



LAW · COMMISSION
TE · AKA · MATUA · O · TE · TURE

March 2014, Wellington, New Zealand | REPORT 131

SUICIDE REPORTING





SUICIDE REPORTING

The Law Commission is an independent, central advisory body established by statute to undertake the systematic review, reform and development of the law of New Zealand. Its purpose is to help achieve law that is just, principled, and accessible, and that reflects the heritage and aspirations of the peoples of New Zealand.

The Commissioners are:

Honourable Sir Grant Hammond KNZM – President

Judge Peter Boshier

Dr Geoff McLay

Honourable Dr Wayne Mapp QSO

The General Manager of the Law Commission is Roland Daysh

The office of the Law Commission is at Level 19, 171 Featherston Street, Wellington

Postal address: PO Box 2590, Wellington 6140, New Zealand

Document Exchange Number: sp 23534

Telephone: (04) 473-3453, Facsimile: (04) 471-0959

Email: com@lawcom.govt.nz

Internet: www.lawcom.govt.nz

National Library of New Zealand Cataloguing-in-Publication Data

New Zealand. Law Commission.

Suicide reporting.

(Law Commission report ; no. 131)

ISBN 978-1-877569-53-1 (pbk.)—ISBN 978-1-877569-52-4 (PDF)

1. New Zealand. Coroners Act 2006. 2. Suicide—New Zealand.

I. Title. II. Series: New Zealand. Law Commission. Report ; no. 131.

345.930522—dc 23

ISSN: 0113-2334 (Print)

ISSN: 1177-6196 (Online)

This paper may be cited as NZLC R131

This Report is also available on the Internet at the Law Commission's website: www.lawcom.govt.nz

28 March 2014

The Hon Judith Collins
Minister Responsible for the Law Commission
Parliament Buildings
WELLINGTON

Dear Minister

NZLC R131 – SUICIDE REPORTING

I am pleased to submit to you the above Report under section 16 of the Law Commission Act 1985.

Yours sincerely

A handwritten signature in green ink that reads "Grant Hammond". The signature is written in a cursive style.

Sir Grant Hammond
President

Foreword

Suicides occur with distressing frequency in New Zealand. Sometimes they go unremarked. On other occasions they may attract significant public and media attention.

Whether restrictions should be placed on the reporting of suicides, or some aspects of them, has given rise to controversy. The existing law on the subject has also been criticised as needing clarification.

The Law Commission was asked to review and report on the law relating to the reporting of suicides by both the traditional media and in social media. It has done so, and its recommendations are set out in this Report.

The Report will be tabled in Parliament by the Minister Responsible for the Law Commission, and when so tabled will be publicly available for comment.

The government of the day will determine how to respond to the Report. It may do so as part of a review of the Coroners Act 2006, presently being undertaken by the Ministry of Justice. But a response to the Report is entirely a matter for the government.

The Commission hopes that its recommendations will clarify the law and help reach a balanced conclusion on the difficult issues of public health and freedom of expression that are raised by suicide reporting.



Sir Grant Hammond
President

Acknowledgements

We are grateful to all the people and organisations that provided input during this review. We would especially like to thank the Chief Coroner, the Coroners Reference Group, the Media Freedom Committee, Dr James Hollings, the Mental Health Foundation, Dr Sunny Collings, Dr Annette Beautrais, Dr David Fergusson and the Ministries of Justice and Health for their thoughtful and constructive engagement with this review. A list of those with whom we consulted can be found in Appendix B of this Report.

The project was led by the Honourable Sir Grant Hammond. The Senior Legal and Policy Advisor was Linda McIver, the Senior Researcher and Policy Advisor was Cate Honoré Brett and the Research Clerk was Catherine Moreau-Hammond.

Contents

- Foreword iv
- Acknowledgements v
- Chapter 1 Introduction and summary of recommendations 2
- Chapter 2 The harm from reporting suicide 11
- Chapter 3 The legislation 19
- Chapter 4 Guidelines 26
- Chapter 5 Current media practice of reporting suicide in New Zealand 30
- Chapter 6 The justifications for reform 37
- Chapter 7 The scope of the proposed statutory restriction 39
- Chapter 8 Freedom of expression 46
- Chapter 9 Standards for reporting suicide 50
- Chapter 10 Summary of recommendations 56
- Appendix A 59
 - Terms of Reference 59
- Appendix B 60
 - Consultation list 60
- Appendix C 61
 - Key systematic reviews of the evidence 61
- Appendix D 64
 - Guidelines for reporting suicide 64

Chapter 1

Introduction and summary of recommendations

INTRODUCTION

The essential problem

- 1.1 Each year there are over 500 self-inflicted deaths in New Zealand.¹ For the most part these desperately sad events do not attract widespread notice or media attention. Lives pass in quiet pain. But in a small and close knit society such as New Zealand a not insignificant number of suicides attract media or social media attention, some of an intense kind.
- 1.2 Considerable debate has occurred as to the appropriateness and effect of media and social media commentary on suicidal behaviours, and whether legislative intervention is required.
- 1.3 One viewpoint is that any comment about an individual suicide falls squarely within the bounds of the right to freedom of expression, and may be beneficial in helping public and private understanding of the causes and consequences of suicide. On this argument, there are libertarian, therapeutic and educative reasons for having no restrictions on the reporting of suicide, save that presentation of comment should be in reasonably good taste.
- 1.4 At the other end of the spectrum are those who contend that no comment at all should be made about the circumstances of the suicide, beyond the bare acknowledgement of it. This is because, it is said, there is sound evidence that certain types of reporting can produce a contagion effect, and more deaths.

The context of this Report

- 1.5 The Minister for Courts has Cabinet approval for advancing legislative amendments to the Coroners Act 2006 reflecting a targeted review of the coronial system. It was in this context that in July 2013 the Minister of Justice asked the Law Commission to undertake a subset of that exercise: a first principles review of the legislative provisions restricting the reporting of suicide. Whatever recommendations the Commission has to make to Parliament can then be taken into account by the Government in the course of that targeted review.

Governmental responses

- 1.6 Broadly speaking there have been two different kinds of responses to the issue of media reporting on suicide.
- 1.7 Overseas jurisdictions have sought to ameliorate the possible negative effects of reporting suicide (such as copycat behaviour, or florid glorification, or undue invasions of privacy) by a combination of voluntary guidelines for the media, along with education programmes aimed at promoting a better understanding of suicide and the potential negative effects of reporting it.

¹ Ministry of Health *Suicide Facts: Deaths and intentional self-harm hospitalisations 2010* (2012), at ix.

- 1.8 New Zealand has been alone in endeavouring to use legislation to affirmatively restrict reporting of suicide. It has sought to do so by what are presently sections 71 to 73 of the Coroners Act 2006 (Coroners Act). That legislation provides:

71 Restrictions on making public of details of self-inflicted deaths

- (1) No person may, without a coroner's authority, make public any particular relating to the manner in which a death occurred if—
 - (a) the death occurred in New Zealand after the commencement of this section; and
 - (b) there is reasonable cause to believe the death was self-inflicted; and
 - (c) no inquiry into the death has been completed.
- (2) If a coroner has found a death to be self-inflicted, no person may, without a coroner's authority or permission under section 72, make public a particular of the death other than—
 - (a) the name, address, and occupation of the person concerned; and
 - (b) the fact that the coroner has found the death to be self-inflicted.
- (3) The only grounds on which a coroner may under this section authorise the making public of particulars of the death (other than those specified in subsection (2)(a) and (b)) are that the making public of particulars of that kind is unlikely to be detrimental to public safety.
- (4) In determining whether the grounds specified in subsection (3) are made out, a coroner must have regard to—
 - (a) the characteristics of the person who is, or is suspected to be, the dead person concerned; and
 - (b) matters specified in any relevant practice notes issued under section 132 by the chief coroner; and
 - (c) any other matters the coroner considers relevant.

72 Permission referred to in section 71(2)

For the purposes of section 71(2), this section gives permission for—

- (a) the publication by the Independent Police Conduct Authority, under section 34(1)(b) of the Independent Police Conduct Authority Act 1988, of a report that includes a particular of the death; and
- (b) the publication by the Commissioner of Police, under section 34(2) of that Act, of an opinion or recommendation under section 27 or 28 of that Act, or a part of any such opinion or recommendation, that includes a particular of the death; and
- (c) the making public by a person of a particular of the death contained in any such report, opinion, recommendation, or part of an opinion or recommendation, published under that Act.

73 Definitions for sections 71 and 74

In sections 71 and 74,—

make public means publish by means of—

- (a) broadcasting (within the meaning of the Broadcasting Act 1989); or
- (b) a newspaper (within the meaning of the Defamation Act 1992); or
- (c) a book, journal, magazine, newsletter, or other similar document; or
- (d) a sound or visual recording; or
- (e) an internet site that is generally accessible to the public, or some other similar electronic means

particular, in relation to a death, means a detail relating to the manner in which the death occurred, to the circumstances of the death, or to an inquiry into the death.

- 1.9 These restrictions have been in New Zealand law for over half a century now. Earlier, the Coroners Acts of 1951 and 1988 each contained different iterations of them. It should be noted that the legislation restricts reporting only of the details of suicides. It does nothing to restrict the reporting of the problem of suicide in general. Also, the restrictions apply to “self-inflicted” deaths rather than “suicide” deaths because suicide requires an examination of the intention of the deceased person, which is a matter to be determined by a coroner.
- 1.10 In the course of an inquiry coroners also have the powers in section 74 of the Coroners Act. These powers are not specific to suicide, but may be used to specifically prohibit the reporting of some evidence at a suicide inquiry:
- 74 Coroner may prohibit making public of evidence given at any part of inquiry proceedings**
If satisfied that it is in the interests of justice, decency, public order, or personal privacy to do so, a coroner may prohibit the making public of—
- (a) any evidence given or submissions made at or for the purposes of any part of the proceedings of an inquiry (for example, at an inquest); and
- (b) the name, and any name or particulars likely to lead to the identification, of any witness or witnesses.
- 1.11 The restrictions in sections 71 and 74 are enforced via an offence in section 139:
- 139 Publication of information in contravention of section 71 or prohibition under section 74**
Every person commits an offence against this section, and is liable on conviction to a fine not exceeding \$5,000 in the case of a body corporate, or \$1,000 in any other case, who publishes or permits to be published any information in contravention of—
- (a) section 71 (which relates to restrictions on the making public of details of self-inflicted deaths); or
- (b) a prohibition under section 74 (which empowers the coroner to prohibit the making public of evidence given at any part of inquiry proceedings).

The policy objectives behind the present New Zealand restrictions

- 1.12 The policy objectives of the current statutory reporting constraints appear to be to:
- avoid “inquest by media” before a coroner has had a proper opportunity to review the evidence and make a ruling as to manner of death;
 - protect public health by reducing the risk of copycat behaviour; and
 - protect the privacy of bereaved persons.
- 1.13 Parliament has taken the view that sufficient risk of contagion effects from suicide coverage by the media exists that both statutory restrictions, at least in certain respects, and a voluntary media protocol for reporting are necessary. As we have noted, New Zealand is unique in the world in this respect. We discuss the evidence of potential harm from reporting suicide in detail in Chapter 2.
- 1.14 In the course of our research and consultation we have encountered a frequent misunderstanding that the restrictions in the Coroners Act are intended to gag the media in relation to suicide, or to shut down discussions on suicide. Nothing in the Coroners Act prevents the media or any person from discussing suicide as a public health issue. The current restrictions only restrict reporting the particulars of individual suicides, unless the coroner has authorised their publication. In fact, most suicide prevention policies advocate talking openly about suicide, but doing so in a way that is sensitive to the bereaved, respectful of the deceased

and does not further endanger vulnerable people. It is hoped that such open discussions of suicide will encourage vulnerable people to seek help.

The case for reform

- 1.15 The Commission puts forward three principal reasons for advocating, as we do, the reform of the law in this subset of coronial law.

The current statutory rules are not working

- 1.16 The Commission is of the view – as is everybody we have consulted – that for one reason or another, the statutory provisions are not working at all or are working inadequately in some respects.

- 1.17 The difficulties are these:

- There is much uncertainty about what exactly is restricted under the current provisions. Coroners themselves have had difficulty, and are even divided, on the interpretation of some aspects of the current statutory rules. The news media are also uncertain. We will deal with the difficulties of statutory interpretation in Chapter 3 of this Report. For the moment it is sufficient to note that uncertainty as to the relevant law is quite inappropriate.
- If the law means what it literally seems to say, it is not being observed. Of a sample of suicide reports in mainstream media or in social media analysed by our staff, the law was not observed approximately 20 per cent of the time.
- When even clear breaches are detected, the law is not being enforced. This again engenders disrespect for the rule of law.
- The law as it presently stands is uneven in its application. The current restrictions do not apply to overseas suicides. To take a simple illustration, the manner of Marilyn Monroe's death can be reported, but not that of the recent death of a high profile Wellington barrister, the late Mr Greg King.
- Experts in suicide prevention generally agree that the evidence clearly shows some forms of reporting of suicide are associated with a subsequent copycat effect, but distinct debate remains around the circumstances under which that effect occurs. The international research is clear, however, that publishing the method of suicide carries a distinct risk factor. A judgement is required as to whether there is a sufficient risk to warrant a statutory prohibition of some kind, at least as to the manner of death.
- In this subject area technology has again stolen a march on the law. The problems we have encountered and grappled with in the work of the Commission about media convergence and overlap also apply in this instance.² Social media has completely changed the modes of communication. A restriction that appears to have been framed essentially with mainstream media in mind is now inappropriate, although as currently drafted the law also applies to social media.

The evidence of harm does not justify a broad prohibition on suicide reporting

- 1.18 We consider that the body of evidence described in Chapter 2 relating to the harm of reporting suicide is large and significant. It warrants attention by any person publicly describing a suicide death to ensure that such reports do not inadvertently increase the risk of harm.

² Law Commission *The News Media Meets 'New Media': Rights, Responsibilities and Regulation in the Digital Age* (NZLC R128, 2013); Law Commission *Harmful Digital Communications: The adequacy of the current sanctions and remedies* (NZLC 2012).

- 1.19 We are of the view, however, that the only evidence strong enough to justify a statutory prohibition (enforced through a criminal conviction and fines) is the evidence linking the reporting of the method of the suicide death to subsequent suicidal behaviour. Evidence of harm from reporting other details of a suicide death (such as speculating as to the causes of the suicide) or from reporting the suicide in a particular manner (such as glorifying or sensationalising the death) is not clear enough to justify a complete prohibition and criminal sanctions.
- 1.20 However, we consider that the evidence does justify and require suggestive practical (although not formal) limits on the freedom of expression of the sort that we indicate later in this report. In essence these are more nuanced obligations enforced by industry self-regulation.

A new set of guidelines is required

- 1.21 Two attempts have been made in New Zealand to evolve practice guidelines for reporting suicide by the mainstream media. These stand alongside the statutory restrictions. In Chapter 4 we discuss these attempts and why they appear to have been ineffective. In our view the main reasons are the lack of agreement by people from different viewpoints and the lack of an adequate ongoing programme for dissemination, education and support for the guidelines.
- 1.22 Given this fraught history, we analysed various legislative regulatory models of enforcement for guidelines. That analysis is set out in Chapter 9. We concluded that guidelines for safe reporting of suicide are not suitable for any form of legislative enforcement against media or social media because they cannot be expressed with sufficient certainty to support a legislative obligation without becoming an unjustified restriction on the right to freedom of expression.
- 1.23 Despite that, we also concluded that preparing, consulting, disseminating, providing education and evaluating a new set of guidelines should be a statutory obligation. Therefore, the evolution of guidelines in New Zealand is unfinished business. The successful implementation of guidelines will require strong leadership from the Minister of Health.

The principles for reform

- 1.24 The principles that should be kept firmly in mind in this reform exercise are as follows:
- Whatever the new law is to be, it must be certain.
 - It must as far as possible be even-handed.
 - It must observe the usual principles for judicial and quasi-judicial inquiries, namely that the integrity of the inquiry must be maintained. A coronial inquiry should not be subverted by inappropriate collateral comments such as (inferentially) the manner of death before the coronial finding is complete.
 - So far as can be reasonably anticipated, the law must respect inappropriate risks to people. These include undue intrusions on privacy.
 - It must respect the difficulties of reconciling freedom of speech and the public health goal of reducing suicide deaths by better articulating and endeavouring to address the private and public harms of suicide.
 - At the same time, the limits of the law must carefully be kept in mind. Some matters are not susceptible to legal regulation; nor should they be. The law cannot control everything. Some matters cannot effectively be transposed into black letter law, but should be left to publicly available guidelines if they are dealt with at all.

Our terms of reference

- 1.25 The terms of reference for this review require the Commission to consider whether the current legislation in sections 71–73 of the Coroners Act strike the appropriate balance between the benefits of freedom of speech and the public health goal of reducing suicide deaths.
- 1.26 In particular the Commission has been asked to consider:
- the information about a self-inflicted death that is appropriate to make public, and at what stage of the coronial investigation;
 - the definitions to support the proposals including, if relevant, “detrimental to public safety”, “particulars” and any particular relating to the “manner” in which a death occurred;
 - whether the same provisions should apply for different forms of media; for example, media organisations, bloggers and social media; and
 - the rules for reporting suspected suicides outside New Zealand.
- 1.27 Our formal terms of reference are attached as Appendix A.

Consultation

- 1.28 We must report by 28 March 2014. Because of the tight timeframe for this reference we have conducted a targeted consultation rather than, as is the usual practice of the Commission, first publishing an issues paper for public comment. A list of the people we have consulted is attached as Appendix B.
- 1.29 The Ministries of Justice and Health, the Chief Coroner and his colleagues, the Media Freedom Committee and experts in suicide prevention have been briefed on a broad outline of our proposals. They were generally supportive of the direction of the proposals and particularly look forward to further development of options for the content and enforcement of standards of practice.
- 1.30 Broadly speaking, those we consulted support our proposals. As always there are matters of fine detail on which there are differences, but the essential underpinnings are supported.

