



Department of Defense  
Designated Civilian Official  
Administrative Review of the Detention of Enemy Combatants  
at Guantanamo Bay, Cuba

DCN: 000  
Rev. 0  
XX June 2004

**SUBJECT: Implementation of Administrative Review Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba**

References: (a) Deputy Secretary of Defense Order OSD 06942-04 of May 11, 2004  
(b) Deputy Secretary of Defense Memo of June 4, 2004  
(c) Deputy Secretary of Defense Memo of May 22, 2004

Enclosures: (1) Flow Diagram for Administrative Review Procedures  
(2) Office for the Administrative Review of the Detention of Enemy Combatants at Guantanamo Bay, Cuba  
(3) Administrative Review Board Process  
(4) Designated Military Officer Qualifications, Roles, and Responsibilities  
(5) Assisting Military Officer Qualifications, Roles, and Responsibilities  
(6) Sample Nomination Questionnaire  
(7) Sample Administrative Review Board Designation Letter  
(8) Sample Designated Military Officer Designation Letter  
(9) Sample Assisting Military Officer Designation Letter

## **1. Introduction**

The Secretary of Defense has established Administrative Review Procedures to determine annually if enemy combatants detained by the Department of Defense at the U.S. Naval Base Guantanamo Bay, Cuba should be released, transferred or continue to be detained. References (a) and (b) are the authorizing directives. A Designated Civilian Official has been named by the Secretary of Defense to operate and oversee this program and to be the final decision authority for the United States. Reference (c) designates the undersigned as the Designated Civilian Official.

The Designated Civilian Official, in turn, has formed the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba. This Office, under the Designated Civilian Official, will implement these Administrative Review Procedures.

The Administrative Review Procedures will be a fact-based administrative proceeding allowing the consideration of all relevant facts to determine whether to release, transfer, or continue to detain the enemy combatant. This process is non-adversarial. It provides an enemy combatant the opportunity to review unclassified information relating to his

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continued detention, and to appear personally to present information relevant to why he is not a threat to the United States or its allies, in the ongoing armed conflict against terrorist organizations such as al Qaida and its affiliates and supporters, and why he should be released.

## **2. Authority**

The Administrative Review Procedures were established by Order OSD 06942-04, signed by the Deputy Secretary of Defense and dated May 11, 2004 (reference (a)). The Deputy Secretary of Defense later amended this Order, (reference (b)), to permit Administrative Review Proceedings for all DoD detainees in the Global War On Terrorism at U.S. Naval Base Guantanamo Bay, Cuba, except those whom the President has determined to be subject to his Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," 66 C.F.R. 57833 (Nov. 16, 2001) ("President's Military Order") until the disposition of any charges against them or the service of any sentence imposed by a military commission. These procedures involve military authority exercised in the field in time of war. Because the procedures described in his Order have been instituted as a matter of discretion, the Secretary may suspend or amend the procedures set forth in the establishing Order and/or any implementing instructions at any time in his complete discretion.

## **3. Implementing Process**

The process flow and notional timelines for Administrative Review Board Procedures are outlined in enclosure (1). Functional breakdowns of this process flow, to include detailed descriptions and/or decision criteria, are included as enclosures (2) through (5). Administrative Review Board Principals (Administrative Review Board Members, Designated Military Officer & Assisting Military Officer) shall be nominated to the Designated Civilian Official by the Office for the Administrative Review of the Detention of Enemy Combatants utilizing enclosure (6) and appointed in writing utilizing enclosures (7) through (9). This implementing directive is subject to revision at any time at the discretion of the Designated Civilian Official.

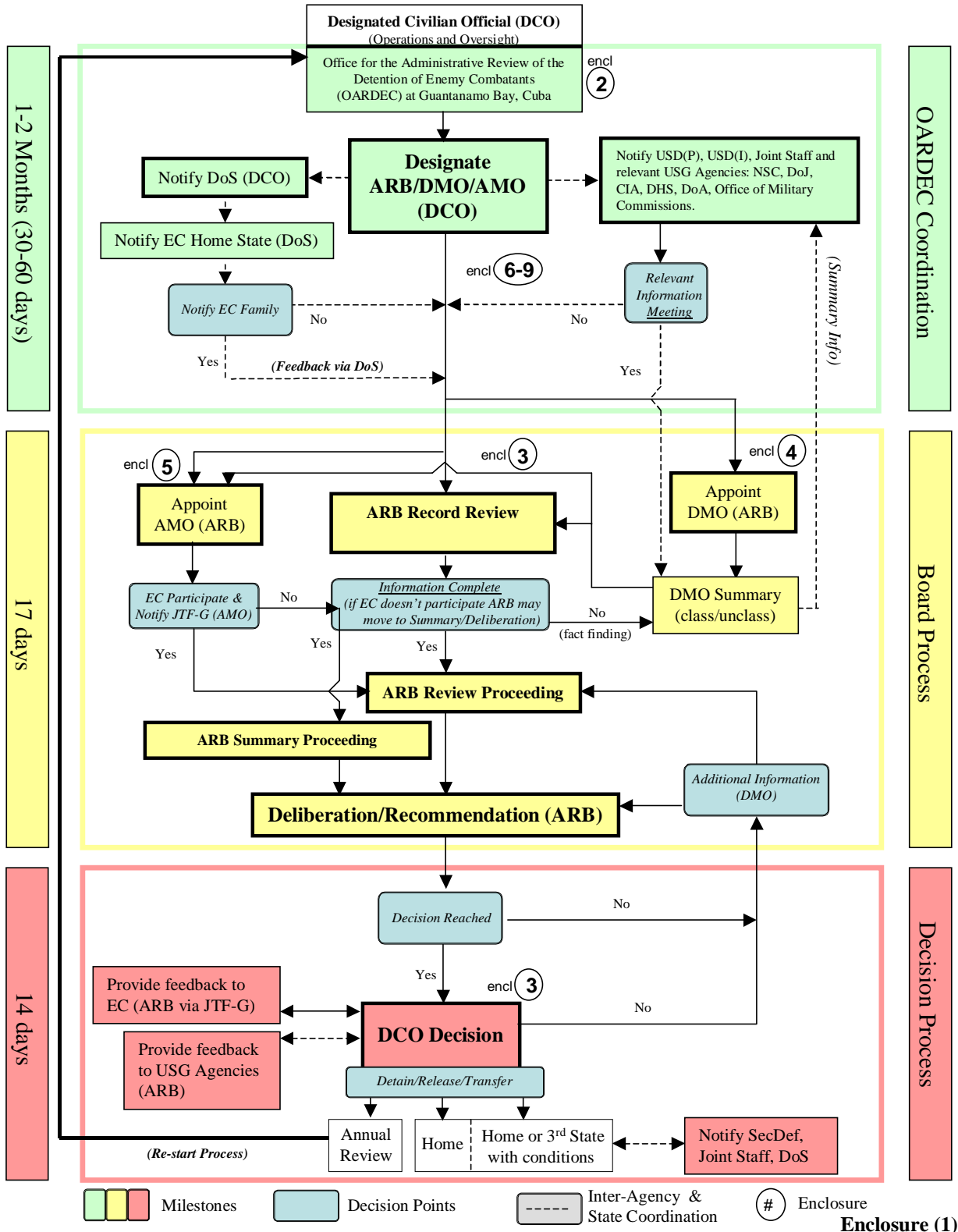
**Gordon R. England**  
**Designated Civilian Official**

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Enclosure (1)

Flow Diagram encl ①

Administrative Review Procedures for Enemy Combatants at Guantanamo Bay, Cuba



## **Enclosure (2)**

### **Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) at Guantanamo Bay, Cuba**

#### **1. Organization**

The OARDEC shall be headed by a Director, reporting directly to the Designated Civilian Official. A Deputy Director, Chief of Staff, and Staff Judge Advocate will each report directly to the OARDEC Director.

#### **2. Function**

The Director will staff and organize the office to facilitate the operation of the Administrative Review Procedures. The OARDEC staff will coordinate with other agencies, provide legal advice, request and gather additional facts as required during the review process, provide for interpreter services, ensure information security, and provide feedback to the DCO regarding the transfer of enemy combatants and the agreed upon transfer conditions. While the OARDEC Director and staff members support all Administrative Review processes, members appointed by the DCO to the Administrative Review Board (ARB) will provide their report and recommendations directly to the DCO.

