

# **Principles on Effective Interviewing for Investigations and Information Gathering**

# Foreword

The extensive normative legal frameworks that prohibit torture and other forms of ill-treatment – at all times and places, even in situations of armed conflict or public emergency – have yet to translate into their eradication during questioning by State agents worldwide. Nor has there been an effective application, in practice, of the safeguards to protect persons deprived of their liberty. In my time as the UN Special Rapporteur on

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12. An interviewee's legal status and obligations, and the safeguards relevant to their questioning, may vary depending on whether the interviewee is classified as a suspect or accused person in a criminal matter, or a victim, witness, or other person of interest, for example in a military or intelligence context. Some variations in the nature or applicability of such safeguards, or any other considerations relevant to one specific category of interviewee, are indicated throughout the Principles.
13. In situations of armed conflict, when questioning persons for purposes other than criminal justice

## **Principles on Effective Interviewing for Investigations and Information Gathering**

### **Principle 1 – On Foundations**

Effective interviewing is instructed by science, law and ethics.

### **Principle 2 – On Practice**

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.

## **Principle 1 – On Foundations**

### **Effective interviewing is instructed by science, law and ethics.**

20. Findings from empirical scientific studies, international legal standards, and value-based professional duties constitute the foundations of effective interviewing. When integrated in practice, these foundational elements enable interviewers to gather accurate and reliable information while operationalising human rights.

#### **Scientific Foundations**

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21. Recent research conducted by professionals and practitioners from a wide range of disciplines

23. Scientific evidence demonstrates that the use of coercive interviewing methods is more likely to lessen the interviewee's propensity to cooperate during an interview and to create resistance on the part of the interviewee, even when they might otherwise have chosen to answer questions.<sup>9</sup> In cases where interviewees facing ill-treatment comply with the demands of their interviewer, the information provided is of dubious reliability, as false or misleading information is frequently provided to placate the interviewer and avoid or stop the threat of abuse.<sup>10</sup>
24. Psychologically coercive questioning methods, such as manipulating an interviewee's perception of culpability (e.g. by presenting false evidence), or their perceptions of the consequences associated with a confession (e.g. downplaying or exaggerating the consequences associated with conviction of the alleged crime, implying leniency, or offering moral justifications), have been shown to produce incorrect information and increase rates of false confessions.<sup>11</sup> The threat or enactment of physical harm to an interviewee induces heightened states of stress, which impair memory retrieval and likewise lead to diminished recall of accurate or reliable information.<sup>12</sup>
25. Leading or suggestive questions have been shown to contaminate the interviewee's memory and corrupt the accounts they provide.<sup>13</sup> In the case of suspects, such suggestive and manipulative methods reduce the reliability of information, while also increasing the likelihood of false confessions and wrongful convictions.<sup>14</sup>

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31. Rapport-based techniques offer the interviewee autonomy over what they do or do not say and facilitate a positive interaction between the interviewer and interviewee,<sup>26</sup> thereby increasing the likelihood of collecting accurate information.<sup>27</sup>
32. Ways to facilitate rapport by the interviewer include the use of behaviours such as establishing common ground – without false pretences – with respect to mutual interests, identity, or attitudes, and using active listening skills.<sup>28</sup>
33. Findings from the large body of research into how the human memory encodes, stores and retrieves information has led to interviewing methods that are effective in both promoting detailed, accurate reporting by interviewees and minimising the effects of factors that can influence their accounts. This includes the use of open-ended, non-suggestive questioning,<sup>29</sup> and allowing a person to freely recall the event or information from their own memory without interruption by the interviewer.<sup>30</sup>
34. Questioning 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 information previously collected.<sup>31</sup>
35. Fundamentally, 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 information provided
  - d. Enables exploration of the veracity of information provided
  - e. Increases the likelihood of information-rich and genuine admissions



- b. The use of less-lethal weapons should always be carefully evaluated and controlled. Firearms must not be used, except when strictly necessary for a legitimate purpose and

Conducting an interview or furthering an investigation do not alone constitute sufficient lawful grounds for the police or judicial authorities to deprive someone of their liberty.<sup>45</sup>