A SUMMARY OF OUR RECOMMENDATIONS

Introduction

- 1.31 In a Report of this character it is helpful to have an overview of where we think the law should go, so that the chapters that follow do not have to be read in isolation.
- 1.32 For the following reasons, we consider that the current sections 71–73 of the Coroners Act should be redrafted:
- There is a strong public interest in the right of freedom of expression.
 - Death by suicide is sometimes newsworthy.
 - The current legislative prohibition against reporting details of a suicide without the permission of the coroner is ambiguous in part, not well understood, frequently not complied with, seldom enforced, and does not encourage good journalistic practice.
 - There is significant evidence that some aspects of reporting of suicide are associated with subsequent suicidal behaviour.

- The growth in social media and internet use, together with growing demands for more open public conversations about suicide, necessitate strong guidance on the type of reporting that will not increase the risk of subsequent suicidal behaviour.
- Voluntary guidelines have had a somewhat fraught history in New Zealand. Overseas practice demonstrates guidelines work best when they are collaboratively drafted and there is ongoing support for their dissemination and implementation.
- Our recommended combination of a statutory prohibition, more tightly defined than the existing restrictions, together with upgraded and clarified standards of practice, will enable better decision making about reporting suicide both by journalists and commentators in social media.

The reforms in a nutshell

- 1.33 The present statutory restrictions are overly broad and confusing. They need to be confined and clarified. Alongside that statutory requirement we recommend further consultation for a revised standard set of practice guidelines, for publication by the Ministry of Health. However, these guidelines would not be legislated. They would be “enforced” through the current media oversight mechanisms.

Legislative prohibition

- 1.34 A narrow prohibition on publishing the method of death should be maintained in the following way:
- Unless the Chief Coroner or the Deputy Chief Coroner has granted an exemption, no person may directly or indirectly make public the method of a death.
 - Unless the Chief Coroner or Deputy Chief Coroner has granted an exemption or has made a finding that a death is a suicide, no person may make public a description of a death that describes it as a suicide.
 - The prohibitions should apply if a death occurs in New Zealand after the commencement of this restriction and there is reasonable cause to believe the death was self-inflicted.
 - “Make public” should have the same meaning as currently in section 73 of the Coroners Act.
 - “Method of a death” includes the site of the death where a description of the site is suggestive of the method.
 - Nothing above prevents a person from stating that a death is a suspected suicide.

An exemption

- 1.35 An urgent exemption from the statutory restriction should be able to be obtained in the following way:
- Any person may apply to the Chief Coroner for an exemption from the prohibitions above.
 - The Chief Coroner must not grant an exemption unless satisfied that the circumstances are such that any risk of copycat suicidal behaviour from the making public of the method of the death, or from describing the death as a suicide, as the case may be, is small and is outweighed by other matters in the public interest.

- In making that determination, the Chief Coroner may be assisted by an expert panel comprised of suicide prevention experts and media experts. The Ministry of Health should constitute a panel for that purpose of not more than three people. Their fees and expenses should be met under the Witnesses and Interpreters Fees Regulations 1974 or similar.
- To ensure that an application for an exemption is dealt with speedily:
 - (a) The Chief Coroner must, so far as is practicable, give priority to any application for an exemption in order to ensure that it is dealt with speedily.
 - (b) The Chief Coroner may deal with an application by any means of communication he or she considers appropriate, but must keep a record of any determination, with short reasons.
- For the purposes of these provisions, the “Chief Coroner” should include the Deputy Chief Coroner when the Chief Coroner is unavailable.

Review

- 1.36 There should be an ability to get an urgent review of the Chief Coroner’s determination whether to grant an exemption in the following way:
- The right in section 75 of the Coroners Act to apply to the High Court for a review should be amended to also apply to a person affected by a refusal by the Chief Coroner to grant an exemption from the statutory prohibition.
 - The decision of the High Court is final.
 - A refusal by the Chief Coroner to grant an exemption from the statutory prohibition should not be reviewable in the High Court under the Judicature Amendment Act 1972.

Coroners’ powers

- 1.37 The powers of a coroner during an inquiry should not be diminished. Nothing in these amendments should affect the current powers of a coroner under section 74 of the Coroners Act.

Enforcement

- 1.38 Section 139 of the Coroners Act should apply to breaches of the recommended statutory prohibitions. In respect of those breaches:
- The maximum fine should increase to \$20,000 in the case of a body corporate and to \$5,000 in any other case.
 - The offence should not apply to a person who hosts material on websites or other electronic retrieval systems that can be accessed by a user unless the specific information has been placed or entered on the site or system by that person.

Guidelines

- 1.39 The statute should provide that:
- The Minister of Health (or his or her delegate) must prepare a revised set of standards for suicide reporting.
 - In doing so the Minister must consult with representatives of the media and of mental health interests, and with such other people as he or she considers appropriate.

1.40 The new standards should:

- apply to every person publicly reporting on a suicide death, including in mainstream media, a blog or social media; and
- be implemented via a non-legislative mechanism (for the mainstream media, that means via the various media standards bodies).

1.41 The statute should require the Minister of Health (or his or her delegate) to implement an ongoing programme to disseminate, promote and support the implementation of the standards, and to evaluate the success of those standards in achieving the goal of low-risk reporting of suicide.

The broad consequences of the foregoing proposals

1.42 We now summarise what we see to be the practical impact of these proposals, if implemented:

- The uncertainty as to the ambit of the present provisions will cease. The legislative prohibition on reporting particulars of the suicide will be limited to only the *method* of the suicide (including the site of suicide where a description of the site is suggestive of the method) and to the fact that the death is a suicide. This will have the effect of sending a much clearer message that reporting these aspects of a suicide carries a significant risk of public harm.
- A breach of that legislative prohibition will carry liability for a conviction and fine. This more limited prohibition should be easier to prosecute because it will be clearer what behaviour breaches the section.
- The statute will require the Minister of Health to advance, consult on and publish a new set of suicide reporting standards material.
- The implementation obligations on the Minister of Health will require an ongoing programme of engagement with the media and the public. The aim of this programme is to educate people about the risk of harm from some forms of suicide reporting and suggest ways to report suicide where it is newsworthy, while minimising that risk. That programme could include:
 - publicising the standards;
 - preparing education material for dissemination;
 - holding discussions with journalism training schools about including the material in the curriculum;
 - holding face-to-face meetings with journalists and editors;
 - providing a telephone based advice service;
 - proactively following up on breaches of the standards with editors;
 - systematically monitoring compliance with the code; and
 - regularly reporting on compliance and enforcement activities.

Chapter 2

The harm from reporting suicide

INTRODUCTION

- 2.1 The policy objectives behind the present statutory restrictions on reporting suicide are to protect public health by reducing the risk of copycat behaviour; to avoid an “inquest by media” before the coroner has had a proper opportunity to determine the manner of death; and to protect the privacy of bereaved persons.
- 2.2 In this chapter we begin by describing the evidence supporting the public health concerns behind the first objective. We also discuss the harm that reporting suicide may cause to people bereaved by suicide and the harm that may be caused to the integrity of the coronial system.
- 2.3 The critical questions that need to be squarely asked are: do the risks to public health of reporting suicide merit consideration of a special regime? And if so, is the harm such that a prudential restriction is required, notwithstanding the provisions of the New Zealand Bill of Rights Act 1990?
- 2.4 Publishing details of a suspected suicide is presently treated as a “special case” in our law because of the risk of a “contagion” effect. Normally, such comment would be left to be constrained, to the extent it is constrained at all, by the general law. If, however, a contagion effect of a sufficient degree cannot be demonstrated on an evidential basis, there is no justification for a “special” legal constraint.

THE EVIDENCE OF A CONTAGION EFFECT

- 2.5 A contagion effect occurs when an already vulnerable person emulates the suicide of another person that they know about, either through personal knowledge or through reports. This is sometimes referred to as a “copycat suicide”. This effect has been recognised for over 200 years and is sometimes called “the Werther Effect”. That name derives from Goethe’s 1774 novel *The Sorrows of Young Werther*, which depicted the suicide of a young man who fell in love with a woman who was to marry another man. After the novel was published a spate of suicides were noticed that closely aligned with the circumstances depicted in the novel.
- 2.6 A contagion effect has been suggested as a cause of suicide clusters. A cluster occurs when there are more suicides within a time period than would normally be expected. When the cluster occurs within a geographical region it is referred to as a “point cluster”. This type of cluster is not specifically associated with media reporting. Rather, the contagion effect is said to occur through social learning within communities. However, it has also been suggested that point clusters are not the result of contagion at all, but occur because people who are vulnerable to suicide tend to associate or “cluster” together through the natural formation of relationships and communities.³

3 Thomas E Joiner “The Clustering and Contagion of Suicide” (1999) 8 *Current Directions in Psychological Science* 89.

- 2.7 When a cluster occurs within a time period but not within a defined geographical region, it is referred to as a “mass cluster”. Mass clusters tend to be associated with media reports of suicide deaths by celebrities or high profile people. An example of a mass cluster was the suicide of Marilyn Monroe, which was thought to lead to a further 303 suicides in the United States (an increase of 12 per cent).⁴
- 2.8 For more than 200 years, but particularly in the past three decades, scientists have studied the contagion effect of reporting suicide. More than 80 studies have been produced, many of which provide evidence of a copycat effect from media reporting – that is, evidence of a rise in the suicide rate following a suicide story in the media. However, many of the studies did not demonstrate that the person who died by suicide actually saw the media report, so it is not possible to say that the media report *caused* the suicide.
- 2.9 We examined a significant body of those studies to understand causes, mechanisms and size of the contagion effect. We placed particular emphasis on systematic reviews of the studies. In systematic reviews scientists have gathered all published studies on the subject and analysed them for their relevance, quality and findings. While individual studies will always have limitations, these systematic reviews across a broad range of studies applied scientific method to the analysis of the body of evidence and were able to draw conclusions about the general trend of the data and the strength of that trend. A summary of the findings of the systematic reviews is attached as Appendix C.

The mechanism of the contagion effect

- 2.10 Media reports of a suicide do not affect everyone equally. While most readers will not be affected, a minority of already vulnerable people may be affected. The research shows young people and those with mental health problems may be particularly vulnerable to suicide reports.⁵ People bereaved by suicide have a higher risk of suicide and so may also be particularly vulnerable.⁶
- 2.11 The mechanism of the contagion effect of a media report is understood under the framework of social learning theory – that is, behaviour is learned through a process of observation and is then copied. People learn through the media that some people “solve” their problems by suicide.⁷ This learning process is stronger when the person observing identifies with the person observed, or the person observed is presented as a successful person.⁸ The process is particularly strong when the person observed is a celebrity or famous person.⁹ Copying the general behaviour of “successful” people, particularly those who share similar characteristics to the person copying, is seen as an effective means of acquiring similar success.¹⁰

4 S Stack “Media coverage as a risk factor in suicide” (2003) 57 J Epidemiol Community Health 238 at 238.

5 DP Phillips and LL Carstensen “Clustering of teenage suicides after television news stories about suicide” (1986) 315 N Engl J Med 685.

6 John R Jordan “Is Suicide Bereavement Different? A Reassessment of the Literature” (2001) 31 Suicide and Life-Threatening Behavior 91; Alison Chapple and others “How people bereaved by suicide perceive newspaper reporting: qualitative study” (2013) 203 BJP 228.

7 Steven Stack “Suicide in the Media: A Quantitative Review of Studies Based on Nonfictional Stories” (2005) 35 Suicide and Life Threatening Behavior 121.

8 Thomas Niederkrotenthaler and others “Copycat effects after media reports on suicide: A population-based ecologic study” (2009) 69 Soc Sci Med 1085.

9 Michel Tousignant and others “The impact of media coverage of the suicide of a well-known Quebec reporter: the case of Gaetan Girouard” (2005) 60 Soc Sci Med 1919.

10 Alex Mesoudi “The Cultural Dynamics of Copycat Suicide” (2009) 4 PLoS ONE e7252.

- 2.12 Reports of suicides contribute to other suicidal behaviour if they create more positive definitions of suicide (advertising the method of suicide, glorifying the suicide, providing sensational coverage, normalising the suicide) than negative definitions (focusing on the pain of suicide, promoting alternatives to suicide).¹¹ The remainder of this section describes the different ways in which media reports of suicide may promote those positive definitions of suicide.

“Advertising” the method of suicide

- 2.13 A number of studies have found that reporting the method of a suicide has a significant imitative effect on subsequent suicides, especially when the victim was a celebrity and when people identify with the age and sex of the victim. Reading of the “successful” use of a method may make that option appear more readily achievable to a vulnerable person. Although information on suicide methods is readily available if a person searches for it, removing the requirement to actively search for methods may make a suicide more likely. Publishing the specific location of a suicide, where that location is specifically linked to the method of suicide, has been shown to have a similar effect. For example, reports that state that a body was found under a high bridge, cliff or building is an indication that the person died by jumping from that place.
- 2.14 There is some evidence that the suicidal behaviour that follows suicide reporting is not merely inevitable behaviour in vulnerable people that was moved forward in time by exposure to the media report. A 1974 study examined suicide rates in American populations following suicide reporting. It found that although a discernable rise in the suicide rate occurred following media reporting, there was no subsequent discernable trough, indicating an overall rise in the rate.¹²
- 2.15 A commonly cited case of a contagion effect following the reporting of the method of suicide is that of intentional carbon monoxide poisonings by burning charcoal in a confined space in Hong Kong.¹³ Before the publicised case, no cases of suicide by burning charcoal were reported. Jumping and hanging were previously the most common methods of suicide. In the two-year period after the first publicised case there were 56 cases of suicide by charcoal burning and 39 per cent of those cases were in the first three months. The table below describes the findings of other similar studies on the effects of reporting the method of suicide.

11 Stack, above n 7.

12 David P Phillips “The Influence of Suggestion on Suicide: Substantive and Theoretical Implications of the Werther Effect” (1974) 39 *American Sociological Review* 340.

13 Wai Sau D Chung and Chi Ming Leung “Carbon Monoxide Poisoning as a New Method of Suicide in Hong Kong” (2001) 52 *Psychiat Serv* 836.

Studies on the effect of reporting the method of suicide on subsequent suicidal behaviour			
Year	Country	Method	Findings
1978/79	England and Wales ¹⁴	Burning	Burning was an uncommon method of suicide until an extensively publicised politically motivated suicide in 1978. In the following year there were 82 suicides by that method, most involving individuals with strong psychiatric histories. None had political overtones apart from the index case.
2012	Taiwan ¹⁵	Charcoal burning	A significant increase in suicide deaths following a media report of a celebrity suicide. There was also a marked increase in suicides by the same method used by the celebrity.
2004	Austria ¹⁶	Firearm	In the three weeks following extensive coverage in the largest Austrian newspaper of a suicide by gun, the number of suicides by firearm increased above the number in the three weeks before the reports.
1999	United Kingdom ¹⁷	Anti-freeze	While the mean number of intentional anti-freeze poisonings for 1995–1997 was around two per month, the number of such poisonings for the month following media coverage of an inquest into an anti-freeze poisoning was nine. For the month following the depiction of such a poisoning in the popular drama <i>Casualty</i> the number was six.

Normalising suicide

- 2.16 A normalising effect may occur when suicide is represented (often inadvertently) as a reasonable or common response to problems or a crisis. By being presented as relatively common, a person may feel that it is more acceptable. Normalisation in suicide reporting can occur in different ways. For example, an increase in the quantity of suicide reporting or reporting on high suicide statistics may make suicide appear to be an increasingly normal event.¹⁸ Alternatively, presenting suicide as a consequence of particular problems, for example bullying or relationship breakup, can lead to other people with those problems considering suicide as an option. Research has shown that normalisation has a stronger effect on vulnerable populations when the person identifies with the deceased¹⁹ or the deceased is a celebrity.²⁰
- 2.17 It has been suggested to us that a normalisation effect may also occur if the ethnicity of the victim is mentioned in a report. The inadvertent result can be that suicide is presented as a more frequent (and consequently more normal) response within that ethnic population. This normalisation by the media is counterproductive to efforts to reduce suicide rates within those populations.

Glamorising or sensationalising suicide

- 2.18 Similarly to normalising suicide, glamorising or sensationalising suicide may increase the risk of a vulnerable person choosing suicide as a way of addressing their problems. Glamorising suicide may occur through the material selected to report, the use of words or photos in the report, or in the extent of coverage of a suicide. For example, emphasising community expressions of grief instead of the problems faced by the person who died may give the impression that the person

14 JR Ashton and S Donnan “Suicide by burning as an epidemic phenomenon: an analysis of 82 deaths and inquests in England and Wales in 1978-9” (1981) 11 *Psychol Med* 735.

15 Ying-Yeh Chen and others “The impact of media reporting of the suicide of a singer on suicide rates in Taiwan” (2012) 47 *Soc Psychiatry Psychiatr Epidemiol* 215.

16 Elmar Etzersdorfer, Martin Voracek and Gernot Sonneck “A dose-response relationship between imitational suicides and newspaper distribution” (2004) 8 *Arch Suicide Res* 137.

17 Martin J Veysey, Robie Kamanyire and Glyn N Volans “Effects of drug overdose in television drama on presentations for self poisoning” (1999) 319 *BMJ* 1131.

18 Ministry of Health *Suicide and the media: The reporting and portrayal of suicide in the media: A resource* (September 1999) at 8.

19 Merike Sisask and Airi Varnik “Media Roles in Suicide Prevention: A Systematic Review” (2012) 9 *Int J Environ Res Public Health* 123 at 132.

20 Andrew TA Cheng and others “The influence of media reporting of the suicide of a celebrity on suicide rates: a population-based study” (2007) 36 *Int J Epidemiol* 1229.

who died is receiving a lot of positive attention, which may make suicide a more attractive option. Glamourising suicide is a particular risk in reporting the suicide deaths of celebrities or high profile people.²¹

- 2.19 Sensationalising suicide sometimes occurs when reports aim to raise awareness of a perceived problem. For example, this may happen by presuming connections between suicides that may also be a mere coincidence, by describing a rise in the rate of suicide within a population as a suicide epidemic, or by describing a location associated with suicides as a “hot spot”.

