN** <sup>(b)(3), 10 USC 130b; (b)(6)</sup> asked, in substance, the following questions:

**(U//~~FOUO~~)** I was born in Kadam. I have three brothers and an uncle who has six sons and all of these people and their

families live in one compound. I have two other uncles that have large families also.

My parents named me Tela Khan, but since I started school I went by the name Hayatullah. In my village the people usually call me Tela Khan. My ID card has Hayatullah on it.

I sometimes preach in the mosque in my village and I always preach about love and peace. The mosque is always open and after 1600 a lot of people come and I preach to them. Everyone in my village respects me. People don't have to come to the mosque. If they want to come they come and if not they don't come.

(Unclassified Exhibit 3 was shown to the detainee) I recognize the picture. It is a picture of me. The items you pointed at are grenades. In Khowst it is common for a family to own a grenade. There is a lot of animosity and I would carry them and show people that I have them for intimidation. We would also sometimes blow them up during parties. Also we need them because we are close to the border.

(Unclassified Exhibit 2 was referred) I am not aware of any large rounds but the AK rounds are for all the weapons.

I have not had any military training. I have never supported the Taliban in any attacks. There is not a Taliban presence in my area because the government presence is frequent in my area.

I traveled to Pakistan once because some elders and myself went to a Bazaar in Pakistan to talk with some owners about opening it back up because it was closed.

I don't know anyone named (b)(6). I know a (b)(6) ; he is a nomad and we have a dispute with him. He is near our village but he doesn't live in our village. He lives probably eight minutes away by walking.

I know (b)(6) , he is a fellow villager.

I have never transported any foreign fighters from Pakistan to Afghanistan. I have never seen any Taliban around my area. I have never seen the Taliban in my area; I live in a peaceful area.

**(U) CROSS-EXAMINATION**

**(U) LIEUTENANT** (b)(3), 10 USC 130b; (b)(6) **asked, in substance, the following quest**

(U//~~FOUO~~) I don't like the Taliban because I have heard of men walking with their wife and being stopped and beaten by the Taliban. I tried to build a place during the time of the Taliban and they told me that I couldn't. I have never stored any weapons for the Taliban. I don't know how to build an IED. I just farm and preach for a living. I have never bought any items to build IEDs. I have never trained suicide bombers. God would punish a person who takes someone else's life. The Coalition Forces always come to my village. I think I was arrested because I went to Pakistan once but other than that I haven't done anything that might be seen as wrong. I don't know why I was arrested. I did not know going to Pakistan as a crime. I do not know what I did wrong to be arrested. I would tell them that life is too precious and that they are killing innocent people. Killing themselves is not how to get to paradise. Americans have never told us to stop going to mosques or stop praying and they are human beings also so why would we want to hurt them. I have never been told to stop praying or stop practicing Muslim by the Americans. The Americans would come to our village and never go into our mosque or touch our Quran. They would tell a translator to move the Quran and always respect our religion so I really respect them for that. I am a farmer and I have a lot of land that I use to grow vegetables. If I was released I would go back to farming and also I would like to open a chicken farm too. We are praying for the day when Afghanistan people come together and can prosper without the American protection. We have really bad memories from the Taliban being in power. I am not against Karzai. I hope that he brings



people together and talks about our future. If someone preaches violence then they are not a preacher.

**(U) EXAMINATION BY THE BOARD**

**(U) Member 1 asked, in substance, the following questions:**

(U//~~FOUO~~) The nomads are near my village and during the Taliban time they took our land. When the Taliban left we took our land back and now we dispute about that. Heavy weapons are banned by the government so we don't have any. I don't know how to build bombs and I don't know nothing about the IED making materials.

**(U) Member 2 asked, in substance, the following questions:**

(U//~~FOUO~~) I don't know how big a 25mm round is.

**(U) The President of the Board asked, in substance, the following questions:**

(U//~~FOUO~~) I told you before that those are not just my weapons. There are 12 family's weapons in front of me in that picture. The government brought us some of those weapons. I don't know anything about all the rounds or the bomb making material. I am not a person who is involved with weapons I only have a weapon for personal protection.

