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Standard Operating Procedure

The Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions

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**DPO, DPPA AND DSS STANDARD OPERATING PROCEDURE ON THE HANDLING OF
DETENTION IN UNITED NATIONS PEACEKEEPING OPERATIONS AND SPECIAL
POLITICAL MISSIONS**

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A. PURPOSE AND RATIONALE

- 1. The purpose of this Standard Operating Procedure (SOP) on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions is to ensure that persons detained by United Nations peacekeeping operations managed by the Department of Peace Operations (DPO) and special political missions managed by the Department of Political and Peacebuilding Affairs (DPPA) (hereafter “field mission(s)”) are handled humanely and in a manner that is consistent with applicable international humanitarian, human rights and refugee laws, norms and standards.
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B. SCOPE

- 2. This SOP sets out the procedures for the handling of persons detained by United Nations field missions. These procedures must be observed by all field missions.

3. This SOP **does not itself confer authority on any field mission to undertake detention**. Detention is permitted only in circumstances where the use of force is authorised by the mission's mandate and only in the circumstances set out in the mission's Rules of Engagement (ROE); the UNPOL Directives on the Use of Force (DUF) and the United Nations Security Management System (UNSMS) Security Policy Manual, including the Use of Force policy¹ and the Framework of Accountability.
4. The applicability of this SOP is confined to those situations where an apprehended individual is placed under the effective control of the United Nations peacekeeping operation or special political mission concerned. They are not triggered (i) if an apprehension is conducted by national officials of the host State or any other entity in the presence of United Nations personnel, or (ii) within the context of joint operations between a United Nations field mission and the host State authorities where a person is apprehended by the host State authorities and remains at all times under their effective control.
5. This SOP is not intended to be used in the following situations:
 - a) Where missions detain individuals beyond the established timelines set out in Section D. below;
 - b) Where missions are mandated to assume executive administration or interim law enforcement functions;
 - c) In cases involving the apprehension of United Nations field mission personnel that do not entail handover to national authorities.
6. In relation to the situation listed in paragraph 5.a), United Nations field missions may only detain persons beyond 96 hours ('extended detention') under exceptional circumstances and only where mission-specific supplementary guidance has been adopted in consultation with the Department of Peace Operations, the Department of Political and Peacebuilding Affairs, the Office of Legal Affairs and the Office of the High Commissioner for Human Rights. Any mission-specific supplementary guidance must be in compliance with the mission mandate, international human rights law, and, where applicable, international humanitarian law.
7. The present SOP also applies to detentions by a mission in connection with an armed conflict until such time as they are superseded by Standard Operating Procedures, specific to the mission in armed conflict, issued or approved by Headquarters.²
8. The detention of persons below the age of 18 shall be handled in accordance with the Special Considerations for Children set out in Annex B.

¹ For personnel of the United Nations Secretariat Integrated Security Workforce, the UNSMS Security Policy Manual contains a series of security policies that guide all actors within the UNSMS. See Chapter IV of UNSMS Policy on the Use of Force, E. Essential Criteria for the Use of Force and F. Criteria for the Use of Non-Deadly Force, including 10(c) to detain and/or prevent the escape of a person who constitutes a threat to order and security and/or who has committed a serious crime.

² This will be done by the Department of Peace Operations in consultation with the Mission and upon the advice of the Office of Legal Affairs, the Office of the High Commissioner for Human Rights and the Department of Operational Support.

C. GENERAL PRINCIPLES

9. A United Nations field mission shall not subject anyone to arbitrary or unlawful detention. It shall ensure that all persons temporarily deprived of their liberty are treated in a humane manner and with respect for the inherent dignity of the human person.
10. Actions taken in application of this SOP shall comply with the mission mandate, with mission-specific military ROE and UNPOL DUF, with Status of Forces Agreements (SOFAs) and Status of Mission Agreements (SOMAs), with the UNSMS security policies and operational guidelines, and with applicable international humanitarian, human rights and refugee laws, norms and standards. Nothing in this SOP shall affect the applicability of international humanitarian, human rights and refugee laws to United Nations missions or the obligation of United Nations personnel to respect such laws.
11. A Head of Mission or his/her delegate may issue supplemental guidance relating to the handling of detained persons to meet specific exigencies within the mission. All such supplemental guidance shall be consistent with this SOP and shall comply with applicable international humanitarian, human rights and refugee laws, norms and standards. Such supplemental guidance may also take into account any national legislation of the host country, as appropriate. The Head of Mission shall immediately transmit such guidance to Headquarters by code cable.
12. All communication with any person detained by a United Nations field mission must be conducted in a language the detainee understands.

D. LENGTH OF DETENTION

13. Any person detained by a United Nations field mission shall be handed over to the host State authorities or released as soon as possible and, in any case, within **96 hours of the time that he or she was first apprehended**.
14. Where a handover takes place, all requirements for handover shall be met within this timeframe. If the requirements for handover are not met within 96 hours from the time that the person was apprehended, the detained person shall be released.

E. ROLES AND RESPONSIBILITIES

15. This SOP assigns roles and responsibilities to field mission personnel when undertaking detention.
16. The officer involved in the apprehension of an individual (**Apprehending Officer**) is responsible for:
 - a) Informing the person of the reasons for his/her detention;
 - b) Conducting an initial search of the detained person, seizing items and ascertaining his/her identity, age and medical condition. Where possible, the detainee is to be searched by a person of the same gender;

- c) Preserving items seized from or in relation to the detained person and recording information obtained and transferring them to the commanding officer of the detaining unit (**Unit Commander**) to which the detained person is to be transferred, with a view to their potential transfer to competent authorities for possible future judicial proceedings;
 - d) Notifying their Unit Commander of the apprehension of the detained person and providing him/her with his/her views on whether to release or to continue detaining the person;
 - e) Releasing the detained person, if the Unit Commander decides that the person should be released;
 - f) Organizing the transport of the detained person to a designated place of detention, if the Unit Commander decides that the person should not be released, but continue to be detained;
 - g) Providing a written report of the apprehension with all relevant facts, including the reason and the circumstances of the apprehension and a record of all United Nations personnel present at the scene.
17. The commanding officer of the detaining unit (**Unit Commander**) is responsible for:
- a) Making the initial determination whether to release or continue detaining the person, following consultation with the Apprehending Officer;
 - b) Notifying the Joint Operations Centre or the designated office about the apprehension of the detained person and of the decision to release or continue to detain him/her;
 - c) If it is decided to continue to detain the apprehended person, providing the Joint Operations Centre or the designated office with regular updates on the whereabouts of the detained person and his/her condition;
 - d) Informing the detained person of the reasons for his/her detention upon arrival at the designated place of detention;
 - e) With the consent of the detained person, notifying a family member or other person designated by him/her of the detention;
 - f) Granting and controlling access to the detained person in accordance with this SOP;
 - g) Maintaining records and reporting on all aspects of the detention, via the Force's chain of command or similar, to the Joint Operations Centre or the designated office;
 - h) Recording and safeguarding items seized and collected, and other information obtained by the Apprehending Officer with a view to their potential transfer to competent authorities for possible future judicial proceedings;
 - i) Ensuring adequate detention conditions and proper treatment of the detained person in line with the provisions contained in Annex A;
 - j) Supervising, in accordance with this SOP, the proper implementation of the procedures related to the release of the detained person, or of his/her transfer from one United Nations facility to another (including a medical facility) or of his/her handover to national authorities.

18. The **Joint Operations Centre (JOC) or the designated office**, where a JOC does not exist, is responsible for ensuring that information concerning a person's detention is disseminated throughout the entire duration of a person's detention to:
- the **Force Commander**;
 - the **Head of United Nations Police**;
 - the **Designated Official for security** when the said role is not entrusted to the Head of Mission;
 - the **Chief of Staff**;
 - the **Detention Focal Point**;
 - the **Head of the relevant Field Office**;
 - the **Force Provost Marshal**;
 - the **Force Legal Advisor**;
 - the **Senior Legal Adviser**;
 - the **Head of the Human Rights Component**;
 - the **Head of the Justice and Corrections Component**;
 - the **Joint Mission Analysis Centre (JMAC)** or designated office where JMAC does not exist;
 - the **Principal/ Chief Security Adviser/ Officer**;
 - in the case of detainees who are women, the **Gender Adviser or Senior Women's Protection Adviser**, as applicable;
 - in the case of detention of children, the **Child Protection Adviser** or Focal Point (in case of special political missions).

Where there is no Joint Operations Centre, the Military Operations Centre (MOC) or Police Operations Centre (POC) or a designated office (in the case of special political missions) shall discharge these responsibilities.

19. The **Detention Focal Point (DFP)**³, designated by the Head of Mission, is responsible for:
- a) Coordinating on behalf of the Head of Mission, the mission-wide efforts to implement this SOP;
 - b) Monitoring compliance with the present SOP, including that a person is not detained beyond the maximum permissible time;
 - c) Keeping the Head of Mission informed about detentions, bringing any concerns to his/her attention and providing advice for follow-up actions;
 - d) Liaising with host State authorities and with the International Committee of the Red Cross for communication and notification purposes;
 - e) Initiating and coordinating the risk assessment process prior to handover of detainees and overseeing post-handover monitoring of detained persons who have been handed-over to host-State authorities;
 - f) Authorizing the release of information concerning the detained person, if necessary, to prevent security threats or in the event that such information can be used as evidence in judicial proceedings;
 - g) Ensuring that detained persons can raise complaints in relation to their detention and that such complaints are investigated in a timely manner and in accordance with applicable procedures (including those involving allegations

³ In special political missions, the Chief of Staff would be best placed for the role.

- of misconduct) and, for that purpose, disseminating this SOP to the detained person and the relevant mission personnel;
- h) In conjunction with the Unit Commander, ensuring the preservation by the mission of items seized and information obtained which can be handed over to competent national and international authorities for possible future judicial proceedings;
 - i) Acting as a central repository to ensure the collection, recording and maintenance of all information, documents and registers related to detention by the United Nations.
20. The **Head of Mission** is ultimately responsible for compliance with this SOP and for the final determination concerning the release, handover, or extended detention of a person held in a designated place of detention. The Head of Mission is also responsible for engaging with the host State authorities in the course of post-handover monitoring to request the implementation of corrective measures if the circumstances set out in paragraph 54 of this SOP arise.
 21. The **human rights component** is responsible for supporting the Detention Focal Point in relation to the risk assessment and for conducting post-handover monitoring of detained persons who have been handed over to national authorities.
 22. The **justice and corrections component** is responsible for supporting the Detention Focal Point in liaising with competent judicial and prison authorities, as required, and in relation to the risk assessment pursuant to paragraph 42 b).
 23. The **United Nations medical personnel** are responsible for providing treatment to ill and injured detained persons in accordance with the procedures set out in Annex A.
 24. The **Gender Adviser** or **Senior Women's Protection Officer** is responsible for supporting the Detention Focal Point in relation to the handling of women detainees.
 25. The **Child Protection Adviser / Focal Point** is responsible for supporting the Unit Commander and Detention Focal Point in relation to all aspects of detention of children in accordance with the procedures set out in Annex B.

