



Family Violence Bail (FVB) pilot evaluation

Final report

November 2019



ALLEN+CLARKE

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EXECUTIVE SUMMARY

This report presents the findings of the evaluation of the Family Violence Bail (FVB) pilot. The pilot was a judicial initiative led by Judge John Walker with the support of the Ministry of Justice (MoJ) and the New Zealand Police (Police). It was introduced to two courts (Porirua and Christchurch) in 2015 and has since been rolled out to 12 others, most recently to Waitakere in 2018. The pilot's focus is to achieve more informed decisions about bail in family violence cases through providing Judicial Officers with relevant, timely and consistent information to allow them to assess risk, and thus make decisions that are more likely to increase victims' safety.

The purpose of this evaluation is to provide MoJ with information on the outcomes of the FVB pilot, effectiveness of its process and impact on stakeholders since its implementation. Specifically, the evaluation sought to investigate whether the pilot is achieving its aim of assisting Judicial Officers to make more informed bail decisions, alongside the impact of its introduction on stakeholders. It will also be used to assist with decision making on the future of the initiative.

To do this, the evaluation posed four Key Evaluative Questions (KEQs) focused on: the extent to which the pilot was achieving the intended outcome of safer bail decisions (KEQ1), the impact it has had on key stakeholder groups (KEQ2), the effectiveness of its practical application (i.e. processes and activities) (KEQ3), and what are the learnings and improvements to be made (KEQ4).

These questions were addressed through:

- Quantitative analysis of MoJ's Case Management System (CMS) data and Police data on alleged bail breaches and analysis of this data using a quasi-experimental difference-in-difference study design which investigated differences between pilot and non-pilot courts in:
 - possible differences in the likelihood of being remanded in custody
 - strength and number of family violence-relevant bail conditions imposed if bail is granted
 - likelihood of breaching family violence-relevant bail conditions
 - likelihood of family violence-relevant reoffending occurring while on bail
- An analysis of a Judicial survey undertaken on the pilot and completed by 41 Judicial Officers (35 Judges and six Community Magistrates – of which nine had been involved in the FVB pilot) in late 2018/early 2019
- Seven interviews with ten national-level stakeholders
- Analysis of 24 active family violence case files from two District Courts (Whangarei and Waitakere) – 12 active family violence case files were randomly selected from a sample of 30 at each court
- Seventeen regional stakeholder interviews with 39 stakeholders – court staff, Victims Advisors and relevant police personnel – at Whangarei, Waitakere, Rotorua and Porirua District Courts.

KEQ 1: To what extent has the FVB pilot achieved its intended outcomes?

The evaluation found that the pilot was making progress towards achieving 'safer' bail decisions in pilot courts. 'Safer' bail decisions were defined as more stringent bail conditions set, defendants being more likely to be remanded in custody, and defendants being less likely to breach bail conditions or reoffend while on bail. The quantitative data analysis found there was a slight increase in remands in custody at pilot courts and number of and strength of FV-relevant bail conditions imposed if bail was granted. However, the term 'safer' proved difficult to definitively assess, as more stringent bail conditions may not necessarily be safer, as reflected by some stakeholders. Furthermore, certified bail breaches are more common at pilot courts, though this is a small effect.

Complementary to the quantitative findings, the majority of Judicial Officers in their survey responses reported that Judge's Packs aided decision making, and qualitative stakeholder data also supported this view. The majority of stakeholders felt this meant that bail decisions were safer, alongside reports that the pilot had led to a shift toward more remands in custody or more stringent bail conditions for defendants in family violence cases, or, bail outcomes that were more proportionate to the risk faced by the victim.

KEQ 2: To what extent has the FVB pilot impacted key stakeholder groups?

The evaluation sought to understand how the FVB pilot had impacted various stakeholder groups who are involved:

- Judicial Officers indicated that they had a better understanding of family violence as a result of the pilot¹, though because their responses were limited to the Judicial survey, there was little evidence to support whether this was the case across the pilot courts.
- The evaluation found that for Officers in Charge (OIC) and Police File Management Centre (FMC) personnel there were some workload impacts associated with preparing additional information for court.
- Legal defence personnel were not very aware of the Judge's Packs and it was not clear if they should be viewing the information. Legal defence personnel said that this impacts on fair process in the Justice system (i.e., Police Family Violence Summary Reports (FVSR)s containing information not specific to the case before court), and their professional practice (i.e., if new information comes to light during the court process that they had previously been unaware of).
- Defendants may occasionally be impacted by delays in the court process if a Judge's Pack has not been provided, or if more information comes to light during the court process that they then need to discuss with their legal representative. This may mean defendants are held in custody for longer, or their bail application is different.
- Victim's Views were seen as important, though there were mixed views on how Judicial decision making is impacted by Victim's Views.
- There was little apparent impact for court staff, but most were aware of the importance of the Judge's Packs.

¹ The criteria for a better understanding of family violence is informed by the assumption that if Judicial Officers have a better understanding of family violence, then they are more likely to make safer bail decisions.

- Police prosecutors were generally not aware of Judge’s Packs, particularly the Family Court information – and they were particularly critical of the use of Police FVSRs for reasons noted above.

KEQ 3: How effective are FVB pilot processes and activities?

The evaluation explored three key criteria related to the processes of the FVB pilot: accuracy and completeness of Judge’s Packs, timeliness of provision to Judicial Officers, and feasibility of the process moving forward.

A review of Judge’s Packs from family violence cases showed that these were mostly complete, but there was variation between the pilot courts where this information was gathered – for example, one court routinely did not include a Police FVSR, but included a different document that detailed family violence incidents. Family Court information was rarely missing from the Judge’s Pack case analysis, but a few stakeholders said that Family Court information was not routinely obtained in a few pilot courts that were not part of this evaluation. Cover sheet checklists were not often completed or accurate. Furthermore, stakeholders noted that there may be an illusion of completeness of information (particularly in relation to Police FVSRs lacking some specific detail) for making decisions about bail, if Judicial Officers take the information from a Judge’s Pack at face value.

Judicial survey findings showed that a majority of Judicial Officers agreed that Packs were provided in a timely manner. There was variation across the courts in relation to timeliness of provision of the Judge’s Packs to Judicial Officers. One court was able to mostly deliver Judge’s Packs to Judicial Officers before the morning list court begins, but in the other three courts stakeholders said that Packs were not always ready or delivered on time. This impacts on Judicial Officer’s preparedness for hearings and can also impact on legal personnel and Police prosecutors – who may not always have access to the information in the Packs, or awareness of what is in the Packs.

With regards to the feasibility of the FVB pilot, there is a workload burden when it is first introduced in a court, and it was said to take approximately six weeks before it becomes business as usual. The impact on the workload of court registrars is cumulative – it depends on other workload, staffing levels, and the number of family violence arrests the night before. Some stakeholders signalled that understanding the purpose of the Judge’s Packs was important, as it could assist with buy-in to the process.

KEQ4: What can be learned from the FVB pilot to inform decisions about its future?

The evaluation also assessed what was working well, what was not working as well, and what stakeholders felt could improve the FVB process.

Components of the FVB pilot that were strengths or working well included the value that Judicial Officers placed on the Judge’s Packs and the information they provided. Other stakeholders believed that the Packs assist decision making, and statistical analysis indicates that the pilot may be making a (small) difference to decisions about bail.

What was not working well for the FVB pilot included a lack of clarity about the process amongst some stakeholders, which led to inconsistency in the implementation of the pilot across different pilot courts (where there was clarity, the pilot worked well). The FVB pilot also put pressure on the ability of Judicial Officers and other personnel to effectively prepare for court, in that it provides more information to review and consider on top of heavy workloads. Training prior to

implementation of the pilot was minimal, and there was little follow up. There also appeared to be some variation across pilot courts in terms of uptake of different components of the pilot.

Suggested improvements from stakeholders included that Judge's Packs should be provided in a more timely fashion, i.e., before court. Court processes could also be adjusted to ensure that the FVB process works more effectively. Legal defence personnel should have access to the same information as Judicial Officers to ensure that the Judicial process is fair for defendants. Stakeholders suggested that registrars should not be hearing family violence cases because it places an undue burden on their position due to the risk and consequences of family violence reoffending while on bail. Stakeholders noted that information from the Judge's Packs could be useful in different circumstances such as providing useful information to Victims Advisors, Corrections personnel, and for Judicial Officers in later hearings. Police FVSRs were said to contain information that was not specific enough which should be improved and additional information should be considered for inclusion in Judge's Packs. Finally, it was noted that training around implementation of the FVB process could be improved.

Recommendations

The following recommendations have been developed based on the evaluation findings that would assist with implementation of the FVB pilot moving forward:

1. Develop clear processes and guidelines around implementation of the FVB process
2. Provide follow-up training and information to courts and other personnel handling information for the Judge's Packs
3. Continue to provide Family Court information for first bail appearances in family violence cases, with minor adjustments to the form
4. Improve the Police FVSR and provide clearer information on its purpose
5. Remove the checklist on the Judge's Pack cover sheet and consider the addition of more information to the Judge's Packs to enhance preparation for bail hearings.

1. INTRODUCTION

1.1. Structure of this report

This report presents the findings from an evaluation of the Family Violence Bail (FVB) pilot. The report includes:

- background on the pilot and evaluation
- an explanation of the methodology used
- findings organised under the four Key Evaluation Questions (KEQs)
- discussion and recommendations.

1.2. Background

The Family Violence Bail (FVB) pilot was introduced in the Porirua and Christchurch District Courts on 1 September 2015. It has been subsequently rolled out to an additional 12 courts, with 14 courts in total running the FVB pilot. The pilot had most recently been implemented in Waitakere in 2018². The pilot was a judicial initiative led by Judge John Walker with the support of the Ministry of Justice (MoJ) and New Zealand Police (Police).

The aim of the FVB pilot is to promote more informed decisions about bail in family violence cases by providing Judicial Officers with relevant, timely and consistent information to assess risk, and thus make decisions that are more likely to increase victims' safety. To this aim, the pilot introduced three key changes to hearings of family violence first appearance bail applications:

1. the collation of a Judge's Pack at a defendant's first appearance
2. the provision of Judge's Packs for both opposed and unopposed bail applications
3. the recommendation that Judges – or if unavailable a Community Magistrate or Justice of the Peace – should hear all family violence-related bail applications, including unopposed bail applications.

The Judge's Pack provided should contain:

- the summary of facts
- the defendant's criminal history
- the victim's view on bail (where available)
- a Family Violence Summary Report (Police FVSR) form which details a selected history of family violence incidents, Protection Orders (POs) and Police Safety Orders (PSOs)
- proposed bail conditions (where bail is unopposed)
- Family Court information about the existence of current POs and Care of Children Act proceedings.

² The evaluation team understands that the pilot was rolled out at North Shore District Court while the evaluation was underway.

1.3. Purpose of the evaluation

The Ministry of Justice (MoJ) contracted *Allen + Clarke* to undertake an evaluation of the FVB pilot. The purpose of this evaluation was to examine the practical application (i.e., process); implications (i.e., impact) and effectiveness (i.e., outcomes) of the FVB pilot to assess the implications of the introduction of the pilot on courts and whether it is achieving its aim of assisting Judicial Officers to make safer bail decisions.

Allen + Clarke worked with MoJ to develop the Key Evaluation Questions (KEQs), sub-questions and criteria to address this evaluation purpose as shown in the table below. The full evaluation framework is provided in *Allen + Clarke's* Evaluation Plan.

Table 1: KEQs, sub-questions and high-level criteria

Key evaluation Sub-questions		Criteria
questions		
KEQ1: To what extent has the FVB pilot achieved its intended outcomes?	a) To what extent has the FVB pilot aided Judicial Officers in decision making?	<i>Safer bail decisions proxy</i>
	b) To what extent do Judicial Officers at FVB pilot courts make safer bail decisions?	
	c) What is the outcome of bail decisions from FVB pilot courts compared with non-FVB pilot courts?	
KEQ2: What impact has the FVB pilot had on key stakeholder groups?	a) To what extent has the FVB pilot process impacted people who have experienced family violence (complainant, defendant, family or whānau)?	
	b) To what extent do Judicial Officers have a better understanding of the dynamics of family violence as a result of the FVB pilot?	<i>Better understanding of family violence</i>
	c) What other impacts has the FVB pilot had on Judicial Officers, Police and court staff?	
	d) Have there been any unintended impacts of the FVB pilot on stakeholders?	
KEQ3: How effective are FVB pilot processes and activities?	a) To what extent are core activities of the FVB pilot process occurring as intended?	<i>Accuracy and completeness</i>
	b) To what extent is the FVB pilot process happening in a timely manner?	<i>Timeliness</i>
	c) To what extent are the personnel involved in the FVB pilot process well prepared for bail appearances?	
	d) To what extent does the FVB pilot process impact on workload and the day-to-day functioning of the courts?	<i>Feasibility</i>

KEQ4: What can be learned from the FVB pilot to inform future decisions?	a) What are the strengths and weaknesses of the FVB pilot?	
	b) Are there aspects of the FVB pilot process that could be improved?	

