

Victoria Police Manual

The Victoria Police Manual is issued under the authority of the Chief Commissioner of Police in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use VPM Professional and ethical standards to inform the decisions they make to support compliance.

Digitally recorded evidence-in-chief (DREC) – family violence

Context

The use of body worn cameras (BWCs) to capture digitally recorded evidence in chief (DREC) from affected family members (AFMs) following a family violence incident is supported by the *Criminal Procedure Act 2009*. DREC footage can be used in both civil and criminal court proceedings.

This policy provides information to members on their roles and responsibilities when capturing DREC footage and ensuring its admissibility in court proceedings.

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Definitions

- **BWC** – Victoria Police issued body worn camera.
- **DREC** – Digitally recorded evidence-in-chief statement captured using a BWC.

Scope and application

This policy applies to:

- members who have completed both the BWC general duties and BWC DREC training
- police custody officers (PCOs)
- members responsible for the authorisation of briefs of evidence containing DREC footage
- prosecutors in proceedings where DREC footage forms part of the brief of evidence.

Policy

The following requirements apply when considering whether to capture DREC footage:

- the recording must occur as soon as practicable following the incident to obtain the best possible evidence, which is comparable to the taking of a formal written statement
- the recording must occur at a location which provides a level of comfort and privacy for the AFM. This may be at the scene of the family violence incident, a police premises, a hospital or other appropriate location
- the recording must be deferred to another time, or a written statement may be taken as an alternative if there is a risk to the safety and wellbeing of the AFM
- members must be satisfied that the AFM understands the purpose of the recording and how it will be used and has provided consent. If consent is refused, then members must comply with **VPM Interviews and statements**.

Responsibilities and procedures

1. Overview

- Members must activate their BWC when they attend a family violence incident in accordance with the Activation Framework outlined in **VPM Body worn cameras**.
- Evidence such as injuries and property damage, although captured via BWC must also be photographed in accordance with **VPM Crime attendance – initial action**.
- The question-and-answer process for completing a Family Violence Report (FVR) (L17) must not be recorded. Members should complete the FVR (L17) prior to capturing DREC footage, as this will assist with planning for the interview and to focus questioning on the current incident.
- In preparation for capturing DREC footage, the BWC recording must be stopped. When stopped, the BWC must be positioned as per the instructions in the **DREC Family Violence Operational Guidelines** and only using the equipment provided.

2. Criteria for capturing DREC footage

Prior to capturing DREC footage, the informant must provide the AFM with information relevant to the process and obtain the AFM's consent. When the DREC recording commences, the AFM must reaffirm their consent in accordance with the preamble, located in Appendix B Informed Consent to take a DREC in the **DREC Family Violence Operational Guidelines**.

Note: AFMs are permitted to make an application in writing to the informant withdrawing their consent. If it is believed that the AFM could be at greater risk if they withdraw consent, the informant, after consulting with the relevant police lawyer or prosecutor, or the Office of Public Prosecutions lawyer conducting the prosecution, may use the DREC footage without consent.

Age of the accused	Must be over the age of 18 at the time the family violence incident is alleged to have occurred in accordance with s.387D(2), <i>Criminal Procedure Act</i> .
Age of the AFM	• Must be over the age of 18 at the time the family violence incident is alleged to have occurred. • If the AFM meets the criteria for the use of Visual Audio

	Recorded Evidence (VARE) then that process must be followed, refer to VPM Visual Audio Recorded Evidence (VARE) .
Impaired by alcohol or drugs	Where there is reasonable belief that an AFM is impaired by alcohol or drugs, the DREC process must not be used. Members must defer taking the statement to a time when the AFM is no longer affected. For more information, refer to VPM Family violence .
Cognitive impairment	Where there is reasonable belief that an AFM has a cognitive impairment, the DREC process must not be used. For more information in relation to interviewing persons with a cognitive impairment refer to VPM Interviews and statements and VPM Visual Audio Recorded Evidence (VARE) .
Presence of children	- The DREC process should not take place in the presence of a child/children. - If a child's presence is unavoidable, members must take steps to prevent the DREC capturing the child's image. Refer to BWC Operational guidelines for redaction options where this is not possible.
Presence of the alleged offender	- The DREC process must not take place in the presence of the alleged offender. - If the alleged offender is at the same location, they must be taken to another room away from where the AFM's DREC is taken. If necessary, the DREC can take place at a later date at another safe location away from the alleged offender.
Disclosure of a sexual offence	If at any stage during the DREC process a sexual offence is disclosed, the recording must stop and the member must: - seek advice from a supervisor, SOCIT member or Investigation and Response Manager. - refer to VPM Sexual offence investigations.
Focus on current incident	The DREC must focus on the current family violence incident unless the AFM discloses previous family violence matters that are linked to and provide context to the current incident.
Use of interpreters	- The use of interpreters for the DREC process is permitted. - Children or other family members (including the alleged offender) must not be used as interpreters.
Use of a support person	- The AFM may have a support person present while providing a DREC. - The presence of a support person must be noted on the recording irrespective of whether they are captured on the DREC. - The support person must not be: - a person under the age of 18 - a party or witness to the current family violence incident - an active participant in the DREC.

