

MOD-83-0000323-A

NJ4/2.

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PRECEDENCE: ROUTINE

DTG: 031800ZAPR03

FRAGO 079 - 1 (UK) ARMD DIV DAILY MISCELLANEOUS FRAGO

Ref:

A. HQ 1 (UK) ARMD DIV OpO 001/03, Edn 3 DTG 152300MAR03

Time Zone Used Throughout the Order: ZULU.

G3

3 April
RMP with
6 loc
TIF in 26h
RSC 110216
RSC MAIN OPS
SER NO 50

1. Boundary Changes.

a. 16 Air Asslt Bde AOR. The following amendment to the AO given over to 'TF Yankee' by 16 Air Asslt Bde should now follow the following grids: 38RPU435970 - PU660970 - PU660773 - PU440773.

b. 7 Armd Bde / 3 Cdo Bde. The following amendment to the inter Bde boundary will come into effect as at 032359ZAPR 03. The complete boundary is as follows: 38RQU613560 - QU689629 - QU673673 - QU717701 - QU716737 - QU719741 (NW-SE running road exclusive to 3 Cdo Bde) - QU704753 - QU723774 - QU737785 (Bridge 5 incl to 7 Armd Bde).

Legal

2. Law & Order. See Annex A. Attached is a guide for Brigades on their legal powers in enforcing law and order in their Brigade AOs for Phases 3B and 4. This direction will evolve to meet requirements and changing circumstances, and any questions should be directed to the Legal Branch at Div Main.

Ack:

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Annexes:

Annex A: Law & Order.

SECRET UK EYES ONLY

OP TELIC PHASE 3B/4 – “Public Order and Safety”

INTRODUCTION


1. Phase 3B/4 of OP TELIC has already commenced in some parts of the UK AO in S IRAQ, and UK and Coalition Forces are now clearly in occupation or transitioning to this state of some parts of the country.
2. Once UK or Coalition Forces are in occupation of either the whole or parts of Iraq then, as the Occupying Power, they assume responsibility for “public order and safety” (Hague Regulations IV Article 43).
3. The purpose of this paper is to provide guidance as to how the UK, as an Occupying Power, will discharge its responsibility for “public order and safety” in its AO.
4. The procedure is designed to be simple and easily understood so that it can be implemented without confusion. It will also evolve as circumstances change on the ground. At the current time it is assessed that such powers may be appropriate, in particular, in Umm Qasr, Safwan and Az Zubayr

A. BRIGADE POWERS

STOP/SEARCH/TEMPORARILY DETAIN

5. The powers to stop search and temporarily detain are the principle powers which will be required by the Brigades in the discharge of their responsibilities for “public order and safety”.
6. Under the ROE, all soldiers have the power to stop, search and temporarily detain.

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.

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

8. Reasonable force may be used to effect a search. However, male personnel are not to physically search any females or children under the age of 14 unless an immediate search is imperative for reasons of force security, in which case, authority should be obtained from an officer of at least field rank.

9. All searches are to be properly recorded and search proformas are to be completed once a search has taken place. The search proformas will be provided by the RMP.

10. Once, a person has been temporarily detained, he should either be released or handed over to the Royal Military Police (or equivalent) as soon as practicable and, in any event, within six hours. The detainee should always be handed over to the Royal Military Police where threat to force security or where has committed a specified arrestable offence (see schedule 2).

RIOT CONTROL

11. As well as the power to stop, search and temporarily detain Brigades may also deal with law and order through the use of riot control equipment. Under the ROE,

500 CHARLIE Service personnel may be deployed to use public order control Iraqi non-combatants. Batons, riot control clothing and baton rounds may be employed.

12. Reasonable force may be used in riot control and further powers of riot control are expected.

ENTRY AND SEARCH OF PREMISES

12. The current ROE do not include powers to enter and search premises. However the power to enter and search premises is permitted under the Law of Armed Conflict and, at the present time, it should be assumed that this power is extant. (This has been raised with the NCC)

13. Again, where a search is effected, a record of search should be made on proformas provided by the RMP (or equivalent).

