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**NSW Police Force**

# **AVL Use for Court Witness & Non-Court Persons – Standard Operating Procedures**

## **Police Prosecutions Command**

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## **Summary**

AVL suites have now been installed in police stations/locations state-wide. AVL can now be used for police to bring witnesses or corroborative police witnesses before the court to give evidence from these sites. This option is intended to offer a range of benefits, such as time efficiency, financial savings, the saving of block rostered shifts for first responders as well as keeping specialist police at their work venues to allow for better productivity. Additionally, it will support victims by not having to face the accused person or family and friends of accused person(s). Witnesses may provide evidence to the court via AVL instead of travelling long distance, such as interstate or overseas. For a witness or for police to appear before the court via AVL, the following circumstances must exist:

- The relevant police station is equipped with an AVL witness suite,
- Notice/application (as required by the court) has been made and no objection raised and upheld,
- AVL suite at the relevant police station has been secured via the online booking system,
- It is appropriate in all of the circumstances for the witness to give evidence via AVL.

Having these suites also offers an additional benefit specifically for police. Provided the device is not needed for court purposes, police may use the device for non-court related purposes, such as the taking of statements, victim follow up, staff welfare checks, meetings, training, conferences, and the use of interpreters. However, it should be noted that court bookings will take precedence over other suggested use.

# Document Control Sheet

## Document Properties

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1.0		Sgt Luke Johnston	Initial Draft
2.0		S/Sgt Rick Mansley	Edit
3.0		Sgt Heidi Warren	Second Draft
4.0	July 2017	Sgt Heidi Warren	Final Draft
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7.0	January 2018	Deputy Commissioner Catherine Burn, Specialist Support	Endorsement of SOPs
7.1	January 2024	Sgt Corey Wolven	Reformat to comply with CET Memo D/2023/1307809 <sup>i</sup>

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# 1 Purpose

This document will detail how police can use an AVL witness suite that is contained within a police station/location. Despite the name, the suite can be used for court and non-court related purposes. The suite will be a suitable room with the relevant hardware, currently being a Cisco DX-80 AVL device. This device is a computer monitor complete with speakers, telephone capability and a webcam.

The purpose of this document is to outline the procedures and responsibilities of police when using these suites for witnesses to appear in court (corroborative police witnesses, expert witnesses and civilian witnesses), and the use of these suites for other operational needs.

AVL use from a police station/location has been initiated by the Justice AVL Consolidation Project to provide the option for evidence to be given from a police station/location. Evidence can be given in this fashion in the Local Court or any other jurisdiction.

## 1.1 Scope

This document applies to all employees within the NSWPF who uses AVL technology within a NSWPF station/location.

## 1.2 Roles & responsibilities

Assistant Commissioner – PPLEC	Document Sponsor
Commander – Police Prosecutions Command	Document Owner
Command office – Police Prosecutions Command	<ul style="list-style-type: none"><li>• Manage reviews and updates of this document</li><li>• Communicate changes to staff</li><li>• Provide Governance Command with updates</li></ul>
All staff	Comply with this policy document

# 2 Procedure for Court Use

## 2.1 OICs Role

The ultimate responsibility for ensuring witnesses (whether they are police or civilian) are prepared and put before the court via the witness AVL suite rests with the OIC or his/her delegate.

### 2.1.1 Civilian Witnesses and Experts (non NSWPF employees)

Confirm with the prosecutor that a civilian witness/expert (non NSWPF employee) is a candidate for using a witness AVL suite and then:

**STEP 1:** Arrange for a police officer from within their command to manage witnesses who will be present at the police station/venue where the AVL device will be used. If the station/venue is not the location the OIC is attached to, consult the Commander/Equivalent/Delegate at the owning PAC/PD to ensure a suitable police officer is appointed for this purpose. Police managing witnesses will

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generally be expected to remain outside the room to preserve the integrity of the evidence being given, however this will be decided upon on a case-by-case basis. For example, some witnesses may not be suitable to be left alone. In any event police will obtain prior permission from the court, if it is deemed necessary that a police officer remain with a witness whilst they are providing evidence to the court.

**STEP 2:** Contact the witness, issue a subpoena (non-NSWP witnesses) and ensure they know which police station/location they need to attend. Provide them with a copy of their original statement.

**STEP 3:** On the day of hearing ensure the witness attends the police station/location no later than 9:00am so they can be appropriately briefed.

**STEP 4:** Prior to 9:30am, conduct a test call on the device by dialling into the relevant VMR number for the court (number either provided or on directory)

This can be done by:

- Tap the CALL icon on the Home screen to open the keypad or keyboard functions,
- Switch between the Keypad or Keyboard functions at any time by tapping on the respective name at the top of the screen,
- Enter the phone number by tapping on the required numbers using the onscreen Keypad and tap the green call button,
- To disconnect yourself from a call, tap the screen to bring up the options bar then simply tap the red End icon.

**STEP 5:** When suitable to the court, the magistrate will call for the next witness to appear via AVL. This will be communicated to the appointed 2IC at the police station. Once called, they are to dial into the VMR on the code specific to that court location.