1.3.1. Evaluation rubric

The rubric below shows the standards against which the FVB pilot is evaluated. Information collected from the evaluation data are assessed using this rubric to arrive at evaluative judgements or conclusions about the pilot (e.g., on a continuum of “exceeding expectations” to “not meeting expectations”) in relation to each criterion and indicators.

Additionally, all criteria include the category “unable to be determined”, which will be used when inadequate evidence is available to make a robust evaluative judgement.

Table 2: Evaluation rubric

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
GENERIC PERFORMANCE STANDARDS	Very good or excellent performance against all indicators. No substantive challenges. Some clear examples of exemplary performance.	Good performance overall. May have some challenges which are easily rectified.	Fair performance. Some positive achievements. Some serious, but addressable challenges on a few aspects. Heading in the right direction.	Clear evidence of unsatisfactory functioning; serious challenges on crucial aspects.
SAFER BAIL DECISIONS PROXY (Outcome)	The FVB pilot is significantly associated with a proxy for safer bail decisions for victims of family violence and their families and whānau. Examples show that bail decisions are consistently safer.	The FVB pilot is associated with a proxy for safer bail decisions for victims of family violence and their families and whānau. There are some examples of the FVB pilot contributing to safer bail decisions.	The FVB pilot is associated with some proxy measures of safer bail decisions, but key measures of safer bail decisions have not been impacted. There are a few examples of the FVB pilot contributing to safer bail decisions.	The FVB pilot is not associated with proxy measures of safer bail decisions. There are little, if any examples of the FVB pilot contributing to safer bail decisions for victims of family violence and their families and whānau.

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
BETTER UNDERSTANDING OF FAMILY VIOLENCE (Impact)	The FVB pilot is significantly contributing to Judicial Officers having a better understanding of family violence to inform bail decisions.	The FVB pilot is contributing to Judicial Officers having a better understanding of family violence to inform bail decisions.	The FVB pilot is making progress towards Judicial Officers having a better understanding of family violence, but performance is variable between sites and/or slower than intended.	There are very few, if any examples of the FVB pilot contributing to Judicial Officers having a better understanding of family violence to inform bail decisions.
ACCURACY AND COMPLETENESS (Process)	Judge's Packs consistently contain all the relevant information from Police and Family Court files. No improvements are needed.	Judge's Packs contain most of the relevant information from Police and Family Court files. The process could be improved with minor amendments.	Judge's Packs contain some relevant information from Police and Family Court files. The process requires change in some areas.	Judge's Packs do not consistently contain all the relevant information from Police and Family Court files. Major changes are required.
TIMELINESS (Process)	Judge's Packs are consistently provided to Judicial Officers and defence lawyers in a timely fashion prior to first appearance. No improvements are needed.	Judge's Packs are mostly provided in timely fashion. The process could be improved with minor amendments.	Judge's Packs are sometimes provided in a timely fashion. The process requires change in some areas.	Judge's Packs are not consistently provided in a timely fashion. Major changes are required.
FEASIBILITY (Process)	The FVB pilot is a feasible activity across different court sizes and settings. No improvements are needed.	The FVB pilot is mostly feasible across different court sizes and settings. Minor changes could be made to improve the process.	The FVB pilot has potential to be a feasible activity across different court sizes and settings. Changes in some areas are required to ensure the FVB is fit for purpose in a range of court settings.	The FVB pilot is not a feasible activity across different court sizes and settings. Major changes are required.

2. METHODOLOGY

Allen + Clarke used several data collection methods to build an evidence base to determine whether the FVB pilot is achieving its outcomes, and whether the process and activities of the pilot are effective. This included:

- accessing and analysing Case Management System and Police data
- analysis of a survey of Judicial Officers
- review of Judge’s Pack contents in family violence case files
- national stakeholder interviews
- regional stakeholder interviews at four District Courts
- observations of first appearance bail hearings for family violence cases.

2.1. Case Management System and Police data

The quantitative findings presented in this report are based on data extracted from MoJ’s Case Management System (CMS). The evaluation team has worked closely with MoJ CMS data specialists to understand the data held in the CMS and how it can be used to answer questions about the impact of the FVB pilot on the outcomes of first appearance bail hearings in family violence cases.

2.1.1. Data available

Below we present a high-level summary of the relevant data available within the CMS. More detailed technical information is presented in Appendix A. Data analysed included:

- first appearance bail hearings identified from within a larger dataset of court proceedings
- the subset of such hearings that relate to family violence charges – this is dependent on Police use of a “family violence flag” when providing data to the Ministry to be linked with the CMS
- date and court information for each family violence flagged first appearance bail hearing
- whether the family violence-related charge is the most serious of the charges associated with a given first appearance (seriousness is an internal Ministry of Justice measure generated using a range of information)
- if an initial bail hearing results in the defendant being remanded on bail then the bail conditions imposed can be identified within the CMS
- family violence-related reoffending while on bail can be identified
- if any bail conditions are later breached (and the breach is certified) this can be identified in the CMS (the process for breach certification is described further in Appendix A).

MoJ CMS data was linked with data held by Police to inform questions relating to the outcomes of hearings where bail has been granted. Police data analysed included:

- alleged bail breach data linked with bail conditions recorded in the MoJ CMS data.

In the absence of random assignment to pilot or non-pilot status, which would typically be used in an experimental evaluation, it is particularly important to account for the differences in the pilot and non-pilot courts by incorporating baseline pre-pilot data for all courts. For this reason, CMS data was obtained for the period January 2013 – December 2018.

2.1.2. Analytical approach

The basis of the analytical approach is a quasi-experimental difference-in-difference study design common in fields such as econometrics³. At an abstract level, difference-in-difference study design compares the change in outcomes in a “treatment” group as a result of an intervention (for example the probability of being remanded in custody) with changes over the same period for a control group. This comparison allows us to account for changes that would have happened to the treatment group (in this case pilot courts) over time in the absence of the intervention. A fuller description of the model is presented in Appendix B.

The outcome variables of interest are:

- probability of an individual being remanded in custody
- number of family violence-relevant bail conditions imposed if bail is granted
- strength of family violence-relevant bail conditions imposed if bail is granted
- probability of an individual breaching(certified) at least one family violence-relevant bail condition if bail is granted
- probability of an individual breaching (alleged) at least one family violence-relevant bail condition
- probability of family violence-relevant reoffending occurring while on bail.

Seriousness score

MoJ was also able to provide the evaluation team with a “seriousness score” variable which indicated whether the most serious charge included in a case was flagged by Police as family violence. The purpose of this variable was to enable the evaluation team to carry out sub-analyses with more confidence that the driver of outcomes, such as obtaining bail, was not the characteristic of a more serious charge that was not flagged by Police as family violence. In practice, in the majority of instances, the most serious charge was flagged as family violence meaning that sub-analysis did not produce markedly different results.

2.1.3. Assessing the stringency of bail conditions

In order to make sense of the wide range of bail conditions that may be imposed if a defendant is granted bail, the evaluation team drew on the experience and expertise of the MoJ Implementation team to assess each condition category in terms of its potential impact on safety from 0-5⁴. For example, conditions relating to firearms were ranked 5 as they were considered highly safety-relevant. The full list of bail conditions and their rankings is presented in Appendix A.

³ See, for example: Wing, C., Simon, K., & Bello-Gomez, R. A. (2018). Designing difference in difference studies: best practices for public health policy research. *Annual Review of Public Health*, 39.

⁴ This work was a valuable side-product of the evaluation which can potentially be used in future monitoring or evaluation work. We would recommend further testing and validation.

2.2. Judicial survey

The Judicial survey was developed by the Ministry with input from Judge Walker, Principal Youth Court Judge, and Chief District Court Judge Jan-Marie Doogue. After approval from Judge Doogue an invitation to participate in the survey was electronically distributed to Judges, Community Magistrates, and Justices of the Peace. The survey was open from 10/12/2018 to 31/01/2019.

There are estimated to be 57 Judges with experience of the FVB pilot. Invitations to complete the survey were not limited to members of the judiciary who had been involved in the FVB pilot as it was deemed sensible to obtain a broader perspective, particularly given the potential for the pilot to expand. The perceptions of members of the judiciary without direct experience of the pilot may form a potential baseline for future research.

The survey received 41 responses: 35 from Judges and six from Community Magistrates. Nine of the respondents (n=8 Judges, n=1 Community Magistrate) had been involved in the FVB pilot. The response rate for Judges in the Judicial survey was approximately 14%.

The survey typically allowed respondents to make assessments on a standard five-point scale from “strongly agree” to “strongly disagree” or from “extremely important” to “not at all important”. Respondents had opportunities to provide additional comments throughout the survey.

2.3. National stakeholder interviews

The evaluation team conducted seven context-setting interviews with ten national-level stakeholders:

- Judge Walker
- MoJ FVB pilot Implementation Team
- Police personnel involved in implementation of the FVB pilot
- Independent Chief Victims Advisor
- A representative from the Department of Corrections.

The interviews discussed perceptions of the effectiveness and efficiency of FVB pilot activities and processes, progress towards its intended outcomes, and impacts on the key stakeholders involved. They also provided the team with important information on the creation of the pilot and wider context within which it sits.

The interviews lasted around 60 minutes and were conducted in both group and individual formats, both face-to-face and over the phone when meeting in person was not possible. They were semi-structured around an interview guide developed in line with the evaluation framework.

2.4. District court site visits – case file reviews and interviews

The evaluation team undertook site visits at four FVB pilot courts: Porirua, Whangarei, Rotorua and Waitakere. These locations were chosen as they included courts that had the FVB pilot implemented each year of implementation. This included a court with the longest history of implementing the FVB pilot (Porirua), a court in a regional centre that has historically had high

levels of family violence (Rotorua) and the site which has most recently implemented the FVB pilot (Waitakere).

2.4.1. Review of Judge’s Packs

Twenty-four active family violence case files were viewed from a sample of 60 across two District Courts – Whangarei and Waitakere. These files included charges within the FVB pilot timeframes, so a Judge’s Pack would be expected to be included in all of these. A random selection of 12 active family violence case files drawn from a sample of 30 were viewed at both District Courts. Raw data is provided in Appendix C.

2.4.2. Interviews

Two members of the evaluation team conducted interviews for each site with stakeholders (n=39) impacted by the implementation of the pilot. We conducted six interviews for Waitakere, four for Porirua, four for Rotorua and three for Whangarei. Personnel interviewed included:

- Court registrars and/or Managers
- Victims Advisors
- Legal personnel e.g., defence lawyers that work on family violence cases
- A range of personnel from Police (prosecuting officers; frontline officers; FMC operators; and a district Family Violence Coordinator) due to variations in their role at each court.

The interviews discussed individual roles in the FVB pilot process, workload and resourcing implications of the pilot, unanticipated outcomes of the pilot, and perceptions of the effectiveness of the pilot. These interviews gave the team important insight into the ‘on the ground’ experience, strengths, weaknesses and areas for improvement of the pilot.

As with the national-level stakeholder interviews, they lasted around 60 minutes and were conducted in both group and individual formats, both face-to-face and over the phone due to stakeholder unavailability during our visits. They were semi-structured around an interview guide developed in line with the evaluation framework.

Personnel interviewed as part of national stakeholder interviews and district court site visits are outlined in the table below.

Table 3: Number of stakeholder interview participants

Stakeholder	Whangarei	Waitakere	Rotorua	Porirua	Wellington	Total
National level	N/A	2	N/A	N/A	9	11
Court registrar or service manager	1	2	2	5	N/A	10
Court Victims Advisor	2	1	1	2	N/A	6
Police FMC or front-line officer	0	1	1	1	N/A	3
Police Prosecutor	1	1	1	0	N/A	3

Stakeholder	Whangarei	Waitakere	Rotorua	Porirua	Wellington	Total
Defence counsel	0	3	2	1	N/A	6
Total	4	10	7	9	8	39

2.4.3. District Court FVB pilot site observations

Observations were conducted in both the Waitakere and Rotorua District Courts by the evaluators when Family Violence cases were being heard, in order to build understanding around how the Judge’s Packs are being used by the Judicial Officers.

