

Tab 1 (LLEC Concurrence/Non-concurrence Memorandum) to Annex D (Process Results from an Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures (SOP))



DEPARTMENT OF DEFENSE
HEADQUARTERS, TASK FORCE GUARDIAN
COMBINED JOINT TASK FORCE 101
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354

REPLY TO
ATTENTION OF

CJTF-101-TFG

DATE

MEMORANDUM FOR RECORD

SUBJECT: TF XXXX Concurrence/Non-concurrence on Detainee Release Recommendations

1. Purpose: To obtain TF XXXX concurrence/non-concurrence with the release of detainee US9AF-00####DP, First Name ((LAST NAME)) from the BTIF.
2. The [insert date] UECRB recommended the following individual captured by TF XXXX (or preceding units) for release. The Board recommended detainee US9AF-00####DP for release based off the following information:
3. Review the information attached for the following individual, indicate concur/non-concur, and provide additional documentation supporting your units non-concurrence.

ISN: US9AF-00XXXXDP Name: Detainee ((NAME))

Recommended for: (LLEC/PTS) Release Concur Non-Concur

Comments:

Signature _____

Name/Rank/Title _____

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CJTF-101-TFG

SUBJECT: TF XXXX Concurrence/Non-concurrence on Detainee Release Recommendations

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(b)(2) NLT 48 hours after initial r

XXXXXXXXXX
COL, MP
Commanding

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TAB 2 (NLEC Concurrence/Non-concurrence Memorandum) to Annex D (Process Results from an Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures (SOP))



**DEPARTMENT OF DEFENSE
HEADQUARTERS, TASK FORCE GUARDIAN
COMBINED JOINT TASK FORCE 101
BAGRAM AIRFIELD, AFGHANISTAN
APO AE 09354**

CJTF-101-TFG

DATE

MEMORANDUM FOR RECORD

SUBJECT: TF XXXXX Concurrence/Non-concurrence on Detainee Release Recommendation

1. Purpose: To obtain TF XXXXX concurrence/non-concurrence with the release of detainee US9AF-00####DP, First Name ((LAST NAME)) from the BTIF.

2. The [insert date] UECRB recommended the following individual, captured by TF XXXXX (or preceding units), for release. The Board recommended detainee US9AF-00####DP for release based off the following information:

3. Review the information attached for the following individual, indicate concur/non-concur, and provide any additional documentation supporting your units non-concurrence.

ISN: US9AF-00XXXXDP Name: XXXXXXXXXX
Recommended for: NLEC Release Concur / Non-Concur

Comments:

4. The most common method used to release detainees is to release them directly to the International Committee of the Red Cross. In order to exploit IO to the fullest extent, the preferred method of release is to have the capturing unit deliver the individual to the point of capture. Provide information regarding your unit's ability to support releasing the detainee.

Does the capturing unit want to transport the individual from the BTIF to release at the point of capture? Yes No

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CJTF-101-TFG

SUBJECT: TF XXXXX Concurrence/Non-concurrence on Detainee Release Recommendation

Comments:

Signature _____

Name/Rank/Title _____

(b)(2)

NCO, TF Guardian, DSN:
NLT 48 hours after initial r

(b)(2)

XXXXXXXXXX
COL, MP
Commanding

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Appendix 1 (Detainee Assessment Branch), Annex D(Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedure (SOP)

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2. (U) Purpose: To provide guidance for the procedures carried out by members of the DAB relating to Afghan persons detained by United States and Coalition Forces in the Combined Joint Operations Area (CJOA) from the time of their capture to the release or transfer to the GIRoA.

3. (U) Applicability: This policy applies to all CJTF-101 personnel as well as all commands which desire to transfer detainees to a CJTF-101 controlled Field Detention Site (FDS) or Theatre Internment Facility.

4. (U) Commander's Intent:

a. (U) While fulfilling this obligation strengthens our partnership with the GIRoA and the Afghan people, failure to properly manage investigative procedures could result in lack of Afghan support and ultimate failure of future criminal prosecution cases by the GIRoA. To ensure DAB investigations posture the GIRoA for success, it is absolutely essential our personnel conduct themselves in a highly professional manner and always act responsibly regarding the procedures set forth in this SOP.

b. (U) Commanders and other persons responsible for detainee operations shall follow the below principles:

(1) (U) Exercise due caution and diligence when collecting and preserving evidence as well as completing appropriate evidence custody documentation.

(2) (U) Collect at least two local national witness statements, if possible, during any situations where enemy combatants are taken into custody.

(3) (U) Ensure all Unlawful Enemy Combatant Transfer Requests (UECTR) are completed with all appropriate details, paying particular attention to witness statements (e.g., names, province(s), district(s) and village(s)), diagrams, photographs etc.)

