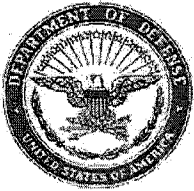


~~UNCLASSIFIED//FOUO~~



REPLY TO  
ATTENTION OF:

JTF-435-LO

**DEPARTMENT OF DEFENSE**  
DEPUTY COMMANDER – DETAINEE OPERATIONS  
JOINT TASK FORCE 435  
APO AE 09354



JUN 18 2010

MEMORANDUM FOR Director, Legal Operations, Bagram Air Field, Afghanistan, APO AE 09354

SUBJECT: 3 June 2010 Detainee Review Board (DRB) Recommendation to Transfer ISN 20261 to the Afghan Authorities for Consideration to Participate in a Reconciliation or Reintegration Program

1. I reviewed the findings and recommendations of the DRB conducted on 3 June 2010 concerning the internment of Detainee ISN 20261. By a vote of 2 to 1, the board members recommended that ISN 20261 be transferred to Afghan authorities for their consideration of a reconciliation or reintegration program. After consideration, the board's recommendation to transfer ISN 20261 to Afghan authorities for participation in a reconciliation or reintegration program is disapproved. I direct that ISN 20261 continue to be interned at the Detention Facility in Parwan.
2. The DRB's recommendation that ISN 20261 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)

MARK S. MARTINS  
Brigadier General, U.S. Army  
Deputy Commander

~~UNCLASSIFIED//FOUO~~

Bagram-CENTCOM-DRB-436



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF DEFENSE**  
LEGAL DIRECTORATE – DETAINEE OPERATIONS  
US FORCES AFGHANISTAN  
JOINT TASK FORCE 435  
APO AE 09356



JTF-435-LO

6 June 2010

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

SUBJECT: 3 June 2010 Detainee Review Board (DRB) Recommendation, Transfer to Afghan Authorities for Participation in a Reconciliation or Reintegration Program of Attaullah s/o Ahmad Shah, ISN 20261

1. DRB FINDINGS AND RECOMMENDATIONS. The DRB met on 3 June 2010 and made the following findings and recommendations concerning the internment of Attaullah s/o Ahmad Shah, ISN 20261:

a. That Attaullah, ISN 20261, met criteria for initial internment because he was assessed to be a part of or a substantial supporter of insurgent forces opposing Coalition Forces.

b. That internment is not necessary to mitigate the threat posed by Attaullah, ISN 20261. That Attaullah, ISN 20261, should not continue to be interned at the Detention Facility in Parwan.

c. The DRB recommends approval for transfer to Afghan authorities for participation in a reconciliation or reintegration program of Attaullah, ISN 20261.

d. That Attaullah, ISN 20261, should be considered for reintegration programs within the DFIP.

e. That Attaullah, ISN 20261, is not an Enduring Security Threat.

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

3. CIRCUMSTANCES OF CAPTURE. Attaullah s/o Ahmad Shah, ISN 20261, was captured (b)(1); (b)(2); (b)(5)

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SUBJECT: 3 June 2010 Detainee Review Board (DRB) Recommendation, Transfer to Afghan Authorities for Participation in a Reconciliation or Reintegration Program of Attaullah s/o Ahmad Shah, ISN 20261

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

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

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

6. EXHIBITS SUBMITTED & DETAINEE TESTIMONY AT DRB. In making its findings and recommendations, the DRB considered the following exhibits and detainee testimony:

a. Recorder's Unclassified and Classified Exhibits.

b. Personal Representative's Exhibits. Exhibit A, indicating that Attaullah, ISN 20261, was advised of the basis for internment and the facts supporting internment. Exhibit B, indicating that Attaullah, ISN 20261, met with a personal representative and was advised of his rights at the DRB.

c. Detainee Criminal Investigative Detachment (DCID) Report of Investigation (ROI) dated 11 April 2010.

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

e. Detainee's DRB Statement and Responses to Questions: Attaullah, ISN 20261, said he doesn't own a phone. He confirmed that he is a long-time resident of Marjeh Village in Nad Ali District. He said there are a lot of Taliban there. (b)(6) (same as (b)(6) (b)(6)) is the brother of his mother.

