



Accountability System for the Protection of Civilians

Conduct and Discipline

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SUMMARY

The UN Charter requires that all UN personnel maintain the highest standards of integrity and conduct.¹ The UN defines misconduct as failure to comply with obligations under the Charter, the Staff Regulations and Staff Rules, or other relevant administrative issuances or policy documents developed for specific categories of personnel. Misconduct can also result from failure to observe the Standards of Conduct expected of an international civil servant.

The UN has a zero-tolerance policy for all forms of misconduct. Misconduct may lead to disciplinary processes and measures. The UN Secretariat has developed a three-pronged strategy to address misconduct: prevention (awareness-raising, training, outreach, and vetting of personnel), enforcement (actions taken in response to alleged misconduct), and remedial action (in instances involving sexual exploitation and abuse). This factsheet focuses on enforcement and remedial action.

In November 2005, conduct and discipline teams were established in field missions, and the Conduct and Discipline Unit (since renamed the Conduct and Discipline Service) was established at UN headquarters. Record-keeping and tracking of allegations of misconduct and subsequent actions started in 2006, and in 2008, the Department of Field Support (DFS) launched the Misconduct Tracking System, a global database and confidential tracking system for all allegations of misconduct. In 2012, it launched an integrated conduct and discipline framework that outlined a strategy for better integrating conduct and discipline into field missions. This framework was based on four pillars: integration; capacity building; outreach, awareness-raising, information dissemination, and communication; and performance-based accountability. In July 2014, DFS introduced an accountability framework on conduct and discipline, which applies to all field missions and was designed to monitor the performance of individual missions in effectively addressing misconduct, and an official policy was adopted in August 2015.²

Efforts to address misconduct have been particularly focused on sexual exploitation and abuse (SEA) by UN peacekeeping personnel, an issue that the secretary-general reports

¹ The UN Standards of Conduct are based on three key principles: highest standards of efficiency, competence, and integrity; zero-tolerance policy on sexual exploitation and abuse; and accountability of leadership who fail to enforce the Standards of Conduct. United Nations, "UN Standards of Conduct: Overview," available at <https://conduct.unmissions.org/standards-overview>.

² The accountability framework establishes reporting requirements and indicators concerning prevention, enforcement, and remedial action for misconduct. It also covers training, outreach and awareness-raising, risk assessment, effective case management, timeliness of investigations, and actions taken to assist victims of sexual exploitation and abuse. UN Department of Political Affairs (DPA), Department of Peacekeeping

on regularly.³ The reports contain recommendations for establishing and implementing initiatives to address conduct-related issues in field missions and at UN headquarters, including the creation of dedicated capacities. In Resolution 2272 (2016), the Security Council expressed deep concern about allegations of sexual exploitation by UN peacekeepers and requested the secretary-general to replace all military units or formed police units of any troop- or police-contributing country (T/PCC) that “has not taken appropriate steps” to investigate allegations of SEA against its personnel or “has not held the perpetrators accountable or informed the Secretary-General of the progress of its investigations and/or actions taken.”⁴

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RELEVANCE TO THE PROTECTION OF CIVILIANS

POC failures are not necessarily related to misconduct. As a mandated objective and task, “POC is a strategic issue, it is among the responsibilities of the Organization,” whereas conduct and discipline matters relate to individual responsibility.⁵ POC failures can be attributed to factors that go beyond individual performance and often result from a complex set of circumstances.

Even when individuals are responsible for the ineffective implementation of POC mandates, their shortcomings are often a question of underperformance rather than misconduct. While the same corrective measures can be taken to address underperformance and misconduct (the repatriation of units, for example), the two issues are distinct.

Even though all failures to protect civilians do not amount to misconduct, some do. For example, misconduct can relate to infractions of regulations, rules, or administrative issuances, meaning that a failure to comply with UN regulations (such as mandatory policies like the POC policy) can in theory constitute misconduct. Serious misconduct is described as “any act, omission or negligence... that is a violation of mission standard operating procedures, directives, or any other applicable rules, regulations or administrative instructions, that results in or is likely to result in serious damage or injury to an individual or to the mission.” This category includes “Wilful disobedience of a lawful order.” Minor misconduct includes “neglect in performance of duty not amounting to a willful or deliberate act” when it does not “result in major damage or injury to an individual

Operations (DPKO), and Department of Field Support (DFS), “Policy: Accountability for Conduct and Discipline in Field Missions,” August 2015.

³ UN, “Preventing Sexual Exploitation and Abuse: Secretary-General's Reports,” available at <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/secretary-generals-reports> .

