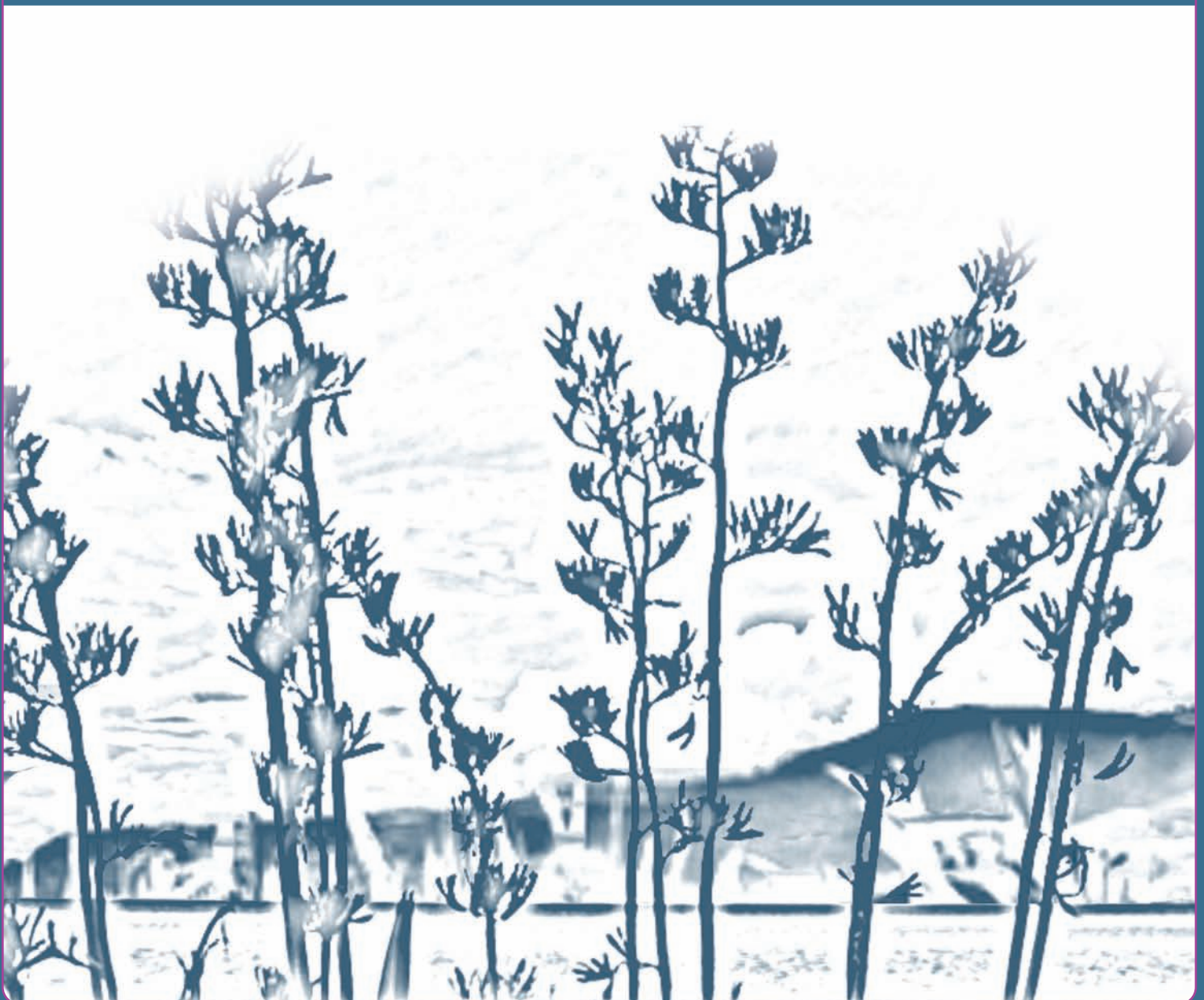




Massey University

manAlive

# Counting on Protection: A Statistical Description of the Waitakere Family Violence Court



Leigh Coombes

Mandy Morgan

Sarah McGray

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All enquires about the content of Counting on protection: A statistical description of the Waitakere Family Violence Court should be made to the authors at Te Kura Hinengaro Tangata/School of Psychology, Massey University, Palmerston North, Aotearoa/New Zealand.

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Ever present for us are the families within Waitakere communities who inspire the vision of living free from violence.

Kia kaha!  
Leigh, Mandy and Sarah

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# Introduction

## The Report in Context

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This preliminary report is the second product of an independent evaluation of Waitakere Family Violence Court (WFVC).

The WFVC convenes weekly within the Waitakere District Court. It involves professional, state and community agents in a dynamic process of coordinated response to family violence offences. The unique practices of the Court are regulated by protocols that have evolved since 1992. The aims of the current protocols (2005) are:

1. To overcome systemic delays in Court process
2. To minimise damage to families by delay
3. To concentrate specialist services within the Court Process
4. To protect the victims of family violence consistent with the rights of defendants.
5. To promote a holistic approach in the Court response to family violence
6. To hold offenders accountable for their actions.

The first evaluative study involved discussing the Court protocols and procedures with judiciary and court administration, community organisations, lawyers, police and probation. It considered the participants' views of the needs and successes of the Court in the context of national family violence prevention policies and strategies. Participants' provided evidence of the Court's successes and challenges in concentrating specialist services and promoting a holistic response to family violence. Further research was needed to examine how successfully the Court was overcoming systematic delays, minimising damage to families by delay, protecting victims and holding offenders accountable.

For more extensive background on WFVC please refer to the preliminary report, *An Evaluation of the Waitakere Family Violence Court Protocols* (Morgan, Coombes & McGray, 2007).

## The Current Study

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The aim of this project is to provide statistical information on the implementation of the WFVC protocols. Quantitative data was derived from a database held by Viviana and supplemented by data selected from ManAlive's database to address questions related to systematic delays, victim protection and holding offenders accountable. There is no available statistical data to address questions of the successes and challenges of the holistic problem solving approach the Court takes to minimising damage to families as a result of delay. Nor is statistical evidence adequate to address all questions related to victim protection or offenders' accountability: There is a limited set of questions related to these two aims which can be addressed by the evidence provided on the database. Given the available information, we set out to address specific questions related to overcoming systematic delays, protecting victims and holding offenders accountable.

## **Overcoming systematic delays**

In assessing the successes and challenges facing the Court around the issues of systematic delay and minimising damage to families that results from delay, the preliminary report recognised the crucial difference in the meaning of 'delay' in relation to guilty and not guilty pleas. Court participants acknowledge that the aims of overcoming systematic delays and minimising damage to families are interlinked, and that this is especially crucial in relation to defended hearings resulting from not guilty pleas. We have therefore dealt with questions of systematic delay separately for guilty and not guilty pleas.

As with all District Courts, the WFVC takes account of The Practice Note for domestic violence cases issued by the Chief District Court Judge in November 2004. The Practice Note specifies that pleas should be heard within two weeks of the defendant's first court appearance, status hearings should be held within four weeks of a not guilty plea being made, and a defended hearing should be held within six weeks of the status hearing, so that the whole matter is resolved within 3 months. This time frame for defended hearings is commonly referred to as the 2-4-6 timeframe. The Practice Note is appended to the Court protocol at Waitakere. The Protocol specifies that status hearings are not held for domestic violence cases, which means that the timeframe that applies at Waitakere is 2 (for plea) and 6 (for defended hearing), reducing the overall timeframe from three months to two months.

While Court participants seemed to reach consensus on the importance of timely defended hearings, there was less agreement on whether or not the Court is achieving the specified timeframes. We therefore begin with the question of how long not guilty pleas take to be disposed.

WFVC participants also recognised continuing issues of resourcing their timeframe objectives in relation to defended hearings. While they had demonstrated their commitment to overcoming systematic delays by mobilising the resources that they have available by recently added dedicated days for family violence matters, they were aware that this priority needed to be balanced in relation to the resources required for other matters before the District Court. They thought that at times there were simply not enough resources within the Court to meet the timeframe requirements. We have addressed this issue by considering how delay is related to the volume of cases before the Court.

If an offender pleads guilty, the WFVC protocols prioritise same day sentencing. Based on the Practice Note and same day sentencing principles, a case in which there is a guilty plea should be disposed relatively quickly. However sentencing may be deferred if a full pre-sentence report is required by the Judge and the case is stood down while Community Probation prepares the report. Sentencing may also be deferred while the Court monitors the offender's progress through programmes provided by community agencies such as ManAlive or Community Alcohol and other Drug Services (CADS). In the preliminary study, some Court employees raised a tension between the monitoring process at the WFVC and the timeframe objectives that are set for all summary domestic violence matters in District Courts. Participants thought the time lag between guilty plea and disposal of the case can be as long as 18 months if monitoring is undertaken by the Court. Therefore, in this study we have examined how long guilty pleas take to be disposed overall, and how long they take when monitoring is involved. Since disposing of cases involving guilty pleas is also likely to be affected by the Court resources we have also considered how delay is related to the volume of cases before the Court for guilty pleas.

In summary, our focus of attention in relation to *overcoming systemic delays* addresses three specific questions:

- ❖ How long do not guilty and guilty pleas take to be disposed?
- ❖ How does monitoring affect time lapses until disposal in cases where the defendant pleads guilty?
- ❖ How does the volume of cases in the WFVC affect time lapses until disposal for not guilty and guilty pleas?

## **Protecting victims**

As was the case for the preliminary study, the current study is severely limited in providing evaluative analysis of the successes and challenges facing the WFVC in relation to protecting victims. While Viviana's database holds considerable qualitative data for the everyday management of victim advocacy there is limited statistical data available. Further studies are in progress to ensure that the voices of at least some victims contribute to a more complete evaluation in relation to this aim. Here we address the quantitative data related to safety: risk assessment measures. The first question we address asks: What statistical evidence of victim risk is held by Viviana?

Legal protection for victims is provided by provisions of the Domestic Violence Act (1995) and principles of victims' rights to protection inform the Victim Rights Act (2002). At the core of the Domestic Violence Act (DVA) is a protection order which is designed to prevent the respondent from physically, sexually, or psychologically abusing the protected person or any children covered under the order; threatening abuse or damaging property; encouraging a third party to abuse the protected person or her children. Protection orders are granted by the Family Court but breaches of orders are criminal not civil acts and involve District Court prosecution. The Victim Rights Act (2002) provided authority for the Court's earlier emphasis on victim involvement in Court processes by ensuring that victims have access to information and assistance that responds to their needs. Under this Act the victim may provide information relevant to an offender's bail conditions at any time that bail is an issue before the Court. At the WFVC the victim's views on the defendant's bail conditions are taken into account by presenting them to the Court in a Memorandum prepared and presented by Community Victim Services advocates (CVS). Police and CVS are expected to liaise over bail conditions. The concentration of family violence specialisation in the WFVC means that there is a noticeable difference between the type of information provided by the Victim Advisors to District Courts under the Victim Rights Act (2002), and the type of information provided by the CVS advocates under the protocols. CVS memoranda are likely to take more account of the history of the relationship, the ongoing nature of the relationship in many cases, and the effects of the dynamics of family violence in relation to the victim's safety at specific points in the Court process. This information provides a qualitative assessment of risk of re-victimisation that may assist the Judiciary in decisions concerning the complex dynamics of family violence (Morgan, Coombes & McGray 2007)

Thus while a defendant is before the Court it is possible that the provisions of a protection order and the provisions of bail conditions, informed by victims' views of their current safety concerns can be used as strategies to provide victims with protection. We examined the information on the database to find out how many victims are protected persons under the Domestic Violence Act and how many rely solely on bail conditions for protection during the Court process?

Therefore, in this study our focus of attention in relation to *protecting victims* addresses two specific questions:

- ❖ What statistical evidence of victim risk is held by Viviana?
- ❖ How many victims involved in cases before the WFVC rely solely on bail conditions for legal protection during the Court process?

### **Holding offenders accountable**

The WFVC commitment to taking family violence seriously emphasises the critical importance of accountability the context of the Court's problem solving focus. If offenders refuse to take responsibility for their actions, or refuse to be accountable to the Court, their communities or their families for the damage that results from their offences, then problem solving interventions are unlikely to produce meaningful psycho-social changes that reduce re-offending. As far as the participants in the preliminary study were concerned taking family violence seriously meant having adequate information about whether or not the Court was effective in reducing offending and increasing victim safety. Safety, accountability and recognising the seriousness of family violence are interlinked principles in responding to family violence.

Information on re-offending or re-occurrences of family violence incidents is very difficult to provide reliably. Underreporting of offences and alienation from the criminal justice system confound measures of success of the Court if the measures are based only on reductions in the appearances of particular offenders, or reductions in overall charges or convictions for family violence offences. In principle, lower charge and conviction rates might be related to local acceptance of family violence, victims' mistrust of the Court, or offenders' ability to control a victim's access to legal protection. In considering the successes and challenges of the WFVC, it would be preferable to base initial success criteria on increasing numbers of cases coming before the Court, increasing conviction rates and an increase in early guilty pleas. These increases are not likely to be indicative of increases in rates of offending, but of improvements in legal and Court processes that are evidenced by successfully holding offenders accountable for their offending. Criteria for considering whether offending has reduced is needed to take account of victims' experience of lessening harm or risk of harm and/or fear of harm, than by the number of times a defendant appears in Court, or is convicted. Despite being able to address some questions related to holding offenders accountable, and providing some information on re-offending, the current study is unable to clearly interpret statistical analysis because we need to take account of victims' safety experiences subsequent to the WFVC process in which they have been involved.

We are able to examine conviction rates and rates of guilty pleas. These statistics have not been collected by the various CVS agents specifically to provide measures of comparison or baseline data for later comparison. They are indicative only. However they do provide WFVC participants with information about current rates for the most common cases of family violence within the Court: violence against women in intimate relationships.

The Court provides clear incentives for pleading guilty to encourage offenders to acknowledge, and take responsibility for, family violence. For the most part, participants in the preliminary study understood that "credit" for pleading guilty was beneficial to the defendants. We addressed the question of how many defendants did plead guilty on first appearance and examined the number of guilty outcomes resulting from defended hearings to see whether or not more defendants could be taking advantage of incentives for acknowledging guilt and accepting responsibility. Since comparative data were not available, we examined information

on dismissals and withdrawals to put guilty outcomes into the context of outcomes overall. We also examined the relationship between initial pleas and charges to address the question of whether there is any systematic pattern related to charges that might affect the rate of guilty and not guilty pleas.

When a defendant pleads guilty they may be referred to a community intervention service to undertake some treatment or intervention that could improve the safety of victims and prevent further damage to families. Offenders are often monitored through such programmes before being sentenced so that any psycho-social changes which improve the safety of the family can be taken into account when sentencing. We examined how many cases with initial guilty pleas resulted in referrals to intervention services and how many were specifically referred to ManAlive. Of those referred to ManAlive we examined how many available cases involved programme completion as an indicator of how successfully the Court is coercing interventions.

One of the incentives for an offender to plead guilty and engage in treatment is leniency in sentencing. A more severe sentence is understood to be a consequence of not co-operating with the WFVC's recommendations for intervention. The leniency incentive is intended to convey the message that the Court is serious about addressing *the problem* of family violence. However, some participants in the preliminary study expressed concerns that victims' safety and their confidence in the justice system could be put at further risk through sentencing indications and outcomes that are intended to coerce treatment but do not result in sending a message about the seriousness of family violence. Participants were particularly concerned that Section 106 discharges did not leave a record of conviction and may have serious consequences for victim safety in the context of ongoing relationships. We examined how many arrest cases and how many sentences resulted in convictions.

