



Apprehension, Arrest and Detention in UN Peace Operations

Lesson at a Glance

Aim

To familiarise participants with international standards on apprehension, arrest and detention that the host-State Police as well as UNPOL must follow.

Relevance

Arrest, apprehension and detention are core police activities subject to detailed due process guarantees. As arrested and detained persons are vulnerable to abuses of power, international law (as well as almost every national legal system) sets out detailed guarantees of due process and humane treatment. UNPOL who monitor, mentor and advise the host-State Police on apprehension, arrest and detention must base their work on international human rights standards.

In application of POC mandates, UNPOL may apprehend and detain persons as specified by the Directives on Detention, Searches and Use of Force (DUF) and following Standard Operating Procedures (SOPs) which apply international standards to United Nations Peace Operations.

Learning Objectives

Learners will be able to:

- Describe international standards on due process and humane treatment regarding apprehension, arrest and detention
- Explain procedures on apprehension, arrest and detention in Peace Operations, as well as roles and responsibilities of UN personnel
- Describe special procedures in cases of child detention
- Comply with procedures on the release or handover of detainees to the host-State

Lesson Map	
Introduction	Slides 1-4
Key Definitions	Slide 5
Human Rights in Arrest/Apprehension and Detention	Slide 6
Due Process and Humane Treatment in Arrest and Detention	Slides 7-18
Standard Operating Procedures on the Handling of Detention in UN PKO and SPM	Slides 19-27
Take Aways and Questions	Slides 28-29

The Lesson

Duration: 90 minutes total

70 minutes: interactive presentation

20 minutes: Learning activity – case study discussion



Starting the Lesson

For an interactive start to Lesson 11, consider the following options:

Ask learners if they have been deployed to peacekeeping operations before. Ask if they have been engaged in UNPOL operations resulting in an apprehension or/and detention or respective monitoring, mentoring and advising (MMA) activities? What common concerns have they observed about arrest and detention (whether by the host-State Police or by UNPOL itself)?

Introduce the following (using slides 1-4):

- Aim
- Relevance
- Learning Objectives
- Lesson Overview

Note the particular language of the UN. Learning will involve some words, terms and phrases which may be unfamiliar and/or seem awkward. Note to the learner: "Do not let the language get in the way of learning". As you move through the training, review the definitions of key words and phrases.

Slide 5

Key Definitions

Arrest
The act of apprehending a person for the alleged commission of an offence or by the action of an authority

Detained Person
Person deprived of personal liberty except as a result of conviction for an offence

Apprehension
The act through which an individual is placed under the effective control or custody of United Nations personnel
UN missions *without executive mandate* carry out apprehensions under their self-defence or protection of civilians mandate

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Make sure participants understand the distinction between arrest and apprehension before proceeding.

Key Message: In UN missions UNPOL, during MMA activities, will mostly be concerned with arrest and detention of person by the host-State Police. In non-executive missions UNPOL may carry out apprehension under their self-defence or Protection of Civilians mandate.

In United Nations terminology, an arrest is an action conducted only by the host-State. UNPOL carry out apprehension.

Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions¹:

"Apprehension" is the act through which an individual is placed under the effective control or custody of United Nations personnel. (Even though apprehensions may very much look like arrests in practice, the UN uses the term to clarify that it will generally not act as a matter of criminal procedure using powers of a sovereign state, but in executions of its POC, self-defence or other mandates).

UN Body of Principles for Protection of All Persons under Any Form of Detention²:

¹ DPO, DPPA and DSS Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13

[<https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nations-peacekeeping-operations-and/>];

² Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)

[<https://www.un.org/ruleoflaw/blog/document/body-of-principles-for-the-protection-of-all-persons-under-any-form-of-detention-or-imprisonment/>]

(a) "Arrest" means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

(b) "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence;

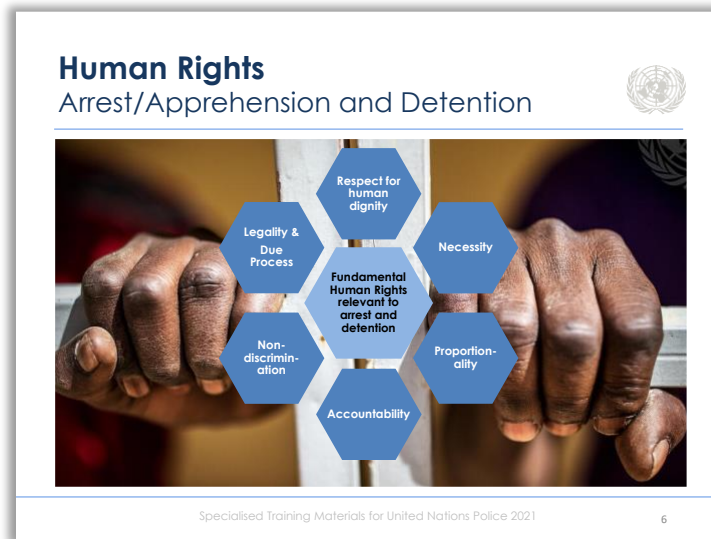
(c) "Imprisoned person" means any person deprived of personal liberty as a result of conviction for an offence;

(d) "Detention" means the condition of detained persons as defined above;

(e) "Imprisonment" means the condition of imprisoned persons as defined above;

(f) The words "a judicial or other authority" means a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

Slide 6



Key Message: Detainees continue to have human rights and must be treated with due process, without discrimination and with respect for their human dignity.