F. PROCEDURES

I. APPREHENSION AND DETENTION

On-scene apprehension and transfer to designated United Nations place of detention

26. When apprehending an individual, the Apprehending Officer shall:
 - a) Conduct an initial search of the detained person (unless the apprehended individual is presumed to be a child) and seize items which may be used to cause harm to persons (including the detained person him/herself) or damage to property, as well as communications and information technology devices;
 - b) If necessary, apply instruments of restraint to prevent the detained person from escaping or from harming him/herself or others, in a manner that ensures due consideration to the safety of both the detaining unit and the detainee.

- c) Conduct a site survey at the place of apprehension in order to collect any relevant items that might be useful as evidence in any future criminal proceedings;
 - d) Ask the detained person for his/her identity, age and whether he/she needs any medical treatment, including for any injuries that he/she may have suffered in the course of his/her detention;
 - e) Immediately inform the Unit Commander of the apprehension, including whether the apprehended person is presumed to be a child, and provide him/her with his/her views on whether the apprehended person should be released or should continue to be detained;
 - f) Complete and submit the Detention Form, from Annex C, reporting the incident, including a list of United Nations personnel present at the moment of apprehension, a sketch and photos of the scene and a description of the items(s) collected and seized, the name of the person who collected/seized them and the date and time of the collection.
- 27. The Unit Commander, upon consultation with the Apprehending Officer, shall make a decision whether to release the individual on-scene or to continue detaining him/her. The Unit Commander shall make that decision in a manner that is consistent with the mission's mandate and the provisions on apprehension and detention contained in the mission's ROE or DUF. In case of doubt, the Unit Commander must seek the advice of the Senior Legal Adviser of the mission.
- 28. If, based on the facts as they are known at the time, there is no basis under the mission's mandate or in the ROE or DUF to apprehend or detain the detained person, the Unit Commander shall immediately issue a decision to release the person.
- 29. If there is a basis under the mission's mandate and in the ROE or DUF to apprehend or detain the person, the Unit Commander may nevertheless order his/her release, if he/she considers that appropriate.
- 30. If the Unit Commander decides that the apprehended individual should continue to be detained, the Apprehending Officer shall:
 - a) Inform the detained person of the reasons for the detention and his/her transfer to a United Nations place of detention;
 - b) Organize the transport of the detained person as quickly as possible to a designated place of detention. The transportation shall always be carried out humanely and in a manner that ensures due consideration for the safety of both United Nations personnel and the detainee;
 - c) Organize the transport of any items seized from the detained person and any items collected at the scene to the same designated place of detention;
 - d) If the detained person is seriously injured or sick and needs medical treatment that cannot be provided at the designated place of detention, immediately organize his/her transport to a designated United Nations medical facility in order to place him/her under the care of qualified United Nations medical personnel in accordance with the provisions set out in Annex A.
- 31. The Unit Commander shall immediately notify the Joint Operations Centre or designated office about the apprehension and whether it has been decided to release the apprehended person or to continue to detain him/her and, if it is decided to continue

the detention, of the location of the designated place of detention to which the person is being transported. The Joint Operations Centre shall, in turn, notify the Detention Focal Point and the recipients as specified in paragraph 18. The Detention Focal Point shall, in turn, immediately inform the Head of Mission.

32. The Detention Focal Point shall send separate notifications to the International Committee of the Red Cross and to a representative of the host State authorities as identified in pre-determined arrangements between the mission and the host State.
33. Upon notification, the Detention Focal Point shall, in consultation with the Senior Legal Adviser of the mission, advise the Head of Mission whether the decision to detain was made in accordance with the ROE or DUF. If the Head of Mission decides that it was not, he/she shall order the immediate release of the detained person and instruct the Unit Commander accordingly.

Detention in a designated place of detention

34. Upon the arrival of the detained person at a designated place of detention, the military or police unit administering the facility and the commanding officer of that military or police unit (Unit Commander) shall be responsible for handling the person in accordance with this SOP.
35. The Unit Commander shall:
 - a) Immediately upon arrival, formally notify the detained person of the reasons for his/her detention, deliver a written Statement of Detention and complete the relevant forms as included in Annex C;
 - b) Ensure that a medical examination is conducted as soon as possible by qualified United Nations medical personnel. A detained person who is seriously ill or seriously injured and/or who is in need of medical treatment that cannot be provided at the designated place of detention shall be transferred to a designated United Nations medical facility as soon as possible;
 - c) Register the detained person by completing the relevant forms, as provided in Annex C, and transmit the information to the Detention Focal Point through the Joint Operations Centre for recording purposes;
 - d) Take possession of items seized from the detained person and those items collected at the scene at the time of his/her apprehension, ensure that they are tagged for identification and recording purposes, registered in the relevant forms provided in Annex C, and safely stored;
 - e) Supervise the search of the detained person in accordance with the procedures set out in Annex A;
 - f) Seize any additional items found on the detained person in the course of the search, ensure that they are tagged for identification and recording purposes and register and store them;
 - g) Authorize the destruction of dangerous items to avoid the risk of harm to persons or damage to property;
 - h) Without prejudice to the host State's responsibility to conduct criminal investigations, conduct the preliminary questioning of the detainee in accordance with the procedures set out in Annex A;

- i) Immediately inform the Detention Focal Point through the Joint Operations Centre or designated office of the arrival of the detained person at the designated place of detention;
 - j) Immediately transmit to the Force Commander and the Police Commissioner any information related to or provided by the detained person that can prevent security threats;
 - k) Ensure that accommodation provided for the use of detained persons meets all requirements of health, hygiene and well-being in accordance with the provisions set out in Annex A;
 - l) Ask the detained person if he/she wishes a family member or another person designated by him/her to be informed of his/her detention and whereabouts and - if he/she does and where circumstances permit - notify the family member or other designated person about the detention and the whereabouts of the detained person and register the identity of that person;
 - m) Ask the detained person if he/she wishes to notify a representative;
 - n) Document and notify any complaint filed by the detained person in relation to his/her conditions of detention or treatment to the Joint Operations Centre or designated office and the Detention Focal Point for investigation purposes;
 - o) Provide regular updates [every 12 hours] on the status of the detained person throughout the period of his/her detention to the Joint Operations Centre, which should in turn notify all recipients listed in paragraph 18 above;
 - p) Provide unrestricted access to the detained person, including the possibility of conducting confidential interviews, to the representatives listed in Annex A.
36. The above procedures, to the extent feasible, remain unaltered with respect to a detained person who is transported to a designated United Nations medical facility due to serious illness or injury (or a civilian facility where a United Nations one does not exist or does not have the capability to handle trauma cases or serious injuries). The Unit Commander of the designated place of detention that is closest to the medical facility shall be responsible for the detained person and will liaise with the United Nations medical personnel on all matters concerning his/her detention.

Transfer to another United Nations place of detention

37. The Force Commander or Police Commissioner (depending on whether the Unit Commander is a member of the military or police component) may decide to transfer the detained person from one designated place of detention to another based on operational requirements.
38. In case a decision to transfer the detainee to another designated United Nations facility is made, the Unit Commander shall:
- a) Notify the Joint Operations Centre or designated office about the transfer. The Joint Operations Centre shall in turn notify the Detention Focal Point and the predetermined recipients listed in paragraph 18. The Detention Focal Point shall in turn immediately inform the Head of Mission and send a separate notification to the International Committee of the Red Cross;
 - b) When the transfer of the detained person involves air transportation on United Nations provisioned aircraft, the Unit Commander shall submit a flight request

which shall be processed through normal field mission channels. The travel of the detained person shall be conducted in accordance with air operator and mission-specific procedures;

- c) Supervise the transfer of the detained person and of his/her personal belongings, as well as all items seized and collected, from one designated place of detention to another and ensure that such transfer is conducted in a humane manner and with due consideration to the safety of both United Nations personnel and the detainee;
- d) Transmit all recorded information to the Unit Commander that is taking custody of the detainee;
- e) Complete the Transfer Form included in Annex C and submit to the mission Headquarters for registration;
- f) With the consent of the detained person, notify the family member or other person designated by him/her about the new location of the detained person.

II. HANDOVER TO HOST STATE AUTHORITIES

39. Each mission, with support from Headquarters, shall ensure that the following preparatory measures are in place with the host State:
 - a) Supplemental arrangements to SOFAs and SOMAs are negotiated and, if possible, concluded containing assurances from the host State authorities that: (i) persons handed-over shall not be subjected to the risks listed in paragraph 41, (ii) mission personnel and the International Committee of the Red Cross shall be provided unimpeded access to detention facilities where the persons who have been handed over are confined and to any pursuant criminal proceedings against them, and (iii) host States shall not transfer such individuals to third parties, including to other States, without the prior consent of the mission and subject to the same assurances as those provided to the mission. A template declaration of assurances is included in Annex C;
 - b) Where possible, host State authorities have identified and agreed with the mission the location(s) where detained persons will be handed over and the facilities where those persons will be held;
 - c) Host State authorities have shared information on the provisions of their national law that provide a legal basis for depriving a person of his/her liberty and on the procedural safeguards that those laws provide for during the deprivation of a person's liberty;
 - d) Host State authorities have designated one or more representatives who will act as a focal point on the host State side to facilitate the implementation of handover procedures.
40. After an individual has been detained by the mission and a handover becomes necessary, the Detention Focal Point shall, before the handover of a detained person to host State authorities can take place, ensure that the following measures have been taken with respect to each individual handover to the host State authorities:
 - a) Initiate, coordinate and conclude a risk assessment to inform the Head of Mission's decision whether or not to hand over the detained person;
 - b) Obtain the agreement of the host State authorities to accept custody of the detained person and on the location where the handover should take place;

- c) If a supplemental arrangement to the SOFA or SOMA as described in paragraph 39 a) has not been concluded, obtain from the host State authorities the assurances specified in Annex C;
- d) Obtain from the host State authorities a judicial or executive order or warrant required by the relevant national law for the continued detention of the person handed-over;
- e) Obtain information on the exact location where the person handed-over will be kept.

