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Cyrus D. Mehta
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Credibility in Context

Trauma-Informed Record Development After *Matter of T-D-E-*

Nilda Pérez*

Abstract: Credibility determinations in humanitarian immigration matters often turn on omissions, chronology shifts, constrained affect, uneven recall, and apparent inconsistencies across interviews, declarations, and testimony. Those features may reflect fabrication, ordinary memory variation, translation or preparation problems, or clinically significant effects of trauma. *Matter of T-D-E-* underscores that credibility cannot be resolved through a single favorable indicator and instead requires analysis under the totality of the circumstances. This article applies the same discipline to potentially adverse testimonial features. It identifies a credibility-context gap that arises when the record contains a presentation feature but lacks reliable context for interpreting it, and proposes a bounded pre-hearing framework for counsel to classify the issue, determine whether clinical assessment is warranted, and develop record-specific evidence without asking clinicians to opine on truthfulness. The goal is not to excuse inconsistencies or displace the adjudicator, but to permit a more precise, evidence-responsive credibility determination.

Introduction

A credibility issue often becomes visible before its meaning is clear. An applicant may describe a core event in an initial interview and later recount the same event with a changed chronology. Another applicant may offer vivid sensory detail surrounding an event while recalling the event itself unevenly. A third may present with little visible emotion when discussing an experience that would conventionally be expected to produce distress. In a humanitarian immigration proceeding, each feature may be understood as relevant to credibility. Yet none, standing alone, resolves the question that matters: whether the feature reflects a material inconsistency, a limitation of the interview process, a problem of translation or preparation, ordinary memory variation, or a clinically significant effect of trauma.

That distinction is consequential. Immigration law permits adjudicators to consider demeanor, candor, responsiveness, internal consistency, consistency with prior statements and other evidence, plausibility, and inaccuracies or falsehoods when making credibility determinations.[1] The statutory standard is broad, but it is not mechanical. It calls for a totality-of-the-circumstances

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assessment rather than a conclusion drawn from one isolated feature of testimony.[2]

The Board's recent decision in *Matter of T-D-E-* illustrates the point. There, the Board held that an immigration judge could not deem a respondent credible solely because the respondent candidly admitted having previously lied to obtain immigration benefits. The immigration judge was required to assess credibility under the totality of the circumstances, consider corroboration, and determine whether the respondent otherwise carried the burden of proof.[3]

The decision is not a trauma case, and it does not establish a trauma-specific credibility rule. Its lesson is nevertheless relevant. If a favorable credibility finding cannot rest on one indicator of candor, an adverse inference should likewise not rest reflexively on one feature of presentation without examining the record in context. The question is not whether trauma excuses false testimony. Nor is it a question of whether a diagnosis proves credibility. The question is whether the record contains sufficient, reliable context to evaluate a testimonial feature for what it is.

This article examines the credibility-context gap that arises when trauma-affected applicants present with features that can be misunderstood through conventional credibility heuristics. It then proposes a bounded framework for record development. The framework preserves counsel's legal judgment, respects the adjudicator's fact-finding role, and identifies the limited circumstances in which trauma-informed clinical evidence may assist the credibility analysis.

Credibility Requires a Contextual Inquiry

The REAL ID Act authorizes a credibility determination based on the totality of the circumstances and all relevant factors.[4] Relevant considerations include demeanor, candor, responsiveness, inherent plausibility, consistency between written and oral statements, internal consistency, consistency with other record evidence, and inaccuracies or falsehoods, whether or not they go to the heart of the claim. The statutory language gives adjudicators considerable latitude, but the breadth of the inquiry makes careful record development especially important.

A credibility assessment commonly develops from a series of small observations. A declaration provides one date and oral testimony supplies another. A response is delayed, sparse, or highly detailed in a way that appears unusual. A person seems emotionally distant while recounting severe harm. A fact finder may appropriately identify those observations and ask whether they bear on reliability. The difficulty arises when the record offers no principled basis for determining what the observation means.