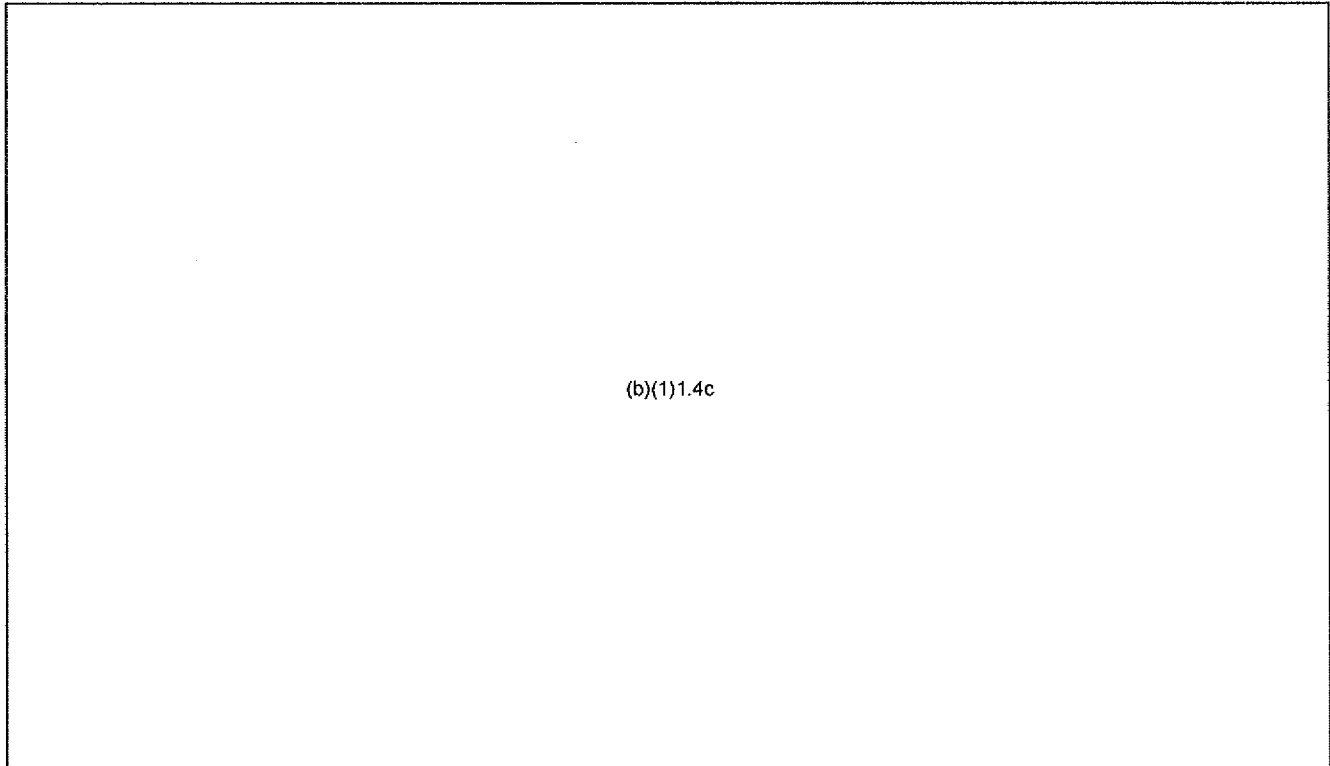
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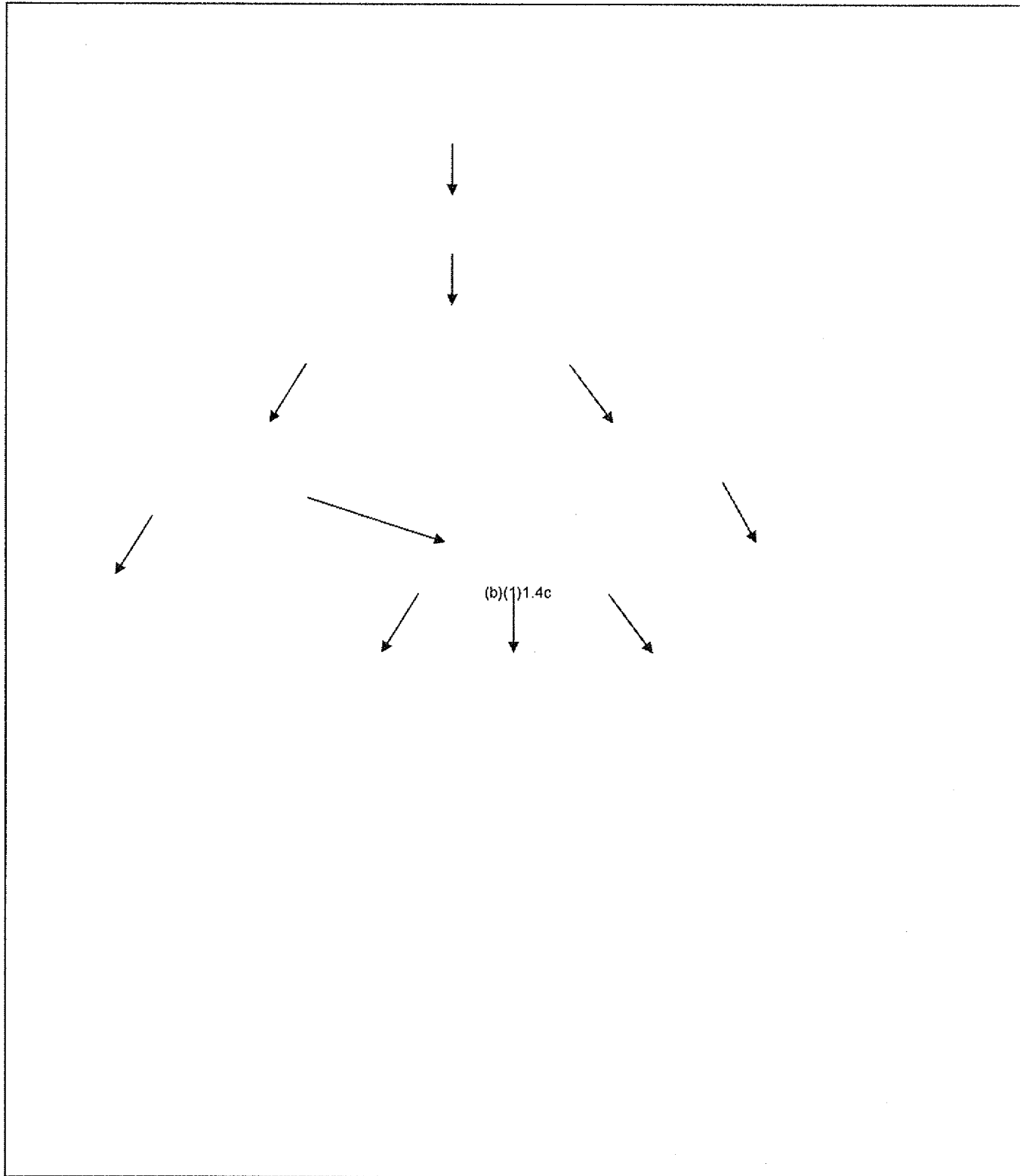
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Appendix 1 (Detainee Assessment Branch), to Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedure (SOP)