⁴ UN Security Council Resolution 2272 (March 11, 2016) UN Doc. S/RES/2272.

⁵ Interview with UN official, New York, October 2019.

or the mission.”⁶ Individuals diligently, recklessly, or negligently failing to perform their duties can therefore be considered by the Conduct and Discipline Service.

As such, something like abusing the rules of engagement by using excessive force can be categorized as misconduct. Refusing to obey orders to intervene and protect civilians could also amount to misconduct.

However, the UN generally remains wary of categorizing the failure to intervene and use force to protect civilians as misconduct and distinguishes between performance accountability and misconduct accountability. The use of the conduct and discipline framework for instances of UN peacekeepers failing to protect civilians has not been publicly documented.

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RULES, GUIDELINES, AND METHODOLOGY

Governing rules

There are several policy and administrative documents that establish the UN Standards of Conduct and the investigative and disciplinary mechanisms to address misconduct, with some applying to all UN personnel and others developed for specific categories of personnel.⁷ The “Policy on Accountability for Conduct and Discipline in Field Missions,” issued in 2015 and reviewed in 2017, details the roles and responsibilities of personnel in field missions and at headquarters. In this policy, allegations of misconduct are grouped into two categories, depending on the risk they present to the organization (see Table 1).⁸

⁶ UN DPKO, “Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers,” 2003, pp. 2–3.

⁷ For all personnel, these include the UN Charter and “Policy on Accountability for Conduct and Discipline in Field Missions.” For civilian personnel, they include UN staff regulations and rules; UN financial rules and regulations; and the secretary-general’s bulletins on status, basic rights, and duties of UN staff members, special measures for protection from sexual exploitation and abuse, and prohibition of discrimination, harassment, including sexual harassment, and abuse of authority; as well as other administrative issuances. For uniformed personnel, these include the revised draft model memorandum of understanding between the UN and TCCs, the secretary-general’s bulletin on regulations governing the status, basic rights and duties of officials other than Secretariat officials and experts on mission; the secretary-general’s bulletin on observance by United Nations forces of international humanitarian law; the directives for disciplinary matters involving civilian police officers and military officers; the Code of Personal Conduct for Blue Helmets; and other administrative issuances.

⁸ UN DPA, DPKO, and DFS, “Policy: Accountability for Conduct and Discipline in Field Missions.”

Table 1. Categories of alleged misconduct (categories relevant for POC in bold)

Category 1	Category 2
<ul style="list-style-type: none"> • all cases of sexual exploitation and abuse • cases involving risk of loss of life to staff or others • abuse of authority or staff • conflict of interest • gross mismanagement • bribery or corruption • illegal mineral trade • trafficking with prohibited goods • life threat or murder • abuse or torture of detainees • arms trade • physical assault • forgery, embezzlement • major theft or fraud • use, possession, or distribution of illegal narcotics • waste of substantial resources • entitlement fraud • procurement violations 	<ul style="list-style-type: none"> • discrimination • harassment • sexual harassment • abuse of authority • abusive behavior (if any of the above are done by a P5 or above, they qualify as Category 1) • basic misuse of equipment or staff • simple theft or fraud • infractions of regulations, rules, or administrative issuances • traffic-related violations • conduct that could bring the UN to disrepute • breaking curfew • contract disputes • basic mismanagement

Process and functioning

- **Administrative investigations:** When unsatisfactory conduct or misconduct has been reported, a preliminary assessment is carried out, followed by an administrative investigation. The UN has the responsibility to conduct an administrative investigation into misconduct involving UN staff, UN volunteers, contractors, and personnel on mission. The Conduct and Discipline Service at UN headquarters or conduct discipline teams in the field are the focal point for all matters related to conduct and discipline.⁹ The Office of Internal Oversight Services (OIOS) has overall responsibility for internal UN administrative investigations. Investigations take six months or, if expedited in urgent cases, as little as three months.
- **Member-state (national) investigations:** Member states have the primary responsibility for investigating all alleged acts of misconduct committed by members of their national military contingents through their national investigation

⁹ Conduct and discipline teams provide guidance on conduct and discipline matters and are responsible for managing all cases, including ensuring that complaints are properly received and assessed and that allegations are recorded and tracked. The Conduct and Discipline Service and conduct and discipline teams maintain and update information on all allegations of misconduct in field missions through the Misconduct Tracking System. Senior mission leadership must ensure that all matters relating to conduct and discipline of UN personnel are brought to the attention of the Conduct and Discipline Service or conduct and discipline teams, and managers and commanding officers have a responsibility to report incidents to the head of mission and conduct and discipline focal points.

officer.¹⁰ When member states do not exercise that responsibility, the UN can conduct its own administrative investigation.

