Module 3



How to Support Child-sensitive Apprehension, Arrest and Detention

Module at a Glance

Overview

Children are more vulnerable than adults to all sorts of threats. Apprehension, arrest and detention are core police activities that carry detailed due process guarantees. As arrested and detained children are vulnerable to abuses of power, international law (as well as almost every national legal system) stipulate detailed guarantees of due process and humane treatment.

The United Nations Police (UNPOL) has the responsibility to monitor, mentor and advise the host-State Police¹ on apprehension, arrest and detention of children. UNPOL officers must respect and promote international human rights law and standards in all aspects of their work. The international community has developed and adopted guidelines relating to the treatment of children during arrest and detention. In this module, we will explore how these international guidelines should guide the work of UNPOL officers.

Some United Nations peace operations have executive mandates (e.g., Kosovo and Timor-Leste, in the past), and UNPOL officers are responsible for all policing duties in those missions. The protection of civilians mandate states that UNPOL officers shall apprehend and detain persons as necessary and as specified in the Directives on Detention, Searches and Use of Force (DUF), following standard operating procedures (SOPs) that apply international standards.

In most cases, however, UNPOL officers are mandated only to advise, mentor and provide guidance to the host-State police. It is crucial for UNPOL officers to know their specific mandate, be familiar with the national legislation of the host country, and in



¹ See DPO, Specialized Training Materials for United Nations Police Officers in UN Peace Operations (UNPOL STM 2021), Lesson 8: UN Police monitoring, mentoring and advising. Available from https://resourcehub01.blob.core.windows.net/training-files/Training%20Materials/024%20STM-UNPOL/024-016%20UNPOL%20STM%20Lesson%208%20UNPOL%20Monitoring,%20Mentoring%20and%20Advising.pdf.

particular understand and apply international guidelines in the apprehension, arrest and detention of children.

Note: It is recommended that, prior to training in this module, participants should have been trained in Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations in DPO, Specialized Training Materials for United Nations Police Officers in UN Peace Operations (UNPOL STM 2021)² as a prerequisite.

Learning Objectives

At the end of this module, learners will be able to:

- Support the host-State police in understanding and applying child-sensitive practices in apprehension and arrest
- Support the host-State police in understanding and applying child-sensitive practices regarding detention (with a focus on alternatives to detention)

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 Available
 from
 https://resourcehub01.blob.core.windows.net/trainingfiles/Training%20Materials/024%20STM-UNPOL/024-022%20UNPOL%20STM%20Lesson%2011%20Apprehension,%20Arrest%20and%20Detention%20in%20UN%20Pe ace%20Operations.pdf.

Module Map

Duration: 240 minutes (4 hours)

Assessment: 15 minutes

| The Module | |
|--|-------------------------------|
| Introduction | Slides 0-3 |
| Support the host-State police in understanding and applying child- sensitive practices in apprehension and arrest | Slides 4-27 |
| Support the host-State police in understanding and applying child- sensitive practices regarding detention | Slides 28-44 |
| Learning Activities | |
| Learning Activity 3.1 | Page 6 |
| Learning Activity 3.2 | Page 21 |
| Additional information | Page 32 + Separate file |
| Learning Evaluation | |
| Learning evaluation | Page 32 |
| Assessment | Separate file |

The Module



Instructors need to decide which activities to use and in what combinations, which may influence the duration of the module from 3 to 4 hours. When deciding on which activities to use, it is important to consider the sequence and the coherence of the module.

NOTE to instructors: The competencies taught in this module are relevant regardless of the specific mandate attributed in each United Nations peace operation, although they must be approached according to the established mandate:

- Operational support mandate: UNPOL shall conduct patrols (Protection of Civilians sites, internally displaced persons camps, joint operations with the UN military, etc.), investigate cases, engage in crime prevention, provide technical and tactical advice to the host-State police, carry out joint operations, address trafficking, organized crime, engage in border control, etc.
- Institution-building mandate: UNPOL shall assist with host-State police and other law enforcement agencies reform and restructuring, advise and train host-State police on community-oriented policing and other methods, collaborate on monitoring, sensitization projects, etc.
- Executive mandate (few such cases): UNPOL shall safeguard law and order, which may include carrying out arrest and detention with full criminal justice powers, etc.

In 2020, the Department of Peace Operations (DPO), the Department of Political and Peacebuilding Affairs (DPPA) and the Department of Safety and Security (DSS) adopted a Standard Operating Procedure (SOP) on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions. This SOP applies in all situations where UN peace operations apprehend and place individual(s), including children, under the effective control of the mission (even briefly). The SOP does not grant powers to apprehend or arrest. Rather, it defines the procedures for apprehension, transfer, detention and handover or release.