(4) (U) Provide all Essential Elements of Information (EEI's) to the DAB in a timely manner in order to ensure the most accurate and current data is collected for inclusion in the investigative file.



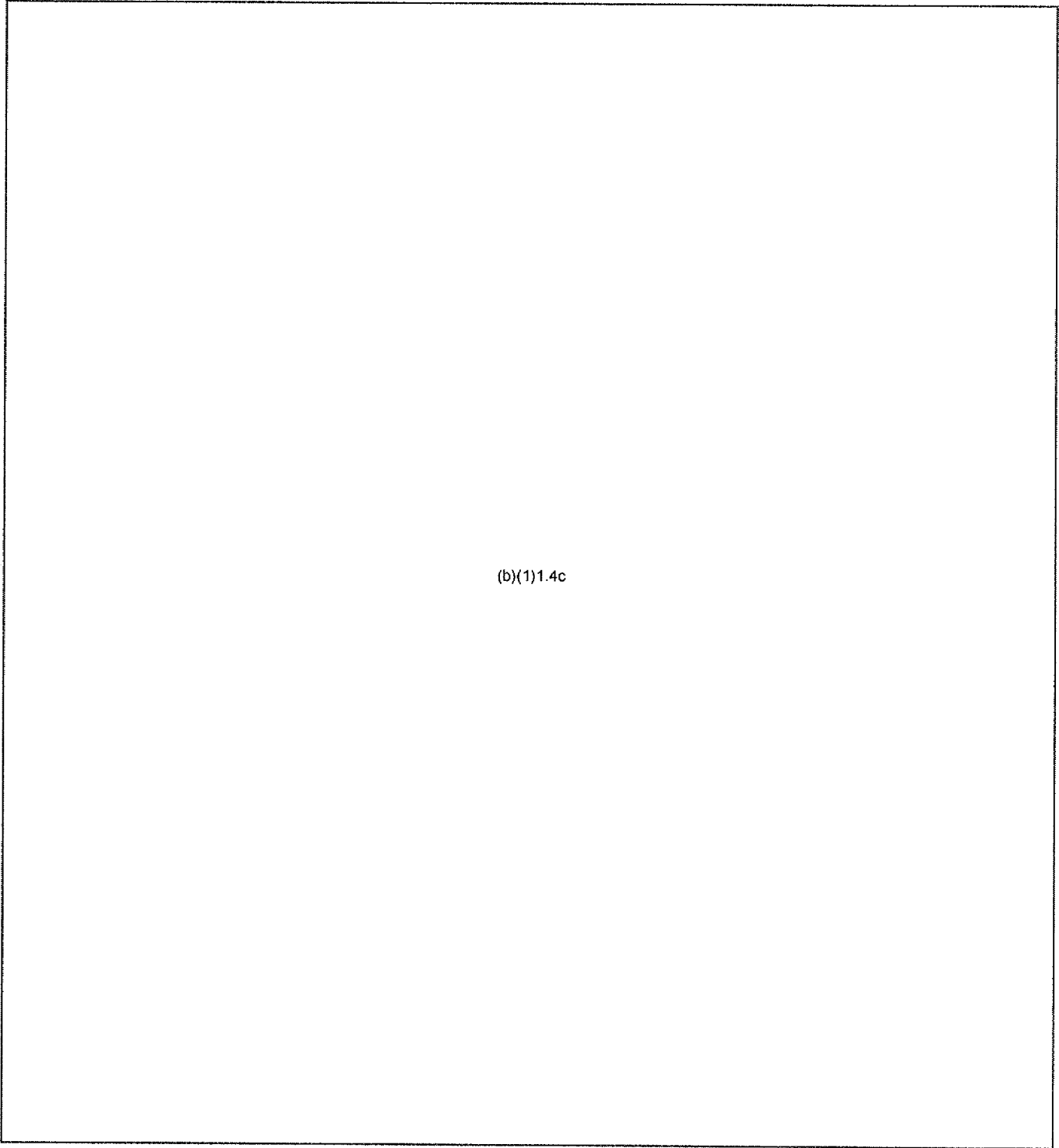
Appendix 1 (Detainee Assessment Branch), to Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedure (SOP)



