



Department of Peace Operations  
Office of the High Commissioner for Human Rights  
Office on Drugs and Crime

**Manual on**  
**Investigative Interviewing**  
**for Criminal Investigation**



February 2024



**United Nations**  
**Department of Peace Operations**  
**Office of the High Commissioner for Human Rights**  
**Office on Drugs and Crime**  
Ref. DPO 2024.01 | OHCHR 2024 | UNODC 2024

# Manual on Investigative Interviewing for Criminal Investigation



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Effective Date:

01 February 2024

Contact:

DPO/OROLSI/Police Division | OHCHR | UNODC

Review date:

01 February 2028

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## Abbreviations and acronyms

A4P	Secretary-General's Action for Peacekeeping initiative
CCTV	Closed-Circuit Television
CM	Conversation Management
CONOPS	UN Police component's Concept of Operations
CRSV	Conflict-Related Sexual Violence
CRC	United Nations Convention on the Rights of the Children
DDG	Doctrinal Development Group
DNA	Deoxyribonucleic Acid
DPO	United Nations Department of Peace Operations
ECI	Enhanced Cognitive Interview
FR	Free Recall
GFP	Global Focal Point for the Rule of Law
IATF-P	Inter-Agency Task Force on Policing
PD	Police Division
PEACE	mnemonic refers to planning and preparation, engage and explain, account, closure, and evaluation
SGBV	Sexual and Gender-Based Violence
SGF	Strategic Guidance Framework for international policing
CRSV	Conflict-Related Sexual Violence
OHCHR	Office of the United Nations High Commissioner for Human Rights
UN	United Nations
UNCAT	United Nations Convention against Torture, and other Cruel, Inhuman or degrading Treatment or Punishment
OROLSI	Office of Rule of Law and Security Institutions
UNODC	United Nations Office on Drugs and Crime
UNPOL	United Nations Police
USG	Under-Secretary-General

## Foreword

We are pleased to introduce the United Nations Manual on Investigative Interviewing for Criminal Investigation, a collaborative effort by the DPO, OHCHR, and UNODC. The manual not only serves as a guiding document for the United Nations Police (UNPOL) officers in their mandated roles of mentoring, monitoring, advising and training, but also establishes a foundational resource for police development and capacity-building initiatives across the United Nations system.


Police and other law enforcement officials have the obligation to respect and protect the inherent dignity and rights of all persons, irrespective of whether they are victims, witnesses or suspects. Advancing the protection of human rights by the UN entities, including UNPOL components in peacekeeping operations and non-mission settings, is one of the priorities of the Secretary-General's Action for Peacekeeping initiative (A4P) and an area to which we collectively attach significant importance. The manual will form an integral part of UNPOL's Strategic Guidance Framework for International Policing (SGF), which is based on international human rights and criminal justice standards and unequivocally states that accountability, including for the way in which police exercise powers entrusted to them by the law, is a pathway for police legitimacy.

The manner in which law enforcement agencies conduct interviews significantly impacts the outcome, fairness, and reliability of any investigation and subsequent criminal proceedings. The manual integrates principles of human rights-compliant policing and criminal investigation by offering a suite of effective techniques as an ethical and effective alternative to flawed practices that rely on the use of torture and ill-treatment to elicit confessions. The Principles on Effective Interviewing for Investigations and Information Gathering (or Méndez Principles) reflect a growing global movement calling for a shift from confession-driven interrogation techniques to non-coercive interviewing methodologies. In outlining practical steps to implement these principles, the manual also contributes to the global effort in eliminating torture and ill-treatment during interrogations and investigations.


Grounded in these essential principles, modern scientific research and international law, this manual stands as a testament to our collective effort and commitment to advance human rights in policing.



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# **DPO, OHCHR and UNODC Manual**

## **on**

# **Investigative Interviewing for Criminal Investigation**

## **A. PURPOSE AND RATIONALE**

- 1.1. This manual on Investigative Interviewing for Criminal Investigation (hereafter referred to as 'the Manual') spells out the fundamental principles, concepts, and approach to non-coercive interviewing. It outlines a suite of techniques for ethical and effective interviewing, including an overview of the knowledge and skills necessary to conduct interviews in a manner that is systematic, norm-compliant, rapport-based, and non-coercive. This manual is founded on (a) growing evidence-based research, (b) the normative legal frameworks that prohibit torture or other forms of ill-treatment, and (c) the Principles on Effective Interviewing for Investigation and Information Gathering, also known as the Méndez Principles, which establish, for the first time, the minimum international requirements for good practice in lawful interviewing by both the military and police.<sup>1</sup>
- 1.2. The manual is designed to assist United Nations Police (UNPOL) components in the fulfilment of their tasks in the area of criminal investigations in situations when they are mandated, under the resolutions of the Security Council, to assume either partial or full responsibilities for interim policing and law enforcement activities within a designated territory. The manual is also applicable to contexts that entail an operational support role for the police component in peacekeeping operations, special political missions, and other non-mission settings. It also forms the basis for UNPOL's capacity-building and development efforts in the area of criminal investigation. Furthermore, the Manual is designed to inform the United Nations' wider work with supporting national law enforcement agencies in implementing their mandate in line with international human rights obligations during the conduct of their functions.
- 1.3. The two main aims of the manual are: (a) to provide UNPOL officers with an analytical framework for conducting investigative interviews; and (b) to guide UN entities, including UNPOL components, in supporting national law enforcement in the capacity-building and development work streams. It builds on the shared international standards and ethical interviewing framework that integrate legal principles with research-based methods to ensure that all interactions with interviewees, whether as victims, witnesses, or potential suspects, are based on the essential principles of presumption of innocence, freedom from torture and other forms of ill-treatment (the right to humane treatment), and the right to liberty and security (freedom from arbitrary arrest and detention), as guaranteed by international human rights law<sup>2</sup> and enshrined in UNPOL's Strategic Guidance Framework (SGF) for International Police Peacekeeping.
- 1.4. Legal and procedural safeguards are essential elements of the investigative interviewing paradigm, and their effective application is predicated on broader criminal justice processes.

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<sup>1</sup> These principles, drafted by experts in the fields of interviewing, law enforcement, criminal investigations, national security, military, intelligence, psychology, criminology, and human rights from around the world, were adopted by a Steering Committee of Experts in May 2021 with the support of Anti-Torture Initiative, the Association for the Prevention of Torture, and the Norwegian Centre for Human Rights. They were subsequently welcomed by the Human Rights Council (A/HRC/RES/46/15), Committee on Torture (CAT/C/DNK/CO/6-7), and Sub-Committee on the Prevent of Torture (press release Nov 2021). The Méndez Principles are available in a wide range of languages at: <https://interviewingprinciples.com/>

<sup>2</sup> ICCPR/C/GC/32, 23 August 2007.

Typically, in conflict and post-conflict settings, where violations of human rights, criminality, and violence against vulnerable populations are often widespread, fragile justice institutions and the rule of law necessitate greater coordination and coherence for broader reform efforts to ensure consistent application of the minimum legal threshold and safeguards.<sup>3</sup>

- 1.5. Information determines the direction and outcome of an investigation. A significant part of it originates from victims, witnesses, and suspects, which is why interviews should be skilfully performed to maximize their investigative and evidentiary value.<sup>4</sup> In recent years, new forms of digital and forensic technology have provided access to novel sources of evidence. The technological advancement, however, does not exclude the need for State agencies to develop and maintain a pool of skilled interviewers. Without an accurate and reliable account of information about the event, physical evidence, such as, inter alia, closed-circuit television images or deoxyribonucleic acid, may have less value, and vice versa.
- 1.6. The manner in which interviews are conducted has a profound impact on the outcome, fairness, efficiency, and reliability of any investigation and subsequent criminal proceedings. A growing body of scientific knowledge shows that rapport-based interviewing is most effective in eliciting accurate and reliable information.<sup>5</sup> Police and other law enforcement officers trained in investigative interviewing put into practice the principles founded on normative international laws and a standard approach that can be rationalized, and methodically explained, across all elements of investigative processes, consistently and credibly. The manual provides a step-by-step introduction to this methodical approach based on the PEACE model.<sup>6</sup>
- 1.7. Police and other law enforcement officials have the obligation to respect and protect the inherent dignity and rights of all interviewees, including their physical well-being and mental integrity.<sup>7</sup> Even so, evidence suggests that torture and other ill-treatment take place more frequently during the interrogation of suspects for the purpose of obtaining confessions.<sup>8</sup> Such flawed practices primarily result from poor knowledge, limited skills, and inadequate police training rather than any personal shortcomings of individual officers.

## B. SCOPE

- 2.1. The manual applies to all personnel of UNPOL and may be used by practitioners, members of the Inter-Agency Task Force on Policing (IATF-P) and the Global Focal Point for Rule of Law Mechanism, and other UN departments, agencies, funds, and programmes, where applicable, for the purpose of conducting or ensuring the legal and ethical conduct of investigative interviews or to provide technical assistance to Member States' police and other law enforcement agencies.<sup>9</sup>
- 2.2. The manual should be read with the specific mandate(s) of the United Nations police components, the relevant Security Council Resolution(s) and UN thematic policies, the Mission Concept, the UN Police Component's Concept of Operations (CONOPs), the UN

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<sup>3</sup> Article 11, UNCAT

<sup>4</sup> Investigative interviewing is a specialist task and requires specific training if it is to be performed in a professional and effective manner.

<sup>5</sup> A/71/298, Report of the Special Rapporteur on Torture, 5 August 2016.

<sup>6</sup> The mnemonic PEACE refers to the step-by-step methods of investigative interviewing namely planning and preparation, engage and explain, account, closure, and evaluation.

<sup>7</sup> A/45/121, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders), 18 December 1990; and A/34/169, Code of Conduct for Law Enforcement Officials, 17 December 1979.

<sup>8</sup> A/HRC/RES/31/31, Resolution of the Human Rights Council, 24 March 2016. See also A/HRC/RES/46/15; A/77/209

<sup>9</sup> The prohibition of torture and other forms of ill-treatment has a special status in the international protection of human rights. It is included in a number of international and regional treaties and also forms part of customary international law, binding all States. Also see Article 5, Universal Declaration of Human Rights, 1948.

Police Standard Operating Procedures, the DPKO/DFS Policy on United Nations Police in Peacekeeping Operations and Special Political Missions (Ref. 2014.01), and other guidance documents comprising the SGF. Readers may also refer to UNODC manuals on policing.<sup>10</sup>

- 2.3. The principles and methods outlined in the manual are suitable for interviews with various categories of persons, including witnesses, victims, and potential suspects of alleged crimes. The manual, however, approaches the issue primarily from the perspective of the most prevalent scenario involving suspect interviews to demonstrate the same professional standards of impartiality and of treatment with respect and dignity accorded to all interviewees, whether they are victims, witnesses, or suspects. While building on the same general principles, some interviews may be more complex due to the vulnerability of interviewees, specific risk factors, and other situational features. This may require special arrangements for, and the involvement of, or referral to specialists, for instance, when interviewing children or victim/survivor(s) of sexual and gender-based violence (SGBV) or persons with disabilities or other vulnerabilities.
- 2.4. For the purposes of this manual, an interview is defined as a structured conversation where one person (the 'interviewer') seeks to gather information from another (the 'interviewee') as part of any criminal investigation. The objective is to obtain accurate and reliable information while respecting human rights; eliciting facts is the aim, not coercing confession.

## **C. INTERNATIONAL LEGAL SAFEGUARDS TO PREVENT TORTURE, ILL-TREATMENT, AND COERCIVE INTERVIEWING**

- 3.1. The fundamental principles, concepts, and approaches outlined below reflect the international legal framework governing the conduct of investigative interviewing and associated safeguards. They draw on international treaty law, customary international law, and jurisprudence to interpret their scope and application. They apply to all legal systems and allow for domestic incorporation, taking into account different legal procedures. They are not intended to provide an exhaustive list of all international legal standards relevant to or applicable during interviews, deprivation of liberty, or other instances when a person may come into contact with police and other law enforcement agencies or other state authorities for questioning.
- 3.2. The prohibition of torture is absolute, non-derogable, and binding on all States.<sup>11</sup> It applies in all circumstances, including during armed conflict and military occupation,<sup>12</sup> internal political instability, and any other public emergency. It is codified in international and regional treaties and has been recognised as a matter of domestic law in several countries.<sup>13</sup> The prohibition

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<sup>10</sup> See UNODC Tools and Publications - Police Reform <https://www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-tools-police.html>

<sup>11</sup> Article 16 of the International Law Commission's draft articles on the responsibility of states for internationally wrongful acts asserts that a 'State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with the knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State'. A/HRC/35/8, para. 21. The International Law Commission has also stated that the prohibition of torture is a peremptory norm of general international law (*jus cogens*). A/74/10, p. 146, Conclusion 23.

<sup>12</sup> UNCAT, art. 2; Torture and other ill-treatment constitute a grave breach of the Geneva Conventions of 1949, a violation of their Common Article 3 (applicable to conflicts not of an international character), as well as of the two Additional Protocols of 1977 and of customary international humanitarian law. Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, 2 volumes, Volume I. Rules, Volume II. Practice (2 Parts), Cambridge University Press, 2005, and likewise the ICRC Customary IHL database.

<sup>13</sup> No treaty or customary norm can overrule the absolute prohibition of torture and of all forms of ill-treatment.



of cruel, inhuman, or degrading treatment or punishment, even when not amounting to torture, is also non-derogable under international law.<sup>14</sup>

- 3.3. Actions that are designed to humiliate, arouse fear or a sense of inferiority, or are aimed at or capable of breaking the interviewee's physical or psychological resistance can amount to torture or other ill-treatment.<sup>15</sup> The same is true for coercive methods and practices that aim to intimidate an interviewee or obtain information or confessions by means of duress, threat, or impairment of their capacity for decision or judgement, for instance, the use of solitary confinement for these purposes or offers of plea bargains.<sup>16</sup> Therefore, fair trial and due process rights such as the right to counsel,<sup>17</sup> including access to legal aid, the right to an interpreter,<sup>18</sup> and the right to consular access for foreign nationals<sup>19</sup> constitute crucial safeguards against torture and coercion during interviews.
- 3.4. Persons being interviewed as suspects or alleged perpetrators are often subject to arrest and detention. In these cases, interviewing authorities must ensure that the persons concerned continue to enjoy all their human rights,<sup>20</sup> which are not restricted by virtue of the deprivation of liberty, including their non-derogable right to be treated with humanity and respect for their inherent dignity.<sup>21</sup> To this end, the detaining authorities must respect the standards prescribed for police custody, pre-trial, or administrative detention, including, at a minimum, those prescribed by the Nelson Mandela Rules<sup>22</sup> and the Bangkok Rules.<sup>23</sup>
- 3.5. The right to liberty requires that no person be subjected to arbitrary arrest or detention.<sup>24</sup> Practices such as enforced disappearance,<sup>25</sup> secret detention, and prolonged incommunicado detention are arbitrary and absolutely prohibited at all times under international law. In addition, police and other law enforcement officials should never subject interviewees to unjustifiable physical or mental injury and must ensure that they are held in human rights-compliant conditions and treated with dignity at all times, including fulfilling their basic needs with regards to food, water, temperature, and adequate rest.<sup>26</sup>
- 3.6. When a person is detained prior to or between interview sessions, police and other law enforcement officials must ensure the effective implementation of the legal and procedural

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<sup>14</sup> J.M. Henckaerts – Study on customary international humanitarian law, footnote 79 and Annex. List of Customary Rules of International Humanitarian Law, rule 90, p. 206.

<sup>15</sup> A/68/295; Interim report of the Special Rapporteur on Torture and other cruel, inhuman, or degrading treatment or punishment, Sixty-eight session of General Assembly (9 August 2013).

<sup>16</sup> A/HRC/RES/31/31, para 12(c); Body of Principles on Detention, Principle 21(2); Luanda Guidelines, Guideline 9(c).

<sup>17</sup> ICCPR, Article 14(3)(b).

<sup>18</sup> Ibid, Article 14(3)(f).

