

## Social entrapment:

# A realistic understanding of the criminal offending of primary victims of intimate partner violence

## Family Violence Death Review Committee



### Seeking evidence to construct a defence for primary victims who offend

This appendix seeks to support the construction of a defence for a primary victim of intimate partner violence who has been charged with a criminal offence. It should be read in conjunction with the article of the same name published in the *New Zealand Law Review* in 2018.<sup>1</sup>

It is critical that explorations of the defendant's situation are conducted in a sensitive, supportive and culturally appropriate manner, and once a relationship has been established. It cannot be assumed that simply asking questions will be enough to elicit the necessary information. The defendant will take some time and will require appropriate support to sufficiently recover from trauma to be able to make sense of and discuss her experiences.<sup>2</sup> The person talking with her must understand trauma and have appropriate skills to conduct a safe and sensitive interview. As a consequence of the trauma and associated harms (such as childhood traumas, repeated head injuries, etc), the defendant may not be able to present an account of the relationship in a linear, chronological manner.<sup>3</sup> For more information on trauma-informed practice see the material referenced below.<sup>4</sup> To see how one human rights group talks about trauma-informed interviewing we have included a link below.<sup>5</sup> Furthermore, to obtain accurate information it is necessary that questions be asked in a culturally appropriate manner.<sup>6</sup> It will be important, therefore, to consult with appropriate cultural advisers if you do not share the culture of the particular defendant.<sup>7</sup>

It is important that primary victims who have been silenced in multitudes of ways over their life span are truly listened to. Listening involves:

- being aware of the feelings behind her words
- hearing both what she says and what she does not say
- paying attention to body language – both hers and yours, including facial expressions, eye contact, gestures
- sitting or standing at the same level and close enough to show concern and attention but not so close as to intrude
- through empathy, showing understanding of how she feels.<sup>8</sup>

1 J. Tolmie, R. Smith, J. Short, D. Wilson and J. Sach, 'Social Entrapment: A Realistic Understanding of the Criminal Offending of Primary Victims of Intimate Partner Violence', *NZ Law Review*, 2018, pp. 181-218.

2 E. Sheehy, J. Stubbs, and J. Tolmie, 'Securing Fair Outcomes for Battered Women Charged with Homicide: Analysing Defence Lawyering in *R v Falls*', *Melbourne University Law Review*, vol.38, no.2, 2014, pp. 666-708.

3 Brain Injury Australia, *The prevalence of acquired brain injury among victims and perpetrators of family violence*, Australia, Brain Injury Australia, 2018.

4 L. Pihama et al., 'Investigating Maori approaches to trauma –informed care', *Te Rau Matatini*, vol. 2, no.3, Article 2, 2017, pp. 18-31; E. Reeves, 'A Synthesis of the Literature on Trauma-Informed Care', *Issues in Mental Health Nursing*, vol.36, no.9, 2015, pp. 698-709.

5 <https://www.youtube.com/watch?v=Z3Dzllpogeg>

6 Australian socio-linguist Eades argues that the process generally used in criminal justice system to gather information is impregnated with ethnocentric assumptions. D. Eades, *Aboriginal English and the Law*, Brisbane Queensland University Law Society, 1992.

7 See J. Stubbs and J. Tolmie, 'Race, Gender and the Battered Woman Syndrome: An Australian Case Study', *Canadian Journal of Women and the Law*, vol.8, no.1, 1995, pp.122-158; *The Queen v Kina*, Court of Appeal, Supreme Court of Queensland, CA No 221 of 1993, 29 November 1993. Although the cultural specifics are different because these are Australian examples, they do illustrate the importance of eliciting information in a culturally appropriate manner.

8 World Health Organisation, *Health care for women subjected to intimate partner violence or sexual violence: A clinical handbook*, Geneva, WHO Document Production Services, 2014, p. 17.

In the table below the Family Violence Death Review Committee (the Committee) outlines some broad areas for inquiry, and suggests possible questions to explore the multiple layers of entrapment and harm experienced by the defendant. These questions are not necessarily intended to be asked directly of the defendant, or to be used like a checklist. In some cases, the questions contain specialist words (collude, coercive control, etc) and would need to be reworded or explained if speaking directly to the defendant. The Committee gives examples from the regional death review process to illustrate the kind of information that may be relevant and suggests places where corroborating information may be available. This table is not comprehensive, and the Committee intends to develop it as it learns more from reviews.

