When to use the eyeWitness to Atrocities app?

A PRACTICAL GUIDE ON THE EFFECTIVE USE OF CONTROLLED CAPTURE APPS TO DOCUMENT CORE INTERNATIONAL CRIMES AND HUMAN RIGHTS VIOLATIONS FOR ACCOUNTABILITY

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www.eyewitness.global
If you are active in documenting photos and videos of core international crimes & human rights violations for accountability or looking to do so, this guide is for you!

This guide is a public resource produced by eyeWitness to Atrocities and prepared by eyeWitness to Atrocities Director Wendy Betts and Partnership Advisor Maria Mingo.

If you have questions or outcomes to share following your use of this guide, please consult the eyeWitness to Atrocities website.

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Who We Are

eyeWitness to Atrocities (eyeWitness), initiated by the International Bar Association, combines law and technology to promote accountability for the worst international crimes such as genocide, crimes against humanity, and war crimes, by providing an innovative system that addresses existing pitfalls. We support activists around the world to capture verifiable photos, videos, and audio of serious human rights violations for accountability purposes.

We do this in three ways:

- Providing a free and easy-to-use app for Android smartphones that captures photos, videos, and audio with unmodifiable metadata at the time the footage was captured;
- Storing the footage in a digital evidence locker that eyeWitness maintains and keeping a trusted chain of custody for the footage;
- Ensuring the captured information is processed for justice.

Read more about eyeWitness: www.eyewitness.global

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This guide is organised into the following sections:

04 Why do photos and videos need verification?
05 What is a controlled capture app?
06 How to select the right app?
07 Why use a controlled capture app?
10 eyeWitness to Atrocities: A controlled capture app for justice
11 Roadmap for app adoption
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In the early 2000s, the proliferation of smartphones with cameras and the rise of social media platforms for sharing visual imagery, such as Facebook, YouTube, and Twitter, meant that increasingly ordinary citizens had the power to report on what was happening around them. As a result, human rights defenders were able to capture and share information about events on the ground in real-time. Individuals working in the justice sector recognised the tremendous potential of this footage as a source of first-hand, real-time information collected long before professional investigators could access the scene. However, while this footage helped raise awareness of violations, it was difficult if not impossible to use that footage on its own as evidence to hold the perpetrators of the violations accountable.

The reason was that digital footage is very easy to manipulate. Even though your mobile phone might capture where and when you recorded a photo or video, that information can be changed or deleted as the footage is sent to others or posted online. Similarly, the footage itself can be edited to remove or add important details. Without being able to trace the origins of the footage, it is difficult to determine if the footage is authentic. Even if the footage has not been changed, the very fact that it can so easily be changed means it cannot be accepted at face value.

Consequently, for footage intended to be used for accountability, a higher standard will apply than if the footage were used for other ends, e.g. reporting or advocacy. Not only will the footage need to be relevant to a specific case, but it also needs to be reliable. This means that, even if you as the photographer know your footage is authentic, you will still need to prove to a court the source, authenticity, and integrity of the footage. A controlled capture app is one method that can help you meet those reliability standards.

See also Situation in the Democratic Republic of the Congo in the case of the Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06-2432 (Order on the numbering of evidence), 12 May 2010, paras. 7-8.
Controlled capture apps are mobile phone apps that record reliable footage. They record and embed information needed to demonstrate authenticity of footage taken directly with the app, at the time of capture. The non-governmental organisation WITNESS provides the following explanation of controlled capture:

With controlled capture, an image, video, or audio recording is cryptographically signed, geotagged, and timestamped. The idea behind verified capture is that in order to verify quickly, consistently, and at scale, the applications on offer need to be present at the point of capture. Dozens of checks are performed automatically to make sure that all the data lines up and corroborates, and that whoever is recording the media isn’t attempting to fake the device location and timestamp. The hash the media gets assigned is unique and is based on the various elements of the pieces of data being generated.\(^2\)

A complementary approach to controlled capture apps is verification through open-source investigation techniques. This constitutes a methodology using a specialised skillset to verify and authenticate footage that has already been captured using standard mobile cameras. They can include e.g. comparison with satellite images and other sources to identify or confirm the location, techniques such as shadow analysis to identify or confirm the date and time, and frame-by-frame analysis to ensure it has not been edited. While open-source investigation can be very labour intensive and time-consuming, it is particularly relevant if the source of the footage is unknown (e.g. footage found online or circulated through networks on messaging platforms) or if access to the crime scene is limited.\(^3\)

**Important:** Unlike open-source investigation, a controlled capture app cannot be used to verify images already recorded with a regular phone camera, found online, or shared through networks on messaging platforms. Therefore, this approach is only relevant if you (or your staff) as the documenter are taking the photos and videos yourself and have access to the crime scene.

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\(^2\) WITNESS, "Ticks or it didn’t happen", December 2019, p. 11.

