

# **"Beyond the Silence: Trauma-Informed Interviewing of Sexual Torture and Violence during War and Armed Conflicts"**

*The Cognitive Interview (CI) and its adaptation when interviewing with interpreters, represents a significant step forward in forensic interviewing, especially for survivors of conflict-related sexual violence. These approaches prioritize rapport-building, memory enhancement, and trauma-informed practices, empowering survivors to provide comprehensive accounts and ensure their voice is heard.*

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## ***Introduction***

Sexual violence has been systematically employed as a weapon of war, inflicting profound physical, psychological, and social harm on survivors and communities. In conflicts worldwide, perpetrators exploit sexual violence to terrorize, control, and demoralize populations. During the Bosnian War in the 1990s, an estimated 20,000 to 50,000 women were subjected to rape and sexual enslavement as part of a deliberate campaign of ethnic cleansing (Salzman, 1998). In the Democratic Republic of Congo, it is reported that around 48 women are raped every hour, with armed groups using rape as a tool of intimidation and domination, resulting in countless women and girls suffering enduring trauma (Peterman et al., 2011).

Often, in the aftermath of widespread and systematic use of sexual violence in conflict, survivors are the primary source of information, thus the success of any future prosecution hinges on the quality of the survivor's testimony, as well as ensuring that the voices of the survivors are heard (Kebbell & Milne, 1998; Milne & Bull, 2016). Survivors of such horrific crimes often endure profound psychological trauma, which can affect their ability to recall and articulate their experiences coherently. Interviews conducted with survivors play a pivotal role in documenting and holding perpetrators of sexual violence in conflict accountable for their actions. This testimony amplifies survivors' voices, validating their experiences, and serve as a powerful tool for justice, providing firsthand accounts of the atrocities committed, offering critical evidence to support legal proceedings and prosecutions (Fisher & Geiselman, 2010).

By using trauma informed interview techniques investigators can ensure survivors' participation in the judicial process whilst managing trauma. This in turn enhances the quality and effectiveness of investigations into these egregious human rights violations. Investigators and academics have long known the importance of uninterrupted free recall as a key component in managing trauma, building rapport, and obtaining a fulsome and accurate account from a survivor (Risan et al., 2017; 2020).

One way of addressing the balance between managing the horrific trauma suffered by the survivor, whilst obtaining testimony to bring about accountability for these crimes is to use the Cognitive Interview (CI). The CI is known to be a successful forensic tool (Kohnken et al., 1999; Memon et al., 2010) for interviewing survivors, that enhances memory recall using a trauma informed approach, whilst providing investigators with detailed and reliable information (Fisher & Geiselman, 1992; Milne & Bull, 2016; Milne et al., 2019; Smith & Milne, 2018).

### ***Confronting Trauma***

A traumatic event is defined as “exposure to actual or threatened death, serious injury, or sexual violence” (American Psychiatric Association, 2013, p.271). In-depth interviews with traumatised survivors of sexual torture can trigger intrusive thoughts, feelings of shame and guilt, a loss of self-control and hamper the survivor’s recovery (Brewin, 2001; Herman, 2003). This vulnerability can affect the reliability of information gathered from the survivor and in some circumstances lead to inaccurate evidence being obtained if not interviewed appropriately (Gudjonsson, 2006; Smith & O’Mahony, 2018).

Risan, Binder, and Milne (2016 a&b, 2017, 2020) conducted research on the management of trauma by police interviewers when interacting with survivors of the Utøya terror attack in Norway. Their findings highlighted the crucial role of empowering survivors during interviews by ensuring they feel in control of the process. Moreover, it underscored the importance of interviewers being adequately trained and prepared to handle trauma sensitively, thus preventing further harm to the mental well-being of survivors. It became evident that addressing the psychological needs of survivors is paramount to eliciting detailed and accurate accounts while mitigating the risk of re-traumatization during questioning (Risan et al., 2017).

Despite the risk of re-traumatisation that an interview may pose, the positive effect of therapeutic jurisprudence cannot be underestimated (Risan et al., 2017). The cathartic process of being given the autonomy and space to process the traumatic event in a safe and supportive environment can be empowering for a survivor (Smith, 2000; Moch & Cameron, 2000; Hutchinson et al., 1994). Furthermore, talking therapies have long been established as a tool to aid recovery from psychological disorders and appropriately conducted interviews can promote positive well-being in helping the individual come to terms with their experience and regain a sense of control (Ellison & Munro, 2017; Herman 2003).

