



Lesson 2.4 National-Level considerations for NIO

Lesson 2.4 Content

- Jurisdictional considerations
- General considerations for misconduct investigations
- NIO investigations
- Accountability for SEA
- Impacts and consequences of SEA

Lesson 2.4 Learning Outcomes

- Explain jurisdictional considerations for serious misconduct investigations
- Explain the general considerations for misconduct investigations in the UN
- Explain the key considerations of NIO investigations
- Describe accountability for SEA
- List the impacts and consequences of SEA
- List the key takeaways for the Lesson

Jurisdictional Considerations

- TCC personnel are subject to the exclusive jurisdiction of the contributing Member State
 - Article 7 of the revised draft model MOU for TCC (2007), A/61/19 (Part III)
- NIO investigations are the primary function through which Member States exercise exclusive jurisdiction with respect to serious misconduct allegation(s)

Misconduct Investigations (1)

- Member States have primary responsibility for investigating alleged misconduct by their TCC, owing to exclusive jurisdiction
- Member States must inform the UN without delay if they have prima facie grounds indicating serious misconduct
- The UN must inform the Member States without delay if it has prima facie grounds indicating serious misconduct
- The UN may initiate preliminary fact-finding inquiries to preserve evidence under certain circumstances – normally this will be an OIOS-led investigation

Misconduct Investigations (2)

- The UN may investigate allegation(s) of serious misconduct if the Member State is unable or unwilling
- In UN-led investigations, Member States agree to instruct their contingent to cooperate
- When a Member State decides to undertake an NIO-led investigation it shall inform the UN – including the identity of the NIO
- The UN agrees to cooperate fully with appropriate Member State authorities (NIO) investigating allegation(s) of serious misconduct

NIO Investigations (1)

- NIO have a key role in supporting the UN Secretary-General's zero-tolerance policy on SEA
- NIO are special assets and the primary investigatory function for Member States to respond to serious misconduct allegation(s) constituting SEA
- NIO are in the lead, UN are in support
- UN investigators will assist NIO, as appropriate, to undertake investigations
- Upon request the UN can provide administrative and logistic support to NIO investigations
- Field Victims' Rights Advocates may accompany victims during national investigations to offer support and reassurance

NIO Investigations (2)

- NIO must apply applicable international laws and UN policies and procedures for undertaking investigations, including:
 - UN conduct and discipline standards
 - Zero-tolerance for SEA
 - UN principles of good practice for investigations
 - Victim-centred approach
 - Human rights protections
- NIO must be experts in their own national laws, policies and procedures for undertaking investigations, including:
 - National-level military laws and discipline procedures
 - Investigation manuals
 - Rules of evidence
 - Search authorities
 - Legal rights to ensure due process and procedural fairness

Accountability for SEA

- Member States shall ensure that substantiated misconduct allegation(s) are forwarded for appropriate action / consequences
- Member States agree to notify the UN of the progress and outcome(s) of NIO investigations
- Contingent commanders are responsible for the maintenance of discipline and good order
- NIO support commanders through advising on SEA policy and procedures
- NIO support commanders to ensure probity, transparency, good practice and accountability through their investigations

Impacts and Consequences of SEA

- Impacts of SEA:

- Devastating for victims
- Undermines the legitimacy and credibility of UN / Member State efforts towards peace and security and human rights
- Breaks the trust between the UN / Member State and the communities they serve
- Impacts the achievement / success of the mission
- Impacts the status and security of other UN / Member State personnel

- Consequences for substantiated SEA allegation(s):

- Repatriation
- Barring from future service
- Disciplinary action
- Summary dismissal / administrative separation
- Criminal liability
- Financial liability
- Paternity claims

Key Takeaways

- SEA constitutes serious misconduct, for which there is zero tolerance
- SEA has serious impacts and consequences for victims, the mission and personnel
- NIO support their contingent commanders
- NIO are the primary investigatory function for Member States to exercise their exclusive jurisdiction in responding to SEA allegation(s)
- NIO must be aware of the applicable international law and national laws, including their own military laws and discipline procedures

Conclusion

- This concludes the e-learning modules of the NIO ToT course
- Modules 3-5 of the NIO ToT course are delivered in a two-week residential / in-person mode, covering the following Lessons:
 - Principles of Investigation
 - Incident Response and Investigation
 - Investigatory Equipment
 - How to Conduct a Search
 - Evidence Collection, Handling and Storage
 - Investigation Report Writing
 - Interviewing Witnesses and Vulnerable Witnesses
 - Interviewing the Subject of a Complaint
 - Field Training Exercise (FTX)



Questions?