The size of the contagion effect

- 2.20 We noted above that the media reporting following the suicide death of Marilyn Monroe was thought to increase subsequent suicides by 12 per cent. Generally, however, the size of the effect of media reporting of suicide on subsequent suicides is thought to be much smaller than the effect in that particular case.²² One American researcher has estimated that generally the effect may be in the order of 2.5 per cent.²³ However, another study found the increase in suicide rates after reports of celebrity suicides to be 0.26 per cent.²⁴
- 2.21 It is true that the size of the effect of media reporting is significantly smaller than that of other psychiatric and psychosocial risk factors for suicide.²⁵ For example, a history of mental health problems or familial suicidal behaviour is much more strongly associated with suicide than is media reporting. However, all risk factors for suicide fall on a spectrum of modifiability, with many being fixed or very difficult to modify. In contrast to many of the other risk factors, the risk of media reporting is relatively easy to modify through education of journalists and the public at large.

The contagion effect of new media

- 2.22 The terms of reference for this review require us to specifically consider the application of our recommendations for different forms of media such as bloggers and social media (new media).
- 2.23 The proliferation of internet-based modes of communication is having an impact on suicide in New Zealand. In summary:
- People (particularly young people) are receiving information (including about individual suicides) from an increasing range of sources.
 - Many of those sources are designed and structured in ways that inhibit effective control of their content.
 - It is common for people to discuss the details of a suicide death on social media, often in ways that would breach the guidelines for mainstream media reporting of suicide.²⁶
 - There is a significant level of “convergence” between mainstream media and new media, with mainstream media using new media as a source of information for its reports and conversely providing links to further information on new media sites.

In Chapter 5 we describe the impact of the internet in more detail.

21 Tousignant and others, above n 9.

22 Robert D Goldney “Media and Suicide: A Cautionary View” (2001) 22 *Crisis* 173.

23 Stack, above n 4.

24 Thomas Niederkrotenthaler “Changes in suicide rates following media reports on celebrity suicide: a meta-analysis” (2012) 66 *J Epidemiol Community Health* 1037.

25 Drew M Velting and Madelyn S Gould “Suicide contagion” in R W Maris, M M Silverman and S S Canetto (eds) *Review of suicidology, 1997* (Guilford Press, New York, 1997) 96.

26 We discuss these guidelines in Chapter 5.

- 2.24 Unfortunately we have found very few studies from New Zealand or internationally examining whether reports on new media of individual suicides have a contagion effect. We consider that it cannot necessarily be assumed that reports of suicides in new media would have the same effect as reports in mainstream media. People working in suicide prevention have speculated to us that, despite them being accessed far less frequently, reports of suicide in mainstream media are likely to be much more authoritative for young people than reports in social media. They also draw a distinction between the “one-way” communication of mainstream media and the “conversation-like” communication on social media. The often rapid, multi-faceted nature of social media may mean that the impacts of any reports of suicide that may breach the guidelines for safe reporting of suicide are diluted.
- 2.25 Even if the effect of new media is not the same as that of mainstream media, it is still likely that certain forms of reporting in new media may influence subsequent suicidal behaviour. For example, there is particular concern that online memorial pages for people who died by suicide may inadvertently glamorise the deceased person or sensationalise the death. Resources have been developed in New Zealand and internationally for the publication of “safe” memorials after a suicide death.²⁷ It is likely, however, that these currently reach only those people working in suicide prevention or with young people.
- 2.26 From our investigation of the evidence outlined in this chapter and in Appendix C we have concluded that:
- The evidence is irrefutable that some forms of reporting are strongly associated with a risk of further suicides. It is likely that the potential for harm extends to reports of suicide on the internet and social media.
 - There is some evidence of a causal link between some forms of reporting suicide and subsequent suicide (as opposed to merely an association). However, those proven causal links are tightly confined to specific types of reporting.
 - There are gaps in the research. For example, much of the research does not distinguish good quality suicide reporting from poor quality suicide reporting. Much of the research does not show that subsequent suicide victims actually read the media reports of the earlier suicide.

BEREAVED FAMILIES AND BREACHES OF PRIVACY

- 2.27 The grief process following a suicide death is often different from other forms of bereavement. Studies have shown that people bereaved by suicide may:²⁸
- struggle more with questions of meaning around the death;
 - show higher levels of feelings of guilt, blame and responsibility;
 - experience greater feelings of rejection or abandonment by the person who died by suicide, or anger towards them;
 - experience greater social isolation and stigmatisation;
 - experience greater difficulties with family relationships, including long-term effects; and
 - have an increased risk of suicide themselves.

27 National Suicide Prevention Lifeline (US) *Lifeline Online Postvention Manual* (2010); Ministry of Education *Preventing and responding to suicide: Resource kit for schools* (2013).

28 John R Jordan “Is Suicide Bereavement Different? A Reassessment of the Literature” (2001) 31 *Suicide and Life-Threatening Behavior* 91–102.

- 2.28 These features of the grief process following a suicide death make the bereaved particularly vulnerable to reports of the suicide. During our consultations, we spoke to a number of people bereaved by suicide. A common theme was that their grief process was inhibited by a general lack of understanding about suicide in society and wariness in talking about it. Consequently they favoured more public discussion of suicide in a general sense as a public health issue.
- 2.29 However, they told us that inaccurate reporting and breaches of privacy increased the burden of grief felt by bereaved families. Examples given of inaccurate reporting included when the media speculated about and over-simplified the causes of suicide without an in-depth knowledge of the circumstances. We were also given examples of breaches of privacy causing significant relationship problems between the surviving family members. From speaking with families it was apparent their idea of what should be private differed from what is generally accepted by the media. For example, they felt that it was an invasion of privacy to publish personal information publicly available on social media sites. In their view, no information about the person who died should be published without the consent of the family and whānau.
- 2.30 People bereaved by suicide sometimes wish to share their stories with the intent of helping other people in similar situations or of exposing poor practice in public institutions. Some felt that the current legislative prohibitions prevented them from speaking openly about their own experience of suicide. Conversely, some families had agreed to speak with the media after a suicide, but had later regretted it.

THE INTEGRITY OF THE CORONIAL PROCESS

- 2.31 In Chapter 5 we describe our research into current media practice of reporting suicide and analyse the extent to which that practice complies with the statutory restrictions and guidelines for reporting suicide. In the course of that research we found a not insubstantial amount of reporting by mainstream media of individual suicide deaths. In many cases the media did not specifically call a death a suicide but said something like “the death has been referred to the coroner”, or “there are no suspicious circumstances”. However, in some cases the death was described as a suicide.
- 2.32 Leaving aside the question of whether describing a death as a suicide is a breach of section 71 of the Coroners Act (we discuss that further in Chapter 3), we consider that significant harm is caused to the integrity of the coronial system by such a description. Parliament has determined that it is a coroner’s role to determine the cause of death.²⁹ This makes the cause of death a legal determination. If broad public comment and discussion on the cause of death is permitted before a coroner has made a finding on that point, it may usurp the role of the coroner or undermine the significance of that finding when it is made.

29 Coroners Act 2006, s 4(2).

- 2.33 Harm could possibly be caused to the administration of justice by describing a death as a suicide before that has been determined by a coroner. While we must assume that a coroner is capable of ignoring any prior public discussion of the matters he or she is to determine, there is a risk that such public comment may influence the evidence of witnesses to the coronial proceeding. Public reports that a death was in fact a suicide may affect a witness's evidence by making that person either more confident or less confident in their recollection of events. We note, however, that in *Beckett v TV3 Network Services Ltd* Robertson J was not persuaded that a television broadcast prior to a coronial inquest would be likely to affect the recollection of witnesses to that inquest. He held that the plaintiffs had not demonstrated that "the integrity of that process might be affected by what was contemplated by the defendant".³⁰
- 2.34 *Beckett* was not a case of suicide, but we agree the effect on witnesses is likely to be similar. Reports that a death was in fact a suicide are unlikely to have a significant impact on a witness's recollection of events at a coronial inquest. The greater harm in this case is to the integrity of the coronial process.

³⁰ *Beckett v TV3 Network Services Ltd* (2000) 6 HRNZ 84 (HC) at 90.

Chapter 3

The legislation

INTRODUCTION

- 3.1 Under the Coroners Act 2006 (Coroners Act), if a death occurs in New Zealand, there is reasonable cause to believe that death was self-inflicted, and a coronial inquiry into the death has not been completed, section 71(1) prohibits the publication of “any particular relating to the manner in which a death occurred” without a coroner’s authority. Even after a coroner has found a death to be self-inflicted, section 71(2) prohibits the publication without a coroner’s authority of “a particular of the death” other than the name, address, and occupation of the deceased person and the fact that the coroner found the death to be self-inflicted.
- 3.2 The only basis on which a coroner may give authority to make public particulars of the death, either before or after an inquiry into the death has been completed, is that “the making public of particulars of that kind is unlikely to be detrimental to public safety”.³¹
- 3.3 This provision has proved to be problematic in practice. The terms of reference for this review highlight two particular issues with the interpretation of section 71. First, which particulars of a suicide are covered by the phrase in section 71(1) “particulars relating to the manner in which a death occurred?” Does that phrase preclude reporting the bare fact that the death was a suicide? Or does it merely preclude reporting the method of the suicide? Second, what should a coroner consider when determining under section 71(3) whether a report of a detail of a suicide death is “unlikely to be detrimental to public safety?”
- 3.4 The practical context giving rise to the greatest concern is that the immediacy of interest in a death is just after it has occurred, yet it may be many months before the coroner makes a finding. What can the media or social media say in the intervening period?
- 3.5 Some media organisations have taken the position that they are not in breach of section 71(1) if they do not report the method by which the deceased caused their own death, but report solely the fact that the death was self-inflicted.
- 3.6 At least two interpretations of section 71(1) appear to be tenable. A broader interpretation is that reporting the bare fact that a death is the result or suspected result of suicide is not permissible. A narrower interpretation is that the prohibition extends only to specific matters such as the method by which the deceased caused their own death.

The historic background to the present legislation

- 3.7 We begin in the traditional fashion with a consideration of how section 71 of the Coroners Act came into being. The Coroners Acts of 1846, 1858, 1867 or 1908 had no analogous provisions. Changes came with the enactment of the Coroners Act 1951.

31 Coroners Act, s 71(3).

United Kingdom

3.8 Between the New Zealand Coroners Acts of 1908 and 1951, a report under the chairmanship of Lord Wright, one of the most respected British Law Lords, was presented to the Parliament of the United Kingdom.³² This was a broad-based report with a mandate to inquire into the practice of coroners and to recommend any areas for change.

3.9 Under the system then in place in the United Kingdom there were three broad concerns:

- the publication of suicide notes, which often contain very personal information or uncorroborated assertions about other people, for instance family members;
- the risk of imitated suicides presented by the publication of the details of suicide; and
- the requirement for coroners to ascertain whether a person was of unsound mind at the time they took their own life, as historically there were two verdicts available in cases of suicide: what is essentially self-murder or suicide while of unsound mind. The former was an important finding because it led to the forfeiting of property.

3.10 On the problem of imitation the Wright Committee said:³³

It is a matter of common knowledge which none of our witnesses disputed – that a suicide in which some particular means is adopted is frequently followed by a chain of similar suicides ... witnesses of great authority took the view that the publication of details of the manner in which suicide was committed was calculated to lead to others who had a tendency to suicide to take their own lives. It was argued on the other side that publicity did no more than suggest a particular means of suicide to a person who intended to commit suicide and who was only influenced as to the means to adopt ... we consider that the true view of this matter is that there are at any one time a number of people contemplating suicide to whom the knowledge of what may appear to be an attractive and painless method of ending life is an important factor in making up their minds to destroy themselves.

3.11 Having noted an argument that inquests should be held in private but rejecting that as an absolute necessity, the Wright Committee went on:³⁴

We have been impressed by the consensus of opinion that the present publicity of inquests on suicides often causes very great hardship and does a great deal of social harm. We have the greatest reluctance to propose anything which would restrict the freedom of the press. To uphold that freedom is a matter of the highest public importance and it should be jealously guarded. It has generally been used with admirable restraint by the newspaper proprietors for this country. Nevertheless, in this particular matter, we have reached the conclusion that the publication and the press of the proceedings at inquest on suicides should be limited to a statement of the name and address of the deceased and of the verdict that the deceased died by his own hand ...

The Committee also expressed concern about the publication of things such as witness statements and photographs in the press “before the inquest is held”. As it transpired nothing was done in response to these recommendations.

32 Home Department (UK) *Report of the Departmental Committee on Coroners* (Cmnd 5070, 1936) (Wright Report).

33 *Report of the Department Committee on Coroners*, above n 32, at 18-19.

34 *Report of the Department Committee on Coroners*, above n 32, at 18-19.

- 3.12 In 1965 the United Kingdom Home Office commissioned a second review of the coronial system. That resulted in a 1971 Report. This second Committee took a different view from the Wright Report on the subject of publicity of suicide inquests. It said:³⁵

We think that the argument that publicity increases the number of suicides is insufficiently supported by clear or irrefutable evidence to justify so controversial a step as the total prohibition of press reports.

It rejected the idea of a discretionary provision “since the effect of this would often be to place coroners in a most invidious position”.

- 3.13 A third review of the coronial system took place in the United Kingdom in 2003.³⁶ It recommended that inquests no longer be mandatory in cases of suicide. This had the effect of substantially reducing the number of such inquests that would continue to be conducted in public.
- 3.14 The net result of these considerations was the Wright Report recommendation, that some statutory restriction be put on reporting suicide, has never been adopted in the United Kingdom. The Editors’ Code of Practice, issued by the United Kingdom Press Complaints Commission, stipulates that “[when] reporting suicide, care should be taken to avoid excessive detail about the method used”,³⁷ but there is no express statutory provision.
- 3.15 We note that recently, coronial law in the United Kingdom has had a complete (and highly contentious) overhaul by the Coroners and Justices Act 2009, which came into force in July 2013. That legislation created great public controversy because it appeared to revive proposals for the possibility of some secret hearings and, on the other side, the necessity to accommodate English law to the Human Rights Act 1988 and the European Convention of Human Rights.
- 3.16 An Australasian commentator has suggested that the new Act “has made disappointingly little progress towards a modern, integrated, prevention focused coronial system for the United Kingdom” and compared the “increasingly outmoded system for investigating death” in the United Kingdom, with the progressive reforms initiated in New Zealand, and subsequently built upon in some Australian states.³⁸
- 3.17 It is not necessary for us to comment on the wider debate here. It suffices to say there does not appear to be anything in the complex 2009 United Kingdom legislation that bears on the issue we are pursuing other than to note that the overwhelming concern of the United Kingdom commentary and media was that its thrust was against, rather than for, greater transparency. We agree with these concerns.

New Zealand

- 3.18 What is important for our purposes is that in New Zealand the insights of the Wright Committee appear to have been the inspiration for section 21 of the New Zealand Coroners Act 1951. This provided that a coroner may direct that no report or no further report of the proceedings of an inquiry be published until after the coroner’s findings. Where the coroner found the death was self-inflicted no report of the proceedings, without the authority of the coroner, could be published other than the name, address and occupation of the deceased person; the fact that an inquest had been held; and the fact that the coroner had found that the death was self-inflicted.

35 Home Office (UK) *Death Certification and Coroners* (Cmnd 4810, 1971) at [15.27].

36 Home Office (UK) *Death Certification in England, Wales and Northern Ireland: Report of a Fundamental Review* (Cm 5831, 2003).

37 Press Complaints Commission *Editors’ Code of Practice* (January 2012).

38 Ian Freckleton “Anglo-Australian coronial law reform: the widening gap” (2010) 17 J Law Med 471.

- 3.19 This was a discretionary regime, but it represented a significant change to previous practice. The provision was the subject of some debate in the New Zealand Parliament prior to its enactment. The then Attorney-General referred extensively to the Wright Report in support of the proposed restriction on publication.³⁹
- 3.20 By 1984 the Department of Justice in New Zealand had issued a review of the Coroners Act 1951.⁴⁰ It suggested that the existing law on the reporting of suicide “based on the recommendation of the Wright Committee, represents a balanced approach that satisfies both the public interest and the need for restraint in certain cases”. While such a balance might allow some “potentially corrosive conjecture” to occur, “most people will realise that an independent judicial officer enquiring into the matter will shortly investigate the facts and make a finding”.
- 3.21 The recommendations in that Report were largely adopted in section 29 of the Coroners Act 1988. However, there was an expansion in at least two respects: the restrictions were made automatic rather than by order of the coroner; and the restrictions took effect prior to an inquest being opened.
- 3.22 It was arguable that section 29 of the 1988 Act also prevented reporting the possibility that a death was self-inflicted. Certainly the explanatory note to the Bill as introduced suggests it was intended to limit the scope of section 29 further.⁴¹ Clauses 29(1) and 29(2) were not debated in the House, nor was the different wording in the two clauses.⁴²
- 3.23 Further amendments to section 29 were made in 1996. Whether it was intended to take out the textual anomalies by using the defined term “particular” in both sections, or whether it was to address some particular holdings, is not apparent to us.⁴³
- 3.24 In any event, by 1998 the Government had asked the New Zealand Law Commission to review the entire coronial system. This Commission’s Report was released in 2000.⁴⁴ Ultimately it led to the enactment of the current Coroners Act. That Report was silent on the scope of the restrictions on reporting suicide.

The enactment of the present provisions

- 3.25 The Bill, which would become the current Act, was introduced into Parliament in 2004.⁴⁵ It was considered by a Select Committee in 2005. The present section 71 was clause 61 in the Bill.

39 (29 November 1951) 296 NZPD 1184.

40 Department of Justice *Coroners Act 1951: A review with proposals for amendments* (November 1984).

41 Coroners Bill 1987 (170-1) (explanatory note).

42 Section 29, Coroners Act 1988 “(1) If there is reasonable cause to believe that a death that occurred in New Zealand after the commencement of this Act was self-inflicted, without the authority of a Coroner no person shall publish any information relating to the manner in which the death occurred. (2) Without the authority of a coroner no person shall publish any details of a death that a coroner has found to be self-inflicted, of the circumstances of the death, or of an inquest into the death, other than the name, address, and occupation of the person concerned, and the fact that the coroner has found the death to be self-inflicted.”

43 Section 29, Coroners Act 1988, as substituted by s 4(1) Coroners Amendment Act 1996:

“(1) In this section,—[...] Particular, in relation to any death, means detail relating to the manner in which the death occurred, to the circumstances of the death, or to an inquest into the death.

(2) If - (a) There is reasonable cause to believe that a death that occurred in New Zealand after the commencement of this Act was self-inflicted; and (b) No inquest into it has been completed,—without the authority of a coroner no person shall make public any particular relating to the manner in which it occurred.”