Attaullah said that there was a person with (b)(6) (same as (b)(6)). He met that person in the mosque and agreed to let that person stay in his house. (That person is probably (b)(6)) Allegedly, this person (b)(6). Besides (b)(6) (same as (b)(6)) and the unknown person who is probably (b)(6), there was a third (b)(1); (b)(2); (b)(5). (b)(6) is a farmer, working for the family.

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

7. WITNESS INFORMATION. In making its findings and recommendations, the DRB considered the following witness information:

(b)(6) father of Attaullah, ISN 20261 (telephonic witness). His son, Attaullah, was a farmer before capture. The father was also detained for five or six days. He was helping with the fertilizer as well on the date of capture. (b)(6) identified his two guests by name, (b)(6) and (b)(6). They came to the house together. (This contradicted the son's testimony that they came separately and might not have known each other.) He would not say whether the two guests were Taliban.

The DRB called back with more questions. They inquired about the other son who was kidnapped by Taliban. He has been returned. The Personal Representative inquired about the wounds from his Taliban beating four days ago. (b)(6) complained that he can't walk, and he is seeking medical attention.

(b)(6) farmer living in Marjeh, village elder of a neighborhood (telephonic witness). "(b)(6) has not participated in Taliban activities. He is just a farmer." Four days ago (b)(6) s father, (b)(6), was beaten by Taliban.

(b)(6) farmer living in Marjeh, another village elder (telephonic witness). He said the same thing as (b)(6), "Attaullah has not participated in Taliban activities. He is just a farmer."

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(b)(6) (live detainee witness), (b)(1); (b)(2); (b)(5); (b)(6)

(b)(6) said he was in the area because someone owed him money. He is from Spin Buldak. He told the DRB he came alone to Marjeh, alone and without a phone. He never saw Attaullah (ISN 20261) carrying any yellow jugs while he was there.

8. **SUMMATION OF DRB FINDINGS AND RECOMMENDATIONS, THREAT ASSESSMENT.** In determining whether continued internment is necessary to mitigate the threat posed by Attaullah, ISN 20261, the DRB assessed the detainee's level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. (b)(1); (b)(2); (b)(5)

As a result of all of these considerations, the DRB believes that transfer to Afghan authorities for a rehabilitation or reintegration program is the best alternative.

9. The point of contact for this review is MAJ <sup>(b)(3), 10 USC 130b; (b)(6)</sup>, JTF-435 DRB, at DSN (b)(2) (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
2. Summarized Testimony

COL JQM, USA  
President, Detainee Review Board

<u>Date of Board</u> 3 JUN 10	<u>Detainee Name</u> Attawlah s/o Ahmad Shah	<u>Detainee ISN</u> 20261
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**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):

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

**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)*.

DRB President (Printed) \_\_\_\_\_ (b)(3), 10 USC 130b; (b)(6)  
DRB President (Signature) \_\_\_\_\_ (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)-020261DP, ATTAULLAH, entered the boardroom, took his seat in front of the board members, and the unclassified hearing was called to order at 0948, 3 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 COMMANDER (b)(3), 10 USC 130b; (b)(6),  
PERSONAL REPRESENTATIVE

(U) MAJOR (b)(3), 10 USC 130b; (b)(6), LEGAL REPRESENTATIVE; and

(U) (b)(3), 10 USC 130b; (b)(6), COURT REPORTER/PARALEGAL.

(U) [The recorder was 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 20261 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.

(U) Further, ISN 20261 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, 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.

(U) Captain <sup>(b)(3), 10 USC 1336; (b)(6)</sup> presented the following unclassified information to the board:

(U//~~FOUO~~) ISN 20261, Attaullah, was captured (b)(1); (b)(2); (b)(5)

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

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

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

(U//~~FOUO~~) He meets Internment criteria if he was part of, or substantially supported Taliban forces or associated forces that were 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 20261, made the following statement to the board:

(U//~~FOUO~~) I have nothing to do with Taliban in my house. I am a farmer. Two people came by and needed to spend the night so I allowed that. I was captured with them in the raid but I am a farmer myself. I didn't own any telephone. If I owned the telephone, in our area there is government and they can tell you if it is mine or not. I'm a regular farmer and they brought me here. I am not involved with Taliban or IEDs.

