

Victim Video Statements (VVS)



User Guide



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Congratulations on completing your Victim Video Statement training. Please take the opportunity to complete a family violence victim video statement wherever you are able to. Overseas jurisdictions have shown that this statement-taking method successfully supports prosecutions and makes things easier for victims to tell us about what has happened. I hope you enjoy using the technology and please give us feedback about how you are finding it.

Ma te wa

*Acting Superintendent Bronwyn Marshall
Business Owner: Safer Whanau*

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Introduction

Welcome to the Victim Video Statement (VVS) User Guide. The purpose of this guide is to complement the training you have received. It is designed to better enable frontline officers responding to family violence episodes to be able to legally and appropriately record, upload and review interviews of family violence victims using your iPhone and the AXON CAPTURE application.

Audience

This guide is intended for frontline users and their supervisors

Contact for further information

For further information about this guide or the training, please contact:
Acting Inspector Ross Ellwood, National VVS Lead

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Learning objectives

The purpose of the VVS training package is to enable frontline officers responding to family violence episodes to be able to legally and appropriately record, upload and review interviews of family violence victims at the scene using a police-issued iPhone and the evidence.com application.

At the end of the training constables will be able to:

- To carry out a victim centric video interview of the victim of a family violence episode using the iPhone and the AXON CAPTURE application.
 - To be able to upload the video onto evidence.com with the event number referenced.
 - To be able to access, view and share the video on evidence.com.
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Why are we doing this?

Commissioner Bush – Bulletin Board 3 July 2014

Being safe and feeling safe

03 Jul 2014



Equipping frontline Police with smartphones and tablets has revolutionised the way we work. But we are only just beginning to harness this technology's potential to help prevent crime and improve services for victims.

One area where mobility devices could make a real difference is for the victims of family violence. Police called to these incidents could use their devices to record video statements that could later be used in court.

Used to its full potential, this could allow us to resolve family violence cases without victims being forced to relive their ordeals in court.

It would also allow us to gather statements and evidence as soon as possible after an offence is reported (the best evidence there is) and would have flow-on benefits for the wider justice sector. Cases would be resolved quicker, freeing up court time and saving taxpayers money.

As Police Minister Anne Tolley announced yesterday, Police will be exploring how we can use these devices in this way in the future, and expect details of a trial to be announced soon.

We'll also be trialling GPS-enabled alarms that will allow victims to notify Police and give us their locations if their attackers attempt to revictimise them.

This will not only help keep victims safe, it will help them feel safe.

Introduction

For users to be able to conduct a robust Victim Video Statement, they must:

- Understand how legislation gives us the ability to apply to have videos played in court.
- Understand the requirements of the Evidence Regulations and how they relate to VVS interviews.
- Understand the challenges for Police Prosecutions Service.
- Understand how to be victim centred through the Police Prosecution Process.

Victim Video Statements are an alternative way of giving evidence. This means that victims may not have to give all of their evidence in court by giving oral evidence (the normal way of giving evidence), but by having their Victim Video Statement played as an alternative.

In this regard Victims Video Statements are similar Child Evidential Interviews, and Level 3 interviews conducted with Adult sexual assault victims. These are all “alternative ways” of giving evidence (as we seek to play an electronically recorded interview in court instead of having the victim tell the whole story again).

The key thing about alternative forms of giving evidence is that any interviews have to be conducted in accordance with the Evidence Regulations 2007. The following paragraphs discuss some key provisions in the Evidence Regulations.

Another point in relation to alternative ways of giving evidence is that Police generally have to make an application to court to enable evidence to be given in a different way. This is commonly known as a “Mode of Evidence” application.

Victim Video Statements are different from other forms of alternative ways of giving evidence. New law introduced in late 2018 means that Victims of Family Harm offences are entitled to have any Victim Video Statement played in court with Police having to make an application to have it played.

Section 106A

Section 106A of the Evidence Act 2006 came into law on 3 December 2018, and provides an entitlement for the Victim to have a Victim Video Statement made by them played in court as their evidence:

- 1) *This section applies to a **complainant who is not a child** and who is to give or is giving evidence in a family violence case.*
- 2) *A family violence complainant is **entitled to give his or her evidence in chief by a video record** made before the hearing.*
- 3) *The video record must be one recorded—*
 - (a) *by a Police employee; and*
 - (b) ***no later than 2 weeks after the incident** in which it is alleged a family violence offence occurred.*

Therefore, in order to be able to play a Victim Video Statement in court as the Victim's evidence:

1. The victim must be 18 years or over
2. The video statement must be recorded by a Police employee
3. The video statement must be recorded within 2 weeks of the offence.

Victim Video Statements must be recorded and dealt with in compliance with the Evidence Regulations 2007¹. Non-compliance with the Regulations could mean that your Victim Video Statement will not be able to be played in court. Your Victim will therefore not be afforded the protection and benefits of having the video played.

If in doubt about whether or not your VVS can be played, please discuss with your local VVS team or with your local PPS team for further advice.

Some key points to note in relation to the Evidence Regulations:

Part 1, Subpart 1 – Recording Video Evidence:

1. Only certain people can be present in the interview (Regulation 5)
 - a. The interviewer.
 - b. The Victim / witness.
 - c. Any person **needed** to operate the recording equipment.
 - d. A support person.
 - e. An interpreter.
2. Support Persons must not take part in the interview (Regulation 6)
3. Certain things must be recorded (Regulation 8):
 - a. The interviewer stating the start date and time (8(a))
 - b. Each person identifying himself or herself (8(b))
 - c. The Victim making a promise to tell the truth (8(c))
 - d. The interviewer stating the time at which the interview finishes (8(h)).
4. If using an interpreter, the interpreter must *promise to accurately and completely translate the words of the witness* (8(e)).
5. Support persons and interpreters must be clearly visible throughout the video recording of the interview.

There are other Regulations dealing with what should take place in the event of equipment failure or a break in the interview. A more comprehensive summary of the Evidence Regulations is included at **Appendix 1**.

¹ Evidence Act 2006, section 106(2)

Part 4 - Mobile Video Record Evidence

This part of the Regulations was enacted in January 2017, and provides us with the legal foundation for recording Victim Video Statements. Key Regulations to note from this part include:

1. Victim Video Statements are referred to as Mobile Video Records (MVR's). MVR's must concern an allegation of domestic violence (Regulation 54).
2. Domestic Violence has the meaning given to it by section 3 of the Domestic Violence Act, but **excludes sexual abuse** (Regulation 53).
3. Every MVR must include statements from the Victim that:
 - a. They are aware that the MVR may be used as evidence in Court.
 - b. They agree to the use of the MVR for that purpose.
4. Police must, **as soon as practicable** after the MVR is made, digitally transfer the MVR directly to the cloud storage facility (Regulation 55). In essence, we must upload to evidence.com as soon as practicable, ideally no later than end of shift.

Aide Memoire

There are a lot of Regulations governing the recording and dealing with Victim Video Statements. The Regulations outlined above are just a few of the key ones impacting on Victim Video Statements.

An Aide Memoire has been developed to assist in taking Victim Video Statements. This means that VVS users are not required to memorise all of the Evidence Regulations.

Using and following the Aide Memoire is your best way of ensuring compliance with the Evidence Regulations, and ensuring that we can play the statement in Court for the Victim.

Determining whether a video statement should be offered.

1. Consider whether the offence is suitable for a video interview. The offence must meet the following criteria:
 - a. It must relate to Family Harm offending (we must be able to establish a domestic relationship).
 - b. The offending cannot be sexual in nature (Victim Video Statements can relate to physical and psychological abuse only).
 - c. It is a recent event that has taken place within the last two weeks (refer section 106A of the Evidence Act 2006).
 - d. It should be a single event, not part of a multiple and/or historic set of episodes. The intention is that videos will record single events. Please use your discretion and common sense. For example, if you have two distinct events within a last two week period, it makes sense to record details of both events in a single Victim Video Statement.
 2. Consider whether the victim is in a fit state for an interview:
 - a. The victim should not have injuries requiring immediate medical attention i.e. bleeding, internal damage. Consider following up with the Victim at hospital. It is acceptable and appropriate to interview victims in hospital if circumstances dictate this.
 - b. The victim is not drunk or emotionally unfit. This is a matter of the Victim being able to understand and give informed consent to complete an interview. Again, common sense should be applied – just because a victim has had a few drinks or is upset about what has occurred does not mean that they cannot take part in an interview.
 3. Consider your own safety in taking a video interview.
 4. Consider the interference from your radio on the video if you do not have an earpiece and your phone won't be receiving calls for the duration of the interview.
 5. Check that English is the victim's first language and if not discuss with your supervisor if it is appropriate to continue.
 6. Check that the victim is over 18.
 7. Note that the suspect must be removed or absent from the scene prior to video being taken.
 8. If the conditions are not appropriate to conduct the video interview, capture a written statement instead.
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Introduction

In order to complete a Victim Video Statement with a family harm victim, you need three key things:

