

Handbook on Civil Society Documentation of Serious Human Rights Violations

Principles & Best Practices



PILPG
A Global Pro Bono Law Firm

HANDBOOK ON
CIVIL SOCIETY DOCUMENTATION OF
SERIOUS HUMAN RIGHTS VIOLATIONS

EDITORS:

FEDERICA D'ALESSANDRA
SANDER COUCH
ILINA GEORGIEVA
MARIEKE DE HOON
BRIANNE MCGONIGLE LEYH
JOLIEN QUISPEL

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DISCLAIMER

The material in this volume is not intended as a comprehensive exposition of all potential issues, nor of the law concerning such issues. Rather, the purpose of this guide is to discuss important aspects related to civil society investigating and documenting serious human rights violations in order to raise attention to essential aspects of the quality and safety of such activities. This Handbook is not a substitute for legal, forensic, medical, psychological or other relevant training. Individuals are strongly encouraged to seek legal and technical advice before deciding on whether or how to engage in investigations and documentation and not to rely on this Handbook alone. The Public International Law & Policy Group disclaims all liability to any person or object in respect of anything done and the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or part of this Handbook.

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GLOSSARY

Artifacts	Human made objects.
CameraV	An application for smartphones that enables creators of digital photographs or videos to embed and encrypt information about the creation of that photograph or video.
Chain of custody	Describes accurately and in detail the whereabouts of any piece of information, whether it be documentary, forensic or testimonial, from the moment someone receives it to the moment they hand it over to an investigating authority or a court uses it; all people who handled the document; and the purpose for which they handled the document.
Close-up photography	Photographs taken at close range of items or details of interest.
Cloud computing	The online storage and synchronization of files where data is hosted on a remote server.
Confidentiality	Unofficial investigators have a duty to maintain confidentiality of information and to disclose information only with the informed consent of the person who provided the information. The clarification of confidentiality and its limits are of paramount importance. The information provider should be clearly informed of any limits on the confidentiality of the evaluation and of any legal obligations for disclosure of the information gathered by means of the interview and any external physical assessment at the outset.
Detail	The object of a close-up photograph.
‘Do no harm’	Means preventing and minimizing any unintended negative effects of activities that can increase people’s vulnerability to physical and psychosocial risks.
Edged weapons	Examples include knives, glass, screwdrivers, spear like items etc.
EyeWitness	An application for smartphones that allows users to safely and securely add metadata to the imagery created.
Establishing photography	Record the entire crime scene exactly as the person first arriving encountered it.

Global Positioning System (GPS)	Is a satellite-based navigation system made up of a network of 24 satellites placed into orbit.
Informed consent	Ensuring that consent is based on adequate disclosure and understanding of: the potential benefits and adverse consequences of providing information, including the nature of the process, why the information is being sought, how the information will be used and possible consequences; their right to refuse to participate; and that consent is given voluntarily without coercion by others.
Intermediary	Individuals that unofficial investigators may use to identify and liaise with members of the community, overcome cultural and social barriers, and identify potential victims and other witnesses.
Kobo Toolkit	Is an open source application for field data collection that is free of cost.
Martus	An application that is a helpful tool to secure the original metadata of information.
Privacy	Interviews and external physical assessment must be conducted in private under the control of the unofficial investigator. Privacy is not only necessary for ethical reasons, but also when talking about sensitive issues that may be embarrassing or shameful for the person being evaluated. Unofficial investigators should establish and maintain privacy during the entire information-gathering exercise. The presence of police officers or other officials should be weighted on a case to case basis, and against the situational background and likelihood that their presence might lead to more harm than good. The presence of police officers, soldiers, prison officers or other law enforcement officials in the room, for whatever reason, should be noted in the unofficial investigator's report. Their presence during the information-gathering exercise may be grounds for disregarding the information. If any other persons are present in the room during the information-gathering exercise, the identity, titles, affiliations of those persons should be made clear to the information provider and indicated in the report.
Probative value	Is a legal concept used to describe the extent to which a piece of information tends to prove something material about the crime alleged.

Post-Traumatic Stress Disorder (PTSD)	A condition of persistent mental and emotional stress occurring as a result of injury or severe psychological shock, typically involving disturbance of sleep and constant vivid recall of the experience, with dulled responses to others and to the outside world. These symptoms are often severe and persistent enough to have a significant impact on the person's day-to-day life.
Re-traumatisation	Provoking and/or exacerbating psychological distress and symptoms by eliciting painful memories.
Secondary trauma	Secondary traumatic stress is the emotional duress that results when an individual hears about the firsthand trauma experiences of another. Its symptoms mimic those of post-traumatic stress disorder (PTSD).
Trauma	A deeply distressing or disturbing experience that may cause physical, psychological or emotional injury.

1. INTRODUCTION

1.1 Statement of Purpose

Increasingly, civil society actors engage in documentation and investigation processes, seeking to collect evidence against those responsible for serious human rights violations. The purpose of this Handbook is to provide guidelines and best practices for the collection and management of information on serious human rights situations for those that are not professionally trained in such documentation practices. While the Handbook strongly emphasizes the need to refrain from investigating human rights abuses and to refer to professionals, practice shows that this is not always possible. Only under such circumstances and as a last resort may civil society actors consider engaging in certain documentation practices and not in others, always seeking to include professionals when and where possible. They may however only do so by adhering to the ethical principles and documentation guidelines that are provided in this Handbook. These enable unofficial investigators to do no harm, identify security risks, preserve crime scenes, prevent the loss of evidence, and manage the information in manner that preserves confidentiality, security and probative value, with an eye to possible use in later redress processes and without jeopardizing the future work of professionally trained and officially appointed investigators.

1.2 A Societal Need

Realizing the importance of evidence to buttress claims of human rights violations, and that in many situations such information is lost by the lack of investigations, a growing number of actors from civil society have started to engage with or conduct documentation and investigation processes of serious human rights violations. Civil society documentation of serious human rights violations dates back to the origins of the human rights movement itself. Though largely utilized for various domestic purposes, it was in the late 1980s and early 1990s that reports and materials collected by human rights groups began making tangible contributions to the project of international justice. Increasingly, civil society actors have sought to contribute to regional human rights bodies such as the Inter-American Court and Commission for Human Rights and the European Court for Human

Rights, the international criminal tribunals such as the International Criminal Tribunals for the former Yugoslavia and Rwanda, and the International Criminal Court, in an effort to assist their investigative and accountability processes.

The rapid increase and spread of mobile technology, and the subsequent era of citizen-journalism that followed, has increased the number of individuals engaging with the documentation and investigation of serious human rights violations. Indeed, civil society actors seeking to interact with accountability mechanisms are no longer exclusively well-trained human rights groups approaching documentation and the collection of information about serious human rights violations with a specific mandate. The diffusion of mobile technology has flooded the media with an exponentially growing amount of footage, allowing for a quasi-live (and increasingly graphic) coverage of real events. For example, the Arab Spring allowed the ability to follow remote events as they unfolded from its early days. Other examples include groups organizing themselves to collect information in order to show (previous) state leaders' connection to human rights violations and the increasing number of victims who come forward to share the stories of the harms they suffered.

On the one hand, the pro-activism of civil society groups living in conflict zones or under authoritarian regimes has brought about an improvement in coverage and an abundance of information. On the other hand, however, it has confronted the investigative and judicial practice with a number of dilemmas. Is it possible to use information collected through citizens' journalism for the purpose of judicial proceedings in light of the quality requirements for evidence? What is the role of such civil society actors in the investigation and documentation processes and accountability mechanisms? What weight should the information they collect carry? And what risks and challenges does their presence and interplay create?

The conversation on the role and consequences of “unofficial investigations” (see the Terminology section below) is today more alive and polarized than ever. On one end of the spectrum, highly specialized and concerned professionals rightly point to the irreplaceability of technical training and that even seasoned investigators with years of investigative experience are confronted with complex difficulties in their efforts to perform their official mandates. These difficulties include the highly complex nature of the violations and crimes under investigation, the high

level of knowledge and expertise that is required for understanding the standards and types of evidence that are required, and the inoperability of certain contexts where these violations take place. On the other end of the spectrum, hopeful voices rightly identify the opportunity this increase in civil society participation brings to document and investigate situations that would otherwise not have been addressed and provide useful contributions to the compilation of information on serious human rights violations.

This Handbook does not take a position on the desirability of citizen journalism and unofficial investigators. Rather, given that this practice occurs and that it has great beneficial value in principle under certain circumstances when conducted in a safe, structured and appropriate manner, this Handbook aims to provide guidelines and practical assistance to non-professional investigative activities to minimize the risks associated with the documentation of human rights violations and maximize the probative and evidentiary value of the information gathered.

This Handbook is meant to guide those who encounter information of (or themselves witness) serious human rights violations when no official and professional investigative authority is immediately available and a danger exists that the information might become unavailable or deteriorate. This Handbook does not, nor intends to, substitute legal, forensic, psychological, medical or other training relevant to investigations. To the contrary, this Handbook explicitly advises individuals to refer and defer to medical, forensic, legal and otherwise qualified professionals to the extent circumstances so permit.

Furthermore, and unequivocally, this Handbook sets clear limits on what is ethical and possible to do when collecting information about serious human rights violations without proper training and/or an official mandate. This Handbook does not encourage individuals or groups to travel to situations where serious human rights violations are taking place to document them, unless a mandate is officially conferred upon them by pertinent authorities. To the contrary, this Handbook is mainly conceived for members of the civil society already present in the territory where serious violations of human rights occur.

Therefore, due to the fact that the interval between the commission of a crime and the deployment of professional investigators is key to the preservation of evidence; that in countries and areas of turmoil, insecurity

and widespread violence, professional investigators are often precluded access to crime scenes, or cannot be deployed in the immediate aftermath of an attack, resulting in local actors having the ability to access information about human rights violations; that unofficial investigators may lack the training and/or resources to properly handle information they might enter into contact with; and that contamination or loss of important information is often the unfortunate outcome of such circumstances, this Handbook assembles a series of guidelines and best practices on how to recognize, collect, manage and store information on serious human rights violations.

The novelty of this Handbook is that it constitutes the first comprehensive collection of standards and best practices for the investigation of serious human rights violations by civil society actors that are: 1) *neither mainly addressed to human-rights mandated actors* (whether officially mandated, like the Training Manual on Human Rights Monitoring of the UN Office for the High Commissioner for Human Rights, or unofficially, as it is the case with training materials circulated by human rights groups to their researchers before deploying into the field); 2) *nor crimes specific* (as it is the case with the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, or the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, also known as the Istanbul Protocol).

1.3 Audience

This Handbook is primarily intended as a guide for members of civil society groups that, although not as primary organizational objective, nevertheless engage in information-gathering exercises for the purpose of unofficially documenting serious human rights violations. This includes, for example, staff of local and international non-governmental organizations that *do not* have documentation of human rights violations as their primary objective. This Handbook is not intended for civil-society groups or personnel of non-governmental organizations whose primary purpose is to document human rights violations. We assume that these actors will receive in-house training on the best practices followed by their organizations, tailored to their abilities and needs. The Handbook might however provide a useful tool for them as well, as it will present the collection of best practices in a manner that is not intended for the purposes of internal training only.

This Handbook discourages lay individuals that act in their personal capacity and are without the support of a network or organization from engaging in information-gathering exercises for safety reasons, not only concerning their own safety but also that of those they engage with (victims, witnesses).

1.4 Terminology

The Handbook’s terminology is the result of careful choices by the authors based on extensive consultations with a variety of stakeholders and experts in the fields of accountability, investigations and documentation of serious human rights violations.

1.4.1 Investigation and Documentation

Talking of “investigation by civil society actors” can both be misleading and controversial. The term “investigation” conveys the idea of an activity that only highly skilled and trained professionals are equipped to carry out. Furthermore, criminal investigations are subjected to legal and procedural standards that fall well beyond what this Handbook can and aims to accomplish. The use of the word intends to neither mislead nor exacerbate the controversy. While only professionally trained experts acting in their official capacity can carry out “formal investigations” for the purposes of criminal accountability, abiding by criminal investigative standards has the potential to maximize the reliability and possible use of the information collected. However, the weight and role of this information within the criminal process itself is a matter of judicial decision only, and following this Handbook’s standards will not guarantee the admissibility of information as “evidence” in trials.

The collection of information by high evidentiary standards can strengthen the overall process of documenting serious human rights violations by enhancing the quality of the information collected, and expanding the possibilities to use this information in and beyond the criminal process. Furthermore, there is a disconnect between the way the word “investigation” is (and should be) used by the highly trained community of official legal and investigative authorities and the way it is used by the audience for which this Handbook was written. The term “investigation” is therefore used purposefully to adapt to the language used by the audience the Handbook intends to reach, while making explicit that it

does not aim to deny the standards attached to this term in the context of professional investigatory practice and legal proceedings.

Moreover, the way in which the term civil society “investigations” is used in this Handbook equates with the term “documentation.” This includes documenting crime scenes, victims’ stories and other relevant materials. The terms “fact-finding” and “information-gathering” are also used. They largely relate to the same activities.

1.4.2 First-respondents v. Investigators

The choice of the word “unofficial investigators” is also deliberate. The major challenge was to find a term that was both comprehensive and also specific. The word “first-respondents,” for example, which is a popular term in the justice and accountability community, may be too limiting. The term would have excluded those who enter into contact with information about human rights violations later on in the documentation continuum.

In situations on serious human rights violations, the first-responders are often actors working in the humanitarian field. While some of these humanitarian actors engage with accountability mechanisms on many levels, others feel that their humanitarian mandates are incompatible with gathering information on the “guilty” side because their ability to operate in contexts of violence depends on their perceived “neutrality.”¹ It is subject to each organization themselves whether to engage in documenting activities. This Handbook should be seen as neither encouraging nor advocating for humanitarian actors’ involvement with mechanisms of redress. However, should they want to engage with documenting the occurrences, they are

¹ See Marc DuBois, ‘Civilian protection and humanitarian advocacy: strategies and (false?) dilemmas’ MSF-Holland July 2007, *available at* <http://odihpn.org/magazine/civilian-protection-and-humanitarian-advocacy-strategies-and-false-dilemmas/>; and Gabor Rona, ‘The ICRC Privilege Not to Testify’ Confidentiality in Action, 2004; Kate Mackintosh, ‘Note for humanitarian organisations on cooperation with international tribunals’, 2005; Steven Ratner, ‘Should ICRC Reports on Detainee Visits be Turned over to Military Commission Defence Counsel?’, 2013; Stéphane Jeannet, ‘Recognition of the ICRC’s long-standing rule of confidentiality - An important decision by the International Criminal Tribunal for the former Yugoslavia’, 2000, *available at* <https://www.icrc.org/eng/resources/documents/misc/57jqhq.htm>; Toni Pfanner, ‘Cooperation between truth commissions and the International Committee of the Red Cross’, 2006 *available at* <https://www.icrc.org/eng/resources/documents/article/review/review-862-p363.htm>; Anne-Marie La Rosa, Humanitarian organisations and international criminal tribunals, or trying to square the circle, 2006 *available at* <https://www.icrc.org/eng/resources/documents/article/review/review-861-p169.htm>.

advised to follow the ethical principles and practical guidelines in this Handbook.

1.4.3 Unofficial v. Untrained

The word “unofficial” to characterize the “investigations” and “investigators” in this Handbook was also carefully selected over the word “untrained” because “untrained” might misrepresent the experience of some individuals engaged with documentation. Whereas in many contexts it is fair to assume that documenters will be untrained, in an increasing amount of contexts these actors are either receiving relevant training (the appropriateness/quality of said trainings may vary), and, more importantly, are often highly skilled professionals in the functions they are there for primarily. In Syria, for example, many actors documenting human rights violations are doctors, lawyers, and local judges. While they are not representative of the majority of documenters everywhere, the word “untrained” seemed unsuitable. Instead, the Handbook opts for the term “unofficial” which characterizes the nature of these investigative and documentary efforts rather than the qualifications of the person involved.

1.4.4 Information v. Evidence

The Handbook often uses the word “information” about serious human rights violations rather than “evidence” in the spirit of managing expectations (see for more on management of expectations, Section 2.1.7). It is important to realize that what is collected by unofficial investigators, even if by the standards presented in this Handbook, will not often find its way into the proceedings in a court of law directly, although it may still be essential to a case in more indirect ways. This distinction between information and evidence, however, does not imply that lesser standards apply with regard to its relevance, credibility, reliability, and accuracy, which are also crucial in non-criminal law or non-judicial processes. Therefore, quality assurance is a matter of good practice as it will enable the use of the information in a variety of situations. Accordingly, even if information does not become evidence, it may nevertheless, if properly collected, serve as a “lead,” assisting investigators and enabling them to identify, locate and obtain information that may serve as evidence.²

² Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 54 (2011), available at

1.4.5 Unofficial and Official Investigations

The relationship between the audience of this Handbook and official investigators is one to be determined by official investigators themselves. This determination will depend on their mandates and procedural rules, and not the quality of the information collected by unofficial investigators. The quality of this information may however enhance cooperation when official investigators' mandates and procedures allow for interaction with unofficial investigators. As, for example, the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict provides, a "multi-sectoral approach [to justice] that includes collaboration between health professionals, lawyers, police and the judiciary" is essential to seeking justice for victims.³ Similarly, this Handbook aims to contribute to the improvement of coordination and consistency of approach between all those involved, officially and unofficially.

1.4.6 Civil Society Organizations and Non-Governmental Organizations

In this Handbook the term civil society organization (CSO) is often preferred to the term non-governmental organization (NGO),⁴ as the former is comprehensive of the latter, and also includes formations that have not constituted themselves through an official legal status. The words are not used interchangeably, however, and NGO is used exclusively when addressing actors with NGO status.

1.5 PILPG Documentation of Serious Human Rights Violations materials

In addition to the present Handbook, PILPG's resources for the documentation of serious human rights violations encompass a number of

<http://folkebernadotteacademy.se/Documents/Kunskapsomr%C3%A5den/Rule%20of%20Law/A%20Handbook%20on%20Assisting%20International%20Criminal%20Investigations.pdf>.

³ *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict* (United Kingdom: Foreign and Commonwealth Office, June 2014), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf

⁴ The terms CSO and NGO are defined by UNDP, *Possibilities for South-South Cooperation: NGOs, AND SCOS: A NOTE ON TERMINOLOGY, ANNEX I*, available online <http://www.cn.undp.org/content/dam/china/docs/Publications/UNDP-CH03%20Annexes.pdf>.

additional tools. The standards for unofficial investigations that were collected are presented comprehensibly in this Handbook, the Handbook on Civil Society Documentation of Serious Human Rights Violations. In addition, they are presented in a more visual and easily transportable way in the accompanying Field Guide on the Documentation of Serious Human Rights Violations. Moreover, PILPG, together with a consortium of partners, has produced a Human Rights Documentation Toolkit.

The Human Rights Documentation Toolkit is a multi-sector and interactive online portal accessible to human rights documenters on the ground, providing them with existing documentation resources, best practices, and ongoing support from other documentation stakeholders. The Toolkit project will help break down barriers between documentation stakeholders in different sectors and increase collaboration and coordination on documentation efforts by creating a cross-sector set of broadly accepted practices, tools, and methods for human rights documentation. The HRD Toolkit was sponsored by the U.S. Department of State's Bureau of Democracy, Human Rights, and Labor, and will be an online portal of resources for documenters of human rights violations. The project was implemented by a consortium of ten diverse partner organizations: PILPG, the Humanitarian Law Center (HLC); International Coalition of Sites of Conscience (ISCS); OutRight Action International; the American Association for the Advancement of Science (AAAS); the SecDev Foundation; SecDev Cyber; the Harvard Humanitarian Initiative (HHI); Physicians for Human Rights (PHR); and the International Bar Association's eyeWitness to Atrocities.

All these materials are or will be available on the Public International Law & Policy Group's website, at www.pilpg.org, in the "Knowledge Management" section, under "Toolkits and Handbooks."

With regard to this Handbook, Chapter 2 discusses important ethical and investigative principles, including the principle of doing no harm, the notions of confidentiality and informed consent, the risks of traumatization and re-traumatization, and the importance of a system of referrals to service-providers in the context of interactions with traumatized and vulnerable populations. In line with the overall tone of this Handbook, the Chapter also discusses the importance of managing expectations and striving to maintain the traceability of a chain of custody for the information collected. Finally, Chapter 2 discusses the importance of the preparation and planning phase,

how to conduct a risk assessment, what security arrangements to consider, and how to assess what people to interact with in contexts of widespread violence.

Chapter 3 focuses on how, and when, to collect (or not) documentary, witness, or forensic information about serious human rights violations. It provides practical guidance on the recognition and proper documentation of hard-copy, digital and photographic video information, how to document and record a crime scene to preserve it, and what steps to take or not to take when confronted with physical injury, loss of life, sexual and gender-based violence, and artifacts such as firearms or other weapons. This Chapter also addresses interactions with victims and witnesses of violence, guiding the reader through various stages of a witness or victim interview, how to recognize and handle trauma, and what special precautions to take when dealing with minors and victims of sexual and gender-based violence.

Chapter 4 discusses the importance of proper management of the information collected, how to verify it, how to catalogue and store it, and how to ensure confidentiality of the information collected, with special attention on personal security and the security of the people the unofficial investigator has interacted with in the course of his/her information gathering. In addition to presenting best practices, the Handbook provides the reader with actual tools (such as informed consent and chain of custody forms), and recommends the use of new technology that assists in the investigation and documentation of serious human rights violations.

2. ETHICAL PRINCIPLES FOR CIVIL SOCIETY DOCUMENTATION

This Chapter explores important ethical and investigative principles, including the principle of doing no harm, the risks of tampering or deterioration, the notions of confidentiality and informed consent, the risks of traumatization and re-traumatization, and the importance of a system of referrals to service-providers in the context of interactions with traumatized and vulnerable populations. It also discusses the importance of managing expectations and striving to maintain the traceability of a chain of custody for the information collected. Finally, it touches on the importance of the preparation and planning phase, how to conduct a risk assessment, what security arrangements to consider, and how to assess what people to interact with in contexts of widespread violence.

2.1 General Principles for Documenting Information

This section addresses a number of general principles of collecting and documenting information, including the do no harm principle, the principle of informed consent, principles of confidentiality and referrals.

2.1.1 Do No Harm

The most important principle when collecting information or evidence is to do no harm. This includes doing no harm to victims, witnesses, intermediaries, local communities, other unofficial investigators, colleagues, any other person involved in the collection of information on serious human rights violations, or oneself. It also includes doing no harm to any of the information encountered, whether it be physical, testimonial, or forensic, and keeping in mind the imperative to always perform a balancing act between the need to preserve information/evidence and the risks of tampering with or deteriorating that same evidence through improper actions. This is an overarching principle to all un-official investigators' activity and must be adibed to at all times.

Do no harm means preventing and minimizing any unintended negative effects of activities that can increase people's vulnerability to physical and psychosocial risks.⁵ Doing no harm may call for action, for example by providing first aid or referring others to the services of health care providers. Depending on the circumstances, preventing or minimizing negative effects may also call for a decision not to act at all, for example when action exposes oneself or others to the risk of harm.

Collecting and documenting information on serious human rights violations should always be done to serve the best interests of those affected by the violations, and not for the sake of collection itself. This means engaging individuals, their families and communities for the purpose of investigating and documenting information of serious human rights violations in a way that maximizes access to justice for victims, and minimizes as much as possible any negative impact the documentation process may have on them. When documenting information about serious human rights violations, unofficial investigators must strive to do no harm or to minimize the harm they may be inadvertently causing through their presence or mandate.⁶

To this end, unofficial investigators should at a minimum:

1. Offer or arrange for immediate professionally trained (health)care as the first priority.
2. Conduct a risk assessment before undertaking any information-gathering exercise.
3. Ensure team members documenting serious human rights violations are appropriately prepared and trained before engaging in collection activities, to the best extent possible.
4. Obtain informed consent from victims and witnesses prior to any information-gathering exercise, and ensure consent is obtained for any specific activity such as audio/visual recordings or photographs.

⁵ United Nations Office for the Coordination of Humanitarian Affairs, 2015 Syrian Arab Republic Strategic Response Plan, 11 (Dec. 18, 2015), *available at* https://www.humanitarianresponse.info/system/files/documents/files/2015_SRP_Syria_EN_AdvanceCopy_171214.pdf.

⁶ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 29 (2014), *available at* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf.

5. Protect the identity and safety of the victim or witness as well as the information documented.
6. Act with respect, professionalism and empathy towards others, always with their safety and security in mind.
7. Watch for signs of emotional distress or re-traumatization and stop, pause or postpone the interview/documentation exercise as required.
8. Refrain from collecting information from particularly vulnerable persons (traumatized victims or witnesses, particularly children and victims of sexual and gender-based violence showing signs of psychological trauma).
9. Avoid interaction with minors without the presence of their parent(s) or legal guardian, and leave interaction with traumatized children to professionals.
10. Take special precautions when working with victims or witnesses of sexual and gender-based violence.
11. Prevent harm to themselves and others by securing a crime scene from potential hazards before entering.
12. Plan and prepare adequately.

Strategies to ensure that the do no harm principle is applied during the documentation process are embedded throughout the Handbook.

2.1.2 Informed Consent

Observing the principle of informed consent is critical when gathering information about serious human rights violations, irrespective of the nature of the information obtained. All victims and witnesses must give their informed consent prior to being interviewed, externally examined, photographed, having their information recorded, being referred to any support services, or having their information and contact details shared with third parties.

Furthermore, informed consent should be sought at every stage of interaction to make sure the person of interest is fully aware and accepts the consequences of each step of his/her own interaction with the unofficial investigator. After any information-gathering exercise the victim/witness must be asked if they still consent to the information being used or shared

and told that they are free to change their mind without consequence and that no one would be told.⁷

Obtaining informed consent before documenting information from victims or witnesses ensures that the victim or witness maintains full control and power over their own experiences, and remains a knowledgeable and consenting participant in the investigative and follow-up processes. Insisting on prior informed consent allows victims and witnesses a moment of reflection on the potential consequences of providing information. Not obtaining informed consent violates the rights of the victim/witness, is disrespectful and could cause them (additional) harm. In addition, information obtained without securing proper and informed consent may also lose its evidentiary value because a court may not be able to exclude the possibility that the information was provided under some kind of duress or coercion.⁸ Informed consent is an ethical obligation for anyone gathering information about serious violations of human rights from victims or witnesses.

Proper and informed consent entails that all persons providing information about serious human rights violations explicitly confirm, preferably either in writing and signed or by means of audio or video recording, they have been informed about and understand:

- The purpose and content of the data collection exercise;
- The meaning of confidentiality and how it applies, or not, to the information they provide;
- The procedures that will be followed – including that the information may need to be disclosed in the future and for what reasons;
- The risks and benefits of participating; and
- The identity of the unofficial investigator and the groups s/he represents, as well as the means of contacting the investigator at a later stage.⁹

⁷ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 45 (2014).

⁸ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 45 (2014).

⁹ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 45 (2014).

As far as the identity of the victim is concerned, best practices differ based on the purpose of the information gathering exercise. Many organizations, in fact, do not request victims to identify themselves. However, juridical proceedings require the ability to trace someone's identity.