#### **3. Coordination and Case Management**

The OARDEC shall implement a case management and assignment system and provide a recommended case flow and summary memos of each case to all interested parties. USD(P) will inform the OARDEC of any policy concerns or special issues which would affect the order of consideration of the cases as set out by the OARDEC. The OARDEC will solicit inputs from USD(P), USD(I), and Joint Staff, the Office of Military Commissions and USG agencies to include: NSC, DoJ, DoA, CIA, and DHS prior to an ARB proceeding to ensure all relevant information is considered by the ARB. Concurrently, the OARDEC will coordinate through the Department of State to invite presentation of information from the home State of an enemy combatant relevant to the ARB proceedings for that enemy combatant. Upon returning their recommendations to the OARDEC, the respective USG agencies will also provide their acceptable transfer conditions for that home State should the DCO make that determination. As depicted in enclosure (1), information from this coordination will be provided to the ARB for consideration. Following the completion of a review board and DCO decision, the OARDEC will notify the Secretary of Defense, the Department of State and the Joint Staff of that decision. The OARDEC will also provide periodic feedback to the DCO on the status of enemy combatant releases or transfers.

## Enclosure (3)

### Administrative Review Board (ARB) Process

#### A. Purpose and Function

The Administrative Review Board process will be administered through the Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) at Guantanamo Bay, Cuba. This process will provide an annual review to determine the need to continue to detain enemy combatants during the course of the current and ongoing armed conflict against terrorist organizations such as al Qaida and its affiliates. Administrative Review Boards (ARB) shall conduct such proceedings as necessary to make a written assessment of whether there is continued reason to believe that the enemy combatant poses a threat to the United States or its allies in the ongoing armed conflict against terrorist organizations such as al Qaida and its affiliates and supporters and whether there are other factors bearing upon the need for continued detention. Based on that assessment, the ARB shall provide a written recommendation using the format included as Exhibit 3-1 regarding the continued detention of a particular enemy combatant to the Designated Civilian Official (DCO) as designated by references (a) through (c).

The ARB shall conduct a comprehensive review of all reasonably available information. While this review should include any prior detention evaluation, the ARB shall conduct its own proceeding and make an independent recommendation on release, transfer, or continued detention, notwithstanding any prior determinations.

#### B. ARB Structure

- (1) As set forth in reference (a), the ARB shall be composed of three or more military officers designated by the DCO who may sit in panels of three members each. Each three-member panel will include a Presiding Officer, who shall carry a service grade of O-6 and at least one officer with significant experience in the field of intelligence. The role and duties of ARB panel members are described in reference (a). Panel members shall carry a service grade of O-4 or higher, have a security clearance of TOP SECRET with eligibility for TS/SCI and may be selected from among all the military services. All officers nominated for service as an ARB panel member must complete a qualification questionnaire, enclosure (6), approved by the DCO prior to his consideration of their appointment to an ARB, using enclosure (7).
- (2) The ARB shall be assisted by a Designated Military Officer (DMO) in accordance with enclosures (4) and (8). Military officers assigned to serve as DMOs shall be those who are, in the DCO's view, qualified for the duty by reason of education, training, experience, length of service, temperament, and objectivity. DMOs shall carry a service grade of O-4 or higher, and shall be selected from among all the military services. DMOs must have a security

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clearance of TOP SECRET with eligibility for TS/SCI. DMOs shall not be Judge Advocates or Chaplains.

- (3) The ARB will appoint an Assisting Military Officer (AMO) to assist the enemy combatant in collecting all relevant unclassified information, and in preparing for and presenting information to the ARB, in accordance with enclosures (5) and (9). The AMO is not an advocate for or against the continued detention of the enemy combatant under review. Individuals assigned to serve as AMOs shall be those who are, in the DCO's view, qualified for the duty by reason of education, training, experience, length of service, temperament, and objectivity. AMOs shall carry a service grade of O-4 or higher, and shall be selected from among all the military services. AMOs must have a security clearance of TOP SECRET with eligibility for TS/SCI. AMOs shall not be Judge Advocates or Chaplains. The AMO and DMO shall not be the same person in the review of an enemy combatant.

### C. ARB Proceedings

- (1) **Review Proceedings.** Except as set forth in Section C(2) below, the ARB shall conduct all proceedings as Review Proceedings. Unless the enemy combatant signs a written waiver of participation in these procedures, he shall be provided with notice of the Review Proceedings and a meaningful opportunity to be heard and to present information to the ARB. When classified information is presented, the ARB shall close the proceedings to all except those properly cleared and necessary parties. Review Proceeding procedures are set forth in Exhibits 3-2 through 3-5.
- (2) **Summary Proceedings.** An enemy combatant may decline in writing, either unaided or with the assistance of the Assisting Military Officer (AMO), to participate in the review process. The duties and responsibilities of the AMO are set forth in Enclosure (5). If an enemy combatant waives participation in the review process, the ARB may, in its complete discretion, conduct a Summary Proceeding in lieu of a Review Proceeding to review the enemy combatant's case when all relevant information is available for the Board's consideration. The AMO and Designated Military Officer (DMO) shall be present at a Summary Proceeding unless excused by the ARB. The duties and responsibilities of the DMO are set forth in Enclosure (4). Both unclassified and classified information may be presented and discussed in compliance with applicable security regulations. Summary Proceeding procedures are set forth in Exhibits 3-6 through 3-8.
- (3) The ARB proceedings where the enemy combatant is present shall be recorded electronically by means of audio equipment. The ARB or DCO may request transcription and/or translation of all or part of any proceeding. The recordings made at any such session shall be properly marked with identifying

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case information and security classification and stored in accordance with security regulations.

### **D. ARB Proceeding Guidelines**

#### **(1) Information to be Considered by the ARB**

- (a) The ability to make an informed, objective, and reasoned independent recommendation to the DCO on the disposition of an enemy combatant's case is dependent upon the receipt of all reasonably available information by the ARB.
- (b) These proceedings are not governed by judicial or administrative rules of evidence but are intended to permit the consideration of all relevant information presented by the United States, the enemy combatant, and, when appropriate, his home State and family members. The ARB may consider any information that is relevant to its determination of whether the enemy combatant poses a threat to the United States or its allies in the ongoing armed conflict against terrorist organizations such as al Qaida and its affiliates and supporters, and any other factors bearing upon the need for continued detention.
  - (i) The ARB shall not render an opinion on any legal or jurisdictional issues related to an enemy combatant's case, but shall note such issues as may come to its attention in its report to the DCO.
  - (ii) The ARB shall append to the record of proceedings any written information presented to the ARB but not considered due to the Board's determination that the information was irrelevant.
- (c) During its review, the ARB should make an assessment of the reliability of any information presented in the proceeding. The normal indicators of reliability are whether (i) the report is specific as to the matters described; (ii) the information is corroborated by other information; and (iii) the source of the information appears credible. Conversely, information that is vague, unsupported, or not established through reliable sources generally is considered less reliable and may be given less weight in the Board's determinations.
- (d) The ARB is likely to be provided with inconsistent information as to a particular enemy combatant's case from government or allied sources

### **Enclosure (3)**

and the enemy combatant, his relatives, or his home State. The ARB is required to consider any relevant and reasonably available information concerning the enemy combatant, including information submitted by the enemy combatant, in making its independent assessment. The ARB shall not consider the information presented by the DMO or other U.S. government or allied sources to be controlling, as this is contrary to the Board's duty to make independent factual findings. The ARB will determine, in its sole discretion, the weight to be given to any particular source of information on a case-by-case basis using the criteria as set forth above.

