



REF. No: DOS/2024.12

## Standard Operating Procedure

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## BOARDS OF INQUIRY

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Department of Operational Support

**Signature:**   
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## A. PURPOSE

1. The purpose of this Standard Operating Procedure (SOP) is to provide United Nations personnel with guidance on the establishment and conduct of Boards of Inquiry (BOI). This SOP describes what Boards of Inquiry are, when and how they shall be convened, what their purpose is, and the procedures that govern their functioning. In addition to the BOI process, this SOP confirms responsibilities for investigations/fact-finding into serious occurrences which precede a BOI.
2. This SOP establishes the range of serious occurrences affecting United Nations operations, their personnel, and their assets which require the convening of a BOI.
3. This SOP supersedes and replaces the SOP on Boards of Inquiry DOS/2020.10 and all earlier guidance and instructions on BOI that have been issued by circular, facsimile, cable, or other methods of communication.

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## B. SCOPE AND APPLICABILITY

4. This SOP applies primarily in relation to occurrences arising in the context of field operations including peacekeeping missions (PKOs) and special political missions (SPMs). It may also be applied by other United Nations Secretariat entities in appropriate circumstances<sup>1</sup>.
5. The BOI function is an important component of the Organizational accountability framework. BOIs are an analytical, administrative, and managerial tool used to assist senior United Nations managers in identifying the causes of serious occurrences and conducting an after-action review of their management. As such, BOIs serve, among other things, to identify gaps in procedures and policies, strengthen internal controls, and improve financial and managerial accountability. This assists managers to draw lessons that will help prevent similar occurrences and/or improve their management and minimize the negative consequences of similar occurrences in the future. BOI reports can also be considered while reviewing claims against the Organization by United Nations personnel, Member States, and third parties. As such, the BOIs may be tasked to determine whether the occurrence was service related.
6. A Board of Inquiry is neither an investigative nor a judicial process, and does not consider questions of compensation, legal liability, or disciplinary action. The procedures set forth within this SOP and recommendations emanating therefrom may, however, be relied upon as a basis for administrative action regarding responsible individuals. However, the decision as to whether and which type of administrative and/or disciplinary action should be taken, rests with the managerial structures of the Organization.
7. The procedures set forth within this SOP are not to be applicable in matters involving allegations of misconduct against United Nations personnel that have not resulted in death, serious injury or loss/damage to United Nations-owned equipment (UNOE), contingent-owned equipment (COE), or third-party-owned equipment [to the extent specified in paragraph 13 (e-g)]. Misconduct allegations shall be referred to the mission Conduct and Discipline Team or Focal Point for further consultation with the Office of Internal Oversight Services (OIOS) as appropriate.
8. The Convening Authority of a BOI with respect to occurrences in a field mission is the Head of Mission (HOM). At the United Nations Headquarters (UNHQ) level, a BOI is convened by the USG, DOS in coordination with the relevant HOM and with the heads of other UNHQ structures, as needed, when it is decided that an occurrence, due to its magnitude and implications, warrants such a review.

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<sup>1</sup> United Nations General Assembly Resolution A/72/266 adopted on 24 December 2017 on report of the SG on management reform

9. This SOP contains mandatory, recommended, and discretionary provisions indicated with the following verbs:
    - Mandatory: shall/shall not
    - Recommended: should/should not
    - Discretionary: may/may decide not to
  10. Cooperation with the BOI process is mandatory for all categories of United Nations personnel. Relevant mission SOPs should also be aligned with this SOP as appropriate.
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## C. PROCEDURE

### C.1. Circumstances in which a BOI shall be convened, or a HOM report completed:

11. The assessment of whether a BOI should be convened, or if a HOM<sup>2</sup> report should be completed is triggered when the BOI Officer/Focal Point<sup>3</sup> (the latter in missions where there is no established BOI Unit) receives preliminary information about an occurrence. Upon assessing this information, the BOI Officer provides advice through the established reporting channels to the HOM.
12. Based on this assessment, the HOM shall decide whether the occurrence merits further inquiry by a BOI or if it may be reported through a HOM report. The factors to be considered include the magnitude of the occurrence; its impact on the mission's image, operations, and assets; the possibility of there being systemic issues or policy gaps; the capacity of the mission to conduct a meaningful inquiry under the specific circumstances; and the potential for the formulation of recommendations to address underlying causes of the occurrence. Generally, BOI proceedings, which are costly and time consuming, should be reserved for more complex and high-profile occurrences, while the routine occurrences should be dealt with through HOM reports. However, this decision should always be made with the best interest of the Organization in mind.
13. Conducting a BOI or submitting an HOM report, is mandatory in the following occurrences:
  - a) Any type of occurrence resulting in the death (including natural death and suicide<sup>4</sup>) or serious injury<sup>5</sup> of United Nations personnel<sup>6</sup> which transpired within the field mission operational area or during the victim's official travel outside the operational area that had been duly authorized by the Organization;
  - b) Any occurrence, which transpired within the field mission operational area resulting in the death or serious injury or illness of a third party when United Nations personnel is involved;
  - c) Occurrences involving United Nations aircraft<sup>7</sup>, irrespective of whether such occurrences resulted in death or injury;
  - d) The abduction or missing-in-action of United Nations personnel, irrespective of whether it resulted in death or injury;

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<sup>2</sup> Please refer to Section C.4 of this SOP regarding the completion of HOM reports

<sup>3</sup> Henceforth referred to as a BOI Officer

<sup>4</sup> Considering the impact on the image of the Organization and staff morale, a full-fledged BOI should be convened in such cases. The TORs in such cases should cover not only the circumstances of the discovery of the occurrence, but also all preceding events which might have contributed to it including the evaluation of stress-management capacity and procedures in the mission, duty of care and interaction with the family of the deceased.

<sup>5</sup> Serious injury is defined as a *substantial risk of death; or a protracted and obvious disfigurement; or a protracted loss or impairment of the function of a bodily member, organ or mental faculty.*

<sup>6</sup> Including national support elements (NSEs)

<sup>7</sup> For the purposes of these SOP, the term United Nations aircraft applies to all aircraft operated solely by or for the United Nations and on its behalf.

- e) Loss or damage to UNOE, assets, supplies, and stores or other property (except property of personnel) in the amount of US\$25,000 or more that cannot be ascribed to wear and tear;
  - f) Loss or damage to third-party-owned property in the amount of US\$10,000 or more when United Nations personnel is involved;
  - g) Loss or damage of COE (even if there is no death, serious injury, or loss or damage to United Nations-owned or third-party-owned property) in the following circumstances<sup>8</sup>:
    - I. Loss or damage due to a single hostile action or forced abandonment of major equipment whose individual depreciated value equals or exceeds USD\$80,000, or when the collective generic fair market value of such equipment equals or exceeds US\$250,000 for a series of hostile actions within one United Nations budget year;
    - II. Cases involving loss or damage to major or minor COE used by one contingent, but provided by another troop contributor/troop contingent; and
    - III. Cases involving loss or damage to major or minor COE in which personnel from more than one contingent are involved.
14. HOMs may also, at their discretion, or at the request of the USG DOS, convene a BOI with respect to any occurrence that they consider warrants such a review. Consideration should be given to convening a BOI in “near miss” cases, i.e., occurrences which could have easily resulted in casualties or losses referred to in paragraph 13, had there been a slight shift in time or position of circumstances.<sup>9</sup>

## C.2. Fact-finding investigations

### ***Occurrence Reporting***

- 15. United Nations personnel who become privy to any occurrence that falls under the provisions of paragraph 13 above, have a duty to report these without delay to the United Nations officials responsible for initiating the investigation<sup>10</sup> and informing the mission leadership. All possible measures shall be taken by United Nations personnel on the ground within their area of responsibility to ensure the scene of the occurrence is secured to preserve evidence until the arrival of the United Nations investigators.
- 16. The HOM shall establish suitable reporting procedures to ensure that such reports reach the relevant officials within 24 hours.
- 17. Upon receiving a report of an occurrence, the responsible official shall initiate a fact-finding investigation to obtain and record all factual evidence in accordance with the relevant guidelines. If allegations of misconduct are raised in relation to the occurrence, then such allegations shall also be reported to the mission Conduct and Discipline Team or Focal-Point within 24 hours.
- 18. Simultaneously, the official shall notify, among others, the BOI Officer about the occurrence and measures taken in regard thereof.

### ***Investigations***

- 19. The HOM, in coordination with other relevant officials, shall establish appropriate investigation procedures, including for the distribution of investigation reports within the mission. The

<sup>8</sup> COE includes equipment deployed and operated in the mission area by formed units, including military contingents and Formed Police Units (FPU).

<sup>9</sup> A “near-miss” is a potential hazard or incident in which no property was damaged, and no personal injury was sustained, but where, given a slight shift in time or position, damage, or injury could easily have occurred.

<sup>10</sup> Normally, these are the following officials or other officials as may be delegated:

(a) The Chief Security Advisor (CSA) and/or the Chief Security Officer (CSO) in cases involving civilian personnel;  
 (b) The Military Chief of Staff in cases involving military personnel; and (c) The United Nations Police (UNPOL) Chief of Staff in cases involving police personnel.

investigations shall commence within 24 hours of the notification of the occurrence and the investigation report shall be completed within one month from the time of the occurrence.<sup>11</sup>

20. The purpose of the investigation is to collect and record all available evidence and documentation as it relates to the occurrence. Particular attention should be given to ensure that information is collected from individuals who may be slated to leave the mission area in the near term due to rotation, reassignment, or repatriation. Such personnel may be required to remain in situ until their participation in the investigation has been completed.
21. Any gaps or missing information shall be indicated and explained. The investigation report shall contain relevant facts and evidence, including but not limited to:
  - a) Detailed description of the occurrence, including its location, time, and how it became known to the mission; the names, category of personnel and nationalities of any person involved in and/or affected by the occurrence; and/or the description and estimated value of damage or loss of UNOE, COE, or third-party-owned property;
  - b) Duly signed witness statements from all personnel involved in the occurrence or witnesses/experts providing information. Translations of such statements shall be included in either English or French when necessary;
  - c) Relevant medical summaries. For natural deaths, information released to the BOI office should be in line with the Division of Health-Care Management and Occupational Safety and Health (DHMOSH) SOP on Medical Confidentiality (DOS/2023.06);
  - d) Explosive Ordnance Disposal reports and/or reports of United Nations Mine Action Service (UNMAS) and forensic laboratories, as applicable;
  - e) Damage/discrepancy reports on all property;
  - f) Technical inspection reports on any UNOE, COE, weapons, and/or ammunition involved;
  - g) Sketches, maps, and photographs relating to the occurrence;
  - h) Relevant information on the chain of custody of evidence; and
  - i) Any other relevant documentation.
22. If an occurrence involves more than one category of personnel and/or if there is a lack of investigative capacity in the mission (irrespective of the category of personnel involved), then a Joint Investigation Team (JIT) including representatives of other investigative structures from the same mission such as the Force Provost Marshall (FPM), Special Investigation Unit (SIU), and United Nations Police (UNPOL) should be established.
23. Mission officials may be assisted by the local police, in accordance with the reciprocal obligations of the field mission and the host government as set forth in the applicable Status-of-Forces Agreement (SOFA) or Status-of-Mission Agreement (SOMA) or paragraph 44 of the Model SOFA for peacekeeping operations (A/45/594), to conduct necessary investigations into offences of interest to either or both the field mission and the host government. Cooperation between the mission investigative bodies and the local authorities shall be managed in coordination with the senior management of the mission.
24. With respect to investigations of occurrences that fall under the provisions of paragraph 13, the BOI Officer may provide guidance to the investigators regarding specific aspects of the occurrence to be investigated and to be covered in the investigation report to facilitate the future BOI.
25. The investigation report shall be submitted to the HOM and concerned mission leadership as well as the BOI Officer. The HOM, in coordination with the relevant departments and units, maintains responsibility and control over the conduct of an investigation.