DOGS

14. There is no specific power to use dogs under the ROE but the use of Dogs would be permitted under the Law of Armed Conflict. Dogs may therefore be used and card D does not apply as there is still a threat to force security. (This has been raised with the NCC)

RMP (or equivalent) POWERS

15. Once the Royal Military Police have attended the scene and the temporary detainee has been handed over or delivered to a Police Station then the Military Police may arrest the temporary detainee

ARREST

14. On arrest, the arrested person should be informed that he is under arrest and the grounds for the arrest. The person should be given the following caution:

"You do not have to say anything, but anything you do say may be given in evidence."

15. The Military Policemen making the arrest shall relay the circumstances of the arrest to the custody officer as soon as practicable and the custody officer shall begin a written custody record in relation to that person. The custody officer shall:

- a. Search the arrested person in accordance with the ROE. Where practicable, servicewomen should search female detainees and servicemen should search male detainees.
- b. Seize and record items of an evidential value recovered from the arrested person.
- c. Retain all items of personal property, other than clothing, from the arrested person. These items should be returned to the arrested person upon release. Details of any items seized should be recorded in the custody record and countersigned by the arrested person if practicable.
- d. Inform the arrested person's NOK of his arrest and place of detention via CMOC unless to do so is likely to hinder the administration of justice or adversely affect force security.
- e. Pass the arrested person's details to I (UK) Armd Div G2 and G2X.
- f. Obtain the arrested person's photographs and fingerprints.

16. After making the arrest and completing the written custody record, any person arrested for a specified arrestable offence or for reasons of Force Security shall be transferred to the Theatre Internment Centre (TIC) within 24 hours. When an arrested person is transferred to TIC, the GOC, SO2 G1 and the Detention and Internment Management Unit (DIMU) shall be informed.

17. If the person who has been arrested does not fall into the categories listed in paragraph 16 above then they shall be released as soon as possible and his property returned accordingly. However, such persons should be advised that persistent offending may amount to a threat to Force Security for which they might later be interned.

C. DETENTION AND INTERNEE MANAGEMENT UNIT (DIMU)

18. Although the physical detention of the detainee is the responsibility of the TIC the legal review of the detention will be the responsibility of the Detention and Internment Management Unit (DIMU) (see schedule 3). (For the avoidance of doubt, a person detained for Force Security is an internee and a person detained for a specified arrestable offence is a detainee. Collectively they are referred to as detainees).

19. Within 48 hours of arrest, the GOC or his representative will decide whether to continue to detain the detainee. The GOC will decide whether there is a "prima facie" case in relation to a person detained for having committed a specified arrestable offence or whether he is satisfied that the detainee is a threat to Force Security and his internment is absolutely necessary. Advice will be provided to the GOC or his representative by the Prosecuting Officer and a certificate will be issued accordingly if continued detention is necessary.

20. Once the certificate has been issued, the Prosecuting Officer will inform the detainee and his designated Defending Officer of the reasons for the continued detention within 72 hours and the detainee can then make written submissions to the Reviewing Authority within 21 days.

21. Within 28 days the Reviewing Authority, based on the written submissions made by both the Prosecuting and Defending Officer, will decide either:

a. In the case of internees, whether there is a reliable and consistent body of material which supports the decision by the GOC to intern in the interests of Force Security; or

b. In the case of detainees, there is a reliable and consistent body of material that tends to show that the detainee may have committed a specified arrestable offence, and

c. assess whether continued detention is necessary to ensure that the detainee appears at a subsequent hearing, prevent injury to or intimidation of a victim or witness, or destruction of evidence, or to be otherwise necessary for the conduct of the investigation.

22. On consideration of the written submission, the Reviewing Authority will be permitted to:

a. order that a detainee be released with or without conditions;

b. order that a detainee be held in detention pending trial by a competent court or other tribunal; or

c. order that a detainee be held in detention pending trial by a competent court or other tribunal or for a fixed period of time, whichever ever would occur first.

23. If the Reviewing Authority is satisfied that grounds exist for continued detention/internment, he can extend the period of detention in 30 day periods for a period not exceeding 120 days and order a further review accordingly.

