

Draft Directive Order on Child Protection and the Release and Reintegration of Children Associated with the SPLA, 2012

NOTE: THIS IS A PUNITIVE ORDER. Under this General Order, SPLA members are prohibited from: (1) recruiting children into the SPLA; (2) using children in any manner; or (3) occupying schools. SPLA members violating this Directive ARE SUBJECT TO the full range of disciplinary and administrative measures available under South Sudanese and International Law, including, but not limited to:

- Referral of charges to general court-martial
- Referral of charges to civilian criminal court
- Referral of charges to the ICC (International Criminal Court)
- Punitive dismissal from service
- Non-judicial punishment
- Administrative separation from service
- Administrative reduction in grade
- Relief from command (where applicable)
- Adverse performance evaluation

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1. PURPOSE: This “Directive-style” General Order ... makes clear that (1) children—defined as all persons under the age of 18 years old—shall NOT be recruited into the SPLA or used by or within the SPLA in ANY capacity for ANY purpose; AND (2) SPLA units and/or soldiers will NOT, under any circumstances, attack, occupy, or use for any purpose schools or school buildings or property.

This General Order announces a ZERO TOLERANCE POLICY: SPLA Members are prohibited from: (1) recruiting or using children for ANY purpose; (2) occupying schools or using school property for ANY purpose under ANY circumstances. These prohibitions are without exception and unconditional. Any officer, non-commissioned officer (NCO), or soldier suspected of violating this General Order may be tried by court-martial for violating Section 67 of the SPLA Act of 2009 (reference (b)), Disobedience of Lawful Orders.

This is a Punitive Order:

- a. When children are found to be associated with SPLA forces OR SPLA forces found to be occupying or using school property, the circumstances of the situation shall be thoroughly

investigated by an officer appointed by the Commanding Officer of the pertinent Battalion, Brigade, or Division, OR by the COGS or a D/COGS OR a Director or Deputy Director of a General Headquarters Bilpam Directorate, OR by the Judge Advocate General of the SPLA (the Director, Military Justice & Legal Affairs Directorate). The officer appointed as the Investigating Officer shall coordinate with both the Child Protection Officer AND the judge advocate assigned to the Command or to its senior command. Enclosure (1), Contact List for Networking & Coordination to Support Implementation of the Revised Action Plan, contains a list of Child Protection Officers and other personnel who can provide assistance with child protection issues.

- b. Officers, NCOs, and soldiers suspected of being in violation of this General Order themselves shall be investigated. The officer conducting the investigation shall make a written report of his or her inquiry that sets forth comprehensive Findings of Fact, lists the evidence supporting each Finding of Fact, renders Opinions and a Conclusion concerning the facts underlying the event or events being investigated, and makes Recommendations with respect to the disposition of the case, including whether the situation investigated warrants the taking of administrative or disciplinary action by the Command against any Officer, NCO, or soldier suspected of conduct violating this General Order.
- c. A written investigative report that has been reviewed by a judge advocate and endorsed by the commanding officer of the unit involved and by the pertinent Division or Brigade Commander or Directorate senior officer shall be forwarded to the Chief of General Staff and to the Judge Advocate General of the SPLA.
- d. Disciplinary and/or adverse administrative action SHALL BE taken if there is evidence that suggests that any member or members of the SPLA have violated laws, rules, or orders relating to the recruitment or use of children by or within the armed forces, the occupation of schools, or the protection of children generally.

2. SITUATION

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This General Order follows this UN Security Council Resolution 2068 Call to Action – violators of South Sudanese and international Child Protection, Child Use and Recruitment, and School

Occupation Laws and Rules will be investigated and prosecuted by court-martial or referral of charges to a South Sudanese civil criminal court or the International Criminal Court (ICC).

3. GENERAL ORDER. All SPLA members, personnel, and units are unconditionally prohibited from: ... Occupying schools, interfering with or disrupting school classes or activities, or using school facilities for any purpose, to include but not limited to storing equipment, billeting, or taking cover from ongoing or prospective enemy attack.

a. Punitive Order. This General Order is punitive in nature.

b. Effective Date. This General Order takes effect immediately.

c. Responsible Officers. Commanders at ALL echelons of Command – GHQ, Sector, Division, Brigade, Battalion, Company, Platoon – are held responsible and accountable for ensuring all members of their Commands give immediate effect and obedience to this General Order...

f. Report Required. Within 15 days of the termination of the Grace Period – or Not Later Than 15 January 2013 – Commanders at each echelon of Command are to deliver to the COGS, via the Judge Advocate General of the SPLA (Director, Military Justice & Legal Affairs Directorate), GHQ Bilpam, a properly completed *Certification of Unit Free of Persons Under the Age of 18 Years*. ... Commanders failing to submit this report in timely fashion will be subjected to adverse judicial and administrative disciplinary action...

Certification of Unit Free of Persons Under the Age of 18 Years

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I, (Major General/Brigadier General/Colonel/(Rank of Commander) _____, Commanding Officer of _____ (Division/Brigade/Battalion/Company/Platoon), do hereby certify that: ...

5. Units under my command are not occupying schools or utilizing school facilities in any way.

CONCLUSION. I hereby certify that the foregoing information and statements relating to the state of personnel under my command have been certified and are true...

Draft Directive-style General Order on Child Protection and the Release of Children Associated with the SPLA, from General James Hoth Mai, Chief of General Staff, November 9, 2012