Prior to the conclusion of the recording, the AFM must attest to the truth of the statement.

3. Post-DREC process

3.1 Categorisation of footage

- Members must comply with **VPM Body worn cameras** for categorising and uploading footage and use of the evidence management system.
- Members should use the below naming convention when saving DREC footage in evidence.com:
 - ID Number: LEDR Mk2 number
 - Title: DREC – AFM surname, AFM given name
 - Category: Family Violence.

Note: the informant should include the ID Number on the Brief Head [Form 208A].

3.2 Evidence management

- Editing or redacting of DREC footage is permitted for a legitimate purpose in accordance with the *Criminal Procedure Act*, such as:
 - with consent of the parties to the proceeding
 - to comply with directions of the court
 - to remove inadmissible evidence or to avoid disclosure of material to the accused such as addresses or phone numbers of the AFM or witnesses.
- Any editing or redacting must be done by the informant in the first instance and reviewed by a sergeant or above before being sent to the relevant prosecutor/police lawyer. Victoria police prosecutors/lawyers may make further edits to the footage as required.

4. Viewing DREC footage in criminal proceedings

4.1 Accused

- In accordance with the *Criminal Procedure Act*, an accused in a criminal proceeding must be provided with an opportunity to view the video DREC footage prior to court. Members must serve the accused with the Notice to Accused of Opportunity to View or Obtain Recorded Statement [Form 1513].
- Viewing of footage must be supervised by a member or PCO (if the accused is in custody) or their legal practitioner (if the accused is represented).
- Victoria Police is not required to facilitate multiple viewings of DREC footage by the accused and members should exercise discretion regarding requests to view the footage on subsequent occasions.
- See section 5 of this policy for the process for providing the accused with an audio-only copy of the DREC for civil proceedings.

Following interview or while in custody

- Where possible, viewing should occur at a police station following the Digital Evidence Capture (DEC) interview.
- If DREC footage is not available following the DEC interview, or if the member believes that the safety of the AFM may be affected due to the accused viewing the footage, the member must inform the accused that they will have the opportunity to view the footage prior to court and that the accused is responsible for contacting the informant to arrange this.

- If the accused is in police custody, a PCO, in consultation with the informant or a custody supervisor, must facilitate viewing the footage.

At a later time if the accused is unrepresented

- The informant must provide an opportunity for the accused to view the footage:
 - at a police station, at a time suitable to both parties, prior to the court hearing
 - on the day of the court hearing, at a police station near the court.
- If the accused is in a correctional facility, any requests to view the footage must be facilitated through the informant.
- Police prosecutors will not facilitate viewing the footage at court for an unrepresented accused.

At a later time if the accused is represented

- The video footage must be provided to the legal representative and they are responsible for ensuring their client views the DREC footage prior to court.
- On the day of the court hearing, it is the responsibility of the prosecutor to facilitate viewing of footage by downloading it onto an Iron key for the legal representative if the accused has not had prior opportunity to view the footage.
- If the accused is in police custody, their legal representative may only play the footage for the accused on a laptop during a meeting.
- If the accused is in a correctional facility, any request to view the footage must be facilitated by their legal representative.

4.2 Affected family members

AFMs are permitted to view footage upon request to the informant.

5. Disclosure of DREC footage**5.1 Accused**

- An accused is only permitted to obtain an audio-only copy of the DREC footage and must not be provided with a video copy.
- Members must serve the accused with the audio-only DREC as part of the normal disclosure procedure.
- Where the accused has an email address, the audio-only DREC footage must be served by email with access to a download-only link via evidence.com.
- Where the accused does not have an email address or the accused is in a correctional facility, the audio-only copy must be copied to a DVD or USB and served on the accused using the Proof of Service of Recorded Statement (audio) [Form 1514].
- In accordance with s.387H, *Criminal Procedure Act*, the audio-only DREC footage is provided as a downloadable copy. The footage must not be published, copied, or supplied to another person.
- To ensure the accused is aware of the conditions as described in s.387H, *Criminal Procedure Act*, members must use the pro forma email, refer to Appendix A Pro forma emails for sharing evidence-in-chief in the **DREC Family Violence Operational Guidelines**.

