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United Nations
Department of Peace Operations
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Guidelines

Special Investigations

Approved by: Jean-Pierre Lacroix, USG DPO
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DPO GUIDELINES ON SPECIAL INVESTIGATIONS

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A. PURPOSE

1. The purpose of these Guidelines is to provide United Nations personnel with guidance on the establishment and conduct of special investigations in peacekeeping operations.
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B. SCOPE

2. The Guidelines apply to all United Nations personnel, in the field and at Headquarters, involved in the establishment and conduct of special investigations in peacekeeping operations, as well as in the implementation and follow-up of recommendations arising from a special investigation.
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C. RATIONALE

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3. The Secretary-General has the authority and discretion to establish special investigations into incidents that affect United Nations peacekeeping operations, as required. Between 2016 and 2019, the Secretariat convened several special investigations into grave incidents that occurred in certain peacekeeping missions.
 4. The Security Council, in its resolution 2436 (2018), welcomed the initiatives of the Secretary-General to conduct special investigations into alleged instances of significant performance failures in UN peacekeeping operations and called upon the Secretary-General to report, in a transparent manner, on the findings of such special investigations, recommendations to address factors contributing to any identified failures and, as appropriate, accountability measures for uniformed and civilian personnel, including mission leadership.
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D. PROCEDURES

I. Purpose of a special investigation

5. The purpose of a special investigation is to examine grave incidents in United Nations peacekeeping operations that result in a significant number of casualties, including due to potential failure to protect civilians or United Nations personnel, or which involve alleged significant performance failings, or potentially have significant implications for mandate implementation. A special investigation may often be established for incidents that have generated a significant amount of political and/or media attention.
6. A special investigation should review and record relevant facts related to the incident under investigation and provide recommendations that address operational, policy and systemic issues affecting effective mandate implementation. Special investigations may also form the basis for certain accountability measures, as appropriate, including decisions by the Secretariat on the repatriation of uniformed units or personnel. However, special investigations are not a judicial process and do not consider questions of compensation, legal liability or disciplinary action for civilian staff. The disciplinary process for civilian staff members is governed by the Staff Regulations and Rules and ST/AI/2017/1 on unsatisfactory conduct, investigations and the disciplinary process.
7. Special investigations may also gather or confirm information that could serve to engage the concerned troop and police contributing countries (T/PCCs) on the need to launch their own investigation for the purpose of determining responsibilities for actions or failure of their personnel to carry out their duty in a peacekeeping operation.
8. Special investigations are separate and distinct in nature from investigations of serious crimes against United Nations personnel in peace operations which are governed by the Standard Operating Procedure (SOP) on the prevention, investigation and prosecution of serious crimes committed against United Nations and in peace operations.

II. Mandating authority

9. The decision to conduct a special investigation rests with the Secretary-General or the Under-Secretary-General for Peace Operations (USG DPO).

III. Special investigations and other fact-finding mechanisms

10. Ahead of the decision to conduct a special investigation, the Department of Peace Operations (DPO) should coordinate with the relevant peacekeeping operations and

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other relevant departments and offices to ensure no similar fact-finding mechanisms, such as a Headquarters Board of Inquiry (BOI), are established for the same incident.¹ The determination as to the most appropriate mechanism to respond to the incident should be made on a case-by-case basis.

11. A special investigation should take account of the findings of any mission-level BOI or other mission-level fact-finding mechanism or investigation that have been carried out prior to the decision to establish a special investigation. The sequencing of a special investigation with mission level fact-finding mechanisms should be coordinated between DPO and the mission ahead of the deployment of a special investigation.

IV. Terms of reference of special investigations

12. The regional division covering the concerned peacekeeping operation should initiate the drafting of the terms of reference (ToR) for a special investigation. The ToR should outline the purpose, scope and outputs of the special investigation. The ToR should outline, as much as possible, relevant documents that the special investigation team should review in order to assess the incident under investigation.
13. The ToR should also identify a timeframe for the special investigation, taking into account possible rotation of uniformed personnel and time sensitive evidence as well as ongoing mission-level fact-finding mechanisms.
14. The ToR should include appropriate confidentiality requirements, including for the protection of victims and witnesses.
15. The ToR should be shared, as soon as possible, with the head of the investigation team for his or her input, relevant substantive offices both within and outside DPO as appropriate in light of the nature of the investigation, and the Office of Legal Affairs (OLA) for advice on any legal implications. The ToR should then be finalized and submitted to USG DPO for approval for special investigations mandated by the USG DPO, and to the Secretary-General if the special investigation was mandated by the Secretary-General.

V. Appointment and composition of the special investigation team

16. The Secretary-General or USG DPO, depending on who mandated the special investigation, appoints the team leader for the special investigation. Other members of the team should be appointed by the USG DPO. Relevant departments should be consulted on the appointment of subject matter experts such as human rights or legal experts.
17. Membership of the special investigation team should generally not exceed five individuals, including the head of the team, with due consideration to gender and regional balance.
18. The team leader should be consulted regarding the composition of the team and provided with the opportunity to advise on which expertise best suits the task for his/her team.
19. Members of the special investigation team should include the team leader and (depending on the nature of the incident) political, military or police experts.