Risk assessment and decision to hand over

41. A detained person shall not be handed over to any authority if there are substantial grounds for believing that there is a real risk that the detained person would, if handed-over, be subjected to:
- arbitrary deprivation of life;
 - torture or cruel, inhuman or degrading treatment or punishment;
 - rape or other forms of sexual violence;
 - threats to his/her life, physical integrity or freedom on account of his/her race, religion, nationality, membership of a particular social group or political opinion;
 - imposition of the death penalty;
 - enforced disappearance;
 - refoulement (including secondary refoulement);
 - grossly unfair proceedings;
 - prolonged arbitrary detention;
 - if a child, recruitment or direct or indirect participation in hostilities.
42. The mission shall conduct a risk assessment prior to the handover of a person detained in United Nations detention facilities in accordance with the following procedures:
- a) The Unit Commander shall inform the detained person as soon as possible of the mission's intention to hand him/her over to the host State authorities. The detained person must be afforded the opportunity to make known any fear that he/she may be subjected to the risks listed in paragraph 41 if handed-over. If the detained person objects to the proposed handover, he/she shall be invited to explain orally or in writing and present information tending to show why he/she would be at risk in case of handover. The detained person may be assisted in making such representations, written or oral, by a representative of his/her own choosing. The Unit Commander shall inform the Detention Focal Point whether the detained person has expressed any fear of mistreatment if handed over to the host State authorities, and transmit any supporting documentation thereof;
 - b) In initiating and coordinating the assessment, the Detention Focal Point shall seek the views of the relevant mission components⁴ based on each mission context;

⁴ The "relevant mission components" should typically include the Human Rights Component, the Justice and Corrections Component, the Gender Adviser and the Child Protection Adviser. If there are no such components in the mission, the Head

- c) The Detention Focal Point shall compile information from those mission components on the likelihood that a detained person may be subjected to the risks described in paragraph 41. He/she will then inform the Head of Mission of these risks and views of the relevant mission components, as well as including the recommended course of action;
 - d) The final decision whether or not to hand over a detained person to the host State authorities shall be taken by the Head of Mission based on the recommendation and information provided by the Detention Focal Point (and the recommendation made by the Child Protection Advisor/ Focal Point when the apprehended person is a child). If the Head of Mission is unavailable or is unable for any reason to take that decision, his/her deputy or the next person in the chain of command shall take it;
 - e) If the Head of Mission decides to hand over the detained person, he/she shall notify the Detention Focal Point immediately, who shall, through the Unit Commander, immediately inform the detained person;
 - f) If the Head of Mission decides not to hand over the detained person, he/she shall issue a decision to release the detained person. The Head of Mission shall inform the Unit Commander, through the Detention Focal Point, of that decision and the Unit Commander shall then immediately initiate the release procedure as set out in paragraphs 47-49;
 - g) The Detention Focal Point shall immediately notify the host State authorities and the International Committee of the Red Cross of the decision to hand over or release the detained person.
43. If the host State authorities fail to agree to a handover or to provide the information mentioned in paragraphs 39-40, the Detention Focal Point shall immediately inform the Head of Mission, who shall then, without delay, issue a decision to release the detained person. The Unit Commander shall then immediately initiate the release procedure set out in paragraphs 47-49.
44. Missions shall issue supplemental guidance on how the risk assessment should be conducted, tailored to each mission context.

Handover procedures

45. Once a decision to hand over a detained person has been made, and the host State authorities have agreed to take the detained person into custody, the Unit Commander shall:
- a) Liaise with the Detention Focal Point to ensure that the host State authorities have (i) signed a written declaration of assurances, (ii) obtained a judicial or executive order or warrant required for detention by the relevant national authorities, and (iii) informed the mission of the exact location where the person handed-over would be held;
 - b) Ensure that the handover of the detained person occurs in a humane manner and with due consideration for the safety of both United Nations personnel and the detainee, at the location agreed by the national authorities of the host State

of Mission shall seek the assistance of the office of OHCHR, UNODC, UN Women or UNICEF in the country concerned or, if there is no such office, of the relevant regional office of OHCHR, UNODC, UN Women or UNICEF.

and the United Nations on the basis of pre-determined arrangements as set out in paragraph 39;

- c) Ensure the handover of all items seized from the detained person (unless destroyed) and items collected at the scene of his/her apprehension to the host State authorities. The host State authorities shall sign a receipt for them;
 - d) Provide the detained person with a statement of handover as contained in Annex C;
 - e) Transmit to the host State authorities the following information in writing: i) identity of the detained person; ii) date, time and place of the person's detention; iii) reason(s) and factual basis for detention; iv) place of handover;
 - f) After handover has taken place, inform the Joint Operations Centre or designated office and the Detention Focal Point that the handover has occurred and inform them of the identity of the national authority and of its official who received the detained person into its custody. The Joint Operations Centre or designated office shall, in turn, notify all recipients listed in paragraph 18 above. The Detention Focal Point shall send a separate notification to the International Committee of the Red Cross.
 - g) Complete the Handover Form included in Annex C and submit to the mission Headquarters for registration.
46. These procedures apply mutatis mutandis where the mission exceptionally hands over a person to authorities other than those of the host State.⁵

III. RELEASE

47. If and when the maximum permissible length of detention is about to be reached, the Detention Focal Point shall inform the Head of Mission. The Head of Mission shall then immediately issue a decision to the Unit Commander in charge of the designated place of detention to release the detained person. If the Head of Mission is unavailable or unable for any reason to issue that decision, his/her deputy or the next person in the chain of command shall issue the decision to release the detained person.
48. Once a decision to release is communicated to the Unit Commander, he or she shall abide by the following procedures:
- a) Inform the detained person that he/she will be released and of the date, time, and location of his/her release. The Unit Commander shall further ask the detained person whether he/she wishes the mission to inform his/her family or a person designated by him/her of his/her release, or, where applicable, the relevant consulate or embassy or relevant United Nations entity or international organization;
 - b) Provide updated information on the status of the detained person to the Joint Operations Centre or designated office and the Detention Focal Point. The Joint Operations Centre shall in turn notify all recipients listed in paragraph 18 above. Separate notifications shall be sent by the Detention Focal Point to the host State authorities and the International Committee of the Red Cross;

⁵ These circumstances may encompass the case where the mission hands over an individual to the International Criminal Court.

- c) Provide the statement of release to the detained person and have the contents read to him/her;
 - d) Return all items taken from the detained person, other than items destroyed, otherwise disposed of or that can be handed-over to competent authorities for the purpose of possible future judicial proceedings. The detained person shall sign a receipt for them;
 - e) Ensure and supervise the transport of the released detained person to the place of apprehension provided that such place offers adequate assurances for the safety and security of the detainee. The transfer shall be carried out humanely and with due consideration to the safety of both United Nations personnel and the detained person;
 - f) Complete the Release Form included in Annex C and submit it to mission Headquarters for registration.
49. The detained person shall be considered to have been released immediately upon his/her departure from the designated place of detention.

IV. POST-HANDOVER MONITORING

50. The mission shall monitor the situation of an individual who has been handed-over to host State authorities.
51. The Detention Focal Point shall keep track of the location where a person who has been handed-over to the host State authorities is being detained. This information shall be recorded and kept up-to-date.
52. The mission human rights component⁶, in coordination with the mission justice and/or correction component, shall, as soon as possible, visit the place where the person handed-over is detained, conduct a confidential interview with the detainee, review any relevant records relating to the detainee and report on the material conditions and treatment of the detained person to the Detention Focal Point. Visits to the person handed-over shall take place regularly, subject to available resources. If it is denied access to the handed-over person, the mission human rights component shall immediately report this to the Detention Focal Point for prompt follow-up with the host State authorities in accordance with the procedure set out below.
53. The mission human rights component in coordination with the mission justice and/or corrections component, shall, in accordance with its standard modalities and subject to available resources, monitor any legal proceedings that may be instituted before the national courts or tribunals against a person who has been handed-over and periodically report their findings to the Detention Focal Point.
54. In the event that a person handed-over to the host State authorities is not treated consistently with the obligations of the host State under international law or with the terms of the undertakings that its Government has given to the United Nations, the mission human rights component shall formally request the host State authorities to:

⁶ If there is no Human Rights component in the mission, the Head of Mission shall seek the assistance of the office of OHCHR in the country concerned or, if there is no such office, of the relevant regional office of OHCHR to conduct such visits and to carry out these functions.

- a) take effective corrective measures;
 - b) if effective corrective measures are not taken, transfer the person who has been handed-over to another suitable place of detention.
55. The mission human rights component shall promptly inform the Detention Focal Point if the measures requested above have not been implemented by the host State authorities. The Detention Focal Point shall in turn immediately inform the Head of Mission.
 56. If he/she concurs with the mission human rights component's assessment, the Head of Mission shall then engage directly with the host State authorities and request them to take effective corrective measures, including to transfer the person concerned to another suitable place of detention.
 57. The Head of Mission shall liaise with the host State authorities and demand credible state investigations in cases where the person handed-over has died or been seriously injured while in custody.
 58. In the event that the person handed over remains in custody when the mission is closing, the mission shall make appropriate arrangements for post-handover monitoring to be continued by the United Nations Country Team or by the national or regional office of OHCHR.

V. IMPLEMENTATION AND OVERSIGHT

Detention Focal Point

59. The Head of Mission shall appoint a Detention Focal Point and an alternate. The Detention Focal Point shall be a senior civilian staff member with legal expertise, who is not under the authority, command and control of the Military Component, the Police Component or any civilian component of the mission that administers detention facilities or is authorized to apprehend or detain individuals.
60. The Detention Focal Point shall be responsible for carrying out the functions specified in this SOP and for monitoring and reporting on their implementation. He/she shall not seek or receive instructions from any member of the mission, including the Head of Mission, with respect to the discharge of his/her responsibilities as Detention Focal Point, except where otherwise specifically stated in this SOP.

Reporting requirements

61. The mission shall report cases of detention, handover and release to Headquarters through daily and weekly situation reports.
62. In addition, the mission shall submit a report every six months to Headquarters on:
 - a) the total number of persons apprehended and detained by the mission and the applicable grounds for their detention;
 - b) the number of persons handed over to the national authorities or released;
 - c) the number of persons not handed over in application of paragraph 42;

- d) where applicable, the number of persons held in extended detention based on the procedures set out in paragraph 6;
- e) any development related to persons handed over, including with regard to post-handover monitoring access, and follow up actions taken;
- f) mission-specific guidance issued in relation to apprehension and detention by United Nations personnel; and
- g) any gaps and challenges encountered in the implementation of this SOP.

Dissemination and training requirements

- 63. The mission shall take all necessary measures to ensure that this SOP is disseminated in the mission language and that appropriate training on the SOP is provided to all relevant incoming personnel. While recognizing that training is the responsibility of the Force and United Nations Police, the Detention Focal Point should monitor that the necessary arrangements are put in place to ensure that training in relation to this SOP and the applicable international standards on detention is conducted by the mission during induction and as regularly as may be necessary thereafter to supplement the induction and any pre-deployment training programmes.
- 64. The Department of Peace Operations will provide the mandatory pre-deployment training material on detention to all Troop Contributing Countries and Police Contributing Countries.
- 65. The Force Commander and Police Commissioner shall ensure that all subordinate commanders are fully informed and understand the need to ensure that the procedures set out in this SOP are observed. They are responsible for ensuring specific training is regularly conducted on the procedures within the military and police components of the mission.
- 66. Unit Commanders are responsible for ensuring that all those under their authority or command who apprehend and handle detained persons have received sufficient training to understand and apply this SOP.