In order to ensure informed consent, practitioners should:

1. Take time to explain all relevant factors to victims and witnesses, by:
 - Identifying oneself and others present, the purpose of the interaction, and, if relevant, the organization;
 - Explaining in detail the purpose and nature of the information-gathering exercise, and if relevant the people on and mandate of the team;
 - Describing any possible uses of the information provided, including any possible disclosure of the information to third parties;
 - Describing the types of questions that may be asked; and
 - Presenting the information in a way that is clear and ensuring the information has been understood at every stage of the interaction.¹⁰

It is good practice to ask the victim/witness to explain what they have understood about the process in order to ensure that there are no misunderstandings and that the consent is properly informed. Asking victims or witnesses to repeat the process and the items relevant to informed consent in their own words ensures that the victim or witness has truly understood the message and is not simply providing what they believe to be a socially desirable answer. “Do you understand”-type questions may lead the victim or witness into a certain direction and are therefore likely to be answered in the affirmative (with a “yes”), regardless of whether the message has actually been understood.

In order to determine at a later point in time whether a victim or witness did in fact provide the information with prior informed consent, it is advised to record this part of the documentation process. This recording can be done either by asking the victim or witness to read and sign a document

¹⁰ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 45-46 (2014).

outlining the principles of informed consent or by audio-recording the interaction with the victim or witness on the topic of informed consent.

2. Ensure the consent given is based on free will:

- Establish a relationship of genuine trust that enables the victim or witness to agree freely and voluntarily or feel able to refuse.
- Clearly explain, in their own language, that the victim or witness has a choice whether or not to provide information and that this choice can be exercised at any time throughout the process.
- Clearly explain your mandate, and the mandate of those institutions you intend to share this information with, as well as the expected use you will make of such information.
- Interact with care and respect and not abusing one's power.
- Ensure that the victim or witness has enough time to decide whether or not to consent to participating. The amount of time they need should take into account the consequences of participation both now and in the future for themselves, their families and communities. It should also recognize the difficulty of assessing risks while in a vulnerable situation and in their particular context.
- Confirm every time the victim or witness is contacted and at every stage of each interaction that they have not changed their mind about the use of the information or who it is shared with.
- Provide any documents or forms in the victim or witness' own language.
- If necessary, use interpreters who are competent in word-for-word interpretation and ensuring that the meaning and requirements of informed consent are fully understood.¹¹

3. Obtain explicit consent for specific activities:

- Ensure consent is given for note taking or using devices such as a tape recorder or video camera during an interview. The victim or witness must be aware that notes or an audio or video recording is being made.

¹¹ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 46 (2014).

- Obtain express agreement to the transfer of any identifying, contact or substantive information to third parties, in particular to national or international investigators or organizations, courts or local authorities such as the police.¹²
4. In situations where it is necessary to obtain information from a minor:
- It is first necessary to obtain informed consent by the parent or guardian. It is also important to have informed consent by the minor. At all times, bear in mind the specific age, needs and level of understanding of the participating minor.
 - All communication with children and their parents and caregivers will be in a manner and language that is clear and that all are able to understand.¹³
 - Inform the minor of all possible options and the consequences of those options, as well as the potential risks associated with providing information in an age-sensitive manner. Avoid frightening the minor unnecessarily. A private discussion should first be had with the parent(s) or guardian(s) of the minor (without the minor present) before commencing any interaction with a minor.
 - Avoid interaction with traumatized minors.
 - Explain carefully to the minor what will happen at each stage of the process and what is expected from them.
 - Ensure that the minor is told what rights are available to them that might be relevant to the context of the meeting and the provision of information.¹⁴

Should the victim or witness be unable or unwilling to provide proper and informed consent, information cannot be collected from them. In such cases, offer comfort and inform the victim or witness of possible referral

¹² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 46 (2014).

¹³ International Criminal Court, Office of the Prosecutor's DRAFT Policy on Children, June 2016, available at https://www.icc-cpi.int/iccdocs/otp/22.06.2016-Draft-Policy-on-Children_ENG.pdf.

¹⁴ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 46-47 (2014); United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, 28 I.L.M. 1448 (1989), available at http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf; General Assembly Resolution, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, U.N. Doc. A/RES/40/34 (Nov. 29, 1985), available at <http://www.un.org/documents/ga/res/40/a40r034.htm>.

options to care providers or organizations that may be able to provide support. Avoid collecting substantive information concerning any serious human rights violations suffered as this could harm the individual as well as violate his or her rights.

2.1.3 Confidentiality

The principle of confidentiality concerns the requirement that practitioners need to protect information they gather on serious human rights violations. Conditions of confidentiality are often essential to building a trusting relationship with the victim or witness. There are, however, limits to the principle of confidentiality and these must be clearly explained to the victim or witness.¹⁵ In particular, unofficial investigators should:

1. Check that everyone on the team understands and applies the agreed confidentiality measures established for the documentation exercise.
2. Ensure information protection measures are in place for:
 - All information that may disclose the identity of the victim or witness.
 - Any information or account that is provided by a victim or witness.
 - Information about measures put in place to protect the victims and witnesses and information about referrals to professional assistance (see next section).
3. Use information protection measures, including:
 - Coded language and passwords to anonymize the account/information.
 - Security measures to safely store information regarding the identity of the source of the information separately from their witness account or evidence.
 - Redacted personal information such as name, address, age or family relations.
4. Fully and clearly explain to victims or witnesses the conditions and limits of confidentiality. This includes:

¹⁵ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 47 (2014).

- What confidentiality measures are in place, if any, and how their information will be protected.
- The limits to confidentiality that can be assured by those gathering information – including the difference between practical measures to keep information confidential and the inability to assure confidentiality as a legal right.
- How confidentiality may be breached if a risk of suicide or self-harm to the victim or witness or a child-protection issue arises.
- The limits to confidentiality, including the specific ways information may be disclosed to third parties, including the police, investigators and courts, or used if the victim or witness provides their informed consent.
- That if information collected is used in court confidentiality cannot always be maintained but that the court should then put in place measures for the protection of the victim or witness.¹⁶

Unofficial investigators should not discuss case details with family, friends or colleagues who are not involved in the documentation exercise.

2.1.4 Referring Victims/Witnesses to Professional Assistance

Before initiating any documentation process, unofficial investigators should endeavor to identify options for referring victims and witnesses for assistance and support, and put in place procedures for this referral process. This process includes assessing beforehand: i) what the risks are to the victim's/witness' well-being (see also Section 2.2.1 on Risk Assessment); ii) what services may already have been provided; iii) what services may be needed – including health, psychological, legal and economic assistance; iv) who provides such services locally, nationally or regionally; v) potential obstacles to access them (e.g. security, financial, discriminatory); and vi) how to overcome such obstacles.¹⁷ If formal services are not available or accessible, unofficial investigators should always consider what informal systems are in place that can be of support to the victim or witness, including family and community support systems.¹⁸

¹⁶ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 47-48 (2014).

¹⁷ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 30, 32 (2014).

¹⁸ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 48 (2014).

A victim or witness may need immediate medical, psychosocial or security assistance, or may find the process of disclosing information difficult, traumatic and/or dangerous. Inform them, in clear and understandable language, of available legal, material, medical, psychological and social assistance, and, if they so desire, put them directly in contact with such assistance.¹⁹ Do so prior to the information-gathering exercise.²⁰ Be able to provide them with contact details and comprehensive information with what legal, material, medical, psychological and social support services could offer.²¹ If they consent, assist victims/witnesses in accessing support services. Moreover, unofficial investigators should be aware of gender-specific needs and issues. Male and female victims and witnesses may experience different treatment when seeking assistance.

When seeking to refer victims and witnesses to further support, unofficial investigators should:

1. Consider what referral systems may be relevant, including civil society organizations such as:
 - National, regional or local human rights or gender-based violence civil society organizations;
 - Informal community leaders and focal people, victim-led groups, and specialized trauma support;
 - National procedures for dealing with situations of human rights violations and sexual and gender-based violence; and
 - Victim and witness call centers or hotlines.
2. Assess safety and feasibility of accessing support services: Determine the limitations to the ability to refer appropriately, and whether this will affect the capacity to interact with the victim or witness. Such limitations may include:
 - Safety limitations:

¹⁹ UN OHCHR, *Human Rights Standards and Practice for the Police, Expanded Pocket Book on Human Rights for the Police*, 10, 53 (2004), available at <http://www.ohchr.org/Documents/Publications/training5Add3en.pdf>.

²⁰ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 48(2014).

²¹ UN OHCHR, *Human Rights Standards and Practice for the Police*, 53, 54 (2004).

- Will referral to a support service put victims or witnesses at further risk? For example, are health and security services supplied by the government and if so, might there be a risk involved due to this, and is information treated according to acceptable confidentiality standards?
 - Will community groups or focal people support victims and witnesses? Is there a risk of pressure on victims or witnesses from such groups?
 - Logistical and financial limitations:
 - Are the support services accessible or too far or otherwise difficult to reach for victims or witnesses?
 - Other limitations may include exclusionary cultural understandings, discriminatory stereotypes or policies (particularly with respect to sexual and gender-based violence).
3. Implement internal procedures for referring victims and witnesses:
- Establish criteria that set out:
 - Who will actively be referred for further support – this may include victims, witnesses, family members or members of the community at large.
 - Why a referral should be made.
 - What kind of services individuals will be referred to.
 - Establish how and when the referral will be made and at what stage in the documentation or interviewing process. Consider also whether transport procedures are required to provide access to the support systems to the victims or witnesses it regards.
4. Communicate clearly with victims and witnesses:
- Explain the limits of the assistance unofficial investigators can provide clearly.
 - Communicate the available options fully.
 - Explain that assistance is not dependent on the provision of information, and that information should not be provided in a particular way in order to obtain assistance.²²

Victims or witnesses that are minors should be referred to appropriate services. This can include immediate referral, to emergency medical

²² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 48-49 (2014).

treatment for example, or referrals to assistance for longer-term needs, such as relating to health problems, support to cope with post-traumatic stress, reintegration into the community or education system, and to secure places to recover.

- Referral services for minors should:
 - Be specific to the age and gender of the minor;
 - Provide access to child- and adolescent-friendly spaces; and
 - Provide access to community-based minor-protection systems, including child/minor protection committees.
- Consider whether minors are at risk from reduced or absent social support, including the risk of becoming isolated from their family, and whether they may experience social stigma.
- Prioritize their interests always, including, for example, by establishing clear practices on sharing confidential information.
- Support parents and care givers, informing them of services available to help both the minor it concerns as well as their family.²³

2.1.5 Recognizing and Preventing the Risk of Re-Traumatization

It is important to recognize the risks to and prevent re-traumatization. In order to do so, unofficial investigators should:

- Be familiar with the signs of trauma.
- Be careful not to assume that the victim or witness is evasive or otherwise malignantly distorting the truth.
- Focus on the narrative and elements of the crime instead of the timeline of events. For example, ask “What else happened?” instead of “What happened next?” The timeline of events can be the focus of later interviews.
- Use a conversational approach rather than a rapid series of questions.
- Ask open-ended questions rather than yes or no or leading questions.
- Make sure the victim or witness has some control over the situation (for example, over deciding when to take breaks, water, seating).

²³ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 50 (2014).

- Understand that it takes time to develop a relationship of trust. Do not expect victims or witnesses to go into detail about their experience immediately or at all. It might take more than one interview for a person to feel comfortable enough to share details about the events. It takes time and trust to develop the establishment of facts of the situation.
- Leave interviewing the victim or witness to professionals if the risk of re-traumatization is high.²⁴
- Acknowledge the victim's or witness' pain or trauma. Demonstrate empathy and concern so that the person involved feels (psychologically and physically) safe.
- Do not take strong reactions personally. Manage one's own emotional responses throughout the process.²⁵

Effects of Trauma on Behavior

The effects of trauma can influence a victim's or witness' behavior during an information-gathering exercise such as an interview. Signs of trauma are:

- Depression
- (Linear) memory loss
- Lack of focus and concentration problems
- Emotional reactivity
- Multiple versions of a story²⁶
- Symptoms of acute stress, such as:
 - Hyperventilation
 - Being jumpy and on edge
 - Feeling shocked or numb
 - Recurring nightmares, flashbacks or intrusive memories of the events
 - Sleeping problems
 - Deliberate avoidance of thoughts or activities that remind of the events that have occurred

²⁴ Office for Victims of Crime Training and Technical Assistance Center, *Human Trafficking Task Force E-Guide*, 5.3.

²⁵ Trauma Center, Project REACH, *Utilizing Trauma-Informed Approaches to Trafficking-related Work*, 2014, available at http://www.traumacenter.org/resources/H-O%20Trauma-Informed%20Case%20Study_final_2.pdf.

²⁶ Office for Victims of Crime Training and Technical Assistance Center, *Human Trafficking Task Force E-Guide*, 5.3.

- Changes of behavior such as aggression, social isolation or risk-taking behavior
- Medically unexplained physical complaints.
- When a set of symptoms persists for more than a month after a potentially traumatic event and if it causes difficulty with their daily functioning, the victim or witness may have developed post-traumatic stress disorder (PTSD).²⁷
- Traumatic events can also cause other mental, neurological or substance use conditions.²⁸

If unofficial investigators become aware that a victim or witness may be suffering from post-traumatic stress disorder or another mental, neurological or substance use condition, they should provide the victim or witness with a referral to professional assistance (see previous section).

Gathering Information and Re-Traumatization

Building rapport is the first step to building a sensible relationship with victims and witnesses. It is important to try to understand and relate to the victim's or witness' reality when preparing for and conducting interviews with them. Unofficial investigators should seek information about the victim's or witness's understanding of the occurrences and subsequent experience in advance of any documentation exercise or interview.²⁹ Be aware that they may:

- deny they are a victim or witness;
- be afraid of what will happen to them;
- feel that it is their fault that they are in this situation;
- be afraid of you and what the documenting of their statements will cause;
- be distracted, angry, reluctant, or concerned about their own needs;
- have concerns about their safety and privacy, particularly if the interview is observed by others;

²⁷ World Health Organization and United Nations High Commissioner for Refugees, *mental health Gap Action Programme Humanitarian Intervention Guide (mhGAP-HIG): Clinical management of mental, neurological and substance use conditions in humanitarian emergencies*, 14 (2015), available at http://apps.who.int/iris/bitstream/10665/162960/1/9789241548922_eng.pdf?ua=1.

²⁸ World Health Organization and United Nations High Commissioner for Refugees, *mental health Gap Action Programme Humanitarian Intervention Guide*, 27 (2015).

²⁹ Office for Victims of Crime Training and Technical Assistance Center, *Human Trafficking Task Force E-Guide*, 5.3 Trauma-Informed Victim Interviewing, available at <https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/53-victim-interview-preparation/trauma-informed-victim-interviewing/>.

- as a coping skill, may (have) develop(ed) a sense of loyalty or other positive feelings towards the perpetrator and may try to protect them from the authorities; and
- have unmet medical needs, including nutrition or lack of sleep.³⁰

Remember to offer to refer a victim or witness to appropriate health or social care services if they appear to be suffering from re-traumatization. To avoid unethical behavior when handling or collecting information:

- Act with respect for human dignity when examining and collecting information, including for the victim's/witness' privacy and personal beliefs. Be careful with interaction with the media and be aware that exposure to the media or the public may lead to secondary victimization, and even to retaliations from the perpetrators.
- Avoid re-traumatization, secondary victimization, and exposure to retaliation.³¹
- Be mindful of the safety of those who provide information at all times.³²
- Always exercise good personal judgment and professional common sense.

2.1.6 Impartiality

An unofficial investigator should bear in mind the aims of justice, and therefore aim to conduct the documentation process impartially. It is up to judicial systems and other redress processes to weigh the evidence and determine responsibility, or guilt or innocence.³³ To avoid unethical behavior when handling or collecting information:

- Respect applicable local laws as well as codes of professional conduct.

³⁰ Office for Victims of Crime Training and Technical Assistance Center, *Human Trafficking Task Force E-Guide*, 5.3.

³¹ Office on Drugs and Crime, CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL, 6 (2009).

³² Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, 88 (1996); International Bar Association and Raoul Wallenberg Institute of Human Rights and Humanitarian Law, *The Lund-London Guidelines*, 17 (2009).

³³ Aric Dutelle, *Ethics in Crime Scene Investigation*, in AN INTRODUCTION TO CRIME SCENE INVESTIGATION 53, 60 (2nd ed., 2014), available at http://samples.jbpub.com/9781284020656/45427_CH03_secure.pdf.

- Be careful not to allow speculation, bias or discrimination to affect the documentation exercise.
- Act with care and professionalism, objectivity, open-mindedness and impartiality.³⁴

2.1.7 Managing Expectations

Managing expectations is another important aspect of the information-gathering process. Be careful not to offer unrealistic guarantees concerning the use of the information collected, its confidentiality, or the safety of a victim, witness or any other individual. Do not raise false hopes regarding issues that depend on factors outside of your control, such as the use of the information gathered in a court of law, or the possibility of future reparations. Do not make promises that cannot be kept, and ensure that any promises that are made are feasible. For example, only offer protection if one's organization is equipped with – or plugged into a network of providers of – security measures.³⁵

2.1.8 Preserving the Chain of Custody of Information

The chain of custody describes accurately and in detail every handler of the information concerned, from source or origin to production. Preserving the chain of custody is one of the main objectives of proper information management and starts when someone first receives or collects the information. For any piece of information or object to be used as evidence, the chain of custody must remain intact and should be able to be produced.

A complete and unbroken chain of custody accounts for:

- The whereabouts of the piece of information, whether it be documentary, forensic, or testimonial, from the moment someone receives it to the moment they hand it over to an investigating authority;
- All people who handled that information; and

³⁴ Office on Drugs and Crime, CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL, 5 (2009); International Bar Association and Raoul Wallenberg Institute of Human Rights and Humanitarian Law, *The Lund-London Guidelines*, 30 (2009).

³⁵ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, 91, 119. (1996).

- The purpose for which they handled it.³⁶

An accurate log containing all of this information for each collected piece of information will enable investigators, lawyers and judges to determine the authenticity of the information or item and the likelihood of someone having tampered with it. Should it prove impossible to collect this information, the reasons for such inability should be recorded.³⁷

It is advised to try to limit the number of people with access to the information under custody as this minimizes the chance of the chain of custody being broken and information being tampered with, and thus causing a decrease of evidentiary value of the information concerned. Create a record that documents all authorized access and the reason for such access, dated and signed by both the custodian and those granted access, for each document or item. Doing so will help ensure the credibility of the evidence, regardless of how it is ultimately used. See the Appendix to this Handbook for template Chain of Custody forms, which can be used as a means for keeping a log of such information, as well as Section 3.1.1 for further suggestions.

2.1.9 Protection of Documentation

Any personal information that an individual discloses during an interview is to be considered confidential and is to be treated accordingly.³⁸ This means that there is an understanding that the disclosed information will not be shared with others unless the person concerned gives explicit and informed consent to do so, being fully informed of all the risks that disclosing the information may entail.³⁹

³⁶ International Criminal Tribunal for the former Yugoslavia, *ICTY Manual on Developed Practices*, 28 (2009), available at <http://www.icty.org/sid/10145>.

³⁷ International Bar Association and Raoul Wallenberg Institute of Human Rights and Humanitarian Law, *The Lund-London Guidelines*, 7 (2009).

³⁸ World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 9 (2007), available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf; Physicians for Human Rights, *Curriculum Companion: Program on Sexual Violence in Conflict Zone, Cross-Sectorial Training*, UNPUBLISHED.

³⁹ Global Protection Cluster, *Handbook for Coordinating Gender-based Violence Interventions in humanitarian Settings*, Annex 35 (2010), available at http://www.unicef.org/protection/files/GBV_Handbook_Long_Version.pdf; The Sphere Project, *Humanitarian Charter Minimum Standards in Humanitarian Response*, 35 (2011), available at <https://www.ifrc.org/docs/idrl/I1027EN.pdf>; Physicians for Human Rights, *Curriculum Companion: Program on Sexual Violence in Conflict Zone, Cross-Sectorial Training*, UNPUBLISHED.

Disclosure of any personal information provided by a victim or witness may put that person's life at risk, as well as the lives of others involved. To avoid unintended disclosure, interviewers and subsequent handlers of victims and witness accounts should securely store any information that may reveal the identity of the source of the information separate from the witness account itself. Use of codes, anonymity of the account and redaction of any other personal data such as age or family relations are useful measures to counteract the risks of unintended disclosure.⁴⁰ Further best practices on how to best secure and protect the information are provided in this Handbook's Management of Information Chapter.

2.2 Planning and Preparation of Information-Gathering

This section addresses what measures should be taken into account to plan and prepare for a documentation exercise, including the importance of a thorough risk assessment, the taking of appropriate security measures, determining the trustworthiness of those involved, the training and accountability of those involved, and the logistics for planning and preparing the information-gathering. The chapter closes with a general chain-of-custody form that can be used to maintain oversight of who held custody at what times.

2.2.1 Risk Assessment

When planning for documentation and investigations of serious human rights violations, unofficial investigators must assess the risks to victims and witnesses. Unofficial investigators should also assess risk and safety concerns for all members of the documenting team and all those who will be interviewed or from whom information will be collected in other ways.⁴¹

⁴⁰ World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 5-6 (2007).

⁴¹ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 33 (2014).

Assessing Risks to Victims and Witnesses

1. Risks for victims and witnesses associated with the documentation of serious human rights violations include:

- Retaliation, intimidation or threats by alleged perpetrators, their families and their supporters against victims or witnesses and/or their families.
- Punishment, including physical violence, by members of the immediate community, family or caregiver.
- Coercive pressure to force victims or witnesses to reconcile with perpetrators.
- Re-traumatization.
- Attempts to secure financial gains for families of victims or witnesses that may take priority over justice for victims or witnesses.
- Rejection by family members or the community, resulting for instance in isolation or, as occurs often in the case of sexual and gender-based violence, abandonment of children.
- Loss of livelihood.
- Loss of access to schools and vocational opportunities; and
- Arrest and punishment – for example where certain acts are criminalized.

2. Unofficial investigators should ask themselves:

- Is there a nearby medical facility, and, if so, is it accessible? Will the facility be able to assist all the victims and witnesses? If not, who can provide the needed care?
- Will the documentation occur in an area of ongoing fighting, where offenders may still be in the area? May victims and witnesses be at risk of intimidation, further attacks (including retaliation for providing information) or displacement? If so, what strategies can be put in place to overcome these obstacles?
- Has the information originated from a victim or witness that is at risk of exposure if that information is traced back to them? If so, what mechanisms can be employed to protect the victim, witness or source from risk?
- Will going to particular locations/crime scenes place the individuals that provided information on those locations in danger? If so, are there other ways (such as via an intermediary) to gather information about these locations?

- Whether one’s own knowledge of risks and that of the victims and witnesses has been taken into account. It is important to consult victims, witnesses and other relevant local actors about local or community-specific risks, as only they may be aware of them.⁴²

Assessing Risks to Unofficial Investigators

1. Is access to the area, and travel within it, dangerous?
 - Are armed groups, terrorist or criminal networks operating in the area or at the location itself?
 - Governmental authorities may be the perpetrators of serious human rights violations. Moreover, they may facilitate or foster an environment in which such abuses occur. Therefore, there may be times when the governmental authorities will be the subject of investigation. Unofficial investigators should be aware that governmental authorities might pose a danger for those engaged in investigating serious human rights violations and any people they interact or come into contact with (see Section 2.2.3 on Determining the Trustworthiness of Other Actors)
 - Are you or your team at risk of being targeted specifically? Is there a risk that you or your team may be subjected to threats from perpetrators, their families and supporters (this is especially problematic for local team members)?
2. Are the particular locations safe to visit?
 - Is access to the area or location safe? Is there a risk from ongoing fighting or from natural disasters such as floods, landslides or extreme weather conditions?
 - Are particular locations too far to access without staying overnight, and is this possible?
 - Is there risk of landmines or other unexploded ordnance at the location?
 - Is the location inside or near a building that might collapse?
 - Is there a risk of chemical, biological, or other type of contamination?
3. Are there any additional, non-physical risks?

⁴² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 33-34 (2014).

- Consider risks, for example, to local partner organizations, which may be at risk of being deregistered.
- Also consider related risks, such as whether delivery of your primary mandate might be compromised by any of the above risks, and if so, whether it is worth taking the risk.

4. Consider what would happen if you were found in possession of the information or evidence that is gathered by, for example, a party to a conflict, someone associated with the perpetrator(s), or the authorities.

5. Consider what procedures can be put in place to prevent or lessen the risks identified:

- Have you and your organization researched the context (people and society, culture and customs, politics, history, conflict, geography and government)?
- Do you have a security and evacuation plan?
- Do you have a communication plan? Can you speak the language or do you have an interpreter/intermediary? Have you memorized the number of an emergency contact if you find yourself in danger? Be mindful that keeping emergency contact details with you might expose both you and your contact(s) to danger in the case of a search.
- Will you be adequately equipped to deal with any eventualities? For example, will you have sufficient extra fuel, supplies, first-aid kits and communication devices?
- Can your team access a nearby medical facility?
- Do you have a plan, policy and referral options in place regarding emergency assistance or transportation of any victims, witnesses, unaccompanied children, or other individuals you find in particular locations that are in need of such?

6. Consider the risk that you or your team may suffer vicarious trauma from dealing with the trauma of others. Unofficial investigators exposed to traumatic situations or dealing with traumatized persons should be encouraged to take extended or frequent leave to recover, to talk about the stress they are under, and to seek psychological counseling when necessary.⁴³

⁴³ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 34-35 (2014).

Assessing Risks to the Security of the Information

Data protection is important for the safety of victims, witnesses and any individuals involved in the investigation. See also Chapter 4 on Management of Information.

- Do you have a plan in place to safely collect and store information? How will you keep information that you gather safe and confidential? When, why and how will you destroy information at risk of confiscation?
- Do not destroy paper copies of interview, notes, or other documents unless a tangible risk of real danger exists, as these might become useful in subsequent criminal proceedings as appropriate.
- How will you transport any information and evidence you gather?
- Are you able to maintain “Chain of Custody” and do you have the capacity to safely secure the information for long periods of time?
- Some documents received may be fragile or in poor condition. Storing the original documents in an environment where the document will be safe from the elements (such as fire, water, and humidity) may help to prevent the information from deteriorating further. In order to prevent the loss of information contained in the document, the information collector should take pictures or make copies of the document by other means.⁴⁴

Appropriate measures include storing data in a secure location; using a safe for records and notes, only using secure computers, and defining and recording who has access to what type of data.⁴⁵ More details that are crucial for data protection can be found in Chapter 4 on Management of Information.

2.2.2 Security Measures

On the basis of the risk assessment, prepare adequate security measures to deal with, prevent or decrease the risks that are identified. In addition to providing for strategies relating to the aspects raised above, bear in mind the following:

⁴⁴ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 35 (2014).

⁴⁵ Cynthia Petrich, *Protection of Witnesses, Victims, and Staff in Monitoring, Reporting, and Fact-finding Mechanisms*, PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH, HARVARD UNIVERSITY 1, 41 (2014), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2392493.

- Avoid being alone at a crime scene at all times.
- Determine escape routes. Take into consideration how to transport the information gathered away from the location.
- Information should be handed over to professionals at the first opportunity as carrying the gathered information can pose a risk to oneself, those involved in the information gathering and the information itself.
- Find out which other actors are working in the area, and who can be trusted and collaborated with.
- Determine the trustworthiness of local authorities and police chiefs.
- After information is transferred, any information on phones or computers that are not secured should be deleted. Copies of documents should be destroyed if originals are handed over, and if no longer needed.
- Safety should always take precedence over the preservation of information.