2.5. Limitations

Limitations of the methodology presented above are explored in the following subsections.

2.5.1. CMS and Police data

There were two instances whereby the evaluation framework in the Evaluation Plan noted that Police data could inform evaluative judgements:

- Timeliness of Judge’s Pack provision (p.9)
- Feasibility of the FVB pilot (p.10).

After initial feasibility discussions with Police the evaluation team intended to explore whether Police data on the generation (“printing”) of Police FVSRs could inform an assessment of timeliness by assessing whether packs were typically being printed by 8:30am. However, there was uncertainty about the value of timing data as Police FVSRs and corresponding information for Judge’s Packs would be generated during the day if an event occurred during the day, which would complicate interpretation of timing. It was therefore decided to limit data obtained from Police to alleged bail breaches.

We also explored whether it would be possible to obtain data on the total number of Police FVSRs generated per year, in order to quantify the number of Judge’s Packs being created, and to contrast this figure with the number of family-violence-related first appearances occurring per year in pilot courts. However, it was ultimately concluded that the data would have little meaning as different Police Districts have different information management systems – so gaining a clear national picture of what the FVB pilot looked like across all pilot courts was deemed too challenging.

Interviewees also indicated that the generation of the Packs does not take Police or FMC staff long and the major impact of the pilot on workload is driven by other aspects of the pilot such as obtaining Family Court information or reading the information in the Packs. The time each element of the process takes varies from court to court and thus total Police FVSRs generated per year would not provide a meaningful basis for calculations around the full workload impact of the pilot.

Analysis of CMS and Police data has some challenges which must be clearly signposted. The following table presents key limitations and our attempts to mitigate them where possible.

Table 4: CMS and Police data limitations

Limitation	Response
<p>Other programmes, pilots, and initiatives operating in specific courts or regions during various time periods may also impact the outcomes of initial bail hearings in family violence related cases. For example, if another programme that could impact bail outcomes following first appearances for family violence-related charges was implemented at the same time as the pilot in a given court then the model would not distinguish between the impact of the pilot and the other programme on outcomes of interest.</p>	<p>We have noted these caveats – however analysis will not account for them.</p>
<p>Nationwide changes such as an increased emphasis on reducing prison populations may distort findings, particularly as such changes are likely to differentially impact different areas of the country and could thus have greater impact on pilot or non-pilot courts.</p>	<p>Our analysis will not capture the impact of such changes to the extent that they are not equally distributed, however the difference-in-difference models used will account for nationwide changes with consistent impact.</p>
<p>More comprehensive information in Judge’s Packs may both reduce the likelihood of dangerous individuals being granted bail and increase the likelihood of less-dangerous individuals being granted bail. This will complicate the interpretation of comparisons of the likelihood of bail being granted in FVB pilot vs. non-FVB pilot courts. Similar issues apply to the number and strength of family violence relevant bail conditions imposed.</p>	<p>Models will capture the net effect of the pilot but cannot easily address this type of complexity.</p>
<p>Identification and ranking of family-violence- relevant bail conditions has been informed by MoJ expert opinions but has not been validated.</p>	<p>The expert opinion of MoJ is appropriate for the purposes of this evaluation.</p>
<p>Certified bail condition breaches are a subset of alleged bail condition breaches – comparing rates of certified bail breach may understate any differences between FVB pilot and non-FVB pilot courts.</p>	<p>Comparison of Police alleged bail breach data will strengthen and complement this analysis.</p>
<p>Police use of the “family violence flag” when providing data for the CMS may be inconsistent.</p>	<p>In the absence of evidence that this inconsistency may be systematic (e.g., not random) we assume that it will not impact the results of our primary analysis.</p>

2.5.2. Judicial survey

The primary limitation of the Judicial survey is that only nine respondents had direct experience of the FVB pilot – eight were Judges and one was a Community Magistrate. This is a relatively small number – though as noted above there was a 14% response rate from Judges. We do not, however have an estimate of the total number of members of the judiciary (including Justices of the Peace and Community Magistrates) who have experience of the FVB pilot. This means that we cannot assume that responses are representative of the collective view. In addition, there is potential for a non-response bias to skew results: individuals with a very positive or very negative view of the pilot may be more likely to respond. We are not able to assess the impact of this type of bias and simply note it here as an additional caveat.

Data gathered from the 32 individuals who have not had experience of the FVB pilot will be very valuable for future work as a baseline. However, because the questions asked of these individuals are not directly comparable with the questions asked of those with experience of the FVB pilot (who commented on the pilot specifically rather than information sharing or court processes around family violence more generally), the majority of their responses are not relevant to the goals of this report, although specific comments may provide additional clarity on some issues.

An additional limitation of this evaluation was not conducting interviews with Judicial Officers who were involved in the pilot. Interviewing Judicial Officers with questions directly aligned with the evaluation framework designed for this evaluation would have been able to provide more in-depth information on the FVB pilot and the Judge's Packs.

3. EVALUATION FINDINGS

KEQ 1: TO WHAT EXTENT HAS THE FVB PILOT ACHIEVED ITS INTENDED OUTCOMES?

KEQ 1.a. To what extent has the FVB pilot aided Judicial Officers in decision making?

This evaluation sub-question seeks to understand whether the FVB pilot process aids Judicial Officers in decision making about bail at first appearance family violence hearings. Criteria for success included:

- The FVB pilot aids Judicial Officers in decision making (KEQ 1.a.i.).

KEQ 1.a.i. Does the FVB pilot aid Judicial Officers in decision making?

The Judicial survey indicated that those Judicial Officers who had experience of the pilot typically felt that it aided them in their decision making. Table 5 presents responses to a range of questions from the Judicial survey that are relevant to this topic.

Table 5: Do Judge's Packs aid Judicial Officers in decision making?

Statement	The Judge’s Pack makes it easier for me to access the information I need to make bail decisions in family violence cases	The Judge’s Pack provides a more complete set of information on family violence cases than was available to me prior to its introduction	I support the continued use of a Judge's Pack in family violence cases
Strongly agree	6	6	5
Agree	2	2	3
Neither agree or disagree	1		
Disagree		1	1
Strongly disagree			
Total	9	9	9

The majority of participants strongly agreed or agreed that Judge’s packs have a positive impact on aspects of decision making such as information access and completeness and support the continued use of Judge’s Packs in family violence cases.

Judicial Officers were also asked to assess the importance of individual components of the Judge’s Packs. Their responses are summarised in

Table 6 below.

Table 6: Importance of specific Judge's Pack components

Component of Judge's Packs found useful	Summary of facts	Previous criminal history	Victim's Views on bail	Police FVSR	Police opposition to bail or proposed bail conditions	Family Court information
Extremely important	8	8	7	6	7	6
Very important	1	1	1	1	2	1
Moderately important	0	0	1	1	0	1
Slightly important	0	0	0	1	0	0
Not at all important	0	0	0	0	0	1
Total	9	9	9	9	9	9

Respondents to the Judicial survey clearly valued each of the Judge's Pack components, with at least six of the nine respondents rating each of the components as "extremely important". The Police FVSR, Family Court information, and Victim's Views components were slightly less valued.

The Judicial survey also asked respondents with direct experience of the pilot whether, "[o]verall, the provision of a Judge's Pack has provided better information for decision making in family violence cases". As shown in Table 7 the majority of respondents agreed or strongly agreed that Judge's Packs provide better information for decision making in family violence cases.

Table 7: Do Judge's Packs provide better information for decision making overall?

Statement	Overall, the provision of a Judge's Pack has provided better information for decision making in family violence cases
Strongly agree	5
Agree	3
Neither agree or disagree	1
Disagree	
Strongly disagree	
Total	9

Stakeholders that were interviewed for the evaluation said that they believed providing Judicial Officers with additional information aided their decision making, but only a few reported directly seeing a difference in decision making since the FVB pilot was implemented. Stakeholders believed that Judicial Officers were being more cautious in their decision making, but that this could not be solely attributed to the pilot due to the multitude of other initiatives, legislative changes and increased education and awareness relating to family violence in the Justice sector.

Despite being unable to attribute changes in decision making to the pilot, a significant number of the stakeholders interviewed perceived that the extra information provided in the Pack gives the

Judges important background and context they were previously not privy to, and that this must aid their decision making. One regional stakeholder reflected that prior to the pilot, Judges reported having ‘alarm bells ringing’ about bailing defendants but did not have any additional information to justify acting on this. At a court where registrars were delegated responsibility to deal with family violence cases, they explained that having more information made them more comfortable in setting bail conditions or adjourning the case to a Community Magistrate, Justice of the Peace or Judge to hear if they felt further consideration of the information was required.

Further, some stakeholders felt that the Packs would make Judges more confident in their decision making. This is reiterated by reports from some regional stakeholders that Judicial Officers were more likely to make their own decisions and override bail recommendations from Police due to their access to additional information. This suggests that the Packs are being actively considered by Judicial Officers and that they were more confident in making their own judgements, rather than relying solely on that of the Police prosecutors.

Police FVSRs may not provide enough information

Despite this overall perception that the additional information aided decision making, a number of stakeholders were not confident that the Police FVSR form was an adequate aid due to its lack of specific information, (e.g., it is unclear if victims in the FVSR related to the current case) and as it is only a summary of events that meet a certain criteria, rather than a complete report of events that have taken place. One regional stakeholder reported that Judicial Officers would often request the full Police family violence report which includes this additional information, suggesting that some Judicial Officers may not regard the current FVSR form as adequate.

Further, several stakeholders were also concerned that there was a lack of universal understanding on how the Police FVSR should be used, and the weight it should hold in bail decisions. The concern was that the form was being too heavily relied upon, and that it was not understood that it was only a *selection* of previous events. In addition to this, some stakeholders felt that there was not a comprehensive understanding of the Police terminology used but acknowledged that this was difficult to rectify due to the continual changes in the way Police are responding to family violence incidents.

KEQ 1.b. To what extent do Judicial Officers at FVB pilot courts make safer bail decisions?

This evaluation sub-question seeks to understand whether safer bail decisions are being made at courts where the FVB pilot is implemented. A range of quantitative data was sought from MoJ and Police to attempt to determine improved safety. The criteria for success included:

- Judicial Officers make bail decisions that are safe (KEQ 1.b.i.).

KEQ 1.b.i. Do Judicial Officers make bail decisions that are safe?

Rates of family violence reoffending while on bail are not impacted by the pilot

One of the challenges that the evaluation team negotiated throughout this evaluation was assessing to what extent the quantitative data available could be used as a proxy for safety. The evaluation team identified the probability of family violence related reoffending while on bail as the best proxy for improved safety: if reoffending rates on bail are lower as a result of the pilot, it

seems reasonable to state that safer decisions are being made about who to grant bail to and about the conditions that are imposed.

The evaluation team modelled the probability that a defendant who was granted bail following a first appearance for a charge flagged as family violence, would be charged with a family violence flagged offence while on bail. We limited the period of interest to the first 150 days after bail was granted (reflecting the recency of some first appearance records, e.g., December 2018). The model we used showed that when bail was granted in a pilot court the odds of reoffending occurring while on bail were 0.92:1 which suggests a reduction in the odds of reoffending. However, this result was not statistically significant ($p=0.22$). Therefore, the model did not provide any evidence that the pilot leads to safer decision making, where safer is defined as “less likely to reoffend while on bail”.

The evaluation team also carried out a sub-analysis limiting first appearances to those where the family violence-related offence had the highest “seriousness score” (see 2.1.1 above). The results of this sub-analysis were very similar to those reported above, reflecting the fact that in the vast majority of instances family violence flagged charges had the highest seriousness score.

Certified bail breaches are more common at pilot courts, but the effect is small

Certified bail breaches are recorded in MoJ’s CMS after being certified by a Judicial Officer⁵. As with reoffending while on bail, the initial interpretation was that a lower rate of bail breaches would indicate that bail decisions were safer. However, this interpretation could be complicated by competing drivers, such as if the pilot led to more bail conditions being imposed (a positive impact) then this might result in a higher likelihood of at least one breach occurring.

