

MEDICAL EVIDENCE – A DOCTOR’S PERSPECTIVE



DR BERNIE GREGORY (FREEDOM FROM TORTURE)

MEDICAL EVIDENCE – A DOCTOR’S PERSPECTIVE

- Memory and trauma
- Medical evidence in the Covid era
- How to get the best from your medical expert

MEMORY MYTHS

- Memory is like a digital copy and accurately recalled every time
- People telling the truth tell a consistent story
- If there are differences between accounts, the person is likely to be lying.
- Memory of traumatic events is impressed in the memory and remembered in vivid detail
- Dates for significant events are easy to remember

FACTORS INFLUENCING MEMORY RECONSTRUCTION

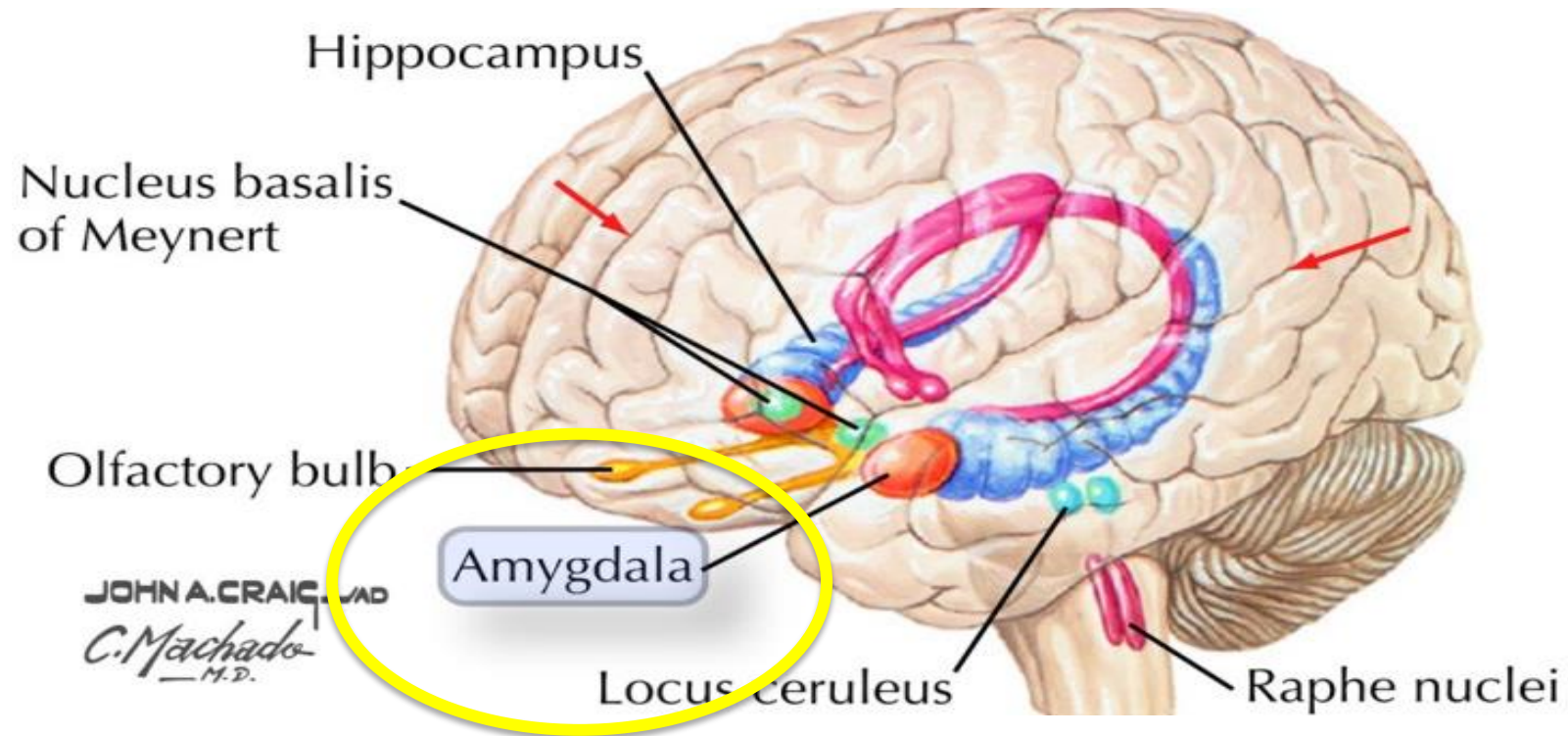
- Time since the event
- Number of times the event has been retold
- Is the event a repeated episode
- What we already know, hear and what we infer
- Culture, gender, language
- Language
- Who we are asked by and how they ask