Basic human rights principles continue to apply to persons facing arrest/apprehension and detention.

Human dignity: UNPOL and other law enforcement officers must ensure that all arrests/apprehensions are carried out with respect for a person's dignity. This applies to the way an arrest is carried out, as well as the conditions in which a person is detained.

Necessity and proportionality: Given the impact on the human right to liberty, any arrest/apprehension and detention must be necessary and proportional. For instance, it will generally be unnecessary to keep an arrested shoplifter in police custody because the person is unlikely to try to escape before trial. In any case such a measure would be disproportional considering the nature of the offence. Pre-trial detention is generally warranted only if there is a real risk that the suspect will seek to escape justice or tamper with evidence or witnesses (including by threatening the latter).

Legality and due process: There must be sufficient legal basis for an arrest in domestic law (or the DUF for UNPOL apprehensions). Typically, there must be an arrest warrant procedure with judicial and prosecutorial checks and balances. Instances, in which police may arrest without warrant (e.g., a person caught in the act of committing an offence) must be clearly regulated by national law. Upon arrest several due process rights apply, which are elaborated on in the following slides.


Non-discrimination: Decisions to arrest/apprehend and detain must not be affected by the race, ethnicity, religion, gender or other characteristics of the person. For instance, if

police were to arrest persons belonging to an ethnic minority, while using non-custodial measures for members of the ethnic majority for the same offence - public trust in law enforcement will quickly erode.

Accountability: Law enforcement officers, including UNPOL must be held accountable (disciplinary and criminal measures, as warranted) if they carry out arbitrary arrests/ apprehensions. Laws and regulations must ensure humane treatment and due process to detained persons. Accountability must extend to commanders who know or have reason to know about violations by their subordinates but take no action to prevent or respond.

Slide 7

Scenario 1



Late on a Friday evening the CNP station in Akkabar receives a report of a brawl in the red-light district. As CNP police officers arrive on the scene they encounter two groups fighting each other in front of a bar. CNP officers witness that both groups attack each other physically, some of them with their bare hands, others with chairs and other items that they picked up from the bar. The crowd quickly disperses as they recognize the CNP's arrival. CNP officers manage to arrest two men and a woman who took part in the brawl. All three suffered minor injuries, bruises and small cuts.

Question 1
What steps must CNP take as they conduct the arrest?

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Facilitate a discussion by presenting the scenario and then asking the question that follows. The scenario is designed to introduce the topic of international standards on arrest, apprehension and detention. Expected responses include:

- *Inform arrested persons of the (legal) reason for the arrest*
- *Inform arrested persons about their rights*
- *Make sure that 1. and 2. are understood by the persons*
- *Make sure that the arrest is recorded properly*
- *Tend to arrested person's wounds where necessary*

Slide 8



Key Message: Arrested persons must be promptly informed about the reasons for arrest and their rights. Any arrest and detention must be duly registered.

Right to be informed of the reason for arrest: Any arrested person shall be informed at the time of his/her arrest about the reason for the arrest. This shall be done in a non-technical language that the arrested person can easily understand. The arresting officer is not required to fulfil this obligation if the arrested person makes it impossible to do so at the time of the arrest. If this occurs, the arresting officer shall inform the person of the reason for his arrest at the earliest possible time. Promptly after the arrest, the arrested person has the right to be informed of any charges that will be filed against him/her. This right can, in certain circumstances, include the legal counsel of the accused.

Right to be informed about rights: Detained persons must be informed of what their rights are and have sufficient knowledge about how to claim them. While the specific content of rights to be communicated may vary under domestic legislation, all persons deprived of liberty must, at a minimum, be informed about the rights to:

- Humane treatment and to be free from torture and other ill-treatment;
- The right to a lawyer of one's choice or to legal aid;
- The right to a medical examination and to medical care;
- The right to remain silent and not make self-incriminatory statements;
- The right to notify a third party of one's choice about the fact of deprivation of liberty; and
- The right to challenge one's detention, bring proceedings before a court.

The officer giving the information should check that the detainee has understood what they have been told. If unsure, they should ask the detainee to explain the content and

meaning of their rights, using their own words. They should also be prepared to offer clarifications, answer questions the detainee may have, and back-up the information provided with practical advice and support. The authorities in charge ought to record that the information has been provided

Custody records: As soon as a person arrives at the initial place of detention, their detention must be recorded in an official register, and a custody record must be opened for them. All records should be kept in a permanent form, such as a registration book with sequentially numbered and signed pages, or an electronic database of records. All entries into the custody record must be signed, timed, and dated.


Detention records should include:

- Personal data on arrestee (name, address, age, gender, description, etc.)
- Arresting officer(s)
- Reason for arrest
- Date/time of arrest
- Place of arrest
- Date/time of transfer to place of custody
- Custodial officer receiving arrestee
- Precise information on place of custody
- Details of interrogation
- Time of appearance before judge
- Details of judicial appearance (who, where)
- Information on all other involved officers

Similar procedures have been established for an apprehension conducted by UNPOL in its own operations and shall be observed.³

³ DPO, DPPA and DSS Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13
[\[https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nations-peacekeeping-operations-and\]](https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nations-peacekeeping-operations-and)

Slide 9



Scenario 2

The two men and the woman who were arrested are brought to the police station. One man is 16. Under Carana law he is regarded as a child.