44 Law Commission *Coroners* (NZLC R62, 2000).

45 Coroners Bill 2004 (228-1).

3.26 The Select Committee said:⁴⁶

Making public of details of self-inflicted deaths

Clause 61 of the bill as introduced provides that no person may make public specific details in cases of suspected or established self-inflicted death without the coroner's authority. "Making public" includes publishing on an Internet site that is generally accessible to the public. The bill provides that the coroner may authorise the making public of particulars of a self-inflicted death only if that is consistent with public safety.

We considered amending the bill to permit more detail about self-inflicted deaths to be made public, as some submitters had suggested that greater transparency might lead to better understanding of the issues relating to self-inflicted death. However, we remained concerned about the implications for public safety and the possible consequences of such a change, and support some restriction continuing in the interest of public safety.

We note that family members of the deceased would be covered by the provisions restricting making public details of a self-inflicted death. People who wanted to make public the details of a self-inflicted death of a family member would have to apply to the coroner for authorisation. We expect that, when considering whether or not to authorise the making public of details of a self-inflicted death, coroners would weigh carefully the interests of family members of the deceased and the potential risk to public safety if particular details were made public.

3.27 Taken as a whole, this passage suggests that the Select Committee thought the purpose of section 71 was to prevent publication of the *method* by which the deceased took their life, rather than the fact that the death was self-inflicted. This is because the first paragraph refers to the restriction being on "specific details"; the second paragraph refers to the possibility of publication of "more detail"; and perhaps most distinctly, the Committee went on to conclude that "some restriction" is desirable. This suggests that the restrictions do not extend so far as to prohibit publication of the fact that a death was self-inflicted.

3.28 The difficulty appears to be that the Committee did not clearly consider the timing problem; that is, restrictions that applied before the completion of an inquest, and afterwards. Consequently, it did not specifically consider whether a death could be reported a suicide or self-inflicted before the coronial inquest had determined that.

3.29 There was much debate in Parliament leading to the passage of the Act. The then Minister for Courts, the Hon Rick Barker said:⁴⁷

Hon RICK BARKER (Minister for Courts): ... I reassure Mr Finlayson that the Justice and Electoral Committee has got this legislation right. I read with interest the submissions, such as that made by the Press Council. I draw his attention to what I think is the most important line in that submission: "The Press Council eschews debate on the issue of 'contagion' or 'copycat suicide', except to say that the evidence to support this is very unclear." On the basis of eschewing the research, the Press Council opts for freedom of the press.

I did some cursory investigation myself, and found every piece of evidence to be very clear. It did not take much to research the information through the internet. The first thing is that copycat suicide has been recorded over and over again. Every piece of research showed that when a high-profile suicide is attempted, others follow. We had the example in Hong Kong whereby a very unusual method was used for suicide. It had never been seen before, and by putting it in the public arena, in a very short period of time it became the third most common form of suicide in that area. Every other piece of research shows that when someone, particularly a young person, commits suicide, other suicides follow. The copycat

46 Coroners Bill 2004 (228-2) (select committee report) at 3.

47 (2 August 2006) 633 NZPD 4666.

and contagion effect is documented incredibly throughout. It is beyond doubt. So the Press Council is saying that it wants to have the ability, under the guise of freedom of speech, to report suicide, and that the public's right to know is greater than the negatives that can befall the general public. I am very cynical about this.

... the research shows that copycat suicide and contagion is a very real factor. Anyone who has studied this issue will tell us that when someone commits suicide in an area, it sends a signal to others that suicide is an OK thing to do. That person is the permission-giver. We had a very good example of that recently in a small central North Island town, where a number of people took their lives, one after another. Despite Parliament's prohibition on reporting that matter, a senior executive of a television programme said: "Despite what the law says, I believe that the public has a right to know". Although there were legal consequences arising out of doing it, the programme went on to display all of the facts. That case demonstrates the responsibility taken by the media on this issue.

If I could for one instant believe that the rules that were agreed to would be honoured, I would be tempted to consider the matter, but I can not. The fact is that, contrary to what the media shows, the number of suicides in New Zealand is falling. That is the situation. The public perception is somewhat different. The second inaccuracy in the public perception is that youth suicide is the main problem, but that is not the case, either. The most common form of suicide in New Zealand is male and is aged 25 to 30 years old and older. Those statistics will come as a surprise to people. The third thing is that a disproportionately high number of Maori people commit suicide. Again, that is contrary to the public perception, because the media have highlighted only those that they know will maximise their traction. If the media were able to highlight a particular youth suicide in an area, the shock and horror aspect of it would certainly sell even more newspapers – and we are told that that is the benefit for freedom of information. Well, I do not accept that. My view is that Parliament is entitled to have a view on these things. It has had a view on them, and it has been very successful. The rate of suicide in New Zealand is declining and I think that Parliament is taking exactly the right stance on this issue.

3.30 A few weeks later the same Minister said:⁴⁸

The media suggest that removing the restrictions on reporting details of suicide will improve public understanding of the issue and reduce the number of self-inflicted deaths. The Government does not agree. An increasing body of evidence is showing that media reports of suicide can trigger [emulative] and copy-cat suicides and lead to increases in both the overall number of suicides and the use of a particular method of suicide.

3.31 It is not necessary for us to finally determine the scope of the restriction in section 71(1). We are satisfied that the scope of the provision is unclear and that if a legislative restriction continues to be justified, the scope of that restriction should be made much clearer. We address the question of whether a legislative restriction continues to be justified in Chapter 6 and the scope of a proposed new restriction in Chapter 7.

3.32 We turn now to the meaning of the words "unlikely to be detrimental to public safety" in section 71(3), which concerns the grounds upon which a coroner may grant authority to publish the particulars of a suicide. Coroners have told us they would like more guidance as to what they should take into account when making a section 71(3) determination.

48 (24 August 2006) 633 NZPD 4865.

- 3.33 As it currently stands, the phrase is very broad and is open to multiple interpretations. In particular it gives little guidance as to the strength that should be given to the evidence linking reporting suicide with copycat behaviour. On the one hand, “public safety” may require that the public be warned about a particular method of suicide so that parents or friends of a vulnerable person may take steps to protect that person from risk. On the other hand, the evidence of copycat suicides suggests that reporting on the method of suicide may have the unintended consequence of “advertising” that method to a vulnerable person.
- 3.34 We consider that if an exemption from the statutory prohibition continues to be required, the grounds upon which it is to be made should be as clear as possible about the extent to which the evidence of copycat behaviour deriving from suicide reporting should be taken into account. We address this matter in Chapter 7.

Chapter 4

Guidelines

INTRODUCTION

- 4.1 The World Health Organisation (WHO) has estimated that annually there are more than one million suicides worldwide. From any viewpoint this phenomenon constitutes a serious public health problem. Prevention and control is, however, no easy matter. Preventing suicide is multifaceted. It includes providing optimal conditions for bringing up our children and youth, effective treatment of mental disorder and controlling environmental risk factors.
- 4.2 As we have noted in Chapter 2, more than 80 scientific studies worldwide have examined the association between media coverage of suicide and further suicidal behaviour. Inevitably there are some differences between them but nonetheless they show respectably consistent findings across different types of media, different research methodologies and different cultures and countries.
- 4.3 Agreement is widespread that media depictions and reporting on stories of suicide may precipitate suicidal behaviour in vulnerable individuals, with such individuals particularly susceptible to stories involving celebrity suicide and, most importantly, those which provide details of methods of suicide.
- 4.4 WHO has stated:⁴⁹
- Over 50 investigations into imitative suicides have been conducted. Systematic reviews of these studies have consistently drawn the same conclusion: media reporting of suicide can lead to imitative suicidal behaviours. These reviews have also observed that imitation is more evident under some circumstances than others. It varies as a function of time, peaking within the first three days and levelling off by about two weeks, but sometimes lasting longer. It is related to the amount and prominence of coverage, with repeated coverage and ‘high impact’ stories being most strongly associated with imitative behaviours. It is accentuated when the person described in the story and the reader or viewer are similar in some way, or when the person described in the story is a celebrity and is held in high regard by the reader or viewer. Particular subgroups in the population (e.g., young people, people suffering from depression) may be especially vulnerable to engaging in imitative suicidal behaviours. Finally, and probably most importantly, overt description of suicide by a particular method may lead to increases in suicidal behaviour employing that method.
- 4.5 Studies have demonstrated that media reports about suicide can have a beneficial effect when they describe people recapturing control over their lives. These are sometimes called “mastery of crisis stories”.

Utilisation of guidelines

- 4.6 Given these problems, media reporting guidelines have become one of the most important and widely recognised public health approaches to suicide prevention. Countries with media reporting guidelines for suicide include Australia, Austria, Belgium, Canada, England,

⁴⁹ World Health Organization *Preventing Suicide: A resource for media professionals* (2008) at 6.

Germany, Hong Kong, Ireland, Japan, Northern Ireland, Norway, Scotland, United Kingdom and the United States of America.

- 4.7 It is easy to get lost in the details, but it is important to see where the similarities and the broad thrust of these guidelines lie. We set out as an example the “Quick Reference for Media Professionals” issued by WHO:⁵⁰
- Take the opportunity to educate the public about suicide.
 - Avoid language which sensationalises or normalises suicide, or presents it as a solution to problems.
 - Avoid prominent placement and undue repetition of stories about suicide.
 - Avoid explicit descriptions of the method used in a completed or attempted suicide.
 - Avoid providing detailed information about the site of a completed or attempted suicide.
 - Word headlines carefully.
 - Exercise caution in using photographs or video footage.
 - Take particular care in reporting celebrity suicides.
 - Show due consideration for people bereaved by suicide.
 - Provide information about where to seek help.
 - Recognise that media professionals themselves may be affected by stories about suicide.
- 4.8 An initiative widely recognised for its success is the *Mindframe* national media initiative funded by the Commonwealth Government of Australia. *Mindframe*’s object is to encourage responsible, accurate and sensitive media representation of mental illness and suicide.⁵¹ That programme is very proactive in building relationships and fostering influence with media, with the aim of encouraging responsible, accurate and sensitive reporting by media of mental illness and suicide. Its activities include undertaking large-scale media monitoring projects, advising media professionals as they prepare stories on suicide, supporting the suicide prevention sector in their work with the media, and voicing community feedback on how the media are responding to suicide.
- 4.9 Under the auspices of *Mindframe*, the National Media and Mental Health Group, made up of representatives of peak media bodies, suicide and mental health organisations and the Australian Government, first published the guidelines *Reporting Suicide and Mental Illness* in 2002.⁵² These guidelines have stood out from others around the world, both because of the collaborative way in which they were developed and the process by which they were promoted to the media. *Mindframe* staff have an ongoing programme of supporting media organisations in using the guidelines, including face-to-face briefings, drop-in visits, offering ad hoc advice, distributing hard and soft copies of the resource and supporting materials, and providing ongoing follow up.⁵³
- 4.10 In addition, *Mindframe* has conducted evaluations of the effectiveness of the guidelines. These evaluations, known as *The Media Monitoring Project* collected and analysed the portrayal of suicide by mainstream media across a 12-month period in the year before the introduction of

50 World Health Organization, above n 49, at 3.

51 Mindframe “Mindframe: National Media Initiative” < www.mindframe-media.info > .

52 Mindframe *Reporting Suicide and Mental Illness: a Mindframe Resource for Media Professionals* (Commonwealth of Australia, 2002).

53 Jane E Pirkis and others *The Media Monitoring Project: Changes in media reporting of suicide and mental health and illness in Australia* (Department of Health and Ageing (Australia), 2008).

the guidelines, and then again four years later. It found that the nature and quality of suicide reporting had improved across newspapers, television and radio between the two periods.

New Zealand

- 4.11 The Ministry of Health first published guidelines to assist the media in 1998. The media were consulted but these guidelines had a rocky evolution. The media subsequently strongly criticised the consultation process. Consequently, the guidelines were reviewed and renamed a “resource” in 1999.⁵⁴ These 1999 guidelines incorporated more facts, useful contacts and information on suicide and suicide prevention.
- 4.12 Concerns continued to be expressed by the Chief Coroner and others, and some suicides occurred that were widely publicised. As a result, the Prime Minister established a Ministerial Committee to review the policy underlying the statutory restrictions on reporting suicide and the 1999 guidelines. That Committee came to the conclusion that the evidence underlying the statutory restrictions and the guidelines was still valid, but the guidelines were outdated. In particular the guidelines did not account for social media. The Committee recommended a review of the guidelines.⁵⁵
- 4.13 The then Associate Minister of Health Hon Peter Dunne convened a Roundtable meeting of media and academics to try to have the guidelines redrafted. The composition of that committee was itself somewhat controversial. The Roundtable drafted a set of guidelines (which could perhaps be said to be more inclined towards media interests) and consulted on it. Some suicide prevention experts voiced strong criticism.
- 4.14 The Ministry of Health then drafted an alternative version. That also could not achieve a consensus of support. This left the Roundtable in the position of having to decide which version to support. It decided to proceed with its original version, which is the 2011 version currently appearing on the Ministry of Health website.⁵⁶ That version does not carry the Ministry of Health logo. It states that it was adopted by the Media Freedom Committee and the Newspaper Publishers Association.
- 4.15 There is documented evidence that journalists generally ignored the 1999 guidelines, preferring to be guided by what is considered newsworthy, and relying on the in-house practices of their newsrooms and judgement of more senior colleagues.⁵⁷ It has been suggested anecdotally that despite the media having a greater sense of ownership of the 2011 guidelines, they are also being ignored. It has to be said that this is a far from satisfactory position. The net result is that to the extent that guidelines exist in New Zealand, they represent unfinished business and do not enjoy widespread support.
- 4.16 The reasons for the apparent ineffectiveness of voluntary guidelines in New Zealand have not been systematically studied. It appears to us that there are a number of contributing factors:
- In particular, the media object to the statutory restrictions as being a fetter on their right to freedom of expression and an attack on the quasi-constitutional role of the media as watchdog. That negative attitude to the statutory restrictions may have hindered the

54 Ministry of Health *Suicide and the media: The reporting and portrayal of suicide in the media: A resource* (September 1999).

55 Ministerial Committee on Suicide Prevention *Report to the Prime Minister, Rt Hon John Key: Review of the restrictions on the media reporting of suicide* (November 2010) at [37].

56 Media Roundtable *Reporting Suicide: A Resource for the Media* (December 2011).

57 Jim Tully and Nadia Elsaka *Suicide and the Media: A study of the media response to suicide and the media: The Reporting and Portrayal of suicide in the Media: a portrayal* (Ministry of Health, 2004); Sunny C Collings and Christopher G Kemp “Death knocks, professional practice, and the public good: the media experience of suicide reporting in New Zealand” (2010) 71 Soc Sci Med 244.

development of a mature and collaborative culture for reporting suicide in New Zealand by making consensus more difficult to achieve.

- Interviews of journalists by researchers demonstrated that the guidelines tended to be conflated with the legislative prohibition.⁵⁸ It may be that the media's negative attitude to the statutory restrictions has also coloured the reputation of the guidelines so that they are perceived as being more restrictive than they really are.
- It was also apparent that among many who suggested to us the media have no role in reporting suicide, including some mental health professionals, there was often a lack of understanding of both the role of the media and the practical realities of media organisations. In our view, an understanding of both matters is a necessary ingredient for any collaborative approach to reporting suicide.
- It appears that while the development of each of the sets of guidelines involved a great deal of time and effort, an ongoing strategy was lacking for their dissemination and promotion. While the Mental Health Foundation undertakes some monitoring of suicide reporting and is available by telephone to support journalists in this regard (as is described in the following chapter), that service is not funded to do more than a minimal job.

58 Collings and Kemp, above n 57, at 246.

Chapter 5

Current media practice of reporting suicide in New Zealand

INTRODUCTION

- 5.1 In the preceding chapters we described the evidence of risk from some forms of reporting suicide, and the methods by which New Zealand has sought to mitigate that risk – namely by direct legislative restrictions and by voluntary guidelines and educational material.
- 5.2 The standards and accountabilities of New Zealand’s mainstream media were addressed in depth in the Law Commission’s 2012 Ministerial Briefing on the adequacy of the regulatory environment for media in the digital age.⁵⁹ In this chapter we are concerned with a much narrower question: to what extent does current media practice in reporting suicide comply with the statutory requirements, the applicable media guidelines, and with the underlying policy objectives?
- 5.3 Given the time and resources available to us we are not in a position to provide a definitive answer to this question. The conclusions we have reached are based on a small number of our own quantitative and qualitative studies, supplemented by in-depth analysis of media coverage of a sample of recent suicides. We have also drawn on the feedback provided by key stake holders in the course of consultation.
- 5.4 The purpose of this exercise is not to critique the news media’s performance, but to provide a reasonably objective assessment of the efficacy of the existing combination of statutory restrictions and media guidelines, and inform our reform proposals. This assessment will also help provide a benchmark against which to monitor media practice under any new regime introduced by Parliament in the wake of this review.