### 2.1.2 NSWPF witnesses (NSWPF employees)

The OIC of a court matter will confirm with the prosecutor that a fellow NSWPF employee is a candidate for using a witness AVL suite, and then:

**STEP 1:** Notify the employee of:

- Date of Hearing
- Location of the Suite they will be giving their evidence from
- Surname and H number of the Accused
- Name of Court House

**STEP 2:** Contact the prosecutor and ensure they are aware of the police station/location the employee will be giving evidence from. Ensure the employee can receive the 'be ready' call from the court prior to giving evidence.

**STEP 3:** Follow STEP 4 as set out in the procedures for civilian witnesses.

**STEP 4:** Wait for the magistrate to call for the next witness to appear via AVL. This will be communicated to the employee by the OIC, or person nominated by the prosecutor/court. Once called, they are to dial into the VMR on the code specific to that court location.

## 2.2 Recording of an AVL Sessions

The witness AVL suite is considered an extension of the court room, thus normal court rules apply and the evidence giving process will be recorded as per usual in-court evidence. Only an audio recording is taken. **No other recording devices are permitted.**

## 2.3 Allowing another Law Enforcement Agency's witness to use the Witness Suite

NSWPF employees may receive a request to use a witness AVL suite from an interstate or an international law enforcement agency. They may be asking that one of their witnesses, who are present in a NSWPF jurisdiction, use the suite to give evidence into a foreign courthouse, for example - Scotland Yard Police request the NSWPF to accommodate a witness who resides in Taree, NSW. They ask that we allow the witness to give evidence from the witness suite in Taree, back into a court room in the UK. In these circumstances, priority should be given to any NSWPF prosecutions unless exigent circumstances exist. The decision to accommodate this request rests with the Commander/equivalent/delegate. Any cost for shifts required to manage the suite and mind the witness for this purpose should be negotiated between the owning Command and the external agency.

## 3 Procedure for Non-Court Use

### 3.1 Using the Witness AVL Suite for Non-Court Purposes

It is entirely appropriate to use the witness AVL suite for non-court purposes provided it is not needed to facilitate a court appearance. **Court use, unless exigent circumstances exist, will always take precedence** over any other suggested use.

Police may use the device for a range of operational needs, such as, and not limited to,

- the taking of statements,
- victim follow up,
- staff welfare checks,
- meetings,
- training,
- live video sitreps,
- conferences and
- use of language and AUSLAN interpreters where those interpreters cannot be accessed or are unavailable face to face.

Members of the public are not to use the device for non-court purposes, e.g.: member of the public requests to contact her partner who is serving a term of imprisonment. Commanders/Delegates must approve AVL use by members of the public outside of these guidelines on a case-by-case basis.

An example of use of the AVL suite by a member of the public for non-court purposes may include providing support to a police witness being interviewed at a distant location that has AVL facilities.

## **4 General Considerations and Professionalism**

- Ensure there are no distractions in camera view. Be aware of what will appear in the background of any dial-in you make, i.e.: sensitive or inappropriate documentation/images on the walls within the room.
- When a call is underway, look directly at the camera when speaking.
- Be aware of any actual or potential audio or visual distractions and take steps to eliminate/reduce them.
- Be aware that by law, the room from which the dial-in is made is regarded as an extension of the court room. Normal court rules are enforceable, and normal court etiquette applies.
- Dial-ins should not be placed to courts unless the call is expected, otherwise you may appear on-screen in a courtroom unexpected.
- Ensure that it is clear to other employees at the NSWPF Station/Venue the AVL suite is occupied and in use. A display sign should be erected on the witness suite door to indicate the room is in use/not in use.
- Ensure the integrity of the evidence is maintained at all times.
- When using AVL and accredited/certified interpreters, please ensure that guidelines for the use of interpreters are adhered to including the following considerations:
  - Check Interpreter identification,
  - Invoke code of ethics and confidentiality,
  - Brief and debrief interpreter,
  - Speak through the interpreter to the victim witness or offender,
  - Ensure the use of checking techniques.

NSW Police Force staff **MUST** use professional accredited/certified interpreters and translators to communicate with people who are not able to speak or understand English or who have a speech or hearing impairment.

## **5 Officer Safety and WHS**

In addition to conducting CNI checks on non-NSWPF witness, NSWPF staff will remain cognisant of general officer safety guidelines as well as the principles set out in ALERT – Concept of Operations. Where a suite is contained within the inner working section of a police station, NSWPF employees will consider any risk this poses to the NSWPF employees and the witness themselves. The cost involved in utilising staff to supervise witness movements before, during and after the court process, rests with the Commander or his/her equivalent/delegate for matters originating from their Command. For requests emanating from other Commands or organisations for witnesses to utilise AVL facilities, it will be the responsibility of the owning Commander to resolve with the requesting Command/organisation.

A state-wide Health and Safety Risk Assessment re witness suites has been completed and endorsed by the senior executive of the NSWPF. In addition, Commanders/equivalent/delegates will ensure that a local HSRA is completed regarding witness AVL suites located within their commands.



## 6 Endnote References

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<sup>i</sup> Policy format and name changed to comply with CET Memorandum D/2023/1307809.