#### **(2) Standards and Factors to be Considered by the ARB**

##### **(a) Standards for Threat Determination or Other Factors Bearing on Continued Detention of an Enemy Combatant.**

- (i) While the threat determination for each detained enemy combatant by the ARB is the most critical element in the review process, the ARB may consider other factors in evaluating the status of each enemy combatant. These other factors can include the enemy combatant's potential for providing intelligence information related to the ongoing armed conflict against terrorist organizations such as al Qaida and its affiliates and supporters, or the potential for possible criminal charges by the Office of Military Commissions.
- (ii) The ARB will make its determination as to whether there is a reason to believe that an enemy combatant poses a threat to the United States or its allies following review of all reasonably available relevant information, classified and unclassified, from U.S. government or allied sources, as well as information presented by the enemy combatant and, when requested and presented in a timely manner, his relatives, and his home State.
- (iii) As discussed above, the ARB makes its own independent determination of the accuracy, relevance, and weight to be given to all information presented. To the extent that disputes arise in the information presented, the ARB shall make its own determination as to accuracy, weight and reliability. The ARB shall permit an enemy combatant to rebut information presented during the unclassified part of the hearing to the Board by the DMO or other sources within the constraints of security regulations.



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(iv) The primary factor to be considered by the ARB in making its assessment whether to release or retain an enemy combatant in U.S. control is the threat posed by the enemy combatant to the United States or its allies. Exhibit 3-9 sets forth detailed guidelines for this assessment used by Joint Task Force-Guantanamo Bay and the DOD Criminal Investigative Task Force. While these guidelines may be used by the ARB in assessing the threat posed by the enemy combatant, the ARB must make its own independent assessment using the following factors as representative indicators of potential threat:

- (A) The nature and circumstances surrounding the enemy combatant's apprehension and subsequent detention;
- (B) Intelligence or criminal investigation information developed on an enemy combatant prior or subsequent to apprehension;
- (C) Any statements made by the enemy combatant prior to or while in detention, whether corroborated or uncorroborated by other information;
- (D) Cooperation of the enemy combatant with U.S. government or allied representatives;
- (E) Conduct [or misconduct] while in detention, insofar as it bears on the question of whether the enemy combatant poses a current threat;
- (F) Information provided by the enemy combatant's home State, including whether the home State will or will not accept return of the enemy combatant and the circumstances of, or any conditions related to, such return;
- (G) Information provided by the enemy combatant's relatives;
- (H) Information provided by other relevant U.S. government agencies;
- (I) Any psychological or behavioral assessments conducted of the enemy combatant;
- (J) The enemy combatant's age, work history, health, education, marital and family status;
- (K) The likelihood of the enemy combatant again taking up arms against the United States or its allies;
- (L) Any statements made by or on behalf of the enemy combatant at the Review Proceedings; and
- (M) Any other information as deemed appropriate by the ARB.

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- (v) The ARB's assessment of whether an enemy combatant remains a threat requires careful consideration of all of the foregoing applicable factors and a balancing of these factors and all other relevant facts within the context of each enemy combatant's case.
- (vi) The ARB shall review each case independently and base its recommendation upon the information presented in a particular enemy combatant's proceeding, to include information considered by the Board under its additional fact-gathering authority under reference (a). The Board may consider relevant information from other enemy combatants' proceedings, but the recommendations, and/or DCO decisions in those cases are not determinative of the ARB's recommendation in the case under review.

#### (b) **Recommendations of the ARB**

- (i) The ARB shall in every case make a recommendation to the DCO to:
  - (A) **Release** the enemy combatant without limitations;
  - (B) **Transfer** the enemy combatant to his home State (or a third State if applicable) with conditions agreed upon between that state and the United States; or
  - (C) **Continue to detain** the enemy combatant in US control.
- (ii) The ARB will establish a subsequent review date for those enemy combatants for whom the Board does not recommend release. If the DCO orders continued detention, the next review date will be scheduled to ensure an annual review.

**Assessment and Recommendation Letter**



**Department of Defense  
Office for the Administrative Review of the Detention of  
Enemy Combatants at Guantanamo Bay, Cuba**

Ser

From: (Presiding Officer of the Board)  
To: Designated Civilian Official for the Administrative Review for Detention of  
Enemy Combatants  
Via: Director, Office for the Administrative Review for Detention of Enemy  
Combatants  
Subj: RECORD OF PROCEEDINGS FOR THE ADMINISTRATIVE REVIEW OF  
THE CONTINUED DETENTION OF ENEMY COMBATANT (ISN#)  
Ref: (a) (DCO implementation order)  
(b) Deputy Secretary of Defense Order OSD 06942-04 of May 11, 2004  
(c) Deputy Secretary of Defense Memo of June 4, 2004  
Encl: (1) CITF Assessment  
(2) JTF GTMO Assessment  
(3) Record of proceedings of ARB Hearing with Enemy Combatant (ISN#)  
(4) ARB minority report (if applicable)  
(5) Other Government Exhibits (if applicable)  
(6) Enemy Combatant waiver to participate (if applicable)  
(7) Information provided to the ARB by another federal agency or State and not  
considered relevant to the proceedings. (if applicable)

1. Per references (a) through (c), an Administrative Review Board was conducted in the  
case of [Name], [ISN #] on (date).

2. The members of the ARB for (ISN #) are:

Presiding Officer (PO) (name)  
Member (name)

Exhibit 3-1

**Enclosure (3)**

Member (name)  
Designated Military Officer (name)  
Assisting Military Officer (name)  
Translator

\* Specify which Board member has experience in the field of intelligence.

4. 3. JTF-GTMO assessed (ISN#) as (high/medium/low threat) due to \_(insert text)\_, and CITF assessed (ISN#) as (high/medium/low threat) due to \_\_ (insert text)\_\_. Other government agency assessments are as follows

- a. DoJ: \_\_\_\_\_
- b. DoS: \_\_\_\_\_
- c. DHS: \_\_\_\_\_
- d. CIA: \_\_\_\_\_

*(Note: If an agency does not provide a response it should be noted as: "No Response")*

5. Based on the above, the ARB assesses (EC name/ISN) to be high/medium/low threat due to \_\_\_\_\_ (include a concise basis for the decision to include all relevant factors considered)
6. The recommendation of the ARB is to release/ transfer (with the following conditions: \_\_\_\_\_[if applicable])/continue to detain, on an x to y vote of the ARB. Enclosures (1) through (7) pertain.

*(Note: If the vote is not unanimous, include paragraph 7 to provide the opinion of the dissenting board member.)*

7. The dissenting board member's recommendation is to release/ transfer (with the following conditions: \_\_\_\_\_[if applicable])/continue to detain due to\_\_\_\_\_.

//s//  
Name  
Rank, Component  
**Presiding Officer**

Exhibit 3-1

## Enclosure (3)

### ARB Review Proceeding Procedures

#### A. Preliminary Procedures

1. The Designated Civilian Official (DCO) identifies enemy combatant as eligible for ARB review (e.g., enemy combatant is not subject to 13 Nov 01 Military Commission Order).
2. The OARDEC will provide a recommended case flow to the DCO.
3. The DCO (and/or the Director, Office for the Administrative Review of Detained Enemy Combatants (Director)) determines whether solicitation of information from the enemy combatant's home State and family is consistent with national security.
4. Unless determined not to be consistent with national security, the DCO requests Department of State (DOS) to notify the enemy combatant's home State, invite submission of information from the home State, and request that State to notify the enemy combatant's relatives and inform them of the opportunity to submit any relevant information through that State's submission.
5. The DCO (and/or Director) designates ARB from a pool of selected officers.
6. The Director or his designee selects the Designated Military Officer (DMO).
7. The ARB or, if designated, the DMO, provides notice of the ARB proceeding to the State Department, Department of Justice (DOJ), Central Intelligence Agency (CIA), Department of Homeland Security (DHS), the National Security Council (NSC), OSD, and the Joint Staff in writing and with sufficient time (approx 30 days) to enable the agencies to provide information relevant to the enemy combatant's release or continued detention.
8. The DMO assembles all threat and other information relevant to the enemy combatant, including such information as provided by the home State, the enemy combatant's family, and other U.S. agencies and provides case information to the ARB.
9. The DMO prepares and provides the ARB classified/unclassified Summary of factors favoring (a) release, (b) transfer with conditions [specifying conditions as applicable] or (c) continue to detain.
10. The DMO/ARB, in accordance with standard security procedures, must secure originating agency clearance in the event the unclassified Summary is derived from classified or sensitive law enforcement information originating from DOS, DOJ, CIA, or DHS.
11. The DCO designates an Assisting Military Officer (AMO) to assist the enemy combatant in the ARB proceedings.
12. The DMO arranges for the translation of the unclassified summary into a language understood by enemy combatant.
13. The AMO reviews all information provided to the ARB by the DMO.
14. The AMO meets with assigned enemy combatant, explains the nature of the ARB hearing, offers to assist the enemy combatant in making a presentation to the ARB, and at the enemy combatant's election may make a presentation to the ARB.