THE EXTENT OF SUICIDE REPORTING BY THE MEDIA

- 5.5 Nothing in the Coroners Act 2006 (Coroners Act) prevents the media, or any person, from discussing suicide. Despite this, the current restrictions on reporting the particulars of a suspected suicide before a coroner has determined the cause of death are sometimes blamed for creating a “cloak of silence” around suicide in this country.⁶⁰
- 5.6 For example, in a submission, the Media Freedom Committee, which represents New Zealand’s major broadcast and print media, stated that society was on “dangerous ground when it gags its members from speaking out about issues of public concern”, and furthermore that it could be argued that the current “prohibition on all reporting is inhibiting the lowering of the suicide rate”.⁶¹

59 Law Commission *Harmful Digital Communications: The adequacy of current sanctions and remedies* (NZLC, 2012).

60 Letter from Tim Murphy (Chairman of the Media Freedom Committee) to the Law Commission (24 October 2013).

61 Letter from Tim Murphy (Chairman of the Media Freedom Committee) to Pam Southey (Ministry of Justice) (7 June 2013).

- 5.7 However, in our view the evidence does not support the assertion that there is a cloak of silence around suicide in New Zealand. On the contrary, suicide – both as a general topic and in relation to specific instances – consistently features on the news media’s agenda.
- 5.8 For example, the Mental Health Foundation undertakes daily monitoring of all mainstream media suicide reporting as part of its Suicide Prevention Information New Zealand service provided under contract to the Ministry of Health. It reports that on average between 50 and 100 suicide-related items are published by mainstream media in New Zealand each week.⁶² When a particularly newsworthy death occurs it will often receive blanket coverage across all media channels: for example, in the two weeks after the death of an Auckland private school student, the Mental Health Foundation recorded more than 100 unique items reporting on the event.⁶³
- 5.9 A simple Google search of mainstream media coverage of suicide over a month between August and September 2013 conducted by the Commission found 104 factual news stories relating to suicide in New Zealand. Analysis of the content of these stories showed that:
- Sixteen of these focused on the personal experience of those whose lives had been personally affected by suicide.
 - A further nine had a personal focus but also traversed policy issues.
 - Five dealt with coronial reports or findings.
 - Sixty-nine dealt with issues relating to suicide prevention or policies.
- 5.10 Our findings are consistent with those of a major study into how the New Zealand media report suicide, commissioned by the Ministry of Health and published in 2010 (the 2010 Te Pou Report).⁶⁴ That study replicated the design of the Australian *Media Monitoring Project* undertaken in 2000/2001⁶⁵ and repeated in 2006/2007,⁶⁶ but modified it for New Zealand conditions. The researchers surveyed mainstream news media for a 12-month period in 2008 and 2009 and found in that time 3,483 factual media items relating to suicide were published in New Zealand.⁶⁷ Newspaper items and internet items made up 50 per cent and 40 per cent of the sample, respectively. Researchers coded each item according to its primary focus or angle and found that across all media (internet, radio, television, print) by far the two largest categories of stories focused on either an individual’s completed suicide or on issues such as suicide prevention or euthanasia. Numerically the extent of coverage was very close to the figures obtained in a similar research project in Australia, where there are no statutory constraints on suicide reporting.⁶⁸

62 Consultation conversation with Sophia Graham (Senior Communications Officer at the Mental Health Foundation of New Zealand) with the Law Commission (26 September 2013).

63 Emails from Sophia Graham (Senior Communications Officer at the Mental Health Foundation of New Zealand) to the Law Commission regarding media monitoring of suicide reporting (1–3 October 2013).

64 Brian McKenna and others *Reporting of Suicide in New Zealand Media: Content and Case Study Analysis* (Te Pou o Te Whakaaro Nui, June 2010). The findings of this study are also presented in the following article: Katey Thom and others “Reporting of suicide by the New Zealand media” (2012) 33 *Crisis* 199.

65 Jane E Pirkis and others *The Media Monitoring Project: A baseline description of how the Australian media report and portray suicide and mental health and illness* (Commonwealth Department of Health and Aged Care (Australia), 2002).

66 Jane E Pirkis and others, above n 53.

67 The news items were obtained by monitoring 119 metropolitan, suburban and regional newspapers, five national radio networks, five paid and free-to-air television stations and 35 internet sites, including all major newspaper websites and a number of independent news websites.

68 Thom and others, above n 64, at 204.

The nature and quality of reporting

- 5.11 As well as undertaking a quantitative analysis of the 3,483 suicide-related stories published over the 12-month period, the 2010 Te Pou Report also undertook a qualitative analysis of a random sample of 10 per cent of the items, assessing them for compliance with the Ministry of Health's 1999 guidelines. The study did not evaluate compliance with the Coroners Act.
- 5.12 Researchers coded the random sample of stories according to whether or not they followed the 1999 guidelines – for example, in respect of:
- the use of appropriate language;
 - the presentation of the story including prominence, headlines and the use of visual material;
 - any description of the method of suicide; and
 - the extent to which the item as a whole tended to sensationalise, glamorise or normalise suicide, or perpetuate myths about or oversimplify its causes.
- 5.13 Based on their assessment of the sample, the researchers concluded that the media reporting of suicide during the 12-month period in question “mostly adhered to the Ministry of Health guidelines”.⁶⁹ Specifically, the study found that:⁷⁰
- Most items did not portray suicide in an inappropriate manner.
 - Few items were reported in such a way as to normalise suicide.
 - Detailed discussion on the method of suicide was not reported often.
 - “Surprisingly” few items referenced the fact that a person who completed suicide was a celebrity.
 - Most items did not use inappropriate language, were not located inappropriately, did not use suicide in the headline and did not include inappropriate footage of the suicide scene or methods.
- 5.14 However, researchers did conclude there was room for improvement. Stories often failed to avoid simplistic explanations of suicide, or to adequately contextualise suicidal behaviour or explain the complex psycho-social factors that place individuals at risk, or the triggers that can lead them to complete suicide. In particular they noted “the causative link between mental health or addiction and suicidal behaviour was not well developed in many items”.⁷¹
- 5.15 The study also highlighted problems with using the 1999 guidelines as a quality measure and pointed out significant issues with both the acceptance and practical application of the Ministry's guidelines in a fast moving and increasingly complex news environment:⁷²

Our quality analysis does not tell us anything about whether the journalists actually use the guidelines in the construction of their articles. Existing research indicates that they are highly resistant to doing so, with many journalists reporting not even being aware of their existence ... Further, not following the guidelines is not necessarily indicative of “bad” quality reporting. Some of the quality indicators devised from these guidelines are contentious in terms of whether the indicator equates with “good” or “bad” quality. (Citations omitted).

69 Thom and others, above n 64, at 204.

70 Brian McKenna and others, above n 64, at 68.

71 Brian McKenna and others, above n 64, at 68.

72 Thom and others, above n 64, at 205.

Shifting ground

- 5.16 In the five years since this research was conducted a number of significant changes have occurred in the reporting environment. These include:
- the Chief Coroner’s repeated calls for a more open reporting environment, including encouraging fellow coroners to:⁷³

... think seriously about whether you can go beyond the bare bones of name, address and occupation so people can understand what really went on – think about it each time, don't just instinctively restrict, just because that's the way you have always done it in the past.
 - the adoption in 2011 by the Media Freedom Committee and the Newspaper Publishers’ Association of significantly revised and simplified guidelines for reporting suicide, developed by a Roundtable meeting convened by Hon Peter Dunne, then Associate Minister of Health;⁷⁴
 - increasing media and political focus on bullying (including cyberbullying), alcohol and drug abuse, depression and dysfunctional relationships as factors contributing to youth suicide rates;
 - ongoing organisational and structural change across all media sectors in response to the substantial change brought about by technology and shifting media consumption habits;⁷⁵ and
 - exponential increases in the use of social media and mobile communication technology across all sectors of the population, but in particular within the younger demographic.
- 5.17 Apart from the monthly media monitoring undertaken by the Mental Health Foundation and informal monitoring by the Ministry of Justice on behalf of the Chief Coroner, we are not aware of any systematic assessment of how these changes are impacting on the media’s approach to reporting suicide.
- 5.18 However, based on our own limited research and views expressed during consultation, it seems clear that the Chief Coroner’s stance, and its endorsement by some senior politicians and media⁷⁶ has resulted in a more liberal reporting environment, not least because it has resulted in some coroners adopting a more proactive approach in releasing and commenting on their findings.⁷⁷
- 5.19 It is also clear from academic research that the entertainment sector, new media, and mobile communication technology are adding new layers of complexity to the challenge of controlling or influencing how and when information about suicide is communicated, both publicly and within affected communities.
- 5.20 In 2012 researchers conducted interviews with 71 young people aged 13 to 25 who were engaged with clinical services because of recent intentional self-harm behaviour, to determine the influence of media on their suicidal behaviour.⁷⁸ This study focused on both negative and positive effects of a wide range of media (including music, music videos, the internet, books,

73 “Coroner calls for more openness of suicide” *Timaru Herald* (online ed, Timaru, 16 June 2012); “Minister backs Coroner on suicide debate” *New Zealand Herald* (online ed, Auckland, 13 August 2010).

74 The development of these guidelines is described in Chapter 4.

75 Merja Myllylahti *JMAD New Zealand Media Ownership Report 2013* (AUT, November 2013). These changes have resulted in large cuts to journalistic jobs.

76 “Minister backs Coroner on suicide debate” above n 73; Kate Chapman “Key favours loosening suicide reporting rules (29 August 2011) < www.stuff.co.nz > .

77 Victoria Robinson “Coroner: Teen felt suicide was ‘only solution’” (30 May 2012) *Stuff* < www.stuff.co.nz > ; Matthew Backhouse and Rebecca Quilliam “Greg King suffered ‘massive breakdown’ - coroner” *New Zealand Herald* (online ed, Auckland, 17 October 2013).

78 SC Collings and others *Media influences on suicidal behaviour: An interview study of young people in New Zealand* (Te Pou o Te Whakaaro Nui, 2011).

television, movies, newspapers, magazines, cell phones and social media) on suicidal ideation and self-harm behaviour. By considering this broad range of media the study was able to provide a nuanced and multi-layered account of the cultural and social soup in which this cohort of vulnerable young people is growing up. Some of the insights in the study challenge conventional thinking about the extent of traditional news media's impact on young people with respect to suicide. For example, the most common way in which the male respondents were first introduced to the concepts of suicide and self-harm was via school or teachers. Similarly, fictional television programmes, music, music videos, movies and the internet were the most common sources of exposure to portrayals of suicidal behaviour. The study concluded, amongst other things, that best practice in the treatment of suicide needs to be adopted not just by the news media, but also by those creating entertainment content for media.

- 5.21 In another New Zealand study published in 2012, investigators undertook a forensic examination of eight suicides that were linked either temporally, geographically or through some other interpersonal connection.⁷⁹ Among the key issues they explored was whether and in what ways the use of modern communication technology such as texting and social media had impacted on these events. The study found that several of the deaths were linked by social media, particularly by memorial sites set up for earlier suicide cases, and by the use of mobile phones. The researchers concluded that:⁸⁰

In view of other evidence linking publicity and social modeling to suicide contagion ... it appeared likely that these electronic communications were increasing the risk of suicide contagion among young people. The rapid spread of information and rumor throughout the community was facilitated by these technologies. This led to increased awareness of the suicide cluster throughout the community, inaccurate information about numbers and methods, and heightened anxiety. This has important implications because the perception of suicide clustering in itself is thought to increase the risk of contagion. (Citations omitted).

- 5.22 The mainstream media are naturally alert to the anomalies created by the new communications environment and in particular the perceived absence of an even playing field when it comes to the application of statutory restrictions in suicide reporting. The Media Freedom Committee has expressed the problem:⁸¹

... while the responsible media in New Zealand is effectively gagged, others are not. We have argued previously that the law is unfairly restrictive in responsible reporting when there is nothing to stop any other party using social media to publish all sorts of details about a suicide and no penalties can reach them.

- 5.23 As a matter of law it is incorrect to state that no penalties can reach ordinary citizens who use blogs or social media to disseminate information about a particular suicide. The current statutory prohibitions apply to all citizens, not just reports by mainstream media. However, to the best of our knowledge no media organisation or any individual has ever been prosecuted for breaching the publishing provisions in the Coroners Act.

Case studies

- 5.24 In the lead up to and in the course of this review, a number of suicides attracted strong media attention because of the characteristics of the individual who died or the circumstances surrounding the case (including for example, multiple suicides within a small community or the suicide of members of the same school communities).

79 Lindsay Robertson and others "An Adolescent Suicide Cluster and the Possible Role of Electronic Communication Technology" (2012) 33 *Crisis* 239.

80 Robertson and others, above n 79, at 243.

81 Letter from Tim Murphy, above n 61.

- 5.25 Although not resourced to undertake a systematic review of how these deaths were reported, the Commission monitored media coverage of a number of cases in both mainstream and social media. We also interviewed a range of people affected by the deaths or involved in suicide prevention in the communities affected. Among those interviewed were representatives of families who had lost children through suicide in Kawerau and representatives of families who had been subjected to intense media pressure after the death of a high profile relative. The purpose of these inquiries was to hear first-hand the impact of media coverage on those affected by suicide.
- 5.26 We also thought it important to understand how the dissemination of information about these suicides was occurring within the affected peer groups and communities, and also how interactive media (including Twitter and Facebook) was influencing mainstream media coverage.
- 5.27 To this end we selected six case studies, all of which were considered “newsworthy” for different reasons (including one involving the deaths of five young people from the same community over a short period) and undertook a qualitative analysis of how they had been presented to the public.⁸² In total, 83 separate articles were assessed alongside related content on social media. The key issues examined were:
- compliance with the Coroners Act;
 - compliance with the 1999 guidelines for reporting suicide;
 - sensitivity to bereaved families in reporting; and
 - extent and impact of new media coverage.

Compliance with the Coroners Act

- 5.28 Of the news items reviewed, nearly a third (24/83) did not comply with section 71 of the Coroners Act or with coroners’ rulings in respect of publication. Analysis suggests that the provisions were most likely to be breached in circumstances where:
- the individual or the family was newsworthy in their own right;
 - the family sought out media coverage; or
 - the death was associated with alleged service failures of public institutions.
- 5.29 Analysis also revealed that approximately 25 per cent of the news items expressly stated that the death was a suicide before the coroner had ruled it such and even when it was not baldly stated it was almost always either directly or indirectly implied. Indeed, as the media have often pointed out in their submissions, simply reporting that a death “is not considered suspicious” or has been “referred to the coroner” has become code for suspected suicide.

Compliance with the 1999 guidelines

- 5.30 An assessment for compliance with the 1999 guidelines⁸³ for reporting suicide revealed similar findings to the 2010 Te Pou Report: by and large the items avoided inappropriate language, sensational treatment, or explicit details of the manner of death. Again, the exceptions tended to involve the suspected suicides of high profile individuals or suicides that were considered particularly newsworthy for circumstantial reasons.

82 For privacy reasons we have decided not to name the individuals in our case studies.

83 Ministry of Health *Suicide and the media: The reporting and portrayal of suicide in the media: A resource* (September 1999) at 8.

- 5.31 It was also significant that on a number of occasions stories that breached one or more of the 1999 guidelines – including, for example, describing the method of death – were directly drawn from coroners’ reports that had been released for publication. Sometimes the findings were also couched in language or described the circumstances of the suicides in relatively simplistic ways that could be interpreted as perpetuating suicide myths. For example, a media report of one coronial finding was headlined: “Coroner: Teen felt suicide was ‘only solution’”.⁸⁴

Sensitivity to bereaved families

- 5.32 Assessing the extent to which the news media had shown sensitivity to families and respected their privacy was difficult without knowing the circumstances that led the bereaved to be interviewed. In a number of cases it was clear family members had actively sought media coverage, often to air grievances about alleged third party failures leading up to the death. In other cases we were made aware that families who had specifically requested privacy had been subjected to intense media pressure, including reporters arriving at private residences and telephoning the family home.

New media/social media

- 5.33 The other striking, if unsurprising, feature of the case studies was the extent to which accounts and discussion of the deaths in social media ran parallel to, and often intersected with, “official” accounts in mainstream media. In some instances, bereaved family members or friends published their own accounts of the circumstances of the death or established memorial pages on social networking sites. On at least one occasion, news of the death was broken on Twitter.
- 5.34 Mainstream media reports of a death would frequently draw on content available on social media, including hyperlinking to memorial pages or other social media content. Conversely, mainstream reports of the deaths would be linked or reproduced in social media discussion of a death.
- 5.35 This interdependence between new and traditional media illustrates the difficulty of attempting to use legislative means to control the dissemination of information. It also highlights the fact that even when mainstream media adhere to the legal constraints and reporting guidelines in their official accounts, the public is increasingly reading this content against a backdrop of speculation, rumour and sometimes graphic detail gleaned from a wide variety of alternative sources.

CONCLUSION

- 5.36 We are not in a position to definitively establish whether the current legal prohibitions and voluntary guidelines are meeting their objectives. However, based on the few academic studies, our own research, and the expert opinions of those with whom we have consulted, we have concluded that while the mainstream media complies reasonably well with the suicide reporting guidelines, and in particular refrains from publishing the means by which a person has taken their life, they frequently breach (directly or by implication) section 71 of the Coroners Act. Social media appears to run unchecked.

⁸⁴ Victoria Robinson “Coroner: Teen felt suicide was ‘only solution’” (30 May 2012) < www.stuff.co.nz > .

Chapter 6

The justifications for reform

- 6.1 Having described in the preceding chapters the current context in New Zealand for suicide reporting and the evidence for the harm that may arise, we now turn to the following questions:
- Is there a case for reforming the existing provisions?
 - If so, what should replace the existing provisions?
 - Is a legislative restriction required?
 - If so, what should be the scope of that legislative restriction?
 - If a new legislative provision is recommended, is it a reasonable limitation on freedom of expression?
- 6.2 In this chapter, we will address the case for reform and, if reform is justified, the question of whether a legislative restriction is required. In Chapters 7 and 8, we will address the scope of any legislative restriction, and whether or not the recommended legislative provision is a reasonable limitation on freedom of expression. In the final chapter we describe our recommendations for a new set of standards for reporting suicide.

THE CASE FOR REFORM

- 6.3 We have concluded that the restrictions on reporting suicide in sections 71 to 73 of the Coroners Act 2006 (Coroners Act) are not working well to achieve the policy goals and should be reformed for the following reasons.

The scope of the current provisions is not clear

- 6.4 In Chapter 3 we described the current provisions of the Coroners Act that restrict the reporting of suicide, and the problems in determining exactly what details of a suicide death are prohibited from being published by those sections. We concluded that the scope of the restrictions is not clear. We consider that if a legislative restriction on reporting suicide continues to be included in the statute, its scope should be made clearer than the current restriction – both in relation to which details of the suicide death may be reported, and to whether the death could in fact be described as a suicide. In addition, if the legislation provides for an exemption from that restriction, the weight that should be given to the competing interests should be clearer than it is in the current provisions.

The provisions are not being complied with

- 6.5 In Chapter 5 we examined the extent to which media practice complies with the statutory restrictions and the guidelines. We concluded that there was a significant amount of reporting on suicide in mainstream media. While reporting in mainstream media complies reasonably well with the requirements of the suicide reporting guidelines, and usually refrains from reporting the method of a suicide death, it frequently breaches the requirements of section 71 either directly or indirectly. We also found that accounts and discussion of suicide deaths in social media often run parallel to reports in mainstream media. There is a significant

convergence between the two, with social media referring and providing links to mainstream reports, and vice versa.