The broad areas of enquiry, under which questions to be explored, examples of relevant information and potential sources for corroborating information are organised, are:

- relationship formation
- predominant aggressor’s coercive controlling behaviours
- parenting
- predominant aggressor’s lifestyle
- primary victim’s offending
- primary victim’s trauma history
- primary victim’s mental health
- quality of agencies’ responses
- structural inequities.

<b>Relationship formation: The social context within which the primary victim (PV) and the predominant aggressor (PA) met: Disparities in power?</b>		
Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>▪ How did they meet?</li> <li>▪ How did the relationship start? (A possible question to begin, if talking directly to her, could be ‘What was he like when you first met?’ Or, in a less threatening way, ‘What was it about him that you liked?’)</li> <li>▪ What significant events were occurring in her life at the time?</li> <li>▪ What age was she when the ‘relationship’ commenced? What age was he?</li> <li>▪ Was she a child ‘partnered’ to an adult gang member (statutory rape)?</li> <li>▪ Was this a relationship entered into consensually? Or was the marriage entered into under conditions that evidenced any kind of pressure on her (for example, a forced marriage)?</li> </ul>	<p>‘[Male adult gang member 30+ years] was in a... relationship with [female child] who was 15 years old.’</p> <p>Her family lived in poverty in a rural area of a Pacific Island nation. Moving to New Zealand and marrying a man from a high-status family ensured she could provide some financial support to her struggling family.</p> <p>The relationship began soon after death of her child, when she was grieving and particularly vulnerable.</p> <p>‘You met [PA], then a patched adult gang member, when you were 16 years of age, in a bar. He made his interest in you known. You were not in a position to refuse him.’</p> <p>‘I think [they] had a one-night stand is how it started. After that, [PA] and a mate were drunk one day and had jumped [PV’s] fence and were trying to climb through a window. They got in and were having a feed and then pretty much [he] moved in after that.’</p>	<p>From her account and a review of agency records, what disparities in power were visible when they commenced their ‘relationship’?</p> <ul style="list-style-type: none"> <li>▪ Age differences – child and adult.</li> <li>▪ Immigration status (PV living away from country of origin and reliant on PA for residency).</li> <li>▪ PA is a gang member.</li> <li>▪ PV has a childhood history of state care and little positive family support.</li> <li>▪ PV is a vulnerable young person (could also apply to PA) when relationship commenced.</li> <li>▪ PA is from a high-status family and/or respected by their community. PV is from a low status social position.</li> <li>▪ PV is isolated from her family and support network and lived with/was reliant on PA’s family and/or associates.</li> </ul>

**PA's coercive controlling behaviours:** The specifics of his behaviours against her, other partners and children, and the limits he placed on her ability to be self-determining. There is a need to document how *over time* he isolated her, terrified her and closed down/punished her resistance. In other words, it is important to capture the chronological and cumulative intensity and effect of the abuse, the strategic effect of the abuse, and the manner in which it is tailored specifically to her.