In practice, the model suggests that the odds ratio for at least one family violence-relevant bail breach occurring where bail has been granted was 1.34:1 (pilot vs. non-pilot court). This finding was statistically significant, and indicates that the odds of a family violence-relevant bail breach occurring was 34% greater in pilot courts than non-pilot courts.

It is not clear whether this should be interpreted as indicating that “less safe” decisions are being made because there is also evidence that the pilot leads to a slight increase in the number and severity of bail conditions imposed, which could make breaches more likely. Concerns about the safety impact are also mitigated by the small absolute rate of bail breaches – approximately 2.0% of first appearances where bail is granted involve a certified breach of a family-violence-relevant condition. The obtained odds ratio indicates that the probability of a family violence-relevant bail breach is predicted to increase from 2.0% to 2.7% when bail is granted in pilot courts vs non-pilot courts.

The majority of stakeholders interviewed perceived that the pilot had led to a shift toward more remands in custody or more stringent bail conditions for defendants in family violence cases, or, bail outcomes that were more proportionate to the risk faced by the victim. They felt this meant that bail decisions were safer, but found it difficult to definitively assess this, and to what extent they could attribute it to the pilot. One stakeholder explicitly stated that the FVB pilot can only be said to aid decision making in conjunction with appropriate education of Judicial Officers to spot family violence “red flags”.

⁵ This occurs once a Judicial Officer has certified the non-performance of a defendant’s bail condition(s). More details of the process can be found in section 39 of the Bail Act 2000 and section 184 of the Criminal Proceedings Act 2011.

Alleged bail breaches are more common at pilot courts, but the effect is small

Alleged bail breaches are recorded by Police in NIA. Police provided MoJ with alleged breach data from NIA for each record included in the CMS-based dataset developed by MoJ for this project, which was linked using a unique identifier (remand_id). Alleged bail breach data was sought as it was predicted that it would provide a fuller understanding of family violence-relevant bail breaches, and would complement certified breach data. Complicating interpretation, there were some mismatches between the bail conditions data held by Police and those in the CMS which means that these results should be viewed with an additional degree of caution.

The logistic regression model used estimated that the odds ratio for at least one family violence-relevant alleged bail breach occurring where bail was granted was about 1:34:1 (pilot court: non-pilot court), a result that is similar to that found for certified bail breaches. As with certified bail breaches, this finding may be interpreted as a result of slightly more stringent bail conditions being imposed on average. In non-pilot courts approximately 2.3% of first appearances where bail was granted were linked to the alleged breach of at least one family violence-relevant bail condition, meaning that the increase in the odds of a breach occurring would have a small impact in absolute terms (increasing probability of alleged breach to 3.1%).

KEQ 1.c. What is the outcome of bail decisions from FVB pilot courts compared with non-FVB pilot courts?

Defendants are more likely to be remanded in custody in FVB pilot courts

Model results suggest that the pilot had a meaningful impact (decrease) on the probability of obtaining bail. Implementation of the pilot was associated with a statistically significant increase in the odds ratio for a defendant being remanded in custody following a first appearance of 1.1:1 (pilot court: non-pilot court). Put simply, this equates to a 10% increase in the odds of defendants being remanded in custody at FVB pilot courts.

To make this more tangible, it is useful to consider absolute numbers. Non-pilot courts remanded prisoners in custody 22% of the time in this dataset: for every 100 cases heard, 22 people were remanded in custody. The model suggests that if the pilot had been implemented in those non-pilot courts, it would have resulted in approximately 1.7 additional individuals being remanded in custody per 100 cases (23.7 in total).

A sub-analysis limiting first appearances to those where a family violence charge had the highest “seriousness score” produced statistically significant results that were consistent with those reported above.

Bail conditions for family violence cases in pilot courts appear to be more stringent

The impact of the pilot was also explored by comparing the average number of family violence-relevant bail conditions imposed when bail was granted, and the average “safety score” of such conditions, for pilot and non-pilot courts (see Appendix A for details). Modelling suggested that the pilot resulted in slightly more bail conditions being imposed (0.1 additional conditions) and a higher “safety score” (0.41 additional points). Both results were statistically significant. The effect size may have been larger, but for the fact that remand in custody was also an option. To place these findings in context, the average non-pilot court imposed 3.18 family-violence-relevant conditions with an average “safety score” of 14.8 when bail was granted.

In line with the findings from the quantitative data above, the effect of the pilot that was identified by most of the stakeholders interviewed was a shift in bail decisions. Some stakeholders reported this shift was toward more family violence defendants being remanded in custody since the pilot had been implemented. Others felt that Judicial decision making was more considered, citing that the extra information could assist Judges to make bail decisions that were more proportionate to the risk faced by the victim, which did not necessarily mean denying them bail. This was particularly evident in reports from stakeholders that Judicial Officers were asking for increased information about the address for the location of bail.

However, a potential confounding factor is that the majority of the stakeholders found it difficult to definitively attribute this shift to the pilot due to the wider sector and attitudinal changes toward family violence that have occurred in the past five years. Further, some regional stakeholders indicated that bail decisions depended on individual Judges – who move around on rotation – making it difficult to attribute changes to the pilot.

Evaluative judgement – safer bail decisions

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
SAFER BAIL DECISIONS PROXY (Outcome)	The FVB pilot is significantly associated with a proxy for safer bail decisions for victims of family violence and their families and whānau. Examples show that bail decisions are consistently safer.	The FVB pilot is associated with a proxy for safer bail decisions for victims of family violence and their families and whānau. There are some examples of the FVB pilot contributing to safer bail decisions.	The FVB pilot is associated with some proxy measures of safer bail decisions, but key measures of safer bail decisions have not been impacted. There are a few examples of the FVB pilot contributing to safer bail decisions.	The FVB pilot is not associated with proxy measures of safer bail decisions. There are little, if any examples of the FVB pilot contributing to safer bail decisions for victims of family violence and their families and whānau.

The evaluative judgement based on the data available is that in relation to ‘safer bail decisions’ – where safer means more stringent bail conditions, more remands in custody and less reoffending while on bail – the FVB pilot is **meeting some expectations**. There is progress towards achieving safer bail decisions, but key measures of safety such as rates of reoffending while of bail have not been impacted by the pilot and other positive safety-relevant changes, while statistically significant, appear to be small in absolute terms. Furthermore, more stringent bail conditions may not necessarily be safer, as breaches of bail may still occur.

KEQ 2: TO WHAT EXTENT HAS THE FVB PILOT IMPACTED ON KEY STAKEHOLDER GROUPS?

KEQ 2.a. To what extent has the FVB pilot process impacted people who have experienced family violence (complainant, defendant, family or whānau)?

The FVB pilot aims to ensure that safer bail decisions are made for victims. It is assumed that if bail decisions are safer, this will have an impact on those who experience family violence. Criteria for success include:

- Victim’s views inform Judicial decision making about bail (KEQ 2.a.i.)
- Low or no reported complaints about the FVB pilot process (KEQ 2.a.ii.).

KEQ 2.a.i. Do victim’s views inform Judicial decision making about bail?

It is important to understand to what extent the views of victims are taken into consideration in Judicial decision making about bail. The Judicial survey asked Judicial Officers to rate the importance of Victim's Views as a Judge’s Pack component. Eight of nine respondents believed that Victim's Views component of the Packs was either extremely important or very important. The results of this question are presented in Table 8 below.

Table 8: Importance of the Victim's Views component of the Judge's Packs

Victim's Views on bail	
Extremely important	7
Very important	1
Moderately important	1
Slightly important	0
Not at all important	0
Total	9

Supporting this finding, stakeholders that were interviewed said that Victim’s Views are an important part of the Judge’s Packs, though there were mixed views about how they would impact on decision-making, and therefore, the victim.

When a victim said that they were scared or fearful, this was noted as important information for consideration by Judicial Officers, as well as whether their views changed from when the arrest occurred to when the first appearance hearing took place. Stakeholders also said that it was important for Judicial Officers to consider the various circumstances around a case where victims expressed a desire for the defendant to be bailed – particularly to the address where the victim lived, and if the victim relies on the defendant financially, or for care of dependants.

Judicial Officers need to weigh up the circumstances surrounding the charges in order to make a safe decision, which can be complicated, and victim’s views may or may not influence that (e.g., if

the victim wants the perpetrator to come home – they may not be in the best position to make that assessment if the perpetrator is going to pose a risk).

A few stakeholders considered that the content of the Victim's Views may not reflect reality for the victims. One person noted that the trauma a victim may be experiencing may not be accurately represented, and another two noted that a victim's view needs to be tailored to the incident before the court. They also said that the 'quality' of the Victim's Views were dependent on the skill of the Police OIC, and Police need better training to ensure Victim's Views are obtained appropriately.

A few stakeholders noted that the majority of the Judge's Packs do not have Victim's Views. These tended to be included where Police opposed bail for the defendant. However, this does not mean Victim's Views are not considered by Judicial Officers – they may be obtained during court verbally and this may not be included in the Pack – one person said that Victim's Views are always requested.

Furthermore, a few stakeholders discussed that Victim's Views informing decisions about bail could not be fully attributed to the pilot due to other contextual factors in the sector, such as Justice sector policy and initiatives becoming more victim-centric, and changes to the Bail Act.

Impact on defendants

Defendants could be impacted by the use of the Judge's Packs in court, through delays to the court process and being held in custody for longer. In some cases Judge's Packs are handed up to the Judicial Officer while the court is in session, which may contain information (e.g., from the Family Court jurisdiction) that the duty lawyer has not seen as part of the initial disclosure documents, and has thus not been able to discuss with the defendant during their interview before their first bail hearing appearance. New information coming from the Judge's Packs may mean that applying for bail is more difficult for the defendant.

Defendants' cases may also be adjourned to later in the day (or, depending on the court, a few days to 1-2 weeks later) because the Judicial Officer requires further information from the Judge's Pack that has not been provided in time for the list court.

KEQ 2.a.ii. Are there low or no reported complaints about the FVB pilot process?

Findings from stakeholder interviews suggest that victims, defendants, and their families or whānau were not likely to be aware of the Judge's Packs, because it was a purely administrative process. Therefore, stakeholders were not aware of any complaints about the Judge's Packs or the FVB pilot process.

KEQ 2.b. To what extent do stakeholders have a better understanding of the dynamics of family violence as a result of the FVB pilot?

This evaluation sub-question seeks to understand whether stakeholders involved in the FVB pilot have a better understanding of family violence as a result of the pilot. The criteria "better understanding of family violence" is informed by the assumption that if Judicial Officers have a better understanding of family violence, then they are more likely to make safer bail decisions. Criteria for success include:

- Judicial Officers, Police, court staff, Legal personnel have a better understanding of the dynamics of family violence (KEQ 2.b.i.).

KEQ 2.b.i. Do Judicial Officers, Police, court staff, legal personnel have a better understanding of the dynamics of family violence?

Judicial Officers

The Judicial survey contains a range of questions that are relevant to this question area, including whether Judge’s Packs:

- improve Judicial Officers’ knowledge of individual family violence cases
- provide more information for risk assessment
- enable Judicial Officers to identify risks when making decisions in family violence cases
- enable Judicial Officers to identify patterns of family violence offending.

Responses to these questions are presented below in Table 9.

Table 9: Do Judicial Officers have a better understanding of family violence?

	The Judge’s Pack has generally improved my knowledge of individual family violence cases	The pack has provided me with more information for risk assessment	The pack has enabled me to identify risks when making bail decisions in family violence cases	The pack has enabled me to identify patterns of family violence offending
Strongly agree	5	5	4	3
Agree	2	3	2	3
Neither agree or disagree	0	1	3	3
Disagree	2	0	0	0
Strongly disagree	0	0	0	0
Total	9	9	9	9

Table 9 shows that the majority of respondents agreed that Judge’s Packs improved their knowledge of individual family violence cases, provided more information for risk assessment, enabled them to better identify risks and identify patterns of family violence. However, there were no additional comments in the Judicial survey that explained or provided context to how their knowledge had been enhanced.

Some comments provided additional insight into why some participants did not agree with or were neutral regarding some of these statements. For example, Judicial Officers noted limitations of the contents of Police FVSRs, such as not identifying when previous victims are the same person as the current victim in a particular case.

Due to the small numbers of participants in the Judicial survey with direct experience of using the Judge’s Packs, it is difficult to determine whether Judicial Officers across all pilot courts have a better understanding of family violence.