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<sup>11</sup> Since the various investigative bodies (Special Investigation Unit, Force Provost Marshal Office, UNPOL Internal Investigations Unit) refer interchangeably to preliminary and final investigation reports, and since the former does not always lead to the latter, this SOP does not distinguish between the completion of a preliminary and final investigation report.

### ***Investigation of Occupational Accidents***

26. In addition to potentially requiring a BOI, occurrences that cause death or serious injury or illness to United Nations civilian personnel or UNPOL members and are considered duty/work-related accidents (hereinafter, “occupational accidents”) and do not result from deliberate, intentional, or malicious acts, fall within the purview of the Field Occupational Safety and Health (OSH) unit within DOS at UNHQ. The OSH resources at UNHQ or the mission Occupational Safety Officer (OSO)<sup>12</sup> or the mission OSH Focal Point may also provide technical support and assistance for the investigation and administrative review of occupational accidents involving mission Force personnel, upon request.
27. Whenever the circumstances of the occurrence indicate the possibility of an occupational accident, the responsible officials mentioned in paragraph 15 should immediately bring the incident to the attention of the Mission’s OSO or Field Occupational Safety Focal Point (FOSFP). The latter shall review the circumstances and if the occurrence falls under the definition of occupational accident as defined in the Terms and Definitions established by DOS, then the OSO Focal Point or FOSFP shall undertake a formal OSH incident investigation and prepare a report corresponding to the requirements listed in paragraph 21. No further investigations are required unless otherwise decided by the mission leadership depending on the circumstances of the case. The OSH investigation report shall be submitted to the HOM and other mission leadership concerned, as well as the BOI Officer prior to the decision to either convene a BOI or complete a HOM report.

### ***Investigation of Aviation Accidents and Incidents<sup>13</sup>***

28. Occurrences involving United Nations contracted aircraft including unmanned aircraft systems (UAS) and drones shall be investigated by the respective State(s) (State of Occurrence), as stipulated in Annex 13 of the International Civil Aviation Organization (ICAO) Convention. Normally, the State of Occurrence shall complete a preliminary and final investigation into the circumstances of the accident and shall be responsible for the conduct of the investigation, but it may delegate the whole or any part of the investigation to another State (i.e., State of Registry) or a regional accident investigation organization by mutual arrangement and consent. The Assistant Secretary-General, Office of Supply Chain Management/DOS (ASG OSCM/DOS), shall initiate the Aviation Safety Technical Investigation (ASTI), as stipulated in the DPKO/DFS Aviation Safety Policy and Manual (as may be updated). This procedure is applicable to accidents involving mission aircraft commercially chartered by DOS or operated under Letters of Assist. The ASTI shall be initiated as soon as possible following the occurrence. A DOS representative (either from UNHQ, or a Regional Aviation Safety Officer), shall be designated to conduct the ASTI and shall

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<sup>12</sup> In missions without a professional (P3 or higher) Occupational Safety Officer, the UNHQ DOS OSH Section is to be requested to provide support and guidance directly to the mission’s safety Focal Point.

<sup>13</sup> According to the International Civil Aviation Organization (ICAO), the definitions of aviation accident and aviation incident are as follows: An aviation **accident** is defined in Annex 13 to the Convention on International Civil Aviation (ICAO) as “an occurrence associated with the operation of an aircraft which, in cases of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which (a) a person is fatally or seriously injured as a result of: being in the aircraft, or direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or direct exposure to jet blast, *except* when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or (b) the aircraft sustains significant damage or structural failure which: adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, *except* for engine failure or damage, when the damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, breaks, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or (c) the aircraft is missing or is completely inaccessible. Annex 13 defines an aviation **incident** as an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation.

also serve as a technical advisor to the BOI, if required. A BOI may be convened only after the ASTI has been completed.

29. If there is prima facie evidence of external factors involved which contributed to the aviation accident/incident, and/or resulted in losses to third parties, then, in addition to the ASTI, either an SIU, FPM or JIT investigation is warranted.
30. The State-led investigation may take some time; therefore, the preliminary ASTI report shall serve as the source of technical information for the BOI or HOM report. The preliminary ASTI report shall have two purposes: 1) provide analysis of the mission's administrative and operational procedures as possible sources of contributing factors regarding the flight involved in the accident; and 2) provide preliminary technical information to the BOI while the State-led investigation could still be in progress. The ASTI report shall be periodically updated (as additional information becomes available) and shall consider the findings of the preliminary State-led investigation report. After the final investigation report is released by the relevant State, the ASTI report shall also be finalized and approved by the ASG OSCM/DOS. Both the preliminary State and the final ASTI reports shall be provided by the Chief, Aviation Safety Section, OSCM/DOS to the respective BOI Officer. The preliminary ASTI report should normally provide enough information for the initiation of BOI proceedings, unless the specific circumstances of the case indicate the requirement to conduct an additional investigation as per paragraphs 19-25 above.

### **C.3. Convening a Board of Inquiry**

#### ***Timelines***

31. In cases where the convening of a BOI is deemed necessary as per paragraph 13 of this SOP, it shall be initiated within two weeks following the submission of the investigation report to the HOM, except for aviation cases, as stipulated in paragraphs 28-30. All efforts shall be made to finalize the BOI report within the timelines stipulated in the Convening Order, preferably within 90 days from the receipt of the investigation report by the BOI Officer.

#### ***Convening Order and Terms of Reference (TOR)***

32. Upon being informed of an occurrence that warrants the convening of a BOI and after receipt of the investigation report from the relevant mission structures, the BOI Officer shall prepare the Convening Order and in consultation with the Legal Advisor (as defined in paragraph 103 further below), draft the Terms of Reference (TOR) for the signature of the HOM.
33. The Convening Order presented for approval by the HOM shall contain the name of the individual who is to serve as the Chairperson of the Board and at least two other individuals to serve as Board members, plus the BOI Coordinator. The Convening Order shall state the deadline by which the BOI report is to be completed/submitted to the HOM.
34. The TOR provide the framework within which the Board operates and define the facts and issues that the Board shall address. The TOR shall be as specific as possible and shall set out the parameters for the Board's scope of inquiry, including for the Board to determine the root cause of the occurrence under review. In particular, the TOR shall always specify that Board members are prohibited from making recommendations regarding compensation, disciplinary action, and legal liability. The TOR should also include appropriate confidentiality requirements.

#### ***Composition of the Board of Inquiry***

35. Considering that the need to convene a BOI is always unexpected, missions should maintain a roster of individuals qualified to serve as BOI members. A BOI roster shall be updated every six months by the BOI Officer. Due consideration should be given to ensure geographic and gender balance in the rostering of BOI members. The BOI Officer shall draft a memorandum for the signature of the HOM, directing heads of the missions' components/contingents and units to nominate personnel under their supervision or command with good analytical and communication skills. BOI assignments shall be compulsory for these personnel if selected during the following



six-month period and performing them shall be reflected in their individual work plans and performance assessment documents.<sup>14</sup>

36. While managing the roster of available Board members, the BOI officer shall pay special attention to the leave and travel plans of the mission personnel on the roster. If required, the HOM may relieve Board members from their regular duties to enable them to dedicate themselves, on a full-time basis, to the completion of the BOI proceedings. The BOI Officer shall also be responsible for conducting periodic training for individuals on the roster to prepare them to perform these duties.
37. Members appointed to serve on a Board shall be required to do so unless they can show reasonable cause for being unable to serve. Any BOI member who becomes unable to serve due to unforeseen circumstances shall immediately inform the HOM through the BOI Officer. In such cases, an amendment to the Convening Order shall be prepared by the BOI Officer, for HOM approval, stating the change of Board members and the reason thereof. When appointing a new Board member to replace the member unable to serve, the HOM shall endeavour to maintain the original gender and component balance of the Board.
38. Composition of a BOI should reflect the nature of the occurrence to ensure a reasonable level of understanding of the subject under review by the Board members. Due consideration should also be given to maintaining the geographic and gender balance of the Board. At the same time, when selecting Board members, due care should be taken to exclude any conflict of interest, actual or potential. Neither the Chairperson of the Board, nor the members thereof, shall be selected from the unit or office that had the responsibility for safekeeping any item of equipment, property or other asset involved in the occurrence; nor shall they be of the same nationalities as the personnel involved in the occurrence. No one involved in the investigation of the matter shall be appointed to the BOI. Any BOI member finding themselves in a conflict-of-interest position during the inquiry should recuse themselves. In such cases, the BOI Officer should document the recusal and the Board should be re-convened with a new composition.
39. The Chairperson of the Board, whose name shall be identified in the Convening Order, shall be of a grade/rank equal to, or higher than, the most senior mission personnel involved in the occurrence under review. If the occurrence involves predominantly civilian matters, the Chairperson of the Board shall be civilian. If troop contingent members or other military personnel are involved in the occurrence, the Chairperson of the Board shall be military, but not from the same contingent or of the same nationality as those involved in the occurrence. If the case involves an UNPOL officer or an FPU contingent member, the Chairperson shall be a police officer, but shall not be of the same nationality as those involved in the occurrence.
40. At least one member of the Board reviewing a case with military or police involvement shall be a United Nations civilian staff member. Military or police personnel may be appointed to serve on Boards reviewing civilian cases, depending on the nature of the case.
41. Every Board shall have a BOI Coordinator who is proficient in BOI procedures and is an ex-officio member of the Board.
42. All BOI members, except the coordinator, shall serve on the Board in their individual capacity and shall act independently for the purpose of fulfilling these duties. The HOM shall ensure that no undue pressure is exerted on them in the context of the BOI proceedings. If such pressure occurs, it shall be documented and duly reported to the Office of Internal Oversight Services (OIOS).
43. Individuals who have taken part in the investigation of the occurrence, or who are likely to have a role in reviewing the findings made by a BOI, such as staff members of the Legal Office or mission's investigative structures, shall not serve as members of a BOI.