Rapport is fundamental to the success of an interview addressing conflict-related sexual violence. There are four essential components that underpin rapport (Chenier et al., 2022). First, the interaction should begin with mutual attentiveness, establishing a foundation of trust. Second, it is essential for the interviewer to embody genuineness and authenticity and remain open-minded throughout. Third, there needs to be positive regard, and finally, empathy. Positivity should infuse the interaction throughout, while cooperation between participants ensures a balanced, harmonious exchange, where they feel they are 'in-sync' with each other (Alison et al., 2013). Some interviewers are more natural at developing rapport through their higher degree of emotional intelligence and ability to handle interpersonal relationships empathetically. Additionally, transferring control of the interview to the survivor strengthens rapport. This is achieved by the interviewer acknowledging to the survivor that while they were not present during the event, the survivor was, thereby emphasising the survivors' authority and control over the interview process (Tidmarsh, 2021).

To assist with building and maintaining rapport visually recorded interviews should always be the preferred choice over handwritten statements for interviewing traumatised survivors of sexual violence. Handwritten statements rely on the memory of the interviewers, which can lead to inaccurate and misleading accounts that misrepresent what the witness has told the investigator (Dalton & Milne, 2022). McLean (1992) examined written testimony taken by investigators, finding not one contained all the relevant information reported. More recently, Milne et al., (2022) examined 18 real life criminal cases which included the recording and statements generated by the investigators. The research found 73.2% of the statements were inaccurate. The inaccurate elements included 14.5% omission errors, 7.2% new information added in, 4.8% distortions, and 0.3% contradictions. Survivors were found not to always detect errors in their testimony when presented with

them, this could be confusing for a survivor if presented with their statement at a trial or cause them to unwittingly mislead a court (Milne & Shaw, 1999; Wolchover & Heaton-Armstrong, 1997). Considering this, to uphold trauma-informed practices and ensure transparency while minimising the risk of memory contamination, investigators should always record survivor interviews.

Research has shown how important it is to keep questions as open as possible to generate free recall responses from the interviewee, thus ensuring the information and evidence obtained is reliable and untainted by external influences (Geiselman et al., 1984; Hilgard & Loftus, 1979). As the interview progresses in the latter stages, question types can become increasingly specific to elicit more information. (see UN Manual of Investigative Interviewing, 2024).

Interviewers often use drawing to remember as a tool to support the free-recall phase of an interview as well as assisting in latter stages to clarify points and any ambiguities (Dando et al., 2009a). Studies have shown the use of drawing to be beneficial in an interview environment, as well as useful memory-jog tool. Dando et al. (2009b) tested the mnemonic properties of drawing to enhance memory recall. Using a typical eyewitness paradigm sixty students watched a crime film as witnesses, they were then interviewed 24 hours later. One group were encouraged to draw a detailed sketch of the event as they recalled the memory during their interviews. Overall, the drawing technique was found to be more effective in eliciting information than the control group, who were asked to simply recall the event. A second study looked at the drawing technique in frontline interviewing procedures (Dando et al., 2009a) and found drawing helpful in facilitating memory recall. The practice of drawing to remember can be beneficial when used in conjunction with mental context reinstatement and assist the witness to self-generate their own memory retrieval (Dando et al., 2009b). Additionally, the use of drawing as memory cues can alleviate the cognitive load and the pressure on the interviewer conducting the interview (Smith & Milne, 2018; Hanway et al., 2021).

### ***The Cognitive Interview***

The CI has developed into a prominent and flexible tool for investigators interviewing highly traumatised survivors (Geiselman et al., 1984; Milne et al., 2019; Ashkenazi & Fisher, 2021). “The CI approach addresses three primary psychological processes that underlie interviews with cooperative

interviewees: (1) the social dynamics between the interviewee and interviewer, (2) the interviewees and interviewer's cognitive processes, and (3) communication between the interviewee and interviewer" (Milne, 2016. p.1).

Additionally, the CI has therapeutic benefits and can bring empowerment to a survivor, allowing them to take self-control and become reconciled with their experience (Ellison & Munro, 2017). Despite these academic findings, the CI is not implemented in its entirety by investigators for a multitude of reasons such as inadequate training, insufficiently skilled interviewers, outdated organisational procedures and a lack of understanding in the actual flexibility of the model (Milne et al., 2019).

The CI interview initially focused on memory retrieval but based on research and real life cases the communication aspect of the CI has developed over time into the Enhanced Cognitive Interview (ECI) that incorporated techniques to improve communication in the interview (Fisher & Geiselman, 1992).

