

*Victoria Police*

*Trial of Digitally Recorded*

*Evidence in Chief –*

*Family Violence*

FINAL EVALUATION REPORT

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## 1. Abbreviations

<b>AFM</b>	Affected family member
<b>BWC</b>	Victoria Police issued body-worn camera
<b>CALD</b>	Culturally and Linguistically Diverse
<b>DREC</b>	Digitally recorded evidence-in-chief statement, taken using a Victoria Police issued BWC.
<b>DVEC</b>	Domestic violence Evidence-in-Chief, audio or visual recorded statements taken by the NSW Police Force
<b>IPV</b>	Intimate partner violence
<b>LOTE</b>	Languages other than English
<b>MCV</b>	Magistrates Court Victoria
<b>MGFPVC</b>	Monash Gender and Family Violence Prevention Centre
<b>MUHREC</b>	Monash University Human Research Ethics Committee
<b>NZ</b>	New Zealand
<b>RCFV</b>	Royal Commission into Family Violence (Victoria)
<b>UK</b>	United Kingdom
<b>US</b>	United States
<b>VVS</b>	Victim video statements
<b>VLA</b>	Victoria Legal Aid

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## 4. Executive Summary

### Background:

Victoria's family violence system is in the midst of transformational change driven by the 2016 Royal Commission into Family Violence (RCFV) and the subsequent reform implementation. Twenty-six of the 227 recommendations made by the RCFV are directed toward Victoria Police with recommendation 58 of the RCFV stating that: *Victoria Police should conduct a trial in two divisions of the use of body-worn cameras to collect statements and other evidence from family violence incident scenes [within 12 months]*. In response to recommendation 58 of the RCFV, Victoria Police is conducting a trial of the use of body worn cameras (BWC) to capture the digitally recorded evidence-in-chief (DREC) of victims of family violence. The trial commenced in October 2018 and is taking place in two Divisions, Western Region Division 3 and North-West Metro Division 5, and involves four police stations – one in Epping and three in Ballarat.

In recommending the trial, the RCFV specified that it should be independently evaluated. The Monash Gender and Family Violence Prevention Centre (MGFVPC) has been commissioned by Victoria Police to conduct both a process and outcome evaluation of the Trial of DREC – Family Violence. The trial and corresponding evaluation is one way in which Victoria Police aims to support the implementation of the RCFV's recommendations and is the focus of this final evaluation report.

To enable the trial the Victorian Government passed the *Justice Legislation Amendment (Family Violence Protection and Other Matters) 2018*, which amended the *Criminal Procedure Act 2009* to permit the digital recording of evidence-in-chief from family violence victims and the use of pre-recorded evidence-in-chief in family violence proceedings.

The goals of the trial include:

- To reduce the trauma on victims associated with court appearances and improve victims' experiences of justice processes; and
- To contribute to the more effective and efficient administration of justice in family violence proceedings; and
- To avoid any unintended impacts on all stakeholders including victims and relevant workforces; and
- To lift the administrative burden on front-line police through the use of mobile technology in the field; and
- To better hold perpetrators to account.

This final evaluation report covers the entire period of the trial (3 October 2018 to 2 October 2019). No DREC was played in court during the trial period. One DREC was played in court as part of a contested criminal matter on 10 October 2019 and stakeholder reflections on the playing of that DREC are included in this report. Stakeholder participants, particularly legal and court personnel, considered the playing of a DREC in court an important milestone in understanding the impact of DRECs on victims. They also considered that the playing of a DREC in court would assist in understanding the efficiency and usability of DRECs and the extent to which the playing of DRECs in court may be readily scalable should the use of DRECs be broadened after the trial. Nearly all stakeholders felt that a DREC would only be played in court as part of a contested family violence matter. This is because most criminal matters including family violence criminal matters are finalised by way of guilty plea or intervention order agreement. Similarly, most family violence intervention

order applications are not contested. While no DREC was played in court during the trial, DRECs have been used as part of the process of achieving a guilty plea or agreement in family violence related matters in the courts. There is no data currently available that indicates the extent to which DRECs may have had an impact on plea rates or agreement in intervention order matters.

When stakeholder participants – court personnel, legal practitioners, police members and specialist women’s services – reflected upon what they considered the likely or potential impacts of the DREC trial they were often projecting into the future. These stakeholder views are however important to capture and take into account because they represent specialist opinion and indicate these expert stakeholder attitudes to the trial during the evaluation period. They are also particularly significant in the absence of quantitative data on the impacts of DRECs on family violence matters and the relative lack of stakeholder (other than police), experience of DRECs. Throughout this report it is made clear where stakeholder participants are ‘horizon scanning’ in terms of issues that they believe may arise from the future use of DRECs.

### **Data Limitations and Key Findings**

At the completion of the trial on 2 October 2019, Victoria Police data recorded that 126 DRECs had been taken in the Western Region Division and 40 in the North-West Metro Division. Throughout the trial the use of DRECs in family violence police investigations and related proceedings was lower than relevant stakeholders expected.

Overall, the impact of the DREC Family Violence Trial is hard to judge in the absence of outcomes data from courts, a broader range of victim representatives’ views on victim experience, or direct participation in the evaluation from victims. The evaluation commenced in March 2019, nearly five months after the trial commenced in early October 2018. Given these circumstances collecting base line data was not possible. The absence of baseline data and analysis presented important research and evaluation limitations. Specifically, it was not possible to address the evaluation questions related to the impact of DRECs on the time taken to finalise proceedings for family violence offences and the impact on rates of guilty pleas and convictions. Additionally, the relatively low volume of DRECs taken by police and none being played at court during the trial period (and only one prior to the finalisation of this final report) limits our ability to understand the full impact of DRECs.

In the absence of quantitative measures, the insights, opinions and experiences of stakeholders form the primary evidence base for the final evaluation report. There is limited data available on the impact of the use of DRECs on the administration of justice as few people in the court system had experience of them. Although only one DREC has been played in court at time of writing, the insights of court personnel suggest that audio visual facilities at courts where DRECs are likely to be played in future will need to be upgraded to ensure efficient court processes are not adversely impacted. In addition to this the efficiency of court processes will likely be enhanced by an early notification process for DREC case listings indicating that a DREC is intended to be played in court.

Operational police believed that the temporal proximity to a family violence incident, often in the location where the incident had taken place, that DREC allowed provides powerful evidence of the harm experienced by the victim. They considered that given this DRECs did or would likely assist the prosecution in family violence court processes. Police prosecutors interviewed shared this perspective. The power of DRECs to accurately capture the harm done to victims, both psychological and physical, was also the basis for the finding that those professionals taking and/or viewing DRECs may experience vicarious trauma and the need for workplace support for those at risk of such trauma.



Despite the willingness of the specialist family violence sector to engage with the evaluation, there was very limited knowledge of the trial in the sector and stakeholders in the two trial regions were unable to identify victims with experience of DRECs to contribute to the evaluation. Reflections related to the impact on victims are derived from stakeholder interviews and reflect their perceived impact of DRECs for victims. While a limiting factor, the final evaluation report does point to some perceptions about the impact DRECs *may* have on victims. Notably these perceptions were often contradictory and point to the importance of ongoing research and monitoring of implementation. These perceptions include that DRECs will impact negatively on victim agency or conversely give them 'voice' and that it may or may not reduce the trauma associated with having to repeatedly describe incidents of family violence. There is currently no data available to test these perceptions.

The data provided by operationally focussed police and police prosecutors with direct experience of using DRECs in family violence matters offers valuable insights for future policy and practice. The evaluation revealed a general consensus amongst police interviewed and surveyed that use of DRECs by police in family violence investigations improves frontline responses to family violence. The evidence suggests that the conversational format expedites the statement taking process and builds rapport with family violence complainants. Police participants view these outcomes positively: as giving victims a sense of validation and of being heard. In contrast, the use of DRECs in family violence policing increased the associated station work compared to traditional written or typed statements. At an operational level, the evaluation findings highlight the importance of experiential training and feedback of front line police members. Training quality and the level of collegial support provided significantly shaped police members attitudes to, and use of, DRECs in family violence matters at the two trial locations.

At a strategic level, some teething issues with early versions of the operational guidelines identified in the interim report, (see Appendix E – DREC Family Violence Trial Recommendations, recommendation 5) have been resolved by subsequent versions of the guidelines. It is likely many of these earlier issues related to the guidelines will not arise if the use of DREC is extended to other stations. However, findings revealed a contradiction between Victoria Police family violence training, which focuses on ascertaining patterns and histories of abusive behaviour, and the direction in the guidelines to focus on the current incident. Both police and specialist family violence stakeholders considered this an issue. The findings also reveal a perception amongst police that the length and formality of the preamble that police are required to read to victims prior to gaining consent to take a DREC may be an issue. In addition, it was considered that the processes for taking a DREC is not currently sufficiently inclusive of those from non-English speaking backgrounds.

It was found that awareness of the DREC trial and the procedures surrounding DREC were not high amongst legal stakeholders and specialist family violence services. This is partly explained by the trial being relatively new and the relatively small number of DRECs taken during the trial period. It was considered however, that enhanced communication about DRECs in family violence matters would be beneficial in achieving the goals of the trial and for any broader roll out.

It is difficult to draw any firm conclusions about perpetrators being better held to account or being seen to be better held to account as the result of the use of DRECs. However, it is well established that family violence is a hidden and underreported problem. It is also well established that, linked to this, there has been a tendency to deny or minimise the harm to victims. The use of audiovisual evidence in family violence may limit the opportunity for perpetrators (and others viewing such evidence) to question, diminish or deny the reality and impact of such violence on victims.

None of the stakeholders expressed any views as to whether complainants should continue to be prohibited from publishing their own statements or whether other persons should be permitted to publish a recorded statement with the complainant's consent.

There is clear need to conduct further research, evaluation and monitoring of the use of DRECs in family violence matters. This is needed to further investigate the impact on case outcomes and the experiences of family violence victims.

## 5. Recommendations

### **Recommendation One: Continue the DREC Family Violence Trial**

To improve its operation and with a view to developing a best practice model, it is recommended that the DREC Family Violence Trial continues across its current locations until recommendation 2-11 are implemented. Extending the trial may also allow Victoria Police to better ascertain the firsthand impact of the use of DRECs in family violence matters on victims, perpetrators and case outcomes.

### **Recommendation Two: Victoria Police infrastructure upgrade**

To facilitate the more efficient processing of DREC statements of family violence victims, it is recommended that Victoria Police receives additional funding to upgrade their internal digital infrastructure. This should include a network upgrade to increase bandwidth to better support the efficient use of DRECs in family violence matters, particularly the docking, uploading, categorising and redacting of DRECs.

### **Recommendation Three: Additional resourcing for Victoria Police to address the DREC-associated station work**

It is recommended that Victoria Police receives additional funding to meet the increased human resource time demand associated with the use of DRECs in police family violence investigations. While it seems likely that taking a DREC is time efficient compared to taking a written statement, increased work associated with DRECs, particularly the docking, uploading, categorising and redacting (if required) of DRECs, was reported by frontline police and police prosecutors.

### **Recommendation Four: Enhance police training and practice guidance**

To better support the use of DRECs by operationally focused police members, it is recommended that Victoria Police review its current BWC DREC training and consider the incorporation of experiential learning techniques, such as role plays, simulations, taking mock DRECs and demonstration videos, to better enable the taking of DRECs. Findings indicate that putting in place such training strategies and ensuring adequate resources are allocated would assist police in overcoming any reluctance to take their first DREC.

### **Recommendation Five: Review Victoria Police Body Worn Camera Family Violence Operational Guidelines Version 13**

To better support the use of digitally recorded statements over paper-based statements, it is recommended that the responsible parties review the Victoria Police Body Worn Camera Family Violence Operational Guidelines V13. The formality and length of the current DREC preamble, which reflects legislative requirements, was seen to inhibit the use of digitally recorded statements. Operational police considered that less formality would facilitate victim consent to undertaking a DREC, support police members in taking a DREC and create better rapport with victims. To ensure

alignment with wider police family violence training, it is further recommended that Victoria Police consider broadening the focus of DRECs beyond the present family violence incident. Findings revealed a contradiction between Victoria Police family violence training, which focuses on ascertaining patterns and histories of abusive behaviour, and the direction to focus on the current family violence incident.

**Recommendation Six: Magistrates Court Victoria building improvements**

To facilitate the effective use of DREC statements in family violence proceedings, it is recommended that Magistrates Court Victoria (MCV) receives additional funding to carry out building works at all court locations in Victoria where DRECs are to be used to upgrade current audiovisual systems and better support the screening of DRECs in court.

**Recommendation Seven: Develop an early notification procedure for DREC case listings to assist with court allocation**

It is recommended that Victoria Police in consultation with MCV consider an early notification model for DREC case listings that would alert courts to family violence matters that involve a DREC and whether it is intended to be played in court. This process could draw on the model used by Victoria Police in the brief cover sheets for police prosecutors. Early notice that a DREC is intended to be played in court will enhance current court allocation processes ensuring sufficient hearing time and appropriate facilities to support the screening of DRECs facilitating the efficient administration of justice in family violence proceedings.

**Recommendation Eight: More inclusive approaches to culturally and linguistically diverse victims.**

It is recommended that Victoria Police review the current operational guidelines and consider developing a more inclusive approach to non-English speaking family violence victims. In particular police and specialist family violence stakeholder findings indicate that translated recordings of the DREC preamble in languages other than English that police members could play to victims before filming the DREC would assist in the use of DRECs with non-English speaking family violence complainants.

**Recommendation Nine: An integrated approach to supporting family violence victims**

It is recommended that Victoria Police develop a communication plan in consultation with the current trial regions and relevant court locations to improve awareness of the DREC Family Violence Trial (if continuing) or broader roll-out, among local community, family violence and legal services. It is further recommended that Victoria Police consider holding an interagency forum that includes key stakeholders, such as judicial officers, court personnel, Victoria Legal Aid (VLA) and Community Legal Centre lawyers, specialist family violence services, police prosecutors and frontline police members, to foster collaboration and a shared understanding of the use of DRECs in family violence matters and to advance knowledge about the use and impact of audiovisual evidence on victims in the family violence context. It is expected that greater community, family violence and legal sector awareness of the DREC would enhance the use of DRECs with family violence complainants. In particular specialist women's service stakeholders believed that greater understanding of the trial would be an enabler of use in police investigations and court proceedings.

**Recommendation Ten: Additional resourcing for vicarious trauma support**

It is recommended that VLA and MCV receive additional resourcing to develop and deliver appropriate services to support and debrief those employees who have and might suffer vicarious trauma as a result of viewing DRECs. Victoria Police as frontline workers directly witness victim trauma immediately after a family violence incident, whereas other criminal justice professionals, such as prosecutors and lawyers, typically do not. While Victoria Police already has welfare supports in place, other professional organisations need to ensure that there are processes and supports in place to address increased risk of vicarious trauma as a result of viewing DRECs.

**Recommendation Eleven: Need for ongoing research and evaluation**

It is recommended that Victoria Police, in consultation with MCV, VLA and key stakeholders, conduct further research and evaluation of the use of DRECs in family violence matters to investigate the impact on case outcomes and the experiences of family violence victims. The relatively low numbers of DRECs taken by police and the non-screening of DRECs in court matters during the trial period means it is too early to evaluate the impact of the trial in ways that answer all the review questions. It is further recommended that Victoria Police commission a separate independent review to carry out analysis of quantitative court data including rates of contested hearings, early guilty pleas and convictions to identify what impact DRECs are having on family violence case outcomes for matters that proceed to court.

## 6. Introduction and context

### 6.1 Trial background

In 2015 the Royal Commission into Family Violence (RCFV) was tasked with reviewing the State's family violence system and identifying best practice in family violence prevention and response. The RCFV's final report was handed down in 2016 and included 227 recommendations. The Victorian Government is committed to implementing these recommendations in full and Victoria Police is a key player in the Government's plan to end family violence.

Twenty-six of the RCFV's recommendations are directed toward Victoria Police. Recommendation 58 of the RCFV states that:

*Victoria Police conduct a trial in two divisions of the use of body-worn cameras to collect statements and other evidence from family violence incident scenes [within 12 months]. The trial should be supported by any necessary legislative amendments to ensure the admissibility of evidence collected in criminal and civil proceedings. It should also be subject to a legislative sunset period, evaluation and the use of any evidence only with the victim's consent.*

In recommending the trial, the RCFV identified several issues to be addressed by an independent evaluation of the trial. These include:

1. Any unintended consequences for victims
2. Impacts on relevant agencies
3. Impacts on the administration of justice broadly.

The Trial of DREC - Family Violence by Victoria Police commenced in early October 2018 and continued for 12 months. The trial took place in two Divisions, Western Region Division 3 and North-West Metro Division 5, and involves four police stations – one in Epping and three in Ballarat. The Family Violence Investigation Units in the two divisions were also part of the trial. All police members across the four police stations (c. 150) are currently trained to take a DREC.

### 6.2 Trial Governance

The delivery of recommendation 58 was conducted in two parts – the general deployment of body worn cameras (including training on the use of the devices and supporting policies and guidance for police members) and the trial of recorded evidence in chief in family violence matters using the body worn camera devices (including additional training and supporting policies and guidance for trial locations only).

The location of the trial sites (Ballarat and Epping) was agreed as part of finalising the legislation and was based on existing experience of these locations following the deployment of the body worn camera in early 2018. To ensure the trial captured as many family violence operational responses as practical, Victoria Police determined that the trial should involve both frontline members providing the initial incident response and investigators from the specialist Family Violence Investigation Unit.

The trial required legislative change to enable the use of digitally recorded statements as evidence in chief in family violence matters. The Department of Justice and Community Safety engaged with key stakeholders across relevant government departments and partner agencies, such as VLA in the development of the legislation. The legislative change provided for a time-limited trial (i.e. within a

three-year period), specified exclusions to the trial (i.e. people perceived to have a cognitive impairment and those aged under 18 years) and disclosure requirements, incorporated the recorded statements within existing court processes and outlined the parameters of the independent evaluation. The legislation was enacted on 23 August 2018.

The operation of the trial was developed by Victoria Police, in consultation with the Department of Justice and Community Safety, Magistrates' Court of Victoria, Corrections Victoria and VLA. This involved developing processes for police to: obtain victim consent; interview the victim while recording the statement; to disclose the recording to the perpetrator and to the victim in specified circumstances; and to include it as part of the brief of evidence. It also involved working through the processes for providing access to the recorded statements at court, including to a duty lawyer where required, and to be played in court as evidence. Based on these process discussions, material was developed for police members participating in the trial, including a Chief Commissioner's Instruction (i.e. the formal organisational policy and guidelines statement), operational guidance and a training package that must be completed before a police member can take digitally recorded evidence-in-chief from a victim of family violence.

In developing the policies and processes to support the trial consideration was given to minimising any unintended consequences and further harm or distress to the victim should the recording be required to be played in court. Victim consent to the recorded evidence-in-chief is a central element of the legislation and addressed through a scripted preamble which the police member must refer to at a family violence incident. The Chief Commissioner's Instruction developed to support the operationalisation of the trial outlines a number of principles of use to ensure the wellbeing of victims of family violence remains a key focus for police members attending a family violence incident (see Appendix A).

The potential impact on legal practitioners was also a key consideration in the project design, with consultation undertaken with a number of stakeholders including the Victorian Bar, the Law Institute of Victoria, VLA and Victoria Police Prosecutions Division.

To coincide with the commencement of the DREC Family Violence Trial, Victoria Police and the Department of Justice and Community Safety held information sessions at both Ballarat and Heidelberg Magistrates' Courts for court staff, legal practitioners and family violence support services to explain the process of taking a DREC and how it will be used in the court process. Publicly available factsheets for courts staff, legal practitioners and support services were released to provide an overview of the trial and contact details for further information. Over the first nine months Victoria Police presented on the trial at a number of information sessions organised by the Magistrates' Court of Victoria and the family violence sector, including the Australian Association of Social Workers Family Violence Practice Group.

The implementation of the trial was overseen by the Victoria Police Royal Commissions Steering Committee chaired by the Deputy Commissioner, Regional Operations. System oversight is provided by the Body Worn Camera Reference Group chaired by the Deputy Secretary, Police, Fines and Crime Prevention, and comprising senior representatives from Victoria Police (Family Violence Command and Prosecutions Division); Magistrates', County and Supreme Courts; Office of Public Prosecutions, VLA; and Department of Justice and Community Safety. The standing agenda items for this monthly meeting included updates on the trial outcomes to date, discussion of the impacts on participating agencies, consideration of vicarious trauma risk management and updates on the progress of the evaluation.

Operationally a working group comprising representatives from Victoria Police, court staff from Ballarat and Heidelberg Magistrates' Court and VLA was convened every three weeks to discuss and resolve any implementation challenges arising from the trial.

## 6.3 Key stakeholders

Key stakeholders in the operationalisation of the trial include:

- Victoria Police;
- Courts;
- Victoria Legal Aid;
- Family violence victims; and
- Specialist family violence services.

Each of these groups, with the significant and regrettable exception of victims, has been surveyed or interviewed as part of the data gathering for the final report.

## 6.4 State of Knowledge

The evidence base for the effectiveness of using recorded evidence in family violence proceedings is still in its infancy. There is little research to draw on and the research that is available does not always draw a clear distinction between BWC as a medium for taking statements and DRECs for family violence matters. Previous research and literature have not clearly addressed justice professionals and community experiences of digitally recorded evidence-in-chief in family violence cases. This scoping review draws together findings from existing research and literature to map current knowledge of the collection and use of video-recorded evidence in the context of family violence. It identifies gaps in the current knowledge base to inform future policy development. Due to the emerging nature of this police practice, the review draws on both academic and grey literature including existing police agency evaluations. The review begins by examining the use of audio-visual evidence in family violence cases. It then outlines existing evidence on police and victim attitudes to, and experiences of, digitally recorded victim statements in the context of family violence. The review ends with a discussion of the impact of digitally recorded evidence on justice processes and related privacy and confidentiality issues identified in earlier police BWC trials. In our discussion, we identify promising practice and discuss current practice issues that are linked to wider debates about police discretion, privacy and confidentiality.

### 6.4.1 Audio-visual evidence and family violence cases

Previous research and literature on the use of video as a medium for presenting evidence has mixed results. A UK study by Ellison and Munro (2014) found no clear relationship between mock juries' deliberations in rape trials and the mode used to give complainant evidence. Work by Landström, Ask and Sommar (2015) revealed that male assault complainants were perceived as more truthful when communicating live compared to via video. Their study explored how the emotionality of a victim's demeanour affects perceived credibility by having 81 Swedish law students view and assess the credibility of a male assault complainant who appeared live or via video (Landström et al., 2015). Participants were assigned to assess one of four conditions: complainant demeanour: neutral or emotional and presentation mode: live or video, and assessed the complainant's credibility using a 7-point Likert scale (1 = not at all, 7 = very much) (Landström et al., 2015). The results revealed that the mode of presentation, that is whether the complainants gave evidence live or via video recording, rather than the emotionality of the victim affected students' assessments of credibility

(Landström et al., 2015). The complainants were perceived as significantly more credible when they gave evidence live than via a video recording.

Similar findings regarding the perceived credibility of video evidence were made in a New Zealand mixed-methods study by Westera, Kebbell and Milne (2013a) that explored prosecutors' perceptions of using video-recorded investigative interviews of adult rape complainants as evidence in court. Thirty New Zealand Crown prosecutors completed a questionnaire which asked them to rate the accuracy of information, the credibility of the complainant, the likelihood of the alleged offender's guilt and the realism of the scenario using a 9-point Likert scale as well as provide open-ended responses to questions about the advantages and disadvantages of using victim video statements as evidence-in-chief. Aligning with Landström et al.'s (2015) findings, nine participants felt that recorded video evidence was less impactful than live testimony (Westera et al., 2013a). Other reported disadvantages of victim video statements (VVS) centred on poor interview practices, such as illogical question sequencing, rambling by the complainant, empathy expressed by the interviewer, and the inclusion of irrelevant and inadmissible details (Westera et al., 2013a). Advantages of video recordings identified by participants include increased accuracy, detail, completeness and certainty about the evidence the complainant would give.