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<sup>14</sup> The composition of the Board shall not necessarily be limited to individuals on the roster. Any mission personnel may be asked to serve on a BOI so long as they are available.

44. Normally, Board members shall be mission personnel. A mission may, however, request the USG DOS to nominate external members to a BOI convened by the HOM. In such cases, the mission shall bear all expenses associated with the external members' participation in the BOI proceedings.

#### C.4. Head of Mission Report

45. The HOM may, under certain circumstances identified in paragraph 47 below and on the advice of a BOI Officer, and in consultation with the Legal Advisor as may be needed, forgo a BOI, and submit a HOM report.
46. The HOM report is prepared by a BOI Officer. It does not require the convening of a Board or the issuance of Terms of Reference. A HOM report generally does not require legal review or issuance of a legal opinion, however, it should be copied to the Mission legal office for their information.
47. Generally, the submission of a HOM report in lieu of BOI proceedings should be proposed by the BOI Officer for approval by the mission senior management under the following circumstances:
  - a) Routine road traffic accidents involving United Nations-registered vehicles wherein the investigation report does not indicate technical issues with the United Nations-registered vehicle or violations on behalf of the Organization's personnel involved;
  - b) Cases of natural death of mission personnel, wherein the reports of the investigators and/or medical personnel do not present issues that require further review and/or inquiry and clearly indicate that the occurrence is not attributable to service for the United Nations.
  - c) Cases of serious injuries or deaths of United Nations personnel that take place during any type of personal leave outside the mission area, including rest and recuperation (R&R), compensatory time off (CTO), home leave, family travel, etc., wherein the mission has either not been provided with investigation/medical reports or the latter clearly indicate that the occurrence is not attributable to service for the United Nations;
  - d) Under exceptional circumstances beyond the mission's control (including, but not limited to ongoing hostilities, other serious security threats, or natural disasters) or due to inadequate resource capacity that may render it difficult to conduct timely BOI proceedings, particularly during a mission's early deployment or downsizing/liquidation phases.
48. The HOM report shall contain a well-documented account of the occurrence reflecting the following:
  - a) A written explanation in the transmittal memo to the USG DOS as to why a BOI was delayed or forgone;
  - b) Investigation report of the occurrence prepared by mission investigative structures<sup>15</sup> or respective national authorities, whenever available, if the occurrence took place outside the mission operational area;
  - c) In cases of death, proper documentation of the cause(s) by qualified medical personnel (e.g., death certificates) if feasible, based on the results of autopsy reports;
  - d) Analysis of the underlying cause(s) of the occurrence;<sup>16</sup>
  - e) If applicable, a conclusion regarding the individual responsibility for the occurrence and whether the matter has been brought to the attention of the mission Conduct and Discipline Team or Focal Point as a possible allegation of misconduct in keeping with paragraph 18.17 of the Policy on Accountability for Conduct and Discipline in Field Missions<sup>17</sup>;
  - f) The measures taken by the mission in connection with the occurrence to minimize the likelihood of its repetition;

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<sup>15</sup> For occurrences which took place within the mission operational area.

<sup>16</sup> Death of mission members that occur while outside the mission area could include cases in which the cause of death could be attributable to service with the mission, i.e., due to stress or illness through prior exposure to the mission environment.

<sup>17</sup> Policy on Accountability for Conduct and Discipline in Field Missions 2015.10

- g) Whether the death or serious injury was directly attributable to the performance by the victim of duties on behalf of the United Nations; and
- h) Recommendations, as appropriate and/or relevant.

## C.5. NOTICAS procedures

- 49. In the event of death or serious injury of United Nations personnel a Notification of Casualty (NOTICAS) is generated by the Mission and sent to UNHQ within 12 hours of the occurrence. Once the occurrence is investigated, the case shall be reviewed by a BOI Officer to advise the HOM on whether a Board of Inquiry should be convened. If the Convening Authority decides to forgo convening the BOI, the determinations regarding the cause of the occurrence and whether it was service related shall be contained in the Head of Mission report compiled in accordance with the provisions of Section C.4 of this SOP.
- 50. Within 90 days from the date of the occurrence, NOTICAS Confirmation shall be sent to UNHQ by the Mission to confirm whether the death or injury was service related and whether there was gross negligence on behalf of the victim. Ideally, this confirmation should be based on the completed BOI or HOM report. If neither is completed by the end of the 90-day period, the NOTICAS Confirmation shall be coordinated with the BOI Officer and the civilian Legal Advisor of the mission, and the determination made based on the investigation report.

## C.6. UNHQ Boards of Inquiry

### ***Convening***

- 51. Whenever the USG DOS, in coordination with the relevant HOM and/or heads of other structures of the Secretariat, decides to convene a UNHQ BOI to review an occurrence in a mission, the proceedings of the BOI shall be governed by the relevant provisions of this SOP, as applicable. The decision to convene a UNHQ BOI shall be communicated as relevant via Code Cable from the USG DOS.
- 52. In coordination with the DOS BOI Unit, the BOI Officer/FP shall compile a list of relevant staff, external individuals, and/or officials, who may be interviewed by the Board members. The Convening Order and the TOR shall be prepared by the DOS BOI Unit in consultation with the UNHQ Office of Legal Affairs (OLA), as appropriate, and shall be shared with the HOM, also via Code Cable.
- 53. Board membership shall be coordinated with the relevant substantive offices of DOS as appropriate and/or shall be drawn from the existing external membership roster on file.

### ***Exit Briefing***

- 54. Following the completion of the proceedings, Board members may be asked to conduct an exit briefing for the USG DOS and heads of other relevant structures of the Secretariat, or other authorized officials to summarize the main findings of the inquiry.

## C.7. Proceedings of a Board of Inquiry

### ***Responsibilities of Board Members***

- 55. BOI members shall:
  - a) Receive the Convening Order and the TOR;
  - b) Receive a procedural briefing from the BOI Officer and, as necessary, specialized briefings from relevant subject matter experts, including Legal Advisor, Occupational Safety Officer, Medical Doctor, etc;
  - c) Obtain and analyse all investigation reports and other relevant source materials regarding the occurrence, including, inter alia: the investigation reports and/or technical assessments,

witness statements, expert opinions, medical reports and evaluations, and any other documents required by the BOI to conduct its proceedings;

- d) If necessary, obtain additional statements from witnesses to the occurrence to supplement the evidence previously collected, and conduct any necessary additional site visits, or further inquiries;
- e) If no such persons are available in the mission, seek explanations or clarifications of technical or specialized reports or other technical or specialized evidence from experts or specialists, as appropriate;
- f) Establish facts from the whole body of available evidence and conduct a comprehensive review of the circumstances of the occurrence;
- g) Within the deadline specified in the Convening Order, present to the Convening Authority a report written in a clear, logical and objective manner that sets forth the facts, findings, conclusions and recommendations, including, if applicable, whether the matter should be brought to the attention of the mission Conduct and Discipline Team or Focal Point as a possible allegation of misconduct by any United Nations personnel member involved in the occurrence in keeping with paragraph 18.17 of the Policy on Accountability for Conduct and Discipline in Field Missions.

### ***Interviewing Witnesses and Collecting Supporting Information***

56. United Nations personnel, including members of United Nations national military contingents and FPU<sup>18</sup>, have a duty to cooperate and provide statements to a BOI. Any other persons, including local citizens and local police or military officers and other authority figures, may be requested to meet with the Board or answer its questions, but are under no obligation to do so. In addition, these non-United Nations individuals are under no obligation to sign any form or statement made by them to the Board.
57. Due consideration shall be given to witnesses and victims of occurrences, especially children, to protect them from unnecessary repeat conversations that could be intimidating or re-traumatizing, and to uphold the principles of “do no harm” and confidentiality. It is the responsibility of the Board to gather relevant evidence and interview relevant witnesses so as not to rely only on the findings of the initial fact-finding investigation report. The Board is responsible for assessing the relative probative value of the evidence gathered, including during witness interviews, and reflecting it appropriately in its report.
58. Principles of fairness and due process shall apply to all aspects of the BOI proceedings, including the collection of witness statements. Individuals interviewed by the Board shall be informed during the interview of any evidence or allegations made against them and be given a reasonable opportunity to respond. This shall include the opportunity to present countervailing evidence and to suggest the names of relevant witnesses to be interviewed by the BOI. Where the Board decides not to call a witness who had been suggested by another witness, it shall make an explicit statement to that effect in the “Deliberations” part of the report and give the reasons for its decision.
59. If necessary, United Nations personnel, external witnesses, and experts who have previously provided information may be questioned again by the Board to clarify any ambiguities in their accounts and to indicate to what extent, if any, they have knowledge of relevant facts, not previously mentioned in their accounts.
60. If United Nations personnel refuse to make or sign witness statements to the Board, the Board shall record that fact and it may be brought by the Board to the attention of senior leadership.
61. United Nations personnel, external witnesses and experts shall be questioned in the language they naturally use, with the assistance of an interpreter when necessary.

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<sup>18</sup> While the United Nations may, in practice, face difficulties in ensuring the cooperation of United Nations personnel who left the mission or the Organization, it should take the view that ex- United Nations personnel are under a duty to cooperate in respect of incidents that occurred while they were serving with the United Nations.

62. United Nations personnel, external witnesses and experts shall be questioned by Board members individually. At no time, however, should there be less than two members of the Board conducting an interview. The BOI Coordinator should always be present during the interview.
63. A child, defined generally as an individual below the age of eighteen years<sup>19</sup> should be interviewed only in exceptional circumstances (e.g., if the information is critical and cannot be obtained through other means or sources). A child should be interviewed in a manner that is age-appropriate, gender-sensitive, and trauma-sensitive. The BOI must obtain the informed consent of the child's parent(s) or legal guardian(s) before interviewing the child. The BOI should also obtain the consent of the child, where appropriate. Because of the ongoing physical and mental development of children, the Board should take additional measures when interviewing a child to ensure their adequate protection. The Board should interview a child in a manner that is sensitive to their age, level of maturity, education, understanding and prior experiences. To ensure that relevant standard and procedures apply to protect the rights of children, trained personnel with experience dealing with children should participate in the interview, for example, a Child Protection Officer or Human Rights Officer.
64. United Nations personnel, external witnesses or experts shall be informed of the subject matter of the inquiry and the reasons why they have been called to appear before the Board. The BOI shall then ask them to identify themselves, their role in the subject matter, and state any information they are aware of regarding the occurrence. Following that, the Board members may ask questions. Additional practical advice on interviewing witnesses is contained in the "Guidelines on the Conduct of Inquiries" of this SOP. (Annex IV)
65. While the meeting progresses, a written record shall be taken of the witness statement(s) provided. The standard witness statement form shall be used, for which a template is attached herewith as Annex V. Interpreters speaking on behalf of individuals shall also be required to sign this form. Translation into a working language of the United Nations shall be provided, if necessary.
66. After a witness statement has been provided by United Nations personnel, external witnesses or experts, the written record of the statement shall be shared with the witness and the witness shall be asked if they wish to amend it. Once the witness in question is satisfied with their statement, they shall be asked to sign and date the document. A thumb impression may be used in lieu of a signature. The BOI Chairperson or Coordinator shall also countersign the statement.
67. To ensure full cooperation of all witnesses, the BOI shall take all necessary measures to protect confidentiality. This includes referencing their identity (name and/or title) in an Attachment, as opposed to in the main body of the BOI report (including in reference footnotes).