1. An Aide memoire
2. The Axon Capture application loaded to your Police-issued iPhone.
3. A tripod.

Aide Memoire

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|---|---|
| <p>SAFER WHĀNAU: FAMILY VIOLENCE VIDEO STATEMENTS</p> <p>1. Family Violence Video Statement – Pre Interview</p> <p>Prior to commencing recording, you must gain consent to record video statement. The victim needs to be aware of:</p> <ul style="list-style-type: none"> • A - ACCESS: People will need to view the interview to prepare the case. This may include: Police staff, court staff, the suspect's lawyer & the suspect (video will not be shared directly with the suspect) . Victims can ask to view. • C - CLARIFICATION: If there is anything you wish to clarify or add later, you can provide a further (written) statement. • C - COURT: Video may be used as evidence in court. Victim will still need to be available to answer questions in court in person. • E - EXPLAIN: Explain the interview procedure to your victim. • S - STORAGE: Interview will be stored by Police in a secure facility – it will not remain on the phone. • S - SWITCH: Switch phone to 'Do Not Disturb' before starting interview. <p>2. The Interview</p> <p>Ensure you record the following:</p> <ol style="list-style-type: none"> 1. STATE: Date/time/your full name. (Do not need location). 2. VICTIM: States their full name. (Do not need date of birth). 3. INTRODUCE: Camera operator/support person/interpreter. <ul style="list-style-type: none"> • Interpreter must promise to accurately and completely translate the words of the witness. • Interpreter / Support person must be clearly visible throughout the entire video recording. 4. RECONFIRM CONSENT (Victim must verbally respond to each question): <ol style="list-style-type: none"> a. Earlier you agreed it was okay to record this on video and I need to check that you are still okay with that? <p style="text-align: right;"><i>Cont'd...</i></p> | <p>FAMILY VIOLENCE VIDEO STATEMENTS CONT'D...</p> <ol style="list-style-type: none"> b. You are aware that (<i>suspect</i>) will be able to view the video? c. You are aware that this video record may be used as evidence in court? d. You agree to this video being used as evidence in Court? <ol style="list-style-type: none"> 5. OBTAIN PROMISE: "What we record today could be used as evidence in court, so it is important that you tell the truth. Do you promise to tell the truth?" 6. OPENING QUESTION: Use 'TEDS' question: (Tell/Explain/Describe/Show). Eg. "Tell me what happened today..." 7. EXPLORE TOPIC AREAS: Introduce topic with a 'TEDS' question & clarify detail using "SWH & How". 8. CLARIFICATION: Ensure you obtain from victim: <ol style="list-style-type: none"> a. WHO: Confirm name of offender and relationship to victim. b. INJURIES: Ask if the victim has suffered any. DO NOT record these on video. Take photos after and upload. c. SCENE: Has anything been damaged or altered? Again, photograph separately after the interview. d. WITNESSES: Ask if anyone saw or heard the event. Confirm names. e. CHILDREN: Have they been exposed to this incident? f. ORDERS: Confirm existence and conditions of any orders (Protection Orders etc). <p>3. Interview Closure</p> <ol style="list-style-type: none"> 9. CLOSURE: "When we started talking, you promised to tell the truth as this statement may be used in court. It is an offence to make a statement that is known by you to be false or intended by you to mislead. I need you to confirm that everything you told me today is the truth." (Answer). 10. STATE: End time from your watch. <p style="text-align: right;">V1.2 (June 2019)</p> |
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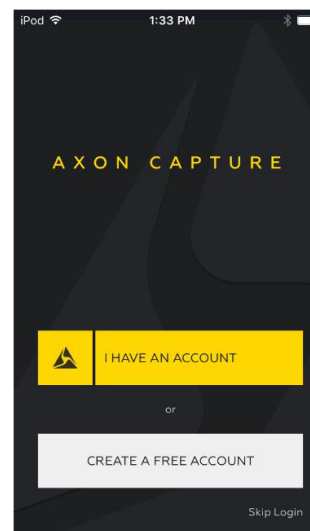
As outlined in the previous chapter, the Aide Memoire has been developed to assist in taking Victim Video Statements. Following the Aide Memoire is the best way of ensuring compliance with the Evidence Regulations, and ensuring that we can play the statement in Court for the Victim.

The Aide Memoire has been structured to make it as logical and easy to follow as possible. Anything printed in blue in the Aide Memoire has been scripted for you in order to ensure compliance with the Evidence Regulations.

A more detailed discussion on the Aide Memoire and how to use it in an interview is provided in the next chapter.

Axon Capture

- Axon Capture is the technical solution for capture and storage of evidential **videos** and **photos**
- This is the same company used by Police for capture and storage of Taser video.
- With VVS, this will be via an Application on your iPhone.
- Axon Capture is secure from capture to upload, storage and retrieval.
- Role based access with managed expiry - frontline, administration view all and administration.
- An audit trail captures all actions.



Key Points:

1. **ID = Event Number.** It is important to enter this correctly to enable tracking and auditing of files.
2. **Category** = Important to get this right as well. (eg. Uncategorized videos and training videos are deleted after 90 days)
3. **Photos:** Can be imported into Axon Capture from phone
4. **Video:** Must be taken using Axon Capture.

Note:

You can bulk categorise and upload videos. This means that when you have multiple items store in Axon Capture on your phone relating to the same event (eg: a video interview and a series of photographs), you can enter the event number for all items once, categorise all items at once, and upload all items together.

Further information on logging on to Axon and use of the app can be found in **Appendix 2: Axon Capture User Manual Excerpts.**

Tripods

Tripods are an important tool to use to conduct a professional looking interview. Having a tripod means that you will be able to conduct an interview without any “camera shake”, and you will not need another Police member present to hold your phone.

You should have received a tripod as part of your training. For replacements, please contact your District VVS lead.

Introduction

Now that you have been introduced to the law and the resources available to conduct an interview, it is time to look at how you will practically apply all of this in an actual interview.

This section starts at the point you are at a Family Harm event. You have met with the Victim, and the Victim has disclosed criminal offending in a Family Harm context. You have received an overview from the Victim about what has taken place, the Victim and has agreed to make a statement to you, and you have determined that the VVS Business Rules are met.

Pre-Interview:

1. Family Violence Video Statement – Pre Interview

Prior to commencing recording, you must gain consent to record video statement. The victim needs to be aware of:

- **A - ACCESS:** People will need to view the interview to prepare the case. This may include: Police staff, court staff, the suspect's lawyer & the suspect (video will not be shared directly with the suspect) . Victims can ask to view.
- **C - CLARIFICATION:** If there is anything you wish to clarify or add later, you can provide a further (written) statement.
- **C - COURT:** Video may be used as evidence in court. Victim will still need to be available to answer questions in court in person.
- **E - EXPLAIN:** Explain the interview procedure to your victim.
- **S - STORAGE:** Interview will be stored by Police in a secure facility – it will not remain on the phone.
- **S - SWITCH:** Switch phone to 'Do Not Disturb' before starting interview.

1. Offer the option of a video interview to the victim. Explain to the victim the reason for taking a video (a quicker and simpler way of recording the Victim's statement, and the fact that we may be able to use the VVS in court as the victim's evidence), how it may be used and who may view it (follow the Aide Memoire):
 - ACCESS
 - CLARIFICATION
 - COURT
2. Also explain that the interview will not remain on your iPhone. The interview will be uploaded to a secure server or facility:
 - STORAGE
3. If the Victim does not consent to completing a VVS, complete a written statement and follow standard process. Please record in your Family Harm report that a video statement was offered and declined, along with the reason for declining if known. **This will be used for evaluation purposes.**

4. If the Victim agrees to complete a Victim Video Statement, consider the following matters when setting up your interview:
- a) **Illumination:** Consider lighting. Bright lights and windows in the background can badly impact on video quality.
 - b) **Distance:** Distance between the recording device and the victim should be no more than 2 metres. The closer your phone is, the better the sound quality.
 - c) **Distractions:** Minimise noise distractions and consider background noise/outside noise e.g. turn off household appliances, if children to play quietly in another room if appropriate.
 - d) **Introduce:** All parties must be introduced and remain on camera for entire interview. Exception is camera operator, who can be introduced by interviewer
 - e) **Orientation:** The phone must be 'landscape', with home-button to the right, and volume buttons facing down
 - f) **Tripod:** There must be a suitable place to set up the phone. The phone must be stable and ideally not hand-held

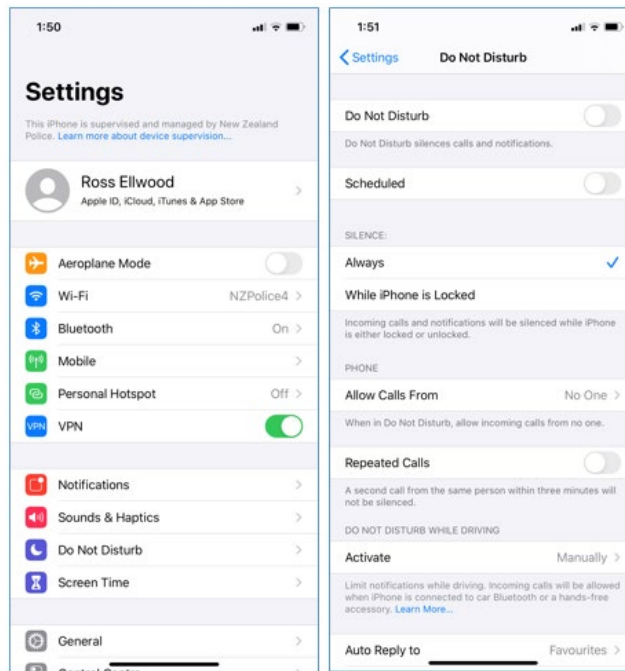
Mnemonic = "IDDIOT"

5. **EXPLAIN** the process to your Victim:
- a) **Process:** Explain the process that you will follow and the structure of your interview. Refer to the Aide Memoire.
 - b) **Require Verbal Responses:** Explain that you require verbal responses (ie. "yes") to each of the initial questions you ask.
 - c) **Open-ended question:** Explain that you will ask an open-ended question like, "Tell what happened", and that this is their prompt to tell their story from the start in their own words.
 - d) **Questions:** Explain that once they have given their initial account, you will focus on some parts of the account, and ask a few questions to obtain a bit more detail.
 - e) **Further points to consider:**
 - If you intend taking notes (recommended), explain that you will do so, but will be listening to what they are saying
 - Explain that at the end of the interview you will confirm with them that everything they have said is the truth.

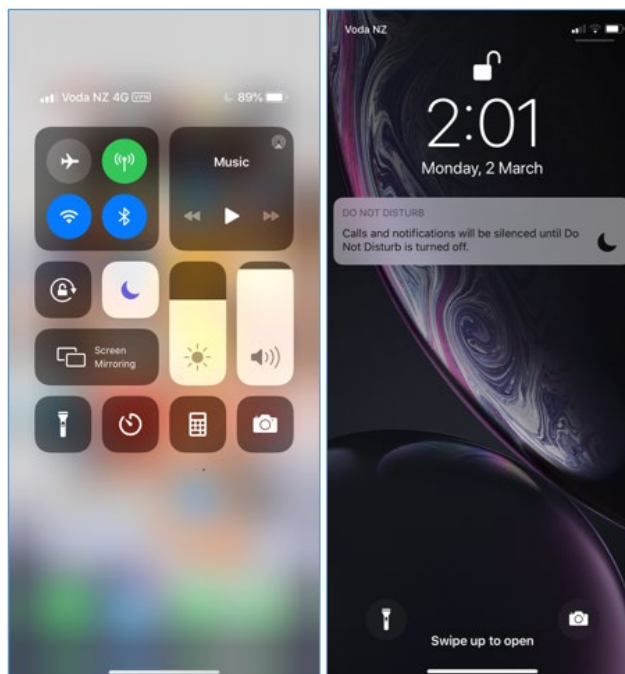
Mnemonic = "IDDIOT PROQF"

6. **SWITCH** the phone to **Do Not Disturb** so that you won't be interrupted by incoming calls during the interview:
- a) You will need to ensure the settings for "Do Not Disturb" are correctly configured so that you do not actually receive any calls during the interview.

- b) Go to Settings
- c) Select “Do Not Disturb”, and ensure your settings are the same as shown below.



- d) Select “Do Not Disturb” from the shortcut screen:



7. It is also recommended that you check that the phone is ready to record:
 - a. **Voice settings.** Check that the phone microphone isn't on mute:



- b. Check that the **battery life** of the phone is more than 50% and that you have the backup battery pack with you.
- c. Check the **storage capacity** on the phone (it is not recommended that you have more than two interviews of 5-10 mins in length on a phone at once).

