



**NOTE BY THE TECHNICAL SECRETARIAT**

**REPORT OF THE INVESTIGATION INTO POSSIBLE BREACHES  
OF CONFIDENTIALITY**

1. This is the report of the investigation into possible breaches of confidentiality initiated by the Director-General in July 2019.

**Background**

2. On or about 13 May 2019, a document entitled “Engineering Assessment of Two Cylinders Observed at the Douma Incident - Executive Summary” (Inspector A’s assessment) appeared on the website of the Working Group on Syria, Propaganda, and Media [www.syriapropagandamedia.org](http://www.syriapropagandamedia.org). The document in question, which is dated 27 February 2019, purports to contain information and findings regarding the investigation of the OPCW Fact-Finding Mission in Syria (FFM) into allegations of the use of chemical weapons in Douma in the Syrian Arab Republic. The Director-General initiated an investigation into possible breaches of the OPCW confidentiality regime related to Inspector A’s assessment.
3. There was sufficient indication that two former OPCW officials had failed to protect confidential information related to the Douma FFM investigation. They will be referred to herein as Inspectors A and B, in order to protect their identities and safeguard their due process rights under the OPCW’s internal legislation and general principles of international administrative law.
4. The investigation was conducted in strict compliance with the detailed procedures set forth in the OPCW Policy on Confidentiality (OPOC). The OPOC was approved and adopted by the Conference of the States Parties and contains mandatory provisions for protecting confidential information and investigating any potential breaches as required under the Confidentiality Annex to the Chemical Weapons Convention. The Director-General designated the Deputy Director-General as the Senior Investigating Officer. The Director-General also appointed independent, professional and highly experienced investigators, who were external to the OPCW, to conduct the investigation.
5. Following a preliminary enquiry, the investigation took place from July 2019 to February 2020 and was conducted in full conformity with the OPOC and relevant internal legislation. In particular, the investigation was conducted on the basis of objectivity and due process. The investigators interviewed 29 individuals. These witnesses consisted of current and former staff members, as well as persons outside the Organisation. Subject to the consent of the witnesses, formal witness interviews



were audio-taped. Witnesses who were formally interviewed attested to the accuracy and truthfulness of their testimony. The investigators also collected documents and examined email records and other electronic evidence relevant to the investigation.

### **Applicable law**

6. Under the individual secrecy agreements entered into by OPCW officials, which apply for the duration of employment and remain in effect following separation from service, staff members are prohibited from using, disclosing, or disseminating confidential information to which they had access in the course of their employment, unless specifically authorised by the Director-General. Inspectors A and B both signed secrecy agreements with the OPCW and were therefore aware of their confidentiality obligations.
7. Under the Code of Conduct for Staff Members of the Technical Secretariat (hereinafter “the Secretariat”) and the Staff Regulations and Interim Staff Rules of the Secretariat, staff members must exercise the utmost discretion and confidentiality with regard to all matters of official business. They are obliged to discharge their functions with only the interests of the Organisation in view and to ensure that their personal views and convictions do not adversely affect either their official duties or the interests of the Organisation. These obligations remain in effect following separation from the Organisation.
8. Confidential information in the Organisation is classified based on the level of sensitivity of the information. Information is classified in the following categories, in increasing order of sensitivity: OPCW Restricted, OPCW Protected, and OPCW Highly Protected. Before any confidential material is transferred outside the Organisation, the sender must first ensure that the intended recipient is authorised to receive the material.

### **The Douma investigation**

9. In mid-April 2018, the FFM was deployed to the Syrian Arab Republic to gather facts and evidence regarding the alleged use of chemical weapons in Douma on 7 April 2018. Between April 2018 and October 2018, the FFM deployed five times to conduct on-site visits, collect biomedical and environmental samples, and interview victims and witnesses.
10. In late 2018, the FFM consulted three independent experts in mechanical engineering, ballistics, and metallurgy, who utilised specialised computer modelling techniques. The FFM continued to collect and analyse facts and evidence related to the Douma incident through February 2019. The FFM’s final report on the Douma incident was released on 1 March 2019.