24. If the above grounds do not exist, then the Reviewing Authority can order the release of the detainee either conditionally or unconditionally.

D. GENERAL

LAW OF ARMED CONFLICT

25. Even though the Occupying Power is responsible for "public order and safety", at the same time, the Law of Armed Conflict still applies and, under the ROE, positively identified Iraqi Forces may be attacked.

E. CONCLUSION

26. The guidance provided above will evolve and further clarification will be provided and in due course. However, the powers set out above are considered sufficient for both Phase 3B/4 but clearly it is impossible to anticipate all scenarios. In the meantime, any comments in respect of this policy should be forwarded, in the first instance, to Legal Branch, HQ 1 (UK) Armd Div.

N J Mercer
Lt Col
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Schedules:

1. Commanders Guide
2. Specified Arrestable Offences.
3. DIMU

COMMANDERS GUIDE

LAW AND ORDER/PHASE 3B/4

Introduction

At the current time, UK Forces are involved in both war fighting and restoring law and order as UK Forces begin to transition to Phase IV. Under the Law of Armed Conflict there is an obligation to restore law and order once fighting is over and when we are in occupation. The purpose of this guide is to make sure Commanders are aware of their various powers in restoring law and order and yet balancing this with the possible continued need for offensive military action.

1. Stop/Search/Temporary Detention

Soldiers are permitted under the ROE to stop, search and temporarily detain civilians.

680 B (ONE) Temporary detention of persons posing a threat to coalition forces or elements under UK protection or otherwise interfering with Coalition Mission is permitted without consent.

690 C (ONE) Searching of persons and their vehicles temporarily detained under rule Six Eighty Bravo (One) and their vehicles is permitted without consent.

The search is to be recorded on a search proforma which will be provided by the RMP.

Search of premises is permitted under the Law of Armed Conflict but should only be conducted where necessary.

2. Riot control

Riot control measures are permitted under the ROE

500 C (ONE) Service personnel may be deployed and use public order control to control non -Iraqi combatants. Baton, riot control clothing and baton rounds may be employed.

Reasonable force may used in riot control.

3. Dogs

In addition, there is no prohibition on the use of dogs under the Law of Armed Conflict and they may be employed on or off the leash so long as the force is reasonable.

4. Arrest

There is now power of arrest under the ROE and soldiers can only temporarily detain civilians. However, where a civilian is a threat to Force Security or has committed a specified arrestable offence (see schedule 2), the Royal Military Police should be called to the scene or the civilian taken to the Police Station. This should be done as soon as practicable.

5. Intervention

Under the ROE, a soldier can act in self-defence of himself, his unit and Coalition Forces. In addition he can defend Iraqi civilians who fall under UK protection and this includes Iraqi civilians in occupied territory. You can therefore intervene to protect Iraqi civilians.

6. Iraqi Forces/PW's

It should be remembered that the Law of Armed Conflict continues during occupation and therefore, at the same time as enforcing law and order, positively identified Iraqi Forces may be attacked. If combatants are captured (this includes RGFC, Special RGFC, DGS, SSO, DMI, Fidayin Saddam, Al Quds, MEK, IIS, DGI and Ba'ath Party). In addition, if there is a doubt whether a person is a combatant they should be passed to the PWHO.

Conclusion

The transition to Phase 4 requires a balance to be struck between war fighting and law and order tasks. This requires considerable skill to be exercised by the Commander but it should be remembered that Force Security remains paramount and that Commanders should not be afraid of robust military action. Further ROE for Phase 4 are anticipated.

SPECIFIED ARRESTABLE OFFENCES

1. Murder
2. Manslaughter
3. Rape
4. Serious Assault
5. Kidnapping
6. False Imprisonment
7. Riot
8. Violent Disorder
9. Possession of explosives
10. Smuggling
11. Arson
12. Serious Criminal Damage

Attempting to commit any of the above

DETAINEE AND INTERNEE MANAGEMENT UNIT (DIMU)

1. OC DIMU
2. Reviewing Authority
3. Prosecutor
4. Defending Officer
5. 2 x Visiting Officer
6. Police expert