The intent of coercing offender treatment or intervention is to optimise the possibilities of reducing family violence by addressing the problems that underlie violent behaviour. Reduction in re-offending is also a clear intent of the WFVC protocols. Baring in mind that we cannot draw clear interpretations from data on re-offending or recurrent reported incidents because of the lack of information about underreporting and victim safety, we were able to examine data related to the number of cases where another reported incident or arrest was recorded on the database as well as the frequency of repeat occurrences. Since it is possible that victims are increasingly unsafe around the time of arrest or conviction we examined the relationship between repeat occurrences and time lapse from arrest and conviction<sup>1</sup>. We were able to access data from the ManAlive database to address questions of how many repeat occurrences were recorded for cases in the Viviana database where the offender had been referred to a ManAlive programme. We also examined the relationship between repeat occurrences and programme completion.

Therefore, in this study our focus of attention in relation to *holding offenders accountable* addresses specific questions on coercing guilty pleas and treatment; sending a strong message with sentencing and convictions; and repeat incidents and re-offending:

#### *Coercing guilty pleas and treatment*

- ❖ In how many cases did offenders plead guilty on first appearance?

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<sup>1</sup> Theories of intimate violence as a pattern of power and control techniques most frequently practiced by men against women would hypothesise that when a state intervention, such as an arrest or sentence results in a man feeling a loss of control over his partner, he is more likely to use physical violence as a control strategy.

- ❖ What proportion of guilty and not guilty pleas are associated with different categories of charges?
- ❖ How many of the initial guilty pleas result in referrals to community service agencies?
- ❖ How many result in referrals to ManAlive specifically?
- ❖ How many offenders referred to ManAlive completed programmes?

*Sending a strong message with sentencing and convictions*

- ❖ How many arrests, overall, result in guilty outcomes?
- ❖ How many were withdrawn and how many were dismissed?
- ❖ How many not guilty pleas resulted in guilty outcomes?
- ❖ How many guilty pleas were withdrawn and how many were dismissed?
- ❖ How many sentences resulted in a recorded conviction?
- ❖ How many of the arrest cases involved a recorded conviction?

*Repeat incidents and re-offending*

- ❖ How many arrest cases recorded another family violence occurrence within the year?
- ❖ How many recorded another arrest?
- ❖ How often were subsequent occurrences and arrests recorded?
- ❖ How were repeat occurrences distributed across time from first arrest and from sentencing for first arrest?
- ❖ How many ManAlive clients were involved in repeat occurrences?
- ❖ Were offenders who had not completed programmes more frequently involved in repeat occurrences?

Before reporting on our analysis we provide some statistical evidence on family violence in the Waitakere region to place the WFVC in its regional context. We then provide statistical evidence on family violence held by Viviana so as to locate the data we have accessed on the Court in the context of intimate partner violence.

## Statistical evidence on Family Violence in the Waitakere Region: The WFVC in Context

The New Zealand Police (NZP) produces reports which provide statistical descriptions of reported family violence occurrences and the volume of policing interventions into family violence. The New Zealand Family Violence Clearinghouse (NZFVC) has also provided a summary fact sheet on Family Violence based on data provided by Government and Non Government organisations. We have used reports from these sources for the year 2005-2006 in the following sections to situate the findings from our analysis of Viviana and ManAlive databases in the broader national and local context. However there are serious limitations involved in comparisons among the datasets. For example, incident and occurrence data<sup>2</sup> reported by the NZFVC for 2005-2006 represents cases for a calendar year in some categories and a fiscal year in others. The Viviana dataset for 2005-2006 was recorded from July 2005-June 2006 so the time period does not correspond directly even though in all cases data is available over a 12 month period. According to the NZFVC (2007) NZP statistics have also been affected by changes that the national statistics manager attributes to an increased focus on policing family violence and changes in recording systems to make reporting family violence occurrences more straightforward. Increased reporting around mid-2005 was expected. In addition to these influences, there are differences in how various constructs are recorded in the databases. Viviana, NZFVC and the NZP all keep data on the types of offences recorded as family violence however the categories into which family violence offences are distributed differ in each case so they are also not directly comparable.

### Family Violence Occurrences

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NZFVC provide national police data showing that 56,380 family violence occurrences (incidents and offences) were recorded through POL400s in 05-06. They suggest that this represents around 18% of the family violence occurrences nationally (NZFVC, 2007). Occurrences are recorded when they involve some degree of family violence as determined by the attending officer. The attending officer also determines whether or not a crime was committed. Nationally, 32,108 family violence offences were recorded including offences other than violence offences (such as offences against administrative justice). This represents 57% of occurrences. Violent offences accounted for 18,309 of the recorded offences. NZP also record that 65,159 children were present during 30,823 of the recorded family violence incidents and offences. Where apprehensions resulted from police determination of an offence, the offender was male in 25,356 cases and female in 4,135 cases. Sex of offender was recorded as unknown or specified as other in only 4 recorded cases.

In the Northshore/Waitakere/Rodney District Family Violence Report for the 2005-2006 fiscal year (NZP, 2006), 74% of all reported violence was family related and revictimisation was reported at 28%. Estimates of repeat offences were not reported. Waitakere Area Police records about 55% of all family violence offences within the district. This is considerably higher than the national estimate of reporting for occurrences, and though it is possible that the difference is mostly attributable to reported incidents that did not involve the determination of an offence, it is also possible that reporting rates for all occurrences are higher in the district

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<sup>2</sup> Incidents refer to reported family violence that does not result in an arrest. Occurrences refer to all reported family violence incidents and arrests. Some incidents that do not result in arrest may involve an offence.

than the national average. Unfortunately, the differences in data recording between the national and local statistics and the increase in reporting by police themselves during 2005 mean that a clear interpretation of underreporting rates is untenable.

In the Waitakere Police Area, 3420 family violence occurrences were recorded on POL400s in the fiscal year. 1252 of these cases were recorded as offences representing 35.4% of occurrences. This is considerably lower than the national average. There are a number of possible interpretations of the lower rate of offences to occurrences: it is possible that there *is* a higher rate of reporting of all occurrences so that the difference represents greater willingness to call police to family violence incidents within the Waitakere community; it is possible that there are fewer offences committed within the Waitakere community; it is possible that the difference is a result of comparing specific regional data with national aggregate data. A more reliable interpretation would involve matching the Waitakere district data with those from another district with similar demographic characteristics to ensure that the difference is related to offending and/or reporting events *in Waitakere*. If data from a matched sample demonstrated a significantly different proportion of offences to occurrences than the Waitakere data then it would suggest a difference in reporting that was specific to Waitakere district. In this case some inference related to the effectiveness of intervention initiatives in the district would be possible, however investigating this was outside the scope of this study.

For July 2005 - June 2006, 3539 occurrences were recorded in Waitakere area<sup>3</sup>. In 40% of these occurrences, the personal identifiers of those involved occurred more than once, providing an estimate of repeat offences over this time. Revictimisation estimates were not reported. Numbers of children present at incidents and number of incidents at which children were present were not available. Sex of offender data was not available, however 81.01% of victims were female and 18.99% were male.

## Offences and convictions

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There is considerable variation in the categorisation of offences among different agencies recording family violence data. The District Court data reported by the NZFVC includes only offences by charges of male assaults female (MAF) and breach of protection order (BOP). Although MAF charges are mainly related to domestic assaults not all MAF offences are family violence offences. Furthermore, NZFVC reports that 13% of MAF charges are currently not coded as family violence. For the 2005-2006 calendar year, 8437 MAF offences were recorded on POL400s nationally, and 6705 MAF offences resulted in arrest. BOP charges include offences such as failing to attend a mandated programme as well as failing to comply with other aspects of the order, or contravening the order. 4402 BOP offences were recorded on POL400s resulting in 2924 arrests. Nationally, then, 79% of recorded MAF offences and 66% of BOP offences result in arrest. In relation to MAF offences, Figure 1 shows the distribution of convictions, dismissals and discharges without conviction. Of those appearing before Court nationally, 56% were convicted, 40% were not proved and 4% were discharged without conviction. In relation to BOP offences, Figure 2 represents the distribution of convictions, dismissals and discharges without conviction. Of those appearing before Court nationally, 62% were convicted, 37% were not proved, and 1% were discharged without conviction.

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<sup>3</sup> The difference between the two annual periods (fiscal, July-June) is 119 occurrences and represents less than 30% of mean monthly occurrences across both periods and is therefore unlikely to suggest any systematic difference in quarterly recording patterns.

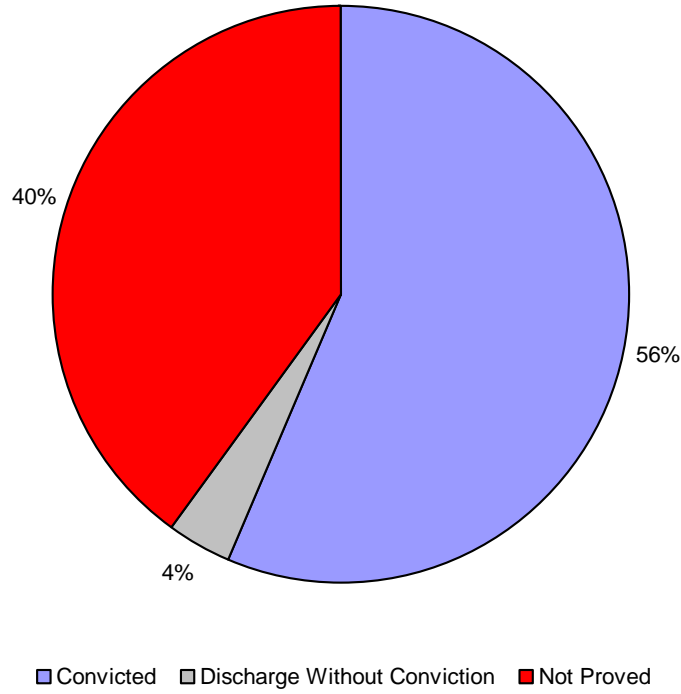


Figure 1: Male Assaults Female: Total court regions (2005 – 2006)

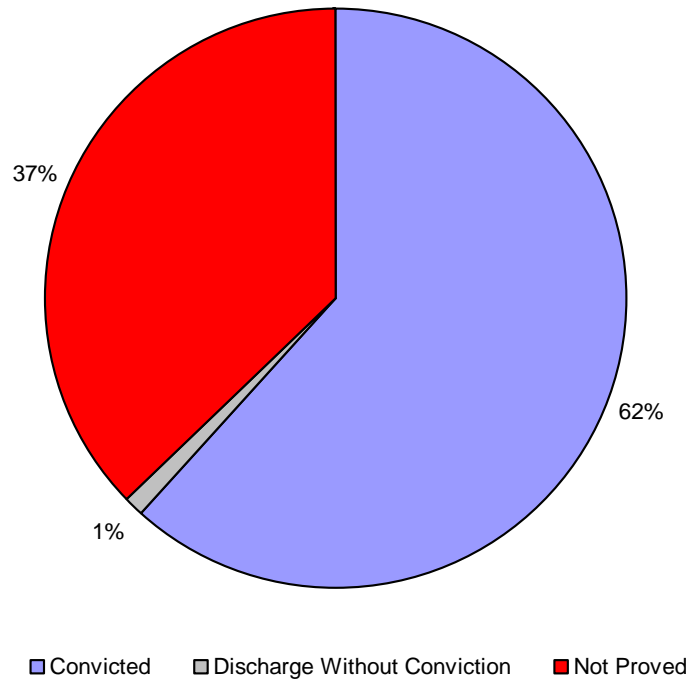


Figure 2: Breach of Protection/Non-molestation Order: Total Court regions (2005 – 2006)

Information related to the proportion of MAF and BOP offences resulting in arrest in the Waitakere district was not able to be sourced. Figure 3 represents the distribution of convictions, dismissals and discharges without conviction for offences where arrests were made. Of the total number of MAF offences before the Waitakere District Court, 53% resulted

in conviction, 42% were not proved and 5% were discharged without conviction. Figure 4 represents the distribution of outcomes for BOP offences before the Waitakere District Court. Of the total number of BOP offences, 52% resulted in conviction, 46% were not proved and 2% were discharged without conviction.

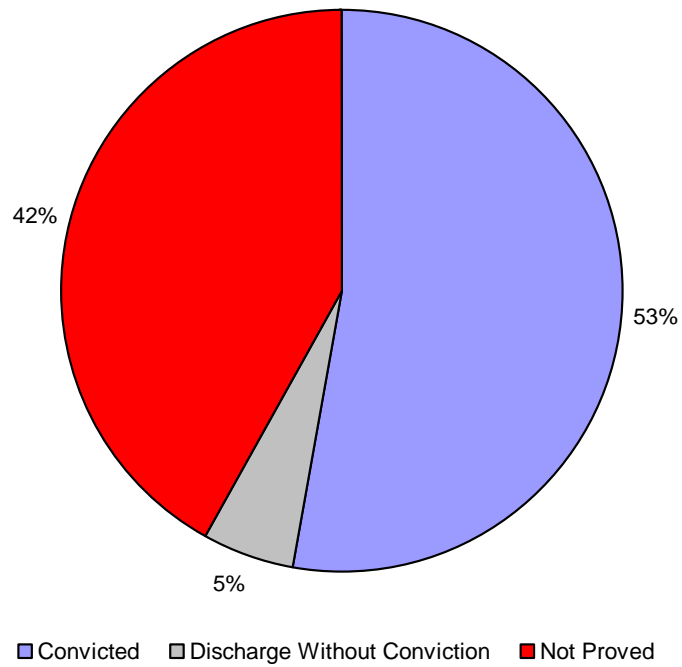


Figure 3: Male Assaults Female: Waitakere District Court (2005 – 2006)

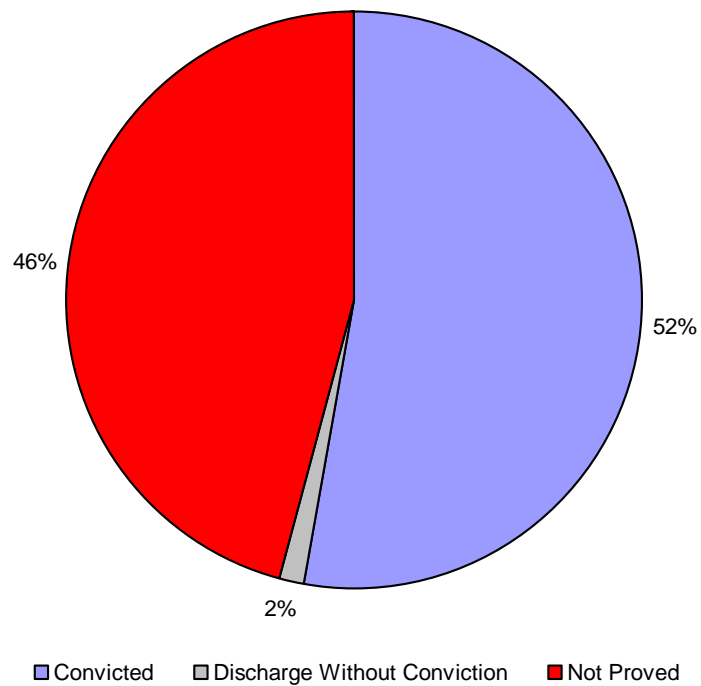


Figure 4: Breach of Protection/Non-molestation Order: Waitakere District Court (2005 – 2006)

Patterns of disposal nationally and at Waitakere for MAF offences are relatively similar. For BOP at Waitakere there are proportionally more charges not proved and discharged without conviction with proportionally less convictions than nationally. However, it is difficult to infer anything about these patterns in relation to the specialist Waitakere Family Violence Court. In the case of MAF charges, national data included charges not coded as family violence. At Waitakere it is possible that proportionally more MAF charges are marked as family violence because the Court focuses on identifying these cases and the similarity in disposals may be an artefact of differences in coding family violence. MAF and BOP charges that are coded family violence may be considered in relation to other charges within the WFVC's therapeutic context leading to systematically different outcomes. To examine systematic differences between outcomes through the District Court and through the modified process of the WFVC protocols it would be necessary to ensure that coding of family violence offences was consistent and more comprehensive.

