



LAW·COMMISSION TE·AKA·MATUA·O·TE·TURE

MEDIA RELEASE

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Hon Sir Grant Hammond KNZM
President
Law Commission

UNDERSTANDING FAMILY VIOLENCE: REFORMING THE CRIMINAL LAW RELATING TO HOMICIDE

The Law Commission is recommending a number of changes designed to better serve victims of family violence who kill their abusers.

These recommendations are in the Law Commission's Report *Understanding Family Violence: Reforming the Criminal Law Relating to Homicide* (NZLC R139, 2016), tabled in Parliament today.

New Zealand has the highest reported rate of family violence in the developed world. Half of all homicides here happen within families, most occurring within intimate partner relationships.

The majority of intimate partner homicides are committed by men, who have a history of using violence to exercise control over their partner.

In a small number of cases – less than five per cent of all homicides in New Zealand – a victim of family violence kills their abuser. Most are women who have endured years of trauma and abuse.

“It became clear in reviewing and reflecting on the abuse suffered by victims of family violence who kill their abusers that, in many cases, the final acts of homicide were acts of desperation,” President of the Law Commission, The Hon Sir Grant Hammond said.

Last year, the Minister of Justice asked the Commission to investigate whether the law could be improved.

New Zealand currently has no specific legislation to deal with these rare cases.

The Commission has found that these cases require deeper knowledge of the nature and dynamics of family violence. Otherwise, the circumstances can be misunderstood, or the history of violence minimised, which can lead to unjust legal outcomes for these defendants.

“Our proposals recognise the unique features of family violence. There is often no reasonable prospect of leaving a violent relationship. Addressing this and other misconceptions through education is central to improving the legal response to victims of family violence who kill their abusers,” Lead Commissioner, Dr Wayne Mapp said.

Currently, only a small number of victims of family violence successfully rely on self-defence under Section 48 of the Crimes Act 1961.

The law of self-defence was developed largely in response to one-off violent encounters, usually between two men.

A central requirement for self-defence is a perceived threat of an **imminent** attack.

However, for many victims of family violence there has been a long history of escalating abuse - not a single encounter. The law needs to be changed to address this.

The Law Commission also looked carefully at partial defences. It decided mitigating factors are better dealt with at sentencing.

The Law Commission recommends:

1. Continued education to support an improved understanding of family violence among judges, lawyers and Police.
2. Reforms to the Crimes Act 1961 to clarify that self-defence may apply when a defendant is responding to family violence, even when the threat is not imminent.
3. Amendments to the Evidence Act 2006 to identify the kind of family violence evidence that may be relevant to claims of self-defence by victims of family violence.
4. Amendments to the Sentencing Act 2002 to ensure consistent consideration of a history of family violence as a mitigating factor in sentencing.
5. The Ministry of Justice consider the application of the three strikes legislation to victims of family violence who commit homicide.

The Law Commission review included the publication of an Issues Paper in 2015, and consultation with key agencies and organisations.

The Government will now consider its response to the Law Commission's recommendations.

-ENDS-

A press conference will be held at 12.00pm May 12th 2016 at The Law Commission, Level 19, 171 Featherston Street, Wellington.

Interview clips with Lead Commissioner Dr Wayne Mapp can be found [here](#)

For further information and comment from Lead Commissioner Dr Wayne Mapp, please call Tennessee Mansford, 021 164 3504 or email: family.violence@lawcom.govt.nz

This media release, fact sheet and interview clips, and a copy of the Report, is available from our website at <http://www.lawcom.govt.nz/our-projects/victims-family-violence-who-commit-homicide>