Question 1
What due process must the CNP follow to comply with international standards on apprehension, arrest and detention?

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Facilitate a discussion by presenting the scenario and then asking the question that follows. The scenario is designed to reinforce the concept of international standards on arrest, apprehension and detention. Expected responses include:

- Women, men, boys and girls must be detained separately from each other. In this case CNP needs three separate holding cells.
- International standards for the detention of children are provided by the “United Nations Rules for the Protection of Juveniles Deprived of their Liberty” (Havana Rules) from 1990.
- CNP must respect general civil rights (e.g., legal representation etc.) as well as essential needs such as food, sanitation, medical support etc.
- As per the Convention on the Rights of the Child, a child is defined as anyone below the age of 18 years. Special protections for children – such as separating adults and children in detention - should be applied to everyone below that age, even if the host-State sets the age of (juvenile) criminal responsibility below 18 years.

Slide 10

Right to Medical Care and Dignified Treatment



- Access to medical doctor
- Freedom from torture or cruel, inhuman or degrading treatment
- Food, water and sanitation, exercise, clothing, bedding

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Key Message: Detainees have a right to access a medical doctor, a right to freedom from torture and degrading treatment and a right to humane conditions of detention.

Right to medical examination: Authorities are required to ensure full protection of the health of all persons in their custody, including by providing prompt and regular access to medical care. All persons deprived of liberty have the right to independent medical examinations at the time of arrest (i.e., upon entry into the initial place of detention), and at regular intervals thereafter, including after transfer to any new place of custody and immediately if the detainee alleges or there is otherwise a suspicion of torture or ill-treatment.


Prohibition of torture and ill-treatment: Detained persons must never be subjected to torture or other physical or psychological abuse. Actions that humiliate, arouse fear or a sense of inferiority, or are aimed at or capable of breaking the interviewee's physical or psychological resistance, can amount to torture or other ill-treatment. Equally prohibited are coercive interviewing methods and techniques that aim to obtain a confession by means of duress or threat, impairment of an interviewee's capacity for decision. Use of force against detainees is only permitted when it is non-discriminatory and strictly necessary and proportionate to a legitimate objective, such as self-defence, preventing an escape from custody, or where there is physical resistance to a lawful order. Instruments and techniques of restraint during detention may only be used as a matter of last resort and must never be used as punishment. The use of chains, irons, and electric stun belts are inherently painful and degrading and are hence prohibited.

Humane detention conditions: Conditions of detention that do not meet the standards prescribed for police custody, pre-trial, or administrative detention may amount to ill-treatment. States should, at a minimum, meet the standards of treatment set out in the

Nelson Mandela Rules (adopted by the United Nations General Assembly without any state voting against). Minimum conditions of detention, which apply to both police custody and other non-trial or pre-trial detention, include: the provision of services and conditions that are non-discriminatory; measures that cater to detainees' special needs; separation of categories of detainees (see below); adequate accommodation (including minimum floor space, lighting, heating and ventilation), hygiene facilities, clothing and bedding, food, and health care services; contact with the outside world; and facilities for religious practice (including sanitary products for females and attention to the needs of persons who are pregnant, breastfeeding or the primary caregiver of children); privacy in toilet areas; access to reading material; and freedom and facilities to observe religious practices.

Slide 11

Right to Lawyer and Notification of Family



- **Access to lawyer** without delay, consultation in full confidentiality
- **Notification of family** or other persons of choice, including diplomatic mission

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Key Message: Detained persons have a right to contact a lawyer, notify their families and (for foreign nationals) their consulate. Failure to abide by the rights to access to persons on the outside amounts to prohibited incommunicado detention.

Access to a lawyer: All detainees must get the opportunity to contact/engage a lawyer. All detainees have a right to legal assistance from the onset of deprivation of liberty, and categorically before any questioning by authorities. This includes persons detained as criminal suspects and persons placed under administrative detention (e.g., migrants under deportation orders).

Detainees may either choose a lawyer of their preference or, if they do not have legal counsel or do not have sufficient means to pay for one, must have a lawyer assigned to their case, free of charge, if the interests of justice require. If a detainee wishes to exercise their right to have access to a lawyer, all questioning and interviews ought to be delayed until the arrival of the lawyer. Conversations between detainees and their lawyers must not be listened to or recorded, although security measures can be put in place. In practice, this means that, whenever possible, conversations should take place in an environment allowing for direct physical presence (i.e., without barriers), and that authorities ought to designate dedicated facilities for meetings between detainees and their lawyers in police stations.

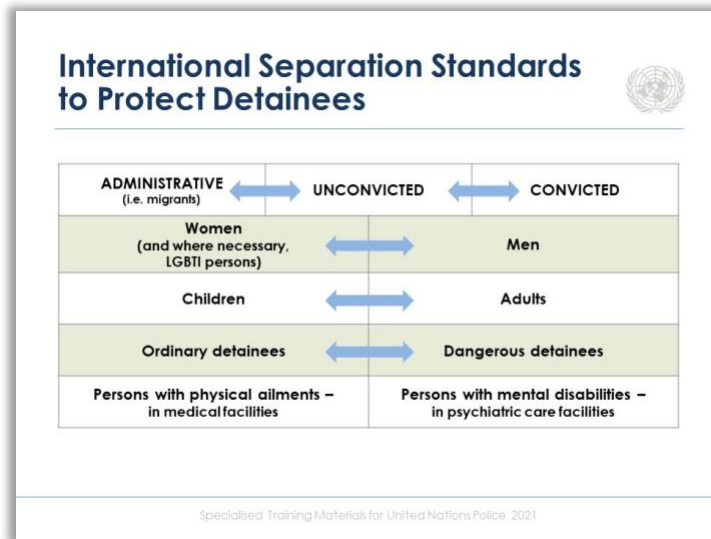
Notification of family: Detainees have the right to notify a family member, friend, or other person of their choice about the fact and circumstances of their detention, from the outset of detention. This right is not absolute and restricted notably if the suspect wants to call others who may be directly associated with the alleged crime. Authorities should maintain a clear and accessible record of who has been notified and when the notification took place. Whenever possible, authorities should allow the person deprived