- **Disciplinary actions:** Based on recommendations from field missions, the Department of Peace Operations (DPO), through the Department of Operational Support (DOS), can authorize a limited number of administrative actions against personnel serving in field missions. The responsibility for taking disciplinary actions rests with the under-secretary-general for management strategy, policy and compliance and the UN Office for Human Resources Management. Possible actions include administrative leave, repatriation on disciplinary grounds, reprimands, and termination of service contracts
- **Criminal processes:** Misconduct can also constitute crimes under the laws of the host or contributing states. The UN refers credible allegations that a crime may have been committed to national authorities for appropriate action, including possible prosecution. The UN and member states are meant to assist each other in carrying out all necessary investigations. The UN can lift the immunity of its staff and request that relevant member states prosecute UN staff and experts on mission for the commission of such crimes.¹¹ The responsibility for criminal accountability rests with member states. Members of military contingents and military staff officers remain under the exclusive jurisdiction of their contributing states for criminal prosecutions.

In the case of SEA, the UN has established additional processes, including a community-based complaint mechanism through which victims and witnesses, or third parties outside the UN, can report allegations. Once the allegation is assessed as SEA, the UN and relevant member states undertake two parallel processes (see Figure 1 at end of factsheet). Victims of SEA receive reparations through the UN Trust Fund.

¹⁰ National investigation officers investigate allegations of serious misconduct implicating their respective national contingent members. When the UN receives information about possible serious misconduct involving one or more members of a military contingent, in most cases the UN refers the matter to the permanent mission of the TCC in question in New York and requests that the government appoints a national investigation officer to investigate the allegation. Since July 2016, TCCs have been required to include national investigation officers in their contingents to ensure that investigations start in a timely manner

¹¹ The UN Office of Legal Affairs determines whether there is sufficient and credible information to support the referral of allegations to national authorities for appropriate action, including investigation and possible prosecution, and provides advice on questions of immunity.

There is a robust system in place to investigate allegations of misconduct, which has largely focused on SEA. While administrative and disciplinary actions can be taken by the UN, T/PCCs have the primary responsibility to investigate their personnel, and national courts (including, in some cases, host-state courts) are responsible for prosecuting individuals.¹² However, the applicability of this system to POC failures remains limited.


Timing

Regular process		The system in place to investigate and remedy misconduct is activated following allegations, but the Secretariat and member states are expected not only to manage allegations of misconduct but also to conduct prevention activities, including training and awareness-raising on standards of conduct.
Extraordinary measure after incident	X	Investigation processes are activated after an incident of potential misconduct is identified.

¹² UN General Assembly Resolution 62/63 on the criminal accountability of UN officials and experts on mission urges member states to ensure that crimes committed by UN personnel do not go unpunished and encourages criminal accountability. It also encourages member states to cooperate with each other and with the UN in exchanging information, facilitating investigations, and prosecuting relevant persons. UN General Assembly Resolution 62/63 (January 8, 2008), UN Doc. A/RES/62/63.

Actors and answerability structure

The system in place to address misconduct offers tools to hold individuals accountable to the mission, the Secretariat, and T/PCCs. UN staff or people outside the UN can report information about suspected misconduct to conduct and discipline teams in field missions, and the UN conducts administrative investigations for its personnel. Anyone can also report misconduct by UN personnel directly to OIOS or the Conduct and Discipline Service in New York.¹³

 Held accountable by	Individuals	Unit			Mission	Secretariat	Contributing countries	Security Council/ 5 th Committee	Member states	Population	Other
		Military	Police	Civilian							
Individuals	X				X	X	X		X	X	
Unit/ section/ component	Military										
	Police										
	Civilian										
Mission											
Secretariat											
Contributing countries											
Member states											
Security Council/ 5th Committee											

¹³ Contact information is on the “Conduct in UN Field Missions” website, which enables civilians to report allegations. United Nations, “Conduct in UN Field Missions,” available at <https://conduct.unmissions.org/report-misconduct> .

Scope and objective

The UN's conduct and discipline system helps establish facts and circumstances, as well as responsibility. It also helps identify systemic issues.