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Appendix 2 (Process Results from an Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

1. (U) Reference. CJTF-101 Detention Operations Policy Memorandum, (S//NF) MAY 2008.



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Appendix 2 (Process Results from an Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

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f. (U) Replies to the notification letters will be maintained by the Detainee Operations OIC, TF Guardian S-3.

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h. (U) TF Guardian S-3 will maintain electronic and paper copies of processed UECRB results.

Appendixes:

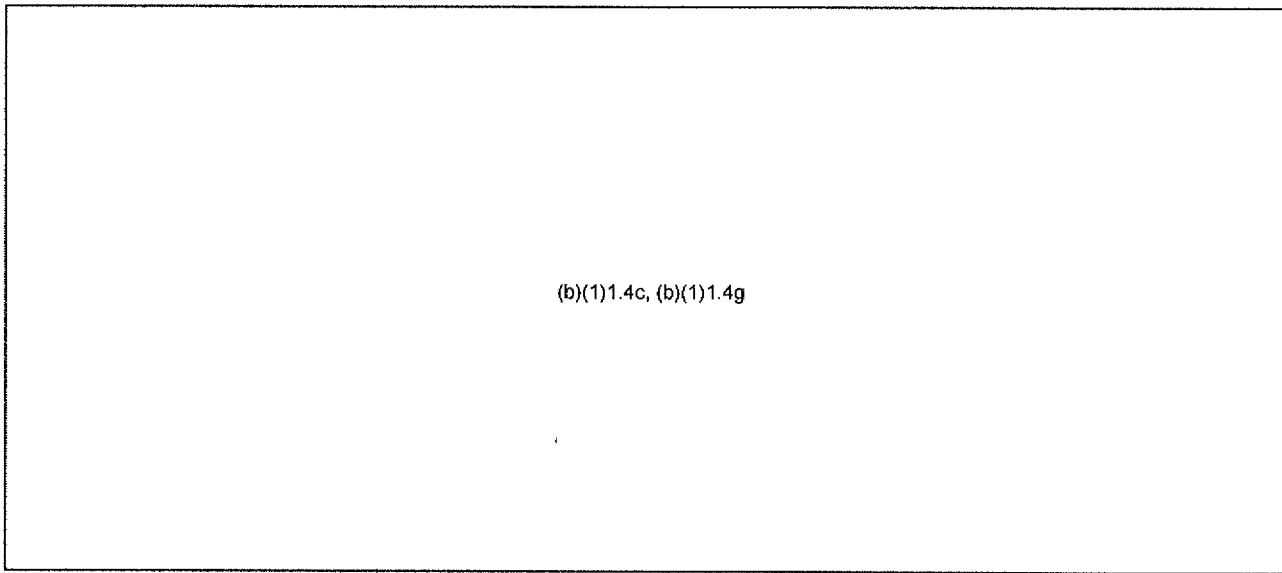
Tab 1: LLEC/PTS Concur/Non-Concur Memo

Tab 2: NLEC Concur/Non-Concur Memo

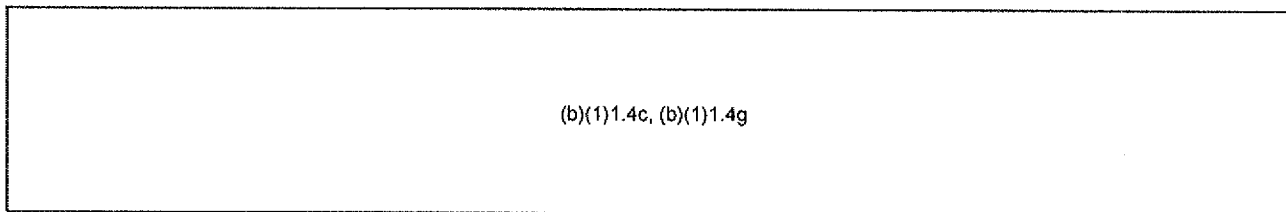
Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

1. (U) Purpose. This annex outlines procedures for the Unlawful Enemy Combatant Review Board (UECRB).

2. (U) References.



f. (U) DoDD 2310.01E, the Department of Defense Detainee Program, 05 September 2006.



a. (U) CJTF-101 carefully screens all detainees before and after transfer to the Bagram Theater Internment Facility (BTIF) to ensure only Unlawful Enemy Combatants (UEC) remain in US detention to prevent them, pursuant to the laws of war, from returning to the battlefield. Once at the BTIF, all detainees receive regular, comprehensive reviews of the basis for their detention. Only confirmed UECs are detained at the BTIF.

b. (U) An initial determination that a detainee is a UEC is made at the point of capture by the unit commander. The capturing unit shall submit an "Unlawful Enemy Combatant Transfer Request" (UECTR) to CJTF-101 for those detainees believed to meet established criteria as UECs and who require continued detention at the BTIF. CJTF-101 shall review the initial UEC determination of the unit commander, the UECTR, and the request for continued detention at the BTIF. If the capturing unit presents sufficient evidence that the detainee is a UEC, CJTF-101 may admit the detainee to the BTIF.

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

c. (U) Once at the BTIF, all detainees' basis for detention (UEC status) is reviewed by an UECRB conducted once within the first 75 days of in-processing to the BTIF and again every 6 months after the initial UECRB.