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>• What is his history of physical, sexual, psychological, verbal and financial abuse towards the PV, her children, family members, friends and animals?</li> <li>• Did he threaten to sexually abuse and groom other vulnerable people/family members?<sup>9</sup></li> <li>• What is his history of using violence/threatening violence towards other partners (and their children, animals, and family members) and associates?</li> <li>• What is his level of control over the minutiae of her life? Where she goes, who she sees, where she works, how she dresses?</li> <li>• Does he control her access to money/spending?</li> <li>• Has he threatened her? With what? If she does what?</li> <li>• Was she able to attend appointments alone? Was he always home when home visiting services came?</li> <li>• Has he tried to sabotage birth control and keep her under his control through pregnancy?</li> <li>• Has he tried to sabotage her efforts to become independent? For example, attempts to educate herself, upskill, obtain or retain employment?</li> <li>• Does he accuse her of infidelity? What repercussions does he take against her for perceived (or real) infidelities?</li> <li>• How has he isolated her from supportive people? From her community?</li> <li>• Has he forced her to engage in embarrassing and degrading behaviour?</li> <li>• Has he engaged in surveillance and stalking behaviours?</li> <li>• Are other people intimidated by him (ie, they would not call police/other services because they are worried about their own safety)?</li> <li>• Who are safe people for her in her community? What actions can she rely on them to take?</li> <li>• What has the PA done <i>in response</i> to the PV's attempts to resist his control (ie, assaulted others trying to intervene and help her, destroyed her phone, destroyed her rental accommodation/Housing NZ property and/or threatened to harm her children)?</li> <li>• Has he threatened to self-harm, attempt suicide, commit homicide/murder suicide?</li> </ul>	<p>'If she went out (which was seldom), he asked where she went, he expected her to be home when he got home from work and to focus on his needs.'</p> <p>'Henry<sup>10</sup> had threatened to kill and assaulted on the ward [hospital] a visiting male relative of hers... Henry had also tried to force her to have sex whilst she was in the hospital... [he] would sit outside her work and watch her. He had also beaten up another boyfriend she had.'</p> <p>'You have seen Mr Smith assault another man with a crow bar.'</p> <p>'Her personality changed markedly. Witnesses reported that she went from being a bubbly and extroverted young woman to one who was withdrawn, guarded and fearful. She felt that the only way out was suicide.'</p> <p>'She looked really different. She looked down and out, like she couldn't look at me in the eye... and wouldn't really talk to me. She looked shaken.'</p> <p>'She was never insecure and always open and outgoing, but when she met him this changed everything. I used to go to her house all the time but that stopped... he didn't like me...'</p> <p>'Soon after she left the scene of an assault he got her car (her pride and joy) and took to it with a hammer breaking all the windows. He slashed all the tyres. He then sold it for scrap at a fraction of its worth and they never spoke about it again.'</p> <p>'I couldn't go to my sister's place because he would go there and then smash her place up.'</p> <p>The practitioner observed he had 'sinister overtones in his behaviour and overt power and control issues' and 'considers [he] is a danger to young women.'</p> <p>'He poured petrol on you whilst you were pregnant... and threatened to set you alight, as he did not believe the child was his. He has seriously assaulted you multiple times, some assaults required treatment at hospital (including for miscarriage).'</p>	<p>Consider the social networks of both the PV and PA – family, whānau, friends, and workplace colleagues, etc. Ask people (especially any safe people the PV identified) to describe the PA's behaviours and the PV's responses.</p> <p>Ask questions which focus on the PV's and PA's behaviours and actions, not on whether there was intimate partner violence (IPV) because people's understandings of IPV can vary (ie, may only understand IPV as the use of physical violence).</p> <p>Repetitive 'minor' physical violence can have a cumulative intensity for the PV, wearing them down over time. Extreme violence on one occasion can have the effect of communicating to the PV what the PA is capable of.</p> <ul style="list-style-type: none"> <li>• Ask people if they have observed changes in her behaviour after she met her partner?</li> </ul> <p>A review of GP, obstetric, midwifery and/or general medical records may show patterns of consulting/cancellation or rearrangement of appointments/what she is consulting for. Mental health records, and emergency department records can be very informative. The women's health clinic (termination of pregnancy) may yield helpful information. In all cases the consent of the PV will be required to access the records.</p> <ul style="list-style-type: none"> <li>• Review agency records (ie, police).</li> <li>• Review affidavits submitted by her, and former partners, to gain protection orders.</li> </ul> <p>A perpetrator <i>pattern</i>-based approach needs to reach beyond the current PV because his cumulative history of abuse often contains key information related to dangerousness.<sup>11</sup> Any episode of violence needs to be considered in the context of the PA's <i>pattern</i> of abusive behaviour against prior partners.</p>

9 See the actions of the predominant aggressor in *The Queen v Kina*, Court of Appeal, Supreme Court of Queensland, CA No 221 of 1993, 29 November 1993.; Liyanage [2016] WASC 12, [9].

10 All names have been changed.

11 C. Humphreys, L. Healey and D. Mandel, 'Case Reading as a Practice and Training Intervention in Domestic Violence and Child Protection', *Australian Social Work*, vol.71, no.3, 2018, pp. 227–291.