The Interview:

2. The Interview

Ensure you record the following:

- 1. STATE:** Date/time/your full name. (Do not need location).
- 2. VICTIM:** States their full name. (Do not need date of birth).
- 3. INTRODUCE:** Camera operator/support person/interpreter.
 - Interpreter must promise to accurately and completely translate the words of the witness.
 - Interpreter / Support person must be clearly visible throughout the entire video recording.
- 4. RECONFIRM CONSENT** (Victim must verbally respond to each question):
 - a. Earlier you agreed it was okay to record this on video and I need to check that you are still okay with that? Cont'd...

- b. You are aware that (*suspect*) will be able to view the video?
- c. You are aware that this video record may be used as evidence in court?
- d. You agree to this video being used as evidence in Court?
- 5. OBTAIN PROMISE:** "What we record today could be used as evidence in court, so it is important that you tell the truth. Do you promise to tell the truth?"
- 6. OPENING QUESTION:** Use 'TEDS' question (Tell/Explain/Describe/Show).
- 7. EXPLORE TOPIC AREAS:** Introduce topic with a 'TEDS' question & clarify detail using "5WH & How".
- 8. CLARIFICATION:** Ensure you obtain from victim:
 - a. **WHO:** Confirm name of offender and relationship to the victim.
 - b. **INJURIES:** Ask if the victim has suffered any. **DO NOT** record these on video. Take photos after and upload.
 - c. **SCENE:** Has anything been damaged or altered? Again, photograph separately after the interview.
 - d. **WITNESSES:** Ask if anyone saw or heard the event. Confirm names.
 - e. **CHILDREN:** Have they been exposed to this incident?
 - f. **ORDERS:** Confirm existence and conditions of any orders (Protection Orders etc).

Record the victim's statement on video (refer Aide Memoire):

1. State the date and time, and introduce yourself by full name. You do not need to state the location of the interview, and it is recommended that you do not. Location information is often personal or sensitive, does not add any valuable information, is not legally required for the interview, and will generally need to be redacted out.
2. Ask the victim to state their full name.
3. If you have a "camera operator", remember to introduce them. Ask anyone else present for the interview to introduce themselves.
Remember:
 - a) If you have an interpreter, they must promise to accurately and completely translate the words of the victim (Regulation 8(e)).
 - b) Interpreters and Support Persons must be clearly visible throughout the entire video recording (Regulations 11 & 12)
 - c) Your support person is there as support only. They cannot answer questions on behalf of the Victim. The support person should be briefed on this point ahead of the interview.
4. Reconfirm consent. Ask the Victim each of the four consent questions listed in the Aide memoire. Pause between each question and ensure you get a positive verbal response to each question.
5. Obtain a promise to tell the truth from the victim by reading the scripted question from the Aide memoire. This also requires a verbal response.
6. Ask your victim a simple open-ended question to start them on their free recall. It is recommended that you take brief notes in your notebook as you go. These notes serve to prompt you to identify topic areas.
7. Once the Victim has completed their initial free recall, explore identified topic areas. Start each topic area with another open-ended question, and clarify using "5WH and How" questions.

Remember to explore any other "investigatively important" topics:

- a) Matters raised by the victim before the interview, but not covered during the interview,
 - b) Any other matters known to you as the interviewer, but not raised by the Victim.
8. After you have asked questions about your identified topic areas, move to the Clarification section of your Aide Memoire. You are strongly advised to ask questions on all of the points listed in this section. You will ensure a thorough interview and consideration of key area of evidence. You may also be surprised at the answers you will get:
 - a) **WHO:** It is vital from an evidential perspective that we confirm the identity of the offender. Identity is the first element we must prove for any criminal charge. We must also establish the relationship between the Victim and Offender, as there must be a domestic relationship (Regulation 53)

- b) **INJURIES:** Ask about any injuries the Victim has suffered as a result of the offending.
- c) **SCENE:** Ask about any changes or damage to the scene.
- d) **WITNESSES:** Ask whether anyone else was present. Could anyone have seen or heard what went on?
- e) **CHILDREN:** Ask about children. How many children do they have? What are their ages? Where were they when the offending took place? These questions are around exposure of children to family harm.
- f) **ORDERS:** Ask about any orders that are in existence, particularly in Breach of Protection Order matters. Confirmation of the order provides good context to the interview.

At this point you should have covered all of the key parts of the interview and be ready to close. Before closing the interview, it is good practice to check with the Victim about how the offending made them feel. The responses to these questions often provide important information around the impact of the offending, which will assist with the Victim Impact Statement. They can also make the video powerful in an emotional context, lending credibility to the Victim statement, and hopefully showing the offender (when he or she gets the opportunity to view) the full impact of his actions.

Interview Closure

3. Interview Closure

9. CLOSURE: “When we started talking, you promised to tell the truth as this statement may be used in court. It is an offence to make a statement that is known by you to be false or intended by you to mislead. I need you to confirm that everything you told me today is the truth.” (Answer).

10. STATE: End time from your watch.

V1.1 (April 2019)

1. Close your interview by reading the closing statement at the end of the aide memoire. It is not a legal requirement to read this, but it will make your interview much more robust in the event of any later legal arguments (such as a hostile witness application). It is always much stronger when the Victim has made a promise to tell the truth at the start of the interview, and then confirms at the end that everything they have said is the truth. It makes it very difficult for a victim to later recant.
2. State the end time from your watch.

Note:

If you forget to read the closing statement, you can do one of two things:

1. If only a short time has elapsed, start a fresh video and pick up from where you left off. Explain that you have commenced another recording as you forgot to cover off the closing statement. Then run through the closure statement. DO NOT repeat the full interview.
2. Write out the closure statement in your notebook and have your Victim sign it. Consider how long it has been since you finished the interview, and whether you need to play back the interview to the Victim to refresh their memory. If you do play the interview back, record the fact of this in your notebook as well.

Further tips and advice:

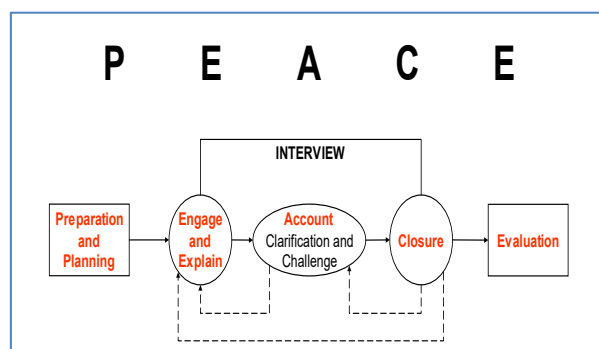
1. You may have occasion during your interview to take a break. This could be to take some advice, or it could be at the request of your victim. Regulation 9 provides that you can decide to take a break. If you do, you must state the following things:
 - a. The fact a break is being taken,
 - b. The estimated duration of the break,
 - c. The reason for taking it.

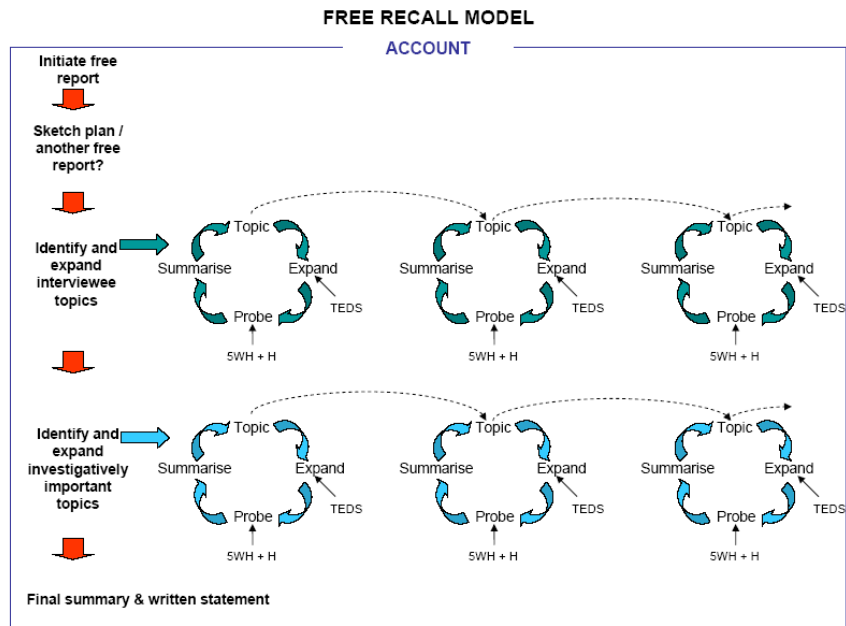
If your break is a short one, start a fresh video, and recommence your video approximately at the point you took the break. There is no need to cover off the consent questions again, although best practice would be to remind the victim of their earlier promise to tell the truth.

If the break is for anything longer than ten minutes, re-confirm consent (ask if they agree to continue to carry on with the interview), and obtain another promise to tell the truth.

A note on Investigative Interviewing

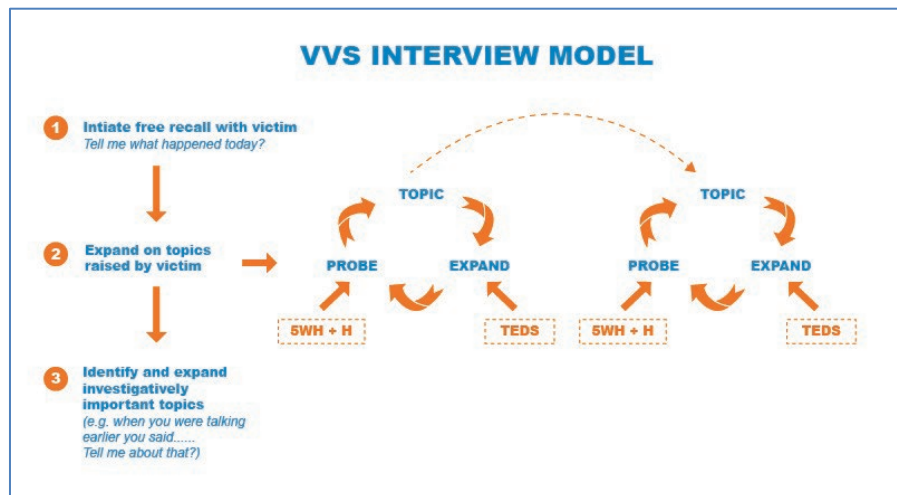
You will recall from previous training that Investigative Interviewing provides a process for us all to conduct complete and robust interviews for all victims, witnesses and suspects.





The original “Free Recall Model” (shown above), is the one we have been trained to use when interviewing cooperative victims and witnesses. It is modelled on the assumption that you will first interview your victim or witness in order to gather complete and accurate information and ensure understanding, before committing that interview to a written statement on behalf of the witness.

In the Victim Video Statement process, this process is modified slightly, as there is no requirement to complete the final written statement:



Obtaining an account from your Victim (ie. getting the body of your interview) is essentially a three-step process:

1. Initiating a free recall with your Victim
2. Expanding on topic areas raised by the Victim
3. Identifying and expanding on Investigatively Important Topic Areas

Initiating a free recall:

This is when you ask the open-ended question at Point 6 of the Aide Memoire. The important part here is to give the Victim the opportunity to give an uninterrupted account of what has taken place.