<sup>19</sup> VCCR, 24 April 1963, Article 36, available at: <https://www.refworld.org/docid/3ae6b3648.html>

<sup>20</sup> Except those that are necessarily and proportionately restricted by detention (Article 10, ICCPR; General Comment 21, para. 3) and those meant to achieve legitimate aims, such as the order and security of the detention facility (General Comment 34, paras. 21–36).

<sup>21</sup> ICCPR, Article 10(1). The Human Rights Committee has clarified that this right is non-derogable. See General Comment 29, para. 13(a).

<sup>22</sup> Rules 2, 11–35, 58–66, Nelson Mandela Rules; and HRC General Comment 29, para. 13. Minimum conditions of detention, which apply to both police custody and other non-trial or pre-trial detention, include the provision of services and conditions that are non-discriminatory; measures that cater to detainees' special needs; separation of categories of detainees; adequate accommodation, hygienic facilities, clothing and bedding, food, and health care services; contact with the outside world; and facilities for religious practice (including sanitary products for females and attention to the needs of persons who are pregnant, breastfeeding, or the primary caregiver of children); privacy in toilet areas; and access to reading material.

<sup>23</sup> A/RES/65/229, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, also known as Bangkok Rules, provides specific and detailed guidelines on responding to the gender specific needs of women in the criminal justice system, as well as of the children of such women, available at <https://digitallibrary.un.org/record/702724?ln=en>.

<sup>24</sup> ICCPR, Article 9(1).

<sup>25</sup> ICPPED, Article 2; enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

<sup>26</sup> Art. 16 of the UNCAT; A/HRC/RES/46/15, para. 6; also see ICCPR/C/GC/32, 23 August 2007.

safeguards (see Box 1), thereto without undue delay, as safeguards against torture and other cruel, inhuman, or degrading treatment or punishment:<sup>27</sup>

- 3.7. In situations of armed conflict, when questioning persons for purposes other than criminal justice (such as in tactical or strategic settings by military and intelligence officers), the applicability of certain legal safeguards may differ in accordance with the relevant provisions of international humanitarian law, human rights law and national law. Nevertheless, freedom from torture, cruel, inhuman, or degrading treatment or punishment is non-derogable and the legal and procedural safeguards against such acts apply in every interview and must not be subject to measures that would circumvent this right.<sup>28</sup>



## Legal and procedural safeguards

The following legal and procedural safeguards are paramount to ensuring the effective operationalization of the investigative interviewing framework:<sup>29</sup>

- a) Freedom from torture and other ill-treatment (the right to humane treatment).
- b) Freedom from arbitrary arrest and detention (the right to liberty and security).
- c) The right to information about rights.
- d) The right to the presumption of innocence.
- e) The right to remain silent and the right against compelled self-incrimination.
- f) The right to information about the reasons for arrest and promptly informed of any charges.
- g) The right to an interpreter.
- h) The right to notify a relative or third party of one's detention.
- i) The right of access to a lawyer, including through legal aid.<sup>30</sup>
- j) The right of access to consular assistance (relevant to foreign nationals).
- k) The right of access to a doctor and an independent medical examination, including, where necessary, gender-responsive medical care.
- l) The right to review and sign the interview record, including access to full recording of the interview.
- m) The right to contact with the outside world (No one shall be subjected to enforced disappearance)
- n) Registration of persons held in detention.
- o) The right to be brought promptly before a judge or other judicial authority.
- p) The right to a fair trial and access to effective and independent complaints mechanisms and oversight.
- q) The right to be free from discrimination.

### Box 1: Due process and fair trial rights

<sup>27</sup> A/HRC/RES/31/31; A/HRC/RES/46/15, paras. 4 and 5; A/67/458, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, para 42 (Guideline 2. Right to be informed on legal aid) and 43 (Other rights of persons detained, arrested, suspected, or accused of, or charged with a criminal offence); Rule 56(3), 57, and 71(2) of the Nelson Mandela Rules.

<sup>28</sup> A/HRC/46/15, para 2.

<sup>29</sup> A/HRC/RES/31/31; A/HRC/RES/46/15, paras. 4 and 5; A/67/458, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, para 42 (Guideline 2. Right to be informed on legal aid) and 43 (Other rights of persons detained, arrested, suspected, or accused of, or charged with a criminal offence); Rule 56(3), 57, and 71(2) of the Nelson Mandela Rules; UN Human Rights Committee (HRC), General Comment No. 32, Article 14, Right to equality before courts and tribunals and to a fair trial, 23 August 2007, ICCPR/C/GC/32; available at: <https://www.refworld.org/docid/478b2b2f2.html> [accessed November 28, 2022].

<sup>30</sup> United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (Principles and Guidelines on Legal Aid) 20 December 2012, para 42(d); Art. 37 and 40(2)(b)(ii) of the CRC; see also CRC General Comment No 24 (2019) on children's rights in the child justice system – CRC/C/GC/24, para 49-53, 'The presence of the lawyer is compulsory for detained children interviewed as suspects.'

## D. EVIDENCE-BASED FINDINGS ON INEFFECTIVE PRACTICES

- 4.1. Recent research provides increasing evidence that abusive practices and confession-seeking behaviours of the interviewer lead to unreliable information and false confessions.<sup>31</sup> Studies iterate that coercion and ill-treatment diminish the interviewee's inclination to cooperate, and instead they frequently provide dubious, false, or misleading information to placate demands or to avoid or stop threats of abuse.<sup>32</sup>
- 4.2. Coercive techniques interfere with and may damage the memory-retrieval capacity of the brain.<sup>33</sup> The threat, enactment, or imposition of physical harm against an interviewee have been found to induce heightened levels of stress, which lead to diminished recall of accurate or reliable information.<sup>34</sup>
- 4.3. Psychologically coercive methods produce false and misleading information. Manipulating an interviewee's perception of culpability, such as by presenting false evidence or their perceptions of the consequences associated with a confession, for instance, downplaying or exaggerating the consequences associated with a conviction of the alleged crime, implying leniency, or offering moral or emotional justifications to obtain information and/or confessions, amounts to psychological abuse.<sup>35</sup>
- 4.4. Interviewing authorities who approach an interview with the intent to elicit confessions are more susceptible to "confirmation bias" and frequently use leading or suggestive questions, coercion, manipulation, and pressure-filled tactics to confirm their hypothesis, which may be flawed by tunnel vision and premature beliefs in an interviewee's guilt.<sup>36</sup> They contaminate the interviewee's memory and corrupt their account in the process, leading to false confessions and errors in justice.<sup>37</sup> Children, by reason of their physical and mental immaturity, apart from other interviewees with psychosocial or intellectual disabilities, are

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<sup>31</sup> G.H. Gudjonsson, *The Psychology of False Confessions: Forty Years of Science and Practice* (Hoboken, NJ, John Wiley & Sons, 2018); A. Vrij, C.A. Meissner, S.M. Kassin, A. Morgan III, R.P. Fisher, & S.M. Kleinman, "Psychological perspectives on interrogation", *Perspectives on Psychological Science*, vol. 12, No. 6 (September 2017); S. O'Mara, *Why Torture Doesn't Work: The Neuroscience of Interrogation* (Cambridge, Harvard University Press, 2015); S.M. Kassin, S.A. Drizin, T. Grisso, G.H. Gudjonsson, R.A. Leo, & A.D. Redlich, "Police-induced confessions: risk factors and recommendations" *Law & Human Behaviour*, vol. 34, No. 1 (February 2010).

<sup>32</sup> Vrij et al. "Psychological perspectives on interrogation" (footnote 5); S.C. Houck & L.G. Conway, "Ethically investigating torture efficacy: a new methodology to test the influence of physical pain on decision-making processes in experimental interrogation scenarios", *Journal of Applied Security Research*, vol. 10, No. 4 (2015); M.A. Costanzo, & E. Gerrity, "The effects and effectiveness of using torture as an interrogation device: using research to inform the policy debate", *Social Issues and Policy Review*, vol. 3, No. 1 (December 2009); A.D. Biderman, "Social-psychological needs and 'involuntary' behaviour as illustrated by compliance in interrogation", *Sociometry*, vol. 23, No. 2 (June 1960); D. Rejali, *Torture and Democracy* (Princeton, NJ, Princeton University Press, 2007); A. McCoy, *A Question of Torture: CIA Interrogation from the Cold War to the War on Terror* (New York, Metropolitan Books, 2007).

<sup>33</sup> See, e.g., O'Mara, *Why Torture Doesn't Work* (footnote 5); C.A. Morgan III, S. Southwick, G. Steffian, G.A. Hazlett, & E.F. Loftus, "Misinformation can influence memory for recently experienced, highly stressful events", *International Journal of Law and Psychiatry*, vol. 36, No. 1 (January/February 2013); K. Young, W. Drevets, J. Schulkin, K. Erickson "Dose dependent effects of hydrocortisone infusion on autobiographical memory recall", *Behavioural Neuroscience*, vol. 125, No. 5 (October 2011).

<sup>34</sup> R.S. Stawski, M.J. Sliwinski, & J.M. Smyth, "The effects of an acute psychosocial stressor on episodic memory," *European Journal of Cognitive Psychology*, vol. 21, No. 6 (2009).

<sup>35</sup> C.A. Meissner, A.D. Redlich, S.W. Michael, J.R. Evans, C.R. Camilletti, S. Bhatt, & S. Brandon, "Accusatorial and information gathering interrogation methods and their effects on true and false confessions: a meta-analytic review," *Journal of Experimental Criminology*, vol. 10, No. 4 (2014); Kassin et al. "Police-induced confessions" (footnote 5).

<sup>36</sup> C.A. Meissner, & S.M. Kassin, "You're guilty, so just confess!": cognitive and behavioural confirmation biases in the interrogation room" in *Interrogations, Confessions, and Entrapment*, G.D. Lassiter, ed. (Kluwer Academic/Plenum Publishers, 2004); 16. F.M. Narchet, C.A. Meissner, & M.B. Russano, "Modelling the influence of investigator bias on the elicitation of true and false confessions", *Law & Human Behaviour*, vol. 35, No. 6 (December 2011); A.A.S. Zuckerman, "Miscarriage of justice – a root treatment" *Criminal Law Review*, 323 (May 1992); K.A. Findley, M.S. Scott, "The multiple dimensions of tunnel vision in criminal cases", *Wisconsin Law Review*, vol. 2 (June 2006).

<sup>37</sup> E.F. Loftus, "Intelligence gathering post-9/11", *American Psychologist*, vol. 66, No. 6 (2011); B.L. Garrett, "Contaminated confessions revisited", *Virginia Law Review*, vol. 101, No. 2. (April 2015); R.A. Leo, "Why interrogation contamination occurs", *Ohio State Journal of Criminal Law*, vol. 11, No. 1 (2013); F.M. Narchet, C.A. Meissner, & M.B. Russano, "Modelling the influence of investigator bias on the elicitation of true and false confessions", *Law & Human Behaviour*, vol. 35, No. 6 (December 2011); A.A.S. Zuckerman, "Miscarriage of justice – a root treatment" *Criminal Law Review*, 323 (May 1992); K.A. Findley, M.S. Scott, "The multiple dimensions of tunnel vision in criminal cases", *Wisconsin Law Review*, vol. 2 (June 2006).

particularly vulnerable to suggestive questioning, interrogative pressures, trickery, deceit, or manipulations and are more likely to falsely confess.<sup>38</sup>

- 4.5. An array of evidence-based studies has concluded that nonverbal behaviours, such as emotional responses, body language, or physiological responses of interviewees, are unreliable indicators of deception.<sup>39</sup> The use of lie-detection technologies is ineffective and may lead to errors in justice.<sup>40</sup>

## **E. PRINCIPLES ON EFFECTIVE INTERVIEWING**

- 5.1. The Principles on Effective Interviewing for Investigation and Information Gathering, or the Méndez Principles, provide a set of non-binding but authoritative guidance on non-coercive interviewing processes and standards. They endorse human rights-compliant interviewing methods that reject coercive, accusatory, and abusive techniques. The six Méndez principles are outlined in Box 2.
- 5.2. The Méndez Principles reflect a growing global movement calling for a shift from confession-driven interrogation techniques to non-coercive interviewing methodologies. In outlining practical steps to implement the Méndez Principles, the manual contributes to the global effort to eliminate torture and ill-treatment during interrogations and interviews, thereby also increasing their effectiveness.
- 5.3. Non-coercive interviewing based on empathetic rapport-building and rights-based methods provides a professionally sound and effective alternative to the flawed conventional practice of interrogation that is confession-driven and reliant upon physically and psychologically coercive tactics, torture, and other forms of ill-treatment to elicit confessions.

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<sup>38</sup> A. Vrij, *Detecting Lies and Deceit: Pitfalls and Opportunities*, 2nd ed. (West Sussex, England, John Wiley & Sons, 2011); Vrij et al. "Psychological perspectives on interrogation" (footnote 5); Gudjonsson, *The Psychology of False Confessions* (footnote 5); Drizin & Leo, "The problem of false confessions" (footnote 7). S.R. Gross, K. Jacoby, D.J. Matheson, N. Montgomery, & S. Patil, "Exonerations in the United States 1989 through 2003", *Journal of Criminal Law & Criminology*, vol. 95, No. 2 (2005).

<sup>39</sup> See, e.g., F. Inbau, J. Reid, J. Buckley, & B. Jayne, *Criminal Interrogation and Confessions*, 5th ed. (Burlington, Mass., Jones & Bartlett Publishers, 2011); P.A. Granhag, A. Vrij, & B. Verschuere, eds., *Deception Detection: New Challenges and Cognitive Approaches* (Chichester, UK, John Wiley & Sons, 2015).

<sup>40</sup> J. Synnott, D. Dietzel, & M. Ioannou, M. "A review of the polygraph: history, methodology and current status," *Crime Psychology Review*, vol. 1, No. 1 (2015); E. Rusconi & T. Mitchener-Nissen "Prospects of functional magnetic resonance imaging as lie detector", *Frontiers in Human Neuroscience*, vol. 7, No. 594 (September 2013); National Research Council, *The Polygraph and Lie Detection* (Washington, DC, The National Academies Press, 2003); D. Church, "Neuroscience in the courtroom: an international concern", *William and Mary Law Review*, vol. 53, No. 5 (2012); J.H. Marks, "Interrogational neuroimaging in counterterrorism: a 'no-brainer' or a human rights hazard?" *American Journal of Law & Medicine*, vol. 33, No. 2-3 (2007).



**Principle 1 – On Foundation**  
Effective interviewing is instructed by science, law and ethics.



**Principle 2 – On Practise**  
Effective interviewing is a comprehensive process for gathering accurate and reliable information while implementing associated legal safeguards.



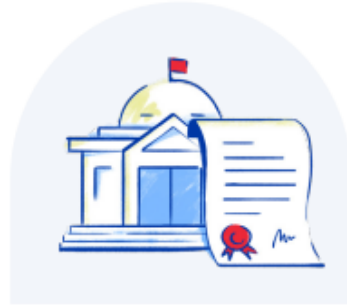
**Principle 3 – On Vulnerability**  
Effective interviewing requires identifying and addressing the needs of interviewees in situations of vulnerability.



**Principle 4 – On Training**  
Effective interviewing is a professional undertaking that requires specific training.



**Principle 5 – On Accountability**  
Effective interviewing requires transparent and accountable institutions.



**Principle 6 – On Implementation**  
The implementation of effective interviewing requires robust national measures.

Box 2: Méndez Principles<sup>41</sup> on Effective Interviewing for Investigation and Information Gathering

- 5.4. Professional interviewers approach investigative interviewing with an open mindset, based on a flexible and adaptive process, to create an enabling environment for the interviewee to effectively recall in memory and freely narrate their account with minimum interruption and the use of non-suggestive questions.<sup>42</sup>
- 5.5. Rapport-based techniques offer the interviewee autonomy over what they choose to say or do based on their inherent rights, and they facilitate a positive interaction with the interviewer.<sup>43</sup> Establishing and maintaining rapport helps create a working relationship that enables better communication with the interviewee.<sup>44</sup> Empathy is key to establishing

<sup>41</sup> See Principles on Effective Interviewing for Investigation and Information Gathering, May 2021

<sup>42</sup> R.P. Fisher, & R.E. Geiselman, Memory enhancing techniques for investigative interviewing: The cognitive interview. (Springfield, IL, Charles C Thomas, Publisher, 1992); R. Paulo, P. Albuquerque, F. Vitorino, & R. Bull, “Enhancing the cognitive interview with an alternative procedure to witness-compatible questioning: category clustering recall” *Psychology, Crime, & Law*, vol. 23, No. 10 (2017); A. Memon, C.A. Meissner & J. Fraser, “The cognitive interview: a metanalytic review and study space analysis of the past 25 years”, *Psychology, Public Policy, & Law*, vol. 16, No. 4 (2010).