### **Inspector A**

11. Inspector A first worked for the OPCW from June 1997 to December 2005, eventually being promoted to Team Leader. He was rehired at a lower level in June 2016 and worked at the OPCW until May 2019.

12. Inspector A refused to cooperate with the investigation, despite his duty to do so. He was invited to come to OPCW Headquarters (at the Organisation's expense) in order to review the draft investigation report and to provide comments thereon, but he did not respond.
13. Inspector A was not a member of the FFM, and his name is not included in the mandates issued for FFM deployments. He provided support to the FFM team investigating the Douma incident since he was at the command post in Damascus at the relevant time. It is customary for the inspector serving at the command post to provide assistance to the FFM. Inspector A played a minor supporting role in the FFM investigation. The investigators found that Inspector A did not have access to all of the information gathered by the FFM team, including witness interviews, laboratory results, and assessments by independent experts regarding the two cylinders—all of which became known to the team after Inspector A had stopped providing support to the FFM investigation. He accompanied the FFM to certain sites of interest that had been identified by the Syrian Arab Republic. He assisted in taking environmental samples at a hospital and in taking measurements at one location. He also assisted in processing the cylinders. He was later assigned to conduct an inventory of the Highly Protected information collected on the cylinders and to determine what information was needed to carry out further studies.
14. In July 2018, Inspector A, without proper authorisation, contacted companies about conducting an engineering study on the cylinders found at two locations in Douma. When this became known to the team leader of the FFM, Inspector A was instructed to refrain from making contact with any external third parties. The investigation found that Inspector A did not accept this and decided that he was going to complete his study alone—without informing the FFM team leader.
15. Beginning in August 2018, Inspector A, against the specific instructions received from the FFM team leader, engaged professors at a university to assist him in producing his assessment. He misled the professors, telling them that they were being officially engaged by the Organisation to conduct this work. In September 2018, more than a month after having engaged the professors, Inspector A misled a high-level OPCW official, who was unaware of the FFM team leader's instruction to Inspector A not to contact external third parties. Inspector A did this in order to belatedly procure written authorisation for him to work with a university in order to produce his assessment. Inspector A told the OPCW official that he would only provide open-source material to the university.
16. Inspector A travelled outside the Netherlands twice to meet the professors in person, and both trips were conducted while Inspector A was on leave. Inspector A gave the professors a USB drive, which he claimed only included open-source information. According to the professors, they never spoke with anyone other than Inspector A regarding their work on this matter. The professors completed a report on the cylinder found in one of the two locations in Douma. At the request of Inspector A, the professors communicated with Inspector A using his personal Gmail account. Inspector A used the professors' report to draft his assessment, a version of which eventually appeared on the website of the Working Group on Syria, Propaganda, and Media. Inspector A also shared several drafts of his assessment with the professors using his personal Gmail account.

17. The investigators conducted a forensic analysis of the USB drive provided by Inspector A to the professors. This analysis revealed that the USB drive contained OPCW confidential information classified as Highly Protected at the time the drive was disclosed, including documents and images. There was also confidential information in other documents given to the professors by Inspector A.
18. Inspector A also showed his assessment to at least seven members of the Secretariat who did not have a need to know its contents. He admitted that he had distributed his assessment, but refused to identify the individuals with whom he had shared it. The Working Group on Syria, Propaganda, and Media published Inspector A's assessment on the website on or about 13 May 2019. Inspector A told officials of the Secretariat that he was surprised that the document had been disseminated, but also that he was happy it had been, because finally his information was publicly available.
19. Based on the foregoing, Inspector A violated his obligations concerning the protection of confidential information due to his unauthorised disclosure of confidential information to individuals who did not have a need to know such information. It is further established that he failed to comply with the specified procedures for the handling, protection, release, and dissemination of confidential information so as to create a clear risk of unauthorised disclosure. He also violated the Organisation's Code of Conduct in that he did not act with integrity and transparency.
20. There is insufficient evidential basis to find that Inspector A disseminated his assessment to the website. In this regard, it is recalled that Inspectors A and B refused to cooperate with the investigation. Moreover, Inspector A refused to identify the individuals with whom he shared his assessment.