Implementation and evaluation requirements

- 67. As part of regular internal evaluations in relation to the use of force, administrative policies and practices and the effectiveness of authority, command and control arrangements, the mission shall also review the implementation of all aspects of this SOP, including the safety and well-being of persons detained by the mission.
- 68. The implementation and effectiveness of this SOP will be supported, monitored and reviewed by an implementation, support and oversight body at Headquarters composed of all departments and offices involved in matters of detention. That body shall submit an annual report to the Under-Secretaries-General for Peace Operations, Political and Peacebuilding Affairs and Operational Support, providing an overview on detention by field missions and updating them on progress in implementing this SOP, and any problems or gaps arising in the course of their implementation, with recommendations for addressing them.

G. TERMS AND DEFINITIONS

For the purpose of this SOP, the following terms and definitions shall apply:

- a) *Apprehension*: The act through which an individual is placed under the effective control or custody of United Nations personnel.
- b) *Child*: A person who is under the age of 18. Where there is doubt as to whether the detained person is a child, he/she should be treated as a child.
- c) *Apprehending Officer*: A member of the mission who is in charge of the apprehension of an individual. In cases or circumstances in which member(s) of the United Nations Secretariat Integrated Security Workforce carry out detention in line with the criteria identified in the UNSMS policy on the Use of Force, this SOP applies concurrently.
- d) *Unit Commander*: A member of the mission who manages and supervises the detention of an individual. In some circumstances, the commanding officer of the Unit responsible for the apprehension of an individual may be different from the commanding officer of the Unit administering the designated place of detention.
- e) *Detention*: The temporary deprivation of liberty of a person by United Nations personnel in a United Nations peacekeeping operation or special political mission. Detention commences from the moment of apprehension and continues for as long as a person is deprived of his/her liberty and remains under the effective control of United Nations personnel, regardless of the duration of the detention, and ends upon release or handover.
- f) *Designated Place of Detention*: A United Nations facility or other location that is designated by the mission for holding persons detained.
- g) *Detention Focal Point*: A United Nations field mission senior civilian staff member with legal expertise, who is not under the authority, command and control of the military component or the police component of the mission and is assigned the roles and responsibilities laid down in the present SOP.
- h) *Handover*: The act of passing a detained person from the effective control of the United Nations field operation to that of the host State authorities or any other authority.
- i) *Transfer*: The act of passing a detained person from one designated place of detention to another.
- j) *Risk assessment*: The procedure by which a United Nations field mission assesses whether there are substantial grounds to believe that there is a real risk that a detained person will be subjected to the treatment listed in paragraph 41 if handed over to the host State authorities.
- k) *Post-handover monitoring*: The procedure by which a United Nations field mission monitors and assesses the conditions of detention of individuals who have been handed over to the host State authorities.

- l) *Field mission*: A peacekeeping operation or special political mission established by a decision of the Security Council or the General Assembly, managed by the Department of Peace Operations or the Department of Political and Peacebuilding Affairs and operating under United Nations command and control.
- m) *United Nations personnel*: Members of the United Nations mission, including military and civilian members of national contingents; other United Nations military personnel such as military observers and military liaison officers; United Nations police personnel, including members of formed police units; United Nations civilian staff members and United Nations Volunteers.
- n) *Host State authorities*: The relevant organs of the State in which a United Nations field mission is based.

H. REFERENCES

- a) International human rights, humanitarian and refugee law, norms and standards, including:
 - i. *Universal Declaration of Human Rights* (General Assembly resolution 217 A (III) of 10 December 1948);
 - ii. *Convention relating to the Status of Refugees* (adopted on 28 July 1951 and entered into force on 22 April 1954);
 - iii. *Protocol relating to the Status of Refugees* (adopted on 31 January 1967 and entered into force on 4 October 1967);
 - iv. *International Covenant on Civil and Political Rights* (adopted by the General Assembly of the United Nations on 16 December 1966; treaty in force since 23 March 1976);
 - v. *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (adopted by the General Assembly on 10 December 1984; treaty in force since 26 June 1987);
 - vi. *The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)* (General Assembly resolution 70/175 of 17 December 2015);
 - vii. *The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)* (General Assembly resolution 65/229 of 16 March 2011);
 - viii. *Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment* (General Assembly resolution 43/173 of 9 December 1988);
 - ix. *Code of Conduct for Law Enforcement Officials* (General Assembly resolution 34/169 of 17 December 1979);
 - x. *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, welcomed by General Assembly resolution 45/121 of 18 December 1990);
 - xi. *Convention on the Rights of the Child* (General Assembly resolution 44/25 of 20 November 1989);
 - xii. *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (General Assembly resolution 40/33 of 29 November 1985);
 - xiii. *Guiding Principles on Internal Displacement* (contained in the annex of document E/CN.4/1998/53/Add.2 dated 11 February 1998);

- xiv. *Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials* (Economic and Social Council resolution 1989/61 of 24 May 1989);
- xv. *International Code of Conduct for Public Officials* (General Assembly resolution 51/59 of 12 December 1996);
- xvi. *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (General Assembly resolution 55/89 of 4 December 2000);
- xvii. *The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* (General Assembly resolution A/RES/65/229 of 22 December 2010);
 - b) Secretary-General's Bulletin on "Observance by United Nations Forces of International Humanitarian Law", dated 6 August 1999 (reference: ST/SGB/1999/13)
 - c) Mission-specific military rules of engagement, police directives on the use of force, SOFAs and SOMAs

I. MONITORING AND COMPLIANCE

Implementation of this SOP will be monitored by Heads of Missions and by the implementation oversight body to be convened by DPO and DPPA at Headquarters.

J. CONTACT

The designated focal point for this SOP is the Department of Peace Operations, represented by the Justice and Corrections Service (JCS) in the Office of Rule of Law and Security Institutions (dpo-jcs@un.org).

K. HISTORY

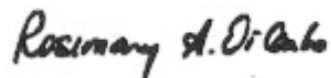
This SOP was developed and endorsed by a working group composed of DPO, DPPA, OLA, OHCHR and UNDSS. This SOP replaces the Interim Standard Operating Procedures on Detention in United Nations Peace Operations of 25 January 2010 (Ref. 2010.6).

APPROVAL SIGNATURE:



**Jean-Pierre Lacroix,
USG DPO**

APPROVAL SIGNATURE:



**Rosemary A. DiCarlo,
USG DPPA**

APPROVAL SIGNATURE:



**Gilles Michaud,
USG DSS**

ANNEX A

Material conditions, treatment of and access to detained persons in designated United Nations places of detention

1. United Nations field mission personnel are responsible for the safety and well-being of persons detained by and under the effective control or custody of the field mission until the person is handed over to the national authorities or released.

(a) *Prohibition of discrimination*

2. Detained persons shall not be subjected to discrimination on any grounds, including sex; race; colour; language; religion; political or other opinion; national, ethnic or social origin; sexual orientation or identity; association with a national community; property; birth; disability or other status.

(b) *Prohibition of torture and cruel, inhuman or degrading treatment or punishment*

3. Detained persons shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
4. For the purposes of the Standard Operating Procedures:
 - i. "torture" is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity";¹
 - ii. "cruel, inhuman or degrading treatment or punishment" is to be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained person in conditions which deprive the detained person, temporarily or permanently, of the use of any of his/her natural senses, such as sight or hearing, or of his/her awareness of place and the passing of time.²

(c) *Safety*

5. Detained persons shall not be detained in areas exposed to the elements or to the dangers of combat.
6. Measures shall be taken, if and as necessary, to protect detained persons from harm by other detained persons and to prevent them from harming themselves, including measures to physically separate detainees.

(d) *Use of force and physical restraints*

7. The use of force in relation to the handling of detained persons shall be strictly in accordance with international standards on the use of force and mission-specific military rules of engagement and police directives on use of force.
8. Instruments of restraint may only be applied in the following circumstances:

¹ Article 1, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984).

² Footnote 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly Resolution 43/173 (9 December 1988).

- i. as a precaution against escape during any transfer between United Nations detention facilities or any handover to the relevant national authorities;
- ii. on medical grounds, by direction of qualified United Nations medical personnel and in compliance with applicable standards of medical ethics; or
- iii. by order of the Unit Commander, if other methods of control fail, in order to prevent the detained person from injuring him/herself or others or from damaging property.

Instruments of restraint shall never be applied as a punishment, and shall not be applied for any longer time than is strictly necessary.

9. Only purpose-designed handcuffs or flexi-cuffs shall be used as restraints. All United Nations personnel likely to use restraints shall be trained in their proper use in accordance with international standards.
10. If necessary to prevent the detained person from escaping or from harming him/herself or others, instruments of restraint should only be applied in a manner that ensures due consideration to the safety of both the detaining unit and the detainee. Restraints shall be checked regularly to ensure proper circulation and minimise discomfort. Restraints shall be removed if the detained person requires to undertake ablutions. Restraints should be removed at the earliest time possible based on the determination of the risk posed by the detained person.

(e) ***Searches of detained persons***

11. United Nations personnel are authorized to search detained persons, their belongings and the accommodation in which they are held by the field mission for arms, ammunition, weapons, explosives, drugs or any other items that may cause harm to persons (including the detained person him/herself) or damage to property or whose presence in the host State violates any measures that may have been imposed by the Security Council. They may also search their belongings and such accommodation for communications and information technology devices. Any and all such items that are found shall be taken from the detained person and handled in accordance with the Standard Operating Procedures.
12. In addition to the search that is to take place upon his/her arrival at a United Nations detention facility, the detained person and his/her belongings and the accommodation in which he/she is held shall be searched from time to time, in accordance with orders issued by the Unit Commander. Such searches may also be carried out whenever the Unit Commander considers that:
 - i. this is necessary for the prevention of escape, the maintenance of order, the safety of United Nations personnel or of the detained person or;
 - ii. there is reason to believe that a detained person has in his/her possession or among his/her belongings or in his/her accommodation an item of the kind described in the preceding paragraph.
13. United Nations personnel performing a search shall not humiliate, embarrass or victimize detained persons being searched. Search procedures shall take into account gender and age, and be sensitive to other factors, such as race, religion, disability and cultural practices.
14. Children must never be subjected to strip or body cavity searches.
15. Searches of detained persons, their belongings or accommodation shall be conducted by two persons of the same sex as the detained person, if possible.
16. United Nations personnel may search a detained person of the opposite sex only when no United Nations personnel of the same sex are available to carry out the search and only at the moment of apprehension or during detention, for imperative security reasons such as when there is a reasonable belief that a female detainee is carrying a weapon and the delay in seeking the support of a female United Nations personnel may result in the detained person harming herself or others.

