

General Principles for Evidence Analysis and Reporting of Findings

PREAMBLE

The Conference of International Investigators (CII) has endorsed the Uniform Principles and Guidelines for Investigations (“Investigation Guidelines”).¹ These General Principles for Evidence Analysis and Reporting of Findings (“General Principles”) supplement the Investigation Guidelines and were endorsed by the CII at its 21st Conference in May 2021.

The purpose of these General Principles is to provide non-binding reference and guidance for the analysis of evidence and reporting of findings by an Organisation’s Investigative Office.² This document may also guide external service providers or other functions within the Organisation that conduct evidence review, analysis, or reporting on behalf of, or in collaboration with, its Investigative Office. They address evidence analysis occurring during or after an investigation, and the sharing of investigation-specific findings in reports or similar formal communications. They do not address other disclosures of information that may occur during Investigative Office work, or Annual or Lessons Learned reports. They also do not address any preliminary evidence analysis or reporting that may occur during case intake and evaluation.³

These General Principles do not, and are not intended to, bind any Organisation, its Investigative Office, or its personnel; confer, impose, or imply any duties, obligations, or rights on them or on any third parties; or affect their rights and obligations under applicable rules, policies, and procedures (their “Policies”), including any privileges and immunities afforded to them by international treaty, customary international law, or the laws of any respective member state. These General Principles are to be utilized within the framework of each Organisation’s own Policies and the exercise of an Investigative Office’s professional judgment and expertise.

GENERAL

1. The Investigation Guidelines state four core principles that guide an Investigative Office’s evidence analysis and reporting:
 - a. The purpose of an investigation is to examine and determine the veracity of allegations or indicators of wrongdoing that fall within the Investigative Office’s mandate;
 - b. An Investigative Office shall maintain objectivity, impartiality, fairness, and independence, and be free from improper influence;
 - c. An Investigative Office shall take reasonable measures to protect as confidential any non-public information associated with an investigation; and
 - d. An Investigative Office may share its findings with appropriate recipients within and outside of the Organisation.

¹ The Investigation Guidelines were endorsed by the Fourth CII in 2003. The second edition was endorsed by the Tenth CII in 2009.

² Consistent with the Investigation Guidelines, “Organisation” includes all institutions participating in the CII, and “Investigative Office” refers to the units or functions of an Organisation mandated to investigate allegations of wrongdoing—as defined by the Organisation—within the Organisation or associated with its projects and activities.

³ For guidance in this area, see the CII’s General Principles for Intake and Evaluation.

EVIDENCE

2. "Evidence" consists of any information that tends to prove or disprove a factual claim. An Investigative Office may review and assess all evidence, of any category or type, obtained or collected in accordance with the Organisation's Policies.
3. An Investigative Office should expressly consider any exculpatory evidence. It also should consider the Subject's explanation of events.⁴ As provided by the Organisation's Policies, an Investigative Office may inform the Subject of the allegation, and/or of the evidence and the Investigative Office's tentative findings, and provide the Subject with an opportunity to explain their conduct and present information on their behalf.⁵

ANALYSIS

4. For analysis to begin, evidence is collated into a physical or electronic location (the "File"). The File may, if appropriate, be stored in the Investigative Office's Information Tool.⁶ As a general rule, the File should be created at the commencement of the investigation, during the intake stage. The File should include all evidence obtained during the investigation, as well as notes, correspondence, and/or explanations where the Investigative Office was unable to obtain evidence that it sought to collect.
5. Evidence analysis generally involves three interconnected steps:
 - a. Evidence is assessed for its relevance, *i.e.*, whether it makes a fact that is related to the investigation more or less probable.
 - b. Relevant evidence is weighed to assess its credibility and reliability.⁷ Factors that may be considered assessing credibility and reliability include the evidence's direct or circumstantial nature, source, type, authentication, manner of collection, subsequent handling and processing, and how different pieces of evidence corroborate or contradict each other. Testimonial evidence may be assessed in light of the overall credibility and reliability of the party providing that evidence.
 - c. The Standard of Proof is applied to make findings of fact and, if appropriate, findings about whether or not the facts demonstrate that a Subject engaged in wrongdoing.⁸ In making findings, an Investigative Office considers all relevant evidence, including all relevant facts and circumstances, and all definitional elements of the wrongdoing at issue. It may draw reasonable inferences from available evidence.
6. As an independent office, an Investigative Office analyses evidence and makes its findings without undue influence from other parts of, or from outside of, the Organisation.

REPORTING OF FINDINGS

7. An Investigative Office shares its investigative outcomes and findings itself, with those who have a 'need to know', as provided by the Organisation's Policies. In doing so, it should:

⁴ A "Subject" is a person or entity that is the focus of the investigation. People and entities can become Subjects due to allegations made against them, as a result of proactive inquiries, or due to evidence obtained during the course of an investigation.

⁵ Principles related to Subject interviews are provided in the CII's General Principles for Testimonial Evidence.

⁶ See the CII's General Principles for Intake and Evaluation for discussion of Information Tools.

⁷ "Credibility" refers to whether evidence generally is believed to be true. "Reliability" refers to the degree to which evidence is deemed sufficiently trustworthy to be relied upon in making a finding.