Unlike court data, NZP recording of family violence offences is not restricted to MAF and BOP offences. Within the Waitakere district, offences entered into the family violence database included offences coded as 1500 range – assault on child (1530 range), MAF (1540 range), common assault (1580 and 1640 ranges), family offences (3700 and 3800 ranges), and offences against the Domestic Violence Act, including BOP (3850 range). All offences in the 1000 range are categorised as Violence. Table 1 and Figure 5 represent the distribution of offences in each range at Waitakere for the 2005-06 fiscal year. No conviction information based on these ranges was available from NZP statistics.

Table 1: Offences: NZP range categories

1530 range: Assault on Child	48
1540 range: MAF	431
1580 & 1640 range: Common Assault	223
3700 & 3800 range: Family Offences	3
3850 range: Against DVA	220

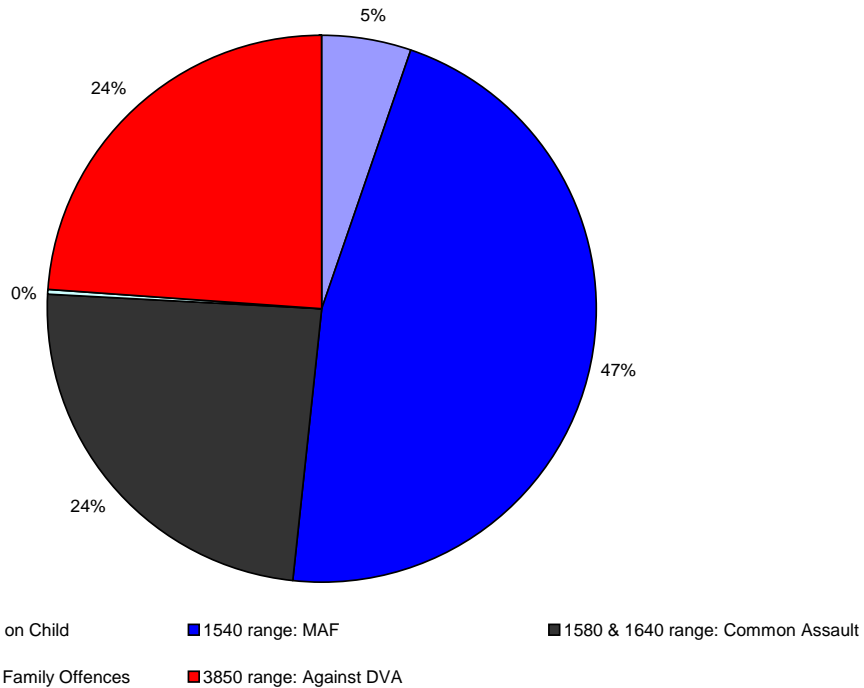


Figure 5: Offences: NZP range categories

In their national reporting, the District Court uses broader categories of offences which could include family violence offences. Assaults are not specified in these categories and could be included in the categories of violent offences or offences against the person. Offences such as those against administration of Justice may include breaches of bail or protection orders that are threatening to victims, as may drug and traffic offences. The MoJ field of family violence offences is categorised in Table 2. However, data in these categories was not accessible for this project.

Table 2: Ministry of Justice offence categories

Violent Offences
Against Good Order
Property
Against Administration of Justice
Against the person
Miscellaneous
Drug
Traffic

Missing from both the available Police and District Court data is information on family violence coding of sexual offences, kidnapping, grievous assaults, intimidation and threats. Viviana's database includes cases involving these offences in their records of intimate partner violence against women.

## Statistical evidence on Family Violence held by Viviana: The Court Data in Context

Viviana holds a database for 1341 clients who reported occurrences of family violence between July 2005 and June 2006. 56% of these clients are mothers. Viviana recorded a total of 1530 Court appearances associated with their clients for that year. Although official Court data was not accessible for this study, evidence from participants in the Court suggests that this represents around half of the volume of cases appearing in Court over that time. Viviana also recorded receiving 1563 of the 3549 POL400s within the Waitakere Police Area. This suggests that the Police share 44% of information recorded on POL400s with Viviana<sup>4</sup>.

Viviana provide services specifically for women who are victimised by their intimate partner and they are not the only provider of victim services involved with the WFVC. Given that within the district 74% of all violent offences are family violence and 81% of family violence victims are female, Viviana's involvement with around half the volume of Court cases and almost half the referrals from POL400s suggests that they are key stakeholders in the WAVES collaboration with the WFVC. Although their database does not cover all incidents or offences it provides a substantial body of evidence on family violence occurrences involving women victims in the Waitakere district.

### Family Violence Occurrences involving Viviana Clients

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Between July 2005–June 2006 a total of 1865 occurrences were referred to Viviana's services. The records for clients involved in these occurrences provide case data for analysis in relation to the research questions in the following section.

84% of occurrences recorded by Viviana were accompanied by POL400s. The remaining 16% represent an average of around 6 occurrences a week reported to Viviana but not to the Police. These occurrences provide a salient reminder of the importance of community organisations in a context where underreporting to state agents remains high.

Of the 1865 occurrences 497 resulted in arrests (27%) and proceeded through the WFVC. The majority of these occurrences involved offences by the victim's current partner (67%) or ex-partner (21%), boyfriend (6%) or ex-boyfriend (2%). Only 4% of occurrences involved other family or domestic relationships, including friendships. The distribution of offender's relationship to the victim (by occurrence) is presented in Figure 5 below. Intimate partner violence is clearly the predominant form of family violence occurrences resulting in women's referral to Viviana's victim advocacy services.

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<sup>4</sup> Without police data for comparison we cannot be confident that this represents an accurate figure for referrals since it is possible that not all cases are entered into the database. Available police data only records the initial support agency named on the Pol400 where the category "Women's Refuge" appears on less than 7% of the reports for the Waitakere district.

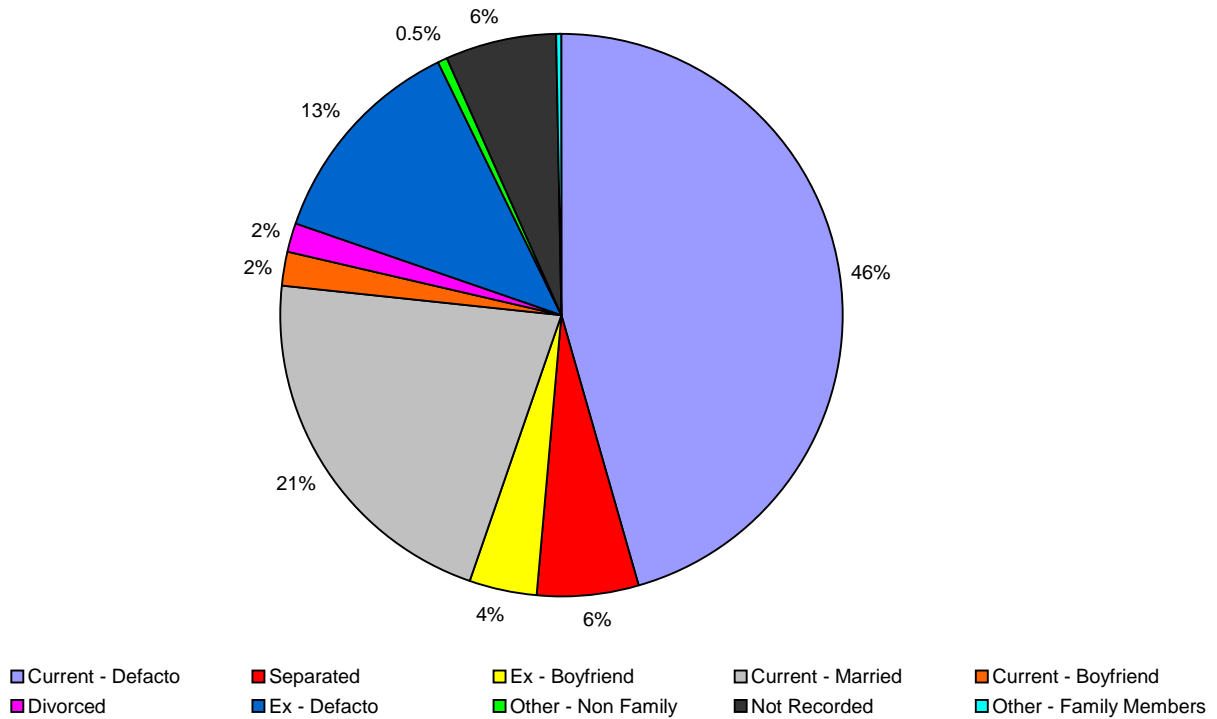


Figure 6: Offender relationship to victim for all incidents

## Offences and convictions involving Viviana Clients

We were unable to compare the national evidence on the proportion of MAF and BOP offences resulting in arrest with evidence from Waitakere because court data could not be sourced. The available MAF and BOP statistics include MAF offences that are not related to family violence and BOP offences against justice administration, so they do not represent accurate proportions for the purpose of studying violence against women in families.

While the consistency of coding family violence charges raises questions when comparing Waitakere conviction rates with national rates provided through NZFVC sources, Viviana's database consistently codes offences as family violence because of their focus on victim advocacy. The database includes only those arrests where victims are women and only 4% of clients were not victimized by a current or previous partner or boyfriend. All clients were victimized in relationships covered by the Domestic Violence Act (1995). The 497 cases resulting in arrest available for 2005-2006 (July-June) produce information that is specific to a focus on women's safety.

Available national and regional NZP and MoJ statistics use different categorisations of violent offences to collect data on offences. Viviana uses a textual field that specifies charges related to arrests to varying degrees depending on the importance of particular details to their work with the victim. We transposed the textual field to enable us to make use of the NZP ranges and MoJ categories so that we could examine the differences between the two systems of categorisation as well as report on the data held by Viviana. Data sets should be regarded as provisional because of the transposition of data from text to category by the researchers. For

example, all MAF charges were categorised as serious assaults using the NZP ranges because they were treated as serious assaults by Viviana advocates and there was insufficient information to ensure that any other categorisation by the researchers would correspond to NZP determinations.

A total of 606 charges were associated for the 497 arrests recorded on the database. Table 3 and Figure 7 represent the charges organized according to MoJ categories. The majority of these charges (62%) related to violent offences.

Table 3: Charges by MoJ category

Violent Offences	379
Against Good Order	89
Property	64
Against Administration of Justice	46
Against the person	19
Miscellaneous	6
Drug	2
Traffic	1
Total	606

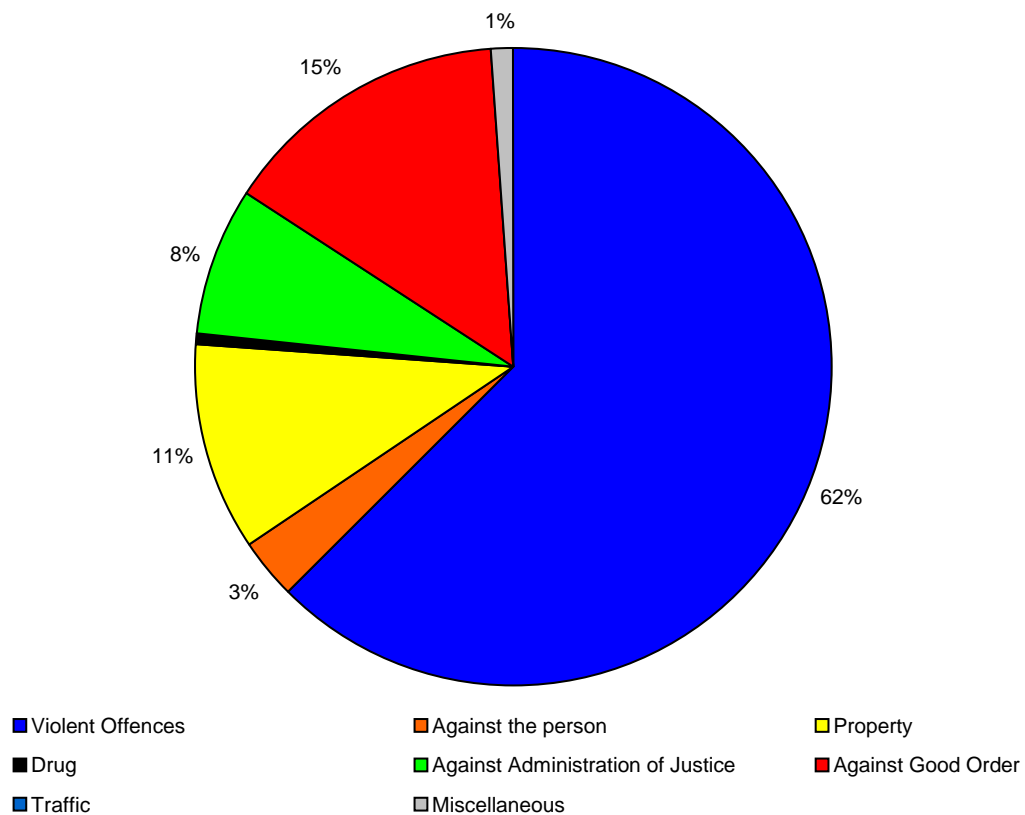


Figure 7: Charges by MOJ categories

These charge categories do not allow for the same level of specificity as is available through categories of the NZP ranges. In particular, sexual assaults cannot be discriminated and offences that might be related to an ongoing pattern of violence, such as kidnapping, intimidation and threats, are unable to be identified.

The data categorised into NZP ranges was distributed across fourteen ranges, only one of which corresponded directly with a MoJ category (Drugs)<sup>5</sup>. Table 4 and Figure 8 represent the charges organised according to NZP categories. Violent offences (those distributed across the 1000 range) accounted for six of the categories and 378 offences. Although sexual offences are in the 2000 range and therefore not included as violent offences, the 5 charges related to this range were all sexual attacks and can reasonably be regarded as violent offences. Using this categorisation 63% of offences are categorised as violent offences and the majority are these are MAF charges. Sexual assaults, intimidation and threats are specified and included.

Table 4: Charges by NZP categories

0000	Other	9
1100	Intent to Kill	1
1200	Kidnapping and Abduction	5
1400	Grievous Assaults	10
1500	Serious Assaults	250
1600	Minor Assaults	85
1700	Intimidation and Threats	27
2600	Sexual Attacks	5
3000	Drugs Offences	2
3500	Disorder	38
3700	Family Offences	1
3800	Family Offences	79
5100	Destruction of Property	63
6100	Trespass	21
7000	Against Justice	10
	Total	606

<sup>5</sup> Despite apparent similarities in the category names for "Against Administrative Justice" (MoJ) and "Against Justice" (NZP) the content of the categories are not comparable. Offences against Administrative Justice are broadly distributed among NZP ranges and the 7000 range is not exclusive of offences against persons (e.g. trafficking in people by means of coercion or deception).