A few stakeholders that were interviewed thought that the FVB pilot had enhanced Judicial Officers’ understanding of family violence from what they had observed. Others were unable to

comment, and one person said that the Judge’s Packs did not help Judicial Officers get a better understanding of family violence – suggesting that high profile cases in the media were more likely to progress awareness and understanding. Similarly, another stakeholder noted that having Family Violence Courts made a difference. Furthermore, it was highlighted that there are initiatives dedicated to educating Judges about family violence which were important for the FVB pilot to work. This implies that the FVB pilot on its own does not enhance understanding of family violence.

Police, court staff, legal personnel

Stakeholders generally held mixed views on whether the FVB pilot had impacted on their understanding of family violence. A few said that the pilot had enhanced their understanding, others said that it had not (citing that they had either been involved in the sector a long time, or their role in general had enhanced their understanding). Several people noted that the FVB pilot was not the only family violence focussed initiative in the sector, so it was difficult to attribute changes in understanding of family violence to the pilot itself.

Evaluative judgement – Better understanding of family violence

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
BETTER UNDERSTANDING OF FAMILY VIOLENCE (Impact)	The FVB pilot is significantly contributing to Judicial Officers having a better understanding of family violence to inform bail decisions.	The FVB pilot is contributing to Judicial Officers having a better understanding of family violence to inform bail decisions.	The FVB pilot is making progress towards Judicial Officers having a better understanding of family violence, but performance is variable between sites and/or slower than intended.	There are very few, if any examples of the FVB pilot contributing to Judicial Officers having a better understanding of family violence to inform bail decisions.

While Judicial Officers indicated in the Judicial survey that they did have a ‘better understanding of family violence’ as a result of the pilot, and other stakeholders provided their views and perspectives on Judicial Officers having better understanding of family violence, this was not definitive or strong enough to provide a definite evaluative judgement – so the rating for this rubric is **unable to be determined**.

A number of stakeholders referenced legislative and policy changes, education programmes and other pilot projects as well as the media in relation to family violence that could also be impacting on Judicial Officer’s awareness and understanding of the dynamics of family violence.

KEQ 2.c. What other impacts has the FVB pilot had on Judicial Officers, Police, court staff, and legal personnel?

This evaluation sub-question seeks to understand if there are other impacts of the FVB pilot on stakeholders involved, and if so, what these are.

Judicial Officers

The only other impact identified by Judicial Officers in the Judicial survey was the demands that additional reading material provided as part of the Judge's Packs places on them.

Police

Police prosecutors tended to be unaware of the Judge's Packs – so were either not receiving/or actively picking up the Judge's Packs from the District Court registrars, or not seeing them in their case files. Judicial Officers may refer to documents in the Judge's Packs, but prosecutors appeared to be unaware of the 'Judge's Pack' per se.

Police File Management Centre (FMC) personnel discussed the impact on their workload in terms of inputting data and collating the information that they email to District Court staff. Depending on the size of the case, it can take a lot of time to put together all of the necessary files to be included – an example given was that an experienced staff member would take about 30 minutes to collate the information for a Judge's Pack, depending on the number of charges and if extra information is needed.

Police FMC personnel also talked about wanting to ensure that the data input was accurate because of the high stakes in family violence cases (e.g., victim safety), which takes a lot of focus. One Police FMC personnel mentioned that they had been impacted by the content of the information they were reading (as well as viewing evidence in photographs) in the family violence cases while they were inputting data and collating information for the Packs.

Court staff

Court registrars did not mention many significant impacts on them. They understood the purpose of the pilot and the importance of bail decisions for victim safety and tended to absorb collating the Judge's Packs as part of their day-to-day work. One court staff member mentioned that, as with Police FMC personnel, they had been affected by the content of the information in family violence cases. Victims Advisors said that they value the Packs and felt they are able to do a better job for victims of family violence as a result of having access to them.

Legal personnel

Legal defence personnel said that they wanted to provide a fair judicial process for their clients, and by doing so needed to have all the relevant information before they interview the defendant as part of initial disclosure. The impact of new information coming to light during the court session, in particular information pertaining to Family Court matters, was highlighted. Lawyers and therefore defendants may not be aware of this information that is being taken into consideration by the Judicial Officer, which results in delays in the court process and affects lawyers' workloads. This included having to go to the cells to discuss the new information with the defendant during court, as well as feeling embarrassed as professionals that they were not aware of the information previously.

KEQ 2.d. Have there been any unintended impacts of the FVB pilot on stakeholders?

This evaluation sub-question seeks to understand if there are any unintended impacts of the FVB pilot on stakeholders. Two findings emerged, including that other Judicial Officers and court

registrars are making bail decisions in family violence cases, and that due to the FVB pilot, the Justice sector may be treating victims of family violence differently to victims of other violent crimes (assuming that family violence victims receive an enhanced service in the court as a result of the pilot).

Other Judicial Officers and court registrars are making decisions about bail in family violence cases

It was noted by some stakeholders that as part of the FVB pilot, it was recommended that only Judges should be making decisions about bail in family violence cases. Registrars in particular are advised not to hear family violence cases. However, in one of the FVB pilot District Courts visited by the evaluation team, registrars were presiding over first appearance bail hearings in family violence cases. If bail was opposed or if the registrar did not feel confident in making a decision about bail, they would adjourn the case for a Judge or other Judicial Officer.

Registrars in other pilot District Courts that complied with this instruction said that they did not want to be responsible with making decisions about bail in family violence cases because of the potential impact (on victims and their conscience) if the defendant were to breach bail and cause harm. A few stakeholders noted that Community Magistrates or Justices of the Peace were making decisions about bail for family violence cases in instances where a Judge was not available. Because of this, one stakeholder said that they were more mindful of ensuring that information for Judge's Packs was obtained before hearings.

The Justice sector may be favouring family violence victims over other victims of violent crime as a result of the pilot

One stakeholder highlighted that violent crimes that are not family violence do not have a Judge's Pack prepared. This may be leading to an inconsistent service from the Justice sector for victims of violence that may not be family violence (e.g., aggravated robbery) in general.

KEQ 3: HOW EFFECTIVE ARE FVB PILOT PROCESSES AND ACTIVITIES?

KEQ 3.a. To what extent are core activities of the FVB pilot process occurring as intended?

This evaluation sub-question seeks to understand whether core activities of the FVB pilot are happening. Criteria for success are:

- All information that is required in a Judge's Pack is provided (KEQ 3.a.i.)
- Active case information from Family Court is included in Judge's Pack before the bail hearing (KEQ 3.a.ii).

While the collation of a pack of information is a seemingly small task, it requires a number of key people working together to collate, request/provide, and transfer information from one place to another, and several steps⁶.

KEQ 3.a.i. Is all information that is required in a Judge's Pack provided?

To gain insight into whether information required for a Judge's Pack is provided, the evaluation team undertook a review of the content of Judge's Packs in case files at two District Courts (Whangarei and Waitakere) and discussed the accuracy and completeness of the Packs with stakeholders. Generally, it was found that most of the information required for a Judge's Pack (e.g., charging documents, summary of facts, bail history, criminal history) was provided most of the time. However, there were differences between the two courts and apparent errors in relation to some components of the Packs (cover sheets, proposed bail conditions, Victim's Views, Police FVSR, Family Court information). Accuracy and completeness of the Judge's Packs emerged as concerns during interviews.

Cover sheet

Cover sheets of Judge's Packs were not always completed. The review of case files found that the checklist on the cover sheets do not always reflect the contents of the Packs accurately. In some cases, Judge's Packs were missing information that had been checked on the cover sheet and many Packs contained information not checked on cover sheets. One family violence case file did not have a cover sheet with a checklist of documents but did have a cover sheet that had 'Judge's Pack' written on it.

Victim's Views

The proportion of Judge's Packs that contain a document with Victim's Views appears to be relatively low. This finding was strongly supported by the review of family violence case files:

- eight out of 24 Judge's Packs had a document with Victim's Views included.
- Victim's Views tended to be routinely included in a Judge's Pack if bail was opposed by Police – though there were rare occasions where they were not there when bail was opposed – in the case analysis six out of seven Judge's Packs where bail was opposed included Victim's Views

⁶ For examples of how the FVB pilot process works in different pilot courts, please see the Family Violence Summary Report Pilot Evaluation (Carswell, Chetwin & Kaiwai, 2016).

- Victim's Views were rarely included in Judge's Packs if bail was unopposed – in the case analysis two out of 17 Judge's Packs included Victim's Views where bail was not opposed.

Police FVSR

Family violence case file analysis showed that Police FVSRs were included in all Judge's Packs in one pilot court. In the other pilot court where case file analysis was carried out five out of 12 Judge's Packs did not include a Police FVSR.

Stakeholders were critical of the completeness of the information contained in Police FVSRs, arguing that the information was not complete or had gaps. For example:

- incidents where the defendant was a 'suspect' but never became a 'cleared offender' are not included in the Police FVSR
- several interviewees criticised the Police FVSR for not identifying the victim in the present case
- the Police FVSR may contain information pertaining to different people (e.g., different victims).

There was inconsistent understanding of what or who the information in the Police FVSR related to. The evaluation team understands that the information pertains to the defendant in the case which some stakeholders articulated. However, others believed that the information pertained to residential address and speculated that the FVSRs contained information that was irrelevant to the defendant as a consequence. For example, one stakeholder stated that on several occasions they had spoken to defendants who said that they did not live at an address at the time of an incident which was included in the list of Family Violence Incidents on the Police FVSR.

Police Opposition to Bail documents

Police Opposition to Bail documents may not always be included in Judge's Packs, reflecting the time pressures on the OIC to put together the information. Because of this, some courts were hearing first appearance family violence cases in the afternoon, particularly for cases where Police opposed bail. Some stakeholders said this was because the duty lawyer would need more time to prepare the defendant's case and was not necessarily because of any issues related to the Judge's Pack preparation.

Family Court information

The review of family violence case files identified that most of the Judge's Packs included a Family Court request for information form that had been filled out. Only one out of the 24 did not include this form. Stakeholder interview respondents suggested that in at least two pilot courts (not ones that the evaluation team visited) the Family Court information is not being requested at all.

Other findings in relation to accuracy and completeness

There appear to be differences between pilot courts in terms of what is meant to be included in a Judge's Pack. From the family violence case file analysis, it was noted that one court had used two different cover sheets that were slightly different to the example provided by MoJ at the beginning of the evaluation.

- Both of these cover sheets did not include Police proposed bail conditions and thus proposed bail conditions were not routinely included in the Judge's Packs at that court.

- One cover sheet included a different piece of information that appeared to be an MoJ document named “Domestic Violence Case History”. This document was different to the Police FVSR and was included in the Pack instead of the FVSR.

More generally, some interviewees (and a Judicial Officer in the Judicial survey) speculated that an illusion of “completeness” of the Judge’s Packs may impact on decision making. A stakeholder in an interview speculated that due to demands placed on Police to pull together the information for Judge’s Packs in family violence cases, some incidents that could have resulted in a family harm charge may not be coded with a family violence or family harm flag. Instead, other charges, such as wilful damage, may be used. This was supported by a comment in the Judicial survey:

Sometimes property offending e.g., wilful damage is not recognised as family violence.

This could be a significant unintended consequence of the FVB pilot. While the evaluation team was unable to gather evidence that this is occurring in practice, it is worth noting.

Do Judicial Officers consider the Judge’s Packs to provide a complete set of information?

The Judicial survey asked Judicial Officers with experience of the pilot to assess whether the Judge’s Packs provide a more complete set of information than was available prior to the introduction of the pilot. The results of this question are presented in Table 10 below.

Table 10: Do Judge’s Packs provide a more complete set of information?

The Judge’s Pack provides a more complete set of information on family violence cases than was available to me prior to its introduction	
Strongly agree	6
Agree	2
Neither agree or disagree	0
Disagree	1
Strongly disagree	0
Total	9

Table 10 shows that the majority of respondents agree that Judge’s Packs provide a more complete set of information. The one respondent that disagreed did not provide additional information via open text fields to explain their answer.

KEQ 3.a.ii. Is active case information from the Family Court is included in Judge’s Pack before the bail hearing?

As noted above from the family violence case file analysis, Family Court information was included routinely in Judge’s Packs in the two courts where this was carried out. However, during interviews some stakeholders said that Family Court information may not be routinely included in other pilot courts. In the pilot courts that the evaluation team visited, it was explained that there

can be inconsistencies in obtaining the information – so Judge’s Packs may not include it for every family violence case. For example:

- It is not possible to obtain Family Court information if arrests occur on a Friday night, and subsequent first appearance bail hearings happen on a Saturday, as the Family Court is closed.
- It is also difficult to obtain Family Court information if an arrest happens on the same day as the first appearance, due to timing issues.