17. The purpose and procedure of the search shall be clearly stated to the detained person before he/she is searched, and his/her consent preferably sought before the search is conducted.
18. The detained person shall be allowed to be present while his/her belongings or accommodation are searched.

(f) ***Items taken from detained persons***

19. All items taken from a detained person or from among his/her belongings or from his/her accommodation shall be recorded in the Detention Form provided in Annex C, and registered by Mission Headquarters as soon as possible and shall be distinctly tagged for identification purposes.
20. The Unit Commander shall authorize the destruction of dangerous items to avoid the risk of harm to persons or damage to property. Any item destroyed or otherwise disposed of shall be photographed beforehand and their destruction registered. However, dangerous items that may be used as evidence in any possible judicial proceeding should, as far as safely possible, be preserved.

(g) ***Accommodation/Separation by categories***

21. Accommodation provided, in particular sleeping accommodation, shall meet all requirements of health, with due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, ventilation, bedding and blankets. All precautions must be taken against the danger of fire.
22. Detained persons shall be protected from any exposure to public curiosity.
23. Whenever possible, detained persons may be accommodated separately on the basis of age, sexual orientation or identity, clan membership, religious belief or any other factor that might pose a legitimate threat to the safety or welfare of themselves or others.
24. Female detained persons shall be separated from male detained persons and have their specific needs taken care of. They must, if possible, be guarded by female guards only.
25. Children must at all times be separated from adult detainees, girls must be separated from boys, and children in contact with the law (i.e. victims and witnesses) shall be separated from children in conflict with the law (i.e. perpetrators).

(h) ***Provision of food and water***

26. Detained persons shall be provided at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Where reasonably practicable, detained persons shall be provided with meals that are in accordance with accepted religious practices and with customs and traditions.
27. Clean drinking water shall be available to detained persons at all times.

(i) ***Health and hygiene***

28. A detained person shall be permitted to wear his/her own clothing if it is safe, clean and suitable. Where this is not possible, the detained person shall be provided with clothing suitable for the climate and adequate to keep him/her in good health. Such clothing shall not be degrading or humiliating.
29. Detained persons shall be provided with water and with such toilet articles as are necessary for health and cleanliness and which are ordinarily provided to military members of national contingents or members of formed police units.

30. Detained persons shall have access to fresh air and opportunities for regular daily exercise. A minimum of 1 hour per day should be granted to this purpose, subject to weather and operational requirements.

(j) **Religious activities**

31. Detained persons shall enjoy complete latitude in the exercise of their religious duties, on condition that they comply with the operational routine and rules prescribed by the Unit Commander administering the designated place of detention.

(k) **Family contacts**

32. The detained person shall be allowed to communicate orally or in writing with family members and other persons designated by him/her, subject to such measures of censorship as may be required for the purposes of the safety of the detained person him/herself, other detained persons, field mission personnel, members of the public and of the host State authorities.
33. In case of detention of a child, the child's parent(s) or other caregiver shall be notified as soon as possible regarding the child's presence at the designated place of detention, while arrangements should be made for regular visitation of and communication with the child.

(l) **Medical services**

34. In addition to the medical screening and any medical treatment provided at the time that their detention commences, detained persons shall receive a medical examination by qualified United Nations medical personnel or health-care professionals authorized by the field mission and shall be given such medical care by such personnel as may be appropriate to their condition:
- i. After any use of force against them;
 - ii. After allegations that they have been subjected to ill-treatment or abuse;
 - iii. When injured or unwell; and
 - iv. When necessary to determine the existence of physical or mental illness.
35. Medical examinations shall only be conducted with the consent of the detained person and only for legitimate medical reasons. Where a detained person is unwilling or unable to give his/her consent because of incapacity, a medical examination and necessary treatment of the detained person shall be conducted to save the detained person's life, alleviate pain or prevent long-term injury to the detained person in compliance with the applicable standards of medical ethics.
36. If the detained person is a child, medical examinations shall be conducted with the consent of the child and, when possible, the child's parent or other appropriate caregiver, unless the examination is deemed medically necessary by qualified United Nations medical personnel.
37. The medical condition of women who are pregnant or who are nursing children shall be monitored. Women who are pregnant or nursing shall be given, to the fullest extent practicable and with the least possible delay, medical care and attention required by their condition. More generally, the specific needs of women shall be catered for.
38. Detained children, elderly detained persons, and any detained person with a physical or mental disability shall be monitored on a daily basis and provided - to the fullest extent practicable and with the least possible delay - medical care and adequate treatment in accordance with their physical and psychological condition.
39. The details of medical screenings, examinations and treatment shall be recorded and filed in the individual medical files of detained persons. These files are to be kept separate from other documentation related to detained persons. The condition of the detained person, the fact that a medical examination or treatment has been provided and details of any continuing medical treatment or medical observation required shall be entered in the Detainee Medical Form contained in Annex C.

40. A detained person who has undergone medical treatment shall be provided with a report, indicating the nature of his/her illness or injury and the duration and kind of treatment received and of any continuing treatment requirements. A copy of the original report shall be placed with the detained person's record in the individual medical file of the detained person concerned.
41. Medical personnel providing treatment to a detained person shall, where necessary and reasonably practicable, have access to an interpreter.
42. All medical information concerning detained persons is to be treated as confidential and shall not be disclosed to any non-medical person without the informed consent of the detained person. In exceptional cases, medical information may be disclosed without the detained person's consent for purposes of internal investigations or criminal investigations or the prevention of serious crime or the prevention of the death of, or of serious harm to, others.
43. Medical care shall be provided free of charge.

(m) ***Serious illness, serious injury***

44. In the event of suspected serious illness or serious injury of a detained person, the Unit Commander shall immediately notify and consult qualified United Nations medical personnel or health-care professionals authorized by the field mission and transmit both an oral and a written notification to the Head of Mission. This notification shall be copied to the Detention Focal Point.
45. A detained person who is seriously ill or seriously injured and who is in need of medical treatment that cannot be provided at the place of detention shall be transferred to an appropriate United Nations medical facility as soon as possible, in accordance with procedures for the medical evacuation of United Nations personnel. Copies of the relevant Detention, Medical, and/or Transfer forms contained in Annex C as well as the medical records, and all items taken from the detained person as a result of a search, shall be transferred to the relevant United Nations medical facility together with the detained person or as soon as possible after his/her transfer. Upon arrival at a United Nations medical facility, the detained person shall thereafter be handled in accordance with the provisions included in paragraphs 34 to 43 above.
46. The transfer of seriously ill or seriously injured detained persons from the place of detention to a United Nations medical facility shall be conducted according to the provisions set out in paragraph 38 of the Standard Operating Procedures. Food, water and, where necessary, medical attention and shelter shall be provided. Detained persons shall be protected from any danger during their transfer.
47. The Detention Focal Point shall inform the detained person's family or other appropriate person as soon as possible of the detained person's serious illness or serious injury.
48. As soon as possible after serious injury, the Detention Focal Point shall ensure that a timely investigation of the circumstances surrounding the serious injury is undertaken in accordance with applicable procedures.

(n) ***Death***

49. In the event of the death of a detained person, the Unit Commander shall immediately notify and consult qualified United Nations medical personnel and shall transmit both an oral and a written notification to the Head of Mission. The written communication shall be copied to the Detention Focal Point.
50. As soon as possible after death, the Detention Focal Point shall ensure a timely and independent investigation of the circumstances surrounding the death is undertaken in accordance with existing procedures.
51. The body of the detained person shall be transferred to an appropriate United Nations medical facility as soon as possible, in accordance with procedures for the evacuation of the bodies of deceased United Nations personnel. Copies of the Detention and/or Transfer forms contained in Annex C, as well as the medical records, and items taken from the detained person as a

result of a search, shall be transferred to the relevant United Nations medical facility together with the deceased person or as soon as possible after his/her transfer.

(o) **Access to detained persons**

52. Access to detained persons shall be strictly controlled and kept to the absolute minimum necessary for their safe, secure and humane treatment.
53. Only the following persons may have access to detained persons while they are held in a designated United Nations place of detention:
 - i. United Nations personnel with assigned roles and responsibilities for the handling of detained persons in accordance with paragraphs 15 to 25 of the Standard Operating Procedures;
 - ii. Family members of or other persons designated by the detained person;
 - iii. If requested by the detained person and approved by the Unit Commander, a qualified representative of his/her religion for the purposes of the administration of a religious rite or service;
 - iv. In the case of a detained person who is a child, the child's family or other person or entity responsible for his/her care for the purpose of visiting him/her and in accordance with the provisions laid down in the Special Considerations for Children at Annex B;
 - v. A person designated by the detained person for the purposes of assisting him/her in making representations to the Detention Focal Point regarding his/her possible handover to the host State authorities;
 - vi. Representatives of the International Committee of the Red Cross;
 - vii. In the case of foreign detained persons, consular or diplomatic personnel of the consulate or embassy of their country of origin;
 - viii. In the case of detained persons who are refugees, stateless or otherwise under the protection of a United Nations entity or an international organization, representatives of the competent United Nations entity or international organization for the purposes of extending such protection;
 - ix. Representatives of relevant United Nations mechanisms³;
 - x. Other persons authorized for a specific purpose by the Unit Commander.
54. Representatives of relevant United Nations mechanisms⁴, members of the International Committee of the Red Cross and consular or diplomatic personnel of the detained person's country of origin may have access to the detainee for the purposes of assessing compliance with international law, assessing the material conditions of detention and the humane treatment of detained persons, or extending consular or diplomatic protection. In the case of detained persons who are refugees, stateless or otherwise under the protection of a United Nations entity or an international organization, representatives of a component United Nations entity or international organization may have access to the detained person for the purposes of extending such protection.

(p) **Questioning of detained persons**

United Nations personnel with assigned roles in accordance with paragraphs 15 to 25 of the Standard Operating Procedures may question detained persons, as applicable, for the purposes of ascertaining the detained person's identity, age, medical state; conducting medical examinations and providing medical treatment; conducting risk assessments; or otherwise

³ See note 4 below.

⁴ These include members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or of the national preventive mechanism(s) established by the Government of the host State pursuant to the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, if the host State is party to that instrument, for the purpose of discharging their respective mandates under the Optional Protocol; Members of the United Nations Committee against Torture, for the purpose of making a confidential inquiry pursuant to Article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, if the host State is party to that instrument; The United Nations Special Rapporteur on Torture, for the purposes of discharging his/her mandate; Members of the United Nations Working Group on Arbitrary Detention, for the purposes of discharging its mandate.

assessing whether they are being treated in accordance with the Standard Operating Procedures and rules of engagement or police directives on the use of force.