The SOP, including its Annex B on special considerations for children, is not covered in this module. It is suggested that instructors complement the content of this module with additional information on sections related to the SOP from Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations in DPO, Specialized Training Materials for United Nations Police Officers in UN Peace Operations (UNPOL STM 2021). The module is built to address most of the deployment to United Nations peace operations.

In this module, it is suggested that the instructors select as many exercises as are relevant to reinforcing the skills and understanding required to fulfil the mandates and obligations in terms of child-sensitive apprehension, arrest and detention.

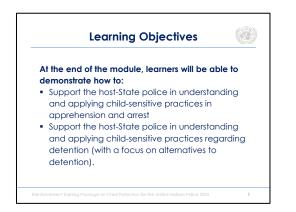
Starting the Module

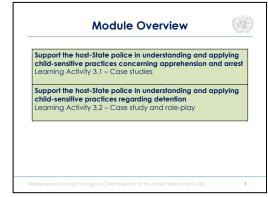
Introduce the following (show slides 0-3):

- Title page and lesson topic
- Aim
- Learning Objectives
- Lesson Overview

Slide 0-3: Introduction slides







Learning Activity 3.1

Support the host-State police in understanding and applying child-sensitive practices in apprehension and arrest



In this segment of the module, instructors will help United Nations Police (UNPOL) officers understand and promote child-sensitive approaches and procedures in line with international norms and standards when apprehending or arresting a child.

TIME: 105 minutes

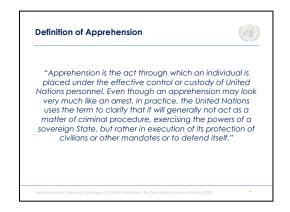
- Introduction of activity and instructions: 10 minutes
- Group work: 25 minutes
- Plenary: 60 minutes (15 minutes per case study)
- Questions and key messages: 10 minutes

Show slide 4 and read text out loud, then show slide 5 and read the text out loud. NOTE to instructors: These definitions are taken from UNPOL STM 2021, Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations. It is recommended to have the definition printed and posted for reference throughout the lesson. It is also recommended that instructors revisit Lesson 1.4: Legal Framework for United Nations Peacekeeping in DPO, Core Pre-deployment Training Materials (CPTM) to reflect on how to discuss variations in legal system in the way apprehension, arrest and detention can be applied in conformity with the law.³

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³ For more information, see DPO, Core Pre-deployment Training Materials, Lesson 1.4: Legal Framework for United Nations Peacekeeping, <u>https://peacekeepingresourcehub.un.org/en/training/pre-deployment/cptm/module1</u>.

Slide 4: Definition of apprehension⁴



Slide 5: Definition of arrest

| efinition of Arrest | Q |
|--|---|
| "Arrest is the act of apprehending a person fo allegedly committed an offence or by the ac competent authority." | - |
| | |
| storcement Training Package on Child Protection for the United Nations Police 2023 | 5 |

Make sure that participants understand the distinction between apprehension and arrest before proceeding. Insist on the fact that, in most UN peace operations, the non-executive mandate implies that UNPOL cannot and should not arrest someone, as this type of action constitutes a legally established action that UNPOL cannot perform because of its non-executive mandate. This is why UNPOL will refer to apprehension on rare occasions where it needs to intercept an individual.

The following exercises are based on the premise that UNPOL is composed of experienced police officers who have worked with children in contact with the law. They combine the principles of justice for children with the realities of armed conflict. Instructors are encouraged to divide participants into groups without briefing them before they

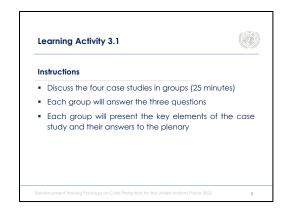


⁴ For more information, see DPO, DPPA and DSS, Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13, <u>https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nationspeacekeeping-operations-and</u>; also, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988, <u>www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-</u> protection-all-persons-under-any-form-detention.

begin the exercises. The purpose of the activity is to allow participants to use their existing knowledge and experience to answer the questions on their own. Instructors should be well prepared for the debriefing exercise at the end of the activities, and should be able to explain the key messages, lead the discussion, ensure the alignment of key learning objectives and provide any additional information.

There are four case studies with four different focuses, in different country contexts. Instructors are encouraged to use as many case studies as possible, as they all provide different insights into different realities in United Nations peace operations. Instructors should make sure to reserve sufficient time for debriefing at the end of each exercise, as this is where the instructor can add value to the discussion, by verifying answers and complementing them with additional information provided in the manual. Achieving the objective of this segment depends on the quality of the discussion after the group exercise.

Slide 6: Learning Activity 3.1



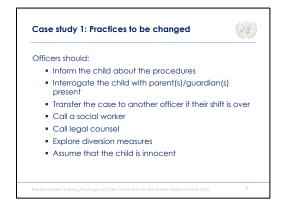
INSTRUCTIONS:

- Provide the participants with the materials and instructions for the learning activity.
- Divide the participants into groups and ask them to respond to the three questions.
- Give the groups 25 minutes to complete the exercise (for larger groups, encourage participants to divide the tasks).
- After 25 minutes, ask the first group to briefly present the case and its answers.
- Use slides 7 to 10 for the debriefing to guide the discussion of the responses presented.

