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## Functional governance

### Standard Operating Procedure on Interviewing vulnerable witnesses

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This document is a functional governance instrument as defined in the [AFP Commissioner's Order on governance \(CO1\)](#).

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## Definitions

<b>Audio-visual recording</b>	an audio-visual recording that is of a witness answering questions of a prescribed person in relation to the investigation of a sexual or violent offence. (s.40E of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> (ACT))
<b>Intellectually impaired</b>	a person who has: <ul style="list-style-type: none"> <li>• an appreciably below-average general intellectual function; or</li> <li>• a cognitive impairment (including dementia or autism) arising from an acquired brain injury, neurological disorder or a developmental disorder; or</li> <li>• any other intellectual disability.</li> </ul> (s.40D (2) of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> (ACT))
<b>Less serious violent offence</b>	As defined at s. 37 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> (ACT)
<b>Prescribed person</b>	a police officer who has completed training in the making of audio-visual recordings of witnesses answering questions in relation to the investigation of sexual or violent offences. (r.4 of the <a href="#">Evidence (Miscellaneous Provisions) Regulations 2009</a> (ACT))
<b>Responsible person</b>	the prescribed position delegated on behalf of ACT Policing (ACTP), and in respect to s.40G(4)(b) of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> (ACT) and as defined in r.5 of the <a href="#">Evidence (Miscellaneous Provisions) Regulations 2009</a> (ACT) – the Superintendent of Judicial Operations.
<b>Serious violent offence</b>	As defined at s. 37 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> (ACT)
<b>Witness</b>	the complainant (s. 40A) in a sexual offence or a violent offence proceeding who is either: <ul style="list-style-type: none"> <li>• a child on the day an audio-visual recording is made; or</li> <li>• intellectually impaired</li> </ul> (s.40D (1) of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> (ACT))

## Acronyms

<b>CD</b>	Compact disc
<b>DPP</b>	Director of Public Prosecutions
<b>DVD</b>	Digital Versatile Disc

## Introduction

This Standard Operating Procedure sets out the procedures for obtaining admissible audio-visual evidence when interviewing children and intellectually impaired adults who are victims of sexual or violent offences under ACT legislation.

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## Legislative protection entitlement

Under the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) complainants in sexual and violent offences are entitled to certain provisions in criminal proceedings. In particular, if police conduct an audio-visual recording with a child or intellectually impaired adult who is the victim of a sexual or violent offence, that recording may be admissible as evidence in court proceedings.

## Privacy

Investigators when interviewing children or intellectually impaired adults suspected of being victims of sexual or violent offences must always:

- consider and protect the witness' privacy
- maintain the security and integrity of all audio-visual recording discs in accordance with legislative and Governance requirements.

Investigations involve a multi-agency approach and the AFP case officer will work to ensure each agency is aware of its obligations under the [Privacy Act 1988](#) (Cth) to secure the privacy of all victims.

## Audio-visual recording

A member who becomes aware of, or receives a report of, an incident in which a child or an intellectually impaired adult is identified as the victim, must ensure notification and briefings are undertaken in accordance with the:

- [Better Practice Guide on child abuse and sexual offence investigations](#)
- [Better Practice Guide on criminal investigations response and notification](#)

Once the incident has been allocated to the investigating member, and in consultation with their team leader, the investigating member must assess whether or not the child or intellectually impaired adult should be interviewed by a prescribed person. The investigating member must take into consideration the provisions of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT).

## Sexual offence or family violence

If the matter is a sexual offence or results from a family violence incident a prescribed person should, wherever possible, conduct the interview.

## Other violent offences

If the matter is some other serious violent offence or a less serious violent offence, the investigating member should consider the following when assessing whether or not an interview should be the subject of an audio-visual recording:

- the age of the child
- the nature and extent of the intellectual impairment
- the seriousness of the alleged offence
- the relationship of the victim to the accused
- any other information relevant to the vulnerability of the witness.

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A member who suspects a witness is intellectually impaired should make all attempts to apply the provisions of the Act and provide all relevant information to the Director of Public Prosecutions (DPP) for the prosecutor to consider the admissibility of the recording.

The investigating member should ensure they record on the PROMIS incident, either in the 'Result Text' or a Case Note Entry, information that clearly states:

- the rationale for any decision to not use a prescribed person
- any attempts undertaken to locate a prescribed person.

If a prescribed person is not required then a record of conversation can still be conducted.

If a prescribed person is not available, consideration should be given to delaying any interview pending the availability of a prescribed person to conduct the interview in accordance with the Act.

ACT Operations have a list of ACT Policing members who are prescribed persons.

### Audio-visual recording interviewer

If it is deemed appropriate that a child or intellectually impaired adult be interviewed by a prescribed person the following should occur:

- if the investigating member is a prescribed person, then that member or another prescribed person should conduct an audio-visual recording with the witness
- if the investigating member is not a prescribed person then that member should arrange for a prescribed person to conduct the interview. They must first seek the services of a prescribed person from within their portfolio then, if unsuccessful, from another portfolio
- if a prescribed person is located they must attempt to conduct an audio-visual recording as per the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT). If, on assessing the full circumstances of the matter, the prescribed person decides that it is not appropriate to conduct an audio-visual recording then the prescribed person should ensure this decision is accurately recorded in PROMIS, either in a case note entry or the result text, clearly outlining the reasons for the decision
- both members conducting the audio-visual recording should, where possible, be prescribed persons.

The investigating member must retain carriage of the investigation unless an agreement is made with the case officer's team leader and the prescribed person's team leader.

### Management of prescribed persons

All Officers-in-Charge (Band 8) must ensure that there are a sufficient number of qualified and contemporary skilled prescribed persons within their area of command.

Once training has occurred, ACTP Human Resources will provide ACTP Operations with a current list of prescribed persons.

ACTP Operations Team Leaders and the Duty Operations Manager must maintain a current list of prescribed persons for ACTP.

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## Audio-visual recording conduct

When making an audio-visual recording of a witness, the prescribed person must ensure compliance with s. 40E of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT).

Section 40E of the Act states that the audio-visual recording must include:

- the date when, and the place where, the recording was made
- the times when the recording started and ended
- the times when any break in questioning started and ended and the reason for the break
- the name of each person present during any part of the recording
- for each person present during any part of the recording – the part when the person was present.