IS A LEGISLATIVE PROCESS REQUIRED FOR RESTRICTING SUICIDE REPORTING?

- 6.6 Having concluded that change is required, we must consider whether a new statutory restriction is required, or whether the policy goals can be achieved by a non-legislative means. We have concluded that while a set of guidelines outside the legislative framework is the most appropriate method of achieving the goal of low-risk reporting on suicide for the most part, strong arguments remain for limited, well-defined statutory restrictions, as set out below.

The harm from reporting suicide

- 6.7 There is clear evidence that reports of the method of a suicide death run a substantial risk of resulting in subsequent suicidal behaviour in already vulnerable people. In Chapter 2 and Appendix C we summarised findings from a large number of scientific studies and systematic reviews of the evidence of a copycat effect. We identified that the evidence of harm from reporting the method of suicide was particularly strong, but the evidence of harm from other aspects of suicide reporting (such as normalising suicide, glorifying the suicide, sensational coverage or the prominence of the coverage) was significant but less strong.
- 6.8 We also described in Chapter 2 the interests of the coronial process in undertaking its task of determining the cause of the death. We concluded that it is important that the coroner's role in determining whether a death was in fact a suicide is not undermined by previous speculation in the media.

Guidelines have been ineffective to date

- 6.9 In Chapter 4 we described the attempts that have been made in New Zealand to implement voluntary guidelines for reporting suicide by the mainstream media. We concluded that although mainstream media practice is reasonably consistent with the guidelines, the guidelines have not been widely used by those media.
- 6.10 In Chapter 9 we describe why we consider that under our recommendations the context for a new collaborative effort for guidelines is likely to be improved. We also describe other measures for ensuring the successful implementation of new guidelines. Despite the prospect of that new context, it must be conceded that the success of a new set of guidelines remains uncertain, depending as it does upon numerous factors including leadership and funding.
- 6.11 Given that uncertainty, we consider the statute should restrict those aspects of suicide reporting for which there is very strong evidence of the potential for harm – that is, reporting of the method of suicide and that a death is in fact a suicide.

Guidelines are less likely to be effective in new media

- 6.12 In addition to the arguments above, statutory prohibitions on reporting the method of suicide and the fact that the death is a suicide will send a strong message beyond mainstream media to the public at large that significant harm may ensue from publicly reporting those two limited aspects of a suicide death. Even if a new set of guidelines can be successfully implemented for the mainstream media, the messages from those guidelines are not likely to reach the public at large, who may be discussing the details of suicide deaths publicly via blogs or social media. Clearly defined prohibitions in the statute that are enforced by police from time to time will help to curb risky behaviour in new media.

Chapter 7

The scope of the proposed statutory restriction

- 7.1 We described in the preceding chapters why the current statutory restrictions should be amended and we argued that a limited and clearly defined restriction on reporting the method of suicide is required.
- 7.2 In this chapter we describe the scope of our proposed statutory restrictions, the circumstances in which exemptions may be justified, and the method by which the restrictions should be enforced.

RECOMMENDATIONS

- R1 Section 71 of the Coroners Act 2006 should be repealed and replaced by provisions to the following effect:
- Unless the Chief Coroner has granted an exemption, no person may directly or indirectly make public the method of death.
 - Unless the Chief Coroner has granted an exemption or has made a finding that a death is a suicide, no person may make public a description of a death that describes it as a suicide.
- R2 The recommended statutory restrictions should apply if a death occurs in New Zealand after the commencement of the restriction and there is reasonable cause to believe the death was self-inflicted.
- R3 The recommended statutory restrictions should not apply to the Independent Police Conduct Authority or to the Police Commissioner to the same extent that section 72 of the Coroners Act 2006 excludes them from the current statutory restrictions in section 71.
- R4 In relation to the recommended statutory restriction, “make public” should have the same meaning as currently in section 73, that is:
make public means publish by means of—
- (a) broadcasting (within the meaning of the Broadcasting Act 1989); or
 - (b) a newspaper (within the meaning of the Defamation Act 1992); or
 - (c) a book, journal, magazine, newsletter, or other similar document; or
 - (d) a sound or visual recording; or
 - (e) an internet site that is generally accessible to the public, or some other similar electronic means.

- R5 “Method of death” should include the site of the death where a description of the site is suggestive of the method.
- R6 The Act should state that nothing in the restriction in R1 above prevents a person from stating that a death is a suspected suicide.
- R7 The Act should provide that any person may apply to the Chief Coroner for an exemption from the restrictions in R1.
- R8 The Act should provide that the Chief Coroner must not grant an exemption unless satisfied that the circumstances are such that any risk of copycat suicidal behaviour from the making public of the method of the death or from describing the death as a suicide, as the case may be, is small and is outweighed by other matters in the public interest.
- R9 The Act should provide that, in making that determination, the Chief Coroner may be assisted by an expert panel comprising suicide prevention experts and media experts. For that purpose, the Ministry of Health should constitute a panel of not more than three people. Their fees and expenses should be met under the Witnesses and Interpreters Fees Regulations 1974 or similar.
- R10 To ensure that an application for an exemption is dealt with speedily, the statute should:
- provide that the Chief Coroner must, so far as is practicable, give priority to any application for an exemption; and
 - provide that the Chief Coroner may deal with an application by way of a telephone or video conference link-up, email or fax, but must keep a record of any determination, with short reasons.
- R11 For the purposes of these provisions, the “Chief Coroner” should include the Deputy Chief Coroner when the Chief Coroner is unavailable.
- R12 Section 75 of the Coroners Act 2006, which provides a right to apply to the High Court for a review, should be amended to apply to an applicant for an exemption from the recommended statutory restrictions. The decision of the High Court should be final. There should be no further review or appeal.
- R13 There should be no ability to apply for judicial review of the exemption decision under the Judicature Amendment Act 1972.
- R14 Section 139 of the Coroners Act 2006 should be amended to apply to the recommended restrictions in R1. In respect of breaches of those restrictions:
- The maximum fine should be \$20,000 for a body corporate or \$5,000 in any other case.
 - The offence does not apply to a person who hosts material on websites or other electronic retrieval systems that can be accessed by a user unless the specific information has been placed or entered on the site or system by that person.

DISCUSSION

Which deaths should the restriction apply to?

- 7.3 The proposed provision should continue to apply in the same situation as the current provision in section 71(1) of the Coroners Act 2006 (Coroners Act), that is, to self-inflicted deaths. “Self-inflicted deaths” is used rather than “deaths by suicide” because a determination that a death is a suicide requires an examination as to whether the deceased person intended to die. That is obviously difficult to determine with certainty in the immediate aftermath of a death and is better left to the determination of a coroner.
- 7.4 The provision must continue to apply to the same deaths as apply under the Coroners Act generally. This means that the restriction on reporting the method of suicide will not generally apply to deaths that occur overseas. We have investigated whether the restriction should extend to overseas deaths on the basis that the harm from reporting in New Zealand the method of overseas suicide deaths is likely to be similar to the harm from reporting New Zealand deaths. However, we have concluded that the benefit of extending the statutory restriction in that way is defeated by the easy access of New Zealanders to reports of overseas suicides via the internet. Anyone in New Zealand reporting an overseas suicide death should, however, have regard to the guidelines in place for reporting suicide. Those guidelines would highlight the potential risks of such reporting.

Who should be subject to the restriction?

- 7.5 We consider that the restriction should apply to any person who makes public the details of an individual suicide, no matter which medium is used to do that. While most of the evidence of harm and public attention on this issue tends to concern mainstream media, the restrictions should extend to any person. This is because the imitative effect is probably not restricted to mainstream media, and the convergence of new media, news media and social media makes it impossible to define the type of mainstream media that is most closely connected with the potential harm.
- 7.6 However, we do recommend that the statutory restrictions do not apply to the Independent Police Conduct Authority (when making a report under section 34(1)(b) of the Independent Police Conduct Authority Act 1988) and the Police Commissioner (when publishing an opinion or a recommendation under that Act). They are both excluded by section 72 of the Coroners Act from the current restrictions. Those exclusions should continue.

When should the restrictions apply?

- 7.7 Currently, section 71 draws a small distinction between reporting the details of a suicide before a coroner has completed his or her inquiry on the death and after that inquiry has been completed. If the inquiry has not been completed, a person may not make public “any particular relating to the manner in which a death occurred” without a coroner’s authority.⁸⁵ If, however, a coroner has found a death to be self-inflicted, a person may not make public “a particular of the death” other than the name, address, and occupation of the deceased person or the fact that the coroner has found the death to be self-inflicted, without a coroner’s authority or permission.⁸⁶
- 7.8 This distinction as currently drafted adds significant confusion to attempts to understand the scope of the restrictions. We do not consider that there is any reason to continue to draw this distinction under our recommended restriction on reporting the method of suicide. The

85 Coroners Act 2006, s 71(1).

86 Coroners Act 2006, s 71(2).

evidence of harm from reporting the method of suicide applies whether or not there has been an official finding relating to that method.

- 7.9 Of course, a distinction will continue to apply to the proposed prohibition on reporting the fact that the death was a suicide. If a coroner has found that the death was a suicide, that fact may then be reported.

Innuendo

- 7.10 It is common for innuendo to feature in media reports of suicide in New Zealand, due perhaps to the uncertainty of the scope of the statutory restrictions that have been in place. Even when reports do not state specifically that the death was a suicide, or that a particular method was used, or that particular circumstances are thought to have provided the motivation for the suicide death, those matters are often very apparent from the bare facts chosen to be reported.
- 7.11 It is likely that the harm of reporting suicide occurs both when suicide is reported directly and when meaning is implied from the context. It is the meaning of the report, rather than the specific words used that may produce the harmful effect.
- 7.12 Therefore, we consider the statutory restriction on reporting the method of suicide should extend to both direct and indirect reports of that suicide.

“Make public”

- 7.13 The current restriction in section 71 of the Coroners Act 2006 uses the phrase “make public”. It is defined in section 73 to mean:

publish by means of—

- (a) broadcasting (within the meaning of the Broadcasting Act 1989); or
- (b) a newspaper (within the meaning of the Defamation Act 1992); or
- (c) a book, journal, magazine, newsletter, or other similar document; or
- (d) a sound or visual recording; or
- (e) an Internet site that is generally accessible to the public, or some other similar electronic means.

- 7.14 We considered whether that definition should be broadened to mean “publish by any means”. We concluded, however, that the current definition captured well the potential harm from reporting the method of a suicide, and a broader definition is not justified.

The site of a suicide death

- 7.15 We closely considered the meaning of “method of death” and in particular whether the statutory prohibition should also extend to reports of the site of the suicide, because much of the evidence of harm from reporting the method of suicide also extends to reporting the site of the suicide. That harm occurs because the report might “advertise” suicide by that method to other vulnerable people.
- 7.16 However, on close examination of the “site” elements of that harm, it is only those descriptions of site that are suggestive of the method that are linked with a risk of harm in reporting suicide. For example, reporting that a body was found on train tracks, or at the bottom of a particular bridge or cliff, clearly indicates that the deceased person is likely to have died by stepping in front of the train or by jumping from the high location.

- 7.17 It is possible that this type of reporting would be covered if the legislative restriction captured both direct and indirect reports of the method of death. However, to be certain, we consider there is merit in the legislation stating specifically that “method of death” includes the site of the death when a description of the site is suggestive of the method.

EXEMPTIONS

- 7.18 The evidence supporting the statutory prohibition on reporting the method of suicide is sufficiently strong that the situations in which the public good would be served by an exemption will be very rare. It has been suggested to us that the media have a role in alerting the public to novel methods of suicide so that people may be aware of the dangers and take action to minimise the risk. However, people who work in suicide prevention warn that such messages run a bigger risk of advertising the method of suicide to vulnerable people. They suggest that any warning messages should not be specifically linked to individual suicides because that increases the risk further by increasing the chance that vulnerable people will identify with the deceased and be tempted to emulate him or her.
- 7.19 Even though it will be rare, we can envisage circumstances in which the public interest in reporting the method of an individual suicide may outweigh the risk of harm. We think the Chief Coroner is best placed to make that decision under statutory criteria. An example may be where a public institution has repeatedly ignored calls to take action to prevent access to a method of suicide, and it is thought that only publicity about another death would force the institution to confront the issue.
- 7.20 The situation is similar in relation to reporting that a death is in fact a suicide. Given that it will be open to the media to report that a death is suspected to be suicide (where the facts support that conclusion), we expect that applications for exemptions from this prohibition will also be rare. However, it is still possible to envisage circumstances in which the public interest is served by specifically describing a death as suicide.

Grounds for an exemption

- 7.21 In considering whether to grant an exemption in reporting the method of suicide, we consider that the decision maker must carefully consider the risk of further suicidal behaviour by vulnerable people if the details are published. That consideration must be informed by an understanding of the most up-to-date evidence from New Zealand and overseas on the association between reporting the method of suicide and subsequent suicidal behaviour by other vulnerable people. An exemption must only be granted if the decision maker considers that the risk of further suicidal behaviour by other vulnerable people is small and is outweighed by the public interest in publishing the material.

The Chief Coroner

- 7.22 Currently any coroner may give authority under section 71 of the Coroners Act to make public the details of a suicide death. As we have stated earlier, this has given rise to a variety of practices by different coroners who have differing views of the evidence linking suicide reporting with subsequent suicidal behaviour by other people. We consider that this variety of practices is undesirable because it is counterproductive to the goal of educating the media and the public about the risks involved in reporting suicide. For that reason, we are recommending that under our proposed restrictions, only the Chief Coroner (or the Deputy Chief Coroner if the Chief Coroner is unavailable) should be able to grant exemptions.

- 7.23 We consider that the statute should provide that the Chief Coroner may be assisted by a panel of experts from both the media and mental health fields in making this determination. This will ensure that he or she has an up-to-date understanding of both the evidence of harm from suicide reporting, and the role and function of the media. The Ministry of Health should maintain a list of names and contact details of those people who have agreed to advise the Chief Coroner in this regard. Their fees should be paid under the Witnesses and Fees Interpretation Regulations 1974 or similar provisions.
- 7.24 It is not envisaged that the Chief Coroner would access advice from the expert panel in every case. This provision should be a power, not an obligation. It will enable the Chief Coroner to access expert advice from time to time to ensure that he or she has advice on particularly difficult cases and is kept up to date with the latest evidence of harm. Depending upon the requirements of the Chief Coroner, the panel could meet on an ad hoc basis, or urgently when the Chief Coroner is determining an application for an exemption. It could also be convened via electronic means, which would help reduce the costs.

Timeliness

- 7.25 Timeliness is of the utmost importance in reporting the news. Journalists have told us that under the current restrictions, the need to apply to a coroner for authority to publish the details of a death was often too hard under the day-to-day pressures of a newsroom when a story is breaking.
- 7.26 Under our proposal the need to apply for an exemption will be reduced because the scope of the restrictions is more clearly defined, and it is already widely accepted by the media that the method of suicide should not be reported in most cases. However, as stated, we are recommending that under our proposal only the Chief Coroner (or the Deputy Chief Coroner) has the power to grant an exemption. The statute should ensure that the Chief Coroner is able to prioritise those applications and deal with them by informal methods where necessary.⁸⁷

Right of review

- 7.27 Section 75 of the Coroners Act currently provides a person who has been refused permission to publish the particulars of a self-inflicted death with a power to apply to a High Court Judge for a review of that refusal. This right of review is essential to a just system of statutory decision making. It should be continued but amended to reflect the new provision.
- 7.28 However, we consider that given the statutory right of review, further appeals or a right to resort to judicial review under the Judicature Amendment Act 1972 is not warranted. The characteristics of judicial review (and the inherent delay and expense associated with it) make it particularly unsuitable for this type of determination, for which timeliness is so important.

ENFORCEMENT

- 7.29 The current legislative restrictions are supported by an offence provision in section 139 of the Coroners Act. A person who breaches the restrictions may be subject to a fine of \$5,000 for a body corporate or \$1,000 for other people. To our knowledge, no one has ever been prosecuted under that provision in respect of suicide reporting.

⁸⁷ Section 107 of the Care of Children Act 2004 and r 181 of the Family Court Rules 2002 provide precedent for such legislative guidance.

- 7.30 We consider that a criminal offence remains appropriate for the proposed more clearly defined legislative restrictions on reporting the method of suicide or the fact that a death was a suicide. We envisage that it should be more straightforward to bring a prosecution under the proposed restrictions given that they will be more tightly defined and more specifically tied to the evidence of harm.
- 7.31 We also suggest that the maximum fines under the offence provision should be \$20,000 for a body corporate and \$5,000 for other people. This increase reflects the clearer connection between the offence and the evidence of harm from the offending, and brings the offence into line with other similar offences, as demonstrated by the following table:

MAXIMUM FINES IN COMPARABLE OFFENCES		
Provision	Maximum penalty	Offence
Broadcasting Act 1989, s 14.	\$100,000 for a broadcaster.	Failing to comply with an order of the Broadcasting Authority to publish a statement, or refrain from broadcasting, or from broadcasting advertisements etc.
Health Practitioners Competence Assurance Act 2003, s 98.	\$10,000.	Publishing the name of the complainant or other identifying details.
Bail Act, s 19(5).	\$100,000 for a body corporate. 6 months imprisonment for an individual.	Knowingly or recklessly publishing details of a bail hearing.
Bail Act, s 19(6).	\$50,000 for a body corporate. \$25,000 for an individual.	Publishing details of a bail hearing.
Criminal Procedure Act 2011, s 211(1).	\$100,000 for a body corporate. 6 months imprisonment for an individual.	Knowingly or recklessly publishing a name etc in breach of a suppression order.
Criminal Procedure Act 2011, s 211(2).	\$50,000 for a body corporate. \$25,000 for an individual.	Publishing a name etc in breach of a suppression order.
Harmful Digital Communications Bill, s 18.	\$5,000 for a natural person. \$20,000 for a body corporate.	Failing to comply with an order of the District Court to takedown material, or cease the conduct concerned, or publish a correction etc.