<sup>43</sup> R. Bull, & A. Rachlew, “Investigative interviewing: from England to Norway and beyond”, in *Interrogation and Torture*, Barela et al., eds. (footnote 24); L.J. Alison, E. Alison, G. Noone, S. Elntib, & P. Christiansen, “Why tough tactics fail, and rapport gets results: Observing Rapport-Based Interpersonal Techniques (ORBIT) to generate useful information from terrorists”, *Psychology, Public Policy, and Law*, vol. 19, No. 4 (2013).

<sup>44</sup> F. Gabbert, L. Hope, K. Luther, G. Wright, M. Ng, & G.E. Oxburgh, “Exploring the use of rapport in professional information gathering contexts by systematically mapping the evidence base”, *Applied Cognitive Psychology* (November 2020); A. Abbe, &

connections based on trust, respect for human dignity, and the assurance of fair treatment.<sup>45</sup> Establishing common ground with respect for mutual interest, active listening, and avoiding false pretence helps to create positive first impressions and build rapport.<sup>46</sup>

- 5.6. Non-suggestive questioning – that is strategically planned – focuses the interview on the key matters under consideration and allows the interviewer to determine whether the information provided aligns with information previously collected.<sup>47</sup>



### Efficacy of rapport-based, non-coercive methods

Extensive research shows that rapport-based non-coercive interviewing;

- a) stimulates communication between the interviewer and the interviewee,
- b) facilitates memory retrieval,
- c) increases the accuracy and reliability of the information provided,
- d) enables exploration of the veracity of the information provided,
- e) increases the likelihood of information-rich and genuine admissions, and
- f) reduces the risk of eliciting false information or false confessions.

Box 3: Research on effective practice

- 5.7. Forensic methodology, adequate equipment, and effective training on available modern and scientific investigation techniques help to transition from confession-led to evidence-led investigations. They provide surplus information useful for the preparation and conduct of effective interviews and reduce the risk of investigative agencies resorting to the use of torture, ill-treatment, and coercion in order to elicit confessions or other information for the purpose of securing convictions. Tangible evidence, such as, inter alia, audio and video recordings, fingerprints, DNA, and other trace materials, aids investigators in eliminating, or at the very least reducing, their sole and/or systemic reliance on coerced confessions to prosecute an offender.<sup>48</sup> Physical evidence are also crucial in establishing or linking a suspect and/or victim to a crime, disproving an alibi, or exonerating the innocent.

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S.E. Brandon, “The role of rapport in investigative interviewing: a review” *Journal of Investigative Psychology and Offender Profiling*, vol. 10, No. 3 (2013).

<sup>45</sup> L. Brimbal, S.M. Kleinman, S. Oleszkiewicz, & C.A. Meissner, “Developing rapport and trust in the interrogative context: An empirically supported and ethical alternative to customary interrogation practices” in *Interrogation and Torture: Integrating Efficacy with Law and Morality*, S.J. Barela, M. Fallon, G. Gaggioli, J.D. Ohlin, eds. (Oxford, Oxford University Press, 2020); Empathy is a multi-dimensional phenomenon comprising both cognitive processes and emotional (or affective) capacities. It is about having the ability to understand the perspective of the interviewee and to be able to appreciate the emotions and distress of the other. It is a pre-conscious phenomenon and can be consciously instigated or interrupted. See, e.g., G.E. Oxburgh, & J. Ost, “The use and efficacy of empathy in police interviews with suspects of sexual offences” *Special Edition of the Journal of Investigative Psychology and Offender Profiling*, vol. 8, No. 2 (June 2011); B. Baker-Eck, R. Bull, & D. Walsh, “Investigative empathy: a strength scale of empathy based on European police perspectives”, *Psychiatry, Psychology and Law*, vol. 27, No. 3 (2020).

<sup>46</sup> C.J. Dando, & G.E. Oxburgh, “Empathy in the field: towards a taxonomy of empathic communication in information gathering interviews with suspected sex offenders,” *European Journal of Psychology Applied to Legal Context*, vol. 8, No. 1 (January 2016); Alison et al., “Why tough tactics fail” (footnote 26).

<sup>47</sup> G. Nahari, & A. Vrij, “The verifiability approach: advances, challenges and future prospects” in *Handbook of Legal and Investigative Psychology*, R. Bull & I. Blandón-Gitlin, eds. (New York, NY, Routledge, 2019); P.A. Granhag & M. Hartwig, “The strategic use of evidence technique” in Granhag, Vrij & Verschuere, eds., *Deception Detection* (footnote 20); S. Oleszkiewicz, & S.J. Watson, “A meta-analytic review of the timing for disclosing evidence when interviewing suspects”, *Applied Cognitive Psychology*, vol. 35, No. 2 (2020).

<sup>48</sup> A/HRC/RES/31/31, para 10.

## F. INVESTIGATIVE INTERVIEWING STEP-BY-STEP

- 6.1. A growing number of police and other law enforcement agencies use an investigative interviewing framework for investigating all types of crimes. It is equally applicable for investigating white-collar crime, theft, violent crime, or terrorism, to name but a few crimes. Investigative interviewing originates from the PEACE model developed in the United Kingdom in response to a number of documented forced confessions and associated wrongful convictions in the 1980s and 1990s.
- 6.2. Investigative interviewing framework protect and advance human rights in practice. The process enables the interviewees to narrate their accounts without interruption before presenting them with any inconsistencies or contradictions between the accounts and other evidence, while applying the continuing efforts to ensure that the interviewees are treated fairly and equally during the process, with particular attention being paid to assess and address the situations of heightened vulnerability. Knowledge of certain facts can shape the line of questioning but not the stages or process of the interview, nor should it close the interviewer's mind to other possibilities and explanations.
- 6.3. The PEACE model draws from a range of evidence-based techniques for interviews suited for diverse types of interviews, such as, for instance, free recall (FR) and enhanced cognitive interview (ECI) techniques, conversation management (CM), etc.<sup>49</sup> Each technique has a wide range of tactics, such as active listening, use of pauses and silence, distinct types of questions, memory jogs, and seating arrangements, among others. The application of the different techniques depends on the level of the interviewer's training and skill. Each interview may be adapted to accomplish a slightly different purpose, but they all have the same overarching goal of collecting a factual account of the event.
- 6.4. The field of non-coercive interviewing in criminal cases is the subject of cross-disciplinary research projects and the implementation of initiatives across a number of jurisdictions. Literature available globally makes use of terminology and concepts that differ. The model in this manual presents the basic principles and key concepts on which the available literature is largely in agreement. The practical steps explained below represent an evolution of the PEACE model, refined through experience and new research. The framework provides an ethical, effective, and methodical approach for establishing and maintaining professional control over a complex and dynamic process. It is based on the six steps of an investigative interview, broadly framed under the three main phases covering the entire process before the interview commences, during the actual interviewing process, and after the interview ends (see Box 4).
- 6.5. The linear PEACE model, as shown in Box 5, illustrates the linkages between the three main phases of the interview. They include the processes before the interview commences (the planning and preparation phase); the actual interview itself (engage and explain, account, and closure); and all the way through until after the interview is completed (the evaluation phase). An important aspect of the model is that each step of the interview has a substantial impact on the subsequent phase, setting off a chain reaction. Systematic planning and preparation increase the likelihood of effective rapport building, which in turn maximizes the opportunity for obtaining detailed first-hand accounts. When the first phase fails, communication is impaired throughout the interview, reducing the quality of the information obtained.

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<sup>49</sup> In the PEACE model, ECI and FR methods are used for witness and victim interviews, and CM method for suspect interview.

## Six steps of Investigative Interviewing



### STEP 1 – Plan and prepare

- Case-related preparations
- Physical preparations
- Mental preparations



### STEP 2 – Introduce and build rapport

- Audio or video recording (start)
- Engage and explain
- Legal requirements
- Reasons and routines



### STEP 3 – Free account

- Introduction
- Open questions
- Active listening



### STEP 4 – Clarify and disclose

- Thematic structuring
- Questioning
- Strategic disclosure of evidence



### STEP 5 – Close the interview

- Summarize
- Information
- Written account
- The way forward
- Audio or video recording (stop)

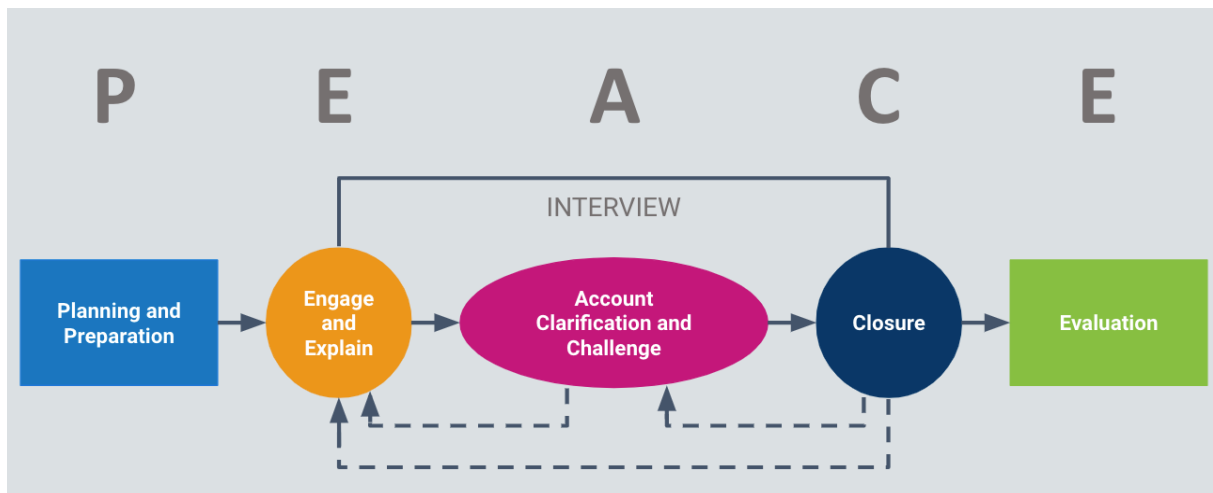


### STEP 6 – Evaluate

- The information
- The investigation
- The interview(er)

Box 4: six steps of Investigative Interviewing





Box 5: PEACE Model<sup>50</sup>

## STEP 1 – PLAN AND PREPARE

**Planning and preparation:** These are two of the most important steps in interviewing. Without proper planning, interviews may fail before they even begin. Planning is the process of getting mentally and strategically ready to interview. Preparation covers what needs to be ready prior to the interview, such as the location of the interview, the environment, as well as technical and administrative matters. This step provides the opportunity for the interviewer to review the investigation, establish what material and information are already available, and decide on the aims and objectives of the interview. Solid preparation saves time and reduces the likelihood of having to re-interview or having to go through the resource-intensive process of prosecuting a case only to have it dismissed by the courts due to a lack of evidence or procedural errors.

**Planning interviews:** The success of the interview and, consequently, the investigation hinge on good planning and preparation. Even where it is essential that an early interview take place, appropriate planning should emphasize on obtaining as much prior evidence and background information as possible on the incident under investigation, including all relevant information on the person to be interviewed. Interviewers must comprehend the purpose of the interview based on an investigation plan that takes into account all relevant and competing hypotheses to be explored, including the possibility that the suspect is innocent. The relevance and reliability of the available evidence and information must be assessed before the interview. Key issues or gaps that need to be addressed before and/or during the interview should be identified, including the additional information required and the best way to obtain it. All available information that may shed light on pre-interview activities, such as suspects' arrest and detention, their treatment, and observance of their rights preceding the interview, should be assessed for any potential impact they might have on the interview.<sup>51</sup> This will help the interviewer approach the interview in the context of the wider investigation and ensure that all opportunities to secure evidential outcomes from the interview are seized.

Individual characteristics of the interviewees should be considered when planning for the interview. For instance, knowing the interviewee's age can help determine the best time to undertake the interview and whether appropriate adult supervision, a support person, or specialist procedures are required. Potentially sensitive issues such as an interviewee's sexual orientation or gender

<sup>50</sup> Specialized methodology that is child-sensitive should be applied by trained personnel to interview children.

<sup>51</sup> Also see, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly in its resolution 70/175; the Code of Conduct for Law Enforcement Officials, adopted by the Assembly in its resolution 34/169; and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the Assembly in its resolution 43/173.

assignment, religious beliefs, and cultural context should be approached tactfully if these matters become relevant to the interview. Cultural background can affect the way a person prefers to be addressed and may also indicate the need for an interpreter. Information on domestic circumstances, physical and mental health, including an existing medical condition, disability, and other vulnerabilities, if any, helps to ensure appropriate facilities and responses. Records of previous contact with the police helps to determine factors such as the interviewee's reaction and the interviewer's safety. Interviewers should exercise heightened self-awareness in order to prevent conscious and unconscious preconceived judgements regarding the interviewee's identity, characteristics, and the background from affecting their questioning and interpretation of the information being provided. Stereotypes and prejudices can contaminate an interview and undermine the rapport-based and open-minded approach necessary to secure accurate information.

When there are reasons to believe that a crime involving SGBV, including Conflict-Related Sexual Violence (CRSV), has occurred, or when reasons to believe that this type of violence has occurred emerge during the course of an interview, a gender-responsive, trauma-informed, victim-centred approach must be ensured. This may entail engaging specialized experts to interview the victim/survivor(s) or making arrangements for such specialized interviews. The International Protocol on the Documentation and Investigation of Sexual Violence in Conflict (March 2017) and the Model Legislative Provisions and Guidance on Investigation and Prosecution of Conflict-Related Sexual Violence (June 2021) provide specific guidelines, techniques, and protective measures.

Children, by reason of their age and ongoing physical and mental development, requires additional measures to ensure adequate protection.<sup>52</sup> Interviewing children is a specialized task that requires specific interviewing process mandated by a different set of international law, standards, and norms applicable only to children.<sup>53</sup> This will entail special arrangements for and the involvement of experts, including referral to experts for specialized interviewing process.

**Case-related preparations:** An interview takes place in the context of an investigation or information-gathering effort. All case-related preparations, therefore, need to be considered in connection with the objectives of the larger operation and the available evidence. They are crucial in maximizing the investigative and evidentiary value of the interview and moving the investigation forward. How can the interview advance the investigation? In an ongoing investigation, a good overview of the information and evidence can be gained by reading the available case files. Next, the objectives of the interview should be identified. What do we know? What do we not know? What are the legal considerations? How do we obtain information that meets established standards of proof in the upcoming interview? What are the legal rights of the interviewee? Keep in mind that the interviewee's status may change during the interview, for instance, from witness to suspect. Interviewees may also refuse to comment or exhibit hostility.

The role of the interviewing officer is to gather accurate and reliable information, ensure that all investigative activity is done in accordance with the law, and ensure interviewees have been informed of and understand their legal rights. Such rights are enshrined in international law (refer Box below).

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<sup>52</sup> CRC/C/GC/24, (18 September 2019), see para 22. available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child>.

<sup>53</sup> CRC/C/GC/24 (2019); UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.; General Assembly resolution 40/33, United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), A/RES/40/33 (29 November 1985), available at: [peacekeepingresourcehub.un.org/en/training/rtp/cp-police](http://peacekeepingresourcehub.un.org/en/training/rtp/cp-police); also see International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, March 2017 (chapter 11 on interviewing)



## Article 14(3) (g) of the International Covenant on Civil and Political Rights (CCPR)

In the determination of any criminal charge against him, everyone shall be entitled (g) not to be compelled to testify against himself or to confess guilt.

Box 6: The rights to remain silent protection against self-incrimination.

**Presumption of innocence:** Inherent to the principle of presumption of innocence is the right to remain silent and to be protected against incriminating oneself. These due process rights and procedural safeguards are integral components of the investigative interview process.