The audio-visual recording must also:

- be certified by a prescribed person as an accurate record of the witness answering the questions, and
- not be edited or changed, unless the court hearing the proceeding in which the recording is tendered otherwise orders.

Section 40E of the Act does not allow any member, other than a prescribed person, to certify the accuracy of the audio-visual recording, even if the non-prescribed person was present during the interview.

It is best practice for a prescribed person who was present during the audio-visual recording to certify it but this is not required under the Act.

Once a prescribed person has watched the audio-visual recording and checked it against the transcript of the audio-visual recording, the member must include in their police statement that they have certified the audio-visual recording and proofread the transcript.

They must also include in their police statement a paragraph similar to the below:

I am a prescribed person in accordance with Division 4.2A of the Evidence (Miscellaneous Provisions) Act 1991 and Section 4 of the Evidence (Miscellaneous Provisions) Regulation 2009. On (date) I completed training in relation to the interviewing of vulnerable persons.

## Case officer responsibilities

The case officer must ensure that:

- no other person, including the victim and/or accused, is provided with a copy of the CD or DVD recording (Team Leaders, Operational Support Sergeants and other members performing review or adjudication processes are exemptions) – unless the DPP requests a copy
- the interviewee copy of the recording is destroyed as soon as possible or filed and stored in a secure location
- exhibit handling procedures are strictly adhered to regarding the CDs and DVDs of an audio-visual recording
- the working copies of the CDs and DVDs are stored in a secure place;
- all working copies of recordings are destroyed at the completion of any court proceedings, or when it is confirmed that no action will be taken

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- they are aware of the provisions of s. 40M of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), which outlines the offence provisions for possessing, supplying, playing, copying, etc., an audio-visual recording without authority.

When preparing a brief of evidence the case officer should ensure that:

- no audio-visual recordings are included in the brief of evidence
- the brief head identifies that the primary witness statement is in the format of an evidence in chief interview, as per s. 40E of the Act
- the hearing brief 'Witness List A' clearly provides the contact details for a member who can facilitate viewing the audio-visual recording request by the accused and/or their lawyer.

### Notice for access

The provision of notice for access pursuant to s. 40G of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) to the accused person or the person's lawyer is undertaken by the DPP, who is also responsible for providing the accused person or the person's lawyer with a transcript of the audio-visual recording.

The accused person and the person's lawyer are entitled to see and listen to the audio-visual recording. Written notice from the accused person or the person's lawyer to see and listen to the audio-visual recording should be provided to the responsible person (Superintendent of Judicial Operations). Upon receiving written notice from the accused person or the person's lawyer the responsible person should:

- ensure the notice is received in compliance with [Practice Direction No 4 of 2009](#) – Arrangements for Witnesses Pursuant to the *Evidence (Miscellaneous Provisions) Act 1991* (ACT)
- notify the case officer or their representative
- notify the DPP that they have received the notice and who the case officer or their representative is.

The case officer or their representative must then contact the accused person or the person's lawyer and arrange for them to see and listen to the audio-visual recording in accordance with s. 40I of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), and should supervise the viewing.

The member supervising the viewing:

- may use the Record of Interview rooms at any police station to view the recordings
- should ensure that no recording devices, including mobile phones, are taken into the viewing room.

s 47E(d)

If the accused person attends the viewing without a lawyer the member must remain with the accused person during the viewing.

After the viewing the member supervising should:

- include a case note entry on the relevant PROMIS job (this should include the date and time of the viewing, who was present at the viewing, and any other relevant information regarding the viewing), and
- notify the DPP that the viewing has taken place.

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If the accused person or the person's lawyer indicate they wish to access an audio-visual recording more than once (in accordance with s. 40I (3) of the Act), ACTP should request the accused person or their lawyer to provide written notice to the Responsible Person for each subsequent request for viewing. This will ensure full compliance with the Act and ensure that requests made of ACTP can be formally acted upon.

## Training prescribed persons

ACTP should ensure sufficient prescribed persons are available, where possible, so that vulnerable witnesses can take part in an audio-visual recording in accordance with this Act.

ACTP will liaise with Learning and Development to ensure necessary and appropriate training is available to members. This should include initial training and skills maintenance.

ACTP Human Resources will maintain a list of all prescribed persons and provide it to ACTP Operations and station Officers in Charge.

## References

### Legislation

- [Births, Deaths and Marriages Registration Act 1997](#) (ACT)
- [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT)
- [Evidence \(Miscellaneous Provisions\) Regulations 2009](#) (ACT)
- [Magistrates Court Act 1930](#) (ACT)
- [Privacy Act 1988](#) (Cth)

### AFP governance instruments

- [Better Practice Guide on child abuse and sexual offence investigations](#)
- [Better Practice Guide on criminal investigations response and notification](#)
- [Better Practice Guide on Evidence In Chief – interviewing young people or vulnerable witnesses](#)

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### Standard Operating Procedure on interviewing vulnerable witnesses

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## Definitions

<b>EICIs</b>	Evidence-in-chief interviews, referred to in the legislation as “an audio-video recording that is of a witness in a relevant proceeding answering questions of a prescribed person in relation to the investigation if an offence the subject of the proceeding.”  (section 51 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> ).
<b>Family violence offence</b>	As defined in section 38 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a>
<b>IMS</b>	Investigations Management Solution
<b>Intellectually impaired</b>	a person who has:  a) an appreciably below-average general intellectual function; or  b) a cognitive impairment (including dementia or autism) arising from an acquired brain injury, neurological disorder or a developmental disorder; or  c) any other intellectual disability.  (section 42 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> )
<b>Less serious violent offence</b>	See section 39 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> <b>Section 39: Meaning of less serious violent offence proceeding—ch 4</b> In this chapter <b>less serious violent offence proceeding</b> means—  a) a proceeding for an offence against any of the following provisions of the <a href="#">Crimes Act 1900 (ACT)</a> :  (i) section 21 (1) (Wounding);  (ii) section 22 (Assault with intent to commit other offence);  (iii) section 23 (1) (Inflicting actual bodily harm);  (iv) section 24 (1) (Assault occasioning actual bodily harm);  (v) section 25 (Causing grievous bodily harm);  (vi) section 26 (Common assault);  (vii) section 28 (Acts endangering health etc.);  (viii) section 29 (4) and (5) (Culpable driving of motor vehicle);  (ix) section 31 (Threat to inflict grievous bodily harm);  (x) section 37 (Abduction of young person);  (xi) section 41 (Exposing or abandoning child);  (xii) section 116 (Destroying or damaging property); or