Matter of T-D-E- confirms that credibility does not turn on a single simplifying marker. The Board explained that candidly admitting prior false

statements does not, by itself, establish credibility. The adjudicator must instead conduct the broader assessment required by the statute and determine whether corroborating evidence and the rest of the record support eligibility for relief.[5]

The same analytical discipline matters where the potentially relevant feature is unfavorable. A chronology variation may be material, immaterial, clinically significant, translation-related, or the consequence of a prior interview's design. Limited affect may be relevant demeanor evidence, but it may also be consistent with emotional constriction, dissociation, cultural norms, medication effects, or the effort to maintain control while discussing painful events. The legal system need not disregard such features. It must, however, evaluate them on a record capable of supporting a reliable inference.

This is not an argument for a categorical presumption. Trauma does not make an account true. A clinical diagnosis does not resolve factual disputes. A qualified clinician cannot provide a legal conclusion that a person is credible. The narrower proposition is that, when trauma may bear materially on a testimonial feature, the absence of clinically grounded context can leave the fact finder to draw a conclusion from an incomplete evidentiary picture.

Trauma, Memory, and Testimonial Presentation

Trauma can affect memory, attention, emotional regulation, and narrative presentation. The effects are variable. They differ across individuals, diagnoses, histories, cultural settings, stages of recovery, and the conditions under which an account is elicited. They must therefore be assessed individually rather than presumed.[6]

One clinically recognized feature is fragmented temporal recall. Highly distressing events may be remembered through sensory, emotional, or situational fragments rather than as a linear narrative with stable dates and sequence. An applicant may remember a room, a smell, a sound, or the physical sensation of fear with unusual clarity while having difficulty placing all events in exact chronological order. This possibility does not render every date discrepancy insignificant. It does mean that the legal importance of a discrepancy may depend on its relationship to the traumatic event, the consistency of its core content, the interview conditions, and the record as a whole.

A second feature involves affective presentation. Some trauma-affected individuals recount severe experiences with limited visible emotion. Emotional constriction may reflect a learned strategy for maintaining control, an effort to avoid overwhelm, dissociation, shame, cultural norms regarding emotional display, or other psychological and contextual factors. The absence of visible distress does not by itself establish the presence of trauma, and visible distress does not independently establish reliability. Demeanor is one part of a larger inquiry.[7]

A third feature concerns uneven narrative detail. A person may offer substantial peripheral detail while struggling to provide a complete account of the central event. That pattern can arise for many reasons, including ordinary memory processes, avoidance, dissociation, fear, interview pressure, or a lack of shared vocabulary for an experience. It may also be unrelated to trauma. The clinical question is not whether the pattern appears unusual in the abstract. It is whether a qualified assessment, grounded in the individual's history and presentation, supports a limited explanation relevant to the record.[8]

Narrative variation across proceedings may create a similar problem. Recounting a traumatic event repeatedly can produce different emphasis, sequencing, language, and level of detail. Such changes may be clinically understandable, but they can also be material. A useful analysis neither dismisses variation nor equates it automatically with deception. It identifies the precise variation, places it in the relevant clinical and procedural context, and distinguishes a possible trauma-consistent feature from a contradiction that remains unexplained.[9]

These limits are central. Trauma-informed practice is not a substitute for factual investigation, corroboration, translation review, or careful preparation. It is a way to avoid treating a clinical question as though it had already been answered by a credibility label.

The Credibility-Context Gap

The credibility-context gap emerges when the legal record identifies a presentation feature but lacks an adequate basis for understanding its possible significance. The gap is often most pronounced when clinical documentation exists but is not connected to the specific evidentiary concern.

A general psychological evaluation may establish symptoms, diagnose a condition, or document a history of harm. Those functions can be essential. They may not, however, answer the narrower litigation question raised by a chronology variance, constrained affect, third-person narration, selective omission, or uneven recall. Conversely, an evaluation that offers broad conclusions about truthfulness risks exceeding appropriate clinical boundaries and may be less useful to the legal decision-maker.