Personal security measures are important not only for the collection of information stage but also the holding of important information on serious human rights violations may pose serious threats to your personal security (see also Section 4.3 on security measures, particularly 4.3.3 on personal security measures). It is important to realize that perpetrators of human rights violations have an interest in destroying evidence, and may well consider violent means to do so. Security risks can originate from many different persons or organizations, including terrorists, gangs, (drug) cartels, (international) criminals, and warlords. These risks can also originate from the police, military forces, opposition groups, rebel forces, local chiefs, or individual perpetrators of human rights violations. Security risks may include (attempted) murder, rape, beatings, police brutality or harassment, arbitrary detention, bombings, intimidation, arson, etc.⁴⁶

However, consider also that statistically speaking road traffic accidents and unexploded mines remain the greatest security risk for most

⁴⁶ Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 58 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

field missions.⁴⁷ Most CSOs operating in dangerous areas have security procedures in place that are developed by security professionals.⁴⁸ Make yourself familiar with these procedures and observe them closely. When possible, also study any contingency plan in detail.

In crowded situations, such as demonstrations, consider the following security measures:

- Adopt a heightened sense of personal security and situational awareness.
- Keep a low profile and make sure to dress appropriately.
- Think through where and how to leave/reach your mode of transport in order to avoid being trapped by the crowd and to allow for a quick and safe exit if necessary. Park your vehicle away from the city center, for instance.
- Be aware of alternative routes out of the area and if possible, locate multiple exit routes.
- Know that vulnerability increases when travelling in zones with poor communication networks or where conflict and violence is ongoing.

Several preventive measures can be taken in order to reduce or mitigate security risks:

- Regularly conduct risk assessments.
- Depending on the situation, identify whether it is better to remain more discreet or out in the open.
- Build and use all channels that can alert you to security threats, including those of other organizations.
- If you are a foreigner, identify where your country's embassy is located, get in touch with them to know of your presence in the country, and study the routes to travel there in haste.

⁴⁷ David Lloyd Roberts, *Staying Alive: Safety and Security Guidelines for Humanitarian Volunteers in Conflict Zones*, INTERNATIONAL RED CROSS COMMITTEE, 41 (2005), available at <https://www.icrc.org/eng/resources/documents/publication/p0717.htm>.

⁴⁸ Marit Maehlum, *Human Rights Monitoring*, in MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS 1, 26 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002); International Bar Association & Raoul Wallenberg Institute, *Guidelines on International Human Rights Fact-Finding Visits and Reports*, paragraph 33 (2009), available at <http://www.factfindingguidelines.org/guidelines.html>.

- Establish and maintain, when possible, a good relationship with local, state, and/or federal law enforcement and emergency service providers as well as political officials.
- Work with people that can be trusted.
- Educate family and friends about risk-prevention.
- Be fit, alert, and stay sober.
- When possible, travel with at least one companion, and avoid secluded places.
- Identify and practice different routes by which you can drive between the office and home.
- Go underground if in danger,⁴⁹ or seek refuge at a police station, embassy or other safe location.

2.2.3 Determining the Trustworthiness of Other Actors

It is important to establish the trustworthiness of anyone who may influence the outcome of the information-gathering exercise. This includes:

- Local authorities and police chiefs;
- Other actors in the area;
- Team members (including interpreters and intermediaries); and
- Victims and witnesses (including pattern witnesses, such as field workers, researchers, journalists and international observers).

Trustworthiness of Local Authorities and Police Chiefs

- Research whether local authorities (including police chiefs) have been implicated in previous human rights violations.
- Research whether they may to be corrupt. Use reliable sources, such as commissions of investigation, who work independently from the government and are required to publicize their reports.
- Research local authorities' responses to human rights abuses in the past. Look in particular at whether there was a thorough, competent, prompt and impartial investigation, an autopsy with public results, whether any agencies or suspects have been held to account and whether reparations have been provided to victims (see Section 3.3.3 on Human Bodies).

⁴⁹ One may for instance establish safe places where to go in case of danger. In addition, one can also establish "security nets" of different persons who will help you during such periods. See Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 60 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

Do not share any information if the trustworthiness of local authorities and police chiefs cannot be determined. Protect yourself and your information. Take into account the possibility of random searches, and avoid carrying any information on yourself. Maintain a secure and confidential storage for your information (see Section 4.2.3 on Storage of Information) and always make sure to inform someone on your whereabouts and alert your embassy if you are on foreign territory.

Trustworthiness of Other Actors in the Area

Conduct similar precautions before working together and sharing information with other actors that work in the area.

Trustworthiness of Team Members (Including Interpreters and Intermediaries)

It is moreover necessary to determine the trustworthiness of one's own team members. This can be done by vetting all team members, including interpreters, any intermediaries and any drivers.

While vetting team members, take into consideration, in particular, a person's criminal record; prior or current associations with any armed or political groups; associations with others who are associated with armed or political groups; their objectivity and sensitivity; their discretion and respect for authority; and their ability to set aside communal and traditional constructs and work within the framework and mandate of the team.⁵⁰

Make sure to discuss in clear terms the scope of the confidentiality that is required and the purpose/approach of the information-gathering exercise. Ensure that all team members understand and agree to comply with the confidentiality, security and data protection guidelines developed. Ensure that all team members understand and agree to comply with the approach of the information-gathering.

Trustworthiness of Victims and Witnesses

With regard to the trustworthiness of victims and witnesses:

⁵⁰ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 114 (2014).

- Be informed about political conflicts or tensions in the area, between the local government and (minority) groups, or between these groups.
- Be informed about and take into account the needs and expectations of victims or witnesses from minority groups in the local area.⁵¹

With regard to determining the credibility of interviewees, the interviewer should, before or during an interview:

- Assess the physical condition of the victim/witness and record any signs that could influence their credibility, such as signs of trauma, exhaustion, and alcohol or drug abuse. Keep in mind that poor physical condition, trauma, and exhaustion do not necessarily make an interviewee not credible. However, interviewing these individuals may require additional expertise, so refer to a professional wherever possible. If not possible, duly note what is causing distress, or is likely to be impacting the witness' lucidity and coherence
- Explore an interviewee's religion, culture, customs and beliefs, in order to have a better understanding of any account given by them.
- Pay attention to the language and allusions the interviewee makes, for example, to reward and punishment.
- Where the interviewee has knowledge of an alleged victim or perpetrator, explore their relationship, and any places and events frequented by them that relate to the matter under investigation.⁵²

An interviewer may have reasons to be careful about the trustworthiness of a victim/witness if there are significant differences between the account given by the victim/witness during the interview and

- what the victim/witness is reported to have said on a previous occasion.
- the accounts of other victims/witnesses.
- the injuries that the victim or the alleged perpetrator have.

⁵¹ Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings, Guidance on interviewing victims and witnesses, and guidance on using special measures*, 46 (2011), available at http://www.cps.gov.uk/publications/docs/best_evidence_in_criminal_proceedings.pdf.

⁵² Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings, Guidance on interviewing victims and witnesses, and guidance on using special measures*, 46, 50 (2011).

However, be aware that these inconsistencies can be of an innocent nature, such as genuine mistakes, memory loss or contamination of memory by external influences.⁵³ Moreover, be mindful of whether the victim/witness belongs to the same ethnic, political or religious group as the alleged perpetrator, but refrain from drawing stereotypic conclusions about the victim/witness.⁵⁴

2.2.4 Training and Accountability of Team Members

Unofficial investigators should have an appropriate level of skills and training to undertake documentation of serious human rights violations wherever possible. In particular, unofficial investigators should:

- Ensure that all members of the team, including interviewers, interpreters, analysts and support staff are appropriately selected and vetted.
- Ensure that all members of the team (including interpreters) are appropriately trained to document violations according to the basic standards as set out in this Handbook.
- Improve as much as possible the team member's ability to deal with victims of serious human rights violations and/or sexual and gender-based violence and/or minors, where relevant.
- Where possible, train staff in dealing with trauma and the ways in which to recognize and respond to post-traumatic stress disorders and risks of suicide and self-harm.⁵⁵
- Ensure consistent and fair accountability for the actions of all team members, discuss with them clearly what is expected from them, and what consequences failure to meet these standards has for them.
- Never jeopardize the safety of victims, witnesses or any other person with whom you come into contact. Where there is a conflict of interest between obtaining or preserving information and potential risk to a person's well-being or safety, priority should always be given to the individual's safety or well-being.

⁵³ Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings, Guidance on interviewing victims and witnesses, and guidance on using special measures*, 50 (2011).

⁵⁴ Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings, Guidance on interviewing victims and witnesses, and guidance on using special measures*, 56 (2011).

⁵⁵ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 29 (2014).

When working with minors, unofficial investigators should in particular:

- Have training specific to approaching, interviewing and referring minors to enable themselves to address the specific vulnerabilities and capabilities of the minor.
- Understand how to apply the principles of do no harm, confidentiality and informed consent specifically to working with minors, including the use of age-appropriate techniques when communicating with them.
- Understand the distinct challenges that different groups of vulnerable minors may face, such as the risk of rejection by communities.
- Avoid interaction with traumatized minors.⁵⁶

2.2.5 Interpreters and Intermediaries

Interpreters

It may prove necessary to rely on the use of an interpreter, and in these circumstances, the success of an information-gathering exercise depends heavily on the interpreter's ability to facilitate communication. Similar to the interviewer or documenter, lack of cultural sensitivity on the part of the interpreters may prove detrimental to any effort in building rapport. Interpreters should therefore be chosen carefully and may require additional training in this respect.⁵⁷ Be aware that interpreters with no experience in this area may be psychologically unprepared for what they will be confronted with during the course of the interview. This could negatively affect the quality of the translation or the way in which the interpreter and witness communicate.⁵⁸ Interpreters should be appropriately trained in:

- Interpretation.
- Working with victims and witnesses of serious human rights violations.

⁵⁶ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 30 (2014).

⁵⁷ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 39 (2014); Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 44 (2014), available at <http://www.unictr.org/sites/unictr.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

⁵⁸ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions*, 39 (2014).

- (Where relevant) victims and witnesses of sexual and gender-based violence.
- (Where relevant) with minors.⁵⁹

Interpreters should be able to:

- Provide interpretation during any interaction with members of the community, including during interviews.
- Provide the right linguistic and cultural interpretations of key words, behaviors and expressions (associated for example with sexual and gender-based violence in a particular setting) without changing or influencing the information as provided by the victim or witness.
- Work sensitively and professionally.
- Work according to the ethical principle of do no harm.
- Fully understand the concept of informed consent.
- Abide by relevant codes of confidentiality.⁶⁰

Interpreters should:

- Speak the same local variation or dialect as the interviewee.
- Be comfortable working in the region and relevant security context.
- Understand the local context yet be objective (as much as possible) with regard to the conflict and positions in it.
- Have experience with and be sensitive to how communication may be affected by the violations that have taken place.
- Be comfortable with the detailed subject matter of the violations at hand and their terminology, including words and euphemisms that those in the affected area use to describe violations (particularly relevant for sexual and gender-based violence).
- Use only the words of the victim/witness and the interviewer.
- Show empathy, be sensitive to the individual needs and capabilities of vulnerable people, be aware of the impact that their presence may have on a victim/witness, and be careful not to intimidate or

⁵⁹ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 38 (2014).

⁶⁰ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 38 (2014).

threaten a victim/witness when entering a location, moving around or sitting down.⁶¹

An interpreter should not:

- Intimidate or threaten a victim/witness.
- Show pity, shock or judgment.
- Use their own words during any interview, for instance by exchanging any words in relation to the information that is provided to or by the victim/witness or explaining anything, unless explicitly instructed to do so.
- Change anyone's words - euphemisms should not be changed, the possible meaning should be explained and clarifying questions should be asked.
- Omit anything said even if it may seem unimportant.
- Make suggestions about how to conduct the interview.⁶²

Selecting an interpreter:

- Try to find trained and independent interpreters (if available).
- Never use family members of the interviewee as interpreters, for confidentiality reasons.
- Only use an interpreter from the same community as the victims/witnesses as a last resort.
- Assess and vet any potential interpreters for criminal records, impartiality, trustworthiness, capacity for the role, affiliations and ability to work with vulnerable people. An interpreter's sex, age, identity and ethnic, cultural and political affiliations may affect the assessment of trustworthiness but be careful not to perpetuate stereotypes or persecutory ideologies when considering these factors.
- Always assess the candidate's personal views on serious human rights violations, in general and in the particular situation, and, if relevant in the context, sexual and gender-based violence and gender equality, prior to hiring them.

⁶¹ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 38-39 (2014).

⁶² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 39 (2014).

- Check whether the candidate is comfortable with the terminology used in discussing serious human rights violations and/or sexual and gender-based violence.
- Try to include both female and male interpreters.
- When interacting with victims of sexual and gender-based violence, use interpreters who have received special training and have prior experience where possible.⁶³
- Avoid former members of the military or individuals of the same ethnicity as the perpetrators when possible.⁶⁴

Guidelines for interpretation (Interviewer and Interpreter):

- The interpreter should be asked to relay questions exactly, word for word to the best extent possible.
- If the questions are unclear or if the witness does not understand them, the interviewer should ask the interpreter to let the interviewer know, so that questions can be rephrased.
- The interviewer should speak in concise sentences, which are easy to understand and translate.
- The interpreter should relay questions or statements one at a time so as to make sure that the witness understands them.
- The interviewer should repeat questions several times, if needed, until comprehension is achieved.
- The interviewer should look at and speak directly to the witness, rather than to the interpreter.⁶⁵

Unofficial investigators should avoid sharing more information with interpreters than needed as they may become or be pressured into becoming informants for the perpetrators. Unofficial investigators should also avoid interpreters becoming so familiar with certain facts or country conditions that they translate carelessly, incompletely or inaccurately. Try to rotate interpreters or use them for only two weeks at a time.⁶⁶

⁶³ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 39 (2014).

⁶⁴ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring, Chapter VIII: Interviewing*, 113 (1996), available at <http://www.ohchr.org/Documents/Publications/training7part59en.pdf>.

⁶⁵ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring, Chapter VIII: Interviewing*, 113 (1996).

⁶⁶ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring, Chapter VIII: Interviewing*, 113 (1996).

Intermediaries

Intermediaries are individuals that practitioners may use to identify and liaise with members of a community, overcome cultural and social barriers, and identify potential victims and other witnesses. Intermediaries can be very effective community interlocutors, although care should be taken to ensure their impartiality.⁶⁷

Potential intermediaries may be members/participants of:

- Local grassroots organizations;
- National and international civil society organizations (CSOs);
- Service providers;
- Community networks; and
- Support structures such as churches, victim/witness support groups, women's groups.⁶⁸

Consider using intermediaries:

- If unfamiliar with the community and its members and dynamics;
- Where victims and other witnesses may be endangered if they approach you directly; or
- Where victims and other witnesses are apprehensive about interacting with people from outside the community.⁶⁹

Selecting intermediaries:

- Beforehand, find out information about the victim's or witness' community (leadership) structure.
- Members of civil society organizations working (only) with victims may be used to identify victims or witnesses.
- Assess any risks to victims and other witnesses, individual members of the community or organizations that may result from proactively seeking out victims and other witnesses via intermediaries.
- Be aware of divisions in the community and/or the coexistence of opposing "groups."

⁶⁷ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 42 (2014).

⁶⁸ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 42 (2014).

⁶⁹ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 42 (2014).

- Vet any potential intermediaries (for criminal records, impartiality, trustworthiness, capacity for their role, affiliations, and ability to work with vulnerable people).
- Be careful to avoid creating a perception of offering anything valuable in exchange for information (e.g. money, material assistance or access to aid). This does not apply to referral to services, which should be made where possible.
- Ensure intermediaries do no harm and act according to basic ethical standards.
- Ensure intermediaries do not coerce participation or expose victims or witnesses.
- If safe to do so, work with community members, community leaders, medical service providers and support groups and institutions.
- Clarify the role and its limitations, and what support or guidance they can expect.
- You must have a reliable way of contacting the intermediary and they must have a reliable way of contacting you.
- Keep a record of any interactions with intermediaries so that you can justify any decisions made regarding them.⁷⁰

Selection criteria:

- Willingness and ability to
 - Respect the confidentiality of confidential information;
 - Act with integrity and demonstrate respect for diversity and for the dignity, well-being and privacy of victims, witnesses, or accused persons; and
 - Perform their role in a way that prevents or minimizes risks to any persons, and especially to those with whom the intermediary interacts.
- Appropriate capacity, knowledge and experience.
- Cultural, social and linguistic proximity to affected communities.
- Access to/accessibility in the relevant area.
- Experience with working with victims.
- Resources (staff, financial, infrastructural, logistical, equipment).⁷¹

⁷⁰ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 42-43 (2014).

⁷¹ International Criminal Court, *Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel working with intermediaries*, 8-10 (2014), available at

Unofficial investigators should not:

- Allow intermediaries to become involved in the investigation beyond their mandated roles and capacities;
- Provide intermediaries with more information than necessary;
- Allow intermediaries to intimidate or coach victims/witnesses; or
- Work with former members of the military or individuals of the same ethnicity as the perpetrators (if possible).⁷²

2.2.6 Logistics of Documentation

Although not always possible, it is important to try to be prepared when arriving at a crime scene and documenting information. Without the necessary equipment and expertise, an information-gathering exercise may result in missed opportunities and compromise the investigation. Therefore, plan and prepare all activities to the greatest detail and extent possible.

With regard to the logistics of documenting a crime scene, it is important to:

1. Know the area: determine whether the area is known for the prevalence of kidnapping, land mines or other dangers, determine food and water sources, and whether certain health issues affect the area.
2. Map landmarks, plan routes and determine points for contact.
3. Be self-sufficient. This includes carrying food and water, as well as essential basic equipment:
 - Consent forms;
 - First aid kit;
 - Flares;
 - Flashlights and extra batteries;
 - Paper bags;

https://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/strategies-and-guidelines/Documents/GRCI-Eng.pdf.

⁷² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 44 (2014).

- Personal protective equipment such as disposable gloves, masks, hair covering, overalls, and boots, that are utilized to provide a barrier to keep biological or chemical hazards from contacting the skin and eyes, and to avoid contamination of the crime scene; and
- Writing/drawing equipment and paper.

4. Additional basic equipment includes:

- Audiotape recorder;
- Camera with flash, extra memory cards or film, and backup battery;
- Chalk or other marker;
- Directional marker/compass;
- Disinfectant;
- Maps;
- Notebook;
- Plastic sealable bags;
- Pocket knife;
- Ruler;
- Reflective vest;
- Satellite phone;
- Tape measure;
- Tarps to protect evidence from the weather;
- Sealable plastic, antistatic, and bubble bags;
- Breathable or paper sealable bags
- Traffic cones; and
- Waterless hand wash.

5. Ensure you have a number memorized or on you to call in an emergency. However, be aware that if a phone falls in the wrong hands, persons whose contact details are saved on the device may be put in danger. Therefore, it is preferred to:

- Memorize emergency numbers;
- Use a different language for saving names, e.g. one that cannot be read by any person that may pose a risk; and
- Contact one's embassy (if foreign) to inform them of your whereabouts.

6. Determine when, where and at what times to communicate with team members and others during the information collection process. Ensure that team members know each other's whereabouts.
7. Determine how your sources will be protected.
8. Ensure appropriate funding of the information-gathering exercise.

With regard to the logistics of conducting an interview, it is important to consider prior to when the interview takes place how the interviewee will get to and from the interview. Consider the safety, the distance, and cost of travel for the interviewee, as well as the time of day. Also make sure any childcare arrangements have been taken into account, if relevant.⁷³

On the day of the interview bring:

- Consent forms;
- Writing/drawing equipment and paper;
- Audiotape and/or video recorder; and
- Any audio or visual materials that you may want to show the interviewee e.g. maps, photographs, documents, videos, etc.

When preparing the location for the interview, ensure that the following are available:

- Drinking water for everyone present;
- Enough seats;
- A desk (if required);
- A toilet; and
- Emergency contact telephone numbers.

In case it is necessary to document any injuries, make also sure to bring:

- Camera with flash, extra memory cards or extra film, and backup battery;
- A ruler;
- Disposable gloves;
- First aid kit.

⁷³ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, 115 (2014).

Concerning transport, it is important to take into consideration the following guidelines (see also Section 4.3.2).

- Always carefully consider the route and means of transport.
- Make sure to have your travel documents in order, including driving license, possible passes, and vehicle registration.
- If approaching unexpected checkpoints or police roadblocks, attempt to stop in order to observe other vehicles passing through first.
- Avoid areas prone to banditry and try to travel by convoy, as this can deter attacks.
- Avoid driving alone or at night.
- Try to remain discrete and refrain from attracting unnecessary attention.
- Always be careful in traffic, and observe local driving regulations.
- Take food and water with you, as it might not be available at your destination.
- Make sure to dress appropriately for the conditions.

3. COLLECTION OF INFORMATION

This Chapter presents important guidelines and best practices on how to collect information on serious human rights violations and, importantly, on what not to do. It should be read in conjunction with the ethical principles that were discussed in Chapter 2.

3.1 Documentary Information

This section discusses the basics of the collection of information, including the types of hard copy and digital documentation, how to secure and maintain the probative value of the documentation, how to document a chain of custody for any documentary information, a number of apps that help secure and establish the verification and authentication of digital information, and how to produce photographic and video images.

3.1.1 Hard Copy Documentation

Unofficial investigators may encounter physical, paper documentation containing information on serious human rights violations and potential international crimes. Hard copy documentation may include the following types of documents that have been used in pursuit of redress for serious human rights violations, but could also take other forms:

- State or corporate documents
- Letters written by government officials or soldiers
- Minutes of corporate or state officials' meetings
- Financial records
- Medical reports
- Maps
- Printed images
- Logbooks or diaries.⁷⁴

⁷⁴ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 62 (2011), available at <http://folkebernadotteacademy.se/Documents/Kunskapsomr%C3%A5den/Rule%20of%20Law/A%20Handbook%20on%20Assisting%20International%20Criminal%20Investigations.pdf>.

Perpetrators of serious human rights violations do not always leave paper trails evidencing their actions but when they do, this can be used to seek redress for their crimes through a variety of means. For example, they can support the claims made in reports or other publications to raise public awareness. The information can also be used to assess whether national authorities are fulfilling their obligations to respect human rights and to prevent and investigate alleged abuses. And they could be presented to criminal investigators as potential evidence to be used in court. Where such records exist (such as in many of the cases before the International Criminal Tribunal for the former Yugoslavia), courts and tribunals rely extensively on documentary evidence when deciding on criminal responsibility for serious human rights violations.⁷⁵

Whatever the purpose of the documentation effort, the primary goal is to create an: (i) accurate; (ii) reliable; and (iii) precise record of events.⁷⁶ Judicial mechanisms, for example, require a high and technical standard of proof to determine accountability. If not properly collected, the gathered documentation is unlikely to be usable in pursuit of legal redress.

Even if documents are not collected with the intent of using them in pursuit of legal redress, it is advised to take into account the high standards of proof that are required by judicial mechanisms while gathering information. This allows potential use in judicial proceedings should it come to this, but is also important for non-judicial means. For example, it allows for well-founded allegations rather than suffer from attacks on its probative value. Documentary information that is collected and relied upon needs to be accurate, reliable and credible in order to substantiate any successful attempt at seeking redress. Important concepts used to evaluate the accuracy, reliability, and credibility of documentary information are their probative value, source and context.

Probative Value

Judicial mechanisms determine the weight of documents presented in court based on their probative value. The probative value of a piece of information is a legal concept used to describe the extent to which a piece of information tends to prove something material, usually in the context of a

⁷⁵ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 54 (2011).

⁷⁶ Camille Giffard, *THE TORTURE REPORTING HANDBOOK*, 30 (2000), available at [http://www.essex.ac.uk/torturehandbook/handbook\(english\).pdf](http://www.essex.ac.uk/torturehandbook/handbook(english).pdf).

criminal case. First and foremost, in order for a document to be of probative value and to prove something material about a case, it must not have been manipulated or tampered with in any way. Any changes to the document may distort its original content, with the possibility that the document no longer provides a full account of the occurrences. Judges will therefore consider the following elements of a piece of documentary information:

- Origin: where and by whose actions this document came into existence.
- Content: the subject matter discussed in the document.
- Corroboration: the extent to which this document supports other findings in the case at hand.
- Truthfulness: the extent to which a document appears to present a fair account of the truth.
- Voluntariness: whether the document was obtained through valid means.
- Reliability: the extent to which all of the above criteria contribute to the ability to rely on this document.⁷⁷

The probative value of documentary information is increased by recording a clear, detailed and accurate description of it as soon as possible after its collection. This also contributes to its being assessed as truthful and reliable. The more accurate the description of the origin and content of the piece of documentary information at the time of its creation, the easier it will be for judicial authorities to compare this to the current state of the information. Conversely, the documentary information's probative value is compromised if the origin and content cannot be determined accurately or if there is a discrepancy between original and current condition of the documentary information without a valid explanation, which leaves the possibility open that the information is tampered with.

Generally speaking, international criminal courts and tribunals tend to be less strict in admitting documentary information as evidence than national courts.⁷⁸ Judges at international criminal courts and tribunals may admit as evidence any piece of information deemed to be of sufficient probative

⁷⁷ *The Prosecutor v. Tadic*, Case No. IT-94-1-T, Decision on the Defence Motion on Hearsay, para. 15-19 (Aug. 5, 1996), discussed in Robert Cryer, Hakan Friman, Darryl Robinson and Elizabeth Wilmshurst, AN INTRODUCTION TO INTERNATIONAL CRIMINAL LAW AND PROCEDURE, 466 (2010).

⁷⁸ Robert Cryer, Hakan Friman, Darryl Robinson and Elizabeth Wilmshurst, AN INTRODUCTION TO INTERNATIONAL CRIMINAL LAW AND PROCEDURE 465 (2010).

value.⁷⁹ In contrast, in addition to weighing the information's probative value, many national criminal courts also predefine the types of information that they admit as evidence in court, which can be found in their domestic penal codes. Notwithstanding to what end the information will ultimately serve, it is important to always ensure that the information is of the highest possible probative value.

Source and Context

There are two ways in which unofficial investigators can become the custodian of documentary information:

- By collecting the document themselves, becoming its first custodian; or
- By receiving the document from another person. Whenever anyone receives or collects information, they should make an account of it using one of the chain of custody forms in the Appendix to this Handbook, or something similar.

Hard copy documents will be of little to no value to official criminal investigators if a court cannot determine the source and context of the document. Investigators should try to answer the following questions whenever they receive a hard copy document:

- What documentation did they receive? Make an accurate description of all materials collected, and pay particular attention to the appearance of the items and their quantity, size, weight or other key attributes such as color and dimensions. This will aid investigators in determining the source of the documents.
- When and where was the documentation produced?
- Who produced the document(s)?
- Who collected the document(s)? If handed the document by another person, what is the name of this other person? When and how did they come into possession of it? What official position did the person hold at the time, if any?
- What motivated the provider to give the information?⁸⁰

⁷⁹ See for example: *The Rules of Procedure and Evidence* rule 89 (the International Criminal Tribunal for the former Yugoslavia, 2009), available at http://www.icty.org/x/file/Legal%20Library/Rules_procedure_evidence/IT032_Rev43_en.pdf; *The Rules of Procedure and Evidence* rule 72 (the International Criminal Court, 2002), available at http://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/official%20journal/Documents/RPE.4th.ENG.08Feb1200.pdf.

⁸⁰ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 57 (2011), available at

It is unlikely that judges will admit documents pertaining to serious human rights violations as evidence in court if they cannot satisfactorily identify the answers to these questions. And while not having the answers does not always prevent other (non-judicial) forms of redress from using the information, being able to provide answers to such questions will enhance the credibility of the information no matter how it is ultimately used.