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	<p>b) a proceeding for an offence against the <a href="#">Criminal Code</a>, section 403 (Damaging property); or</p> <p>c) a proceeding for an offence against the <a href="#">Personal Violence Act 2016</a>, section 35 (Offence—contravention of protection order).</p>
<b>Prescribed person</b>	<p>a police officer who has completed training in the making of audio-visual recordings of witnesses answering questions in relation to the investigation of sexual or violent offences.</p> <p>(r.4 of the <a href="#">Evidence (Miscellaneous Provisions) Regulations 2009</a>)</p>
<b>Responsible person</b>	<p>the Superintendent of Judicial Operations as defined in section 53 (4) (b) of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a>.</p>
<b>Similar act witness</b>	<p>a witness in a proceeding for an offence who gives, or intends to give, evidence in the proceeding that—</p> <p>(a) relates to an act committed on, or in the presence of, the witness by the accused; and</p> <p>(b) (b) is tendency evidence or coincidence evidence under the <a href="#">Evidence Act 2011</a></p>
<b>Serious violent offence</b>	<p>See section 40 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a></p> <p><b>Section 40: Meaning of serious violent offence proceeding—ch 4</b></p> <p>In this chapter <b>serious violent offence proceeding</b> means—</p> <p>a) a proceeding for an offence against any of the following provisions of the <a href="#">Crimes Act 1900</a> (ACT):</p> <ul style="list-style-type: none"><li>(i) section 12 (Murder);</li><li>(ii) section 15 (Manslaughter);</li><li>(iii) section 19 (Intentionally inflicting grievous bodily harm);</li><li>(iv) section 20 (Recklessly inflicting grievous bodily harm);</li><li>(v) section 21 (2) (Wounding);</li><li>(vi) section 23 (2) (Inflicting actual bodily harm);</li><li>(vii) section 24 (2) (Assault occasioning actual bodily harm);</li><li>(viii) section 27 (Acts endangering life etc.);</li><li>(ix) section 29 (2) and (3) (Culpable driving of motor vehicle);</li><li>(x) section 30 (Threat to kill);</li><li>(xi) section 32 (Demands accompanied by threats);</li><li>(xii) section 34 (Forcible confinement);</li><li>(xiii) section 35 (Stalking);</li></ul>

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	<ul style="list-style-type: none"><li>(xiv) section 36 (Torture);</li><li>(xv) section 38 (Kidnapping);</li><li>(xvi) section 40 (Unlawfully taking child etc.);</li><li>(xvii) section 42 (Child destruction);</li><li>(xviii) section 43 (Childbirth—grievous bodily harm); or</li></ul> <p>b) proceeding for an offence against any of the following provisions of the <i>Criminal Code</i>:</p> <ul style="list-style-type: none"><li>(i) section 309 (Robbery);</li><li>(ii) section 310 (Aggravated robbery);</li><li>(iii) section 311 (Burglary) if the complainant was in the building at the time of the offence;</li><li>(iv) section 312 (Aggravated burglary) if the complainant was in the building at the time of the offence.</li></ul>
<b>Sexual offence</b>	<p>A sexual offence proceeding refers to a proceeding for an offence against the following parts of the <i>Crimes Act 1900</i> (ACT):</p> <ul style="list-style-type: none"><li>a) Part 3 (Sexual Offences)</li><li>b) Part 4 (Female Genital Mutilation)</li><li>c) Part 5 (Sexual servitude);</li><li>d) A proceeding for the offence of contravening a family violence order (FVO) under section 43 of the Family Violence Act 2016 if the FVO was made because of a sexual offence (or an alleged sexual offence) against the person protected under the order; or</li><li>e) A proceeding for the offence of contravening a protection order under section 35 of the Personal Violence Act 2016 if the PPO was made because of a sexual offence (or an alleged sexual offence) against the person protected under the order.</li></ul>
<b>Special relationship witness</b>	<ul style="list-style-type: none"><li>a) in a sexual offence proceeding involving a child complainant—a witness who—<ul style="list-style-type: none"><li>(i) is a close family member of the complainant; or</li><li>(ii) the court considers—<ul style="list-style-type: none"><li>(A) has a beneficial supporting relationship with the complainant in the proceeding; and</li><li>(B) will be able to provide emotional support for the complainant after the proceeding; or</li></ul></li></ul></li><li>b) in a serious violent offence proceeding involving the death of a person—a witness who is a close friend or family member of the person.</li></ul>

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<b>Vulnerable adult</b>	means an adult complainant, or similar act witness, in a proceeding for an offence who the court considers—  a) has a vulnerability that is likely to affect the complainant’s or witness’s ability to give evidence because of the circumstances of the proceeding or the complainant’s or witness’s circumstances; or  b) is likely to suffer severe emotional trauma, or be intimidated or distressed, by giving evidence in the proceeding otherwise than in accordance with this part; or  c) needs to give evidence as soon as practicable because the complainant or witness is likely to suffer severe emotional trauma, or be intimidated or distressed.
<b>WIP</b>	Witness Intermediary Program
<b>Witness</b>	the complainant (s. 40A) in a sexual, violent or family violence offence proceeding.

## Introduction

This Standard Operating Procedure sets out the procedures for obtaining admissible audio-visual evidence when interviewing children, vulnerable adults and intellectually impaired persons as complainants or witnesses of sexual, family violence or violent offences under ACT legislation.

## Legislative protection entitlement

Under the [Evidence \(Miscellaneous Provisions\) Act 1991](#) complainants and certain witnesses in sexual, family violence and violent offences are entitled to protective provisions in criminal proceedings. In particular, trained police may conduct an EICI (audio-video recording) with a child, vulnerable adult or intellectually impaired adult who is the victim of (or a witness to) a sexual or violent offence. That recording may be admissible as evidence in court proceedings in place of their evidence-in-chief. These recordings are called ‘Evidence-in-chief interviews’ (EICIs).