**The right to remain silent:** While investigative interviewing is intended to stimulate communication and information, it is not a tool to persuade suspects to talk. There is no guarantee that a suspect will choose to offer a statement. Interviewers should expect a variety of behaviours from suspects, from compliance to non-cooperation, from being overly friendly to being abusive or even hostile. The silent behaviour and abrupt response can often frustrate or cause the interviewer to deviate from the professional standard. Nevertheless, interviewers have the responsibility to question suspects even when they exercise their right to silence. In doing so, the questions should, however, be relevant without being repetitious to the point where they become oppressive. An officer must continue the interview and offer suspects the opportunity to respond. While suspects may choose to remain silent in response to some questions, there may be others that they wish to answer. Interviewers should stimulate responses by drawing reference to evidence already in their possession. The evidence may tend to indicate the suspect's guilt, invite them to explain the evidence in their own words. An interviewee's silence should, however, have no bearing on an eventual determination of guilt or innocence, nor should it affect their right to the presumption of innocence. States must ensure effective protection against forced self-incrimination in their code of criminal procedure, including the recognition of the right to remain silent.

**Protection against self-incrimination:** It may occur that a person summoned as a witness could provide self-incriminating information about their involvement in an offence. When this appears, interviewers should advise the interviewee about the applicable legal protection against self-incrimination. The principle guarantees the person being questioned by authorities the right to refuse to comment or provide answers in order to avoid compelled self-incrimination or for any other reason. Only if the interviewee knowingly and willingly wants to, should the interview continue. In most jurisdictions, the interviewee would explicitly have to waive their right to legal representation if the interviewee's status changes from witness to suspect. Otherwise, the interviewer will have to stop the interview and ensure that the necessary legal safeguards are in place before conducting a new interview.

**Access to counsel:** The interviewer must ensure that the rights of the interviewee are observed and accommodated. Commonly, the law requires that certain mandatory cautions be given before an interview, and if those are not followed, the evidence obtained may be inadmissible. This may include rights such as the right to information about rights, access to defence counsel, the right to remain silent, access to interpretation, and the right to have legal counsel present (see Box 1). Where access to legal counsel is not readily available, including in conflict and post-conflict settings, the police and law enforcement officials should enable the interviewee to arrange for counsel or provide for such access in due cognizance of their inherent rights.

**Keeping an open mind:** Keeping an open mind is more difficult than it sounds. Actively seeking to sustain open-minded thinking by constructing and testing alternative hypotheses will help counter the human tendency to jump to conclusions. In a criminal case, potential evidence of guilt may very

often have non-incriminating alternative interpretations as well. Hence, the objective of investigative interviewing is to actively identify, pursue, and test these alternative hypotheses. All plausible alternative explanations should be actively explored, and not only when the circumstances force one to do so. Professional investigators will need to develop these alternative hypotheses from the beginning of the investigation and only eliminate them when the evidence compels them to do so. By keeping these in mind and actively testing alternative hypotheses, interviewers are guided through a practical and mental process that helps them remain open-minded and not only look for information that is consistent with or confirms their initial beliefs. This mindset has been described as 'moving from evidence to suspect rather than from suspect to evidence.'



## Cognitive Biases

The phenomenon described above is part of what psychologists refer to as **cognitive biases**. What influences us as interviewers at this stage of the interview is a mixture of at least three such biases:

- a) **The primacy effect:** That the information acquired early in a process is likely to carry more weight than information acquired later.
- b) **Belief persistence:** That a belief or opinion, once it has been formed, is very resistant to change, even in the face of compelling evidence that it is wrong.
- c) **Confirmation bias:** The tendency to seek evidence that confirms your initial hypothesis, ignores contradictory information, and interprets ambiguous information as supportive of your opinion.

### Box 7: Cognitive biases

When interviewers approach an interview with the intention of getting a confession, they are more likely to be influenced by confirmation bias and seek to interpret information confirming their belief of guilt. For instance, upon learning about a significant incident (a car accident, a reported burglary, a shooting, etc.), it is natural to form hypotheses about what may have happened. This is where cognitive bias can influence the interviewer's interpretation of evidence or the analysis of other data (see Box 7 below). At this stage, interviewers may inadvertently begin to presume guilt and start searching for information confirming their initial suspicion. Nevertheless, professional interviewers must always be aware of confirmation biases, particularly forming opinions based on suspicions and presumptions of guilt in the initial stages, and the potential risks of investigators becoming entrenched in, unable to let go of, and inherently biased to interpret ambiguous information in support of their pre-existing beliefs (primacy effect and belief persistence) or premature predictions of guilt. It is not unlikely that a person will ignore or fail to recognize contradictory information, even when it is based on solid evidence. Actively attempting to maintain an open mind by constructing and testing alternative hypotheses will help negate the interviewer's inclination towards the presumption of guilt.

**Identifying interview objectives:** All interviews for criminal investigations are multi-faceted problem-solving tasks. Whether at a crime scene or in an interview setting, an officer is often required to rapidly analyse the situation and transform critical decisions into actions. Investigators must make defensible decisions based on what they already know, what they think they know, and what they do not know. An effective investigative interview that meets both procedural obligations and the legal standard to satisfy the burden of proof in criminal investigations (beyond reasonable doubt for an eventual conviction) requires a way of thinking that is substantially different from everyday problem-solving. Structured thinking and response can be difficult to integrate into personal repertoires because human beings are conditioned to be much less formal and less

evidence-driven in their everyday lives. To become an effective interviewer, skills countering this tendency need to be identified, understood, internalized, and consciously developed to the point where investigators are instinctively inclined to work through the problem-solving process that constitutes a criminal investigation. While it is neither healthy nor possible to remain in a constant state of vigilance – always critically assessing, documenting, and determining the validity of every piece of information – these are crucial skills for a police officer on duty. The complexity of this process has not been sufficiently recognized in much of the available literature and in most traditional police cultures.



#### EXAMPLE: Hypothesis generation

The owner of a small grocery store called the police one Sunday morning and reported that his store had been burgled. He said he found the window in the entrance door broken and the inside of the store was a complete mess. US\$400 which he kept in a small safe deposit box was gone and so was about US\$900 worth of tobacco and alcohol.

Imagine you are the investigating officer in this case. Your investigative hypotheses should direct your investigative actions. What are the main investigative hypotheses in this case? You should also consider the investigative steps necessary to test your main hypotheses.

#### Box 8: Generating investigative hypothesis.

Human fallacies, such as tunnel vision (a compendium of common heuristics and logical fallacies to which all humans are susceptible), lead officers to focus on a suspect, select and filter the evidence that will build a case for detection based on suspicion of a potential crime.<sup>54</sup> Therein runs a constant risk of tunnel vision – getting stuck in the first understanding of a situation and accepting no other versions. Even if this first understanding is correct, investigators must actively assume control of their own thinking in order to meet the standard described above. As a first step, all other (possible) explanations for the evidence at hand must be identified. Do some of these alternatives imply that no crime has been committed? Could the suspect be completely or partly innocent? Effective interviewing, in particular the interviewing of suspects, relies on interviewers keeping an ‘investigative mindset’ throughout the process. When planning an interview, this concept relates to open-minded thinking, where interviewers search actively for evidence or explanations that go beyond their initial understanding of the situation. Structured problem-solving helps interviewers mitigate the potential risk of making non-rational decisions due to cognitive biases. Hence, instead of merely seeking confirmation of the initial suspicion, the interviewer should ensure that the interview objectives also cover all other plausible alternative explanations or “hypotheses” of the evidence in the case. The same process must be applied to all pieces of evidence, both on a macro level (Is this a crime or could it be something else?) and on a micro level (What may this piece of evidence tell me? Is it relevant to the case? Is it accurate enough? Are there other possible interpretations of the same evidence?). The following example illustrates how fundamental the approach of looking for alternative explanations of innocence is in everyday policing.

<sup>54</sup> Terms from more everyday language, such as tunnel vision and self-fulfilling prophecy, refer to similar phenomena. This human fallacy has been known for centuries, and as early as 1620, philosopher Francis Bacon wrote, ‘The first conclusion colours and brings into conformity with itself all that come after.’



## EXAMPLE: Identifying interview objectives

A police officer on patrol observes an unidentified man coming out of a townhouse carrying a large flat-screen TV. The patrol officer happens to know the owner of the townhouse, and this man was not him. This raises suspicion and the patrol officer therefore approach the man in order to check if this can be an ongoing burglary or theft.

### Primary considerations

What are; a) the initial suspicion? b) the evidence? c) the alternative explanations of the evidence, and d) the objectives of the interview?

- The initial suspicion is an ongoing property theft.
- The evidence is the observation of a man, who (as per the patrol officer) do not live in the house, carrying a TV out of the house.
- The alternative explanations to an ongoing property theft are:
  - The man lives in the house and that the TV is his (it is likely that patrol officer mixed up the houses or the man has just moved in).
  - The man does not live in the house, but he is lawfully retrieving the TV (it has been sold, rented, borrowed, given away or he is taking the TV out for repair.)

These are just some examples and there may be other good explanations why the man in this case is carrying a TV.

### Identifying the investigative objectives

The objective of the interview is to check if there is any plausible, verifiable, and lawful reason(s), why the man is carrying the TV out of the house

If the initial suspicion is correct, then these other (alternative) explanations are wrong. By eliminating the alternative explanations, you reduce the chance of the suspect falsely providing these at a later stage during the investigation, or in court.

#### Box 9: Generating investigative hypothesis.

Such an approach, as described in Box 8 and 9 above, could also be said to represent an early and practical operationalization of crucial legal thresholds, such as the presumption of innocence and the burden of proof, since following this procedure will strengthen the viability of claims filed by the prosecution based on the available evidence. In order to achieve this, interviewers should apply an investigative mindset, test all hypotheses in the case, and actively try to avoid cognitive biases. The term 'investigative mindset' simply means that interviewers as professionals are aware of the complexity involved, the risk of tunnel vision, and what it takes to deal with it. An investigative mindset is a state of mind or attitude that interviewers must develop through training and practice over time to apply a set of principles based on normative international laws and a standard approach that can be rationalized and methodically explained across all elements of investigative processes consistently, and credibly. Applying these ethical techniques can reduce the likelihood of interviewers making premature decisions and developing personal biases, often cited as a common cause of miscarriages of justice.

When interviewers are planning a suspect interview, they must first identify all the available and relevant evidence in the case. Next, they should reflect on whether the same evidence could have other plausible explanations than the ones implying guilt. Finally, the interviewers must plan how the suspect interview can help fill the information gaps in the case. This initial planning and preparation should always take place within an overarching interview strategy so that the interview is considered in the context of the overall investigation or information-gathering operation.



## EXAMPLE: Strategizing interview

In the context of the above case scenario (Box 9), the objectives will be to find the answers to the following questions:

- a) Who is the man with the TV?
- b) What was he doing (with the TV) at the time of the observation?
- c) Was he at the time of the observation living in the house?
- d) If not, did he at the time of the observation have any lawful connection to the owner of the house?

### **Strategizing the interview**

Question that is strategically planned focuses the interview on the key matters under consideration. This technique also allows the interviewer to determine whether the information provided aligns with the previously acquired information and available materials.

Box 10: Strategizing interview.

**Certainty of guilt:** There will be occasions when an individual is interviewed by the police under such circumstances that existing evidence and information overwhelmingly point to a strong likelihood of their guilt of having committed or being involved in certain criminal offenses. This awareness, however, must neither undermine nor require a dramatic change in the interviewer's approach. Investigative interviewing still requires an open mind. The knowledge of certain facts will shape the line of questioning but not the stages or process of the interview, nor should it close the interviewer's mind to other possibilities and explanations. Furthermore, the interviewer should continue to build and maintain rapport throughout the interview, and, most importantly, must continue to treat the suspect with respect and dignity. Police officers are duty-bound to question all suspects with a presumption of their innocence. Only a judicial decision can determine otherwise.

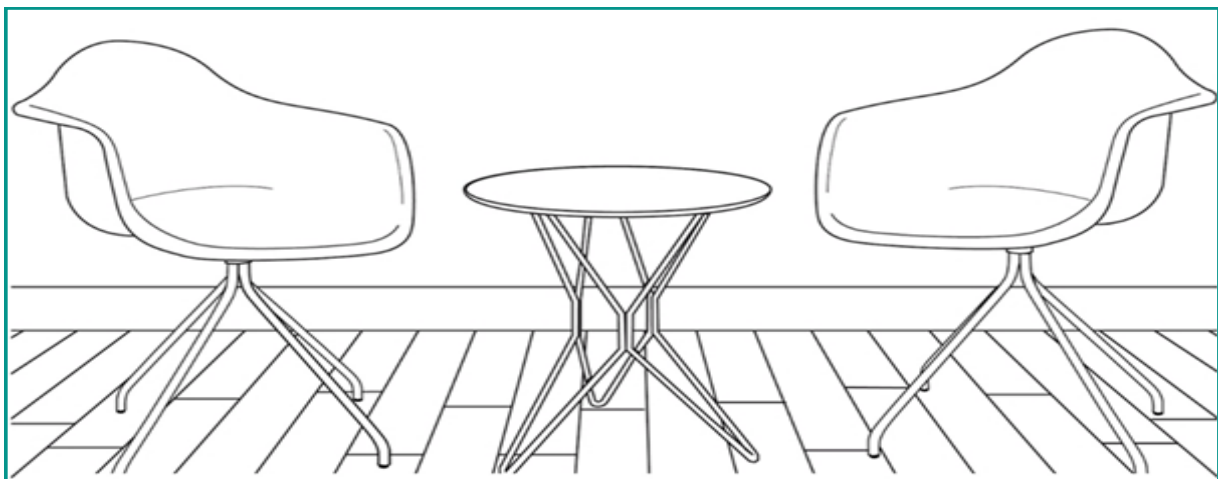
**Physical preparations:** Physical preparations are necessary to achieve the best possible outcome of the interview. The interviewer will need to take into account several practical considerations, such as where and when the interview should take place. The availability of resources may also differ according to the context in which the interview takes place. Ideally, each interview should take place on premises designed or adapted to their situation. The manual offers an approach that is adaptable to local circumstances and must be flexible and prepared for interviews taking place outdoors or in state-of-the-art interview rooms. At its most basic, investigative interviewing is about how to ask questions, which types of questions to ask, and in what order. In terms of facilities and equipment, it requires an appropriate seating arrangement in an enabling environment and a basic recording device. The most crucial factors are the police officer's knowledge, mindset, and communication skills. Even so, reasonable steps must be taken to ensure that the location and environment in which the interview takes place do not themselves create distress for the interviewee. It should present minimal disturbance or distraction and exude the highest level of confidentiality and security for both the interviewee and the interviewer. Where possible, it is good practice to ask the interviewees, particularly the victims and witnesses, to suggest a location where they feel safe, comfortable, and culturally appropriate holding the interview (the interviewer has to make a separate assessment of the security and privacy of the location before agreeing on the venue).

As part of the physical preparations, the interviewer is responsible for documenting, either by recording or writing, the information gathered during the interview. The interviewer needs to ensure that recording equipment is available and functioning. Pen and paper should be at hand, both for

the interviewer and the interviewee. The interviewer should try to ensure conditions that are optimal for communication, where it is possible to concentrate, and where the interview will not be disturbed. The interviewer will also have to consider whether a defence lawyer, interpreter, or legal guardian should be present. In the case of suspect interviews, it may also be necessary to review and prepare physical evidence. The interviewer may have to visit the crime scene, talk to a crime scene investigator, or even search relevant premises. The interviewer may also need someone to assist him or her during the interview, for instance, to take notes, serve refreshments, or arrange for restroom visits.

The duration of interviews should not be extensive. In the event of a lengthy interview, food, drinks, restrooms, and/or a reasonable pause must be provided, including at the interviewee's request. It is recommended that all interviews, no matter their length or importance, at the very least be audio recorded. For this to run smoothly, some preparation is required, including the most important consideration that the interviewees are informed that they are being recorded. Ensure that the recording equipment functions (necessary power supply and sufficient data storage) and that there is a good recording environment (avoid disturbing background noise). Are the seating arrangements comfortable? Are pens and paper present so that the interviewee can draw and explain? How many of these details the interviewer will be able to accommodate varies depending on the timing, resources, and nature of the case. No interview will be better than its preparations. By ensuring the need for physical preparations, the interviewer also demonstrates respect for the person about to be interviewed.