55. The following information shall be recorded when field mission personnel or other authorized personnel questions a detained person:
 - a) The detained person's responses;
 - b) If the detained person declines to answer, his/her refusal; and
 - c) The identity of any United Nations personnel present at that time (name, post and Index Number).
56. Detained persons may not be compelled to answer questions.
57. Field mission personnel shall not, in any interview, employ methods of questioning that would violate international law, particularly international human rights and humanitarian law.
58. In line with the provisions contained in paragraph 15 of Annex B, the questioning of a child must be conducted in a child-sensitive manner and in the presence of the Child Protection Adviser or delegated Child Protection Officer. Any questioning of a child beyond his/her identity, age, medical needs and family whereabouts shall be conducted by the Child Protection Adviser or delegated Child Protection Officer. Children shall only be searched if there are grounds to suspect the possession of an object which may inflict injury to him/her or others. The searching of children shall only be done in a partial and sequential manner, by United Nations military or police personnel of the same sex trained on child protection, and in the presence of a second person. Children must never be subjected to strip or body cavity searches.

(q) ***Monitoring of detained persons***

59. The following United Nations personnel or other representatives may have access to detained persons for purposes of monitoring compliance with the Standard Operating Procedures in terms of the material conditions and treatment of detainees by the field mission:
60. The Detention Focal Point shall have:
 - a) unimpeded and unrestricted access to all records relating to detained persons, including their medical files, and may require members of the field mission to provide him/her with any information that he/she deems necessary regarding the detention of the detained person by the field mission; and
 - b) unimpeded and unrestricted access to any detained person while he/she is being held by the field mission and may interview him/her in private about his/her treatment and the conditions in which he/she is being or has been held by the field mission.
61. The human rights component shall be:
 - a) promptly informed of all cases of detention;
 - b) granted unconditional access to detained persons at all times, including the right to visit detained persons and to hold confidential interviews with detained persons;
 - c) granted access to all field mission personnel involved in, and all documents relating to, the taking, handling and management of detained persons, including their medical files.
 - a) notified of all detained persons who were transferred from one designated place of detention to another or to or from a United Nations medical facility or released or handed over to a national authority in accordance with the Standard Operating Procedures; and
 - d) notified of injuries sustained by detained and hospitalized persons while in the custody of the field mission, including cases of self-harm, and of the serious illness or death of detained and hospitalized persons occurring while they are in the custody of the field mission.

62. The Child Protection Adviser and/or UNICEF representative shall be promptly informed of all cases of detention of children, and shall act in accordance with the processes and standards outlined in Annex B.
63. The Gender Adviser or Senior Women's Protection Adviser, as applicable, shall be:
- a) granted access to all detained persons including to conduct confidential interviews, and to assess their physical and psychological conditions;
 - b) promptly informed of all cases of women and girls in detention, including when they were transferred from one place of detention to another, released, or handed over to a national authority, to ensure that they are not vulnerable to sexual exploitation or threats of rape/rape for the purposes of intimidation, punishment or obtaining information; and
 - c) Notified of allegations or documented cases of injuries of a sexual nature sustained by detainees, with a specific attention to injuries of detained and hospitalized women and girls, as they tend to be more frequently targeted for sexual violence acts. The Senior Women's Protection Adviser should also be notified of cases of self-harm and of serious illness or death of detainees occurring while they are in custody of the field mission.
64. The Gender Adviser or Senior Women's Protection Adviser, as applicable, and the Child Protection Adviser shall also monitor the conditions of detention or internment and treatment of women and children who have been handed over to a host State authority, as part of their regular monitoring functions. To this end, the Head of Mission shall take appropriate measures to secure access of these personnel to the persons detained. In field missions that do not have Gender, Senior Women's Protection or Child Protection Advisers, the Head of Mission shall make arrangements with the local office of OHCHR or UNICEF or, where there is no local office, the relevant regional office for the discharge of the responsibilities under this heading.
65. The International Committee of the Red Cross shall be:
- a) promptly informed of all cases of detention;
 - b) granted access to detained persons at all times, including the right to visit detained persons and to hold confidential interviews with such persons;
 - c) notified of all detained persons who were released or handed over to a national authority in accordance with the Standard Operating Procedures; and
 - d) notified of injuries sustained by detained and hospitalized persons while in the custody of the field mission, including cases of self-harm, and of the serious illness or death of detained and hospitalized persons occurring while they are in the custody of the field mission.
66. Members of competent special procedures mandate-holders, competent bodies established by the Human Rights Council, and competent human rights treaty bodies shall, for the purpose of discharging their respective mandates, be granted unconditional access to:
- a) detained and hospitalized persons, including the right to visit and to hold confidential interviews with such persons;
 - b) all field mission personnel involved in the taking, handling and management of detained and hospitalized persons; and
 - c) all documents relating to the taking, handling and management of detained and hospitalized persons, including, as necessary, their medical files.
- (r) **Complaints**
67. Detained persons should be informed that they have the right to complain to the Unit Commander orally or in writing regarding their treatment or the conditions of their detention. All complaints, whatever their source, shall be recorded, and registered by Mission Headquarters. Detained persons should also be given the opportunity to submit complaints directly to the Detention Focal Point or the human rights component.

68. The Unit Commander shall immediately report all complaints concerning the treatment of a detained person - including those involving allegations of misconduct and those alleging torture or cruel, inhuman or degrading treatment or punishment - to the Detention Focal Point, with a copy to the Chief of the human rights component of the mission.
69. The Detention Focal Point shall ensure that all complaints, including those involving allegations of misconduct, are independently investigated in a timely manner and in accordance with applicable procedures⁵. The Unit Commander shall be directly responsible for promptly investigating all complaints that do not constitute allegations of misconduct. In all cases, the detained person shall be notified of the status and actions taken in relation to his/her complaint in writing as soon as possible, even after his/her release or handover.
70. In the event that a complaint is determined to be well founded, appropriate action shall be taken to rectify the problem that led to the complaint and effective measures shall be taken by the Unit Commander to prevent similar problems arising in the future.

(s) ***Files and registers***

71. A record shall be maintained by the mission of the identity of all persons granted access to the detained person and of the date, time and duration of that access.
72. The field mission shall be responsible for recording and keeping all documents related to detention that are provided for in Annex C of the Standard Operating Procedures.

(t) ***Photographs and other graphic records***⁶

73. Detained persons shall only be photographed or filmed for the purposes of identification or recording of any injuries or other matters relating to their well-being.
74. Any photographs, videos or films taken of a detained person shall remain the property of the United Nations.

(u) ***Disclosure of information***

75. Information relating to a detained person may only be released to the host State or to his/her State of nationality with the approval of the Head of Mission or the Detention Focal Point, if he/she is authorized by the Head of Mission for that purpose, in accordance with applicable procedures, including mission-specific SOFAs or SOMAs.
76. Unauthorized disclosure of information, including photographs or film, relating to a detained person is strictly prohibited and, if committed by United Nations personnel, could constitute an act of serious misconduct and may lead to disciplinary measures.

(v) ***Media and public information***

77. All media inquiries concerning a detained person shall be directed to the field mission's designated public information focal point. No information concerning a detained person shall be disclosed to the media or otherwise publicly disclosed by United Nations personnel without the authorization of the Head of Mission or the Detention Focal Point, if he/she is authorized by the Head of Mission for that purpose.

⁵ See "Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers in conjunction with the prerogatives of the Office of Internal Oversight Services", dated 1 July 2003, in conjunction with the prerogatives of the Office of Internal Oversight Services as set forth under General Assembly Resolutions 59/287 and 59/300 and the Standard Operating Procedures on Implementation of amendments on conduct and discipline in the model Memorandum of Understanding between the United Nations and Troop Contributing Countries (DPKO/DFS Ref. 2011.01).

⁶ See 2014.03 DPKO/DPA/DFS Guidelines on Taking, Publication and Distribution of Images of Persons in Custody.

ANNEX B

Special Considerations for Children in Relation to the Standard Operating Procedures on the Handling of Detention in United Nations Peacekeeping Operations¹ and Special Political Missions

1. Special procedures and safeguards shall be implemented for children apprehended and detained by United Nations peacekeeping operations and special political missions, in order to ensure that, in all actions and decisions concerning children, the best interest of the child is the primary consideration. The apprehension and detention of a child shall only be used as a measure of last resort, for the shortest possible period of time, and in accordance with international norms and standards relating to the deprivation of child liberty. Where possible, priority should be given to alternatives to detention.
2. These special procedures apply in circumstances where United Nations field missions apprehend an individual child or group of children. A child refers to any person (girl or boy) below the age of 18.
3. Children associated with armed groups or involved in conflict-related violence shall be primarily treated as victims.
4. United Nations personnel must always act in the best interest of the child. This entails evaluating and balancing all necessary elements for decision-making in a specific situation for a specified individual child or group of children. It is the responsibility of all United Nations personnel to protect children from harm.
5. In addition to the procedures outlined in paragraphs 26 to 33 of the Standard Operating Procedures, the Apprehending Officer must immediately notify the Unit Commander if a child or a presumed child is being apprehended. The Unit Commander, through established channels, must in turn immediately inform and consult the mission Child Protection Adviser (or Focal Point in special political missions) through the established channels. The Unit Commander, based on available information and upon consultation with the Apprehending Officer, shall make the initial determination whether to release the child on-scene or to detain him/her based on the best interest of the child.
6. In cases where there is doubt whether an individual apprehended by United Nations personnel is below 18 years, a presumption of minority shall be applied. The Child Protection Adviser/Focal Point or a delegated United Nations Child Protection Officer must proceed to an age assessment of the apprehended individual at the earliest possible time. If any uncertainty as to the age of the apprehended individual persists after the age assessment, the individual will be considered a child.
7. Any child detained by United Nations personnel should be handed over to the Host State child protection authorities or, if this is not possible, to humanitarian child protection actors for interim care within 48 hours from the moment of his or her apprehension, until such time as family reunification or other durable solution occurs.
8. A child should remain under temporary United Nations effective control beyond the above specified timelines only in exceptional circumstances in line with the procedures set out in paragraphs 19 to 21 below.
9. All United Nations personnel interacting with children deprived of liberty must act in accordance with the norms and standards established by the international legal instruments and principles, as

¹ This document should be read in conjunction with the DPKO/DFS/DPA Policy on Child Protection in United Nations Peace Operations (2017) and with the ensuing DPO Special Procedures and Safeguards for Children Deprived of Liberty by United Nations Peace Operations Personnel.

referenced in the DPKO/DFS/DPA Policy on Child Protection in United Nations Peace Operations (2017).

