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MND(SE) ROE PROFILE

Draft ROE Profile for Coalition operations within the UK AO in Iraq

Draft is based on the definitions and principles of MC 362 (Nov 99), amended where required for this particular mission at Appendix 1

OPER/TELIC MND(SE)

MSGID/PJHQ ROEAUTH OP MND(SE) 001

REF/A/MC 362 (9 Nov 99)

REF/B/MOU between participant nations dated 4 Jul 03

REF/C/1907 Hague Convention IV Respecting the Laws And Customs of War On Land

REF/D/Geneva Convention Relative to the Protection of Civilian Persons In Time Of War 1949

ROE AUTHORITY

Initial profile for units allocated to OP TELIC MND(SE). Profile is effective DTG JUL 03 (to be issued separately)

AREA

The territory, airspace and territorial seas of Iraq and the High Seas of the Arabian Gulf (north of 29N)

GENERAL

1. This profile reflects the Command and Control arrangements agreed between participating nations at Ref B. TCNs will apply this ROE profile subject to national clarification, where appropriate. National clarifications to the MND(SE) ROE profile are made on the basis that such clarification will not be more permissive than the MND(SE) ROE profile and will be communicated to MND(SE) force commander.

2. NATO ROE signal formatting and paragraph titling have been removed to improve clarity.

3. This ROE is based upon CJFLCC/CJTF(I)/CJTF 7 assessment of the current situation on the ground in Iraq. The Coalition Provisional Authority (CPA)/Iraqi Interim Administration's (IIA) control of Iraq is likely to remain fragile with force protection issues dominating the scope of ROE. In view of the unpredictability of the situation in Iraq, MND(SE) force commander must have the delegated authority to take immediate action to emergent threats to ensure adequate force protection.

AMPLIFICATION

1. MND(SE) military objectives are to be achieved within the constraints of Ref B with IIA security forces support where appropriate. Ops are likely to take place in an initially low-medium acceptance environment.
2. In such an environment MND(SE) force commander must be able to employ force as necessary to:
 - a. Fully support the actions of the IIA in maintaining security and restoring permanent government institutions by acting as a stabilising influence.
 - b. Demonstrate resolve.
 - c. Ensure the safety of his deployed force by:
 - (1) Protecting designated persons and property.
 - (2) Protecting designated locations.
3. In determining the appropriate level of force to be applied, MND(SE) force commander is to apply the principles of the Law of Armed Conflict to the use of minimum force:
 - a. Military Necessity.
 - b. Proportionality.
 - c. Distinction.
 - d. Humanity.
4. Guiding principles for MND(SE) are that at all times MND(SE) forces must:
 - a. Respect local social and religious customs
 - b. Show no favouritism toward any ethnic group
 - c. Show courtesy in executing duties
 - d. Respect private property
5. Where appropriate MND(SE) maritime units may apply the provisions of UNCLOS 110 (to rule 171)
6. Nothing in these ROE shall be construed as limiting a commander's or individual's inherent right of self-defence as provided for under national and international law.

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COMPLETE PROFILE/OP TELIC MND(SE) SRL 001

PPL/YANKEE (MAINTAIN STATUS QUO)

ONE ZERO ONE (101)

Entry into the territory, airspace, territorial waters and internal waters of Iraq, in support of Op MND(SE) is authorised.

ONE THREE TWO (132)

Use of minimum force to prevent boarding, detention, or seizure of MND(SE) aircraft, vehicles, vessels or MND(SE) designated property is authorised.

ONE FOUR ONE (141)

Intervention to implement MND(SE) direction of non-military activities is authorised to the extent necessary for mission execution

ONE FIVE ONE (151)

Passing of warnings to any person, aircraft, vehicle or vessel by any means in circumstances where MND(SE) forces or elements under MND(SE) protection or the mission are threatened or where the passing of warnings is necessary for purposes of execution of the mission is authorised.

ONE SIX ONE (161)

Ordering of diversion(s) to any aircraft, vehicles, vessels or persons in circumstances where the ordering of diversion is necessary for purposes of execution of the mission is authorised.

ONE SIX TWO (162)

Ordering of diversion(s) to non-MND(SE) ships not complying with rights of innocent passage in Iraqi territorial seas, and in internal waters is authorised

(L)ONE SEVEN ONE (171)

If unopposed, boarding of all vehicles, vessels in internal waters or aircraft for MND(SE) mission execution is authorised. Use of minimum force up to but not including deadly force is authorised.