4. (U) Purpose. The purpose of the UECRB is to make recommendations regarding a detainee's status as an unlawful enemy combatant to the CJTF Deputy Commander, the UECRB approving authority. Additionally, the UECRB (the "Board") makes recommendations regarding what level UEC a detainee represents (high-level or low-level), and recommends whether the detainee should be nominated for participation in the Program Takhim e'Sol (PTS) or recommended for release. The Board will recommend release when the Board finds that a detainee does not qualify, or no longer qualifies, as a UEC. The Board is administrative in nature and does not create any rights, benefits, or privileges.

5. (U) Legal Framework.

a. (U) Persons detained at the BTIF are held on the basis that they are UECs in the on-going conflict between the United States and the Taliban, al Qaida and its associated forces. UECs are persons not entitled to combatant immunity who have engaged in acts against the United States or its coalition partners in violation of the laws and custom of war during an armed conflict. Detention is therefore legally justified under the laws and customs of war.

b. (U) For purposes of Operation Enduring Freedom, the term Unlawful Enemy Combatant is defined to include, but is not limited to, an individual who is or was part of or supporting Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners.

c. (U) Intelligence value alone is not a lawful basis for detention.

(b)(1)1.4c

(1) (U) Is or was part of or supporting Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. (See ref. (g) for a complete list.); or

(2) (U) Have committed a hostile act against US or coalition forces by engaging or attempting to engage US or coalition forces in violation of the laws and customs of war; or

(3) (U) Have displayed an intent to commit hostile acts against US or coalition forces in violation of the laws and customs of war.

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

d. (U) The initial determination that an individual is a UEC must be reviewed periodically. For both initial reviews and subsequent reviews, UECRB procedures include:

(1) (U) Notice to the detainee of the convening of a board, in a language he understands, including notification of the basis for detention;

(2) (U) An opportunity for the detainee to provide a written statement or other readily available evidence for review by the Board;

(3) (U) All determinations and recommendations by a preponderance of the evidence standard;

(4) (U) Detainees will not be compelled to present evidence to the Board;

(5) (U) Detainees will have the opportunity to personally appear before the board;

(6) (U) A written record will be made of the proceedings (a verbatim transcript is not required); and

(7) (U) The Board's final recommendations will be made in closed session by majority vote.