The adverse effects of the use of visual evidence in domestic violence cases has also been noted by Moore and Singh (2018). These Canadian researchers critically analysed the use of visual evidence in 'victimless' prosecutions of domestic violence cases where videotaped statements of victims detailing their assaults immediately following the incident are used as evidence-in-chief in lieu of the victim speaking for themselves at trial. While intended to prevent victim retraumatisation and recanting of statements, Moore and Singh (2018) argue that visual evidence, such as VVS, tends to silence victims and removes their agency in the prosecutions of their assaults. They conclude that visual evidence creates a second victim, the 'double data', which often stands in conflict with the physical victim and whose account is given deference by the criminal justice system inhibiting the victim's ability to direct the course of their case (Moore & Singh, 2018). Concerns about the state pursuing prosecutions using VVS regardless of victim's expressed wishes and the implications for their sense of agency have also been raised by Hanna (1996) and Mills (1999).

In contrast, American research by Morrow and colleagues (2016) lends support for the use of BWCs in domestic violence cases indicating that police, prosecutors, judges and jurors may view BWC footage as superior to other forms of evidence. Based on a pre- and post-test comparison group study of IPV-case outcomes for officers deployed with and without cameras, they found that arrests, charges filed, cases furthered and guilty verdicts decreased substantially post-test for domestic violence incidents attended by police officers who did not wear BWCs (Morrow et al., 2016). These findings may represent a possible "tech effect" (Shelton, Barak, & Kim, 2011). Shelton, Barak and Kim (2011) attribute jurors increased expectations of, and demands for, scientific evidence to greater public awareness of and familiarity with modern technology together with increased awareness of the availability of that technology, primarily through mass media. While studies on the tech or 'CSI effect' on jurors' expectations and decision-making are not conclusive, they do indicate that technology and mass media are two key social forces that influence juror behaviour.

Likewise, qualitative research by Westera, Kebbell and Milne (2013b) suggests that video recorded statements provided greater information to decision-makers in the justice system. They compared 10 New Zealand female rape complainants' police video recorded interview transcripts with the court transcripts of their live testimony and found that on average two out of three details provided in the police video recorded interviews describing what happened during the alleged sexual or violence offending and the related *mens rea* were omitted from the live evidence-in-chief (Westera



et al., 2013b). These findings suggest that video evidence could provide jurors and judges with a more complete account of events. The following discussion explores police and victim perspectives on the use of BWC in policing.

### 6.4.2 Police Perspectives

Police perspectives on recorded evidence and more broadly on BWCs are varied. Some studies indicate that police officers have positive perceptions of BWCs (Jennings, Lynch, & Fridell, 2015; Ready & Young, 2015). Other research indicates that police officers are less supportive of the use of surveillance technologies in policing and are concerned that BWC footage will be used against them (Gaub, Choate, Todak, Katz, & White, 2016; Katz, Choate, Ready, & Nuño, 2015). A large UK trial of police BWCs revealed divergent police responses to BWCs within the same force. Owens and colleagues (2014) conducted a randomised controlled trial of a BWC pilot in Essex, England that compared 70 police officers assigned to wear BWCs with 238 officers not wearing BWCs as a control (Owens et al., 2014). Over the four-month trial period, 308 officers attended 7,609 domestic abuse incidents and 36% of these were attended by at least one officer wearing a BWC (Owens et al., 2014).

A subset of the intervention group involved in the Essex study were interviewed to gauge officers' perception of using VVS in domestic violence cases (Owens et al., 2014). Many of the 15 officers interviewed highlighted the benefits of VVS over traditional evidence gathering techniques, particularly in regards to capturing the contextual situation as well as victim injuries and emotion (Owens et al., 2014). Some officers interviewed flagged concerns about cameras, informed consent and pro-arrest policies explaining they felt uncomfortable pursuing prosecutions against victim's wishes (Owens et al., 2014). Others felt cameras would increase evidence led prosecutions and reduce the need for victim involvement in court proceedings (Owens et al., 2014). Several officers interviewed mentioned that BWCs increased accountability and prompted a proactive approach to domestic violence incidents with officers more likely to arrest to avoid potential criticism from colleagues or other justice professionals viewing the footage (Owens et al., 2014). Similar findings about risk aversion and police self-regulation in relation to BWCs were identified in an American study by Ready and Young (2015). Based on an evaluation of an on-officer video camera system trialled by the Mesa Police Department in Arizona between 2012 and 2013, they found officers wearing cameras became more self-aware and risk averse (Ready & Young, 2015). When comparing the 50 officers deployed with cameras to the 50 officers not assigned cameras, officers equipped with cameras conducted significantly less stop-and-frisks and made fewer arrests than officers without cameras (Ready & Young, 2015). Officers deployed with cameras were also more likely to issue citations for ordinance violations (Ready & Young, 2015). Ready and Young (2015) suggest that cameras led to greater critical reflection among officers as on-officer video evidence created the potential for greater scrutiny over adherence to law enforcement and criminal procedures. Together these studies indicate that BWCs have a moderating effect on police behaviour with officers seeking to avoid claims of abuse of power and neglect of duty. While it is not possible to draw conclusive insights based on these small-scale studies, these officers' concerns about informed consent and the reported risk aversion effect of BWCs on police responses to domestic violence incidents provide valuable insights for future policy and practice. Further research into these issues is required.

### 6.4.3 Victim Perspectives

The impact of video recorded evidence on family violence victims is largely unknown and very few studies examine victim perspectives (Crow, Snyder, Crichlow, & Smykla, 2017; Katz et al., 2015). There is some stakeholder evidence to suggest that the use of audio-visual recordings in police investigations may reduce the retraction of statements or withdrawal of support by victims for

prosecutions (Ellison, 2002). However, victims' reasons for withdrawing or retracting statements are complex and it is unclear what role VVS play in the decision-making process (Hoyle & Sanders, 2000). As discussed earlier, some Canadian research indicates that pre-recorded evidence-in-chief reduces victims' agency in the prosecution of their assaults (Moore & Singh, 2018). The absence of victims' voices in police BWC research, particularly in regards to police family violence responses, is a significant knowledge gap and work in this area is long overdue. Including the views of victims as part of the evaluation of the Victoria Police trial of DRECs in family violence matters will go some way to addressing this gap. This dearth of empirical evidence is mirrored in regards to police custody detainees' perceptions of recorded evidence and research into the experiences of both groups' is required (Gannoni, Willis, Taylor, & Lee, 2017; Lee, Taylor, & Willis, 2019; Taylor, Lee, Willis, & Gannoni, 2017).

#### 6.4.4 Impact on Justice Processes and Outcomes

The existing research evidence on the effects of recorded evidence on justice outcomes is limited and has produced mixed results. Researchers have sought to measure the impact of digitally recorded evidence through a range of indicators including reduced rates of citizen complaints against police, increased rates of early guilty pleas and improved public perceptions of police accountability (Ellis, Jenkins, & Smith, 2015; Katz et al., 2015; Walton, Brooks, & Li, 2018). In the context of family violence, emerging evidence suggests that audio-visual evidence may reduce pressure on justice systems by increasing early guilty pleas, arrests, prosecutions and convictions. For example, a New Zealand study by Walton, Brooks & Li (2018) that compared the impact of VVS (n=168) with written statements (n=108) on the rate of early guilty pleas in family violence cases found that VVS significantly increased the odds of making a guilty plea. Based on a 2017-2018 VVS trial conducted by NZ Police in South Auckland, this study showed that 44% of cases involving VVS resulted in an early guilty plea compared to only 30 percent of cases with a written victim statement (Walton et al., 2018). When taking into account the seriousness of the offence and the type of remand, VVS increased the odds of a guilty plea by 77 percent (Walton et al., 2018).

Similarly, an American evaluation of a police BWC trial showed improved intimate partner violence (IPV) criminal justice process case outcomes. Morrow and colleagues (2016) compared pre- and post-IPV case outcomes of officers deployed with cameras in one squad area (area 82) to officers without cameras in another squad area (area 81). The two squad areas were in the same precinct and geographically similar. Despite slight variation in population size (71,676 in area 81 compared to 56,630 in area 82), the two squad areas had comparable call rates for violent offences, property offences and IPV cases (Morrow et al., 2016). This study found that IPV incidents attended by officers deployed with cameras were more likely to result in an arrest (40.9% vs. 34.3%), have charges filed (37.7% vs. 26%), have cases furthered (12.7% vs. 6.2%), result in a guilty plea (4.4% vs. 1.2%) and result in a guilty verdict at trial (4.4% vs. 0.9%) (Morrow et al., 2016). Likewise, trials of police BWCs in the United Kingdom provide some evidence to suggest that BWCs improve IPV criminal justice process case outcomes (Ellis et al., 2015; Owens et al., 2014). However, the findings are limited by methodological weaknesses. Comparison group studies by Ellis et al. (2015) and Owens et al. (2014) were unable to confirm whether police officers in the intervention groups activated cameras at every IPV incident attended and if footage was used in later stages of the criminal justice process. Whilst overall these studies indicate that police use of BWC may improve family violence criminal justice process case outcomes, it is unclear whether the employment of BWC by police expedites criminal justice processes. Some research undertaken in Arizona indicates that the use of video recorded evidence increases delays in the criminal justice system due to the lengthy interview recording, downloading and uploading processes, and logistical issues relating to the digital chain of custody (Katz et al., 2015).

Several international studies suggest that filming police interviews with domestic and sexual violence victims facilitates the provision of more accurate and complete victim statements (Kebbell & Westera, 2011; Westera, Kebbell, & Milne, 2016; Yeong & Poynton, 2017). Kebbell and Westera (2011; 2016) contend that video recorded victim statements have greater accuracy because they are recorded as close to the time of the initial incident as possible and in a less pressured environment than court, minimising threats to memory recall. In turn, Morrow and others (2016) argue that the detailed and accurate accounts provided by video recorded victim statements improve the likelihood of prosecutors going ahead with family violence cases because they increase the chances of a conviction.

Notably, many studies highlight that the quality of pre-recorded evidence depends on the skills of the police interviewer (Kebbell & Westera, 2011; Morrow et al., 2016; Westera et al., 2013b; Westera, Powell, & Milne, 2017). The most significant impact of law enforcement's use of this technology on justice processes is the transformation of the police roles in family violence incidents. The use of BWCs to record evidence-in-chief shifts the role of eliciting 'facts' from victims from lawyers at trial to police attending family violence incident reports (Kebbell & Westera, 2011). This changed role places the burden on police to obtain the best available evidence at the time of their initial attendance. It has been suggested that this requires police to build on their skills in relation to taking traditional paper based statements in order to produce quality video victim statements. It is argued that the deployment of BWCs requires a significant investment in police education and it is unclear whether law enforcement education is keeping pace with the uptake of this technology (White, 2014). Adding to this potential capability deficit, device quality has also been shown to influence video recorded evidence, particularly in terms of ease of use and recording quality (Owens et al., 2014).

The use of pre-recorded evidence in Australia has been limited to matters involving sexual assault victims, children and complainants who are cognitively impaired. However, in 2015 NSW became the first Australian jurisdiction to allow pre-recorded evidence in domestic violence cases. A quantitative evaluation of court outcome data for domestic violence assaults by Yeong and Poynton (2017) found that pre-recorded evidence had no statistically significant impact on the probability of a guilty plea or the time taken to finalise matters that result in a guilty plea. Drawing on court outcome data from the NSW Bureau of Crime Statistics and Research's Reoffending Database (ROD) and DVEC data from the NSW Police Force's Computerised Operational Policing System (COPS), they also found limited evidence to indicate that the presence of a Domestic Violence Evidence-in-Chief (DVEC) increased the probability of a conviction by about two percentage points. It should be noted that several potential variables that may have impacted on court outcomes were not examined including the quality of evidence that was collected in DVEC statements and whether the presence of a DVEC induced police to proceed with prosecution where evidence would not usually be considered sufficient to do so. Furthermore, Yeong and Poynton (2017) note that an underlying assumption of the 2015 NSW DVEC reforms was that the presence of a DVEC would increase victims' willingness to proceed with criminal charges and reduce the trauma associated with court appearances. The law reforms require victim to be available for cross-examination where DVECs are used in criminal proceedings. The validity then of the assumption that DVEC will reduce trauma related to giving evidence is unclear.

Other research on the potential benefits of BWC for general operations has explored whether these devices make police more accountable. There is conflicting evidence regarding the impact of BWCs on police use of force (Henstock & Ariel, 2017; Koslicki, Makin, & Willit, 2019). Multiple studies in New Zealand by the one research group have found evidence to suggest that BWCs variously

decrease, sustain and even increase police use of force (Ariel, 2016; Ariel, Farrar, & Sutherland, 2015; Ariel et al., 2016). Recent US work by Koslicki, Makin and Willit (2019) indicates that BWCs may have only a short-term moderating effect on police behaviour with use of force rates declining following initial implementation and returning to pre-implementation levels as BWCs become normalised through everyday day use.

Broader work on police BWCs suggests that BWC footage is not a panacea to strengthening police accountability and transparency in police-community interactions. A recent US study by Jones, Crozier and Strange (2017) showed that people do not view BWC footage objectively and individuals' pre-existing attitudes shape their judgement of police recorded events. In this study participants learned about an outcome of a police-citizen interaction, read the officer's report and viewed the BWC footage. The information participants were given and the order in which the evidence was presented were manipulated by the researchers (Jones et al., 2017). In terms of the incident outcome, some participants were told that the civilian was arrested, and the officer was fired and charged with aggravated assault (n=200) (Jones et al., 2017). Other participants were simply told that the civilian was arrested (n=208) (Jones et al., 2017). For the sources of evidence conditions, *report* participants read about the incident in the officer's report (n=103), *video* participants viewed the BWC incident footage (n=100) and the other two groups received both the report and video but the order in which these were presented were switched for each group (video + report condition, n=99; report + video condition, n=106) (Jones et al., 2017). The police officer's report purposefully contained misleading information claiming that the civilian struck the officer and was carrying a knife – neither of these claims were depicted in the BWC footage (Jones et al., 2017). The authors' found that participants' attitudes toward police predicted their reliance on misinformation to explain the recorded encounter (Jones et al., 2017). While participants who viewed both sources of evidence relied less on misinformation than the participants who only received the police officer's misleading report, viewing the BWC footage did not eliminate the effects of misinformation (Jones et al., 2017). Some participants who viewed the BWC footage were still misled by the officer's report and claimed the civilian had a knife and struck the officer (Jones et al., 2017). These findings suggest that BWC footage does not eliminate bias in people's judgements of police encounters. The following section discusses a number of privacy issues pertinent to the use of surveillance technologies in policing.

#### 6.4.5 Privacy and Confidentiality Issues

Recording witness statements raises a number of privacy concerns including consent to record, use of footage, data destruction and police discretion. Qualitative interviews with police involved in a BWC pilot in Essex, England by Owens and colleagues (2014) revealed conflicting police opinions on consent procedures for BWC use. American jurisdictions have a varied approach to consent (Miller, Toliver, & Forum., 2014). Some US states operate on a 'two-party consent' system where officers using BWCs are legally required to inform citizens when they are recording and to obtain a person's consent to record (Mateescu, Rosenblat, & Body, 2015; Miller et al., 2014). Other US states employ a 'one-party' approach where police are not required to inform people they are recording (Mateescu et al., 2015; Miller et al., 2014). To date, Australian jurisdictions have largely waived consent requirements (Department of Police, Fire and Emergency Management (Tasmanian Government), n.d.; NSW Police Force, n.d.; Queensland Police, 2018). In Tasmania officers may continue to overtly record incidents when consent is denied (Department of Police, Fire and Emergency Management (Tasmanian Government), n.d.). However, police must seek permission to record victim statements (Department of Police, Fire and Emergency Management (Tasmanian Government), n.d.).

There are ongoing ethical debates about police use of surveillance technology, such as BWCs, particularly in regards to vulnerable populations (Adams & Mastracci, 2017; Taylor, 2010, 2016).

While some commenters claim BWCs increase transparency within policing, others flag concerns about inappropriate use in the absence of well-considered regulation (Adams & Mastracci, 2017; Mateescu et al., 2015; Murphy, 2015). A key concern is managing access to, and the distribution of, BWC footage (Adams & Mastracci, 2017; Murphy, 2015). Footage filmed on BWCs tends to be stored on small local hard drives and uploaded to centralised cloud-base storage databases (Gannoni et al., 2017; Morrow et al., 2016). The retention period for BWC footage varies by jurisdiction and to date individuals' proprietary rights to third-party footage is largely unknown (Adams & Mastracci, 2017; Murphy, 2015).

#### 6.4.6 Summary – Recorded Evidence and Family Violence Matters

There is an emerging evidence-base for the effectiveness of using pre-recorded evidence in family violence proceedings. While there has been a growing number of randomised controlled trials on police use of BWC, research findings are limited by methodological flaws in the randomisation process and small sample sizes that reduce the reliability of statistical of results and restrict causal inferences.

Although many Australian and international jurisdictions have trialled police BWCs, existing research and literature narrowly centres on police use of force and civilian complaints. This review highlights the paucity of evidence on the use of pre-recorded evidence in family violence matters. Where the research literature has explored the use of pre-recorded evidence and incidents of violence against women, it is primarily focused on rape. The evidence base for the use of recorded victim evidence in family violence cases is underdeveloped and the views of victims and detainees are unknown. Moreover, the research indicates that acquiring the technology may not be sufficient to achieve the improvements promised by surveillance technologies and digitally recorded evidence. It appears that it is also necessary to focus on developing police capability to work effectively with these technologies that significantly change the role of police when interviewing family violence victims. Besides changing the medium by which police take a statement DRECs are taken typically taken in a different place than paper statements, in a private residence, at a different time, immediately after a family violence incident, in a different legal context, requiring formal consent, and for a different purpose, as evidence-in-chief. In terms of police and justice outcomes, current studies indicate that the use of pre-recorded victim statements potentially provides decision-makers in the justice system with access to higher quality information than written statements and shows promise in improving family violence case outcomes.

### 6.5 Review framework

#### 6.5.1 Review purpose

The Monash Gender and Family Violence Prevention Centre was commissioned to conduct an evaluation of the DREC Family Violence Trial by Victoria Police. The evaluation was intended to satisfy the legislative requirements in s 387O of the *Criminal Procedure Act 2009* (New Division 7B in Part 8.2).

The evaluation was subject to the requirements of s 387O of the *Criminal Procedure Act 2009* (New Division 7B in Part 8.2). The legislation provides that the review of recorded evidence-in-chief of complainants in family violence proceedings must consider:

(2) (a) the impact of the operation of the Division* on the time taken to finalise proceedings for family violence offences, including the impact on the rate of guilty pleas and convictions;
(b) the use of recorded statements in proceedings for family violence intervention orders, including the frequency of use and the outcome of proceedings in which they are used;
(c) the impact of the operation of the Division on police prosecutors, legal service providers and the courts, including the role of transcripts in the preparation and conduct of proceedings;
(d) the impact of the operation of the Division on the experience of complainants during proceedings for family violence offences and for family violence intervention orders;
(e) any other matters that indicate whether the operation of the Division has led to the more efficient administration of justice.
(3) (a) whether complainants should continue to be prohibited from publishing their own statements.
(b) whether other persons should be permitted to publish a recorded statement with the complainant's consent.

\*in this context, 'the Division' can be understood to mean digitally recorded evidence in chief.

Note section 387O (4) of Part 8 of the *Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018* (New Division 7B) requires that: 'the Chief Commissioner of Police must give a written report on the outcome of the review to the Minister before the 3<sup>rd</sup> Anniversary of the commencement of this Division'. Part 8 came into effect on 3 October 2018, accordingly the deadline for the Chief Commissioner's report to the Minister is 3 October 2021.

The successful delivery of the project will meet the legislative requirement in s 387O of the Criminal Procedure Act 2009 for an evaluation. It will also take into account the context and rationale for the trial as set out by the RCFV. The evaluation assists to ensure that the use of digitally recorded evidence in chief (DREC) will improve the experience for victims, contribute to the more effective and efficient administration of justice in family violence proceedings and avoid adverse impacts on all stakeholders, including victims and relevant workforces. It will inform the future use of DRECs by Victoria Police beyond the trial period.

### 6.5.2 Key review questions

This evaluation includes a process, and outcome evaluation. The process evaluation questions were as follows:

1. What are the barriers and enablers to the effective use of digitally recorded evidence-in-chief statements of family violence victims?
2. How many digitally recorded evidence-in-chief statements have been taken from family violence victims?
3. What are the barriers and enablers to the effective use of digitally recorded evidence-in-chief statements of family violence victim in family violence proceedings?
4. What is the extent of use of digitally recorded evidence-in-chief statements of family violence victims in family violence proceedings?

These evaluation questions encompass the issues for consideration under s (2) (b) of the Legislative requirements set out above.

The outcome evaluation questions were as follows:

1. What are the impacts of digitally recorded evidence-in-chief statements of family violence victims:
  - a. On the efficient and effective administration of justice in family violence proceedings?
  - b. On relevant workforces and stakeholder including police, the courts, the Office of Public Prosecutions, and legal practitioners (including Victoria Legal Aid)?
  - c. On victims?
  - d. On public confidence, including confidence that family violence perpetrators will be held to account?
2. Are there any other impacts, including unintended consequences, from the use of digitally recorded evidence-in-chief statements of family violence victims including from the use of such evidence in family violence proceedings?

These outcome evaluation questions encompass the issues for consideration under s (2) (a), (c), (d), and (e) of the legislative requirements set out above.

The issues for consideration under s (3) (a) and (b) of the legislative requirements cannot be categorised as either process or outcome issues, but will be considered in the course of the evaluation as matters to be explored with relevant stakeholders.

### 6.5.3 Scope

Overall the evaluation aimed to provide clarity on the process of implementation of DRECs and the impact of DRECs on family violence proceedings and case outcomes, on relevant workforces, victim experiences, and any public confidence issues in the use of DRECs.

The evaluation was limited to the use of DRECs by police in family violence investigations and the use of DRECs in family violence proceedings. It did not extend to the collection of secondary evidence through the general duties use of BWC. The evaluation did not extend to an evaluation of the general use of BWCs by police for all operational purposes. An evaluation of the use of BWCs for general duties is being undertaken separately in a project led by Victoria Police's BlueConnect program. The DREC family violence evaluation considered the impact and appropriateness of relevant legislation but did not extend to a comprehensive review of that legislation.

## 7. Design, method and data

### 7.1 Review design

This evaluation captured the progress and learnings from the initial implementation, and provided an understanding of the uptake and efficiency of DREC in the family violence context. It also focused on the outcomes of the project in terms of effectiveness of DREC in meeting the goals of the trial. The evaluation considered:

- The effectiveness of digitally record evidence-in-chief statements of family violence victims; and
- The impact of the use of DRECs on victims, police, the courts, prosecutors, legal practitioners (including VLA) and more broadly on the administration of justice.

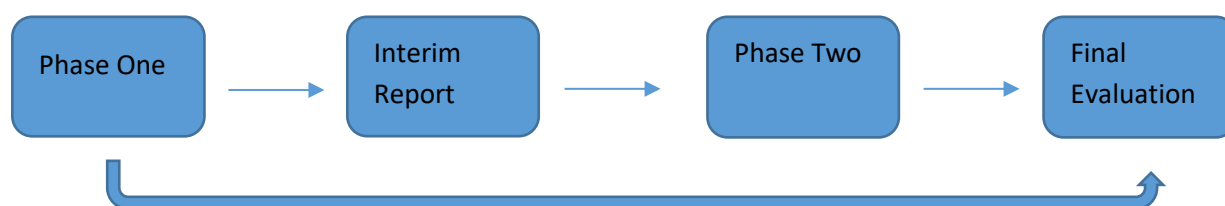


The evaluation was informed by a national and international best practice review of police BWCs, digitally recorded evidence and family violence which included scholarly and 'grey literature'. This best practice review is included under the heading 'state of knowledge' above.

## 7.2 Review method

The process and outcome evaluation used a mixed method two phase approach. Phase 1 broadly focused on issues related to use and implementation of DREC for family violence and informed the interim report (See Appendix E for a list of recommendations and police response to those recommendation in the Interim Report). Phase 2 was intended to be more broadly focused on issues related to impacts and outcomes and to form the basis of the final report. Issues related to implementation were expected to be more acute during the early stage of the trial and evaluation (Phase 1) and the outcomes of the trial were hoped to be more obvious in the later stages of the trial and evaluation (Phase 2). Issues related to implementation and outcome are both covered in this final report. As discussed at 7.8, there is limited data on which to base an assessment of the trial's outcomes due to the lower than anticipated use of DREC during the trial, the relatively low participation rates of stakeholders other than police, the non-participation of victims, the duration of the trial and the commencement of the evaluation nearly five months after the trial commenced.