(M)ONE SEVEN ONE (171)

If unopposed, boarding of all vessels (compliant and non-compliant) outside Iraqi internal waters for MND(SE) mission execution is authorised. Use of minimum force up to but not including deadly force is authorised.

(L)ONE SEVEN TWO (172)

If opposed, boarding of all vehicles, vessels in internal waters or aircraft for MND(SE) mission execution is authorised. Use of minimum force is authorised.

ONE EIGHT TWO (182)

Detention of a person who is suspected of committing a criminal offence is authorised.

ONE EIGHT TWO (182)

Detention (internment) of a person where necessary for imperative reasons of security is authorised.

ONE EIGHT FOUR (184)

UK CONFIDENTIAL RELEASABLE MND(SE)

Seizure of weapons, ammunition, cargo, products or other similar property or equipment in the possession of any person detained/interned by MND(SE) forces is authorised. 323

ONE EIGHT FIVE (185)

Seizure of aircraft, vessels or vehicles of persons detained under Rules 182 is authorised.

ONE EIGHT SIX (186)

Searches of persons, vehicles, aircraft, vessels and buildings to the extent necessary for the execution of the MND(SE) mission is authorised

TWO TWO TWO (222)

Use of all illuminants or illumination systems is authorised.

TWO THREE TWO (232)

Identification is to be established visually or by one or more of the following means: IFF (or other systems requiring a positive response from the unidentified unit), electro-optic, electronic warfare support measure, track behaviour, flight plan correlation, thermal imaging, acoustic intelligence, or other secure active/passive systems, including those from an off-board source, not requiring a positive response from the unidentified unit.

Note: Positive identification may be accepted from US/Coalition control agencies using established Operation TELIC / Iraqi Freedom/MND(SE) procedures and criteria

TWO FOUR ONE (241)

Movement of armament, display of small arms, firing weapons including small arms, operating helicopters and fixed wing aircraft, ECM equipment, laser target markers for training, exercises, equipment calibration to maintain operational effectiveness is authorised.

TWO FIVE ONE (251)

Conduct of simulated attacks against potentially hostile elements as a non-lethal escalatory warning option is authorised.

TWO EIGHT ONE (281)

Designation of targets by use of Laser Target Designation equipment is authorised.

(M) TWO EIGHT TWO (282)

Designation of targets by fire control radar for the purposes of height finding by maritime forces is authorised.

(LA) TWO NINE THREE (293)

Counter harassment to a similar extent and degree to that experienced by MND(SE) forces in the AO is authorised.

(M) TWO NINE THREE (293)

Counter harassment including riding off to a similar extent and degree to that experienced by any vessel is authorised.

THREE TWO ONE (321)

Use of riot control means where necessary for the purpose of controlling detainees and internees, is authorised.

THREE TWO TWO (322)

Use of riot control means where necessary for the conduct of Public Order Control is authorised.

THREE THREE ONE (331)

Use of force up to but not including deadly force to prevent interference with MND(SE) personnel during the conduct of their mission is authorised.

THREE THREE TWO (332)

Use of minimum force to defend designated non-MND(SE) forces/personnel is authorised.

THREE THREE THREE (333)

Use of minimum force to prevent the taking possession of or destruction of MND(SE) property or the weapons and ammunition and explosives seized in the execution of the MND(SE) mission is authorised.

THREE THREE FOUR (334)

Use of minimum force to defend against intrusion into Military Restricted Areas or other areas designated by an authorised commander is authorised.

THREE THREE FIVE (335)

Use of minimum force to control the movement and prevent the escape of PWs and persons detained/interned under rules 182 and 183 is authorised.

THREE THREE SIX (336)

Use of minimum force to secure the release of MND(SE) personnel, aircraft, vehicles(s), vessels or installation(s) or elements under MND(SE) protection following unlawful detention, or seizure is authorised.

THREE THREE EIGHT (338)

Use of minimum force to enforce compliance with diversion and/or boarding instructions is authorised.

THREE THREE NINE (339)

Use of covert actions in Iraq is permitted to the extent necessary for mission execution.

THREE FIVE ONE (351)

Deployment of indirect fire and crew-served weapon systems is authorised.