Role and Responsibilities of the Child Protection Adviser/ Focal Point

10. The Child Protection Adviser of the field mission is responsible for supporting the Unit Commander, the Detention Focal Point, the Head of Mission and senior mission leadership in relation to all aspects of detention of children. In particular, the Child Protection Adviser/Focal Point shall:
 - In cases where there is doubt whether an individual apprehended by United Nations personnel is below 18 years, proceed to an age assessment of the apprehended individual;
 - Be notified and consulted immediately about any child's apprehension and detention and of his/her whereabouts and ensure that all information concerning the detention of a child are channelled to the United Nations Children's Fund (UNICEF);
 - Be granted unimpeded access to the child during the duration of his or her stay at the holding facility;
 - Ensure that child-specific procedures and safeguards are in place and applied;
 - On behalf of the Head of Mission, take preparedness measures towards implementation of these Special Considerations for Children including by identifying potential holding facilities for children and/or facilities conducive for families, liaising with the host State authorities on future handover of children to dedicated national child protection entities and establishing contact points with external actors such as UNICEF and the International Committee of the Red Cross;
 - Monitor compliance with the child protection obligations described in these Special Considerations for Children and report any breaches to senior field mission leadership for adequate follow-up;
 - Conduct an independent case-by-case risk assessment prior to hand over, in coordination with the Detention Focal Point;
 - Make the appropriate recommendation to the Head of Mission for a final decision as to whether to hand over a child to the host State authorities or to humanitarian child protection actors; whether more suitable alternatives can be sought or whether the child should remain under the effective control of the field mission as set out in paragraphs 20 to 22 below.

Treatment of children at designated places of detention

11. The paragraphs included in this section supplement and shall be read in conjunction with the provisions contained in Annex A, "Material conditions, treatment and access to detained persons in designated United Nations places of detention".
12. When placed in a designated place of detention, children must at all times be separated from adult detainees, girls must be separated from boys, and children in contact with the law (i.e. victims and witnesses) shall be separated from children in conflict with the law (i.e. perpetrators). In cases where a child is detained with a member of his or her family, the family unity shall be preserved in separate facilities conducive for families, and the child shall not be separated, provided it is in his/her best interest.
13. Where possible, and with the child's consent, the child's parent(s) or other caregiver shall be notified as soon as possible regarding the child's presence at the designated United Nations facility, while arrangements should be made for regular visitation of and communication with the child.
14. Detained children shall be monitored on a daily basis and provided - to the fullest extent practicable and with the least possible delay - medical care and adequate treatment in accordance with their physical and psychological condition and specific health needs (e.g. children with disabilities, mental illnesses, HIV/AIDS, drug addictions or at risk of suicide or self-harm). In particular, medical examinations shall be conducted with the consent of the child and, when possible, the child's parent

or other appropriate caregiver, unless the examination is deemed medically necessary by qualified United Nations medical personnel.

15. In line with the provisions contained in Annex A, section (p), the questioning of a child must be conducted in a child-sensitive manner. Any questioning of a child beyond his/her identity, age, medical needs and family whereabouts shall be conducted by the Child Protection Adviser/Focal Point or delegated Child Protection Officer. Children shall only be searched if there are grounds to suspect the possession of an object which may inflict injury to him/ her or others. The searching of children shall only be done in a partial and sequential manner, by United Nations military or police personnel of the same sex trained on child protection, and in the presence of a second person. Children must never be subjected to strip or body cavity searches.

Handover of children and risk assessment

16. Children detained by United Nations field mission personnel shall be handed over to host State child protection authorities or to humanitarian child protection actors for interim care, until such time as family reunification or other durable solution occurs.
17. Every effort shall be made by the field mission to ensure that the handover of children takes place within 48 hours from the time of their initial apprehension.
18. Special assurances from the host State authorities must be obtained prior to the handover of children to government child protection authorities. In addition to the preparatory measures and assurances outlined in paragraphs 39 and 40 of the Standard Operating Procedures, each field mission shall seek guarantees that:
 - a. The child will not be subjected to judicial measures. Alternatively, if the host State judicial authorities assert the prerogative to prosecute the child for the alleged commission of a crime, handover shall be conditional upon appropriate assurances from the host State authorities on the respect for international child-specific standards on fair trial and conditions for detention;
 - b. Field mission personnel, child protection actors and the International Committee of the Red Cross shall be provided unimpeded access to the facilities where the handed-over child is placed.
19. A child shall not be handed over to any authority in situations where there are substantial grounds for believing that there is a real risk of the child being subjected to the treatment described in paragraph 41 of the Standard Operating Procedures if handed over. As per the Standard Operating Procedures, a risk assessment must be conducted prior to handover by the field mission to assess the potential risk that a detained child may be subjected to treatment described in paragraph 41 of the Standard Operating Procedures. The risk assessment should also determine whether the child should be temporarily relocated for protection reasons. In addition to the treatment described in paragraph 41 of the Standard Operating Procedures, for children the risk assessment must also consider the following risk of:
 - a. Re-recruitment, by the host State authorities and/or non-host State authorities, for direct or indirect participation in hostilities;
 - b. Detention by military authorities and/or prosecution before a military court;
 - c. Prosecution by a military or civilian court solely on the basis of alleged association with an armed group;
 - d. Placement in detention without charge.
20. If host State authorities are unable or unwilling to provide the required assurances, or if there is a real risk of the child being subjected to the treatment described in paragraph 41 of the Standard Operating Procedures and in paragraph 19 above, the child should be handed over to humanitarian child protection actors that are willing and able to provide alternative interim care without prejudice to the safety, security, and rights of the child.

21. In the exceptional circumstances where no humanitarian child protection actor is able or willing to provide alternative interim care without prejudice to the safety, security, and rights of the child, or where there is a present, direct and imperative physical threat emanating from or to the child, the child shall remain under temporary United Nations effective control beyond the specified timelines. In such circumstances, the Head of Mission, in consultation with the Child Protection Adviser/Focal Point, shall:
- a. Review the decision of continued United Nations custody every 48 hours, based on the best interest of the child;
 - b. Ensure that all feasible efforts are made by the field mission and relevant actors to address the identified threat to, or emanating from, the child;
 - c. Explore whether the child's recovery may be supported through inclusion, as relevant and appropriate, in existing release and reintegration programs for children associated with armed groups, or through other assistance to vulnerable children.

ANNEX C

Template forms and statements

This annex includes the following template forms for internal use by United Nations peacekeeping operations and special political missions:

1. **Detention form:** to record all aspects of the apprehension and detention, including an inventory of items taken from the detained person which is to be attached to the detention form.
2. **Transfer form:** to be used for the transfer of a detainee from one UN facility/location to another.
3. **Medical form:** to be completed upon medical examination or transfer to a UN medical facility for medical treatment.
4. **Release form:** to be completed upon the release of a detained person.
5. **Handover form:** to be completed upon handover of the detainee to State authorities.

In addition, this annex also includes a template statement of detention and a template declaration of assurances:

6. The **Statement of Detention** shall be handed to the apprehended person by the Unit Commander as soon as possible in accordance with paragraph 35 a) of the Standard Operating Procedures. This statement shall be translated by the mission into a language the detained person understands and, when given to the detained person, should, where reasonably practicable, be read aloud to the detained person.
7. The **Declaration of Assurances** written in the official language of the host State can be used to obtain necessary assurances from the national authorities as a preparatory measure prior to the handover in accordance with paragraph 39 a) of the Standard Operating Procedures.
8. A **statement on release or handover** shall be filled in and given to the person released or person handed over to the host State authorities.

(C1) DETENTION FORM

Inventory of items taken from the detained person to be attached

Date:

Time:

Location:

DETAINED PERSON DETAILS

Name:

Date of birth:

Presumption of Minority: **Y** **N**

Sex: **M** **F**

Nationality:

National ID Card:

Address:

Height:

Build:

Hair Colour:

Eye Colour:

Distinguishing Marks:

Mother's name:

Father's name:

DETENTION DETAILS

ID details of UN Personnel and any other persons involved in the detention:

Apprehending Officer:

Unit Commander:

Name:

Unit:

Name:

Unit:

Rank:

UNID:

Rank:

UNID:

Reasons for Apprehension:

Factual Basis for Detention:

Has the detained person been given the reasons for their detention, and their rights as a detainee, in a language they understand (Including a copy of the "Statement of Detention")?

Yes No

Physical condition of the detained person at the time of apprehension/detention:

Was the detained person injured during detention?

Yes No

Did the detained person receive medical attention? (If yes, complete medical form)

Yes No

If the detainee did receive medical attention, please provide the ID details of the person who provided medical examination and/or assistance.

Name: UN ID Number: Unit:

DETENTION OF A CHILD

| | | | | | |
|---------------------------|---|---|------------------------------------|---|---|
| Unit Commander Informed: | Y | N | Child Protection Adviser Informed: | Y | N |
| Age Assessment Completed: | Y | N | Age: | | |

Has the child's parent or caregiver been informed of their detention? Y N
If not, why?

(C2) TRANSFER FORM

Transfer to United Nations facility

Transferring Personnel's details

Name:

Rank:

UN ID Number:

Unit:

Contingent:

Receiving Personnel's details

Name:

Rank:

UN ID Number:

Unit:

Contingent:

Date of transfer:

Location:

Time of Transfer:

Grid Reference:

TRANSFER OF DETAINED PERSON

Date:

Time:

Location:

Reason for transfer:

Property transferred with the detained person (can attach list):

Physical condition of detainee upon transfer:

ID Details of UN Personnel who transferred the detained person:

Name:

UN ID:

Unit:

(C3) MEDICAL FORM

Detainee Information

Name:

Date of birth:

Sex: ☐ M ☐ F

Nationality:

National ID Card:

Address:

Height:

Build:

Hair Colour:

Eye Colour:

Distinguishing Marks:

Hospital Information

Hospital Name:

Location:

Date of Arrival at the Medical Facility:

Time of Arrival:

Date of Departure from the Medical Facility:

Time of Departure:

Destination post-departure:

Reason for hospitalization:

Notes of medical professional (including identification of medical professional):

ID of Medical Professional:

(C4) HANDOVER FORM

Handover to State Authorities

Date:

Time:

Location:

Time spent in UN Custody:

Assurances Obtained (list below): **Y** **N**

Risk Assessment Completed (attach)? **Y** **N**

Has the host State agreed to take custody of detainee? **Y** **N**

Property handed over with the detained person (can attach list):

Physical condition of detainee upon handover:

UN ID of handover officer:

Receiving Authority:

Name:

Name:

Rank:

National ID Number:

UN ID Number:

Authority:

Unit:

Detention Facility Receiving:

Contingent:

HANDOVER OF CHILD

Have special assurances been provided by host State for treatment of child (list): **Y** **N**

If no assurances have been provided, has the child been handed over to an International Humanitarian Child Protection Actor? Which one?

