



# EVENT REPORT

## CTI Professional Training Workshop for West Africa

### *Investigative Interviewing for Fair and Effective Administration of Justice*

13-15 April 2021 - Online

# 1 Background

On 13-15 April 2021, the [Convention against Torture Initiative \(CTI\)](#), in partnership with the [Norwegian Centre for Human Rights \(NCHR\)](#) and with the support of the Committee for the Prevention of Torture in Africa (CPTA), held a professional training workshop on “Investigative Interviewing for Fair Administration of Justice” for five West African countries<sup>1</sup>. The Workshop was held online and hosted by the Government of Ghana, a CTI Core State.

Bringing together over 30 participants, including senior representatives of the Ministries of Justice and/or Attorney General’s offices and the Police Service/Force (many at the rank of Chief or Assistant Superintendent and Deputy/Assistant Commissioner of Police) of the five participating countries, alongside leading experts in the fields of police interviewing, forensic psychology and torture prevention, the professional training workshop aimed to build the capacity of law enforcement and the wider justice system in West Africa with a view to:

- Increasing knowledge and raising awareness on the practical benefits of implementing investigative interviewing and contributing to domestic reform efforts in policing and law enforcement;
- Supporting the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), particularly Articles 10 and 11 on education and training and periodic review of interrogation procedures; and
- Supporting the implementation of Part II of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (Luanda Guidelines), particularly concerning the implementation of legal and procedural safeguards for persons held in police custody prior to and during questioning.

As part of the opening ceremony, Hon. Ambrose Dery, Minister of the Interior of Ghana, shared Ghana’s commitment to UNCAT implementation and his country’s experiences preventing torture and ill-treatment through the implementation of legal safeguards in police questioning. Opening remarks were delivered by Hon. Hatem Essaiem, Chairperson of the Committee for the Prevention of Torture in Africa (CPTA) and by Mr. John Ståle Stamnes, Assistant Chief of Police at Norway’s Police University College. Hon. Commissioner Essaiem highlighted the efforts of the African Commission on Human and Peoples’ Rights in raising awareness about UNCAT ratification, as only three States remain to ratify in the African region. Assistant Chief of Police Ståle underlined that all non-coercive interviewing methods have two aims: to improve information-gathering and to foster rapport-building and empathy with interviewees. The workshop was closed by H.E. Ramses Joseph Cleland, Ambassador and Permanent Representative of Ghana to the United Nations in Geneva, who delivered remarks on behalf of Hon. Godfred Dame, Attorney-General and Minister for Justice of Ghana, and shared Ghana’s commitment to support West African countries in their UNCAT implementation efforts through the CTI.

Following the [Chatham House rule of non-attribution](#) and CTI’s constructive and confidential approach, this report provides a summary of the discussions held on the main topics.

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<sup>1</sup> Participating countries were: The Gambia, Ghana, Liberia, Nigeria and Sierra Leone.

## 2 Human rights implications of investigative interviewing: Associated safeguards

Confession-oriented criminal justice systems where confessions are seen as the primary source of evidence incentivise resort to torture and other forms of ill-treatment, leading to miscarriages of justice and wrongful convictions. Investigative interviewing allows moving away from an overreliance on confessions by using a coercion-free, rapport-building interviewing method that fosters gathering of reliable and actionable evidence and respecting the human rights of suspects, witnesses and victims.

Experts underlined how human rights are an integral part of effective criminal investigations and police and law enforcement interviewing, as well as how implementing legal and procedural safeguards before, during and after questioning suspects, witnesses and victims goes hand in hand with the implementation of investigative interviewing. Experts recommended treating interviewing as part of an interconnected process throughout which key safeguards against torture and ill-treatment apply. The following were particularly mentioned:

- Among legal safeguards, the right to have prompt access to a lawyer and to have him/her present during questioning; the right to have an independent medical examination; and the right to be notified/informed of these rights.
- Among procedural safeguards, providing for harmonized registers of entry in custody, which record the time and place of arrest and the subject conducting the arrest, as well as include a record of the implementation of the three above-referred legal safeguards; and audio and/or video-recording of the questioning, which can later be used as evidence in courts and protects both the interviewee and the interviewer from false allegations of mistreatment.