Figure 1: Evaluation phases



The phasing of the evaluation aimed to ensure that iterative learnings from the project improved the implementation by identifying barriers to effective use of DREC in family violence investigations and family violence proceedings. Phase 1 of the evaluation provided the evaluation with some iterative indicators on the progress of the implementation.

The broad approach to answering the evaluation questions was to gather information on the implementation and impacts of DREC in a family violence context through interviews and surveys. Such methods were supplemented by document review and analysis and data analysis, where data was available. Significantly there was no court or other data available to conclude whether and to what extent DRECs might be impacting on justice outcomes. The available data however did producing insights relevant to the implementation and to a lesser extent the potential or anticipated impact of DREC on family violence related proceedings, court administration, relevant workforces and victim experiences.

The interviews and surveys targeted police officers at the four police stations involved in the DREC family violence trial as well as key stakeholders including court personnel, and legal practitioners (including VLA practitioners). The participation of victims and/or family violence specialist services was also sought through interviews. However, despite the exploration of multiple pathways and engagement with specialist family violence service providers it proved impossible to recruit victims as participants. Project related documents and data related to DREC were also collated and



analysed. The documents and data were sourced from Victoria Police (and other participating agencies where relevant).

The evaluation was divided into two phases:

- Phase 1: Monash ethics approval processes, development of research instruments, recruitment of participants, data collection and analysis - March 2019 to July 2019.
- Phase 2 Monash evaluation data collection and analysis - August 2019 to December 2019.

This final report focuses on the full period of the trial (i.e. from 3 October 2018 to 2 October 2019). It also includes a reflection on the first and at time of writing only DREC played in court on 10 October 2019.

A mixed method approach involving document review and analysis, project data analysis, surveys and interviews were used in order to evaluate the DREC family violence trial. The qualitative component (interviews) allowed depth and detail to explore key issues while the quantitative data including project data and surveys provided broader data on police collection and use of DRECs and the barriers and enablers to police use of DREC and to a limited extent the impacts of these in family violence proceedings.

## 7.3 Participants and data sources

*Table 1: Participant Recruitment*

Cohort	Recruitment Process
Operationally-focused police	Victoria Police, snowball and purposive sampling
Court Personnel	Snowball and purposive sampling
Legal practitioners	Snowball and purposive sampling
Specialist family violence services	Snowball and purposive sampling
Family violence victims	Snowball and purposive sampling

## 7.4 Data collection

Several data collection and analysis processes occurred throughout the evaluation. These data collections and analysis covered two phases: initial implementation (0-6 months into the trial May – July 2019), and project outcomes (c. 12-months October 2018 – December 2019).

Data collection instruments fall under the following categories:

- Interviews and surveys
- Project Data
- Project Documents
- Observations

Table 2: Data Collection

Cohort	Data collection instrument
Operationally-focused police	Interviews and Survey (see Appendix A)
Court Personnel	Interviews
Legal practitioners	Interviews
Specialist family violence services	Interviews
Family violence victims	Interviews and survey (see Appendix B)

## 7.5 Data analysis

The police survey data has been analysed to understand the extent of a relevant theme. Statistical significance analysis was not conducted due to the small sample size (Phase 2 Police survey: 44). The Phase 2 Police survey and the Family Violence survey (see Appendices A and B) were hosted on Qualtrics, an online survey host, and the data was imported into SPSS for analysis.

Data from the interviews, open-ended survey questions and relevant documents were coded and thematically analysed using NVivo qualitative data analysis software to draw out key themes and learnings.

Table 3: Profile of Phase 2 Police Survey Participants

Participant Profile		Number of Operationally-focused Police Members (n=44)
Police Station	Epping	22
	Ballarat	22
Rank	Constable	8
	First Constable	16
	Senior Constable	12
	Leading Senior Constable	1
	Sergeant	6
	Senior Sergeant	1
Years in role	Less than 12 months	12
	1- 5 years	21
	6 -10 years	10
	11- 20 years	1
No. of police members who had conducted a DREC	DREC experience	24
	No DREC experience	18
DREC Experience	1-3 DRECs taken	18
	7-9 DRECs taken	4
	10 or more DRECs taken	2
Time DREC conducted	Same day as family violence incident	20
	Within 1-3 days	3
	N/A – complainant consent is most often denied	1

## 7.6 Ethical assessment

Ethics approval was obtained via the Monash University Human Research Ethics Committee (MUHREC). A low-risk application was approved by MUHREC (Project ID 19744) to cover research with police, legal, court and specialist family violence participants. A high-risk ethics application was also approved by MUHREC (Project ID 19865) to cover the participation of family violence victims in a survey and interviews.

The direct participation of victims was highly desirable given that DREC aims to benefit this group and the evaluation was concerned to capture any unintended negative consequences of the trial for this group. The inclusion of victims as potential participants requires sensitive engagement strategies in order to avoid risks to victim wellbeing and safety as a result of participation. Victims are acknowledged to be a hard to reach and high-risk group. The *National Statement on Ethical Conduct in Human Research* mandates high risk ethical approval as a prerequisite to undertaking research with family violence victims. Ethics approval and our approach required that attempts at contact and engagement with victims is facilitated and undertaken exclusively through specialist family violence service providers. This ensures that victims have specialist support at the time of participation. The plan to use service provider premises for interviews was designed to ensure that victims could participate in a safe and supportive environment.

As part of this research family violence service providers were asked to encourage and support victims to undertake a short online survey on their experiences with DREC. There was the opportunity for victims to participate via email or telephone if they preferred. MGFVPC made contact with local (Ballarat, Epping and surrounds) specialist family violence organisations and relevant peak organisations (Domestic Violence Victoria) and specialist legal groups (Women's Legal Resource Group and Flemington/Kensington Legal Service) and informed them about the evaluation and encouraged them to be involved in facilitating the recruitment and participation of interested/impacted victim. Despite this there was no participation by victims in the evaluation.

## 7.7 Timeline

Table 4: Evaluation Timeline

Project Stage	Description	Task completed/undertaken
Trial	Trial of DREC - Family Violence commences	3/10/2018
Project start up	Fully executed research agreement Kick off meeting Monash and Vic Pol	1/3/2019 15/3/2019
Deliverable 1. Project Plan and Evaluation Framework	First Draft 5/4/2019 Second Draft 17/4/2019 Third Draft 8/5/2019	15/5/2019
Low-risk MUHREC ethics process	Ethics for police survey (plus interviews with professional stakeholders and experts) Submitted 16/4/2019 Ref. 19744	4/6/2019
High-risk MUHREC ethics process	Ethics for survey, interviews with victims Submitted 29/4/2019 Ref. 19865	13/6/2019
Survey Vic Pol members and	Survey instrument for Vic Pol members approved by Vic Pol 17/6/2019	Survey distributed to Vic Pol members 24/6/2019 closed midnight 16/7/2019

Survey for victim/survivors	Survey instrument for victims approved by Vic Pol 17/6/2019	Distributed through specialist family violence services (see below). Survey remains open.
Recruitment and interviews of VLA and Courts	Email and further follow up contact made with potential professional participants, VLA, Courts and specialist services from 4/6/2019	Interviews conducted between 16/07/2019 and 23/07/2019
Recruitment of victims and victim 'proxies' specialist family violence services	Emails sent to relevant specialist services in Epping, Ballarat and to relevant peak body from 09/07/2019.	Interviews with specialist family violence services conducted 23 /07/ 2019
Literature Review	Research and write up of relevant national and international scholarly and 'grey' literature	07/2019
Presentation on emerging findings	Presentation to Family Violence Command, Victoria Police	05/09/2019
Interim Report	Interim report approved by Assistant Commissioner Dean McWhirter on 04/10/2019	16/9/2019
Phase 2 interviews and survey	Survey instrument sent to Vic Pol members on 04/10/2019 and closed midnight 31/10/2019. Interviews with Ballarat police members on 01/10/2019. Interviews with Epping police members on 28/10/2019 and 04/11/2019. Email and further follows up made with court personnel from 24/09/2019. Interview with court personnel on 25/10/2019 and 7/11/2019. Email and further follows up made with specialist services from 11/09/2019.	09/11/2019
Data analysis	Analysis - interview and survey data Collation and analysis of DREC data from Vic Pol	11/2019
Draft Final Report		20/12/2019
Review and revise draft report		01/2020
Final review report		02/2020

## 7.8 Limitations

The evaluation and research methods are subject to limitations which impacted significantly on the ability to draw clear findings in relation to the outcomes of the trial. The major limitation is lack of quantitative and other data on which to draw conclusions. The evaluation commenced in March 2019 nearly five months after the trial commenced in early October 2018. Baseline data is necessary to provide definitive findings regarding the impact of DRECs on court outcomes such as the impact of the operation DRECs on the time taken to finalise proceedings for family violence offences, including the impact on the rate of guilty pleas and convictions. In order to answer these questions, it would at a very minimum, have been necessary to capture quantitative data about the relevant rates prior to the implementation of the trial in order to compare outcomes after the trial commenced. Even presuming the ability to construct a baseline, the number of simultaneous family violence reforms taking place in Victoria would make it challenging to isolate the impact of DRECs on outcomes. In the absence of quantitative measures, the insights, opinions and experiences of stakeholders form the primary evidence base for this final evaluation report. However, there are also significant limitations to this source of data.

The use of DRECs by police members throughout the trial was relatively low compared to early expectations of relevant stakeholders. No DREC was played in court during the trial period. There is limited data available on the impact of the use of DRECs on the administration of justice as few people in the court system had experience of them. Many stakeholders, particularly legal practitioners and family violence registrars, were reluctant to contribute to the evaluation without direct experience of clients and/or matters involving a DREC. The stakeholder pool of participants thus is relatively limited. This resulted in the final report being based on a relatively narrow data set. Forty-four operationally-focused police members responded to the survey, and interviews were conducted with 14 police members, two police prosecutors, three court personnel, one senior specialist family violence police member, one legal practitioner, one judicial officer and two specialist family violence experts. The relatively low take up of DRECs and use in family violence proceedings meant that where participants, other than police, had experienced DRECs in their professional role, the number of experiences they had were limited so they were not readily able to generalise about the impact of DRECs on the administration of justice, the experience of victims or how DRECs might impact if their use in family violence proceedings was to be scaled up significantly.

Significantly no victims participated in the evaluation. Victims are acknowledged to be a hard to reach group. However, the evaluation team has successfully recruited victims in a number of other family violence related research projects. Recruitment of victims for this evaluation proved impossible despite well established relationships with specialist family violence services willing to facilitate recruitment. However, these specialist family violence services had very limited knowledge of or experience with DRECs and typically reported to having no clients who identified that they had provided a DREC. As a result, the evaluation relied on the key stakeholder groups to share their perceptions around the impact of the use of DRECs in family violence matters on victims. In addition to this during the evaluation period there was no readily available data that captured the number of victims who did not consent to a DREC or why they did not consent. While Victoria Police provided data on the average time taken to record a DREC (12-14 minutes), time use data on DREC associated station work (i.e. docking BWCs, uploading, categorising and redacting DRECs) and the average time taken to complete a written statement was not available and as such a rigorous time comparison was not possible.

Other limitations include limits of the generalisability of participant views. Those police and other stakeholders who choose to participate in the study may be more familiar with and supportive of the use of DRECs than those who did not choose to participate. The four police stations involved in the trial may not be representative of Victorian Police stations. The trial sites include one suburban police station and three regional police stations. Policing at urban police stations may be distinct in ways that affect issues related to policing and DRECs. We note that there has been a substantially higher number of DRECs taken by police members in the Western Region Division 3 than in the North-West Metro Division 5. The reasons for this are discussed below, in particular see section 8.1.1.3. It was not possible to examine how variation in court practice impacted on use as no DRECs were played in court during the evaluation period.

Victoria Police is undertaking an evaluation of the use of the statewide deployment of BWCs for general operational policing. This separate project is led by Victoria Police's BlueConnect program and was not available for consideration in this evaluation. A comprehensive understanding of the use and impact of DRECs in family violence matters is limited by the siloed evaluations of BWCs that separate out the use of recorded evidence-in-chief from how such footage is recorded.

## 8. Findings

Findings derived from the different data sources are reported in relation to the six guiding evaluation questions.

### 8.1 What are the barriers and enablers to the effective use of digitally recorded evidence-in-chief statements of family violence victims?

#### 8.1.1 Enablers

Discussions about enabling factors for the effective use of digitally recorded evidence-in-chief statements of family violence victims centred on three themes presented below: the ease of using BWCs to digitally record statements, the temporal proximity of taking a DREC to the time of the family violence incident and related operational police field experience.

##### 8.1.1.1 Easy to use tool

Two police members reported in interviews that the ease of recording family violence complainant's statements using the BWCs facilitated the use of DRECs. One police member commented that:

*It's pretty clear-cut and easy. Everyone knows by the time you're doing a DREC, we know by the back of our hand how the body-worn camera works. So, it's no issue with that. And the little dot things we've got to use them, they're really bloody easy. It's a suction cup and you stick down, you put your camera on it. It's not hard by any means. And you can easily just get your iPad and you can adjust it to find out if you've got everything in focus as well. That's easy. (police interview participant)*

##### 8.1.1.2 Temporal proximity to incident

Stakeholders had mixed views on the DREC process and its temporal proximity to the family violence incident. Some operational police members reported that the temporal proximity between the family violence incident and taking a DREC was an enabling factor explaining that recording victim statements as close to the incident as possible promoted better recall and provided a more complete account of events.

*It's a more accurate account of what has occurred as it's taken immediately upon attending the incident. (police survey respondent)*

*More detailed version of events from the victim of the crime. (police survey respondent)*

*It is kind of like the same thing like bringing the body-worn in general. If it goes to contest, the offender comes in a suit and tie and looks all nice and everything. Whereas the body-worn, at the first part, could show exactly how we actually dealt with them at the time. It will show how they were. They're not the nice-looking suited-up person that's clean-shaven and all that kind of thing in general. So, the same sort of thing when - by the time that it goes to contest, it is a year down the track and the victim on the stand might not be able to give the same feeling of how they felt at that point in time and how they felt in that moment. Because since then they have probably had counselling. They probably have been able to speak to their family, they've probably dealt with the situation as best they possibly can whereas the DREC will show how they weren't able to handle it at the time. So, I definitely like that side of it. (police interview participant)*

*It's really good evidence. If they're giving verbal evidence as opposed to a DREC. If they're standing there in court it might be like six weeks, eight weeks, months after it happened, they've lost all their emotion, that's completely stripped away from them now. They've got – they're assigned to the fact that this is what happened, so their evidence can come across as quite bland. But with the DREC you're capturing it at the time and you'll never lose that time factor because they made their statements so close to the incident occurring. So, I think it is highly beneficial and holds a lot more weight than verbal evidence on the day. (police prosecutor)*

Conversely, some stakeholders viewed the temporarily proximity of DRECs to the family violence incident as a potential barrier to use due to the challenges of obtaining victim consent:

*If you think about it, when people are there, trying to get informed consent to do it when they're very emotional, et cetera, is, I would imagine, very difficult, and taking it a short time later when people have settled down a bit and maybe are second guessing what they want to do, you wonder about the uptake at that stage too. (court personnel)*

*There's been the issues raised about the impact of trauma and whether women are able to give informed consent in that trauma moment to a recorded statement in the first instance. And whether we should even be expecting women to make that choice. Whether we should just actually assume that that's not able to happen. (specialist family violence service practitioner)*

It is important to note that the stakeholders concerned about the temporal proximity of DRECs to family violence incidents and questioning this in terms of victims providing consent were horizon scanning. The operationally-focused police members and police prosecutors with direct experience of DRECs indicated that the temporal proximity of family violence incidents to digitally recording evidence-in-chief was a facilitating rather than inhibiting factor.

#### **8.1.1.3 Police experience conducting DRECs**

Findings from the police survey showed that police members with experience of conducting DRECs had more positive attitudes towards their use in family violence matters than those who had not conducted a DREC. Over 90 per cent of police survey respondents who had conducted a DREC reported they held very positive or positive attitudes towards their use in family violence matters (see Table 5). In comparison only around a half of police survey respondents who had not taken a DREC reported positive or very positive attitudes.

Table 5: Police member attitude towards the use of DREC in family violence matters by DREC experience

DREC experience	Police member attitudes towards the use of DREC in family violence matters	Police Members n (%)
DREC experience	Very positive	9 (38%)
	Positive	13 (54%)
	Neutral	1 (4%)
	Negative	1 (4%)
No DREC experience	Very Positive	4 (22%)
	Positive	7 (39%)
	Neutral	6 (33%)
	Negative	1 (6%)
Total		42

*\*Two respondents did not answer this question and they are excluded from analysis.*

Trial location shaped police attitudes towards the use of DRECs in family violence matters. All but one respondent from Western Region Division 3 reported that they had positive or very positive attitudes towards the use of DRECs in family violence matters. These respondents indicated that their stations had similarly positive views towards DRECs (see *\*Two respondents did not answer this question and they are excluded from analysis.*

Table 7). In comparison, the survey revealed mixed views towards the use of DRECs in family violence matters in the North-West Metro Division 5 trial region. Only 59 per cent (n=13) of respondents from the North-West Metro Division 5 had positive or very positive attitudes (see Table 6) with one third reporting neutral or negatives attitudes towards the use of DREC in family violence matters. Furthermore, responses from survey participants in the North-West Metro Division 5 indicated that their station was less supportive. Over half of the survey respondents from the North-West Metro Division 5 reported that their station held either neutral or negative views towards the use of DREC in family violence matters.



Table 6: Police member attitudes to the use of DREC in family violence matters

<b>Trial region</b>	<b>Police member attitude towards the use of DREC in family violence matters</b>	<b>Number of police members n (%)</b>
North-West Metro Division 5	Very positive	3(14%)
	Positive	10 (46%)
	Neutral	6 (27%)
	Negative	2 (9%)
Western Region Division 3	Very Positive	10 (46%)
	Positive	10 (46%)
	Neutral	1 (5%)
	Total	42

*\*Two respondents did not answer this question and they are excluded from analysis.*

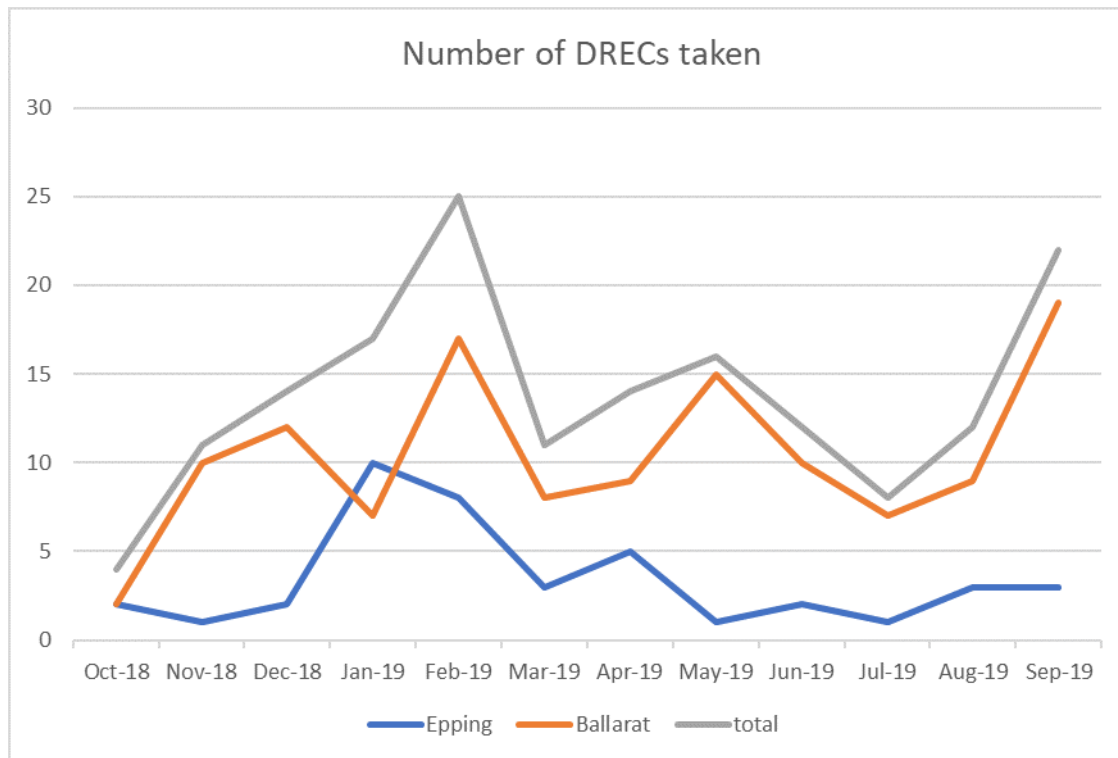
Table 7: Police station attitudes towards the use of DREC in family violence matters

<b>Trial region</b>	<b>Police station attitude to the use of DREC in family violence matters</b>	<b>Police Members n (%)</b>
North-West Metro Division 5	Very positive	3 (14%)
	Positive	7 (32%)
	Neutral	10 (46%)
	Negative	1 (5%)
Western Region Division 3	Very Positive	7 (32%)
	Positive	12 (55%)
	Neutral	2 (9%)
	Total	42

*\*Two respondents did not answer this question and they are excluded from analysis.*

In discussions about their attitudes towards the use of DRECs in family violence matters, operationally focused police members from the Ballarat trial region highlighted the high quality of training and support provided. Practice innovations in Ballarat including the provision of personalised feedback on initial DRECs taken by members was reported to greatly support implementation. These discussions indicate that the quality of training and messages from the top significantly influenced police members attitudes towards and use of DRECs on the ground and are reflected in Figure 2 below which shows a general upward trend in the number of DRECs taken by police from the Ballarat trial region over the course of the trial.

Figure 2: Number of DRECs taken during the trial period by trial region



Overall these findings suggest that the training quality and the level of collegial support shaped police members attitudes towards the use of DRECs in family matters at the two trial locations and may limit and/or facilitate use.

## 8.1.2 Barriers

### 8.1.2.1 Resistance to change

While most police interview participants spoke positively of the use of DRECs in family violence investigations, several acknowledge that they were apprehensive at first largely attributing this to a resistance to practice change. This resistance is captured in the comments of several police interview participants:

*Just seven years of having handwritten things, that's just what I'm used to so I think I'll just get used to it [DREC]. (police interview participant)*

*You get like a four page prompt card as well, so it looks like it's a lot of work too, and a bit fiddly. And now they've just changed it, we're sort of catching up again about what we have to do on camera and off camera...once you realise that it's not actually hard work, I don't see why you wouldn't do it. (police interview participant)*

Resistance to change was flagged by two police interview participants when discussing their thoughts on the reasons behind the initially lower than expected use of DRECs in police family violence investigations. They said:

*The other feedback I got was it's all new and members aren't willing to accept the changes.*  
(police interview participant)

*They're probably underutilised. There are probably opportunities where members have had an opportunity to do a DREC and didn't. One didn't think about it because it's a new process.*  
(police interview participant)

Discussions with one police member revealed that concerns about accountability made them initially reluctant to take a DREC commenting that:

*I was really apprehensive to do it. It's a lot of pressure on us as well to not ask inappropriate questions. Not that we would normally do that but you don't want to ask a leading question then open yourself up to criticism at Court because it's right there, caught on camera.* (police interview participant)

The judicial officer interviewed indicated that resistance to change is to be expected explaining that similar resistance was encountered when the video record of interview was introduced in Australian policing and now such practice is unquestioned. These stakeholders' reports of the initial underutilisation of DRECs in family violence policing are echoed in the monthly DREC figures recorded by Victoria Police. Figure 2 above shows a general upward trend in the overall number of DRECs taken across the course of the trial. In addition to resistance, the findings show that training quality, location and personal experience, as discussed in section 8.1.1.3, influenced police members attitudes to and use of DRECs in family violence matters. Notably, resistance to change was often overcome once police members had the opportunity to conduct a DREC.