## Privacy

Investigators conducting EICIs must always:

- consider and protect the privacy of the witness
- maintain the security and integrity of all audio-visual recording discs in accordance with legislative and Governance requirements.

Investigations involve a multi-agency approach and the AFP case officer will work to ensure each agency is aware of its obligations under the [Privacy Act 1988](#) (Cth) and the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) to secure the privacy of all victims.

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## When can you conduct an EICI?

A member who becomes aware of, or receives a report of, an incident involving a child, vulnerable adult or intellectually impaired adult identified as a victim must ensure notification and briefings are undertaken in accordance with the:

- [Better Practice Guide on sexual offence and child abuse investigations and first response](#)
- [Better Practice Guide on criminal investigations response and notification](#)

Once the incident has been allocated to the investigating member, and in consultation with their team leader, the investigating member must assess whether or not an EICI should be carried out in relation to complainant.

Section 43 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) outlines when an EICI (or in the case of a family violence proceeding), a family violence evidence in chief interview (FVEIC) can be carried out. Section 43 is summarised by the following table:

	Vulnerable adult complainant	Similar act witness	Child victim/witness	Intellectually impaired witness	Special relationship witness
Sexual offence	EICI	EICI	EICI	EICI	EICI
Serious violent offence	EICI	EICI	EICI	EICI	EICI
Less serious violent offence	EICI	EICI	EICI	EICI	-
Family violence offence	FVEIC	EICI	EICI	EICI	-

Members should ensure a prescribed person (a police officer qualified to undertake EICIs) obtains an EICI as the primary form of a complainant or witnesses evidence in every instance where it is authorised per the above table. This is to ensure the complainant or witness can be afforded relevant protections under the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), including the ability for the EICI to displace the need for the complainant/witness to give evidence-in-chief testimony in court.

## Electing not to conduct an EICI

Circumstances may arise where an investigating member and their Team Leader determine that it is not appropriate to conduct an EICI. In such instances, the member should ensure they record on the PROMIS/IMS incident, either in the Results Text or a Case Note Entry, information that clearly states:

- the rationale for any decision to not use a prescribed person; and
- any attempts undertaken to locate a prescribed person.

If a prescribed person is not required then a record of conversation or a witness statement can still be obtained.

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If a prescribed person is not available, consideration should be given to delaying any interview pending the availability of a prescribed person to conduct the interview in accordance with the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT).

## EICI interviewer

If it is deemed appropriate that an EICI be conducted, the following should occur:

- If the investigating member is a prescribed person, then that member or another prescribed person should conduct the EICI with the witness
- If the investigating member is not a prescribed person then that member should arrange for a prescribed person to conduct the interview. They must first seek the services of a prescribed person from within their portfolio then, if unsuccessful, from another portfolio
- If a prescribed person is located they must attempt to conduct an EICI as per the [Evidence \(Miscellaneous Provisions\) Act 1991](#). If, on assessing the full circumstances of the matter, the prescribed person decides that it is not appropriate to conduct an EICI then the prescribed person should ensure this decision is accurately recorded in PROMIS/IMS, either in a case note entry or the result text, clearly outlining the reasons for the decision
- In the instance two investigating members conduct the EICI, where possible, both members should be prescribed persons.

The investigating member must retain carriage of the investigation unless an agreement is made with the case officer's Team Leader and the prescribed person's Team Leader.

## Management of prescribed persons

All Inspectors must ensure that there are a sufficient number of qualified and contemporary skilled prescribed persons within their area of command.

## Witness Intermediary Program

The Witness Intermediary Program (WIP) help witnesses to communicate their best evidence. Intermediaries are independent officers of the court who have undertaken rigorous training in order to become accredited. Intermediaries effectively facilitate communication between:

- witnesses and police and
- witnesses, lawyers and others at court during the criminal trial process.

Intermediaries are experienced in facilitating communication with witnesses who have:

- language delays
- mental health issues
- learning disabilities
- cognitive issues
- autism
- ADHD
- Trauma
- age-related communication difficulties and

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- any other type of communication difficulties.

Prior to conducting an EICI or FVEIC, members should contact the ACT WIP on any occasion where they suspect a witness (including a complainant) of having a communication difficulty (an intellectual impairment) for any of the abovementioned reasons. The WIP can be contacted on **s 22(1)(a)(ii)** during business hours, or on **s 22(1)(a)(ii)** after hours.

**s 47E(d)**

The intermediary may sit in on the EICI with the witness. They are not a support person/advocate for the witness – they are an independent officer of the court who must act impartially. Intermediaries may also be used for offenders with communication difficulties.

[Click here](#) for more information on the WIP.

## EICI conduct

When conducting an EICI, the prescribed person must ensure compliance with section 51 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT).

Due to the equipment, lighting and room configurations, the best quality EICIs will be those carried out in appropriate interviewing rooms at police stations/Winchester Police Centre. However, members may use their Body Worn Cameras (with recording/s being securely stored on **s 47E(d)**) to conduct EICIs. The AFP Better Practice Guide on Evidence in Chief – interviewing young people or vulnerable witnesses provides relevant interview proformas.

Section 51 of the Act states that EICI must include:

- the date when, and the place where, the recording was made
- the times when the recording started and ended
- the times when any break in questioning started and ended and the reason for the break
- the name of each person present during any part of the recording and
- for each person present during any part of the recording – the part when the person was present.

The audio-visual recording must also:

- be certified by a prescribed person as an accurate record of the witness answering the questions and
- not be edited or changed, unless the court hearing the proceeding in which the recording is tendered otherwise orders.

The Act does not allow any member, other than a prescribed person, to certify the accuracy of the transcript of an EICI. Only a prescribed person can verify/certify the accuracy of an EICI. To remove any doubt, even a non-prescribed person present during an EICI cannot verify the transcript for that interview (as they are not a prescribed person).