### **Inspector B**

21. Inspector B first worked for the OPCW from July 1998 to December 2011, eventually being promoted to Team Leader. He was rehired at a lower level in September 2015 and worked at the OPCW until August 2018.
22. Inspector B refused to cooperate with the investigation, despite his duty to do so. He was invited to come to OPCW Headquarters (at the Organisation's expense) in order to review the draft investigation report and to provide comments thereon. However, he placed conditions upon his review of the report that were not consistent with OPCW procedures.
23. Having been selected to be a member of the FFM for the first time, Inspector B travelled to the Syrian Arab Republic in April 2018. However, he never left the command post in Damascus because he had not completed the training required to deploy to the field.
24. Inspector B was involved in the drafting of the interim report on the Douma incident. After having voiced some initial concerns about the draft interim report, he expressly confirmed in writing that he—as well as the other members of the FFM who were involved in drafting the report—had agreed on the interim report that was released.
25. Upon the expiration of his employment with the Organisation, Inspector B departed at the end of August 2018. This was shortly after the release of the interim report—with

which he agreed—and half-a-year before the release of the final FFM report on Douma. During the last seven months of the FFM investigation, the FFM undertook the bulk of its analytical work, examined a large number of witness interviews, and received the results of sampling and analysis. Despite Inspector B's separation from the Organisation and his agreement with the interim report, he continued to approach members of the Secretariat to discuss confidential information regarding the Douma investigation that was classified as Highly Protected at the time it was disclosed. Some of these staff members did not have a need to know the confidential information that Inspector B disclosed to them.

26. Prior to the appearance of Inspector A's assessment on the website of the Working Group on Syria, Propaganda, and Media, Inspector B had knowledge of it, despite the fact that it was completed more than five months after Inspector B had left the Organisation. A month before Inspector A's assessment appeared on the website, Inspector B referred a staff member to an article critical of the OPCW's final report on Douma that was published on the same website. The investigators obtained evidence that Inspector B, in his communications with the OPCW many months after his separation in August 2018, displayed a desire to have continued access to and influence on the Douma investigation. This included a letter to the Director-General, challenging the findings in the final Douma report, despite Inspector B having no access to the large body of evidence that had been obtained by the FFM after his separation from the OPCW. As late as August 2019, Inspector B contacted members of the Organisation to attempt to convince them to join his campaign to challenge the final Douma report.
27. Based on the foregoing, Inspector B violated his obligations concerning the protection of confidential information due to his unauthorised disclosure of confidential information to individuals who did not have a need to know such information. It is further established that he failed to comply with the specified procedures for the handling, protection, release, and dissemination of confidential information so as to create a clear risk of unauthorised disclosure.
28. There is insufficient evidential basis to find that Inspector B disseminated Inspector A's assessment to the website. In this regard, it is recalled that Inspectors A and B refused to give evidence to the investigators. Moreover, Inspector A refused to identify the individuals with whom he shared his assessment.

### **Severity of breaches**

29. Inspector A's assessment purports to be an official OPCW FFM report that relies upon and contains confidential information. However, it is a personal document created without authorisation through the misuse of incomplete confidential information by a staff member who had ceased to provide support to the FFM seven months prior to the release of the final FFM report on Douma. It was during this seven-month period that the majority of the investigative work was conducted. Inspector A's assessment has thus been misused to call into question the Organisation's competence and credibility. Therefore, the deliberate and premeditated breaches of confidentiality committed by Inspectors A and B are considered to be serious.

**Remedial measures**

30. Confidentiality training for Secretariat officials will be enhanced. An additional obligatory Organisation-wide confidentiality training programme will be instituted for all members of the Secretariat. This training will be accompanied by annual attestations by staff in respect of the requirements and obligations arising from the Organisation's confidentiality regime.
31. The internal legislation of the Organisation is being reviewed in order to reduce the risks of future breaches of the confidentiality regime. The Secretariat has already begun to analyse the OPOC and the Manual of Confidentiality Procedure and to benchmark the results of this analysis with six other international organisations. The Code of Conduct is being reviewed in order to assess whether it needs to be updated and supplemented with additional obligations in respect of the duty to safeguard confidential information of the Organisation.

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