### ***Deliberations***

68. The Board shall carefully consider all evidence, facts, and findings it has collected.
69. In determining the cause(s) of an occurrence, Board Members shall consider which of the facts it has established, solely or in combination with others, triggered the events resulting in the occurrence. No assumptions shall be made while reasonable inference is permissible. Additional guidance on determining the cause of the occurrence is provided in the Guidelines for BOI members in Annex IV.
70. Board Members shall be particularly careful in apportioning personal responsibility for an occurrence. This shall always be based on hard evidence considered against Regulations and Rules of the Organization, relevant guidelines, policies, and subject's official functions.
71. The recommendations included in the report by the Board shall address the underlying cause(s) of the occurrence and any contributory factors. Additional guidance on formulating the recommendations is provided in the Guidelines for BOI members in Annex IV.

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<sup>19</sup> See Article I, Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 (20 November 1989).

72. Board members shall be prohibited from making recommendations regarding compensation, disciplinary action, or legal liability.

### ***Re-convening BOIs***

73. If new evidence emerges after a BOI has been finalized, and if this new evidence may impact the findings, conclusions, and recommendations made in the original BOI report, then the Convening Authority may re-convene the BOI with the same or other members. The report shall retain the same BOI report number and shall be considered an addendum to the original BOI report.
74. In aviation accidents and incidents, the Convening Authority should re-convene the BOI if the final State Investigation report, which is usually released after a significant amount of time has lapsed following the issuance of the preliminary State Investigation Report, contains major findings that substantially differ from the ASTI and/or the preliminary State report and may impact the conclusions and recommendations that were put forth by the BOI report.
75. The BOI shall prepare a report in the following format:
- a) **Constitution** shall cite the Convening Order, its date, the period during which the Board conducted its proceedings, and the venue thereof;
  - b) **Description of occurrence** shall contain a purely factual description of the occurrence under review. It shall not include any extraneous information, analysis, conclusions, and/or recommendations;
  - c) **Facts** shall respond to all issues cited in the TOR and should comprise evidence gathering as follows: **Impartial** – the evidence should be recorded as it is found, regardless of the implications for the Mission, its components, and/or its personnel; **Objective** – it should gather, retain, record, and report all available information and evidence regarding an incident to inform further investigation, as appropriate, and/or inquiry; **Thorough** – all reasonably practicable avenues of investigation shall be exhausted; **Verifiable** – evidence should be received and retained in its best state for later examination and analysis. Where physical evidence is available and may be retained, it should be placed in sealed containers, clearly marked with the date and place of discovery. Evidence that cannot be removed or retained should be photographed;
  - d) **Deliberations** shall contain an account of how the facts and findings related to the occurrence were assessed by the Board, and shall specify the reasons relied upon by the Board in reaching the conclusions and recommendations in the case;
  - e) **Conclusions** shall ideally draw directly from the standard questions of the conclusions under the corresponding TOR section for that occurrence;
  - f) **Recommendations** shall meet the SMART standard (Specific, Measurable, Actionable, Relevant, and Time-bound) and be directed at the elimination of the cause(s) of the occurrence in question. Board members are prohibited from making recommendations regarding compensation, disciplinary action, or legal liability;
  - g) **Observations** shall be an optional section of the report, reserved for additional matters not covered by the TOR, and even unrelated to the occurrence under review, but believed by Board members to be significant and worthy of senior leadership's attention;
  - h) **Signatures** shall be affixed by Board members only upon the review of the draft report by the Legal Advisor, once legal comments have been considered by the Board. A dissenting member shall not be obliged to put their signature on the report, but shall explain the abstention in a separate document addressed to the HOM, which shall become an integral part of the case file;
  - i) **Annexes** shall contain documents relevant to the subject matter of the inquiry, which have been considered by Board members during the proceedings.
76. Throughout the report, the use of personal names shall be limited to only the victims and subjects (perpetrators/assailants) responsible for the occurrence. Care shall be taken not to reveal information regarding witness names or functional titles.

77. The numbering of a BOI report shall be as follows: **a mission<sup>20</sup> acronym/ four-digit number for the year** in which the Board was convened – not the year in which the occurrence took place - **a three-digit number in chronological order**. Missions shall use a single sequential numbering format regardless of whether the report is being issued as a BOI or HOM report. For example, UNXX\_2024\_001; UNXX\_2024\_002. A fresh set of numbers shall begin each January of every year.

### **Confidentiality**

78. Board Members shall consider whatever information they became privy to during the Board proceedings as confidential, as per Statement of Confidentiality signed by all Board Members, and, unless specifically authorized to do so by the Convening Authority or other authorized official shall not share it with any individual(s), other than those directly involved with the Board of Inquiry.

## **C.8. Review of a mission BOI report prior to its submission to Convening Authority**

79. The BOI Officer and/or Coordinator shall review the draft report before sending it to the Legal Advisor to ensure that it is written in clear and coherent language, that the report complies with the established format, the conclusions are based on presented and/or referenced evidence, the recommendations meet SMART standards, and all the supporting documentation is attached/annexed to the report. If necessary, the BOI Officer shall assist the Board in addressing any shortcomings with respect to the above. Once the BOI Officer is satisfied that the draft meets the required standards, including for language and formatting, they shall forward the draft report to the Legal Advisor.
80. The Legal Advisor shall review the draft BOI report to ensure that it complies with the BOI procedures; all TOR have been properly addressed; and all facts and findings are supported by evidence. The Legal Advisor shall provide related advice to the Board members within 21 calendar days.
81. Having received the Legal Advisor's comments, Board members shall finalize the draft, taking into consideration these comments, as appropriate. The Board members and BOI Coordinator shall then sign the report with their full signatures. From this point on, no further changes/edits shall be made in the BOI report.
82. The final signed BOI report and all supporting Annexes shall be submitted to the Legal Office for review and issuance of a written legal opinion, which should normally be provided within 14 calendar days, unless the Legal Advisor advised the BOI Officer that the report presents no legal issues, or a different time frame is agreed to between the BOI Officer and the Legal Office.
83. The mission BOI Officer shall draft a transmittal memorandum from the HOM to the USG DOS. This memorandum shall indicate the extent to which the report's conclusions and recommendations have been accepted by the HOM and what measures, if any, have been taken in the mission to implement these recommendations. The HOM should also give reasons as to why a recommendation was not accepted. The transmittal memorandum shall become an integral part of the BOI case file.
84. The transmittal memo and entire BOI or HOM case file shall be uploaded into the BOI Tracker. Missions may retain a physical copy of the BOI report with all attachments/annexes, as per their internal procedures.

## **C.9. Dissemination and release of Board of Inquiry and Head of Mission reports**

85. BOI and HOM reports are confidential internal documents of the United Nations which contain sensitive information, and which are generally not made available to outside entities. Care shall be taken in the assembly of the information contained in the reports and in determining the security

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<sup>20</sup> UNHQ, in case of a BOI convened by USG DOS

classification to be given to the reports, including their annexes/attachments, in accordance with the provisions of the Secretary-General's bulletin ST/SGB/2007/6 on information sensitivity, classification and handling.

### ***Within the Mission***

86. Excerpts, as opposed to summaries, of the conclusion and the corresponding recommendations of a BOI or HOM report shall be provided to the responsible implementing parties of the mission structure upon request by relevant personnel and on a need-to-know basis for the purposes of taking corrective or remedial actions. Annexes, excluding witness statements and attachment containing identifying information of the witnesses, may be provided on a discretionary basis. Witness statements and identifying information of the witnesses shall be withheld as required to protect their interests and to preserve confidentiality. Such excerpts of the reports shall be sent via password-protected email only. Regular email of BOI or HOM reports or portions thereof is expressly prohibited.
87. If a BOI report contains information that could indicate a possible allegation of misconduct by any United Nations personnel member, the Head of Entity has an obligation to share the report with the mission Conduct and Discipline Team or Focal Point in keeping with paragraph 18.17 of the Policy on Accountability for Conduct and Discipline in Field Missions.
88. Summaries of reports and recommendations as well as measures taken to identify weaknesses should be circulated to personnel members for the purposes of lessons learned that could be applied proactively by Mission components/sections including beyond the personnel immediately concerned to prevent reoccurrence or improve operational effectiveness.
89. In cases of concern for the occupational safety and security of United Nations mission personnel, a summary of the report's findings, conclusions, and recommendations should be disseminated by the Convening Authority as a broadcast to all concerned personnel. Within three months, a subsequent report should be disseminated in the same manner, indicating the status of recommendation implementation.

### ***UNHQ***

90. Upon receipt of a BOI or HOM report by the USG, DOS Office, it shall be reviewed by all competent departments for issues to be addressed at the UNHQ level.
91. Access to the report shall be provided on a need-to-know basis as appropriate to structures within the United Nations Secretariat.
92. The BOI electronic file shall be stored in the database indefinitely.

### ***Outside Entities***

93. The USG DOS, or his/her delegate shall have the sole discretion in making reports available to Member States, upon their request or at the initiative of the USG DOS or his/her delegate, in cases that involve the personnel of a Member State and may have implications for that Member State's procedures, training, or other actions that may prevent a recurrence of the situation examined by the report. The supporting documentation in attachments/annexes to such reports shall be held back. If such documentation is requested, then, in coordination with OLA, it may be decided to make it available to the requesting Member State authorities, if appropriate. Requests for BOI and HOM reports shall be made by the relevant Member State to USG DOS.
94. When a report is shared with a Member State, through its Permanent Mission, it shall be accompanied by a Note Verbale that includes the following sentence:

*"This report is an internal document of the United Nations and is being made available for official use only; it is not to be made public in any form, either in whole or in part, including for judicial, legislative, or other proceedings. This report is provided on a voluntary basis and without prejudice to the privileges and immunities of the United Nations".*



95. BOI or HOM reports shall not be shared with other third-party entities (i.e., families of victims the families' legal representatives or the victims' estates). Upon request, a summary factual account of the occurrence based on the report may be shared with such entities. Such factual accounts shall not contain any extraneous details, analysis, conclusions, or recommendations found in the report. Responses to requests of this nature shall be coordinated with OLA and approved in writing by the USG DOS.
96. For BOI or HOM reports reviewing suicide occurrences, and upon request from family members or their duly appointed representatives, a factual account shall be completed by the BOI Unit, DOS, in consultation with relevant experts in DHMOSH to ensure that sensitive language is used to describe the occurrence to the family members.
97. In deciding whether to make a report of the occurrence available to an outside entity, including the International Criminal Court or national judicial bodies, the USG DOS shall seek the advice of OLA. To the extent necessary, heads of other relevant departments may also need to be consulted.