44. Any decision to arrest and detain a person must be based on an assessment of the individual's particular circumstances and any justifiable and substantiated reasons to believe that the person is at risk of absconding, destroying evidence, influencing witnesses, or committing new crimes. Relevant authorities should consider whether any identified risks can be mitigated by the use of non-custodial alternatives to deprivation of liberty. The release of a suspect or an accused person may be subject to necessary, proportionate and non-discriminatory measures aimed to avert the particular risks the individual is held to pose, such as guarantees to appear at trial or to present themselves for interviews. Conditions on release, such as bail, may be imposed but should be the least restrictive necessary to mitigate the specific identified risks, and must be non-discriminatory.<sup>46</sup>
45. The presumption of innocence mandates that suspects or accused persons are considered innocent until proven guilty before a court of law. This means that the burden of proving guilt beyond reasonable doubt rests with the prosecutorial authorities and must be put forward with affirmative evidence in a court of law.<sup>47</sup> By acting in accordance with this legal principle in their practice, interviewers also increase the likelihood that the information they gather will be accurate and reliable, and amount to lawful and actionable evidence for use in legal proceedings.
46. Inherent in the presumption of innocence is the right to remain silent and to

## **Professional Ethics Foundations**

49. Effective interviewers should observe the highest ethical standards. Professional regulations for law enforcement and other information-gathering authorities, such as codes of ethics or professional conduct, set out the purpose, values and expectations of appropriate behaviour.<sup>51</sup> These professional standards should govern all aspects of an official's duties, including interviews, in conformity with international legal obligations.
50. A commitment to conducting ethical interviews should guide any interviewer. They should not sacrifice principle for expediency even when there is great pressure to do otherwise (e.g. due to limited time or demands for results). In the exercise of power when applying the law, interviewers should aim to obtain a solid, defensible outcome that withstands ethical, judicial and public scrutiny.
51. Professional codes of ethics for law enforcement officials emphasise the importance of respect,



## **Accurate and Reliable Information**

58. The objective of all interviews is to obtain accurate and reliable information from the interviewee; it is

gathering accurate and reliable information during the interview, to fulfil State obligations under international law and to protect the rights of the interviewee.

64. Unlawful and unprofessional behaviour, and a lack of accountability, at the early stages of contact may taint the overall judicial process irreversibly.
65. Stereotypes and prejudices can contaminate an interview and undermine the open-minded, rapport-based approach necessary to secure accurate information from interviews. Interviewers should exercise heightened self-awareness in order to prevent conscious and unconscious preconceived judgment regarding the-1.9 (e)11.2 (j)-2.7 (u)2 2.3 ( )2 (j)-2.qoo j10.5 ( 11.2 (j)-dd)2 ( )1.2 (er)-2



for the interviewee, can improve concentration, promote rapport, enhance communication, and facilitate reliable recall.







record of the interview.<sup>79</sup> The use of this technology facilitates the investigation of any allegations of ill-treatment, which is in the mutual interest of the interviewer and the interviewee in cases where misconduct is alleged.

100. If recording equipment is available but not used, the specific reasons and justifications should be recorded. Any other deviations from departmental or agency policies on recording should also be documented. Any electronic recording of interviews must be kept for a reasonable period and be made available for review by appropriate persons.<sup>80</sup>
101. Interviewers should verify all aspects of pre-interview activity and interviewee treatment, including custody records, so that they can assess any potential impact previous activity might have on the interview.
102. The interviewer should ensure that all safeguards which apply prior to the interview have been upheld, including by working with legal representatives. This contributes to building rapport with the interviewee as it demonstrates the interviewer's respect for the human rights and dignity of the interviewee and improves the prospects for obtaining reliable information.
103. Interviewers are responsible for considering the interviewee's needs identified earlier by officials, as well as for assessing situations of heightened vulnerability (including the emotional state of the interviewee) and preparing to address them in appropriate ways. For example, they may need to arrange to have third parties present, such as legal representatives and support persons for children or interviewees with intellectual or psychosocial disabilities.
104. Interviewers should continually monitor their own emotions about the subject matter and their feelings toward the interviewee, to be able to project calm and self-control throughout the interview. If this appears impossible, a different interviewer should be assigned to take over.