Exhibit 3-2

### **Enclosure (3)**

15. Enemy combatant makes election on participation in proceeding. [Participation means presence at ARB hearing.]
16. The ARB convenes for a record review of information, classified and unclassified.
17. ARB can request additional information as necessary.
18. Record review adjourns.

#### **B. Review Proceeding**

19. The ARB holds Review Proceeding. Hearings in the presence of the enemy combatant shall only relate to unclassified information. A qualified interpreter shall be present if necessary. The AMO may make a presentation (outside the enemy combatant's presence) relating to classified information.
20. Proceedings conducted with the enemy combatant present shall be recorded on audiotape.
21. The ARB determines whether any additional information is necessary before it makes a recommendation.
22. The ARB prepares a record of the proceeding.
23. The ARB prepares a written assessment on whether the enemy combatant constitutes a threat to the United States or its allies, or should otherwise continue to be detained.
24. Based on the assessment, the ARB decides by majority vote whether to recommend the release, transfer, or continue to detain the enemy combatant.
25. The ARB submits the assessment, record of proceedings, and recommendation to the DCO, and any dissenting opinion.
26. The ARB forwards a copy of the assessment and recommendation to any U.S. agency that submitted information.

#### **C. DCO Review Process**

27. The DCO reviews the ARB assessment, record of proceeding, and recommendation.
28. The DCO may request additional information from the ARB if necessary.
29. The DCO decides whether to release, transfer, or continue to detain the enemy combatant
30. The DCO will notify the Secretary of Defense of the DCO's decision and coordinate within DoD and the Department of State to implement any enemy combatant release or transfer matters. The OARDEC will also provide periodic feedback to the DCO on the status of enemy combatant releases or transfers.
31. Following the DCO decision to release, transfer with conditions, or retain, the OARDEC PAO will prepare a public statement announcing the decision of the DCO.

Exhibit 3-2

**Enclosure (3)**

**ARB Record Review Procedures**  
**(Recommended Procedures for the ARB prior to the hearing with the Enemy Combatant)**

**DMO:** This hearing is classified as SECRET/NOFORN [Other].

**PO:** The Board will come to order. Today's date is "x", the time is "x".

**PO:** The Board is convened by an order of the Designated Civilian Official for the Review of the Detention of Enemy Combatants, dated \_\_\_\_\_, a copy of which has been furnished to each member of the Board, the DMO, and the AMO.

The following persons named in the appointing order are present:

Presiding Officer (PO) (name)  
Member (name)  
Member (name)  
Designated Military Officer (name)  
Assisting Military Officer (name)

\* Specify which Board member has experience in the field of intelligence.

**PO:** This hearing has been convened for the purpose of considering the pertinent facts relating to the release, transfer with conditions, or continued detention of [Name] (ISN#). The Board will consider all available info related to (ISN #'s) case in order to make an assessment and subsequent recommendation to the DCO on whether to release, transfer with conditions, or continue to detain this enemy combatant.

**PO:** DMO, please read (or provide to the Board) the summary of the facts in this matter.

**DMO:** (DMO reads [or presents ARB with] the unclassified case summary.) The assessment from JTF-GTMO is "x". The assessment from CITF is "x". Additional info received from other agencies providing comments is "x". Information received from the country of origin is "x".

**PO:** Are there any questions or comments from the board with respect to [Name](ISN#)?

**MEM:** Questions and answers, as needed.

**PO:** AMO, do you have any questions?

**AMO:** (Yes/no, state questions if applicable)

**PO:** Do any board members have questions to be forwarded to other agencies?

Exhibit 3-3

**Enclosure (3)**

(Note: These questions will be answered prior to the final assessment and recommendation meeting following the hearing with (ISN #))

**PO:** The date for the hearing with (ISN#) will be on “x” date. AMO, relate all pertinent unclassified information to the (ISN#). The meeting is adjourned.



**Enclosure (3)**

**ARB Review Proceedings Procedures**  
**(Administrative Review Board Hearing with the Enemy Combatant)**

Follow this procedure when conducting and preparing the record of proceedings.)

**DMO:** The recorder is on, this hearing is UNCLASSIFIED.

**PO:** The Board will come to order. Today's date is "x", the time is "x".

**NOTE:** The DMO shall record the time and date of the opening and closing of each session of the Board and the presence (or absence) of all parties.

**PO:** The Board is convened by an order of the Designated Civilian Official for the Review of the Detention of Enemy Combatants, dated \_\_\_\_\_, a copy of which has been furnished to each member of the Board, the Designated Military Officer, and the Assisting Military Officer.

**PO:** This hearing has been convened for the purpose of considering the pertinent facts relating to the continued detention case of [Name] (ISN). The Board will consider all available info related to [Name's] case in order to make an assessment and subsequent recommendation to the DCO for release, transfer with conditions, or continue to detain. [Name], a qualified interpreter in [enemy combatant's language] is present.

(Enemy combatant's name if present. If not present delete this section), I shall now review with you the procedures for your participation in this Board.

Has the AMO explained the nature of this hearing?

(Enemy combatant's response)

Has the AMO provided you a written copy of your case summary in a language you understand?

(Enemy combatant's response)

(Note: If the answer is no, the Board will adjourn until this copy is provided.)

Do you know you may submit an oral or written statement in your own behalf?

(Enemy combatant's response)

**PO:** DMO, please read the summary of the government's facts in this matter.

**DMO:** (DMO reads the unclassified case summary.)

Exhibit 3-4

**Enclosure (3)**

**PO:** Do you understand the summary just presented?

**EC:** Yes/no.

**PO:** Do you have any statement you wish to make with respect to this case? If so, please make your statement now, or if you wish the AMO may speak on your behalf.

**EC:** (makes statement)

**PO:** Do any Board members wish to question [Name]?

**MEM:** (ask questions)

**PO:** [Name], if a decision is made that you are eligible for release or transfer to [your country] or a third country, do you have any fear or concern about returning to [your country] or any other country?

**EC:** (response)

**PO:** If there are no further questions by the Board members, the Board is adjourned. The recommendation of the Board will be forwarded to the DCO for final decision and you will be notified in writing of the outcome.

Exhibit 3-4

**Enclosure (3)**

**ARB Review Proceeding Procedures**  
**(Recommended Final Assessment Procedures of the Administrative Review Board  
after the hearing with the Enemy Combatant)**

**DMO:** This hearing is classified as SECRET/NOFORN [Other].

**PO:** The Board will come to order. Today's date is "x", the time is "x".

**PO:** The Board is convened by an order of the Designated Civilian Official for the Review of the Detention of Enemy Combatants, dated \_\_\_\_\_, a copy of which has been furnished to each member of the Board, the DMO, and the AMO.

The following persons named in the appointing order are present:

Presiding Officer (PO) (name)  
Member (name)  
Member (name)  
Designated Military Officer (name)  
Assisting Military Officer (name)

\* Specify which Board member has experience in the field of intelligence.

**PO:** This hearing has been convened for the purpose of making a recommendation to the DCO considering the release, transfer with conditions, or continued detention of [Name] (ISN#). The Board will consider all available info related to [Name's] case in order to make an assessment and subsequent recommendation to the DCO on whether to release, transfer with conditions, or continue to detain this enemy combatant.

**PO:** Are there any final questions or comments from the Board with respect to (ISN#)

**MEM:** Questions and answers session.

**PO:** AMO, do you have any questions or further information to provide?

**AMO:** (Yes/no, state questions if applicable)

**PO:** How do the Board members vote in this case? Your choices are release, transfer with conditions, or continue to detain.