It is recommended that you take brief notes, simply to identify topic areas for later questioning and clarification.

Expanding on topic areas

Topic areas will typically include matters like:

1. Physical actions of the offender
2. Weapons
3. Injuries
4. Damage to property
5. Witnesses
6. Children, etc etc

These should be explored by asking an open-ended questions to introduce the topic area, and then probing for detail using “5WH and How” questions. For example,

“You mentioned that he punched you in the head. Tell me about that”:

- *How many times did he punch you?*
- *What level of force did he use? (Scale of 1-10)*
- *Where exactly did the punches land?*
- *What injuries did you get as a result?*

Investigatively Important Topic Areas:

Identifying and expanding investigatively important topics will generally fall into one of two areas:

1. Matters raised by the victim during the pre-interview, but not mentioned again during the video interview. These topic areas can be introduced by simply asking, *“Earlier you mentioned [XYZ].... Tell me about that”*
2. Matters not mentioned at all by the Victim, but are of relevance to the investigation. An example of this could be a witness you have spoken to, who raises something not mentioned by the Victim. Another example could be damage to the scene not mentioned by the witness. These topic areas can be introduced by simply asking questions like:

“We have spoken with a witness, who mentioned.... Tell me what you know about that”

“My partner has observed that there is damage to.... Tell me what you know about that”

Summarising:

The requirement to summarise has been removed from the original Investigative Interviewing process. This is because the statement is being electronically recorded, and it is the words of the witness that are evidential when the interview is played in Court.

However, summarising may be appropriate in some cases, particularly when you have an unclear narrative from your Victim. If you are struggling to understand clearly what has taken place, summarising will give the victim a chance to clarify and confirm understanding.

Section six: Post-Interview Actions

Photos

Photos are a powerful way to corroborate a Victim Video Statement.

Photos can be taken directly in Axon Capture and uploaded to evidence.com. The limitation in this approach is that the photos are then automatically deleted from your phone and printing copies for your prosecution file can be difficult.

Photos can be imported into Axon Capture using the “IMPORT” function in the application.

Recommendation:

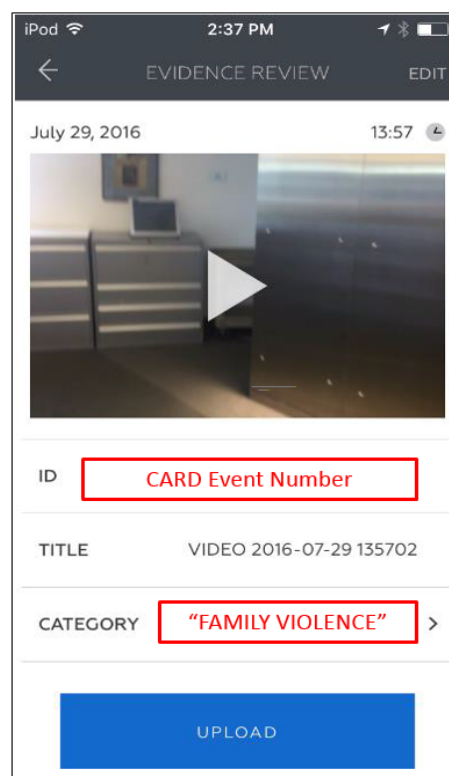
It is recommended that you take photos using the standard camera function on your phone. Import into Axon a few key photos that best corroborate the Victim’s account. Photographs of injuries, weapons and damage to a scene are ideal.

These few photos can be uploaded to evidence.com to support the video.

All photos stored on your iPhone can then be dealt with as per standard practice in your District.

Editing the Metadata

1. Once you have completed your interview it is important to edit the metadata attached to the video and any associated photos in Axon Capture:
 - a. Enter the **CARD event number** into the ID field. It is important that this is accurate, as locating the evidence in evidence.com is normally done by a search of the event number.
 - b. Categorise your video as **“FAMILY VIOLENCE”**. This is also important, as this will change the retention period for the video. (Recall: uncategorised videos are deleted after 90 days)
 - c. **Do not** alter or edit the video title. This is essentially a unique number created by AXON and assigned to the video



Note:

Further instruction on how to edit the metadata, including the bulk editing of multiple pieces of evidence (eg when you have video and photos) is contained in **Appendix 2: Axon Capture User Manual Excerpts**.

Upload

Upload of your Victim Video Statement must be completed by end of shift. The Evidence Regulations require us to upload videos as soon as practicable.

Upload can be done in one of two ways:

1. Using your iPhone's 3G/4g connection. This will use some of your allocated data, but advice from our ICT team is that it should have no significant impact on your total data allowance.
2. Return to the muster room as soon as possible to upload the video via a wifi connection (if available).

Note:

1. Videos **must** be uploaded before the end of your shift.
2. Part-recorded videos **must** also be saved and uploaded to evidence.com. Once captured the video must be retained and stored.
3. It is **strongly recommended** that you upload your video / photos to evidence.com prior to leaving the scene. This is the best way to ensure compliance with the Evidence Regulations.

Corroboration

Note that you still need to collect all evidence as you would normally do. Corroborating evidence is still essential – remember the “Best Evidence” rule.

Matters to consider should include:

1. Document your own observations in a formal written statement. This should include noting:
 - a. Any observations of the scene.
 - b. Any observations of the victim and / or suspect, including spontaneous comments, demeanour and apparent injuries.
 - c. Descriptions of any photographs you have taken, including what you have observed (often injuries are not immediately apparent in photos taken using iPhones, particularly at night or in low-light situations).
 2. Photographs at the time of injuries, scene and weapons.
 3. Referral to photography section for follow-up photos with the Victim. Remember, bruising will evolve over time, and photography section will take better quality photographs for you.
 4. Witness statements.
 5. Obtain copies of any 111 calls made to Police.
 6. Complete an Area Canvass.
-

-
7. Obtain medical evidence.
 8. Consider obtaining Telco data.

The above list is not exhaustive, and there may be other avenues of enquiry relevant to individual Family Harm episodes.

Determine whether to show suspect the victim's video

1. Showing parts of the video to the suspect should only be considered in exceptional circumstances. This should be done only when you believe it is essential to obtaining a guilty plea, and when the victim is not in danger of retaliation. Carefully consider the consequences of showing parts or all of the video to the suspect. The victim's safety must be paramount.
2. If you wish to show all or part of the video to the suspect, **seek your supervisor's approval.**
3. If your supervisor approves, show the suspect the parts of the video you need to. Scene photos can be shown to the suspect, per current standard practice.
4. If the video is shown to the suspect by Police, **advise the victim.** Make sure they have support in place. The victim will be aware from the outset that the suspect will have the right to view the video and review any transcript via their defence lawyer, but will not be provided with access to the video statement directly by Police.

Family Harm Policy and Procedures

It is worth noting the following excerpt from the Family Harm Policy and Procedures Chapter in Police Instructions:

Deciding whether to arrest

Arrest if sufficient evidence of offending

As with all other offending, determine whether:

- there is sufficient evidence of an offence to arrest, and
- the tests for prosecution in the [Solicitor-General's Prosecution Guidelines](#) would be met (See [Prosecution](#) in the 'Prosecution or case disposition' section of this chapter for more information).

If there is sufficient evidence of an offence, suspects responsible for family violence related offences or breaches of protection orders should, **except in exceptional circumstances**, be arrested. Protection orders continue to be effective until discharged by a court. Where there has been an historical breach, action should still be taken.

Where offending is disclosed and actions other than arrest are contemplated, **you must consult your supervisor** before proceeding. It is advisable to also consult with the Family Violence Coordinator/Family Harm Specialist who may have relevant information known through multi-agency tables.

Section seven: File and Data Management

Provide defence lawyer access to video

Disclosure of Victim Video Statements **must** be managed via evidence.com.

Under no circumstances should interviews be downloaded and burned to disc for disclosure, unless directed to do so by the Court.

The process to share Victim Video Statements with Defence Counsel will vary from District to District, depending on local practice and team structures. The ability to share with external parties is restricted to Administrative users of evidence.com, and frontline staff are therefore not able to share directly with Defence Counsel.

If unsure of your local practice, please contact your local VVS team for guidance.

The workgroup responsible for managing access for Defence Counsel should take the following steps when sharing with Defence:

1. Receive disclosure request from defence lawyer.
2. Confirm correct email address for the defence lawyer (see note below re generic email addresses).
3. Check that the video has been assessed for pre-disclosure redactions, and that any required redactions have been completed.
4. If the video has been assessed and had any necessary redactions completed, create **view-only** access for the lawyer. The default period for access is 90 days. This can be edited as required².
5. Once you have shared the interview with Defence Counsel, evidence.com will send an automated email to the lawyer to advise them of this. You should send a follow-up email to the lawyer, confirming that the interview has been shared, and providing instructions on how to create an account in my.au.evidence.com. (Use the email template provided in **Appendix 3**).

Note:

1. Videos **must** not be shared with evidence.com accounts linked to generic email accounts (ie. Email accounts shared and accessed by multiple users). Examples of such accounts include:
 - a. Info@lawfirm.co.nz
 - b. service@pds.govt.nz
2. Police should not share with generic accounts, as we will then not be able to meet the reporting requirements under the Evidence Regulations, and ensure that the privacy considerations for the Victim are met. This was confirmed in the District Court in *Police v Nielson*³.

² For further on the technical aspects of completing redactions, please refer to the Axon Capture User Guide

³ NZP v Richard John Nielsen, [2019] NZDC 7173

3. If you suspect that a lawyer is asking you to share to a generic email address, please confirm that the account to which you are sharing the video is accessed exclusively by that lawyer.
4. For a more comprehensive overview on Disclosure, please refer to the **VVS Disclosure Guide**.

Prepare video transcript for court

Transcripts are required to be completed as soon as practicable after the Defendant has pleaded not-guilty⁴. The following process should be followed:

1. Defendant enters not-guilty plea.
2. Transcript request generated and approved.
3. Transcript Request emailed to typing service.
4. VVS record checked in NIA to ensure that any required pre-disclosure redactions have been completed.
5. Share the VVS with typing service. **NOTE:** if redactions have been completed, the redacted version must be the one shared.
6. On receipt of the transcript;
 - a. Transcript to be checked for accuracy.
 - b. Disclose as appropriate to Defence Counsel
 - c. Attach a copy in NIA at Case Level. This will ensure that the prosecutor has access to the transcript if required for any court hearings.

Redact video for court

-
1. Once redactions have been agreed with Defence, mark up a copy of the transcript with the intended redactions.
 2. Scan and email a copy of the marked-up transcript to your local forensic imaging office, and request that the redaction are completed.
 3. Once redactions have been completed, you will receive advice of this from your forensic imaging office.
 4. Arrange to share the redacted copy with Defence Counsel.
 5. Make redactions as required.