**Parenting:** How his coercive and controlling behaviours have affected how she parents.

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>• How does the PA parent?</li> <li>• How does the PV describe his role in parenting? What activities does he do as a parent?</li> <li>• Have the children disclosed to agencies (schools and support services) how they feel about him as a parent/step parent or their mother's partner?</li> <li>• Does the PV have fears for the children in his care?</li> <li>• Have practitioners observed his parenting as part of a parenting assessment?</li> <li>• What actions has he taken to harm children (PV's or others)?</li> <li>• Are the children aware of his abuse of PV?</li> <li>• How has his abuse of the PV and/or the children impacted on the children's wellbeing and functioning?</li> <li>• What is the impact of his abusive behaviours on family and whānau resources and functioning?</li> <li>• Does he use the children to exert control over the PV?</li> <li>• Has his abuse undermined the PV's parenting? For example, has it affected her ability to provide for her children's basic needs.</li> <li>• Has his abuse constrained the PV seeking help for her and her children?</li> <li>• Has she tried to protect the children? How has his behaviour or potential behaviour constrained her attempts to protect the children?</li> <li>• What was she able to do for her children despite the abuse she was experiencing?</li> <li>• Has he interrupted the children's relationship with their biological father?</li> <li>• Has her life been limited in order to placate him/keep things manageable for the family?</li> </ul>	<p>'He told her she would never leave him alive and she would never be allowed to take his [child] away from him... she was [so] terrified her teeth were chattering.'</p> <p>'My dad hurts my mum... cause he likes hurting.'</p> <p>'She heard her dad talking to his friends... he called her over... and put a gun to her head. His friends were laughing...'</p> <p>'Harry was just always really nasty to [the child], calling [the child] dumb... I broke up with him and he threatened to burn my house down with me and my kids in it.'</p> <p>'He was annoyed by [the child's] crying. He said things like "shut your fucken [child] up or I'll waste [the child]".'</p> <p>'She would tell me that she wanted to leave Hemi, but whenever she tried Hemi would use their baby... against her so she couldn't leave.'</p> <p>'He was jealous of her having contact with the father of her children. His abuse meant he was not allowed to be with the children under the terms of the parenting agreement. This suited him because it made it hard for Maria to spend time with the children.'</p> <p>'Sadly, [child] has had the traumatic experience of growing up in a home where serious violence against his mother was the norm. He lived in constant fear of you assaulting his mother and would sometimes even stay home from school because he knew that if he was around you were less likely to beat his mother. He spent his childhood walking on eggshells so as not to anger you, knowing that any anger would likely be taken out on his mother. Your behaviour destroyed much of his childhood and caused him to suffer from severe anxiety, depression and panic attacks. He often lived with other family members to try and avoid you.'</p>	<p>Review records of agencies involved with the children and adults, including parenting assessments.</p> <p>Describe the impact of PA's abusive behaviours on housing security, maternal mental health and substance abuse, child mental health and substance abuse, extended family, whānau and community support, health care, employment and educational stability.</p> <p>Sources of information include:</p> <ul style="list-style-type: none"> <li>• school reports, school records, teachers' statements</li> <li>• child health records (GP, Plunket, mental health services)</li> <li>• contact with Family Start/parenting courses/women's refuge</li> <li>• family court proceedings (psychological assessment section 178 CYPF Act) or psychological assessment under section 133 of the Care of Children Act 2004.</li> </ul>

**PA's lifestyle:** How does his lifestyle support his sense of entitlement to use violence, including against those other than the PV, eg, associates.

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>• What is his lifestyle? How does his wider lifestyle affect her and constrain her ability to be self-determining?</li> <li>• Is he involved with criminal networks or activities? Does this limit her ability to seek help from certain agencies? Eg, the police.</li> <li>• Is her partner a gang member?</li> <li>• Did his gang associations mean she could not access services?</li> <li>• Do his gang associates support his abuse of her and other women?</li> <li>• How has he presented to practitioners involved with him (ie, probation officers) – aggressive, intimidating, compliant or non-compliant? How have they responded?</li> <li>• Who are his friends and associates? What are their lifestyles?</li> <li>• How does he finance his lifestyle?</li> <li>• Has he assaulted others? Are others also afraid of him? Is there anyone in the community that is prepared/able to successfully stand up to him?</li> <li>• Has he been on sentence with Corrections? Have his sentence conditions impacted on her (ie, while he has been on home detention she has had to carry out illegal activities for him?)</li> <li>• Has he told her to change her name so that she can visit him in prison/provide a bail address for him?</li> <li>• Do their family/social networks support his abuse of her (actively or passively)?</li> <li>• Does the community support his abuse of her (actively or passively)?</li> </ul>	<p>'[He] has been a Mongrel Mob member for most of his life and has quite a high ranking with the gang. His eldest son has now joined... When she was a medical detox... Sarah has shared... about her long history of violence from her partner, she has wanted to leave but does not know how – gang associations involved, makes it more difficult.'</p> <p>'The family have a lot of gang members in it. They will not say anything. I came in because I know her family will not say anything. This is not her family; it is her partner's family.'</p> <p>'[He] has a violent reputation... he has told me that he has killed someone... and been in prison.'</p> <p>'While he was in jail he would call her and demand money be put into his account for "luxuries" like additional food. If she failed to do so, he would send associates to her address to intimidate her.'</p>	<p>Check to see if the PA is known to the police and the Department of Corrections. If so, for what <i>range</i> of charges and offences? (ie, assault (against family and intimate partners and/or non-family members), drug dealing, receiving stolen property, fraud, threatening behaviour to others.</p> <ul style="list-style-type: none"> <li>• Prison records: were phone calls recorded while incarcerated and were these passed to police?</li> <li>• Who was visiting him in prison and what were family sending him?</li> <li>• Case notes.</li> </ul>