Once a prescribed person has watched the EICI and checked it against the transcript, the member must include in their police statement that they have certified the audio-visual recording and proofread the transcript. They must also include in their police statement a paragraph similar to the below:

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*I am a prescribed person in accordance with Division 4.3.3 of the [Evidence \(Miscellaneous Provisions\) Act 1991 \(ACT\)](#) and Section 4 of the [Evidence \(Miscellaneous Provisions\) Regulation 2009 \(ACT\)](#). On (date) I completed training in relation to the interviewing of vulnerable persons.*

## Case officer responsibilities – handling of EICI recordings

The case officer must ensure that:

- no other person, including the victim and/or accused, is provided with a copy of the EICI recording (Team Leaders, Operational Support Sergeants and other members performing review or adjudication processes are exempt) – unless the DPP requests a copy
- if using a Digital Record of Interview system with CD/DVDs:
  - where an interviewee copy of the recording is made, that copy must not be given to the witness. It must be destroyed as soon as possible or filed and stored in a secure location;
  - exhibit handling procedures are strictly adhered to regarding the CDs and DVDs of an audio-visual recording
  - the working copies of the CDs and DVDs are stored in a secure place and
  - all working copies of recordings are destroyed at the completion of any court proceedings, or when it is confirmed that no action will be taken
- they are aware of the provisions of s. 59 of the [Evidence \(Miscellaneous Provisions\) Act 1991 \(ACT\)](#), which outlines the offence provisions for possessing, supplying, playing, copying, etc., an audio-visual recording without authority.

When preparing a brief of evidence the case officer should ensure that:

- no audio or audio-visual recordings are included in the brief of evidence
- the brief head identifies that the primary witness statement is in the format of an evidence in chief interview, as per s. 51 of the Act and
- the hearing brief 'Witness List A' clearly provides the contact details for a member who can facilitate viewing the audio-visual recording request by the accused and/or their lawyer.

These handling conditions do not apply to the conduct of a Family Violence Evidence in Chief (FVEIC).

## Notice for access

The provision of notice for access pursuant to s. 54 of the [Evidence \(Miscellaneous Provisions\) Act 1991 \(ACT\)](#) to the accused person or the person's lawyer is undertaken by the DPP, who is also responsible for providing the accused person or the person's lawyer with a transcript of the audio-visual recording.

The accused person and the person's lawyer are entitled to see and listen to the audio-visual recording. If the DPP intend on tendering the audio-visual recording, they must provide written notice to the accused/their lawyer. That notice must contain either the name of the case officer (preferably), the corroborator or the name of the 'responsible person' who can arrange viewing access. Written notice from the accused person or the person's lawyer to see and listen to the audio-visual recording should be provided to the case officer in the first instance.

Upon receiving written notice from the accused person or the person's lawyer the case officer/responsible person should:

# OFFICIAL

- ensure the notice is received in compliance with [Practice Direction No 4 of 2009](#) – Arrangements for Witnesses Pursuant to the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT)
- notify the case officer or their representative and
- notify the DPP that they have received the notice and who the case officer or their representative is.

The case officer or their representative must then contact the accused person or the person's lawyer and arrange for them to see and listen to the audio-visual recording in accordance with s. 55 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), and should supervise the viewing.

The member supervising the viewing:

- may use the Record of Interview rooms at any police station to view the recordings and
- should ensure that no recording devices, including mobile phones, are taken into the viewing room.

s 47E(d)

If the accused person attends the viewing without a lawyer the member must remain with the accused person during the viewing.

After the viewing the member supervising should:

- include a case note entry on the relevant PROMIS job which should include the date and time of the viewing, who was present at the viewing, and any other relevant information regarding the viewing and
- notify the DPP that the viewing has taken place.

If the accused person or the person's lawyer indicate they wish to access an audio-visual recording more than once (in accordance with s. 55(3) of the Act), ACTP should request the accused person or their lawyer to provide written notice to the responsible person for each subsequent request for viewing. This will ensure full compliance with the Act and ensure that requests made of ACTP can be formally acted upon.

## Training prescribed persons

ACTP should ensure sufficient prescribed persons are available, where possible, so that vulnerable witnesses can take part in an audio-visual recording in accordance with this Act.

ACTP will liaise with AFP Learning Command to ensure necessary and appropriate training is available to members in the instance a deficiency is identified. This should include initial training and skills maintenance.

## References

### Legislation

- [Births, Deaths and Marriages Registration Act 1997](#) (ACT)
- [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT)
- [Evidence \(Miscellaneous Provisions\) Regulations 2009](#) (ACT)
- [Magistrates Court Act 1930](#) (ACT)
- [Privacy Act 1988](#) (Cth)

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## AFP governance instruments

- [Better Practice Guide on Sexual offence and child abuse investigations and first response](#)
- [Better Practice Guide on criminal investigations response and notification](#)
- [Better Practice Guide on Evidence In Chief – interviewing young people or vulnerable witnesses](#)

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FREEDOM OF INFORMATION ACT 1982



# AFP

# Standard Operating Procedure on Interviewing Vulnerable Witnesses

THIS DOCUMENT IS RELEASED BY THE AUSTRALIAN FEDERAL POLICE UNDER THE FREEDOM OF INFORMATION ACT 1982

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## Introduction

This Standard Operating Procedure sets out the procedures for obtaining admissible audio-visual evidence when interviewing children, vulnerable adults and intellectually impaired persons as complainants or witnesses of sexual, family violence or violent offences under ACT legislation.

## Legislative protection entitlement

Under the *Evidence (Miscellaneous Provisions) Act 1991* complainants and certain witnesses in sexual, family violence and violent offences are entitled to protective provisions in criminal proceedings. In particular, trained police may conduct an Evidence-in-Chief Interview (EICI – audio-video recording) with a child, vulnerable adult or intellectually impaired adult who is the victim of (or a witness to) a sexual or violent offence. That recording may be admissible as evidence in court proceedings in place of their evidence-in-chief.

## Privacy

Investigators conducting EICIs must always:

- consider and protect the privacy of the witness, and
- maintain the security and integrity of all audio-visual recording discs in accordance with legislative and governance requirements.

Investigations involve a multi-agency approach and the AFP case officer will work to ensure each agency is aware of its obligations under the *Privacy Act 1988* (Cth) and the *Evidence (Miscellaneous Provisions) Act 1991* (ACT) to secure the privacy of all victims.