**MEM:** I vote "x"

**MEM:** I vote "x"

**PO:** I vote "x"

Exhibit 3-5

**Enclosure (3)**

**PO:** This concludes the ARB for (ISN #). DMO, prepare our recommendation for the DCO and forward for final decision. The meeting is adjourned.

**If the recommendation is made to continue to detain the enemy combatant the OARDEC will schedule the date of next year's review for this enemy combatant.**

Exhibit 3-5

## Enclosure (3)

### ARB Summary Proceedings Procedures

#### A. Preliminary Proceedings.

1. The Designated Civilian Official (DCO) identifies enemy combatant as eligible for ARB review (e.g., enemy combatant is not subject to 13 Nov 01 Military Commission Order).
2. USD(P), acting as an agent for the DCO will provide a recommended case flow to the DCO through the OARDEC.
3. The DCO (and/or the Director, Office for the Administrative Review of the Detention of Enemy Combatants (Director) determines whether solicitation of information from (a) enemy combatant's home State and (b) family is consistent with national security
4. Unless determined not to be consistent with national security, the DCO requests Department of State (DOS) to notify the enemy combatants home State, invite submission of information from the home State, and request that State to notify the enemy combatant's relatives and inform them of the opportunity to submit any relevant information through that State's submission.
5. The DCO (and/or Director) designates Administrative Review Board from pool of selected officers.
6. The Director or his designee selects the Designated Military Officer (DMO).
7. The ARB or, if designated, the DMO, provides notice of the ARB proceeding to the State Department, Department of Justice (DOJ), Central Intelligence Agency (CIA), Department of Homeland Security (DHS), the National Security Council (NSC), OSD, and the Joint Staff in writing and with sufficient time (approx 30 days) to enable the agencies to provide information relevant to the enemy combatant's release or continued detention.
8. The DMO assembles all threat and other information relevant to the enemy combatant, including such information as provided by the home State, the enemy combatant's family, and other USG agencies and provides case information to the ARB.
9. The DMO prepares and provides the Review Board classified/unclassified Summary of factors favoring (a) release, (b) transfer with conditions or (c) continue to detain the enemy combatant.
10. The DMO/Review Board, in accordance with standard security procedures, must secure originating agency clearance in the event Summary derived from classified or sensitive law enforcement information originating from DOS, DOJ, CIA, or DHS.
11. The DCO designates an Assisting Military Officer (AMO) to assist the enemy combatant in the ARB proceedings.
12. Arrange for the translation of the unclassified summary into a language understood by enemy combatant.
13. The AMO reviews all information provided to the ARB by the DMO.
14. The AMO meets with assigned enemy combatant, explains the nature of the Review Board hearing, offers to assist enemy combatant in making presentation

Exhibit 3-6

### **Enclosure (3)**

- to the Board, and may make a presentation without the enemy combatant (waived right of appearance/to make comment) to Review Board.
15. The enemy combatant makes election on participation in proceeding.
  16. The enemy combatant elects, in writing, to not participate in the ARB process.  
[Participation means presence at Review Proceeding.]

#### **B. Summary Proceeding.**

17. The ARB convenes a Summary Proceeding for review of record information, classified and unclassified.
18. ARB can request additional information as necessary.
19. The ARB prepares a record of the proceedings.
20. The ARB prepares a written assessment on whether the enemy combatant constitutes a threat to the United States or its allies, or other factors favor detention. Based on the assessment, the ARB decides by majority vote whether to recommend the release, transfer, or continued detention of the enemy combatant.
21. The ARB submits the assessment, record of proceedings, and recommendation to the DCO, and any dissenting opinion.
22. The ARB forwards a copy of the assessment and recommendation to any U.S. agency that submitted information.

#### **C. DCO Review Process**

23. The DCO reviews the ARB assessment, record of proceeding, and recommendation.
24. The DCO may request additional information from the ARB if necessary.
25. The DCO decides whether to release, transfer, or continue to detain the enemy combatant.
26. The DCO may request additional information from the ARB if necessary.
27. The DCO decides whether to release, transfer, or continue to detain the enemy combatant.
28. The DCO will notify the Secretary of Defense of the DCO's decision and coordinate within DoD and the Department of State to implement any enemy combatant release or transfer matters. The OARDEC will also provide periodic feedback to the DCO on the status of enemy combatant releases or transfers.
29. Following the DCO decision to release, transfer with conditions, or retain, the OARDEC PAO will prepare a public statement announcing the disposition of the enemy combatant with unclassified reasons for the DCO's decision. The statement will include the name of the enemy combatant if consistent with national security.

Exhibit 3-6

**Enclosure (3)**

**ARB Record Review Procedures**  
**(Recommended Procedures for the Administrative Review Board prior to the hearing with the Enemy Combatant)**

**DMO:** This hearing is classified as SECRET/NOFORN [Other].

**PO:** The Board will come to order. Today's date is "x", the time is "x".

**PO:** The Board is convened by an order of the Designated Civilian Official for the Review of the Detention of Enemy Combatants, dated \_\_\_\_\_, a copy of which has been furnished to each member of the Board, the DMO, and the AMO.

The following persons named in the appointing order are present:

Presiding Officer (PO) (name)  
Member (name)  
Member (name)  
Designated Military Officer (name)  
Assisting Military Officer (name)

\* Specify which Board member has experience in the field of intelligence.

**PO:** This hearing has been convened for the purpose of considering the pertinent facts relating to the continued detention of (ISN#). The Board will consider all available info related to (ISN #'s) case in order to make an assessment and subsequent recommendation to the DCO for continued retention or release.

**PO:** DMO, please read (or present) the summary of the facts in this matter.

**DMO:** (DMO reads [or presents ARB with] the unclassified case summary.) The assessment from JTF-GTMO is "x". The assessment from CITF is "x". Additional info received from other agencies providing comments is "x". Information received from the country of origin is "x".

**PO:** Are there any questions or comments from the board with respect to [Name](ISN#)?

**MEM:** Questions and answers sessions.

**PO:** AMO, do you have any questions?

**AMO:** (Yes/no, state questions if applicable)

**PO:** Do any board members have questions to be forwarded to other agencies?

Exhibit 3-7

**Enclosure (3)**

(Note: These questions will be answered prior to the final assessment and recommendation meeting following the hearing with (ISN #))

**PO:** The date for the hearing concerning (ISN#) will be on “x” date. AMO, provide all pertinent unclassified information to [name]. The meeting is adjourned.



**Enclosure (3)**

**ARB Summary Proceeding Procedures**  
**(Recommended Final Assessment Procedures of the ARB if Enemy Combatant Waives Presence)**

**DMO:** This hearing is classified as SECRET/NOFORN [other].

**PO:** The Board will come to order. Today's date is "x", the time is "x".

**PO:** The Board is convened by an order of the Designated Civilian Official for the Review of the Detention of Enemy Combatants, dated \_\_\_\_\_, a copy of which has been furnished to each member of the board, the DMO, and the AMO.

The following persons named in the appointing order are present:

Presiding Officer (PO) (name)

Member (name)

Member (name)

Designated Military Officer (name)

Assisting Military Officer (name)

[Name] the enemy combatant has waived his presence at this hearing. Exhibit \_\_\_\_ pertains.

\* Specify which Board member has experience in the field of intelligence.

**PO:** This hearing has been convened for the purpose of making a recommendation to the DCO considering the continued detention of [Name] (ISN#). The Board will consider all available info related to (ISN #'s) case in order to make an assessment and subsequent recommendation to the DCO for retention or release.

**PO:** Are there any final questions or comments from the board with respect to (ISN#)

**MEM:** Questions and answers session.

**PO:** AMO, do you have any questions or further information to provide?

**AMO:** (Yes/no, state questions if applicable)

**PO:** How do the board members vote in this case? Your choices are release, continue to detain, or transfer with conditions.

**MEM:** I vote "x"

**MEM:** I vote "x"

**PO:** I vote "x"

Exhibit 3-8

**Enclosure (3)**

**PO:** This concludes the ARB for [Name] (ISN #). DMO, prepare our recommendation for the DCO and forward for final decision. The meeting is adjourned.