The CI originally comprised of four instructions developed from research and theory regarding memory retrieval (Fisher et al., 1989):

1. The report everything instruction.
2. The mental reinstatement of context.
3. Recalling of events in a variety of different orders; and
4. The change of perspective technique.

The report everything instruction encourages the interviewee to report everything they remember, unedited, even if they think it is insignificant or irrelevant to the investigation (Milne & Bull, 2016). The use of mental reinstatement focuses the witnesses mind, using their senses as cues to access the memory and reconstruct the scene, both physically, as in the environment around them, and personally, as in the emotions they were feeling at the time (Dalton & Milne, 2022).

The use of mental reinstatement has been shown to improve memory recall (Godden & Baddeley, 1975) and when used in conjunction with an interviewee closing their eyes elicit more information (Vredeveldt et al., 2015). Additionally, inviting the interviewee to draw the episodic event in the interview is known to help promote memory recall (Dando et al., 2009b) as well as using the DeMo technique, whereby the interviewer demonstrates the level of detail expected from the interviewee by describing an object in the interview to them (Boon et al., 2020).

A fundamental aspect of the CI is the transfer of control instruction, this is done by the interviewer telling the interviewee they were not there, and this is their

interview, letting the interviewee know they are in control of the interview, and shifting the power imbalance that is so often felt when a survivor interacts with an investigator (Milne, 2016).

After the interviewee has provided their free narrative the interviewer can then invite the interviewee to recall the event in a variety of orders, for example, from the end of the incident, back to the beginning in reverse order in an attempt to “counter the reconstructive nature of memory, where an event that is being remembered is influenced by a witness’s prior knowledge, expectations, and the employment of scripts” (Milne & Bull, 2016. p.185). The final instruction invites the witness to recall the event from a different perspective, such as focusing a spotlight over the individuals involved and concentrating on their actions one at a time (Milne and Bull, 2016).

It is important to differentiate between the CI and the Standard Interview (SI) as interviewing models. The SI is the most common interview method seen with survivors and although it may start with an open-ended question, interviewers can quickly transition into short and closed questions (Kebbell et al., 2001; Chenier et al., 2022) that become rapid-fire and interrupt the survivor frequently (Fisher et al., 1987; Memon & Higham, 1999). Additionally, the SI will omit key elements that are essential to the CI such as the transfer of control, report everything instruction and mental context reinstatement (Fisher et al., 1989). Open-ended questions help identify central topics that can be explored later in the interview (Snook et al., 2012) as well as restricting the interviewer from inadvertently influencing the witness’s memory through excessive questioning, thus contaminating the testimony of the survivor (Geiselman & Fisher, 1988).

The PEACE method stands as a globally acknowledged framework for conducting interviews, emphasizing a structured approach to gathering information and testimony from survivors. Building upon these foundational principles, the CI takes investigative interviewing a step further by integrating elements from cognitive psychology. This advanced method facilitates a deeper cognitive processing of experiences, enabling survivors to recall and articulate their memories in a trauma-informed manner, thereby enhancing the accuracy and reliability of the information obtained.

### ***Interviewing with Interpreters***

Survivors of conflict related sexual violence are known to be some of the most vulnerable and traumatised persons to obtain testimony from due to the severity of the events they have experienced and often, there may be intellectual and cultural barriers to overcome (Hope et al., 2021; Henry, 2008).

The report everything instruction and the free narrative recall it generates is a fundamental principle in the CI model, but in a post-conflict setting, there is a distinct possibility the survivor of sexual violence may be interviewed by an investigator who does not speak the same language as them. This poses its own challenges, as interpreters can become an unwitting distraction during the interview and cause the survivor to lose focus, leading to memory disruption, mistranslation, and a potential breakdown in rapport (Ewens et al., 2016). So, in these circumstances, how do investigators overcome the barrier, ensuring the interview process remains survivor focused, and trauma informed.

Adapting the CI with an interpreter ensures the survivor remains at the heart of the interview, whilst still harnessing the crucial role an interpreter plays. The interpreter translates the introduction and instructions in short consecutive interpreting for the witness, up until the point where the interviewee commences their free recall.

The interpreter then stops and allows the interviewee to report everything in their mother tongue uninterrupted and fully in control of their narrative, and the flow and pace it is delivered at. When the interviewee exhausts their memory and concludes their free narrative, the interview comes to a natural break. During this pause, the interviewers review the free recall, either with the interpreter who had been present in the room, or if resources allow, a second interpreter who has monitored the interview remotely from a separate room.