**The Gambia** shared that their Criminal Code and Criminal Procedure Code are currently undergoing revision to explicitly provide for the right of arrested persons to have their lawyer present during police questioning.

Further discussions included references to situations where suspects waive their right to counsel and want to give a voluntary confession in the absence of video recording, where experts highlighted the importance of recording such waiver and, if no audio or video recording is available, allowing police officers to be present during questioning. Additionally discussed were challenges regarding questioning of suspects who are uncooperative or wishing to remain silent and how to encourage voluntary testimony and information-gathering in these circumstances. Experts underlined how informing the suspect, witness or victim that an interview will take place and keeping them informed of all interview stages contributes to safeguarding their rights and allowing for a more effective information-flow during the interview.

### 3 Human memory and core communication

Human memory is a “crime scene” in its own right, as it can get just as easily contaminated. The main points of contamination discussed are the scene itself, when front line officers are deployed to the crime scene and when the first call or interview<sup>2</sup> with suspects, witnesses and victims takes place. In order to reduce post-event memory contamination, using open ended questions combined with digital recording devices and active listening techniques was recommended.

- A basic understanding of how human memory works could help police officers when interviewing and conducting criminal investigations.
- It is important for police and law enforcement officers to understand how to build rapport and how to communicate in a safe and effective way with question suspects, witnesses and victims of crime.
- In the initial phases should all leading questions be avoided.
- Any form of coercion or implicit manipulation will increase the risk of contaminated statements and false confessions.

### 4 How to think like a detective

The notion that criminal investigation is guided by a search for an objective truth has been challenged. Several renown scholars have commented that the truth in the minds of criminal investigators is “not an ‘absolute’ truth, but one that ‘suffices’ and is ‘good enough’, given the complexities of the social world”. Typically, investigators construct an internal representation of what is likely to have happened by structuring the initial suspicion and their beliefs about the available evidence in a narrative format. That is, known facts regarding a crime are combined so that they tell a meaningful and coherent story. In order to create a coherent whole, however, inferences must sometimes be made to fill gaps where there is no substantive evidence. In addition, some aspects of a crime need to be excluded from the story if they do not fit into the investigators’ view of what has happened. From this understanding, it follows that the search for “truth” is a reconstructive process with certain latitude for confirmatory and subjective interpretations and inferences.

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<sup>2</sup> For the purposes of this report, “interview” is used interchangeably with “questioning”.

In order to reduce the risk of such practices it is necessary to build knowledge and awareness of how the human mind can deceive any investigator. Moreover, there is a need for a more structured and transparent methodological approach to the investigative decision-making process. It is recommended that criminal investigation should be thought of as an iterative hypothesis-testing process. According to this view, all tentative and reasonable hypotheses are formed on the basis of the initially available information concerning a crime. Such hypotheses should always include at least one hypothesis presuming no-crime or the innocence of the suspect(s), next, the investigative plan should state possible all assumptions about the nature of the crime, such as mode of conduct, motives behind the offence, and the identity of the offender. These hypotheses are then systematically and subsequently tested against new information and reformulated or discarded to accommodate new investigative findings. Ideally, the investigation will arrive at a single hypothesis that has received more support than alternative hypotheses and has withstood serious attempts at falsification. It is this “winning” hypothesis that forms the basis of the prosecution’s case when it is brought to court. Investigative interviewing includes this approach and combines it with a structured process for communication in interviews based on scientific knowledge of how the human memory works.