#### **8.1.2.2 Operational guidelines**

Several operationally-focused police members identified the operational criteria for taking a DREC as too restrictive and a barrier to use. For example, police survey respondents reported that the consent preamble, particularly its formality and length, together with the prohibition on complainants discussing historical family violence incidents greatly inhibited its use. Police members also reported difficulties in sourcing appropriate venues to conduct DRECs. These concerns are captured in the comments of several police survey respondents:

*The ready reckoner questions police are required to ask at family violence incidents are very formal and hinder rapport making with victims of family violence. They make the contact more official questioning rather than a comfortable and honest conversation around them being subject to family violence.* (police survey respondent)

*[The DREC] Process is too formal which either puts victims off going through it or members finding it easier to take a hand written statement.* (police survey respondent)

*It would help with rapport and keeping the process more human if it was a bit less formal and robotic in the reading of lengthy material prior to taking the DREC.* (police survey respondent)

*The criteria for a DREC is so limited.* (police survey respondent)

*Too much information to read to victims. The longer the information read to the victim I believe they associate with the complexity of the process. (police survey respondent)*

*The victim can feel like they are being interviewed like the offender. (police survey respondent)*

*The 'attest to the truth' needs to be worded better. It is a little accusatory. (police survey respondent)*

*I think from what I've seen the preamble is really lengthy. Perhaps if that could be maybe somewhat, I don't know, shortened. (police prosecutor)*

Some police members reported that complainants' level of comfort with being filmed may inhibit consent.

*On the victims, I guess it could be a little bit confronting for them going on camera straightaway with what's happened. (police interview participant)*

*I had one lady say no because she didn't want to be filmed but she made a statement. So, it wasn't that she didn't want to make a statement, it's just she didn't want to be recorded. (police interview participant)*

*I've had one or two say no...Just I think the idea of being on camera just freaked them out a little bit. (police interview participant)*

*I've had a file where originally the victim was happy to provide DRECs but changed their mind due to not wanting to be on camera in their current state. (police survey respondent)*

*Being put on video scares them [AFMs] and it's not a natural thing to speak in front of a camera. (police survey respondent)*

These police members concerns were echoed by other stakeholders. For example, one legal practitioners commented that 'they find the idea of being on camera confronting'.

A few police members identified sourcing appropriate locations to conduct DRECs as a key barrier to use and noted that children and animals were often present. For example, one police member mentioned that:

*I've had a couple where the circumstances just wasn't (sic) fitting...She was okay with taking a DREC or doing a DREC, however she had a 6 year old son with her and there was not one area in the house that was appropriate to sit down and do it. I wasn't prepared to sit on her bed just given the circumstances of the house. And then it wasn't feasible to leave and come down to the station to do it either...I think it's definitely going to occur again especially the type of houses that we go into. Like there was no dining table or chairs. There's no couch that had anywhere to sit on. She lived in a bedroom. I think it will happen again but I don't think it will be common. (police interview participant)*

Another participant commented that instructions to members regarding conducting DRECs in residential homes ignores important contextual considerations that should be considered when providing a holistic response to family violence:

*Supervisors and prosecutors need to understand that the DREC, especially when taken in the parties' home, will show their lives as they are. Members have been told to remove bottles of alcohol/drug paraphernalia/household mess. This is inappropriate and misses the point that*

*family violence is closely connected to addiction and other issues, for both the victim and perpetrator. (police survey respondent)*

The station from the North-West Metro Division 5 involved in the trial provided police members with a dedicated room for filming of DRECs and this limiting factor may have been less relevant in this area.

#### *Historical incidents*

Several police members identified the prohibition on discussing historical incidents as a significant barrier to the effective use of DRECs in family violence matters. These concerns are captured in the comments of several police survey and interview participants:

*Not allowing historic matters dramatically decreases the amount of times a DREC can be used. (police survey respondent)*

*It's still confusing I find for them [victims] because here you are sitting and going, "I'm going to give you the best possible police service but don't talk about the huge build up for a couple of years that's happened between you. Just tell me about this one tiny little isolated incident." Almost forget about everything that's happened and I'll jot down on a piece of paper alleging – so a couple [of times], I've just let them [victims] go [tell the history] within reason because it's all important. (police interview participant)*

*It might have been something small that's happened today but it's just this is the day that the victim is going to call police. But what about what happened last week where she got a black eye or a broken limb or last month? We want to know that but she didn't report any of it. It would be good if they could explain a bit of backstory. (police interview participant)*

*Sometimes it doesn't make sense not to let them talk about it either because you just have a big hole in your story if you just say, "Oh no we can't talk about that" and they want to because it explains more about what happened. (police interview participant)*

Similar concerns about the DREC trial narrowing the focus of police responses to the current family violence incident were raised by specialist family violence service practitioners. They noted that:

*My concern is that maybe this is narrowing police focus to just this incident...We know we've all got a problem with the incident-based approach to family violence and all the millions of dilemmas that that throws up. But maybe this is just another practise, another improvement that actually just has the result of narrowing the focus of police to what criminal offence has been conducted here in this moment. And I just want the facts related to that. And I'm going to capture that in my 10 minutes recorded evidence and then it's going to go. I just think that the potential of really just excluding opportunities to look at a whole range of other protective and safety issues and a history of family violence, if we're not providing the opportunity for women to make two hour statements if that's what it takes, then that isn't an improvement as far as I'm concerned. (specialist family violence service practitioner)*

Discussing the challenges of using DRECs in family violence matters, one police member reported that the prohibition on victims discussing historical incidents is at odds with police family violence training. They explained that:

*Our training, not DREC training, our family violence training, is trying to build that big picture, getting a bit of history, and then all of a sudden the DRECs come in, we only want to talk about what's happened tonight...The whole family violence generalised frontline training*

*is all about the bigger picture and building that risk assessment. For us to say “oh we’re just going to worry about what’s happened tonight on the DREC” sort of went against that.*  
(police interview participant)

The general focus of Victoria Police family violence responses on capturing abusive histories was echoed by a senior specialist police officer who explained that:

*We are training to the point where they [police] actually should be looking for the whole history and getting a whole story of exactly what led to that event instead of being incident focused and as we roll that out more and more and more we’re getting better and better at it.* (senior specialist family violence police interview participant).

Early versions of the operational guidelines were updated during the trial and the direction about historical family violence incidents was relaxed. However, concerns about incident-based approach persisted. Many police members emphasised the importance of capturing the history of coercive and controlling behaviour in relationships between complainants and accused persons. The police members comments highlight the contradictions between Victoria Police family violence training, which focuses on capturing patterns of abusive behaviour and histories, and the direction in the DREC operation guidelines to focus on the current family violence incident in the DRECs.

#### *Children*

Police members held conflicting views on whether the direction that children should not be present during the taking of DREC inhibited their use in family violence investigations. The varying attitudes are reflected in the comments of several police members below:

*I can see how that would be an issue operationally. A lot of the time there is at least one child present. It’s family violence, they’re families, they’ve got kids so of course that’s going to be a problem.* (police interview participant)

*We’ve just had to put them [children], sort of babysit them somewhere else. It hasn’t been a big deal, it’s the only thing I can think of thought that we had to consider.* (police interview participant)

*I think as [colleague’s name] was saying with the children, makes it a bit hard. I had one the other day and she was only four months old and still had a cry and was having separation anxiety so we had to get another member to sit in her bedroom with her. So that’s probably a downfall.* (police interview participant)

In contrast to this view, one police member felt that the managing the presence of children in a common issue for all family violence incidents explaining that:

*Regardless of if it’s DREC or handwritten or on computer, you’re still going to have the child involved somehow. Like in a sense of how do you occupy those kids? Is there another family member present to take them to another room or whatever? You’re always going to have those obstacles regardless of whether DRECs are happening or not.* (police interview participant)

Similarly, another police member indicated that children are able to take direction and remove themselves from the DREC process. They commented that:

*All the ones that I’ve had that have had kids present they’ve been old enough to go entertain themselves away and understand instructions from mum or whoever it is talking with the*

*police, “don't come into this room until I come out and tell you”. (police interview participant)*

#### *Accused not present*

Another inhibitor highlighted by police members in relation to the operational guidelines was the requirement that a DREC cannot be conducted in the presence of the accused. One senior police member reported that this requirement created resourcing issues which initially inhibited the use of DRECs in some areas. They commented that:

*Very problematic, you can't do a DREC while the accused is present so if you turn up to the scene, you've got to get the accused back to the police station. So, they have an issue with transport initially and then the AFM didn't want to come back to the station and do a DREC so that was part of the issue...Because you can't leave the offender in the van parked out the front while you do a DREC. That's the biggest issue I think because the accused can't be present in the home, you need to take him out of the picture. I think the resourcing...was a bit of an issue. (police interview participant)*

These comments indicate that many operational-focused police members feel that the formality and length of the DREC preamble inhibits use. Discussions with these evaluation participants about the operational guidelines revealed a strong belief that reducing the overall formality of the process and revising the directions in regards to historical family violence incidents and the presence of children would better support the implementation and use of DRECs in family violence matters. Less formality was perceived to be desirable both to better support the victim in consenting to and participating in a DREC and in making the statement as well as supporting the officers taking a DREC.

#### **8.1.2.3 Police DREC training and operational guidance**

Several police evaluation participants reported that the use of experiential learning strategies, such as role plays and simulations, would improve the Victoria Police DREC training and increase usage in the field:

*Comparison of well conducted DREC statement against poorly conducted DRECs. Basically, a DOs and DONTs of conducting a DREC. I feel that this would greatly have benefited me when conducting my DREC and would be helpful to other members worried about doing their first DREC. (police survey respondent)*

*To watch a short training video where role players obtain a DREC. (police survey respondent)*

*Taking a mock DREC. (police survey respondent)*

Calls for DREC role plays and simulations were similarly made by police members interviewed in the two trial regions.

*I feel like you should have to practice it. I feel like in the training you don't do it, not because we're not good at taking statements, it's not that. It's just the setting it up, turning it on, the same spiel and maybe even practicing an actual statement. I reckon you should have like maybe three times. And I think in that way, members will be more confident in actually going out and taking the statement. I think that would really help. That would have helped me anyway. (police interview participant)*

Police members in one trial region talked highly of the training they received with the member who delivered the training explaining that:

*The training is very different to what members usually do, as opposed to sitting in front of a screen and it's death by PowerPoint, it's very much an interactive group discussion rolling scenario. It gets members thinking about actual real-life scenarios, and then moving down to when it's a decision to get a DREC. So, the feedback I got from the training, it was really good training, but as I said it was a little bit different to the way members are usually trained, Victoria police members, so that in itself is positive. Then I put a very much practical spin at the end of it, in relation to the way we manage DRECs, and actually had evidence dot com up on the screen, and I went through a real life DREC. (police interview participant)*

The views of these police members align with evidence from workplace learning literature which shows that experiential learning strategies, such as simulations and role plays, that actively involve learners in applying knowledge as they acquire it are more effective than passive learning experiences such as lectures (Forgey, Badger, Gilbert, & Hansen, 2013; Oliva & Compton, 2010). In particular, active, experiential learning experiences that mirror informal and incidental adult learning are more likely to motivate and engage adult learners (Merriam & Bierema, 2013).

#### **8.1.2.4 Restricted access for complainants from linguistically diverse backgrounds:**

Operational police members and stakeholders noted the limited utility of the current DREC consent preamble for complainants from culturally and linguistically diverse (CALD) backgrounds with operational police members reporting that obtaining informed consent for the DREC process from non-English speaking complainants was a challenge.

*It's a lot more difficult to do via DREC when an interpreter is involved. (police survey respondent)*

Another police survey respondent reported that 'lack/limited English' was a 'major factor' inhibiting complainants' consent to DRECs. These views were also expressed by a specialist family violence practitioner:

*Certainly, there was never any ability to guarantee the access to an interpreter. (specialist family violence service practitioner)*

As set out in Appendix D and in response to the Interim Report, Victoria Police developed a short information sheet on DREC that was translated into 12 commonly used languages to assist members in explaining the new option for recording a statement for victims from CALD backgrounds. Police members' concerns about the accessibility of DRECs for victims from CALD backgrounds were ongoing throughout the trial.

#### **8.1.2.5 Complainants deny consent to DREC**

Police members in one region reported that the main barrier to use in family violence investigations is that complainants typically withdraw complaints. This inhibiting factor was captured in the comments of several police interview participants:

*I haven't taken one yet so it's one of those things where – and that's because consent just isn't given. (police interview participant)*

*The issues that we have had with this, is that we have had a lot of guidelines around when we can use it, if there is consent by the victim. A lot of times consent isn't given by the victim. (police interview participant)*

However, these members noted that this practice is not unique to DREC and is a common issue with all family violence matters. For example, one police member explained that:

*The main issue we still have with family violence is that AFMs the next day or whenever it might*



*be, 'Oh, I don't want to take him to court anymore'. It's the most common thing. So, either way, written, yeah, or video, our biggest problem is that they pull it the next day. (police interview participant)*

## 8.2 How many digitally recorded evidence-in-chief statements have been taken from family violence victims?

At the completion of the trial on 2 October 2019, Victoria Police data recorded that 126 DRECs had been taken in the Western Region Division and 40 in the North-West Metro Division.

## 8.3 What are the enablers and barriers to the effective use of digitally recorded evidence-in-chief statements of family violence victims in family violence proceedings?

### 8.3.1 Enablers

Participants tended to focus critically on what they perceived to be the barriers to the use of DRECs in family violence proceedings. Participants did not typically specifically refer to enablers. However, they did refer to ways that DRECs could be better enabled for use in family violence proceedings.

Potential enablers include:

- Better resourcing of courts;
- Enhanced consultation with relevant stakeholders and co-design; and
- Unavailable witness

#### 8.3.1.1 Better resourcing of courts

During the trial period, no DREC was played in court. Anticipating that DRECs would be played in court sometime in the future, stakeholders argued that courts should be better resourced. There was a view amongst court and legal stakeholders that in order to support any future scaling up of the use of DRECs in court proceedings, particularly the playing of DRECs, greater resourcing of courts would be necessary. These resources concerns are captured in the comments of legal and court personnel participants:

*We really need to get a sense of what the volume is going to be like to make an assessment of how big those issues are because if we thought, "Well, it's good to have everywhere but it's never going to be the primary way the police are taking their victim's evidence," then you might not need to worry so much, and you just know there's a small subset of cases that you will have to manage a different way. Whereas, if it was going to be used much more, and it was going to be rolled out, all of the concerns about resourcing and time and tech need to be resolved, in my view, and access for people in custody. (legal stakeholder)*

*One of the things when you're dealing with two pilot sites and we've done as the court has said, responsibility is not on the court to play the footage, the responsibility is on the prosecution. Now when you're dealing with small numbers and small things, it's quite clear that we can push back and make it quite fair. When you roll that out statewide and you're trying to influence - I don't know how many Victoria Police prosecutors there are, of different experience - I can imagine that will be an ongoing challenge, that they'll have an expectation*

*the court staff will then fix their problems. We also don't have - we have 51 venues and we have a centralised IT support team that sits in the building at William Cooper - that we don't have IT specialists at our venues ... We have buildings full of court registrars or support service people whose job is to have a courtroom running, not to have equipment running. If our computers go down, we log a job on and we just wait for someone. But when you've got a court case wanting to go and an expectation that someone doesn't have to give evidence because this screen will work. Well, if the screen's not working... (court personnel)*

Participants felt that streaming DRECs directly from evidence.com via a wireless connection would improve the efficiency of family violence proceedings. It was felt that the current system of downloading DRECs from evidence.com, transferring to an Iron Key (a secure USB), loading on to a laptop and connecting the laptop via cables to the court AV system was inefficient and likely to cause delays.

#### **8.3.1.2 Enhanced consultation with relevant stakeholders and co-design**

The court and legal interview participants noted the consultation and working group had enabled the DREC trial to go forward in ways that avoided problems that might have arisen otherwise.

*[O]ne thing that Family Violence Command did, which I think was good, was to set up regular phone check ins for the implementation post the launch, as well as the working group . . . So, I think that is a good approach to take, and that's been good. (legal stakeholder)*

Stakeholders were also of the view that continued consultation and involving a broader range of representatives would be an enabler of successful upscaling. The suggestion from the legal and court stakeholders was that the consultation going forward should include legal professionals, other than just Victoria Legal Aid. It was also emphasised that it was important to continue to include those with good knowledge of the operational side of the courts. In addition, it was suggested that the consultation should include a representative of women's family violence specialist services.

*Some other stakeholders who when talking about the implementation, have noted similar thoughts, they felt that in the consultation they weren't, necessarily, consulting with, initially, the people who would be able to tell you, or go through the operational issues that needed to be addressed or thought about... They've involved Legal Aid from really early on, which has been great and obviously the Duty Lawyer Service is one of the major impacts but they haven't really done much good engagement with the legal profession, generally... I did wonder whether there was enough engagement with the services and agencies who see victims. (legal stakeholder)*

These matters are explored in greater detail below in section 8.3.2.2.

#### **8.3.1.3 Unavailable witness**

The judicial officer and police prosecutors highlighted that the use of DRECs in family violence matters potentially enables the prosecution of family violence offences where complainants withdraw the complaint or consent. Discussing the use of DRECs in family violence matters, one police prosecutor described a common scenario where this process would be beneficial:

*I have found there has still been instances where the – so we had lined up another contested hearing from a couple of weeks ago involving a DREC. So, the prosecutor prepared it, had it all on the iron key ready to go. Turned up at court, the complainant didn't turn up. He sent the police informant to her address to confront her about why she wasn't at court and she declared that she wasn't coming to court, she wouldn't stand by the evidence she gave on*

*her DREC. And in essence she had reunited with this fella and everything was good. So that's not unusual for us, that happens probably often I would say, that that happens. So, we haven't yet tested the ability to I guess make her an unavailable witness. So, there's provisions in the Evidence Act to – if we can deem someone to be an unavailable witness we can tender a statement or information they've already given us and then that can't be subjected to cross-examination because they're not at court. But it means that we can get our evidence in that way...I think it'll be interesting when we do test them as unavailable witnesses and attempt to tender the DREC as evidence-in-chief and then the court would give appropriate weight to it, noting that they can't be cross-examined. (police prosecutor)*

The use of DREC where complainants withdraw consent has implications on victim agency and this is discussed below in section 8.5.3.4.

## 8.3.2 Barriers

### 8.3.2.1 Lack of resourcing

Several stakeholders noted the lack of resourcing to support practice changes arising from the trial, particularly in regard to the DREC evidentiary processes.

*We haven't received any money that I understand from this project at all. And therefore, the expectations of us upgrading our 51 venues across the state to deal with the police requirements for wi-fi or streaming won't occur, unless the court has money to update its venues for other purposes. (court personnel)*

The stakeholder interviewees considered the current policy of prosecutors having DRECs on an Iron Key, which is a secure USB, that is played on a laptop connected to the court's AV system as a temporary solution that would not necessarily work if DRECs needed to be played at court in any number. While building works including technological enhancements to each of the Victorian specialist family violence courts are expected to occur as part of the wider family violence reforms underway, to date this has not occurred consistently across Victorian Magistrate court venues limiting the degree to which courts are equipped to handle and present this form of evidence. Court personnel expressed concern that if DRECs begin to be played in court proceedings in greater numbers, it may place significant burden on resource allocation. In particular concerns were raised about court allocation in regards to the need for court rooms with specific AV facilities and the potential extension of hearing times due to the use of DRECs in family violence proceedings. Court personnel also highlighted the absence of an early notification system to flag matters where a DREC is involved and intended to be played in court. It was felt that the development of an early notification system would help better inform current court allocation processes and facilitate the effective use of DRECs in family violence proceedings.

### 8.3.2.2 Insufficient consultation and co-design

Participants identified insufficient consultation and co-design with courts, legal stakeholders and family violence sector in the formative stages of the project as a barrier to the effective use of DRECs in family violence proceedings. Stakeholders commented that:

*I suppose the project was developed from a Vic Pol perspective from the start with probably little consultation. (court personnel)*

*I think one of the big gaps for Vic Pol's reform work overall has been a lack of an engagement mechanism with the sector. And that speaks to as well I think maybe a blind*

*spot they've had in their obligation and duty to perhaps keep the sector informed and work with us in partnership. (specialist family violence service practitioner)*

*There's just a lack of transparency. (specialist family violence service practitioner)*

Victoria Police carried out consultation with the Department of Justice and Community Safety, Magistrates' Court of Victoria, Corrections Victoria and VLA (see section 6.2 for trial governance arrangements including consultation undertaken with stakeholders). However, as discussed in section 8.3.1.2, greater consultation with a wider range of services was seen to be an enabler to any broader roll out of DRECs in family violence matters.

### 8.3.2.3 Audio quality of DRECs

The two police prosecutors interviewed reported that poor quality audio initially limited the use of DRECs in family violence proceedings. Discussing their experience of a DREC that was played in court, one prosecutor commented that:

*We did have some technical issues, the recording itself was – the audio was very poor...Yeah, the audio was really poor. The video was good, audio poor. Because of the poor audio, the court ordered a transcript, which is not something that we would normally get for a DREC. (police prosecutor)*

Their colleague explained they had similar experiences with the audio quality of DRECs:

*Sit there with your headphones on and hope to god that the volume... is such that you can actually hear it and not have to lip read, which we've had to do. (police prosecutor)*

## 8.4 What is the extent of the use of digitally recorded evidence-in-chief statements of family violence victims in family violence proceedings?

No DRECs were played in court during the trial period. At time of writing, to the best of our knowledge, only one DREC has been played in court. Some stakeholders suggested that this may be attributed to the low proportion of contested matters reflecting a reality that DRECs will only be played in court for contested family violence matters.

*These are really going to be played during contested matters. So, if your proportion of contested matters relating to family matters incidents are low anyway, and you've got a low number of DRECs being taken, how does that then relate too? It may be that it was always going to be low because in fact, the statistics were always going to be that those matters didn't usually proceed in that way. (court personnel)*

These stakeholder observations about the low numbers of contested family violence matters are supported by general case listing data from the Magistrates' Court of Victoria. In the 2018 – 2019 financial year, 1% of all cases were listed as a contested hearing listing (n= 660,262) (Magistrates' Court of Victoria, 2019).<sup>1</sup> Although this data is not specific to family violence cases, discussions with stakeholders indicated that family violence matters follow a similar trend.

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<sup>1</sup> In the period from 1 July 2018 to 30 June 2019 a total of 660,262 cases were listed in the Magistrates' Court of Victoria. Of these cases, 7,230 cases were listed as a contested hearing.

## 8.5 What are the impacts of digitally recorded evidence-in-chief statements of family violence victims on:

Overall, the impact of the DREC Family Violence Trial is hard to judge in the absence of outcomes data from courts, a broader range of victim representatives' views on victim experience, or direct participation from victims. The relatively low volume of DRECs being taken and none being played at court during the trial period also restricts the ability of those stakeholders who did participate in the evaluation to understand the impact or likely impact of DRECs.

*As far as I can see, we just haven't had enough come through to see whether they would resolve more, whether they would take longer, whether it would make any real difference to the victim's experience. Or how concerning all these implementation concerns we had around transcript and court time and duty lawyer time are going to play out. They just haven't come through. (legal stakeholder)*

It is noteworthy that the trial occurred at a time of wider reforms and rapid sector change in Victoria's family violence system. Royal Commission family violence reforms taking place at the same time as the DREC Family Violence Trial include, the Family Violence Information Sharing Scheme, the Central Information Point for family violence perpetrator information, the roll out of specialist family violence courts, and changes to specialist family violence services, men's behavioural change programs, child protection and family services. This unprecedented sector transformation, is likely to have impacted upon criminal and civil justice responses to family violence, in ways which have not as yet been measured, which makes it difficult to establish a causal relationship between the trial and any specific case outcomes. It is possible that the implementation of other family violence initiatives influenced family violence case outcomes during the trial period.