of liberty to make the notification directly by telephone. This ensures that the detainee maintains a link with and has access to the outside world.

Contact with consulate: Foreign nationals deprived of liberty have a right to communicate with the diplomatic and consular representatives of the State to which they belong (refugees have a right to contact the United Nations High Commissioner for Refugees - UNHCR).

The detainee chooses whether to exercise the right to notify others. The police may not choose to inform the consulate or the family against the will of the detainee (except in the case of children).

Slide 12



Key message: Different categories of detainees must be kept separate, including in police custody.

 Possible learning activity before the explanation: Based on this slide with the international standards, ask participants what separation standards exist in their own national context, how they apply and if it is possible to use them in UN missions. This discussion helps sensitise participants to UN standards. Time: 5 min.

Due to the presumption of innocence, persons facing charges and convicted persons must be kept separate. Those in administrative detention (migrants) must be separate from either category.

Arrested or detained females must not suffer discrimination and must be protected from violence, including sexual harassment, abuse, exploitation and humiliating or degrading treatment. Rape and other forms of sexual violence are a form of torture. Female detainees must be housed separately from male detainees and have separate sanitary facilities.

Upon arrest and during detention the age of the person must be immediately recorded. If the police are in doubt about the exact age of a teenager, the arrested/detainee in question must be treated as a child. Detention or imprisonment of children shall be an extreme measure of last resort, and detention shall be for the shortest possible time. Children must be kept separate from adults (except where this is not in the best interest, e.g., when children and parents are both detained).

Ordinary detainees must be protected from dangerous detainees through separation. Elderly persons, migrants and refugees, members of minorities and indigenous persons may also require special measures to protect them, including from other inmates.

Persons with disabilities or medical needs should be promptly transferred to facilities providing them with adequate care.

In many peacekeeping settings, the local police may only have one or two holding cells. UNPOL can provide creative advice to ensure that separate requirements are still respected as far as possible (e.g., by proposing that a child is kept in an office rather than with adults).

Slide 13

Right to Judicial Review of Legality 

- Bring person promptly before judicial authority
- Maximum 48h (24h for children), otherwise release



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Key Message: A detained person must be promptly brought before a judge who will review the lawfulness of the detention.


All detained persons have a right to be promptly brought before and heard by a competent, independent and impartial judicial authority for the purposes of:

- determining the lawfulness of the arrest and detention;
- examining treatment and conditions experienced in detention, and addressing any irregularities discovered; and
- if the initial detention or arrest was lawful, determining whether the person should be released and if any conditions on release should be imposed pending trial.

Judicial review should take place within 48 hours of arrest/apprehension; in the case of children, no later than within 24 hours. Even when exceptional circumstances exist (including situations of armed conflict) and domestic laws allow for delays, judicial review must take place within a reasonable time. Detainees must appear in person before judicial officers and must be seen and must be heard to allow for a proper determination of the lawfulness and necessity of detention. The judicial authority shall proactively inquire about and act on any allegations of ill-treatment.

Anyone who is detained has an additional separate right to bring proceedings before a court, to challenge the lawfulness of their detention (by means of the writ of habeas corpus, amparo, or similar proceedings), which is distinct from the initial obligation to bring all arrested or detained persons promptly before a judge.

Slide 14



Scenario 3

The officer in charge of the detention facilities at the Akkabar police station is uncertain about his obligations towards detainees. The regular visits from UNPOL at the station make him feel insecure. You sense that he is not firm regarding the due process and the legal framework.

Question 1

What should the officer be aware of regarding:

- *legality of detention,*
- *treatment in detention and*
- *basic procedures regarding the detention facilities?*

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Facilitate a discussion by presenting the scenario and then asking the question that follows. The scenario is designed to introduce the concepts of due process and humane treatment. Expected responses include the points on slides 15-17:

- **Legality of Detention**
 - *Valid reason for arrest*
 - *Due process upon arrest*
 - *Right to judicial review*
 - *Incommunicado detention*
 - *Proper registration /*
Prohibition of Secret Detention
- **Treatment in Detention**
 - *Humane conditions (food, water, health etc.)*
 - *Prohibition of torture and ill-treatment*
 - *Separation of detainees*
 - *Detainees with special needs or vulnerabilities*
- **Basic Procedures**
 - *Check detainee register for abnormalities and accuracy*
 - *Periodically visit entire police holding facility*
 - *Insist on confidential interviews with detainees*
 - *Protect detainees against reprisals*
 - *Mentor and advise host-State Police as needed*
 - *Record concerns and share with human rights component*

Slide 15

Arrest and Custody
Focus Areas



Legality of Detention

- Valid reason for arrest
- Due process upon arrest
- Right to judicial review
- Incommunicado detention
- Proper registration / Secret detention

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Key Message: UNPOL officers engaged in MMA should pay attention to whether the host-State police follows due process guarantees to ensure the legality of detention.