Actor:

Contact Person:

Position:

Phone Number:

Email:

Address:

(C5) RELEASE FORM

Name: _____ **Date of birth:** _____ **Sex:** M F
Nationality: _____ **National ID Card:** _____
Address: _____

Height: _____ **Build:** _____ **Hair Colour:** _____ **Eye Colour:** _____
Distinguishing Marks: _____

RELEASE DETAILS

Date: _____ **Time:** _____ **Location:** _____

Length of time in UN Custody: _____

Reason for release: _____

Property to be returned to the detained person (can attach list):

Property retained, reason for retention, and location of property (reason for each item):

ID DETAILS OF UN PERSONNEL AND ANY OTHER PERSONS WHO WITNESSED RELEASE:

Name: _____
Rank: _____ **UN ID:** _____
Unit: _____ **Contingent:** _____



(C6) STATEMENT OF DETENTION

You have been detained by United Nations personnel for the following reason(s):

.....on the following factual basis:.....

You have the following rights:

- a. To obtain information as to the reason(s) and factual basis for your detention;
- b. To designate a family member and/or other representative to be notified of your detention;
- c. If you are a foreign national, to have your whereabouts and situation notified to the relevant consulate or embassy;
- d. If you are a refugee, stateless or otherwise under the protection of a United Nations entity or an international organization, to have that entity or organization notified of your whereabouts and situation;
- e. To make a complaint regarding your conditions of detention or treatment;
- f. To make a claim for compensation in relation to bodily injury or damage to property arising from measures taken during your detention; and
- g. To receive an inventory of items taken from you and have those items returned to you, subject to certain conditions and exceptions.

If you are under 18 years of age, pregnant or a nursing mother, or unwell or injured, please notify the United Nations personnel who have detained you.

You may be examined by a medical professional. The purpose of the medical examination is to:

- a. Determine your immediate physical and mental health care needs;
- b. Determine if you are suffering from any infectious diseases;
- c. Document any injuries, medical condition and illness;
- d. Inform the United Nations and any other appropriate authorities of any medical care or supervision you may require; and
- e. Ensure the continuity of your medical care while you are held in detention by United Nations personnel.

If you do not agree to a medical examination, you should notify United Nations personnel.

You may be photographed and have information recorded about you for the following purposes:

- a. Identification; and
- b. Recording any injuries or matters relating to your well-being.



(C7) DECLARATION OF ASSURANCES

In agreeing to receive individuals handed over by [name of the mission], the Government of [name] (“the Government”) agrees to treat the individuals (the “person”) in accordance with the following terms:

I. General obligations of the Government

1. Persons detained by [the mission] who are handed over to the Government shall at all times in the course of any subsequent detention and any subsequent legal proceedings be treated by the Government in accordance with the obligations of the [name of the State] under the relevant treaties to which it is party, including the [list the names of the treaties], as well as in accordance with the obligations of [name of the State] under applicable rules of customary international law. Such persons shall also be treated in accordance with the national laws of [name of the State], to the extent that they are consistent with the obligations of [name of the State] under the relevant treaties to which it is party and applicable rules of customary international law.

2. In the event that a person is detained by [the mission] in connection with an armed conflict and is handed over by [the mission] to the Government, the Government shall at all times in the course of any subsequent deprivation of liberty and any subsequent legal proceedings treat that person in accordance with the obligations of [name of the State] under Article 3 common to the Geneva Conventions of 1949, the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts] and relevant rules of customary international law, as well as in accordance with its obligations under the treaties and rules of customary international law referred to in paragraph 1 above and, to the extent that they are consistent with its obligations under the treaties and rules of customary international law referred to in this paragraph and in paragraph 1 above, in accordance with the national laws of [name of the State].

II. Obligations prior to and at the time of handover

3. The handover by [the mission] to the Government of a person held by [the mission] shall occur at a location agreed by [the mission] and the Government. The Government shall cooperate with [the mission] for the purpose of ensuring that the handover is carried out in a humane manner and with due regard for that person's safety and physical well-being in the course of the transfer. In particular, food, water and, where necessary, medical attention and shelter shall be provided. Persons being handed over shall be protected from any danger during their handover.

4. In the event that the Government decides to continue to deprive of their liberty any person handed over to it by [the mission], the Government shall take such steps as may be necessary, either prior to or at the time of handover, to ensure that there is a legal basis in its national law for doing so. Thereafter, the Government shall, for as long as it continues to deprive the person concerned of his/her liberty, take such steps as may be necessary whenever they may be required to ensure that the continued deprivation of that person's liberty is consistent with its national law. In particular, the Government shall for these purposes obtain in a timely manner any and all judicial or executive orders or warrants that may be required by its national law.

III. Obligations after the handover

5. The Government shall keep an accurate and up-to-date record of all persons who have been handed over to it by [the mission] and whom the Government has continued to deprive of their liberty, including, in each case:

- i. the person's full name, age, gender, country of origin and family contact(s);
- ii. the date, time and place of the person's handover by [the mission] to the Government;
- iii. the location of the facility to which he or she was transferred and in which he or she was held by the Government following the handover, together with the relevant date and time of his or her reception into that facility;
- iv. the location(s) of any facilities to which he or she was subsequently transferred and in which he or she has been held by the Government, together with the relevant dates and times of his or her reception into those facilities;
- v. the reasons and factual and legal basis for the continued deprivation by the Government of the person's liberty;
- vi. a medical file containing all information regarding the medical condition of the person; and
- vii. any material change of circumstances, including release, transfer, escape, serious injury, serious illness and death.

6. The Government shall keep the following entities and persons informed, and shall promptly inform them upon request, of the whereabouts of all persons who have been handed over by [the mission] to the Government and whom the Government has decided to continue to deprive their liberty, including the locations of the places where those persons are deprived of their liberty and the authorities responsible for their administration:

- i. [the mission];
- ii. the International Committee of the Red Cross;
- iii. the family member or other person designated by the person concerned, or, in the case of a child, other person or entity responsible for the child's care;
- iv. the legal representative designated by the person concerned;
- v. the relevant consulate or embassy, if the person concerned is a foreign national or resident and makes an unequivocal request to notify it; and
- vi. relevant international organizations, upon request by the person concerned.

The Government shall promptly notify the above-mentioned entities and persons in case of any change in the circumstances of the person concerned, such as release, transfer, escape, serious illness, serious injury or death.

IV. Access to persons handed over to the Government

7. For such time as a person who has been handed over by [the mission] to the Government remains in the custody of the Government, the Government shall permit members of [the mission] to have unrestricted access to that person and to the place where the person is held as well as to any place or places where he or she may formerly have been held, in order to monitor the conditions and treatment of the person concerned. The Government shall take all necessary measures to facilitate such visits, including by allowing members of [the mission]:

- i. to have access to all parts of the facility where the person concerned is held as well as to all parts of any facility or facilities where he or she may formerly have been held;
 - ii. to have private interviews with the person concerned without witnesses being present (but with an interpreter present, if deemed necessary by the members of [the mission] concerned);
 - iii. to have private interviews with any other person whom [the mission] may believe may supply relevant information (with an interpreter present, if deemed necessary by the members of [the mission] concerned);
 - iv. to conduct such visits without restriction on their duration and frequency; and
 - v. to have access to all records relating to the person concerned, including their medical records.
8. The Government shall allow members of the International Committee of the Red Cross to have full and unrestricted access, in accordance with the International Committee's standard visiting procedures, to all persons who have been handed over by [the mission] to the Government, to all places where they are being or have formerly been held, and to all records relating to the person concerned.

V. Legal proceedings of persons handed over to the Government

9. In the event that a person handed over by [the mission] to the Government is subsequently prosecuted, the Government shall promptly so inform [the mission] and shall permit members of [the mission] to monitor that person's trial (notwithstanding any decision that the court may take, consistently with the International Covenant on Civil and Political Rights, to hold the trial in camera, either in whole or in part). The Government, including its judicial authorities, shall take all necessary measures to facilitate such monitoring. The Government shall notify [the mission] of all judgments and any sentences handed down in relation to such person.

10. In the event that a person handed over by [the mission] to the Government is prosecuted, tried and convicted by the courts of the [name of the State], the authorities and the courts of [name of the State] shall ensure that sentence of death is not sought or imposed on him or her, and, in the event that it is imposed, that it is not carried out. The authorities and courts of the [name of the State] shall also ensure that the time spent by that person in the custody of [the mission] is deducted from any sentence of imprisonment imposed on him or her.

VI. Corrective measures

11. [The mission] may request the Government to take effective corrective measures, should it consider that a person whom it has handed over to the Government is not being treated consistently with the obligations of the Government under treaties to which it is party, applicable rules of customary international law or the provisions of this Statement. The Government undertakes to give due and timely consideration to such requests and to consult promptly with [the mission] with a view to their speedy implementation. The Government may request the assistance of [the mission] to help it remedy or correct the situations which gave rise to [the mission's] request for corrective measures.

12. In the event that [the mission] determines that corrective measures will fail to ensure that a person whom it has handed over to the Government would be treated consistently in any important respect with the obligations of the Government under treaties to which it is party, applicable rules of customary international law and the provisions of this Statement, [the mission] may:

- i. where such treatment pertains to the conditions in which the person concerned is held or the manner in which he is treated while at a place of detention, request the Government to transfer the person concerned to another place of detention specified by [the mission] which will guarantee the

minimum material conditions and treatment required by international law. The Government undertakes to carry out such transfer without delay following receipt of any such request. In the event that the Government does not or is not able to carry out that transfer, [the mission] may request the Government to release the person concerned. The Government undertakes to release that person without delay upon receipt of any such request;

- ii. where such treatment pertains to the manner in which the legal proceedings against the person concerned are being conducted, request the Government to release that person. The Government undertakes to release that person without delay upon receipt of any such request.

13. For the purposes of this Statement, the expression "the Government" shall be understood to include any authority or official of the Government of [name of the State], including members of the defence and security forces and intelligence services of [name of the State], as well as any person acting on the instruction of or under the direction or control of the Government.

Receiving authority/ Name / Official position/ Date/ Signature



(C8) STATEMENT OF RELEASE OR HANDOVER¹

This statement shall be handed to any detained person released or handed over by United Nations personnel.

You were detained by United Nations personnel at *[location]* from *[date/time]* to *[date/time]*. You are no longer detained by the United Nations.

You have the right to make a complaint to the United Nations concerning your treatment or the conditions of your detention by United Nations personnel.

You have the right to claim compensation for any bodily injury or property damage from the United Nations which is attributable to any wrongful action on the part of United Nations personnel and is related to your detention. Any such claim must fulfil the requirements of United Nations General Assembly resolution 52/247 and, therefore, must be submitted within six months of the time at which you became aware of the cause of the injury or damage, and in any event no later than one year following the termination of the mandate of the peacekeeping mission whose personnel detained you.

Should you wish to make a complaint or seek compensation you are to contact:

[Insert here the name of the relevant appointment and their contact].

¹ This statement shall be translated into a language the detained person understands, and when given to the detained person should, where reasonably practicable, be read aloud to the detained person.