DECLARATION OF WILLIAM K. LIETZAU

(Dated December 17, 2010)

Pursuant to 28 U.S.C. § 1746, I, William K. Lietzau, hereby declare the following:

1. I am the Deputy Assistant Secretary of Defense for Detainee Policy. I have held this position since February 16, 2010. In this capacity, I am responsible for developing policy recommendations and coordinating global policy guidance relating to individuals captured or detained by the Department of Defense (“DoD”).

2. In late 2009, all of the detainees at the Bagram Theater Internment Facility (“BTIF”), which is located on Bagram Airfield in Afghanistan, were transferred to a newly constructed detention facility known as the Detention Facility in Parwan (“DFIP”). The DFIP is located on the outer perimeter of Bagram Airfield. This location is intended to facilitate its eventual transfer to the Government of the Islamic Republic of Afghanistan (“GIRoA”).

3. The Combined Joint Interagency Task Force 435 (“CJIATF 435”), with the concurrence of General David Petraeus, Commander, U.S. Forces Afghanistan (“USFOR-A”), will begin to transition detention operations at the DFIP to the GIRoA in January 2011. The speed of such transition will depend on, inter alia, operational conditions, Afghan judicial capacity, and whether the GIRoA is fully trained, equipped, and able to perform its detention, prosecution, and incarceration responsibilities in accordance with its international obligations and Afghan law. The GIRoA has indicated that ultimately it intends to utilize the DFIP to consolidate insurgents detained for “crimes against the security of the state” (some of whom are currently in other prison facilities in Afghanistan).

4. CJIATF 435 is in the process of expanding capacity at the DFIP by adding three new detainee housing units. The Afghan Ministry of Defense will assume control of these three housing units as soon as construction is complete and a sufficient number of Afghan guards are fully trained to operate them. Transition of the remainder of the DFIP will continue consistent with the conditions-based approach discussed above.

5. CJIATF 435 is also in the process of training 2,000 guards employed by the Afghan Ministry of Defense to operate the DFIP. The goal is to have 400 to 500 guards fully trained to operate the three housing units that are currently under construction as soon as construction is complete and to have the remainder of the guard force fully trained to operate the remainder of the DFIP consistent with the conditions-based transition discussed above. CJIATF 435 intends to provide

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1 CJIATF 435, a part of USFOR-A, has the responsibility for U.S. detention operations in Afghanistan, including the care and custody of detainees at the DFIP and oversight of the detainee review process.

2 Since 2009, we have been transitioning detention operations and facilities in Iraq, and U.S. Central Command will draw on lessons learned and best practices developed during that successful experience to ensure that the transition of detention operations in Afghanistan is a smooth one and that the turnover process is accomplished responsibly.
the GIRoA continuing mentoring and other support at the DFIP during the early stages of the GIRoA’s assumption of responsibility.

6. In order to expedite transition of the DFIP to the GIRoA for purposes of consolidating insurgents detained for “crimes against the security of the state,” CJIATF 435 intends to construct at least one additional detainee housing unit adjacent to the DFIP during the next year. This additional detention capacity will enable U.S. forces to continue to conduct detention operations on a limited basis during the ongoing surge in military operations in Afghanistan and pending the transfer of non-Afghan detainees to their home countries or to third countries. U.S. Forces will eventually transition this additional detention capacity to the GIRoA, consistent with the conditions-based approach discussed above.

7. Consistent with a memorandum of understanding signed by the pertinent Afghan ministries on January 9, 2010, it is expected that once the DFIP is transferred to the GIRoA, it will become part of a larger Afghan Justice Center in Parwan, which is intended to become Afghanistan’s central location for the pre-trial detention, prosecution, and post-trial incarceration of individuals who commit crimes against Afghan security.

8. An integral part of the transition effort is to build Afghanistan’s legal capacity for prosecuting under Afghan law individuals currently held by the United States at the DFIP. On June 8, 2010, the first Afghan trial was held at the DFIP with Afghan judges, prosecutors, and defense counsel conducting the trial. Upon completion of construction of the additional housing units at the DFIP, individuals who are convicted and sentenced in the Afghan trials at the DFIP will serve their sentences in those Afghan-controlled DFIP housing units.

9. All detainees currently held by U.S. forces at the DFIP, including non-Afghan detainees, receive periodic administrative reviews of their status, threat, and potential for rehabilitation and reintegration, in accordance with the detainee review board procedures initiated in July 2009. In cases involving non-Afghan detainees where the result of a detainee’s periodic review indicates that the detainee’s threat may be mitigated by some lawful means other than continued internment by U.S. forces, the United States may seek, in accordance with U.S. policy and applicable international law, to transfer the detainee to the control of other governments when those governments are willing to accept responsibility for ensuring, consistent with their laws, that the detainee will not continue to pose a threat to the United States and its allies and where such transfer would be consistent with the United States’ policies relating to the humane treatment of transferees. Once transferred, detainees may be subject to release, detention, investigation, and/or prosecution if appropriate under the receiving country’s laws. Such governments can include the government of a detainee’s home country, or a country other than the detainee’s home country, including a country that may have a law enforcement, prosecution, or other interest in the detainee.
10. Although the DFIP facilities and operations, once transitioned, are designed to support Afghan criminal processes in a stable Afghanistan, Afghanistan presently continues to be an active theater of war, and the DFIP currently is used by the United States for detaining enemy forces. As discussed above, however, the DFIP is not intended to serve as a permanent U.S. facility. The United States does not intend to continue to use the DFIP to detain any person pursuant to the Authorization for the Use of Military Force, as informed by the law of war, beyond the cessation of hostilities with the Taliban, al Qaida, and associated forces. The United States has no interest in holding detainees longer than necessary.

11. Drawing on our successful experiences in Iraq will help to ensure that the transition in Afghanistan is accomplished responsibly. Moreover, U.S. forces will remain involved until the GIRoA has the trained personnel and infrastructure to be able to assume detention operations. Further, as necessitated by the presence of U.S. and coalition forces who are conducting operations in concert with Afghan forces to defeat the Taliban, al Qaeda, and associated forces, U.S. forces may need to maintain some detention capacity in Afghanistan, pursuant to the law of war, as long as military operations continue.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 17, 2010.

WILLIAM K. LIETZAU
Deputy Assistant Secretary of Defense (Detainee Policy)
U.S. Department of Defense