CORONERS' OTHER POWERS

- 7.32 Under section 74 of the Coroners Act any coroner may prohibit the making public of evidence or submissions given for the purposes of a coronial inquiry, if the coroner is satisfied that it is in the interests of justice, decency, public order, or personal privacy to do so. Coroners have sometimes used this power (which relates to all types of inquiries, not just suicide) to pro-actively restrict the publication of details relating to suicide deaths, despite the fact that section 71 already restricts all details of a suicide death without coronial authority.
- 7.33 Nothing in our proposal affects the powers of a coroner under section 74 of the Coroners Act. Our terms of reference do not include that section, which is broader than issues of reporting suicide. We have taken care to ensure that our recommendations do not limit the powers in that section.
- 7.34 Therefore, it follows that under our recommendations, while reporting the method of suicide or the fact that the death is a suicide will always be restricted (unless the Chief Coroner grants an exemption), it will remain open under section 74 to other coroners to pro-actively restrict publication of evidence or submissions on other matters in relation to specific suicide cases.

Chapter 8

Freedom of expression

INTRODUCTION

8.1 New Zealand law has long placed great importance on freedom of expression and its associated subset, the freedom of the press. These are fundamental core values of our legal system. As such, section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) states that:

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

8.2 It will be noted that freedom of the press is not expressly mentioned in section 14 but the Court of Appeal has acknowledged that an important aspect of the right to freedom of expression is freedom of speech.⁸⁸ From any viewpoint, factual reporting or commentary on suicide is well within the scope of the freedom of speech and freedom of expression.

8.3 However, the freedom of the press is not absolute, and is subject to a variety of common law and legislative qualifications and exceptions. These feature in litigation, and are central to the development of legislation in New Zealand. This is because NZBORA acknowledges limitations that are considered reasonable and demonstrably justified in a free and democratic society.⁸⁹

8.4 In *Auckland Area Health Board v Television New Zealand Limited*, the Court of Appeal accepted that it is well established that publication of defamatory material can be enjoined. But as Cooke P noted, consistent with the principle we have already stated, this should be exercised only for clear and compelling reasons.⁹⁰

8.5 In the context of suicide reporting, and what is sometimes conveniently referred to as “prior restraint”, there has been at least one controversial decision. In *Board of Trustees of Tuakau College v Television NZ Limited*, Williams J allowed an interlocutory injunction preventing Television New Zealand from broadcasting anything concerning the suicides of two students, pending conclusion of a coroner’s inquest and a review by the Commissioner for Children.⁹¹ The authors of the treatise *The New Zealand Bill of Rights*, have some difficulty with the decision of the judge because the reasons advanced to support the decision “can only be described as highly speculative”.⁹² These were firstly that there was a danger that some of the students of the college “may be suffering from distorted thinking” concerning the suicides, and that a broadcast of the *Holmes* current affairs programme could possibly impel them to take action. Secondly, the judge was concerned with the effect the broadcast might have on the minds of young people outside Tuakau College. Clearly the judge was deeply concerned about the possibility of movement from contemplation to action in relation to suicide.⁹³

88 See for example *Auckland Area Health Board v Television New Zealand Limited* [1992] 3 NZLR 406; *Television New Zealand Limited v Attorney-General* [1995] 2 NZLR 641 (CA).

89 New Zealand Bill of Rights Act 1990, s 5.

90 *Auckland Area Health Board v Television New Zealand Limited*, above n 88, at 407.

91 *Board of Trustees of Tuakau College v Television New Zealand Limited* (1996) 2 HRNZ 87 (HC).

92 P Rishworth and others *The New Zealand Bill of Rights* (Oxford University Press, Melbourne, 2003) at 335.

93 In fairness, the Judge anticipated the very matters discussed in Chapter 2 of this Report.

- 8.6 This was a very strong prior restraint, because the television programme had not yet been made. It is the strongest judicial prior restraint we are aware of in New Zealand.
- 8.7 With legislation it is always necessary to ask of any prospective legislation: is it consistent with NZBORA? Indeed, NZBORA is of such significance that the Attorney-General of New Zealand has a statutory responsibility to advise Parliament that proposed legislation does not comport with NZBORA in some or all respects.⁹⁴

The right is not absolute

- 8.8 The right to freedom of speech stands until, as Andrew Geddis has expressed it, “such time as another more valuable or important social good requires that it be restricted”.⁹⁵ Consideration of any such restriction cannot be determined on any intrinsic formula. Apart from the difficulties of evolving and reaching agreement on any such formula, the line is not static. As Stephen Sedley has said, “the location of the line between free speech and censorship has shifted massively over time and can be expected to go on doing so as political and moral cultures go on changing”.⁹⁶ To that we would add, “and the potential harms to which a given society may be subject may change in the course of time”. But as Sedley has put it: “There comes a point ... at which a society is entitled to calculate that a malignant cause will have a malign effect”.⁹⁷
- 8.9 Under section 5 of NZBORA, the right to freedom of expression is subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. An analysis of whether a breach of a right is a reasonable limit requires a two-fold inquiry:⁹⁸
- Does the limit have a significant and important objective?
 - Is the limit rational and proportional?

Those questions must be applied separately to the two statutory restrictions we are recommending: reporting the method of suicide, and the fact that a death is a suicide.

Significance

- 8.10 The first inquiry into significance is fairly easily settled. In relation to the prohibition against reporting the method of suicide, limiting further suicides caused by a contagion effect is clearly a significant and important public health objective. In relation to the prohibition against reporting the fact that a death is a suicide, we have argued in Chapter 2 that the harm to the integrity of the coronial system of a breach is significant.
- 8.11 It should be emphasised here that the restriction we are recommending is a very narrow one. It is limited to the descriptions of the method of the suicide, or the site of the suicide where that is suggestive of the method, or to the fact that the death is a suicide. It does *not* extend to:
- other details of an individual suicide death (however, we consider that a risk of harm remains from reports of these details and any reports should comply with guidelines as are outlined in Chapter 9);
 - descriptions of the death as a *suspected* suicide;

94 New Zealand Bill of Rights Act 1990, s 7.

95 Andrew Geddis “The State of Freedom of Expression in New Zealand: An admittedly eclectic overview” (2008) Otago LR 657 at 681.

96 Stephen Sedley “The Three Wise Monkeys Visit the Marketplace of Ideas: Censorship in a Free Society” (paper presented to the Annual Human Rights Lecture of the Law Society, Dublin, July 2009).

97 Sedley, above n 96.

98 Legislation Advisory Committee *Legislation Advisory Committee Guidelines* (Ministry of Justice, 2001) at [4.1.1].

- discussions of trends in suicide statistics;
 - discussions concerning the accountability of public institutions connected to a suicide death.
- 8.12 We are *not* suggesting that public discussions of these matters are without risk, and we strongly recommend that guidelines for reporting suicide are followed by anyone discussing suicide in any way.

Rationality

- 8.13 The crux of the question of whether the proposed restriction is a reasonable limitation under NZBORA lies in the second inquiry. The issue of rationality asks whether the proposed restriction will in fact achieve the policy goal. In relation to the restriction on reporting the method of suicide, we consider the scientific evidence described in Chapter 2 is clear that reporting the method of suicide will increase the risk of subsequent suicidal behaviour by vulnerable people. Therefore, it follows that restricting the reporting of the method of suicide will decrease that risk. In relation to the restriction on reporting the fact that the death is a suicide, the harm is caused by usurping the coronial function. By prohibiting early reports that a death is in fact a suicide, the legislation is removing that means of undermining the coronial function.

Proportionality

- 8.14 The issue of proportionality asks whether the proposed restriction will infringe on the right to freedom of expression as little as possible. We consider that is the case with the proposed restrictions because:
- the restrictions are tightly defined;
 - there is a power to apply for an exemption from the prohibition; and
 - a non-legislative process is unlikely to achieve the policy goal.
- 8.15 In relation to reporting the method of death, we investigated whether the goal of low-risk reporting of suicide deaths could be achieved solely through a non-legislative process: that is, through voluntary guidelines and education initiatives. There is some evidence that the introduction of voluntary guidelines and education initiatives in other jurisdictions has produced substantial improvements in the quality of reporting within those jurisdictions.⁹⁹ However, while those studies demonstrated that the levels of risky reporting on suicide reduced, that does not necessarily mean that risky reporting has ceased altogether.
- 8.16 As we describe in Chapter 6, we have concluded that voluntary guidelines and education initiatives alone are unlikely to achieve the policy goal for two reasons. First, they are unlikely to reach beyond mainstream media. We have found considerable discussion of suicide in new media, much of it less constrained than mainstream media. It is important that the message that reporting the method of a suicide runs a risk of producing a contagion effect reaches beyond mainstream media to any person reporting publicly on suicide whatever the medium.

⁹⁹ See for example, Jane E Pirakis and others *The Media Monitoring Project: Changes in media reporting of suicide and mental health and illness in Australia* (Department of Health and Ageing (Australia), 2008).

- 8.17 Second, we are of the view that an initiative to produce a new set of standards for reporting suicide by mainstream media is the most appropriate method of ensuring suicide is reported with minimal risk generally. However, the fact that to date the existing guidelines have not been well-utilised by mainstream media in New Zealand raises some uncertainty about the success of future efforts. Therefore, it is important that the aspect of suicide reporting with the greatest risk of a copycat effect (reporting the method of the suicide) is restricted by legislation.
- 8.18 For the prohibition on reporting the fact that a death is a suicide, we consider that this restriction is also the least possible to achieve the policy goal of protecting the integrity of the coronial system. We originally considered whether the statutory prohibition should extend to reports that the death was self-inflicted, as that is also something considered by a coroner. However, we concluded that determining whether a death was self-inflicted could generally be more easily established on available facts. In contrast, a determination of suicide requires an investigation into the intention of the deceased person, which may often be much more difficult to determine.

Chapter 9

Standards for reporting suicide

- 9.1 We have suggested that a legislative prohibition against reporting suicide can only be justified in respect of reporting the method of a suicide and the fact that the death is a suicide. That leaves open the question of what to do about all the other forms of reporting suicide that may result in harm, but for which a statutory prohibition is not justified. In this category are such matters as:
- repetitive coverage of suicide;
 - the prominence of suicide items;
 - speculating as to the cause of the suicide;
 - glorifying or sensationalising suicide;
 - reporting on celebrity suicides; and
 - using visual materials.
- 9.2 These matters have been covered by voluntary guidelines and resource material, and have had a difficult history in New Zealand.¹⁰⁰

RECOMMENDATIONS

R15 The statute should provide that:

- the Minister of Health (or his or her delegate) must prepare a set of standards for suicide reporting; and
- in doing so, the Minister must consult with representatives of the media and of mental health interests, and with such other people as he or she considers appropriate.

R16 The new standards for reporting suicide should:

- apply to every person publicly reporting on a suicide death including in mainstream media, a blog or social media;
- be implemented via a non-legislative mechanism (in respect of the mainstream media, that means via the various media standards bodies).

R17 The statute should require the Minister of Health (or his or her delegate) to implement an ongoing programme to disseminate, promote and support the implementation of the standards, and to evaluate the success of those standards in achieving the goal of low-risk reporting of suicide.

¹⁰⁰ See Chapter 4 for a description of the background to guidelines and resource material for reporting suicide in New Zealand.

DISCUSSION

A revised set of standards for a new era

- 9.3 As described in Chapter 4, it is apparent that neither the 2011 guidelines nor the earlier version published in 1999 have become a regular resource for journalists when reporting suicide. It is likely, therefore, that journalists are not well informed about the potential risks of reporting suicide, and decisions about reporting suicide are based simply on newsworthiness rather than also on the risk of harm.
- 9.4 Therefore, it is essential that a revised set of standards for reporting suicide is prepared and implemented under the leadership of the Minister of Health. We are referring to these obligations as “standards” merely to differentiate them from the earlier guidelines. There is reason for optimism that the recommended clarification of the scope of the statutory restrictions will produce a much more constructive environment for these fresh standards to be effective. The media and those involved with suicide prevention have much common ground. For example, the following are agreed:
- There is much overseas research to the effect that certain kinds of reporting suicide can lead to copycat behaviour.¹⁰¹
 - Evidence justifies restraint in reporting suicide.¹⁰²
 - In reporting suicide, journalists are required to be accurate and should consider risk to other vulnerable people.¹⁰³
 - Guidelines for the media reporting of suicide are, generally speaking, an effective method of controlling the harm of reporting suicide.¹⁰⁴
 - The history of suicide reporting guidelines in New Zealand has been somewhat fraught.¹⁰⁵
 - A new set of standards is needed for reporting suicide.¹⁰⁶
 - Those standards should be agreed between the coroners, news media organisations, mental health experts and representatives of the public.¹⁰⁷
- 9.5 It is likely that by limiting the statutory restriction to only the method of the suicide and the fact that a death is a suicide, greater trust and collaboration will be possible. The uncertainty about the scope of the current statutory restrictions and the consequent potential for them to be interpreted broadly by some people, have, in our view, been responsible for an entrenched view for some within the media that their right to freedom of expression is under attack. That perceived attack goes to the core of their understanding of the fundamental role of the media in society.

101 Letter from Tim Murphy (Chairman of the Media Freedom Committee) to Pam Southey (Ministry of Justice) (7 June 2013).

102 Letter from Tim Murphy (Chairman of the Media Freedom Committee) to Sir Grant Hammond (President of the Law Commission) (24 October 2013).

103 Letter from Tim Murphy, above n 102.

104 Annette L Beautrais and David M Fergusson “Media reporting of suicide in New Zealand: ‘more matter with less art’ (Hamlet, Shakespeare)” (2012) 125 NZMJ 5.

105 Beautrais and Fergusson, above n 104.

106 Letter from Tim Murphy (Chairman of the Media Freedom Committee) to Sir Grant Hammond (President of the Law Commission) (15 January 2014).

107 Letter from Tim Murphy, above n 102.

- 9.6 Most members of the media consider that their responsibilities go beyond fair and accurate reporting. They would support the view that where there is clear evidence of the potential for harm from their reporting, they must take due account of that. It is also likely that the apparent conflation by the media of the current guidelines with the statutory restrictions will disappear when the statutory restriction becomes tied specifically to method of suicide.
- 9.7 On the other side of the debate, we are of the view that while mental health experts working in suicide prevention are wary of the perceived risks of reducing the scope of the statutory restrictions, they would wholeheartedly support a limited restriction if effective voluntary guidelines were also implemented. Their goal is for suicide reporting to be done in a way that reduces risk to vulnerable people. It is not the particular mechanism for reducing the harm of suicide reporting that matters to this group, but rather the effectiveness of the mechanism.

Enforcement of standards

Industry enforcement

- 9.8 We have concluded that the new set of standards for reporting suicide should be enforced via non-legislative mechanisms. For mainstream media, that means via the three media standards organisations:
- The Broadcasting Act 1989 establishes the Broadcasting Standards Authority and a system for determining complaints against television and radio broadcasters. If the Authority decides that a complaint is justified, it may order the broadcaster to publish a statement, to refrain from broadcasting, or to refrain from broadcasting advertisements for up to 24 hours. It is likely, however, that an amendment to that Act would be required before any set of standards for reporting suicide could be specifically enforced under that system.
 - The Press Council and the Online Media Standards Authority are completely self-regulating voluntary bodies. The Press Council covers daily newspapers, community newspapers and magazines. The Online Media Standards Authority covers online news and current affairs. If they uphold a complaint, the publisher must publish the essence of the ruling. Both bodies could voluntarily enforce a new set of standards for reporting suicide.
- 9.9 Our research indicates that to date only the Press Council has dealt with complaints specifically about the potential harm from reporting suicide.¹⁰⁸ In the case of the Broadcasting Standards Authority that may be because none of its current standards deal specifically with reporting suicide. The Online Media Standards Authority on the other hand has only been hearing complaints since 2013.
- 9.10 In its 2012 Report *The News Media Meets 'New Media': Rights, Responsibilities and Regulation in the Digital Age*, the Law Commission recommended the establishment of a new independent media complaints body to replace the three disparate systems of media regulation. The Government did not adopt that recommendation, although it agreed to keep this area under review.¹⁰⁹
- 9.11 It was (and remains) the Commission's view that the current disparate systems have become untenable in the digital era, which has seen a convergence of media platforms. The proposed News Media Standards Authority (Authority), if adopted, would have been independent of

108 See New Zealand Press Council: *S J Nicol Against Cracom* (Case Number 787, June 2000); *Tony Booker Against Manawatu Evening Standard* (Case Number 855, November 2001); *Canterbury Suicide Project Against The Dominion Post* (Case Number 910, February 2003); *Kapiti College Against Kapiti News* (Case Number 1084, March 2007); *Paraparaumu College Against Kapiti News* (Case Number 1085, March 2007).

109 Law Commission *The News Media Meets 'New Media': Rights, Responsibilities and Regulation in the Digital Age* (NZLC R128, 2013) at 130.

government, and substantially independent of the media industry. It would have been chaired by a retired judge or other respected, experienced and well-known public figure. The majority of members would have represented the public. A minority of members would have represented the media so that the Authority was well informed about the industry and understood its inherent pressures.¹¹⁰

- 9.12 The Commission stopped short of recommending that the new Authority should have the power to issue fines, stating that fines would need to be significant to be effective for larger organisations, which in turn would lead to increased legalism and incentives for litigious behaviour. Instead it was recommended that the Authority have the power to censure or to require an apology, right of reply, that material be taken down or that its decision be published. In exceptional cases it should have the power to suspend or terminate the membership of a media agency.¹¹¹
- 9.13 Such a unified complaints system would have provided the ideal enforcement mechanism for a new set of standards for reporting suicide. Despite the lack of a financial penalty available to it, the Authority's relative independence from the media industry, and its range of practical enforcement options, would have provided an effective platform upon which to launch a new set of standards.

