

Audio Visual Link (AVL) Court Policy

Essential Summary

This policy provides the framework for the use of audio visual link (AVL) within Juvenile Justice NSW (JJNSW).

The policy also explains the Early Appropriate Guilty Plea (EAGP) Reform and how it affects AVL usage.

AVL facilities in Juvenile Justice Centres (JJC) are used by JJNSW for young people to appear for court appearances, participate in EAGP mandatory criminal case conferences, and communicate with their legal representatives.

This policy contains content covering:

- the use of AVLs for court appearances and EAGP conferences,
- the use of AVLs for legal professionals,
- the EAGP reform and its application to JJNSW.

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1 Scope

This policy applies to all JJNSW employees involved in facilitating and co-ordinating AVLs for young people within JJC's. This policy covers the use of AVLs by young people in JJC's, legal professionals for court appearances and EAGP mandatory criminal case conferences.

2 Purpose

This policy aims to ensure that AVL usage by JJNSW for young people in JJC's is consistent with the *Evidence (Audio and Audio Visual Links) Act 1998*, the *Evidence (Audio and Audio Visual Links) Regulation 2015*, the *Children (Detention Centres) Act 1987* and the *Children (Detention Centres) Regulation 2015*.

The key objectives of this policy are to:

- provide an overview of the use of AVLs by JJNSW,
- clarify employee responsibilities in relation to the use of AVL facilities,
- ensure AVL facilities are used in a safe and secure manner,
- explain the EAGP reform and its impact on AVL usage by JJNSW.

3 Definitions

AVL means audio visual link.

Charge certificate means a document that states the offences forming the subject of the proceedings or court attendance notice, setting out the details for those offences and any related offences.

CIMS means Client Information Management System.

EAGP means Early Appropriate Guilty Plea.

JJC means Juvenile Justice Centre.

JJCO means Juvenile Justice Community Office.

JJNSW means Juvenile Justice NSW.

JUST Connect means a cloud-hosted AVL scheduling and management system

Legal representative means an Australian legal practitioner acting for the young person.

Mandatory Criminal Case Conference ('EAGP case conference') means a formal meeting between senior lawyers for the defence and the prosecution in relation to early appropriate guilty pleas.

4 AVL in JJNSW

4.1 What is an AVL?

An AVL is a video conference between a young person in a JJC and the courts and/or their legal representatives. Juvenile Justice also uses AVL to facilitate family contact for young people and meetings for employees (see *Personal Visits Policy* and *Professional Visits Policy*).

In 2015-2016, 63.24% of all JJNSW court matters were held by AVL, providing a more cost-effective, efficient and less risky means of communication than in-person communication for young people in custody. AVLs can reduce the requirement to transport young people and disruptions to daily routines for young people and their family and/or significant others, while also reducing costs for courts.

AVL facilities are available at each JJC.

4.2 JUST Connect

JUST Connect is the AVL scheduling and booking system used by the Department of Justice. It provides a web-based system for authorised users to manage AVL bookings. JUST Connect is used to book appointments between the young person in custody and the court and/or their legal representative. JUST Connect may also be used for interagency appointments and meetings with other JJC's. The system allows authorised users to create and manage video, phone or in-person appointments.

JUST Connect also enables users to:

- view schedules and calendars,
- manage accounts and access,
- access support materials.

These capabilities further enable JJNSW employees and relevant parties to manage and track court matters of young people appearing via AVL.

It is the responsibility of each JJC to ensure that employees who use JUST Connect are adequately trained. Agency and Legal Aid staff who previously had access to the Video Conference Scheduling System will be automatically registered with JUST Connect. New users can be added to the system by contacting the JUST Connect Support Team (justconnect@justice.nsw.gov.au).

5 Court appearances via AVL

5.1 Rights of the young person

Young people in JJC's may be required to attend court via AVL rather than in-person. Young people appearing via AVL have the same rights and entitlements to services as young people attending court in-person.

These rights include access to:

- support services for disabilities (if required),
- a legal representative,
- copies of all relevant legal documents,
- a confidential space for consultation with their legal representative,
- prior explanation of all relevant legal proceedings.
- an interpreter (if required, as arranged by legal representation),

All young people appearing before the court via AVL must be given access to their legal representative prior to the court appearance, in a confidential and professional AVL suite or other approved area.

A young person appearing in court via AVL is entitled to wear either their JJC uniform or their own clothing contained within their property as is the case for in-person court appearances.

Young people must not be handcuffed when in the AVL suite, unless there are exceptional circumstances based on a risk assessment. If this is the case, the presiding judicial officer must be informed prior to the young person entering the suite and s/he will determine whether handcuffs are to be removed.

JJNSW employees must explain the AVL system and technology to the young person before their AVL court proceeding begins so that they understand the process..

JJNSW employees must explain:

- that the AVL suite is considered a courtroom,
- that everything they say will be heard by everyone in the courtroom,
- they are being monitored by CCTV,
- what they can expect when they enter the AVL suite.

Support services must be provided to young people with intellectual or physical disabilities, if required; the JJNSW Client Information Management System (CIMS) identifies young people with a disability. The court must also be informed of the young person's support requirements.