### 8.5.1 Impact on the efficient and effective administration of justice in family violence proceedings

#### 8.5.1.1 Improved efficiency in police responses to family violence

Many police participants reported that digitally recording family violence statements is more efficient than writing or typing statements. This benefit was captured in the comments of several police interview participants:

*I think if you looked at the scheme of it, I think it's a lot easier. It's quicker process...If you get it done through a ten minute DREC as opposed to a one hour handwritten statement, I think it's just, efficiency is a lot better. (police interview participant)*

*I just think it's so much easier for them to just be able to go, blah-blah, this is what happened. Otherwise we just have to stop them all the time so we can catch up or whatever when we're writing. And a DREC statement is always going to be more detailed than a handwritten or a typed statement. (police interview participant)*

*I'd spend all day trying to convince you to do one before I'd say, all right let's do a hand written one. I'd rather just sit down like this and be like, go for it. And usually 15 minutes later you are done. Whereas, if you're taking a written statement, you can be there for three times as long. They take ages. (police interview participant)*

*When it comes down to it, if we're both standing there, and I'm DREC qualified and [police member's name] is not, I'm going to be saying, 'Let's just get our work done with DREC,' we will be out of here – we will be able to get this story out much quicker. That's the biggest*

*thing I think, in terms of our work, because we're busy, and you want to have empathy and sympathy towards the person who's going through this, but you also have to still finish this, you know, eight hours later, and you want to be done. So, anything that can improve time spent is helpful. So, when it comes down to it, if I'm going to be looking at a 20-minute DREC, having a conversation with a person, or I'm going to be having a 40-minute conversation with the person writing everything down they said, I'm going to try and do a DREC every time. (police interview participant)*

*It is much quicker than a written statement. (police survey respondent)*

Comparing digitally recording statements to writing statements, one police participant said:

*You're cutting them off because you can't keep up with them as well and you don't want to miss anything. So, imagine telling a story but you can only tell a line at a time and then you have to pause. That's kind of like what a written statement is with us. And sometimes they can spit out all this really good stuff and you're like, "I'm sorry, you're just going to have to tell me again and again and again till I can get it all down." So, it flows better, it's easier for us to get the story accurate as well because there can be no mistakes when it comes straight out of the mouth.*

Several police members highlighted that in addition to being more time efficient, the DREC process also allows you to capture greater information about the family violence incident than a traditional written statement.

*I've found it can be a lot quicker. For the magnitude of more detail you get in the DREC compared to what you get in the statement, the minute details and explanations, if you were to write that word-for-word on a written statement it would take you four times as long. (police interview participant)*

*Captures everything as it's happened, it's all fresh in the AFM's mind, you can get a whole lot more in on a video than a handwritten statement, it's more real, it's quicker than a handwritten statement. (police survey respondent)*

Notably, while other members agreed that the use of DREC in family violence police investigations has improved the efficiency of initial police responses at incidents they reported that the associated work at the station has increased. Additional time demands on brief preparation and authorisation due to DRECs, particularly docking BWCs and uploading, categorising and redacting, if required, DRECs were noted by many police members.

*It's quick at the time but it does add a lot more paperwork down the line where you have to sit there and listen to that as well, on top of all the other things. And we do enough paperwork as it is and we have got time constraints that people just don't know about that it makes it hard in general. (police interview participant)*

*It's added more work at the back end for us. It's added more work on the back end for outsiders [Sergeant or Senior Sergeant authorising brief] who have to go through it because they going to have to watch the body worn, then they have to watch the DREC and then they have got to watch the record of interview when you're interviewing the offender. And then Prosecution is the same. They have got to watch the record of interview, they've got to watch the body worn and then they have got to watch DREC as well, and it's just – yeah. So, having a handwritten statement, they can just sit there while having lunch, they quickly just read*

*through it and all that kind of thing. But with a DREC, it's not as practicable. (police interview participant)*

Some participants felt that the associated station work would reduce with experience. For example, a police prosecutor commented that:

*I guess if you were taking a written statement and they started waffling on about something that was inadmissible you'd say to them, 'No well we're not talking about that, we're talking about this' and so you'd bring them back to it. But in a DREC you're going to have to redact and I think it's a process. It's going to take time for the members to do that. Whereas that could have been avoided if it was a written statement perhaps. So, I think there might be a little bit of extra time involved in there. But I think if – the more people become aware of how to successfully adduce evidence in a DREC, what to ask the person, how to keep them on track. I think the better people get at doing that the less redaction we're going to have to do anyway. (police prosecutor)*

The North-West Metro Division 5 involved in the trial provided a room to members at the station for the exclusive use of taking DRECs. Comments by a few police members from this region indicate that the practice of taking DRECs after the initial police response may reduce efficiency.

*To get someone to actually come down [to the station] when they might have kids, they might have a family they can't look after, it's not working 100 per cent.*

Overall, there was consensus among operational police members that the use of DRECs in family violence matters has improved front line response to family violence incidents and resulted in police obtaining more detailed accounts of family violence incidents. While the use of DRECs in policing family violence matters was seen to increase efficiency in the first instance, comments by operational police indicate that related station work has increased. This station work includes, viewing the DREC which some saw as more onerous than reading a written statement, docking, downloading, categorising and redacting, where required.

#### **8.5.1.2 Hearing times**

Police prosecutors and a judicial officer who participated in the evaluation reported that the playing in court of DRECs in family violence proceedings reduced hearing times as DRECs shorten the evidence-in-chief process. For example, one police prosecutor explained that:

*The evidence-in-chief was faster because it was just played to the court. As opposed to the prosecutor having to adduce evidence-in-chief from the complainant via a remote facility and try and get her to recall the statement she made. So, it absolutely saved time playing DREC, hundred percent. (police prosecutor)*

Similarly, another police prosecutor noted that playing of recorded evidence-in-chief in court reduced hearing times adding that cross-examination would also be shortened as any objections would be addressed through the redaction process prior to the court hearing. They said:

*They cross-examined her but time was still saved at the start by playing her statement. There's no pauses, there's no – there was no issues in terms of defence didn't object to anything she said in her evidence. Which if that had been an issue defence would have probably raised that before the contested hearing and said, 'I think there's part of this DREC that need to be redacted' because either she's talking about a historical matter or she might have talked about some priors that he's got or things he's done in the past. But in this case, it was really straight forward, she was kept on the straight and narrow, she talked about the*



*event, the alleged act that we were talking about on the day and so it went really quickly.*  
(police prosecutor)

Several stakeholders including police prosecutors identified delays in family violence proceedings resulting from the screening of DRECs as a potential impact. These stakeholders were particularly concerned that the use of DRECs would compound expected delays arising from the introduction of specialist family violence courts with capped listings. Concerns were also raised that the screening of DRECs in court, the closure of courts to screen DREC footage, and use of remote witness facilities or audiovisual links for cross-examination may extend hearing times. Due to the extremely limited number of court matters where a DREC has been played (one to date), the extent to which these stakeholders' concerns about potential delays may materialise is largely unknown. The prosecutor involved in a contest hearing where a DREC was played in court reported that no delays were caused by the complainant being cross-examined via telephone link. They said:

*Now then for him [defence lawyer] to cross-examine her via Telelink. So, our remote facility is literally within the court precinct and it's just a little room behind the registry and they're just looking at a television that beams into court. So, there was no delay in crossing her that way. And it's very common that we have witnesses in remote facilities. So, for us that's not a big deal at all. And it still runs as fast as it would had she been standing in the witness box.*  
(police prosecutor)

While the use of a DREC in this contested matter was reported not to extend hearing times, the impact on case processing timelines if this initiative is scaled is largely unknown. Concerns about the scalability of the DREC Family Violence Trial are captured in the comments below:

*In a perfect world we as prosecutors are meant to download every DREC onto the iron key that is listed in the court that day and we are meant to have them at our disposal. So, when we summary case conference with solicitors, just like they would be entitled to read the complainants statement, they should be able to watch the DREC prior to receiving instructions off their client. Now that's a timely procedure.* (police prosecutor)

#### 8.5.1.3 Increased workload

Increased workload for police prosecutors, legal practitioners and judicial officers resulting from the use of DREC in family violence matters was reported as a potential key impact. Several evaluation participants commented that the time required to review DREC footage is longer than the time needed to review a written statement. Court and legal stakeholders argued that the availability of transcripts would reduce delays arising from reviewing footage. Similar concerns about increasing delays in family violence matters were reported by police survey respondents who commented that the DREC consent process caused delays and added a level of formality and administrative detail that adversely impacted on police responses to family violence victims.

In particular, a number of police members interviewed raised concerns about further burdening the already heavy workload of police prosecutors. Several police interview participants commented that reviewing digitally recorded statements may add to the already stretched workloads of prosecutors. For example, discussing the impact of the trial on workloads two police members commented that:

*Because you've got a written statement in front of you. You can just speed read down the middle...I have noticed myself trying to do the same thing, clicking and progressing through that navigation bar of the video itself, it just clicks and then loads, clicks and loads, clicks and loads, and then decides it doesn't want to do anything for 30 seconds. So, if you really need to know what's happened in this incident, you really have to watch the whole video or*



*download it and then have a bit more control because it's not buffering the whole time. So yes, especially for prosecutors, if they have to reflect on it in a busy environment and short timeframe they're allocated to do so, there might be issues there. (police interview participant)*

*I can't see how they would be looking at every DREC that's listed on a brief, like their workload is pretty big, we understand that. They are probably also used to just having a quick statement to read over and now that's not there and the effort to go to listen to it. It's a lot of work, it's a lot more work for everyone. It's not just prosecutions and us, it's the sergeants who check the briefs instead of having a quick read of a statement, they have now got to login to – they have got to listen to our body worn camera footage for the whole incident, then go to a separate file and go through and listen to 10-20 minutes of the DREC as well...Like it's a lot more work for everyone. It's a lot of added time for everyone. (police interview participant)*

Notably, both the police prosecutors interviewed as part of this evaluation felt that the benefits of audiovisual statements far outweighed any associated workload increases.

*It's much easier to open up a brief of evidence and read the statement than it is to navigate your way around evidence.com, download it, put it on your computer. Watch it through the appropriate medium and sit there with your headphones . . . So yes, it is more long winded, however, I think the benefits to seeing somebody making that audiovisual statement outweighs the time it's taking to bring it up. So, I still think there's more value in the giving of the statement via the audio digital means in terms of the emotion and capturing the moment. And all those types of things and having it in the, I guess in situ almost. They're sitting in their lounge rooms where this events just taken place or something like that. I think all of that around it is a better approach to capturing a statement like that, as opposed to reading it on paper. Because when you're reading it on paper you have nothing, you don't have any emotion. You have nothing there, it's just words. So, I think that that outweighs the time it takes to look at it. (police prosecutor)*

*I know it's probably a bit more laborious for front line members to be uploading body worn camera to iPad and then to evidence.com. But when you see body worn camera and you're using it to prove a fact in a case that's currently contested for example, it's the value of it, you can't put a price on the value that it's so good. So, we've had lots of instances where the accused is alleging something and then we watch the body worn camera and crystal clear that he's lying about something. Because it's there, it's there on camera, it's happening, we're watching it. So, it's the same thing with a DREC, it definitely has more value capturing real time statements. (police prosecutor)*

One police prosecutor suggested that transcripts could be provided for all contested matters to ease workloads:

*I think providing transcripts benefits everyone. Although you can play the audio visual, it helps to have something in writing that you can note and tag and what have you, and the magistrate can also make his own notes on – similar to our records of interview, because we order transcripts for those as well. And that's purely as an aid to the court. So, it's my opinion that possibly getting transcripts for all the DREC statements when they go to a contest would be beneficial to everyone, particularly the court. (police prosecutor)*

Likewise, the judicial officer who participated in the evaluation reported that DREC-related workload issues do not outweigh the benefits of DREC. They strongly felt that victims' experiences of the criminal justice processes should not be compromised due to lack of resourcing and that organisations should be resources to address any workload issues.

## 8.5.2 Impact on relevant workforces and stakeholder including police, the courts, the Office of Public Prosecutions, and legal practitioners (including Victoria Legal Aid)

### 8.5.2.1 Increased workload

Increased workload for legal practitioners and judicial officers resulting from the use of DREC in family violence matters was reported as a potential key impact of the trial. Several evaluation participants commented that the time required to review DREC footage is longer than the time needed to review a written statement (for further discussion see section 5.5.1 above). Court and legal stakeholders argued that the availability of transcripts would reduce delays arising from reviewing footage. Similar concerns about increasing delays in family violence matters were reported by police survey respondents who commented that the DREC consent process caused delays and added a level of formality and administrative detail that adversely impacted on police responses to family violence victims.

### 8.5.2.2 Vicarious trauma

Risk of vicarious trauma from viewing DRECs was highlighted by most evaluation participants (other than police), as a potential negative impact of the trial. Stakeholders flagged that the provision of transcripts, currently not typically provided and not required by legislation, may reduce the potential for vicarious trauma.

*People were quite concerned about - instead of hearing about it - actually visualising some stuff. (court personnel)*

*Another reason we wanted transcripts because often from a lawyer's point of view you might need to review something, you might need to, "What did they say about that particular thing?" and it's a lot less confronting to just be able to quickly look at the statement than it would be to watch it again. (legal stakeholder)*

Notwithstanding, many stakeholders noted that the use of DRECs in family violence matters reduces the likelihood that victims' experience trauma associated with court appearances and stressed that the potential for vicarious trauma should not in itself be a reason for discontinuing the use of DRECs in family violence matters. The denial or minimisation of the real harms of family violence are long standing criticisms of the legal system's response to victims. One of the perceived advantages of DRECs is that it better captures the reality of the harms inflicted on victims and better conveys this to those involved in family violence proceedings (see section 8.5.3.2). The issue of vicarious trauma was not raised as an issue for police, who as front-line responders directly witness the impact of family violence on victims, and have a number of welfare programs in place to deal with work related stress and trauma. The issue of vicarious trauma should, however, be acknowledged and addressed for other stakeholders, such as VLA and MCV. It was considered that additional resourcing for was needed for these stakeholders to develop and deliver services to staff who may suffer vicarious trauma as a result of viewing DRECs.

### 8.5.2.3 Increased resources needed for capacity building

Stakeholders considered that, when DRECs are played in court, there will be a need for resources for capacity building, particularly among police prosecutors and judicial officers, to facilitate the interpretations of recorded evidence, especially in regard to understanding victim behaviour and demeanour on film.

*The impact on juries if it ever went to a jury hearing and judges, their judgement of a victim's demeanour in the video recorded evidence, in terms of is she upset enough? Is she acting like a real victim? And the level of family violence literacy of the people that are assessing that evidence ...I don't think we know enough yet about how that impacts on judicial decision making and whether they were educated enough. And whether the level of literacy around family violence and victimhood is sufficient enough yet for this type of evidence to be successful or to achieve what it's supposed to achieve. That concern that someone was going to present really calmly and comprehensively or on the other end, aggressive and angry and uncooperative or whatever is going to be perceived as not being victim enough. (specialist family violence service practitioner)*

*Police prosecutors perhaps need training in how to mitigate assumptions that people are going to make potentially about victim behaviour and demeanour. And how they prepare those cases. And how they train – because this all is true outside of recorded evidence as well. Just training in how to support and prepare victims to be witnesses and so on. So – yeah, I think that kind of capacity building. (specialist family violence service practitioner)*

These concerns reflect existing research findings on the perceived credibility of video recorded evidence which indicates that victims are perceived as significantly more credible when they give evidence live rather than via a video recording (Landström, Ask and Sommar, 2015; Westera et al., 2013a).

## 8.5.3 Impact for victims

While the evaluation sought to capture the views and experiences of victims through supported interviews and an anonymous online survey, participation by victims during the evaluation period was not forthcoming. The findings below are derived from stakeholder interviews and reflect their perceived impact of DRECs on victims. While police prosecutors, operational police, legal practitioners, judicial officers and specialist family violence workers have a view on the impact of DRECs on victims, they emphasised that they can only speak to this anecdotally and that only victims themselves would be able to answer questions around the use of DRECs in family violence matters. Findings presented here should therefore be seen as proxy accounts.

A number of themes emerged from the stakeholder interviews related to victim including the use of DRECs allows victims to tell their story in their own words, the use of audiovisual evidence in family violence matters, the potential reduction in retraumatisation of victims and victims' sense of agency.

### 8.5.3.1 Allows victims to tell their story in their own words

Police survey respondents reported that they felt DRECs enabled officers to capture victims' emotions and a true account of the incident in the victims' own words. Furthermore, some respondents felt that DRECs provide a more accurate account than written statements due to temporal proximity to the family violence incident.

*I think the DREC statements are powerful as they show the victim's emotions...It is also their free narrative and in their own words. (police phase 1 survey respondent)*

*[You] get a full account of the incident in the complainant's own words. The DREC captures the complainant's demeanour, emotion and tone where a written statement does not capture this. The DREC provides a more free flowing account from the complainant. (police phase 1 survey respondent)*

These views were echoed by police interview participants who reported that allowing family violence victims to tell their story without interruption had a positive impact on victims.

*I think them being able to tell their real story would actually help with the way they - and moving on, getting a bit of closure and moving on in the family violence incident. As opposed to a written statement, a structured written statement. The DRECs is more about "tell your story as a whole", the whole story. (police interview participant)*

*It just allowed the victim to talk really freely and openly, and they definitely got to say a lot more than what they would have in a written statement. I mean, you can only write so fast and you can only put so much down; especially a handwritten statement and even a typed statement, you have to draw a line somewhere. In a DREC statement they can just talk really freely and openly, and I thought that was really good. It just allowed him to say his whole story; I didn't have to stop him and say, "I've just got to catch up," or anything like that. He just got to talk and talk. (police interview participant)*

*They [DRECs] allow for the complainant to tell the story in their own words without having to stop and start as you do in a written statement. (police interview participant)*

*We just can't capture what they are going through in the same way that they can. (police interview participant)*

*Once they start to sort of start telling their story, it's almost like they forget the camera is there and they're just telling us what happened, which is what you want, you want that natural flow of that story. (police interview participant)*

Other police interviewees commented that the conversation style format of DRECs put family violence complainants at ease and led them to feel more comfortable in providing a statement compared to a written or typed statement.

*They have your attention more because it's like a conversation. I think they feel more comfortable just having a conversation rather than, "Just go slow and I'll type. And then what happened? And then I type." (police interview participant)*

*It is more engaging for police and complainants using the conversation technique as opposed to a written. (police survey respondent)*

*I have found that we are more personable with the complainants and we now have the ability to find out so much more about their situation and therefore are much better able to assist them moving forward. (police survey respondent)*

*The relationship between police and complainants is more efficient when they see the statement as a conversation rather than police writing all the time. (police survey respondent)*

*It has just changed the way we can make the AFM feel comfortable in her home/where ever they may be. I have spoken to members who say doing the DREC is so much easier and better due to not hand writing statements in our Police talk. Which in turn has a better effect on*

*members when dealing with FV situations. The feeling about FV jobs was \*sigh\*, but I believe that with the training and the new processes, that feeling is changing to have more a positive outlook and taking it like, it's our job and this is what we do. (police survey respondent)*

Together these comments suggest that the police perspective on the use of digitally recording family violence complainants' statements was that they do have a positive impact on victims giving them a sense of validation. These findings are reflected in the police survey data (see Table 8) which shows that three quarters of the police members surveyed felt that digitally recording evidence-in-chief statements had a positive impact on family violence complainants. In particular police members with direct experience of conducting DRECs had overwhelming positive views of the impact on family violence victims.

Table 8: Impact of DRECs on family violence complainants

DREC Experience	Impact on family violence complainants	Police Members n (%)
Police members with DREC experience	Positive	21 (88%)
	Unsure	3 (13%)
	Total	24 (100%)
Police members without DREC experience	Positive	9 (50%)
	Negative	2 (11%)
	Unsure	7 (39%)
	Total	18 (100%)

\*Two respondents did not answer this question and they are excluded from analysis.

### 8.5.3.2 Audio visual evidence and family violence

Discussions with police members about the impact of DRECs on family violence victims highlighted that the use of audiovisual evidence is a powerful way to capture the impact of family violence. Police members reported that they felt DRECs enabled officers to capture victims' emotions and the 'real life' impact of family violence.

*There's no hiding the emotion or the toll that it's had on the AFM and it's real. The bruises are there in the video, the scars or blood or whatever it might be. But you don't see that in a statement. Yes, you might see the photos but putting those all together in one package on video is pretty powerful, I would have thought. (police interview participant)*

*It's real and it's raw whereas anything just on paper it's hard to gather the emotion of it all. (police interview participant)*

*I think it's a much better way of capturing what actually happened as well. I find when you write a written statement that emotion that you see from them you can't capture. All you get is maybe a couple of sentences saying 'I was scared' or 'I thought this was going to happen and it made me feel afraid' or something but to actually see the person sort of break down a little bit more, it's a lot easier to capture what they actually mean when they're saying how*

*everything made them feel and what happened. That's definitely – well that's good for us as well because it shows the courts and it shows the offender or whoever is going to be watching this, it shows them that it actually did affect them more than just a written piece of paper. (police interview participant)*

*The DREC is extremely powerful and is the best way to capture the incident from the complainant. It is able to capture the raw emotion that cannot be captured in a written statement. (police survey respondent)*

*I have found that the captured evidence provides a far greater image of the violence experienced by the AFM. (police survey respondent)*

*For the most part, I find it very beneficial, like just capturing a victim's body language and emotions and the scene, like especially if you're doing it in the house, that's just gold in terms of evidence collection. (police interview participant)*

*From my use of the DREC, I have found that because they are so powerful as evidence, perpetrators have not disputed any of the family violence incidents I have attended. (police survey respondent)*

*I think the DREC statements are powerful as they show the victim's emotions (police survey respondent)*

*You can portray more emotion in a DREC than a written statement. (police survey respondent)*

*The statements capture the emotional status of the AFM at the time of the incident. This allows people viewing the footage to see how the AFM has been affected by the incident. (police survey respondent)*

*Shows the toll and emotion the incident has had on the AFM. A written statement does not provide a visual element. (police survey respondent)*

*It's real time, there and then. The emotion, the realness and the moment is captured. (police survey respondent)*

*The DREC is a powerful tool to show the negative impact of family violence on a complainant. It shows an emotional aspect that a written statement could never show. It is also timely, it displays the impact on the complainant at the time, not at court where they may be more composed because of time and emotional distance from the incident. (police survey respondent)*

*Well I think that being able to capture the emotion that the person is going through at the time is obviously a big positive because it shows the moment like how it is. A lot of the time you can't capture how someone is really feeling in a written statement. But if you can show, like say a magistrate, this is how the person was dealing with it, this is what they were going through at the time and the emotions there to prove it, that will have a massive impact. (police interview participant)*

Discussing the benefits of the use of DRECs in family violence matters, one police member recalled a family violence incident where the use of a DREC had a particularly powerful impact.

*It was a family violence instance where she's ran away from the house and taken refuge in a nearby service station. And she was just that heightened when we got there, she couldn't put two words together without breaking down and just being an emotional wreck, which is understandable based on the circumstances. But 10-15 minutes later on, my offsider obtained the DREC from her by consent and she was fine when it started and she just broke down, just cried, and just had to stop and pause. And it probably took an extra ten minutes just by her having to really pull herself together to continue.*

*But I watched the video later to conduct the interview because I wasn't there for the DREC and it was really confronting actually. It was almost like I was still there at the time when she was going through it, just seeing how it had affected her in the circumstances. So, it was a really strong video to see – just really painting a picture. Because you can always read a statement and think, "Oh yeah," and put your thoughts in there of what it might have been like. But with the – yes, with the DREC you're actually seeing how they feel and how they express it. It really, really changes your perspective.*

In other discussions with police members about the benefits of DRECs, some participants described how digitally recording statements allowed victims to walk police through the incident. They commented that:

*They can show you how they've been affected as well, like if they've got grabbed around the throat, they can physically show you, you know, they used two hands and they positioned it here on my neck. Whereas if you're reading that from a statement, it's kind of like you don't get the full picture. Or if they've been grabbed by the arms, they can show exactly where they've been grabbed. I think that's beneficial as well. (police interview participant)*

*I've found with the one I did, it was – the matter I was involved in was the victim was pretty much lifted off her or woken up by the offender, belted around the head, lifted up by the throat in the corner of her bedroom and held off the ground. So, I was able to – I actually obtained the DREC in the room where it happened, and set it up, and I said, "Well, can you show us where it happened?" So that was all captured on camera rather than trying to write down, "In the corner of the room –" she was able to point out, "And he lifted me up," and I said, "Well, stand up and show us how far up." And she was able to indicate on the wall where she was lifted up to and things like that, which I found you'd never be able to get that in a written statement. (police interview participant)*

Similarly, the two police prosecutors interviewed indicated that being able to capture victims' emotions at the time of an incident is a key contributor to successful outcomes in contested hearings, particularly those that involve questions of fact. One police prosecutor said that:

*Yeah it was a really good outcome because I think in the past if we had not seen that emotional testimony, I think we may have really struggled to get up on a word on word argument. So, I think it was a really great way to capture it. And that's why I say it completely outweighs any extra time at the moment that it takes. (police prosecutor)*

Likewise, another police prosecutor highlighted the strength of DRECs in providing a visual record of injuries sustained as a result of family violence incidents. They explained that:

*If there's injuries involved it's really, I know it's not obviously great, it's horrible that they've got an injury, but it's really great to see that on film. So, we get different qualities of photos come through in terms of injuries. If photos are captured by the crime desk, they're really great. If the informants taken their own photos, they're a bit grainy or what have you, it might not be as clear as to the extent of an injury. Say for the medical report that comes with, actually just seeing the injury on a person. I've seen DRECs where they're got a big shiner or they've got a cut on their face or something. And it's there, it's – I know this sounds really morbid, but it's there, it's bleeding, it's fresh, it's just happened. And it just captures the rawness of the event. And that's what we really like about it. (police prosecutor)*

It's well established that family violence is a hidden and underreported problem. These discussions about the impact of digitally recording statements on family violence victims suggest that the use of audiovisual evidence in family violence cases limits the opportunity for perpetrators (and others) to question or diminish its impact on victims.