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a. (U) The determination that an individual is an UEC must be based on a preponderance of the evidence. During Operation Enduring Freedom, UECs are those persons who:

(1) (U) Are or were part of or supporting Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. (See ref. (g) for a complete list.); or

(2) (U) Have committed a hostile act against US or coalition forces by engaging or attempting to engage US or coalition forces in violation of the laws and customs of war; or

(3) (U) Have displayed an intent to commit hostile acts against US or coalition forces in violation of the laws and customs of war.

b. (U) Intelligence value alone is not a lawful basis for continued detention.

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

c. (U) Prior to the initial review, military police investigators will interview the detainee and record the results of that interview on the Detainee Notification Worksheet (DNW) located at Appendix 1. This review will take place within two weeks of in-processing unless a delay is requested by MI personnel. During this initial interview, the detainee will be told the reason for detention and given a summary of the evidence against him, be notified that his case will be reviewed by an administrative board, and be afforded the opportunity to make a written statement as well as personally appearing at the Board. Any such statement will be read to the Board at the initial review, unless the detainee wishes to present the information himself.

(1) (U) This statement will be written by the detainee if possible. If the detainee is unable to write, the interviewer may write the statement and will validate to the Board that the statement is an accurate record of the detainee's statement.

(2) (U) If the detainee does not wish to make a statement, this fact will be recorded on the DNW.

d. (U) Prior to the initial review, MI or MPI personnel will make a reasonable investigation into any alibi or other exculpatory evidence the detainee offers.

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7. (U) Six month status review. The status of each detainee will be reviewed at least every six months following the initial review. During this review, the Board shall consider all relevant and reasonably available information, including any new information that has been identified since the initial status determination.

a. (U) For both initial and periodic reviews, the Board will shall make the following findings and recommendations:

(1) (U) Whether the detainee continues to be a UEC; or

(2) (U) If the Board determines that a detainee is a UEC, the Board will then determine whether the detainee is or remains a High Level Enemy Combatant (HLEC) or a Low Level Enemy Combatant (LLEC), and provide a recommendation on continued detention;

(3) (U) For detainees that are LLECs, the Board will make a recommendation as to whether the detainee should remain in detention, is a candidate for the PTS program, or should be released.

(4) (U) If the Board determines that a detainee is not a UEC or in No Longer an Enemy Combatant (NLEC) the Board shall recommend expedited release.

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Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

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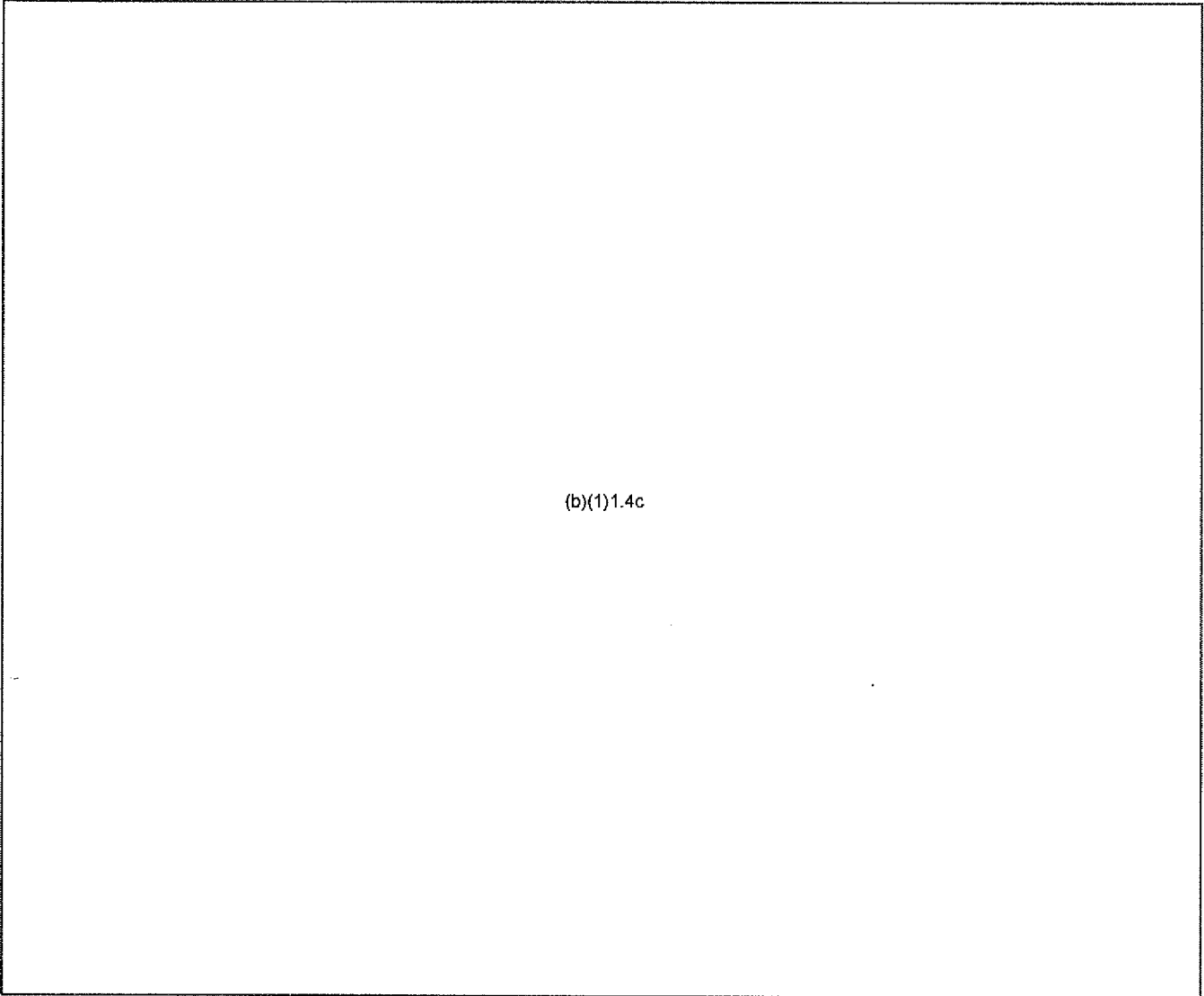
c. (U) Prior to the six month status review, the detainee will be notified of the review and afforded the opportunity to make a written statement. This notification will be recorded on a DNW. Any such statement will be read to the Board.