The most useful clinical evidence is therefore neither generic nor conclusory. It is record specific. It identifies the testimonial or documentary feature at issue; describes the clinical basis, if any, for understanding that feature; explains the limits of the inference; and avoids deciding the ultimate legal question. The objective is not to transform a clinician into a credibility adjudicator. It is to make sure the adjudicator receives relevant clinical context when that context is necessary to evaluate an existing credibility concern fairly.

This approach also serves counsel's professional role. Counsel must decide which discrepancies warrant clarification, which require corroboration, which

can be addressed through declaration revision or testimony preparation, and which may call for clinical assessment. A trauma-informed clinical analysis is not appropriate in every case. It may be unnecessary where the record already resolves the issue, where the issue is immaterial, or where available information does not support a clinically grounded nexus. Its value lies in disciplined selection and careful limitation.

A Framework for Pre-Hearing Record Development

A structured, pre-hearing review can help counsel determine whether a potential credibility issue requires clinical context. The process begins by identifying the actual point of vulnerability. Counsel should isolate the specific statement, omission, presentation feature, or documentary inconsistency likely to matter, rather than treating credibility as a generalized concern. Precision matters because a clinical explanation can be useful only if it addresses a defined issue in the record.

The next inquiry concerns classification. Not every variation is clinical. The record should be examined for translation problems, interviewer assumptions, ambiguous questions, changes in legal theory, limitations in prior representation, ordinary memory errors, and documentary conflicts. The task is to distinguish a potentially material contradiction from an inconsistency that may have a different explanation. This step protects both the client and the integrity of the eventual clinical evidence.

Where trauma may be materially relevant, counsel can determine whether a qualified clinician should assess the relationship between the client's history, presentation, and the identified record feature. The assessment should remain within clinical competence. It may address trauma history, symptoms, observed affect, memory processes, dissociation, avoidance, or other clinically supported considerations. It should not assert that the client is telling the truth, instruct the adjudicator how to rule, or treat every discrepancy as evidence of trauma.

If clinical context is warranted, the resulting evidence should be drafted for legal use without adopting legal conclusions. A reliable report identifies the materials reviewed, methods used, relevant clinical findings, the precise feature being addressed, the degree of support for the clinical formulation, and its limitations. It explains what may be clinically consistent with the observed presentation while preserving the distinction between a clinical opinion and the adjudicator's credibility determination.

Finally, counsel can decide how that information fits within the case theory. In some matters, a declaration, corroborating evidence, translation clarification, or narrowly tailored testimony will address the issue. In others, a clinically grounded analysis may help explain why an apparent irregularity should not be evaluated in isolation. The purpose is not to add evidence

for its own sake. It is to construct a record in which the totality-of-the-circumstances standard can operate as the statute requires.

Implications for Credibility Adjudication

A trauma-informed approach to record development does not ask adjudicators to abandon ordinary credibility analysis. It asks that the analysis remain responsive to the evidence. Immigration judges and asylum officers retain responsibility for assessing testimony, weighing corroboration, and deciding whether an applicant has met the burden of proof. Clinical evidence cannot displace those duties.

Judicial education already reflects this broader recognition. In 2026, Florida State University's Center for Prevention & Early Intervention Policy, in collaboration with Florida's Office of the State Courts Administrator, launched trauma and resilience education for judges and court professionals focused on applying trauma science within judicial settings. The National Council of Juvenile and Family Court Judges has likewise developed trauma-informed court training and consultation resources. These initiatives do not alter the legal standard for credibility; they demonstrate that applying trauma science within judicial settings is not foreign to court practice.[10]

But credibility determinations are strongest when they distinguish observation from inference. A delayed response is an observation. A conclusion that the delay reflects fabrication is an inference. A chronology variation is an observation. A conclusion that it reflects intentional deception is an inference. In a case involving significant trauma, clinical evidence may be relevant not because it supplies an answer to the legal question, but because it helps the fact finder assess whether an inference is warranted.