#### C.10. External communications on BOI findings

98. In high-profile cases of heightened political sensitivity that garner public or media interest, it may be deemed in the best interests of the Organization to release a summary of inquiry findings to the public. The prerogative of making decisions in this regard shall rest with the USG DOS, in consultation with heads of other relevant structures of the Secretariat. Utmost discretion shall be exercised in making a judgement on the scope of the information to be released considering the specific issues arising from each case. The summary shall be coordinated with the mission Legal Advisor or OLA, UNHQ, as appropriate, and delivered to the public by a designated spokesperson.
99. In aviation occurrences, some information may be specifically privileged under the Convention on International Civil Aviation, i.e., as per ICAO Annex-13 (Aircraft Accident and Incident Investigation). In this regard, consultation with the relevant Aviation section/OSCM is mandatory, if the information is required to be shared externally.

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## D. FUNCTIONAL RESPONSIBILITIES

### ***BOI Officer***

100. The mission BOI Officer reports to the HOM through the Chief of Staff<sup>21</sup> and is responsible for all matters regarding occurrence review, coordinating the convening of a BOI, ensuring the efficient functioning of the Board and preparing an HOM report. To this effect, they fulfil the following functions:
  - a) Maintain and periodically update the roster of qualified mission personnel nominated for BOI membership;
  - b) Conduct periodic training for mission personnel nominated for BOI membership on procedures set by the present SOP, confidentiality issues within the BOI context, and techniques for collecting witness statements;
  - c) Receive and review fact-finding investigation reports;
  - d) In appropriate cases as provided in paragraph 47 above, advise the HOM, in consultation with the Legal Advisor as may be needed, whether an HOM report should be prepared instead of a BOI report;
  - e) Prepare the HOM report in appropriate cases as provided in Section C.4 above;
  - f) Prepare the Convening Order listing the names of a BOI Chairperson, at least two members, and the BOI Coordinator, and draft case-specific TOR for the HOM approval. A Convening Order template and generic TOR are attached as Annex I and II, respectively;

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<sup>21</sup> In the military-led missions, where the Chief of Staff is a military staff officer, the BOI Officer reports to Director/Chief of Mission Support

- g) Provide a procedural briefing for the Board members;
- h) Act as BOI Coordinator, as required;
- i) Review the draft BOI report to ensure it meets the established format, is written in a clear language, contains recommendations meeting SMART standards, has all necessary references and annexes, and provide relevant feedback on the report to BOI members;
- j) Seek and receive assistance, as required, from the Legal Advisor regarding any legally significant aspects of the matter under review and coordinate for the legal review of the draft BOI report;
- k) Bring to the attention of the mission Conduct and Discipline Team or Focal Point any elements in the case which, in the opinion of the BOI Officer or in the opinion of the Board members, might constitute an allegation of misconduct against United Nations personnel involved in the case; and coordinate with the mission Conduct and Discipline Team of Focal Point during the subsequent BOI review of such cases;
- l) Draft the Transmittal Memorandum to the USG DOS and submit the BOI case file for the approval of the HOM;
- m) Provide administrative and logistic support, as needed, to UNHQ BOIs convened by the USG DOS; coordinate with DOS BOI Unit and relevant mission structures for that matter;
- n) Follow up with the relevant stakeholders on recommendations approved by the HOM;
- o) Provide quarterly updates on the implementation of BOI recommendations to the BOI Unit, Office of the Under-Secretary-General (OUSG), DOS;
- p) Provide statistics via a Tracking Table (Excel sheet) monthly to the BOI Unit, DOS on all outstanding BOI/HOM cases that have been initiated but not yet completed;
- q) Prepare quarterly digests of cases identifying the underlying causes of occurrences and recommendations in regard thereof for the mission training structures to enable a process of dynamic and continuous learning;
- r) Develop and deliver a training module on BOI as part of regular induction and refresher training programs administered by the mission integrated training centre;
- s) Administer and maintain the BOI Tracker as follows:
  - Upload all case files (BOI and HOM reports) and their supporting documentation;
  - Input all recommendations, clearly stating the party/parties responsible for implementing each recommendation/s and the target date by which the implementation shall be completed;
  - Provide comments and relevant documents in support of the implementation of a recommendation;
  - Ensure that all comments and support documents regarding the implementation of recommendations are uploaded into the Tracker by the quarterly deadlines set by the BOI Unit, OUSG/DOS; and
- t) Maintain all BOI and HOM records and case files;

### ***BOI Coordinator***

101. The BOI Coordinator is an ex-officio member of the Board who shall be proficient in BOI procedures, guidelines, and rules. They participate in all its proceedings on par with the rest of the Board members. In addition to that, the BOI Coordinator shall be responsible for the following:
- a) Provide procedural advice and support to Board members (in consultation with the BOI Officer, if applicable) throughout the BOI proceedings, advising on relevant procedures and arranging expert advice on applicable Regulations and Rules as needed;
  - b) Administer the Undertaking of Confidentiality to the Board members in accordance with the format attached as Annex III;
  - c) Set up the initial briefing/s (BOI and Legal) for the BOI members;

- d) Arrange meetings with individuals identified by the BOI who would be able to provide witness statements, for the purpose of corroborating details of an occurrence;
- e) Gather all relevant documentation from the different mission components;
- f) Prepare and participate in on-site visits;
- g) Keep minutes of meetings for obtaining witness statements, coordinate the review of the witness statements by witnesses and obtain their signatures confirming that the content of the statements reflect their best knowledge of the events under review;
- h) Assemble all inputs from the Board members and draft the BOI report for review by the Board members, BOI Office, and Legal Office;
- i) Review the draft BOI report for quality control and format compliance before submission to the BOI Officer;
- j) Coordinate the review of the BOI report by the BOI Officer and the Legal Advisor;
- k) Present the views of the Legal Advisor to the Board for its consideration;
- l) Compile the report case file and submit the BOI report package and annexes for the HOM approval (in the case of UNHQ reports, the coordinator shall compile the same).
- m) Upload the BOI or HOM case file into the Tracker, including all attachments and annexes.

#### ***BOI Focal Point***

102. Smaller peacekeeping missions, as well as special political missions, where the staffing table does not provide for a BOI Officer, shall nominate a BOI Focal Point. The Focal Point should be knowledgeable about the administrative policies and procedures of the United Nations administration as well as possess solid analytical and drafting skills. While performing other duties in the mission, the BOI Focal Point shall receive regular training in BOI matters and participate in BOI workshops. The Focal Point shall serve as a Coordinator on all BOI, administer the mission page in the BOI Tracker, draft HOM reports, and provide, in coordination with the BOI Unit, DOS, the full range of assistance to BOIs convened in the mission.

#### ***Legal Advisor<sup>22</sup>***

103. The Legal Advisor is responsible for the following functions:
- a) Review, as appropriate, the TOR drafted by the BOI Officer to ensure that they properly address all critical aspects of the case under review and provide feedback to the BOI Officer within three business days;
  - b) Conduct a legal briefing for the Board, ensuring that they understand their responsibilities and outlining any points of clarification regarding the legal aspects of the TORs, as required;
  - c) Assist the BOI Officer, BOI Coordinator and Board members, when requested, regarding any legally significant aspects of the matter under review;
  - d) Review the draft BOI report regarding whether the findings and conclusions of the draft BOI report are properly supported by evidence; and whether the draft report addresses all the TOR; and it complies with the BOI procedures and other relevant Regulations and Rules. Provide related advice to the Board members within 21 calendar days;
  - e) Review the final BOI report for any legal issues and provide a written legal opinion regarding the same to the Convening Authority.<sup>23</sup>

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<sup>22</sup> Unless otherwise specified, for the purposes of this SOP, the term “Legal Advisor” includes Legal Advisors and Legal Officers serving in the Legal Office of the respective field mission. The functional title of the Legal Advisor may change depending on the field mission (e.g., Senior Legal Advisor, Senior Legal Officer, etc.). In the UNHQ context, legal functions are performed by the United Nations Office of Legal Affairs (OLA).

<sup>23</sup> The legal opinion should normally be provided within 14 calendar days, unless the Legal Advisor/Officer advised the BOI Coordinator that the report presents no legal issues, or a different time frame is agreed to between the BOI Coordinator and the Legal Advisor.

104. The Legal Advisor does not serve as a clearing authority for BOI reports; nor does the Legal Advisor address format and/or editorial aspects of the BOI report.

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## E. ABBREVIATIONS, TERMS AND DEFINITIONS

105. The terms, definitions, and acronyms in this glossary are for the purpose of this SOP only and are in no way intended to reflect or imply a broader or more general meaning or definition beyond the scope of this SOP.

**Allegations of misconduct** - Any alleged criminal act or breach of the United Nations standards of conduct applicable to mission members when allegedly committed by any mission member.

**ARM** – Aviation Risk Management Analysis

**ASG** – Assistant Secretary-General

**ASTI** – Aviation Safety Technical Investigation

**ATO** – Air Tasking Order

**BAT** – Breath Analysis Test

**BOI members or Board members** – Mission members appointed by Head of Mission to conduct an inquiry, whose names appear on the Convening Order

**CDT** – Conduct and Discipline Team

**CG** – Centre of Gravity

**Contingent** – All formed units, personnel and equipment of a troop/police contributor deployed to the mission area

**COE** – Contingent-Owned Equipment – major equipment, minor equipment, and consumables deployed and operated by a contingent in the performance of peacekeeping operations.

**CTO** – Compensatory Time Off

**DFS** – The former United Nations Department of Field Support

**DHMOSH** – Division of Health-Care Management and Occupational Safety and Health within the Department of Operational Support (DOS) at UNHQ

**DOS** – Department of Operational Support

**DPKO** – The former United Nations Department of Peacekeeping Operations

**Forced Abandonment** – Actions resulting from a decision approved by the Force Commander, Police Commissioner, or their authorized representative or from a provision in the rules of engagement which results in the loss of custody and control of equipment and supplies.

**FOSRM** – Field Occupational Safety Risk Management

**FPM** – Force Provost Marshal

**FPRM** – Flight Planning Risk Management

**FPU** – Formed Police Unit

**Gross Mismanagement** – A significant, clear, and convincing violation of the United Nations regulations and rules and/or terms of reference of the subject's position that results in a significant reduction of funds available for the Organization's programs, services, functions, or activities, or loss/damage of the United Nations property or equipment.

**Gross Negligence** – Involves an extreme and reckless failure to act as a reasonable person would with respect to a reasonably foreseeable risk. Thus, to establish gross negligence, a far more aggravated failure to observe the “reasonable person” standard of care shall be shown than in the case of ordinary negligence.

**HOM** – Head of Mission

**Hostile Action** – An incident from the action(s) of one or more belligerents that has a direct and significant negative impact on the personnel and/or equipment of a troop/police contributor.