Areas to focus on concerning the legality of detention include:


- Detainees might have been arrested without valid reason, e.g., to suppress political activity or for conduct that is not actually a crime (e.g., extramarital relations or debts)
- Due process guarantees upon arrest were not complied with or detainees were not informed about their rights.
- Detainees were not brought before a judge in the legally required time limit (usually 48h).
- Detainees had no opportunity to contact their lawyer, family or consulate. Their custody was not properly registered or might not even be acknowledged vis-à-vis outsiders (prohibited secret detention).

Slide 16

Arrest and Custody
Focus Areas



- **Treatment in Detention**
 - Humane conditions (food, water, health etc.)
 - Prohibition of torture & ill-treatment
 - Separation of detainees
 - Detainees with special needs or vulnerabilities



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Key Message: In their MMA work, UNPOL officers should also focus on ensuring that the host-State police follows international human rights and criminal justice standards on treatment in detention.

Areas to focus on concerning treatment in detention include:

- Humane conditions, especially if police stations do not receive the budget or facilities
- Detainees are at biggest risk of torture and ill-treatment immediately after their arrest when police want to receive information from them and they are not yet in contact with others such as their lawyers or family
- Separation of detainees is often a problem in smaller police custody facilities (see above)
- Detainees with special vulnerabilities, including children, may not be adequately treated

Slide 17

Facilities
Basic Procedures



- Check detainee register for abnormalities and accuracy
- Periodically visit entire police holding facility
- Insist on confidential interviews with detainees
- Protect detainees against reprisals
- Mentor and advise host-State police as needed
- Record concerns and share with human rights component

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Key message: Basic procedures for police custody monitoring include routine detainee register checks, whole facility inspection, confidential interviews, reprisal protection and prompt follow up.

UNPOL should routinely consult the detainee register during their visits to local police stations. They should verify that the situation of all detainees is accurately reflected and check for any abnormalities (based on the check list on the previous slide).

They should also regularly ask to inspect the entire facility, including cooking and washing facilities, to check that humane conditions are ensured.

UNPOL should regularly speak with individual detainees about their situation, in particular if there are any concerns about compliance with due process and humane treatment standards. To get full information and prevent reprisals, they should insist that interviews are with one detainee at a time and confidential – neither guards nor other inmates should be able to overhear what the interviewed detainees share with UNPOL (guards can be within sight though if security considerations require).


UNPOL have a responsibility to mitigate any reprisal risks regarding detainees who they interact with. They should regularly check up on individual detainees they interacted with, keep sensitive information linked to individuals confidential and not share it without their consent, immediately report alleged reprisals to their chain of command for urgent follow up at an appropriate level and leave contact details with detainees so that they may report on reprisals through intermediaries or upon their release.

When they come across concerns linked to other inmates or the host-State police, these should be raised with the host-State police at the appropriate level (with due concern

for confidentiality and potential reprisal risks). Furthermore, they must be promptly shared with the human rights component.

Slide 18

Scenario 4



Imagine that it was not CNP who arrived first at the scene of the brawl in front of the bar, but UN IPOs and a small FPU detachment.

Question 1

How should UNPOL react to the situation as they encounter it? Do you have to differentiate between IPOs and FPUs?

Question 2

Which documents determine the rights and obligations of UNPOL under these circumstances?

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Facilitate a discussion by presenting the scenario and then asking the questions that follow. The scenario is designed to introduce the application of standard operating procedures (SOPs) in United Nations Peace Operations. Expected responses include:

Question 1 Response: IPOs and FPUs should act in accordance with the mandate and the DUF. Regulations on the use of force and on arrest and detention may (will likely) differ for IPOs and FPUs.

Question 2 Response: The mandate, the SOMA, the DUF, SOPs on Handling of Detention in Peace Operations and other UN policies (general and mission-specific)


Slides 19 and 20

Legal Basis
UNPOL Apprehension and Detention 

- Permitted ONLY in circumstances where the use of force is authorized by the **mission's mandate** and set out in the mission's **Directive on the Use of Force (DUF)**
- **SOPs** established to translate international standards to United Nations Peace Operations

UNPOL Strategic Guidance Framework: "UNPOL must fully comply with the Standard Operating Procedures on Detention in United Nations Peace Operations"

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SOP Scope and Applicability 

- Does **not grant** powers of apprehension/ arrest
- **Applies** where apprehended individual is **under the effective control of the field mission** (even briefly)
- **Defines procedure** of apprehension, transfers, detention, handover or release
- **Provides a detailed overview of roles & responsibilities** of the involved UN actors

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Key Message: The SOPs on Detention in Peace Operations apply in all situations when UNPOL apprehend and place individual(s) under the effective control of the UN field mission (even briefly).

The SOPs:

- do not grant powers of apprehension/ arrest;
- define the procedures of Apprehension, Transfers, Detention and Handover or Release;
- assign specific roles and responsibilities and
- provide a detailed overview of the roles and responsibilities of the involved UN actors.

Even if the UN operation does not have an executive mandate, UNPOL may apprehend and temporarily detain persons on some occasions, for instance when defending themselves or to protect civilians. The authority of such operations comes from the Security Council mandate and the DUF elaborating it.