Slide 7: Case study 1 – Good practices



Slide 8: Case study 1 – Practices to be changed



The officer should:

- Have informed the child of the procedures that would be followed in a childfriendly manner and answered his questions, in line with international best practice and domestic legislation.
- Not have interrogated the child without his parents, as he had specifically asked for them and they had promised to come.
- Have transferred the case to the officer who was coming on duty, introduced the child and explained the situation.
- Have called a social worker and offered the child access to legal counsel (if applicable under local legislation).
- Not have recommended that the case be referred to the prosecutor without exploring all the possibilities regarding diversion measures (if available under local legislation).
- Not have assumed that the child was guilty without even hearing his story.

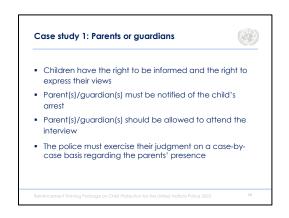
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Slide 9: Case study 1 – Minimum age of criminal responsibility



- Each country should adopt legislation establishing an age of criminal responsibility.
- It is important to distinguish between "age of majority", which is 18 years according to international norms and standards, and "age of criminal responsibility", which is established by national legislation and may be below 18 years.
- The internationally accepted recommendation for the minimum age of criminal responsibility is 14 years.
- A child who is below the minimum age of criminal responsibility should not be arrested or prosecuted for any crime, nor should the child be detained. Rather he/she should be handed over to his/her parent(s)/guardian(s) or a social worker.
- The host-State police are always bound by national law, even if the minimum age of criminal responsibility is below 14 years.

Slide 10: Case study 1 – Parents or guardians

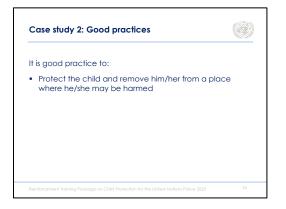




- Children have the right to be informed of what is happening, and they have the right to express their views and ask questions.
- The child's parent(s) or guardian(s) must be notified of the child's arrest as soon as possible.
- In general, the child's parent(s) or guardian(s) should be allowed to attend the interview with the child.
- Police officers must exercise their judgment on a case-by-case basis. In some circumstances, it may not be desirable for the parents to be present during the interview, for example, when the police suspect that the parents have mistreated the child in any way, either physically or psychologically.

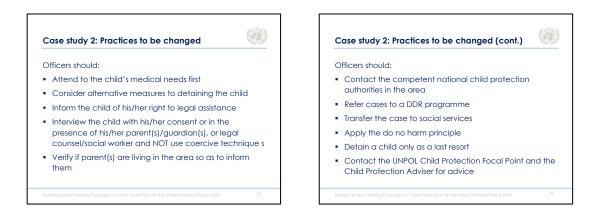
If time allows, instructors can invite participants who have been in similar situations to share their experiences. After closing this discussion, invite the second group to present their answers, then use slides 11 to 15 for the debriefing. After the second group, apply the same method for the remaining groups, alternating between group presentations of answers and debriefing using slides 16 to 25.

Slide 11: Case study 2 – Good practices





Slides 12 & 13: Case study 2 – Practices to be changed



The officer should:

- Have tried to attend to the child's medical needs first, or contacted the community leader or a civil society organization in the area for advice on appropriate medical resources.
- Have considered alternatives to detaining the child.
- Have tried to confirm the age of the child.
- Have informed the child of her rights to legal assistance in case of interview.
- Not have tried to interrogate the child without the child's consent or in the absence of parent(s)/guardian(s) or legal counsel.
- Have tried to reassure the child and verify whether the parent(s)/guardian(s) were living in the area so as to inform them.
- Have tried to contact competent national authorities in the child protection system in the area so that the child could receive appropriate psychosocial care, and be directed to a disarmament, demobilization and reintegration programme and/or a United Nations entity or NGO for assistance and family tracing.
- Have tried to contact child protection partners immediately, and transfer the case to social services as soon as possible.
- Have taken into consideration the do no harm principle. The officer could be accused of illegal detention, abuse and exploitation of a child, even if it was not his intention. Keeping the child at his private home and confining her to a locked room is against the police code of conduct and international standards.
- Not have detained the child (detention should have been the last resort). The child should be immediately released from the shed.
- Have contacted UNPOL Child Protection Focal Point and Child Protection Adviser for advice.