**Seating arrangements:** Box 11 below illustrates a good interview seating arrangement because it does not require much space and allows for easy adjustments in terms of distances and angles. The small table may hold drinks, pens or paper, and an audio recorder. The ideal distance between the chairs/person to stimulate an effective conversation will vary depending on the culture and context, but research indicates that for personal conversations, it should be between 0.5 and 1.5 meters. The interviewer should avoid sitting directly opposite the interviewee, as this will unavoidably compel continuous eye contact, which is not only uncomfortable but might hinder concentration, mental focus (including the ability to recall information), and flexibility for both the interviewee and the interviewer.



Box 11: Seating arrangements (credit: Thailand Institute of Justice).

**Practical preparations in the field:** Interviews must be flexible to adapt to the unique needs and dynamics of each interview. Police officers in the field may experience obstacles to implement safeguards in a satisfactory way. Interview facilities, custody cells, or even toilets may be non-existent. Professional interpreters and medical examiners may also be unavailable. The key is to find a time and location where the interviewee will feel both conducive and safe, and where the interview will not be interrupted. Interviews must be focused on clear objectives. It is important that the interview plan outline the objectives, specific questions to be asked, and routines that meet



the requirements for the interview, including safeguards, legal representation, interpretation, and recordings. In the absence of installed recording devices at an interview facility, digital recording devices can be used, as they are both portable and affordable. Appropriate seating and a basic level of comfort can be improvised. Creative solutions may be found when interviews have to proceed in remote locations or under otherwise challenging circumstances. Interviewers can explore resource-effective solutions to ensure that people deprived of their liberty who lack counsel of choice have access to alternative legal assistance services during the first hours of custody by, for example:

- a) Engaging other stakeholders, such as non-governmental, community-based, or charitable organisations; professional bodies and associations; and academia, in assisting detainees during the initial phases of custody;
- b) Accommodating the employment or facilitating the role of paralegals, custody welfare officers, or legal aid clinics;
- c) Allowing trusted third persons or parties to accompany the detainee during the initial phases of custody; and
- d) Recording the entire interview to provide a complete and authentic record of the interview.

**Mental preparations of the interviewer:** Mental preparations entail getting psychologically ready to conduct an interview. A good interviewer should never rush into an interview without at least a quick mental preparation on how to meet and greet the interviewee, how to handle the situation professionally, and how to best execute the interview plan. They must remain flexible, as unexpected situations may arise during the interview. Interviewers will sometimes have to rethink their initial plan and act quickly when they receive new and unexpected information. It is difficult to respond professionally in such scenarios without proper planning. Interviewers should anticipate and plan their responses to different scenarios; for instance, interviewees may deny responsibility, make admissions, refuse to cooperate, or choose to remain silent. Interviewers should be prepared to handle the behaviour of the suspect, witness, or victim in a professional manner, even when the subject gets frustrated or challenges them. Interviewers should focus on maintaining rapport and promote an environment conducive to achieving their aims of obtaining relevant, accurate, and reliable information. They should be aware of their own emotions and feelings and how they contain and control these in a way that does not impede the progress of the interview. An interviewer's ability to effectively communicate with interviewees and obtain reliable information is dependent on being fully prepared.



## CHECKLIST: STEP 1 – Plan and prepare

**The following questions and considerations can function as a quick checklist and form the basis of an interview plan:**

- a) Who needs to be interviewed and in what order?
- b) What are the formal requirements for this interview?
- c) What are the interview objectives and how will these contribute to the investigation as a whole?
- d) How does the interview relate to known or unknown information in the case (i.e., what other investigative actions should be prioritized)?
- e) What is known about the interviewee?
- f) Why is information from this particular person important?
- g) Which security measures and safeguards apply?
- h) Is there urgent additional information that needs to be obtained?
- i) Is the interviewee physically and psychologically fit to be interviewed?
- j) Are the practical preparations for the interview in order (including the venue, logistics, functioning equipment, exhibits, potential physical evidence, seating, lawyer, and interpreter)?
- k) Am I mentally prepared and motivated for this interview?

**For interviews with suspects:**

- a) What evidence in the case suggests guilt?
- b) Should the interview with the suspect take place immediately or be left until more information about the offence has been obtained?
- c) How can the evidence be corroborated or refuted by the suspect's statement? (Test all the links between the suspect and the crime scene. For example: Does the suspect have an alibi?).
- d) Is all the available evidence identified? Are all potential explanations for the evidence identified, considered, and developed into interview objectives?
- e) Are there other suspects?
- f) Has the suspect been interviewed / spoken to before relating to this offence?

Box 12: Checklist for planning and preparation.

**Contextual embedding:** All crimes emanate from a social context, and understanding the specific situation is essential for an effective investigation. Interviewers who are unfamiliar with the context must make a significant effort to be informed regarding the relevant cultural and societal issues prior to contacting the possible victim, witness, or suspect. In addition, they may need to engage local actors in a genuine and respectful manner. The significance of this knowledge and its inculcation cannot be overstated, more so in establishing rapport and understanding the context of the available information. The interviewer's behaviour should reflect the local culture and be guided by emotional intelligence with respect to both victims and perpetrators.<sup>55</sup>

**Assessing and addressing the situation of vulnerabilities:** An interviewee may have additional needs requiring special attention considering their age, sex, gender identity, disabilities, inabilities,

<sup>55</sup> Agirre, X. & Bergsmo, M., "Investigative Bottlenecks and the Mindset of Quality Control", Publication Series No. 38 (2020), Torkel Opsahl Academic EPublisher, Brussels, 2020 see <http://www.toaep.org/ps-pdf/38-qcci>; "Towards a Culture of Quality Control in Criminal Investigations", FICHL Policy Brief Series No. 94 (2019), Torkel Opsahl Academic EPublisher, Brussels, 2019 see <http://www.toaep.org/pbs-pdf/94-bergsmo/>

ethnicity, language, culture, education, and other factors that may put them in a position of vulnerability. Interviewers may have to engage specialist interviewers or counsellors, identify an appropriate place for the interview, initiate medical fitness screening, and engage other aides as the case may merit, considering their rights and vulnerability factors.

**Informal talks:** Avoiding informal conversations between the interviewer and prospective interviewee outside the official interview settings reduces the risk of circumventing investigative interviews and the applicable legal and procedural safeguards. Therefore, only need-to-know information within the confines of administering the initial police procedures, such as personal information or biographical data, may be solicited.

Treating an individual with respect and dignity, asking open-ended questions, communicating empathy, and providing basic human comforts, such as comfortable seating arrangements, shade, no harsh lighting, and refreshments, achieves a sense of well-being, which contributes to a fruitful professional meeting with the interviewee. Respect for and fulfilment of human rights from the first moment of contact with the interviewee is essential for creating a non-coercive environment. The early phase of contact with the potential interviewee will often determine the success of the interview as a whole. Unlawful and unprofessional behaviour and a lack of accountability at the initial stages of contact can taint the overall judicial process irreversibly.

## **STEP 2 – INTRODUCE AND BUILD RAPPORT**

Establishing good rapport with an interviewee is key to ensuring a productive interview. Rapport is the ability to relate to others in a way that invites mutual respect and understanding. This will help to enable effective communication. An important element in rapport building is to show empathy; that you actively seek to understand the other person and what the interviewee is thinking and feeling. To provide the interviewee with a genuine sense of autonomy in the interviewing situation is also important, and so is honesty. You should, certainly, not lie, or make promises that you cannot keep. The first step to encourage a conversation is to engage the interviewee by introducing oneself and greeting the interviewee in an appropriate manner, i.e., to personalize the interview. The aim is to form a professional and constructive relationship between the interviewing officer and the person being interviewed and address any tension and insecurity felt by the interviewee. Establishing trust and maintaining a purpose-driven conversation characterized by respect, empathy, a non-judgmental mindset, non-aggressive posture, attentiveness to details, and patience are key to creating a positive first impression. Articulating the interview process and setting the ground rules may be useful in creating a common ground and building rapport to negate the inherent power imbalance (see Box 13).



## CHECKLIST: STEP 2 – Introduce and build rapport

- l) Create an empathetic and respectful relationship from the outset.
- m) Ensure that the interviewee understands the purpose of the interview, the legal requirements, and their legal rights.
- n) Advise the interviewee, where applicable that the interview will be audio/video recorded.
- o) Explain the backgrounds and reasons for the interview, the legal requirements, and the procedures to be followed.
- p) Do not forget to explain:
  - that what the interviewee has to say is important, so they need to report everything they can and try their best not to leave anything out, even if they believe it has no relevance to the matter being investigated;
  - that they need to concentrate because striving to retrieve memories can be a challenging; and
  - that they should feel free to ask for clarity if they do not understand the question.
- q) Provide an overview the interview, which means giving a basic explanation of the grounds the interview will cover.
- r) Ensure the interviewee understands how the information from the interview will be used and with whom it will be shared. Obtain and document the informed consent.

### ***Important additional step for suspect interviews***

- s) At the earliest opportunity, explain their legal rights as a suspect.
- t) Inform the suspect about their right to information about the alleged offence to enable them to understand the nature of the suspected offence and why they are a suspect.

Box 13: Checklist for establishing rapport.

Rapport must not be regarded as something that is confined to the first phase of an interview. It begins when the interviewer first meets the interviewee and continues throughout the interview. The purpose is to maintain a cooperative and relaxed relationship with the interviewee – one that stimulates memory and communication – throughout the interview. One way to achieve this is to start by asking some neutral questions (not related to the event). This also allows the interviewing officer to assess the interviewee's ability to communicate and adapt the interview by modifying the language or engaging interpreters or other expertise, where necessary.

**Start audio or video recording:** Many jurisdictions have found it effective to audio and/or video record interviews. Human memory is limited and error-prone, while recordings preserve the evidence in its original form. Recording - audio or video - must be done in their entirety (not limited to confessions or other incriminating statements) and must cover crucial elements; see Box 14 below. Video recorders should capture the entire interview room, including all people present. Where circumstances preclude or when the interviewee objects to electronic recording, the reasons should be stated in writing, and a comprehensive written record must be kept. Even so, efforts must be made to at least record audio, and preferably video, of suspect interviews.<sup>56</sup> Recordings provide a safeguard against abuse and misconduct, protect the interviewer from false accusations, and can be beneficial for training and evaluation purposes. It cannot, however, be

<sup>56</sup> A/HRC/4/33/Add.3; and A/68/295

used as an alternative to the presence of counsel.<sup>57</sup> Police services, where audio or video recording of interviews has become standard practice, report a significant decrease in disputes between lawyers and the police.



#### CHECKLIST: Audio and video recording

- a) The place, date, time, and duration of interview;
- b) Intervals between sessions;
- c) Identity of the interviewers and any other person present;
- d) Any changes in individuals present during questioning;
- e) Confirmation that the interviewees are informed of their rights and availed of the opportunity to exercise their rights;
- f) Confirmation of any voluntary waiver;
- g) Substance and content of interview, in addition to any other information, provided by the interviewer or interviewers or the suspect (Luanda Guidelines, guideline 9(e))
- h) Including the time and reasons for any interruption and time of resumption of the interview.

Box 14: Checklist for audio and video recording.

Today's technological advances provide accessible and user-friendly mobile technologies, so recording is possible in many settings. In order for the interview recording to be effective, the interviewer must follow the right steps (see checklist above: Box 14), including the use of appropriate equipment and making the interviewees aware of the audio and audio-visual recording, their rights, and the confirmation of their consent to do so. At its most basic, an interview must take place in an environment that respects privacy and provides enabling and protective conditions. Interviewers must take adequate measures to ensure that the recording device and/or the recording process themselves do not cause distraction or represent a coercive element for the interviewee. In some jurisdictions, recording on personal mobile devices may not be admissible in court. It may also be a customary practice for the court to withhold such personal devices as exhibits for extended period during the trial. A common-sense approach to and the use of appropriate recording devices or, where available, designated interview rooms for recording an interview have many advantages (see Box 15 below).

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<sup>57</sup> CAT/C/AUT/CO/3; A/HRC/25/60/Add.1



## Advantages of audio and video recording

- a) Recording allows the interviewer to focus on the interview rather than on typing all the information manually or taking notes (reduces cognitive load);
- b) Recording enables the interviewer to actively listen and improves communication with the interviewee. Consequently, the interviewee can provide their account without constant interruptions;
- c) Recordings preserve the oral evidence in its original form;
- d) Recordings produce a full and valid representation of the information provided and how the interview was conducted (they secure evidence and minimise miscarriage of justice);
- e) Recordings can protect interviewers against false accusations of abuse, coercion, or manipulation or of failing to follow procedural rules as well as make it difficult for the interviewee to recant or deny their testimony;
- f) Recordings can help in organizing and thereby analysing the information provided (there are software solutions for this);
- g) Recordings are great tools for evaluation of and feedback on interviews, and for training and research, leading to a more professional police service.

Box 15: Benefits of audio and video recording.

Recordings must be stored and handled safely to ensure transparency and confidentiality. Any deviation from departmental or agency policies on recording must be documented with specific reasons and justifications.

**Engage and explain:** Engaging an interviewee at the commencement of the interview is no different from meeting and greeting someone for the first time. Given that this is most likely the first contact with the interviewee, the interviewer should introduce themselves, explain their role in the investigation, and clearly state the purpose of the interview, followed by the relevant formal procedures and rights.



## EXAMPLE: Engage and Explain

The interview would usually start with the interviewer introducing him or herself:

- a) My name is/you may call me ...
- b) How would you like to be addressed?
- c) How is the day going?... (The intent is to strike a natural conversation and help the interviewee give a narrative answer in a free and relaxed manner)
- d) I am ... (i.e., position within the police and role in the investigation)
- e) As soon as possible, interviewees should be informed about why they have been brought in for an interview, and about their rights:
- f) The reason we have summoned you for this interview is (clear and purpose-driven)
- g) According to the law, you have the right to ... (informing the rights)
- h) Explaining typically also includes 'meta-information' about how the interviewer plans to conduct the interview, for example:
  - i) I will start by asking you some questions about ...
  - j) I want you to provide me with a full, detailed, and accurate account; therefore, I will try not to interrupt.

- k) We have at least one hour at our disposal.
- l) Do you have any questions before we start?

Box 16: Engage and Explain.

**Legal requirements:** Before an interview can start, the interviewee must be informed of what the investigation is about, i.e., what the purpose of the interview is and what their legal rights are; see illustration provided in Box 16. The interviewee is entitled to a wide array of rights, referred to as due process and fair trial rights (see Box 1).<sup>58</sup> The interviewing officer should be aware of the legal requirements applicable in any given interviewing situation and ensure that the interviewee is informed of and understands their rights. To demonstrate empathy and respect for the rights, the interviewer should ask the interviewee if they have understood the situation as well as their inherent rights and ask them to repeat their rights back.

Interviewing officers should be aware that being interviewed can make people nervous, and a conversation that calms the interviewee may be needed. Interviewers should engage the interviewee in a calm and respectful manner. The goal is to create a conversation that demonstrates mutual respect and stimulates memory and communication; this should be sustained throughout the interview. However, the interviewer should not work towards a pretended 'friendship' with the interviewee. The interviewer should not seek to manipulate the interviewee, for instance, by withholding information about rights, presenting false evidence, or making false promises of leniency in exchange for a confession. Such illegal practices may lead to false testimony and a breakdown in cooperation and, in addition, may risk undermining the rule of law and public trust in the police.

When the interviewer has made sure the rights are articulated and understood and that the interviewee has clearly given their consent, they should move on and explain what will happen during the interview (see example provided in Box 16 above). The officer should inform the interviewee that the police wish to establish certain facts and that the interview is an opportunity to explain their involvement or non-involvement in the incident under investigation. Explaining the process and engaging the interviewee, as illustrated above, helps to build rapport and enable the interviewer to create a shared understanding of the proceedings while safeguarding the credibility of the process. It also presents the interviewer with an opportunity to ensure that the victim, or witness, or suspect is fit (mentally and physically) to be interviewed and confirm that they have understood their respective legal rights. While rights apply specifically to suspects, the purpose of the interview – to meticulously collect relevant, accurate, and reliable information – is similar for all interviews.