(U) DETAINEE TESTIMONY

(U//~~FOUO~~) Attaullah, (b)(2)-020261DP, was called for the board and testified, in substance, as follows:

(U) DIRECT EXAMINATION

(U) Detainee Review Board Recorder 1 asked, in substance, the following questions:

(U//~~FOUO~~) My father's name is (b)(6). He goes by no other names. I've never heard my father called Mashir. I live in Marjah, Helmand. That land is from my parents and grandparents. I live with two moms, 1 brother and 3 sisters. My uncle also lives there. My uncle's name is (b)(6) and (b)(6). (b)(1); (b)(2); (b)(5) (b)(6), (b)(6), and one person who I do not know were also at my house that day. (b)(6) was there because someone owed him money. (b)(6) is our farmer and he lives with us. (b)(6) is my uncle. I don't know why the third person was there. I went to the mosque to pray and he said he needed a place to stay because he was looking for someone who owed him money. I was working my land that day and I put fertilizer down. I've seen Taliban but I didn't speak to them. There are a lot of Taliban in Marjeh. I saw them that day but didn't talk to them. There is nothing written on their forehead saying they're Taliban. I bought a telephone (b)(1); (b)(2); (b)(5), and there was an identical phone found, but when I looked at the number it was not my number. The telephone was

related to the third person who came to my house. He gave it to my small brother to put in the charger. [Recorder showed detainee exhibit 3, a photo of the phones that were captured. Detainee pointed to phone D.] That looks like my phone, but mine was with my mother that day. Mine is not in those pictures. [Recorder showed detainee exhibit 4, phones charging on a motorcycle.] My younger brother put it in the charger. That is my family's motorcycle. [Recorder showed detainee exhibit 5, photos of men captured with him.] D is my father. C is (b)(6), a relative who works with us as a farmer. A is (b)(6), my uncle. B is the man from the mosque who asked to spend the night. I don't know (b)(6). I don't know (b)(6). I don't know (b)(6). I don't know (b)(6). I didn't hear my uncle (b)(6) called (b)(6); I don't know about that. I don't know why I tested positive for explosives, but I was fertilizing my land that day. I did not carry any yellow jugs across the field that day for anyone. I did see Taliban walking by. They've never done anything bad to me or my family. They did kidnap my brother. When I was at home, they took him three months before and I don't know what happened after that. They kidnapped my brother because he was working in the Afghan Army. They didn't say anything or ask us to pay them or do anything to get him back. They never asked us to do anything for them in the area. Sometimes they like to take money from force, by beating you up. Otherwise we didn't help them. I don't know how I feel about Taliban. If released I have to go back to my house.

#### CROSS-EXAMINATION

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

(U//~~FOUO~~) I don't know anything about American forces but they are here to defend us I think. You can buy fertilizer at the bazaar. It's nothing unusual. It was white.

#### EXAMINATION BY THE BOARD

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



(U//~~FOUO~~) We have 10 gireebs and grow wheat, corn and other things.

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

(U//~~FOUO~~) My family has a shotgun from my grandfather's time.

(U//~~FOUO~~) The whole area uses the same fertilizer.

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

(U//~~FOUO~~) My father is detained here also and I don't know if my kidnapped brother is alive or dead. My other brother is 14, so we have no one to come and visit us give us information about my kidnapped brother and so we don't know anything.

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

(U//~~FOUO~~) We have a shotgun in our house, but we never touched it. The Americans and Afghan government have seen it. It's not any good because it's old and unusable.

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

(U//~~FOUO~~) I don't know who is (b)(6) is. I saw a man in the mosque and let him come in for the night. My uncle came to our house after 4 pm. Then I met the man in the mosque after evening prayer. I don't know if my uncle knows (b)(6). He just came to my house to spend the night after my uncle had already come home. My uncle and (b)(6) did not come to my home together.