Slides 14 & 15: Case study 2 – Treatment of the child during arrest



- Apprehension and arrest procedures should be proportional to the situation and the age of the child.
- Children should not be subjected to any form of brutality, violence or torture.
- The use of firearms, electric shock devices and violent methods to apprehend and arrest a child is prohibited.
- Guidance is available on limiting the use of and using force and instruments of
 restraint by the police while apprehending or arresting children. For example, a
 child should not be handcuffed if he/she does not pose a threat to himself/herself
 or the arresting police officers.
- If children must be searched, it should be done in a manner that respects their privacy and dignity.
- In all circumstances, the minimum amount of force necessary to ensure the safety of both the child and the police officer should be used (i.e., proportional use of force).
- Humane treatment is a fundamental human right that applies to everyone, including children, whether they are guilty or not of committing a crime.
- Any alleged violence of any kind against children by the police should be independently investigated and reported in a timely manner.



Use slides 16 to 20 for the debriefing of case study 3.

Slide 16: Case study 3 – Good practices



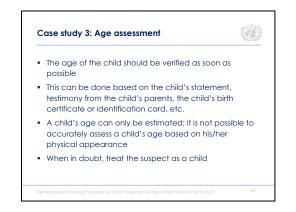
Slides 17 & 18: Case study 3 – Practices to be changed

| | Officers should: |
|---|--|
| Officers should: | |
| Consider the concept of proportionality and not use disproportionate force to apprehend a child | Consider an individual who looks like a youth to be a child, unless proven otherwise |
| Inform the child of his/her rights | Contact social workers when dealing with children |
| Consider the concept of necessity and not use | Seek interpretation assistance if deemed necessary |
| handcuffs or other restraints when apprehending a child | Contact the UNPOL Child Protection Focal Point and the Child Protection Adviser for advice |

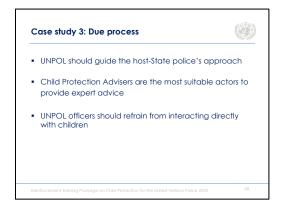
The officer should:

- Not have used disproportionate force to arrest the individual.
- Have informed him of the reason for the arrest and of his rights.
- Not have used handcuffs.
- Have considered the individual as a child (the police officer assessed his age as being 18 years).
- Have contacted social services or other services so as to rapidly refer the case.
- Have sought assistance for interpretation.
- Have contacted UNPOL Child Protection Focal Point and Child Protection Adviser for advice.

Slide 19: Case study 3 – Age assessment



Slide 20: Case study 3 - Due process



- There must be sufficient legal basis to arrest a person in domestic law.
- Typically, there must be an arrest warrant procedure with judicial and prosecutorial checks and balances.
- Instances in which the police may arrest without warrant (e.g., a child caught in the act of committing an offence) must be clearly regulated by national law.
- The child should be charged within 24 hours from the time of arrest/apprehension (or less, as provided for by national law) or be released.⁵ In any case, the child should not be kept in police custody for more than 24 hours, and police custody



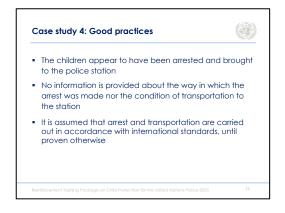
⁵ See Specialized Training Materials for United Nations Police Officers in UN Peace Operations, 2021, Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations, page 18 of <u>https://resourcehub01.blob.core.windows.net/training-files/Training%20Materials/024%20STM-UNPOL/024-022%20UNPOL%20STM%20Lesson%2011%20Apprehension,%20Arrest%20and%20Detention%20in%20UN%20Pe ace%20Operations.pdf.</u>

of a child should only be used as a measure of last resort and for the shortest period of time with the best interests of the child as a primary consideration.⁶

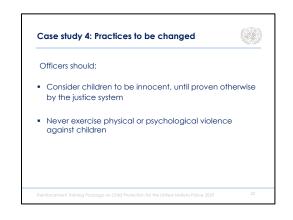
 Law enforcement officers, including UNPOL officers, must be held accountable if they carry out arbitrary arrests/apprehensions (application of disciplinary and criminal measures, as warranted).



Slide 21: Case study 4 – Good practices



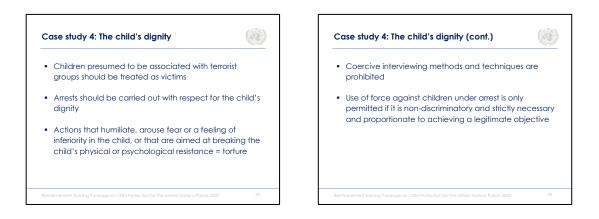
Slide 22: Case study 4 – Practices to be changed



⁶ See Committee on the Rights of the Child, General Comment No. 24 (2019) on Children's rights in juvenile justice article 37.d, <u>https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf</u>.