5.2 Responsibilities of JJC employees

At the start of the proceedings, facilitating JJC employees should check with the court that all technology is functioning to prevent any communication issues during the proceedings.

Facilitating JJC employees need to follow established courtroom etiquette. Courtroom etiquette includes:

- dressing in accordance with the Corporate Dress Policy,
- acknowledging the bench when entering the AVL suite,
- remaining quiet during the court proceeding unless required to communicate with the court,
- displaying professional courtroom behaviour.

Facilitating JJC employees must not interrupt the AVL court proceedings unless requested by the court or in the event of an emergency.

JJC employees who are facilitating the AVL court proceedings must take note of what occurred during a young person's court appearance and explain this to the young person at the end. However, they must not give legal advice under any circumstances.

If a young person is unable to attend an AVL court appearance due to illness or injury, the relevant court must be notified by the JJC employees managing the AVL court list that day through the Court Logistics and Transport Unit as soon as possible. Alternatively, employees can communicate with court administration regarding the young person's unavailability through Just Connect.

6 Mandatory criminal case conferences

The Early Appropriate Guilty Plea (EAGP) Reform applies to young people charged with a serious children's indictable offence.

The EAGP is designed to ensure cases are actively managed from the start, to encourage early resolution, reduce uncertainty and delays in the criminal justice system.

6.1 Committal Proceedings for serious children's indictable offences

After the prosecutor files the charge certificate, the court will adjourn the case for eight weeks to allow a mandatory criminal case conference to occur (within the first six weeks). Once the case has been adjourned, the parties will negotiate a suitable date for the case conference to occur. If an agreement cannot be reached, the court will determine a date for the case conference.

Following the case conference, there will be a final court appearance where the prosecutor is to file a case conference certificate and any amended charge certificates, to enable the court to commit the young person for trial or sentence.

6.2 Mandatory criminal case conferences

EAGP requires the young person's legal representative and prosecution to have a criminal case conference. An initial case conference must be held in person or by AVL.

Mandatory criminal case conferences aim to:

- determine if there are any offences which the accused is willing to plead guilty to,
- identify agreed and disputed facts and contested issues for trial,
- provide additional information (if applicable),
- resolve any possible issues before trial.

6.3 EAGP mandatory criminal case conference bookings in JJC's

All mandatory criminal case conferences must be booked through JUST Connect.

It is the responsibility of the young person's legal representative to arrange the case conference and notify all parties of the date, time and location.

The young person's legal representative must book a case conference through JUST Connect if they:

- have access to JUST Connect or,
- do not have access to JUST Connect but can use Legal Aid facilities to participate in the case conference.

The JUST Connect booking will be noted by the JJC employees and scheduled in the young person diary on CIMS. Generally, case conferences will be booked for one hour. JJC employees must confirm with the legal representative if more time is required.

If the legal representative is unable to book using JUST Connect, they must contact the relevant JJC to schedule the case conference.

Any issues with the JUST Connect Booking System should be directed to the JUST Connect Support Team (justconnect@justice.nsw.gov.au).

6.4 JJNSW's role in EAGP

JJNSW's role is primarily to ensure young people in JJC's have access to their legal representative before and during their case conference. Young people provide instructions to their legal representative in the preliminary stage before the case conference commences. To provide further instructions throughout the criminal case conference, as needed, the young person must also be available via AVL.

Prior to the case conference and the young person having contact with their legal representative, the Magistrate must provide the young person with a copy of the written '*Explanation to accused persons of committal proceedings (Children's Court)*', pursuant to Clause 6A (1) of the Children (Criminal Proceedings) Regulation 2016.

During an EAGP case conference via AVL, the facilitating JJC employees will be asked to assist the court in providing the young person with a hard copy of the written '*Explanation to accused persons of committal proceedings (Children's Court)*'.

Facilitating JJC employees must not be present in the room during the case conference, as this is considered a private legal proceeding between the young person, their legal representative and the prosecutor.

Following the completion of the case conference, the young person must return to their unit and resume the general routines of the JJC as soon as practicable.

7 References

7.1 Legislation

Children (Criminal Proceedings) Regulation 2016

Children (Detention Centres) Act 1987

Children (Detention Centres) Regulation 2015

Evidence (Audio and Audio Visual Links) Act 1998

Evidence (Audio and Audio Visual Links) Regulation 2015

7.2 Policy

Court Communication Policy

7.3 Procedures

Court Procedures

Visits by Legal Representatives

7.4 Resources

AVL Community Visits Poster

AVL Community Visits Factsheet

AVL Community Visits FAQs

AVL Control – DIGITAL – Quick Guide v2

Corporate Dress Policy

Court resources/documents?

JUST Connect Release 3 Information Sheet

JUST Connect What's New Release 3

JUST Connect Location Manager Admin User Guide

JUST Connect Juvenile Justice Quick Step Guide

JUST Connect Juvenile Justice Quick Step Guide Create Appointment

JUST Connect User Guide – September 2018 – Corrective Services

User Guide JUST Connect System

7.5 Forms

Detainee Communication Request

Request for Booking Professional Appointment with Juvenile Detainee (AVL/Phone)

8 Document information

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9 Document history

Version	Date	Reason for Amendment
1		New policy