**PV's offending:** His use of coercive and controlling behaviours to make her: undertake fraudulent activities; commit dishonesty offending; breach conditions of her sentence. This will deplete the resources available to her and make it difficult for her to seek help as she is likely to be viewed as problematic by the agencies she may need support and assistance from.

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>Did he take her money to finance his needs, leaving her with very little to live off or in debt?</li> <li>In whose name are large debts registered?</li> <li>Has he made it difficult for her to hold down a job?</li> <li>Has he made her take responsibility for his offending?</li> <li>Has his coercive control impacted on her ability to comply with her community-based sentences?</li> <li>Has she been breached for leaving a property, which she was on curfew at, out of fear (possibly not disclosed)?</li> <li>What impact did his abuse have on her sentence compliance (ie, her drinking may have increased to numb the abuse, but she had a sentence condition to not consume alcohol)?</li> </ul>	<p>'Me and Mr Chase had an argument because he always took my money off me and I couldn't make mortgage payments. He was too busy putting the money into owing what he did at the [gang] pad. That's how I got behind in my mortgage.'<sup>12</sup></p> <p>'She was under severe financial pressure, due to Mr Chase taking her money to buy drugs or pay back debts, so she never had enough money for food and bills. Mr Chase accepted he had debts to the Mongrel Mob but said that he was not under pressure to pay them. He admitted he was a drug user (including hard drugs) but denied that this put financial pressure on the couple.'<sup>13</sup></p> <p>Maria was breached for not attending her community work. She was too embarrassed to tell Corrections that she did not attend because he had beaten her the night before.</p> <p>She resigned from her position when her relationship was at risk of becoming known to her employer.</p>	<p>Both criminal histories will show charges but consider how these may be a result of coercive control in the case of the PV.</p> <ul style="list-style-type: none"> <li>Examine their financial arrangements – what bank accounts were monies paid into and who had access to these accounts? What was her credit rating?</li> <li>Check Work and Income records, including advances for food/car repairs, necessities.</li> <li>Talk to employers regarding their knowledge of how his behaviour impacted both workplaces.</li> </ul> <p>If the PV was on sentence, check with the Department of Corrections if practitioners were aware she was experiencing IPV from her partner.</p> <ul style="list-style-type: none"> <li>Previous pre-sentence reports on both PA and PV.</li> <li>Was she ever ordered to do a living without violence course?</li> </ul>

**PV's trauma history:** Understanding her cumulative experiences of trauma (including but not limited to that caused by the PA's pattern of behaviour).

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>Has she suffered from traumatic brain injury as a result of prior abuse?</li> <li>How does she describe the function of drinking or using drugs in her life?</li> <li>What are her experiences of abuse in childhood and with prior partners; has she been exploited by others (ie, sexually abused for others financial gain)?</li> <li>What is the impact of any cumulative experiences of abuse and trauma?<sup>14</sup></li> <li>How have her experiences of trauma informed her responses to the PA's violence?</li> <li>Is she dependent on him for alcohol and other drugs? Did he play a role in getting her addicted?</li> <li>Has he sabotaged her efforts to address her substance misuse issues?</li> <li>Has he sabotaged her access to treatment?</li> </ul>	<p>'In her pre-sentence report for fraudulent offending Katrina said because Tamati used to "beat her", she consoled herself by drinking.'</p> <p>'Hazel said drinking "takes me away so I no longer have to care about anything".'</p> <p>Significant recorded history of family violence between Helena's parents as she grew up. Both also have a large number of criminal convictions. Father is recorded as having gang connections, and her mother committed suicide, and Helena found her body. She left school after this and reported behavioural disturbances while at school which included setting fires and being involved in fights and bullying. Helena also disclosed a childhood of sexual abuse from 'uncles' when she was eight and an early introduction to cannabis and alcohol.</p>	<p>Clinical records from GP or hospitals where she may have been treated for head or facial injuries, attempted strangulation or symptoms related to trauma.</p> <p>Contact substance abuse services/detox services she may have been involved with.</p> <ul style="list-style-type: none"> <li>Review initial assessments undertaken with her, which asked about her life experiences and history of substance abuse, what experiences of trauma has she shared?</li> </ul> <p>Take a trauma informed and violence responsive approach to describing her responses and actions.</p>