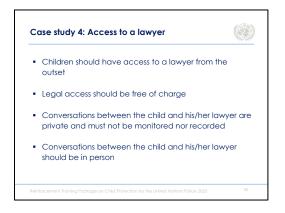
- Based on the description given by the senior police officer, it seems that the police consider the children guilty. Children should be presumed innocent until proven otherwise by the justice system.
- The words used by the senior police officer: "avenge my colleague" and "we will take care of them", could imply an intention to exercise physical or psychological violence against the children.

Slides 23 & 24: Case study 4 – The child's dignity



- Children associated or presumed to be associated with armed forces or armed groups, including those designated as terrorist groups by the United Nations, or for national security reasons, shall be treated primarily as victims.
- UNPOL and other law enforcement officers must ensure that the child's dignity is respected when carrying out arrests. This applies to the way in which the arrest is carried out, as well as the conditions in which the child is detained.
- Actions that humiliate, arouse fear or a feeling of inferiority in, or that are aimed at or capable of breaking the child's physical or psychological resistance, may be considered torture or other ill-treatment.
- Coercive interviewing methods and techniques that aim to obtain a confession by means of duress, threat or impairment of the child's capacity to make decisions are prohibited.
- Use of force against children under arrest is only permitted if it is non-discriminatory and strictly necessary and proportionate to achieving a legitimate objective. That includes in self-defense, to prevent the person from escaping, or where there is physical resistance to a lawful order.

Slide 25: Case study 4 – Access to a lawyer

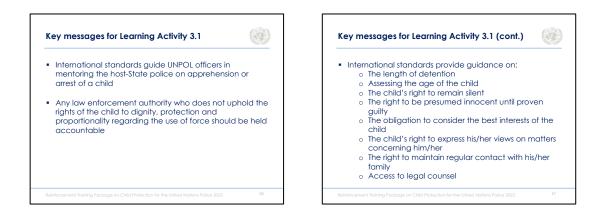


- All children in police custody must be offered the opportunity to access a lawyer from the outset of deprivation of liberty, and definitely before any questioning by the authorities.
- The services of a lawyer should be free of charge.
- Conversations between the child and his/her lawyer are private and must not be monitored nor recorded, however security measures may be put in place.
- In practice, when possible, those conversations should take place in an environment that allows for face-to-face interaction, without physical barriers. The authorities should therefore have dedicated facilities in police stations for meetings between detainees and their legal counsels.



After the debriefing, ask learners if they have questions on the content of this segment. It is important to allow sufficient time to answer all questions before moving on to the next segment.

Slides 26 & 27: Key messages for Learning Activity 3.1



Reference Materials

Additional resources and references for instructors to enrich their knowledge prior to facilitating this segment of the module:

- DPKO, DFS and DPA, Policy on Child Protection in United Nations Peace Operations, 2017, <u>https://peacekeeping.un.org/sites/default/files/1.protection_-</u> <u>3 child protection policy 0.pdf</u>
- Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, <u>https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/GC24/Gen</u> <u>eralComment24.pdf</u>
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), General Assembly resolution 40/33, 29 November 1985, https://digitallibrary.un.org/record/120958?In=en
- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), General Assembly resolution 45/110, 14 December 1990, <u>https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/tokyoru les.pdf</u>
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly resolution 45/113, 14 December 1990, <u>https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-</u>

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liberty#:~:text=Juveniles%20deprived%20of%20their%20liberty%20shall%20not%20f or%20any%20reason,14

- United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, Annex, Strategy XII, <u>https://digitallibrary.un.org/record/780633?ln=en</u>
- DPO, DPPA and DSS, Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13, 2021, <u>https://peacekeeping.un.org/en/standardoperating-procedure-handling-of-detention-united-nations-peacekeepingoperations-and</u>
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1989, <u>https://digitallibrary.un.org/record/53865?ln=en</u>
- DPKO and DFS, Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 2016 <u>https://peacekeeping.un.org/sites/default/files/4. rule_of_law_-_8_police_operations.pdf</u>
- Code of Conduct for Law Enforcement Officials, General assembly resolution 34/169, Annex, 1979, <u>https://www.ohchr.org/en/instruments-</u> <u>mechanisms/instruments/code-conduct-law-enforcement-officials</u>
- DPO, Specialized Training Materials for United Nations Police Officers in UN Peace Operations (UNPOL STM 2021), Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations, <u>https://resourcehub01.blob.core.windows.net/training-files/Training%20Materials/024%20STM-UNPOL/024-022%20UNPOL%20STM%</u>
 <u>20Lesson%2011%20Apprehension,%20Arrest%20and%20Detention%20in%20UN%20</u>
 <u>Peace%20Operations.pdf</u>

Learning Activity 3.2

Support the host-State police in understanding and applying childsensitive practices regarding detention



In this segment, instructors will help United Nations Police (UNPOL) personnel understand and promote approaches and procedures relating to alternatives to depriving children of their liberty and the limited circumstances in which detention may be used as a last resort.