\(^3\) For more information on open source investigation, see Human Rights Center UC Berkeley School of Law and UN Human Right Office of the High Commissioner, "Berkeley Protocol on Digital Open Source Investigations", 3 January 2022.
How to know if a controlled capture app is the right documentation tool for you:

1. Are you (or your staff) considering gathering data?
   - No
   - Yes

2. Do you (or your staff) have access to the site where the violations are taking place?
   - No
   - Yes

3. Do you (or your staff) take photos and videos yourself directly on site?
   - No
   - Yes

4. Are the violations being documented visual in nature?
   - No
   - Yes

- No tech tool or technique
- Controlled capture tool
- Open source investigation
WHY USE A CONTROLLED CAPTURE APP?

The authenticity of photos and videos can be verified without technology if they are recorded in a way that helps indicate where and when the footage was taken, and the chain of custody is maintained, and/or through testimony by the photographer. A controlled capture app, however, can help streamline the verification process, especially in cases where maintaining the chain of custody is too burdensome or where testimony by the photographer is not possible or desired due to security concerns or other circumstances. Listed below are the three main benefits of controlled capture apps.

Automated metadata collection

Since the time and location (metadata) of the footage are automatically captured, you do not need to manually record this information or film in such a way as to capture landmarks, weather, and other relevant information.

When documenting for accountability, metadata collection alone is not enough!

The controlled app must also ensure the metadata cannot be altered and protect the chain of custody of both the footage and its metadata.

[4 ] For more information on how to film video as evidence, see WITNESS, "WITNESS Resources"
Authentication and chain of custody

Using controlled capture technology can dramatically streamline verification by ensuring the integrity of the footage is intact. This is usually achieved by encrypting the media and calculating a hash value, a numeric code based on pixels, that is unique to each photo and video at the time the footage is recorded. The amount of time saved depends on how rigorous the design of the app is and how reliable the recorded metadata is.

Maintaining the chain of custody is the key app feature that distinguishes controlled capture for collecting admissible evidence and controlled capture for other uses, such as advocacy work. If the objective of using technology is to achieve verification to the level of admissible evidence, the app will need to help protect the chain of custody of the footage and its metadata, for example by linking with a storage system that allows for access control and monitoring, similar to an evidence locker. You as the documenter must ensure the app you use is designed for that purpose. If the app allows you to access the footage and related metadata without safeguarding a verifiable copy, then the chain of custody is broken and you will need to take independent steps to maintain the chain of custody, verify the images through open-source investigation, or testify in court about the authenticity of the footage.

Enhanced security

Using a controlled capture app can provide additional security beyond what is offered by a standard mobile phone camera. It is important to note, however, that these apps are not designed with a primary function of digital security and cannot take away the risks inherent to documentation. Here too, the level of benefit heavily depends on the design of the app.

App security features can include:

- Masking the app icon in the app menu.
- Ensuring no sensitive footage appears in the standard phone gallery.
- Storing all footage and metadata encrypted.
HOW TO SELECT THE RIGHT APP?

The most appropriate app, if any, is determined primarily by the intended use of the footage.

**Accountability:**

You must ensure the app you use is designed for this purpose as a higher standard will apply to be able to use the footage in court.

**Advocacy:**

As a lower standard will apply, you may opt for a documentation app that better supports your documentation workflow. However, you may still want to consider using an accountability app if its functionality meets your needs as information collected at the higher standard required for accountability can still be used for advocacy. Footage collected at a lower standard will not necessarily be suitable for accountability and you will need to take additional verification steps.
eyeWitness to Atrocities: A controlled capture app for justice

The eyeWitness to Atrocities app is a controlled capture app that was specifically designed to capture photos and videos in a manner that will facilitate its admissibility as evidence in court.

How it works: The app embeds unmodifiable date, time, and location metadata to authenticate the footage for use in court. From the app, you can upload the encrypted footage to a secure and access-controlled database that eyeWitness maintains to safeguard the chain of custody. The eyeWitness app uses an algorithm to generate a hash value that uniquely identifies each photo and video from the moment the footage is recorded, as visualised below. The hash value is recalculated upon receipt by the eyeWitness server demonstrating the integrity of the footage has remained intact. You can then download a copy from the app for your own immediate use.⁵

Not just an app: No app or piece of technology is enough to achieve justice or resolve human rights issues. When it comes to using the footage for justice, technology needs to be combined with legal expertise and human support if images are to be submitted and used as evidence in court.⁶ Therefore, in addition to providing the app, eyeWitness works in collaborative partnerships with documenters and legal organisations to support their aims, deliver training, and provide technical and legal support. With consent from the partner, we also transfer their footage and draft submissions to investigators.⁷

Impact: The eyeWitness to Atrocities app is used by human rights defenders around the world and footage taken with the app has contributed to investigations and analyses conducted by the United Nations, the International Criminal Court, different European war crimes units, domestic courts, and others. eyeWitness’ main effort is to support its partners’ accountability aims. If partners use the eyeWitness app for advocacy, eyeWitness will simultaneously look for relevant accountability avenues to enhance the reach of the footage, with the partners’ consent.⁸

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⁵ For more information on how the eyeWitness to Atrocities app works, see eyeWitness to Atrocities, “Resources”.
⁶ For more information on why the human touch behind the technology is important, see eyeWitness to Atrocities, “Technology is not enough to secure justice: Why we still need the human touch”, 28 January 2021.
⁷ For more information on eyeWitness’ work and how we partner, see eyeWitness to Atrocities, “What We Do”, eyeWitness to Atrocities, “Services for partner organisations”.
⁸ For more information on how footage taken with the eyeWitness to Atrocities app has been used for accountability, see eyeWitness to Atrocities, “Our Impact”.