¹ Departments and offices may include: The Department of Operational Support (DOS) for Headquarters Board of Inquiries, the Department for Safety and Security (DSS) for Boards of Inquiries related to safety and Security incidents, and the Office of Internal Oversight Services (OIOS) for investigations related to misconduct.

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20. For grave incidents involving protection of civilians, sexual and gender-based violence, child protection and human rights issues, experts in these fields may be members of the investigation team. A legal expert may also be required on the team.
21. Depending on the nature of the incident under investigation, the support of specific analytical and technical expertise, including but not limited to forensic and/or ballistic experts, could be required. These experts do not have to be permanent members of the special investigation team, unless their permanent presence is of critical importance at every stage of the investigation. If required, the advice of such experts could be provided upon request of the special investigation by United Nations Police personnel, Force Provost Marshal Office or other investigative units that are equipped with the required capacities.
22. Experts in explosives may also be called upon to support special investigations into incidents involving bombs, improvised explosive devices or antipersonnel mines. These experts could come from the United Nations Mine Action Service, the United Nations Department of Safety and Security or a government agency that possesses such expertise.
23. All team members should respect the strictly confidential nature of the special investigation and act at all times consistent with the terms of reference, while following guidance and direction given by the team leader. Throughout the duration of their assignment, the team members should remain independent, including from their parent department/offices.
24. To avoid any perceived conflict of interests or suspicion of bias, the team leader, or any other team member, should not be a national of the country of the T/PCC involved in the incident being investigated. No one who has worked directly on the subject-matter of the investigation, either in the field or at Headquarters, should be appointed to the investigative team.
25. As special investigations are an independent mechanism, representatives of T/PCCs or other Member States should not be members of the investigation team.

Team leader

26. The team leader may be a former senior military, police or civilian United Nations official or other eminent personality with relevant experience. The official should have held a senior leadership position in the past. The Director of the Office of Strategic Partnership (OPSP) may also lead the investigation.
27. In accordance with the ToR, the team leader should ensure that the special investigation is carried out promptly, independently, impartially and effectively.
28. The team leader assigns tasks to the team members for the conduct of the investigation according to their respective area(s) of expertise. Members of the team work under the supervision of the team leader and report only to him or her for the duration of the special investigation.
29. The content of the final report and its recommendations remains the sole responsibility of the team leader.

VI. Methodological aspects of a special investigation

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30. Special investigations should endeavor to identify the specific causes of the incident(s) in question and elaborate on areas where acts or omissions by United Nations uniformed or civilian personnel contributed to the incident(s) or affected the Organization's response.
31. Prior to the conduct of the investigation, the team should have a meeting with a representative of OLA, to discuss any legal issues that may arise concerning the special investigation's proposed methodology and its terms of reference.
32. The special investigation team should obtain and analyze all documents and records relevant to the incident including, inter alia, prior investigation reports and/or technical assessments, documentation from joint investigation teams, witness statements, mission procedures and guidance, and other relevant mission materials. The methodology followed should be documented in the final report.
33. When interviewing UN personnel and external witnesses, paragraphs 57-68 of the SOP on Boards of Inquiry (2016.05) shall apply *mutadis mutandis*.
34. To the extent that any findings of the special investigation indicate misconduct on the part of United Nations civilian and/or uniformed personnel, the matter shall be referred to the responsible accountability mechanisms of the United Nations, including the Office of Internal Oversight Services (OIOS), and/or TCCs, as applicable.

Handling of records and evidence

35. It is recommended that prior to the conducting the investigation, the team meets with the Archives and Records Management Section (ARMS) in the Department of Operational Support to discuss recordkeeping practice and the availability of tools and/or processes to ensure information is collected, stored and managed securely.
36. Evidence gathered during the investigation, in particular witness statements, shall be classified as *strictly confidential* and handled in accordance with ST/SGB/2007/6. Evidence gathered should not be discussed by members of the special investigation team with outside parties. In the event that there is a request for information obtained by the investigation team from a T/PCC, Member State, or any other third party, whether to support further investigation, legal process or any other reason, DPO will evaluate the request in consultation with OLA.
37. The report of the special investigation, including its annexes and any supporting documentation, should be classified as *strictly confidential*.
38. The team leader should appoint one member of the special investigation team to act as the information management (IM) focal point. The IM focal point is responsible for ensuring that a central file is established for record keeping, with access established and limited to team members. Responsibilities of the IM focal point include archiving of all materials once the investigation is complete, in accordance with paragraph 54.

Formulating recommendations

39. Recommendations by special investigations should explore all avenues that would help the peacekeeping operation, concerned T/PCCs, and offices at UNHQ effectively carry out their respective responsibilities. The Secretary-General or the USG DPO, depending on who mandated the special investigation, has the discretion to accept or reject the recommendations.