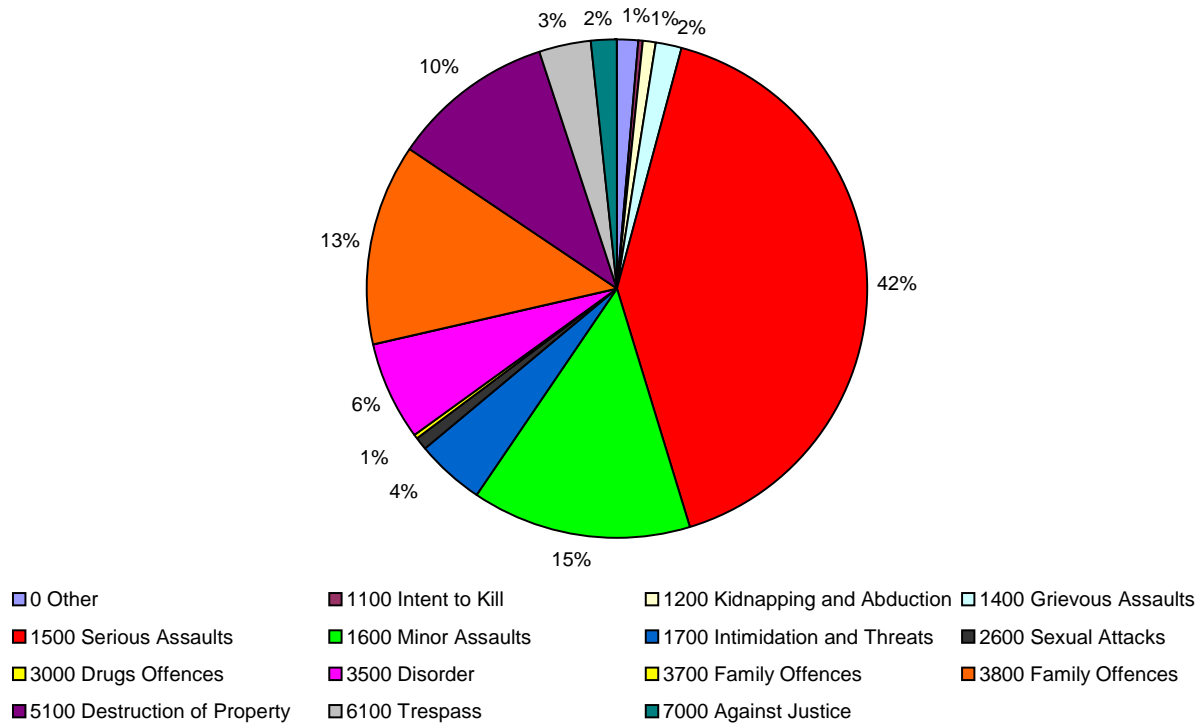


Figure 8: Charges by NZP categories

Family offences in the 3700 range refer to child abuse and offences against various Acts and Statutes (e.g. Matrimonial Property Act; Guardianship Act). Those in the 3800 range refer to offences against the Children, Young Persons and Families Act (1989), the Care of Children Act (2004), the Residential Tenancies Act (1986) and the Domestic Violence Act (2004).

While using the NZP ranges to categorise offences enabled us to identify sexual assaults, intimidation and threats, it was apparent that neither the MoJ nor NZP systems of categorisation involved constructs compatible with advocates' understandings of the pattern of violence against women in ongoing intimate relationships. Acts of psychological violence was particularly difficult to quantify through categorisation of offences. It is possible to argue that all offence categories refer to psychological violence since physical violence also has psychological implications and offences such as trespass or breach of protection order may be threatening for women who have sought protection through orders. However without taking the victim's point of view and their needs for protection into account it is not possible to determine whether a particular breach, or drug offence or property offence constituted psychological violence.

With regard to conviction rates, the Viviana database recorded convictions by arrest rather than convictions by offence. While over 600 offences were associated with the 497 arrests recorded we do not have a clear indication of whether some charges were dismissed or withdrawn if the offender was convicted of one of the offences for which they were arrested. It is therefore not possible to compare the conviction rate at WFVC with national conviction rates for two reasons: the available national data only categories MAF and BOP offences, and the available Viviana data do not record convictions in relation to singular offences.

Figure 9 represents the number of occurrences, incidents, arrests, charges and convictions recorded in the database. Given that multiple offences can be associated with one arrest, the rate of arrest to occurrences (27%) provides an imprecise estimate of how many occurrences involved offences. However, the rate of convictions to arrests (72%) suggests that the WFVC is addressing one of the problems identified in the literature as endemic in criminal justice responses to family violence: low conviction rates (Ventura & Davies, 2005; Koss, 2000). Convictions for family violence offences recorded in this database are well above 50% of arrests.

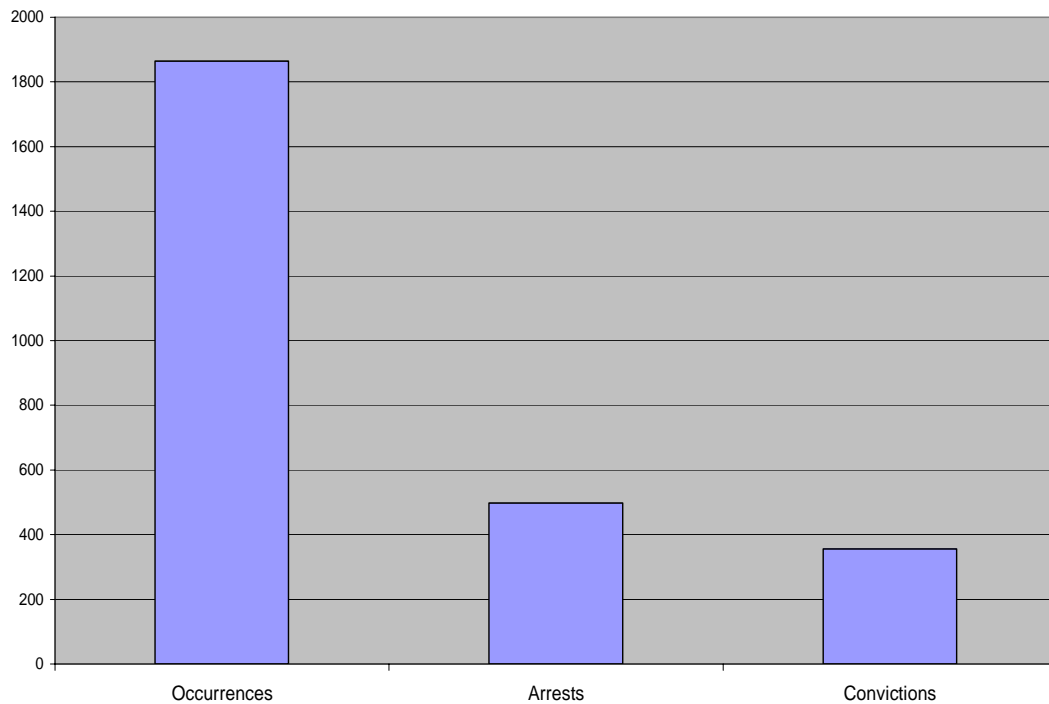


Figure 9: Occurrences, arrests and convictions

In the following sections data from the Viviana database is analysed to address questions specifically related to the effectiveness of the WFVC protocols in meeting their aims. The sections are each concerned with specific aims: overcoming systematic delays; protecting victims; and holding offenders accountable.

## Overcoming Systematic Delays

Our preliminary report (Morgan, Coombes & McGray, 2007) emphasised that 'delay' has different meanings in relation to guilty and not guilty pleas. Court participants were aware that the aim of overcoming systematic delays was related to the goal of minimising damage to families as a result of prosecuting family violence offences. Minimising delay was recognised as crucial in relation to defended hearings resulting from not guilty pleas because the length of time taken to dispose of a case could have serious consequences for family members given the often continuing relationship between the defendant and the victim. In this section we discuss the results of our analysis of Viviana's database in relation to not guilty and guilty pleas separately.

### Disposal of Cases by Not Guilty Plea

Of the 497 cases recorded in the database, we obtained records for 130 not guilty pleas where the time lapse from incident until disposal was able to be calculated. 79 of these cases (61%) proceeded to defended hearings. Time periods were constructed in fortnightly increments to reflect the 2, 4, 6 timeframe for disposing of defended hearings specified in the Practice Note (1 Dec 2004). Table 5 represents the time lapse data for the not guilty pleas that proceeded to defended hearings.

Table 5: Time lapse from incident date to disposal in weeks for defended hearings

Weeks	Count	
4	2	1.54%
6	1	0.77%
8	3	2.31%
10	2	1.54%
12	3	2.31%
14	12	9.23%
16	9	6.92%
18	15	11.54%
20	9	6.92%
More than 20 weeks	23	17.69%

68% these cases took 14 weeks or more. The practice note recommends disposal in no longer 13 weeks. We considered the possibility that plea changes might result in delayed hearings. There were 36 cases of withdrawn or amended plea changes. However in 20 of these cases, (55%) the changes happened before a plea had been entered. These cases had initial pleas recorded as guilty and had been excluded from this time lapse analysis. In 22 cases (17%) the defendant changed their plea from not guilty to guilty before it proceeded to a defended hearing. A total of 51 cases (39%) did not proceed to defended hearings. This suggests that there are a number of other unrecorded factors affecting withdrawal and in 57% of cases (of what) a conviction is not a possible outcome. Further investigation of the reasons that cases do not proceed is necessary given the possibility that witnesses in ongoing relationships with defendants may be manipulated or intimidated into withdrawing evidence (Morgan, Coombes & McGray, 2007). In 43% of these cases a conviction was still a possible outcome.

The time taken from incident date until disposal was able to be calculated for 113 not guilty pleas (78%) including some that did not proceed to defended hearings. Time periods were constructed at 3 month intervals on the basis that the Practice Note (1 Dec 2004) specifies disposal of all summary domestic violence matters within 3 months and the analysis of defended hearing data suggested that the majority of cases took longer than 13 weeks. Table 7 and Figure 10 represent the distribution of these 113 cases.

Table 7: Time lapse from incident date to disposal in months for not guilty pleas

Under 3 Months	20
3 - 6 months	46
6 - 9 months	24
9 - 12 months	15
12 - 15 months	6
15 - 18 months	1
Over 18 months	1
Total	113

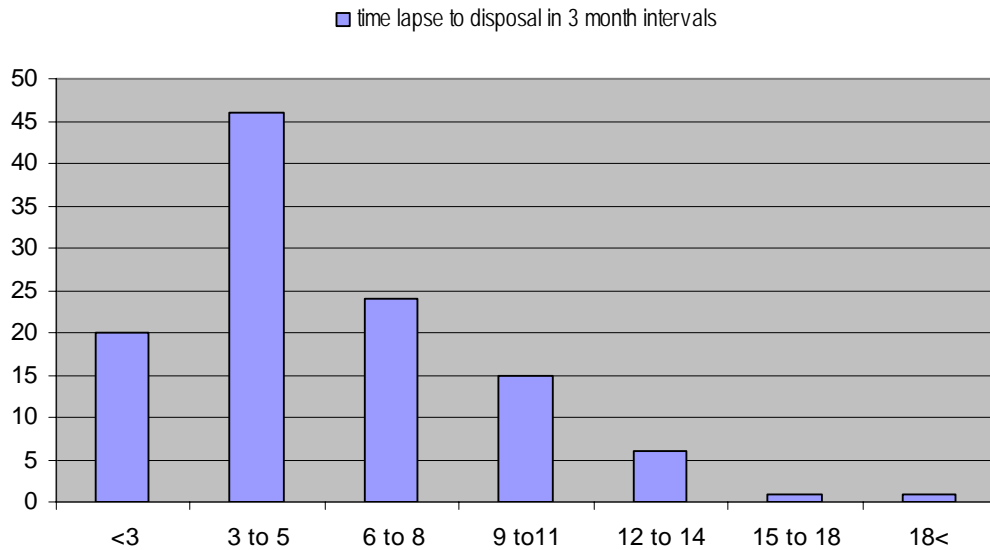


Figure 10: Time lapse from incident date to disposal in months for not guilty pleas

18% of these (not guilty) cases were disposed in under 3 months and 58% were disposed within 6 months. Cases that remained unresolved after 12 months were relatively rare (0.07%). We further examined the data to see if there were specific patterns of delay related to the volume of cases in particular months of the year.

We hypothesised that a higher volume of cases within a particular month would be related to more cases taking longer to disposal. Table 8 represents the distribution of the time lapse data across the months of the year in which offence took place. This distribution enabled us to relate monthly volume to time lapse data. For all cases taking longer than three months, Figure 11 represents the distribution of the time lapse data across the months of the year in which offence took place.

Table 8: Time lapse from incident date to disposal by month of incident date for not guilty pleas

Incident Month	< 3 Mths	3-5 Mths	6-8 Mths	9-11 Mths	12-14 Mths	15-18 Mths	> 18 Mths	Total
Jul-05	2	6	3	1	1			13
Aug-05	2	6	3		1			12
Sep-05	2	1						3
Oct-05	2	3		1		1		7
Nov-05	1	1	5	1			1	9
Dec-05		1	1		1			3
Jan-06		5	2	2	3			12
Feb-06	1	5	1	4				11
Mar-06	1	5	3	2				11
Apr-06	4	6	1	1				12
May-06	4	2		2				8
Jun-06	1	5	5	1				12
Total	20	46	24	15	6	1	1	113

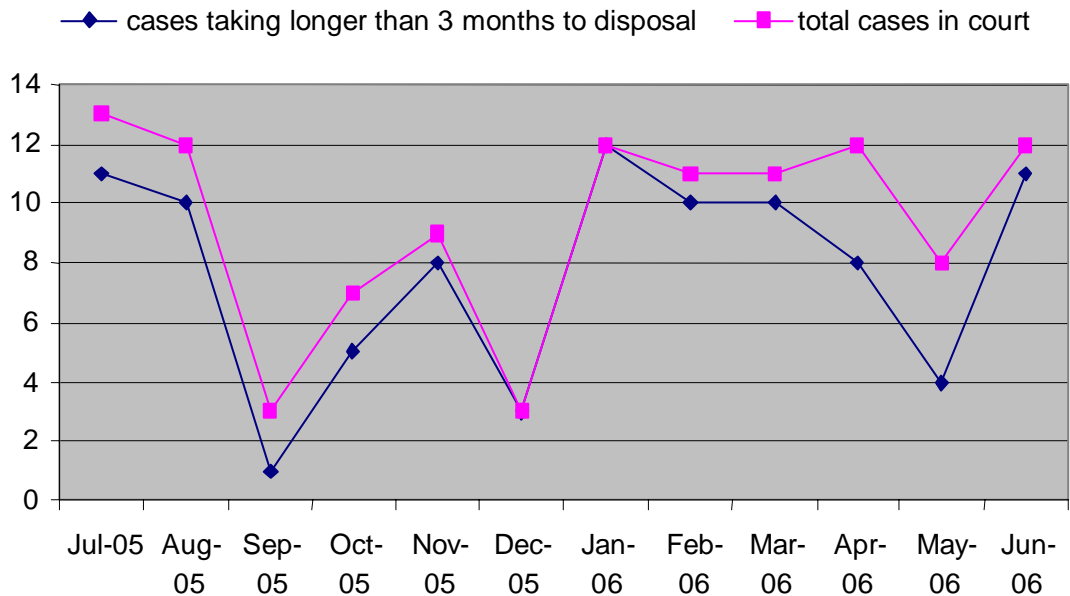


Figure 11: Time lapse from incident date to disposal by month of incident date for not guilty pleas taking longer than 3 months to disposal

The volume of cases was significantly correlated with the time taken to disposal ( $r=0.934$ ;  $df2, 0.553$   $p<0.05$ ). This correlation is particularly strong, suggesting that most of the variance in volume per month and time lapse from initial plea to disposal is shared. However, it is still possible that other factors, such as re-offending between first arrest and disposal, may affect both volume and delays. In addition, further investigation of the effects of these delays on the wellbeing of families is necessary.