Following this up (see Box 16) by asking the interviewee about his or her immediate concerns or something they are struggling with is an effective way to communicate empathy and advance the mutual trust and respect. This will facilitate and encourage the interviewee to give a narrative account, which may help them relax. Listen actively and sum up their concerns in brief to make him or her feel understood and valued. It is critical to observe the intonations and non-aggressive posture. It is important for the interviewer to remain calm, poised, and enabling. Appropriate non-verbal behaviour is just as important for a successful interview as verbal instructions during the interview.

**Vulnerabilities:** All persons being interviewed find themselves in a situation of heightened vulnerability due to the inherent unequal balance of power characterising such interactions with authorities. This may give rise to nervousness, mild anxiety, or extreme fear in the interviewees and impair their physical, cognitive, and emotional responses. Some interviewees will experience a situation of heightened vulnerability when the interview intersects with certain other specific risk

<sup>58</sup> UN Human Rights Committee (HRC), General Comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial, 23 August 2007, ICCPR/C/GC/32, available at: <https://www.refworld.org/docid/478b2b2f2.html> [accessed 28 November 2022]

factors. In such circumstances, the interviewee will have additional needs and rights requiring attention from authorities.<sup>59</sup> Such risks and situational factors that may heighten vulnerability are outlined in Box 17.

A state of heightened stress may hinder the interviewee's ability to take informed decisions and understand the possible implications of their answers. In controlling the situation, the interviewer has a particular responsibility to assess whether the interviewee is in a position of vulnerability or not. When interviewing a suspect, the right to silence, the right to legal counsel, and other rights should always be explained in an understandable and candid way, including through interpreters where necessary. Professional interviewers welcome the presence of defence lawyers as a legal resource, an eyewitness to the fairness of the interview, and a safeguard against misunderstandings.

Assessing whether an interviewee may have special needs is an important initial part of the interviewing process and requires the interviewer's preliminary assessment. It may require a flexible and tailored response, such as summoning another interviewer of a different gender or with special training or consulting with other experts, depending on the situation. When assessing an interviewee's specific needs, the questions or discussions should be outside the premise of the official interview, such as personal information or biographical data that are necessary for the purposes of determining their special needs. This helps to avoid the risk of altering or contaminating the interviewee's memory before formal questioning commences.

Research shows that most interviewees in criminal cases are vulnerable. It has been documented that a majority of interviewees suffer from trauma, mental health issues, intellectual disabilities, substance abuse issues, and very often a combination of vulnerabilities.<sup>60</sup> Accordingly, there is an acute risk of unreliable statements and false confessions. Interviewers should be aware of these vulnerabilities and how they impair the subject's ability to communicate or recall memory. Interviewing officers must ensure that the interviewee is physically and psychologically fit to be interviewed.

There can be multiple sources of vulnerability, depending on the context (see Box 17 below). Psychological trauma and distress may have a significant impact on a person's memory and recollection of events. Investigative interviewing is a means to keep interviewers' biases – and prejudices – in check. The interviewing officer's role is to gather facts about a case and not to let his/her personal opinions, beliefs, or attitudes cloud his/her judgement or treatment of the interviewee. Interviewers should always avoid discriminatory behaviour. Respecting an interviewee's human dignity and rights by remaining impartial and empathetic is a hallmark of professionalism and a pathway to positive outcome. Children as well as people with mental disabilities are over-represented in documented cases of false confessions and wrongful convictions.

Children always present heightened vulnerability during interviews due to their age and ongoing physical and mental development. Interviewing children is a specialised task that requires special interview process mandated by a different set of international law, standards, and norms applicable only to children. For instance, where a child is a suspect, they must never be subjected to questioning or requested to make any statements or sign any documents related to the offence of

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<sup>59</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), A/RES/34/180 of 18 December 1979; International Convention on the Elimination of All Forms of Racial Discrimination (CERD), General Assembly resolution 2106 (XX) of 21 December 1965; Convention on the Rights of Persons with Disabilities (CPRD), A/RES/61/106, 24 January 2007; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, A/RES/45/158, 18 December 1990; see also United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295, 2 October 2007; the Bangkok Rules, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), A/RES/40/33, 29 November 1985; Havana Rules; International Commission of Jurists (ICJ), Yogyakarta Principles – Principles on the application of international human rights law in relation to sexual orientation and gender identity, March 2007.

<sup>60</sup> Geijsen, K. (2018) Persons at risk during interrogations in police custody: Different perspectives on vulnerable suspects. Ipskamp Printing BV. <https://doi.org/10.26481/dis.20181101kg>



which they are suspected without the presence and assistance of a lawyer and, ideally, of an adult trusted by the child acting as an intermediary. Children cannot waive their right to a lawyer. Police officers must be aware that Interviewers with specialized training are therefore better suited to interview children. Like other interviewees with psycho-social or intellectual disabilities, children are also easily swayed by suggestions and acutely vulnerable to interrogative pressure and manipulation. They are more likely to respond affirmatively without thinking and say what they believe the interviewer wants to hear in order to get a positive response and avoid disapproval or ill-treatment.

Inherent institutional prejudice, discrimination, or a lack of training, awareness, or infrastructure can also make the interviewee more vulnerable. These factors can affect institutional structures, policies, and the interviewer's decisions.

### **STEP 3 – FIRST FREE ACCOUNT**

**Introduction:** Having initiated rapport building and explained the ground rules for the interview, the interviewer should now allow the interviewee to present their uninterrupted (free) account of the case or event under investigation. It is essential that the interviewee be provided with the opportunity to present their account before more detailed questions are asked. During this step, the interviewer should explain what they would like the first free account to cover. For suspect interviews, this will normally begin with giving the suspect the opportunity to establish their position, knowledge of, or involvement in the case. For victims and witnesses, the first free account may begin with a short statement about their initial involvement, first knowledge of, or non-involvement in the case. This invitation should provide time as well as place and encourage the interviewee to 'tell everything and include all details' followed by active listening to obtain the person's uninterrupted account. The key is to encourage the reporting of every detail, regardless of how peripheral it may seem to the main incident.

The approach outlined above makes use of encouragement and invitations to obtain an account. If the interviewer follows these steps, the chances of obtaining a detailed and accurate account from the victim, witness, or suspect of a crime increase significantly. Using this approach helps in establishing rapport and effectively prevents the interviewer from contaminating the account being given with his or her own personal beliefs, hypothesis, or gut feelings because cognitive bias tends to move human beings to try to align their own perceptions with those they hear from others.

**Active listening:** Listening is not a passive activity. It is a vital skill that enables the interviewer to actively process the information that is being provided by the interviewee. It entails noting gaps and inconsistencies in the interviewee's account and identifying the topics raised by the interviewee as they arise. Non-verbal communication can be applied to communicate to the interviewee that you are listening actively to their account, and prompts may be necessary, for example, nodding while saying, 'Carry on,' 'I understand,' 'You were saying...?' and so on.

While listening to their account, the interviewer should take care not to inadvertently lead an interviewee by using verbal or visual cues or feedback, including sounds and gestures that could be interpreted as agreeing or disagreeing with what the interviewee is saying. For example, saying 'Right' might appear to indicate approval, and 'Really?' might suggest doubt. Although it is likely that the interviewer will be taking notes during the interview, they should be careful not to let this get in the way of active listening. The use of electronic recording reduces the need to take detailed notes. As an interviewer, you should advise the interviewee that you will be taking notes and explain the reason for this. Doing so will help prevent distractions.

Sometimes during interviews, communication stops, and silence ensues. For the interviewer, these moments of silence may seem longer than they really are, and interviewers may experience the silence as awkward. A common impulse is to ask more questions, but this is usually not the correct

approach. Interviewees may be hesitant for several reasons. They may be thinking and trying to recall details that may be important for the investigation. They may struggle emotionally prior to revealing unpleasant, embarrassing, or perhaps incriminating information and may need time to compose themselves and find the right words. In such situations, silence represents something positive and should not be broken by the interviewer. Allow the interviewee to think, reflect, and concentrate.

Active listening and the use of silence are vital tools to encourage the interviewee to expand on what has been said and to add extra detail or a further account of the events. The interviewer should listen actively to what the interviewee tells them and demonstrate to the interviewee that they are listening by nodding their head or commenting, 'I see' or 'I understand.' The interviewer should make regular eye contact but avoid staring when the interviewee is thinking and retrieving details from their memory, as this can be disruptive and intimidating. If there are doubts about the account's truthfulness or accuracy, do not interrupt. The interviewee should be permitted to state their version of events.

Interviewers should not draw negative inferences from incomplete and inaccurate accounts, even when they appear to be untruthful. Suspects may withhold information or lie for reasons other than guilt when being interviewed. Similarly, victims and witnesses may withhold information for reasons not related to the case. The objective of the interview is not to judge, normalize, or conclude, but to establish and maintain dialogue in order to gather information about the matter under investigation. Details from the statement will provide information that can be checked later and that may strengthen or weaken the hypothesis. The interviewer needs to investigate and, as such, reduce doubts about matters under investigation.

Discrepancies between the interviewee's story and other evidence in the case will have to be identified and thoroughly explored. If the discrepancy remains after the conflicting evidence has been presented, it is not up to the interviewer to solve this discrepancy or give the suspect advice on how to proceed. The investigator's job is merely to identify the discrepancy, pursue it, and document it for the remaining investigation. The prosecution and defence present the evidence in court about how it unfolded.

Active listening assists the interviewer in establishing rapport and helps to elicit a full and accurate account. On the contrary, it is well documented that interviewers who ask closed or leading questions run the risk of contaminating the interviewee's account. Contamination refers to the distortion of genuine memories as well as the unintentional leaking of details about the crime, both of which reduce the evidentiary value of subsequent statements.



### CHECKLIST: Step 3 – Free account

- a) Create an open-minded, empathetic, and respectful relationship from the outset.
- b) Allow the interviewee the opportunity to establish their initial position, knowledge of or involvement in the case.
- c) Introduce and explain the form and purpose of the free and uninterrupted account.
- d) Hand over the initiative ('give the floor') to the victim, witness, or suspect (as applicable).
- e) Employ active listening while the interviewee presents their free and uninterrupted account.
- f) Identify topics for further probing.

- g) Organize and break down the received and relevant information into topics for further clarification in the next phase.

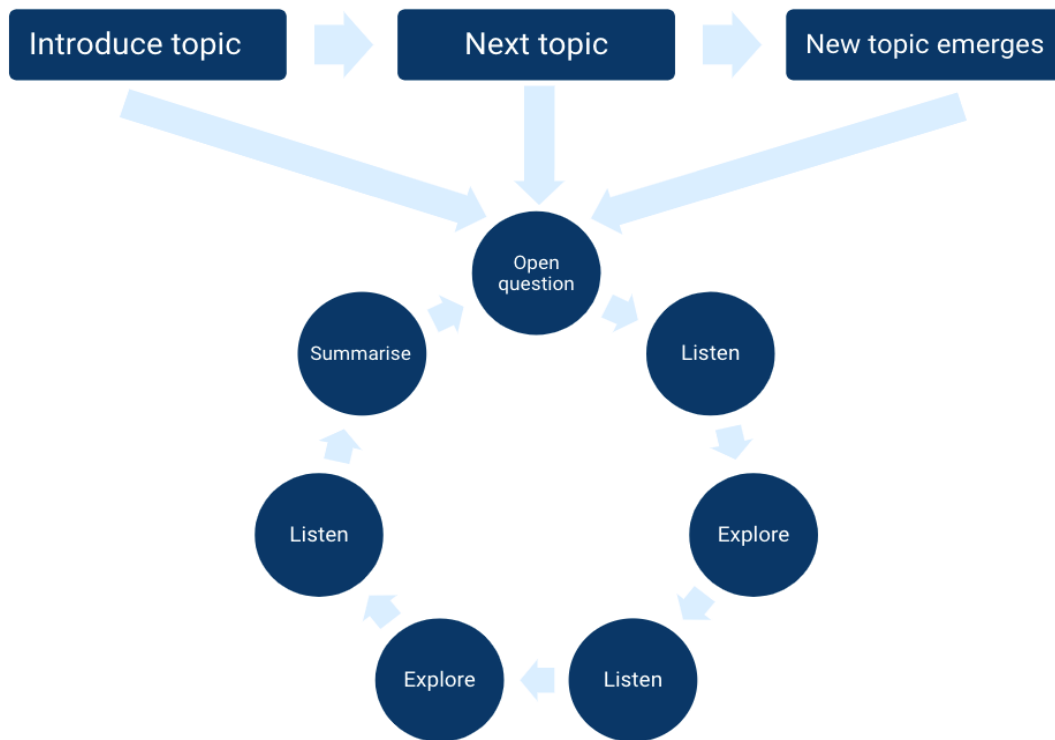
Box 18: Step 3 – Free account.

## STEP 4 – CLARIFY AND DISCLOSURE

Having actively listened to the first free account, the interviewer should now expand on and clarify all the relevant matters in the case, one at a time. A topic can be defined as a section of a full story broken down into defined, specific parts that directly or indirectly might be relevant to the investigation.

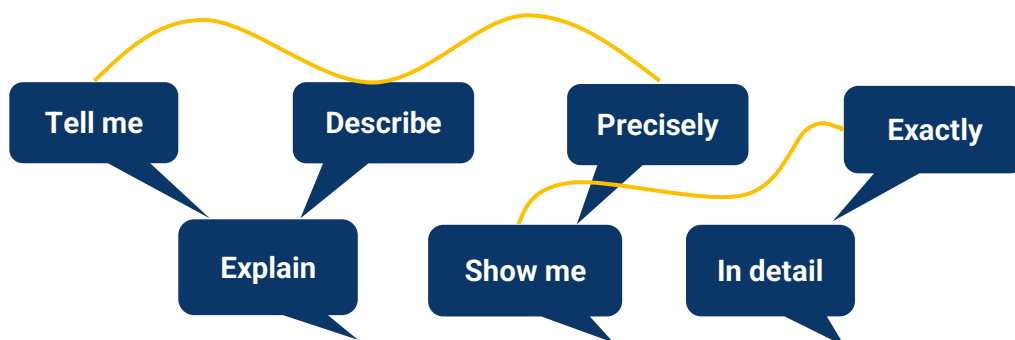
The process of gathering information through interviews and the use of free accounts and open-ended questions is metaphorically comparable to bringing water from different interconnected sources in the mountains down to a well. Try to consider investigative topics as tiny ponds that have to be emptied in order to discover if they do or do not hold information of relevance to the investigation. Asking closed questions that lead to short answers is like going up to the mountains and returning with one bucket of water at a time. Instead, by using open-ended questions, one can connect a hose between the water source (the interviewee's memory) and 'the well' (your digital recorder or casefile) and ensure a continuous flow of water. This flow of water is like the information flowing from a free and uninterrupted account. The interviewer's task is to ensure that the information keeps flowing. When it starts to flow, employ active listening to ensure a continuous flow until the topic is exhausted.

**Questioning:** In Step 1 of the model (plan and prepare), all case-related information should be organized into relevant topics and objectives in an interview plan. Likewise, new information that arises during the first free account should be developed into relevant topics that can be expanded and clarified, one at a time, using only open-ended questions to begin with. A topic can be broad or narrow, such as 'your marriage,' 'yesterday's restaurant visit,' or 'use of your mobile phone.' Dividing the clarification phase into topics will structure the interview, help create an overview, and keep the interview 'on track.' As stated above, all interviewers run the risk of contaminating an interviewee's memory, and there is no perfect way of avoiding this, but the use of open-ended questions at the beginning of each new topic is advised because these are known to reduce the risk of contamination. An open-ended question is sometimes defined as a question that cannot be answered with a more or less static 'yes' or 'no' response, but open-ended questions are in fact not questions at all. Instead, they are similar to instructions or invitations that should frame and open up new and focused memory recall on a specific topic. Using this approach helps build rapport and prevents the interviewer from contaminating the account being given.



Box 19: Illustration: clarify and disclose.