It may prove impossible to establish the answers to these questions after original collection or transfer of custody. The original custodian may no longer be available to answer these questions or the location where the documents were collected from may no longer be accessible. Memories fade and can be unreliable when asked to provide the answers to the questions above. Upon transfer of a document, the original custodian of the document is often in the best position to answer these questions. If not recorded during transfer of custody, information on the source and context of the document may be lost for good.

Make sure to record the answers to these questions as soon as practically possible when becoming the custodian, including as much circumstantial information as possible. Many professional investigators attach a summary sheet or cover letter containing the answers to the questions listed above in as much detail as possible when storing documents of potential evidentiary value.⁸¹ They moreover have the original and/or new custodian sign the summary sheet or cover letter.

This is a template summary sheet or cover letter that PILPG made on the basis of templates that expert investigators use. It provides explanatory texts in the boxes to outline what information is required and why. The template is also provided in the Appendix to this Handbook. In each of the sections of the template, a brief note is added explaining what information is required and why.

<http://folkebernadotteacademy.se/Documents/Kunskapsomr%C3%A5den/Rule%20of%20Law/A%20Handbook%20on%20Assisting%20International%20Criminal%20Investigations.pdf>.

⁸¹ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 60 and 90 (2011).

PILPG Chain of Custody Summary Sheet

GENERAL ARTICLES INFORMATION	
<p>NAME OR ID NUMBER OF COLLECTOR:</p> <p><i>Please provide the name or identification number of the individual filling in this form. Use of full name may put that individual at risk. If so, use an identification number or code instead.</i></p>	<p>NAME ORGANIZATION COLLECTOR:</p> <p><i>Please provide name of organization to which the individual filling in this form is affiliated, if any.</i></p> <p>ITEM REFERENCE NUMBER (if applicable)</p> <p>LOCATION OF ORGANIZATION:</p> <p><i>Please provide location of organization to which the individual filling in this form is affiliated, if any.</i></p>
<p>NAME OR ID NUMBER OF PERSON FROM WHOM RECEIVED:</p> <p><i>If not the original collector of the document, provide the name or identification number of the person from whom the document was obtained.</i></p> <p>ITEM REFERENCE NUMBER (if applicable)</p>	<p>NAME ORGANIZATION OF PERSON FROM WHOM RECEIVED:</p> <p><i>Please provide name of organization to which the person from whom the document was obtained is affiliated, if any. This is important in case follow-up regarding the original collection is needed.</i></p> <p>ITEM REFERENCE NUMBER (if applicable)</p> <p>LOCATION:</p> <p><i>Please provide location of organization to which the person from whom the document was obtained is affiliated, if any.</i></p>
<p>LOCATION FROM WHERE OBTAINED:</p> <p><i>Please provide location from where the document was obtained in as much detail as possible. Address, location in room, cabinet, file.</i></p> <p>ITEM REFERENCE NUMBER (if applicable)</p>	<p>REASON OBTAINED:</p> <p><i>In as much detail as possible, please provide the reason(s) why the document was obtained by the individual filling out this form. Safe keeping, request for support, on request etc. This is important in order to establish the context of the document at a later stage.</i></p> <p>ITEM REFERENCE NUMBER (if applicable)</p>
<p>ITEM REFERENCE NUMBER (if applicable)</p>	<p>DATE/TIME OBTAINED:</p> <p><i>Please provide date and time of obtaining the document as accurately as possible, to the minute if possible. Timelines can be important when relied upon in court.</i></p> <p>ITEM REFERENCE NUMBER (if applicable)</p>

ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES (include model, serial number(s), condition and unusual marks)
<i>Please provide an item identification number for cataloging purposes. It will be easier to logically store and retrieve documents at a later stage if systematically assigned an item number.</i>	<i>Please provide the exact number of pages of which the document consists. It is important to record the number of pages to exclude the possibility that pages were removed after collection.</i>	<i>Please provide a full and detailed description of the physical characteristics of the document collected. Note the title, the state of the document and any unusual markings such as stains that may help prove that the document relied upon is the one originally collected. An accurate record of the state of the document at the time of collecting it will also help identify what changes to the document were made after collection.</i>

CHAIN OF CUSTODY

ITEM NO.	DATE/TIME	RELEASED BY:	RECEIVED BY:	PURPOSE OF CHANGE OF CUSTODY:
<i>Please provide the item number of the document changing hands.</i>	<i>Please provide the exact date and time of change of custody. This information will help to build an accurate time line of who handled the document and when.</i>	<i>Please provide the name of the person who is handing over custody of the document.</i> SIGNATURE: <i>Please have the person handing over the document sign here. This can help to verify the identity of the person handing over custody.</i>	<i>Please provide the name of the person who is receiving the document, thereby becoming its new custodian.</i> SIGNATURE: <i>Please have the person receiving the document sign here. This can help to verify the identity of the person receiving custody of the document.</i>	<i>Please provide a detailed description of the purpose of the change of custody. This information is important to determine the context of this document. For example, the purpose might be for scientific testing, safekeeping, cataloging etc.</i>

ITEM NO.	DATE/TIME	RELEASED BY:	RECEIVED BY:	PURPOSE OF CHANGE OF CUSTODY:
		SIGNATURE:	SIGNATURE:	

Take Pictures of the Document In Its Original Location

Prior to collecting any documents from their original location, unofficial investigators are advised to take pictures of the document in its original location. In combination with the description of its location on the summary sheet, these pictures can be used to support the accuracy and

reliability of the document if later challenged. The pictures should allow for a clear and detailed description of the circumstances of the collection of the document, thereby removing possible doubt about interference with the document. For more information on the production of photographic and video images, refer to the next section.

Make Copies

To prevent loss of documentary information, unofficial investigators are encouraged to make copies of documentary information as soon as practically possible, by using photocopiers, photographic devices, or other means. However, be aware of the risks involved in producing photocopies of documentary information. The more copies of potentially incriminating information are kept, the higher the chances of such information being disclosed by third parties. This could endanger the safety of the custodians of the information and any other individuals involved in the collection process. Preparations must be made prior to engaging in photocopying to ensure the safety and security of the copies of documentary evidence. Preferably, photocopies should be safely stored using an encrypted hard drive. Cloud services are corruptible and can be hacked into. See the Management of Information chapter for more information on the management on this.

Protect Potential Forensic Information

Documentary information can, in some cases, also serve as forensic information at the same time. Documents could contain the DNA or fingerprints of perpetrators, victims or witnesses of serious human rights violations. This forensic evidence could provide information on the context or circumstances of the violations. In order not to contaminate or corrupt any of the forensic value of documentary information, unofficial investigators are advised to handle documents with the required care and, if possible, always wear rubber (latex) gloves when handling documents. Each piece of documentary information is best collected individually, in a plastic bag, preferably with a completed copy of the summary sheet or cover letter included inside the plastic bag containing the document. Never alter or modify the state of a document. If documents are attached together, do not separate them or store them individually. Attached documents should be considered one single piece of documentary information and collected as such.

3.1.2 Digital Information

Increasingly, perpetrators, victims and witnesses of serious human rights violations create, store and/or share information pertaining to the occurrences in digital form rather than hard copy, such as physical letters or photographs. Guidelines to collect and store digital information differs in some aspects from that of hard copy information.

Digital information on serious human rights violations can take many different forms, such as:

- Metadata
- Audio and video recorded testimony
- Digital photography
- Video documentation
- Email and networked communication
- Text messages or SMS communication; and
- Posts on social media or news broadcasting platforms.

As the creation of information pertaining to serious human rights violations in digital form grows, the use of such information in pursuit of legal and other types of redress is increasing as well. As with any other type of information presented in court as evidence, digital information will be subjected to scrutiny as to its probative value. However, the verification of the authenticity, reliability and chain of custody of a piece of digital information presents challenges unlike those encountered with other, more conventional, types of information. Detection of contamination and other types of changes made to the content of digital information and determination of authenticity require advanced technological knowledge and resources. Neither lawyers, judges nor other officials involved in an investigation will necessarily have such resources at their disposal. It is therefore important that the producer and subsequent handlers of the information ensure that these professionals are given sufficient data to allow them to determine the probative value of digital information.

As a general principle, strive to maintain as much as possible of the integrity of the original file; whenever possible, the best is to preserve the original physical storage media used to collect the relevant data (eg. the mobile phone, the camera, the computer); seal the device containing the relevant media, putting the collector's signature on the seal. When that is

not possible and/or the collector wants to preserve only specific items contained in the original device (specific photos/videos, etc.), as opposed to the entire media, then calculate hash values of the target files in the original device and save the target files, jointly with the hash values list, in a clean storage media, then seal the storage media with the collector's signature on the seal.

When creating such files:

- Configure the device (camera/smartphone, etc.) accurately with correct time setting, GPS activated, author information added.
- Add as many additional records to the original file (like metadata relevant for future authentication) and keep the original file untouched.
- Ensure that, as much as possible, the hardware/software involved in the collection process is reliable and that the collector is a person with the proper capacity and training.
- Produce a record of all the steps taken, hardware and software used and other relevant contextual information as supporting data (e.g. circumstances surrounding the collection of the file; notes created on the file, etc.).

When seeking to obtain files created by others, it would be ideal to either retain the original device or use forensic acquisition tools used by experts.⁸² Obtaining the original device might however be a rare possibility (as sources are often not willing to give these devices, etc.) and many of these tools might not be easy to use for a non-trained person. Thus, for a non-official documenters we recommend the use, whenever possible, of the procedure set above for the extraction of specific files: use of hash calculation software combined with physical method (sealing of the device with source's signature on the seal).

Metadata

Metadata is an important tool to verify the authenticity of digital information. Metadata is a term used to describe "data about data," comparable to the content of catalogues and inventories used in libraries. Metadata describes the digital information by some of its basic

⁸² As listed at <http://www.cftt.nist.gov/>

characteristics such as its creator and the date of its creation.⁸³ Metadata may be created (i) external to the resource it describes or may be (ii) embedded in the resource itself. Metadata can be created external to the resource it describes by recording certain characteristics separately from the piece of digital information created. A common method of creating metadata is by manually completing a form, either in writing or electronically, using pre-defined categories and vocabularies.

Dublin Core Metadata Standards

In the human rights field, the use of the “Dublin Core Metadata Standards” is commonly used and recommended. According to these standards, producers or subsequent receivers of digital information should record the following data about the digital information:

- Creator: full, family, given and nicknames of any person, organization or service primarily responsible for making the content.
- Contributor: full, family, given and nicknames of any person, organization or service making a contribution to a resource.
- Publisher: full, family, given and nicknames of any person, organization or service responsible for making the resource available.
- Title: name or names by which a resource will be recognized.
- Date: description of dates in the lifecycle of the piece of digital information, such as *Created*, *Available*, *Modified*, *Submitted* and/or *Accepted*, as applicable. Use the following format for recording dates: YYYY/MM/DD.
- Language: any language of intellectual content of resource such as written or spoken words.
- Type: refers to a description of the nature of the resource (such as whether it is a still image or a motion picture).
- Format: refers to the file format or the data storage medium of a resource, relevant in order to determine the equipment needed to display or operate the resource.
- Extent: refers to the size or duration of the original resources.
- Medium: refers to the specifications of the medium used to create the resources.
- Subject: refers to the topic of a resource by means of key words;

⁸³ Dublin Core metadata initiative, *User Guide/Creating Metadata*, (Jan. 6, 2012), available at http://wiki.dublincore.org/index.php/User_Guide/Creating_Metadata#Language.

- Description: refers to the extended topic of a resource by means of several full sentences.
- Identifier: refers to any internal or external reference number attached to a resource.
- Coverage: refers to any spatial location relevant to a resource;
- Rights: refers to any person, organization or service holding rights over a resource.
- Audience: refers to any class of people for which a resource is intended; and
- Provenance: refers to a description of the changes in ownership and custody of a resource.⁸⁴

Automatic Embedment of Metadata

When creating digital content, the medium used to create such information will also automatically embed metadata into the resource itself. Digital cameras, mobile phones, and other video devices automatically embed into the created content information on device settings and specifications, date and time of creation, and, if enabled, location of creation through GPS receivers. This embedded metadata can be instrumental to establish the reliability and authenticity of the digital information provided. Therefore, unofficial investigators should check and if possible document the internal settings of the device used to ensure accurate embedding of metadata.⁸⁵

Be aware, though, that embedded metadata is not infallible. Metadata such as date, time and location of creation can easily be manipulated by changing the settings of a device. Furthermore, when digital content is transmitted or migrated to other devices or platforms, such as YouTube, Facebook or Twitter for example, it is often standardized for uploading purposes, by which (much of) the embedded metadata is corrupted or deleted from the original file and often cannot be restored.

Make sure therefore to store a copy of the information as close to the original format as possible and avoid migrating the information as much as possible. An accurate record on the chain of custody will enable investigators to determine the likelihood of metadata corruption, similar to

⁸⁴ Dublin Core metadata initiative, *User Guide/Creating Metadata*, (Jan. 6, 2012).

⁸⁵ WITNESS, *Video as Evidence Field Guide*, (2016), available at <https://vae.witness.org/video-as-evidence-field-guide/>.

corruption of hard copy documents. Similar to hard copy information, when digital information changes custody, this should be recorded to prevent breaking the chain of custody and decreasing the evidentiary value of the information.

Verification and Authentication Instruments

In order to prevent possible corruption of embedded metadata such as location and time, creators of digital information such as photographic or video images can also include real-life markers referring to the location and time in their shots. Landmarks, street signs, watches and other distinguishing factors of the location captured on film can be used to authenticate a piece of digital information and its embedded metadata.⁸⁶

To answer to the challenges of verification and authentication of digital information, different developers have designed applications that serve to reliably create digital information on serious human rights violations, such as the Guardian Project's smartphone application *CameraV*.⁸⁷ *CameraV* enables creators of digital photographs or videos to embed and encrypt additional pieces of circumstantial information about the creation of that photograph or video. The application will automatically collect and store information such as GPS coordinates, time of creation, type of device used, transmission towers and even Wi-Fi networks in the vicinity of the creator. *CameraV* then encrypts this data with a key that only the device holds, and allows the user to send all digital information to a secure location of their choosing. This additional metadata is recorded as layers, which can be included or removed from the still or motion picture freely without risk of loss of data. This enables creators of digital information to share their information through a variety of digital media platforms such as YouTube, Facebook or Twitter, without the risk of losing embedded metadata that could be used in court to establish the probative value of the information. *CameraV* is currently available for download in beta.

The International Bar Association, in close cooperation with information firm LexisNexis, also developed a mobile phone app – called *IBA eyeWitness to Atrocities* – which allows users to safely and securely add metadata to the imagery created.⁸⁸ Similar to *CameraV*, *eyeWitness* embeds

⁸⁶ WITNESS, *Best Practices: Filming for Human Rights Documentation, Evidence and Media*, 1 (2011).

⁸⁷ For more information on *CameraV* and the Guardian Project or its partners, visit <https://guardianproject.info/apps/camerav/>.

⁸⁸ <http://www.eyewitnessproject.org/>

the metadata in the digital content created that is needed to satisfy the stringent admissibility criteria of a variety of legal institutions. Any digital content created through the app is securely stored in a separate content gallery and the app is hidden on the phone. Notably, the *eyeWitness* app allows direct transmission of digital content to a team of legal experts that analyze the data for their relevance and probative value through a secure data transfer system. *IBA eyeWitness to Atrocities* is now available for download.

KoBo Toolbox is another open source application for field data collection and free of cost.⁸⁹ Most *KoBo Toolbox* users are people working in humanitarian crises, as well as aid professionals and researchers working in developing countries. It is an open source collection of tools for data collection and analysis in humanitarian emergencies and other challenging emergencies. Surveys can be conducted entirely while being offline, regardless of what kind of device is being used during the collection process. It provides a quick and accurate way of utilizing the data collected. *KoBo Toolbox* includes tools for creating tables, summarizing indicators and a map showing all GPS coordinates. Collected information is stored safely and cannot be read by a third party. Moreover, the application contains safeguards to prevent data loss.⁹⁰ Enumeration errors are minimized because of real-time data validation.⁹¹ Therefore, using *KoBo Toolbox* can assist in preserving the integrity and reliability of collected information.

Similarly, Physicians for Human Rights is currently developing the application *MediCapt*. In many conflict zones, courts dismiss medical intake forms for being inconsistent, illegible, or incomplete. *MediCapt* helps clinicians in collecting, documenting, and preserving forensic medical evidence of sexual violence and mass atrocities to support prosecution of these crimes. The application contains a standardized medical intake form for forensic documentation, and combines this with a mobile camera to take pictures of injuries. This data can then be encrypted and saved in the application's cloud storage service. The application also embeds tamper-proof metadata for each intake form and picture.⁹²

⁸⁹ <http://www.kobotoolbox.org/>

⁹⁰ <http://www.kobotoolbox.org/#block-views-skills-and-services-block>

⁹¹ <https://www.humanitarianresponse.info/en/applications/kobotoolbox>

⁹² See <http://physiciansforhumanrights.org/medicapt>.

Securing and Destroying Digital Information

It is important to remain aware that mobile telephones and other mobile devices that contain digital information on serious human rights violations can jeopardize the safety of those involved if they are seized by those who prefer to keep this information from other parties. To mitigate this risk, unofficial investigators are advised to store a copy of digital information in a safe location (encrypted hard drive or a trusted person located outside the field of danger) as soon as possible. After making sure that no metadata will be lost irrecoverably in the process, they should delete any digital pieces of information.

Collectors of digital information need to be aware of the inherent risk of collecting or producing this kind of information at all times. The ease with which digital information is created may undermine this sense of inherent danger and may encourage unofficial investigators to collect information. But metadata for example, although vital to establishing the authenticity of digital information, may also be used to identify and locate its creator and subsequent handlers. The danger of persecution is real and risks need to be anticipated and avoided to the extent possible. Unofficial investigators should leave the collection of information on serious human rights violations to official investigators whenever possible. Only as a matter of a last resort and following the guidelines set out in this Handbook (see in particular Chapter 2 on Ethical Principles for Civil Society Documentation), including to do no harm at all times and after conducting a full risk assessment, should unofficial investigators produce or collect information on serious human rights violations.

3.1.3 Producing Photographic and Video Images

Photographic and video imagery are often used to document human rights violations. They may help spread awareness among the general public of such abuses, in an attempt to rally public support to bring the abuses to an end. Moreover, under certain circumstances, they may be admissible as evidence in court.

Criminal investigators, trained in forensic photography, use photographic and video images to record the crime scene and assist judges in their effort to reconstruct the course of events leading up to and during the commission of the alleged crime. However, in the context of large-scale serious human rights violations, professionally trained criminal investigators

are rarely the first to arrive at a crime scene. Under such circumstances, unofficial investigators that are located in the field at the time of commission of the abuses, may be in a better position to record crime scenes by means of photographic or video imagery than professional investigators arriving a long time later.

The following sets out the basic principles of forensic photography. Following these guidelines will increase the likelihood that the images may be used as evidence in court but by no means guarantees this.

When creating photographic or video images, unofficial investigators must adhere to the ethical practices set out in Chapter 2 at all times. This includes the principle to do no harm, always keeping the best interest of the victims and witnesses in mind. Unofficial investigators should not document victims or witnesses without obtaining their prior and informed consent and should never ask them to partially or fully undress or document them as such. For more information on ethical standards, see Chapter 2.

Establishing and Close-Up Photography

Criminal investigators distinguish between two types of forensic photographic images:

- Establishing photographs; and
- Close-up photographs.⁹³

Establishing photography records the entire crime scene exactly as the person first arriving encountered it. This entails a series of individual panoramic shots that are taken with sufficient overlap to provide an overview of the scene. This allows investigators/judges to reconstruct the circumstances of the crimes as accurately as possible. If possible, include a **marker** indicating which direction is north to record the geographical location of the scene as accurately as possible.⁹⁴

⁹³ Brian Gestring, A FORENSIC SCIENTIST'S GUIDE TO PHOTOGRAPHY, 23 (2007), available at http://www.forensictv.net/Downloads/digital_imaging_and_photography/forensic_scientists_guide_to_photography_by_brian_gestring.pdf.

⁹⁴ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 65 (2011), available at <http://folkebernadotteacademy.se/Documents/Kunskapsomr%C3%A5den/Rule%20of%20Law/A%20Handbook%20on%20Assisting%20International%20Criminal%20Investigations.pdf>.



Pic. 1. Example of establishing photo composed by individual panoramic shots with overlap

Another method of establishing the scene of a crime is video imaging. To help ensure steady images and thus the quality of the information documented, unofficial investigators that use video should keep their elbows close to their body and their knees slightly bent when creating video imaging. They moreover should hold a shot for at least 10 seconds and include as much circumstantial information in their shot as possible.⁹⁵

After taking all establishing photographs, investigators may proceed with a series of close-up shots of items or details of interest to the crime committed.⁹⁶ See for a thorough guide to video imaging for human rights the WITNESS's resource page.⁹⁷ Close-up pictures must satisfy a number of technical criteria to be admitted as evidence in court. Although these may vary depending on the relevant legal institution, adherence to the following principles will satisfy the basic criteria of most legal institutions and in any case helps to ensure the credibility of the information:

Close-up photographs come in three different forms:

- i) at mid-range distance, identifying the location of the detail in relation to the establishing photographs;
- ii) a close-up of the detail; and

⁹⁵ WITNESS, *WITNESS Video Advocacy Toolkit – Filming: Overview*, 1 and 2 (date of publication unknown), available at http://www3.witness.org/sites/default/files/downloads/filming_final.pdf

⁹⁶ Brian Gestring, *A FORENSIC SCIENTIST'S GUIDE TO PHOTOGRAPHY* 24 (2007), available at http://www.forensictv.net/Downloads/digital_imaging_and_photography/forensic_scientists_guide_to_photography_by_brian_gestring.pdf.

⁹⁷ <https://witness.org/resources/>.

iii) a close-up of the detail including a ruler or some sort of scale.



Pic. 2. Example of close-up and mid-range distance photos



Pic. 3. Example of close-up of the detail, including a ruler

- Close-up photographs of the second and third category are to be taken with the back of the camera parallel to the detail of which a picture is being taken.
- The detail is to completely fill the field of view.
- A ruler is usually included in the final close-up photograph in order to determine the size of the detail. Professional rulers include a circle, which will show as slightly oval if the photograph is not taken at parallel angles.

- In the absence of a ruler, place another object next to the detail for scaling purposes. This object is to be safely stored and provided along with the photograph when handing the information to criminal investigators.
- Ensure that the detail is properly illuminated, avoiding over-exposure or under-exposure to light as much as possible.⁹⁸ Use a flashlight or other external light source if necessary.

3.2 Documenting and Recording a Crime Scene

This section outlines how to secure a crime scene and record observations of it. The objective of documenting and recording a crime scene is to correctly interpret the facts, and to reconstruct and uncover the events leading up to and including the alleged abuse or crime.⁹⁹ Crime scene investigation is a process that aims to record the scene as it is first encountered and recognize and collect all physical information potentially relevant to investigating the crime.¹⁰⁰

3.2.1 *In Principle, Refrain From Any Investigations*

As was stipulated earlier in this Handbook, in principle, investigations should only be conducted by those that are professionally trained in this. Civil society actors may, however, help preserve the crime scene and make professional investigators aware of the situation, and in other ways contribute to ensuring that professional investigators can conduct their investigations as effectively as possible.

Only when professional and reliable investigators cannot access the crime scene in time before the information would lose its value may unofficial investigators consider taking action. However, they should do so only in accordance with the guidelines that are provided in this Handbook. For example, as discussed in Chapter 2, they should always uphold the

⁹⁸ Brian Gestring, *A FORENSIC SCIENTIST'S GUIDE TO PHOTOGRAPHY 23-5* (2007), available at http://www.forensictv.net/Downloads/digital_imaging_and_photography/forensic_scientists_guide_to_photography_by_brian_gestring.pdf.

⁹⁹ United Nations Office on Drugs and Crime, *CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL*, 1 (2009), available at http://www.unodc.org/documents/scientific/Crime_scene_awareness__Ebook.pdf.

¹⁰⁰ United Nations Office on Drugs and Crime, *CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL*, 4 (2009).

principle to do no harm, to both the crime scene (do not contaminate, do not touch anything, and wear protective gear before entering the scene), and to persons (assess all risks before to enter the scene, and provide first aid, if necessary, immediately upon your arrival).

The checklist for unofficial investigators below builds on the best practices discussed in this Handbook:

1. If possible, refer the scene to a professional investigator
2. Pack all necessary tools and equipment (see Section 2.2.6)
3. Perform a risk assessment to ensure personal safety and the safety of others (see Section 2.2.1)
4. Determine whether the scene can be safely entered and identify a common approach path and escape route (see Section 2.2.2)
5. Remain alert and attentive
6. Do no harm and provide first aid where required (see Section 2.1.1)
7. If possible, restrict access to the crime scene
8. Record information on who enters and exits the scene
9. Ensure that the scene, including any items in it, is left untouched
10. Do not contaminate the scene; use personal protective equipment (gloves, masks, protective clothing, etc.). Bring plastic, sealable bags, anti-static bag, bubble bag, and breathable bags, as well as sealing tape
11. Document the scene as first encountered by using photography or video images (see Section 3.1.3)
12. Use a data collection and preservation application if possible, such as those discussed in Section 3.1.2.

3.2.2 *Securing a Crime Scene*

To secure the crime scene, identify the “focal” or central point of the crime scene. This is the main area of disturbance or specific location where the crime occurred. For example, it may be a specific room in a building, a specific place in an open field, a specific part of a room e.g. the bed. Radiating out from that point, but without walking on the crime scene, establish an area that is sizeable enough to likely contain all relevant physical evidence that may be present. If possible, cordon this area off with a physical barrier, and establish a common entry point. Be careful, however, that using indigenous objects to the crime scene to cordon it might compromise it instead. Unofficial investigators should try their best to preserve the integrity of the crime scene and the information in it as it is,

immediately from the time of its discovery until the end of the recording and documentation of the scene.

The most important issue to consider when arriving at a crime scene is appropriate health and safety procedures, especially if there may have been used biological, chemical, or other hazardous materials. Health and safety must remain a priority throughout the information-gathering process. Unofficial investigators should:

- Approach the scene cautiously, and assess risks to themselves or other persons on the scene.
- Stay aware and take note of any persons or vehicles in or leaving the crime scene.
- Scan the entire area, and note any possible secondary crime scenes.
- Approach the scene in a manner that maximizes the safety of surviving victims, possible witnesses, themselves and others in the area.
- Make initial observations (look, listen, smell) to assess the scene and ensure it is safe for themselves and others before proceeding.
- Ensure that medical attention is provided to injured people, by providing immediate medical attention and calling for medical personnel; and
- Try to minimize contamination of the scene.