THREE FIVE TWO (352)

Use of indirect fire and crew-served weapon systems is authorised.

THREE FIVE THREE (353)

Use of demolitions in Iraq is permitted

THREE FIVE FOUR (354)

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Use of non-explosive obstacles in Iraq is permitted.

THREE SEVEN FOUR (374)

Unrestricted use of ECM is authorised.

THREE EIGHT ZERO (380)

Laying of anti-personnel mines is prohibited.

FOUR TWO ONE (421)

Use of minimum force against elements demonstrating Hostile Intent against MND(SE) forces or elements under MND(SE) protection is authorised.

Note: Hostile Intent is defined at Appendix I.

FOUR TWO TWO (422)

Use of minimum force against elements, which commit or directly contribute to a hostile act against MND(SE) forces or elements under MND(SE) protection is authorised.

Note: Hostile Act is defined at Appendix I

HQ MND (SE) SOI	Number	390
Subject: Policy for Apprehending, Handling and Processing of Detainees and Internees	Sponsor	Ch J3
	Last Updated	30 Sep 03

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. HQ MND (SE) FRAGO 005 to MND (SE) OPO 03/03 Dated 031300DSEP03
- D. 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. It replaces previous instruction issued at Reference C. 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 of committing a criminal offence should be handed over to the IZ authorities to be dealt with under IZ criminal law wherever possible. Hand over is to be carried out as soon as possible and no later than 12 hours after the initial apprehension. In addition to handing over the person apprehended, all Apprehension Report and Complaint Statements, documents and any exhibits should be handed over to the IZ authorities. Where exhibits cannot be handed over for reasons of security the details and photographs of those exhibits should be handed over. Where a person is apprehended in relation to a criminal offence which also poses a threat to CF, he may be held at the Theatre Internment Facility (TIF) pending classification as a

detainee or an internee once legal advice has been sought. Legal advice must always be sought from either Bde (NL BG) or HQ MND(SE) LEGADs where there is any doubt as to whether a person should be classified as an internee or a detainee.

5. Guarding and Holding of detainees/internees. Detained persons must be treated humanely and in accordance with International Law and National Standards, which for the UK is encapsulated in JSP 469 - Codes of Practice for Custody. Key points:

- a. On arrest, they are to be restrained using minimum force levels. National guidelines on the use of handcuffs should be applied, which for the UK is to the front of the body.
- b. At the earliest opportunity following arrest, the suspect should be handed over to a nominated Custody Officer, which for the UK is a member of the Regimental Provost Staff who has qualified at the Military Corrective Training Centre.
- c. The nominated Custody Officer is responsible for ensuring the safe treatment and handling of detainees and internees whilst in his care. A record of those individuals assuming responsibility for custody at each stage is to be maintained (see Annex J).

6. Juveniles. Individuals under the age of 18 are juveniles. The age of criminal responsibility under IZ law is 7. Juveniles between the ages of 7 and 15 who are detained on suspicion of committing a criminal offence should be handed to the IZ police. In addition to handing over the person apprehended, all Apprehension Report and Complaint Statements, documents and any exhibits should be handed over to the IZ authorities. As a matter of policy, juveniles of 15 years and below should not be interned. If it is considered necessary to intern a juvenile under the age of 16 for imperative reasons of security, chain of command guidance and legal advice must be sought from either Bde (NL BG) or HQ MND(SE) LEGADs prior to transfer to the TIF.

7. Sensitive detainees/internees. If it is proposed to detain or intern any individual whose apprehension would be regarded as sensitive due to their status or to detain or intern someone who is in a sensitive place then chain of command guidance and legal advice must be sought before the operation and before transfer to the TIF. This category includes individuals who are part of the political process, individuals of standing within the community (such as Judges, Doctors and other professionals) and third country nationals. A sensitive place includes religious buildings (such as mosques) and the offices of political parties.

ACTION

8. Apprehension. Internees or detainees may be apprehended as a result of either a pre-planned or a reactive operation.

- a. Pre-planned op. A target pack is to be prepared detailing all the available intelligence relevant to the persons to be apprehended including a threat assessment, details of the proposed J3 operation and an assessment of the potential consequences of the operation. The pack will be submitted through the chain of command to J2 at Bde (NL BG) prior to submitting the operation for HQ MND(SE) J3 approval.

b. Reactive op. Apprehension may also result from a response to an incident. If it is decided that it is necessary to intern the individual for imperative reasons of security, a J2 assessment of all the available intelligence is to be prepared at Bde (NL BG) level immediately following apprehension.

