



JOINT FORCES NEW ZEALAND

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SACEUR
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COMISAF

INDIVIDUAL GUIDANCE ON DETENTION OF NON-ISAF PERSONNEL

On 07 April 2004 the New Zealand (NZ) Chief of Defence Force (CDF) promulgated Status Determination Procedures for Detainees (SDPD) to be utilised in the event of New Zealand Defence Force personnel detaining individuals in the course of their duties in support of OPERATION ENDURING FREEDOM. As a result of the conflict in Afghanistan evolving into a non-international armed conflict, and the subsequent transfer of NZ forces to ISAF command, CDF directed in March 2007 the withdrawal of the NZ specific SDPD policy, and the approval of the ISAF SOP 362 in the event that personnel were detained during operations.

The approval of the ISAF SOP has necessitated the development of specific NZ procedures at the tactical level. Individual Guidance for use by NZFOR ISAF personnel has been issued to the NZ Provincial Reconstruction Team and other NZ personnel under Operational Control of COMISAF. The NZ policy will be read and implemented in conjunction with the ISAF SOP. However, in order to reflect the fact that NZ personnel remain subject to NZ national Rules of Engagement (ROE) or specific NZ ROE caveats, the Individual Guidance in some respects differs from the ISAF SOP. The main divergences are at paragraph 2 (authority to detain), and paragraph 9 (non-transfer of detainees). Direction has been provided to NZ personnel that in respect of any differences between the policies the provisions of the NZ Individual Guidance are to prevail.

A copy of the NZ Individual Guidance policy is enclosed.

J.R. STEER
Rear Admiral
Commander Joint Forces New Zealand

Enclosure

1. Individual Guidance on the Detention of Non-ISAF Personnel

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NZFOR ISAF – INDIVIDUAL GUIDANCE FOR THE DETENTION OF NON-ISAF PERSONNEL

18 May 2007

AUTHORISATION

1. NZFOR ISAF personnel are only authorised to search and detain a person in accordance with this card where Afghan National Security Forces (ANSF) are not present or reasonably available to do so. If an arrest and/or detention is effected by ANSF in the presence of ISAF personnel, then the individual is not considered to be an ISAF detained person and the provisions of this card do not apply.
2. **Authority to Detain.** You are authorised to detain non-ISAF personnel if necessary for:
 - a. The defence of any personnel or property you are authorised to protect;
 - b. The accomplishment of the mission.
3. **Detention Authority.** As soon as practicable after a detention has taken place, the decision to continue to detain must be considered by an appropriate ISAF Detention Authority. A Detention Authority includes a New Zealand SNO, a Provincial Reconstruction Team Commander, Base Commander and a Patrol Commander.

IMMEDIATE ACTIONS AT THE SCENE OF DETENTION

4. **Documentation.** Full details of the individual and the circumstances surrounding detention are to be recorded including: DTG of detention, place of detention, reasons for detention, name and unit of the detaining soldier/officer, name and unit of officer authorising detention, details of the detained person including name, gender, home and home of record and whether or not ICRC have been informed. Such information is to be transmitted to the relevant NZ SNO without delay. The NZ SNO is to allocate each detainee a national detainee number.
5. **Use of Force.** Minimum force may be used to effect a detention or restrain a violent detainee. The use of plasticuffs by NZFOR ISAF personnel, who have been trained in their use, is authorised. NZFOR ISAF personnel are authorised to use minimum force to stop a detainee escaping. In any circumstance requiring the use of force against a detainee, deadly force is not to be used unless necessary to prevent an act which constitutes an immediate threat to life of personnel you are authorised to protect. Persons detained by ISAF are to be treated with respect and dignity and in compliance with applicable international law and human rights law standards. No one shall be subjected to torture or to inhumane or degrading treatment or punishment, including the use of stress positions.
6. **Search.** The detainee is to be searched for any articles of evidential value, or items which may be used to inflict self-injury or injure those effecting the detention. Such items are to be removed. In all cases receipts are to be provided. Weapons or contraband found in a detained person's possession shall be retained for the period of

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detention. Direction on the disposal of weapons and contraband, such as drugs, will be issued by the chain of command. Precise details of all searches are to be recorded and retained. In all circumstances the dignity of persons being searched shall be respected.

- a. *Gender Considerations.* Female detainees are only to be searched by female members of NZFOR ISAF (unless there are pressing operational reasons which makes this impracticable, in which case all such searches are to be witnessed by one other member of NZFOR ISAF).
- b. *Juveniles/Children.* Extreme care is to be taken when searching juveniles and children and all searches are to be witnessed by one other member of NZFOR ISAF.

7. **Rights of a Detainee.** The detainee must be informed, in a language that he or she understands, of the reasons for detention and given an information sheet detailing his or her rights as a detainee. Where this is not possible, then the detainee is to be given this information at the earliest opportunity.

8. **Release.** If there is no requirement for continued detention, the detainee is to be released. When a detainee is being released, detainees should be returned to their home, or to their place of original detention. Detainees are not to be left in remote locations to fend for themselves.

TRANSFER AND MOVEMENT

9. Personnel detained by NZFOR ISAF personnel are not to be transferred or handed over to ANSF or other ISAF coalition forces without the prior approval of COMJFNZ and CDF.

10. If there is a requirement to transport detained persons between locations, full details of the individual and the circumstances surrounding the detention are to be maintained and are to be transported with the detained individual. As a general rule, the detaining unit/sub unit is required to provide the guards and transport to move a detained person between locations.

11. Wherever possible detained persons should be moved in a vehicle/aircraft. Movement on foot should be a last resort and only conducted over short distances.

12. Where the transfer/movement of a detainee is conducted over a large distance or prolonged period of time, then the guarding unit is to ensure that regular breaks are taken and that food and water is available.

13. A detainee may be restrained by the use of plasticuffs or handcuffs whilst being transported provided that they are fitted only by individuals trained in their use. A detainee is not to be secured to any part of a vehicle or any other static object.

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