**(U) WITNESS TESTIMONY**

(U//~~FOUO~~) **(b)(6)**, Fellow Villager/Relative, was called as a witness, **(b)(6)**, entered the boardroom, and testified, in substance, as follows:

**(U) DIRECT EXAMINATION**

**(U) LIEUTENANT** (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following question

(U//~~FOUO~~) I live in Khowst. I work for the IRC. I was also working in the Peace and Reconciliation organization. Tel

Khan is my fellow villager and I am related to him. I have known him since my childhood. He is a farmer and tends to his own land. I would never come here and vouch for someone who is a criminal. I know he is a good person and a farmer. He has a big family and needs to take care of them. He hasn't done anything wrong and he needs to go back to his family. He is a good person and if he would get released he would still be a good person and he would help society. If I did not have confidence that he was a good person I would not have come here today; but I know he is a good person and I sit here today to tell you he is a good person.

**(U) EXAMINATION BY THE BOARD**

**(U) Member 2 asked, in substance, the following questions:**

(U//~~FOUO~~) I don't know if a lot of the villagers have grenades.

(U) [The witness stayed in the boardroom to view the rest of the unclassified proceedings.]

**(U) WITNESS TESTIMONY**

(U//~~FOUO~~) **(b)(6)**, Village Elder, was called as a witness for the boardroom, and testified, in substance, as follows:

**(U) DIRECT EXAMINATION**

**(U) LIEUTENANT** (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following question:

(U//~~FOUO~~) I live in Kadam village in Khowst Province. I am a village elder and also a farmer. Tela Khan is in my village. I have known him for a very long time; we live in the same village. Tela Khan is a farmer. Tela Khan is a good person and has always been a good person for as long as I have known him. He should absolutely be released. He is a poor person and he has a family to take care of.

**(U) EXAMINATION BY THE BOARD**

(U) Member 2 asked, in substance, the following questions:

(U//~~FOUO~~) We have AK-47s but no grenades. I don't know anything about the 25mm rounds because I have never seen one.

(U) [The witness stayed in the boardroom to view the rest of the unclassified proceedings.]

(U) WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6), Fellow Villager, was called as a witness for the board, the boardroom, and testified, in substance, as follows:

(U) DIRECT EXAMINATION

(U) LIEUTENANT (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following quest

(U//~~FOUO~~) I live in Kadam village, Khowst Province. I am a farmer. Tela Khan is my fellow villager. I have known him for a long time he lives in the same village. Tela Khan was a farmer and also did some preaching. He is a good person and always has been a good person. It would be very good if he was released. I would help him reintegrate into society.

(U) EXAMINATION BY THE BOARD

(U) Member 2 asked, in substance, the following questions:

(U//~~FOUO~~) Some people have grenades from the Jihad times but other than that we just have guns.

(U) [The witness stayed in the boardroom to view the rest of the unclassified proceedings.]

(U) The recorder did offer unclassified exhibits.

(U) The personal representative did offer unclassified exhibits.

(U) The recorder had no further unclassified information to offer the board and, per the recorders request, the president granted a closed hearing at the culmination of the unclassified hearing.

(U) The president announced the conclusion of the unclassified hearing.

(U) 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 Detention Facility in Parwan, transferred to Afghan authorities for participation in a reconciliation program, or released transferred to his national country for participation in a reconciliation program. Furthermore, if continued internment was recommended, then an additional Detainee Review Board would be reconvened in 6 months.

(U) The detainee made the following statement:

(U//~~FOUO~~) I would like the opportunity to go and preach about love and peace. Thank you.

(U) [The unclassified hearing adjourned at 1227, 9 June 2010.]

(U) [The detainee withdrew from the boardroom.]

(U) [The classified hearing was called to order at 1227, 9 June 2010.]

(U) CAPTAIN <sup>(b)(3), 10 USC 130b; (b)(6)</sup> presented the following information to the board:

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5)

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

(U) LIEUTENANT (b)(3), 10 USC 130b; (b)(6) presented the following information to

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5)

(U) The recorder did offer classified exhibits.

(U) The personal representative did not offer classified exhibits.

(U) The president and members of the board voted on ISN 4197. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 1237, 9 June 2010.]

[END OF PAGE]