**If the recommendation is made to continue to detain the enemy combatant the OARDEC will schedule the date of next year's review for this enemy combatant.**

## Enclosure (3)

### Threat Assessment Guidelines

Existing assessments of the possible threat a particular enemy combatant poses will be made available to the Administrative Review Board (ARB). Both Joint Task Force-Guantanamo Bay (JTF-GTMO) and the DOD Criminal Investigation Task Force (CITF) prepare assessments that are based on three categories. Those categories are as follows:

Low Threat: Observations of and information available concerning this enemy combatant indicate he is **unlikely** to pose a threat. He may have one or more of the following characteristics:

- He had little or no combatant or terrorist training
- He had few, if any associations with terrorists or supporters
- He may have been a low-level combatant, if he was involved at all in hostilities
- He does not appear to have demonstrated commitment to jihad
- He does not appear to have special skills, education, or other capability to organize, coordinate, or participate in acts against the U.S.
- He was not a leader
- He does not appear to have demonstrated substantial capacity for violence
- He has appeared to be generally truthful and consistent in his statements

Medium Threat: Observations of, and information available concerning this enemy combatant, indicate he may **possibly** pose a threat. He may have one or more of the following characteristics:

- He had some level of combatant or terrorist training
- He had some associations with known terrorist organizations or supporters
- He may have participated in hostile action against the U.S. or allies
- He has demonstrated at least some level of commitment to jihad by his statements, associations, or activities (including travel patterns)
- He is, or may be vulnerable to recruitment for terrorist or supportive groups
- He does not appear to be a senior leader
- He does not appear to have participated or directly supported terrorist acts, or been a key member of a terrorist network
- He may have some special skills that give him capability to participate in or support terrorism.
- He may have been cooperative, but his veracity may be questioned

High Threat: Observations of, and information available concerning this enemy combatant, indicate he is **likely** to pose a threat. He may have one or more of the following characteristics:

- He is or was a confirmed member of al Qaida or other terrorist organization
- He had some level of advanced combatant or terrorist training
- He participated in hostile acts, or directly planned, supported, or facilitated terrorism, and has the capability to continue to do so
- He has demonstrated commitment to jihad

Exhibit 3-9

### Enclosure (3)

- He may have been a mid- to high-level leader in the Taliban or other group that directly supported al Qaida
- He had definite links to known al Qaida, and may have been a key member of a terrorist network
- He may have exhibited direct hostility, or may have demonstrated that he cannot be trusted

In addition to the above, the following represents four relevant factors that may be considered when attempting to determine the possible threat the reviewed enemy combatant represents to the U.S. or allied interests:

1. Commitment- Pattern of behavior that demonstrates a commitment to extremist ideology and commitment to jihad.
  - Participated in private mosque, Madrassah or religious group that is known to adhere to extremist ideology oriented towards violence against the U.S. or allied interests
  - Adhered to ideology that articulates the obligation of jihad and committing attacks against the U.S. or allied interests. Adherent to ideology propagated by al Qaida and other radical fundamentalist groups or organizations
  - Has a special position in a mosque that advocates violence against the U.S.
  - Teaches extremist ideology
  - Demonstrates leadership with affiliated terrorist groups or cells
2. Capability- It is evident that the enemy combatant has completed at minimum basic training AND
  - Participated in two training camps or attended some specialized terrorist training, short course or training for special skills: bomb making, communications, assassination, or special attack methodology that could be utilized to attack the U.S. or allied interests
  - Was a trainer at such camp
  - Was a recruiter for al Qaida
  - Participated in at minimum one jihad and served in combat against U.S. forces
  - Participated as a leader of a combat unit against U.S. forces
  - Possesses significant skills that with appropriate motivation could contribute to the al Qaida and/or affiliated networks contributing to the development of WMD
  - Is from a country of origin that does not participate in joint enforcement of GWOT or from a country that has no ability to manage the risk associated with an individual who is intent on participating in attacks against the U.S.
3. Connection- Enemy combatant has been linked to other enemy combatants, or to suspects of high intelligence or law enforcement value, who have a corroborated connection to an al Qaida or an affiliated terrorist network. The enemy combatant:

Exhibit 3-9

### Enclosure (3)

- Has had contact and close relationships with known senior al Qaida members
  - Has been observed while in detention to demonstrate radicalized behavior and has attempted to recruit others to adhere to violent precepts
  - Has been observed while in detention to demonstrate behavior and attempt to recruit others to disrupt detention facility operations that would endanger other enemy combatants or U.S. forces
  - Evidence suggests the enemy combatant has engaged in considerable travel along routes consistent with al Qaida and other terrorist groups seeking to threaten U.S. interests and travel along these routes is inconsistent with standard travel for non-jihadists
4. Intention- Enemy combatant continues to communicate intent to participate in operations against the U.S. or allied interests:
- Enemy combatant has demonstrated attempts to continue cell organization, radicalization and to motivate others toward violence
  - The enemy combatant's plan for release is to continue jihad

Recommendations for release, transfer, or continued detention should adhere to the risk criteria cited below, reviewed in conjunction with the JTF-GTMO and CITF threat assessments:

A. High Risk: The enemy combatant should be considered a high risk due to his level of skill, substantial capability to engage in or to direct violence, and/or association with known terrorists. The enemy combatant's skill set, coupled with his commitment to jihad against the U.S. or allied interests might enable him to re-enter the terror network and participate in hostile acts against the U.S. or its allies. The enemy combatant should be categorized as a High Risk if information from the case file clearly demonstrates one or more of the following:

- Commitment to extremist ideology
- Jihad associations with known terrorists and known terrorist attacks
- Membership in an organization known to be affiliated with terrorism
- Advanced or more specialized terrorism training
- Participation in jihad or multiple jihads.
- Additional information suggests the enemy combatant is a leader or has held a senior position with a terrorist organization that is committed to attacking the U.S. or allied interests
- Planning, supporting, executing or directing terrorist attacks against the U.S. or its allies
- Multiple meetings in multiple locations with senior terrorists or extremist leaders
- Available information has been reviewed and sufficiently corroborated to suggest that if released or transferred, the enemy combatant is likely to

Exhibit 3-9

### **Enclosure (3)**

pose an imminent threat to the U.S. or allied interests

#### **B. Medium Risk Assessments**

An enemy combatant may be considered a medium risk if his record indicates he may meet some of the above criteria however, the home State to which the enemy combatant may be transferred or released has security services with a moderate capability to minimize the risk to the U.S. or allied interests.

#### **C. Low Risk Assessments**

An enemy combatant may be considered a low risk if he does not meet the above thresholds for high or medium risk, or if the enemy combatant meets the high or medium risk criteria and the home State to which the enemy combatant may be transferred or released has security services with a moderate capability to minimize the risk to the U.S. or allied interests.

Exhibit 3-9

## **Enclosure (4)**

### **Designated Military Officer Qualifications, Roles and Responsibilities**

1. The role and duties of the Designated Military Officer (DMO) are described in reference (a). Further guidance is provided below:

#### **(a) Qualifications of the DMO**

- (i) For each case, the Director, OARDEC shall select a DMO from a pool of officers designated in writing by the DCO to serve as DMOs. Military officers assigned to serve as DMOs shall be those who are, in the DCO's view, qualified for the duty by reason of education, training, experience, length of service, temperament, and objectivity.
- (ii) DMOs shall carry a service grade of O-4 or higher, and shall be selected from among all the military services.
- (iii) DMOs must have a security clearance of TOP SECRET with eligibility for TS/SCI.
- (iv) DMOs shall not be Judge Advocates or Chaplains.

#### **(b) Role of the DMO**

- (i) The DMO is not an advocate for or against the continued detention of the enemy combatant under review.
- (ii) The DMO has a duty to present to the ARB all relevant and reasonably available information in the possession of DoD or provided by other government agencies with regard to the presence or absence of any threat by the enemy combatant under review, or with regard to the continued detention of the enemy combatant.
- (iii) The DMO will have due regard for classified information and safeguard it in accordance with applicable instructions and regulations. The DMO will coordinate with an Information Security Officer (ISO) in the safeguarding of classified material during the ARB process.