## Disposal of Cases on Guilty Plea

Of the 497 cases recorded in the database 315 (63%) involved pleas of guilty at first appearance. The time taken from first appearance until disposal was able to be calculated for 286 of these cases (91%). Time periods were constructed at 3 month intervals on the basis that the Practice Note (1 Dec 2004) specifies disposal of all summary domestic violence matters within 3 months. While same day sentencing for guilty pleas is regarded as preferable in family violence matters, guilty pleas in the WFVC often involve judicial monitoring of offender's attendance at programmes prior to sentencing. Time lapses involved in monitoring *should not* be routinely treated as systematic delays that are damaging to families.

In 151 of the 286 cases involving guilty pleas (59%), the offender was monitored by the Judiciary. Monitoring was involved in 462 of the 1530 Court appearances (30%) recorded. Table 9 and Figure 12 represent the distribution across three monthly time lapse periods from incident date to disposal for the total number 286 cases and the 151 monitored cases for which data was available.

Table 9: Time lapse from incident date to disposal for monitored guilty pleas and total guilty pleas

Time Lapse to Disposal	Monitored	Total Cases
Under 3 months	3	100
3-5 months	36	71
6-8 months	56	70
9-11 months	24	29
12-14 months	5	12
15-18 months	2	3
Over 18 months	1	1

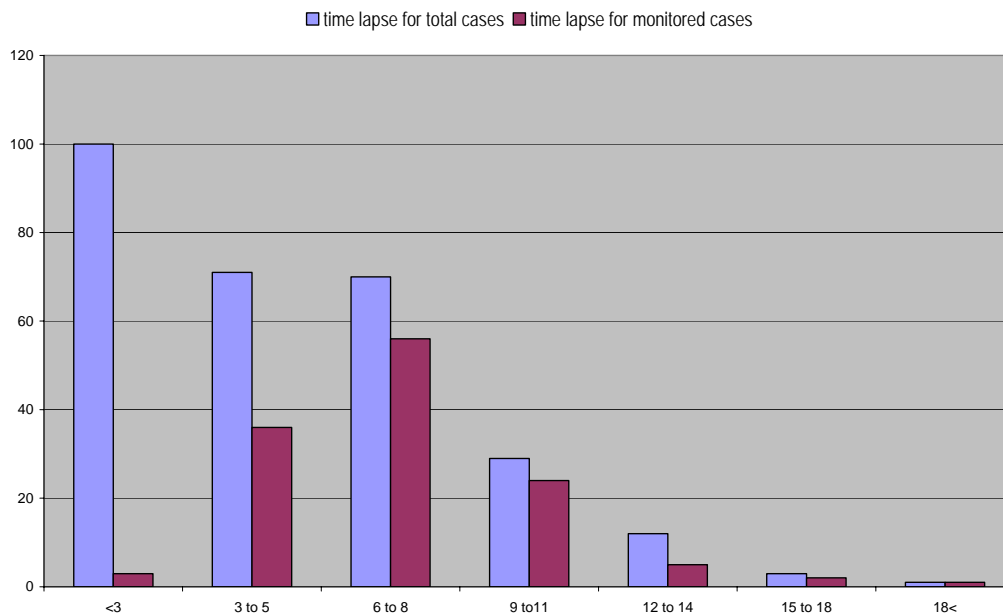


Figure 12: Time lapse from incident date to disposal for monitored guilty pleas and total guilty plea

35% of cases were disposed within three months of plea, and 60% were disposed within 6 months. 59% (151 cases) were involved with monitoring. No disposal dates were available for 24 of these cases, and 88 took longer than 3 months to disposal. Only 3% of the cases disposed in under 3 months involved monitoring. Even so, since 135 cases were not involved in monitoring and 186 cases took longer than 3 months, it is apparent that delays in disposal of guilty pleas are not only attributable to monitoring. We further examined the data to see if there were specific patterns of delay related to the volume of cases in particular months of the year.

Again, we hypothesised that a higher volume of cases within a particular month would be related to more cases taking longer to disposal. Table 10 represents the distribution of the time lapse data across the months of the year in which the offence took place. For all guilty pleas taking longer than 3 months to disposal, Figure 13 represents the distribution of the time lapse data across the months of the year in which offence took place.

Table 10: Time lapse from incident date to disposal by month of incident date for guilty pleas

Incident Month	< 3 Mths	3 - 6 Mths	6 - 9 Mths	9 - 12 Mths	9 - 15 Mths	15 - 18 Mths	18 < Mths	Total Volume
Jul-05	8	5	1	1	2			17
Aug-05	7	8	7	2	1	1		26
Sep-05	11	4	7	1	1	1	1	26
Oct-05	11	4	6	1	1	1		24
Nov-05	11	7	7	1				26
Dec-05	9	2	4	1	2			18
Jan-06	8	7	10	6	2			33
Feb-06	11	8	6	5	2			32
Mar-06	2	8	7	4				21
Apr-06	13	7	9		1			30
May-06	6	7	3	5				21
Jun-06	3	4	3	2				12
Total	100	71	70	29	12	3	1	286

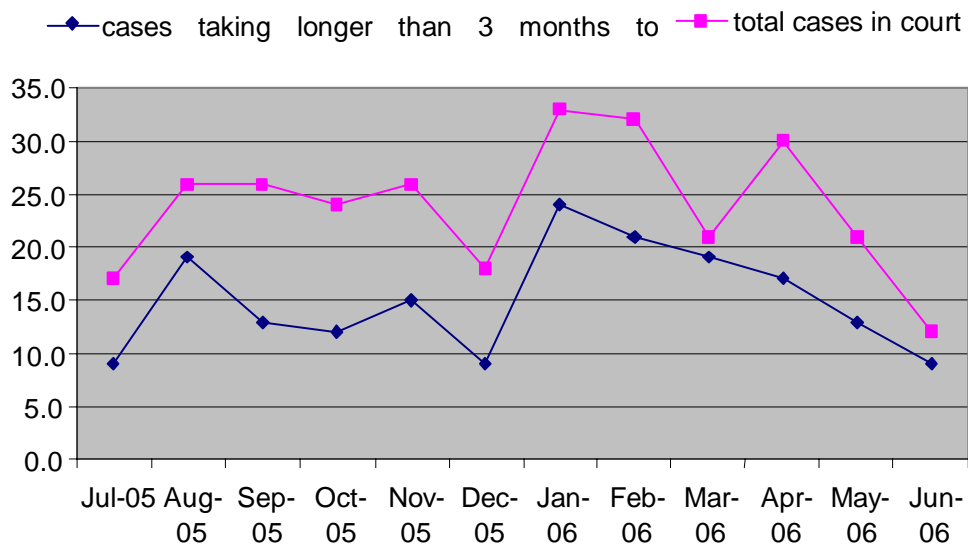


Figure 13: Time lapse from incident date to disposal by month of incident date for all guilty pleas taking longer than 3 months to disposal

The volume of cases within a particular month and the number of cases taking longer than three months to disposal were significantly correlated ( $r=0.827$ ,  $df=2$ ;  $0.532$   $p<0.5$ ). This suggests that disposal is related to volume, as many participants in the preliminary study suggested.

While the Court administration has the capacity to deal with the uneven distribution of cases across the year, increasing numbers of arrests do put pressure on Court resources and result in delays. However, it is important to note that without evidence from victims' experiences we cannot consider the implications of these delays for damage to families.

## Protecting Victims

The Viviana database provides limited information in relation to the success of the WFVC in protecting victims. Information about the risk status of some victims was recorded and it was possible to ascertain that most victims relied on advocacy and bail conditions for legal protection. Each of these aspects of victim protection is discussed below.

### Victim Risk

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The Court's ability to take account of victim safety depends on having clear indicators of the risk that offenders pose to their victims. In 2005-06 Viviana recorded risk scores for 15% of their clients. Policy around risk scores has changed since then and more recent recording practices include risk scores for all clients. Risk scores are calculated by advocates trained in using the risk assessment instrument developed by NZP for use on POL4000. Scores range from -15 to more than 24 and are organised by category from lowest criteria of risk to most extreme risk. The scale and distribution of client scores within categories is provided in Table 11, below, and Figure 14 presents the range of risk scores by risk category for the 198 recorded scores. The minimum score was -15 and the maximum was +42.

Table 11: Risk scores by category of risk status

Risk Score	Category	Count
+24 and Over	Extreme	67
+17 to +23	High	51
+11 to +16	Moderate	29
+2 to +10	Low	31
-15 to +1	No Apparent Risk	20
	Total	198

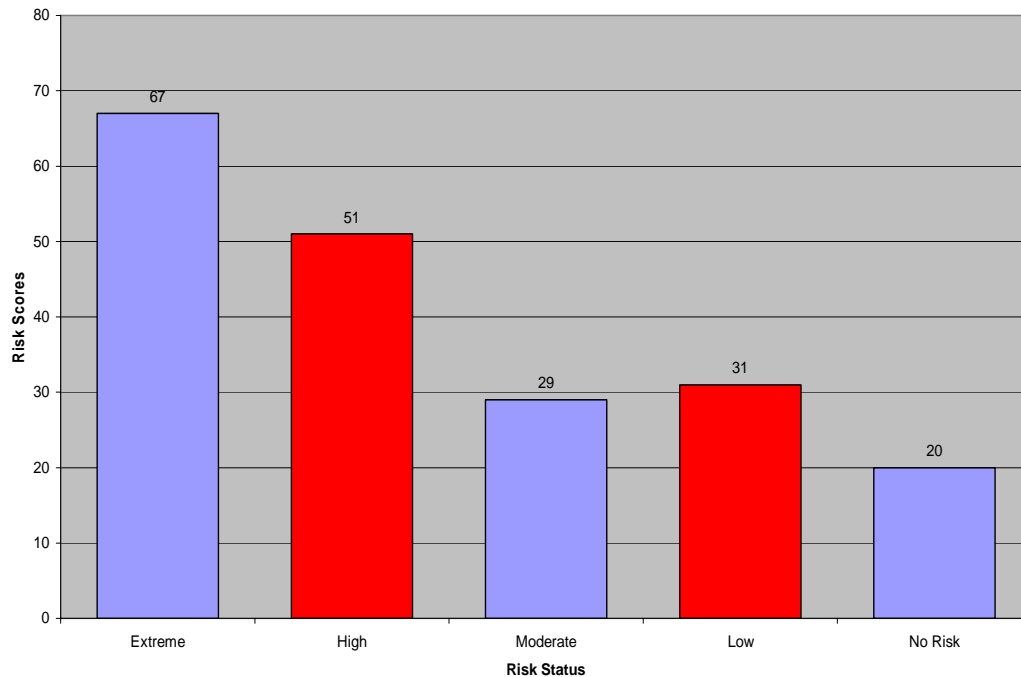


Figure 14: Recorded risk scores by risk status category

While the range of risk scores is broad, the distribution of scores suggests that these clients are far more likely to be scoring within a ‘risk’ category than apparently not at risk. However, it is possible that only clients who are initially considered to be at risk would have had assessments recorded on the database, inferring that the majority of clients are at no apparent risk. It may also be possible that women who could be assessed high risk have no recorded risk scores as a protective strategy or as a result of minimisation or other psycho-social factors including stigma, stereotyping or inappropriate cultural assumptions. Current policy at Viviana is that all clients should have a recorded risk score.

It is noteworthy, however, that Viviana advocates do not depend on risk scores for their assessment of victim safety or their memoranda to the Court advocating for the victim. Risk scores provide a measure of victim safety that is subsidiary to the specialised analysis of qualitative information that advocates present to the Court.

## Protection orders and bail conditions

Protection orders provide the most specific legal mechanism to address victims’ safety needs in relation to family violence. Breaches of orders are prosecuted in the District Court, however the orders are issued by the Family Court. The WFVC therefore only hears cases for breaches of orders and is not otherwise involved their administration.

Protection orders were in place for victims in relation to 59 arrests, so while only 27% of occurrences resulted in arrest, only 3% of recorded occurrences involved an arrest when a protection order was also in place. This suggests that victim protection relies heavily on bail conditions set by the WFVC.

Legal protection in the form of custodial remand was ordered in 33 (6%) of arrest cases. 13 (40%) of these custodial remands were made at the defendant's first bail hearing and the remaining 20 were made later in the Court process, often because the defendant had been arrested for another occurrence. This suggests that, in the main, custodial remand is instituted rarely and most likely used to protect a victim whose safety has been compromised during the Court process. In the remaining cases bail was granted with standard bail conditions which began with non-association and often changed to association with consent over time.

It is usual for Viviana to present memoranda to advocate for victim safety at a bail hearing or for changes to bail. Even though reliance on bail conditions for protection at the WFVC takes victim safety into account, they provide legal recourse for breaches over a more limited time period than final protection orders.

## Holding Offenders Accountable

One of the strategies of the Court for minimising damage to families is the coercion of guilty pleas to ensure that defendants are encouraged to take responsibility for offences and seek interventions to assist in solving underlying problems. The Court's success in achieving guilty pleas at first appearance is one of the indicators of effectiveness in holding offenders accountable for family violence offences. Other indicators include: the Court's effectiveness in improving conviction rates; the Court's rate of referrals to intervention services that will assist in addressing underlying problems and how many of these referrals result in treatment completions; whether the Court is sending a clear message that family violence is unacceptable through appropriate sentencing; and whether the therapeutic intervention that the Court offers is effective in increasing the trustworthiness of the Court so that victims are encouraged to report incidents of family violence. Records of repeat occurrences of family violence do not provide clear evidence of recidivism because of the confounding possibility that repeat incidents are not reported if Court outcomes do have a damaging effect for the family. The question of how successfully the Court holds offenders accountable in a way which also protects victims needs to be addressed in relation to victims' experiences of safety within their families.

The database on which this report is based does not record information that is collated by offender so our means of addressing the questions related to holding offenders accountable were restricted. For example, it is not possible to extract information that relates to defendants' prior arrests, charges or convictions without extensive recoding that was beyond the scope of this project. Consequently, available information on repeat occurrences has been limited to those cases for which we were able to match data from the Viviana database with data held by ManAlive. This was possible for 219 of the 497 cases (44%) for which data were available. Although this data set provides us with a match for more than a third of the available cases, these are all cases where defendants had pleaded guilty and were referred to ManAlive programmes specifically. These 219 cases cannot provide information on the overall effectiveness of concentrating specialist intervention services in the Court, or the effectiveness of other services in increasing the trustworthiness of the Court's process for victims.

Viviana's database did allow us to identify whether the defendants in the available 497 cases had prior records of an occurrence recorded in the database. Of the recorded cases 232 arrests (47%) were made on the first reported incident in relation to the victim for whom the record is held. In 265 cases (53%) Viviana held records of incidents or arrests that had been reported before July 2005. This provides some indication that more than half the defendants who appeared before the Court between July 2005 and June 2006 had been involved in at least one prior family violence occurrence, even though the extent of previous family violence was unable to be determined.

In the following section we consider questions related to coercing guilty pleas, coercing treatment, improving conviction rates, and sentencing outcomes. The final section considers questions related to re-offending among those cases referred to ManAlive for which we were able to match data to the Viviana database.

## Coercing guilty pleas and treatment

Pleas of guilty can be considered as indicators of the Court's success in holding offenders accountable in cases of intimate violence. Where there is an ongoing relationship between the defendant and the victim, a plea of not guilty exposes victims to increased risk of manipulation and intimidation that can result in them withdrawing evidence that is essential to successful prosecutions. Table 12 and Figure 15 represent the distribution of initial pleas recorded for the 497 available cases.

