

Witness Interview Strategy for Critical Incidents (WISCI)

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## **Abstract**

### *Purpose*

High-profile critical incidents involving multiple witnesses, particularly terrorist attacks, have increased over the years. This paper sets out to describe the components of a witness interview strategy for this type of investigation. Central to these cases is a need for a triage system which deals with a large number of witness/victim interviews that must be conducted fast time.

### *Approach*

This paper was developed based on the experience of the authors who provide practical advice and support to these types of investigations and a dialogue with police interview advisers involved in developing this type of strategy.

### *Findings*

A witness interview strategy for critical incidents involving multiple witnesses should be set within a framework that covers initial contact with the witnesses, the interview process and post-interview processes.

### *Practical Implications*

It is important that a witness interview strategy is developed for any critical incident involving multiple witnesses to ensure that what could otherwise be a chaotic process is effectively managed. Such a strategy should be set within a framework that covers initial contact with the witnesses, the interview process and post-interview processes.

### *Originality value*

No other papers have been published that consider the development of witness interview-strategies for multiple-witnesses in critical incidents.

**Keywords** critical-incident, terrorism, police investigation, witness, interview strategy, multiple witnesses.

## **Viewpoint**

## **Introduction**

A critical incident in England and Wales is defined by the College of Policing (2013) in authorised professional practice as:

*Any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community*

Critical incidents take a variety of forms including disasters resulting in mass casualties, terrorist attacks, public order operations, hate crime and anti-social behaviour or police complaints investigations leading to a serious breakdown of trust between the police and the community. Some critical incidents are investigated as major crimes involving murder or corporate manslaughter.

The number of police investigations into high profile critical incidents involving multiple witnesses has increased over the last few years, particularly in relation to terrorism. Given the relative infrequency with which these incidents occur, their varied nature and geographical spread, it seems reasonable to assume that the police officers involved in these investigations will usually have limited experience of them. Therefore, there may be some variations in the quality of the witness interview strategies developed for these investigations.

Trauma is a major concern in all critical incidents, particularly those involving mass casualties and terrorism. Even though this paper discusses trauma with particular reference to the interview it is not nor should it ever be seen as something to be bolted onto any investigative strategy. It is rather the case that trauma should be viewed as a significant issue that runs through the entire investigative process from the point of initial contact with witnesses onwards.

The authors of this paper provide practical advice and support to these types of investigations. This paper was developed based on this experience and a dialogue with police interview advisers involved in developing strategies for this type of investigation. It sets out to describe the various considerations in developing a witness interview strategy for a critical incident involving multiple witnesses; a triage system.

## **Witness Interview Strategies for Critical Incidents**

Witness interview strategies for critical incidents (WISCI) should always complement and be complemented by a witness care strategy that is intended to support to all witnesses identified by the investigation, irrespective of the extent of their cooperation. Witness care strategies describe the practical arrangements for taking action when a witness's safety is at risk and the mechanisms that have been put in place for their therapeutic support (see Smith and Milne, 2017 for further information).

The number of witnesses to some high profile critical incidents is such that it is usually necessary to put an organisational structure in place to facilitate their management. One of the ways in which this might be done is to set up a spreadsheet outlining the following in respect of each witness:

- Name;
- Contact details;

- Level or tier of response is required (see ‘categorisation and prioritisation’ below);
- Action that has been taken in respect of them (e.g. whether an initial account has been obtained and how it has been recorded);
- What action, if any, it is proposed to take in connection with them (e.g. an investigative interview, mode of recording, level of interviewer training and experience required);
- Dates/times they were contacted; and
- Any comments (e.g. “in hospital”).

It is only by the development of such an organisational structure that the investigation team can have any hope of managing a large volume of witnesses.