9. Apprehension Report and Complaint Statement. For both a planned and a reactive operation, apprehending soldiers should apprehend a person in accordance with the guidance contained at Annex A and should conduct the apprehension in accordance with the guidance on searching, apprehension and treatment of detainees and internees at Annex B and complete the Apprehension Report and Complaint Statement at Annex C, which should include the circumstances of the apprehension and the details of the offence alleged to have been committed. The purpose of this is to record the circumstances of any criminal offences so that it can be subsequently provided to the Investigating Magistrate to enable him to conduct his investigation. Guidance on the necessary content and assistance in the completion of the Apprehension Report and Complaint Statement should be sought from BG and Bde level MP staff. These are to be completed prior to the transfer of individuals by the BG to the TIF. A summary of the most serious offences under the IZ Penal Code and the IZ Criminal Procedures necessary for an IZ compliant investigation is at Annex D.

10. Seized Property. Any property, including conveyances and other forms of transport, which are seized from a person who is or is not apprehended, is to be fully documented and accounted for on the Apprehension Report and Complaint Statement. The purpose of this is to ensure that property can be preserved as evidence or returned to the owner as appropriate. If it is deemed necessary to dispose of seized property or to divert its use, then an estimate of the value of the property is to be included on the relevant documentation. A Receipt for the property is to be prepared, shown to the individual and then attached to the Apprehension Report and Complaint Report. A suggested format for the receipt is at Annex E. If the person is released and the property is still subject to confiscation or forfeiture the receipt is to be handed over to the person and a copy is to be attached to the Apprehension Report and Complaint Statement.

11. In order to ensure chain of custody requirements it is imperative that exhibit labels are utilised when seizing weapons, ordnance or property, including conveyances and other forms of transport. All such articles are to be appropriately tagged and noted on the Apprehension Report and Complaint Statement. The UK Service Police exhibit label is at Annex F.

12. Handling and Tactical Questioning of Internees. Instructions on the handling and Tactical Questioning (TQ) of internees are at Annex G. At all stages of custody the procedures in this SOI and the specific guidance on searching, apprehension and treatment of detainees and internees at Annex B are to be strictly adhered to.

13. Documentation. The capturing Unit must give the apprehended person a completed copy of the Apprehension Notice and Complaint Statement for detainees or internees, which are at Annex H and I respectively. This informs them of the reason for their detention or internment and of their rights, including the right to have someone notified of their apprehension. The Unit must also complete the Detention/Internment Record at Annex J as soon as the Battle Group Internment Review Officer (BG IRO) or appropriate officer has reviewed the case and the individual has been categorised. Copies of the completed Annexes

C, E, H or I & J are to be sent to both the TIF and J3 Ops HQ MND(SE) within 48 hours of apprehension. It is the responsibility of the BG IRO to ensure that this documentation is completed correctly and in the timescales laid down.

14. Investigating Magistrates. The IZ Criminal Justice System is an inquisitorial one in which the Investigating Magistrate (IM) directs the Police in the investigation and hears the evidence himself. All Apprehension Report and Complaint Statements and translations thereof must be produced by Units in all cases and be provided to the IM. Apprehending soldiers may subsequently be required to give evidence directly before the local IM who will take a note of the evidence himself. This requires the Unit to identify the IM in the District Court area where the offence took place.

15. BG Review. Within 8 hours of apprehension or as soon as possible thereafter, the BG IRO or appropriate officer must categorise the apprehended individual(s) and provide direction for the onward processing of them in accordance with the guidelines at Annex A.

16. Reports and Returns. All units are to provide details to J3 Ops at Bde (NL BG) on the numbers of individuals interned and detained each week and the collated details are to be provided to J3 Ops HQ MND(SE) by 1800hrs every Sunday in accordance with the format at Annex K. For individuals detained by BGs and released without further action only numbers are required, however, full details are required in all other cases, to include name, date of birth, alleged offence, police station/officer transferred to and the court dealing with the case. This is to enable follow up enquiries to be made to ascertain the effectiveness of the criminal justice system.