Table 12: Initial plea

Guilty	315
Not Guilty	130
Did not proceed	22
No record kept	13
Not Family Violence charge	10
Warrant to arrest	6
Remanded in custody	1
	497

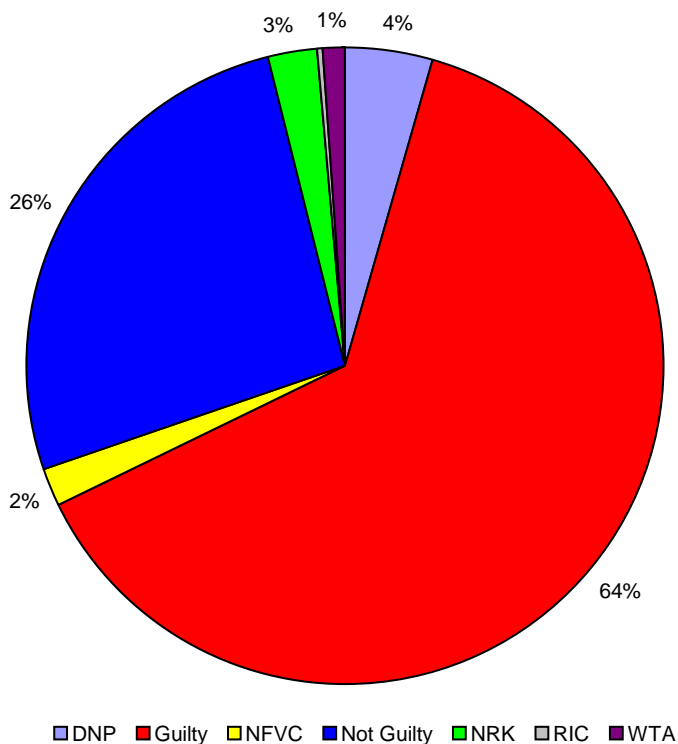


Figure: 15: Initial plea

In 64% cases, defendants pleaded guilty initially. Not guilty pleas were entered in 26% of cases. We are unable to make comparisons between this data and the national data available to us because we have only conviction rates (unrelated to plea) and only for MAF and BOP

charges. Even so, the WFVC has a higher rate of guilty pleas for all charges, than national rates of conviction for MAF and BOP.

Considering that guilty outcomes for not guilty pleas cannot be considered a success for coercing guilty pleas, the WFVC is evidently coercing more than the national average of convictions for MAF and BOP. To take account of any systematic patterns relating initial pleas to charges, we examined the distribution of pleas by NZP categories of charges.

We were able to match pleas to charges for 555 of the 606 charges: 182 not guilty pleas and 373 guilty pleas. Table 13 and Figure 16 represent the distribution of not guilty pleas for NZP charge categories.

Table 13: Not guilty plea by Police charge categories

Serious Assaults	79
Family Offences	24
Destruction of Property	15
Minor Assaults	14
Intimidation and Threats	13
Trespass	9
Disorder	8
Grievous Assaults	6
Sexual Attacks	4
Other	4
Kidnapping and Abduction	4
Against Justice	2
Total	182

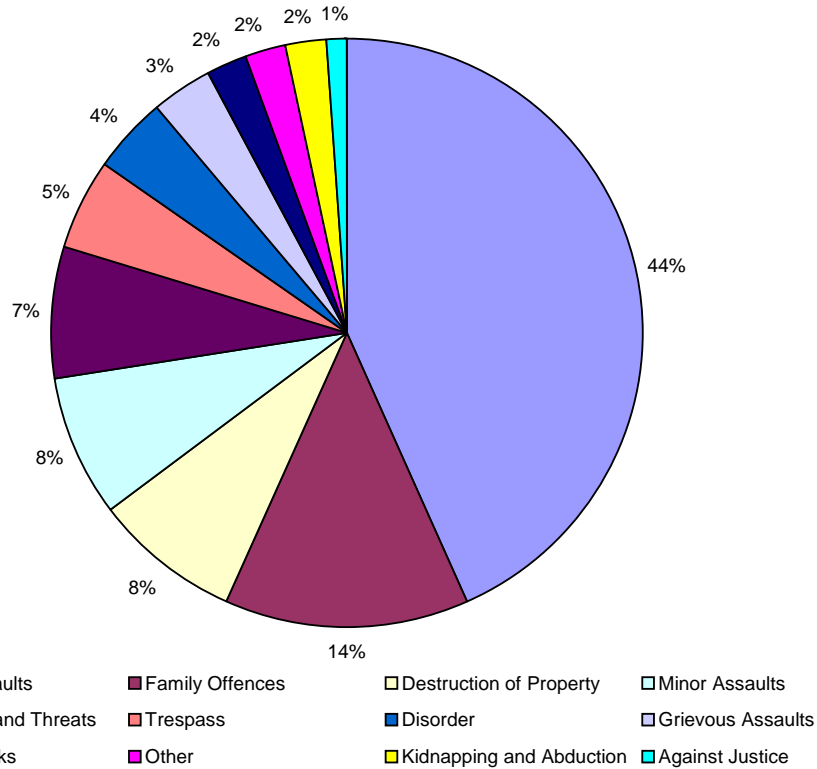


Figure 16: Not guilty plea by Police charge categories

Of the 182 not guilty pleas, 44% were for serious assault (includes all MAF) with other charges distributed between 1% and 14%. While the incidence of not guilty pleas for kidnapping, abduction and sexual attacks is relatively low (1-2%) they are most likely to be underreported offences, or lack sufficient evidence for prosecution especially if they do not result in physical injury. 120 of the not guilty pleas (66%) related to violence offences (1000 range) and sexual attacks (2600 range).

Table 14 and Figure 17 represent the distribution of guilty pleas by NZP category.

Table 14: Guilty pleas by Police charge categories

Serious Assaults	177
Minor Assaults	48
Family Offences	48
Destruction of Property	44
Disorder	24
Intimidation and Threats	14
Trespass	10
Against Justice	6
Grievous Assaults	2
Sexual Attacks	1
Kidnapping and Abduction	1
Intent to Kill	1
Total	373

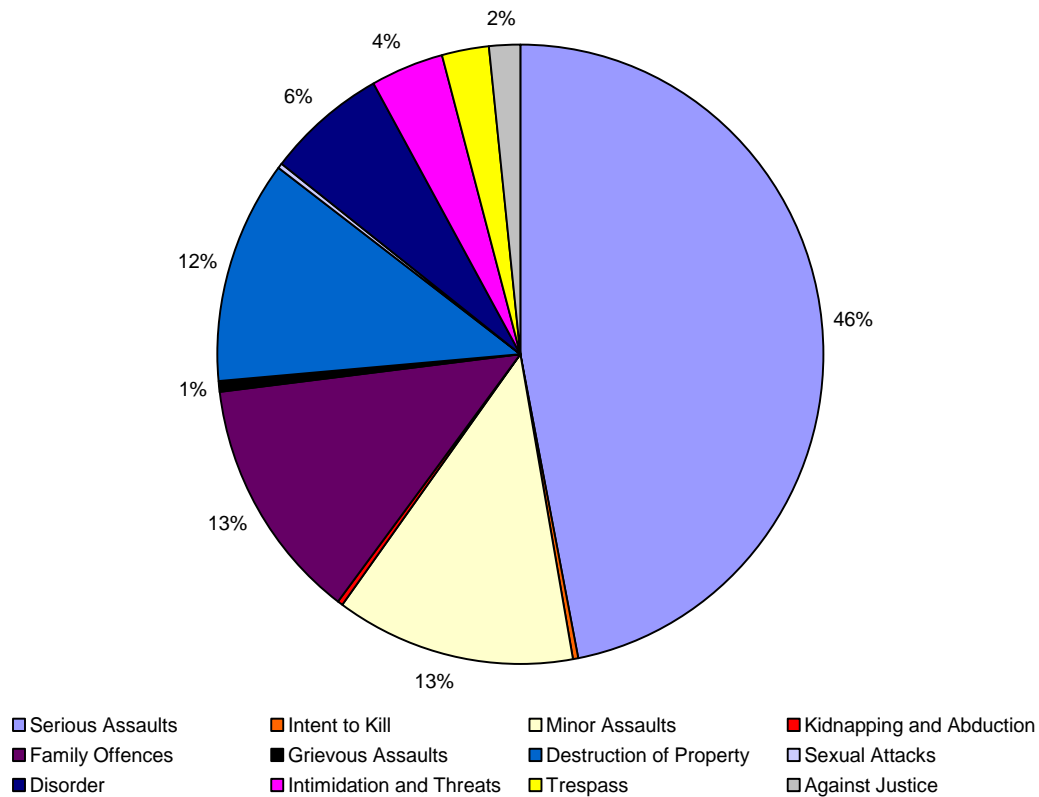


Figure 17: Guilty pleas by Police charge categories

Of the 373 cases where defendants pleaded guilty on first appearance, 46% pleas were for serious assault (includes all MAF) charges with other charges distributed between 1% and 13%. 65% of guilty pleas related to violence offences (1000 range) and sexual attacks (2600 range). The variance in the distribution of charges was not significantly different by plea. While this suggests that there is no particular difference among offences in relation to the coercion of guilty pleas, it is noticeable that the majority of charges associated with pleas are within the violence offences and sexual assault ranges (65%). This raises questions about how the charges that do not fall within these ranges are understood within the context of family violence. Arrests are clearly more common for violent offences, and it is possible that justice sector classifications of violence which do not take account of ongoing relationships between offenders and victims are influencing the determination of offences in family violence cases, and the number of cases that are withdrawn before pleas are made. Nonetheless, higher rates of guilty pleas than the national rates of conviction of MAF and BOP tentatively suggests that the WFVC is having some success in coercing guilty pleas.

When defendants plead guilty the Judge may refer them to a Community Intervention Service such as a men's programme for living free from violence, one to one counselling, or alcohol and drug counselling. Table 15 represents the distribution of referrals to Community Intervention Services for 349 cases during 2005-06. Although it is possible that some data is missing, this suggests that around 94% of guilty pleas involve recommended community interventions.

Table 15: Distribution of referrals to Community Intervention Services

Agency	Referrals
ManAlive	198
CADS	66
S9 (relationship counselling)	52
Other	33

57% of referrals are to ManAlive: the community service agency that provides stopping violence programmes and one to one counselling for men. Offenders referred to ManAlive are self funded so that resources for the programmes are provided by fees charged to the offenders, and supplementary support provided by community funding agencies. The high rate of referrals for guilty pleas suggests that the Court is having some success in concentrating specialist services for problem solving and therapeutic interventions. Questions of whether these programmes do coerce change that minimises damage to families are unable to be addressed without evidence from victims' experiences of safety within their families. However, by matching Viviana and ManAlive databases, we were able to examine how many programmes were completed for a sample of 125 cases which had data recorded. Of these 73 offenders (58%) had completed their programme by end of July 2006, 29 (23%) were still attending programmes and 23 (18%) had failed to complete a programme. How programme completion is related to re-offending will be addressed in the final section.

## **Sending a strong message: Convictions and Sentencing**

Convictions and sentencing are effectively able to send a strong message that family violence is unacceptable. At the same time the Judiciary need to take account of credit that the defendant should receive as a result of taking responsibility for his violence and protecting his family from further violence. Guilty outcomes for arrests provide the opportunity for convictions and sentencing to hold offenders accountable for their offences. Table 16 and Figure 18 represent the distribution of final outcomes for all incidents involving arrests.

Table 16: Final outcomes for all occurrences involving arrests

Guilty	358
Withdrawn	44
Dismissed	37
Ongoing	26
NRK	19
NFVC	7
DNP	6
	497

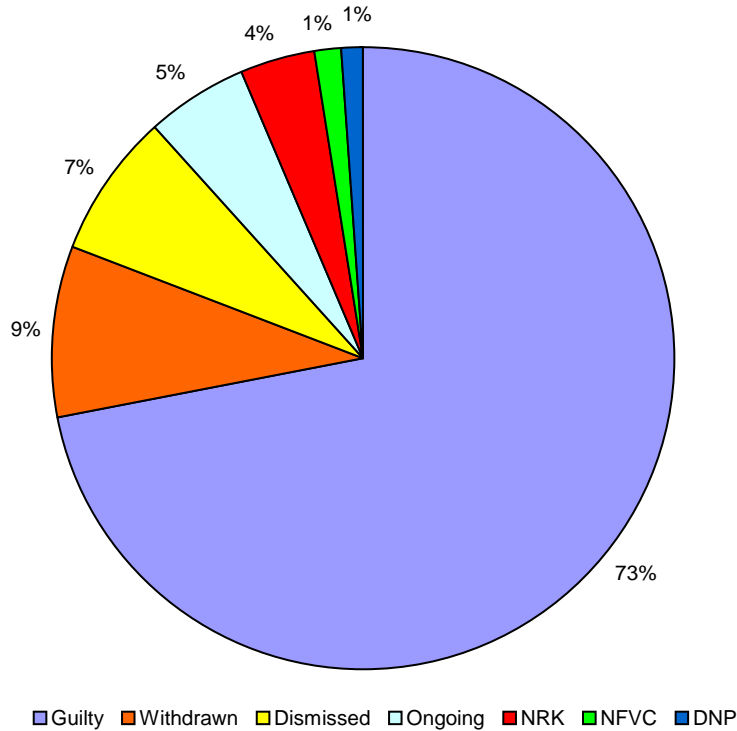


Figure 18: Final outcome for all occurrences involving arrest

Of the 497 arrest cases, 73% resulted in a guilty outcome. The next most common outcome categories were withdrawn and dismissed charges. The remaining outcomes do not add information on the effectiveness of the Court because they represent unresolved matters or missing data. Data on withdrawn charges were earlier reported in relation to plea changes and disposal times. Most withdrawn charges are withdrawn before pleas are entered. Where withdrawals are associated with a not guilty plea they may indicate a failure to protect the victim from intimidation or coercion. We examined outcomes from the 130 available cases of not guilty pleas to consider the extent to which defended hearings influence the overall pattern of withdrawal and dismissal of charges. Table 17 and Figure 19 represent the distribution for all arrests involving an initial plea of not guilty.

Table 17: Final outcomes for not guilty pleas

Guilty	61
Dismissed	32
Withdrawn	24
Ongoing	9
No record kept	4
Total	130

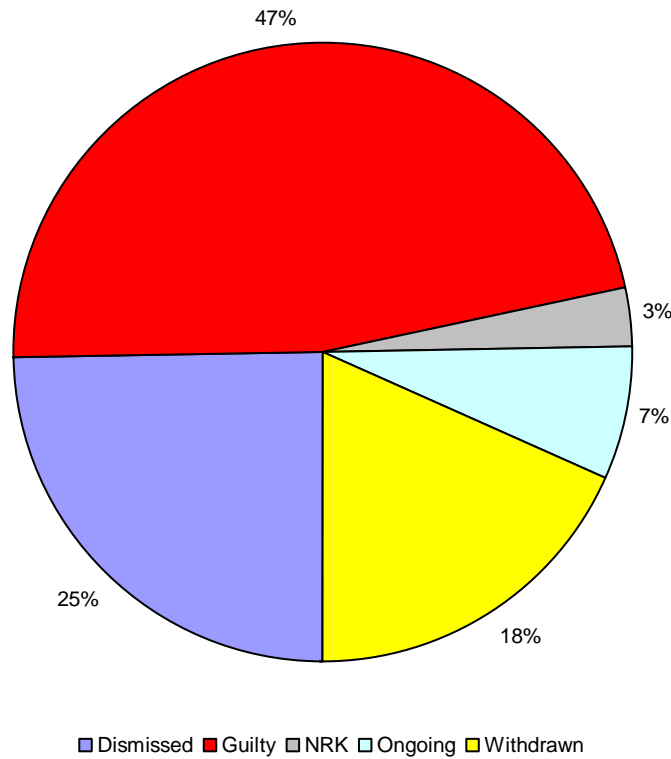


Figure 19: Initial not guilty plea by outcome

Considerably more of the outcomes for not guilty pleas involve dismissals and withdrawals than is the case for all arrests. It is also noticeable that 47% of not guilty pleas result in guilty outcomes, suggesting that there were a number of offenders who did not take advantage of the opportunity to plead guilty and take responsibility for their offences that is offered by the Court.