#### **(c) Responsibilities of the DMO**

- (i) For each assigned enemy combatant case under review, the DMO will obtain and examine all reasonably available information in the possession of DoD and all information submitted by other U.S. agencies, the enemy combatant's family, the enemy combatant's home State or the enemy combatant himself. This information will be summarized in a classified summary. A sample summary is included as Exhibit 3-2.

## Enclosure (4)

- (ii) The DMO will permit the assigned Assisting Military Officer (AMO) access to all information and documentation in the possession of the DMO.
- (iii) The DMO will ensure that coordination is maintained with Joint Task Force-Guantanamo Bay and the Criminal Investigative Task Force.
- (iv) The DMO will prepare an unclassified written summary of the factors favoring release or transfer and the factors favoring continued detention. A sample summary is included as Exhibit 3-3. In preparing the written summary, the DMO will note the source of information for each item in the summary if the information originated in a U.S. government agency other than DoD and such information can be provided in unclassified form. The DMO will request permission from the non-DoD agency to share the information with the enemy combatant. In the event that the DMO is unable to obtain permission to share the non-DoD originated information, the DMO will prepare a revised unclassified written summary so that it does not contain information derived from the non-consenting agency. The DMO will provide the classified and unclassified summaries to the AMO and designate the unclassified version for the enemy combatant.
- (v) Upon request of the ARB, the DMO will present information orally to the ARB. The DMO shall also answer questions, if any, asked by the ARB.
- (vi) Upon request of the ARB, the DMO will record the ARB's findings and prepare a Record of Proceedings, and, if applicable, a record of the dissenting member's minority report. The Record of Proceedings should include:
  - (A) the ARB's conclusion regarding the threat posed by the enemy combatant;
  - (B) the supporting reasons for the threat conclusion, including but not limited to a summary of information relied upon in reaching that conclusion;
  - (C) any other reasons that the continued detention of the enemy combatant does or does not remain in the interest of the United States and its allies; and
  - (D) the ARB's recommendation and the supporting reasons for the recommendation.
  - (E) Upon request of the ARB, the DMO will forward the record of proceedings to the DCO following the ARB hearing's conclusion. The record of proceedings may be classified or unclassified, depending upon the nature and classification of the information contained therein.
- (vii) The AMO and DMO shall not be the same person in the review of an enemy combatant.



**Enclosure (4)**

**Sample Classified Summary to the Administrative Review Board**

ISN:

Name:

Aliases:

Country of Origin:

**Brief Summary:** Provides a synopsis of how and under what circumstances the enemy combatant was captured.

**Military Commission Potential:** A characterization addressing a Reason To Believe that the enemy combatant could potentially fall under the President's Military Order of November 16, 2001 for possible trial by the Office of Military Commissions.

**Threat Assessment CITF:** Provides a characterization of the enemy combatant (based on the behavioral science and consultation team) potential to do harm to US and its allies.

**Threat Assessment JTF-GTMO:** Provides a threat assessment in support of a force protection determination (i.e., Will the enemy combatant take up arms against the US and its allies?).

**Intelligence Value:** Provides a synopsis of residual intelligence value and exploitation potential.

*(As applicable)*

**Home State information:** (provided by DoS)

**Information from Family Members:** (provided by Home State to DoS)

**Information from other relevant U.S. government agencies:** (letter is sent from ARB and tracked by the DMO for response).

Exhibit 4-1

**DRAFT**

6/29/2004 1:25 AM

**Enclosure (4)**

**Sample Unclassified Summary**  
**(for Assisting Military Officer and Enemy combatant)**

ISN:

Name:

Aliases:

Country of Origin:

**Summary:** DMO includes the following facts:

- Where was the enemy combatant captured?
- Who does the enemy combatant associate with (or not) that makes them a continued threat (or not a continued threat)?
- What organizations or movements does the enemy combatant participate in (or not) that makes him a continued threat?
- Other relevant data

**Notification**

You are hereby notified an Administrative Review Board will occur on XX for your case. You are invited to present any relevant information to the Administrative Review Board.

Exhibit 4-2

**DRAFT**  
6/29/2004 1:25 AM

## **Enclosure (5)**

### **Assisting Military Officer Qualifications, Roles and Responsibilities**

1. The role and duties of the Assisting Military Officer (AMO) are described in reference (a). All officers nominated for service as an AMO must complete a qualification questionnaire to be considered by the DCO. Further guidance is provided below:

#### **(a) Qualifications of AMO**

- (i) For each case, the ARB shall select an AMO from a pool of military officers designated by the DCO in writing. Individuals assigned to serve as AMOs shall be those who are, in the DCO's view, qualified for the duty by reason of education, training, experience, length of service, temperament, and objectivity.
- (ii) AMOs shall carry a service grade of O-4 or higher, and shall be selected from among all the military services.
- (iii) AMOs must have a security clearance of TOP SECRET with eligibility for TS/SCI.
- (iv) AMOs shall not be Judge Advocates or Chaplains.
- (v) The AMO and DMO shall not be the same person in the review of an enemy combatant.

#### **(b) Role of the AMO**

- (i) The AMO shall assist the enemy combatant in collecting all relevant information, preparing for and presenting information to the ARB. The AMO is not an advocate for or against the continued detention of the enemy combatant under review.
- (ii) The AMO has a duty to present to the ARB all relevant and reasonably available information in the AMO's possession with regard to the presence or absence of any threat by the enemy combatant under review, including incriminating statements made by the enemy combatant to the AMO or others.
- (iii) The AMO will ensure that coordination is maintained with Joint Task Force-Guantanamo Bay and the Criminal Investigative Task Force, particularly with respect to contact with the enemy combatant.
- (iv) The AMO will have due regard for classified information and safeguard it in accordance with applicable instructions and regulations. The AMO will coordinate with an Information Security Officer (ISO) in the safeguarding of classified material during the ARB process.

## Enclosure (5)

### (c) Responsibilities of the AMO

- (i) The AMO is responsible for explaining the nature of the ARB process to the enemy combatant. Upon first contact with the enemy combatant, the AMO will explain to the enemy combatant that no confidential relationship exists or may be formed between the enemy combatant and the AMO. The AMO will explain the enemy combatant's opportunity to make a personal appearance before the ARB. The AMO will request an interpreter, if needed, to aid the enemy combatant in making such appearance and in preparing his presentation. The AMO will explain to the enemy combatant that if he elects to make a personal appearance, then he may be subject to questioning by the ARB members, but he cannot be compelled to make any statement or answer any questions. If the enemy combatant waives a personal appearance, then the AMO will assist the enemy combatant in recording his waiver in writing. Section 2, below, provides guidelines for the AMO meeting with the enemy combatant prior to his appearance before the ARB.
- (ii) The AMO will review information and documentation that the DMO plans to present to the ARB.
- (iii) The AMO will review the written unclassified summary prepared by the DMO for the ARB. The AMO will ensure that the enemy combatant has been provided the unclassified written summary prepared by the DMO and that the summary is in a language the enemy combatant understands.
- (iv) Using the guidelines set forth in Section 2, the AMO will meet with the enemy combatant, using an interpreter if necessary, in advance of the ARB. In no circumstance will the AMO disclose classified information to the enemy combatant.
- (v) If the enemy combatant elects, the AMO will present information to the ARB on the enemy combatant's behalf. The enemy combatant may elect AMO assistance in addition to or in lieu of the enemy combatant's personal appearance at the ARB proceeding. The AMO may, outside the presence of the enemy combatant, comment upon classified information submitted by the DMO that bears upon the enemy combatant's presentation, if it would aid the ARB's deliberations.
- (vi) The AMO shall answer questions, if any, asked by the ARB.

## Enclosure (5)

### 2. AMO Guidelines for Assisting the Enemy Combatant

The AMO will use the guidelines provided below to assist the enemy combatant in preparing for the ARB hearing:

AMO: An administrative review process has been established by our government to annually review the detention of all the enemy combatants here.

A board of military officers will review your case in “x” number of days, and I have been assigned to ensure you understand this process. The board will review your case file, offer you an opportunity to speak on your own behalf if you desire, and ask questions. We have asked your country to provide a statement as well as comments from your family. Following the interview the panel will recommend whether you should continue to be held or be released.

I am to ensure you have seen or heard the summary of your case and understand it, and assist your preparation of an oral or written presentation to the panel should you desire to do so. I am also available to speak on your behalf at the meeting if you wish.