17. Transfer. The transportation security and welfare of apprehended persons prior to transfer to the TIF is the responsibility of the apprehending unit. Apprehended persons are to be transferred to the TIF within 14 hours of capture, or as soon as possible thereafter. The BG IRO or appropriate officer is to notify the UK Military Provost Staff (MPS) at the TIF of the number of personnel being transferred and the expected time of arrival. The TIF is open 24hrs for the receipt of internees, however as much notice as possible of transfers must be given to the MPS.

18. In-processing. In processing of captured personnel at the TIF is the responsibility of UK MPS who will allocate each individual a UK and a US Individual Serial Number (ISN). For auditing purposes, MPS at the TIF are to provide a list of all detainees/internees to J3 Ops at HQ MND(SE) on a weekly basis. Processed internees or detainees are not to be transferred to the control of another nation without seeking authority from HQ MND(SE).

19. Rights of Individuals. All detainees and internees are entitled to certain legal rights in accordance with Reference D. The capturing BG will discharge its obligations by the correct application of this policy, and specifically, the guidance at Annex B, the completion of Annex H or I and compliance with the timelines for handover to IZ Police or transfer to the TIF as appropriate. It is the responsibility of the IZ Police or the MPS staff at the TIF to accord individual detainees or internees the appropriate rights as detailed in Reference D.

20. Release. The apprehending unit retains responsibility for transporting internees and detainees back to their local areas on release. Apprehending units will be notified by HQ MND(SE) of the authorisation to release and are to liaise with the MPS at the TIF a minimum of 24hrs in advance to arrange collection.

21. Flow diagram. A flow diagram illustrating the detainee and internee process is at Annex L. An outline of the chain of command responsibilities for the handling of detainees and internees is at Annex M.

TRAINING

22. In the prosecution of any criminal offence it is important that MND(SE) personnel gather evidence capable of admission in a hearing or trial before a court. As a result, training of MND(SE) in evidence gathering and handling is important. Training guidance on evidence and handling procedures is at Annex N. In addition, Bde level MP staff can provide assistance.

REVIEWS

23. General. The Detention and Internment Review Committee (DIRC) at HQ MND(SE) will review every case within 10 days of apprehension to ensure that the correct documentation, intelligence and evidence has been provided. All available evidence, intelligence and documentation must therefore be provided without delay.

24. Authority. COS HQ MND(SE) is the authority for all releases and for continued detention or internment up to 28 days from the date of apprehension. If release is authorised, the Form of Authority for the Release of Detainees and Internees at Annex O is to be completed by HQ MND(SE) and forwarded to the MPS at the TIF. GOC MND(SE) is the authority for continued detention or internment beyond 28 days. Individuals apprehended by a TCN may only be released with the express consent of that TCN.

25. MOUs. The release or transfer to another nation of any detainee or internee apprehended by a TCN must be in accordance with the MOU between the UK and the TCNs comprising MND(SE). The transfer of any detainee or internee by the UK to the US must be in accordance with the MOU between the UK and US.

CO-ORDINATING INSTRUCTIONS

26. 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 5427 (PATRON) or (+965) 9117794 (mobile).
- b. HQ MND(SE) Legal Branch on 5413 (PATRON) and on Duty Mobile (+965) 9119341
- c. SO2 Legal 19 Bde on 8235 (PATRON) or (+965) 9115444 (mobile).
- d. SO2 Legal NL BG.
- e. SO3 Legal Garibaldi Bde.

f. MPS at TIF (+965 6457432) or MND(SE) MP Branch 5451 (PATRON) or 960-3165 (SYNERGY).

27. 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).

Annexes:

- A. Categories of Captured Personnel
- B. Guidance on Searching, Apprehension and Treatment of Detainees and Internees
- C. Apprehension Report and Complaint Statement
- D. IZ Penal Code and Criminal Procedures - Summary of Significant Provisions
- E. Receipt
- F. Evidence Tag
- G. Instruction for the Handling and Tactical Questioning of Internees
- H. Apprehension Notice (for Detainees)
- I. Apprehension Notice (For Internees)
- J. Internment/Detainment Record
- K. Details of Captured Personnel Weekly Return
- L. Internee/Detainee Flowchart
- M. Chain of Command Responsibilities for the Handling of Detainees and Internees
- N. Training Guidance on Evidence Gathering and Handling
- O. Form of Release of Detainee Internee