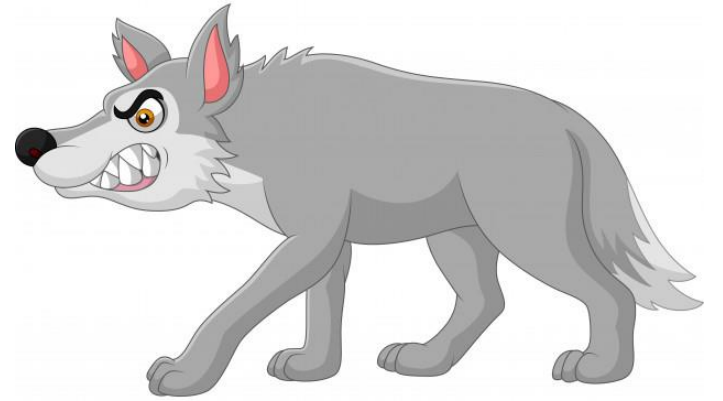
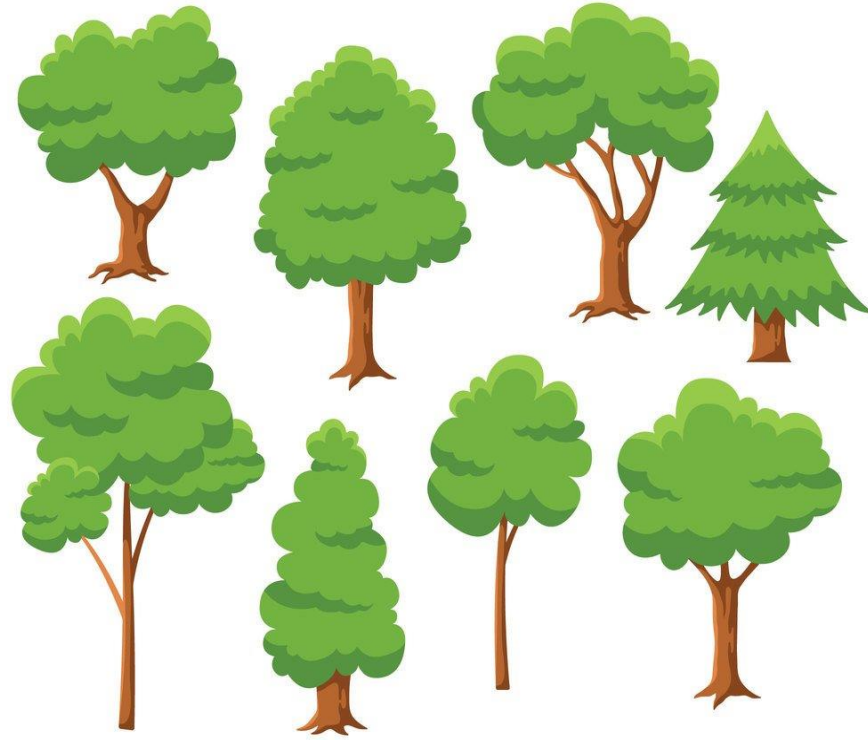
Studies show that 'normal' human memory is very poor in recalling:

- Dates, even for significant events
- How often something occurred
- How long it lasted
- In what order events occurred
- Common objects
- Peripheral information
- Names
- Verbatim conversation

It is these very things that asylum seekers are asked about to verify their claim and if incorrect are used as an indication of lack of credibility

Traumatic memories





Amygdala memories

- sensory or perceptual ‘snapshots’
- Little verbal narrative to tie the memories together
- Memories not marked as being in the past - the person re-lives the experience as if it is happening again.
- Memories cannot be consciously brought to mind but are triggered by external cues,
- Central details are more likely to be remembered than peripheral details.

Stressful environments

High levels of arousal interrupt memory recall.

Interviewer factors

- interrupting
- over-taking
- excessive use of yes/no questions
- inappropriate timing & sequencing of questions
- interrogative pressure
- demeanour of interviewer

Physical health factors affecting memory.

- **traumatic brain injury**
- poor sleep
- chronic pain
- malnutrition.

Mental health disorders

- **PTSD**
- **Depression**

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Remote assessment

- Many MLR writers switched to remote assessments during first lockdown
- HO already working towards increasing asylum interviews by videoconference
- Remote hearings

However-

- Research shows
 - adverse credibility assessment more likely when giving remote evidence,
 - less likely to get bail,
 - more likely to get longer sentences
- Especially if
 - hearing difficulty,
 - cognitive or **mental health problems,**
 - **need an interpreter**
- Demeanour assessment on screen
 - eye gaze, body language
 - delayed responses,
 - misunderstandings not clarified

Results from 20 remote MLRs- 1

- **Confidentiality**- 20% of people were not alone
- **Disclosure**
 - 35% of clients reported some issues they felt unable to disclose
 - 80% felt they said all they wanted to
 - majority of doctors felt could not obtain full history of torture and its impact
 - Vulnerability, lack of visual cues
 - Rapport not as good as face to face
- **Assessing consistency of psychological findings with the torture**
 - partial in 60%,
 - satisfactory in 25%

Results from 20 remote MLRs- 2

- Detailed remote assessments can also be possible for
 - self-harm and suicide risk, demonstrating impact of the torture and future risk
 - Discussion of memory and clinical reasons for differences between accounts
 - Fitness to give evidence
 - Assessment of fabrication
- Further face to face assessment needed for physical examination *and* to update psychological assessment with benefit of improved rapport and visual clues

Challenges and implications

- Risk for individuals having partial or incomplete evidence
- Risk if submitting more and different information in later reports
- But if wait for face to face, risk long delays in obtaining medical evidence
- Challenges for decision makers in making fair and robust decisions on less evidence than previously- especially given seeming dependence on scars as evidence
- May better inform decision makers about problems of obtaining evidence remotely in asylum interviews or in the Court hearing
- More immigration detainees, and asylum seekers generally, may be able to access medical evidence

Can physical assessment also be done remotely?

- Risk decision maker gives no weight to the remote assessment because physical assessment is limited
- Good quality photographs in conjunction with video assessment
 - risk disadvantaging those without these
 - risk decision maker making their own conclusions about the scars, or lack of them
- Reduce risk if simply confirm presence of scars and caveat
 - ‘in keeping with the attribution given’
 - ‘further face to face assessment is indicated as other scars may be present and full evaluation can then be made’

How to get the best from your medical report writer

- Good instructions
- Provide all the documents in good time
- Good instructions
- Good instructions