Lodging evidence with the court

All videos are played in Court by sharing a link to the Court. This will be accessed by the Court Registrar and played as evidence-in-chief. The following process should be followed:

1. Identify that a Victim Video Statement is required to be played in Court as part of a hearing (Bail Hearing, Pre-trial, Trial, JAT).
 2. Check that the video has been “tagged” with the Defendant’s name and PRN (eg, **John Smith PRN 12345678**).
-

⁴ Evidence Regulations 2007, Regulation 28.

-
3. Confirm with Court the registrar who will be sitting in Court.
 4. Share the video with the Registrar. It is recommended that access is provided for a limited time only. This will ensure that only limited videos appear on screen for a Registrar at any given time, meaning that navigation of evidence and identification of correct evidence is simpler.

Note:

Training has been provided to Court Registrars on how to set up their own accounts in my.au.evidence.com. A one page guide has been prepared to assist Registrars to log-on and locate evidence. A copy of this is included in this guide at **Appendix 4: Accessing Evidence in evidence.com**.

Victim Contacts

Victim contact is a vital part of managing your file through the prosecution process and achieving a good outcome. You are encouraged to stay in contact with your victim throughout and update them on any significant developments.

One of the biggest issues faced by officer's in charge of Family harm prosecutions are reluctant victims, unwilling to attend court. This problem can be compounded when the victim's anxiety levels are elevated due to not knowing what is happening with the case.

Please stay in touch with your victim, and record all contacts in NIA.

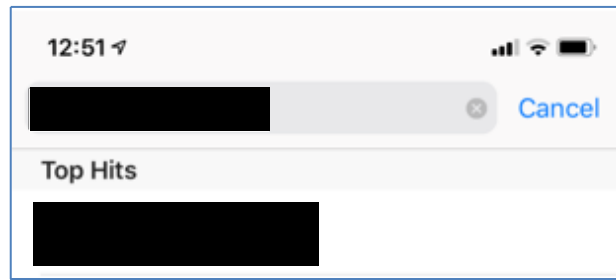
Preparing your Victim for Court

| SAFER WHĀNAU: FAMILY VIOLENCE VIDEO STATEMENTS: O/C Case Court Checklist | SAFER WHĀNAU: FAMILY VIOLENCE VIDEO STATEMENTS: O/C Case Court Checklist |
|---|--|
| <p style="text-align: center;">1. Before the Court Date</p> <ul style="list-style-type: none"> ○ Prepare your court file (seek guidance if required): <ul style="list-style-type: none"> ○ Ensure any exhibits are prepared for presentation. ○ Ensure you have sufficient copies of any documentary exhibits. ○ Contact Photography Section in good time for preparation of any court books. ○ Contact your Victim and/or witnesses: <ul style="list-style-type: none"> ○ Ensure all parties have been summonsed to appear. ○ Discuss any transport and / or accommodation requirements for any of your witnesses. ○ Consider any victim needs – Liaison with VCA's, access to the Police room, mode of evidence considerations (screens etc.) ○ Record all Victim Contacts in NIA. ○ NOTE: It is the O/C's responsibility to complete all witness liaison. ○ Contact the Prosecutor at least three clear working days before the hearing: <ul style="list-style-type: none"> ○ Discuss any issues with the prosecutor. ○ Discuss victim needs and mode of evidence considerations. ○ Ensure you can access your VVS (Victim Video Statement) on your mobility device: <ul style="list-style-type: none"> ○ Refer to the VVS User Guide for instructions on this. | <p style="text-align: center;">2. On the Day of Court</p> <ul style="list-style-type: none"> ○ Attend Court early and consult with the Prosecutor. ○ Meet with the Victim / Witnesses prior to Court. <ul style="list-style-type: none"> ○ Introduce your witnesses to the prosecutor. ○ Show them the court room and talk through the process of giving evidence with them. ○ Make any written statements available, and read through these with the witness. Explain the sorts of questions they will be asked by both the Prosecutor and Defence Counsel ○ Play the VVS to your victim prior to the hearing. This is a crucial step in briefing your victim and preparing them for Court. ○ Remain at Court for the whole case. <ul style="list-style-type: none"> ○ As the Officer in Charge, you must remain at Court for the whole case. You must be available to assist the Prosecutor with witness management, and deal with any issues as they arise. |
| | <p style="text-align: center;">2. When Court has finished</p> <ul style="list-style-type: none"> ○ Update the Victim (by phone or personally) of outcome and update NIA. ○ Complete updated Victim Impact Statement(s) as appropriate |

The checklist above has been prepared to help officers in charge of prosecution matters manage their obligations when preparing and attending court.

In preparing and briefing your Victim on the morning of court, an essential part of the process is to show the Victim their Victim Video Statement. This is most easily done using your Police-issue iPhone by taking the following steps:

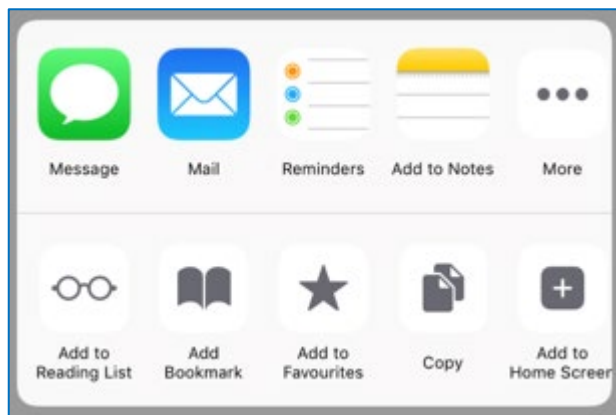
1. Ensure you have access to the interview in evidence.com. If you were not the interviewer, you will need the interviewer to share the interview with you. Alternatively, contact your local VVS team, and they can organise access for you.
2. Open Safari on your Police iPhone.
3. In the search / address bar at the top of the screen, enter



4. Once the evidence.com home screen is open, you will be able to log in using your normal log-in. You may be prompted for multi-factor authentication. You will need to retrieve and enter the six digit code that will be emailed to you.
5. For future ease of access, you can add a shortcut to evidence.com to the home screen on your phone. Tap on the share icon at the bottom of the screen:



6. Tap the “Add to Home Screen” icon, and then tap “Add”:



You should now have a shortcut on your home screen that will take you directly to evidence.com for future ease of access.

If victim requests review or deletion of video

- If the victim wishes to review the video at any point they can contact Police and come to the station to view it.
- If the victim wishes to withdraw the video statement after it is taken, a decision as to whether the video statement will be used will be made by Police Prosecutions.
- Videos must **never** be deleted by an officer.

Inadmissible Statements

If it is decided that your statement is not admissible or cannot be played in court, the case can progress as it has always traditionally done – summons the witness to attend court to give oral evidence.

If this is the case, a transcript should be requested, and the transcript used by the Prosecutor to lead the Victim's evidence in Court.

Please Note:

1. **Do not** take a written statement from the Victim to replace the Video Statement. You will simply be putting the Victim through a further unnecessary process. You will also potentially open up areas of conflict between the two statements, which could open up the Victim to further cross-examination in court.
2. **Do not** have the transcript signed by the Victim. There is no legal need to do this, and again it is putting the Victim through a further unnecessary process. The original VVS is still the original statement, and is available to be referred to. Even if it is not able to be played as evidence-in-chief, it is still available to be played if a hostile witness application is made.

You should only be asked to take an additional statement from the Victim in the following circumstances:

1. If moderation of the interview indicates that the interview has not covered off all of the ingredients to meet what has been charged. In these circumstances, take a statement only to cover off the required information. Do not conduct another full interview. Consider taking an additional VVS if you are still within the two week window since the offence date.
2. New information or evidence comes to light, which requires a response from the victim.

Reluctant Victims

An issue commonly encountered in family harm prosecutions is a change of heart from the Victim about seeing a prosecution through. Many victims will seek to withdraw charges, or seek to recant their original statement. The reasons for victims wanting to take this course of action can be many and varied.

It is important that victims are not judged on an expressed wish to have the prosecution withdrawn. Police should instead seek clarification about why the victim no longer wishes to go through with the prosecution.

Recanting vs Withdrawing:

When a Victim states they no longer wish to proceed with a prosecution, it is important to find out why this is the case. Victim's will generally adopt one of two positions:

-
1. The original statement made by the Victim is not correct. The Victim will often seek to offer a different version of events, which will no longer sustain the prosecution.
 2. The Victim does not seek to change their original statement. They simply no longer wish for the prosecution to go ahead.

In either of these circumstances, it is important to speak with the Victim and record what they say. In speaking to the Victim, cover the following points:

1. Confirm with the Victim their position in relation to the original statement. ie: is the original statement true, but the Victim no longer wishes to proceed with the prosecution; Or does the victim now wish to offer a different version of events.
2. If the Victim confirms that the original statement is true:
 - a. Ask why they no longer support the prosecution. Some reasons to consider:
 - i. Has the victim reconciled with the offender?
 - ii. Has the victim being receiving any pressure to withdraw charges?
 - iii. Does the Victim have any concerns about the Court process? (Seeing the offender in court, who else will be in court etc)
 - iv. Are there other factors making the Victim anxious about the court process? (transport to court, childcare issues, taking time off work etc)
 - b. Consider what measures you can put in place to support the Victim (contact the Victim Court Advisors, Victim Support referral, offer to arrange transport). Sometimes doing things like simply explaining the Court process and advising that you will be Court with the victim will be enough to reduce anxiety.
 - c. Consider any follow-up enquiries that may be needed. For example, if the Victim is being contacted by the offender and having pressure placed to withdraw charges, telco or prison enquiries could be appropriate.
3. If the Victim states that they wish to offer an alternative version of events:
 - a. Confirm with the Victim what the alternative version of events is.
 - b. Focus on the differences with the original version of events.
 - c. Consider the new version offered by the Victim in light of the evidence gathered during the original investigation.
 - d. Challenge the Victim around any inconsistencies and seek an explanation. For example:
 - *You told us in your original statement that he punched you three times in the head. You now state that he only pushed you. We have photographs taken on the night showing fresh bruising and swelling to your face. Explain how you got those injuries.*

-
- e. Consider if there are any follow-up enquiries needed as a consequence of the fresh version offered by the Victim.

How to record:

Once you have spoken with your victim, record your conversation in an **Officers** Formal Written Statement.

The general position is that you **SHOULD NOT** take a further statement from the Victim:

1. If the Victim is simply wanting to withdraw the prosecution, but confirms that their original statement is correct, then the information is likely to be non-evidential. It is information that should be relayed to the prosecutor and the court, and this can be done via an Officer's FWS.

Consider whether the Victim has offered information related to further offending. For example, if the offender has put pressure on the Victim to withdraw charges, this is evidence of Attempting to Pervert the Course of Justice. In this circumstance, a fresh statement dealing with the fresh offending should be taken.