Witness interview strategies for high profile critical incidents use the same framework that is used by witness interview strategies more generally (see Smith and Milne, 2017). This framework consists of the following:

1. Initial contact;
2. Investigative interviews; and
3. Post-interview process and product.

### 1. Initial contact

The initial contact between the investigation team and the witness can take place either at or nearby the scene soon after the incident or it might take place elsewhere, including in a hospital or after the witness has returned to their home address. Wherever the initial contact takes place it is the first opportunity that investigators get to assess the witness’s mental state and communication needs. It is important that due consideration is given to the welfare of the witness in all cases. The events under investigation might have a lasting impact on their emotional wellbeing and they may be experiencing trauma. An assessment of the individual and of what they appear to have witnessed serves as a basis for making decisions about when, whether and how a person is interviewed and supported.

#### *Initial contact at the scene or nearby immediately after the incident*

Initial contact with a large number of witnesses at the scene of a critical incident such as a terrorist attack or a mass disaster will obviously be resource intensive. It is also likely to be very challenging in terms of trauma management, the potential need for medical intervention, and the understandable desire of people to get out of distressing and demanding situations and to return home. In these circumstances, it is important to put effective processes in place to identify each witness and to obtain an initial account from them to inform decisions about further action.

Traditionally, witnesses have been identified by simply asking them who they are and how they might be contacted. In critical incidents involving multiple witnesses, it is also important to make a record of what the witness was wearing to facilitate their identification when other witnesses describe them in their accounts and when any visual recordings of the incident are reviewed (e.g. from close-circuit television or mobile telephones). Such records are usually made in writing by a police officer at the scene. It may, however, be more expedient to make a video-recording of the witness at the time by means of, for example, a body worn video camera or another portable device.

It is clearly going to be important to obtain an initial account from witnesses as soon as possible in order to determine the next steps that are to be taken in respect of them. Initial

accounts can also serve to limit the memory decay that might arise as a result of delayed recall and, potentially, limit the contaminating influences of misleading post-event information (e.g. from media reports or other witnesses) (Gabbert et al, 2012). Given that initial accounts can affect memory in this way, it is important that they are of good quality and as free as possible from the contaminating influences of poor questioning (Milne and Bull, 2016). The Structured Interview Protocol (SIP; Gabbert et al, 2017) has been developed to aid front-line responders to question appropriately (a version of the SIP is currently being developed for the Fire Service, see Shawyer et al, 2017). If there are too many witnesses for the emergency services to cope with face-to-face the Self-Administered Interview (SAI©) could be utilised (Gabbert et al, 2009). The SAI© recall tool takes the form of a booklet “containing information about what is expected of the witness, instructions to facilitate the use of memory retrieval techniques and open questions about the incident” (Hope et al, 2011). The research team that developed the SAI© accept that it may have some limitations where witnesses are uncooperative, in a hurry, in need of emotional support or have difficulties with literacy. It is, however, an effective tool both for capturing initial accounts and inoculating memory against decay and contamination where the formal investigative interview is delayed (Hope et al, 2011), such as is likely to be the case where there are multiple witnesses and the resources available to manage them are limited. Experimental research suggests that the use of the SAI© may be unaffected by stress (Krix et al, 2015), although more work needs to establish the degree of support required by traumatised witnesses to real-life critical incidents such as a terrorist attack at the initial account stage of the triage system.

#### *Initial contact after the incident*

It is not always possible or practical to obtain an account from every witness immediately after the incident. Some witnesses will have been taken to hospital and will not be medically fit to be spoken to by the police. Others may leave the scene without talking to the police and will only be identified as having been present later. In some instances, the sheer volume of witnesses and the time pressures may be such that the most that can be done at the time is to obtain their contact details and a general statement of their whereabouts at the time of the incident. In these circumstances, an initial account will often need to be taken from witnesses at a later date.

Where initial accounts are taken face-to-face they may still benefit from the SAI©. However, where contact is via the telephone, for the purpose of determining whether face-to-face contact is necessary, then an open-ended protocol based on the cognitive interview (see, for example, Fisher and Geiselman, 1992) that aims to gain good quality information quickly, but without marring memory could be useful (Pescod et al, 2013). What is paramount to note at this stage is that memory is fragile and easily contaminated (Milne et al, 2017). Open-ended questions are important at this stage because they encourage witnesses to provide an unrestricted response (Smith and Tilney, 2007) and serve to reduce the effects of interviewer confirmation bias (Shepherd and Milne, 1999).

