

POINT PAPER

AFRD-PM

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[REDACTED]
1 January 2002

ISSUE: Procedures following the death of a detainee in CFLCC custody

REFERENCES:

- AR 190-8 Enemy Prisoners of War, Retained Personnel, Civilian Internees, and other detainees, 1 OCT 97
- DA PAM 27-1 Treaties Governing Land Warfare, December 1956

POINTS:

- When a detainee in CFLCC custody dies, the attending medical officer will immediately furnish the camp commander with the following information:
 - Full name of the deceased.
 - Internment Serial Number (ISN) of the deceased.
 - Date, place, and cause of death.
 - Statement that death was, or was not, the result of the detainee's own misconduct.
 - When the cause of death is undetermined, the attending medical officer will make a statement to that effect. When the cause of death is determined, a supplemental report will be made.
- National Detainee Records Center (NDRC) will be notified immediately. All information from the medical officer listed above will be forwarded.
- The following CFLCC staff cells will be immediately notified for coordination:
 - Mortuary Affairs
 - Chaplain
 - C-1
 - PAO
 - SJA
- The attending medical officer and the camp commander will complete a DA Form 2669R (Certificate of Death). Copies of the DA Form 2699R will be distributed as follows:
 - Original - NDRC
 - Copy - Camp Records
 - Copy - CFLCC PMO
 - Copy - The Surgeon General
 - Copy - detainee's personnel file
- The camp commander will appoint an officer to investigate and report under the following circumstances:

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30 December 2001

ISSUE: Detainee Repatriation Issues Associated with OEF

POINTS:

- Detainees who are not sick or wounded will be repatriated or released at the cessation of hostilities as directed by OSD. (AR 190-8; page 14; para. 3-13)
- The following detainees shall be repatriated directly, upon being certified as fit for travel:
 - Incurably wounded or sick, whose mental or physical fitness seems to have been gravely diminished.
 - Wounded and sick, who according to medical opinion, are not likely to recover within one year, whose mental or physical fitness seems to have been gravely diminished.
 - Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely diminished.
- Sick and wounded detainees will not be repatriated against their will during hostilities.
- Following Desert Storm, this process was rather straightforward. Iraqi EPWs were repatriated to Iraq. However, in the case of OEF, no such clear-cut solution is probable. Detainees are from many different nations and their countries of citizenship may demand that detainees be repatriated to them. Furthermore, it is quite possible that Afghanistan will refuse to take many of the detainees back.
- Repatriation of detainees may necessitate the establishment of numerous repatriation points throughout the world.
- In the absence of stipulations in any agreement concluded between the parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principles laid down in the Geneva Convention. (Geneva Convention Relative to the Treatment of Prisoners of War, 12 AUG 1949. Article 118)

ASSUMPTIONS:

- Currently, there are no international agreements concluded between Coalition/NATO partners and the various powers on which detainees depend (country of citizenship) stipulating conditions for repatriation upon cessation of hostilities.

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- Currently, there is no written guidance from OSD on procedures for handling Detainee repatriation in support of OEF operations.
- Currently, there are no established procedures or written plans for the repatriation of detainees to the power on which they depend.

DISCUSSION:

- Status of detainees, once determined, will determine the method by which they will be returned to their country of citizenship.

- Those detainees determined to be EPWs will be repatriated IAW the Geneva Convention.

- Detainees classified as criminals, will probably become the responsibility of DOJ.

- Detainees who are determined to be of no US interest will be treated as EPWs IAW DOD/DA policy. (DOD Directive 2310.1 para. 3-3 and AR 190-8 para. 1-5,a,2) As such, repatriation policies applicable to EPW, may be applied to them IAW DOD/DA policy.

RECOMMENDATION: Propose to the SECDEF that a policy be established and a plan developed for the repatriation of detainees associated with OEF. Specifically, guidance is needed concerning repatriation of the following categories of detainees:

- Non-Afghani detainees whose country of citizenship wants custody of them
- Detainees of no further US interest, who no country will accept.



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