Another concern relating to the inclusion of Family Court information in Judge’s Packs is that Police prosecutors operating in some pilot courts do not appear to be aware that Family Court information is obtained at all.

Evaluative judgement – Accuracy and completeness

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
ACCURACY AND COMPLETENESS (Process)	Judge’s Packs consistently contain all the relevant information from Police and Family Court files. No improvements are needed.	Judge’s Packs contain most of the relevant information from Police and Family Court files. The process could be improved with minor amendments.	Judge’s Packs contain some relevant information from Police and Family Court files. The process requires change in some areas.	Judge’s Packs do not consistently contain all the relevant information from Police and Family Court files. Major changes are required.

The evaluative judgement for ‘accuracy and completeness’ is **meeting some expectations**. Most of the time, most of the relevant information was included in Judge’s Packs, however, the family violence case review found there were some examples of missing information. A few stakeholders indicated that other pilot courts (not visited as part of this evaluation) may not be including all the required information in Judge’s Packs.

KEQ 3.b. To what extent is the FVB pilot process happening in a timely manner?

This evaluation sub-question seeks to understand whether the process of collating information and delivering the Judge’s Packs happens in a manner that is timely. As a general rule, Judge’s Packs should be provided around 9:30am before the morning list court session begins at 10:00am. Criteria for success are:

- Police give FVB information to Criminal Registry in time to obtain active case information from Family Court before bail hearings (3.b.i.)
- Judicial Officers receive Judge’s Packs in time for bail hearings (3.b.ii.).

KEQ 3.b.i. Do Police give FVB information to Criminal Registry in time to obtain active case information from Family Court before bail hearings?

In general, stakeholders stated that Police provide information in a timely manner. However, competing pressures on the time of the OIC or Police FMC may mean that FVB information provided by Police is sometimes late – particularly if Police intend to oppose bail. Two interviewees explained that the recent Christchurch tragedy meant that Police did not provide Judge’s Pack information for a period of time, presumably due to competing demands on the Police as a whole.

KEQ 3.b.ii. Do Judicial Officers receive Judge’s Packs in time for bail hearings?

The Judicial survey found that the majority of Judicial Officers agreed that Judge’s Packs were provided in a timely manner, however two individuals disagreed – this was one of the relatively few incidences in the Judicial survey where respondent feedback was mixed. Results are presented in Table 11 below.

Table 11: Are Judge's Packs provided in a timely manner?

	The Judge’s Pack is provided to me in a timely manner before going into Court
Strongly agree	0
Agree	4
Neither agree or disagree	3
Disagree	2
Strongly disagree	0
Total	9

Comments suggest that timeliness is a significant issue because of the additional demand that Judge’s Packs place on Judicial Officers already struggling to find the time to read material prior to proceedings:

It is imperative as much notice as possible is given to the Judge; late notice increases pressure on Judge particularly if the list is full. There is often considerable reading required. The registry should have a clear protocol about the filing of the bail Packs.

It needs to come earlier. The key thing we need though for proper decisions is time. At the moment, we can be under intense pressure with numbers which is a key limiting factor in terms of robustness of decision.

Findings from stakeholder interviews are consistent with these concerns. Interviewees indicated that there is variation across pilot courts in terms of the timeliness of Judge’s Pack provision. In some courts Judge’s Packs are provided as early as possible to ensure Judicial Officers an opportunity to review before hearings begin, while in other courts Judicial Officers are provided with Packs at the time of hearings, meaning that there is relatively little time to review the information.

Interviewees explained that timeliness may be impacted by numerous factors, including competing demands for staff time. Police were identified as a “bottleneck” in the process by some interviewees, reflecting the demands placed on frontline officers in terms of paperwork noted above.

Evaluative judgement – Timeliness

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
TIMELINESS (Process)	Judge’s Packs are consistently provided to Judicial Officers and defence lawyers in a timely fashion prior to first appearance. No improvements are needed.	Judge’s Packs are mostly provided in timely fashion. The process could be improved with minor amendments.	Judge’s Packs are sometimes provided in a timely fashion. The process requires change in some areas.	Judge’s Packs are not consistently provided in a timely fashion. Major changes are required.

The evaluative judgement for ‘timeliness’ is **meeting expectations**. More Judicial Officers than not tended to agree that provision of Judge’s Packs was timely. There is evidence that pilot courts are providing the Judge’s Packs to Judicial Officers in a mostly timely manner, but evidence from stakeholder interviews suggests that in some District Courts this is not the case. Furthermore, as noted under KEQ 2.c. and KEQ 3.c., it was evident that Police prosecution and legal defence personnel were either not receiving the Packs or receiving them in a timely manner.

KEQ 3.c. To what extent are the personnel involved in the FVB pilot process well prepared for bail appearances?

This evaluation sub-question seeks to understand whether personnel involved in the FVB pilot are well prepared for bail appearances. Criteria for success includes:

- Judicial Officers, Police, Court Registry staff, legal personnel feel well prepared for bail hearings (KEQ 3.c.i).

KEQ 3.c.i. Do Judicial Officers, Police, Court Registry staff and legal personnel feel well prepared for bail hearings?

Judicial Officers

Judicial Officers with direct experience of the pilot were asked whether Judge’s Packs provide all of the information they need to make informed bail decisions in family violence cases. It is assumed that if the information Judicial Officers need to make decisions is provided, then they will feel adequately prepared for bail hearings. The results of this question are presented in Table 12 below.

Table 12: Do Judge's Packs provide all of the information needed to make informed bail decisions?

The Judge's Pack provides all of the information I need to make informed bail decisions in family violence cases	
Strongly agree	0
Agree	3
Neither agree or disagree	3
Disagree	3
Strongly disagree	0
Total	9

The responses to this question show mixed results in relation to Judicial Officer's preparedness for bail hearings. The open text comments fields helped to identify some of the information that Packs do not include but which participants felt was relevant:

- proposed bail address, Police views on suitability of proposed location, and the distance of the proposed bail address from the alleged victim's address
- whether the victim in previous family violence cases included in FVSRs was the same alleged victim in the present case
- additional information that may be provided during the hearing by the prosecutor, defence, or Victims Advisor⁷.

Stakeholder interviews provide insights into the impact of the pilot on the preparedness of Police, registry staff, and legal personnel. There appears to be a great deal of variation in the implementation of the pilot which means that the ability for stakeholders to be prepared for family violence first appearance hearings also varies greatly.

Police prosecutors

In some locations, Police prosecutors were not aware of the existence of the Packs. In courts where Police prosecutors are aware of the Packs time pressures faced by prosecutors were cited as a limiting factor in terms of how much the Packs could improve their preparedness. In general, Police prosecutors who were aware of the pilot were often critical of the Judge's Packs, questioning the value of their contents in the context of a lack of resourcing for prosecutors to be adequately prepared for court in general.

Legal personnel

In some pilot courts Judge's Packs are not routinely shared with duty lawyers by court staff and thus did not improve their preparedness for representing their defendants in court. One court staff member said that was because "they are Judge's Packs". Lawyers at this court were aware

⁷ It is important to note that Victims Advisors have a 48 hour stand down period after an arrest takes place, and therefore would not usually be engaged with a victim before a first appearance bail hearing.

when the pilot started that the Judge's Packs would be shared with them and noted the inconsistency between the approach initially described and current practice.

Duty lawyers and defence lawyers at other courts did not raise the same criticisms, but, as noted elsewhere in this report, there were inconsistencies in the information that they and their clients received. In some cases, Family Court information was not shared with legal defence prior to initial disclosure. In some cases, duty lawyer supervisors were receiving Judge's Packs but they were not always reaching the lawyers who eventually defended the case. It was noted that some legal personnel had been slow to adjust their practice since the pilot began.

KEQ 3.d. To what extent does the FVB pilot process impact on workload and the day-to-day functioning of the courts?

This evaluation sub-question seeks to understand the workload impact and feasibility of the FVB pilot, in order to determine whether it is an appropriate project to roll-out in District Courts across New Zealand. Criteria for success include:

- The FVB pilot has little impact on workload and the day-to-day function of the courts (KEQ 3.d.i.).

KEQ 3.d.i. Does the FVB pilot have little impact on workload and the day-to-day function of the courts?

Police

In terms of day-to-day workload impact on Police, it takes additional time for Police personnel to prepare the family violence case information to go into the Judge's Pack. It was noted that up to an hour may be spent preparing the files for the first appearance if Police are to oppose bail. For cases where bail is not opposed, it could take between five and ten minutes for the information to be collated. It was noted that workload impact is higher when staffing is low.

Preparing the information for Judge's Packs was another task for frontline Police personnel to do at the end of a shift when they were completing paperwork for arrests across their shift, which can add up. Police FMC personnel indicated that at the beginning of the pilot, it took longer to put together the information for the Judge's Packs e.g., up to an hour, but it took less time as they got used to the process. Time spent for Police collating or photocopying information that Ministry of Justice (i.e., the court) has access to (e.g., bail history) was also noted by Police personnel.

Police prosecutors were generally not involved in the preparation of Judge's Packs, though one prosecutor we spoke with said that they ensured that FVSRs were included in Judge's Packs when they noticed they were missing. Prosecutors normally would not have time to review cases before court, they just ensure that they have the correct number of files (e.g., between 40 and 65) for the list court – which includes a number of different cases, not just family violence.

Court staff

Workload impact on court staff depended on which court the pilot was at. For one court, the process was streamlined and business as usual, so did not impact on workload at all. It was noted at other courts that extra processes and the time spent carrying out those processes impacts on workload.

For court registrars, the workload impact tended to be minimal in courts where the pilot was well established and an automated process was in place for Criminal Court registrars to view Family Court information for the Judge's Packs.

In one court where Family Court information had to be requested by the Criminal Court registry, it was noted that the impact of Judge's Packs (and other new tasks related to new pilots and processes) to workload is cumulative – while one Judge's Pack might only add another five or ten minutes to their workload, that can be exacerbated by a large number of family violence arrests overnight (and therefore, a large number of Judges Packs to prepare), and not having enough staff to cope with a higher workload.

Legal personnel

The workload impact discussed by legal personnel was in relation to new information coming to light in the courtroom that the lawyer has previously been unaware of because it is in a Judge's Pack. The lawyer has (often) not seen the Judge's Pack beforehand, and therefore not had the opportunity to discuss it with the defendant. The lawyer will therefore need to discuss the matter with their client before the hearing can continue. This meant delays in the court process and sometimes proceedings needing to be adjourned to a later time or date.

Judicial Officers

Judicial Officers provided mixed feedback on the impact of Judge's Packs on their workload. Two Judicial Officers cited issues around the time required to read additional information, and a number of respondents, both with experience of the pilot and without, emphasised their experience of tight deadlines and time pressure in preparing for first appearance hearings. By contrast, one Judicial Officer with experience of the pilot stated:

These packs are invaluable. Significantly helpful information, in one place, without the judge having to trawl through a file/make requests of family court/prosecutor/VA.

The above quote implies that the Judicial Officer found that Judge's Packs reduced their workload rather than increased it. However, this might also indicate that the practice of this individual Judicial Officer is more thorough in relation to family violence cases.

As noted under timeliness above, it was generally observed in stakeholder interviews that Judicial Officers did not always have enough time to read the information in the Judge's Pack before court – one court did, others did not – in some cases, Judge's Packs were handed up to the Judicial Officer in court.

Other impacts in relation to feasibility

Stakeholders generally said that the FVB pilot was feasible and sustainable, it just takes time for it to become part of business as usual when it is first introduced at a court – particularly at busy courts. The evaluation also identified the following impacts related to feasibility:

- smaller courts could implement the pilot more easily
- there could be more risk of impact or challenges for larger/busier courts in New Zealand, as the FVB process could add extra work in a time-pressured situation

- further challenges could be presented where Family Court and Criminal Court registries are located far apart at a District Court, especially if Criminal Registrars have to request information manually
- pilot projects and changes to process were said to be a common occurrence in the Justice sector – every new change (even if minor) was an impact on workload.