5.2 *Accused's legal representation*

- If the accused has legal representation for criminal proceedings, the video DREC footage must be served on the accused's legal representative by email which provides access to a download-only link via evidence.com.
- If the accused has legal representation for civil proceedings, an audio-only copy of the DREC must be served on the respondent's legal representative by email which provides access to a download only link via evidence.com.
- Where the legal representative does not have an email address the video DREC footage for criminal proceedings and audio-only footage for civil proceedings must be copied to a DVD or USB and served on the accused's legal representative, using Form 1514.
- To ensure the legal representative is aware of the conditions and penalties under the legislation, members must use the pro forma email, refer to Appendix A Pro forma emails for sharing evidence-in-chief of the **DREC Family Violence Operational Guidelines**.

5.3 *Subpoena of DREC footage*

The provision of DREC footage in response to a subpoena is restricted to an audio-only copy, unless otherwise ordered by the court.

5.4 *Affected family members*

- AFMs are permitted to obtain a copy of audio-only DREC on request to the informant. The informant should consider the potential impacts on the AFM, such as the chance of re-victimisation before providing them with a copy. Members should seek advice from a supervisor or a member from a Family Violence Investigation Unit.
- Where the AFM has an email address, the audio-only DREC footage must be provided by email with access to a download only link via evidence.com, using the pro forma email. Refer to Appendix A Pro forma emails for sharing evidence-in-chief of the **DREC Family Violence Operational Guidelines**.

6. Use of DREC footage for court

6.1 *Overview*

- DREC footage is the AFM's evidence-in-chief and is not tendered as an exhibit. The footage can be provided to the court after the hearing via a link to evidence.com.
- AFMs will be required to attend court for contested hearings for the purpose of giving further evidence and to be cross examined unless an exemption or specific considerations apply. For further information, refer to **DREC Family Violence Operational Guidelines**.
- The prosecutor must ensure the DREC footage is available and is responsible for liaising with the court registrar to ensure the technical equipment required is available.
- Where footage is not used as evidence-in-chief but has been admitted into evidence as an exception to the hearsay rule, it must be tendered electronically by providing a link to evidence.com.

6.2 Office of Public Prosecutions

Members must provide the Office of Public Prosecutions (OPP) with a copy of the video DREC footage for all indictable matters prosecuted by the OPP. The footage must be provided on a DVD or USB if the evidence is to be used in the County or Supreme Courts.

6.3 Civil proceedings

The informant must disclose audio-only DREC footage as part of a request for further and better particulars prior to a directions hearing in civil proceedings (similar to a contest mention in criminal proceedings). The informant must provide the court with the audio-only copy on a DVD or USB.

6.4 Coroner's Court

Members must provide the Coroner's Court Registrar with a video copy of DREC footage by email by providing access to a download-only link via evidence.com.

6.5 Transcription

In accordance with s.387H, *Criminal Procedure Act*, members are not required to provide a transcript of footage except where:

- there is a reasonably foreseeable risk that the accused would copy, supply or publish the audio-only DREC footage
- the circumstances of the accused require a transcript for example, if they are hearing impaired
- the matter is to be heard in the County Court or Supreme Court jurisdictions
- the court orders a transcription.

Note: if a transcript is required, members should in the first instance use the automated transcription tool available in DEMS – digital evidence management system – evidence.com before submitting a request to the Transcription Office. For further information on obtaining a transcript, refer to **VPM Interviews and statements**.

Related documents

- VPM Body worn cameras
- VPM Family violence
- VPM Interviews and statements
- VPM Visual Audio Recorded Evidence (VARE)
- VPM Crime attendance – initial action
- CCI 10/17 – Mobile device deployment
- BWC Operational guidelines
- Digitally Recorded Evidence-in-Chief (DREC) Family Violence Operational Guidelines

Further advice and information

For further advice and assistance with this policy, contact the Strategy, Policy and Legislation Unit, Family Violence Command or PBEA STRATEGY-AND-POLICY-FV.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
07/03/2023	New standalone policy replaces CCI 04/20 to support the use of BWC to capture DREC at a family violence incident.	FF-175219
22/07/2025	Amendments to align with the introduction of the automated transcription tool	FF-268664