Matter of T-D-E- reinforces the importance of resisting one-factor credibility judgments. The case requires a totality assessment even when the respondent has made a candid admission that might otherwise appear highly probative. That reasoning is consistent with a broader proposition: credibility requires attention to the relationship among testimony, corroboration, context, and the specific facts of the case. It is not strengthened by reducing complex presentation to a single, unexamined heuristic.

For counsel, the practical consequence is straightforward. A potential credibility concern should be identified early enough to permit informed choices about clarification, corroboration, preparation, and, where appropriate, clinical evaluation. Once the record has closed around an uncontextualized adverse inference, the opportunity to explain its significance may be substantially constrained. Early, careful record development is therefore not merely a clinical preference. It is a litigation discipline.

Conclusion

Humanitarian immigration cases often require fact finders to assess accounts of events that were frightening, disorganizing, and difficult to recount. The legal system properly demands reliable evidence. It should also recognize that reliability cannot be assessed by isolating a single narrative feature from the conditions in which memory and testimony are formed.

Where trauma may bear materially on a credibility concern, a limited, case-specific clinical analysis can help complete the record. It does not certify truthfulness, excuse false statements, or resolve the legal question. It can clarify whether an apparent inconsistency, constrained affect, uneven recall, or variation in narration should be assessed as evidence of unreliability or considered in light of clinically supported context.

The central task remains counsel's: to identify the issue, decide whether clinical context is warranted, and build a record that permits a genuine totality-of-the-circumstances analysis. When that work occurs before an adverse inference hardens, the credibility inquiry becomes more precise, more disciplined, and more faithful to the evidentiary judgment immigration law requires.

Notes

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1. *See* Immigration and Nationality Act (INA) § 208(b)(1)(B)(iii).
2. *Id.*
3. Matter of T-D-E-, 29 I&N Dec. 732.
4. INA § 208(b)(1)(B)(iii).
5. Matter of T-D-E-, 29 I&N Dec. 732.
6. Chris R. Brewin, *Autobiographical Memory for Trauma: Update on Four Controversies*, 15 Memory 227 (2007).
7. Brett T. Litz & Matt J. Gray, *Emotional Numbing in Posttraumatic Stress Disorder: Current and Future Research Directions*, 36 Australian & New Zealand J. Psychiatry 198 (2002); Rachel Atchley & Carter Bedford, *Dissociative Symptoms in Posttraumatic Stress Disorder: A Systematic Review*, 22 J. Trauma & Dissociation 69 (2021); Hannah Rogers, Simone Fox & Jane Herlihy, *The Importance of Looking Credible: The Impact of the Behavioural Sequelae of Post-Traumatic Stress Disorder on the Credibility of Asylum Seekers*, 21 Psych. Crime & L. 139 (2015).
8. Jane Herlihy, Peter Scragg & Stuart Turner, *Discrepancies in Autobiographical Memories—Implications for the Assessment of Asylum Seekers: Repeated Interviews Study*, 324 BMJ 324 (2002); Jane Herlihy & Stuart W. Turner, *Asylum Claims and Memory of Trauma: Sharing Our Knowledge*, 191 Brit. J. Psychiatry 3 (2007).
9. *Id.*
10. Florida State University Center for Prevention & Early Intervention Policy and Florida Office of the State Courts Administrator, *Trauma & Resilience*

Education for the Judicial System (2026), https://flcourts-media.flcourts.gov/content/download/2489597/file/FSU%20Trauma%20training.pdf; National Council of Juvenile and Family Court Judges, *Assessing Trauma for Juvenile and Family Court Judges: From Development to Implementation, 2013–2017* (2019), https://www.ncjfcj.org/publications/assessing-trauma-for-juvenile-and-family-court-judges-from-development-to-implementation-2013-2017/.