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PRECEDENCE: IMMEDIATE

DTG: 031300DSEP03

FRAGO 005 TO MND (SE) OPO 03/03 - POLICY FOR APPREHENDING, HANDLING AND PROCESSING OF DETAINEES AND INTERNEES.

Time Zone Used Throughout the Order: DELTA (ZULU remains in force for aviation Ops).

References:

- A. 1949 Geneva Convention IV relative to the Protection of Civilian Persons in Time of War
- B. MND(SE) ROE Profile - Annex F to MND(SE) Iraq MOU dated Jul 03
- C. CPA Memorandum No 3 on Criminal Procedures dated 18 Jun 03

INTRODUCTION

1. Internment is permitted under Art 78 of Reference A where it is necessary for imperative reasons of security to restrict a person's liberty. It is distinct from detention which is the restriction of a person's liberty because they are suspected of criminal activity. Internees are not subject to the ordinary criminal system but their cases will be subject to review. The ROE at Reference B authorise internment and also detention, subject to individual Troop Contributing Nations' (TCN) declarations and clarifications.
2. This policy sets out the procedure for the handling of internees and detainees from the point of apprehension to the authorisation of continued detention, internment or release. The aim of this policy is to ensure a common approach to internee and detainee handling across the MND(SE) AO.

DEFINITIONS AND CATEGORIES

3. The following definitions apply:
 - a. Internees. Internees are persons whose liberty is restricted for imperative reasons of security.
 - b. Detainees. Detainees are persons who are apprehended on suspicion of committing a criminal offence.
4. Categories of detainees/internees. Guidance as to whether an apprehended person should be categorized as an internee or a detainee is contained at Annex A. Those suspected

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23. Legal advice should be obtained from individual Bde (NL BG) or HQ MND(SE) LEGADs. POC are as follows:

- a. Comd Legal HQ MND(SE), Lt Col Barnett, on [REDACTED] (PATRON) or [REDACTED] (mobile).
- b. HQ MND(SE) Legal Branch on [REDACTED] (PATRON) and on Duty Mobile [REDACTED]
- c. SO2 Legal 19 Bde, Maj Clifton on [REDACTED] (PATRON) or [REDACTED] (mobile).
- d. SO2 Legal NL BG, Maj Geretz.
- e. SO3 Legal Garibaldi Bde, Capt Milone.
- f. MPS at TIF [REDACTED] or MND(SE) Pro Branch [REDACTED] (PATRON)

24. HQ MND(SE) J3 SO2 Detainees/Internees will co-ordinate the meetings of the DIRC and will be the POC for information being passed to HQ MND(SE).

Ack:

R L BARRONS
COS
HQ MND(SE)

Auth:

S J HULME
SO2 J3
HQ MND(SE)

Annexes:

- A. Categories of captured personnel
- B. IZ Penal Code and Criminal procedure extracts
- C. Detention Certificate
- D. Internment Certificate
- E. Detention/Internment Record
- F. Reports and Returns Format
- G. Flow diagram
- H. Key responsibilities
- I. Detainee/Internee release authority form

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ANNEX H TO
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OUTLINE OF RESPONSIBILITIES

INTRODUCTION

1. This document supplements the policy on the handling of internees and detainees and sets out the responsibilities of the chain of command.

BATTLEGROUP

2. Where an operation at Battlegroup (BG) level results in the capture of IZ nationals, the BG IRO is responsible for ensuring that the Internment/Detention record and other documentation is completed and that the complaint statement and witness statements are obtained from the apprehending soldiers. The BG retains responsibility for apprehended persons up until the time of registration at the Theatre Internment Facility (TIF). If detained or interned personnel are released from the TIF, it is the BG's responsibility to collect them from the TIF and return them to their local area.

BRIGADE

3. Bde will provide advice to BG level in all aspects of detainment and internment operations, including J3, J2, Pro and Legal.

HQ MND(SE)

4. Authority. GOC MND(SE) has overall responsibility for all apprehended personnel from the point of capture until the point of release. This authority is delegated to COS MND(SE) in certain circumstances.
5. J3. The handling of internees and detainees is a J3 led operation. J3 Ops are to act as the POC for all information and documentation relating to captured personnel. J3 will be responsible for co-ordinating the reviews of documentation to be carried out by the Detainee and Internee Review Committee (DIRC) on a weekly basis.
6. J2. J2 are responsible for the collation of intelligence information and will liaise with JFIT accordingly. J2 will provide an intelligence assessment on every captured individual within 7 days of capture and on each review.
7. Legal. Legal will advise on all aspects of procedure in the handling of internees and detainees including categorising personnel, advice on evidence and on the grounds for detainment or internment in accordance with international law. Legal will advise on the application of MOUs or other international agreements. Legal will provide an advice on every case at each review. **Legal will forward the J2 and legal advice to COS and GOC as appropriate for their decision on release or continued detention or internment.**