The mnemonic **TED'S PIE** ('**T**ell,' '**E**xplain,' '**D**escribe,' and '**S**how me,' combined with '**P**recisely,' '**I**n detail,' and '**E**xactly') is often used to illustrate how relevant instructions might be phrased. For example (see Box 15 below): 'Please **tell me precisely** what you saw when you stepped into the room,' or 'Please **show me exactly** how he held the knife.' Open-ended questions such as those using the TED'S PIE approach make use of encouragement and invitations to obtain a framed but still relatively free account. Hence, when more details or more fine-grained information is needed about a certain topic, the investigating officer should encourage the interviewee to provide more information, first through free accounts, then through framed open-ended questions, and eventually through probing questions such as 'what,' 'why,' 'when,' 'who,' 'where,' and 'how'.



Box 20: TED'S PIE open-ended questions with examples of how to combine them.

At the end of each topic, the interviewer may ask some proper closed questions, just to prevent misunderstandings or to summarize before moving on. As illustrated in the 'information funnel' below (see Box 18), this hierarchy of gathering information should 'funnel down' towards potentially relevant information on each topic. When an interviewer is actively listening to an interviewee's account, they can take note, without interrupting the interviewee, of topics they would like to expand on, develop further, and clarify.



### Example: Keeping track of the conversation

There is an acronym that helps the interviewer keep track of topics and the exact words used by the interviewee, namely PLATO, which refers to:

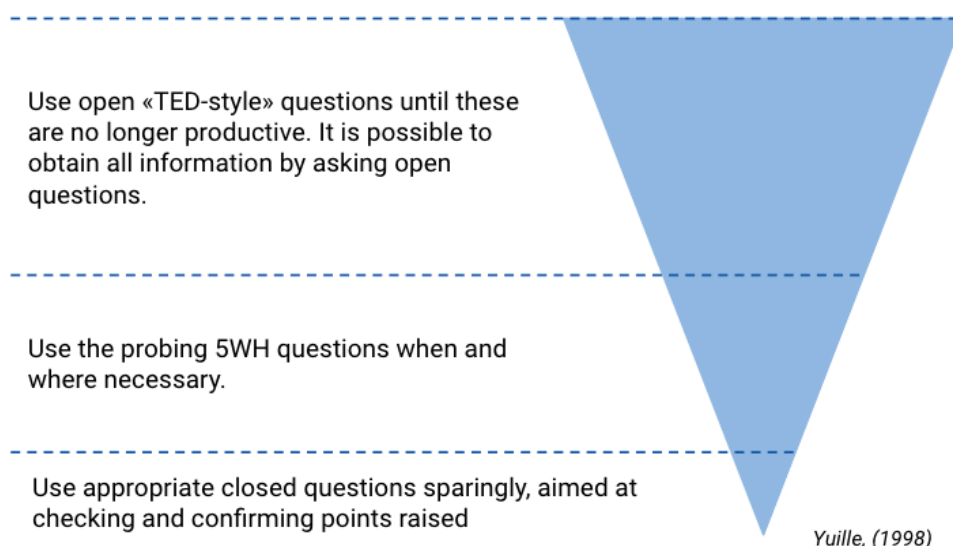
- P** - Persons
- L** - Locations
- A** - Actions
- T** - Times
- O** - Objects

Box 21: Tool for keeping conversation on track.

As the interviewee provides a free account, the interviewer should note the above topics that warrant expansion and clarification. Use TED's PIE to exhaust each new topic before moving on to the appropriate closed questions. A 'funnelling' interview approach will stimulate detailed accounts and consequently reduce the number of questions that need to be asked. This is beneficial because each time a question is asked, the interviewer runs the risk of leading the victim, witness, or suspect and contaminating the evidential value of their account.

The number of questions asked in an interview should be kept to a minimum. This does not mean that no questions should be asked, but, as illustrated in the figure below (Box 21), it is critical what the interviewer asks the interviewee, how the questions are presented, and in what order they are asked. At the end of each topic, it is important to summarize what the interviewee has said before moving on to the next topic. This demonstrates active listening and stimulates communication. It may also help the interviewee reflect and remember more. Good summaries prevent misunderstandings and provide the interviewee with an opportunity to agree with the summary or to amend it as appropriate. The interviewer must take care not to twist and turn what the interviewee has said during the interview but must strive to give an exact and accurate account of what has been said. Recordings and notes are helpful to ensure that the interviewee's version comes through and is not distorted by the interviewer.

### The information funnel



Box 22: The information funnel and the hierarchy of questions used on each new topic.

**Strategic disclosure of evidence:** An essential part of the clarification and disclosure stage is how and when interviewers disclose evidence during interviews with suspects (or others). If a suspect is named or arrested, clearly, the police must have some information indicating potential guilt (reasonable grounds to suspect); otherwise, the arrest is unlawful and should never have been made. Strategic disclosure of evidence means that some specific information is withheld to test its veracity and reduce the risk of contaminating the suspect's first free account. If applicable, any pre-interview disclosure to a defence lawyer about the offence in question should be recorded or at least reported in written format.

The so-called strategic disclosure of evidence rests on the notion that the interviewing officer should delay disclosure of any detailed evidence until this stage (Step 4) of the interview. Ideally, all topics allowing for alternative explanations of the information indicating potential guilt should have been exhausted through both free recall and clarification before any evidence is presented. For example, blood from a suspect may have been secured at a crime scene, but in the first free account or in the clarification phase, the suspect denies any involvement and has not provided any alternative explanation as to how or why their blood is at the specific location. If there are several pieces of evidence, all topics should be exhausted prior to the disclosure of the evidence (see Box 22). Early disclosure can lead to a situation that deprives innocent suspects of the opportunity to substantiate their innocence, while guilty perpetrators can exploit the opportunity to fabricate their explanations to counter the evidence being presented.

When evidence is presented, the interviewer must be prepared to disclose how and when it was obtained, allowing the suspect and their lawyer to make a fair assessment as to the reliability of the interviewer's sources and (possible) biases and prejudices. In any case, it is wise to withhold certain information about the nature of the evidence (if possible). This will allow for cross-checking and control of information in the event that the suspect decides to change or add to their story after disclosure (see Box 23).

It may happen that communication breaks down during the interview and the flow of information stops. The risk of this is normally high when the evidence is presented. This is another reason why all topics of investigative relevance should be covered prior to the disclosure of evidence. If communication breaks down, the interviewer must try to re-establish rapport before the interview can proceed. In this case, the interviewer might suggest a break. If the break does not prove useful, the quest for more information will have to be postponed until the next interview.

Even when the interview is broken off prematurely, it is still important to close the interview properly, as described in the next two steps. Any questions raised by the interviewee should be responded to or addressed. This will contribute to both, providing a sense of closure and maintaining a good working relationship moving forward in the investigation.



Active listening assists the interviewer in establishing rapport and helps to elicit a full and accurate account.



It is well documented that interviewers who ask closed or leading questions run the risk of contaminating the interviewee's account. Contamination refers both to the distortion of genuine memories and the unintentional leaking of details about the crime, both of which reduce the evidential value of subsequent statements.



## EXAMPLE: Clarify and Disclose

A newspaper shop had a break-in last night, and one of the windows was broken. On the inside of a piece of the broken glass (from the window), the police identified and secured a fingerprint belonging to a previously convicted burglar named Billy Joen. The fingerprint indicates that Joen may be the burglar. As an interviewer, you have been asked to interview him as a suspect. How should you prepare and devise your strategy for the interview?

The first step, as the interviewer, is to explore, as to how Joen's fingerprint could have ended up on that piece of glass in any other way. In other words, are there plausible alternative explanations? There are, and you need to identify these prior to the interview:

- Could Joen have been to the shop some time prior to the break-in and left his fingerprint there? For example, is he a regular customer there? Has he made deliveries there? Has he ever done maintenance there?
- Can you think of other alternative explanations? Could Joen have arrived at the crime scene just after the break-in and touched the piece of glass? Has he ever worked for a window or glass producer?

The alternative explanations are many, and in order to secure a good investigation, all these alternatives should be explored in the upcoming interview with Joen.

To reduce the risk that information about the potential evidence contaminates his memory or that Joen adjusts his story to fit the evidence, you should withhold the information about the secured fingerprint until you have explored the alternative explanations in the interview.

This means that, prior to the interview, you must inform the suspect that you have some evidence, but that this will be presented later. If necessary, you must communicate to him that we use this procedure to avoid contaminating his response.

Next, you must determine how most effectively to explore in the interview Joen's potential contact with the crime scene. Let us assume that Joen has already been told of the suspicion and has denied any involvement in the crime during Step 1, the first free account. As such, you enter the interview during Step 4, clarify and disclose.

**Interviewer:** Billy, as you know, you are suspected of a break-in at the Mercure Shop on the corner of High Street and Flint Street. Before you start, I want to show you a picture of the place so that we are sure we are talking about the same location. I want you to think thoroughly and concentrate and tell me if you have ever been to this place. If so, tell me in as much detail as possible about the circumstances. Please do not leave anything out, because all details might be of importance. I will be taking notes and trying my best not to interrupt you. When you have nothing more to say, I will ask you, my questions. Is that understood and OK with you?

Now please start concentrating, and when you are ready, tell me in detail about all the contact you have had with this location.

**Billy Joen:** I have already told you that I am certain that I have never ever been to the place. I have not visited the shop, and I have certainly not broken into it.

**Interviewer:** I see. Do I understand you correctly that you mean you have never been anywhere near this shop?

**Billy Joen:** Correct – never!

**Interviewer:** Well, Billy, can you then please explain to me how it can be that our forensic experts have secured a fingerprint identified as yours on one of the broken window pieces in this particular newspaper shop? The quality of the secured fingerprint is classified as strong and so is the identification.

**Billy Joen:** Hmm – my fingerprints? I think, I want to consult a lawyer.

**Interviewer:** I understand. The time is 2:30 pm, and the suspect has asked for a break in the interview to confer with his defence lawyer.



#### CHECKLIST: Step 4 – Clarify and Disclose

##### **Prior to the interview:**

- a) Identify all the evidence (what are the grounds for suspicion?).
- b) Identify all explanations for the evidence (alternative hypotheses).
- c) Determine the interview objectives and their related topics and organize them into a clear but flexible plan.
- d) Before the interviewer enters the interview room, they must be able to answer the following question: What information am I prepared to disclose, and do I have a plan for how to do this in a strategic manner?
- e) What information should be available if the suspect is innocent? How can I get this information from the interview without giving away the evidence? Which topics must be 'funnelled down' in order to search for information that may refute or corroborate the available evidence?

##### **During the interview:**

- a) Revise your interview plan so that new topics which might have arisen during the first free account are also included in a natural order.
- b) Inform the interviewee that at this stage you will invite them to expand further on certain topics.
- c) Tell the interviewee that you will start this phase with open-ended questions in the same way as in the first free account, but now with regard to specific topics, and then perhaps follow up with more detailed questions before you summarise and move on to the next topic.
- d) Now introduce the first topic and start the funnelling; use active listening and remind the interviewee of the importance of details.
- e) Allow the interviewee to pause so that they can search their memory, without interrupting.
- f) During this step, you should cross-check the information provided in the interview with your available evidence. After all the topics have been 'funnelled down,' all inconsistencies of importance should be disclosed one by one to the suspect, with a clear invitation to the suspect to explain how these inconsistencies might have arisen.

**Flexibility:** At first glance, the investigative interviewing model may look like a strictly linear series of steps. This is not necessarily the case. For instance, a witness may have mentioned a particular car in their first free recall of the event. Knowing that this car may be an important evidential topic, the interviewer will take note of it and continue with active listening to allow the witness to recall the sequence of events (this would be a noted 'object of interest' from the PLATO acronym). Entering the next phase of the interview (clarification and disclosure), the interviewer should invite the witness to provide a new free account, this time about the specific topic: 'Please tell me, in detail, everything you can remember about the car.' The same questioning techniques, including active listening, will apply. This model has been found practical by officers because it is applicable for investigating all types of crimes. Applying this technique facilitates a structured and adaptive approach.



## STEP 5 – CLOSING THE INTERVIEW

At the end of the interview, the interviewee should be asked if they have any questions or statements concerning the interview or the investigation in general. This has little or no real effect if the communication has been coercive. However, if the interview has been conducted as outlined above, this question may add to the interviewee's perception of having been treated fairly. This should be done in a professional, planned, and structured way so that the interview does not end abruptly. Where there are two interviewers or another third-party present (for example, a defence lawyer or a legal guardian), the lead interviewer should also check if any of them have further questions or comments before closing the interview. Any questions the interviewee asks should be answered.

Before concluding the interview, an account of what has taken place should be agreed upon and documented. The written account should accurately represent what the interviewee said during the interview. The account should not in any way reproduce the interviewing officer's biases or preconceptions about the case. Hence, the interviewer should accurately summarise what the interviewee said in a written report. This can be done either immediately after the interview or later if the report is prepared based on the audio or video recording. However, considering the fragility of human memory, summarizing and the formal acceptance of the account of the interview by the interviewee should be done with as little delay as possible, using the audio or video recording to prepare the summary.

Be aware that accepting a written account can be compared to answering a closed question. The written account should be read aloud in a clear, unhurried, and thorough way. During this process, the interviewer should encourage and document any clarification or alteration that the interviewee wishes to make. This is done to ensure there are no misunderstandings and that no information that the interviewee believes is important has been left out of the written account. If the interviewee has no comments or alterations, this should also be clearly documented in the written report before it is signed by both the interviewer and the interviewee. Any amendments should be recorded, including any refusal by the interviewee to sign the interview record. A copy of any written record should be provided to the interviewee and their lawyer (if involved). The interviewer should then conclude the interview by announcing the date and time before turning the recording equipment off.

**The way forward:** As the interview comes to an end, the interviewing officer should give the interviewee appropriate information about the next stages of the process. The interviewer should, for example, inform a suspect of potential pre-trial detention and tell a witness whether they should expect to attend court. Again, the interviewer ensures that the interviewee has been treated with respect and has had the opportunity to comment on (a) the information provided, (b) the way the interview was conducted, and finally, (c) the way forward.



## CHECKLIST: Step 5 – Closing the Interview

- a) Ensure that there is a mutual understanding of the interviewee's account by reading it back to the interviewee, taking account of any clarification that the interviewee wishes to make.
- b) Verify that all aspects have been sufficiently covered by asking if the interviewee has given all the information that they are able and willing to provide.
- c) Make sure the reported information and the interviewee's legal rights and obligations are correctly understood and are verified by the interviewee providing their signature.
- d) Any questions the interviewee asks should be dealt with. This contributes to secure the integrity and dignity of the interview and the legitimacy of any subsequent criminal proceedings, and keep channels open for future communication.
- e) No matter how cooperative the interviewee was during the interview, he or she should be thanked for their participation and given a proper and professional farewell greeting. An interview should end on a respectful and professional note, keeping channels open for future communication and averting possible misunderstandings that may otherwise undermine trust and confidence.
- f) Upon closing the interview, the interviewer ensures that the information provided during the process is subject to the appropriate level of privacy and data protection. Interviewers must be aware that communicating information to the public or to institutions may jeopardize the rights of the interviewee.

Box 25: Closing the interview.

## STEP 6 – EVALUATION

**The Information:** This step concludes the interview model. At this point, it is time to evaluate the information obtained, its relevance to the investigation, the performance of the interviewer, and the interview itself. Specifically, one seeks to:

- a) Examine whether the aims and objectives of the interview have been met;
- b) Consider potential risks to victims and witnesses;
- c) Review the investigation in light of the information obtained during the interview; and
- d) Reflect on how well the interviewer conducted the interview and consider what improvements could be made in the future.

**The investigation:** The first part of the evaluation should consider whether the objectives set for the interview during the planning phase have been met. Consider what actions are now necessary to move the investigation forward in light of the interviewee's account, their responses to the questions, and the information already in the interviewer's possession. The interviewer may need to make further inquiries to test the veracity of statements made and defences offered (for example, a potential alibi) or locate and secure evidence, including other potential witnesses or suspects. In this final step, it is necessary to consider the value of a follow-up interview and how to prepare for it.