I am neither a lawyer nor your advocate, but have been given the responsibility of assisting your preparation for the hearing. None of the information we discuss will be held in confidence and I will discuss our meeting at the hearing.

Do you understand the process or have any questions about it?

Here is the summary of the information the board is using to determine your case.

(AMO either reads the unclassified summary, lets the EC read it himself, or has the translator read it to the EC.)

Do you understand or have any questions about the summary?

Do you wish to present information to the board?

(If the EC says no, state the following.)

You must formally waive your presence at this hearing in writing. Please sign this document. (This meeting is concluded.)

(At this time the hearing will be cancelled, and the ARB will move directly to the Assessment and Recommendation meeting as the review process has now become a Summary Proceeding.)

(If the EC says yes, continue with the following)

## **Enclosure (5)**

Here are some things you may want to consider for your statement during the meeting with the board.

1. Aspects of your capture.
2. Your record of behavior since you have been here.
3. Any plans or goals for the future you may have should you be released.
4. Explain why you are not a threat to the United States or its allies, and your willingness to make a statement to that effect.
5. Explain any other reasons why you believe you should no longer be detained here.
6. Questions you have for the board.

I will meet with you shortly before the hearing to discuss any further issues, and will be present with you at the meeting.

Do you have any further questions?

Sample Nomination Questionnaire



Department of Defense  
Office for the Administrative Review of the Detention of  
Enemy Combatants at Guantanamo Bay, Cuba

As a candidate to become an Administrative Review Board Member, Designated Military Officer or Assisting Military Officer, please complete the following questionnaire and provide to the Director, Office for the Administrative Review of Detained Enemy Combatants (OARDEC). Because of the sensitive personal information requested, no copy will be retained on file outside of the OARDEC.

1. Name (Last, First MI) \_\_\_\_\_ 2. Rank/Grade \_\_\_\_\_

3. Date of Rank \_\_\_\_\_ 4. Service \_\_\_\_\_ 5. Active Duty Service Date \_\_\_\_\_

6. Desig/MOS \_\_\_\_\_ 7. Date Current Tour Began \_\_\_\_\_

8. Security Clearance Level \_\_\_\_\_ 9. Date of clearance \_\_\_\_\_

10. Military Awards / Decorations: \_\_\_\_\_  
\_\_\_\_\_

11. Current Duty Position \_\_\_\_\_ 12. Unit: \_\_\_\_\_

13. Date of Birth \_\_\_\_\_ 14. Gender \_\_\_\_\_ 15. Race or Ethnic Origin \_\_\_\_\_

16. Civilian Education. College/Vocational/Civilian Professional School: \_\_\_\_\_

17. Date graduated or dates attended (and number of years), school, location, degree/major: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18. Military Education. Dates attended, school/course title. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. Duty Assignments. Last four assignments, units, and dates of assignments. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20. Have you had any close relative or friend killed or wounded in Afghanistan or Iraq?  
\_\_\_\_\_ Explain. \_\_\_\_\_

**Enclosure (6)**

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21. Have you had any close relative or friend killed, wounded, or impacted by the events of September 11, 2001? \_\_\_\_ Explain. \_\_\_\_\_

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22. Have you ever been in an assignment related to enemy prisoners of war or enemy combatants? \_\_\_\_\_ Explain. \_\_\_\_\_

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23. Do you believe you may be disqualified to serve as an ARB member, DMO or AMO for any reason? Explain. \_\_\_\_\_

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24. Your name as well as that of the detainee may be released to the public in conjunction with the results of the Administrative Review Boards. Could this potential public affairs release affect your ability to objectively recommend the continued detention of an enemy combatant?  
Y/N \_\_\_\_\_ Explain. \_\_\_\_\_

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SIGNATURE OF OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_

Approved \_\_\_\_ Disapproved \_\_\_\_\_ Director, OARDEC  
Approved \_\_\_\_ Disapproved \_\_\_\_\_ DCO, OARDEC



**Sample Administrative Review Board Designation Letter**



**Department of Defense  
Office for the Administrative Review of the Detention of  
Enemy Combatants at Guantanamo Bay, Cuba**

Ser

From: Designated Civilian Official

To: Rank, Name, SSN, Service

Subj: APPOINTMENT TO THE ADMINISTRATIVE REVIEW BOARD (ARB) FOR  
THE DETENTION OF ENEMY COMBATANTS AT GUANTANAMO BAY,  
CUBA

Ref: (a) Deputy Secretary of Defense Order, 11 May 2004

(b) Implementing Directive

1. Per reference (a), you are appointed as an Administrative Review Board (ARB) member to an administrative board to determine the disposition of enemy combatants detained at Guantanamo Bay, Cuba. Your appointment is effective immediately and you are directed to report for temporary assignment to the Department of Defense, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) until such time as determined by the Designated Civilian Official (DCO).
2. General procedural instructions are contained in reference (b). You are to familiarize yourself with references (a), (b) and other pertinent information prior to convening of the board.
3. You are directed not to discuss pending cases with anyone not directly involved with board proceedings and preparation.
4. Your appointment to the ARB is of national strategic importance and your selection to the board was based upon your training, education, experience, length of service, temperament and objectivity. Good luck.

Gordon R. England

Copy to:  
Board members

**DRAFT**

6/29/2004 1:25 AM

Enclosure (8)

**Sample Designated Military Officer Designation Letter**



Department of Defense  
Office for the Administrative Review of the Detention of  
Enemy Combatants at Guantanamo Bay, Cuba

Ser

From: Designated Civilian Official

To: Rank, Name, SSN, Service

Subj: APPOINTMENT AS DESIGNATED MILITARY OFFICER (DMO) FOR THE  
ADMINISTRATIVE REVIEW OF THE DETENTION OF ENEMY  
COMBATANTS AT GUANTANAMO BAY, CUBA

Ref: (a) Deputy Secretary of Defense Order, 11 May 2004

(b) Implementing Directive

1. Per reference (a), you are appointed as a Designated Military Officer (DMO) to an administrative board to determine the disposition of enemy combatants detained at Guantanamo Bay, Cuba. Your appointment is effective immediately and you are directed to report for temporary assignment to the Department of Defense, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) until such time as determined by the Designated Civilian Official (DCO).
2. General procedural instructions are contained in reference (b). You are to familiarize yourself with references (a), (b) and other pertinent information prior to convening of the board.
3. You are directed not to discuss pending cases with anyone not directly involved with board proceedings and preparation.
4. Your appointment as a DMO is of national strategic importance and your selection to the board was based upon your training, education, experience, length of service, temperament and objectivity. Good luck.

Gordon R. England

Copy to:  
DMOs

**DRAFT**

6/29/2004 1:25 AM

**Enclosure (9)**

Sample **Assisting Military Officer (AMO) Designation Letter**



**Department of Defense**  
**Office for the Administrative Review of the Detention of**  
**Enemy Combatants at Guantanamo Bay, Cuba**

Ser

From: Designated Civilian Official  
To: Director

Subj: APPOINTMENT AS ASSISTING MILITARY OFFICER (AMO) FOR THE  
ADMINISTRATIVE REVIEW OF THE DETENTION OF ENEMY  
COMBATANTS AT GUANTANAMO BAY, CUBA

Ref: (a) Deputy Secretary of Defense Order, 11 May 2004  
(b) Implementing Directive

1. Per reference (a), you are appointed as an Assisting Military Officer (AMO) to an administrative board to determine the disposition of enemy combatants detained at Guantanamo Bay, Cuba. Your appointment is effective immediately and you are directed to report for temporary assignment to the Department of Defense, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) until such time as determined by the Designated Civilian Official (DCO).
2. General procedural instructions are contained in reference (b). You are to familiarize yourself with references (a), (b) and other pertinent information prior to convening of the board.
3. You are directed not to discuss pending cases with anyone not directly involved with board proceedings and preparation.
4. Your appointment as an AMO is of national strategic importance and your selection to the board was based upon your training, education, experience, length of service, temperament and objectivity. Good luck.

Gordon R. England

Copy to:  
AMO

**DRAFT**

6/29/2004 1:25 AM