## When can you conduct an EICI?

A member who becomes aware of, or receives a report of, an incident involving a child, vulnerable adult or intellectually impaired adult, identified as a victim, must ensure notification and briefings are undertaken in accordance with the:

- [\*Better Practice Guide on sexual offence and child abuse investigations and first response\*](#)
- [\*Better Practice Guide on criminal investigations response and notification\*](#)

Once the incident has been allocated to the investigating member, and in consultation with their team leader, the investigating member must assess whether or not an EICI should be carried out in relation to the complainant.

Section 43 of the *Evidence (Miscellaneous Provisions) Act 1991* (ACT) outlines when an EICI (or in the case of a family violence proceeding), a family violence evidence in chief interview (FVEIC) can be carried out.

Section 43 is summarised by the following table:

	Vulnerable adult complainant	Similar act witness	Child victim/witness	Intellectually impaired witness	Special relationship witness
Sexual offence	EICI	EICI	EICI	EICI	EICI
Serious violent offence	EICI	EICI	EICI	EICI	EICI
Less serious violent offence	EICI	EICI	EICI	EICI	-
Family violence offence	FVEICI	EICI	EICI	EICI	-

Members should ensure a prescribed person (a police officer qualified to undertake EICIs) obtains an EICI as the primary form of a complainant or witnesses' evidence in every instance where it is authorised per the above table. This is to ensure the complainant or witness can be afforded relevant protections under the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), including the ability for the EICI to displace the need for the complainant/witness to give evidence-in-chief testimony in court.

## Electing not to conduct an EICI

Circumstances may arise where an investigating member and their team leader determine that it is not appropriate to conduct an EICI. In such instances, the member should ensure they record on the PROMIS/IMS incident, either in the 'Results Text' or a 'Case Note Entry', information that clearly states:

- the rationale for any decision to not use a prescribed person; and
- any attempts undertaken to locate a prescribed person.

If a prescribed person is not required, then a record of conversation or a witness statement can still be obtained.

If a prescribed person is not available, consideration should be given to delaying any interview pending the availability of a prescribed person to conduct the interview in accordance with the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT).

## EICI Interviewer

If it is deemed appropriate that an EICI be conducted, the following should occur:

- If the investigating member is a prescribed person, then that member or another prescribed person should conduct the EICI with the witness.

- If the investigating member is not a prescribed person, the member should arrange for a prescribed person to conduct the interview. They must first seek the services of a prescribed person from within their portfolio then, if unsuccessful, from another portfolio.
- If a prescribed person is located, they must attempt to conduct an EICI as per the [Evidence \(Miscellaneous Provisions\) Act 1991](#). If, on assessing the full circumstances of the matter, the prescribed person decides that it is not appropriate to conduct an EICI then the prescribed person should ensure this decision is accurately recorded in PROMIS/IMS, either in a case note entry or the result text, clearly outlining the reasons for the decision.
- In the instance that two investigating members conduct the EICI, where possible, both members should be prescribed persons.

The investigating member must retain carriage of the investigation unless an agreement is made with the case officer's team leader and the prescribed person's team leader.

## Management of prescribed persons

All Inspectors must ensure that there are sufficient numbers of qualified and contemporary skilled prescribed persons within their area of command.

## Witness Intermediary Program

The Witness Intermediary Program (WIP) helps witnesses to communicate their best evidence. Intermediaries are independent officers of the court who have undertaken rigorous training in order to become accredited. Intermediaries effectively facilitate communication between:

- witnesses and police; and
- witnesses, lawyers and others at court during the criminal trial process.

Intermediaries are experienced in facilitating communication with witnesses who have the following:

- language delays
- mental health issues
- learning disabilities
- cognitive issues
- autism
- ADHD
- trauma
- age-related communication difficulties; or
- any other type of communication difficulties.

Prior to conducting an EICI or FVEIC, members should contact the ACT WIP on any occasion where they suspect a witness (including a complainant) of having a communication difficulty (an intellectual impairment) for any of the abovementioned reasons. The WIP can be contacted on s 22(1)(a)(ii) during business hours, or on s 22(1)(a)(ii) after hours.

s 47E(d)

The intermediary may sit in on the EICI with the witness.

They are not a support person/advocate for the witness – they are an independent officer of the

court who must act impartially. Intermediaries may also be used for offenders with communication difficulties.

[Click here](#) for more information on the WIP.

## EICI conduct

When conducting an EICI, the prescribed person must ensure compliance with section 51 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) (the Act).

Due to the equipment, lighting and room configurations, the best quality EICIs will be those carried out in appropriate interviewing rooms at police stations/Winchester Police Centre (WPC). However, members may use their Body Worn Cameras (BWC) (with recording/s being securely stored on **s 47E(d)**) to conduct EICIs. The [AFP Better Practice Guide on Evidence in Chief – Interviewing young people or vulnerable witnesses](#) provides relevant interview proformas.

Section 51 of the Act states that EICI must include the following:

- The date when, and place where the recording was made
- The times when the recording started and ended
- The times when any break in questioning started and ended and the reason for the break.
- The name of each person present during any part of the recording; and
- For each person present during any part of the recording – the part when the person was present.

As per section 51(3), the audio-visual recording must:

- be certified by a prescribed person as an accurate record of the witness answering the questions; and
- not be edited or changed unless, the court hearing the relevant proceeding in which the recording is tendered otherwise, orders.

The Act does not allow any member, other than the prescribed person, to certify the accuracy of the audio-video recording of an EICI. To remove any doubt, even a non-prescribed person present during an EICI cannot verify the audio-video recording for that interview (as they are not a prescribed person).

When preparing a statement, the prescribed member must include the following paragraphs where suitable:

*'I am a prescribed person in accordance with Division 4.3.3 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) and Section 4 of the [Evidence \(Miscellaneous Provisions\) Regulation 2009](#) (ACT). On (date) I completed training in relation to the interviewing of vulnerable persons.*

*'I have viewed the audio-visual recording dated [inset] and I certify the audio-visual recording is an accurate record of the witness answering questions.'*

Section 53(2)(b) of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) requires a prosecutor to provide a transcript of an audio-visual recording to the defence, if they intend to tender it as

evidence. A non-prescribed person can transcribe and verify an EICI transcript for accuracy purposes only.