The activities in this segment are based on the premise that UNPOL is composed of experienced police officers who have followed up cases after submitting their reports in their home country. The activities combine the principles of child-sensitive policing with the realities of armed conflict. Instructors are encouraged to divide the participants into groups without briefing them before they begin. The purpose of the activities is to allow participants to use their existing knowledge and experience to play the roles assigned to them on their own. Instructors should be well prepared for the debriefing exercise at the end of each activity, and should be able to explain the key messages, lead the discussion and ensure the alignment of key learning objectives.

TIME: 135 minutes

- Introduction of activity and instructions: 10 minutes
- Case study, including individual work and work in pairs: 25 minutes
- Debriefing: 30 minutes
- Instructions for role-play: 5 minutes
- Role-play, including individual preparation: 25 minutes
- Debriefing: 30 minutes
- Questions and key messages: 10 minutes



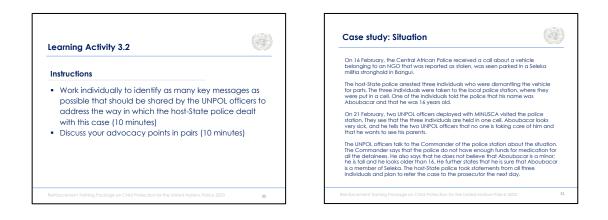
Show slides 28 & 29 and go over the definitions and concepts that participants would have learned from Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations of the Specialized Training Materials for UNPOL Officers (UNPOL STM 2021).

Slides 28 & 29: Definitions of detention and places of detention⁷





Slides 30 & 31: Instructions & situation



INSTRUCTIONS:

 Ask participants to work individually to identify as many key messages as possible that they think should be conveyed by the UNPOL officers to address the way in

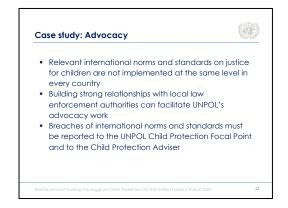


⁷ See DPO, DPPA and DSS, Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13, <u>https://peacekeeping.un.org/sites/default/files/dpo-2021-</u> 00276 revised sop on detention jan 2021 for attachment.pdf.

which the host-State police have dealt with this case, and to write their ideas on a sheet of paper.

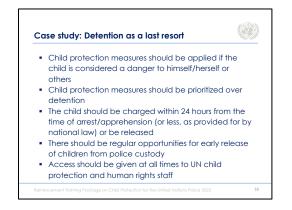
- Give them 10 minutes to complete that task, then ask them to discuss their points in pairs for another 10 minutes to agree upon the most important key messages in this case study.
- Instructors should capture a few key messages from the various groups on a flipchart, engaging in a discussion to ensure that all participants understand the points made by others.
- Use the following slides to build on the points made by participants.
- If time allows, instructors can invite participants who have been in similar situations to share their experiences.

Slide 32: Case study - Advocacy



- Relevant international norms and standards on justice for children are not implemented at the same level in every country; in fact, many are often ignored.
- In order to address challenges that you may encounter in the implementation of your mandate, reference to international norms and standards would be of significant help to ensure compliance on the part of the host-State police.
- Building strong relationships with the local law enforcement authorities would facilitate your advocacy work on various subjects and can make a difference when providing guidance to the host-State police (e.g., fostering adherence to international standards, facilitating the judicial process, supporting the implementation of alternatives to detention, etc.).
- In implementing your mandate, you will most likely witness breaches of international norms and standards relating to children; you have an obligation to report those situations to the UNPOL Child Protection Focal Point and to the Child Protection Adviser for further action that could involve other mission components.

Slide 33: Case study - Detention as a last resort



- The leading principles regarding the deprivation of liberty of children are:
 - (a) Arrest, detention or imprisonment of a child shall be used in conformity with the law only as a measure of last resort and for the shortest appropriate period of time.⁸
 - (b) A child shall NOT be deprived of his/her liberty unlawfully or arbitrarily.
- If the child is considered a danger to himself/herself or others, child protection measures should be applied. Such child protection measures should be prioritized over detention.
- The child should be charged within 24 hours from the time of arrest/apprehension (or less, as provided for by national law) or be released.⁹ In any case, police custody of a child should only be used as a measure of last resort and for the shortest period of time with the best interests of the child as a primary consideration.¹⁰
- The police should provide regular opportunities for early release from police custody into the care of parents or other appropriate adults.
- Discretion should be used to release the child with/without conditions (e.g., having to report to an authorized person or place).