**ICAO** – International Civil Aviation Organization

**ID-OIOS** - Investigations Division-Office of Internal Oversight Services

**Incident** – An event or occurrence involving the Mission and/or its personnel and/or its assets and/or properties resulting in death or injury to people and/or damage to property because of the Mission’s mandated operations.

**Investigation** – A legally based and analytical process designed to gather information to determine whether an incident occurred and, if so, the persons or entities involved.<sup>24</sup>

**JIT** – Joint Investigation Team

**LOA** – Letter of Assist

**Medical Evacuation (Medevac)** – Evacuation of a patient or casualty between two medical facilities, either within the Mission area (in-theatre) or out of it (out-of-theatre). The casualty may either return to duty (RTD) within the timeframe stipulated in the holding policy or be repatriated.

**Medical Repatriation** – Return of a patient or casualty to his home-country for medical reasons, following which they would be unlikely to return to duty.

**Misconduct** – Failure by personnel members to comply with their obligations under the Charter of the United Nations, the Staff Regulations and Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant.<sup>25</sup>

**Mission personnel** - Any member of the civilian, military, or police component of the mission, including United Nations Volunteers (UNVs) and individual contractors.

**MOU** – Memorandum of Understanding

**Natural Death** – Death primarily attributed to an illness or internal malfunction of the body and which is not caused by an act of violence or an accident.

**Negligence** – Failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation. It is any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that intentionally, wantonly, or willfully disregards others’ rights.<sup>26</sup> It is an omission to do something which a reasonable person, guided upon those considerations that ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable person would not do.

**NOTICAS** – Notification of Casualty

**Occupational Accident** – An occurrence arising out of, or during, work that results in death, injury, and ill health.

**OFP** – Operational Flight Plan

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<sup>24</sup> OIOS Investigations Manual

<sup>25</sup> Rule 10.1, Staff Regulations and Staff Rules, including provisional Staff Rules, of the United Nations.

<sup>26</sup> Black’s Law Dictionary

**OIOS** – Office of Internal Oversight Services

**OLA** – Office of Legal Affairs

**OSCM/DOS** – Office of Supply Chain Management, Department of Operational Support

**OSH** – Occupational Safety and Health

**OSO** – Occupational Safety Officer

**PEACE Model for Aviation** – Planning; Event Complexity; Assets; Communication/Supervision; Environment.

**PCC** – Police Contributing Country

**R&R** – Rest and Recuperation

**Serious Injury or Illness** – An acute, life-threatening, medical, or surgical condition that may lead to death or significant and permanent loss of bodily functions

**Sexual Exploitation and Abuse (SEA)** - Sexual exploitation: any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another. Sexual abuse: the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. (See, ST/SGB/2003/13 of 9 October 2003.)

**SIU** – Special Investigation Unit

**SOFA/SOMA** – Status-of-Forces Agreement/Status-of-Mission Agreement

**SOP** – Standard Operating Procedures

**SPM** – Special Political Mission

**State of Design** – The State having jurisdiction over the entity responsible for the type of design

**State of Manufacture** - The State having jurisdiction over the entity responsible for the final assembly of the aircraft, engine, or propeller

**State of Occurrence** – The State in whose territory or jurisdiction an aviation accident or incident occurs

**State of Registry** – The State in whose register of aircrafts an aircraft is registered

**TCC** – Troop-Contributing Country

**TOR** – Terms of Reference

**UAS** – Unmanned Aircraft System

**UNHQ** – United Nations Headquarters

**UNOE** - United Nations-owned Equipment

**UNMAS** – United Nations Mine Action Service

**UNPOL** – United Nations Police

**USG DOS** – Under-Secretary-General for Operational Support

**Wilful Wrongdoing** – The intentional violation of a reasonable and uniformly enforced regulation or rule or policy; intentionally doing what should not be done or intentionally failing to do what should be done in pursuit of a predetermined goal

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## F. REFERENCES

106. United Nations General Assembly Resolution: A/72/266, adopted on 24 December 2017
107. Status-of-Forces or Status-of-Mission Agreements (SOFA/SOMA) or paragraph 44 of the Model Status-of-Forces agreement for peacekeeping operations (A/45/594)
108. Aviation SOP
109. NOTICAS SOP
110. DHMOSH SOP on confidentiality.

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## G. MONITORING AND COMPLIANCE

111. The entire case file shall be uploaded by the BOI Officer into the BOI Tracker. Every relevant field in the Tracker shall be completed.
112. The Mission BOI Officer shall direct the recommendations approved by the HOM to the relevant mission components for their further information and/or action. The BOI Unit, DOS shall direct recommendations relating to UNHQ action to the appropriate BOI focal points within the relevant Office/Section/Division for review and designation of responsibility for implementation, as appropriate. All mission-level recommendations shall be copied to the respective mission Risk Management and Compliance Officer. The mission BOI office may provide the relevant conclusion for context purposes when circulating the recommendations to the responsible implementing party.
113. Relevant UNHQ departments/offices should appoint at least two BOI focal points from each Office/Section/Division. The BOI focal points shall be provided access to the BOI Tracker and shall be responsible for updating the status of the recommendations by uploading relevant documents and information as evidence of implementation as it pertains to their respective areas. In the Missions, the BOI Officers may update the Tracker once all relevant documents and information demonstrating that the recommendations have been implemented are collected from the appropriate Office/Section/Division by the mission BOI Unit.
114. BOI Unit, DOS shall oversee the implementation of BOI recommendations approved by the convening authorities across missions and Headquarters at the UNHQ level. The status of recommendations shall be determined upon review of the uploaded comments/support documents. If such comments and support documents are deemed sufficient, the recommendation(s) shall be closed accordingly by the BOI Unit, DOS.
115. The primary responsibility for monitoring BOI recommendations rests with the mission BOI offices. Each field mission is responsible for establishing the necessary administrative and reporting arrangements to implement the requirements set out in these procedures.

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## H. HISTORY

116. This SOP supersedes the SOP on Boards of Inquiry of 8 June 2020 (DOS/2020.10).

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## ANNEX I

### **Board of Inquiry Convening Order**

**[Name of Mission]**

Date: \_\_\_\_\_

**To:** [distribution]  
**From:** [name and title of Head of Mission]  
**Subject:** Board of Inquiry [mission acronym, number]

1. In accordance with the DOS Standard Operating Procedure on Boards of Inquiry (DOS/2023.07), a Board of Inquiry is hereby convened to consider and prepare a report on the [brief description of occurrence] which took place on the [date] at [time] hours at [place].

2. The Terms of Reference of this Board of Inquiry is attached.

3. An initial legal briefing shall be provided to the Board on its responsibilities immediately prior to commencement of its deliberations. Copies of the investigation report and other relevant documentation shall be forwarded to the Board members prior to the initial briefing. Attendance at the initial briefing and any subsequent briefings/meetings is mandatory. The Members of the Board shall not proceed on leave unless special permission has been granted by the Head of Mission.

4. Composition:

	Name	Title
Chairperson		
Member		
Member		
Coordinator		

5. The Chairperson shall submit the final BOI report, reviewed, and finalized by [date], in accordance with the Standard Operating Procedure on Boards of Inquiry, established by Department of Operational Support.

**Distribution:**

Chairperson, Members of the Board  
Legal Advisor  
BOI Officer



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## ANNEX II

**Terms of Reference  
of [mission acronym] Board of Inquiry [number]  
[brief description of occurrence] which took place on the [date] at [time] hours at [place]**

Attention: the following Terms of Reference are generic and represent the most typical issues confronted by a BOI. The BOI Officer shall prepare case-specific TOR according to the circumstances of each occurrence.

**1. The mandate of the Board of Inquiry shall be as follows:**

- 1.1. Obtain all investigation reports and other relevant source materials regarding the occurrence, including, Security Incident Report(s), Military Police Report(s), technical assessments, witness statements, expert opinions, medical reports and evaluations, and any other documents required by the BOI to conduct its deliberations.
- 1.2. Collect any relevant additional statements from witnesses, and conduct any necessary additional site visits, interviews, or further investigations.
- 1.3. Seek explanations or clarifications of technical or specialized reports or other evidence of a technical or specialized nature from experts or specialists, if it is deemed necessary by the BOI to enable it to address all relevant issues.
- 1.4. Establish facts from the whole body of available evidence presented and conduct a comprehensive review of the circumstances of the occurrence.
- 1.5. Within the deadline specified in the Convening Order, present a written report to the Convening Authority, setting forth the BOI's findings, conclusions, and recommendations clearly, logically, and objectively.

**2. The Board of Inquiry shall establish the following facts:**

- 2.1. Date, time, and place of occurrence.
- 2.2. Factual and comprehensive account of the occurrence and the events leading thereto.
- 2.3. When, how and by whom the mission structures were informed of the occurrence.
- 2.4. When and by whom the standing procedures, if any, were engaged in the mission following the notification of the occurrence.
- 2.5. When, how and by whom the search and rescue operation / MEDEVAC was carried out, (if relevant).
- 2.6. By whom and for how long the occurrence site was preserved.
- 2.7. How the chain of evidence was maintained.
- 2.8. Whether and how the remains of all the victims were identified (if relevant).
- 2.9. Whether or not any court action (prosecution or lawsuit) has been initiated.

In cases of death, illness, or injury

- 2.10. Time, date, and place of death or injury.
- 2.11. Where and when hospitalized, (if applicable).
- 2.12. Identification of the doctor(s) who provided medical treatment.
- 2.13. The initial and final diagnosis.
- 2.14. The course of treatment, medicines, and procedures administered.
- 2.15. Cause of death or injury as per death certificate or autopsy report.

In cases of traffic accident

- 2.16. Identification of vehicle(s) involved.
- 2.17. Weather, lighting, and road conditions.
- 2.18. Whether a car log was operational in the UN vehicle and, if so, what it showed with regards to exact speed, location, and time of accident.
- 2.19. Identification of damage to vehicles and other property.
- 2.20. Actual or estimated cost of repairs to vehicle(s) involved.
- 2.21. Name(s) and address(es) of insurer(s) of vehicle(s) involved.

In cases of a hostile action

- 2.22. Security Phase in force at the time and place of the occurrence.
- 2.23. Whether the affected mission members were briefed about security threats in the area.
- 2.24. The precautionary measures, if any, put in place, and by whom, to anticipate the occurrence or mitigate its effects.
- 2.25. The roles of each of the UN personnel involved in the incident.
- 2.26. Identification (to the extent possible) of attackers.

In cases of loss/damage to property or equipment

- 2.27. Identification of those responsible for custody of property or equipment in question.
- 2.28. Identification of protective measures, if any, which were put in place to ensure the safe keeping of property or equipment, which went missing. Whether these measures complied with appropriate UN Regulations and Rules.
- 2.29. Whether the theft is suspected and whether police authorities were notified and, if so, details regarding such notification.
- 2.30. The value of the missing article(s) or cost of repairing equipment.
- 2.31. Name and address of insurer, if any.