(1) (U) This statement will be written by the detainee if possible. If the detainee is unable to write, the interviewer may write the statement and will validate to the Board that the statement is an accurate record of the detainee's statement.

(2) (U) If the detainee does not wish to make a statement, that fact will be recorded on the DNW.

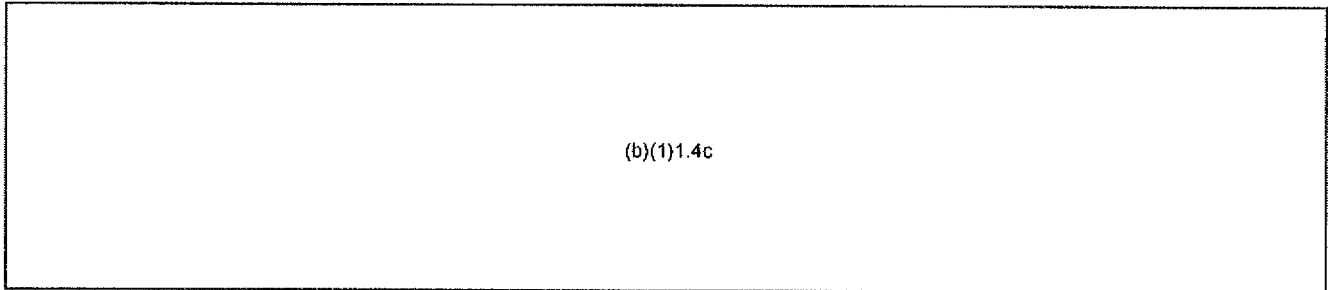
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Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures



(b)(1)1.4c

d. (U) NLEC Determination Criteria. IAW para. 6, when there is insufficient evidence to classify a detainee as a UEC, the detainee must be recommended for classification as an NLEC and released. The Board may also recommend NLEC classification when a detainee is exhausted of intelligence value, is considered to be a minimal threat to US or coalition forces, and the detainee is not otherwise of custodial interest to the United States.



(b)(1)1.4c

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

10. (U) Board Composition. The Board consists of three commissioned officers, one of whom must be a field grade officer:

- a. (U) Board President: Provost Marshal, CJTF-101 (or his/her representative)
- b. (U) CJ2 (or his/her representative)
- c. (U) BTIF Facility Commander (or his/her representative).

11. (U) Board Recorder. The Detainee Assessment Branch (DAB) OIC shall serve as the recorder for the Board. In coordination with the TF Guardian S-3, the recorder will prepare the record of the Board within three workdays of the announcement of the Board's recommendations. The record will then be forwarded to the CJTF-101 Detention Operations Judge Advocate for a legal sufficiency review before presentation to the approving authority.

12. (U) Presentation to the Approving Authority.

a. (U) The recommendations of the Board will be reviewed for legal sufficiency by the CJTF OSJA. The UECRB recorder will forward the Board's recommendations, including all information and statements submitted by the detainee, to the approving authority within one week of the Board's recommendation.

b. (U) The approving authority will act on the recommendations of the Board in writing.

