

Can You Challenge Photo or Video Evidence in a Criminal Case? AI and Deepfakes Explained

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A screenshot has excellent courtroom manners. It never hesitates, looks uncomfortable or contradicts itself.

That does not make it truthful.

When a criminal case turns on competing accounts, photographs, videos, voice recordings and messages can carry considerable weight. Material from before or after an alleged offence may support a witness, undermine an account or change how an entire relationship is understood.

But what happens when the evidence used to test the witness also needs testing?

The President of the King's Bench Division has warned that AI can fabricate appearances, speech and events. The President also identifies an equally troubling possibility: genuine evidence being dismissed as fake.

Courts already examine authenticity, disclosure, metadata and expert evidence. The challenge is applying that scrutiny when convincing manipulation becomes increasingly accessible.

An effective challenge begins with a specific concern and a focused investigation.

Where is the original file? Is this a complete recording or an extract? Who obtained it, and how? Do the source device, surrounding exchanges and available technical records support what is being alleged?

There are separate questions here. Is the material authentic? Is it complete? And does it actually prove what somebody says it proves?

Even a genuine photograph may be wrongly dated or presented without essential context.

In my practice, questioning witnesses, challenging expert opinion and examining digital disclosure are connected disciplines. A witness may know where an image came from without knowing how it was created. An expert may offer a confident conclusion resting on an untested assumption.

For clients and instructing solicitors, the tactical decisions belong early: preserve relevant material, identify gaps and obtain appropriate forensic advice where justified. Simply suggesting "AI" is no substitute for analysis.

A compelling image can shape a case. Careful scrutiny can change what it means.