Health and safety hazards can be minimized using first aid kits, appropriate protective clothing, such as helmets and gloves, and adequate protective equipment (see Section 2.2.6 for a checklist). If basic equipment does not suffice to protect from hazards, unofficial investigators should stay away from the crime scene. Some hazards are not immediately obvious and may appear as the information-gathering exercise unfolds. Be particularly careful around and aware of:

- Chemicals
- Biological materials
- Unexploded explosives
- Firearms
- Environmental factors (such as excessive heat or cold)
- Unsafe structures (such as fire and bombing scenes)
- Insecure environment (such as the offender still being present at the scene)

- Sharp objects, radiological, nuclear and electrical risks, gases et cetera.¹⁰¹

Anyone interacting with a crime scene should observe strict anti-contamination measures. This includes: wearing protective clothing, gloves and shoe covers; using a single path when entering or leaving the scene. No-one should:

- Use any facilities available at the scene, such as telephones and bathrooms
- Eat or drink
- Smoke or chew tobacco
- Move anything/anybody (unless necessary for the safety and well-being of persons at the scene)
- Touch anything
- Reposition moved items
- Litter or spit.¹⁰²

3.2.3 Observing and Recording a Crime Scene

Documentation of the crime scene begins with the arrival of the first person at the scene. The primary objective of observing and documenting the crime scene is to create an accurate, reliable and precise record of events. It is important to adhere to the practices described in this Handbook to try to ensure that the documentation is sufficiently reliable to be used at a later stage by other authorities or organizations.¹⁰³

With regard to the sequence of activities, should it really be needed for an unofficial investigator to engage in any of them, proceed as follows:

1. Assess the security situation and make a risk assessment (see Sections 2.2.1 and 3.2.2).
2. Secure the crime scene (see Section 3.2.2).
3. Consider what type of crimes might have occurred as this will help anticipate the evidence that could be present.

¹⁰¹ United Nations Office on Drugs and Crime, CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL, 6 (2009).

¹⁰² United Nations Office on Drugs and Crime, CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL, 10 (2009).

¹⁰³ Camille Giffard, THE TORTURE REPORTING HANDBOOK 30 (2000).

4. Conduct an initial survey of the scene to identify potentially valuable evidence, take notes and capture initial photographs of the scene and the evidence (see Section 3.1.3).
5. Then do a thorough documentation of the scene paying attention to all apparently probative evidence (see Section 3.3 regarding the Documentation of Forensic Information).
6. Document any statements/comments made by victims and witnesses (see Section 3.4 regarding Documenting Information from Victims and Witnesses).

Documentation of the crime scene can be done by creating an audio recording or by taking notes, photographs, video recordings, sketches and measurements. It is important to record:

- The precise time of arrival at the crime scene.
- The general state of the scene as encountered.
- Particular odors and signs of activities.
- Any person present at, entering or leaving the scene.
- Changes to the scene that may have occurred as a result of people's presence at, entering or exiting of the scene.
- Any areas where the vegetation differs notably from other places (may indicate recent movements of earth, e.g. a mass grave).
- A description of any such location by reference to its GPS coordinates so that investigators can find it later.¹⁰⁴

Documentation should be thorough and as detailed as possible. A voice recorder may enable unofficial investigators to describe the crime scene as it is being entered and explored. This recording can be played back later to create a transcript or handed over to professional investigators. Unofficial investigators should aim to record all relevant facts and details. For future purposes, these factual reports is the primary source to remember by. For the sake of conformity, many agencies, training facilities, and individuals have adopted conventions to describe certain objects. For example, CYMBAL is an abbreviated method of uniformly describing vehicles (Color, Year, Make, Body and License). "Head to Toe" is a method of describing individuals. This involves recording generic information, race,

¹⁰⁴ United Nations Office on Drugs and Crime, CRIME SCENE AND PHYSICAL EVIDENCE AWARENESS FOR NON-FORENSIC PERSONNEL, 12 (2009) available at http://www.unodc.org/documents/scientific/Crime_scene_awareness__Ebook.pdf.

sex, age, height and weight, followed by a description of the individual from the hair to the shoes.¹⁰⁵

Unofficial investigators should note the date and time at which they begin to document the crime scene. Include also a measuring or estimate of the perimeter of the crime scene. If possible, use a photo or video camera to make a record of the buildings, rooms and important objects within the crime scene. Sketches, maps and plans can complement reports and photographs. They are generally “cleaner” than photographs and can exclude any unnecessary components.¹⁰⁶ Make the labeled sketch of the crime scene to scale, and include all relevant details, such as the location of the floors in a building, rooms, entrances, windows, furniture and surrounding terrain.¹⁰⁷

3.3 Forensic Information

This section discusses the documentation of forensic information. Forensic information concerns physical pieces of information which may contribute to establishing what happened in the situation at hand. Forensic information is often a crucial type of information to obtain and can add strong support to victim and witness accounts. While forensic information may not be conclusive, it can demonstrate that the alleged victim’s injuries or the behavioral patterns derived from other types of information are consistent with the described criminal conduct.¹⁰⁸ Common examples of scientific methods that are used to translate forensic information into usable evidence include DNA matching, fingerprint identification, and fiber analysis. Because of the delicate and precise nature of these scientific methods, it is important to handle and collect forensic information with the utmost care. This section provides best practices to minimize the chances that forensic information is compromised.

¹⁰⁵ Paul Laska, INTERFACE: A GUIDE FOR PROFESSIONALS SUPPORTING THE CRIMINAL JUSTICE SYSTEM, 11-3 (2011).

¹⁰⁶ Paul Laska, INTERFACE: A GUIDE FOR PROFESSIONALS SUPPORTING THE CRIMINAL JUSTICE SYSTEM, 17 (2011).

¹⁰⁷ UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (“Istanbul Protocol”), para. 103, HR/P/PT/8/Rev.1 (2004), available at <http://www.ohchr.org/documents/publications/training8rev1en.pdf>.

¹⁰⁸ Camille Giffard, THE TORTURE REPORTING HANDBOOK, 47 (2000), available at <http://www.essex.ac.uk/torturehandbook/handbook%28english%29.pdf>.

Nota Bene: The collection and analysis of forensic information requires sophisticated equipment to be effective. The scientific methods required to analyze forensic information furthermore require technical skill, expertise and experience. Collection of such information should therefore be done by those with the required technical skill, expertise and experience, if at any way possible. These professionals will know how to handle a piece of forensic information in order to maintain its potential evidentiary value. Unofficial investigators are therefore advised to stay away and not to touch potential forensic information, and to refer the situation to official investigators as soon as possible. Only as a matter of last resort, and only if an immediate threat exists that the forensic information might be lost or irremediably damaged may an unofficial investigator proceed, but only by following the guidelines here provided and being aware that they may well decrease the evidentiary value of the information by their under-skilled interaction with it.

3.3.1 Documenting Physical Injury

Documenting physical injury is a delicate matter. Examining a victim should be done by a doctor at all times. It is unethical for a lay-person to do any kind of medical examination. If a doctor examines a victim, s/he also has to make clear in what capacity the examination is done: as a doctor (which means that doctor-patient confidentiality applies and the information cannot be shared) or as a forensic examiner (for the purpose of collecting information that may be used in further investigations and court). Since unofficial investigators are neither, they cannot act in any way that may suggest that they are either a doctor or a forensic examiner. In absence of an official doctor or investigator to conduct a medical examination, unofficial investigators should limit their interaction with the victim to making observations about any visible injuries by simply looking at the victim.

Actions That Unofficial Investigators May Take

Try to find a medical doctor who can do an examination. If no doctor is available to do an assessment:

1. Obtain informed consent: explain and ask permission for everything you do (see Section 2.1.2 on Informed Consent).
2. Make clear to the victim that you are not a medical doctor.
3. Provide any immediate medical assistance that is required.
4. Only if allowed by the victim, record visual information of external physical injury only. Take pictures only of what is considered

decent and allowed by the victim. Use a ruler and color chart to contextualize the injury. Let the victim help.

5. Take pictures again when the injuries are healed, for comparison.
6. Record everything you do, make clear that your actions are for recording purposes only and discuss issues of confidentiality (see Section 2.1.3 on Confidentiality).

Unofficial investigators should not document injuries to private parts of the body and should not ask individuals to undress or expose private parts of the body. Unofficial investigators may only record visual information of external physical injury.

Unofficial investigators may note the following external physical injuries:

- Any obvious injury such as swelling, bruises, cuts, grazes or burns.
- Any difficulty in movement of the body such as walking, climbing stairs, sitting or standing up for long periods, bending down, or raising the arms.
- Any deformity of the shape or posture of the back or limbs.¹⁰⁹

If allowed, you should record in detail the site, size, shape, color and type of any injury are recorded in detail. If there are numerous injuries, a body diagram might be useful to sketch their placement (see Appendix 2). It is important to describe the appearance of injuries as accurately and precisely as possible. Preferably, unofficial investigators would measure the size of injuries. Alternatively, unofficial investigators can estimate the size of the injury by taking as reference a common object. Save any relevant papers, records or documents as potential evidence and for handwriting analysis.¹¹⁰

Preserving Forensic Information

Information related to physical injury should be properly collected, handled, packaged, labeled and placed in safe-keeping to prevent contamination, tampering or loss of information. As noted above, however,

¹⁰⁹ Camille Giffard, THE TORTURE REPORTING HANDBOOK, 48 (2000), available at <http://www.essex.ac.uk/torturehandbook/handbook%28english%29.pdf>.

¹¹⁰ United Nations Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, para. 103, HR/P/PT/8/Rev.1 (2004), available at <http://www.ohchr.org/documents/publications/training8rev1en.pdf>.

only professionally trained experts should handle forensic information. Professional investigators will have the required equipment and expertise to properly collect, label and preserve any samples of bodily fluids (such as blood or semen), hair, fibers and threads that may be found. They can also collect and preserve objects that could have been used to carry out the crime. If possible, professional investigators will also lift and preserve any fingerprints.¹¹¹ Only people with the appropriate training, expertise and resources should handle such samples or objects. Mishandling such information may in fact prevent experts from being able to use it.

Unofficial investigators may assist by taking an inventory of the clothing of the victim. Clothing may be the source of significant information for investigators as it may have entrapped fibers, hair and skin. It may also have absorbed blood and other bodily fluids, which can contribute to reconstructing the events that led to the injuries sustained and provide samples of DNA that may help identify the perpetrator(s).

When providing necessary medical assistance, it might be necessary to remove clothing from a victim. If this was the case, clothing should be removed item by item and folded minimally. Clothing should not be shaken or placed on the floor. Shaking clothing potentially leads to information being lost, while placing clothing on the floor may contaminate it. In case it is necessary to cut clothing so that it can be removed, try to cut as far away from the point of damage or other signs that may contain relevant information as possible. In many cases the most practical and efficient way to do this will be to cut along the seams of the clothing. Once removed, clothing should be placed into a plastic or paper bag.¹¹² Always obtain informed consent when collecting pieces of clothing that belongs to the victim.

¹¹¹ United Nations Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, para. 103, HR/P/PT/8/Rev.1 (2004), available at <http://www.ohchr.org/documents/publications/training8rev1en.pdf>

¹¹² David Johnson, *Forensic Evidence Preservation: The Emergency Nurses' Role* 1(2) Australian Emergency Nursing Journal 37, 38 (1997).

3.3.2 *Collecting Forensic Information of Sexual and Gender-Based Violence*

With the person's informed consent and in accordance with the do no harm principle (see Sections 2.1.1 and 2.1.2), the first duty of those who enter in first contact with a victim of a sexual crime or forms of gender-based violence is to provide appropriate care. Given the physically and psychologically vulnerable state of victims of gender-based violence and the high risk of trauma from the violence and of re-traumatization, unofficial investigators should immediately refer victims to medical and psychosocial professionals. With the victim's informed consent, unofficial documenters may take note of the physical or psychosocial examinations that are conducted by a professional and other relevant information.

Collection of physical or forensic information on sexual and gender-based violence should be left to professional medics, if in any way possible. There is a high sensitivity to most victims of sexual and gender-based violence and under-skilled documenters are under a high risk to contaminate the information and thus diminish or even destroy its evidentiary value.

With the victim's informed consent, unofficial investigators may consider taking photographs of the scene or any objects that might have been used to inflict the violence, upon consideration of the good practices discussed in this Handbook's section on Documentary Information (Section 3.1).¹¹³ Photographs of a crime scene or of an artifact may be powerful pieces of information to corroborate victim or witness accounts. However, consent from the victim is required for each picture that is taken. Pictures should moreover only be taken with the best interest of the victim in mind.

3.3.3 *Human Bodies*

Conducting physical examinations or autopsies on human bodies requires technical knowledge and experience and is therefore best left to professionals. Moreover, if reports are to be of use in court, it must be

¹¹³ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 65 (2014), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf.

established that qualified professionals created and interpreted the reports.¹¹⁴ However, in accordance with the best practices set out in the section on Documentary Information (Section 3.1), unofficial investigators may make some preliminary observations and preserve critical information by taking notes and photographs of the following:

- Any obvious injury such as bullet holes, stab wounds, swelling, bruises, cuts, grazes or burns.
- Shape and spread of bloodstains.
- Any deformity of shape or posture of the back or limbs.¹¹⁵

It is crucial not only to document the scene itself but also the activities of the national authorities in response to the homicide. Examples of such activities include whether there was a thorough, competent, prompt and impartial investigation or an autopsy with public results, whether any agencies or suspects have been held to account, and whether reparations have been provided to relatives and other victims of the violence. Human rights mechanisms need this information to establish whether the state involved may have violated human rights law and the exact nature of these violations. This includes situations in which the taking of lives was not directly done by state authorities, under their control or in any manner attributable to the state concerned, but where their response nevertheless failed to meet their obligations to investigate and prosecute under domestic and international human rights law.¹¹⁶

A helpful starting point for conducting effective inquiries relating to a loss of life is to document a number of aspects concerning the identity of the deceased, the crime scene and the manner in which the crime took place.

The Identity of the Deceased

It is useful to collect information regarding the identity of a victim. This includes establishing, when possible:

- Gender
- Descriptions of appearance
- Description of clothing and jewelry

¹¹⁴ Camille Giffard, *THE TORTURE REPORTING HANDBOOK*, 48 (2000), available at <http://www.essex.ac.uk/torturehandbook/handbook%28english%29.pdf>.

¹¹⁵ Camille Giffard, *THE TORTURE REPORTING HANDBOOK*, 48 (2000), available at <http://www.essex.ac.uk/torturehandbook/handbook%28english%29.pdf>.

¹¹⁶ Kate Thompson and Camille Giffard, *REPORTED KILLINGS AS HUMAN RIGHTS VIOLATIONS*, 57 (2000), available at https://www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf.

- A photograph of the body

If available, unofficial investigators should also try to determine:

- The deceased's full name, aliases or nicknames and mother and father's names (relevant to some cultures)
- Date of birth
- Nationality
- Identity card number
- Occupation
- Address
- And some indication of the victim's health prior to death, such as medical records.

Potential sources of information establishing the identity of the victim include:

- Death certificates
- Autopsy records
- Witness statements
- Photographs of the body
- Clothing and personal effects
- Property found on the body such as identity cards.¹¹⁷

When and Where – The Crime Scene

Collecting information on the crime scene may also be very useful.

Unofficial investigators should:

- Record the date, place and time of death as accurately as possible.
- Identify the location of the deceased as closely as possible by description, maps and sketches.
- Record the general location, such as an address, as well as the specific location, such as a particular room. It is best to describe the general and specific locations by means of a grid reference, an exact address, a map of the area, and a sketch map of the location where the body was found.¹¹⁸

¹¹⁷ Kate Thompson and Camille Giffard, REPORTED KILLINGS AS HUMAN RIGHTS VIOLATIONS, 58 (2000), available at

https://www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf.

¹¹⁸ Kate Thompson and Camille Giffard, REPORTED KILLINGS AS HUMAN RIGHTS VIOLATIONS, 59-60 (2000), available at

https://www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf.

How and Why

Determining the cause of death is a task for a professional expert, and even they cannot always determine this, leaving the classification to read as “undetermined.” However, unofficial investigators may assist such professionals by exploring, in accordance with the guidelines provided in this Handbook, the circumstances leading to the loss of life. For example, unofficial investigators may record information relating to the occurrences that may have led to the death, such as possible injuries that could have caused the loss of life. Sources of information include own observation, witness statements; items that are found at the scene, such as spent cartridges or drugs; toxicology reports; police and military records of operation; and custody records.

The kinds of questions that unofficial investigators may seek to answer in this respect include:

- Who killed or apprehended the victim? Ascertain identities and/or descriptions, including how they were dressed.
- Who were they answerable to? Were the perpetrators national authorities or collaborating with them, or an entity or organization independent of the government? Did they belong to a law enforcement authority or military force?
- What weapons or vehicles were used?
- Was there a riot or disturbance or the use of crowd control?
- Were there witnesses? When was the victim last seen?
- Was the victim at first arrested, and was he or she taken into custody?
- Was there an attack on a particular group of people?
- What happened to the bodies? For example, were they hidden, buried or abandoned?¹¹⁹

Establishing the time of death may be difficult. This will depend on the availability of witnesses, the amount of time elapsed since the death, the location of the body, the condition of any bacteriological material, and the level of access the national authorities grant to the body of the deceased. Only a qualified forensic examiner can undertake a scientific study and determine the time of death if they are granted access to the body.

¹¹⁹ Kate Thompson and Camille Giffard, *REPORTED KILLINGS AS HUMAN RIGHTS VIOLATIONS*, 63 (2000), available at https://www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf.

Otherwise, potential sources of information include: a death certificate, autopsy report, eye-witness reports, photographs and videos, media reports, prison and custody records, and military records of operation.¹²⁰

Like with recording any crime scene related to serious human rights violations, it is also useful to describe the prevailing political, social, economic and legal climate of the state and area concerned. Consider noting situations of political unrest and generalized repression of human rights. It may also be useful to establish whether there are conflict zones, and consider how information may suggest which parties to the conflict may be responsible, avoiding the perpetration of bias and stereotypes.¹²¹

3.3.4 Artifacts

Artifacts are human made objects. Artifacts that are found on crime scenes may be sources of forensic information and are therefore of interest to professional investigators, particularly those that may contain biometric data. Biometric data are unique, identifying physical features, such as finger prints, face recognition, DNA, palm veins, palm print, hand geometry, iris recognition, retina and odors/scents. Objects that may have forensic information include:

- Objects that have inflicted injury, such as weapons
- Any items that belonged to the possible perpetrator
- Clothing of victims
- Ordinary objects that show signs of having been used during or otherwise bear the marks of the crime committed¹²²
- Mobile phones, including metadata (see Section 3.1.2 on Digital Information)
- Documents.

¹²⁰ Kate Thompson and Camille Giffard, REPORTED KILLINGS AS HUMAN RIGHTS VIOLATIONS, 60 (2000), available at https://www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf.

¹²¹ Kate Thompson and Camille Giffard, REPORTED KILLINGS AS HUMAN RIGHTS VIOLATIONS, 61-65 (2000), available at

https://www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf.

¹²² Morten Bergsmo and William Wiley, *Human Rights Professionals and the Criminal Investigation and Prosecution of Core International Crimes*, in MANUAL ON HUMAN RIGHTS MONITORING: AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS, 15 (3rd ed., 2008), available at http://www.casematrixnetwork.org/fileadmin/documents/M._Bergsmo_and_W.H._Wiley__Human_Rights__Professionals_and_Criminal_Investigation__NCHR_Manual__10__pp._1-29.pdf.

Ordinarily, only trained professionals carry out the documentation of forensic information because improper collection of such information properly may compromise its integrity and usability. However, unofficial investigators can photograph all items that may provide useful information to professional investigators. Unofficial investigators can also record the location of any artifacts on the crime scene sketch.

Unofficial investigators should try to find a trained professional to document the forensic information. Only if it is not possible to find a trained professional to document the forensic information, and only if it is safe to do so (see Section 2.2.1 on Risk Assessment), may unofficial investigators secure artifacts, provided that they otherwise run the risk of being lost permanently.

In order to properly secure artifacts, unofficial investigators must:

- Wear gloves.
- Place each object into an individual bag.
- Include a slip of paper in the bag with the object describing the item in detail; the date on which the first person collected it, where they collected it, and any person who subsequently handled it.
- Sign and date the paper.
- Seal the bag.
- Sign the bag. It is important that every person that comes in contact with the bag be registered.¹²³
- Items like clothes, sheets, etc., with biological traces (such as DNA) should always be preserved in breathable or paper sealable bags in order to prevent DNA destruction. If they are enclosed in a plastic bag or completely airtight contained they rot and the DNA is destroyed.
- Items containing fresh body fluids (blood, semen, saliva, etc.) should also be placed in such breathable bags to be able to “breathe” until they dry. That prevents them also from rotting and the DNA from being destroyed.
- In general, low temperatures help the preservation; however, it is not mandatory to keep this kind of items in the freezer. The

¹²³ Morten Bergsmo and William Wiley, *Human Rights Professionals and the Criminal Investigation and Prosecution of Core International Crimes*, in *MANUAL ON HUMAN RIGHTS MONITORING: AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS*, 15 (3rd ed., 2008), available at http://www.casematrixnetwork.org/fileadmin/documents/M._Bergsmo_and_W.H._Wiley__Human_Rights__Professionals_and_Criminal_Investigation__NCHR_Manual__10__pp._1-29.pdf.

freezer is mainly used to preserve human tissue, blood, bodies, body parts, etc., not objects.

- If you collect forensic information, especially artifacts containing biometric data, hand these materials over to official investigators at the earliest possible time. Remember that you do not possess the training or ability to handle and preserve this information appropriately, and that collection/efforts of preservations should at all times be weighted against the possibility of tampering with the value of this evidence, or spoiling it altogether.
- If more than one item is to be collected, give each item a unique reference number before collecting it.
- A item reference number is the identification number assigned to each item of evidence. It is unique to each item, is assigned when processing the crime scene and remains unchanged throughout the chain of custody process. It can start at 1 or A and proceeds sequentially when reference numbers need to be given to additional items being collected. When there is a significant number of items alphanumeric designation is also a possibility.
- Bag and seal each item individually and include a statement detailing exactly what, when, where, by whom it was collected, including the item reference number, if applicable.
- See the Chain of Custody sections (Sections 2.1.8 and 3.1.1) as well as the Appendix for template chain of custody forms.

Remember, while it might be allowed to handle artifacts if no professional investigator is available and the artifact runs the risk that it will otherwise be lost or damaged, under no circumstances should be unofficial investigators handle organic forensic material such as semen, blood, hair, skin, etc.

Firearms and Associated Material

Unofficial investigators may encounter firearms, cartridges, casings, and bullets. Safety should always be the primary consideration. Unofficial investigators' own safety as well as the safety of victims, witnesses, and the public take precedence over gathering information. Therefore anyone without appropriate training must leave the handling of firearms and associated material to professional investigators.

A trained professional who is qualified to handle firearms will first determine the type of firearm, and subsequently determine the safest method of handling such artifact. Firearms are better handled by the grip surface. If it is not possible to handle the firearm by the grip, the next most secure area should be used. This may be any other surface that is checkered or stippled for traction. Not only do grip surfaces provide the safest surface to hold a firearm by, but they also offer the best chance of protecting biometric information, as these surfaces are less likely to harbor fingerprints, hair, etc. If safety requires gripping the barrel and possibly destroying fingerprints or brushing off DNA, hair and fiber, safety concerns always take precedence. If the gun is sufficiently small, the person handling the firearm can secure it in a bag, and do the same with any ammunition.¹²⁴

Firearms can host various types of information. They may have fingerprints, DNA, blowback blood and tissue, fiber material, and potentially other transferred information. The firearm itself also has tool-marks, which it transfers to bullets and casings. Fired and unfired cartridges may also contain DNA or fingerprints. Bullets may bear the tool-marks from the interior of the rifled barrel. Wear gloves to protect against depositing fingerprints or DNA on the firearms.¹²⁵

Edged and Other Weapons

Like firearms, ordinarily, edged and other weapons should only be handled by experts. If necessary to handle an edge, wrap the item in heavy cardboard, tape it securely, and place it in a large envelope to prevent any potential injury. Knives, glass, other edged weapons, screwdrivers, spear like items, etc., may still be inserted in victims. Usually, medical authorities prefer that the item remains in the victim until transported to hospital, where it can be removed safely.¹²⁶ Again, safety should always take precedence over the preservation of information.

¹²⁴ Paul Laska, INTERFACE: A GUIDE FOR PROFESSIONALS SUPPORTING THE CRIMINAL JUSTICE SYSTEM, 23 (2011).

¹²⁵ Paul Laska, INTERFACE: A GUIDE FOR PROFESSIONALS SUPPORTING THE CRIMINAL JUSTICE SYSTEM, 23 (2011).

¹²⁶ Paul Laska, INTERFACE: A GUIDE FOR PROFESSIONALS SUPPORTING THE CRIMINAL JUSTICE SYSTEM, 25 (2011).

3.4 Documenting Information From Victims and Witnesses

This section discusses guidelines for the interaction with victims and witnesses when documenting information on serious human rights violations. Interaction with victims and witnesses requires the utmost care as it may otherwise lead to further trauma and victimization. The first rule is always to do no harm. As was more elaborately discussed in Chapter 2, given the likelihood that additional harm is inflicted, unofficial investigators should avoid interaction with traumatized children and refer traumatized individuals to psychosocial counseling. Before any interaction with victims and witnesses, unofficial investigators should obtain their informed consent and manage their expectations with regard to the likelihood that their statement leads to redress in whatever form. Unofficial investigators should make clear that they are not official or professional investigators and make no promises that they cannot keep.

For the purpose of criminal investigations, usually only the witness statements that are taken by authorized legal professionals are taken into consideration.¹²⁷ If a testimony of an individual appears valuable as evidence in court, unofficial investigators should therefore seek to put the victim/witness in contact with such a professional.

If no such professional is available, in line with the situations described in Chapter 2 of this Handbook, unofficial investigators may consider to documenting their statements but only by following the guidelines outlined in this section and in conformity with the general guidelines on documenting serious human rights violations that are provided in this Handbook.

In line of principle, unofficial investigators should not ask witnesses to sign statements, should take notes in third person (meaning should note their own observations of what was discussed, rather than a literal account of what the witness said), and should wherever possible seek to audio/video record the meeting if there is a likelihood the witness in question might become of interest to subsequent criminal investigations.

¹²⁷ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 68 (2011), available at <http://folkebernadotteacademy.se/Documents/Kunskapsomr%C3%A5den/Rule%20of%20Law/A%20Handbook%20on%20Assisting%20International%20Criminal%20Investigations.pdf>.

3.4.1 Guidelines for Conducting an Interview

There are generally five stages of an interview with a victim or witness, which can be remembered by the acronym PEACE:

- **P**lanning & Preparation
- **E**ngaging with the victim/witness
- **O**btaining the **A**ccount
- **C**losing an interview appropriately, and
- **C**onducting an **E**valuation after the interview took place.¹²⁸

The operating mandate of a field mission may require a different prioritization of these stages but it is important to at least take due consideration of each of the PEACE stages. It is moreover helpful to consider the PEACE process as a “circled” approach to:

1. Build rapport
2. Discuss general topics
3. Discuss painful/sensitive topics
4. Return back to general topics
5. End in present/future on more positive note.