(U) WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6), Afghanistan, was called telephonically as a witness and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) My name is (b)(6) . I live in Marjeh. He is my son. He farmed before. He has never participated in Taliban activities. He has never attacked American forces. If released he'll go back to working the land.

(U) CROSS-EXAMINATION

(U) Detainee Review Board Recorder 2 asked, in substance, the following questions:

(U//~~FOUO~~) I help my son work the land. I helped him spread fertilizer that day. I was captured with him. I was held for five or six days. I don't know an (b)(6) .

(U) EXAMINATION BY THE BOARD

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

(U//~~FOUO~~) My son owes no money.

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

(U//~~FOUO~~) Fertilizer comes in bags. It does not come in yellow jugs. I don't know (b)(6) . I know (b)(6) . He's the son of my brother in law. I don't know the third man from the mosque. I knew the men staying at my house were (b)(6) and (b)(6) . They both came together to my house, they were there to collect money and that's why they were there. I don't know of my son carrying any yellow jugs. I didn't see him carry them. I was not at home when (b)(6) and (b)(6) came home. I don't know anything about (b)(6) being Taliban.

Detainee asked:

I can't come to visit you because I have no money.

(U) AFGHAN CIVILIAN WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6) , Afghanistan civilian, was called telephonic ~~ness~~ for the board and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) My name is (b)(6) son of (b)(6) . I live in Marjeh and I am a farmer. I am elder over some houses in my village. I know Attaullah well because he is from my village. He is not part of the Taliban, just a poor farmer. I want him to be released so he can go back to farming. I will help him reintegrate because his father was taken by Taliban four days ago and beaten badly and I took him for medical treatment.

(U) AFGHAN CIVILIAN WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6) , Afghanistan civilian, was called telephonic ~~ness~~ for the board and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) My name is (b)(6) and I also work on the farm. I live with this family. I know Attaullah, son of (b)(6) . He was never in the Taliban, he is just a farmer. I hope you will release him because his father was beaten very badly by Taliban.

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

(U//~~FOUO~~) Yes, there are Coalition Forces in the area. There are Taliban in the Afghan government. The Coalition Forces know he was beaten.

(U) [The call was terminated.]

(U) DETAINEE WITNESS TESTIMONY

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

(U) The detainee witness was advised that this was not a criminal trial and that he will be testifying in another detainee's board.

(U) The detainee witness was willing to testify in front of ISN 20261.

(U) DIRECT EXAMINATION

(U) Detainee Review Board Recorder 2 asked, in substance, the following questions:

(U//~~FOUO~~) I only know Attaullah because I went to his house that one time. I will testify in front of him. Yes, that's the man who let me stay at his house and gave me dinner that night. I didn't know his name at the time but later on in Kandahar and (b)(1); (b)(2); (b)(5) Since I have no one in the area and I was going through at night I went to his house. Somebody owed me money; I didn't find that person so I had to stay there. I'm from Spin Boldak and I live in Chaman. I was there alone. I didn't have a phone with me. I didn't see him talking to Taliban. I didn't see him carrying yellow jugs.

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

(U//~~FOUO~~) I went to the mosque, prayed there, and asked if I could stay with him.

(U) WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6) , Afghan civilian, was called a second time telephonic witness for the board and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) My son was captured by the Taliban for two days and released. He's back to working with the people who he worked with before. The Taliban beat me badly; I cannot even walk now. My other son who is 14 is taking care of the farm.

(U) [The call was terminated.]

(U) RE CROSS-EXAMINATION

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

(U//~~FOUO~~) We throw the fertilizer dry on the ground. It doesn't need to be mixed with water.

(U) The recorder did 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 don't want to make a statement.

(U) [The unclassified hearing adjourned at 1110, 3 June 2010.]

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

(U) [The classified hearing was called to order at 1110, 3 June 2010.]

(U) The recorder presented the following information to the board:

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

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

(U) The personal representative presented the following information to the board:

~~(S//NF)~~ (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 20261. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 1128, 3 June 2010.]

(U) [The detainee review board recessed at 1128, 3 June 2010.]

[END OF PAGE]