**The interview(er):** The video recording of the interview is also a valuable tool for evaluation purposes. Conducting the evaluation with a colleague is useful for professional growth. The colleague may be a partner, supervisor, or senior officer. The key is to review the interview with someone who is honest, frank, and treats the assessment confidentially. On the other hand, the evaluator must make sure that the interviewing officers are given the opportunity to comment on

their own performance before providing feedback. When providing feedback, it is more effective to start with what was positive and move on to what could be improved next time.

Investigative interviewing is an overly complex and practical exercise requiring a variety of skills, the first and foremost being effective communication and reasoning skills. An essential part of skills training is evaluation and feedback. In order to improve and maintain effective interviewing skills, all interviewers need to practice. The police should be a knowledge-based and continuous-learning institution. Research has indicated that experienced investigators who are obliged to attend compulsory refresher courses and have had to pass examinations perform much better than those who rely on their work experience alone. The latter group scores lower than junior officers straight out of the police academy, and officers are generally poor at evaluating their own interviewing abilities. Recognising and contemplating the documented shortcomings in police practices, including one's own, is difficult but crucial for the effectiveness of this last step in the interview model and for disrupting the adverse confession culture, which continues to exist in many jurisdictions. Evaluation should be an institutional responsibility and is crucial for learning and advancing the police profession.

All stages and aspects of the interviewing process should be subject to reflection and continuous learning. For instance, did we, as a team, prepare well enough? Did the technical equipment function? Did I rush the free account stage? What can I, as an interviewer, or can we as an organization, learn from this? This includes both considering parts of the interview that did not go well and would benefit from attention and taking pride in what worked well and should be perfected for use in future interviews.



#### CHECKLIST: Step 6 – Evaluate

- a) Were the aims and objectives of the interview met?
- b) Is the information obtained from the interview relevant, accurate, and reliable?
- c) How does this new information impact the overall investigation?
- d) How well was the interview conducted? Identify the positives (such as your interview plan, question style, active listening, and good flow of information), and consider future improvements.
- e) If a problem occurred, what happened, and how could it be handled if a similar situation occurs again?

Box 26: Evaluation of the Interview (er).

## G. SUSTAINING INVESTIGATIVE INTERVIEWING THROUGH BROADER POLICE AND JUSTICE REFORM

- 7.1. The integration of non-coercive investigative interviewing is most effective in an environment where national authorities have a strong commitment to the rule of law, good governance, and democratic ethos, including the establishment of a responsive, representative, and accountable police service; where the independent judiciary, legal community, and civil society are open, can function without intimidation or fear, and are willing to engage in and contribute to the reform process; and where the UNPOL component deployed, or other UN entities, have the capabilities and capacity to assist national authorities in the fulfilment of their goals.
- 7.2. Meaningful change in interviewing practice requires institutions to ensure that all reforms in the national legal and policy framework related to investigative interviewing are integrated into institutional rules and procedures and widely communicated among their personnel. This will entail coordinated efforts by the national police and other law enforcement agencies to integrate and apply the non-coercive interviewing framework in light of international standards with a long-term commitment to:
- a) Eradicate mistreatment throughout the interview process and ensure compliance with international human rights standard;
  - b) Provide suitable and sufficient interview training for all relevant authorities;
  - c) Facilitate cooperation between experts, practitioners, and policymakers in designing appropriate and effective interviewing strategies and practices;
  - d) Promote oversight and accountability in relation to interviewing, tackling institutional corruption and cultures of impunity; and
  - e) Improve the functioning of the criminal justice system and the administration of justice.
- 7.3. Changing the institutional culture in relation to investigative interviewing requires sound governance and careful planning. The UNPOL Guidelines on Police Capacity-Building and Development establish five key areas for police reform that are complementary and mutually reinforcing. Progress in each of the five areas is essential for the successful transformation of the police force into a community-oriented police service. The reality on the ground, however, might be different, and the progress in police reform in each of the five areas might be patchy. For example, police might be newly trained and equipped, but they might also be, at the same time, lacking a new legislative and policy framework as well as effective external accountability and internal oversight mechanisms. In such a setting, the implementation of interviewing techniques outlined in the manual might be more challenging if not coupled with broader reform efforts.
- 7.4. The introduction of investigative interviewing will be sustainable only if it is embedded in a broader human rights-based reform of the criminal justice system. Such comprehensive reform will ensure that coercive interviewing is no longer perceived by police and law enforcement officials as an acceptable method. Such reforms must not only target law enforcement authorities but also the judiciary and the public at large. The following non-exhaustive list sets out some priorities for national authorities that the UN, in particular UNPOL, OHCHR, UNODC, and UNDP, could support:
- a) **Adoption of legislation, standard operating procedures, and codes of conduct:** As noted in the UNPOL Guidelines on Police Capacity-Building and Development, a strong legislative and normative base for the activities of the host State police will put all training and police actions on a solid regulatory foundation based on international human rights and criminal justice standards. Coercive and manipulative interviewing practices should be comprehensively prohibited by national law and subjected to appropriate criminal and disciplinary sanctions, including for police executives who fail

to prevent and suppress coercive interviewing by their subordinates. Regulations should clearly set out the details, for example, on the permissible length of interrogations. National law should exclude statements or evidence that are established to have been obtained as a result of torture or other cruel, inhuman, or degrading treatment or punishment being invoked as evidence in any proceedings, including information obtained based on initial leads gathered through coercion (also known as ‘the fruit of the poisonous tree’) except against a person accused of torture. Leaders of police and other law enforcement agencies as well as of judicial institutions must translate legislation into binding, clear, and recurrent instructions, such as standard operating procedures (SOPs), guidelines, and codes of conduct, to ensure compliance and the consistent exclusion of all coercively obtained evidence from investigative and judicial processes.

- b) **Accountability and oversight:** The international human rights and criminal justice standards and the SGF,<sup>61</sup> a system-wide policing doctrine, which is based on these standards, unequivocally states that accountability, including for the way in which police exercise powers entrusted to them by the law, is a pathway for police legitimacy. An effective and credible accountability regime will serve as a deterrent against the misuse of police powers, authority, and funds. Host State authorities should introduce independent, effective, accessible, and transparent procedures to investigate allegations of coercive interviewing and related human rights violations based on international standards, such as those reflected in the revised Istanbul Protocol on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Investigative authorities should also adopt and make known standard operating procedures, codes of conduct, and guidelines of enforceable standards for the agents performing interviews in coherence with internationally recognized standards of conduct.<sup>62</sup> Host States should establish, empower, and provide funding for independent police monitoring bodies<sup>63</sup> and effective internal police oversight mechanisms and promote a culture of accountability with clear reporting and independent complaint procedures to ensure due process and compliance.
- c) **Shifting away from a confession focus:** Criminal investigative authorities and judges should shift away from an approach focused on confessions as the primary form of evidence. They should be empowered and trained to use investigative interviewing techniques to render the need to obtain a confession redundant and emphasize the strategic use of a broad range of objective evidence that is tested and validated. National law should provide a clear basis for modern investigative methods and forensic services, while police and other law enforcement officials should be equipped and resourced to gather such evidence. The host State should allocate sufficient funds for capacity building and strengthening associated services, including the systemic review of interviewing rules, instructions, methods, and practices to ensure rigorous implementation.
- d) **Develop a comprehensive suite of police performance measurement criteria:** Police and other law enforcement agencies often face scrutiny for not meeting the conventional performance measures of success, particularly the detection rates (clearances). This performance assessment regime, on the contrary, often obliges police officers to resort to unethical and abusive tactics to detect cases. It is known to enhance the practice of ‘coercive interviews,’ which carry significant risks of ill-treatment and violation of human rights. Changing the practice of reliance on

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<sup>61</sup> SG’s report S/2018/1183 which states that “...Recommendation 7 of my previous report calls for United Nations policing to comply with the Strategic Guidance Framework for International Police Peacekeeping (S/2016/952, para. 57). As a system-wide policing doctrine, the Framework promotes a long-term time horizon for the efforts of host States to reform their police services and ensures the consistency and coherence of United Nations policing advice and support throughout the time span of the United Nations presence in the host State...”

<sup>62</sup> Art. 11 of the UNCAT; see also A/HRC/RES/31/31, paras. 11-12; and A/HRC/RES/46/15, para. 10.

<sup>63</sup> A/RES/48/134, 20 December 1993, according to the principles relating to the Status of National Human Rights Institutions (The Paris Principles), external monitoring bodies should be independent and adequately resourced to undertake thorough, prompt, impartial and fair analysis of the functioning of places where people are interviewed and to ensure the respect for the rights and dignity of the persons.

confession will therefore entail the institutionalization of (a) empathetic rapport-based and non-coercive investigative interviewing methods; (b) robust mechanisms for internal redressal and reparation, including unhindered access for independent monitoring and external oversight; and (c) a comprehensive suite of police performance appraisals that are based on public safety as the basis of police accountability.<sup>64</sup>

- e) **Non-coercive interviewing facilities:** Police stations and other places where interviewing takes place should be physically restructured to allow for the type of spacing, lighting, and setting that is conducive to non-coercive investigative interviewing. These specifications must be identified and secured at an early stage during the police reform consultations and enshrined in a National Police Development Plan. Places previously notorious for coercive interviewing and other violations may have to be replaced altogether to signal the shift to the novel approach. Any practices involving inhumane detention conditions or arbitrary detention of interviewees, including the deliberate use of pre-trial detention or police custody as a tool of coercion, must be outlawed and compliance enforced. All places of interviewing should be equipped with (ideally video) recording devices. Where necessary, independent medical examinations of detainees should be accommodated.
- f) **Training:** Non-coercive interviewing, the required practices, and the underlying safeguards should be integrated into the basic training curriculum of not only police and other law enforcement officials but also intermediaries, interpreters, custody officers, defence lawyers, and prosecutors, including judges who will monitor compliance through enforcement of the exclusionary rule and sanctions against perpetrators. The contents of the training should emphasize the key elements of investigative interviewing and the relevant safeguards as a means to ensure compliance with the State's positive obligations towards an individual's enjoyment of human rights and to prevent torture and ill treatment.<sup>65</sup> Meaningful and durable change in interview practice requires host States to invest adequate human and financial resources in the short, medium, and long term. This will ensure capacity and capability strengthening, notably through specific training and access to recording equipment. The use of technology, including audio-visual equipment and electronic devices, as well as cross-institutional cooperation on training between law enforcement agencies, the military, intelligence personnel, oversight bodies, academia, and international partners, can help improve the quality of training and gather substantive support and thrust for comprehensive reform.
- g) **Public awareness:** Education and advocacy campaigns should be conducted to inform the broader population, in an understandable language and format, about the due process and fair trial rights of interviewees and detainees, including the legal and procedural safeguards guaranteed by national and international law. Additional information resources should be developed to ensure that individual detainees and other potential interviewees are duly informed about their rights and the obligations of the authorities to promote non-coercive interviewing. Legal aid initiatives must be introduced and extended from the initial stage, as and when the seriousness of an alleged case or other reasons for justice necessitate it.

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<sup>64</sup> GA resolution 34/169, 17 December 1979

<sup>65</sup> Art. 10 of the UNCAT.

## H. TERMS AND DEFINITIONS

Advising:	A process of working together with the host-State police organization to find solutions to its problems and to improve its performance.
Capacity:	Aptitudes, resources, relationships and facilitating conditions necessary to act effectively to achieve some intended purpose.
Capacity-building:	Efforts to strengthen the above components of capacity. Capacity-building targets individuals, institutions, and their enabling environment.
Coercion:	Use of force, threats, or other forms of pressure, including the use of abusive or manipulative interviewing techniques to obtain information or confessions from an interviewee against their will.
Deprivation of liberty:	Any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative, or other public authority.
Empathy:	A multi-dimensional phenomenon comprising both cognitive processes and emotional (or affective) capacities. It is about having the ability to understand the perspective of the interviewee and to be able to appreciate the emotions and distress of the other. Essentially, it is a pre-conscious phenomenon and can be consciously instigated or interrupted.
Informal talks:	Any communication between an official and a suspect, witness, victim, or other person of interest outside an official interview.
Interim policing:	The power and practice of law enforcement by international police within a particular territory. This power derives from the assumption by the UN of sovereign authority over the area (either all or part of a state), and its practice from the establishment of a transitional administration. To date, UNMIK and the UN Transitional Administration in East Timor (UNTAET), established in October 1999, are the only two examples of executive policing in a peace operation (DPKO/DFS Policy on United Nations Police in Peacekeeping Operations and Special Political Missions, February 2014).
Investigative Interview:	Non-coercive and non-accusatory process of eliciting an uninhibited, pertinent, accurate, and complete narrative account from victims, witnesses, and suspects about events or situations in a fair and respectful way to assist decision-making. It emphasizes the non-adversarial, rapport-based nature of the interview with a suspect, one that first and foremost attempts to make the presumption of innocence operational and suggests a model of criminal investigation that is more likely to be effective in preventing any form of coercion and also be more effective in solving crimes.
Investigator:	An experienced officer who is based at the local police station and has a primary responsibility for the investigation of reported crime.
Investigative mindset:	State of mind or attitude that investigators/interviewers develop over time to apply a set of principles and a standard approach, which can be rationalized and methodically explained across all elements of investigative processes consistently and credibly. Applying these techniques can reduce the likelihood of investigators or interviewers

	making premature decisions and developing personal biases, often cited as a common cause for miscarriages of justice.
Medical attention:	Services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.
Peacekeeping operation:	UN mission led by the Department of Peace Operations.
Police and other Law enforcement agencies:	Includes police, gendarmerie, customs, immigration, and border services, as well as related oversight bodies, such as ministries of the interior.
Public safety:	Day-to-day security that allows full freedom of movement; virtual absence of crime and disturbances.
Rule of law:	Principle of governance in which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency (see report of the Secretary General, S/2004/616).
Torture:	Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions. United Nations.
Police (UNPOL):	Includes both headquarters staff in the United Nations Police Division (inclusive of the Standing Police Capacity) and mission staff in United Nations police components.
United Nations Police component:	United Nations police organized within a peace operation.

## I. REFERENCES

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- General Assembly resolution 70/286 on Cross-Cutting Issues.
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### **Related Policies**

- DPKO/DFS Policy on United Nations Police in Peacekeeping Operations and Special Political Missions, 1 February 2014, Ref. 2014.01.
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- Financing development together: The role of pooled financing mechanisms in enhancing development effectiveness (2013).
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- Principles on Effective Interviewing for Investigations and Information Gathering, 2021.

## **J. MONITORING AND COMPLIANCE**

In field missions, this manual will serve the Head of Police Component, assisted by the Deputy Police Commissioners (Operations and Capacity-Building and Development), UNPOL Chief of Staff, and individual UNPOL officers involved in training the host State police and law enforcement officials. At Headquarters, the Police Adviser to the Department of Peacekeeping Operations and Director of the Police Division shall monitor compliance with this document.

## **K. CONTACT**

The Chief of the Strategic Policy and Development Section, Police Division, Office of Rule of Law and Security Institutions, Department of Peace Operations, and the Office of the High Commissioner for Human Rights, and the United Nations Office on Drugs and Crime.

## L. HISTORY

The manual was developed by the DPO (OROLSI/PD), the OHCHR, and the UNODC in close consultation with the Doctrine Development Group, comprised of police experts nominated by Member State.

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DATE OF APPROVAL: 23 February 2024

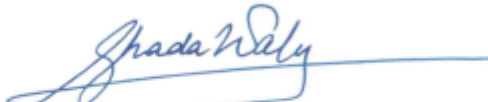
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DATE OF APPROVAL: 01 March 2024

APPROVAL SIGNATURE:



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DATE OF APPROVAL: 08 February 2024

This publication was made possible through the generous support of the Government of Norway and the Norwegian Centre for Human Rights, University of Oslo.

The *Manual on Investigative Interviewing for Criminal Investigation* was produced jointly by the United Nations Department of Peace Operations, United Nations Office of the High Commissioner for Human Rights, and the United Nations Office on Drugs and Crime.

Acknowledgement is due to the members of the Doctrinal Development Group of experts, practitioners, and scholars.

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Cover photo has been taken from [www.pixabay.com](http://www.pixabay.com) (CC0).

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