



OFFICE OF THE SECRETARY OF DEFENSE  
WASHINGTON, DC 20301

SECRET

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October 19, 2004

FOR: SECRETARY OF DEFENSE  
FROM: Pete Geren *Pete Geren*  
SUBJECT: Detainee Release Policy in Afghanistan

This is a follow up on the issue raised by Jim Haynes in this morning's Roundtable.

General Barno is operating with the understanding that he is unable to release detainees held in Afghanistan without a recommendation from a Detainee Assessment Team (DAT), a review by representatives of State, Justice and CIA and a final decision by you.

Attached is a draft memo from Barno describing the release process, as he understands it. During his visit to the Pentagon this week, he plans to raise this issue and seek relief from the cumbersome release process.

I have passed this memo on to Feith and Haynes. Feith has it for action.



OSD 16531-04

CFC-A-CG

SUBJECT: Request for Delegation of Authority to Approve Release of Persons Under United States Control (PUC)



REPLY TO  
ATTENTION OF

**DEPARTMENT OF DEFENSE  
COMBINED FORCES COMMAND – AFGHANISTAN  
OPERATION ENDURING FREEDOM  
KABUL, AFGHANISTAN  
APOAE 09356**

DATE:

CFC-A-CG

MEMORANDUM THRU

United States Central Command, ATTN: CCJA, 7115 South Boundary Boulevard, MacDill Air Force Base, Florida 33621-5101

Office of Legal Counsel to Chairman, Joint Chiefs of Staff, ATTN: OCJCS-LC, Pentagon Room 2E841, Washington, D.C. 20318-9999

FOR Deputy Secretary of Defense, Pentagon Room 3E980, Washington, D.C. 20301-1600

SUBJECT: Request for Delegation of Authority to Approve Release of Persons Under United States Control (PUC)

1. Both practically and as a matter of policy, the United States has no interest in retaining control over a large number of detainees. Detainee release determinations should be made as quickly as possible and consistent with the national security interests. The goal is to ensure, that detainee transfers/releases, will not increase the risk of further terrorist attacks on the United States or the United States interests.
2. Current Department of Defense (DOD) guidelines for the transfer/release of detainees under DOD control established a Detainee Assessment Team (DAT), co-chaired by the Principal Deputy Assistant Secretary of Defense (SOLIC) and the Deputy General Counsel (International Affairs). The DAT is comprised of representatives from offices of the Assistant Secretary of Defense for International Security Affairs, the Chairman of the Joint Chiefs of Staff, and other appropriate DOD officials. Representatives from DOD, Department of State (DOS), Department of Justice (DOJ), and the Central Intelligence Agency (CIA) evaluate every proposed detainee release and make recommendations to the DAT. After the recommendations are reviewed and sent to the Secretary of Defense (SECDEF), the SECDEF makes the transfer/release decision.
3. The Bagram Holding Area (BHA), located at Bagram Air Field, Afghanistan and operated by Combined/Joint task Force-76 (CJTF-76), is overcrowded. Presently, the population at the BHA is 325. Large-scale Guantanamo (GTMO) transfers of detainees to GTMO who meet the SECDEF criteria are not occurring nor is there a process or system to transfer low-level enemy combatants to Afghan facilities. While ongoing construction will increase the capacity of the



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BHA, additional measures should be implemented to ease the overcrowded facility and facilitate the efficient processing of detainees.

4. Delegating authority to release low-level enemy combatants to the Commanding General, Combined Forces Command - Afghanistan (CFC-A) would help ease overcrowding at the BHA, expedite the transfer/release process, and ensure timely release of those qualified for release. However, to ensure that the delegation of transfer/release authority is consistent with national security interests, it is necessary to replicate the interagency coordination process at the CFC-A level. The current detainee release approval process, as directed by the Detainee Assessment Team, ensures interagency coordination, thus providing the Secretary of Defense with legal, investigative, intelligence, operational, and foreign policy assessments to assist in the making of a transfer/release determination.

5. CFC-A has two mechanisms at CJTF-76 to replicate the interagency coordination process: the Detainee Review Board (DRB) and the Low-Level Enemy Combatant Review Board (LRB).

a. Within 90 days of capture, the DRB reviews whether the detainee/PUC meets the (SECDEF) criteria for continued detention. The DRB is composed of intelligence representatives, a judge advocate, a Criminal Investigation Task Force representative, and other CJTF-76 staff agency representatives with interests in specific detainees. If the detainee does not meet SECDEF criteria for continued detention, the Commander, CJTF-76 is authorized to release the individual. If the detainee meets the SECDEF criteria for continued detention, the recommendation for continued detention is forwarded to the Commander, CJTF-76 for approval/disapproval. If approved, the individual remains detained and is categorized as a low-level enemy combatant or is recommended for transfer to GTMO.

b. Every detainee's file is reviewed, at minimum, once a year by the LRB. The LRB meets monthly and is comprised of the same members as the DRB. The LRB may recommend release if it determines that the detainee no longer poses a threat to US interests or if new information reveals that the detainee no longer meets the SECDEF criteria for continued detention. If the Commander, CJTF-76 approves the LRB's recommendation for release, the recommendation is forwarded through CFC-A and CENTCOM channels through SECDEF for approval. To date, the average staffing length of time to process an LRB request for release through the SECDEF has been six months. Of note, nine LRB requests for release have been submitted by CJTF-76 through CFC since April 2004. Requests for information on the nine detainees have been requested from the SECDEF and provided by CJTF-76. However, approval has neither been granted nor denied by the SECDEF.

DAVID W. BARNO  
Lieutenant General, USA  
Commanding