## **During the Interview – Establishing and Maintaining Rapport**

105. Effective interviewers are adaptable, listen carefully, communicate empathy, and adopt the ethos that non-coercive, humane, ethical, lawful and appropriate questioning serves the interest of all involved: the interviewer, the interviewee and the information-gathering authorities. They recognise that the interviewer's role is to acquire the best possible information for decisions to be made. Only courts determine guilt or innocence.
106. The development of rapport is essential in supporting effective information-gathering. During the interview, rapport entails establishing and maintaining a relationship characterised by: respect and trust; a non-judgmental mindset; non-aggressive body language; attentiveness; and patience. This reduces the effects of the inherent power imbalance in the interview process.
107. The interviewer should take time to interact meaningfully with the interviewee and clearly restate information about their rights and the interview procedure; if necessary, this includes the assistance of an interpreter and any other third parties to assist in communication. If the interviewee seems uncertain about their rights, the interviewer should explain them again and confirm that they have been understood. In the case of suspects in criminal cases, interviewers should remind the individual that they have a right to remain silent and that their account may be used in evidence against them.

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Hungarian Helsinki Committee, Meeting report – Experience-sharing Event on Audio-visual Recording of Interrogations in Criminal Proceedings, 9 November 2018.

<sup>79</sup> Audio-visual recording should include both the interviewer(s) and interviewee in the video frame. A focus only on the interviewee distorts the perceptions of those who may subsequently view the video (e.g., judges or juries), see G.D. Lassiter, L.J. Ware, M.J. Lindberg, & J.J. Ratcliff, "Videotaping custodial interrogations: toward a scientifically based policy", in *3 R O L F H , Q W H U U R J D W L R, Q A S I T E R & C I E S D O V H ( 8 R Q 8)*.

<sup>80</sup> Principle 23 of the Body of Principles.

108. A lawyer present during an interview serves as a legal resource, an eyewitness to the fairness of the process, and a safeguard against misunderstandings, misrepresentations and any attempt to conduct the interview unlawfully. These functions serve to enhance the evidentiary value of the information gathered during the interview.

109.



## **Concluding the Interview – Assessment and Analysis**

128. An effective interviewer should always end the interview respectfully and on a professional note. This increases the likelihood of keeping channels open for future communication, avoids possible misunderstandings and can improve trust in public institutions.
129. The interviewer should review the information obtained with the interviewee (and the lawyer, if involved), and, where a written record (as opposed to an audio/video recording) has been made, invite them to sign as a confirmation of the record's accuracy. Any amendments should be recorded, and if relevant, any refusal of the interviewee to sign the interview record.<sup>82</sup> A copy of any written record should be provided to the interviewee and their lawyer (if involved).<sup>83</sup> The



## **Principle 3 – On Vulnerabilities**

**Effective interviewing requires identifying and addressing the needs of interviewees in situations of vulnerability.**

### **The Interview as a Situation of Vulnerability**

132. Virtually all persons being interviewed find themselves in a situation of vulnerability due to the inherently unequal balance of power characterising such interactions with authorities. The imbalance of power is particularly acute when an interviewee is detained and thus wholly dependent on the authorities for the exercise and enjoyment of their human rights.
133. Interviewers need to be aware of the possible effects of the power imbalance and take steps to mitigate them, thus ensuring the protection of all interviewees under the law while also maximising the value of the information gathered. The power imbalance may lead to an interviewee





## **Principle 4 – On Training**

**Effective interviewing is a professional undertaking that requires specific training.**

149. All personnel who conduct interviews, including police and other law enforcement officers, as well as intelligence and military personnel, should receive specific training in effective a wea wed3m3g

155. Interview training should be of sufficient length to instil the necessary theoretical foundations and practical knowledge, and to include multiple practice sessions using realistic operational scenarios, with feedback from supervisors and peers.
156. The participation of former interviewees and other professionals (such as medical personnel, interpreters, and support persons) in scenario-based sessions can enrich the training experience.
157. Additional training should be given to interviewers, intermediaries and interpreters who are involved in interviewing persons in situations of heightened vulnerability, such as children and persons with psychosocial disabilities. Such training should provide guidance on monitoring the interviewee's psychological well-being, and if necessary, stop the interview and seek assistance from appropriately trained professionals.<sup>89</sup>
158. Personnel who manage and supervise interviewers should also receive training, so they not only improve their own interviewing skills but also learn how to assess the overall quality of an interview, in order to provide appropriate feedback and support to interviewers.
159. Other relevant persons such as judges, prosecutors, custody officers, and defence lawyers should also be briefed on effective interviewing. This helps develop a common understanding of their respective roles and challenges, and facilitates external monitoring or assessment if complaints arise.
160. The use of technology in training can help improve the quality of future interviews and generate valuable data for further research. This includes using audio-visual equipment to record training sessions and using electronically recorded interviews as examples for scenario-based sessions.
161. Cooperation on training should be encouraged between law enforcement agencies, military and intelligence personnel, oversight bodies, academia and international partners. Academic and independent researchers should be encouraged to make their relevant studies public and accessible.
162. Training programmes should be regularly updated to reflect the evolution of international human rights standards and scientific research. Regularly bringing evolving research and techniques validated in practice can also strengthen training programs.<sup>90</sup>