#### *Categorisation*

The purpose of obtaining an initial account from a witness is to determine the action to be taken in respect of them and to inform the wider investigation plan. The first stage of this process with a large number of witnesses to a critical incident is one of categorisation to determine whether a full investigative interview needs to take place and the manner in which it is recorded. The precise nature of categories used depends on the circumstances of the incident, the circumstances of the investigation and the law and procedure governing the

recording of witness testimony in the jurisdiction concerned. For example, in England and Wales, the legislation is such that the following categories could be considered:

1. Investigative interview at the earliest opportunity. Interview to be recorded on video for evidence-in-chief purposes if they are defined as ‘vulnerable’ or ‘intimidated’ or on video/audio for transparency if they are considered ‘significant’;
2. Investigative interview at the earliest opportunity. Interview to be recorded by way of notes prior to the preparation of a written statement;
3. No investigative interview. Witness advised to contact the investigation team in the event that they recall any further information.

In England and Wales, ‘vulnerable’ and ‘intimidated’ witnesses are defined as such by sections 16 and 17 of the Youth Justice and Criminal Evidence Act 1999. ‘Significant’ witnesses include eye witnesses, including emergency services personnel (Ministry of Justice, 2011). In certain circumstances, video-recorded interviews with a vulnerable and intimidated witness can be played as evidence-in-chief. The evidence from recordings of interviews with significant witnesses is usually transferred into a full written statement. However, visually recording such interviews is seen as the best way to secure a full and reliable account from an interviewee (Westera et al, 2011).

Where an investigative interview is necessary, the level of interviewer training and experience required should be specified (see, for example, Griffiths and Milne, 2006 and the Association of Chief Police Officers for England and Wales and the National Policing Improvement Agency, 2009).

## 2. Planning and conducting interviews with multiple witnesses to critical incidents

### *Fitness to be interviewed*

Where a witness is under the care of a medical professional, in receipt of psychological support or may be in need of such care or support, it is essential that the advice of a doctor or a psychologist is obtained before the interview takes place. The interview will obviously be delayed if the witness is not fit enough to be spoken to by the police. If they are fit to be interviewed further advice should be sought about any particular conditions that should be observed when it takes place (e.g. the maximum duration of the interview). In England and Wales, the support of a communication specialist in the form of a registered intermediary (section 29, Youth Justice and Criminal Evidence Act) may also be necessary (for further information about the role of an intermediary see O’Mahony et al, 2018).

### *Planning interviews with multiple witnesses to critical incidents*

The importance of planning interviews with witnesses cannot be overstated, even though it does not always take place (Her Majesty’s Crown Prosecution Service Inspectorate and Her Majesty’s Inspectorate of Constabulary, 2012 and 2014). Interview plans should take account of what is known about the witness, including the impact of trauma on them, the incident and any wider investigative material that the witness might be able to provide (Ministry of Justice, 2011). Such knowledge is then used to set the objectives for the interview, determine the resources required, the structure of the interview and the techniques to be used (for a detailed account of the interview planning process see Smith and Milne, 2011).

### *Conducting interviews with multiple witnesses to critical incidents*

Interviews with witnesses in England and Wales should be conducted in accordance with the four-phased approach recommended by *Achieving Best Evidence in Criminal Proceedings*:

*Guidance on Interviewing Victims and Witnesses, and Guidance on Using Special Measures* (Ministry of Justice 2011). Such an approach begins with maintaining rapport and establishing ground rules before moving onto the use of open-ended prompts to initiate a free narrative account then gradually becomes increasingly specific in the nature of the questioning to elicit further detail.

When interviewers conduct interviews with witnesses to critical incidents the particular considerations they face are:

- Resource constraints;
- Use of sketch plans; and
- Trauma.

Each of these will be examined in turn.

