

UNCLAS

DETENTION OF CIVILIANSIntroduction

1. There have recently been a number of deaths in custody where Iraqi civilians have died whilst being held by various units in Theatre. [REDACTED]

[REDACTED] A number of these cases are currently being investigated by the SIB but all units in Theatre are to ensure that all persons detained by UK Forces are treated with humanity and dignity at all times.

ROE

2. The ROE for Phase IV of OP TELIC are currently in draft and have not yet been agreed. Brigades have had a chance to comment on the draft ROE but, for political reasons, Phase IV ROE appear to have been delayed. The current ROE are therefore extant and the following ROE apply to the detention of individuals;

680 BRAVO (ONE) Permits the temporary detention of persons posing a threat to Coalition Forces or elements under UK protection or otherwise interfering with or threatening the Coalition mission.

690 CHARLIE (ONE) [REDACTED]

3. It should be noted that the power to stop and search and temporarily detain can be used either if the person is a threat to force security or where someone has committed a criminal offence. Both are regarded as "interfering with or threatening the Coalition mission".

MINIMUM FORCE

4. Reasonable force may be used to effect the detention and search but this only allows the **minimum force necessary** to be used. Guidance on search has already been provided (FRAGO 79) but once the person has been detained they should be handed over to the Military Police as quickly as possible. This should occur within six hours of detention. However, this does not mean that a unit can hold for up to six hours but rather the delivery to the RMP should occur as **soon as possible**. The guidance allowing up to six hours is to take account of those units which might be in remote locations. All other units should attempt to deliver the detained person in under an hour.

5. If a unit has to hold a detained person prior to the arrival of the Royal Military Police or to await transport or for any other unavoidable reason the detained person should be treated with **humanity and dignity** at all times. They should not be assaulted. They should be provided with water in all cases and food if they are detained for longer. If they

1
UNCLAS

UNCLAS

need to be restrained then this should only be affected where absolutely necessary and using the minimum force required. Under no circumstances should their faces be covered as this might impair breathing. Medical assistance should also be close at hand at all times. The Royal Military Police are specially trained in all these matters and timely delivery to the Military Police is the best way to ensure that the correct procedures are adopted at the outset.

GENEVA CONVENTION

6. The Law of Armed Conflict still applies during Occupation and there are very strict rules when it comes to dealing with civilians. They are to be treated humanely at all times and protected against all acts of violence or threats of violence. The use of force is therefore only permitted where absolutely necessary to detain or search and the excessive use of force could breach the Geneva Convention.

MILITARY LAW

7. Members of the Armed Forces are subject to military law at all times when serving on Military Operations. If a civilian is assaulted or mistreated in any way this could amount to a breach of Military Law which could result in disciplinary action being taken. If a detainee is assaulted, excessive force used or the detained civilian suffers injury or death as a result of not receiving humane treatment then disciplinary action will probably follow.

CONCLUSION

8. The detention of civilians will continue to be necessary whilst UK Forces are in Occupation of Iraq and have responsibility for law and order. It is important that we continue to detain those who interfere with or threaten the Coalition Mission. However, those detained need to be treated properly if we are to avoid death or injury and the justified criticism that arises if excessive force is used.

N J Mercer
Lt Col
Comd Legal

(See also HQ 1 (UK) ARMD DIV FRAGOs 079, 091 and 102)