## **Continuous Professional Development**

163. Interviewing knowledge and skills need to be maintained across time. Incorporating effective interviewing into continuous professional development programmes will help ensure institutional commitment to ethical and effective interviews.
164. Critical elements for continuous professional development include commitment from leadership, regular training reinforcement and refresher training to refine techniques, correct errors and present interviewers with the latest relevant research.
165. Continuous professional development programmes should enable agencies, and in particular supervisors, to better monitor and measure interviewing performance, identify further training needs, improve the use of evolving technology and update research knowledge.

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<sup>89</sup>Art. 13 of the CRPD; Rule 12 of the Beijing Rules; see also Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC Resolution 2005/20, 22 July 2005.

<sup>90</sup> Art. 11 of the UNCAT.





judicial proceedings any evidence obtained by the use of torture, other ill-treatment, procedural wrongdoing or any form of coercive methods.

187. The over-reliance on confessions in judicial proceedings provides an improper incentive for interviewers to see confessions as the sole objective of an interview, and should therefore be avoided.

## **External Oversight and Independent Monitoring**

188. External oversight bodies – such as National Human Rights Institutions, Ombudsperson Offices, judicial bodies, or specialist oversight organisations – should have access to any facility in which a detained person is interviewed and information on the persons detained within.

189. External monitoring bodies should be able to have confidential contacts with any persons in detention. Persons complaining about ill-treatment or infringements committed by State agents must have the right to communicate freely and in full confidentiality with independent monitoring bodies, without fear of reprisals, subject to reasonable conditions to ensure security and good order.

190. In accordance with the Paris Principles on National Human Rights Institutions on 8.1 (t 0 Td(-)Tj40.065 Tw ,



all, in particular to persons in situations of heightened vulnerability. Complainants should receive clear guidance on complaint processes, appeals mechanisms and outcomes.<sup>101</sup>

196. All complaints should be recorded, regardless of when they occur. Such complaints should be part of the official record. Whenever a complaint is made by or on behalf of an interviewee in the course of an interview, recording may entail a temporary suspension of the interview.
197. Where the interviewer has reasonable grounds to believe that the interviewee has been mistreated or had their rights denied prior to the interview, they should inform the appropriate officer or authority, who is then responsible for dealing with such allegations.
198. Whenever there are grounds to believe that an act of torture has been committed, even in the absence of a complaint, there must be a thorough, prompt, and impartial investigation, in compliance with Article 12 of the UN Convention against Torture.<sup>102</sup>
199. For serious allegations including torture, complaints should be investigated by an independent entity. States should establish external mechanisms for investigations and complaints that are operationally and financially independent from both the law enforcement and prosecution services or any other agencies responsible for persons deprived of their liberty. To be effective and independent, such mechanisms should have adequate investigatory powers, political support,

## **Principle 6 – On Implementation**



221. Finally, judicial authorities must take all necessary steps to ensure that those responsible for torture or ill-treatment are brought to justice and subjected to appropriate sanctions.<sup>114</sup>

## **Dissemination**

222. States should disseminate the Principles to all relevant executive, legislative and judicial authorities, in particular law enforcement and other information-gathering authorities.
223. Dissemination in cooperation with oversight bodies, civil society organisations, and the general public will build civic trust in investigative authorities.
224. States should collect information on measures taken by relevant authorities in implementing the Principles on Effective Interviewing for Investigations and Information Gathering, and report developments to relevant international and regional bodies.

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<sup>114</sup> See, e.g. UN Guidelines on the Role of Prosecutors, Rule 16, 8<sup>th</sup> UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 1990, Rule 16, and Standards of professional responsibility and statement of the essential duties and rights of prosecutors adopted by the International Association of Prosecutors on the twenty third day of April 1999, Rule 4.3 (f).