### ***Resource constraints***

The definition of ‘significant’ witness in England and Wales includes “those who have or claim to have witnessed, visually or otherwise, an indictable offence, part of such an offence or events closely connected with it” (Ministry of Justice 2011, paragraph 1.25). When this definition is strictly applied, most witnesses at the scene of a critical incident could be regarded as ‘significant’. The guidance in England and Wales goes on to recommend that interviews with significant witnesses should be video or audio-recorded for the purpose of transparency and that an interview product in the form of a written statement should be prepared for the witness to sign after the recording has been reviewed. While recording interviews with significant witnesses has considerable benefits, it can be resource intensive in that it involves the use of well-trained and experienced interviewers, who can be a scarce resource. Reviewing such interviews can take several hours in order to prepare a written statement, depending on the complexity of the witness’s account. For this reason, the guidance in England and Wales recommends limiting the designation of witnesses as ‘significant’ to a manageable number in investigations that involve multiple witnesses (Ministry of Justice, 2011, paragraph 2.137).

When making the important decision of whether to (i) visually record, or (ii) audio-record, or (iii) take a hand-written statement, the following benefits of recording must be borne in mind. The process of recording interviews with witnesses and victims through handwritten statements has been highly criticised (e.g. Milne and Bull, 2016). This is because such handwritten recordings have been seen to be full of inaccuracies (Rock, 2001), as they rely on the interviewers’ memories of what was said, and it is well established that memory is not a perfect process, especially in a dynamic situation like a critical incident. Thus, the interviews lack quality (Clarke and Milne, 2001), the resultant report lacks detail, is inaccurate and tends to misrepresent what the interviewee actually said (e.g. Lamb, 2016).

### ***Sketch plans***

Some witnesses have been shown maps as a means of getting them to identify where they and the other people and objects in their account were and where the various activities took place at the scene of an incident. The problem with this particular method is that showing a map for these purposes could adversely affect the witness’s memory by contaminating it as it is unlikely to be entirely compatible with their memory of the scene. Thus, when it is deemed appropriate to introduce a map to an interviewee, this should usually be done at the end of the interview process.

Many interviewers recognise that sketch plans can be used to help witnesses to explain what they saw, what they did, the location of people and objects, etc. (Dando et al, 2009a). When used as an aid to mentally reinstate the context, using sketch plans has the benefit of encouraging witnesses to generate their own retrieval cues while minimising the use of such cues by the interviewer, some of which may be inappropriate. In addition, using sketches is less time consuming and demanding for interviewers (Dando et al, 2009b). Such a saving in time and energy is clearly an advantage in situations where limited resources are available to interview multiple witnesses.

Sketches are commonly used to support recall in the free-narrative phase, they can also assist in the later questioning stage of the interview (e.g. varied and extensive retrieval; Milne, 2017). Wherever it is used, the use of a sketch should form part of the interview plan. In addition, to the obvious logistical point of making sure that pens and paper are available, a protocol should be developed covering the introduction and use of the plan. For example, such a protocol could be worded as follows:

“I would like you to draw a detailed sketch or plan of the incident you were involved in. Please draw as many details as you can remember about the event. It can be absolutely anything that you wish and anything that might help you to remember that event. I would like you to describe to me each item/thing that you are drawing as you draw it” (adapted from Dando et al, 2009b).

At the conclusion of the interview the sketches should be retained as exhibits for any legal proceedings that might follow.

Research into the use of sketches has demonstrated that they have a very wide application (e.g. in respect of vulnerable groups, Mattison et al, 2016). Where they cannot be used it may be appropriate to seek the assistance of a registered intermediary (as noted above, for further information about the role of an intermediary see O’Mahony et al, 2018).

### ***Trauma***

It is often the case that some witnesses to critical incidents will experience a degree of trauma. It is important to understand that people who are exposed to the same traumatic event will not necessarily experience trauma in the same way because reactions to traumatic events vary as a result of individual differences in vulnerability and resilience (Salmon and O’Kearney, 2014). Such differences can also be influenced by culture (e.g. Jobson, 2011) and age (Deffenbacher et al, 2004).