In order to address single-mindedness and developing confirmation bias in criminal investigations, experts recommended the following good practices:

- Creating a written investigation plan (e.g., Excel spreadsheet) where officers record the different active investigative hypotheses in a criminal case as early as possible in the investigation, to avoid showing confirmation bias towards one single hypothesis.
- Showing attention and open mindedness to all plausible alternative explanations for what may have happened. Given that the standard of proof for a criminal conviction is to be proved “beyond reasonable doubt”, any all-other hypotheses than the subsequent criminal charge should be ruled out based on the available and documented evidence. If as much as one competing and reasonable hypothesis remains then there is reasonable doubt and the suspect should be acquitted or not even prosecuted.
- Investing in knowledge, awareness, skills, methods, tools and systems that help improve the outcome of criminal investigations and open mindset. Shared processing models combined with live reviews from somebody not in charge of the investigation are seen as a good practice.

Through a mock case scenario presented, workshop participants were given the chance to identify available evidence; present the information they know and do not know based on such evidence; compile the different active investigative hypotheses in the given case; assess what information would be needed to test the alternative hypotheses and how it could be gathered without leading them to disclose any evidence during a police interview.

Experts highlighted how following the above-referred good practices fosters respect for the presumption of innocence and strengthens the outcome of the investigation, particularly if the suspect is guilty, as existing assumptions of innocence are ruled out. Participating countries underlined the importance of thinking slow and to leave conclusions to the Prosecution's service, as investigators are fact-finders and their role is not to determine questions of innocence or guilt. Participants further pointed out the importance of accessing adequate legal representation and conducting quality investigations in order to avoid wrongful convictions.



**Ghana** shared the “Justice for All Programme”, a system of in-prison court hearings for remanded prisoners that has reduced prison overcrowding by releasing remanded prisoners who have not received a trial within a reasonable period of time, as well as to release persons who were detained on the basis of coerced confessions.

## 5 Stages of an investigative interview

Interrogations,<sup>3</sup> that is, coercive interviewing of suspects, witnesses and victims using threats or violence, breach the presumption of innocence and seek to confirm preconceived ideas of guilt. As mentioned above, experts highlighted how criminal investigations should explore all possible options and look into what happened rather than just conducting a confirmatory and guilt assumptive exercise. Investigative interviewing on the other hand aids memory and recollection and allows retrieving reliable or actionable information and evidence. Participants were referred to the [CTI Training Tool on Investigative Interviewing for Criminal Cases](#), included in the workshop's materials.

Experts shared and discussed with participants the different stages of an investigative interview following the United Kingdom's “PEACE model”, based on the following stages described below:

- **Planning and Preparation:** this first stage concerns all case-related legal, mental and practical preparations. Police officers are to put together and organise a clear and flexible interview plan that includes interview objectives and related topics (e.g. information one wants to know, asking the interviewee to tell us all they know about a particular topic), as well as an assessment of available evidence, including all possible explanations for what may have happened. Legal and practical preparations discussed included, among others, preparing audio/video recording of the interview; ensuring that the suspect does not sit with cuffs in his/her hands and feet, as it does not help to stimulate recall; guaranteeing the presence of the interviewee's lawyer, and if necessary, of an interpreter, during questioning; or assessing whether the interviewee is physically and psychologically fit to be interviewed.

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<sup>3</sup> For clarification purposes, it is noted that "interrogations" may well be the word used to describe police interviews