#### 8.5.3.3 *Retraumatisation*

Several evaluation participants reported that the use of DRECs in family violence investigations and proceedings reduced the amount of times victims had to re-tell their story and the potential for retraumatisation. These benefits were captured in the comments of several police interview participants:

*I would say they don't have to relive the situation for as long because generally when you do a written statement you'll go over it and over it and over it just to clarify points...Whereas if the DREC's done, the people that don't want you there, you can leave them to get on with their healing process. Whereas once the DREC's done, if someone still wants to talk to you there's no issue with that either. But they're not also reliving the trauma as well, over that sustained period. Where if you're doing a half an hour written statement, that's a fair bit of time you're forcing that person to go over that trauma. (police interview participant)*

*[The DREC] gets the AFM to divulge what has happened as quick as possible without making them relive the event repeatedly. (police survey respondent)*

*In terms of positive impacts, the AFM only has to give evidence once with the statement being able to be presented as an exhibit. It has also led to early finalisation of orders and criminal proceedings, which limits the psychological stress the AFM endures. (police survey respondent)*

*Positive is they don't have to repeat the incident to multiple people on multiple occasions. (police survey respondent)*

*It is positive for the complainant as they do not have to continuously re-tell the incident. (police survey respondent)*

*Complainants do not have to retell their story in court which is a major positive for them. (police survey respondent)*



*They only have to give their evidence once and don't have to relive the incident later on.*  
(police survey respondent)

Police prosecutors and a magistrate echoed the operational police beliefs that the use of DREC in family violence proceedings reduces the potential for retraumatisation. The judicial officer explained that the use of DRECs in family violence proceedings 'enables victims to give their best evidence' while a police prosecutor noted 'the benefits to them [victims] emotionally not having to retell it in so much detail. Discussing a victim's experience of a contested family violence matter where a DREC was played in court, one police prosecutor said:

*I thought it was really good, in the sense that the victim, the complainant and the witness didn't have to really re-live to re-tell, if that makes sense. It gets played so they don't have to make sure they remembered to say everything, if that makes sense. I think it made it easier for the victim. Then obviously that they had to be available for cross-examination and re-examination but I think taking that pressure off them to actually re-tell it in its entirety, I thought that was a great benefit to them. That's why I'm in favour of it, I saw how it made it easier for them.* (police prosecutor)

Discussing the impact on victims, another police prosecutor commented that:

*Oh well no worse than if they had to recall it and retell it...And if anything, I thought it was easier, it was better. Yes, it did have an impact because it brings it all back into mind and they saw how distressed they were at the time, and that's emotional and that can be triggering for them but I think the benefit of not having to re-tell it word for word, if you know what I mean, far outweighs the alternative. Because quite often, a lot of victims don't want to re-live it because they get however months down the track and they're making a recovery and they're getting counselling, they are getting support and help, and then to have to go back and re-live it, you know, some people shy away from that. I kind of understand that because you work so hard to make a recovery, sometimes going back can set you back a little bit. So, I'd say I'd be an advocate for it, to continue using it.* (police prosecutor)

Conversely, other stakeholders questioned whether the use of DRECs in family violence proceedings would change victims' experiences of justice processes as they are still required to be available in court to be cross-examined:

*If one of the purposes of it is to avoid her having to retell her story in court, yet she still has to be cross-examined. So, it really – I think one of their main questions was what does this actually improve, really?* (specialist family violence service practitioner)

*The person must still be there to be cross-examined. You've got an open courtroom, you've got the video being shown of the person not always at their best. And I think that could be - it would be interesting to see how the victims feel about them at the peak of their distress, or whatever state they are in that evening, or judgement's been made about how they are or how they come across being played in an open courtroom.* (court personnel)

While one police member agreed that the cross-examination of victims in relation to DREC footage would be confronting, they noted that protective procedures for giving evidence may apply to family violence victims:

*I can understand why they would have to be cross examined but I think they've got it right in relation to they don't have to be there and be in the box and be present while it's being played. I've actually played a mock one in court to make sure the systems were operating,*

*and the TV is half the size of that wall, and that gets played as there, and it would be very confronting in court. (police interview participant)*

A couple of police members similarly reported that being audio recorded is a confronting process for family violence victims.

*Being put on video scares them and it's not a natural thing to speak in front of a camera. (police survey respondent)*

*I think it's easier just to sit in a room with someone and give their thoughts on what's actually taking place and writing it down and then signing something, to literally putting someone on the spot and being recorded...I think that they've gone through so much in the first place, and that's what we are trying to capture, we are trying to capture the emotion of the whole situation, but they've already been through enough as it is. And then also to be put on the spot, put in front of a camera might be playing with fire. (police interview participant)*

As no DRECs were played in court during the evaluation period, it is not possible to make conclusive findings regarding the potential retraumatisation of family violence complainants through the use of DRECs in family violence proceedings. However, the first matter where a DREC was played in court occurred shortly after the evaluation period ended. Reports from a stakeholder involved indicate that they believe the use of DREC reduces the trauma often associated with court proceedings and did not require the victim to relive the event in minute detail.

#### **8.5.3.4 Victims' sense of agency**

Concerns about the adverse impact on victims' sense of agency were raised by police, courts, legal practitioners and specialist family violence services. These concerns related to a perception that once a DREC had been taken victims might feel anxious about who might subsequently view it and their ability to withdraw a complaint or alter their account of events. As captured in the following comments:

*The AFM has no control over what happens to the DREC after police leave. AFM's may be fearful that the RESP will see the video and it may cause further violence/relationship issues. (police survey respondent)*

*Negative is they feel like they are stuck as in they can't withdraw the complaint as it's recorded so it alienates them from calling Police next time because they know it's harder to retract a recording. (police survey respondent).*

*The way that the consent process is managed for victims and the way the police will deal with people who then don't want the evidence to be used...I thought from my point of view that they were processes that were concerning – in terms of undermining the agency of the victim. (legal stakeholder)*

*So, the process is that they agree to it being used and that they have to be available for cross examination in order for it to be tendered as their evidence-in-chief. But if they're not available for cross examination the police can still seek to tender it as hearsay in evidence. I don't know that it's happened but it certainly was the police view that they would try to use it anyway, they wouldn't just say, "We're not going to play it if the victim didn't want it to be played." I think it's a pretty confronting thing to have that material played in open court against your will. (legal stakeholder)*

*I suppose there's an assumption that the first statement is just 100% truth and accurate. And that women are constantly stigmatised or assumptions made about them when they need to amend statements. And I have a concern that the recorded statement will be given a sense of validity even more than the written statement in that it is a moment in time that's crystallised as the absolute truth. And there'll be less room for women to be like – 'oh, actually that's not my recollection of it now'. And then all of the things that fall out of that in terms of well, she was making it up. (specialist family violence service practitioner)*

As discussed earlier in 8.3.1.3, some evaluation participants saw the ability to declare family violence complainants as unavailable witnesses and tender DRECs as evidence when cooperation is withdrawn as an enabling factor which promotes perpetrator accountability. In contrast, these stakeholders' reports echo concerns raised by Moore and Singh (2018) in Canada who argue that visual evidence tends to silence victims and removes their agency in prosecutions (see details above in the state of knowledge section).

#### 8.5.4 Impact on public confidence, including confidence that family violence perpetrators will be held to account.

Most evaluation participants felt that the trial had little to no impact on their confidence that perpetrators will be held to account. Discussing the impact on perpetrators of the DREC Family Violence Trial, several police interview participants queried whether the use of DRECs would promote perpetrator accountability.

*They've [perpetrators] seen first-hand the effect this has had on these people and they don't seem to care. So, you just, I don't know, I don't know that it will. It might, one in ten or whatever the figures turn out to be. But I think, as a general whole, that video evidence is only helping AFMs and police and courts get quicker results. I don't think it's going to curb behaviour, males who are just shit people. (police interview participant)*

*I don't know if it will have any impact on their accountability at all. They [perpetrators] are there destroying houses and belting victims, they are aware of what they are doing, they can see the destruction they're doing, even if they return to the house or the place days or weeks later, they can still see it. I don't think it will have any impact on their accountability. (police interview participant)*

*I don't really know if it's any different to a written statement to be honest. I don't know if it would impact any different to a written statement. We have obviously lots of families that AFM would make a statement and then later on change their mind and that kind of thing but it wouldn't be any different with a DREC, I don't think. (police interview participant)*

*With repeat offenders, they don't care so I don't know if they think that that changes anything because they are going to keep doing it because they believe what they are doing is not a problem, it's not an issue. So even if that did get played in court, I couldn't imagine a repeat offender would think that it is going to affect them in any way. (police interview participant)*

Other police members reported that the non-use of DRECs by prosecutors has limited the potential impact on perpetrator accountability.

*Nobody except the police watch it [DRECs]. Magistrates don't have time. Prosecutors flat out don't care. Sergeants already agree with the charges or wouldn't have authorised the brief. Defence pleas to lesser charge to avoid it being produced in contest which results in less*

*penalties than they otherwise would have received. If it carries serious enough charges to somehow make the prosecutions proceed with the matter then a DREC wouldn't change anything. (police survey respondent)*

*I would say greatly improves my confidence, however this would require prosecution to also support the BWC footage, which to this date, I don't know if this occurs or not. Each time I have spoken to prosecutions about my matters, each and every time, I have been told by these members that they have NOT reviewed the footage. (police survey respondent)*

One police member suggested that the screening of DRECs in family violence proceedings may promote perpetrator accountability by forcing perpetrators to see the impact of their actions. They said:

*After the facts, if they go and see the result of their actions in hopefully a better state of mind, after they've had some time to reflect, it may impact them in a positive manner, especially in a court environment where the magistrate's seeing or hearing the same thing. And they're thinking while they're watching or hearing it, "Oh, shit, I've really done some damage here. This is a result of what I've done." ... That's how I probably see it would have an impact. (police interview participant)*

Similarly, another police member reported that viewing the DREC footage may influence the behaviour of first-time offenders. However, they underscored that DRECs will only have an impact on perpetrators if the footage is screen in court. Discussing the impact of the use of DRECs in family violence matters, they noted that:

*Maybe the more like the first-time perpetrators, maybe. But then again, they have to view the footage or get to a stage in court where the defence lawyers who spent the whole day trying to bat away this DREC so that it's not shown so that the magistrate doesn't give a harsher sentence down, it's got to get to that stage. (police interview participant)*

## 8.6 Has the trial had any unintended consequences?

As outlined in 7.8 there were many limitations in this evaluation, particularly in relation to the limited implementation and use of DRECs. This means that the points noted below should be read as an indicative list of considerations but we must emphasise that is not a comprehensive list. It is only through ongoing monitoring as DREC is utilised more widely and consistently in family violence matters that any other unintended consequences may come to the fore (see Recommendation 5.1.1.1).

### 8.6.1 The need for resources to support capacity building

Stakeholders reported issues related to vicarious trauma arising from the viewing of DRECs and they considered that there was a need for capacity building and training to deal with this. Note however this was not considered an issue that would count against the use of DRECs. As discussed at 8.5.3.2 the better capturing of victim trauma was considered a strong positive in relation to DRECs. There was an expressed need among legal and court respondents for education for relevant stakeholders in victim trauma and behaviour.

*We paid our EAP provider to develop some content and present for us at both of those training sessions about managing wellbeing and vicarious trauma...What are the ways you can manage it when you're watching this type of footage? So, we tried to do some mitigation*

*around that but certainly, in our view, it's another reason why transcript would be helpful.*  
(legal stakeholder)

*We've offered training to staff that have had some cases...That was from internal resources.*  
(court personnel)

### 8.6.2 Network upgrade

Several police members identified the need for a network upgrade specifically to support the use of DRECs, citing low bandwidth and slow loading times as adding to their workload and causing delays.

*As I said, that's more just the infrastructure. You click a button and you just sit there and watch the little circle loading. And it's just – when you're already time-poor, everyone in this organisation would know there's no one that's got enough time in the day to do the stuff. So sometimes when you're sitting there watching that circle it is infuriating, but on the other hand, it's more of an infrastructure thing rather than the DREC itself.* (police interview participant)

*It's more of a Vic Pol network or lack thereof that's <laughs> causing issues with connectivity, and just general ease of access. Once you get in and it's a low load time of day it's relatively quick, and you can load up and watch what you need to watch. But otherwise you've got that infuriating circle of patience you have to endure.* (police interview participant)

*Internal Vic Pol infrastructure struggling to support the technology.* (police survey respondent)

*Just a little bit more effort to have to go into evidence.com, play it, find headphones within the station so I can listen to it. That's an issue...And things like the last couple of days there's been problems with evidence.com, we haven't been able to categorise footage properly for a few days over the weekend and I had trouble viewing things...And editing all of that sort of stuff is – I could spend hours trying to figure that out. That's a nightmare. So, all that, I just find that really clunky. So right now, for me everything to do with the cameras is adding a huge amount time on to my already busy day.* (police interview participant)

Many police members highlighted the backend challenges associated with processing DRECs after they have been taken and navigating the relevant online system, evidence.com. These challenges are captured in the comments of police interviews participants below:

*It is a bit clunky with evidence.com and providing the audio only copy because the systems aren't set up correctly. The IT systems aren't set up correctly at this point. I know they're working on it to make it a little bit more simpler. But if I had a magic wand, I'd actually try and make it a bit more simpler for members post the DREC.* (police interview participant)

*I've tried getting help from evidence.com before. So, I've tried ringing them. I remember ringing them on a Friday morning one day and then I got an email response Monday or Tuesday. By then I'd already had several meltdowns about how to do it. I think I got through to some someone and they just said 'the help page on the Internet is going to be your best friend and you'll be able to find it from there' and couldn't figure out what I was doing that day from that. So that's been a bit of a letdown. I would say probably more training on evidence.com on how to edit things.* (police interview participant)

*If you need something straightaway, it's hard, because you need to give everyone access too. So if you're about to walk out the door and someone's going to take over from you and your*

*camera hasn't been docked straightaway, you have to sit around and wait for it to be docked before you give someone access to it. (police interview participant)*

Resourcing issues at courts were also identified by participants with many interview participants noting that some court locations do not have the facilities to screen DRECs. The judicial officer interviewed held the firm view that these resource issues are not reason to discontinue the use of DRECs in family violence matters and in fact provide a justification for urgent building improvements.

### 8.6.3 Help seeking barriers

Reports by operational police members and stakeholders indicate that the current DREC processes can create barriers to help seeking and victim engagement in the justice system. In particular evaluation participants highlighted that the adverse effects of the requirement that victims focus on the immediate incident rather than history of family violence on victim engagement with Victoria Police and the wider justice system.

*AFMs need to be able to discuss historical allegations - for example, even if police are responding to an assault which has occurred that day, the AFM will want to discuss how the RESP threatened her a month ago. It is no less relevant to the AFM when they reach the point of wanting to involve police. To tell an AFM that it is not relevant or not appropriate for a DREC sends an inappropriate message. (police survey respondent)*

Stakeholders also reported that the current DREC practice inhibits uptake by CALD communities. Several officers suggested having the consent preamble translated into languages other than English (LOTE) would assist in addressing this limitation in the current trial.

## 9. Key Conclusions

In the absence of quantitative data from police and courts on case outcomes including rates of early guilty pleas and contested hearings, a broader range of third-party proxies' views on the experience of victims, and the perspectives of victims themselves it is not possible to make any firm assessment regarding the impact and scalability of the use of DREC in family violence matters. No DRECs were played in court during the trial period and only one has been played at time of writing. This combined with the relatively low number of DRECs taken by police during the trial period (166 across two regions) makes assessing the impact of the trial challenging at this stage. As a result, this evaluation is largely based on the perceptions of stakeholders, some of whom did not have direct experience of family violence matters involving DRECs. While a limiting factor, the final evaluation report does point to some perceptions about the impact DRECs may have on victims. These perceptions include that DRECs will impact negatively on victim agency or conversely give them 'voice', providing more accurate and compelling evidence and that it may or may not reduce the trauma associated with having to repeatedly describe incidents of family violence. However, there is currently no data available to test these perceptions.

The data provided by operationally focussed police and police prosecutors offers valuable insights for future policy and practice. Operational police survey and interview participants had direct experience of using DRECs in family violence matters. The evaluation revealed a general consensus that use of DRECs in police family violence investigations improves frontline responses to family violence. The findings show that the conversational format expedites the statement taking process and builds rapport with family violence complainants giving victims a sense of validation and of being heard. On the other hand, the current Operational Guidelines contradicted general family violence

training in focusing on a particular discrete incident of family violence rather than the pattern and history of the violence.

In contrast to the front-line police efficiency of DREC over paper statements, the use of DRECs in family violence policing increased the associated station work compared to traditional written or typed statements. At an operational level, the evaluation findings highlight the importance of experiential training and active monitoring of front line police members. Members from the Western Region Division 3 trial region praised the quality of the training and support provided. They also consistently commented that they valued the provision of individual feedback on initial DRECs from training officer. Taken together with the attitudinal survey results, these findings exemplify how top down promotion of DRECs at the regional level promoted police use of DRECs in family violence matters. At a strategic level, some teething issues with early version of the operational guidelines have been resolved by later updates. It is likely many of these issues would not arise if the trial is extended to other stations.

The impact on case outcomes is largely unknown due to the absence of court data. Anecdotal evidence provided by police prosecutors and operationally focused police indicated that the use of DRECs in family violence matters may have increased early guilty pleas and reduced the number of contested hearings. A contested hearing where a DREC was played in court occurred outside of the trial period. A stakeholder involved in this hearing reported that the use of a DREC had a positive impact on the case outcome. The two police prosecutors interviewed forecasted that DRECs would be particularly beneficial in cases involving factual arguments explaining that as the DREC is taken at the time of, or close to the time of, the incident the complainant is able to provide a high level of detail rather than having to recall (and relive) the event months or years down the track. The use of digitally recorded evidence-in-chief was also seen to reduce hearing times compared to when evidence-in-chief is given in person. The overall impact of the DREC – Family Violence Trial is yet to be fully assessed and will depend on continued measurement of outcomes over time. A time series analysis of case outcomes including rates of early guilty pleas, convictions and the number of contented hearings pre and post DREC implementation is required to ascertain the impact on case outcomes. There is also limited data on which to base any conclusions about perpetrators being better held to account or being seen to be better held to account. However, DRECs have the potential to better capture the reality of family violence and its impacts on victims. Given the longstanding tendency amongst perpetrators and others to deny and minimise the impacts of family violence this may well lead to perpetrators being better held to account where such evidence is used in family violence proceedings.



## 10. Recommendations

### 10.1 Recommendation One: Continue the DREC Family Violence Trial

To improve its operation and with a view to developing a best practice model, it is recommended that the DREC Family Violence Trial continues across its current locations until recommendation 2-11 are implemented. Extending the trial may also allow Victoria Police to better ascertain the firsthand impact of the use of DRECs in family violence matters on victims, perpetrators and case outcomes.

### 10.2 Recommendation Two: Victoria Police infrastructure upgrade

To facilitate the more efficient processing of DREC statements of family violence victims, it is recommended that Victoria Police receives additional funding to upgrade their internal digital infrastructure. This should include a network upgrade to increase bandwidth to better support the efficient use of DRECs in family violence matters, particularly the docking, uploading, categorising and redacting of DRECs.

### 10.3 Recommendation Three: Additional resourcing for Victoria Police to address the DREC-associated station work

It is recommended that Victoria Police receives additional funding to meet the increased human resource time demand associated with the use of DRECs in police family violence investigations. While it seems likely that taking a DREC is time efficient compared to taking a written statement, increased work associated with DRECs, particularly the docking, uploading, categorising and redacting (if required) of DRECs, was reported by frontline police and police prosecutors.

### 10.4 Recommendation Four: Enhance police training and practice guidance

To better support the use of DRECs by operationally focused police members, it is recommended that Victoria Police review its current BWC DREC training and consider the incorporation of experiential learning techniques, such as role plays, simulations, taking mock DRECs and demonstration videos, to better enable the taking of DRECs. Findings indicate that putting in place such training strategies and ensuring adequate resources are allocated would assist police in overcoming any reluctance to take their first DREC.

### 10.5 Recommendation Five: Review Victoria Police Body Worn Camera Family Violence Operational Guidelines Version 13

To better support the use of digitally recorded statements over paper-based statements, it is recommended that the responsible parties review the Victoria Police Body Worn Camera Family Violence Operational Guidelines V13. The formality and length of the current DREC preamble, which reflects legislative requirements, was seen to inhibit the use of digitally recorded statements. Operational police considered that less formality would facilitate victim consent to undertaking a DREC, support police members in taking a DREC and create better rapport with victims. To ensure alignment with wider police family violence training, it is further recommended that Victoria Police



consider broadening the focus of DRECs beyond the present family violence incident. Findings revealed a contradiction between Victoria Police family violence training, which focuses on ascertaining patterns and histories of abusive behaviour, and the direction to focus on the current family violence incident.

## 10.6 Recommendation Six: Magistrates Court Victoria building improvements

To facilitate the effective use of DREC statements in family violence proceedings, it is recommended that Magistrates Court Victoria (MCV) receives additional funding to carry out building works at all court locations in Victoria where DRECs are to be used to upgrade current audiovisual systems and better support the screening of DRECs in court.

## 10.7 Recommendation Seven: Develop an early notification procedure for DREC case listings to assist with court allocation

It is recommended that Victoria Police in consultation with MCV consider an early notification model for DREC case listings that would alert courts to family violence matters that involve a DREC and whether it is intended to be played in court. This process could draw on the model used by Victoria Police in the brief cover sheets for police prosecutors. Early notice that a DREC is intended to be played in court will enhance current court allocation processes ensuring sufficient hearing time and appropriate facilities to support the screening of DRECs facilitating the efficient administration of justice in family violence proceedings.

## 10.8 Recommendation Eight: More inclusive approaches to culturally and linguistically diverse victims.

It is recommended that Victoria Police review the current operational guidelines and consider developing a more inclusive approach to non-English speaking family violence victims. In particular police and specialist family violence stakeholder findings indicate that translated recordings of the DREC preamble in languages other than English that police members could play to victims before filming the DREC would assist in the use of DRECs with non-English speaking family violence complainants.

## 10.9 Recommendation Nine: An integrated approach to supporting family violence victims

It is recommended that Victoria Police develop a communication plan in consultation with the current trial regions and relevant court locations to improve awareness of the DREC Family Violence Trial (if continuing) or broader roll-out, among local community, family violence and legal services. It is further recommended that Victoria Police consider holding an interagency forum that includes key stakeholders, such as judicial officers, court personnel, Victoria Legal Aid (VLA) and Community Legal Centre lawyers, specialist family violence services, police prosecutors and frontline police members, to foster collaboration and a shared understanding of the use of DRECs in family violence matters and to advance knowledge about the use and impact of audiovisual evidence on victims in the family violence context. It is expected that greater community, family violence and legal sector awareness of the DREC would enhance the use of DRECs with family violence complainants. In particular

specialist women's service stakeholders believed that greater understanding of the trial would be an enabler of use in police investigations and court proceedings.

