

**MEMORANDUM  
DRAFT**

July 2003

**Treatment of internees/detainees**

1. The current ROE allow UK Forces to temporarily detain civilians where they pose a threat to the Coalition Forces or interfere or threaten the Coalition mission. This is perfectly sensible but, at the present time, there are currently five investigations being conducted by the SIB into the death or serious assaults of Iraqi civilians who have been temporarily detained by UK Forces.
2. Whereas I cannot predict the outcome of these investigations, there was a further incident last week where one of our Coalition partners refused to hand over a prisoner over to a battle group as a result of the instructions they were given with regard to the treatment of the prisoner.
3. Legal direction with regard to the treatment of civilians (whether detainee or internee) has already been provided by my Legal Branch both in ROE briefings and by FRAGO but, despite these instructions, there continues to be incidents where civilians are maltreated whilst being temporarily detained by the Battle Groups.
4. The legal position is perfectly clear. Civilians must be treated with humanity and dignity at all times whatever they are alleged to have done. They must receive sufficient food and water and be held in acceptable conditions. They must not be mistreated in any way and, in simple terms, they should be treated no differently from our soldiers.
5. If civilians are not treated in this fashion then it may amount to a breach of International or national Law and may also cause unnecessary political or media embarrassment. Needless to say the International Committee of the Red Cross (ICRC) is informed of all internees and will interview prisoners about their treatment.
6. It is a Command responsibility to ensure compliance with the Law of Armed Conflict and this responsibility is personal to all Commanders at whatever level. I therefore expect my Commanders to personally ensure that prisoners are treated correctly.
7. In addition, and to reinforce this message further, cards on the temporary detention of civilians will be produced for all troops in Theatre and this will contain clear guidelines on the standard of treatment expected. Finally, Legal Branch will be available to provide briefings on this subject as and when they are required.

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8. International Law must be complied with at all times and nothing less will do. It is hoped that there will not be a repetition of these unfortunate incidents but Commanders may be held liable if this matter is not brought fully under control.

GOC

N J Mercer  
Lt Col  
Comd Legal

Distribution

Information

Chief G2  
SO2 Detention  
SO2 Pro