Planning and Preparing the Interview

Proper planning and preparation for an interview with a victim of witness is of paramount importance and will benefit the quality of the account taken. Interviewers should:

¹²⁸ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 44 (2009), available at http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

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- Conduct a risk assessment (see Section 2.2.1)
 - Prepare an interview plan and questions (see Section 3.4.1)
 - Identify care and refer to appropriate care providers (see Section 2.1.4)
 - Familiarize self with the context and local customs
 - Where needed, carefully select reliable interpreters and/or intermediaries (see Section 2.2.5)
 - Bring recording devices, pens, paper, camera and ruler to document external injuries
 - Choose a safe, private, culturally appropriate and comfortable location
 - Prepare documents, diagrams, photographs, and maps to show to the interviewee
 - Determine a safe and confidential system for recording, transporting and storing information
 - Bring drinking water for everyone, snacks if possible, and ensure that there is a bathroom available
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Consider that a witness/victim may need some time to accustom to the situation of the interview and feels comfortable enough to express him or herself. Try to schedule enough time for an interview.¹²⁹ To avoid bias, try to have interviews with individuals from all sides of the conflict.¹³⁰ Anticipate potential issues that may arise during the interview and how to respond. For example, a victim/witness may become distressed, and they may have concerns about security and confidentiality.¹³¹ Interviewers should create a safe and supportive environment in which victims/witnesses feel comfortable enough to share their experiences about the violations/crimes that have occurred.¹³²

¹²⁹ International Bar Association and Raoul Wallenberg Institute of Human Rights and Humanitarian Law, *Guidelines on International Human Rights Fact-Finding Visits and Reports (The Lund-London Guidelines)*, 6 (2009), available at <http://www.ibanet.org/Document/Default.aspx?DocumentUid=D7BFB4EA-8EB6-474F-B221-62F9A5E302AE>.

¹³⁰ International Bar Association and Raoul Wallenberg Institute of Human Rights and Humanitarian Law, *Guidelines on International Human Rights Fact-Finding Visits and Reports (The Lund-London Guidelines)*, 5 (2009), available at <http://www.ibanet.org/Document/Default.aspx?DocumentUid=D7BFB4EA-8EB6-474F-B221-62F9A5E302AE>.

¹³¹ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 40 (2014), available at <http://www.unictr.org/sites/unictr.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

¹³² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 17 (2014), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf.

It is moreover crucial to prepare a safe, secure, and sufficiently private location for the interview, to allow a victim/witness to speak openly, without fear of being overheard by third parties.¹³³ The interview location should not be associated with authorities or be under surveillance of authorities, particularly where the authorities may be implicated in the abuses.¹³⁴ Instead, the interviewee may feel most comfortable in a familiar location. The presence of the interviewee in a commonly visited location may also draw less attention than if s/he were to be seen in a less common location. For female victims of sexual violence, it is recommended to consider using a location in a women's center or reproductive health center.¹³⁵ Be aware that for security reasons, the victim/witness' own house will often not be a suitable location for the interview.¹³⁶ Places such as police stations, local administrative or government offices and the interviewee's place of employment should be avoided unless arrangements can be made to secure sufficient privacy.¹³⁷ Providing a safe location minimizes the risk that the identity is revealed of those that share information and contributes to the building of a trusting relationship between interviewer and interviewee.

Engaging With the Victim/Witness

The purpose of the second stage of the interview process is to consider how best to engage with the victim/witness in order to establish a

¹³³ PHR, *Curriculum Companion: Program on Sexual Violence in Conflict Zone, Cross-Sectoral Training*, UNPUBLISHED.

¹³⁴ Marie Nystedt (Ed.), Christian Axboe Nielsen, Jann F. Kleffner, *A Handbook On Assisting International Criminal Investigations*, THE FOLKE BERNADOTTE ACADEMY, 84 (2011), available at <http://folkebernadotteacademy.se/Documents/Kunskapsomr%C3%A5den/Rule%20of%20Law/A%20Handbook%20on%20Assisting%20International%20Criminal%20Investigations.pdf>;

United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 16-17 (2009), available at

http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf;

OHCHR, *Training Manual on Human Rights Monitoring, Chapter VIII: Interviewing*, 114 (1996), available at <http://www.ohchr.org/Documents/Publications/training7part59en.pdf>.

¹³⁵ World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 16 (2007), available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf.

¹³⁶ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 16-7 (2009), available at

http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

¹³⁷ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 42 (2014), available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf.

relationship of trust and rapport. The first interactions with the victims/witnesses should revolve around obtaining basic information and the general scope of their knowledge of relevant events.¹³⁸ A more in-depth interview can then be scheduled for a later date if needed. A careful consideration of how best to engage with the victim/witness will benefit the quality of the account taken. Interviewers should:

- Obtain informed consent
- Introduce themselves, their affiliation and their professional experience
- Introduce everyone present, their affiliation and their reason why they are there
- Explain the purpose of the interview
- Address any concerns of the interviewee
- Discuss how long the interview will be and that they can ask for breaks at any time
- Discuss whether/how to record the interview
- Give the person power to agree/disagree, answer/not answer, ask questions or have information repeated

It is important to discuss whether and how the interview will be recorded, for instance in writing, audio or video recording. Taking a record of the interview is important not only to ensure that an accurate account is given of the interviewee's statement but also to protect the interviewer from accusations of wrongful conduct, such as duress upon the interviewee. Ensure that the victim/witness understands these considerations, understands what safety precautions are in place with regard to securing the record. However, always ask permission to record and do not proceed if permission is denied. If the interviewee refuses recording the conversation, try to at least get consent to record the phase that relates to the obtaining of informed consent from the interviewee.

¹³⁸ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 27 (2009), available at http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

Moreover, as part of this introductory process, the interviewer should explain, and confirm that the interviewee understands that:

- (i) All information that is provided will not be disclosed to third parties outside the interviewer's organization without the interviewee's consent;
- (ii) The information will be stored securely and will be accessible only to a limited number of persons within the interviewer's organization;
- (iii) What the information will be used for;
- (iv) That the interview is completely voluntary;
- (v) That there is no compensation; and
- (vi) That the interviewee may terminate the interview at any time. The interviewer should reiterate this point at each subsequent interview (if applicable).

During this initial phase of the interview, the interviewer should obtain basic biographical details from the interviewee to the extent the individual is willing to provide such details: full name, aliases/nicknames, date of birth/age, religion, ethnicity, marital status and children, languages spoken and written, education level, current and former occupations, current residence, contact information. For security reasons, do not store this biographical information together with the actual account.

Should the initial interview indicate that the victim/witness is too traumatized to give an account without it seriously affecting their mental health, terminate the interview and make alternative inquiries.¹³⁹ During this first interaction, discuss neutral topics to build an atmosphere in which the victim/witness feels comfortable to provide the account at a later stage. If there can be a second or various meetings, avoid the topic of the eventual account or address this only in general terms for now.¹⁴⁰ Where only a single interview is possible, ease into the account of the testimony by inquiring about a neutral topic first as this will help build rapport.

¹³⁹ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 45 (2009), available at

http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

¹⁴⁰ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 28 (2009), available at

http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

Obtaining the Account

When the actual interview takes place, encourage the victim/witness to give an open and narrative account where they can give an uninterrupted account of the relevant facts in their own words.

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| <ul style="list-style-type: none">▪ Set the scene and initiate free recall▪ Do not interrupt the free recall▪ Do not ask leading or suggestive questions▪ Avoid jumping back and forth between the past and the present as this can trigger re-traumatization▪ Go from general to painful/sensitive topics, and then back to general topics | <ul style="list-style-type: none">▪ Take notes of what needs further clarification▪ Identify and expand topics raised by the interviewee only to the extent that this is necessary for an accurate record. Remember not ask for more details than necessary as every little detail the victim might not be able to recall subsequently could compromise the witnesses' credibility if challenged in the course of subsequent proceedings.▪ Be aware of your demeanor (and that of interpreter) including pitch and tone of voice▪ Remain polite, respectful, patient and attentive. Show empathy, not pity▪ Never assume feelings, thoughts, facts, preferences or impact of trauma |
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It is important to prepare the questions well and to refrain from asking leading questions. Examples of leading questions are:

- *Did the soldiers hurt you?*
 - Such a question starts from the assumption that hurt has been done. Rather than making such assumptions, let the victim/witness provide the account of what happened and ask an open question.
- *Were you at his/her house at the time of the crime?*
 - Let the victim/witness describe the location, do not lead with suggestions. Instead, ask where the interviewee was.
- *Was s/he wearing a uniform?*
 - Rather than framing as a yes/no question and the interviewer using the word “uniform,” the interviewee should be prompted to provide the description by asking whether the interviewee could describe what the other person was wearing.
- *Could you tell me whether this person was tall or short?*

- Rather than providing two options, ask the interviewee to describe the height of the other person.
- *Did that scare you?*
 - Such a question frames the situation and leads the interviewee in a certain direction. Instead, ask how that made the victim/witness feel.
- *Would you say this happened often?*
 - Whether something occurs “often” depends on the one’s subjective view on what is often. Instead, ask how often something occurred.

Interviewers should allow the narrative to flow freely from the victim/witness, and ask primarily open-ended questions. “How do you know” or “What led you to that conclusion” are good questions to allow the interviewee to elaborate without leading in any particular direction.

What specific questions should be raised depends on the circumstances and type of violation that has occurred. Section 3.5 raises some specific information and questions relating to victims/witnesses of sexual and gender-based violence. In general, however, the following are a number of questions that can be used in many situations:

- What is your full name, aliases/nicknames, date of birth/age, religion, ethnicity, marital status and children, languages spoken and written, education level, current and former occupations, current residence, contact information?
- How long ago did the events you witnessed/experienced happen? (If unable to recall, what other events were happening at the time?)
- Could you describe what these people did (to you)? Do you recall where or when this happened?
- Did the events you just described occur more than once?
- Do you recall what any of the people, vehicles and premises looked like? Could you describe them?
- If this is not too difficult for you, do you recall whether these people used weapons or other objects to do what they did?
- Do you recall whether these people said anything? Could you repeat what they said? Do you recall in what language they spoke?
- Could you describe what happened after the event? Were you taken anywhere? If so, do you remember where you were taken and for how long?

- Could you describe how the events made you feel at the time?
- Do you recall if anyone (else) witnessed or may have witnessed the events you described?
- Have you discussed this with others and/or the media?¹⁴¹

Some helpful tools for structuring questions are provided in the tables below:

TEDS	
Tell	<i>Could you tell me exactly what happened?</i>
Explain	<i>Could you explain to me what happened afterwards?</i>
Describe	<i>Could you describe to me what that person looked like?</i>
Show	<i>Could you show me on this map where this happened?</i>

Probing 5 W's + How	
What	<i>What happened?</i>
Where	<i>Where did this happen?</i>
When	<i>When did this happen?</i>
Who	<i>Who else was there?</i>
Why	<i>Why do you think they did that?</i>
How	<i>How did that make you feel?</i>

It is recommended that unofficial investigators primarily obtain first accounts and only go into further detail to clarify issues when there is an absolute need for this, or the lack of clarity is a major disruptive factor in the

¹⁴¹ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 48-50 (2009), available at http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

fulfillment of their mandate. Given that official investigators will have to obtain an official account from the witness no matter what if these are to be used in criminal proceeding, the person will be forced to go again over a detailed account of traumatizing events. This official record of the witness account will require a substantial level of detail, and it can only be obtained through judicial proceedings. Having a prior “statement” of the witness that describes in detail certain events, will most likely lead to contradictions in the second account that will generate additional litigation. Thus, remember to not ask for more details than necessary as every little detail the victim might not be able to recall subsequently could compromise the witnesses’ credibility if challenged. Furthermore, a very detailed statement might be more traumatizing to the interviewee, (as they have to go in great detail over the traumatizing events they have experienced, and that is recommended this only be done by a professional with proper training and with the right psychological support). As a general rule of thumb, as an unofficial investigator you need to always balance the need to preserve information at a moment where events might still be vivid in the memory of the individual and the fact that this might lead to more harm than good for both the well being of the witness as well as the integrity of the information.

It is important that interviewers pay attention to signs of stress or fatigue. Interviewers need to pay attention to verbal and non-verbal signals of those giving a testimony. A heightened tone of voice, facial expressions, nervous hand gestures, or slouching posture may be signals of anxiety or emotional fatigue. Consider to take a short break, to postpone the interview to another day, or to discontinue the interview altogether. Bear in mind that the interviewee’s well-being is the determining factor in such decisions. This is another aspect that professional training is important for. This equips an interviewer in responding appropriately when such situations arise.¹⁴²

If you need to end an interview early due to signs of fatigue or stress:

- Try to help the interviewee re-establish a sense of control;
- Do not end the interview abruptly;
- Bring the interviewee back to the present moment and relative safety; and

¹⁴² Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 44 (2014), available at <http://www.unictr.org/sites/unictr.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

- Move to easier topics and close the interview gently.

Closing the Interview Appropriately

Make sure to end the interview in the present and distanced from the occurrences that took place, emphasizing the relative safety of the present where applicable. When the interview comes to a close, the interviewer will usually benefit from summarizing the main points of the interview. This will allow the interviewer to check his/her understanding of the account.

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| <ul style="list-style-type: none"> ▪ Summarize using witness' own words ▪ Confirm everything has been covered ▪ Ask witness whether they have any questions ▪ Reconfirm informed consent and allow them to change their minds or withdraw consent if they wish | <ul style="list-style-type: none"> ▪ Offer to refer witness to care providers ▪ Ensure you can contact them and that they can contact you ▪ Try to bring them back to the present and a positive frame of mind. End on a positive, neutral topic and note ▪ Use culturally appropriate gestures when departing (e.g. shaking hands) |
|--|---|
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Give the interviewee the opportunity to add any facts or considerations they think are relevant and ask any questions they may have about the interview. When possible, inform the interviewee of what will happen next. In order to preserve the confidentiality of the interview, ask the interviewee not to reveal to third parties that s/he has been interviewed. Provide the interviewee with any advice about any further assistance that may be available.¹⁴³ Thank the interviewee for taking the time to sit for the interview. Check how the interviewee is feeling and provide them with a way to contact you. Try to ensure that the interviewee leaves in a (relatively) positive state of mind. Once the interviewee has left, debrief with the interpreter and other team members.

Evaluation of the Interview

Regardless of the length of the interview, the interviewer should review the interview record and consider whether the interview has revealed any new or changed risks to the victim, witness or any other person. Moreover, the interviewer should assess the physical and mental condition

¹⁴³ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 46 (2009), available at http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

of the interviewee at the conclusion of each interview and determine whether any further assistance to the victim/witness may be required, and then discuss this with the victim/witness. Furthermore, the interviewer should assess whether the interview achieved the objectives and consider possible further lines of inquiry.¹⁴⁴

3.4.2 Documenting Information on Psychological Injury

Harm done to an individual may well be mental rather than or in addition to physical injuries. However, even though a certain level of psychological suffering is expected in a conflict situation, avoid making assumptions to this effect as this may further stigmatize the victim/witness by labeling them prematurely. Psychological evaluations can provide important information/evidence of the harm done and the violations that have occurred. Certain symptoms may help direct professionals to uncover what has happened and what psychological injury the individual involved may be suffering from.¹⁴⁵ Moreover, information on psychological injury is important to acquire/refer the appropriate support to victims/witnesses. Bear in mind that only expert psychologists can make a psychological assessment.

Nevertheless, unofficial investigators may contribute to this by documenting their observations of an individual's behavior as well as what the individual shares with regard to nightmares, suicidal thoughts, or other indicators that may point to psychological injury. Such documentation may be helpful to an expert at a later point in time.¹⁴⁶

If the interviewer concludes that no professional expert is available and that this information is important for those that have been affected by the serious human rights violations at hand, it is crucial to be aware of the vulnerability of the individual(s) involved, to uphold the do no harm principle, and to only proceed with this kind of questioning with the

¹⁴⁴ United Nations Office on Drugs and Crime, *Anti-human Trafficking manual for criminal justice practitioners, module 8: Interviewing victims of trafficking in persons who are potential witnesses*, 46 (2009), available at

http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf.

¹⁴⁵ Anne Goldfeld, Richard Mollica, Barbara Pesavento and Stephen Faraone, *The Physical and Psychological Sequelae of Torture: Symptomatology and Diagnosis*, 259(18) THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION 2725, 2728 (1988)

¹⁴⁶ Camille Giffard, *THE TORTURE REPORTING HANDBOOK*, 49 (2000), available at <http://www.essex.ac.uk/torturehandbook/handbook%28english%29.pdf>.

informed consent of the individual involved and by reiterating that you are not a professional psychologist.

Observations may include a discussion of symptoms, including sleep disturbances, behavior changes, and mood. This may be corroborated by information from family or friends, when agreed on with the interviewee and when this does not pose a security threat to the interviewee (or yourself). Through interacting with the individual it is also possible to establish a degree of objectivity by taking notice of how the individual's demeanor changes when discussing particular topics.¹⁴⁷

In the interaction with an interviewee, it is important to adopt a sensitive and empathetic attitude as this may offer the individual some relief and helps build rapport. Ideally, this attitude will communicate to the individual that his/her complaints and suffering are recognized.¹⁴⁸

The Istanbul Protocol provides guidelines on common elements that should be taken into account when making observations on the psychological/psychiatric status of the interviewee.

- History of the violations
 - Try to document the full account of the serious human rights violations, persecution and other relevant traumatic experiences that have affected the individual concerned.
- Current psychological complaints
 - Describe affective, cognitive and behavioral symptoms. Record the frequency, as well as instances, of nightmares, hallucinations and startle response.
- History of period after the violations
 - Make a record of current sources of stress, such as the separation or loss of loved ones. Inquire also about the individual's ability to be productive, earn a living, care for his or her family and the availability of social support.
- Substance use and abuse history

¹⁴⁷ Michael Peel and Noam Lubell, *MEDICAL INVESTIGATION AND DOCUMENTATION OF TORTURE: A HANDBOOK FOR HEALTH PROFESSIONALS*, 68 (2005), available at <http://www.forensic-medical.nl/site/forensic/site.nsf/vimgfiles/CLIC->.

¹⁴⁸ United Nations Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, para. 240, HR/P/PT/8/Rev.1 (2004), available at: <http://www.ohchr.org/documents/publications/training8rev1en.pdf>.

- Inquire after substance use before and after the violations occurred and whether substances are used to cope with psychological problems.
- Mental status examination
 - Note the person's appearance, such as signs of malnutrition, lack of cleanliness, speech, mood, and thought content.
- Assessment of social function
 - Inquire into the individual's daily activities, social role, social and recreational activities and perception of health status.
- Psychological testing and the use of checklists/questionnaires
 - Consider using standard forms when an interviewee has difficulty expressing in words his or her experiences and symptoms.¹⁴⁹

These factors may subsequently allow trained clinicians to formulate a clinical impression for the purposes of reporting psychological information concerning serious human rights violations. While unofficial investigators' observations may assist trained clinicians in the formulation of their impressions, it is important to note that recommendations of medical treatment can only be made by a trained medical professional.¹⁵⁰ Thus, do not make any medical-type of recommendations to the victim, witness or anyone else concerned.

3.5 Documenting Sexual and Gender-Based Violence

This section discusses particular guidelines that should be taken into account when documenting sexual and gender-based violence. As with the rest of this Handbook, the purpose of the guidelines is to minimize harm to individuals and to maximize the probative and potential evidentiary value of information. The information in this section should be read in conjunction with the rest of the Handbook's guidelines and in particular, the ethical principles that were discussed in Chapter 2. With regard to these specific

¹⁴⁹ United Nations Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, para. 275, HR/P/PT/8/Rev.1 (2004), available at: <http://www.ohchr.org/documents/publications/training8rev1en.pdf>.

¹⁵⁰ United Nations Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, para. 291, HR/P/PT/8/Rev.1 (2004), available at: <http://www.ohchr.org/documents/publications/training8rev1en.pdf>.

types of violations, it is important to reiterate that special care is required given the likelihood of trauma with both victims and witnesses. Moreover, as was also noted in Section 3.3.2, bear in mind that unofficial investigators should refrain from collecting samples of organic forensic material.

Documenting sexual and gender-based violence is of particular difficulty. Often, constructing an accurate record of alleged sexual and gender-based violence depends heavily on accounts of victims and witnesses since often little other evidence is available. However, talking about these types of experiences is often extremely difficult for victims and witnesses. Therefore, even in well-resourced and stable situations, sexual and gender-based violence is often underreported.¹⁵¹

Civil society actors like health service providers, social workers, and humanitarian/human rights workers may contribute to the collection and securing of information on sexual and gender-based violence during the ordinary course of their activities in the field or on specific missions, but it is important to reiterate that this should be done by those with professional training on these matters, if in any way possible.¹⁵² Accounts can be collected through semi-structured interviews, site visits, and observation of the environment.¹⁵³

The composition of the team is particularly important for documenting sexual and gender-based violence. A well-composed team can positively influence the readiness of the victim/witness to share their experiences. Practice shows that victims/witnesses are more likely to open up to people of the same gender, age, and nationality.¹⁵⁴ However, this

¹⁵¹ Inter-Agency Standing Committee, GUIDELINES FOR GENDER-BASED VIOLENCE INTERVENTIONS IN HUMANITARIAN SETTINGS, 25 (2005), available at http://interagencystandingcommittee.org/system/files/legacy_files/tfgender_GBVGuidelines2005.pdf.

¹⁵² Global Protection Cluster, HANDBOOK FOR COORDINATING GENDER-BASED VIOLENCE INTERVENTIONS IN HUMANITARIAN SETTINGS Annex 34 (2010), available at http://www.unicef.org/protection/files/GBV_Handbook_Long_Version.pdf

¹⁵³ Inter-Agency Standing Committee, GUIDELINES FOR GENDER-BASED VIOLENCE INTERVENTIONS IN HUMANITARIAN SETTINGS 26 (2005), available at http://interagencystandingcommittee.org/system/files/legacy_files/tfgender_GBVGuidelines2005.pdf.

¹⁵⁴ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 37 (2014), available at <http://www.unictr.org/sites/unictr.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

preference may differ among individuals and cannot be assumed.¹⁵⁵ The victim/witness may well have a preference on the gender of the interviewer. This should be respected. This aids to a feeling of being in control and to the building of a trusting relationship with those that are present at the interview.¹⁵⁶

It is important to prepare the interview well and with particular attention to the specific needs of victims/witnesses of sexual and gender-based violence. For example, they may need particular medical and psychological attention. If qualified, the unofficial investigator should provide this, and otherwise should refer to professional services. Ideally, organizations that are active in a conflict or post-conflict environment would have experienced and professionally trained staff available to offer counseling, medical, and other services.¹⁵⁷ If health care professionals are not available in the team, there are specific aid organizations that focus on these particular violations, such as local rape crisis centers, women's organizations, and specialized human rights groups (see also Section 2.1.4 on Referring Victims/Witnesses to Professional Assistance).

Appropriate medical and psychological care should be provided before any information-gathering exercise may be conducted, if information-gathering is even possible and ethical given the circumstances. Victims/witnesses may require a variety of types of care and it is good to consider this when composing the team and in preparing the interaction with

¹⁵⁵ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 59 (2014), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf.

¹⁵⁶ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 37 (2014), available at <http://www.unictr.org/sites/unictr.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

¹⁵⁷ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 39 (2014), available at <http://www.unictr.org/sites/unictr.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>; International Bar Association and Raoul Wallenberg Institute of Human Rights and Humanitarian Law, *Guidelines on International Human Rights Fact-Finding Visits and Reports (The Lund-London Guidelines)*, 3 (2009), available at <http://www.ibanet.org/Document/Default.aspx?DocumentUid=D7BFB4EA-8EB6-474F-B221-62F9A5E302AE>.

the victims/witnesses.¹⁵⁸ This also applies to the availability of skilled interviewers. Individuals who have not undergone the required training should refrain from interacting with victims and witnesses of sexual and gender-based violence. Not addressing a victim properly could generate re-traumatization. Instead, those lacking proper training may offer comfort to the victim/witness and should be sufficiently prepared to refer them to those with the required level of knowledge and experience.

Skilled and experienced interviewers have been trained to understand that building rapport is of critical importance when collecting victim/witness accounts. A lack of cultural sensitivity surrounding the subject matter of sexual and gender-based violence can be particularly damaging in this respect. It may, for example, be a cultural taboo to talk about sexual issues in public or to talk about sexual conduct at all. In these circumstances, those carrying out the interview may wish to carefully consider direct references to sex or sexual and gender-based violence that may offend local customs.¹⁵⁹ In addition, victims/witnesses may use a particular vocabulary or local figures of speech to describe sexual acts, sexual or gender-based violence, and genitalia. Those involved in collecting testimonial information on sexual or gender-based violence should be familiar with such vocabulary to avoid misunderstanding or misinterpretation.¹⁶⁰

Interviewers should be able to respond appropriately to victims if s/he becomes distressed in the course of the interview.¹⁶¹ They furthermore need to pay particular attention to verbal and non-verbal signals of those giving testimony. See Section 3.4 for general guidelines and best practices on

¹⁵⁸ World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 9 (2007), available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf.

¹⁵⁹ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 37 (2014), available at <http://www.unictt.org/sites/unictt.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

¹⁶⁰ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 40 (2014), available at <http://www.unictt.org/sites/unictt.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

¹⁶¹ Office of the Prosecutor of the International Criminal Tribunal for Rwanda, *Prosecution of Sexual Violence: Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda*, 44 (2014), available at <http://www.unictt.org/sites/unictt.org/files/publications/ICTR-Prosecution-of-Sexual-Violence.pdf>.

interacting with victims/witnesses. See moreover the Annex to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict for example questions that unofficial investigators may want to use when collecting accounts from victims/witnesses of sexual and gender-based violence.¹⁶²

This Protocol advises, for example, to use questions such as:

- Can you tell me, please, precisely what happened? Can you tell me what you were feeling when this happening? I know this may not be easy, please take your time.
- Can you tell me what else was going on before, during and after the acts you have described? Can you describe the way in which the attack you speak of took place? What happened first, and what next, and what after that? Were you able to discern any pattern to the attack of any kind? What led you to that conclusion? Did you witness any other incidents involving attacks such as that which you have just described?
- Can you describe those you say were carrying out the acts you have told me about? Can you please tell me about their clothes? Any insignia? Their head/footgear, what they were carrying, any other distinctive aspects to their appearance – their weapons, their equipment, their vehicles, their language, etc.? Did you have occasion to observe someone in a position of authority? How do you know, or what led you to conclude, that this individual was in a position of authority?

The interview should also include questions about stigma, risk of retaliation or other ongoing harms or risks. Avoid asking exceedingly detailed questions of the occurrences. Engaging with such specifics goes beyond the scope of what an unofficial investigator without proper psychological and legal training should do. Re-imagining graphic details of the violence may trigger re-traumatization. Leave such questioning to professional investigators or qualified medical and forensic professionals

¹⁶² Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 109 (2014), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf.

and remember that doing no harm is more important than trying to get to information that is not even likely to be of much use if not obtained through professional means. Always keep into account that “keeping interaction to a minimum” is usually the safest way to interact with vulnerable witnesses, as this reduces likelihood of lengthy, detailed and/or multiple interviews being conducted, and that the possibility exists that if a witness is too vulnerable the safest (and most ethical) thing to do is not try and obtain an account.

3.6 Documenting Information from Minors

Particular caution should also be taken to do no harm when the victim/witness is a minor.¹⁶³ Unofficial investigators should bear in mind the high risk of re-traumatization and causing damage to minors when interviewing them. Therefore, it is recommended not to interview minors at all, and if deemed appropriate anyway as well as indispensable, to do so only by keeping any interaction to a minimum. In particular, avoid interviewing young children and minors that have experienced serious trauma, especially sexual and gender-based violence. In such cases, it is better to find other ways of documenting the case, or to focus on finding someone trained. The parents/guardian or a person they trust must at any time be present in any documentation of information from a minor.