The international due process and humane treatment set out in the first part of this session also apply to UNPOL. However, UN operations do not have the same facilities as host-State authorities (e.g., the UN does not have its own judges to monitor detention).

DPO, DPPA and DSS have established legally binding Standard Operating Procedures on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions that are further elaborated by mission-specific detention procedures.

The SOPs set out a standard for the UN temporarily holding persons with a view to handing them over to the host-State authorities or releasing them, as appropriate.

UNPOL are responsible for familiarising themselves with the SOPs and mission-specific rules and for complying with them.

The SOPs apply once the UN has the target persons under its effective control, even for very short periods. This applies even if some local police officers may accompany UNPOL during operations if UNPOL effectively controls the apprehension. Compliance with the SOPs cannot be evaded by introducing evasive concepts like “temporary holding” or the like.

Once UNPOL has effective control over a person, the SOPs set out detailed guidance on how to proceed. They must inform the detainee about the reason for the detention, make an inventory of any items temporarily taken or seized from the detainee and give the person the option to inform their family or third parties.

Slide 21

SOP Scope and Applicability

- Establishes responsibilities for:
 - Apprehending officer
 - Commander of the detaining unit
 - JOC or designated office
 - Detention Focal Point
 - Human Rights Component
 - Justice and Corrections Component
 - Child Protection Adviser
 - Other actors

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Key Message: The SOPs establish specific responsibilities of the Apprehending Officer, Unit Commander of the detaining unit, Joint Operations Centre (JOC) or designated office, Detention Focal Point (DFP), Human Rights Component, Justice and Corrections Component, Child Protection Adviser, Head of Mission and other UN actors.

The SOPs establish specific responsibilities of:

- the Apprehending Officer - the officer involved in the apprehension of an individual;
- the Unit Commander - commanding officer of the detaining unit;
- the Joint Operations Centre (JOC);
- the Detention Focal Point (DFP), designated by the Head of Mission;
- the Head of Mission;
- the Human Rights Component;
- the Justice and Corrections Component;
- the UN medical personnel;
- the Gender Adviser or Senior Women's Protection Officer;
- the Child Protection Adviser / Focal Point.

The **Apprehending Officer** is informing the person of the reasons for his/her detention; conducting an initial search, identifying the person, preserving seized items and recording information; organising the transport of the detained person to a designated place of detention; providing a written report of the apprehension with all relevant facts, including the reason and the circumstances of the apprehension etc.

The **Unit Commander** is making the initial determination whether to release or continue detaining the person; notifying JOC and providing it with regular updates; informing the detained person of the reasons for the detention; with the consent of the detained

person, notifying a family member or other persons; maintaining records and reporting on all aspects of the detention; ensuring adequate detention conditions and proper treatment of the detainee etc.

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.

Every mission nominates a **Detention Focal Point (DFP)**, from outside UNPOL or the military component, who coordinates on behalf of the Head of Mission, the mission-wide efforts to implement SOPs, monitors compliance with SOPs under the overall responsibility of the Head of Mission and who can provide advice as needed.

Furthermore, DFP after being informed by the JOC about an apprehension/ detention must notify the International Committee of the Red Cross (ICRC)⁴, which has a right to get access to detainees and conduct confidential interviews with them. Foreign nationals may demand that their consulate is alerted (the choice is with the detainee).

DFP also liaises with host-State authorities for communication and notification purposes.

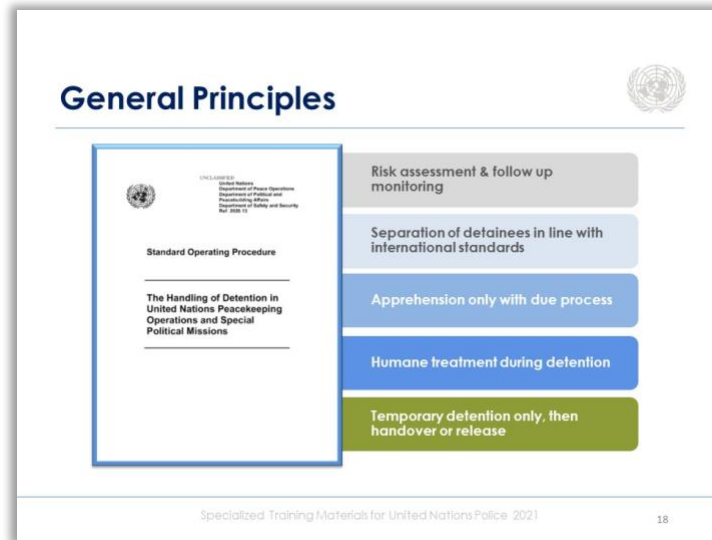
The **Head of Mission** is ultimately responsible for compliance with the SOPs and for the final determination concerning the release, handover, or extended detention of a person held in a designated place of detention. The Head of Mission is also responsible for engaging with the host-State authorities during post-handover.

⁴ The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance.

The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

Slide 22



Key message: The SOP defines procedures for detention in United Nations peacekeeping operations and special political missions.