Although there is no current statutory obligation to verify (*outside transcripts provided in a committal hearing – s90AA 4(a)(b) Magistrates Court Act 1930*), it is considered best practice and clearly relevant to review and proofread the transcript against the recording before submitting the transcript.

## Case officer responsibilities – handling of EICI recordings

The case officer must ensure that:

- No other person, including the victim and/or accused, is provided with a copy of the EICI recording (Team Leaders, Adjudication and Practice members and other members performing review or adjudication processes and transcription services are exempt) – unless the DPP requests a copy.
- If using a Digital Record of Interview system with media such as CD/DVD/USB's:
  - Where an interviewee copy of the recording is made, that copy must not be given to the witness. It must be destroyed as soon as possible or filed and stored in a secure location.
  - Exhibit handling procedures are strictly adhered to regarding any media of an audio-visual recording.
- The working copies of the media stored in a secure place; and
  - all working copies of recordings are destroyed at the completion of any court proceedings, or when it is confirmed that no action will be taken
- They are aware of the provisions of section 59 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), which outlines the offence provisions for possessing, supplying, playing, copying, etc., an audio-visual recording without authority.

When preparing a brief of evidence, the case officer should ensure the following.

- No audio or audio-visual recordings are included in the brief of evidence.
- The brief head identifies that the primary witness statement is in the format of an evidence in chief interview, as per section 51 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT); and
- The hearing brief 'Witness List' clearly provides the contact details for a member who can facilitate viewing the audio-visual recording request by the accused and/or their lawyer.

These handling conditions do not apply to the conduct of a Family Violence Evidence in Chief (FVEIC).

## Notice for access

The provision of notice for access pursuant to section 54 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) to the accused person or the person's lawyer is undertaken by the DPP, who is also responsible for providing the accused person or the person's lawyer with a transcript of the audio-visual recording.

The accused person and the person's lawyer are entitled to see and listen to the audio-visual recording. If the DPP intend on tendering the audio-visual recording, they must provide written notice to the accused/their lawyer. That notice must contain either the name of the case officer

(preferably), the corroborator or the name of the 'responsible person' who can authorise access to view the recording. Written notice from the accused person or the person's lawyer to see and listen to the audio-visual recording should be provided to the case officer in the first instance.

Upon receiving written notice from the accused person or the person's lawyer, the responsible person - being the Superintendent Judicial Operations, should:

- ensure the notice is received in compliance with [Practice Direction No 4 of 2009](#) – Arrangements for Witnesses Pursuant to the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT)
- notify the case officer or their representative, and
- notify the DPP they have received the notice and who the case officer or their representative is.

The case officer, or their representative, must then contact the accused person or the person's lawyer and arrange for them to see and listen to the audio-visual recording in accordance with section 55 of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) and should supervise the viewing.

The member supervising the viewing:

- may use the Record of Interview rooms at any police station to view the recordings; and
- should ensure that no recording devices, including mobile phones, are taken into the viewing room.

s 47E(d)

If the accused person attends the viewing without a lawyer the member must remain with the accused person during the viewing.

After the viewing the member supervising should:

- include a case note entry on the relevant PROMIS job including the date and time of the viewing, who was present at the viewing, and any other relevant information regarding the viewing; and
- notify the DPP that the viewing has taken place.

If the accused person or the person's lawyer indicate they wish to access an audio-visual recording more than once (in accordance with subsection 55(3) of the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT), ACTP should request the accused person or their lawyer to provide written notice to the responsible person for each subsequent request for viewing. This will ensure full compliance with the [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT) and ensure that requests made of ACTP can be formally acted upon.

## Training prescribed persons

ACTP should ensure sufficient prescribed persons are available, where possible, so that vulnerable witnesses can take part in an audio-visual recording in accordance with this [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT).

ACTP will liaise with AFP Learning Command to ensure necessary and appropriate training is available to members in the instance a deficiency is identified. This should include initial training and skills maintenance.

## Further advice

Queries about the content of this document should be referred to Superintendent Criminal Investigations.

## Resources

- [Births, Deaths and Marriages Registration Act 1997](#) (ACT)
- [Evidence \(Miscellaneous Provisions\) Act 1991](#) (ACT)
- [Evidence \(Miscellaneous Provisions\) Regulations 2009](#) (ACT)
- [Magistrates Court Act 1930](#) (ACT)
- [Privacy Act 1988](#) (Cth)
- [Better Practice Guide on Sexual offence and child abuse investigations and first response](#)
- [Better Practice Guide on criminal investigations response and notification](#)
- [Better Practice Guide on Evidence In Chief – interviewing young people or vulnerable witnesses](#)

## Definitions

Term	Definition
<b>AFP appointee</b>	<ul style="list-style-type: none"><li>• A Deputy Commissioner, AFP employee, special member or special protective service officer and includes a person:<ul style="list-style-type: none"><li>○ engaged under section 35 of the <a href="#">AFP Act</a> as a consultant or contractor to perform services for the AFP and determined under subsection 35(2) of the AFP Act to be an AFP appointee</li><li>○ engaged overseas under section 69A of the AFP Act or</li><li>○ seconded to the AFP under section 69D of the AFP Act.</li><li>○ (See section 4 of the AFP Act.)</li></ul></li></ul>
<b>Complainant</b>	<ul style="list-style-type: none"><li>• The complainant (section 42 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a>) in a sexual, violent or family violence offence proceeding.</li></ul>
<b>EICIs</b>	Evidence-in-chief interviews, referred to in the legislation as <i>“an audio-video recording that is of a witness in a relevant proceeding answering questions of a person prescribed in relation to the investigation of an offence the subject of the proceeding.”</i>  (Section 51 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> ).
<b>Family violence offence</b>	As defined in section 38 of the <a href="#">Evidence (Miscellaneous Provisions) Act 1991</a> <i>“an offence is a family violence offence if the conduct making up the offence is family violence”</i>
<b>IMS</b>	Investigations Management Solution