Implementation of recommendations

40. The USG DPO should appoint an office within DPO responsible for following up on and tracking implementation of recommendations. The responsible office should establish and coordinate the work of a task force bringing together the concerned peacekeeping

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operation and relevant parts of DPO and other concerned offices at United Nations Headquarters for the implementation of recommendations of an operational nature.

VII. Interaction with the Security Council

41. In line with the request by the Security Council in resolution 2436 (2018), the Secretariat should provide detailed reporting on the findings and implementation plans of special investigations to the Security Council and relevant Member States.
42. Only the Secretariat, namely the Secretary-General, the USG DPO or his/her designate, may report to the Security Council on the establishment, conduct, findings and recommendations of special investigations.
43. Upon submission of the special investigation report to the USG DPO, the USG DPO or his/her designate should verbally brief the Security Council during a closed informal session. The briefing to the Security Council should be transparent, while preserving the confidentiality of sensitive information. In line with resolution 2436 (2018), the briefing should focus on recommendations to address all factors contributing to identified failures, accountability measures, as appropriate, for uniformed and civilian components, including mission leadership.

VIII. Communication with concerned T/PCCs

44. The concerned T/PCCs should be briefed orally by the USG DPO or his/her designate on the key findings and recommendations of the investigation and any decisions made by the Secretariat. If appropriate, the USG DPO may also decide to share (relevant portions of) the special investigation report with the concerned T/PCCs to ensure transparency and appropriate follow-up, with due consideration for relevant confidentiality concerns.

IX. Public communication

45. The Secretariat should take a consistent and transparent approach to communicating the establishment and conduct of special investigations.
46. Following the appointment of the head of the special investigation, a statement attributable to the spokesperson (for investigations convened by the Secretary-General) or a note to correspondents (for investigations established by USG DPO) should be prepared by the relevant regional division in collaboration with the Strategic Communications Section and released to the media. The statement should inform about the appointment of the head of the special investigation team and provide the broad context and objectives of the investigation.
47. While in the field, the special investigation team should not initiate press conferences and other encounters with the media. Should the team be approached by the media, the team leader should either indicate the broad objectives of the investigation or abstain from comments altogether.
48. The Secretariat may issue a public executive summary or note to correspondents. Due consideration should be given to confidentiality concerns, including protection of victims and witnesses, confidentiality of information received from third parties under pledge of confidentiality and paramount operational concerns.
49. In addition to the public executive summary or note to correspondents, the Strategic Communications Section, in coordination with the concerned regional division, may organize a briefing to the press. Press briefings should take place after oral briefings to the concerned T/PCCs.

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X. Administration and finance

50. Efforts should be made to recruit a team leader and organize the travel and remuneration of the special investigation team in an expeditious manner.
51. The relevant regional division and the DPO/Executive Office should work closely with the Office of Human Resources (OHR) and the Mission Support Division of the concerned mission(s) to ensure deployment of the investigation team in accordance with the timeline envisaged in the ToR. A focal point should be appointed in both the regional division and the mission to coordinate all administrative aspects of the special investigation.
52. The mission and relevant departments at UNHQ should share the financial costs of special investigations.
53. Where possible, members of the special investigation team should travel and be accommodated as a group in order to facilitate the conduct of the tasks assigned to the team.

XI. Archiving of records

54. In line with paragraph 38 the team leader should appoint one member of the special investigation team who shall be responsible for archiving once the investigation is complete. All records created or received by the special investigation in any format or media, including the ToR, final special investigation report, and source material such as witness statements and other documents that formed the basis for analysis and recommendations, should be transferred to the custody of Archives and Records Management Section (ARMS) in the Department of Operational Support.
55. ARMS will advise the special investigation team on the process for transferring the records to its custody and will ensure that they are protected against unauthorized use and access.

E. REFERENCES

Normative or superior references

- A. Security Council resolution 2436 (2018)
- B. ST/AI/2017/1 on unsatisfactory conduct, investigations and disciplinary process
- C. ST/SGB/2007/6 on information sensitivity, classification and handling

Related procedures or guidelines

- D. DPKO-DFS Policy on Boards of Inquiry, 1 June 2008
- E. DPKO-DFS SOP on Boards of Inquiry, 1 December 2016
- F. DPKO-DFS Policy on the functions and role of the Office for Peacekeeping Strategic Partnership (OPSP), 6 April 2015
- G. DPKO-DFS Policy on Knowledge Sharing and Organizational Learning, 1 September 2015
- H. DPO-DPPA-DOS-DSS-OHCHR SOP on the prevention, investigation and prosecution of serious crimes committed against United Nations personnel in peace operations, (forthcoming)

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- I. OHCHR Minnesota Protocol on the investigation of potentially unlawful death, 2016
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F. MONITORING AND COMPLIANCE

56. Compliance with these guidelines shall be monitored by OUSG/DPO.
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G. CONTACT

57. The contact for these guidelines is DPET/PBPS (peacekeeping-bestpractices@un.org).
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H. HISTORY

58. This is the first version of these guidelines.
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APPROVAL SIGNATURE:

A handwritten signature in dark ink, appearing to be a stylized name or set of initials.

DATE OF APPROVAL:

DEC 0 5 2019