2. If the Victim seeks to change or recant their original statement, the position created is that one of the versions of events proffered by the Victim is a false version. This opens up the Victim to being prosecuted for making a False Allegation or Report to Police (Summary Offences Act, section 24). If a new statement were to be taken from the Victim, the Victim should be cautioned and advised of their rights. This is problematic, particularly when you have evidence to support the original statement and prosecution. It is recommended in this circumstance that you record the fresh information / change in account via an Officers FWS.

If in doubt about how to record information received from a Victim after charges have been laid, please consult your local Family Harm team, VVS team, or Prosecution office for advice.

Where to go for resources and assistance

Victim Video Statements has a home page on the Police Intranet.

[Home](#) > [Projects](#) > [Policing Excellence: the Future](#) > [Safer Whanau](#) > **Victim video interviewing**

<http://nzpintranet/projects/PolicingExcellencetheFuture/SaferWhanau/Pages/Victimvideointerviewing.aspx>

On this page you will find links to:

- Printable resources, such as the Aide Memoire and User,
- How to videos showing users how to perform a variety of tasks
- Caselaw relating to Victim Video Statements
- A comprehensive list of FAQ's

For VVS and Axon Capture Support, in the first instance contact your local VVS team:

- Northland:
- Waitemata: VVS.WMD@police.govt.nz
- Auckland: VVS.ACD@police.govt.nz
- Counties-Manukau: VVS.CMD@police.govt.nz
- Waikato:
- Bay of Plenty:
- Eastern:
- Central:
- Wellington:
- Tasman:
- Canterbury:
- Southern:

For **urgent** access to Victim Video Statements (particularly out of office hours):

- Call the Service desk on ext. [REDACTED] or DDI 0 [REDACTED]. Alternatively email [REDACTED]@police.govt.nz).

For password re-sets:

- Users can reset their own password by clicking on “Forgot your username or password” at the evidence.com login screen. Enter your email address using the format: [REDACTED].

APPENDIX 1: Key Evidence Regulations

| Reg | Requirement | Comment |
|-----|--|---|
| 5 | <p>Only certain persons to be present during interview</p> <p>The only persons who may be present at the video recording of the interview are:</p> <ol style="list-style-type: none"> The person facilitating the interview (the interviewer) The witness Any person needed to operate the recording equipment If regulation 6 applies, the witness's support person If regulation 7 applies, an interpreter | <ul style="list-style-type: none"> Witness, interviewer and support person (if there is one) will be in the room.⁵ Should not interview while children or other people are present. |
| | <p>Support person</p> <p>A support person must not take part in the interview</p> <p>(1) A person may be present at an interview to support a witness if the interviewer considers that—</p> <ol style="list-style-type: none"> it is in the interests of the witness; and the person is an appropriate person to support the witness. <p>(2) A person present at an interview under subclause (1) must not take part in the interview.</p> <p>Additional requirement if person present to support witness (Reg 11)</p> <p>A person present at an interview to support a witness must be clearly visible throughout the video recording of the interview</p> | <ul style="list-style-type: none"> Where support person is going to be present, interviewer will tell them they must not take part in the interview before the interview commences. Ensure that guidance is complied with during the interview. |
| 7 | <p>Interpreter may be present</p> <p>An interpreter may be present at an interview if—</p> <ol style="list-style-type: none"> the witness does not have sufficient proficiency in the English language to understand the interview if conducted in English; or the witness has a communication disability <p>Additional requirement if interpreter present (Reg 12)</p> <p>An interpreter present at an interview must be clearly visible throughout the video recording of the interview.</p> <p>Note also Regulation 8(e), which provides that interpreter must promised to accurately and completely translate the words of the witness</p> | <ul style="list-style-type: none"> Interviews involving interpreters are difficult. You must comply with these regulations. If using another Police officer to act as an interpreter, they must act only as an interpreter for the purpose of the interview. Interviews conducted in languages other than Te Reo, English or sign will not be admissible in court (ie, you must use an interpreter for other languages). Be very cautious about using a family member as an interpreter: <ul style="list-style-type: none"> They should not be a witness to the event as well. Ensure they understand their obligations under the Regulations. |

⁵ R v S [2011] NZCA 128 [28(a)] – strict compliance requires there only to be one interviewer present.

| Reg | Requirement | Comment |
|------------------------------------|---|---|
| 8 | <p>What must be on video record</p> <p>The video record of an interview must show the following:</p> <ul style="list-style-type: none"> (a) the interviewer stating the date and time at which the interview starts (b) each person present identifying himself or herself (c) the witness making a promise to tell the truth (in any form, provided the overall effect is a promise to tell the truth) (d) [N/A – only applies to witness under 12 and child witnesses are excluded under definition of MVR] (e) Any interpreter present promising to accurately and completely translate the words of the witness (f) The entire interview (g) An accurate means for measuring and recording time in hours, minutes and seconds (h) The interviewer stating the time at which the interview finishes | <ul style="list-style-type: none"> • all matters in this list must be shown on the video record (not just heard) • the Interviewer should be in view for the entire interview |
| 9 | <p>Additional requirement if break taken</p> <p>If a break is taken, the video record must also show the interviewer stating:</p> <ul style="list-style-type: none"> (a) The fact that a break is being taken; and (b) The estimated duration of the break; and (c) The reason for taking it. | <p>Note:</p> <ul style="list-style-type: none"> • Cannot pause interviews. • If a break has to be taken for some unexpected reason, interviewer will need to commence a second interview, and cover off matters in Reg 9. • Need to be linked when uploaded (by ensuring they have the same Event number) |
| 10 | <p>Additional requirement if premature conclusion</p> <p>If the interviewer decided to conclude the interview without asking all the intended questions, the video record must also show the interviewer stating the following matters:</p> <ul style="list-style-type: none"> a) The fact that the video record is concluding prematurely; and b) The reasons for that. | <p>If the interviewer decides to conclude the interview without asking all intended questions, they will need to state that the interview is concluding prematurely and why.</p> |
| New section in Regulations: | | |
| 53 | <p>Interpretation</p> <p>Mobile video record means a video record-</p> <ul style="list-style-type: none"> (a) That a Police employee has made on a mobile device with the intention that it be offered later as evidence in criminal proceedings; and (b) That records the evidence of a complainant who is not a child; (c) That concerns allegations of domestic violence | <p>Mobile device not defined</p> <p>Will only record adult complainants (18=</p> |
| 53 | <p>Domestic violence has the meaning given to it by section 3 of the Domestic Violence Act but excludes sexual abuse.</p> <p>DV Act, section 3: Meaning of domestic violence</p> <ul style="list-style-type: none"> (1) In this Act, domestic violence, in relation to any person, means violence against that person by any other person with whom that person is, or has been, in a domestic relationship. (2) In this section, violence means— <ul style="list-style-type: none"> (a) physical abuse: (b) sexual abuse: (c) psychological abuse, including, but not limited to,— <ul style="list-style-type: none"> (i) intimidation: (ii) harassment: (iii) damage to property: | <p>Will only record complaints of domestic violence but not sexual abuse</p> |

| Reg | Requirement | Comment |
|---------|---|---|
| | (iv) threats of physical abuse, sexual abuse, or psychological abuse: (iva) financial or economic abuse | |
| 54(2) | Every MVR must include statements made by the complainant that indicate that the complainant: (a) Is aware that the MVR may be used as evidence in a court; and (b) Agrees to the use of the MVR for that purpose | Covered in Aide Memoire by including questions to confirm this. |
| 55(1) | Storage of MVR Police must (as soon as practicable after MVR made) digitally transfer the MVR directly to a storage system or facility approved by Commissioner | Requires transfer before shift ends. Commissioner has approved the evidence.com cloud based storage facility. |
| 55(2) | Once the MVR is transferred, the record must be deleted from the device that made it | Video record automatically deleted from phone once uploaded – IT solution |
| 55(3) | Police must ensure that information about how to access the MVR is stored in a manner than it cannot be accessed or used by an unauthorised person | Staff need to be conscious of security requirements – training |
| 55(4) | If the MVR is edited, the new version must be clearly marked as an edited version and dealt with in accordance with the regs. The original has to be retained. | If editing required, a child version is created. The parent remains unchanged. |
| 56 & 20 | 20 – Limited purposes for which Police may show working copy | Staff who can access need to be aware of limited purposes to ensure don't breach regs |
| 56 & 28 | 28 – Prosecution to give transcript to defence following not guilty plea | Typed transcript to be given to defendant or their lawyer as soon as practicable following not guilty plea – process between PPS and CJSU |
| 57 | Access to mobile video records If Police have to give a copy to a defence lawyer (under s106(4) or (4b) or a Crown Lawyer (under s 106(9): <ul style="list-style-type: none"> - Unless Judge directs otherwise, Police to provide access to view the MVR in the storage system - Regulations 31-34 apply (custody of lawyers copy; use of lawyers copy by defendant's lawyer, prohibition of copying lawyer's copy, use of lawyer's copy by Crown lawyer) with adjustments as necessary for MVR (e.g. providing a "copy" is to be treated as providing access to MVR in the storage facility; or if the MVR is given on a portable data storage device, that device etc) | Default position is that lawyers get to view the MVR by Police granting access. NB – Judge may order otherwise |
| 58 | Privacy in respect of MVR Have to keep MVR. Copy or transcript in a way that preserves the privacy of the person recorded on it | Guidance/policy to be developed on disclosure. |
| 62 | Police to be kept of dealings with MVR Police have to keep records of: <ul style="list-style-type: none"> - transfer from phone to storage including name of person transferring and date occurred - any transfer of MVR from storage system to portable data storage device including name of person doing and date - each instance of access to MVR in the storage system | Should all be in metadata and available in a report |



Axon Capture for iOS Devices User Manual

IMPORTANT SAFETY INSTRUCTIONS



Read all warnings and save these instructions.

The most up-to-date warnings and instructions are available at www.taser.com.

Chapter 1: Introduction

Axon Capture is a mobile application (app) that allows you to perform the following actions:

- Capture audio, video, and photo evidence.
- Categorize files with a title, case ID, and a retention category.
- Enable the application to add geolocation metadata to evidence files automatically.
- Upload audio, video, and photo evidence captured with the app or saved on the mobile device to your Evidence.com agency, using either a cellular data connection or Wi-Fi Internet connection.

Recorded evidence is stored on the mobile device. A setting within Axon Capture allows you to configure the application to delete evidence from the mobile device after it has uploaded successfully to Evidence.com.

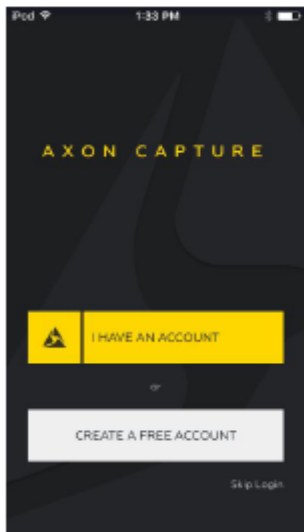
Notes:

- Axon Capture does not work with Evidence.com LITE accounts.
- Axon Capture *cannot* interact with Axon cameras. Axon View, a different application by TASER, does enable you to view and add metadata to video evidence files recorded on an Axon camera. For more information, see www.axon.io/products/view.
- Photos taken with another application can be imported into Axon Capture. However, Axon Capture cannot import or otherwise work with audio and video files recorded by other applications. Use Axon Capture for any video and audio recording you intend to use with the Axon Capture application.
- If you experience issues with Axon Capture or have any feedback, please contact TASER Customer Service (evidencehelp@taser.com).