Not all offenders who plead or are found guilty of charges are convicted. Conviction rates are affected by Section 106 sentences which enable a discharge of the case without conviction. Data on sentences were derived from a textual field and we were able to identify 323 cases with adequate data to be classified by sentence type. Table 18 and Figure 20 represent the distribution of sentence types for all guilty outcomes.

Table 18: Sentence types by guilty outcomes

S112: Non association order	3
Fine	14
S108: Conviction and discharge	16
Supervision & Community Work	20
Prison	27
Community Work	41
S106: Discharge without conviction	49
Supervision	49
S110: Come up for sentence if called upon	104
	323

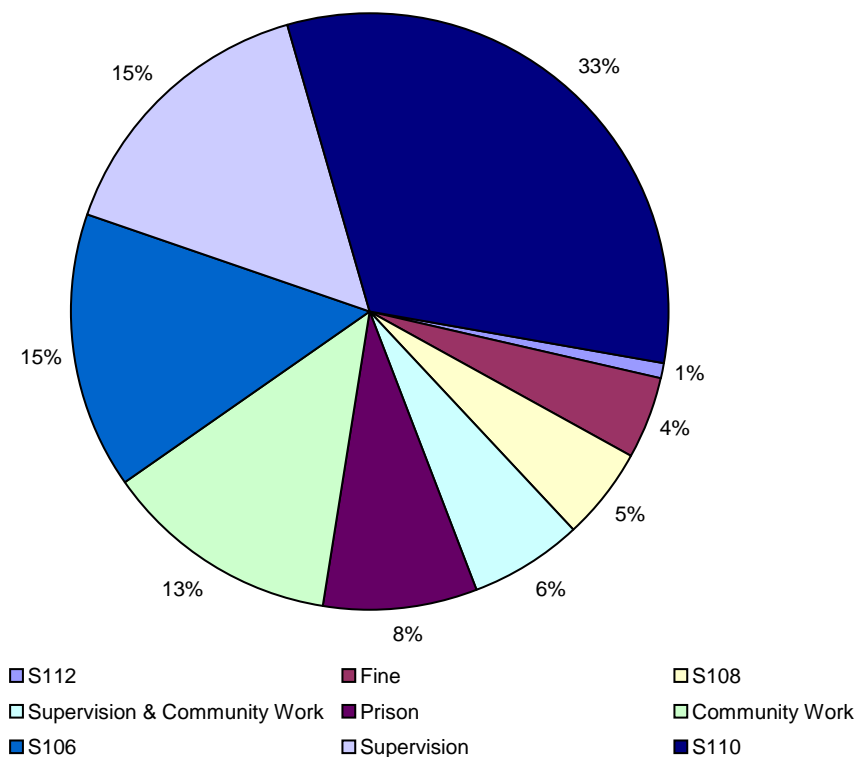


Figure 20: Sentences types for guilty outcomes

49 cases (15%) involved Section 106 discharges without convictions. For the 497 cases which were accessible through Viviana’s database convictions were recorded for a total of 274 (55%). We were unable to match sentences to charges systematically with the available data and so we could not isolate MAF and BOP convictions. This prevents us from being able to compare conviction rates to national data. However, the convictions that resulted from these cases do leave a record of family violence which demonstrates the Court’s commitment to take family violence offences seriously. The “footprint” of the offender’s conviction makes it more likely that re-offending will be recorded as such. Discharging offenders who have been found guilty without a conviction obscures records of re-offending, making it difficult to hold offenders accountable in the context of patterns of ongoing violence in family relationships.

In the final section we examine the data available from Viviana's database on repeat incidents and re-offending. Matched data from the ManAlive database was used to supplement this analysis.

## Repeat incidents and re-offending

### All cases

Of 497 cases for which we had data, 307 (62%) recorded no further family violence occurrences for the year. 190 (38%) recorded at least one other family violence occurrence following the first recorded arrest in that year. Among these, 116 (61%) cases involved at least one other offence resulting in arrest. Table 19 represents the distribution of repeat incidents and repeat arrests across the 497 cases.

Table 19: Repeat incidents and repeat arrests for all cases

Count	Arrests									
	0	1	2	3	4	5	6	7	8	Total
Incidents	0	1	2	3	4	5	6	7	8	Total
0	307	45	11	2	1	1				367
1	45	15	3							63
2	16	10	5	3						34
3	9	3	1							13
4	1	3	1	1						6
5	2	3	2							7
6						1	1	1	1	4
7		1								1
8			1							1
9	1									1
Total	381	80	24	6	1	2	1	1	1	497

It is apparent that in most cases there is no record of offenders being involved in another reported incident or arrest involving the same victim within the same year. However, a total of 788 occurrences<sup>6</sup> were recorded for the 190 cases in which repeat occurrences were identified. 45 cases involve one further incident but no arrest, and 45 involved an arrest. 100 cases involved more than one incident or arrest. Figure 21 represents number of recorded repeat arrests and incidents by cases

<sup>6</sup> This represents 42% of the 1865 occurrences recorded for the year. However, this is not an accurate measure of repeat victimisation or repeat occurrences recorded because we have excluded occurrences prior to July 2005 in calculating this rate. 265 cases from the database recorded first incidents prior to July 2005.

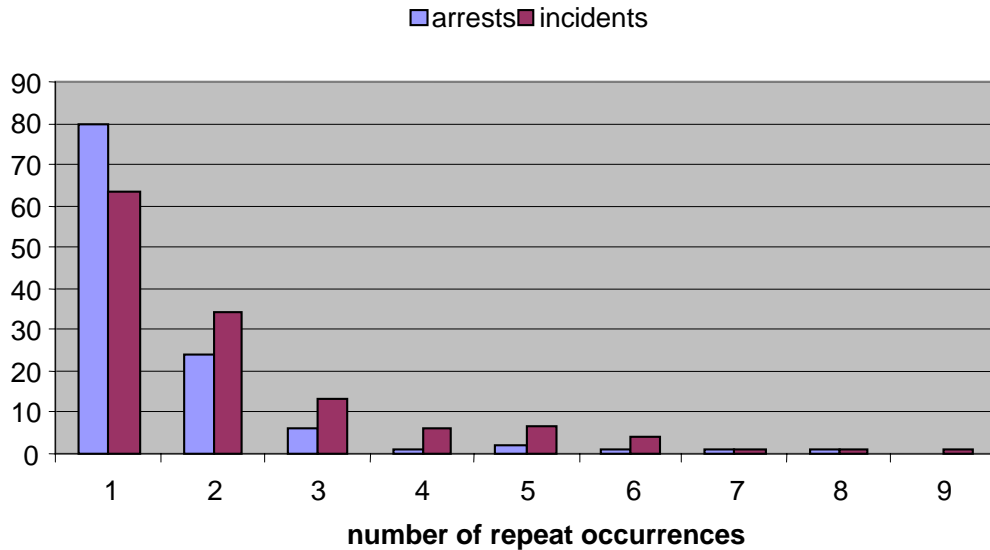


Figure 21: Repeat incidents and arrests

More cases involve fewer repeat arrests and offences. While very few defendants were involved in 8 or 9 repeat occurrences, six cases (0.01%) involve more than 4 arrests and 20 (0.04%) involve more than 4 incidents. Cases involving arrest are more frequently recorded than cases involving incidents for one or two re-occurrences. When occurrences are repeated more frequently, the rate of arrest to incident decreases: when one occurrence is recorded there are 1.23 arrests for each incident. When occurrences are recorded seven times, there are 0.25 arrests for each incident. While more arrests are made when more incidents are reported, multiple reporting of incidents appears to be related to lower arrest rates at between three and seven recorded re-occurrences. There are a number of potential explanations for this pattern, including the possibility that women confidently report more incidents even if arrests do not result from these reports; that offenders re-offend more seriously but less frequently after the first legal intervention into their relationship; that police send a message that violence will be taken seriously by arresting on first or second occurrence, but more frequent recurrence may indicate that repeat arrests are seriously compromising a woman's safety. Information from victims and police in the Henderson District is needed to provide an adequate response to the question of how successfully the Court is achieving its aims of holding offenders accountable while protecting victims.

From the data we have analysed it is possible to say that the majority of cases where clients' partners were arrested in 2005-2006 there were no further recorded family violence occurrences reported in that year. However, we cannot conclude that in the majority of cases victims are apparently safe: it is possible that many are simply not reporting any further incidents of violence. For the minority that do record more reports of violence there were a total of 788 occurrences associated with 190 cases. Repeat incidents and re-offending clearly suggest an ongoing pattern of violence which compromises victim safety.

Prior research has emphasised victim's risk further harm subsequent to arrest (Holder & Munsterman, 2002; Miller, 2003). We examined available data on the time lapse between first arrest and subsequent occurrences to see how reported re-occurrences were distributed over time since the arrest. Figure 22 represents the frequency of repeated occurrences as a

function of the time between first arrest for the year and subsequently recorded incidents and arrests (in months).

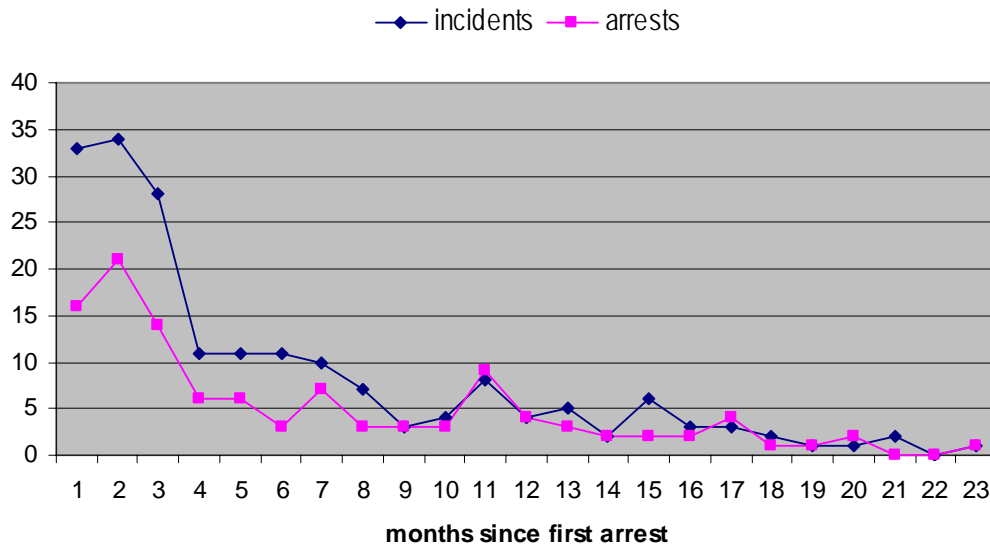


Figure 22: Repeated occurrences (incidents and arrests) over time (months) from first arrest

In the three months immediately following arrest, there are a total of 146 re-occurrences recorded. It is clear from the trend in this data that more re-occurrences are reported closer to the time of the first arrest and over time fewer are recorded. If the trend represented in Figure 18 accurately represents the repetition of harm for some Viviana clients, and is not an artefact of reporting trends, then it provides evidence that some offenders are more likely to re-offend close to the time of arrest. Evidence from victims' accounts of their experiences of safety is necessary before drawing a clear conclusion that this trend is not related to reporting trends rather than actual family violence occurrences.

Figure 23 represents the frequency of repeated occurrences as a function of the time between sentencing for the first guilty conviction of the year and subsequently recorded incidents and arrests (in months).

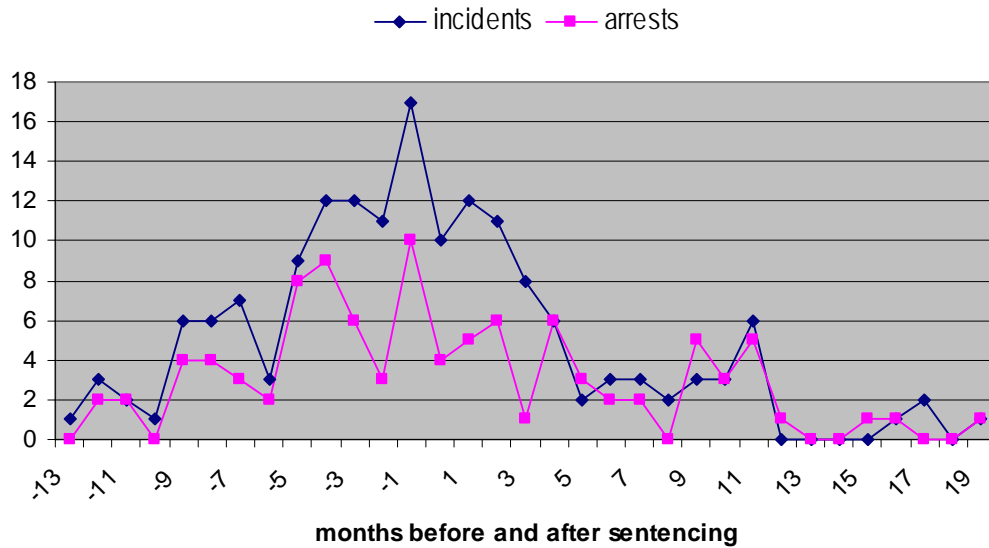


Figure 23: Repeated occurrences (incidents and arrests) over time (months) before and after sentencing for first arrest

Sentencing is represented here as the 0 point on the X axis. To the left are the months leading up to sentencing and to the right are months subsequent to sentencing. In the three months from -1 to +1 month around sentencing there were 58 re-occurrences reported indicating a 'peak' in repeat occurrences around sentencing. In considering re-occurrences in relation to sentencing, it is worth noting that the total number of re-occurrences reported around the time of arrests is higher than the total number reported around the time of sentencing overall.

It is apparent that reported repeat incidents and repeat arrests are highest prior to and after sentencing. Again, it is possible that this represents an artefact of reporting trends. However, the data suggests that we have good reason to pursue the question of victims' safety around the time of arrest and the time of sentencing.

In the final section of this report we consider the data matched from ManAlive's database to examine statistical evidence of re-occurrences among offenders referred to the programme.

### ManAlive Cases

We were able to match a total of 219 offenders referred to ManAlive during 2005-06 with client records from the Viviana database. This enabled us to examine how many cases involving repeat occurrences of family violence by the same offender involved men who had attended programmes. We were also able to compare repeat incidents and arrests for those who had completed programmes, those who had not completed, and those who were continuing in programmes.

In relation to these statistics it is noteworthy that they are not indicative of the success of ManAlive programmes, or the Court's protocols, in preventing re-offending and repeat incidents of family violence. As with the statistics presented earlier, these results can only indicate cases where intimate violence occurrences have been reported. Whether increasing or decreasing reporting rates represent increased safety for women and improved accountability for offenders

depends on whether or not victims feel safe to make further reports after a legal or social intervention. In a social context where underreporting rates are estimated at 45%, as in Henderson, it is possible that increased reporting represents the best indicator of success in holding men accountable for violence against their women partners. Therefore, we cannot assume that higher levels of reported occurrences represent higher levels of actual occurrences of family violence.

Of the 219 ManAlive clients who were matched with the Viviana database, 122 had no further records of occurrences (56%). In 97 cases there was at least one occurrence recorded on the database, with 60 ManAlive clients having at least one subsequent arrest recorded (27.5%). Since prior analysis suggests that re-occurrences may be more likely to be reported closer to the time of arrest it is possible that in many of these cases re-occurrences were reported prior to the defendants attending a ManAlive programme. So that we could systematically related reported re-occurrences to programmes rather than referrals, we examined cases where we had enough information to ensure that we could distinguish between those who had attended programmes, those who had not attended, and those who were continuing in programmes. Since starting dates for defendants' attendance at programmes were not available for some cases we were only able to obtain the necessary dataset for 125 of the 219 cases (57%). Table 20 and Figure 24 represent the distribution of reported re-occurrences according to programme status for these 125 cases.