An implementation issue emerged with the pilot related to the fact that in some parts of the country Police Districts include both pilot and non-pilot courts. Frontline officers from a non-pilot District Court area who may not be aware of the pilot could be called out to a pilot District Court area and make an arrest for a family violence incident. They may not know that they then need to prepare specific information for FVB pilot District Court registrars – so Judge’s Packs may not be prepared in those cases.

Stakeholders also said that it was important to understand why they were putting together the information for the Judge’s Pack. Some stakeholders did not understand the purpose or rationale clearly. Others who did understand were dedicated to ensuring that their part of the process was carried out, for example, a court registrar checking to see if information had been supplied by Police for defendants on the list for first bail appearances, and if not, applying for the information from the Family Court registry so that it can be shared with the Judicial Officers before court.

One stakeholder said that if the pilot is rolled out, more information should not be included in the Judge’s Packs as there are no more resources for Police prosecutors to prepare for court, so careful consideration needs to be made in relation to what is doable, and what is useful.

Evaluative judgement – Feasibility

Criteria	Exceeding expectations	Meeting expectations	Meeting some expectations	Not meeting expectations
FEASIBILITY (Process)	The FVB pilot is a feasible activity across different court sizes and settings. No improvements are needed.	The FVB pilot is mostly feasible across different court sizes and settings. Minor changes could be made to improve the process.	The FVB pilot has potential to be a feasible activity across different court sizes and settings. Changes in some areas are required to ensure the FVB is fit for purpose in a range of court settings.	The FVB pilot is not a feasible activity across different court sizes and settings. Major changes are required.

The evaluative judgement for ‘feasibility’ is **meeting some expectations**. The FVB pilot does not appear to have a significant impact on workload, but stakeholders noted that the impact was cumulative and depended on the number of cases in a day. Stakeholders were also unsure whether the FVB process could be feasibly rolled out in larger courts with high family violence rates.

KEQ 4: WHAT CAN BE LEARNED FROM THE FVB PILOT TO INFORM FUTURE DECISIONS ABOUT THE FVB?

KEQ 4.a. What are the strengths and weaknesses of the FVB pilot?

This evaluation sub-question discusses what is working, and not working, about the FVB pilot, based on the evaluation findings. A number of strengths and weaknesses were identified in interviews with stakeholders, which has also been compared and contrasted with information from family violence case file analysis, the Judicial survey, and quantitative data.

Strengths – what’s working well?

Judge’s Packs provide information that supports decision making

The majority of Judicial Officers that responded to the survey felt that the packs improved their ability to assess risk and to understand family violence dynamics, and either strongly agreed or agreed with the following statement “I support the continued use of a Judge’s Pack in family violence cases”. The Judicial survey also found that the majority of the Judicial Officers with direct experience of the pilot valued each of the Pack’s components highly.

This was supported by the findings from the stakeholder interviews where the majority felt that Judge’s Packs did support Judicial Officers to make better informed and safer decisions. Further, some stakeholders also reported that the Judge’s Packs provided useful information to duty lawyers (if they received or asked for the Pack) reporting that they were able to give their clients better advice, for example not applying for bail if they information in the Packs meant that this was very unlikely to succeed.

Judicial Officers seem to be more cautious in their decision making

Quantitative evidence suggests that the FVB pilot is making some difference to Judicial decision making, albeit a small (but statistically significant) one. Statistical modelling suggests that bail conditions are tougher in pilot courts, and that there are more people remanded in custody at FVB pilot courts. Confirmed bail breach data indicates that bail may be breached more often in pilot courts – suggesting that if bail conditions are tougher, bail breaches are more likely (however, bail breach numbers are small). The evaluation can therefore not definitively conclude whether Judicial Officers are making “safer” decisions.

Some stakeholders also reported that Judicial Officers were making decisions that were more aligned to the risk to the victim – often reported as “tougher” – as a result of the pilot, although other stakeholders did not believe that there was a noticeable change in outcomes that could be attributed to the pilot.

Judge’s Packs are one part of a more deliberate approach to keep family violence victims safer

A number of stakeholders also referenced that the pilot highlighted the issue of family violence and helped with education on the dynamics of family violence. One stakeholder explained that it helps to demonstrate the episodic nature of family violence and how the risk can increase over time. Some stakeholders also reported that the pilot gave an important focus to the incorporation of Victim’s Views in decision making about bail. Further, several stakeholders reported a strength of the pilot was that it encouraged information sharing between the Family and Criminal Court

which was important for family violence outcomes, as well as wider sector performance. One stakeholder gave an example of this, explaining that multiple breaches of a PSO can act as an ‘unofficial bail history’, giving important context to the Judge. Another stakeholder also referenced that the pilot was a good example of co-operation of the Police and the Courts.

Weaknesses – what’s not working well?

Elements of the pilot are not being implemented as intended

A primary process weakness is that there are some key elements of the pilot that are not being implemented in different courts. In one court, registrars hear family violence cases which diverges from the pilot’s intention to have Judges – or if they are unavailable, Justices of the Peace or Community Magistrates – overseeing family violence bail applications. While the registrars at this court reported that they felt comfortable with this, several other stakeholders felt it was inappropriate to allow this to occur and unfair to put this pressure on the registrars.

In another court, it was discovered that Police FVSRs – an integral part of the pilot – are not included in all Judge’s Packs.

Police prosecutors and legal personnel may not always have access to Judge’s Packs at different court sites. This was reiterated by our finding of the general lack of awareness of the pilot among Police prosecutors and some legal professionals. This lack of awareness also extended to the purpose of the pilot, with a number of stakeholders referencing that they felt the purpose of the pilot was not sufficiently communicated. As the pilot increases stakeholder workload, it is important that those impacted understand the rationale and wider purpose behind the additional work to enhance buy-in.

Training on implementation of the FVB pilot is minimal

Training in relation to implementation of the FVB pilot was reported to be minimal. If a staff member missed the introduction of the pilot, they might not receive appropriate or consistent training, learning from other staff members in the role. In the absence of regular training sessions for new staff and ongoing efforts to inform staff about the value of the Packs and their intended role, some staff felt that Judge’s Packs were perceived as another administrative task and perhaps not accorded the seriousness they deserved. However, this perception varied between pilot locations.

Lack of time to prepare for bail hearings

The lack of time for Judicial Officers and other legal professionals to engage with the Judge’s Packs prior to first appearance bail hearings was a weakness, particularly when they were provided just before the start of hearings or during court. This was a concern raised both in the Judicial survey and in stakeholder interviews. Some national stakeholders also reported their understanding that the incremental roll-out has caused some issues at non-pilot courts where Judicial Officers on circuit from pilot courts – accustomed to having access to the extra information – have requested Judge’s Packs, which has put pressure on Police and court staff at these locations.

Police FVSRs may not be an adequate source of information

Several weaknesses in the Police FVSR form were also discussed by stakeholders and referenced in the Judicial survey. Firstly, in the Judicial survey, concern was raised that the FVSRs do not

identify whether the victim in previous incidents is the same victim in the current case which could reduce the ability of Judicial Officers to detect patterns of family violence and to accurately predict risk in the current case. This concern was echoed by several stakeholders who felt that the form did not contain sufficient information to be a useful tool for Judges' decision making. It is important to note that this criticism was most prevalent from regional and national police stakeholders. Some stakeholders, mainly duty lawyers, also had concerns that this lack of identification of the victim in the Police FVSR could be prejudicial to their client.

There was also concern in both stakeholder interviews and the Judicial survey around the lack of universal understanding in what information the Police FVSR contained and use of 'Police jargon', reporting it as confusing and at times misleading for Judicial Officers (and duty lawyers if they had access to the Packs). The Judicial survey also reported issues around how Police flag incidents as 'family violence related' may mean that cases are not coded correctly and could be skewing the number of family violence cases if this possibility is not kept in mind.

KEQ 4.b. Are there aspects of the FVB pilot process that could be improved?

This sub-question discusses what, if any, improvements could be made to the FVB process, as suggested by stakeholders during the evaluation. This section synthesises information from across the evaluation data.

Judge's Packs should be provided in a timely fashion

The Judicial survey identifies timeliness of Pack provision as an aspect of the FVB process that could be improved, with five of nine respondents with direct experience of the pilot either disagreeing with the statement "the Judge's Pack is provided to me in a timely manner before going into court" or neither agreeing or disagreeing. It was important that Judge's Packs were provided in a timely way in order for Judicial Officers to be able to read the information and be adequately prepared for court.

Court processes could be adjusted to ensure the FVB pilot works more effectively

In some courts, family violence cases (particularly where Police opposed bail) were heard in the afternoon to allow more time to put together the information, and to give Judicial Officers more time to read the information. This was suggested as a potential improvement by some stakeholders as a way to help with easing workload impacts on those collating the Packs, allowing time for all of the information to be included in the Pack. In terms of easing workload, a few stakeholders mentioned that increased staff levels to assist with additional processes would be helpful.

Legal defence personnel should have access to the same information as Judicial Officers

Legal defence personnel believed that they should have access to the same information as Judicial Officers (i.e., the Judge's Packs) in order to provide a fair process for defendants. Those who held these views reported that the current process had elements of unfairness, with the importance of equal access to information in the court room.

Registrars should not be hearing family violence cases

This was a view held by Judge Walker who instigated the pilot. Several stakeholders supported this view, mostly because they felt that this placed undue pressure on registrars to set bail conditions for family violence cases. Further, some stakeholders felt that Justices of the Peace and Community Magistrates should not hear family violence cases, believing that only Judges – and in one stakeholder’s view only those specialised in family violence – are equipped to do this.

Information from Judge’s Packs could be used in different circumstances

One stakeholder suggested that information from Judge’s Packs would be useful for probation officers. They gave the example that sometimes information is not shared in relation to POs and there have been incidents of people in custody contacting those who have a PO against them. They also noted that information from the Packs could be useful for sentence management. Other personnel in the courts noted that the information from Judge’s Packs can be used to inform decision making around sentencing, or if a defendant applies for a review of their bail conditions – this was apparent where observations took place. Furthermore, some Victims Advisors said that information in the Judge’s Pack assisted them to provide a better service to family violence victims.

Police FVSRs could contain more specific information

Several stakeholders also reported that the Police FVSR needed to contain more specific information to be a more useful document for Judicial Officers. Some reported that the full family violence report, rather than the current summary (the Police FVSR) should be included in the Judge’s Pack to achieve this. One national stakeholder suggested that if the full report was to be used, a Police incident code could be put on the form to alert to the fact that something had occurred – but the information did not meet the appropriate evidential requirements. Another suggested that if the summary was to be used, a qualifier could be put on the summary form to demonstrate where there was information that was missing.

Training around implementation of the pilot could be improved

It was generally agreed by stakeholders that improved training and communication of the wider purpose and goals of the pilot was necessary, so that people involved in the process understood why they were doing it in order to buy-in to the process. Some stakeholders did not understand why they needed to put together all the extra information (i.e., why a Judge’s Pack was important).

It was suggested by stakeholders that cross-jurisdictional training could streamline the processes, with one regional stakeholder suggesting giving registrars training on how to fill out Family Court form, rather than manually requesting this information.

One national stakeholder discussed the importance of an operational person involved in implementation at each pilot site to assist with establishing this training and communication. They also suggested regular ‘check-ins’ and oversight of the implementation at each site could be introduced.

Additional information could be provided in the Judge’s Packs

In the Judicial survey, Judicial Officers identified additional information to be included in the Judge’s Packs that they would find useful for decision making:

- proposed bail address, Police views on suitability of proposed location, and the distance of the proposed bail address from the alleged victim's address
- whether the victim in previous family violence cases included in Police FVSRs was the same alleged victim in the present case
- additional information that may be provided during the hearing by the prosecutor, defence, or Victims Advisor.

Comments from several Judicial Officers without direct experience of the pilot noted the potential value of including information about the mental health status of the defendant.

There were a number of other suggestions made by other stakeholders in interviews for additional information that could be included in the Judge's Packs, such as reports from multi-agency tables such as daily Safety Assessment Meetings (SAM) and Integrated Safety Response (ISR) pilot tables (which could include risk assessment, health, mental health, alcohol or other drug addictions, ACC claims).

However, it was noted by a number of stakeholders that if new information was to be included, this would need to be balanced against the limited amount of time there is to prepare the information for the Judge's Packs, and for Judicial Officers, legal personnel and Police prosecutors to be prepared for bail hearings.