<sup>12</sup> R v Chase [2017] NZCH 244, [40].

<sup>13</sup> Ibid.

<sup>14</sup> See adverse childhood experiences (ACE) questionnaire, and body of research which links ACE to poorer outcomes in adulthood. Some of these questions may be useful to ask of the PV or her networks. Retrieved from [www.goodtherapy.org/blog/psychpedia/ace-questionnaire](http://www.goodtherapy.org/blog/psychpedia/ace-questionnaire) 26/6/18.

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>Where there is a mental disorder, what is the connection/intersection between this and experiences of victimisation in childhood and adulthood?</li> <li>How did trauma from abuse influence the nature and expression of any symptoms of mental disorder? Have additional disorders developed (depression, post-traumatic stress disorder, anxiety states, suicide attempts and substance misuse)?</li> <li>If the mental disorder is pre-existing, how has IPV impacted on her social circumstances/support (ie, homelessness, diminished social support, social isolation)?</li> <li>If she has developed a mental disorder in the context of IPV, what is the disorder and what are the vulnerabilities/predisposing factors for her to develop that disorder?</li> <li>How has the IPV and mental disorder impacted on her help-seeking behaviour and on agencies' (including health) responses to her?</li> </ul>	<p>Moana was raised in a gang family where she suffered neglect and abuse. She was taken into care with a Pākehā family where she was further sexually abused. She began to exhibit signs of mental unwellness in her teens. There is ongoing highlighting by professionals of the problems resulting from physical, psychological and sexual abuse. Recommendations for intensive psychotherapy/ counselling and follow up were never implemented. Instead, the focus of psychiatric intervention was on her substance abuse, which was an acknowledged response to trauma. There was no focus on her current safety.</p> <p>Despite her long involvement with mental health services Aroha was discharged from hospital following a serious assault by her partner without any support or follow up. There was no attempt to check whether her home was safe to return to.</p> <p>After the death of her partner, Sarah told her psychiatrist she had been receiving weekly support from the mental health team. They came over every 'payday' to put money into her account, to help her budget.</p>	<p>Interviews with PV offenders. These need to be conducted face-to-face, in the most appropriate, empathic setting available, and be mindful of IPV as a gendered pattern of harm and of re-traumatisation. There is a need to be flexible in the length and number of interviews conducted.</p> <p>Request records held by Oranga Tamariki, ACC, etc. which outline histories of abuse in childhood and young adulthood.</p> <p>Medico-legal reports and clinical records may be written in sanitised, emotionally neutral language in a misguided attempt to avoid accusations of bias and hence may not properly reflect the PV's experiences. Counsel needs to be aware of this and may need to reinterpret with the PV.<sup>15</sup></p> <p>Experts need to explain to the court how experiences of victimisation and trauma and the dynamics of shame, guilt, fear, psychological avoidance (dissociation, emotional numbing, repression) and grief can affect a PV offender's presentation at each stage of the process, from the index offence, to police interview, interactions with defence counsel and prosecutors, and during court hearings, with reference to the presence of pre-existing and/or IPV-related mental disorder.</p>

15 D. Wilson et al., 'Becoming better helpers: rethinking language to move beyond simplistic responses to women experiencing intimate partner violence', *Policy Quarterly*, vol.11, no.1, 2015, pp. 25-31.