Table 20: Repeat occurrences by programme attendance status (ManAlive clients)

	Failed to complete programme (1)	Still attending programme (2)	Completed at least one programme (3)
No further occurrences	8	16	45
Recorded at least one incident	7	5	12
Recorded at least one arrest	8	8	16
Total	23	29	73

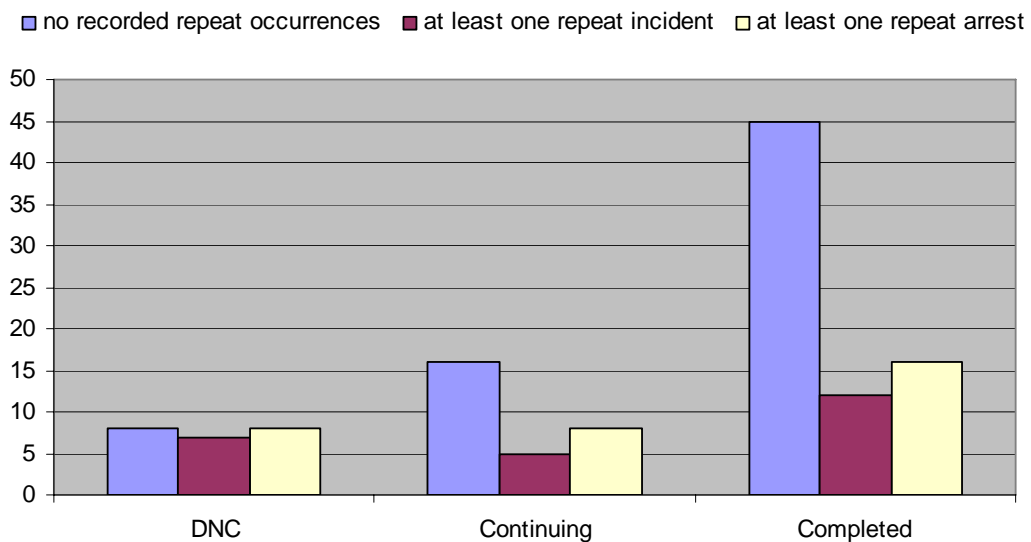


Figure 24: Repeat occurrences by programme attendance status (ManAlive clients)

58.5% of cases involved completion of at least one programme, and 23% involved continuing programme attendance. Of the minority (18.5%) who failed to complete programmes, 65% recorded repeat family violence occurrences. 45% of those still attending programmes and 38% of those who had completed programmes had recorded repeat occurrences. While it is still necessary to investigate the consequences of programme attendance for victim's safety, these statistics suggest that programme completion is associated with reductions in reported re-occurrences.

## Where to now?

In this final section we discuss the ways in which the quantitative data derived from Viviana and ManAlive databases informs answers to a limited set of questions related to systematic delays, victim protection and holding offenders accountable: three dimensions of the aims of the Waitakere Family Violence Court.

Overcoming systematic delay is particularly important in family violence cases because the ongoing relationship between victim and defendant may involve ongoing risk of harm and further damage to families. Overcoming systematic delay has a particular importance in relation to not guilty pleas because of the risk that defendants will manipulate, threaten or coerce victims so that charges are withdrawn or dismissed. The statistical evidence from the database affirms that withdrawals and dismissals are common outcomes of defended hearings<sup>7</sup>. Although the majority of defended hearings took less than six months from incident to disposal, less than 20% were disposed within the 3 month time frame recommended for family violence cases before District Courts. Such time delays provide considerable opportunity for victims to be further harmed. The statistical analysis affirms that re-offending is reported within the same year in more than a third of the analysed cases, and that there were peaks of repeat occurrences around the time of arrest and sentencing. Reducing the time between arrest and sentence may reasonably be assumed to decrease opportunities for further harm, yet the statistical evidence does not allow us to interpret whether the potential for further harm is realised during delayed Court proceedings. Further research with victims, and research with police and advocates on their understanding of victims' willingness to report, is necessary to provide a clear interpretation of the influence systematic delay on damage to families.

The Court aims to coerce guilty pleas so as to hold offenders accountable. Coercing guilty pleas may also reduce the risk of defendants using the delays associated with defended hearings to manipulate, threaten or coerce victims so that charges are withdrawn or dismissed. That 47% of defendants in defended hearings are found guilty suggests that there is further scope for coercing guilty pleas. None-the-less, 63% of cases involved an initial guilty plea and in 17% of initial not guilty pleas the defendant changed their plea before the defended hearing proceeded. The statistical analysis indicates that the Court is having some success at coercing guilty pleas.

In relation to systematic delay, more than a third of guilty pleas were disposed within the time frame recommended for *all* family violence cases, including defended hearings. However, the majority of these cases involved monitoring by the Judiciary and fewer of the monitoring cases were disposed within three months. Monitoring is a strategy of therapeutic intervention and holding offenders accountable, and does not aim at overcoming systematic delay. The statistical evidence affirms the Court participants' concerns that monitoring delays the time lapse from incident to sentence. However we do not have any evidence related to the effect of monitoring on victim safety or damage to families. The available statistical evidence suggests that in the vast majority of cases of intimate violence, victims rely heavily on bail conditions as legal recourse to protection. Whether or not monitoring improves victims' safety through

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<sup>7</sup> Recently implemented changes to the Evidence Act (2006) may impact on the rates of withdrawals both before pleas are entered, and for not guilty pleas, if they effectively protect victims from manipulation, coercion and threats.

protective bail conditions cannot be addressed by the statistical evidence and requires understanding the monitoring process from victims' points of view. Since the statistical evidence that suggests monitoring is associated with delays between arrest and sentencing, victims' experiences of safety during monitoring are vitally important to evaluating the Court's success in holding offenders accountable and protecting victims.

Monitoring is intended to coerce treatment and send a message that family violence is taken seriously. The statistical evidence in this study can only provide limited evidence on coercing treatment: In the majority of cases ManAlive referrals resulted in attendance at and completion of programmes. In the minority of cases where programmes were not completed records of repeat occurrences were more common. Yet nearly 40% of programme completions involve at least one repeat occurrence. Given this rate of reported reoccurrences it is critically important to find out how successfully monitoring is protecting victims during delayed Court proceedings. It is noticeable that for cases involving ManAlive referrals, there were more arrests than incidences among recorded reoccurrences. This relationship also needs further investigation to find out how programme attendance influences victim safety and reporting of repeat occurrences.

From the pattern of repeat occurrences recorded by Viviana during 2005-2006 it might be expected that an improvement in arrest and conviction rates, indicating more success at holding offenders accountable, would systematically increase the volume of cases through the Court. The statistical analysis found a strong relationship between delay and increasing case volume. Resources that take account of volume increases resulting from increasing identification and reporting of family violence offences, as well as re-offending associated with arrest and conviction would minimise the potential for systematic delay to be damaging to families.

In the preliminary study some Court participants were concerned that sentencing leniency, especially Section 106 discharges without conviction, failed to send a message that family violence is taken seriously by the Court and failed to provide the Court with a record of previous convictions if further arrests occur, as they do in many cases. Sentencing leniency provides the incentive for defendants to plead guilty and cooperate with Judges' recommendations for treatment. It is intended to assist in holding offenders accountable to the Court for their offences, and for addressing the psycho-social problems underlying their offending. However convictions are critically important to holding records of offences. Given that we have no statistical evidence that can inform our understanding the relationship between reported repeat occurrences and victim safety, further information is needed to evaluate whether sentencing leniency is influencing re-offending.

It has not been possible to make comparisons between available national and regional data and the information held on the Viviana database. Statistical evidence is also limited by differences in the conceptualisation and recording of information on family violence occurrences, arrests and convictions. The extent and character of family violence is difficult to represent, statistically, when violence itself is understood differently by various state and community agencies involved in collaborative intervention. We noticed, for instance, that many of the charges involved in arrest cases were not formally classified as violent offences in the Justice Sector, and yet they were understood as behaviours in an ongoing pattern of violence by various professional, state and community agents who participated in the preliminary evaluative study. Clarity and consistency in conceptualisation are critical dimensions of effective measurement, and in as much as the Court relies on statistical evidence for feedback

on the successes and challenges faced in implementing its protocols and meeting its aims, there is a need for a consistent and clear approach to gathering the statistical data to provide that feedback.

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## Appendix A: Method

### Ethical Issues

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The ethical principles that underlie the Massey University Code of Ethics inform the ethical conduct of this study. The guidelines of *Massey University Code of Ethics* necessitate that care be given to ensure informed consent, confidentiality, avoidance of harm and deception, social and cultural sensitivity, and understanding that the rights of participants supersede those of the researchers.

The data used in this project is the property of Viviana, an outreach of Western Refuge. ManAlive, a provider of stopping violence programmes and counselling services for offenders also supplemented the primary data. Consent was given for the data to be used for this report. Viviana and ManAlive collaborated with the researchers to set the objectives of this project and therefore were fully informed of the process and terms of the research. Principles of information sharing for the purpose of stopping family violence informed our negotiations.

### Viviana Data Generation

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Viviana returned to Court under the most recent Court Protocols in September 2005 (Morgan, Coombes, & McGray, 2007). At this time they began to record the details of court proceedings for defendants appearing before the court for matters that involved any of their clients. The data collected in the Court manually is later transferred to their FileMaker Pro database located at their office in Henderson. Data is usually transferred to the database within a working day of the Court appearance. The need to transpose the data subsequent to its collection means that there is more risk that data will be missing, or incorrectly entered. The data directly related to court proceedings of defendant is entered into text field called court record, and includes plea, bail conditions, next court appearance, monitoring, any courses recommended to the defendant attend, case outcome and sentencing details.

In addition to Court data, Viviana also records information related family violence incidents involving clients from POL400s. Information on Police arrests that have been processed as family violence cases has been available to Viviana since 2003. This includes charges, date of incident, defendants name and defendant's date of birth. In some cases a risk assessment score for the victim has also been recorded. Risk assessments are completed by Viviana staff based on the assessment instrument that is included in POL400s.

The Viviana database is kept for the purpose of assessing victim safety and providing appropriate advocacy. It is victim focused and does not provide extensive information on defendants. So, for instance, data does not allow for charges to be linked to sentencing because multiple charges are often combined for a particular offender and one sentence is given. Without focusing on data relevant to particular offenders we do not have the information necessary to examine patterns of sentencing within and between charges. Institutions primarily concerned with holding offenders accountable for their offences may hold this data however we were not able to access it for this study.

Data held in the database is not intended for research purposes. Viviana collect this data to assist in providing victims with information about the Court process and outcomes and the Court with information on victim safety to assist in judicial decision making. This is operational data needed for the day to day advocacy service provided to victims and the Court and has not been kept for the purpose of research. Data entry is not standardised and comprehensive. To enable us to use the data for research it has been re-coded and there is the potential for incorrect coding, especially where long text fields, such as outcomes, were transposed into categorical variables, such as sentence type. The recoding process is described below. Any findings from this analysis can only be regarded as indicative.

## **Coding Process**

The original database was produced in FileMaker Pro 6. Data was entered into categorical and textual fields recording information about the client, the incident and court process to outcome, and including repeat incidents or offences. Selected data fields were exported from this database into Excel format for all incidents that occurred between 1<sup>st</sup> July 2005 and 30<sup>th</sup> June 2006. This time period was chosen to ensure the time lapse between the earliest incidents and data collection was sufficient for most cases to have been disposed, noting that some participants in the preliminary study thought that cases may take up to 18 months. Time lapses may also be affected by re-offending and the prosecution of further charges before the first offence is disposed.

The fields of information selected from the database included incident identifiers, numbers, dates, record of POL400 referral, the incident status, relationship between victim and offender, the client's date of birth, risk score based on Viviana's assessment using the POL4000 risk instrument, and a series of categories derived from the incident and Court record fields, such as charges, bail conditions or sentence, conviction, withdrawal or dismissal dates.

All Excel data was imported into a table in Access. The table was then split to create two field tables by incident status: non arrests and arrests. For the purposes of this study, no further processing of non arrest data was undertaken since only the arrest data is relevant to the Court processes.

The separated arrest data was then manually entered into expanded fields for incident types and Viviana's record of Court process and outcomes. The Incident Type field was expanded by specifying the charges which had resulted from the incident. Charges were coded into categories based on police data and Ministry of Justice data. This resulted in sixteen incident type categories that were used to manually recode the data from the textual field. The field recording Court processes and outcomes was expanded to eighteen variables to specify different aspects of the data such as; dates of the first record, pleas, plea changes, charge changes, referrals, sentencing dates, sentencing type, repeat incidents and repeat arrests. Sentence duration was calculated from data when available and entered as a new field in Access. Table 20 shows the coding names for the final Access fields for data in arrest cases and the names of the FileMaker Pro fields from which they were derived.

Table 21: Project fields and arrest case codes (Viviana data)

Access Field Name	FileMaker Pro Field Name
ClientID	Client ID
IncidentID	Incident Serial
Number	Incident Number
IncidentDate	Incident Date
BPO	Incident Type
MAF	Incident Type
TTKill	Incident Type
WDamage	Incident Type
IntentDamage	Incident Type
Trespass	Incident Type
ThreateningBehaviour	Incident Type
Kidnapping	Incident Type
SexualViolation	Incident Type
CAssault	Incident Type
AssIntentInjure	Incident Type
Intimidation	Incident Type
DomesticUnknown	Incident Type
VerbalOffence	Incident Type
AssaultOnAChild	Incident Type
AssaultWWeapon	Incident Type
AdminJustice	Incident Type
AgainstGoodOrder	Incident Type
OtherCharge	Incident Type
POL400	POL400
Status	Incident Status
FirstRecordDate	Court Record
InitialPlea	Court Record
Monitoring	Court Record
PORS	Court Record
WTA	Court Record
RIC	Court Record
ChCharge	Court Record
CPlea	Court Record
DHDate	Court Record
DEPDate	Court Record
CADs	Court Record
MA	Court Record
S9	Court Record
OtherCourses	Court Record
#CA	Court Record
Multiln	Court Record
FinalOutcome	Court Record & Incident Outcome
SentenceDate	Court Record
SentencingType	Court Record

SentenceDuration	Calculated field
RNonArrest	Incident Number & Status
RArrest	Incident Number & Status
NonArrestDate	IncidentDate
ArrestDate	IncidentDate
Relationship	Relationship
DateofBirth	Date of Birth
Fullname	Full name
RiskScore	Risk Score
POinPlace	PO in Place

## ManAlive Data Generation

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To enable us to match data between the Viviana and ManAlive databases, ManAlive provided us with a report on specific fields derived from their database. We received an Excel database containing information on the client's source of funding, their programme type, programme start dates whether their programmes were completed. We were able to add information on whether or not particular clients had previously attended programmes by identifying duplicate entries for the same client ID number. We added this information to the raw data provided by ManAlive. We were unable to obtain information on charges. Table 22 provides the coding names of the data we received with the additional information on previous programme attendance.

Table 22: Data provided by ManAlive

ReferralID	[number]
Referrer	Self/Probation/WInz
ClientID	[number]
First Name	[name]
Last Name	[name]
Programme	LWV Group/ LWV Individual/Other Individual
ProgStartDate	DD/MM/YY
Status	Completed/DNC/Ongoing
PreviousProg	Yes/No
PreviousProgStatus	Completed/DNC/Ongoing

The ManAlive Excel data was also imported into the Access table. Access queries were run to provide answers to each of the specific questions outlined in the introduction.