13. (U) Pre-Board Preparation. CJTF-101 personnel meet with every detainee within two-weeks of in-processing to the BTIF to explain the reason for the detainee's detention and to provide a summary of the unclassified information against the detainee. This meeting occurs unless a delay is requested by Military Intelligence (MI) personnel or is not operationally feasible. BTIF personnel explain to the detainee that the detention will be reviewed by an administrative board, the UECRB, within 75 days of in-processing to the BTIF and every six months thereafter. Each detainee is informed that he will be afforded an opportunity to provide a written statement or other readily available information to each UECRB, and that any such statements will be provided to, and considered, by the Board.

a. (U) If possible, the statement provided by the detainee will be written by the detainee. If the detainee is unable to write, the interviewer may write the statement and will validate to the Board that the statement is an accurate record of the detainee's statement.

b. (U) If the detainee does not wish to make a statement, this fact will be recorded. However, prior to the Board considering the cases of particular detainees, those detainees will be provided another opportunity to make additional statements or provide other readily available information.

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

c. (U) Prior to each UECRB, MI or military police investigators (MPI) will review the available intelligence and information regarding detainees being considered by the particular Board and provide the results to the Board, including any exculpatory information.

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14. (U) Board Procedures. Each detainee held at the BTIF will receive an initial Board within the first 75 days of in-processing to the BTIF and every six months thereafter. If new information warranting a reassessment is received, the Board may review a detainee's status (conduct an UECRB) on an as needed basis. The Board shall consider all relevant and reasonably available information. During the UECRBs conducted every six months, the Board will also consider any new information that has been identified since the preceding UECRB.

a. (U) At each Board, MI Branch analysts and MP investigators will introduce each detainee's case, present all available evidence and information (including statements made or evidence offered by the detainee), and make a recommendation as to the detainee's status. The Board members will consider all relevant information acquired from the capturing unit when making their recommendation.

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Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

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c. (U) Board members will ask any questions necessary to make an informed decision based on a preponderance of the evidence.

d. (U) After the detainee's information has been presented, the board will vote by secret ballot. The Board's recommendation is based on the majority vote. If a board member or members believe additional information is required to make an informed determination, the President of the Board has the authority to delay that specific detainee's board until the next scheduled UECRB (usually conducted weekly).

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15. (U) The Board's recommendations will be forwarded to the appropriate approval authority. Approval authorities are as follows.

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Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

(b)(1)1.4c

17. (U) Coordinating Instructions.

a. (U) The UECRB will be held weekly in a location cleared for **SECRET** and designated by the President of the Board.

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d. (U) The Board president may convene additional meetings as necessary.

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18. (U) Definitions.

a. (U) Coalition Forces. For purposes of this SOP, an attack by an enemy combatant on the following entities/individuals is considered an attack on the Coalition.

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

(1) (U) All units and personnel of US forces or other countries participating in Enduring Freedom operations and all NATO units and personnel present in Afghanistan supporting ISAF operations;

(2) (U) ANSF when the intent of the attack is to disrupt or undermine the Coalition's mission, or to destabilize the government of the GIRoA;

(3) (U) Local and Third Country National (TCN) personnel contracted with or employed by the Coalition when the intent of the attack is to disrupt or undermine the Coalition.

b. (U) Detainee. Any person captured, detained, held or otherwise under the control of DoD personnel (military or civilian). It does not include persons being held primarily for law enforcement purposes. A detainee may also include the following categories:

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(2) (U) Low Level Enemy Combatant (LLEC). Those individuals who are not a threat beyond the immediate battlefield or that do not have high operational or strategic intelligence or law enforcement value.

(3) (U) No Longer Enemy Combatant (NLEC). A NLEC is a detainee who is determined not to be, or no longer to be, an enemy combatant or who is devoid of intelligence value, assessed to be a minimal threat to US or coalition forces, and in whom the United States no longer has a custodial interest. NLECs will be released within 15 days of release approval.

c. (U) Enemy Combatant. In general, a person engaged in hostilities against the United States or is coalition partners during an armed conflict. The term "enemy combatant" includes both "lawful enemy combatants" and "unlawful enemy combatants".

d. (U) Unlawful Enemy Combatant (UEC). Unlawful enemy combatants are persons not entitled to combatant immunity, who engage in acts against the United States or its coalition partners in violation of the laws and customs of war during an armed conflict. For purposes of Operation Enduring Freedom, the term Unlawful Enemy Combatant is defined to include, but is not limited to, an individual who is or was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners.

19. (U) Point of contact is the CJTF-101 Detention Operations Judge Advocate at DSN (b)(2)

(b)(2)

Annex E (Unlawful Enemy Combatant Review Board (UECRB), to the CJTF-101 Detainee Operations Standard Operating Procedures

Appendixes

Appendix 1: Detainee Assessment Branch

Appendix 2: Processing UECRB Results

Tab 1: LLEC/PTS Concur/Non-Concur Memo

Tab 2: NLEC Concur/Non-Concur Memo