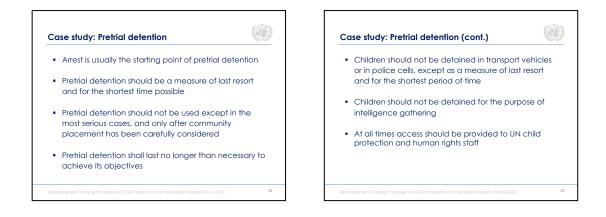
⁸ What constitutes the "shortest appropriate period of time" is not defined in guidelines relating to juvenile justice. See <u>www.unodc.org/pdf/criminal justice/United Nations Rules for the Protection of Juveniles</u> <u>Deprived of their Liberty.pdf</u> for reference to "shortest possible period of time".

⁹ See Specialized Training Materials for United Nations Police Officers in UN Peace Operations, 2021, Lesson 11: Apprehension, Arrest and Detention in UN Peace Operations, page 18 of <u>https://resourcehub01.blob.core.windows.net/training-files/Training%20Materials/024%20STM-UNPOL/024-022%20UNPOL%20STM%20Lesson%2011%20Apprehension,%20Arrest%20and%20Detention%20in%20UN%20Pe ace%20Operations.pdf.</u>

¹⁰ See Committee on the Rights of the Child, General Comment No. 24 (2019) on Children's rights in juvenile justice article 37.d, <u>https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf</u>.

 United Nations child protection and human rights staff should have access at all times to detention facilities in order to assess the conditions.

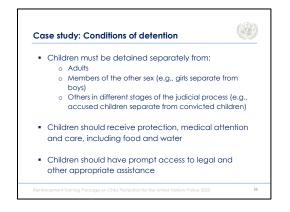




- International norms and standards related to pretrial detention of children state that:
 - Arrest is often the starting point of pretrial detention.
 - Pretrial detention of children should only be used as a measure of last resort and for the shortest possible period of time.
 - Pretrial detention should not be used except in the most serious cases,¹¹ and even then, only after community placement has been carefully considered.
 - Pretrial detention shall last no longer than necessary to achieve its objectives.
 - Children should not be held in transport vehicles or police cells, except as a measure of last resort and for the shortest period of time.
 - Children may be detained for judicial reasons only, not for the purpose of gathering intelligence, even in conflict zones.
 - Access should be given at all times to United Nations child protection and human rights staff to enable them to visit detention facilities and assess the conditions.

¹¹ See the United Nations rules for the protection of juveniles deprived of their liberty, <u>www.unodc.org/pdf/criminal justice/United Nations Rules for the Protection of Juveniles Deprived of th</u> <u>eir Liberty.pdf</u>.

Slide 36: Case study - Conditions of detention



- Children must always be detained separately from adults.
- Girls and boys must be detained separately from each other.
- Accused children must be detained separately from convicted children.
- Conditions at detention facilities must minimize the negative impact of detention on children and aim at facilitating their reintegration into society upon release.
- Children in police custody should receive protection, medical attention and appropriate care, and they should be provided with sufficient food and water for the period of the detention.
- A child deprived of his/her liberty has the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his/her liberty before a court or other competent, independent and impartial authority, and to receive prompt decision on any such action.



Ask learners if they have questions on the content of this segment. It is important to allow sufficient time to answer all questions before moving on to the next roleplay activity.

Slide 37 & 38: Instructions & situation



INSTRUCTIONS:

- Select four volunteers for this role-play and assign the following roles: two UNPOL officers, one host-State police officer, and one host-State Police Commissioner.
- If possible, it is recommended that facilitators identify and brief the volunteers at least one day before the role-play, to allow sufficient time for preparation.
- Show slide 37 and 38 and present the scenario.
- Ask the volunteers to act naturally. They should be open to listening to others, but pragmatic in questioning the relevance and feasibility of the measures suggested. The aim of the meeting is to identify realistic alternatives to detention.
- Consider finding a location in the middle of the room where all participants can clearly hear the conversation.
- Give the volunteers 5 minutes to prepare individually and inform them that the role-play will last 15 minutes.
- If time is limited, consider dividing participants into groups and conducting more role-plays simultaneously with a smaller group of observers who can more easily hear the interaction.
- Instructors should observe the role-play and avoid intervening unless the role-play is derailing. Instructors should keep track of the time and stop the role-play after 15 minutes.
- Commend the volunteers on their performance. Then, call for 2 or 3 comments
 from the participants who observed the role-play to get their views on what
 worked well and what less well, in terms of the suggested alternatives to detention
 and their justification and adaptation to the context. Focus on the content and
 the approach, not on the acting skills of the participants.



Instructors should use slides 39 to 42 for the debriefing exercise with the entire group.

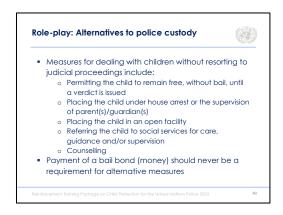
NOTE to instructors: The points below may generate discussions regarding preventive detention as a protection measure. It is important to remind participants of the two key messages on child protection: (1) detention should be used only as a last resort; and (2) the "best interests of the child" is the key principle guiding decision-making.

