

On 1 June 2015, the *Criminal Procedure Amendment (Domestic Violence Complainants) Act 2014* (NSW) will come into force. This Act is often referred to as 'Domestic Violence Evidence in Chief' (DVEC).

DVEC will allow Police to take a domestic violence victim's statement by video or audio recording, and use this recording as all or part of the victim's 'evidence in chief', or main evidence. This means that victims will not have to give written statements.

DVEC will only be used for defended hearings relating to criminal charge matters, and Apprehended Domestic Violence Order (ADVO) applications connected to these charge matters.

DVEC is designed to:

- Reduce trauma for victims by decreasing the time spent giving evidence in front of defendants
- Reduce difficulty for victims in remembering details of incidents at a later date in court
- Assist victims to give an accurate account of what happened to the court
- Assist the court to understand the experience and demeanour of the victim at the time of the incident
- Reduce or eliminate intimidation of the victim by the defendant to change their evidence
- Increase the number of early pleas of guilty
- Save time for victims in giving statements.

**Who can give evidence by way of DVEC recording?** Victims against whom a domestic violence offence is alleged to have been committed.

**When must the recording be made?** As soon as practicable after the commission of the offence. This will usually mean at the scene of the incident or when the incident is reported to Police.

**Do police need a victim's consent?** Yes, Police need a victim's informed consent to take their statement by video or audio recording. It is the victim's choice to give a recorded statement or a written statement.

**Do police have to take video or audio recorded statements for all DV offences?** No, police can still take typed or notebook statements. In addition, only police officers who have undergone special training will be allowed to take video or audio recorded statements.

**Do prosecutors need a victim's consent to play the recording at court?** No. Prosecutors must consult victims about whether they want the recording played in court, but

the prosecutor makes the final decision. The prosecutor must consider whether the victim is being intimidated or pressured by the defendant when making the decision.

**Will defendants get a copy of video statements?** No. The legislation is clear that **defendants cannot be given** copies of video statements. Instead, police are only obliged to give defendants an audio extract of video statements.

**Will a defendant's lawyer get a copy of a video statement?** Yes. Police can serve the defendant's solicitor with copies of the video. However, the law makes it an offence for a legal representative – or any other person – to give a copy of the video to the defendant.

**What if a defendant does not have a lawyer?** Police must, as far as is reasonably practicable, provide the unrepresented defendant with an opportunity to view the DVEC video recording at a police station.

**What if additional evidence comes to light?** If Police become aware of additional evidence *after* a victim has given a video or audio statement, the victim will need to give a written statement about the additional evidence.

**Will victims still have to attend court for defended hearings?** Yes. While the recorded statement will form their evidence in chief, victims must still attend court for cross-examination.

[Domestic & Family Violence Team- NSW Police Force](#)