### 10.10 Recommendation Ten: Additional resourcing for vicarious trauma support

It is recommended that VLA and MCV receive additional resourcing to develop and deliver appropriate services to support and debrief those employees who have and might suffer vicarious trauma as a result of viewing DRECs. Victoria Police as frontline workers directly witness victim trauma immediately after a family violence incident, whereas other criminal justice professionals, such as prosecutors and lawyers, typically do not. While Victoria Police already has welfare supports in place, other professional organisations need to ensure that there are processes and supports in place to address increased risk of vicarious trauma as a result of viewing DRECs.

### 10.11 Recommendation Eleven: Need for ongoing research and evaluation

It is recommended that Victoria Police, in consultation with MCV, VLA and key stakeholders, conduct further research and evaluation of the use of DRECs in family violence matters to investigate the impact on case outcomes and the experiences of family violence victims. The relatively low numbers of DRECs taken by police and the non-screening of DRECs in court matters during the trial period means it is too early to evaluate the impact of the trial in ways that answer all the review questions. It is further recommended that Victoria Police commission a separate independent review to carry out analysis of quantitative court data including rates of contested hearings, early guilty pleas and convictions to identify what impact DRECs are having on family violence case outcomes for matters that proceed to court.

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## 12. Appendices

### 12.1 Appendix A: Chief Commissioner's Instructions CCI 02/19 Body Worn Camera Family Violence Trial

# Chief Commissioner's Instruction

*The following instruction is issued pursuant to the powers of the Chief Commissioner under section 60, Victoria Police Act 2013. This Chief Commissioner's Instruction was originally published on the Victoria Police intranet on 12 August 2019 and is effective from that date. This instruction expires 12 months from publication or until earlier cancelled or reissued.*

## CCI 02/19 Body worn camera family violence trial

### Context

In response to recommendation 58 of the Royal Commission into Family Violence (RCFV), Victoria Police is conducting a trial of the use of body worn cameras (BWC) to capture the digitally recorded evidence-in-chief (DREC) statement of victims of family violence.

The trial will be conducted at Epping and Ballarat Police Stations and involve trained frontline and Family Violence Investigation Unit members. The trial will be evaluated to measure the impact of the use of BWCs to capture DREC on victims of family violence, police, courts, legal practitioners and on the administration of justice.

These instructions support the trial by providing guidelines to members and work unit managers.

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### Scope and application

This CCI applies to members, supervisors and work unit managers who are:

- trained in the use of BWCs for frontline duties and for taking DREC family violence victim statements
- performing duties at the BWC family violence trial sites (Epping, Ballarat, Ballarat North and Ballarat West) including FVIU
- responsible for the authorisation of briefs of evidence which contain DREC footage.

It also applies to members, Police Custody Officers (PCO) and prosecutors who are:

- involved in the management of accused persons in police custody, or
- involved in the prosecution of accused persons to which a DREC applies.

**PUBLIC DOMAIN**



## References

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This CCI is supported by and should be read in conjunction with the following:

- CCI 02/18 – Body worn camera trial
- CCI 10/17 – Mobile device deployment
- Body worn camera family violence operational guidelines
- Body worn camera operational guidelines
- VPM Interviews and statements
- VPMP Family violence
- VPMG Family violence
- VPMG Recording of operational duties
- VPMP Briefs of evidence

## Definitions

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The following definitions apply to this CCI:

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

Also refer to the general [VPM Dictionary](#) for definitions and acronyms.

## Responsibilities and procedures

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### Family violence incidents

1. Members should activate their BWC when they attend a family violence incident and throughout their management of the incident, in line with the Activation Framework outlined in CCI 02/18.
2. Indirect evidence from the family violence scene, such as injuries and property damage should be documented using the BWC.

### *Considerations for taking a DREC*

3. There is a difference between the use of BWC to record operational activities, including family violence incidents, as opposed to the use of BWC specifically for taking a DREC.
4. Similar to the taking of a formal written statement, the DREC should occur as soon as practicable to the incident in order to obtain the best possible evidence.
5. A DREC can be taken at any location considered appropriate which provides a level of comfort and privacy for the victim. This may include at:
  - the scene of the family violence
  - a police premises
  - a hospital or other appropriate location.
6. Members must consider the emotional and physical state of the victim before taking a DREC. This may result in a member deciding to take a traditional written statement rather than DREC.

### *Taking a DREC*

7. Prior to the taking of a DREC, the member conducting the interview must provide the victim with information relevant to the DREC process and obtain the victim's informed consent. Refer to preamble template in the **BWC family violence operational guidelines**. The provision of information and consent should be captured on the BWC prior to it being stopped to take a DREC.
8. In preparation to take the DREC, the BWC recording must be stopped. When stopped, the BWC should be positioned as per the **BWC family violence operational guidelines**.
9. Before commencing, members must be satisfied that the victim has provided informed consent and that they understand the purpose of the recording and how it will be used. If consent is refused, a written statement must be used.
10. When the DREC is started, the recording must capture the victim reaffirming their consent. For more information about the process of taking a DREC refer to **BWC family violence operational guidelines**.
11. Prior to the conclusion of the DREC, the victim must attest to the truth of the statement at the end of the recording.

### *Principles of use*

<b>Age of the accused</b>	<ul style="list-style-type: none"> <li>The DREC process must not be used if the accused person was under the age of 18 at the time the family violence incident is alleged to have occurred.</li> </ul>
<b>Impaired by alcohol or drugs</b>	<ul style="list-style-type: none"> <li>Where there is reasonable belief that a victim is impaired by alcohol or drugs, the DREC process should not be used. Members should defer the taking of the statement to a time when the victim is no longer affected. For more information see <b>VPMP/G Family violence</b>.</li> </ul>
<b>Age of the victim</b>	<ul style="list-style-type: none"> <li>The DREC process must not be used if the victim of family violence was under the age of 18 at the time the family violence incident is alleged to have occurred.</li> <li>If the victim meets the criteria for the use of Video Audio Recorded Evidence (VARE) then that process should be followed. See <b>VPM Video Audio Recorded Evidence</b></li> </ul>
<b>Cognitive Impairment</b>	<ul style="list-style-type: none"> <li>Where there is reasonable belief that a victim has a cognitive impairment, the DREC process must not be used. For more information in relation to persons with a cognitive impairment and interactions with them, see <b>VPM Interviews and statements</b> and <b>VPM Video Audio Recorded Evidence</b>.</li> </ul>
<b>Presence of children</b>	<ul style="list-style-type: none"> <li>The DREC process should not take place in the presence of a child, or children.</li> <li>In the event that a child's presence is unavoidable, members must take steps to prevent the DREC capturing the child's image. See <b>BWC family violence operational guidelines</b> for redaction options where this is not possible.</li> </ul>

<b>Presence of the alleged offender</b>	<ul style="list-style-type: none"> <li>The DREC process must not take place in the presence of the alleged offender.</li> </ul>
<b>Collection of DREC at a police station</b>	<ul style="list-style-type: none"> <li>The DREC process may take place in a police station or police premises in a suitable room or environment.</li> </ul>
<b>Disclosure of a sexual offence</b>	<ul style="list-style-type: none"> <li>If at any stage during the DREC process a sexual offence is disclosed, the recording must stop.</li> <li>In those circumstances, member should refer to <b>VPMP Sexual Offence Investigation</b>.</li> <li>Advice should be sought from a supervisor, I&amp;R unit or SOCIT</li> </ul>
<b>Focus on current incident</b>	<ul style="list-style-type: none"> <li>The DREC should focus on the current family violence incident.</li> <li>If the victim discloses other matters of family violence, the recording should still continue.</li> <li>Focus should remain on the collection of critical details required in an evidence-in-chief statement.</li> </ul>
<b>Use of interpreters</b>	<ul style="list-style-type: none"> <li>The use of interpreters for the DREC process is permitted.</li> <li>Children or other family members (including the alleged offender) must not be used as interpreters.</li> </ul>
<b>Use of a support person</b>	<ul style="list-style-type: none"> <li>The victim may have a support person present while providing a DREC.</li> <li>The presence of a support person must be noted on the recording irrespective of whether they are captured on the DREC.</li> <li>The support person must not be: <ul style="list-style-type: none"> <li>a person under the age of 18</li> <li>a party or witness to the current family violence incident</li> <li>an active verbal participant in the DREC.</li> </ul> </li> </ul>
<b>Proper venue</b>	<ul style="list-style-type: none"> <li>The three courts participating in the trial are: Ballarat, Heidelberg and Melbourne Magistrates' Courts.</li> </ul>

#### *Withdrawal of consent to use DREC footage*

- Victims of family violence are permitted to make an application in writing to withdraw consent for the use of BWC DREC footage.
- If it is believed that the victim is at greater risk if the withdrawal of consent is accepted, the member, after consulting with a police prosecutor may use the DREC footage without consent.

#### *Risk assessment*

- In order to protect the welfare of victims, the completion of the Family Violence Risk Assessment and Management Report [Form L17] must not be filmed. Members should complete the risk assessment after the collection of the DREC.

### *Evidence management and editing*

15. Members must follow the procedures outlined in CCI 02/18 for tagging, categorisation and uploading of footage, and use of the evidence management system. Refer to **BWC operational guidelines** for more information.
16. Any editing or redacting must be done by the brief authoriser in the first instance before being received by the police prosecutor. The police prosecutor may make further edits to the DREC where required.
17. Editing or redacting of DREC footage is permitted, if a legitimate purpose can be demonstrated:
  - to remove inadmissible evidence or avoid disclosure of material to the accused
  - with the consent of the parties to the proceeding
  - to comply with the directions of the court.

### **Disclosure of digitally recorded evidence-in-chief**

<b>Accused</b>	<ul style="list-style-type: none"> <li>Members must serve the accused with the audio only DREC as part of the normal disclosure procedure in line with the <i>Criminal Procedures Act 2009</i>.</li> <li>An accused is only permitted to obtain an audio only DREC. They must not be provided with a video copy.</li> <li>Where the accused has a valid email address, the audio only DREC must be served by email which provides access to a download only link via evidence.com.</li> <li>To ensure the accused is aware of the conditions and penalties under the legislation, members must use the pro forma email, available in the appendix section of the <b>BWC family violence operational guidelines</b>.</li> <li>If electronic service is deemed to be unsuitable, or the accused is in a correctional facility, the audio only DREC should be copied to a DVD and served on the accused.</li> </ul>
<b>Accused's legal representation</b>	<ul style="list-style-type: none"> <li>If legal representation for the accused can be confirmed, the video DREC must be served on the accused's legal representative by email which provides access to a download only link via evidence.com.</li> <li>To ensure the legal representative is aware of the conditions and penalties under the legislation, members must use the pro forma email, available in the appendix section of the <b>BWC family violence operational guidelines</b>.</li> </ul>
<b>Victim</b>	<ul style="list-style-type: none"> <li>Victims are permitted to obtain an audio only DREC on request.</li> </ul>
<b>Police prosecutions</b>	<ul style="list-style-type: none"> <li>Prosecutors are able to view footage via evidence.com.</li> <li>The unique footage identifying number of the DREC footage must be recorded on the brief of evidence to enable the prosecutor to view the footage.</li> </ul>



<b>Office of Public Prosecution (OPP)</b>	<ul style="list-style-type: none"> <li>Members must provide the OPP with a video copy of the DREC for all indictable matters prosecuted by the OPP. The DREC should be provided via a DVD.</li> </ul>
<b>Coroner's Court</b>	<ul style="list-style-type: none"> <li>Members must provide the Coroner's Court with a copy of the video DREC by email by providing access to a download only link via evidence.com.</li> </ul>

### Viewing of digitally recorded evidence-in-chief

<b>Accused</b>	<p><b>At the time of interview or while in custody</b></p> <ul style="list-style-type: none"> <li>Members should provide the accused with an opportunity to view the DREC footage at the time of interview/while in custody.</li> <li>DREC footage must remain separate from the process of using Digital Evidence Capture (DEC).</li> <li>The DREC should be viewed prior to, during a period of suspension or at the conclusion of the formal interviewing using the DEC.</li> </ul> <p><b>At a later time, if the accused is unrepresented</b></p> <ul style="list-style-type: none"> <li>If an opportunity for the accused to view the DREC is not provided at interview, members must provide an opportunity: <ul style="list-style-type: none"> <li>at a police station, at a time suitable to both parties, prior to the court hearing</li> <li>on the day of the court hearing, at a police station adjacent the court.</li> </ul> </li> <li>If the accused is in police custody, a PCO, in consultation with a police member, may facilitate the viewing of the DREC.</li> <li>If the accused is in a correctional facility and unrepresented, any requests to view a DREC should be facilitated through the informant.</li> </ul> <p><b>At a later time, if the accused is represented</b></p> <ul style="list-style-type: none"> <li>The video DREC will be provided to any legal representative the accused may appoint. The nominated legal representative is responsible for ensuring their client views the DREC prior to court.</li> <li>If the accused is in police custody, their legal representative may show the accused the DREC only via a laptop as part of a client meeting.</li> <li>If the accused is in a correctional facility and has nominated legal representation, any request to view a DREC should be facilitated by the nominated legal representative.</li> </ul> <p><b>At court</b></p> <ul style="list-style-type: none"> <li>The prosecutor must take an Iron Key to court with all DREC for matters listed that day, to facilitate the viewing of DREC prior to court where reasonable, practical and appropriate.</li> </ul>
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	<ul style="list-style-type: none"> <li>• If required, the prosecutor may download the relevant DREC footage onto the laptop of the nominated legal representative.</li> </ul>
<b>Victim</b>	<ul style="list-style-type: none"> <li>• Victims are permitted to view their video DREC on request.</li> <li>• The viewing of the DREC must be supervised by a member.</li> </ul>

#### *Transcription of BWC family violence DREC*

18. Victoria Police must provide a transcribed copy of the DREC as defined under legislation. This includes in circumstances where:
- there is a reasonably foreseeable risk that if supplied with an audio DREC, the accused would illegally supply or publish the audio DREC
  - the particular circumstances of the accused mean that a transcript is required (e.g. they are hearing impaired)
  - the matter is to be heard in the County Court or Supreme Court jurisdictions
  - the court orders a transcription.
19. If a transcription of the DREC is required, members must complete VP Form 254 Order for Transcription and submit for approval via email to PBEA: 'FAMILY-VIOLENCE-ROYAL-COMMISSION-OIC'.

### Use and Disclosure at Courts

#### *Use of DREC*

20. The DREC should be treated as evidence-in-chief and is not to be tendered into evidence. The DREC can be provided to the Court after the hearing to assist in the administration of justice.

#### *Subpoena of DREC*

21. To negate any negative victim impacts, the provision of DREC footage in response to a subpoena is restricted to an audio copy, unless otherwise ordered by a court.

#### *Giving evidence in court*

22. A DREC is evidence-in-chief of a victim of family violence. Victims will be required to attend court for contested hearings for the purpose of giving further evidence and to be cross examined.
23. The use of a DREC may be permitted in the absence of victim at court, providing the victim gave their informed consent at the time the evidence was collected.
24. A DREC does not follow normal disclosure procedures outlined in **VPMG Brief Preparation and Management**. Informants must account for copies (video and audio) supplied to a legal representative or an accused.
25. Where a DREC forms part of a brief of evidence, this should be endorsed on the witness list and, where applicable, referenced in the statement of alleged facts.
26. Unless a pressing safety concern or public interest reason exists, a DREC should be played in full during court proceedings which require evidence-in-chief of the primary victim.

27. Prosecutors must attend court with the DREC downloaded and the technical equipment required to connect to the court IT system.

#### Further advice and information

For further advice and assistance with this instruction, contact Family Violence Royal Commission Response and Reform Team on 9247 5075 or PBEA 'FAMILY-VIOLENCE-ROYAL-COMMISSION-OIC'.

## 12.2 Appendix B: Digitally Recorded Evidence-in-Chief Family Violence Trial: Police Survey

### **PARTICIPANT INFORMATION STATEMENT**

Investigators: Jude McCulloch, JaneMaree Maher, Kate Fitz-Gibbon, Marie Segrave, Naomi Pfitzner, Jasmine McGowan and Kate Thomas (Monash University).

Thank you for your interest in participating in the *Trial of Digitally Recording Evidence in Chief – Family Violence Survey*.

Please read this information carefully before completing the survey. If you have any questions about the project, please email:

[jude.mcculloch@monash.edu](mailto:jude.mcculloch@monash.edu) or [jasmine.mcgowan@monash.edu](mailto:jasmine.mcgowan@monash.edu)

### **WHAT IS THE SURVEY ABOUT? WHY IS IT BEING CONDUCTED?**

You are invited to participate in an independent evaluation of the Digitally Recorded Evidence-in-Chief Family Violence Trial being conducted the Monash Gender and Family Violence Prevention Centre at Monash University on behalf of Family Violence Command, Victoria Police. We are interested in hearing about your professional experience of the Digitally Recorded Evidence-in-Chief - Family Violence Trial in Victoria. Your perceptions and experiences will be valuable for informing our research evaluating the trial. If you consent to participate, you will proceed to the online survey, which will ask you questions about: your professional experience of and attitudes towards the collection and use of digitally recorded evidence-in-chief statements of family violence complainants and key issues for future practice and improvement. The questions will require you to click on a box to give your answer.

We expect the survey will take approximately 15 minutes to complete.

### **Participant Consent**

This survey is designed to capture your professional views and experience of the use of digitally recorded evidence-in-chief in family violence investigations. Before entering the survey please read the consent information below and read the **Explanatory Statement** by clicking **here**.

### **Project: Trial of Digitally Recorded Evidence in Chief – Family Violence**

**Chief Investigator:** Professor Jude McCulloch

**Co-Investigators:** Professor JaneMaree Maher, Dr Kate Fitz-Gibbon, Associate Professor Marie Segrave, Dr Naomi Pfitzner, Dr Jasmine McGowan, Ms Kate Thomas



I have been asked to take part in the Monash University research project specified above. I have read and understood the Explanatory Statement and I hereby consent to participate in this project.

I consent to the following:

- I consent to completing an online survey (1)
- The de identified data that I provide during this research may be used by Monash University Investigators in publications arising from this research (2)
- I do not agree or have questions about the research project that I would like to ask the researchers (3)

#### **PLEASE NOTE**

If you experience any inconvenience or discomfort during the course of the survey, you can withdraw your participation by closing your browser.

Should you have any concerns or complaints about the conduct of the project, you are welcome to contact the Executive Officer, Monash University Human Research Ethics:

Executive Officer  
Monash University Human Research Ethics Committee (MUHREC)  
Room 111, Building 3e  
Research Office  
Monash University VIC 3800  
Email: [muhrec@monash.edu](mailto:muhrec@monash.edu)  
Tel: +61 3 9905 2052  
Fax: +61 3 9905 3831

If you have a complaint concerning the manner in which this research is being conducted, you may also contact:

Secretariat  
Research Coordinating Committee  
Corporate Strategy and Governance Department  
Level 5, Tower 1  
Victoria Police Centre  
637 Flinders Street  
Docklands VIC 3008  
Tel: +61 3 9247 3385  
Fax: +61 3 9247 6712  
Email: [research.committee@police.vic.gov.au](mailto:research.committee@police.vic.gov.au)  
**End of Block: Participation Consent & Explanatory Statement**

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**Start of Block: Your Work**

**It is important to know about where survey participants work and their role in order to gain some insight into different practices and experiences across Victoria. The following questions are about your work.**

Q5 How would you best describe your work location?

- ☐ Epping (1)
- ☐ Ballarat North (2)
- ☐ Ballarat West (3)
- ☐ Ballarat Central (4)

Q6 Please select the rank that most closely represents your role within Victoria Police.

- ☐ Constable (1)
- ☐ Senior Constable (2)
- ☐ Leading Senior Constable (3)
- ☐ Sergeant (4)
- ☐ Senior Sergeant (5)
- ☐ Other, please specify (6) \_\_\_\_\_

Q7 How long have you been in this role?

- ☐ Less than 12 months (1)
- ☐ 1-5 years (2)
- ☐ 6-10 years (3)
- ☐ 11-20 years (4)
- ☐ More than 20 years (5)

Q8 What percentage of your work is focused on the working with family violence complainants and perpetrators? Please put 0 if you do not work with family violence complainants and/or perpetrators.

\_\_\_\_\_

Q9 When responding to family violence incidents, who are you most likely to work with?

- ☐ Women only (1)
- ☐ Men only (2)
- ☐ Children only (3)
- ☐ Women and children (4)
- ☐ Men, women and children (5)

Q10 Thinking about the majority of family violence complainants or perpetrators you have worked with during the trial, did you work most often with any of the following populations?

- ☐ Lesbian, gay, bisexual, transgender, intersex and/or queers (LGBTIQ) (1)
- ☐ Culturally and linguistically diverse (CALD) (2)
- ☐ Seniors (3)
- ☐ People with disability (4)
- ☐ Aboriginal and Torres Strait Islanders (ATSI) (5)
- ☐ Other, please specify (6) \_\_\_\_\_
- ☐ No specific groups/populations on a regular basis (7)

Q11 Thinking about the majority of family violence incidents you attend, what relationship status do you most often encounter between the complainant and the other person involved in the family violence incident?

- ☐ Spouse (married or defacto) (1)
- ☐ Ex-spouse (married or defacto) (2)
- ☐ Child/parent (3)
- ☐ Siblings (4)
- ☐ Boyfriend/girlfriend (5)
- ☐ Ex-boyfriend/girlfriend (6)
- ☐ Other, please specify (7)

**We'd like to ask you some questions about your experience of taking a DREC from a family violence complainant.**

Q13 Have you taken a DREC from a family violence complainant since the Victorian trial started in October 2018?

- ☐ Yes (1)
- ☐ No (2)

*If 'NO' selected, then goes to branch on 'Police with no experience of taking a DREC' see Q29*

*Display This Question:*

*If Q13 = Yes*

Q14 Please estimate how many times you have taken a DREC from a family violence complainant during the trial to date.

- ☐ 1-3 times (1)
- ☐ 4-6 times (2)
- ☐ 7-9 times (3)
- ☐ 10 or more times (4)

Q15 Generally, would you say the time from attending a family violence incident to taking a DREC from a family violence complainant is:

- ☐ Same day (1)
- ☐ Within 1-3 days (2)
- ☐ Within a week (3)
- ☐ Within a few weeks (4)
- ☐ Within months (5)
- ☐ Very inconsistent. e.g. it can be same day or 6 weeks (6)
- ☐ N/A - complainant consent is most often denied (7)

Q16 In your view, what is the best location for recording a DREC?

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Q17 If you have taken a DREC from a family violence complainant, have there been benefits?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q17 = Yes*

Q18 If so, what have been the benefits?

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Q19 If you have taken a DREC from a family violence complainant, have there been challenges?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q19 = Yes*

Q20 If so, what have been the challenges?

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Q22 In your view, does digitally recording evidence-in-chief statements impact family violence complainants:

- ☐ Positively - i.e. it assists or supports them, even if they are unaware of this (1)
- ☐ Negatively - i.e. it has negative consequences for complainants (2)
- ☐ Unsure (3)

*Display This Question:*  
*If Q22 = Positively - i.e. it assists or supports them, even if they are unaware of this*  
*Or Q22 = Negatively - i.e. it has negative consequences for complainants*

Q23 Please explain the positive or negative impacts on family violence complainants.

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Q24 How does the introduction of digitally recorded evidence-in-chief impact on your confidence that perpetrators will be held to account:

- ☐ Greatly increases my confidence (1)
- ☐ Increases my confidence (2)
- ☐ Little if any impact (3)
- ☐ Decreases my confidence (4)
- ☐ Greatly decreases my confidence (5)

Q25 Please elaborate on how the introduction of digitally recorded evidence-in-chief impacts on your confidence that perpetrators will be held to account.

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Q26 Over the period of the trial, has your practice related to taking evidence-in-chief statements from family violence complainants changed?

- ☐ Yes (1)
- ☐ No (2)
- ☐ Unsure (3)

*Display This Question:*  
*If Q26 = Yes*

Q27 Please explain how your practice has changed.

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Q28 How confident do you feel in taking a digitally recorded family violence evidence-in-chief statements?

