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A. LEGAL UPDATE.

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LEGAL

1. AT ANNEX A IS A LEGAL UPDATE WHICH ADDRESSES A NUMBER OF KEY ISSUES INVOLVING THE BDE ACROSS THE AO. IN SUMMARY IT DEALS WITH ASPECTS OF LAW AND ORDER, REQUISITION OF PROPERTY AND THE EXISTING COURT STRUCTURE WITHIN BASRAH. QUERIES SHOULD BE ADDRESSED TO SO3 LEGAL HQ 7 ARMD BDE.

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- 11 MAIN HQ 1 (UK) DIV
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INTERNAL:

ACKNOWLEDGE.

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AUTHENTICATE.

CJ PARKER  
MAJ  
COS

ANNEX:

ACTION:

- 14 DCOS
- 15 G1/G4 OPS/PLANS
- 16 G2
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- 20 DIARY
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LEGAL UPDATE

INTRODUCTION

1. The purpose of this Annex is to keep Bde staff and units up to date with legal issues and guidance on a number of critical issues. The Annex seeks to cover general questions raised on law and order, property and the court structure in the Bde AO.

LAW AND ORDER

2. As an occupying power there is a duty upon us to restore public order and safety in the Basra AO. Under our own domestic law and the ROE we can intervene to prevent crimes taking place, and have the power to temporarily detain those interfering with the Coalition mission. It must be remembered that to undertake such a detention, min force in the circumstances must be used. Lethal force should only be used if absolutely nec where there is an imminent threat to human life.

3. Further under the ROE force can be used to protect designated property or guarding restricted areas. Designated property includes structures essential for the maintenance of public order, health and hygiene, electricity generation and distribution, oil infrastructure and ports. The use of min force is permitted in guarding such property. If there is a threat to human life by the destruction of such property, then lethal force may be used.

PROPERTY

4. Whilst in occupation of Basra province, it is critical that the law relating to the reqn of property is understood by the Bde. The basic rules are as follows:

- a. Private property must not be confiscated.
- b. State buildings can be used for our purposes.
- c. Private property may be requisitioned but such requisitioning must be for the needs of CF, must be in proportion to the resources available and such payments must be paid for in cash. Any reqn must be auth by the Bde Comd.
- d. Private transport may be seized provided it is for mil reasons, not available from state property and compensation is to be paid in cash at the time of the reqn.

5. Civ medical property can be reqn provided that it is not required for the needs of the civ pop. Such reqn can only continue as long as absolutely necessary and alternative arrangements must be provided for the civ pop.

**COURT SYSTEM**

6. Further info has now been discovered about the legal system in Basrah. All civil claims in Basrah are dealt with in penalty courts(also known as primary courts). Larger claims go to the House of Justice which is loc in Basrah, with a right to appeal to the Appellate Court, also loc in Basrah.

7. Criminal cases start in the penalty courts or the Court of Investigation in Basrah. The penalty court can either deal with the case if the case is a minor one or refer more serious cases to the House of Justice. Appeals from the House of Justice then go to the Appellate Court and thereafter to the Assessment Court in Baghdad.

8. There is also a youth court which deals with under sixteens as well as a Southern Police Court which deals solely with police corruption in Basrah and Maysan provinces.

9. It is understood that the IZ Criminal Code has now been translated and a copy of it will be available within the next week. Further the US State Dept is completing work on a transitional justice system which will allow the IZ structure to remain in place to deal with civil and criminal cases.

10. If there are legal queries arising from the above please do not hesitate to SO3 Legal at HQ 7 Armd Bde.

CP HERON  
CAPT  
SO3 LEGAL