Collect best practices and lessons learned		
Track performance		
Establish facts and circumstances	X	Administrative investigations seek to gather information to establish facts that can substantiate the allegation of misconduct.
Establish responsibility	X	As part of the investigation process, responsibility for misconduct is established.
Identify structural and systemic issues	X	Beyond individual misconduct, investigations can also look into structural and systemic issues that give rise to rampant misconduct. Heads of mission are required to report quarterly and annually on the implementation of measures taken to prevent and address misconduct in field missions, including on the secretary-general's three-pronged strategy. ¹⁴

Type of accountability

Conduct and discipline can be considered a form of legal accountability, as investigations into misconduct may lead to legal action in national courts. It is also a form of organizational and moral accountability.

Outcome

Learn	Disseminate and integrate internally		
	Account for publicly	X	There is an online database recording misconduct cases. Whistleblowers and the media have also played an important role in bringing misconduct cases—particularly SEA cases—to the forefront of public attention, which has prompted significant UN reforms related to conduct and discipline.
Correct	Improve internal processes		
	Inform the selection of personnel	X	The general screening process based on the assessment of the operational readiness of TCCs entails a conduct and discipline vetting process, particularly for

¹⁴ UN DPA, DPKO, and DFS, "Policy: Accountability for Conduct and Discipline in Field Missions."

			SEA. This process is conducted by the Conduct and Discipline Service of the Department of Management Strategy, Policy and Compliance. A database recording all allegations of misconduct (the Misconduct Tracking System) has been established and is connected to the systems used to select and deploy UN personnel. Individually deployed personnel, such as individual police officers and individual military officers, have their names checked in the system before being selected and deployed. For police and military units, the verification is made in the field during the check-in process, and contributing countries have an obligation to repatriate personnel at their own cost if they are found to have a prior record of misconduct. ¹⁵
Sanction	Recommend sanctions	X	The UN can put in place disciplinary sanctions, including the repatriation of personnel or the banning of personnel from UN service. Any other judicial sanctions, which may include criminal accountability and civil liability related to child support, remain under the national jurisdiction of the country of nationality of the individual involved. The UN Office of Legal Affairs refers cases involving UN officials and experts to the country of nationality of the alleged perpetrator for investigation of possible criminal conduct and prosecution. T/PCCs are required to inform the UN what actions they have taken, and the Office of Legal Affairs can follow up on cases and share its recommendations on the outcomes of national disciplinary and criminal processes.
	Establish incentives		

¹⁵ Verification on arrival has been identified as the most effective and accurate method, as individuals in the unit can be changed by contributing countries very late in the process. In particular cases, however, DPO can ask the Conduct and Discipline Service to manually review the deployment of units earlier in the process. Personnel cannot be deployed if they have records of alleged misconduct that has been substantiated or is still being investigated. Interview with UN officials, New York, October 2019.

Independence and impartiality

Mechanisms established to address misconduct and SEA apply to all mission components, and internal investigations are conducted in an independent way by OIOS. However, given that criminal accountability rests with T/PCCs or host states and is pursued under their national jurisdiction, there may be some bias in this regard.

Inclusivity

The conduct and discipline process applies to all UN components. Anyone can report an incident of SEA and misconduct, and phone numbers and email addresses are readily available to the local population.