In cases of aviation accidents

Information in response to the following questions should be provided as per ASTI or final report on the technical investigation conducted by the authorities of the State of Occurrence:

- 2.32. What was the make, model, registration number, year of manufacture, and call sign of the aircraft?
- 2.33. Did the aircraft have a valid Certificate of Registration or military equivalent?
- 2.34. Which Civilian/Military Aviation Authority issued the Certificate of Registration?
- 2.35. Did the Certificate of Registration conform to applicable international regulations, rules, standards, and recommended practices, in particular with Annex 7 of the Convention on International Civil Aviation for civilian aircraft or the applicable military standards of the country of registration?
- 2.36. Did the aircraft carry a valid Certificate of Airworthiness or military equivalent?
- 2.37. Which Civilian Aviation Authority issued the Certificate of Airworthiness?
- 2.38. Did the aircraft comply with all applicable airworthiness requirements?
- 2.39. Was the maintenance of the aircraft carried out regularly and in accordance with applicable manuals, rules, and procedures? When was the last time "scheduled" or "unscheduled" maintenance was carried out on the aircraft? A copy of the maintenance records should be appended to the BOI report. Were the maintenance activities properly recorded, and these records later monitored by the relevant aviation technical unit?
- 2.40. Did the contractor company possess and maintain a valid National Air Operator Certificate and an appropriate authorization from the local Civil Aviation Authority to conduct air transport operations in the country?
- 2.41. Was the Air Operator Certificate or equivalent document issued under laws and regulations which conform to applicable international regulations, rules, standards, and recommended practices, in particular, Annex 6 to the Convention on International Civil Aviation?
- 2.42. Did the aircraft carry a valid Certificate of Insurance/military equivalent and/or insurance related specifications in the signed Letter of Assist (LOA)/Memorandum of Understanding (MOU)?
- 2.43. Does the air operator maintain a comprehensive third-party liability insurance policy to cover all persons and cargo authorized by the UN to be transported on the aircraft? In case of a military aircraft, is the UN applicable third-party liability insurance policy suitable to cover all persons and cargo authorized by the UN to be transported on the aircraft?
- 2.44. Was the condition of the aircraft, its documents and maintenance regularly monitored as part of the Aviation Section Technical Compliance Unit and Mission Aviation Safety Program activities? Were there any findings? Which were the results of the Military Aviation Unit Performance Evaluation reports? Did UNHQ provide any feedback or guidance as part of its oversight role?
- 2.45. Were the crew licenses and experience in accordance with the contract or LOA/MOU requirements?
- 2.46. How long had the crew been in the mission? Was the crew's training experience and maintenance of flight proficiency commensurate with operating conditions in the mission and with the type of aircraft?
- 2.47. Was the crew provided with an aviation and aviation safety induction briefing before starting operations? Were these briefings in line with the UN Aviation and Aviation Safety Manuals requirements? Were they formal briefings with presentations and handouts?

- 2.48. Was the flight crew fully fluent in “aeronautical English”?
- 2.49. Was the flight crew and maintenance personnel medically fit in accordance with Annex 1, Chapter 6 to the Convention on International Civil Aviation or military certificate?
- 2.50. Was the crew adequately rested prior to carrying out the mission?
- 2.51. Did the flight crew contain at least one pilot fluent in "technical aviation English"? Did this pilot possess an "English Language Proficiency Certificate"?
- 2.52. Did the flight approval process conform to all UN aviation-related applicable regulations and procedures?
- 2.53. Who tasked the aircraft? Did the flight tasking procedures comply with all UN aviation related regulations and procedures? A copy of the Air Tasking Order (ATO), Flight Planning Risk Management (FPRM), PEACE Model, Operational Flight Plan (OFP) or military equivalent shall be attached to the BOI report.
- 2.54. Did any parties, entities or organization outside the UN play a role in the planning or tasking of the flight and if so, what role did they play?
- 2.55. Was the flight conducted in accordance with the ATO and Aviation Risk Management Analysis (ARM)? If not, how, and why did the flight deviate from the approved ATO and established ARM risk mitigation measures?
- 2.56. Were standard routes, altitudes and approach, and departure procedures established for traveling to and from each leg of the flight?
- 2.57. Was the crew briefed about the mission in accordance with UN procedures? If so, by whom?
- 2.58. Were the crew members subject to Breath Analysis Tests (BAT) during their tour of duty? Were these tests in accordance with the Mission Aviation Safety Program calendar of activities?
- 2.59. Were the crew members provided with an approved and valid Standard Operating Procedures (SOP) by its government? Was this SOP assessed and found suitable in accordance with UN regulations?
- 2.60. Was the crew briefed about the mission in accordance with UN procedures? If so, by whom? Was the crew given appropriate information for the safe execution of the flight?
- 2.61. Did the crew (or the crew's employer/supervisor) express any concerns or raise any objection to carrying out the flight as tasked?
- 2.62. Did the crew file an Air Traffic Services flight plan? Was the flight plan in accordance with applicable procedures and/or with the UN ATO?
- 2.63. Were the applicable host country flight clearance procedures in force at the time of the flight operation? Were such procedures properly followed?
- 2.64. Was there any communication between the Mission and host country authorities regarding the flight while it was operating? If so, when and with whom?
- 2.65. What was the weather en route and was the crew given appropriate information on it for the safe execution of the flight? Were any other extraneous factors (i.e., other aircraft, hostile fire, political, operational, or other factors) that caused the flight to be undertaken in a non-routine manner?
- 2.66. What was the performance of the aircraft during the flight?

- 2.67. What was the total weight and volume of cargo onboard the aircraft at the time of takeoff? Did the UN Aviation Section representative releasing the flight collect a copy of the Weight and Balance form? Was the total weight and center of gravity (CG) of the aircraft at the time of takeoff within the limits of the flight envelope?
- 2.68. Was all cargo on board the aircraft adequately stowed and secured? Did the volume and/or location of the cargo permit a safe and expeditious evacuation of the aircraft?
- 2.69. Was there any dangerous cargo on board the aircraft?
- 2.70. Were any personal weapons carried on board by anyone?
- 2.71. Was any electronic equipment (other than the aircraft's own equipment) carried on board by anyone? If so, was it being used for personal or official purposes?
- 2.72. Who authorized the travel of each passenger? Copies of the flight authorization (Movement of Personnel) for each passenger should be appended to the BOI report.
- 2.73. Were relevant UN procedures, rules, and regulations adequate? Were they followed properly?
- 2.74. In occurrences involving death or serious injury, was the death, injury, or illness directly attributable to the performance of duties by the victim on behalf of the United Nations?
- 2.75. Were the passengers manifested to ensure that an accurate passenger manifest for each leg of the flight was immediately available? A copy of the passenger manifest should be appended to the BOI report.
- 2.76. Did the crew brief the passengers on the safety features of the aircraft prior to take-off? Did the briefing conform to standard requirements?
- 2.77. Were the safety procedures followed and/or enforced features engaged?

**3. The Board of Inquiry shall provide its judgment on the following:**

- 3.1. What caused the occurrence?
- 3.2. Was anyone responsible for the occurrence? If so, who, and to what extent?
- 3.3. Were any Regulations and Rules contravened? If so, what were the contravened rules and regulations and the particular aspects thereof?
- 3.4. Were any individual(s) victimized by the occurrence and was the negative effect of the occurrence directly attributable to the performance of duties by the victim on behalf of the United Nations (service related)?
- 3.5. Were the relevant UN Regulations and Rules in place at the time of the occurrence adequate and properly followed?

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## ANNEX III

### UNDERTAKING OF CONFIDENTIALITY

I, the undersigned, undertake that, in the performance of my duties as a Chairperson/ Member/BOI Coordinator (underline as appropriate) of [mission acronym] Board of Inquiry #, shall exercise the utmost discretion in all matters relating to the Board proceedings, and I shall not, at any time, use for private advantage or communicate any information relating to the Board proceedings to any person or institution, within or outside the Mission, without the authorisation of the Head of Mission of [mission acronym].

I undertake that all evidence, files, statements, maps, drawings, photographs, discs, plans, reports, recommendations, estimates, documents, and any other data or information compiled or received by me as a result of my association with the Board of Inquiry shall be treated as confidential, shall be delivered only to the Board of Inquiry Officer of [mission acronym] and shall not be retained by me in any form. I shall ensure that I have returned all documents and other information and materials to the Board of Inquiry Office after completion and submission of the Board of Inquiry Report and have not retained any copies in any form.

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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## ANNEX IV

### **Guidelines for BOI Members on the Conduct of Inquiries**

#### **1. General**

When the Board of Inquiry (BOI or Board) is convened by the Head of Mission (HOM), it will receive, along with a Convening Order, its Terms of Reference (TOR), together with the report of the preliminary investigation and other documents/ files assembled by the Mission Board of Inquiry Unit. The Board will also receive initial briefings by the Mission Legal Advisor and BOI Officer.

When the Board members have been able to peruse the documents, they shall meet and determine the internal procedure by which they will operate, deciding which persons shall be called as witnesses. Minutes of the meetings shall be kept throughout the proceedings, and should include a record of times, names, and places, relevant to the occurrence in question.

#### **2. Interviews**

Before interviewing witnesses, including victims, the Board, at its preliminary meeting, should assess whether it is necessary to re-interview those who have already provided information and decide what issues on the TOR it will need to address with them. While it will be, from time to time, inevitable that a witness is called back more than once, the process of recalling witnesses should be avoided as much as possible, notably with respect to victims and witnesses who are children. Interviews with witnesses including victims must be carried out in accordance with the principles of do no harm, confidentiality, and informed consent. Interviews with children must follow specific procedures including, being conducted in the presence of a parent or guardian. Where possible, there should be present an appropriate officer from the mission with experience in dealing with children, ideally, a Child Protection Officer or Human Rights Officer.

The Board Members should decide, in advance of each interview, the member who will lead it. At the beginning of the interview, this person should explain the mandate of the Board to the witness, introduce the Board Members and request the coordinator to administer the attestation. After the witness has signed it, he/she should be requested to state, initially, what he/she knew about the occurrence in question. The Board Members should be careful not to ask, "leading questions", i.e., questions which suggest an answer. For instance, "Tell us what happened about these vehicle parts" is usually much better than: "Is it right that the auto parts went missing last Thursday?" In other words, the evidence should be the witness's and not the Board's.

When the witness has finished with the narration and the Board member leading the interview has completed her/his initial questioning, he/she will request other Members to ask questions, as they think appropriate. Finally, the witness shall be asked whether he/she wishes the Board to hear the evidence of any other persons or review any other evidence.

The above may seem simple, but it is not. The art of interviewing is not easily acquired. While leading questions should not be asked initially, this does not mean that the Board should accept vague and unhelpful answers. The Board should obtain clear answers as much as possible. However, there is a fine line that must be drawn between seeking a clear answer from a witness and harassing the witness which is unacceptable.