Only when it concerns older minors and lesser traumas, may unofficial investigators consider interacting with the minor concerned, if necessary and in accordance with the ethical principles laid out in this Handbook (see Chapter 2). Unofficial investigators must make every effort to prevent or minimize any harmful consequences to the minor.¹⁶⁴ This includes advising the minor, their parents, guardians or caregivers, of any

¹⁶³ Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Basic Standards of Best Practice on The Documentation of Sexual Violence as a Crime under International Law*, 29 (2014), available at http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319054/PSVI_protocol_web.pdf;

PHR, *Curriculum Companion: Program on Sexual Violence in Conflict Zone, Cross-Sectorial Training*, UNPUBLISHED.

¹⁶⁴ Global Protection Cluster, *Handbook for Coordinating Gender-based Violence Interventions in humanitarian Settings*, Annex 35 (2010), available at http://www.unicef.org/protection/files/GBV_Handbook_Long_Version.pdf; World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 9 and 29 (2007), available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf.

referral services and protection mechanisms that are available to them.¹⁶⁵ Unofficial investigators must be well prepared to deal with very serious or complex issues. They must also be prepared to see and respond to the specific needs that may arise during an interview.¹⁶⁶ Unofficial investigators should at all times seek advice from experts in collecting information from and working with minors.¹⁶⁷ They should also consult, if possible, parents/other caregivers and community members on possible consequences that the interview might have on the minor. And they should consult experts on the local culture where the information-gathering exercise takes place.¹⁶⁸

¹⁶⁵ Global Protection Cluster, *Handbook for Coordinating Gender-based Violence Interventions in humanitarian Settings*, Annex 35 (2010), available at http://www.unicef.org/protection/files/GBV_Handbook_Long_Version.pdf.

¹⁶⁶ Global Protection Cluster, *Handbook for Coordinating Gender-based Violence Interventions in humanitarian Settings*, Annex 35 (2010), available at http://www.unicef.org/protection/files/GBV_Handbook_Long_Version.pdf; World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 29 (2007), available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf.

¹⁶⁷ Katie Schenk and Jan Williamson, *Ethical Approaches to Gathering Information from Children and Adolescents in International Settings: Guidelines and Resources*, 20 (2005), available at <http://www.unicef.org/tdad/ethicalapproacheshorizons.pdf>.

¹⁶⁸ Global Protection Cluster, *Handbook for Coordinating Gender-based Violence Interventions in humanitarian Settings*, Annex 35 (2010), available at http://www.unicef.org/protection/files/GBV_Handbook_Long_Version.pdf; World Health Organization, *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies*, 29 (2007), available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf.

4. MANAGEMENT OF INFORMATION

This Chapter explores best practices on managing and storing information related to serious human rights violations. As discussed in the previous Chapter, information about serious human rights violations should not only be collected with the utmost respect for the standards set in this Handbook, it also needs to be properly managed from the outset, and stored in a manner that is secure and preserves its potential evidentiary or probative character. Unofficial investigators should at all times endeavor to pass on any information in their possession to official investigative authorities wherever circumstances so permit. When it is not possible to pass on information directly, such as where authorities may be implicated in the violations or the justice system is unable or unwilling to carry out its mandate impartially and effectively, unofficial investigators are recommended to follow the standards and best practices set in this Chapter. As with all phases of investigations and information-gathering, particular attention should be paid to doing no harm, confidentiality, and security of all persons involved. In general terms, information, and in particular sensitive information, should be shared only on a need-to-know basis.

4.1 Verifying Information

Unofficial investigators should bear in mind that assessment of the credibility of information regarding alleged human rights violations is of paramount importance. In principle, and in particular light of security concerns, unofficial investigators should not take on the task of verifying the information themselves, but should pass on information in their possession to a relevant and professional organization as soon as possible. An analysis of the information received and evidence gathered will require an overall assessment of the reliability of the witness, probity, and degree of relevance and veracity of the information. Professional investigators refer to four basic principles when assessing the information: its source reliability, the information credibility, its consistency, and its coherence with the broader context. The reliability of the *source* of the information should be recorded before any credibility on the information itself can be noted. Assessments carried out by non-professionals should be worded carefully, however, and should only be written as an account of the unofficial investigator's impressions, and not as a determinative finding.

For example with regard to information from a person, to assess the reliability of the informant, bear in mind the following:

- Is the source a direct/indirect victim/witness, or is the information hearsay?
- What are the motives prompting the source to talk? May s/he have a hidden agenda?
- Whether the account is consistent and coherent with the broader context are also indicators to assess reliability.¹⁶⁹ Details and clarity can add credibility to an oral or written statement. It is good practice to ask direct (but non-leading) questions and observe how the source reacts, whether narratives flow naturally or seem directed at attempting to control them.¹⁷⁰
- Be cautious in assessing informants' reactions, especially if you do not have psychological or social training. Never forget, for example, that a victim/witness may feel distressed or afraid.
- Unless this raises issues with the informant's safety or confidentiality, reliability can also be evaluated by seeking to corroborate information and by crosschecking facts (but not sensitive or very personal information) with family, friends, and neighbors, as well as with other witnesses.¹⁷¹

To assess the information's credibility and consistency, triangulate the information that is collected with information that is collected from other independent sources:¹⁷²

- Corroborate the content of your information with information from other groups with knowledge of or expertise on the matter.

¹⁶⁹ This is even the case when assessing written information such as affidavits, witness statements, transcripts from court proceedings, etc.

¹⁷⁰ Marit Maehlum, *Human Rights Monitoring*, in *MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS 1*, 17 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002).

¹⁷¹ Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 17 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

¹⁷² Office of the High Commissioner for Human Rights, *Professional Training Series No. 7: Training Manual on Human Rights Monitoring*, 105 (2001), available at <http://www.ohchr.org/Documents/Publications/training7Introen.pdf>.

- Check that sources are not simply referring to one another or to the same source. While it is tempting to believe that the independent source confirms the information already obtained, it might just do so because they are using the same original source.¹⁷³ Checking the identity of the source, whilst assuring confidentiality, can help overcome this issue.

Finally, to assess its coherence, information should be checked against the known factual context, as well as the rest of the material collected. Consideration should not only be given to the credibility of the particular piece of information, but should also assess whether the story as a whole appears to be accurate when all of the pieces of the puzzle are put together.¹⁷⁴ For instance, whether a particular allegation corresponds with a wider pattern of serious human rights violations.¹⁷⁵

On-site inspections may also be helpful to verify information, provided that they abide by the do no harm principle.¹⁷⁶ However, bear in mind that returning to the crime scene to verify information with an on-site inspection could pose risks to personal security. Therefore, individuals should never conduct on-site inspections alone and only do them with the support of an organization or relevant network. See Sections 2.2.1 and 2.2.2 in particular on risk assessments and security measures.

While the verification of information is in principle a prerequisite for any further steps of storing and sharing information, this is not absolute. Circumstances, such as when lives are at stake, may allow exceptions to this principle. Moreover, corroborating every detail of the information may not always be possible. For example, not all corroborative information may be accessible, such as autopsy reports.

¹⁷³ Marit Maehlum, *Human Rights Monitoring*, in MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS 1, 17 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002).

¹⁷⁴ Office of the High Commissioner for Human Rights, *Professional Training Series No. 7: Training Manual on Human Rights Monitoring*, 104 (2001), available at <http://www.ohchr.org/Documents/Publications/training7Introen.pdf>.

¹⁷⁵ Diane Orentlicher, *Bearing Witness: The Art and Science of Human Rights Fact-Finding*, 3 HARVARD HUMAN RIGHTS JOURNAL 83, 119 (1990).

¹⁷⁶ Office of the High Commissioner for Human Rights, *Professional Training Series No. 7: Training Manual on Human Rights Monitoring*, 107 (2001), available at <http://www.ohchr.org/Documents/Publications/training7Introen.pdf>.

Given the nature of this type of information, verifying electronic information requires a separate discussion. Electronic information, such as from social media or websites, can be misleading, by accident or on purpose. The freely accessible *Verification Handbook* may prove useful for this type of verification exercise.¹⁷⁷

With regard to verifying information from social media platforms, for example, the *Verification Handbook* outlines the following basic steps:

- Identify the original source/content. It is important to make sure that you possess the original content, regardless of whether the content is an image, video, tweet or something else. Try to determine who the original source is and whether that source is reliable by gathering information on the author.
- Verify the original content. It is important to verify the date and time and to identify the location of the content. The *Verification Handbook* provides different tools and tips on how to verify the content of different sources of information.
- When the (original) content is verified, it is important to consider the content in a broader context and examine whether the information fits the bigger picture and context. When possible, ask the source questions that you can cross-reference with your own research.
- Finally, always obtain permission from the author or originator of the content before using it elsewhere. When using certain images and videos, be aware of the risks that might be involved for the individuals in front of or behind the camera. Always respect the *do no harm* principle.

The specific tools that can be used when going through the basic steps for verifying content depend on the type of information that is being verified. The *Verification Handbook* makes a distinction between User – Generated Content, Images, and Videos and can be consulted for more specific guidelines.

¹⁷⁷ Craig Silverman and Merrill Perlman, VERIFICATION HANDBOOK (2014), available at <http://verificationhandbook.com/>.

4.2 Indexing, Cataloguing, and Storing Information

This section discusses the importance of correctly indexing, storing and handling of information. Valuable and corroborated information may be useful evidence in the future.¹⁷⁸ It is therefore important that this information is managed well and that the same standards of management are applied to everything that is collected.¹⁷⁹ The information has to be organized in a way that it can easily, quickly and logically be retrieved when needed.¹⁸⁰ As a general principle, completing a back up of all information collected in electronic format should be prioritised if possible over a backup in hard copy.

To structure information, it needs to be organized in a consistent manner, for example by using templates. A template is an empty form on which key information can be recorded in a consistent format. When a template is completed, the result is a record. A database is a compilation of records that can be organized to facilitate the storage and easy access to specific records, or particular information in such records.¹⁸¹

4.2.1 Case Sheets

To facilitate the recording of serious human rights violations, a standard template should be developed, also known as a “case sheet.” Its purpose is to provide a quick and brief summary of the information that is available at the time. To the extent possible, the basic elements that should be recorded on the case sheet are:

- The identity and personal information of the victim(s);
- The identity of the alleged perpetrator(s);
- The location, date, and time of the incident;
- The circumstances and the nature of the incident;
- The responses of the government and/or of other groups; and

¹⁷⁸ That is information that has successfully passed the verification process described above, and that has the potential to be used in judicial or other proceedings.

¹⁷⁹ Maria Nystedt, Christian Axboe Nielsen and Jann K. Kleffner, A HANDBOOK ON ASSISTING CRIMINAL INVESTIGATIONS 55 (2011), available at <https://www.folkebernadotteacademy.se/en/About-FBA/News/2011/A-Handbook-on-Assisting-Criminal-Investigations/>.

¹⁸⁰ Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 22 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

¹⁸¹ Manuel Guzman and Bert Verstappen, *What is Documentation?*, HURIDOCs, 23 (2007), available at <https://www.huridocs.org/resource/what-is-documentation/>.

- The relevant information that is available (police records, medical or forensic reports, etc.).

Consider the key political factors in the region while developing the template, as well as other considerations such as ethnicity, religion, and region of origin of the persons involved in the alleged violation. Update all case sheets when new information is made available. Consider creating a database that indexes the information that is obtained and important. This includes individual complaints, victim/witness testimonies, documentary, forensic, artifacts and other types of testimonies, as discussed in Chapter 3. Moreover, use a field book to write down day-to-day activities and choices that are made. For instance, how interviewees were selected, how they reacted to particular questions, etc. A field book is a (small) notebook that can easily be taken along when going into the field and can be used at any moment to take (brief) notes. This information can be completed at a later stage, as well as be converted into a(n) (electronic) database.¹⁸²

The two steps to organize information are cataloguing information and physically storing it.

4.2.2 *Cataloguing Information*

Cataloguing is the production of a short record containing sufficient information about a document. In order to manage the large amount of information that may be collected concerning serious human rights violations, keep records that briefly describe all of the documents in your possession. Including this short record in a list can be very useful to retrieve information.

In a catalogue, each item is a record in and of itself, containing information such as the title, author, and a description of the contents. It can be a simple list, or a series of secondary documents arranged in a specific way.¹⁸³ A common method of cataloguing is to produce catalogue cards. When doing so, ensure that each card contains copies of the relevant information relating to each document. Also ensure that there is a card for each access point, which refers to the heading at the top of each card, such as

¹⁸² Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 24 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

¹⁸³ A card catalogue is such a list where each reference is recorded on a separate card.

the name of the author, the title, or any terms that describe the content of the document. Cards with similar access points, such as those containing the authors' names, can be grouped together in alphabetical order.

The record should include:

- A bibliographic description including the document's identifiers such as the title and name of the author.
- A description of the contents, usually through either indexing or abstracting.¹⁸⁴

To the extent possible, it is important to keep a complete backup (in electronic format preferably) of all the information. This includes a copy of all of the documents, recordings, photos, and videos, as well as a copy of the register of all the essential information regarding each case. This backup should be made and maintained in a safe, protected, and secure place separate from the originals.

4.2.3 *Storage of Information*

Store documents, whatever their format, according to a system that allows them to be easily retrieved when needed. A complete storage system comprises the following:

- Physical containers of documents;
- An order on how to arrange the documents; and
- A device or facility to help retrieve the wanted information.¹⁸⁵

Arrange documents inside a folder alphabetically, chronologically, or according to themes, the nature, size or format of the document. There are organizations, such as the Human Rights Information and Documentation Systems (HURIDOCs), that provide assistance in developing a complete filing and recording system.¹⁸⁶

¹⁸⁴ Indexing involves selecting the key terms that most closely represent the contents of a document. Where there are multiple index terms there will be multiple access points. Indexing uses a controlled vocabulary organized as a list of index terms. Alternatively, an abstract is a short summary of a text, usually less than 1000 words, see: Manuel Guzman and Bert Verstappen, *What is Documentation?*, HURIDOCs, 29 (2007), available at <https://www.huridocs.org/resource/what-is-documentation/>.

¹⁸⁵ Manuel Guzman and Bert Verstappen, *What is Documentation?*, HURIDOCs, 29 (2007), available at <https://www.huridocs.org/resource/what-is-documentation/>.

¹⁸⁶ HURIDOCs can be contacted at: 11 Rue du Cornavin, CH-1201 Geneva, Switzerland. Tel.: +41 22 755 52 52. E-mail: info@huridocs.org.

For security reasons, do not file public and confidential documents together. This is further discussed in Section 4.3 below on the Security and Confidentiality of Information. The choice of the device or facility that assists in the retrieval of information is based on the method that is chosen for cataloguing. The most common forms of cataloguing are:

- A card catalogue;
- A list of catalogue entries; and
- A computerized database.

The most common way to store documents is to use folders. Folders may contain individual documents or sets of related documents. These documents may be organized in alphabetical order by author or source, or based on the geographical scope, the chronological order, or according to the nature, size or format of the document, or subject matter. Using a computer database to file information brings the advantages of not using as much space, providing a means of searching for information, data protection, and is easy to update. However, putting all the information into a computer database can be time-consuming, and it may not be suitable where there is no reliable access to electricity.¹⁸⁷

To maintain the storage and cataloguing system, assign notations that indicate their locations. Usually documents within the same folder are assigned numbers or notations that are numerically or alphabetically sequential. Years, months, names of sources or geographical terms can also be included in the notations. Documents can also be given unique record IDs. Documents may be grouped by events, with one event per folder. Standard formats can serve as the main contents of the folder, to which documents can be attached about the events such as fact-finding reports and testimonies.¹⁸⁸

4.2.4 *Physical Information*

As discussed previously, it is a general rule to always leave a crime scene untouched. The handling of evidence normally requires professional forensic training in order to avoid contamination. When physical

¹⁸⁷ International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 24 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

¹⁸⁸ Manuel Guzman and Bert Verstappen, *What is Documentation?*, HURIDOCs, 32 (2007), available at <https://www.huridocs.org/resource/what-is-documentation/>.

information is acquired nevertheless, it must be properly collected, handled, packaged, labeled, and stored to prevent contamination and loss (see Sections 3.2 and 3.3 on how and whether to collect and manage physical and forensic information).

In order to properly store physical information:

- Ensure that each piece of physical information carries a separate statement;
- Detail in the statement when, where, and by whom the piece of potential evidence was found;
- Use chain of custody templates (such as provided in Appendix 1) to document the initiation and continuation of who held custody over the information; and
- Ensure that the person who found the object also signs the statement.¹⁸⁹

Restrict access to potential physical information. For each person that accessed the information, document the following:

- His/her name;
- When s/he accessed the information;
- How s/he used the information; and
- Why it was important to grant him/her access.

4.2.5 *Electronic information*

When encountering electronic or digital information that can potentially serve as evidence of human rights violations it is important to verify that the electronic or digital information has not been tampered with. The *Verification Handbook* is helpful for guidelines on how to verify electronic or digital information that has, for instance, been uploaded to Facebook, Twitter, or YouTube.

Section 3.1.2 of this Handbook provides several guidelines on digital information. For example, it discusses a number of tools that can be used to collect information and to secure its metadata at the same time (i.e. *eyeWitness to Atrocities, CameraV*). Bear in mind that metadata may be lost

¹⁸⁹ Office of the High Commissioner for Human Rights, *Professional Training Series No. 7: Training Manual on Human Rights Monitoring*, 107 (2001), available at <http://www.ohchr.org/Documents/Publications/training7Introen.pdf>.

when uploading information onto a platform, or when transferring information from one to another platform. Therefore it is important to secure the original content in such a way that prevents the loss of metadata. The *Martus* application is a helpful tool to secure the original metadata of information.¹⁹⁰ Uploading electronic information to *Martus* before uploading it onto social media ensures both the aims of creating public awareness and securing the metadata for verification of potential evidence at a later stage

The *Dublin Core Metadata Standards* is useful for storing information. In accordance with the Dublin Core style, producers or subsequent receivers of digital information record the following data:

- Creator: full, family, given and nick names of any person, organization or service primarily responsible for making the content;
- Contributor: full, family, given and nick names of any person, organization or service making a contribution to a resource;
- Publisher: full, family, given and nick names of any person, organization or service responsible for making the resource available;
- Title: name or names by which a resource will be recognized;
- Date: description of dates in the lifecycle of the piece of digital information, such as Created, Available, Modified, Submitted and/or Accepted, as applicable. The Dublin Core prescribes the use of following format for recording dates: YYYY/MM/DD;
- Language: any language of intellectual content of resource such as written or spoken words;
- Type: refers to a description of the nature of the resource (such as whether it is a still image or a video);
- Format: refers to the file format or the data storage medium of a resource, which is relevant in order to determine the equipment needed to display or operate the resource;
- Extent: refers to the size or duration of the original resources;
- Medium: refers to the specifications of the medium used to create the resources;
- Subject: refers to the topic of a resource by means of key words;

¹⁹⁰ <https://www.martus.org/overview.html#infographic>.

- Description: refers to the extended topic of a resource by means of several full sentences;
- Identifier: refers to any internal or external reference number attached to a resource;
- Coverage: refers to any spatial location relevant to a resource;
- Rights: refers to any person, organization or service holding rights over a resource;
- Audience: refers to any class of people for which a resource is intended; and
- Provenance: refers to a description of the changes in ownership and custody of a resource.¹⁹¹

4.3 Security and Confidentiality of Information

The collection and management of information on serious human rights violation may present security risks to unofficial investigators and their contacts.¹⁹² International personnel deployed as official investigators should in principle fall under the protection of bilateral or multilateral agreements with the host state.¹⁹³ However, context-specific circumstances such as a deteriorating security situation or the lack of authorization from the state to carry out investigations often prevents such agreements to be in use. It is these types of situations in which members of local CSOs or other civil society actors engage in documentation as unofficial investigators.

It is important to be aware that unofficial investigators are not protected in the same manner as official investigators. Moreover, contrary to professional investigators that are specifically deployed from abroad on a temporary basis, members of locally staffed CSOs will often remain in the physical proximity of the location of the violation during and after times of crisis. This makes them particularly vulnerable to retaliation. It is important to be aware of this and act accordingly, in a manner to minimize risks. For that purpose, this section focuses on the security of those who know, handle, and keep information on human rights violations and the confidentiality of stored information.

¹⁹¹ Dublin Core metadata initiative, *User Guide/Creating Metadata*, (Jan. 6, 2012), available at http://wiki.dublincore.org/index.php/User_Guide/Creating_Metadata#Language.

¹⁹² Note that the protection of persons is a responsibility that falls primarily upon States.

¹⁹³ See for instance Ola Engdahl, *Protection of Personnel in Peace Operations*, 10 JOURNAL OF INTERNATIONAL PEACEKEEPING 53 (2005) with regards to peace operation missions.

4.3.1 Witnesses and Contact Persons

The protection of sources is essential in respecting the do no harm principle. As a basic rule, witnesses and contact persons should not find themselves in (greater) danger because of your documentation activities. First and foremost, always keep in mind that acting as a contact person or source involves personal risks. Moreover, not protecting sources could compromise the value of your work, and may ultimately lead to the renegeing of potential evidence.¹⁹⁴ An informant should always be made fully aware of the potential security risks of providing information, as well as of any risks arising from any development of the situation on which s/he has provided information. An informant should fully understand these risks and indicate their acceptance of them. Under no circumstances may a person be pressurized to obtain or give information and they may at all times withdraw his/her consent to providing information.¹⁹⁵

Confidentiality is the main way to ensure the security of informants,¹⁹⁶ and an essential precaution to prevent risk to those that engage with you. It also renders victims/witnesses and other relevant sources more willing to cooperate. Such other relevant contacts may include members of police forces, government, or armed forces who leak information about their own services, or other individuals in sensitive places. A breach of confidentiality can put everyone involved at severe risk and undermines the trust between informants and those documenting violations. In general terms, Information, and in particular sensitive information, should be shared only on a need-to-know basis.

The following are important to bear in mind to keep information confidential:

- Ensure that sources remain unnamed. Do not make their information public. Ensure that they are not traceable.

¹⁹⁴ Stephen Wilkinson, *Finding the Facts. Standards of proof and information handling in monitoring, reporting and fact finding missions* 22 (February 1, 2014), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2400927.

¹⁹⁵ Marit Maehlum, *Human Rights Monitoring*, in *MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS* 1, 24 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002).

¹⁹⁶ Physical protection hardly represents a practical or feasible alternative. It requires too many resources.

- Do not make facts public until it is safe to do so. The prospective redress body determines whether and at what stage disclosure becomes a safe option. The decision cannot be made arbitrarily neither by the informant nor by the unofficial investigator.
- Information should always be considered and treated as confidential unless the source expressly agrees to pass it on to others. This should be done only if strictly necessary.
- First responders need to try to anticipate with which parties the information may be shared, if relevant, in the future, and seek consent already in the collection stage for sharing the content with such third parties.
- Never submit information to third parties before having discussed doing so with the source and having obtained his/her consent.¹⁹⁷
- The source has to be made aware of and fully understand the reasons and consequences of making the information public.
- Security risks always have to be thoroughly assessed by persons qualified to do so before making information public.
- Similarly, a trained professional should assess the emotional state of the victim, witness, or other source before making information public.¹⁹⁸

Confidentiality is required from the moment of first contact with a source and continues throughout all subsequent contacts. This also means that it is important to ensure confidentiality for the manner in which information is stored, transported, and used.¹⁹⁹

When a court, tribunal or commission requests information for their proceedings, this may require a reconsideration of confidentiality. Such institutions are supposed to operate with the best interest of the victim and witness in mind and they should implement measures to protect them security risks. Unofficial investigators generally have the possibility to negotiate and implement confidentiality measures, such as anonymity, *in*

¹⁹⁷ International Bar Association & Raoul Wallenberg Institute, *Guidelines on International Human Rights Fact-Finding Visits and Reports*, paragraph 42 (2009), available at <http://www.factfindingguidelines.org/guidelines.html>.

¹⁹⁸ Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 36 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

¹⁹⁹ Marit Maehlum, *Human Rights Monitoring*, in *MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS 1*, 24 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002).

camera hearings (that is, hearings that are closed to the public), or requests for identity concealment from the public.

For example, the ICC allows the possibility to maintain confidentiality where there exist concerns for the personal safety of the witnesses or their families.²⁰⁰ The ICC will ordinarily consider the following factors in determining whether such a threat exists:

- The degree of physical risk;
- The need for and reliability of the testimony;
- Whether the full testimony is conditional upon confidentiality;
- Whether statements will reveal matters of national security; and
- Whether the court, tribunal or commission may be able to subsequently prevent disclosure of the victim/witness' identity.

However, the ICC judges retain the power to reject an application for confidentiality. Informants should be made aware of this possibility.

Similarly, the *ad hoc* international criminal tribunals, such as the International Criminal Tribunal for Rwanda,²⁰¹ the International Tribunal for the Former Yugoslavia,²⁰² and the Special Court for Sierra Leone,²⁰³ include ways to provide for confidentiality when a witness' safety is determined to be at risk. Protective measures such as hearings behind closed doors, and the non-disclosure of a witness identity are authorized only if "exceptional circumstances" can be demonstrated.²⁰⁴ Many truth or inquiry commissions can also receive testimony on a confidential basis.²⁰⁵

²⁰⁰ See Rome Statute of the International Criminal Court, art. 54(3)(e), July 17, 1998, 2187 U.N.T.S 90; 37 I.L.M. 1002 (1998), (1998), available at http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf and International Criminal Court, *Rules of Procedure and Evidence*, rule 82(2) (2005), available at http://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/official%20journal/Documents/RulesProcedureEvidenceEng.pdf.

²⁰¹ International Criminal Tribunal for Rwanda, *Rules of Procedure and Evidence*, rule 53, (Jun. 28, 1995), available at <https://www1.umn.edu/humanrts/africa/RWANDA1.htm>.

²⁰² International Tribunal for the Former Yugoslavia since 1991, *Rules of Procedure and Evidence*, rule 70, (May 22, 2013), available at http://www.icty.org/x/file/Legal%20Library/Rules_procedure_evidence/IT032Rev49_en.pdf.

²⁰³ Special Court for Sierra Leone, *Rules of Procedure and Evidence*, rule 69, (2003), available at <http://www.rscsl.org/Documents/RPE.pdf>.

²⁰⁴ Colin T. McLaughlin, *Victims and Witness Measures of the International Criminal Court: A Comparative Analysis*, 6 THE LAW AND PRACTICE OF INTERNATIONAL TRIBUNALS 189, 192 (2007).

²⁰⁵ Alison Bisset, *Rethinking the Powers of the Truth Commissions in light of the ICC Statute*, 7 JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE 963, 969 (2009).

Despite these measures to minimize security risks, it is important to be aware that there are still many risks involved. Victims, witnesses and other informants may experience verbal threats, intimidation, harassment, assault, or property damage, if not worse. It is important to provide support and security to these individuals. The police can implement a security program.²⁰⁶ However, when the police are implicated in the violations, other security protection should be put in place.

Unofficial investigators may contribute to this by considering undertaking the following security measures:

- Arrange a temporary change of residence, to a relative's house or a nearby town;
- Provide emergency contacts;
- Arrange with a telephone company to (regularly) change the individual's telephone number;
- Install security devices in the individual's home (such as security doors, alarms or fencing);
- Provide electronic warning devices and mobile telephones with emergency numbers;
- Minimize public contacts with uniformed police; and
- Use discrete and safe premises to interview and brief witnesses.²⁰⁷

The level and extent to which such measures can be put in place depends on the resources and expertise available. Make sure to never make false promises regarding safety. Only make those promises that you know you can effectively provide. Also, reach out to bigger and more resourced organizations and their networks before interacting with an informant in order to discuss the safest option or the most practicable confidentiality procedure that is available.