Where witnesses experience a high degree of trauma, it should be understood that it is not only experienced at the time of the incident; it can also affect both recall and behaviour during a later interview. In terms of recall, traumatic memories can often be fragmentary (e.g. Brewin and Saunders, 2010) and better for central rather than peripheral detail (Christianson and Loftus, 1987). In terms of behaviour, dissociation is not uncommon in the interview room. Dissociation usually describes a process where a person feels disconnected in some way from the world around them or them self (e.g. Foster, 2016). Dissociation occurs in response to triggers that remind the person of a traumatic incident in some way. While talking about the incident in an interview is obviously likely to remind the witness of it, dissociation can also occur as a result of more subtle triggers such as sounds, tone of voice, certain words or phrases and smells (Kennerley, 1996).



In the experience of the authors, where dissociation occurs in interviews it tends to be characterised by ‘zoning’ or ‘spacing’ out and ‘emotional numbing’. When witnesses ‘zone’ or ‘space’ out they often adopt a fixed gaze or stare and are unresponsive to anything said by the interviewer. Emotional numbing refers to detachment from one’s emotions which is often characterised by the reporting of an event that would usually be thought of as emotionally charged in a relatively flat and apparently emotionless way. Intrusive memories that have a dissociative quality, including ‘flashbacks’, can also occur during interviews with witnesses to traumatic incidents. Where ‘flashbacks’ occur the memory can be experienced very vividly and the witness could effectively re-live it (e.g., Briere and Scott, 2015). It is important to understand that where witnesses dissociate by ‘zoning’ or ‘spacing’ out or by way of intrusive memories like ‘flashbacks’ they are no longer in the interview room mentally: they are somewhere else (O’Mahony et al, 2018).

It might be possible to prevent some dissociative episodes if the precursor signs that they are about to take place are discernible. In these circumstances, asking the witness to re-focus in some way on the here-and-now, a technique sometimes referred to as ‘grounding’ (Kennerley, 1996), might be effective. Such ‘grounding’ techniques can include encouraging the witness to take deep breaths and to count while doing so, asking them to focus on manipulating some textured material such as plasticine or suggesting that they put a perfumed handkerchief to their nose. In addition, the overall effects of trauma on behaviour in the interview might, to some extent, be mitigated by an attempt to reduce the witness’s anxiety by building rapport with them before the interview (Ministry of Justice, 2011, paragraph 2.137). Interviewers must be “open, flexible and able to adapt to the state and expressions of the interviewee” to achieve rapport (Risan et al, 2016a, page 414). Such a skill hinges on the ability to manage emotions. The ability to manage emotions is central to the concept of emotional intelligence which involves “the ability to recognise, appraise and understand emotions on the basis of verbal and non-verbal expressions, to use emotions to enhance one’s thinking through reasoning or problem-solving, and to manage emotional responses” (ibid, page 415). Given that the “foundation of crisis intervention is the development of rapport” (Kanel, 2015, page 50), the use of Crisis Intervention methods could also help. Research has documented that victims of traumatic events have a more positive interview experience when they feel in control of the interview and its speed, and are allowed to give a coherent narrative which is uninterrupted (e.g. Langballe and Schultz, 2017). Thus, for these types of interviews the interviewer needs to be fully prepared psychologically and this can be done through good planning, reflection and openness (e.g. Risan et al, 2016b).

### 3. Post-interview process and product

Each interview should be evaluated to establish what it contributes to an understanding of the incident and to determine whether any immediate action is required (College of Policing, 2013b). Anything said during the interview that could help in identifying or locating any suspected offenders who may still be at large or neutralising any other threat to life (e.g. the location of weapons, ammunition or explosives) should be passed immediately to the relevant investigation team.

Witnesses should always be aware of how they can contact the investigation team if they need to do so and steps should be taken to keep them safe and to minimize the risk of intimidation where it is a concern (Smith and Milne, 2017).