General principles outlined in the SOP include:

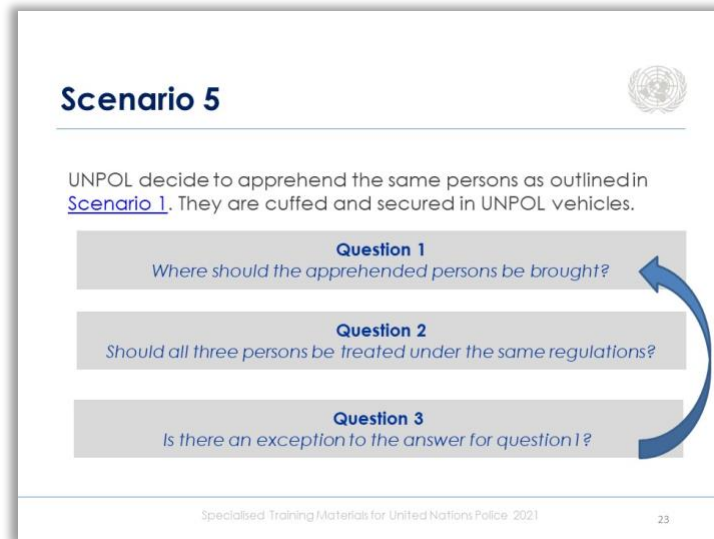
- **Separation of detainees** in line with international standards.
- **Apprehension only with due process:** Inform an apprehended person of the reason of detention, inform person promptly of their rights, inventory of items taken from detainees, notification of their family, keep detailed arrest and custody records etc.
- **Detainees must be treated humanely.** They may only be handed over to state authorities if there is no real risk of them facing serious human rights violations. Any person detained by a field mission shall be handed over to the host-State authorities or released within 96 hours (48 hours for child) from the time of apprehension.
 - The mission is responsible for water, food, hygiene, medical care etc.
 - The Nelson **Mandela Rules** give guidance on all aspects of prison management, from admission and classification to the prohibition of torture and limits on solitary confinement. There is guidance on healthcare, recruitment and training of prison staff, as well as disciplinary sanctions. Annex A of the UN's Detention SOP translates the Mandela Rules into detailed mission rules.
 - If UNPOL receives any allegations of detainees being subjected to torture or ill-treatment such concerns should be immediately transmitted to the Detention Focal Point and the mission's Conduct and Discipline team.

- **Temporary detention** – 96 hours only, for child – 48 hours; then handover to the host-State authorities or release if no handover is possible. For each case, the mission must conduct a risk assessment prior to the handover.

Exceptionally, a handover to a third state presence may be carried out. This is double than the standard 48h that host-State police services generally abide by until producing a detainee before a judge to factor in logistical needs of peacekeeping in remote places and to allow for a proper handover risk assessment.

- Prohibition of refoulement: the mission must not hand over if there is a real risk of persecution, torture or ill-treatment, disappearance, summary execution or, in line with general UN policy, death penalty execution.
- The mission must have a legal handover agreement with the host government with guarantees against refoulement.
- The mission must ensure follow up monitoring of handed over persons.

Slide 23



The slide titled "Scenario 5" features the UN logo in the top right corner. The main text reads: "UNPOL decide to apprehend the same persons as outlined in [Scenario 1](#). They are cuffed and secured in UNPOL vehicles." Below this, three questions are listed in separate boxes: "Question 1: Where should the apprehended persons be brought?", "Question 2: Should all three persons be treated under the same regulations?", and "Question 3: Is there an exception to the answer for question 1?". A blue curved arrow points from the right side of Question 1 down to Question 2, and then down to Question 3. At the bottom of the slide, it says "Specialised Training Materials for United Nations Police 2021" and the number "23".



Facilitate a discussion by presenting the scenario and then asking the questions that follow. The scenario is designed to reinforce application of the SOPs. Expected responses include:

Question 1 Response: Temporary detention by the mission with a view to handing detainees over to the host-State police as soon as possible – but only after a hand-over risk assessment is carried out.

Question 2 Response: Yes, but rules will vary for adults vs. children. For children, the special rules in the Annex to the SOPs must be followed.

Question 3 Response: Yes, if there is an assessed risk that persons handed over to the host-State will be subject to human rights violations, e.g., torture, sexual violence, unfair trial.

Slide 24

Handover
to Host-State Authorities

- Handover within **96h (48h for children)**, otherwise release
- Supplement to **SOFA/SOMA** on general handover guarantees & modalities
- DFP initiates handover risk assessment for everyone
- HoM to decide on each handover
- Host-State warrant and guarantees

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Key message: A handover must take place within 96 hours (48 hours for children), otherwise the person must be released. The Head of Mission makes the decisions on individual handovers. A handover of detained persons to the host-State authority is possible only if there is a host-State warrant and guarantees that the person would not be persecuted, tortured or ill-treated, disappeared or summarily executed.

To implement these non-handover guarantees, every mission must strike a general legal agreement on handover and related guarantees with the host government. This will usually be a supplement to the SOFA/SOMA.

In addition, the mission must conduct a handover risk assessment for each individual case and subsequent monitoring of the fate of persons who were handed over.

The handover shall occur at a location agreed by the mission and the Government.

If the host-State authorities fail to agree to a handover or to provide the required guarantees and actual treatment, 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 Human Rights component will make relevant handover risk recommendations to the Detention Focal Point and support post-handover monitoring.