- **Introduction and building rapport:** During this phase, the suspect is informed about his/her rights, including guaranteeing the presence of a lawyer during questioning, and the interviewer explains how the interview will be conducted and that it will be audio/video recorded, building rapport with the interviewee, and showing an empathetic and respectful attitude. Issues around how to avoid contamination from colleagues or supervisors were raised, and experts recommended taking into account the following:
  - From a practical perspective, identifying a place to conduct the interview that will allow for no interruptions. If there is no specific interview room, experts recommended finding a place that could offer some privacy.
  - Police officers are to respect the process and their colleagues' scheduled interviews. The more colleagues and supervisors understand how investigative interviewing works and its benefits, the more they will respect their colleagues' work and prevent any interruptions or contamination. It was equally emphasised how there is a need to establish a culture that does not allow for "informal talks" to take place prior to the interviews, as these impair memory, communication and the quality of the evidence gathered.
- **First free account:** During this phase, the interviewer explains the form and purpose of the free and asks for an uninterrupted account of what happened, handing over to the interviewee to establish his/her initial position, knowledge of or involvement in the case. Experts recommended using open-ended questions following the mnemonic TED's PIE approach (Tell, Explain, Describe/Show Me, Precisely, In detail, Exactly), and employing active listening techniques (both verbal and non-verbal), without interrupting, staring or expecting to receive a chronological recall. The interviewer is to take notes using the P.L.A.T.O technique (that is, gathering information about Persons, Locations, Actions, Times and Objects), and break down the information received into relevant topics for further clarification in the next interview phase.
- **Clarification and Disclosure:** During this phase, the interviewer reviews the interview plan so that new topics that have arisen during the first free account are included and informs the interviewee that he/she is invited to expand further on certain topics. As above, using open-ended questions and following the TED's PIE approach was recommended, as well as clarifying and summarising the topics. The interviewer is also to plan what information is he/she prepared to disclose and in what manner, as well as pointing out to the suspect any inconsistencies that might have arisen, after cross-checking the information provided against the available evidence. Alternative explanations/hypotheses to the evidence are to be explored or ruled out.
- **Closure of the interview:** Before closing the interview, the interviewer ensures that there is a mutual common understanding of the interviewee's account by reading it back to the interviewee, taking into account any clarifications that the interviewee may wish to make. The interviewer also ensures that the reported information and the interviewee's legal rights and obligations are correctly understood and that the interviewee verifies them by providing his/her signature. The interviewer informs the interviewee of the next steps and way forward and makes a personal and respectful farewell.

- **Evaluation of the interview:** In this last stage, the interviewer assesses whether:
  - The aims and objectives of the interview were met;
  - The information obtained is relevant, accurate, and reliable; whether follow up is required;
  - How does this new information impact on the overall investigation;
  - How well was the interview conducted, by identifying positive aspects and considering future improvements;
  - Whether problems occurred and how can they be handled if a similar situation occurs again.

Participants shared good practices in their efforts to combat torture and ill-treatment in police custody, which can offer the framework for successful implementation of investigative interviewing.



**Nigeria** shared that their Administration of Criminal Justice Act 2015 enshrines a prohibition of torture and the right to humane treatment of arrested suspects, as well as several safeguards against torture and ill-treatment, such as mandatory recording of the statements via a retrievable video compact disc or other audio-visual means; and the right of a legal practitioner of his/her choice, or alternatively, an officer of the Legal Aid Council or other person of his/her choice to be present during questioning.



**Ghana** shared that the law provides for a witness unconnected to the case to be present during police questioning when a confession is being made, and to certify that it was made without any form of coercion or promise or threat.

Participants further identified a number of challenges that would need to be addressed when implementing investigative interviewing:

- Having a high number of police cases and receiving pressure from supervisors, politicians or the media to solve cases quickly, which incentivises resorting to coercive means to extract confessions or information from suspects;
- Lack of sufficient number of lawyers, hindering police and law enforcement from guaranteeing their presence during questioning;
- Suspects' personal connections or relationships with members of the police and law enforcement service, which negatively impacts the quality and outcome of criminal investigations; and
- Lacking technological means and forensics, which frustrate efforts to investigate serious offences such as rape and murder. If witnesses are not forthcoming or the suspect refuses to talk add to the challenge.



Experts concluded that investigative interviewing reminds us that if we do not have evidence or witnesses we cannot possibly have a suspect. Rather than the investigation moving from suspect to evidence it is supposed to move from evidence to suspect. Without evidence, the case cannot be proven beyond reasonable doubt in court. Investigative interviewing cannot “produce” evidence that does not exist but can aid the investigator in shifting focus to identifying evidence rather than extracting a confession.