Do you have access to the site of the violations?

As mentioned above, using a specialised tool to capture photos and videos requires access to the site where that footage would be taken. If you are (or in the case of human rights organisations, your staff is) located outside the country where the violations are taking place or cannot securely access the location, then using a controlled capture app would not be feasible and you may want to consider looking into open source investigation instead.

Do you take photos or videos yourself or do you rely on external sources?

Even if you (or in the case of organisations, your staff) have access to the location where the violations are taking place, you may still rely primarily on photos and videos or other information gathered by members of the affected community or others. Specialised documentation tools only come into play when used directly by the photographer. If instead you (or your staff) are gathering photos taken by third parties (for example shared through contacts via messaging platforms, or posted on social media), the photos will need to be verified through other means such as open source investigation.

Are the types of violations you focus on visual in nature?

Some violations are more visual in nature than others and therefore lend themselves better to using photos and video. Whereas, other violations are less visual and instead rely on other types of evidence such as testimony. If the violations are not visual in nature, a controlled capture app will be less effective.

Do you collect witness testimony instead of photos and video?

If you (or your staff) focus on witness statements instead of crime scene photos and videos, you will not need a controlled capture app as these are not designed to record statements. If you decide to additionally start taking photos and videos, you may want to consider receiving (or making sure your staff receives) training on how to use the app.
2. Assess the risk and equipment costs

Even if a controlled capture app would technically support your work, you should only proceed after considering (1) the security risks for yourself or your staff, (2) the implications for anyone appearing in the footage, and (3) the financial implications of using the app. This is particularly relevant for those leading human rights organisations looking to encourage their documenting staff to use a controlled capture tool.

- **Risk assessment**
  
  If you or your staff travel to the site of violations and record photo and video, you will already have assessed the risk of such work. Using a controlled capture app should not impact the risk assessments already conducted. Nonetheless, you should conduct a review to ensure the security features offered by the app are fully understood and appropriate for the context.

  If using an app implies new behaviour, for example, if you or your staff were not recording photo and video previously, then a full risk assessment should be conducted before deciding whether to adopt the app. This risk assessment should address not only the risks to the documenting staff but also how to maintain the security of the information collected.

- **Consent from those appearing in the footage**
  
  The process of collecting photo and video evidence can be very different from the collection of other forms of evidence, for example, witness testimony. When collecting testimony, obtaining the informed consent of the interviewee is crucial. With photos and video, that obligation still exists (especially when photographing injuries) but is more nuanced. Depending on the situation, it may not be possible to obtain consent from everyone appearing in the photo or video – that may be because the victim is deceased or because the video depicts violence in a crowded space, for example. Before adopting new tools to capture photos and videos, you should ensure to have protocols in place to address consent and the privacy rights of the individuals filmed.

- **Equipment and resources**
  
  Audio-visual documentation of human rights violations will require specific equipment, such as smartphones. The maintenance of such equipment, including access to phone data and electricity can also be costly and/or limited. Additionally, you should have a plan for how to organise, store, and preserve the information collected. Even if using an app that provides storage and cataloguing services such as the eyeWitness to Atrocities app, presumably you would want to also hold your own copy. If so, you must ensure you can accommodate these costs.
3. Training and documentation planning

Controlled capture apps are often designed to be intuitive. However, to ensure they are properly used it can be helpful to provide training on the use of the tool as well as on how to incorporate it effectively into your (or the organisation’s) workflow. Ideally, the training will be provided directly by the tool provider to ensure that all content is accurate, though training of trainer approaches can also be helpful, especially in situations where the tech provider is available for questions. Follow up training might be needed if staff turnover is high or if there are long periods between documentation missions.

Organisations wishing to adopt and promote the use of new technology amongst their staff will be asking them to change their working methods. In eyeWitness’ experience, new technology is more likely to be used when focused on a specific, finite project with the end use of the information already identified – for example, investigating a certain type of crime for a report or collecting evidence for an identified case. It can be helpful to identify an individual within the organisation to promote, coordinate, and monitor the use of the tool. For this reason, eyeWitness provides training and can assist in the development of documentation plans.

Final remarks

Controlled capture apps such as the eyeWitness to Atrocities app can significantly streamline verification and help meet the higher standard required to be able to use photos and videos for accountability. Whether using a controlled capture app (or conducting an open-source investigation) is right for you, will primarily depend on whether you (or your staff) are taking the photos or videos yourself or whether you rely on external sources. Given the high-security risks involved with documentation, we recommend carefully considering the app adoption roadmap above before incorporating documentation technology into your documentation workflow.

Find more information about eyeWitness to Atrocities at www.eyewitness.global

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[9] See eyeWitness to Atrocities, "Services for partner organisations"