- ☐ Not at all confident (1)
- ☐ Not very confident (2)
- ☐ Neither confident nor not confident (3)
- ☐ Fairly confident (4)
- ☐ Very confident (5)

*Branch for police who select 'No' to Q13*

Q29 What are the main reason(s) you have not taken a DREC from a family violence complainant?

- ☐ Complainant did not give consent (1)
- ☐ Complainant was impaired by alcohol and/or drugs (2)
- ☐ Complainant was under 18 years of age (3)
- ☐ Complainant appeared to have a cognitive impairment (4)
- ☐ Child/Children present (5)
- ☐ Alleged offender present (6)
- ☐ Complaint disclosed a sexual offence (7)
- ☐ Other, please specify (8)

Q30 In your view, why is consent most often denied?

Q31 Generally, would you say family violence complainants understand the process of taking a DREC?

- ☐ Not at all (1)
- ☐ Not very (2)
- ☐ Neutral (3)
- ☐ Fairly well (4)
- ☐ Very well (5)

Q32 How confident do you feel in taking a digitally recorded family violence evidence-in-chief statements?

- ☐ Not at all confident (1)
- ☐ Not very confident (2)
- ☐ Neither confident nor not confident (3)
- ☐ Fairly confident (4)
- ☐ Very confident (5)

Q33 In your view, how does the introduction of digitally recorded evidence-in-chief impact family violence complainants:

- ☐ Positively - i.e. it assists or supports them, even if they are unaware of this (1)
- ☐ Negatively - i.e. it has negative consequences for complainants (2)
- ☐ Unsure (3)

*Display This Question:*

*If Q33 = Positively - i.e. it assists or supports them, even if they are unaware of this*

*Or Q33 = Negatively - i.e. it has negative consequences for complainants*

Q34 Please explain the positive or negative impacts for family violence complainants.

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Q35 In your view, how does the introduction of digitally recorded evidence-in-chief impact on your confidence that perpetrators will be held to account:

- ☐ Greatly increases my confidence (1)
- ☐ Increases my confidence (2)
- ☐ Little if any impact (3)
- ☐ Decreases my confidence (4)
- ☐ Greatly decreases my confidence (5)

Q36 Please elaborate on how digitally recorded evidence-in-chief statements impacts on your confidence that perpetrators will be held to account.

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**Next, we have some question about your experience of the training and implementation of the Digitally Recorded Evidence-in-Chief Family Violence Trial.**

Q38 Generally, would you say the trial has been implemented effectively to date?

- ☐ Very effectively (1)
- ☐ Somewhat effectively (2)
- ☐ Neutral/cannot say (3)
- ☐ Not effectively (4)
- ☐ Ineffectively (5)

Q39 Have you completed the Victoria Police DREC training?

- ☐ Yes (1)
- ☐ No (2)
- ☐ I don't know/recall (3)

*Skip To: End of Block If Q39 = No*

Q40 Generally, would you describe the DREC training as:

- ☐ Very effective (1)
- ☐ Somewhat effective (2)
- ☐ Neutral (3)
- ☐ Somewhat ineffective (4)
- ☐ Very ineffective (5)

Q41 Thinking about the DREC training, please indicate how much you agree or disagree with the following statements.

	Strongly disagree (1)	Disagree (2)	Somewhat disagree (3)	Neither agree nor disagree (4)	Somewhat agree (5)	Agree (6)	Strongly agree (7)
The training was useful in helping prepare me to take a DREC from family violence complainants. (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Following the training I felt confident in taking a DREC from a family violence complainant. (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The training was worthwhile. (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q42 What would have made this training more useful in preparing you to take a DREC from a family violence complainant?

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Q43 How familiar are you with Body Worn Camera Family Violence Operational Guidelines?

- ☐ Not at all familiar or have never heard of the Operational Guidelines (1)
- ☐ A little familiar, I have head of the Operational Guidelines (2)
- ☐ I have read the Operational Guidelines (3)
- ☐ I am very familiar with the Operational Guidelines (4)

*Skip To: End of Block If Q43 = Not at all familiar or have never heard of the Operational Guidelines*



Q44 Thinking about the Body Worn Camera Family Violence Operational Guidelines, please indicate how much you agree or disagree with the following statements.

	Strongly disagree (1)	Disagree (2)	Somewhat disagree (3)	Neither agree nor disagree (4)	Somewhat agree (5)	Agree (6)	Strongly agree (7)
The guidelines cover all aspects of digitally recording family violence complainant statements. (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The guidelines help familiarise me with the technical requirements of taking a DREC from family violence complainants. (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q45 How could any operational processes regarding taking a DREC be improved?

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**The following questions relate to the impact of the use of DREC in family violence investigations on your work.**

Q47 Generally, would you say that the DREC Family Violence Trial has resulted in:

- ☐ Very positive changes (1)
- ☐ Positive changes (2)
- ☐ Little if any change (3)
- ☐ Negative changes (4)
- ☐ Very negative changes (5)

Q48 Please elaborate on the changes, if any, resulting from the DREC Family Violence Trial.

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Q49 With regard to the use of DRECs in family violence investigations, what has been the impact on your role:

- ☐ A much greater workload (1)
- ☐ A greater workload (2)
- ☐ Workload is about the same (3)
- ☐ A reduced workload (4)
- ☐ A much-reduced workload (5)

Q50 Has the implementation changed the way you work with family violence complainants?

- ☐ Yes (1)
- ☐ No (2)
- ☐ N/A I don't work directly with family violence complainants (3)

*Display This Question:*

*If Q50 = Yes*

Q51 Would you say this has been generally:

- ☐ Very positive (1)
- ☐ Positive (2)
- ☐ Negative (3)
- ☐ Very negative (4)

Q52 Can you identify any changes to address any adverse impacts or otherwise improve the trial?

- ☐ Yes, please specify (1) \_\_\_\_\_
- ☐ No (2)

**This short section seeks to capture your general views and attitudes towards the use of DREC in family violence matters.**

Q54 Thinking about your work would you say your attitude to the use of DREC in family violence matters is:

- ☐ Very positive (1)
- ☐ Positive (2)
- ☐ Neutral (3)
- ☐ Negative (4)
- ☐ Very negative (5)

Q55 Thinking about your station would you say the attitude to the use of DREC in family violence matters is:

- ☐ Very positive (1)
- ☐ Positive (2)
- ☐ Neutral (3)
- ☐ Negative (4)
- ☐ Very negative (5)

Q56 Are you willing to be contacted for further consultation on the impact of the Trial of Digitally Recorded Evidence-in-Chief - Family Violence?

- ☐ Yes (1)
- ☐ No (2)

Display This Question:  
If Q54 = Yes



Please provide your email address.

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Thank you for your participation in our research. Your time and expertise are highly valued.

Please click the 'Next' button (>>) below to send us your survey responses.

If you have any further questions about the research or would like to receive a copy of the findings, please feel free to contact the researchers directly by email: [jude.mcculloch@monash.edu](mailto:jude.mcculloch@monash.edu) or [jasmine.mcgowan@monash.edu](mailto:jasmine.mcgowan@monash.edu)

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Display This Question:

If Q2 = I do not agree or have questions about the research project that I would like to ask the researchers

Thanks for your interest in this project.

If you have any further questions about the research, please feel free to contact the researchers directly by email: [jude.mcculloch@monash.edu](mailto:jude.mcculloch@monash.edu) or [jasmine.mcgowan@monash.edu](mailto:jasmine.mcgowan@monash.edu)

If you have any concerns about your participation in this project, which you do not wish to discuss with the researchers, then you can contact the Executive Officer, Monash University Human Research Ethics:

Executive Officer  
Monash University Human Research Ethics Committee (MUHREC)  
Room 111, Building 3e  
Research Office  
Monash University VIC 3800  
Email: [muhrec@monash.edu](mailto:muhrec@monash.edu)  
Tel: +61 3 9905 2052  
Fax: +61 3 9905 3831

If you have a complaint concerning the manner in which this research is being conducted, you may also contact:

Secretariat  
Research Coordinating Committee  
Corporate Strategy and Governance Department  
Level 5, Tower 1  
Victoria Police Centre  
637 Flinders Street  
Docklands VIC 3008  
Tel: +61 3 9247 3385  
Fax: +61 3 9247 6712  
Email: [research.committee@police.vic.gov.au](mailto:research.committee@police.vic.gov.au)

## 12.3 Appendix C: Evaluation of the Trial of Digitally Recorded Evidence in Chief – Family Violence Survey

### **PARTICIPANT INFORMATION STATEMENT**

Investigators: Jude McCulloch, JaneMaree Maher, Kate Fitz-Gibbon, Marie Segrave, Naomi Pfitzner, Jasmine McGowan and Kate Thomas (Monash University).

Thank you for your interest in participating in the *Trial of Digitally Recording Evidence in Chief – Family Violence Survey*.

Please read this information carefully before completing the survey. If you have any questions about the project, please email: [jude.mcculloch@monash.edu](mailto:jude.mcculloch@monash.edu) or [jasmine.mcgowan@monash.edu](mailto:jasmine.mcgowan@monash.edu)

### **WHAT IS THE SURVEY ABOUT? WHY IS IT BEING CONDUCTED?**

You are invited to participate in an independent evaluation of the Digitally Recorded Evidence-in-Chief Family Violence Trial being conducted the Monash Gender and Family Violence Prevention Centre at Monash University on behalf of Family Violence Command, Victoria Police. We are interested in hearing about your experience of the Digitally Recorded Evidence-in-Chief - Family Violence Trial in Victoria. Your perceptions and experiences will be valuable for informing our research evaluating the trial. If you consent to participate, you will proceed to the online survey, which will ask you questions about: your experience of and attitudes towards the use of digitally recorded statements in family violence cases and key issues for future practice and improvement. The questions will require you to click on a box to give your answer.

We expect the survey will take approximately 20 minutes to complete.

## Participant Consent

This survey is designed to capture your views and experience of the use of digitally recorded statements in family violence investigations. Before entering the survey please read the consent information below and read the **Explanatory Statement** by clicking **here**.

### **Project: Trial of Digitally Recorded Evidence in Chief – Family Violence**

**Chief Investigator:** Professor Jude McCulloch

**Co-Investigators:** Professor JaneMaree Maher, Dr Kate Fitz-Gibbon, Associate Professor Marie Segrave, Dr Naomi Pfitzner, Dr Jasmine McGowan, Ms Kate Thomas

**Project number:** 19865 (MUHREC)

I have been asked to take part in the Monash University research project specified above.

I have read and understood the Explanatory Statement and I hereby consent to participate in this project.

I consent to the following:

- ☐ I consent to completing an online survey (1)
- ☐ I do not agree or have questions about the research project that I would like to ask the researchers (2)

**It is important to know some background information about survey participants so that we can understand different experiences of providing a recorded family violence statement to police. The following questions are about you.**

Q4 How old are you?

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Q5 Do you identify as an Aboriginal or Torres Strait Islander?

- ☐ Aboriginal (1)
- ☐ Torres Strait Islander (2)
- ☐ Both (3)
- ☐ Neither (4)
- ☐ Don't know (5)
- ☐ Prefer not to say (6)

Q6 Do you identify as a person from a culturally and/or linguistically diverse background?

- ☐ Yes, please specify (1) 

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- ☐ No (2)
- ☐ Not sure (3)
- ☐ Prefer not to say (4)

Q7 Are you:

- ☐ Female (1)
- ☐ Male (2)
- ☐ Transgender woman (3)
- ☐ Transgender man (4)
- ☐ Other preferred gender identity, please specify (5)

☐ \_\_\_\_\_  
Prefer not to say (6)

Q8 Do you think of yourself primarily as:

- ☐ Heterosexual/straight (1)
- ☐ Bisexual (2)
- ☐ Gay (3)
- ☐ Lesbian (4)
- ☐ Other, please specify (5) \_\_\_\_\_
- ☐ Prefer not to say (6)

Q9 Do you speak a language other than English at home?

- ☐ Yes, please specify (1)
- ☐ No, English only (2)

Q10 Please describe your current living arrangements.

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Q11 Do you have primary care responsibilities?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*

*If Q11 = Yes*

Q12 If yes, please indicate if this is for a child, sibling, parent or other

- ☐ Child (1)
- ☐ Sibling (2)
- ☐ Parent (3)
- ☐ Other, please specify (4)

Q13 If you have child/ren, please state how many.

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**Now we'd like to ask you some questions about the family violence incident.**

Q15 When did the police attend a family violence incident that you were involved in?

- ☐ In the last month (1)
- ☐ 2-3 months (2)
- ☐ 4-5 months (3)
- ☐ 5-6 months (4)
- ☐ 7-8 months (5)
- ☐ 9 months or more (6)

Q16 What was the relationship between you and the other person at the time of the family violence incident?

- ☐ Spouse (married or defacto) (1)
- ☐ Ex-spouse (married or defacto) (2)
- ☐ Child/parent (3)
- ☐ Siblings (4)
- ☐ Boyfriend/girlfriend (5)
- ☐ Ex-boyfriend/girlfriend (6)
- ☐ Other, please specify (7) \_\_\_\_\_

Q17 Which location would best describe where the incident took place?

- ☐ Epping (1)
- ☐ Ballarat (2)

**Next are some questions about your experience of having a digitally recorded statement taken by police.**

Q19 Have you had a digitally recorded family violence statement taken by police?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*

*If Q19 = Yes*

Q20 Please estimate how many times you have had a family violence statement digitally recorded by police?

- ☐ 1-3 times (1)
- ☐ 4-6 times (2)
- ☐ 7- 9 times (3)
- ☐ 10 or more times (4)

Q21 Generally, would you say the time from police attending the family violence incident to taking a recorded statement from you was:

- ☐ Same day (1)
- ☐ Within 1-3 days (2)
- ☐ Within a week (3)
- ☐ Within a few weeks (4)
- ☐ Within months (5)

Q22 Please indicate if child/ren were present (i.e. witnessed) the incident or were close by/in another room.

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q22 = Yes*

Q23 If so, please briefly explain how the presence of child/ren was managed.

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Q24 Thinking about your experience of having a recorded statement taken by the police, please indicate how much you agree or disagree with the following statements.

	Strongly disagree (1)	Disagree (2)	Somewhat disagree (3)	Neither agree nor disagree (4)	Somewhat agree (5)	Agree (6)	Strongly agree (7)
The police explained the process of recording a statement thoroughly. (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The police seemed to leave it up to me as to whether or not I agreed to having my statement digitally recorded. (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Following the police explanation I felt confident in having my statement recorded. (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
After my statement was recorded, the police explained what was going to happen next. (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q25 Did you at any time withdraw consent for the police to use your recorded statement in the course of their investigation?

- ☐ Yes (1)
- ☐ No (2)
- ☐ I was unaware that I could withdraw consent. (3)

*Display This Question:*  
*If Q25 = Yes*

Q26 If so, could you please explain why?

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Q27 Generally, how satisfied were you with the process of having your statement digitally recorded by the police?

- ☐ Very satisfied (1)
- ☐ Fairly satisfied (2)
- ☐ Neither satisfied nor dissatisfied (3)
- ☐ Fairly dissatisfied (4)
- ☐ Very dissatisfied (5)

Q28 If no, did you refuse consent for the police to take a digitally recorded family violence statement?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q28 = Yes*

Q29 Please briefly explain the main reason(s) you denied consent for the police to take a digitally recorded family violence statement.

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**These questions relate to the outcomes of the family violence incident.**

Q31 Did this matter go to court?

- ☐ Yes (1)
- ☐ No (2)

Q32 Were you aware that the other person involved in the family violence incident would be able to view your recorded statement?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q32 = Yes*

Q33 Could you please describe any benefits or concerns you experienced in relation to the other party viewing your recorded statement?

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Q34 Was your recorded statement played during the court proceedings?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q34 = Yes*

Q35 If so, what was your experience of this process?

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Q36 Were you required to attend court to give further evidence and/or er cross examined in this matter after the recorded statement was played?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q36 = Yes*

Q37 Can you tell us what difference, if any, a recorded statement made to your experience of the court proceedings?

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Q38 If this matter did not go to court, what was the outcome of the police investigation?

- ☐ No further police action required (1)
- ☐ Complaint withdrawn (2)
- ☐ Matter resolved prior to set court date (3)
- ☐ Not sure (4)
- ☐ Other, please specify (5) \_\_\_\_\_

Q39 Were you aware that the other person involved in the family violence incident would be able to view your recorded statement?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:*  
*If Q39 = Yes*

Q40 Could you please describe any benefits or concerns you experienced in relation to the other party viewing your recorded statement?

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**The following questions relate to the impact of police use of digitally recorded statements in family violence cases.**

Q42 In your experience, were there any benefits to having your statement digitally recorded by the police?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:  
If Q42 = Yes*

Q43 If so, what were the benefits?

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Q44 In your experience, were there any challenges and/or concerns to having your statement digitally recorded by the police?

- ☐ Yes (1)
- ☐ No (2)

*Display This Question:  
If Q44 = Yes*

Q45 If so, what were the challenges and/or concerns?

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Q46 What difference, if any, did providing a recorded statement make to you going through the criminal justice process as a victim of family violence?

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Q47 If your view, how does providing a digitally recorded statement impact on your confidence that the other person in the family violence incident will be held to account:

- ☐ Greatly increases my confidence (1)
- ☐ Increases my confidence (2)
- ☐ Little if any impact (3)
- ☐ Decreases my confidence (4)
- ☐ Greatly decreases my confidence (5)

Q48 Please elaborate on how providing a digitally recorded statement impacts on your confidence that the other person in the family violence incident will be held to accountable.

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Q49 If your view, how does providing a digitally recorded statement impact on your confidence to tell the whole story of the family violence incident?

- ☐ Greatly increases my confident (1)
- ☐ Increases my confidence (2)
- ☐ Little if any impact (3)
- ☐ Decreases my confidence (4)
- ☐ Greatly decreases my confidence (5)

Q50 Please elaborate on how providing a digitally recorded statement impacts on your confidence to tell the whole story of the family violence incident.

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Q51 Finally, do you have any other comments to make about the use of digitally recorded statements in family violence matters?

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Thank you for your participation in our research. Your time and attention are highly valued.

Please click the 'Next' button (>>) below to send us your survey responses.

If you have any further questions about the research or would like to receive a copy of the findings, please feel free to contact the researchers directly by email: [jude.mcculloch@monash.edu](mailto:jude.mcculloch@monash.edu) or [jasmine.mcgowan@monash.edu](mailto:jasmine.mcgowan@monash.edu)

To enter into the prize draw to win one of five \$50 Coles/Myer gift vouchers, we need an email address to contact successful entries. Winning entries will be drawn at random after 30 November 2019. Winners will be notified via the email account provided within five working days with

information on how and where to collect their prize.

If you would like to enter the prize draw, please provide your email address below.

Please note that if you provide your email address you will disclose your identity to the researchers. Entry to this draw is conditional on entrants providing their email address. This information will only be used for the purposes of conducting the draw. Any information obtained in connection with this research project that can identify you will remain confidential. This information will be destroyed after the draw is been conducted.

- Email address (1) \_\_\_\_\_

Thank you again for participating in this research.

*Display This Question:*

*If Q2 = I do not agree or have questions about the research project that I would like to ask the researchers*

Thanks for your interest in this project.

If you have any further questions about the research, please feel free to contact the researchers directly by email: jude.mcculloch@monash.edu or jasmine.mcgowan@monash.edu

If you have any concerns about your participation in this project, which you do not wish to discuss with the researchers, then you can contact the Executive Officer, Monash University Human Research Ethics:

Executive Officer

Monash University Human Research Ethics Committee (MUHREC)

Room 111, Building 3e Research Office

Monash University VIC 3800 Email: muhrec@monash.edu Tel: +61 3 9905 2052

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## 12.4 Appendix D: DREC Family Violence Trial Interim Report Recommendations

An Interim Report was submitted to Victoria Police in September 2019. The recommendations in the Interim Report were formulated to assist Victoria Police in addressing the key challenges with the use and implementation of DRECs in family violence matters. Victoria Police's response to the recommendations made in the Interim Report are set out below.

**Recommendation One: Any expansion of the trial should involve enhanced consultation and co-design with key stakeholders, including courts, legal practitioners and specialist family violence services.**

Family Violence Command Victoria Police Response to Recommendation One: The data collection period for the trial concluded in October 2019 and has been provided to Monash University. The ability to take a DREC state-wide requires a legislative amendment. The Department of Justice and Community Safety would lead this legislative amendment with an already established consultation process with key stakeholders. Any state-wide expansion of the taking of DRECs by members of Victoria Police would include Victoria Police engaging with courts, legal practitioners and specialist family violence services.

**Recommendation Two: A communications plan should be developed and implemented to improve awareness of the trial with major stakeholders, particularly specialist family violence services. The communication plan should include the distribution of Chief Commissioner's Instructions for BWCs Family Violence Trial and Victoria Police Fact Sheet for Victim Support Services (or equivalents). The basis for any future expansion or extension of the trial should be clearly communicated to all stakeholders.**

Family Violence Command Victoria Police Response to Recommendation Two: To coincide with the commencement of the trial, Victoria Police and the Department of Justice and Community Safety held information sessions at both Ballarat and Heidelberg Magistrates' Courts for court staff, legal practitioners and family violence support services to explain the process of taking a digitally recorded statement and how the recorded statement will be used in the court process. Publicly available factsheets for courts staff, legal practitioners and support services were released to provide an overview of the trial and contact details for further information. A new victim factsheet was developed during the trial. Any state-wide expansion of the taking of DRECs by members of Victoria Police would include the development of a communication plan and would include the distribution of policy and procedure for using BWCs to take a DREC and the previously developed factsheets to all stakeholders.

**Recommendation three: The DREC consent preamble should be translated into appropriate languages other than English in consultation with specialist services, such as InTouch Multicultural Centre Against Family Violence.**

Family Violence Command Victoria Police Response to Recommendation Three: Victoria Police has developed a short information sheet on what a DREC is and how a DREC is used in the court process which has been translated, by an accredited service provider, into 12 commonly used languages to assist members in explaining the new option for recording a statement to victims from culturally and linguistically diverse (CALD) backgrounds. The preamble has not been translated as a whole because

members would conduct the DREC using an accredited National Accreditation Authority for Translators and Interpreters (NAATI) interpreter to conduct the DREC where required.

**Recommendation four: Experiential learning strategies, such as simulations and role play, should be incorporated into the Victoria Police DREC**

Family Violence Command Victoria Police Response to Recommendation four: In collaboration with the Centre of Learning for Family Violence a training package was developed and delivered by the Family Violence Training Officers (FVTOs) to members in the trial areas to ensure compliance with the legislation and policy. Any state-wide expansion of the taking of DRECs would include a review of the current training package by People Development Command and it would be included in the curriculum delivered by the Centre of Learning for Family Violence to recruits and Victoria Police members involved in taking a DREC.

**Recommendation five: Consideration should be given to developing further operational police practice guidance, such as a simple Do's and Don'ts instruction sheets on the taking of a DREC.**

Family Violence Command Victoria Police Response to Recommendation five: Consultation with internal stakeholders and members during the trial resulted in amendments to the CCI and guidelines around the process of taking DRECs to ensure the policy is fit for purpose and supports best practice. A prompt card was developed at the commencement of the trial to assist members when taking a DREC. The prompt card is available electronically and in hard copy format for members. Any state-wide expansion of the taking of DRECs would include a review of policy, procedures and guidance by Family Violence Command.

**Recommendation Six: The relatively low numbers of DRECs taken by police and the non-use of DRECs in the courts means it is too early to evaluate the impact of the trial in any meaningful way. In order to facilitate a more substantive evaluation the trial should be extended until at least the end of 2019.**

Family Violence Command Victoria Police Response to Recommendation Six: At the end of the first 12 months, 166 DRECs had been taken from victims of family violence and there were two requests for transcription. In October (outside of the data collection period for the evaluation) one DREC was admitted as evidence in chief in a contest hearing, and the respondent was found guilty. While not all criminal charges in these matters were resolved within the trial period, in almost all cases an interim or final family violence intervention order was granted where one was not already in place. This reinforces that matters are being finalised by the court without the requirement for the DREC to be played or the victim being required to undergo cross examination. As a result of implementing the use of DRECs we are achieving the intended outcome of the reform and minimising the traumatising of victims during the court process.