Slide 39: Role-play – Advocacy



- Alternatives to detention may be more challenging to implement in conflict and post-conflict contexts.
- As conflict disrupts family and community structures, support systems for children weaken. However, such contexts can also provide an opportunity to develop new alternatives.
- While some international standards are binding on States, the majority of international norms and standards relating to justice for children are not open for adoption; they are therefore not binding on States.
- However, these international norms and standards constitute important moral and practical guidelines for States.
- United Nations Police (UNPOL) officers have an important role to play in advocating and advising the host-State police on the implementation of international norms and standards relating to justice for children.





- Whenever appropriate and feasible, measures for dealing with children without resorting to judicial proceedings should be used, including:
 - Permitting the child to remain free, without bail, until a verdict is issued.
 - Placing the child under house arrest or the supervision of his/her parent(s)/ guardian(s). The host-State police can either monitor the compliance of house arrest by deploying a unit on-site or by corroborating the application with responsible adults nearby.
 - Placing the child in an open facility.
 - Referring the child to social services for care, guidance and/or supervision.
 - Counselling.
- The payment of monetary bail should never be a requirement for alternatives to detention. Most children cannot pay a bail bond and it discriminates against marginalized families. Furthermore, setting bail implies a recognition in principle by the court that the child should be released; other mechanisms can be used to secure attendance in court. Bail is not a fine and should never be used as punishment.

Slide 41: Role-play – Diversion

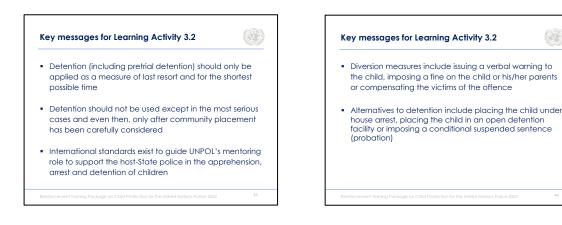


Slide 42: Role-play – Alternatives to detention in sentencing measures



Ensure that participants are clear on the difference between diversion (see Module 2: How to support child-friendly prevention and diversion) and alternatives to detention. Refer to slides and material in Module 2 if required. After the debriefing exercise for this role-play, ask learners if they have questions on the content of this segment. It is important to allow sufficient time to answer all questions, before moving on.

Slides 43 & 44: Key messages for Learning Activity 3.2



Reference Materials

Additional resources and references for instructors to enrich their knowledge prior to facilitating this segment of the module:

- DPKO, DFS and DPA, Policy on Child Protection in United Nations Peace Operations, 2017, <u>https://peacekeeping.un.org/sites/default/files/1.protection_-</u> <u>3_child_protection_policy_0.pdf</u>
- Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, <u>www.ohchr.org/en/documents/general-comments-and-</u> recommendations/general-comment-no-24-2019-childrens-rights-child
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly resolution 45/113, Annex, 14 December 1990, <u>https://digitallibrary.un.org/record/105555?ln=en</u>
- United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, Strategy XII, General Assembly resolution 69/194, Annex, 25 January 2015, <u>https://digitallibrary.un.org/record/787466?ln=en</u>
- DPO, DPPA and DSS, Standard Operating Procedure: The Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13, <u>https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nations-peacekeeping-operations-and, https://peacekeeping.un.org/sites/default/files/dpo-2021-00276_revised_sop_on_detention_jan_2021_for_attachment.pdf
 </u>

Module 3 – How to Support Child-sensitive Apprehension, Arrest and Detention

- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly resolution 43/172, Annex, 9 December 1988, <u>www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-</u> <u>protection-all-persons-under-any-form-detention</u>
- DPKO and DFS, Guidelines: Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 01 January 2016 <u>https://peacekeeping.un.org/sites/default/files/4._rule_of_law_- 8_police_operations.pdf</u>
- Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169, Annex, 17 December 1979, <u>www.ohchr.org/en/instruments-</u> <u>mechanisms/instruments/code-conduct-law-enforcement-officials</u>
- Specialized Training Materials for United Nations Police Officers in UN Peace Operations (UNPOL STM 2021), Lesson 11: Apprehension, arrest and detention in UN peace operations, <u>https://resourcehub01.blob.core.windows.net/training-files/Training%20Materials/024%20STM-UNPOL/024-022%20UNPOL%20STM%20</u> Lesson%2011%20Apprehension,%20Arrest%20and%20Detention%20in%20UN%20P eace%20Operations.pdf

Learning Activities

Additional information for the learning activities is in a separate file. It includes:

| Number | Name | Methods | Time |
|--------|--|--------------|----------------|
| 3.1 | Support the host-State police in understanding and applying child- sensitive practices in apprehension and arrest | Case studies | 105 minutes |

Learning Evaluation

Learning evaluation options for this module are in a separate file.

TIME: 15 minutes