## **The Emergency Services: Police, Fire Brigade, Ambulance Personnel**

Decisions regarding the interviewing of personnel from the emergency services, some of whom will have been the first to arrive at the scene of the incident, should be made on a case-by-case basis. It should not be assumed that the best course of action is to simply leave them to write their own statement. Where resources are such that they are asked to write down what they witnessed it is likely to be more productive to ask them to complete an SAI© booklet for the same reasons as discussed above. Some first-responders might need to be interviewed at an early point in the investigation. The benefits of being interviewed are multifaceted. As with witnesses from the general public, a face-to-face interaction, which allows an interviewee to give an uninterrupted account about what they have experienced is best practice (Ministry of Justice, 2011, paragraph 3.24) and is at the heart of therapeutic jurisprudence. In addition, an investigative interview conducted appropriately produces the most reliable information which in turn can be fed into an investigation. Personnel from the emergency services often hold crucial investigative information. Thus, it is imperative that they are interviewed properly from therapeutic, reliable information gathering and evidence gathering perspectives. Where interviews are conducted with personnel from the emergency services, they should not be interviewed by their colleagues or interviewers who are otherwise well-known to them. Interviewers often find it difficult to interview emotionally distressed colleagues about traumatic events because of the close nature of the relationship between them.

Unfortunately, the trauma experienced by personnel from the emergency services who are involved in responding to critical incidents that have resulted in serious injury or death is sometimes forgotten. This should never be the case, it is important that any interview strategy for critical incidents in which people have been seriously injured or killed takes account of the impact that it is likely to have on the personnel from the emergency services who respond to it. Personnel from the emergency services might experience trauma directly as a result of what they encounter at the scene of the critical incidents or vicariously as a result of what they find out, including what they are told by the witnesses that they interview.

When their personnel are exposed to traumatic situations, most if not all the emergency services in the United Kingdom use a trauma-risk management process referred to as TRiM (e.g., Scottish Police Authority and Police Scotland, 2015). Trauma Risk Management (TRiM) (Whybrow et al, 2015) is a psychological support process that is delivered by peers. It is intended to ensure that people who are likely to develop psychological disorders as a result of trauma are given assistance to seek professional help (Greenberg et al., 2008). The TRiM process is intended to provide an early indication of personnel who might develop trauma-related illnesses thus empowering the managers of personnel exposed to the traumatic situation to monitor it and to facilitate the best conditions in which psychological recovery might take place (ibid). The process usually begins with managers checking the welfare of staff in the immediate aftermath of the incident in accordance with the standard operating procedures of the organisation concerned (e.g., Nottinghamshire Police, 2014). In the case of first-responders to the incident, this is often followed up by an interview with a TRiM practitioner approximately 72 hours afterwards. A further TRiM interview is then carried out about 4 weeks later. Personnel can be advised to seek professional help for trauma at any point in the process.

TRiM interviews tend to avoid an in-depth discussion of emotions and focus instead on the time before, during and after the incident to identify the factors that might indicate that the person is at risk of developing a trauma-related illness such as post-traumatic stress disorder

(for example, whether they believe their life to have been at risk during the incident, whether they have been drinking alcohol excessively to cope with distress since the incident). While interviews with first-responders should ideally take place before the first TRiM interview, resource limitations are such that this is rarely practical. In these circumstances, a witness interview strategy for critical incidents involving multiple witnesses should include first-responders from the emergency services in their mechanism for prioritising interviews. Even so, however, most initial responders from the emergency services are not interviewed within 72 hours, before the first TRiM assessment is due. Records of TRiM assessment interviews should, therefore, be taken into account to ensure that all the relevant material is covered during any investigative interview with a first responder from the emergency services.

### **Implications for Practice**

- The guidance in respect of critical incidents published by the College of Policing for England and Wales and associated guidance in other countries should be developed so as to include witness interview strategies for incidents involving multiple witnesses;
- Critical incident training for police managers and practitioners should include witness interview strategies for incidents involving multiple witnesses;

**The guidance and the training for critical incidents should take particular account of the impact and management of trauma in respect of victims, witnesses and responders from the emergency services.**

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