Slide 25



No Handover
to Host-State Authorities

Real risk of:

- Arbitrary killing
- Torture/ inhumane treatment
- Sexual violence/ threats to life
- Death penalty or disappearance
- Refoulement
- Grossly unfair trial
- Participation in hostilities (if a child)

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The UN is prohibited from handing over the detained person to any authority if there are substantial grounds for believing that there is a real risk that the person would 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) - the act of forcing a refugee or asylum seeker to return to a country or territory where he or she is likely to face persecution or to suffer bad treatment;
- grossly unfair proceedings;
- prolonged arbitrary detention;
- if a child, recruitment or direct or indirect participation in hostilities.

Slide 26

Post-Handover Monitoring 



- Mission monitors everyone handed over
- Regular visits by Human Rights component (or country presence)
- Monitoring of trial (within resources)
- HoM raises any concerns with host-State

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Key message: The Mission's Human Rights component monitors the proper treatment of all detainees handed over to host-State authorities and the Head of Mission raises concerns with the host-State if necessary.

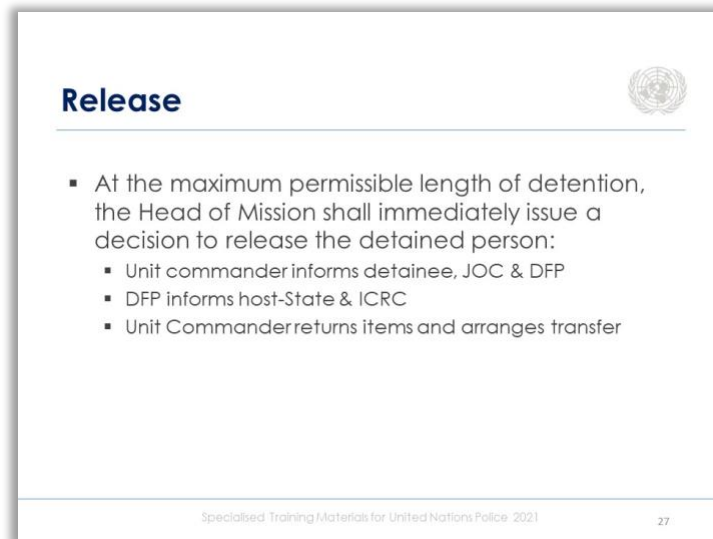
The mission monitors the situation of an individual who has been handed over to host-State authorities. Any information that UNPOL receives should be channelled to the human rights component and the Detention Focal Point.

The Detention Focal Point keeps 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.

If a person handed over to the host-State authorities is not treated properly, the mission human rights component shall formally request the host-State authorities to take effective corrective measures.

The Head of Mission may 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.

Slide 27



Key Message: If the maximum permissible length of detention is about to be reached the detained person must be released upon the decision of the Head of Mission, following a defined release procedure.

When the maximum permissible length of detention is about to be reached (96 hours or 48 hours for children), the Detention Focal Point shall inform the Head of Mission. The Head of Mission shall then immediately issue a decision to the Unit Commander to release the detained person.

- The Unit Commander provides updated information on the status of the detained person to the Joint Operations Centre and the Detention Focal Point.
- JOC advises all involved UN actors listed in the previous slides.
- The DFP notifies the host-State authorities and the International Committee of the Red Cross.
- The Unit Commander informs the detained person about his/her release and its details (date, time, and location), and, if necessary, informs the detainee's family or another person(s) about the release; returns items taken from the detained person; ensures and supervises the transport of the released person to the place of apprehension provided that such a 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 UN personnel and the detained person.

The detained person shall be considered to have been released immediately upon his/her departure from the designated place of detention.

Slide 28

Summary of Key Messages

UNPOL may apprehend and detain persons within the limits of the mission mandate & DUF (e.g., to protect civilians from a threat).

UNPOL must be aware of applicable rules for detainees regarding their different needs.

UNPOL must comply with the Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions

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Emphasize the key points from this lesson. Or ask for participants to summarize and explain each key message. Ask participants to reflect on how each of these points will apply to their roles as IPOs.

Reference Materials

Below are required reading materials for instructor preparations:

- Convention on the Rights of the Child (1989)
[\[https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf\]](https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf)
- DPKO-DFS Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 01 January 2016
[\[https://peacekeeping.un.org/sites/default/files/4_rule_of_law_-_8_police_operations.pdf\]](https://peacekeeping.un.org/sites/default/files/4_rule_of_law_-_8_police_operations.pdf)
- Code of Conduct for Law Enforcement Officials (1979)
[\[https://www.un.org/ruleoflaw/blog/document/code-of-conduct-for-law-enforcement-officials/\];](https://www.un.org/ruleoflaw/blog/document/code-of-conduct-for-law-enforcement-officials/)
- DPO, DPPA and DSS Standard Operating Procedure on the Handling of Detention in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2020.13
[\[https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nations-peacekeeping-operations-and\]](https://peacekeeping.un.org/en/standard-operating-procedure-handling-of-detention-united-nations-peacekeeping-operations-and)
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) [\[https://www.un.org/ruleoflaw/blog/document/body-of-principles-for-the-protection-of-all-persons-under-any-form-of-detention-or-imprisonment/\]](https://www.un.org/ruleoflaw/blog/document/body-of-principles-for-the-protection-of-all-persons-under-any-form-of-detention-or-imprisonment/)
- Nelson Mandela Rules
[\[https://www.un.org/en/events/mandeladay/mandela_rules.shtml\]](https://www.un.org/en/events/mandeladay/mandela_rules.shtml)