**Quality of agency responses:** How have agencies responded to her and others' help-seeking endeavours?

Possible questions	Family Violence Death Review Committee examples	Potential sources of information
<ul style="list-style-type: none"> <li>• How many times did she seek help and/or disclose abuse to agencies? How many times did she present with suspicious injuries? Help seeking may be indirect in circumstances where direct help seeking is too dangerous (eg, seeking medical care but not making a disclosure).</li> <li>• Was seeking help from mainstream support services an option for her? What factors might have made it difficult for her to contact police, go to a refuge, get a protection order, or leave the PA?</li> <li>• What were her experiences of services? Were they helpful?</li> <li>• What was the effectiveness of the response?</li> <li>• Did a poor/unhelpful response from agencies, community or friends/family shut down any further help-seeking from her or her support network?</li> <li>• Did agencies rely on her to respond, when her ability to do so was non-existent or severely compromised?</li> <li>• Did others (agencies/services/networks/community) take his behaviour seriously? How did they demonstrate that?</li> <li>• Was his behaviour constrained by the system response? How?</li> <li>• Was he able to manipulate the system to avoid consequences for his behaviour? How?</li> <li>• Was he bailed or returned to her home, or in close proximity, with official sanction?</li> <li>• Could she trust professionals (eg, GP, social worker, probation officer) to take actions that would make her safer?</li> <li>• Have professional actions ever made her more unsafe? How? (Eg, informed the PA that she has disclosed his abuse of her when she has asked them not to tell him.)</li> <li>• Has she ever been told it is her responsibility to protect her children from his violence?</li> <li>• Have agencies ever made it difficult for her to access housing and food she and her children need?</li> <li>• How has her partner retaliated when she has sought help (threats and actions taken to harm her, her children and other family members)?</li> <li>• Did agencies ask about possible retaliation or consider this as a real risk when planning their responses?</li> <li>• For women who live rurally:</li> <li>• What is the distance to the nearest police station?</li> <li>• How long would it take for a police response?</li> </ul>	<p>The police temporarily uplifted their child on the advice of multi-agency practitioners. They were concerned that she was not acting protectively or able to protect their child from his violence. Out of fear of his retribution for contacting the police, she withdrew her police statement. He moved back in with her.</p> <p>'Returned to daily/drinking, currently, discharged from [substance abuse service]... Vulnerability moderate to high domestic violence particularly as returned to daily alcohol use. Encouraged to seek treatment for alcohol use, aware of [substance abuse service] contact details.'</p> <p>After making 14 disclosures to services and family members, it was recorded at a family violence multi-agency meeting: 'Discussed at [multiagency meeting]. Petra needs to want some help. No offence disclosed K3 and filed.'</p> <p>'Rose arrived at the emergency department. Her partner had assaulted her. The laceration was sutured. It was recorded 'Rose informed of referral [child protection service], she is being picked up by [a relative]... Rose is leaving ED to go down to the police station.' The service followed up with three phone calls that went unanswered. The file was closed with a note that it would be reopened if she phoned them.'</p> <p>Frank was able to avoid attending a men's behaviour change programme by saying he wanted a cultural programme, when none was available. He was then excused from a tikanga programme on the basis that his gang connections made his attendance unsafe.</p> <p>Karen disclosed to her counsellor that he had raped her in the week prior, but she did not want to report that to police. The counsellor recorded the rape but took no action to consult with others or share that information to promote safety.</p>	<p>Seek and detail the range of agencies she was involved with and disclosed to – approach health services, Work and Income, places of worship, police, community services, legal, cultural services, as well as family and friends.</p> <p>Specifically review what these services observed with respect to her presentations and engagement with them (ie, was her partner always present so she had no safe opportunity to disclose, how did she behave in front of him?)</p> <p>Was she screened when presenting to health services? Was he present?</p> <p>If she disclosed abuse, what help did these agencies offer her?</p> <ul style="list-style-type: none"> <li>• Did they help address her lived experiences, or only provide rote safety advice ie a transactional safety plan?<sup>16</sup></li> <li>• Who had the main responsibility for taking action? Agencies or the PV?</li> </ul> <p>Explain how the PV's help-seeking approaches were shaped by:</p> <ul style="list-style-type: none"> <li>• her cumulative abuse history</li> <li>• the actions and retaliatory responses of the PA</li> <li>• the reality of her life and inequities she experienced</li> <li>• previous experiences of help-seeking from services</li> <li>• the emotional reserves she has available to cope with more violence and trauma.</li> </ul>

16 Family Violence Death Review Committee, *Fifth Report: January 2014 to December 2015*, Wellington, Health Quality & Safety Commission, 2016, p. 28

**Structural inequities:** Make visible any intersecting structural inequities (eg poverty and racism) which supported the PA'S use of violence or exacerbated the PV's entrapment.