## 6 Implementing investigative interviewing: Challenges and opportunities

Research conducted by police practitioners and academics in the field of forensic psychology has identified eight factors of the so-called “Framework of Investigative Transformation” (FIT) , which is key to producing competent, open-minded investigative interviewers, and requires:

- **Leadership:** implementing investigative interviewing requires achieving the buy-in from senior police leadership and management. Past miscarriages of justice can often act as a major driver for change in understanding the added value of investigative interviewing and how it can prevent such injustices from happening again.
- **Legislative framework:** implementing investigative interviewing requires police legislation, operational manuals and regulations that embed basic legal and procedural safeguards against torture and ill-treatment and provide the framework for the implementation of non-coercive interviewing methods.
- **Investigative mindset or cognitive style:** investigative interviewing requires investigators with an open mindset, good active listening and communication skills, so they can move away from built bias and tunnel vision that makes them seek confirmation of a presumption of guilt.
- **Investigators’ knowledge base:** specific knowledge is needed to produce good investigators, including on the applicable law and regulations on policing and criminal investigations, as well as on forensic psychology, eyewitness memory, communication, decision-making and emotional intelligence.
- **Training regime:** training is essential for investigators to acquire good investigative interviewing skills. Experts highlighted how countries are free to adapt their own versions of the United Kingdom’s PEACE method (Norway’s adaptation uses the mnemonic C.R.E.A.T.I.V, linked to the values and principles the method is based on: Communication, Rule of law, Ethics and empathy, Active consciousness, Trust through openness, Information and Verified through science). Putting in place a tiered-system of interview training that takes into account seniority in the service and the seriousness of offences requiring investigation was further recommended, as well to provide training that is hands-on, practical and conducted in small groups allowing for feedback and discussion.

- **Quality assurance mechanisms:** refresher training and supervision is recommended to reverse the effects of the forgetting curve. Research confirms that we forget what we learn and that in order to maintain our knowledge, methods and professionalism we need to refresh them at regular intervals.
- **Ability/skill set of the investigator:** research suggests that not all police and law enforcement officers have the ability to be a good interviewer, so it is important to select and train the correct individuals. Communication skills and emotional intelligence are essential elements in the ability or skill set of a good investigator.
- **Technology:** to make sure that effective interviews are conducted, it is preferable if they are audio and video recorded. Experts underlined that it does not necessarily mean expensive video technology but that mobile phones might suffice, and for records to be kept and properly stored. Body worn cameras are also recommended.

Participants and experts further discussed the benefits of implementing investigative interviewing, which contributes to:

- Improving the effectiveness and quality of criminal investigations conducted;
- Increasing public trust and transparency of police and law enforcement methods;
- Reducing the occurrence of a “trial within a trial” aiming to assess the voluntariness of confessions and information obtained, saving up resources for police and law enforcement, the prosecutor’s service and courts;
- Respecting the human rights of suspects, witnesses and victims;
- Decreasing the number of persons in custody and pre-trial detention, and in turn, possible overcrowding in detention;
- Reducing levels of corruption in the criminal justice system.

To conclude, experts underlined how investigative interviewing can still be implemented without substantial financial resources to begin with and recommended focusing on the following priority elements for a successful implementation:

- Carrying out **public education and awareness-raising campaigns** on the benefits of investigative interviewing, as it allows police and law enforcement to set a standard and to communicate to the public and the press what to expect and what information they are allowed to disclose about ongoing case investigations and interviews;

- Police and law enforcement can start having **internal discussions** on what practices can actually be changed, rather than telling officers what not to do (e.g., to not use coercive means to question suspects) without offering them an alternative. Investigative interviewing can be presented as the alternative tool to trigger change of the status quo and allow moving away from coercive and confession-oriented interviewing methods.
- Focusing on sharing the **scientific knowledge** on which investigative interviewing is grounded, and as a minimum, starting by ensuring a proper sitting arrangement or interview room and a recording device such as a dictaphone, if audio and video recording technology is not available.

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