Transparency

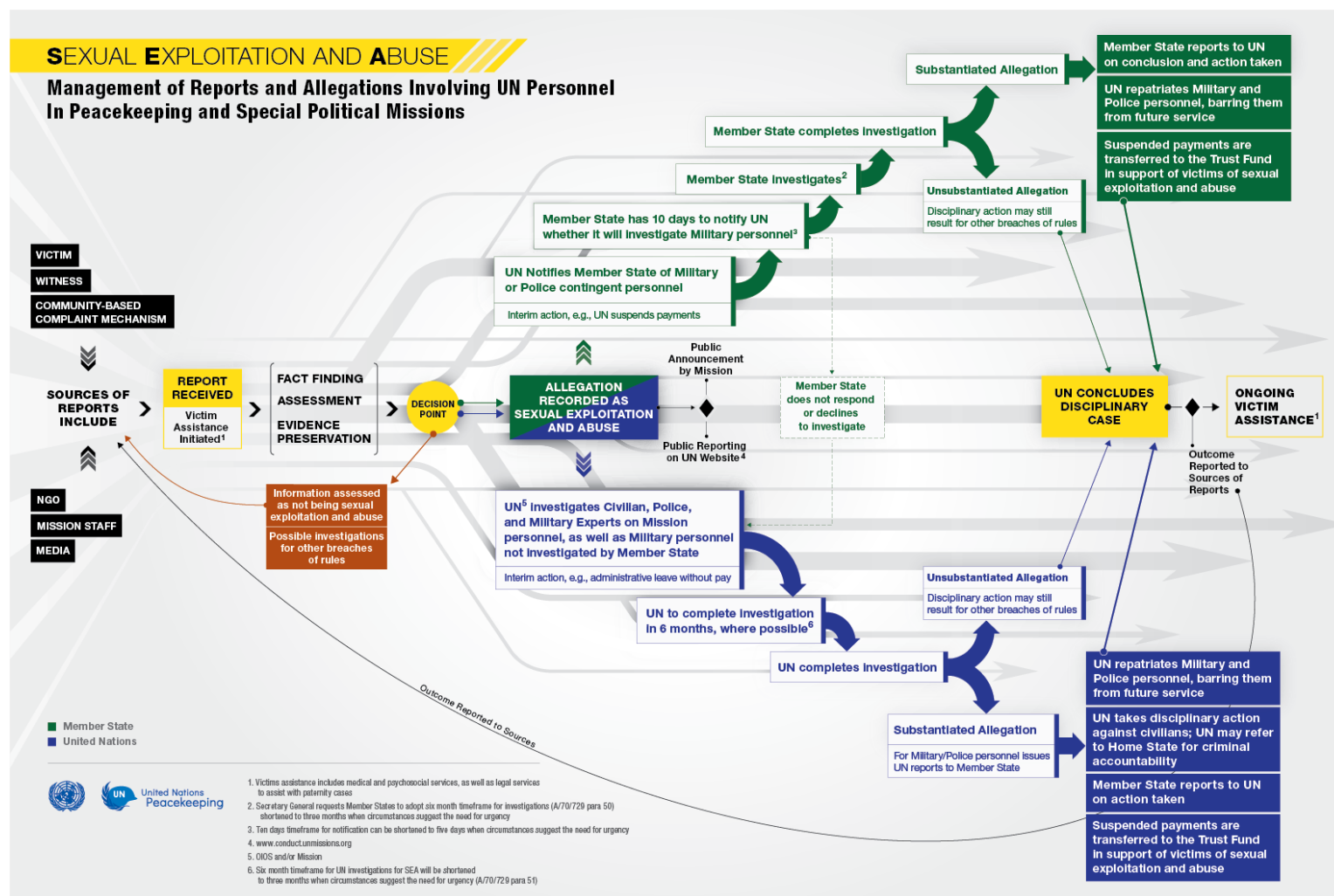
The Misconduct Tracking System is a database that records all allegations of misconduct. This database can be accessed by the public. All allegations of SEA from 2015 onward are recorded and available to the public.¹⁶ Various entities—such as the General Assembly, the Security Council, and the secretary-general—remain engaged on the topic and have voiced that there is zero tolerance for SEA and misconduct.

Follow-up mechanisms

Possible follow-up mechanisms	X	There is a UN Comprehensive Strategy on Assistance and Support to Victims of SEA by UN Staff and Related Personnel. The secretary-general established the Trust Fund in Support of Victims of Sexual Exploitation and Abuse in March 2016 to provide greater support for victims of SEA by UN and related personnel.
Available enforcement measures	X	T/PCCs whose personnel have been accused of SEA or misconduct are required to repatriate these personnel. Based on recommendations from field missions, DPO can authorize a limited number of administrative actions against personnel serving in field missions through DOS. Responsibility for disciplinary action rests with the under-secretary-general for management strategy, policy and compliance and the Office for Human Resources Management. Possible actions include administrative leave, repatriation on disciplinary grounds, reprimands, and termination of service contracts. Beyond the individual level, DPO can also decide to repatriate a whole unit or contingent due to the prevalence of SEA or misconduct.
Transmissibility to other mechanisms	X	If misconduct or SEA have been committed by UN peacekeepers deployed by T/PCCs, national trials can be activated to prosecute these personnel and contingent members. The Office of Legal Affairs can refer cases to member states, and the UN can lift the immunity of its personnel.

¹⁶ United Nations, “Conduct in UN Field Missions: Sexual Exploitation and Abuse, Table of Allegations (2015 Onwards),” available at <https://conduct.unmissions.org/table-of-allegations>.

Figure 1. Conduct and discipline processes for sexual exploitation and abuse¹⁷



¹⁷ From: UN Department of Political and Peacebuilding Affairs, "Addressing Sexual Exploitation and Abuse," downloaded on December 10, 2020, available at <https://dppa.un.org/en/addressing-sexual-exploitation-and-abuse> © United Nations. Reprinted with permission from the United Nations.