#### **3. Evidence**

The Board should acquire the best evidence. It should note that original documents are better than copies if they are available. Documents should always be identified by the witness by exhibit numbers, such as "Exhibit no. ..." and referred to in the witness's statement, saying, for example, "I am shown a receipt (Exhibit no. 3) which I recall was given to me on ...." If the best document is a copy, "I am shown a copy of a receipt (Exhibit no. 3), the original of which was given to me on ...."; in other words, care and accuracy should always be applied.

Similarly, it is always preferable to hear what Person B says, rather than hear Person A's account of what Person B has supposedly said. This is always the case when it comes to deciding the truth of what happened, although there may be occasions when hearing what a witness has said before might be important to test his consistency. Inconsistency may sometimes indicate an unreliable witness.

#### **4. Analysis of evidence**

The Board should arrive at conclusions based on evidence that it has considered carefully and found credible. No assumptions should be made. If the evidence is simply not there, the Board must say so. At the same time, reasonable inference is permissible, and the Board should use it as a tool for analysing the evidence. For example, if some goods go missing and there is only one person who had access to the goods at that time, deciding that that person took the goods is not assuming anything; it is drawing a reasonable inference from the facts. Of course, in this kind of situation, the inquiry would concentrate on whether the evidence was clear that this person was the only one who had access, or whether it is reasonably possible that somebody else could have taken the goods in question.

In determining the root cause(s) of an occurrence, Board Members should consider which of the facts it has established, single or in combination with others, triggered the unfolding of events, resulting in the occurrence. Conversely, a cause is a deficiency which, if corrected, eliminated, or avoided, could have prevented the occurrence. A cause may be an act, an omission, a condition, or a circumstance and it either starts or sustains the occurrence sequence. A cause may be an element of human or mechanical performance. An environmental condition may be a cause if it was not foreseeable or avoidable. Quite often, Board members might come across several factors, which acted in combination to produce damage or injury. It is important to distinguish between the root cause, which triggered the unfolding of events, and contributory factors, which aggravated the occurrence or its negative effects.

Board Members should be particularly careful in apportioning personal responsibility for the occurrence. This should always be based on hard evidence. Persons concerned should be given an opportunity to present their version of events leading to the occurrence.

Whenever a Board of Inquiry is debating the degree of negligence displayed by the case subject, attention should be given to the element of wilfulness in their actions. An ordinarily negligent person genuinely does not foresee the consequences of their action or inaction and simply fails to exercise care and diligence expected of a responsible adult human being. In the case of gross negligence, the subject foresees, or must foresee (due to their position's Terms of Reference, special training received, etc.) the negative consequences of their action or inaction but chooses to proceed with it in the expectation that these consequences will be somehow avoided, or simply being indifferent to them. The examples of behaviour where the Board might find gross negligence (the list is not exhaustive) include driving under the influence of alcohol and drugs, contravening standing orders, exceeding speed limits, driving without valid driving licence.

Gross mismanagement is another example of gross negligence. Gross mismanagement means a management action or inaction which creates a substantial risk of significant adverse impact on the Organization's ability to accomplish its mission. It is more than negligence de minimis [i.e., minor] managerial failures and does not include management decisions that are merely debatable. In such cases, the Board must clearly determine a) which specific United Nations regulations and rules have been violated; b) that the subject was responsible for the implementation of these regulations and rules; and c) that there was a causal link between the violation and the loss of funds, property, and equipment.

It is important to differentiate gross negligence (gross mismanagement) from wilful (intentional) wrongdoing. While in the former case the subject is aware or must be aware of possible consequences of the chosen course of action (or inaction), he/she does not want their arrival. In the cases of wilful wrongdoing, the subject is not only aware of these consequences but acts intentionally to achieve them.



Very often the issue facing a Board of Inquiry, especially in death or disability cases, is to determine whether the negative effect of the occurrence was directly attributable to the performance by the victim of duties on behalf of the United Nations. Board members will need to examine the specific circumstances of the occurrence, to determine this factor. In this context, two aspects should be considered carefully: a) whether the victim was at liberty to decline from participating in the activity which resulted in the occurrence without acting in a manner contrary to their official functions; b) whether the negative effects of the occurrence have been brought about by the victim's lawful use of mission premises, means of transportation, consumption of mission-provided rations, water, medicines etc, or exposure to mission environment. For example, a trauma received by a TCC member would be service related if it was inflicted during a physical training exercise, which was a part of the unit drill or an officially organized sports event. On the other hand, the same kind of trauma received during an improvised match would be non-service related as the participants were at liberty to decline participating therein.

## 5. Writing a report

The report of a BOI should be based on evidence derived from the Investigation Report, as well as evidence obtained by the Board throughout its proceedings. It should cover all points of the Board's TOR.

Throughout the report, the use of personal names and or/ functional titles shall be limited to only those of victims and subjects responsible for the occurrence. Care shall be taken not to reveal the names or functional titles of witnesses. No quotations should be used. The writers of the report should never write "Mr. John Dow informed the Board that..." or "Chief Transport Officer stated...". Instead, it should be written "The Board was informed that..." followed by a footnote referring to a numbered annex. This way it would be possible to share the report without revealing the identity of witnesses.

The section "Constitution" should cite the convening order, its date, the period during which the Board conducted its proceedings, as well as the venue thereof.

Under the title "Description of Occurrence" the Board should provide a summary of purely factual description of the occurrence under review. It should not include any extraneous information, analysis, conclusions and/or recommendations. It should be kept in mind that this section of the report is commonly used for informing the extraneous parties about the occurrences, including the victims' families.

In the section "Facts" the Board should respond to all issues cited in the TOR. The objective of this paragraph is to present a clear statement of all relevant facts. The Board can choose to present them in either chronological order, starting with what is the first significant event, or follow the order of questions in the TOR. The most important factor is that all issues are fully addressed. Footnotes should be used liberally referring statements in the report to the sources of evidence annexed to the report (i.e., Attach 1: "Statement A"; Attach 2: Statement B", etc.). The Board should avoid expressing its opinions and conclusions on the cause(s) of the occurrence in this section unless they form an essential part of the description of the accident. Adjectives "adequate", "appropriate", "inadequate", etc. should be saved for the section "Conclusions".

The "Deliberations" section is regarded as a "bridge" between the "Facts" and the two following sections. In this section, the Board should explain how all facts and evidence were analysed to arrive at the conclusions on the causes of the occurrences and the recommendations it wishes to make. The Board should describe each aspect that was considered and explain its significance. The reasoning of the Board should be based on the evidence adduced. Its members' best judgment or expert opinion and should be explained in detail, as well as be supported by references to statements of witnesses and/or exhibits. If there is conflicting evidence, the Board should state why it is not prepared to accept the evidence that it does not use. While determining whether the occurrence was service related, the Board should specify the facts and explain the reasons relied upon in reaching such a conclusion. The same applies to the issue of responsibility. In particular, in cases where the opinion of the Board is that negligence is present, it should indicate exactly how the person concerned failed to act as a reasonable adult human being or failed in their duty. The latter necessitates clear evidence of exactly what duties the person was entrusted with (job

description, post terms of reference, etc). If UN Regulations and Rules were violated, the report should be specific as to what rule was violated and in what respect. If the Board concludes that the occurrence was caused by internal malfunctioning of the Organization, it should clarify where and how the procedures were inadequate.

The “Conclusions” section of the report should generally follow the issues cited in the TOR. However, if the Board arrives at conclusions other than those requested in the TOR, they should also be included in the report. The reasoning of the Board should be based on its members’ best judgment or expert opinion, explained in detail, and supported by references to statements of witnesses and/or exhibits. The questions in the “Conclusions” section of the TORs should be standard and should be copy-pasted in the report and answered accordingly in Question-and-Answer format.

“Recommendations”: These should meet SMART standards (i.e., be specific, measurable, actionable, relevant, and time-bound) and directed at the elimination/reduction/mitigation of the cause(s) of the occurrence in question. An important aspect to bear in mind is that Board Members are prohibited from recommending administrative or disciplinary action, even if they conclude that an individual(s) exhibited negligence or gross negligence, or otherwise breached UN Regulations, Rules and other Administrative Issuances or standards of conduct applicable to a particular category of mission members. Likewise, the recommendations regarding compensation or legal liability shall never be made by the Board. These are matters outside the purview of a BOI and shall be addressed by the Head of Mission.

“Observations” This is an optional section of the report. If, during its deliberations, the Board’s attention is drawn to additional matters of significance, not covered by the TORs, but relevant to the subject matter of the inquiry, BOI members may point them out in this section of the report.

“Signatures”: BOI members should initial the draft before submitting it for review by the BOI Officer and the Legal Advisor. Once the report is finalized with due regard to the BOI Officer’s and the Legal Advisor’s comments and recommendations, the Board members should sign it with their full signatures. A dissenting member is not obliged to put their signature on the report but should explain the abstention in a separate document addressed to the HOM, which becomes an integral part of the case file.

“Annexes” The following documents should typically be annexed to the BOI report:

- I. Convening order and TOR;
- II. Investigation report with original attachments, including photos;
- III. List of persons present or involved in the occurrence, giving names, UN ID/index numbers, positions (if civilian); ranks and units (if military or police); addresses and occupations (if non-UN);
- IV. Statements and attestations by witnesses;
- V. Maps or sketches of the scene of the occurrence;
- VI. Medical reports and technical inspection reports (e.g., weapon inspection reports, vehicle inspection reports);
- VII. Claims, local police reports, information about pending proceedings or actual decisions of local courts;
- VIII. Detailed description of property destroyed or damaged, with evidence of the damage/discrepancy reports; and
- IX. Any additional relevant documents, statements, photos, film footage, etc.

**6. Finalizing the report**

Members of the Board remain the sole authors of their report. As such, they are under no obligation to follow the Legal Advisor's recommendations made after reviewing the draft report. Nevertheless, the recommendations of the Legal Advisor should be treated with the utmost attention and should be given due consideration.

**7. After the inquiry**

Board Members should consider whatever information they became privy to during the Board proceedings as strictly confidential and should not share it with any other individual(s), other than those directly involved with the Board of Inquiry.

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## ANNEX V

### Witness Statements

#### Statement to Board of Inquiry No. \_\_\_\_\_

The Statement of: \_\_\_\_\_  
Name of UN Personnel Member/Individual

Index No. (If UN staff member): \_\_\_\_\_

Position of UN staff member: \_\_\_\_\_

Address and Occupation  
(If non-UN witness) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I do affirm that the evidence I give to this Board of Inquiry shall be the truth, and to the best of my knowledge and/or recollection.*

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

#### Witness Attestation

*I have reviewed my above statement. I have been told that I may amend it or add anything I wish. The statement is true. I make it of my own free will, knowing that if I have wilfully stated in it anything that I know to be false, or do not believe to be true, I may be liable to administrative and/or disciplinary action.*

\_\_\_\_\_  
Signature of Witness Date

\_\_\_\_\_  
Signature of Chairperson Date