This pause gives the interviewee time to breath during the break, as well as allowing investigators time to review the opening narrative and plan the next phase of the interview and develop topic areas. Additionally, it removes the need of the interviewer having to follow the short consecutive interpreting as the survivor speaks, thus easing their cognitive load (Hanway et al., 2021). When the interview recommences with the spotlighting phase, short consecutive interpreting is used until all topics are examined.

A key component of the Cognitive Interview is the practice interview (Brubacher et al., 2011). Practice interviews have long been advocated for vulnerable interviewees (see ABE, 2022). They provide an opportunity to prepare the survivor by establishing ground rules and showing interviewees how the interview will be conducted and are routinely used as part of the investigative interview process with children (Brubacher et al., 2011). The witness selects a personal memory of a happy life event, for example a significant birthday, a wedding day, or the birth of a child to use in the practice interview phase. This memory is totally separate from the event being

investigated, thus removing any risk of contaminating the evidence in the substantive phase of the interview, this is also visually recorded for transparency.

Due to the often highly distressing nature and content of the topics recalled in interviews of conflict related sexual violence, at the conclusion of the interview, the practice interview is revisited. The investigator refers the survivor back to the earlier happy memory from the practice interview phase, in a process to ground them and bring them back to the present moment in time.

### ***A human approach to interviewing***

The process of an uninterrupted free recall in the interviewee's native language bridges the cultural divide and creates a form of 'attentive listening'. Additionally, using this process, allows for the transference of control and that greater empathy is naturally derived, providing a more human approach to interviewing and allowing the survivor to speak freely, truly giving them a voice and re-distributes the power dynamics so often not seen in law enforcement interviews and put the survivors voice at the centre of the interview process.

Building on previous literature (Bruacher et. al, 2011; Danby et. al, 2015) practice interviews help prepare the survivor for how the interview will be conducted. In addition, practice interviews provide a space and opportunity for rapport to be built between an interviewer and interviewee. This can be seen of particular benefit when the interviewer has had limited interaction with the interviewee prior to meeting them, something which is often seen with international investigations where the investigator and survivor will not meet until the day. The practice element allows for a deeper connection between interviewer and interviewee by talking in detail about topics that have meaning to a survivor, rather than generic small talk, thus enhancing rapport and transferring the control to the survivor (Risan et al., 2020).

By adopting this method, the practice interview can make the survivor feel more comfortable, reducing anxiety and help inform their understanding of the process and techniques used. It also provides an opportunity for the survivor to speak about a positive experience, and with the attentive listening of the investigator, helps develop rapport early in the interview process before arriving at the evidential stage. Also, the practice interview provides an insight for the witness into the cognitive techniques that will be used, especially



mental context reinstatement. The technique uses long pauses between cues to reconstruct the episodic event in the survivor's mind. The long pauses can be confusing to a survivor who has never experienced a CI before, especially if they have been interviewed previously by investigators from other jurisdictions following a SI method. At the conclusion of the evidential interview, the interviewer can refer to the positive memory from the practice interviewer as a grounding tool for the survivor. The interviewer may spotlight the positive event or ask further clarification questions to help ease the survivor away from the traumatic event discussed in the interview and bring them back to the present moment in time.

### ***Conclusion***

The implementation of the Cognitive Interview (CI) and its adaptations with interpreters, marks a significant stride in forensic interviewing techniques, especially concerning survivors of conflict-related sexual violence. These tools, with their emphasis on building rapport, enhancing memory recall, and employing trauma-informed practices, have demonstrated their efficacy in eliciting comprehensive and reliable information from survivors while also serving as a cathartic process for survivors, aiding in their journey of reconciling the traumatic events they endured.

The significance of uninterrupted free recall cannot be overstated, particularly in the context of survivors who may grapple with memory disruption and re-traumatization during interviews. Through the application of CI, investigators can create a supportive atmosphere that empowers survivors to articulate their experiences fully while mitigating distress.

Furthermore, the integration of practice interviews within the CI framework has proven to be especially beneficial in preparing survivors for formal interviews, fostering trust, and ensuring a deeper comprehension of the interview techniques utilized. This approach, centred on the survivor's needs, not only enhances the quality of the testimony obtained, but also acknowledges and respects their experiences.

Despite potential challenges such as language barriers and cultural differences, the CI addresses these hurdles by placing survivors at the forefront of the interview process and granting them control over their narrative, facilitated by proficient interpreters and interviewers.

By embracing these methodologies, investigators can ensure that survivors feel heard, valued, and supported throughout the interview and investigation proceedings, thereby bolstering the integrity and reliability of their testimony.

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