Chapter 3: Signing in to Your Evidence.com Agency

Before you can upload evidence to your Evidence.com agency or annotate evidence with a retention category, you must first retrieve your agency's retention categories.

- 1 Open the Axon Capture application.
- 2 If the "I Have an Account" button appears, tap it and skip to step 5.



- 3 In the upper-right side of the screen, tap ⓘ.
The Settings screen appears.
- 4 At the bottom of the screen, tap **Log In**.
The Log In screen appears. Below "Please enter your agency," the box for specifying your agency shows the text *youragency.evidence.com*.
- 5 Tap *youragency* and then type the unique, first part of your Evidence.com agency's URL. For example, if your agency URL were `example.evidence.com`, you would type `example`.
- 6 Tap **Continue**.

Enter the following data:

a.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

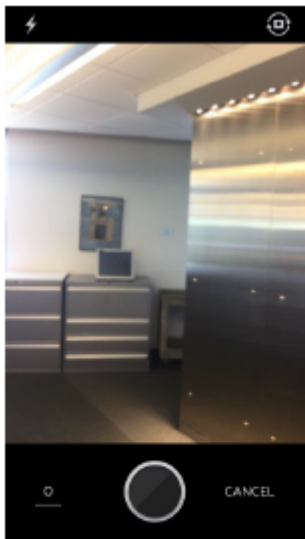
[REDACTED]

Chapter 5: Capturing Photos, Videos, and Audio

Axon Capture enables easy access to the camera app on your mobile device and automatically prompts you to apply metadata to the recorded evidence files when you are done capturing them.

Capturing Photo and Video Files

- 1 In Axon Capture, go to the **Capture** screen and tap **Photo** or **Video**, as applicable. The camera application opens.
- 2 To take a picture, tap the round button at the bottom of the screen.

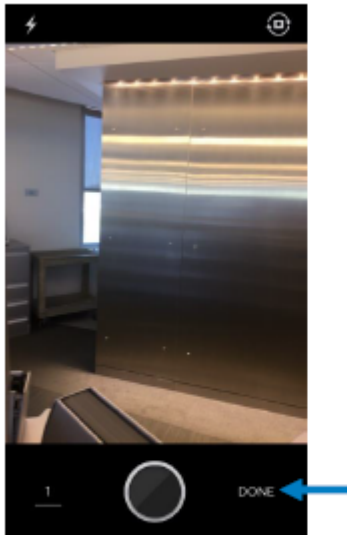


Capture as many photos and videos as you need.

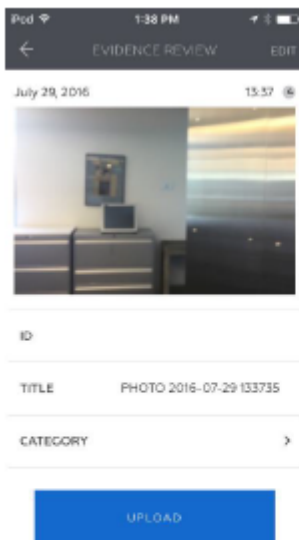
- 3 When you are done capturing photos or videos, tap **Done**.

Remember:

- a) Check volume is set to maximum.
- b) Check that there is enough space on the phone to take video.
- c) Place iPhone in "airplane" mode to avoid emails/phone calls from interfering with the video capture/recording.
- d) Place iPhone in Gorilla tripod in horizontal position (landscape) and place tripod on table or clamp over chair (whatever is appropriate).



The Evidence Review screen appears or, if you captured more than one photo or video, the Bulk Edit screen appears.

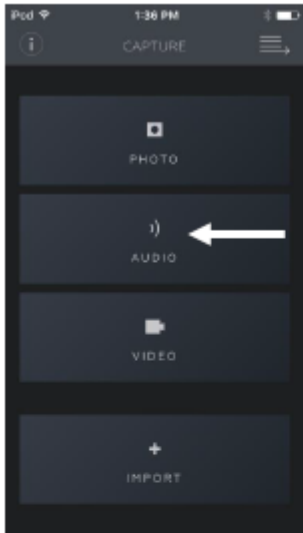


- 4 If you do not want to add metadata to the evidence, tap ←.
- 5 If you want to annotate the evidence files with metadata, see *Adding Metadata to Files*.

Capturing Audio

Axon Capture provides the ability to capture audio evidence. When you are done capturing audio evidence, Axon Capture automatically prompts you to apply metadata to the recorded audio-evidence files.

- 1 In Axon Capture, go to the **Capture** screen and tap **Audio**.

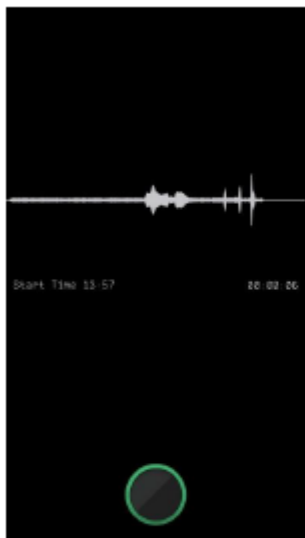


The Audio Recording screen opens.

- 2 At the bottom of the screen, tap the circular button.



Axon Capture begins recording audio evidence.



- 3 If you want to pause the recording, tap the circular button again.



If the Done button appears in the lower right, the recording is paused.

- 4 When you have finished recording audio evidence, tap **Done**.
The Evidence Review screen appears.
- 5 If you do not want to add metadata to the audio file, tap ←.
- 6 If you want to annotate the evidence, see *Adding Metadata to Files*.

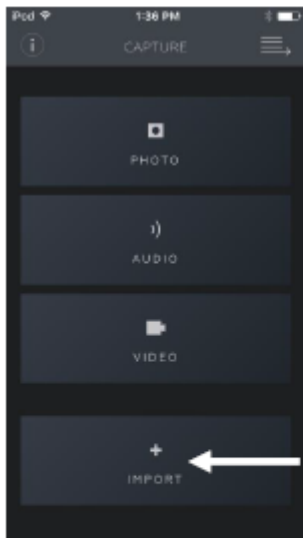
Importing a Photo

You can use Axon Capture to import a digital photo that is on the mobile device but not included in evidence managed by Axon Capture. You can import files only one at a time.

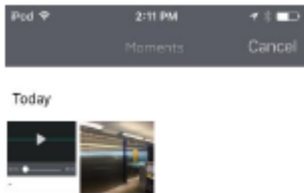
For example, if you used the camera application on the mobile device to take a picture without first opening Axon Capture, you can upload the photo to Axon Capture with the Import feature.

Note: Axon Capture cannot import or otherwise work with *audio* and *video* files recorded by other applications. Use Axon Capture for any video and audio recording you intend to use with the Axon Capture application.

- 1 In Axon Capture, go to the **Capture** screen and tap **Import**.

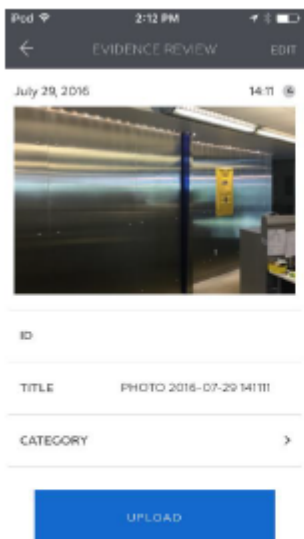


- 2 On the Moments screen, tap the file that you want to import into Axon Capture as evidence.



The Evidence Review screen appears.

- 3 If you do not want to add metadata to the file, tap ←.



- 4 If you want to annotate the file with metadata, evidence, see *Adding Metadata to Files*.

Adding Metadata to Files

You can use Axon Capture to attach metadata, such as ID, title, and retention category to the files you record. Information that you apply does not alter the original evidence file.


When you upload captured evidence files to your Evidence.com agency, the metadata that you apply to each evidence file also uploads. Other users in your agency who have adequate permissions can view the file.

Whether you add metadata to the files immediately after capturing them or later by selecting them from the Evidence List screen, the following list explains the metadata that you can apply:

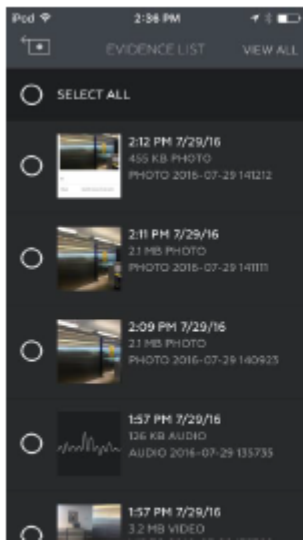
- **ID** — Tap the **ID** box and type the case ID that you want to apply to the evidence file.
If you specified an ID prefix, the prefix automatically appears in the ID box when you tap it. You can add text after the prefix. If necessary, you can also edit the prefix text.
For information about specifying an ID prefix, see *ID Prefix*.
- **Title** — Tap the **Title** box and type the title that you want to apply to the evidence file. The Title box is not available when you bulk annotate more than one evidence file.
- **Category** — Tap **Category** and then, on the Choose Category screen, tap the category that you want to apply to the evidence file.
If you have not signed in to your Evidence.com agency or successfully applied a category, Axon Capture prompts for your Evidence.com agency so that it can get the correct list of categories.

Annotating One Evidence File

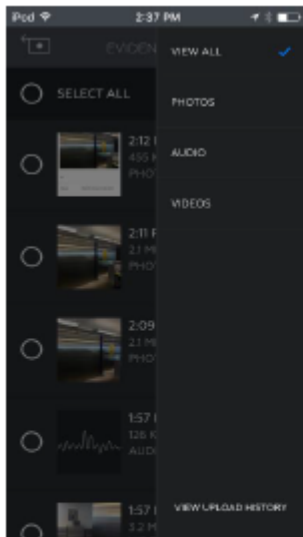
From the Evidence Review screen, you can apply ID, title, and retention category metadata to a specific evidence file.

- 1 In the Axon Capture app, tap  (Evidence List).

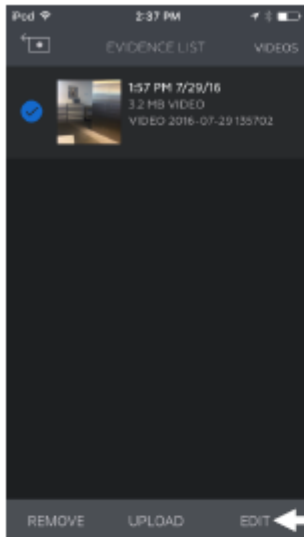
The Evidence List screen shows a list of evidence thumbnails.