²⁰⁶ UNODC, *Good practices for the protection of witnesses in criminal proceedings involving organized crime*, 30 (Jan. 2008), available at http://www.unodc.org/documents/southeastasiaandpacific//Publications/Projects/indonesia/Good_practices_for_the_protection_of_witnesses_in_criminal_proceedings_involving_organized_crime.pdf.

²⁰⁷ UNODC, *Good practices for the protection of witnesses in criminal proceedings involving organized crime*, 30 (Jan. 2008), available at http://www.unodc.org/documents/southeastasiaandpacific//Publications/Projects/indonesia/Good_practices_for_the_protection_of_witnesses_in_criminal_proceedings_involving_organized_crime.pdf.

4.3.2 *Security of Information*

In addition to the safety of those involved, security in handling information is important because of the potential evidentiary value of the information itself.

Securing Information

To store sensitive or confidential information safely:

- Keep information in a secure place. Separate confidential information from non-sensitive information.
- Keep this secure location safe from the elements (fire, water, humidity, etc.) and from unauthorized access.²⁰⁸ Restrict the number of people who have access to the confidential information to an absolute minimum.
- Store hard copy documents in a lockable filing cabinet if possible, and be aware that a locked or even guarded office may not be enough. Strangers may still be able to enter the premises after office hours.
- Do not assist burglars by labeling the filing cabinets in a way that indicates that their contents may be confidential or important.
- Avoid carrying any highly sensitive information with you, unless you are, for example, transporting it to a professional investigator, or moving it to a safer place.
- As a precautionary measure, do not destroy documents and notes, unless a tangible risk of real danger exists, as these might become useful in subsequent criminal proceedings.
- Encode information. For example, instead of names, use a code to identify sources. Avoid using the initials of the source when doing so. Although this may help, it does not sufficiently protect the identity of the contacts. Information can additionally be distorted or disguised by, for instance, reducing the amount of detail kept in a single file.
- Make copies of all important documents and keep the copies in a separate, secure place. If there is no copy machine, take a picture using your camera or mobile phone, and send it to someone else for storage. However, beware that carrying sensitive material in

²⁰⁸ Maria Nystedt, Christian Axboe Nielsen and Jann K. Kleffner, *A HANDBOOK ON ASSISTING CRIMINAL INVESTIGATIONS* 57 (2011), available at <https://www.folkebernadotteacademy.se/en/About-FBA/News/2011/A-Handbook-on-Assisting-Criminal-Investigations/>.

your phone can be dangerous. Therefore, try to only take pictures when you can forward and delete them immediately.²⁰⁹

Electronic Documents

With regard to electronic documents:

- Use external, encrypted, and password protected storage devices and memory sticks for storage rather than computer hard drives.
- You may also use a laptop with a removable hard disk. Portable devices are easier to hide and can be transported/carried off premises quickly in case of emergency evacuation. These devices also need to be password protected and should never be left unprotected in the office. If a computer is stolen, the consequences will be less severe if its hard drive does not contain sensitive information.
- Make sure to enable disk encryption on your computer and other electronic devices (for Windows, Android or MacOS; this is automatic on iPhones and iPads). Remember, it is always possible to print important materials if and when needed. Equip computers/devices with reliable anti-virus, anti-spyware, and firewall software, as well as a boot-up password to prevent others from accessing them. Bear in mind that despite up-to-date anti-virus software, risk of infection or hacking remains present.²¹⁰ It is advised to get trained on how to detect such issues as well as what to do when encountered.
- In addition, encrypt all sensitive electronic files and protect them with a password. Encryption tools are often freely available on the Internet. *GNU Privacy Guard* (for Windows, Mac, and Linux) or *AxCrypt* (for Windows only) are excellent and easy to use.²¹¹
- In addition, ensure that electronic documents are regularly transferred to a secure storage site. This may be the organization's head office or another security place. When possible, transfer to a safe location outside of the country where the violations occurred.
- Ensure that electronic documents are regularly backed-up.

²⁰⁹ Marit Maehlum, *Human Rights Monitoring*, in *MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS 1*, 25 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002).

²¹⁰ Av-Comparatives, an independent organization specialized in the testing of those softwares, recommend to use Avira (available at <http://www.avira.com/fr/index>) or F-Secure (available at https://www.f-secure.com/fr_FR/web/home_fr/home).

²¹¹ Jason Fitzpatrick, *Five Best File Encryption Tools* (Dec. 31, 2010), available at <http://lifelifehacker.com/5677725/five-best-file-encryption-tools>.

In order to get acquainted with encryption and protection tools for electronic documents, the online platform *Security in-a-box* has developed a practical guide on secure data storage tactics.²¹² It recommends specific encryption programs such as *TrueCrypt*, used by several CSOs. The platform also recommends anti-spyware and anti-malware software including *Avast* and *Clam Win*.²¹³ The software programs that are recommended by *Security in-a-box* are available for free.

Cloud Computing

Another option for electronic files is to rely on cloud computing. Cloud computing, or the online storage and synchronization of files, is where data is hosted on a remote server.²¹⁴ It offers a way to ensure that files are accessible anywhere and on any device with an Internet connection. When using cloud storage services, information that is saved in the cloud is automatically saved in a data center somewhere else in the world. Cloud computing, however, raises a number of security issues.²¹⁵ Files have to be protected from unauthorized disclosure and modification. One should adhere to the following precautions to minimize these risks:

- Ensure that you have a strong password;
- Use a different password than that used for other online services and websites;
- Enable two-factor identification when available;²¹⁶
- Encrypt sensitive files;
- Regularly check which devices have access to the cloud and remove unauthorized or unnecessary devices accordingly; and
- Never use public access Wi-Fi networks to access sensitive information.

Most cloud storage services differ in price and host capacity. The free mobile camera application *eyeWitness to Atrocities* is hosted by LexisNexis. Legal experts can access and assess the information stored on this server,

²¹² See the Security in-a-box website: <https://securityinabox.org/en/guide/secure-file-storage>.

²¹³ See the Security in-a-box website: <https://securityinabox.org/en/guide/malware>.

²¹⁴ Jean François Pillou, *Sécuriser les données cloud de son entreprise*, (Dec., 2014), available in French at <http://www.commentcamarche.net/faq/42206-securiser-les-donnees-cloud-de-son-entreprise>.

²¹⁵ Fangyong Hou, Yuhua Tand and Nong Xiao, *Secure Remote Storage through Authenticated Encryption*, in NETWORKING, ARCHITECTURE AND STORAGE 3 (IEEE Computer Society, ed., 2008).

²¹⁶ See Whitson Gordon, *Here's Everywhere You Should Enable Two-Factor Authentication Right Now* (Oct. 12, 2013), available at <http://lifelifehacker.com/5938565/heres-everywhere-you-should-enable-two-factor-authentication-right-now>.

after which the experts can decide to share the information with relevant institutions for further investigation. Importantly, *eyeWitness to Atrocities* only runs on mobile phones using Android operating systems. *KoboToolbox*, developed by the Harvard Humanitarian Initiative, is an alternative program that can be used on an iPhone. Although *KoboToolbox* does not currently have an iPhone application, iPhone users can use the program through a webforms integration based on Enketo.²¹⁷ Similarly, Physicians for Human Rights is currently developing the application *MediCapt* (for more information on these applications, see Section 3.1.2 on Digital Information).²¹⁸

Communication and Online Activity

When communicating and carrying out other activities online, it is important to consider the following factors:

- Never assume that lines of communication are secure.
- Avoid communicating sensitive information via telephone, fax, radio, electronic mail (e-mail), and even registered mobile phones.
- If doing so is unavoidable, use code words for names, places, or events.
- Use pay-as-you-go SIM cards for mobile phones or public telephones.²¹⁹
- Be aware that online activity can be tracked. For instance, your Internet Service Provider (ISP) can easily control and record all internet activity from your computer. Many countries only have one ISP that is often controlled by the government. Many other countries require all ISPs to monitor and report on internet activity.²²⁰
- Public key encryption (PKE) is a common method of encrypting electronic and digital communications, mainly electronic messages. When using PKE, you will have a key composed of two intertwined parts: a public and a private key. What one encrypts with the former can only be decrypted with the latter.

²¹⁷ See <http://www.kobotoolbox.org/#block-block-9>.

²¹⁸ See <http://physiciansforhumanrights.org/medicapt>.

²¹⁹ Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 38 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

²²⁰ In Russia for instance, this information is subsequently directly transmitted to the Federal Security Service (FSB). Dmitri Vitaliev, *Digital Security and Privacy for Human Rights Defenders*, FRONT LINE, 43 (Feb. 2007), available at http://www.frontlinedefenders.org/files/en/eseaman.en_.pdf.

- Always keep the private key secret. When you want to communicate with someone you share your public key. Messages are encrypted with the public key of the recipient by the sender and decrypted by the recipient with their private key when the message arrives.²²¹
- *GPG4Win* is an example of software that performs with PKE.²²²
- It is also recommended to use privacy-focused email hosts such as *Mozilla Thunderbird* or *RiseUp.net* to protect personal information.²²³

Regarding online activity, consider the following issues:

- For anonymity, use anonymous surfing modes to prevent your browser from saving your information automatically. However, be aware that using these anonymity modes will not make you completely anonymous.
- Alternatively, use the software TOR as an accessible, free, and easy means to protect your privacy and anonymity. The main component of the software is the Tor web browser. This hardened and secured-focused version of Firefox encrypts your online activity and bounces it through computers around the world, making it more difficult to trace.
- In addition, for confidentiality, to ensure that outsiders do not gather information about you when browsing online, use a virtual private network (VPN) to appear to be someone else, in a different place. A VPN secures the traffic between your computer and servers, and masks your IP address and location. Several VPNs are available, ranging from the free and simple HotspotShield to high-end subscription services like SurfEasy Total.
- Use a program like *CCleaner* to regularly remove all the information, passwords, files, and downloads that your web browser saves.

As with securing electronic documents, the online platform *Security in-a-box* has developed a guide on safe and private online communication.

²²¹ Dmitri Vitaliev, *Digital Security and Privacy for Human Rights Defenders*, FRONT LINE, 38 (Feb. 2007), available at http://www.frontlinedefenders.org/files/en/eseaman.en_.pdf.

²²² One can download the program from <http://www.gpg4win.org>.

²²³ Andy Greenberg, *How to Anonymize Everything You Do Online* (Jun. 17, 2014), available at <http://www.wired.com/2014/06/be-anonymous-online/>.

Moreover, the website provides links to further reading, for example, about faking your email identity.²²⁴

Transport

When traveling and transporting information, it is important to take into consideration the following guidelines (see also Section 2.2.6 on the logistics of the planning and preparation of documentation activities).

- Always carefully consider the route and means of transport.
- Make sure to have your travel documents in order, including driving license, possible passes, and vehicle registration.
- If approaching unexpected checkpoints or police roadblocks, attempt to stop in order to observe other vehicles passing through first.
- Avoid areas prone to banditry and try to travel by convoy, as this can deter attacks.
- Avoid driving alone or at night.
- Try to remain discrete and refrain from attracting unnecessary attention.
- Always be careful in traffic, and observe local driving regulations.
- Take food and water with you, as it might not be available at your destination.
- Make sure to dress appropriately for the conditions.

4.3.3 Personal Security

Not only the collection of information, but also the holding of important information on serious human rights violations may pose serious threats to your personal security (see Section 2.2.2 on security measures in the planning and preparation stage). The information security measures discussed so far are important for keeping the information secure, but also protect everyone involved from others knowing who knows and does what in terms of documenting the occurrences. Perpetrators of human rights violations have an interest in destroying evidence, and may well consider violent means to do so. Security risks can originate from many different persons or organizations, including terrorists, gangs, (drug) cartels, (international) criminals, and warlords. These risks can also originate from the police, military forces, opposition groups, rebel forces, local chiefs, or

²²⁴ See the Security in-a-box website: <https://securityinabox.org/en/guide/secure-communication>.

individual perpetrators of human rights violations. Security risks may include (attempted) murder, rape, beatings, police brutality or harassment, arbitrary detention, bombings, intimidation, arson, etc.²²⁵

However, consider also that statistically speaking road traffic accidents and unexploded mines remain the greatest security risk for most field missions.²²⁶ Most CSOs operating in dangerous areas have security procedures in place that are developed by security professionals.²²⁷ Make yourself familiar with these procedures and observe them closely. When possible, also study any contingency plan in detail.

In crowded situations, such as demonstrations, consider the following security measures:

- Adopt a heightened sense of personal security and situational awareness.
- Keep a low profile and make sure to dress appropriately.
- Think through where and how to leave/reach your mode of transport in order to avoid being trapped by the crowd and to allow for a quick and safe exit if necessary. Park your vehicle away from the city center, for instance.
- Be aware of alternative routes out of the area and if possible, locate multiple exit routes.
- Know that vulnerability increases when travelling in zones with poor communication networks or where conflict and violence is ongoing.

Several preventive measures can be taken in order to reduce or mitigate security risks:

- Regularly conduct risk assessments.

²²⁵ Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 58 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

²²⁶ David Lloyd Roberts, *Staying Alive: Safety and Security Guidelines for Humanitarian Volunteers in Conflict Zones*, INTERNATIONAL RED CROSS COMMITTEE, 41 (2005), available at <https://www.icrc.org/eng/resources/documents/publication/p0717.htm>.

²²⁷ Marit Maehlum, *Human Rights Monitoring*, in MANUAL ON HUMAN RIGHTS MONITORING. AN INTRODUCTION FOR HUMAN RIGHTS FIELD OFFICERS 1, 26 (Kristin Hogdahl, Ingrid Kvammen Ekkerr and Lalaine Sadiwa, eds., 2002); International Bar Association & Raoul Wallenberg Institute, *Guidelines on International Human Rights Fact-Finding Visits and Reports*, paragraph 33 (2009), available at <http://www.factfindingguidelines.org/guidelines.html>.

- Depending on the situation, identify whether it is better to remain more discreet or out in the open.
- Build and use all channels that can alert you to security threats, including those of other organizations.
- If you are a foreigner, identify where your country’s embassy is located, get in touch with them to know of your presence in the country, and study the routes to travel there in haste.
- Establish and maintain, when possible, a good relationship with local, state, and/or federal law enforcement and emergency service providers as well as political officials.
- Work with people that can be trusted.
- Educate family and friends about risk-prevention.
- Be fit, alert, and stay sober.
- When possible, travel with at least one companion, and avoid secluded places.
- Identify and practice different routes by which you can drive between the office and home.
- Go underground if in danger,²²⁸ or seek refuge at a police station, embassy or other safe location.

To summarize the guidelines provided on managing information, see the table below:

Recommendations/Activities	Practical Suggestions
<i>Verify information</i>	<ul style="list-style-type: none"> • Assess the reliability of the source; • Corroborate the information with information collected from independent sources; • Check the information against the factual background.
<i>Organize information in a consistent manner</i>	<ul style="list-style-type: none"> • Apply identical standards of management; • Use case sheets and cataloguing; • Store documents according to a

²²⁸ One may for instance establish safe places where to go in case of danger. In addition, one can also establish “security nets” of different persons who will help you during such periods. See Amnesty International and CODESRIA, *Ukweli. Monitoring and Documenting Human Rights Violations in Africa: A Handbook*, 60 (2000), available at https://www.amnesty.nl/sites/default/files/public/ukw_eng.pdf.

	specific order.
<i>Protect witnesses and contact persons</i>	<ul style="list-style-type: none"> • Ensure informants are fully aware of potential security risks; • Respect the principle of confidentiality.
<i>Secure hard information</i>	<ul style="list-style-type: none"> • Keep information stored apart in a secure location; • Install a lockable filing cabinet; • Regularly destroy documents that are no longer anymore; • Code and distort information; • Make copies of all important documents and keep them in a separate, secure place.
<i>Secure electronic information</i>	<ul style="list-style-type: none"> • Use external storage devices; • Equip computers with a boot-up password and reliable anti-virus, anti-spyware, and firewall software; • Encrypt sensitive files; • Be careful when resorting to cloud computing; • Ensure regular back-up.
<i>Communication and Online Activity</i>	<ul style="list-style-type: none"> • Never assume that lines of communication are secure; • Avoid communicating sensitive information via email, phone, radio, and fax; • Use code words; • Rely on public key encryption for electronic communication. • Use a VPN and preferably Tor when browsing online.
<i>Transport</i>	<ul style="list-style-type: none"> • Consider traveling route and means of transport beforehand; • Try to remain discrete.
<i>Ensure personal security</i>	<ul style="list-style-type: none"> • Be familiar and comply with security routines if in place; • Study contingency plans in detail;

	<ul style="list-style-type: none">• Always be alert and regularly conduct risk assessments;• Do not put yourself in compromising situations;• If in danger, go underground.
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APPENDIX 1: CHAIN OF CUSTODY FORMS

To maintain chain of custody, you may use this general form.²²⁹

GENERAL CHAIN-OF-CUSTODY FORM

EVIDENCE/PROPERTY CUSTODY		Tracking Number		
		Investigation ID Number		
NAME OF RECIPIENT FACILITY		LOCATION		
NAME, TITLE AND CONTACT NUMBER OF PERSON FROM WHOM RECEIVED		ADDRESS		
LOCATION FROM WHERE OBTAINED		REASON OBTAINED	DATE/TIME OBTAINED	
ITEM NO	QUANTITY	DESCRIPTION OF ARTICLES (Include model, serial number, condition and unusual marks or scratches)		
CHAIN OF CUSTODY				
ITEM NO.	DATE	RELEASES BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
		SIGNATURE	SIGNATURE	
		PRINTED NAME & CONTACT INFORMATION	PRINTED NAME & CONTACT INFORMATION	
		SIGNATURE	SIGNATURE	
		PRINTED NAME & CONTACT INFORMATION	PRINTED NAME & CONTACT INFORMATION	
		SIGNATURE	SIGNATURE	

²²⁹ United Nations Office for Disarmament Affairs, *Updated Appendices to the Technical Guidelines and Procedures: Appendix VII* available at http://www.un.org/disarmament/WMD/Secretary-General_Mechanism/appendices/VII/COC_Form.pdf.

Or alternatively use the PILPG form below, which can also serve as a cover sheet for the handling of documentary information. See Section 3.1.1 for an annotated version and further discussion of chain of custody in the context of hard copy documentary information.

PILPG Chain of Custody Summary Sheet:

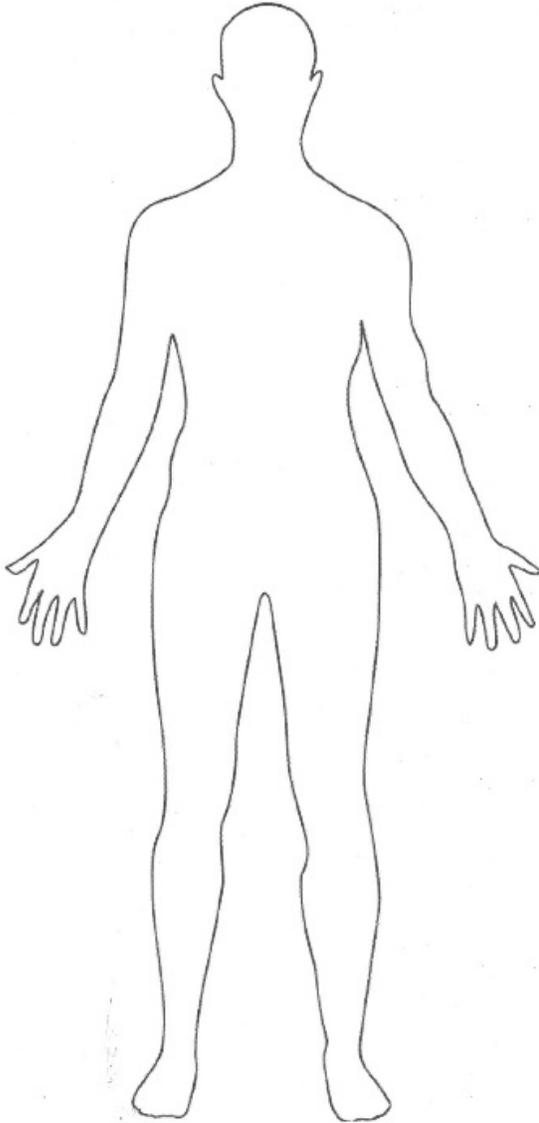
GENERAL ARTICLES INFORMATION		
NAME OR ID NUMBER OF COLLECTOR:		NAME ORGANIZATION COLLECTOR:
		ITEM REFERENCE NUMBER (if applicable)
		LOCATION OF ORGANIZATION:
NAME OR ID NUMBER OF PERSON FROM WHOM RECEIVED:		NAME ORGANIZATION OF PERSON FROM WHOM RECEIVED:
		ITEM REFERENCE NUMBER (if applicable)
ITEM REFERENCE NUMBER (if applicable)		LOCATION:
LOCATION FROM WHERE OBTAINED:		REASON OBTAINED:
		ITEM REFERENCE NUMBER (if applicable)
		DATE/TIME OBTAINED:
ITEM REFERENCE NUMBER (if applicable)		ITEM REFERENCE NUMBER (if applicable)
ITEM NO.	QUANTITY (e.g. nr of pages)	DESCRIPTION OF ARTICLES (include model, serial number(s), condition and unusual marks)

CHAIN OF CUSTODY

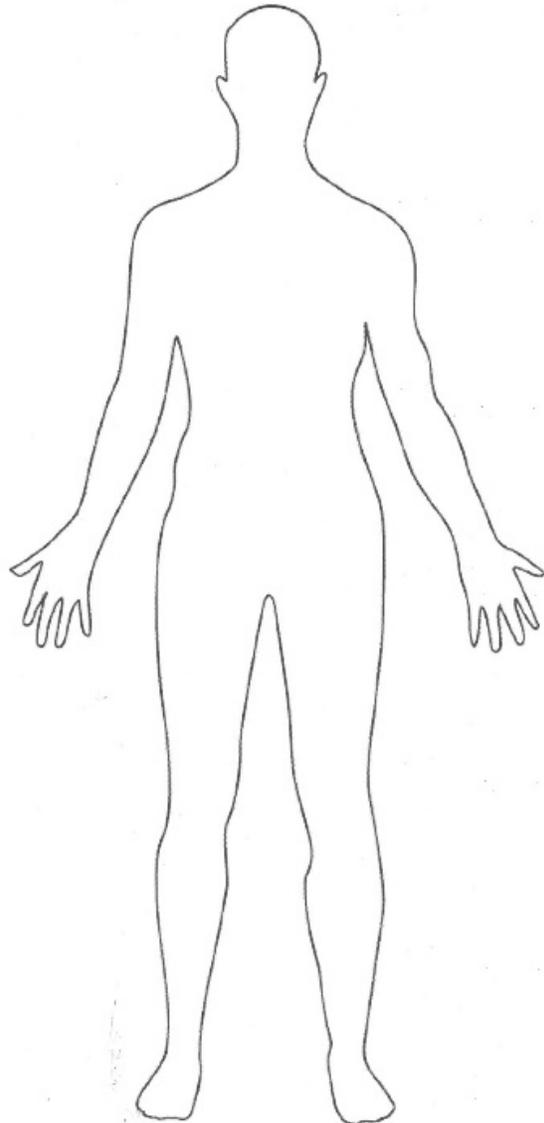
ITEM NO.	DATE/TIME	RELEASED BY: SIGNATURE:	RECEIVED BY: SIGNATURE:	PURPOSE OF CHANGE OF CUSTODY:
ITEM NO.	DATE/TIME	RELEASED BY: SIGNATURE:	RECEIVED BY: SIGNATURE:	PURPOSE OF CHANGE OF CUSTODY:
ITEM NO.	DATE/TIME	RELEASED BY: SIGNATURE:	RECEIVED BY: SIGNATURE:	PURPOSE OF CHANGE OF CUSTODY:
ITEM NO.	DATE/TIME	RELEASED BY: SIGNATURE:	RECEIVED BY: SIGNATURE:	PURPOSE OF CHANGE OF CUSTODY:

APPENDIX 2: BODY DIAGRAM TO NOTE PHYSICAL DETAILS

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ABOUT THE PUBLIC INTERNATIONAL LAW & POLICY GROUP

The Public International Law & Policy Group, a 2005 Nobel Peace Prize nominee, operates as a non-profit, global *pro bono* law firm providing free legal assistance to its clients, which include governments, sub-state entities, and civil society groups worldwide. PILPG specializes in the following practice areas:

- **Peace Negotiations**
- **Post-Conflict Constitution Drafting**
- **Transitional Justice and War Crimes Prosecution**
- **Policy Planning**
- **Democracy and Governance**

Through its work, PILPG promotes the use of international law as an alternative to violent conflict for resolving international disputes. PILPG provides legal counsel to *pro bono* clients during peace negotiations, advises on the creation and operation of transitional justice mechanisms, provides expertise during the drafting of post-conflict constitutions, and advises on ways to strengthen the rule of law and effective institutions. To facilitate the utilization of this legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution.

In January 2005, a number of PILPG's *pro bono* clients nominated PILPG for the Nobel Peace Prize for "significantly contributing to the promotion of peace throughout the globe by providing crucial *pro bono* legal assistance to states and non-state entities involved in peace negotiations and in bringing war criminals to justice."

In addition to a staff of full-time attorneys that implement PILPG's programs, PILPG leverages volunteer assistance from international lawyers, diplomats, and foreign relations experts, as well as *pro bono* assistance from major international law firms. Annually, PILPG is able to provide over \$20 million worth of *pro bono* international legal services.

PILPG is based in Washington, D.C., New York, and The Hague. To date, PILPG has maintained project offices in: Bosnia and Herzegovina, Côte d'Ivoire, Egypt, Georgia, Iraq, Kenya, Kosovo, Libya, Nepal, Somaliland, South Sudan, Sri Lanka, Tanzania, Tunisia, Turkey, and Uganda.

Over the course of the past two decades, PILPG has provided assistance to *pro bono* clients in Afghanistan, Armenia, Bosnia and Herzegovina, Botswana, Burma, Cambodia, Côte d'Ivoire, Darfur, Dutch Antilles, East Timor, Egypt, Estonia, Ethiopia, Georgia, Iraq, Kenya, Kosovo, Lebanon, Liberia, Libya, Macedonia, Mauritius, Montenegro, Nepal, Philippines, Rwanda, Seychelles, Somalia, Southern Cameroons, Somaliland, South Sudan, Sri Lanka, Sudan, Syria, Tanzania, Tunisia, Uganda, Yemen, and Zimbabwe. PILPG has also provided *pro bono* legal assistance to all of the international and hybrid war crimes tribunals.

Increasingly, civil society actors engage in documentation and investigation processes, seeking to collect evidence against those responsible for serious human rights violations. **PILPG's Handbook on Civil Society Documentation of Serious Human Rights Violations** provides principles, guidelines and best practices for the collection and management of information on serious human rights situations for those that are not professionally trained in such documentation practices. While the Handbook strongly emphasizes the need to refrain from investigating human rights abuses and to refer to professionals, practice shows that this is not always possible. Only under such circumstances and as a last resort may civil society actors consider engaging in certain documentation practices and not in others, always seeking to include professionals when and where possible. They may however only do so by adhering to the ethical principles and documentation guidelines that are provided in this Handbook. These enable unofficial investigators to do no harm, identify security risks, preserve crime scenes, prevent the loss of evidence, and manage the information in a manner that preserves confidentiality, security and probative value, with an eye to possible use in later redress processes.

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www.publicinternationallawandpolicygroup.org