4. CONCLUSION AND RECOMMENDATIONS

This evaluation found that there is some evidence to support that the FVB pilot is working well in some cases, but it requires some improvements in process in order for it to work well consistently. Enthusiasm for the FVB process is apparent among Judicial Officers who took part in the survey, and several stakeholders interviewed, and there are small but statistically significant differences in proxy indicators of safer bail decisions.

In relation to **safer bail decisions** the FVB pilot is **meeting some expectations**. There is progress towards achieving safer bail decisions in terms of some proxy measures, but key measures of safety such as rates of reoffending while on bail have not been impacted by the pilot. Other positive safety-relevant changes, while statistically significant, appear to be small in absolute terms. Furthermore, more stringent bail conditions may not necessarily be safer, as breaches of bail may still occur.

While Judicial Officers indicated that they did have a **better understanding of family violence** as a result of the pilot and other stakeholders provided their views and perspectives on Judicial Officers having better understanding of family violence, this was **not definitive or strong enough** to provide a definite judgement on whether this is occurring, or can be attributed to the FVB pilot.

In terms of the FVB process, the **accuracy and completeness** of Judge's Packs is **meeting some expectations**. Most of the time, much of the relevant information was included in Judge's Packs, however, the family violence case review found there were some examples of missing information. A few stakeholders indicated that other pilot courts (not visited as part of this evaluation) may not be including all the required information in Judge's Packs.

The **timeliness** of provision of Judge's Packs is **meeting expectations**. More Judicial Officers than not tended to agree that provision of Judge's Packs was timely. There is evidence that pilot courts are providing the Judge's Packs to Judicial Officers in a timely manner, but evidence from stakeholder interviews suggests that others are not.

The **feasibility** of the FVB process **meets some expectations**. The FVB pilot does not appear to have a significant impact on workload, but stakeholders noted that the impact was cumulative and depended on the number of cases in a day. Stakeholders were also unsure whether the FVB process could be feasibly rolled out in larger courts with high family violence rates.

Recommendations to enhance FVB pilot processes have been developed based on the evaluation findings, to assist with implementation moving forward. These are discussed below in relation to the major findings for the evaluation.

One of the key findings noted throughout this evaluation was that there is variation in how the FVB pilot has been implemented, with some courts implementing the pilot in ways that is not recommended (i.e., registrars hearing family violence cases) or, does not appear to be in line with a fair or streamlined court process (i.e., legal personnel and Police prosecutors not receiving or being aware of the Judge's Packs). There should be clarity on whether the Judge's Packs should only be provided to Judges or Judicial Officers, or if they should be provided to legal personnel and Police prosecutors at the same time as the Judicial Officer – which requires consideration of legislative requirements in relation to information sharing. Clearer guidelines will assist with minimising regional variation in implementation and help to ensure consistent processes in the Justice system in relation to family violence.

There was also a lack of awareness of Judge's Packs amongst Police prosecutors and legal defence personnel, and an apparent inconsistency with how they are referred to⁸. Providing clearer information to all stakeholders may help to eliminate confusion and build more consistent awareness. Therefore, the evaluation team recommends clearer processes and guidelines around implementation.

Recommendation 1: Develop clear processes and guidelines around implementation of the FVB process.

Related to developing clearer processes, it was identified that training for the FVB pilot at individual courts was minimal, with no follow-up. While two courts we visited appeared to be implementing the pilot well, this may be because they had support from a person in a leadership position, such as Judge Walker or operational personnel in the MoJ Implementation team. This was valued and cited as important and helped to encourage buy-in in the pilot. Therefore, the evaluation team recommends additional training and information to relevant personnel involved in the FVB process.

Recommendation 2: Provide follow-up training and information to courts and other personnel handling information for the Judge's Packs.

The findings from the qualitative analysis strongly indicate the value in having the Family Court information in the Judge's Packs. This value was articulated both in terms of aiding Judicial Officers' decision making by giving them additional information about the defendant and playing a part in the wider sector focus on cross-jurisdictional collaboration and information sharing. While there were some suggestions made by stakeholders to include more information from the Family Court such as details on previous proceedings⁹, there would need to be caution around providing this information due to the variations in standards of proof between the civil and criminal court – i.e., balance of probabilities for the former and beyond reasonable doubt for the latter (as well as the burden placed on Judicial Officers to read additional information).

One stakeholder said that the Family Court form was too detailed, contained unnecessary information requirements and was not simple enough to fill out or read quickly to understand key information. The potential addition of extra information in the Family Court form could therefore be mitigated by making the forms easier to fill out. Therefore, the evaluation team recommends continued use of the Family Court information form, with some adjustments.

Recommendation 3: Continue to provide Family Court information for first bail appearances in family violence cases, with minor adjustments to the form.

There was criticism of the Police FVSR from stakeholders – mostly Police and legal personnel. While there was universal respect for the purpose it was supposed to serve (e.g., contextual

⁸ In an observation at a court, there was reference made to a 'Family Pack', and the information cited was part of a Judge's Pack.

⁹ The 2016 evaluation also recommended that historical information from the Family Court, such as previous attendance at non-violence programmes, be included in Judge's Packs.

information), some reported that its shortcomings could inadvertently distort this (i.e., stakeholders were concerned that Judicial Officers assumed it to be a complete document). The key shortcomings listed were only having a selection of events presented, lack of contextual details (e.g., not indicating whether victims related to the case), confusion with use of Police terminology (e.g., “cleared offender”) and a general lack of understanding about the information contained in the Police FVSR. Better information about the Police FVSR should be shared in training and guidelines for the FVB pilot. Consideration for including more specific information (e.g., whether an incident relates to the victim in the case before the court or a previous victim without providing names) is also recommended. Therefore, the evaluation team recommends improvements to the Police FVSR, including providing clear information on its purpose.

Recommendation 4: Improve the Police FVSR and provide clearer information on its purpose.

Stakeholders generally felt that more information would assist with decision making. However, it is important that this is balanced with ensuring the feasibility of including information when Judicial Officers do not have a lot of time to read information before court, Police prosecutors have no time to read additional information before court (and are not often provided Judge’s Packs), and legal personnel already do not consistently have access to Judge’s Packs for initial disclosure discussions. Any additional information or refinement of information in Judge’s Packs would need to ensure that it does not add much work or cause more delays than Judge’s Packs are already known to do. Suggestions for additional information that may have limited burden includes:

- Distance of proposed bail address from victim’s address
- Clarification in the Police FVSRs (noted above)
- Additional Family Court information (noted above)
- Criminal court mandated attendance at non-violence programmes.

Further, the checklist was not being used effectively and could potentially impact on whether Judicial Officers look at the information underneath the cover sheet. Therefore, the evaluation team recommends removing the checklist on the cover sheet and considering the addition of information to Judge’s Packs to enhance preparation for bail hearings and reduce administrative burden.

Recommendation 5: Remove the checklist on the Judge’s Pack cover sheet, and consider the addition of more information to the Judge’s Packs to enhance preparation for bail hearings.

APPENDIX A: DATASET DESCRIPTION

We obtained a CMS derived dataset containing records for all first appearance bail hearings in District Courts which included charges flagged by Police as family violence. The dataset covered the period January 2013 to December 2018. Data was event level and anonymised: the initial dataset contained over 100,000 rows. The following variables were included:

- date (month and year)
- court name
- whether the pilot was in operation at the time
- event status
- remand type (including on bail and in custody)
- bail conditions imposed
- whether any given condition was breached (alleged breach – Police data, certified breach - CMS).

Data cleaning was carried out primarily to remove artefacts of the dataset creation process (such as records from other court types) but also to simplify the dataset – for example, we dropped rows with remand types other than bail or custody such as “adjourned” or “at large”. The resultant dataset contained 80,200 rows.

MoJ experts assessed the list of possible bail conditions and ranked them as follows in terms of potential impact on safety.

Bail Condition	FV safety ranking 0- least important – 5 most important
Reside at <i>[specify address]</i>	5
Curfew <i>[specify hours]</i>	4
24-hour curfew	5
Report to police	0
Not to go to <i>[specify person or address distance in meters]</i>	5
Restricted travel	4
Not to drive	0
Not to enter licenced premises	1
Not to consume alcohol	3
Not to consume drugs	3
Non-association / contact victims	5
Non-association / contact co-offenders	0
Non-association / contact witnesses	3
Non-association / contact other	3

Bail Condition	FV safety ranking 0- least important – 5 most important
Surrender passport	0
Report to probation officer	0
Not to dispose of motor vehicle	0
Not to possess or use firearms	5
Electronic monitored bail	N/A
Not to threaten or use violence against	5
Education attendance	0
Assessment attendance	0
Other conditions	Varies
Appear at next hearing	3

APPENDIX B: QUANTITATIVE MODELLING APPROACH

The difference-in-difference approach taken in this paper is informed by a 2018 review of the topic by Wing, Simon and Bello-Gomez. The authors describe an extended case of the standard 2*2 difference-in-difference model (p 457) which allows for treatment to begin at different times for multiple treated “groups”:

$$Y_{gt} = a_g + b_t + cD_{gt} + \varepsilon_{gt}$$

Y_{gt} is the expected value of Y for unit g at time t.

a_g is the combined effect of the time-invariant characteristics of group g on Y. This is also referred to as a group-fixed effect.

b_t is the combined effect of the group-invariant characteristics of time t on Y. This is also referred to as a time-fixed effect.

D_{gt} is a dummy variable that is = 1 if group g was “treated” during period t. This is equivalent to the interaction term in a standard difference-in-difference model.

c is the coefficient of D_{gt} and is the model output of interest – it is an estimate of the average impact of a one unit increase from D=0 to D=1 on Y.

Models which compared the *probability* of binary outcomes of interest in pilot and non-pilot courts were generalised linear models which assumed a binomial distribution for the probability of the outcome of interest occurring and used the logit link function. Models which compared the number of FV-relevant bail conditions imposed or the sum of FV-relevant bail condition scores were standard linear regression models.

Robust standard errors were calculated and the potential impact of clustering was also explored by calculating clustered robust standard errors at the court level.

APPENDIX C: JUDGE'S PACK ANALYSIS (FROM FAMILY VIOLENCE CASE FILES)

ID	Date of charges	Cover sheet	Cover sheet correct	Charging documents	Police Bail Opposition (if opposed)	Proposed bail conditions	Summary of alleged facts	Criminal history	Bail history	Victim's views	Police FV summary	Family Court form
Court 1 - 3	31-Dec-18			X		X	X	X	X		X	
Court 1 - 4	24-Sep-18	X		X		X	X	X	X		X	X
Court 1 - 11	26-Dec-18	X		X		X	X	X	X		X	X
Court 1 - 16	10-Feb-19	X		X		X	X	X	X		X	X
Court 1 - 19	8-Nov-18	X		X		X	X	X	X		X	X
Court 1 - 20	18-Feb-18	X		X	X		X	X	X	X	X	X
Court 1 - 26	22-Nov-18	X		X			X			X	X	X
Court 1 - 23	21-Nov-18	X			X		X	X	X	X	X	X
Court 1 - 22	31-Dec-18	X		X		X	X	X	X		X	
Court 1 - 30	15-Jan-19	X		X		X	X	X	X		X	X
Court 1 - 6	9-Oct-18	X	X	X		X	X	X	X		X	X
Court 1 - 10	7-Nov-18	X	X	X		X	X	X	X		X	X
Court 2 - 1	13-Mar-19	X		X	X		X	X	X	X		X
Court 2 - 2	29-Apr-19	X		X	X	X	X	X	X	X		X
Court 2 - 9	17-Mar-19	X		X	X		X	X	X	X		X
Court 2 - 11	5-Jan-19	X		X	X		X	X	X	X	X	X
Court 2 - 15	6-Mar-19	X	X	X		X	X	X	X		X	X
Court 2 - 19	8-Dec-19	X		X		X	X					X

ID	Date of charges	Cover sheet correct	Cover sheet	Charging documents	Police Bail Opposition (if opposed)	Proposed bail conditions	Summary of alleged facts	Criminal history	Bail history	Victim's views	Police FV summary	Family Court form
Court 2 - 21	7-Jan-19	X		X		X	X	X	X		X	X
Court 2 - 23	11-Jan-19	X		X		X	X	X	X		X	X
Court 2 - 24	3-Oct-18	X		X	X		X	X	X		X	X
Court 2 - 28	19-Mar-19	X		X			X			X	X	X
Court 2 - 29	25-Jan-19	X		X			X	X	X			X
Court 2 - 30	6-May-19	X		X			X	X	X		X	X