

Unlawful Enemy Combatant Review Board (UECRB) Procedures

~~(S)~~ Synopsis:

(b)(1), Sec. 1.4(a)

Increased capacity at the new BTIF should serve as a partial remedy, but revisions to the existing UECRB procedures and increased staffing at the BTIF may also be necessary.

~~(S//NF)~~ CJTF-101 consistently in-processes approximately ^(b)₍₁₎ new detainees a month at the BTIF, transfers ^(b)₍₁₎ a month from the BTIF to the custody and control of the IRoA at the ANDF, and releases several more each month to the International Committee of the Red Cross (ICRC) or at point of capture.

(b)(1), Sec. 1.4(a), Sec. 1.4(b)

~~(S)~~ The recidivism rate among detainees released from the BTIF and the ANDF remains relatively low,

(b)(1), Sec. 1.4(a)

~~(S)~~ Although full exploitation of a detainee's intelligence value requires lengthy detention in many cases, intelligence value alone is not a lawful basis for detention. Rather, detention must be based on a determination that an individual meets the criteria for classification as an enemy combatant, and subsequent decisions to continue to detain, to transfer, or to release the individual should be

¹ (FOUO) Space limitations preclude CJTF-101 from providing rehabilitation and reintegration programs at the existing BTIF. The Command will incorporate such programs into its detention operations at the new BTIF when it opens in late 2009.

(b)(1), Sec. 1.4(b), Sec. 1.4(c)

based primarily on an assessment of whether continued detention by U.S. Forces is necessary to mitigate the threat the individual poses. The UECRB is the forum in which the Command reviews enemy combatant determinations and assesses whether continued detention by U.S. Forces is necessary.³

~~(S)~~

(b)(1), Sec. 1.4(a)

In other words,

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~~(S)~~ This situation is likely the result of three key factors – space limitations at the BTIF, the limitations of the existing UECRB procedures, and staffing levels at the BTIF.

(b)(1), Sec. 1.4(a)

Increased capacity at the new BTIF will eliminate this factor when the facility opens in late 2009, but there is no feasible way to increase capacity at the existing BTIF, so a more immediate solution will be based on revisions to the UECRB procedures and/or increased staffing at the BTIF.

~~(S/NF)~~ The existing UECRB procedures satisfy applicable minimum legal requirements and comply with current DoD policy guidance. However, these

³ (S/NF) The UECRB also assesses each detainee's intelligence value, but primarily for purposes of determining whether to classify the individual as a High-Level Enemy Combatant (HLEC) or Low-Level Enemy Combatant (LLEC).

(b)(1), Sec. 1.4(a), Sec. 1.4(c)

(b)(1), Sec. 1.4(a), Sec. 1.4(b), Sec. 1.4(d)

procedures are less robust than the Combatant Status Review Tribunal (CSRT) procedures implemented at Guantanamo, the Multi-National Force Review Committee (MNFRC) procedures implemented in Iraq, and the Article 5 review procedures established by Geneva Convention III and incorporated in Army Regulation 190-8.⁵ Key differences include the following: detainees may appear before the UECRB during an initial review conducted within 75 days of arrival at the BTIF, but not during periodic reviews conducted every six months thereafter; detainees may make a personal statement to the Board, but Board Members are not permitted to ask the detainees questions; detainees are not permitted to call witnesses; detainees are not afforded a personal representative to assist them during the proceedings; all proceedings are closed; the written record of the proceedings is not verbatim; there is no requirement for the Members to include a legal officer; and the convening authority is not a General Court-Martial Convening Authority or equivalent.

~~(S//NODIS)~~ After interviewing hundreds of BTIF detainees over the course of several years,

(b)(3):10 Usc 130(c)

~~(S)~~ A more robust review process that incorporates some or all of the CSRT, MNFRC, and Article 5 procedures will make the UECRB a more effective tool. If revisions to the UECRB process improve the quality and timeliness of UECRB determinations, it will reduce the risk of transferring or releasing individuals whose threat the IRoA cannot adequately mitigate. It will also decrease the chances of detaining individuals who do not pose a threat or whose threat the IRoA could mitigate. This, in turn,

(b)(1),(b)(7)(A),(b)(7)(B),(b)(7)(D)

Last, but certainly not least, it will enhance the credibility of our detention operations and detention review procedures.

⁵ (S) Although the requirements of Geneva Convention III Relative to the Treatment of Prisoners of War do not, as a matter of law, apply to detainees at the BTIF, since they are held as enemy combatants rather than prisoners of war, this legal consideration does not preclude DoD from adopting Article 5 procedures in the UECRB context as a matter of policy.

~~(S)~~ Finally,

(b)(1), Sec. 1.4(a)

Likewise, if revisions to the UECRB procedures increase the demands on personnel involved in the UECRB process, then staffing in this area will have to increase. On the other hand, a more efficient and effective review process that decreases the average length of detention at the BTIF will reduce the detainee population, which will decrease the demand for guard force personnel at the facility.