⁸ The "Standard of Proof" applied by an Investigative Office usually is a determination that, based on the evidence as a whole, something is more probable than not. Organisations may change this standard over time, or apply a different standard in certain situations or types of cases. An Investigative Office should, therefore, strive to test its evidence and findings to the highest standard required.

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- a. Assess the possible effects of such sharing, including any applicable access-to-information, data protection, privacy, confidentiality, witness or whistleblower protection, investigative integrity, or due process considerations; and
 - b. Take appropriate steps to share its findings in a manner that, to the extent possible, preserves confidentiality and restricts the onward transmission of confidential information without prior Investigative Office consent.
8. Investigative Office management should review and approve investigative findings and, if those findings are to be shared, review and approve their sharing, pursuant to the Investigative Office's internal processes.

Format and Content

9. An Investigative Office should memorialize its findings in internal documents or systems, such as its Information Tool. Where appropriate, the Investigative Office also may memorialize its findings in formal documents prepared for recipients outside the Investigative Office ("Reports"). Reports sharing investigative findings may vary in format, content, and degree of detail, depending upon their recipients and the Organisation's Policies. Reports usually should be provided in writing, although they also may be provided orally, or supplemented with oral briefings, when appropriate.
10. In general, a Report usually should detail the Subject(s); the indicators or allegations investigated; the applicable Policies; the fact-finding steps taken during the investigation; and the inculpatory and exculpatory evidence gathered by the Investigative Office. For each indicator or allegation, a Report usually should detail the Investigative Office's analysis and findings about the facts; and, if appropriate, whether those facts demonstrate to the required standard of proof that: (i) a Subject engaged in wrongdoing, or (ii) a Subject or witness failed to comply with an obligation existing under the investigative process.⁹
11. If appropriate, Reports also may:
- a. Attach exhibits or annexes, which may be redacted, containing some or all of the evidence that the Investigative Office relied upon in making its findings, or otherwise collected during its investigation;
 - b. State any facts or circumstances that may inform a decision-maker's assessment of the gravity of the wrongdoing and appropriate responsive actions; and/or
 - c. Provide advice or recommendations for preventive or other responsive actions that could be taken by the Organisation, such as financial recovery actions or risk mitigation measures.

Sharing Within the Organisation

12. The Investigative Office should determine the timing, recipients, manner, and content of Reports, subject to the Organisation's Policies. Although findings usually are shared upon the completion of an investigation, an Investigative Office may, if appropriate, share its preliminary or interim findings while its investigation is ongoing. An Investigative Office also may share its draft findings with appropriate recipients for their information, review, or comment.

⁹ If an Investigative Office makes submissions into Misconduct Proceedings, the format and content of those submissions are governed by the system into which the submission is made. "Misconduct Proceedings" include all types of Organisational disciplinary, sanctions, exclusion, or similar proceedings, as defined by the Organisation's Policies.

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13. Pursuant to the Organisation's Policies, a finding that wrongdoing did not occur, or that the available relevant evidence does not meet the Standard of Proof, may be concluded with a summary Report, or without a formal Report being issued. The Investigative Office should, however, always document the reason for case closure, and if appropriate and permitted by the Organisation's Policies, note the possibility that the case could be re-opened if new evidence becomes available in the future.

Sharing Outside the Organisation

14. Pursuant to the Organisation's Policies, Reports shared outside the Organisation may be issued by the Investigative Office itself, or through another part of the Organisation. Reports shared outside the Organisation may state limitations on the Report's use, the preservation or waiver of any legal privileges and immunities possessed by the Organisation, and/or requests for specified recipient follow-up action.
15. Public Reports, where permitted by the Organisation's Policies, usually should be issued upon the completion of all related Misconduct Proceedings, including appeals, unless such issuance is itself a step in Misconduct Proceedings. They should adhere to the Organisation's public disclosure Policies and address any privacy, data protection, or confidentiality considerations that may apply to the Investigative Office.

CASE MANAGEMENT CONSIDERATIONS

16. The File should fully document the investigation's findings, with whom they were shared, how they were shared, the specific information shared, and related reviews and approvals. The File should be numbered to enable its identification and retrieval; should be stored in a manner not reliant upon any one investigator's personal files or emails; and should be stored, maintained, and disposed of in a manner that preserves its confidentiality and integrity, consistent with the Organisation's Policies.¹⁰
17. To promote transparency and accountability, an Investigative Office may consider providing Organisation staff with an explanatory summary of its investigative process, including its evidence analysis and reporting processes. This may be done in writing, through trainings or presentations, or by other means, and may include anonymized case information as appropriate.

PUBLICATION AND IMPLEMENTING GUIDELINES

18. These General Principles have been endorsed by the CII. Any Organisation may refer to these General Principles in its own Policies or may publish them itself in accordance with its Policies. In addition to these General Principles, the CII may develop and publish detailed *Implementing Guidelines for Evidence Analysis and Reporting of Findings* to be used for reference as needed, as further non-binding guidance for Investigative Offices in their Evidence Analysis and Reporting activities.

¹⁰ Principles related to the storage and preservation of evidence also are provided in the CII's General Principles for Physical and Documentary Evidence, General Principles for Testimonial Evidence, and General Principles for Digital Evidence.