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<b>Intellectually impaired</b>	<p>A person who has:</p> <ul style="list-style-type: none"><li>a) an appreciably below-average general intellectual function; or</li><li>b) a cognitive impairment (including dementia or autism) arising from an acquired brain injury, neurological disorder or a developmental disorder; or</li><li>c) any other intellectual disability.</li></ul> <p>(Section 42 of the <i>Evidence (Miscellaneous Provisions) Act 1991</i>)</p>
<b>Less serious violent offence</b>	<p>See section 39 of the <i>Evidence (Miscellaneous Provisions) Act 1991</i></p> <p>Section 39: Meaning of <i>less serious violent offence proceeding</i>—cth 4</p> <p>In this chapter less serious violent offence proceeding means—</p> <ul style="list-style-type: none"><li>a) a proceeding for an offence against any of the following provisions of the <i>Crimes Act 1900</i> (ACT):<ul style="list-style-type: none"><li>(i) section 21 (1) (Wounding);</li><li>(ii) section 22 (Assault with intent to commit other offence);</li><li>(iii) section 23 (1) (Inflicting actual bodily harm);</li><li>(iv) section 24 (1) (Assault occasioning actual bodily harm);</li><li>(v) section 25 (Causing grievous bodily harm);</li><li>(vi) section 26 (Common assault);</li><li>(vii) section 28 (Acts endangering health etc.);</li><li>(viii) section 29 (4) and (5) (Culpable driving of motor vehicle);</li><li>(ix) section 31 (Threat to inflict grievous bodily harm);</li><li>(x) section 37 (Abduction of young person);</li><li>(xi) section 41 (Exposing or abandoning child);</li><li>(xii) section 116 (Destroying or damaging property); or</li></ul></li><li>b) a proceeding for an offence against the <i>Criminal Code</i>, section 403 (Damaging property); or</li><li>c) a proceeding for an offence against the <i>Personal Violence Act 2016</i>, section 35 (Offence—contravention of protection order).</li></ul>
<b>Prescribed person</b>	<p>A police officer who has completed training in the making of audio-visual recordings of witnesses answering questions in relation to the investigation of sexual or violent offences.</p> <p>(r.4 of the <i>Evidence (Miscellaneous Provisions) Regulations 2009</i>)</p>
<b>Responsible person</b>	<p>The Superintendent of Judicial Operations as defined in section 53 (4) (b) of the <i>Evidence (Miscellaneous Provisions) Act 1991</i>.</p>
<b>Similar act witness</b>	<p>A witness in a proceeding for an offence who gives, or intends to give, evidence in the proceeding that—</p>

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- 
- (a) relates to an act committed on, or in the presence of, the witness by the accused; and
- (b) (b) is tendency evidence or coincidence evidence under the Evidence Act 2011
- 

**Serious violent offence**

See section 40 of the Evidence (Miscellaneous Provisions) Act 1991.

Section 40: Meaning of *serious violent offence proceeding*—ch 4

In this chapter serious violent offence proceeding means—

- a) a proceeding for an offence against any of the following provisions of the Crimes Act 1900 (ACT):
- (i) section 12 (Murder);
  - (ii) section 15 (Manslaughter);
  - (iii) section 19 (Intentionally inflicting grievous bodily harm);
  - (iv) section 20 (Recklessly inflicting grievous bodily harm);
  - (v) section 21 (2) (Wounding);
  - (vi) section 23 (2) (Inflicting actual bodily harm);
  - (vii) section 24 (2) (Assault occasioning actual bodily harm);
  - (viii) section 27 (Acts endangering life etc.);
  - (ix) section 29 (2) and (3) (Culpable driving of motor vehicle);
  - (x) section 30 (Threat to kill);
  - (xi) section 32 (Demands accompanied by threats);
  - (xii) section 34 (Forcible confinement);
  - (xiii) section 35 (Stalking);
  - (xiv) section 36 (Torture);
  - (xv) section 38 (Kidnapping);
  - (xvi) section 40 (Unlawfully taking child etc.);
  - (xvii) section 42 (Child destruction);
  - (xviii) section 43 (Childbirth—grievous bodily harm); or
- b) proceeding for an offence against any of the following provisions of the Criminal Code:
- (i) section 309 (Robbery);
  - (ii) section 310 (Aggravated robbery);
  - (iii) section 311 (Burglary) if the complainant was in the building at the time of the offence;
  - (iv) section 312 (Aggravated burglary) if the complainant was in the building at the time of the offence.
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<b>Sexual offence</b>	<p>A sexual offence proceeding refers to a proceeding for an offence against the following parts of the <i>Crimes Act 1900</i> (ACT):</p> <ul style="list-style-type: none"><li>a) Part 3 (Sexual Offences)</li><li>b) Part 4 (Female Genital Mutilation)</li><li>c) Part 5 (Sexual servitude);</li><li>d) A proceeding for the offence of contravening a family violence order (FVO) under section 43 of the <i>Family Violence Act 2016</i> if the FVO was made because of a sexual offence (or an alleged sexual offence) against the person protected under the order; or</li><li>e) A proceeding for the offence of contravening a protection order under section 35 of the <i>Personal Violence Act 2016</i> if the PPO was made because of a sexual offence (or an alleged sexual offence) against the person protected under the order.</li></ul>
<b>Special relationship witness</b>	<p>In a sexual offence proceeding involving a child complainant—a witness who—</p> <ul style="list-style-type: none"><li>(i) is a close family member of the complainant; or</li><li>(ii) the court considers—<ul style="list-style-type: none"><li>(A) has a beneficial supporting relationship with the complainant in the proceeding; and</li><li>(B) will be able to provide emotional support for the complainant after the proceeding; or</li></ul></li><li>a) in a serious violent offence proceeding involving the death of a person—a witness who is a close friend or family member of the person.</li></ul>
<b>Vulnerable adult</b>	<p>Means an adult complainant, or similar act witness, in a proceeding for an offence who the court considers—</p> <ul style="list-style-type: none"><li>a) has a vulnerability that is likely to affect the complainant’s or witness’s ability to give evidence because of the circumstances of the proceeding or the complainant’s or witness’s circumstances; or</li><li>b) is likely to suffer severe emotional trauma, or be intimidated or distressed, by giving evidence in the proceeding otherwise than in accordance with this part; or</li></ul> <p>needs to give evidence as soon as practicable because the complainant or witness is likely to suffer severe emotional trauma, or be intimidated or distressed.</p>
<b>WIP</b>	Witness Intermediary Program.

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