- 2 If you want to limit the evidence list to one type of evidence, tap the evidence filter list in upper right corner and then tap the evidence type that you want to see.

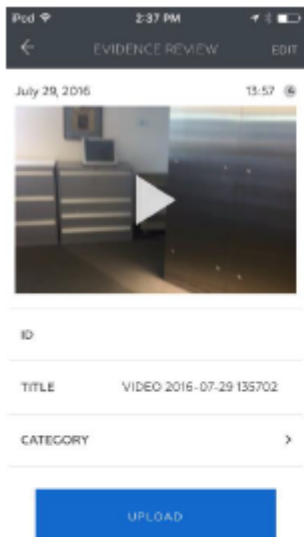




- 3 Scroll to the thumbnail of the file that you want to annotate and then tap it.
- 4 Tap **Edit**.



The Evidence Review screen shows the media player in addition to metadata about the video, such as recording date and time and the ID, Title, and Category fields.


- 5 For each metadata box, make the necessary edits.

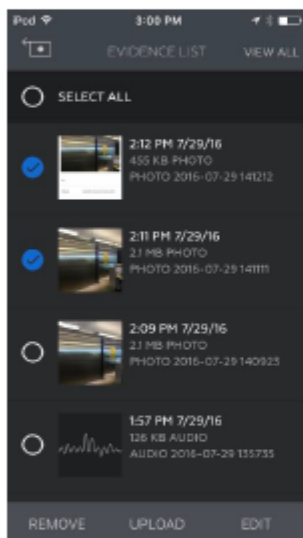


- 6 Tap **Save**.
- 7 When you have finished annotating the evidence file, in the upper left, tap . The Evidence List screen reappears.
- 8 If you want to return to the Capture screen, in the upper left, tap .

Bulk Annotating Evidence Files with ID and Category

If you need to apply an ID or retention category to more than one evidence file, you can use the Bulk Edit screen. This screen enables you to apply one ID and one retention category to all the files that you select.

- 1 In the Axon Capture app, tap  (Evidence List).
The Evidence List screen shows a list of evidence thumbnails.
- 2 If you want to limit the evidence list to one type of evidence, tap the evidence filter list in upper right corner and then tap the evidence type that you want to see.
- 3 For each evidence file that you want to include in bulk annotation, tap the circle to the left of the evidence thumbnail.



- 4 After you have selected all the files that you want to annotate, tap **Edit**.
The Bulk Edit screen shows the ID and Category fields.
- 5 For each metadata box, make the necessary edits.
- 6 When you have finished bulk annotating the selected evidence files, in the upper right, tap **Save**.


The Evidence List screen reappears.

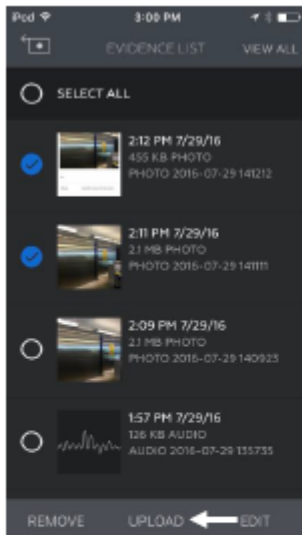
At this point, you can upload the files to Evidence.com by tapping Upload. If you choose to upload the files later, see *Chapter 6: Uploading Files to Your Evidence.com Agency*.

Chapter 6: Uploading Files to Your Evidence.com Agency

Axon Capture uploads evidence located on the Axon Capture application to your Evidence.com agency only when you select the evidence files and start the upload.

The user account that you signed in with becomes the owner of the evidence that you are uploading.

- 1 In the Axon Capture app, tap  (Evidence List).
The Evidence List screen shows a list of evidence thumbnails.
- 2 If you want to limit the evidence list to one type of evidence, tap View All in the upper right corner and then tap the evidence type that you want to see.
- 3 For each evidence file that you want to upload to your Evidence.com agency, tap the circle to the left of the evidence thumbnail.
- 4 After you have selected all the files that you want to upload, tap **Upload**.




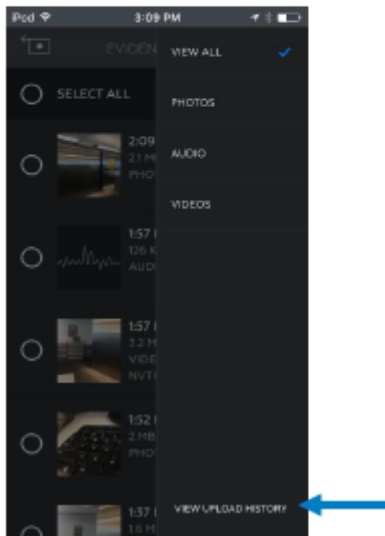
If you are signed in to an Evidence.com agency, Axon Capture immediately begins uploading the evidence to your Evidence.com agency.

If you are not signed in, Axon Capture will begin uploading immediately after you sign in to an Evidence.com agency.

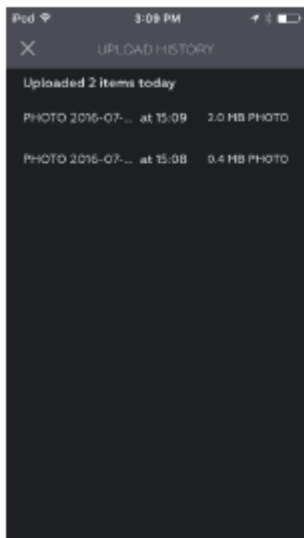
Viewing Upload History

You can view a list of evidence files that Axon Capture has uploaded.

- 1 On the Capture screen, tap  (Evidence List).
- 2 In the upper right, tap View All and then tap **View Upload History**.



The Upload History screen appears.



- 3 If you want to resume viewing the evidence list, tap **X**.

APPENDIX 3: Pre-formatted email to Defence Counsel

Dear Sir / Madam

Police completed a Mobile Video Record with the complainant in this file in accordance with the Evidence Regulations 2007. You can view the secure video record online at your convenience through the Police storage provider **evidence.com**. A transcript will be prepared if a not guilty plea is entered.

Very shortly you will receive a separate email which will provide you with a link to the Mobile Video Record in the **evidence.com** website. You will need to have an account registered in **evidence.com** and linked to your email address in order to view the Mobile Video Record. Once you have an account and are logged into **evidence.com**, you will be able to view this record and any other video records which you may be granted access to in future cases. There is no cost to register an account.

Should you need to register an account, please follow the following five easy steps:

1. Go to my.au.evidence.com and go to the "Register" Tab.
2. Fill out the fields in the form and submit.
3. Send the verification code via SMS to your cell phone
4. Enter the verification code into the form and submit
5. View the Evidence that has been shared with you

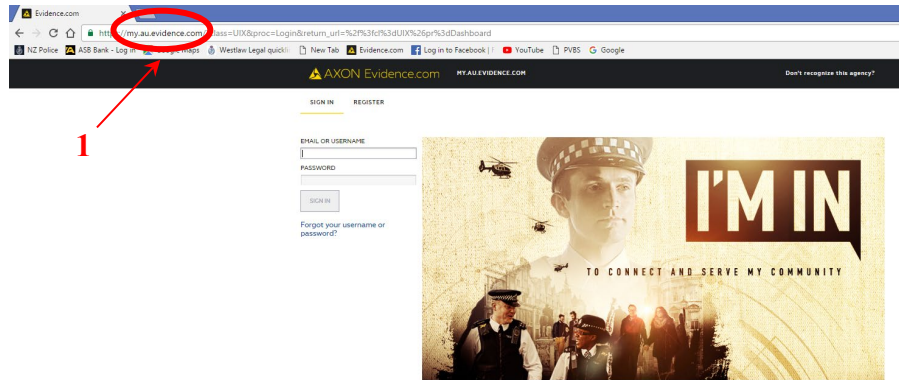
Video records of this nature contain sensitive personal information. We draw your attention to the security requirements for video records in the Evidence Regulations 2007, in particular the provisions of Regulations 32, 33 and 57. By logging on to **evidence.com** to view this video record you agree that you will keep your **evidence.com** access details secure.

Please let us know if you experience any difficulties creating your **evidence.com** account or viewing the video record.

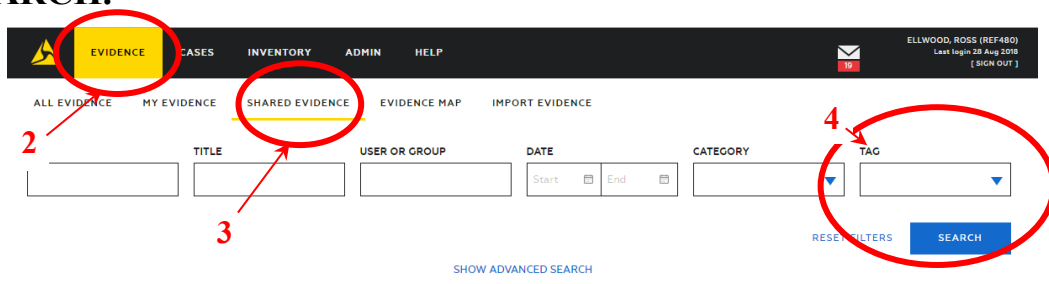
Regards

Accessing evidence in evidence.com

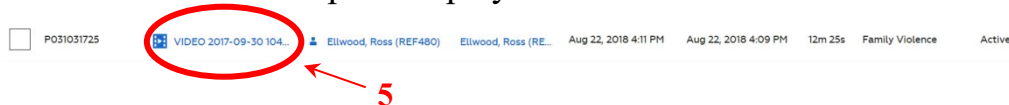
1. In your internet browser go to **my.au.evidence.com**, and log in using your log-in details. (Tip: Save **my.au.evidence.com** in your “Favourites” for future access)



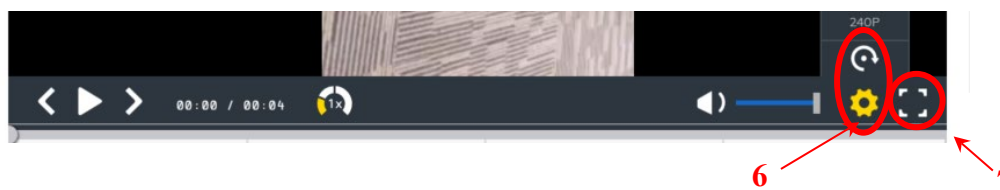
2. Go to the **EVIDENCE** screen (select EVIDENCE in the black ribbon bar).
3. Select **SHARED EVIDENCE**.
4. Enter the surname of the Defendant in the **TAG** search field, and then hit **SEARCH**.



5. Click on the video to open the play screen.



6. If you need to rotate the video, click on the settings button and click the rotate icon.
7. Select the full screen button to expand the video to full screen.



If you get stuck, please contact the Police team at **VVS@police.govt.nz**