Possible questions	FVDR examples	Potential sources of information
<ul style="list-style-type: none"> <li>• Did the PV feel practitioners respected her and supported her in a manner which upheld her dignity and cultural identity?</li> <li>• Did the PV experience victim-blaming and discriminatory attitudes from practitioners due to her ethnicity, class, education, gender, sexuality, disability? For example, was she acutely conscious of her race in dealing with agencies?</li> <li>• If Māori whānau were involved, how did tikanga inform the agency's practice?</li> <li>• How responsive to Māori whānau was the service?</li> <li>• Did practitioners recognise, understand and address the inequities she was experiencing? Or did they just provide the service as usual (ie, recommend safe sleeping arrangements for newborn when the mother had no safe place to live).</li> <li>• Did the manner in which practitioners interacted with her influence whether she would disclose abuse and/or whom she sought help from <i>again</i>?</li> <li>• Did she feel that they were able to understand the realistic constraints of her situation or did they impose conditions/ requirements or have expectations that were not realistically possible?</li> <li>• Did she have access to whānau who were resourced to be able to assist her? Could they provide for her and her children in a crisis, ie, food, accommodation and support in sobriety?</li> <li>• Does she have connections to her cultural roots and could she access them?</li> <li>• What barriers like geographic isolation, language, disability made it difficult for her to access services?</li> <li>• What have been the consequences of seeking help from mainstream services (eg, loss of children, PA arrested)?</li> <li>• Did the implications of government welfare and/or housing policies impact her ability to disclose the abuse? (Eg, PA was not meant to be living at her Housing NZ home and had caused extensive damage to the home.)</li> <li>• How did lack of access to money, housing and food exacerbate her entrapment?</li> <li>• How has her immigration status contributed to her entrapment?</li> <li>• How have the historical and contemporary experiences of colonisation impacted on the PV and/or PA's whānau, hapū and iwi?</li> </ul>	<p>'They were only judging me from the way I looked. I really needed help... They weren't being good people.'</p> <p>'Mere has one room in HNZ home, she is not meant to be living there. No heat, gas not connected due to finance... Private rental too expensive... No transport...'</p> <p>'Beth was evicted from her HNZ home when she was convicted of a drug offence. It was clear she was taking the blame for her abusive partner's offending. She and her five children were homeless, and they were all separated out to various relatives.'</p> <p>'After serving a prison sentence you violently assaulted the complainant on your return home because you had been unable to contact her by telephone as she had no money to pay for your collect calls.'<sup>17</sup></p> <p>For one PA's iwi, by the 20th century nearly 80 percent of one million acres of land had been acquired by the Crown and private parties. By 1910 around 800,621 acres had been taken and a further 235,128 acres was lost in the following decades. During the 20th century, public works takings further eroded the landholdings. Today people who identify as this iwi own share in just 76,642 acres of Māori freehold land. Associated with this dramatic land loss and the significant immigration of many peoples and cultures over such a relatively short time, has been a loss of identity and culture for this iwi. These government led social, legal and economic policies, when combined with an inadequate recognition of the iwi as tangata whenua, have impacted upon their once thriving, rich and diverse culture and way of life.</p>	<p>Direct interview with PV – inquire as to how the way practitioners interacted with her made her feel.</p> <ul style="list-style-type: none"> <li>• Check agencies records and assessments for the documentation of structural inequities and how agencies responded (or not).</li> </ul> <p>The ongoing harm of colonisation is visible in the realities of many Māori whānau today. Māori experience higher levels of unemployment, lower levels of education attainment and income, inequities across numerous health outcomes, poorer housing conditions, and less access to transport and communication technologies relative to non-Māori non-Pacific populations.</p> <p>Māori whānau (PV's and PA's) can experience numerous barriers when seeking help and support from services. The barriers include structural and economic ones that limit their access to services (eg, lack of transport and of essential services in some communities), and also the cultural barriers, racial biases and stereotyping that Māori encounter when seeking help. When marginalised and disadvantaged people experience discrimination and victim-blaming, they are less likely to trust that, when seeking help on subsequent occasions, they will receive respectful and effective help.<sup>18</sup></p>

17 R v Chase [2017] NZCH 244, [40].

18 Please see section 1.4 The whakapapa of violence within whānau, *Family Violence Death Review Committee, Fifth Report Data: January 2009 to December 2015*, Wellington, Health Quality & Safety Commission, 2017, pp. 21-26.