Legislative regulatory enforcement

- 9.14 There is some doubt amongst mental health professionals that the new standards will be adhered to by mainstream media if there is no legislative enforcement of those standards. In light of the degree of distrust of voluntary regulation, and the government's current rejection of a new unified media complaints body, we put a great deal of effort into analysing a spectrum of legislative regulatory options for a new set of standards for reporting suicide. In particular we analysed whether the statute should require all people who make public the details of an individual suicide to comply with the standards for reporting suicide. We also analysed whether it should provide that breaches of those standards are:
- a criminal offence;
 - an infringement offence;
 - subject to a civil penalty;
 - subject to a civil enforcement regime via a new statutory complaints committee (this might include the power to impose a fine); or
 - subject to new coronial powers to issue warnings, or to order material to be taken down.
- 9.15 We noted that if the statute provided a requirement to comply with standards for reporting suicide, then the coroner would have powers under clause 10(2) of the Harmful Digital Communications Bill (if enacted) to apply to the District Court for orders, including to have material taken down from websites or digital platforms, and to cease the conduct concerned.
- 9.16 After much analysis and consultation on various models, we concluded that a legislative model is not appropriate for the enforcement of standards for reporting suicide, for two reasons.
- 9.17 First, many of the requirements for low-risk suicide reporting cannot be expressed with sufficient certainty to support a legislative obligation, without becoming an unjustified restriction on the right to freedom of expression. Some requirements simply defy attempts to

110 *The News Media Meets 'New Media'*, above n 109, at 160-163.

111 *The News Media Meets 'New Media'*, above n 109, at 170.

make them sufficiently certain: for example, restrictions on sensationalising or glorifying a suicide death. Even if a particular requirement could be made sufficiently certain, we consider that any enforcement by a legislative regulatory method would make that requirement an unjustified breach of the right to freedom of expression in section 14 of the New Zealand Bill of Rights Act 1990. As we have stated before, it is only reporting the method of suicide that is supported by sufficient evidence of harm to reach the justification in section 5 of that Act. We consider that while there is significant evidence that, for example, reporting a suicide in a glorifying manner may increase the risk of copycat suicides, and that such evidence is sufficient for journalists and others to voluntarily curb their reporting practices, it is not strong enough to justify a statutory restriction.

- 9.18 Second, a legislative regulatory system of enforcing a suicide reporting code is not likely to be the most effective method of achieving the policy goal of encouraging low-risk suicide reporting. Regulatory requirements will tell a journalist, blogger or person on social media what they should and should not do, but they do not explain why a breach of the requirements is risky. Avoiding risky suicide reporting requires nuanced decision making because it cannot be completely covered by regulatory restrictions. A journalist, for example, is far more likely to make low-risk decisions if he or she understands why and how glorifying a suicide report may result in subsequent suicidal behaviour.

The need for ongoing leadership

- 9.19 Despite our conclusion that new standards are not suitable for enforcement by legislative means, there may still be a benefit in having a statutory obligation to prepare guidelines, even if enforcement of those guidelines operates outside the legislative framework. The statute could require the Minister of Health (or his or her delegate) to prepare a set of suicide reporting standards in consultation with mental health experts and representatives of the media and require the Minister to have an ongoing programme of dissemination, education and monitoring of the code.
- 9.20 Whether or not these matters should be contained in statute depends upon an assessment of whether the relevant bodies are likely to undertake sufficient leadership of this task without a statutory requirement.
- 9.21 In our view, as we described in Chapter 4, previous attempts at implementing voluntary guidelines in New Zealand have been ineffective because of the lack of success in securing agreement between opposing viewpoints, and the lack of an adequate ongoing programme to support the implementation of guidelines. Success in those matters is the key to effective guidelines.
- 9.22 The *Mindframe National Media Initiative* in Australia provides a world leading example which has been proven effective.¹¹² As noted in Chapter 4, under that programme, priority is given to building relationships and fostering influence with the media with the aim of encouraging responsible, accurate and sensitive reporting of suicide and mental illness. In addition to resources for its website and scientific evaluations of the effectiveness of the guidelines, *Mindframe's* ongoing programme of relationship building includes:
- face-to-face meetings;
 - drop-in visits;
 - offering ad hoc advice;

112 Mindframe "Mindframe: National Media Initiative" < www.mindframe-media.info > .

- distributing hard and soft copies of resource and supporting materials; and
- creating and distributing tools for education providers in journalism, public relations and communications.

That is a completely different way of thinking from the model where guidelines are published and it is simply hoped that the media will take note.

- 9.23 It is apparent to us that *Mindframe's* extensive work programme is supported by a significant commitment of government funds. However, we are of the view that no matter the size of the public financial support for the implementation of suicide reporting standards in New Zealand, a lot can be learned from the Australian model, and an ongoing programme to support the implementation of standards is essential to their success.
- 9.24 It is our view that leadership by the Minister of Health is crucial to the success of a future set of standards for reporting suicide. For that reason we are also of the view that the Minister's obligations in this regard should be in legislation. The statute should require the Minister to prepare a new set of standards for reporting suicide, in consultation with at least the media and mental health experts. It should also require the Minister to implement an ongoing programme to disseminate, promote and support the implementation of the standards, and to evaluate the success of those standards in achieving the goal of low-risk reporting of suicide. A legislative obligation would signal the priority that must be given to leadership in the preparation, dissemination, promotion, education and evaluation of a new set of guidelines.

Chapter 10

Summary of recommendations

STATUTORY RESTRICTION

- R1 Section 71 of the Coroners Act 2006 should be repealed and replaced by provisions to the following effect:
- Unless the Chief Coroner has granted an exemption, no person may directly or indirectly make public the method of death.
 - Unless the Chief Coroner has granted an exemption or has made a finding that a death is a suicide, no person may make public a description of a death that describes it as a suicide.
- R2 The recommended statutory restrictions should apply if a death occurs in New Zealand after the commencement of the restriction and there is reasonable cause to believe the death was self-inflicted.
- R3 The recommended statutory restrictions should not apply to the Independent Police Conduct Authority or to the Police Commissioner to the same extent that section 72 of the Coroners Act 2006 excludes them from the current statutory restrictions in section 71.
- R4 In relation to the recommended statutory restriction, “make public” should have the same meaning as currently in section 73, that is:
make public means publish by means of—
- (a) broadcasting (within the meaning of the Broadcasting Act 1989); or
 - (b) a newspaper (within the meaning of the Defamation Act 1992); or
 - (c) a book, journal, magazine, newsletter, or other similar document; or
 - (d) a sound or visual recording; or
 - (e) an internet site that is generally accessible to the public, or some other similar electronic means.
- R5 “Method of death” should include the site of the death where a description of the site is suggestive of the method.
- R6 The Act should state that nothing in the restriction in R1 above prevents a person from stating that a death is a suspected suicide.
- R7 The Act should provide that any person may apply to the Chief Coroner for an exemption from the restrictions in R1.

- R8 The Act should provide that the Chief Coroner must not grant an exemption unless satisfied that the circumstances are such that any risk of copycat suicidal behaviour from the making public of the method of the death or from describing the death as a suicide, as the case may be, is small and is outweighed by other matters in the public interest.
- R9 The Act should provide that, in making that determination, the Chief Coroner may be assisted by an expert panel comprising suicide prevention experts and media experts. For that purpose, the Ministry of Health should constitute a panel of not more than three people. Their fees and expenses should be met under the Witnesses and Interpreters Fees Regulations 1974 or similar.
- R10 To ensure that an application for an exemption is dealt with speedily, the statute should:
- provide that the Chief Coroner must, so far as is practicable, give priority to any application for an exemption; and
 - provide that the Chief Coroner may deal with an application by way of a telephone or video conference link-up, email or fax, but must keep a record of any determination, with short reasons.
- R11 For the purposes of these provisions, the “Chief Coroner” should include the Deputy Chief Coroner when the Chief Coroner is unavailable.
- R12 Section 75 of the Coroners Act 2006, which provides a right to apply to the High Court for a review, should be amended to apply to an applicant for an exemption from the recommended statutory restrictions. The decision of the High Court should be final. There should be no further review or appeal.
- R13 There should be no ability to apply for judicial review of the exemption decision under the Judicature Amendment Act 1972.
- R14 Section 139 of the Coroners Act 2006 should be amended to apply to the recommended restrictions in R1. In respect of breaches of those restrictions:
- The maximum fine should be \$20,000 for a body corporate or \$5,000 in any other case.
 - The offence does not apply to a person who hosts material on websites or other electronic retrieval systems that can be accessed by a user unless the specific information has been placed or entered on the site or system by that person.

STANDARDS FOR REPORTING SUICIDE

R15 The statute should provide that:

- the Minister of Health (or his or her delegate) must prepare a set of standards for suicide reporting; and
- in doing so, the Minister must consult with representatives of the media and of mental health interests, and with such other people as he or she considers appropriate.

R16 The new standards for reporting suicide should:

- apply to every person publicly reporting on a suicide death including in mainstream media, a blog or social media;
- be implemented via a non-legislative mechanism (in respect of the mainstream media, that means via the various media standards bodies).

R17 The statute should require the Minister of Health (or his or her delegate) to implement an ongoing programme to disseminate, promote and support the implementation of the standards, and to evaluate the success of those standards in achieving the goal of low-risk reporting of suicide.

Appendix A

TERMS OF REFERENCE

Review of restrictions in the Coroners Act 2006 on reporting of suicide

The Law Commission will undertake a first principles review of the legislative provisions restricting the reporting of suicide as set out in sections 71–73 of the Coroners Act 2006. The review will examine whether the current restrictions on making public details of self-inflicted deaths strike an appropriate balance between the public health goal of reducing the likelihood of imitative (“copycat”) suicide and the principle of freedom of expression.

In particular, the review will consider whether sections 71–73 should be amended (or removed).

If it is proposed that these sections be retained in some form, the review will consider:

- the information about a self-inflicted death that is appropriate to make public, and at what stage of the coronial investigation;
- the definitions to support the proposals including, if relevant, “detrimental to public safety”, “particulars” and any particular relating to the “manner” in which a death occurred;
- whether the same provisions should apply for different forms of media, for example media organisations, bloggers and social media; and
- the rules for reporting suspected suicides outside New Zealand.

If any amendments are proposed to the existing legislative provisions, suggested drafting should be provided.

A final report will be published by 28 March 2014.

Appendix B

CONSULTATION LIST

Chief Coroner Neil MacLean	Dr James Hollings
Coroner Wallace Bain	Hon Sir John Hansen
The Coroners Reference Group	Hon Tariana Turia
Ministry of Justice	Tania Papali'i, Northland District Health Board
Ministry of Health	Te Kupenga mo Kawerau
The Law Commission's Māori Liaison Committee	Dr Russell Wills, Children's Commissioner
Professor Sir Peter Gluckman, Chief Science Advisor to the Prime Minister	Sophia Graham, Mental Health Foundation
Dr John Crawshaw, Director of Mental Health	Moira Clunie, Mental Health Foundation
Professor Sunny Collings	Witi Ashby, Mental Health Foundation
Dr Annette Beautrais	The Interagency Suicide Prevention Committee
Professor David Fergusson	Maria Bradshaw, CASPER
Dr Keren Skegg	Mark Wilson
Dr Terryann Clark	Kevan McConnell, Ministry of Social Development, Kawerau
Sandra Palmer, Clinical Advisory Services Aotearoa	
Shelly Dean, Ministry of Education	
Media Freedom Committee	
Rick Neville	
Clive Lind	
Sinead Boucher	
Mary Major	

Appendix C

KEY SYSTEMATIC REVIEWS OF THE EVIDENCE

Pirkis and Blood “Suicide and the news and information media: A critical review” (2010)¹¹³

This review examined 97 studies over the past 50 years on the imitative effect of presentations of suicide in newspapers, television, books and the internet. It specifically considered methodological issues associated with each body of studies, and critically examined whether those issues limited the inferences that could be made about the interpretation of findings.

The review examined the strength of the association between the portrayal of suicide in the media and actual suicidal behaviour, and the extent to which that association could be considered causal. In determining causality, it examined five features of the findings:

- Consistency: whether the association was consistently observed, regardless of study design and population sampled.
- Strength: whether the association was statistically significant, and particularly whether there was evidence that the greater the exposure to the media coverage of suicide, the greater the increase in suicide rates.
- Temporality: whether exposure to the media coverage of suicide occurred before actual suicides.
- Specificity: whether the people exhibiting the suicidal behaviour were actually exposed to media coverage of suicide.
- Coherence: whether the association was in line with known facts about the influence of media and suicide.

Newspapers

The review examined 41 studies of differing types. The vast majority suggested an association between newspaper reports of suicide and actual suicidal behaviour. From that body of evidence the review found that it was reasonable to regard the association was causal, because:

- the association was reliably observed under almost all study methodologies;
- a dose-response effect was evident such that the greater the newspaper coverage of a particular suicide, the more substantial the increase in subsequent suicides; and
- the findings were coherent in that they made sense in light of what is already known about the influence of the media and suicide.

Despite the finding of causality, the review noted that only a limited number of studies permitted a determination of whether the media stimuli preceded an increase in suicide rates, and only a few studies were able to demonstrate that a reasonable proportion of those who subsequently died by suicide were exposed to the media stimulus.

113 Jane E Pirkis and Warwick Blood *Suicide and the news and information media: A critical review* (Commonwealth of Australia, 2010).

Other media

The review examined 11 studies about television (all of a similar design), 20 studies of the internet (mostly descriptive studies), and 20 studies of mixed media (of differing designs). The review found that the studies provided cautious support for a causal association:

- The associations were generally consistent. With only a few exceptions, the studies all found a similar association.
- In each case, the findings were coherent.
- The internet and mixed media studies were able to show the temporality and specificity of the association, with strong evidence that individuals were exposed to the suicide material before their suicidal behaviour. The television studies based their data on monthly rather than daily figures so were not able to demonstrate that the media reports actually occurred before the suicidal behaviour, nor that the person was exposed to the report.
- The television studies demonstrated the strength of the association in that it was most evident immediately after the media stimulus and then dissipated. The internet and mixed media studies were not designed to be able to demonstrate the strength of the association.

The review also examined five studies about books, but they were all about the book *Final Exit*, which advocates suicide for the terminally ill. It found that the association between that book and suicidal behaviour was causal.

Sisask and Varnik “Media Roles in Suicide Prevention: A Systematic Review” (2012)¹¹⁴

The purpose of this review of 56 studies was to give an overview of the research and to find out the effects of media reporting of suicide on actual suicidality. The review pulled 1180 studies from electronic databases and whittled them down to 56 eligible analytical research reports on non-fictional portrayals of suicide behaviour. The review found that the vast majority of studies support the idea that media coverage of suicidal behaviours and actual suicidality are associated. Only four studies found no significant associations (all before 1990) and a further five expressed hesitations about clear associations or reported incoherent results. The review warned, however, of a risk of reporting bias in that “researchers are eager to report meaningful positive results, but could keep silent if the results are not beneficial”.

Niederkrontenthaler “Changes in suicide rates following media reports on celebrity suicide: a meta-analysis” (2012)¹¹⁵

This study was a meta-analysis of 10 previous ecological studies covering 98 celebrity suicides. This is a particularly strong study design as it systematically re-analysed the published aggregate data from the previous studies and provided cumulative insights into the association between media reports of celebrity suicides and subsequent suicides.

This study found that:

- The average increase in the suicide rate across the pooled results was 0.26 in the month after a report on a celebrity suicide (with 95 per cent of the results lying between 0.09 and 0.43).
- The imitative effect was most pronounced after reports on suicides by national top entertainers.
- There was a substantial diversity of results across the studies, which could be explained by regional differences in reporting practices for suicides.

114 Merike Sisask and Airi Varnik “Media Roles in Suicide Prevention: A Systematic Review” (2012) 9 Int J Environ Res Public Health 123.

115 Thomas Niederkrontenthaler “Changes in suicide rates following media reports on celebrity suicide: a meta-analysis” (2012) 66 J Epidemiol Community Health 1037.

Stack “Suicide in the Media: A Quantitative Review of Studies Based on Nonfictional Stories” (2005)

This review suggested that the variation in findings across the studies examining the impacts of media coverage of suicide may be explained by their different methodologies. The review examined 419 findings from 55 different studies. It found:

- Substantial variations in the effects found by different studies.
- Studies that examined reports of a suicide by an entertainment or political celebrity were 5.27 times more likely than other studies to find a copycat effect.
- Studies based on stories with powerful negative definitions of suicide were 99 per cent less likely than other research to report a copycat effect. Examples of suicide stories that stressed negative definitions were Kurt Cobain’s death (which included condemnation of the suicide by his spouse) and the 1978 mass suicide at Jonestown (where the coverage included footage of rotting bodies in piles and quickly labelled the suicides as cult-inspired).
- Studies based on television coverage were 79 per cent less likely to report an imitative effect than studies based on newspaper stories.
- Studies that examined female suicide rates were 4.89 times more likely to find copycat effects than those based on male rates or total suicide rates.
- Studies examining the suicidal behaviour of young people were 54 per cent less likely to find an imitative effect than studies examining the total population.
- Of the 419 findings reported in the 55 studies, 35.8 per cent found an imitative effect.

Gould “Suicide and Media” (2001)¹¹⁶

This narrative review reported on the range of studies examining the association between suicide reporting and subsequent suicidal behaviour that had been conducted to date. It placed particular emphasis on identifying the different characteristics of non-fictional reporting or of the vulnerable person that influence the size of the contagion effect. It found:

- The studies clearly demonstrate that extensive newspaper coverage of suicide is associated with a significant increase in the rate of suicide, and that the magnitude of the increase is proportional to the amount, duration and prominence of media coverage.
- There is overwhelming evidence that the magnitude of the increase in suicidal behaviour after newspaper coverage of a suicide is related to the amount of publicity given to the story and the prominence of the story in the newspaper.
- Studies found that celebrity status of the person reported to have died by suicide had a greater impact than non-celebrity stories.
- Studies found that the imitative effect is greatest for teenagers.
- Interestingly, the imitative effect does not appear to be stronger for demographic groups already strongly predisposed to suicide (“males, whites, unmarried people, or retired persons”).
- There is increasing research evidence to support the suggestion that the imitative effect is greater amongst individuals who share similar life and demographic characteristics to the person reported to have died by suicide.

116 Madelyn S Gould “Suicide and the Media” (2001) 932 *Annals of the New York Academy of Sciences* 200–224.

Appendix D

GUIDELINES FOR REPORTING SUICIDE

New Zealand

Media Roundtable *Reporting Suicide: A resource for the media* (December 2011).

<http://www.health.govt.nz/publication/reporting-suicide-resource-media>

Ministry of Health *Suicide and the Media: The reporting and portrayal of suicide in the media* (1999).

<http://www.health.govt.nz/publication/reporting-suicide-resource-media>

Australia

Mindframe *Reporting suicide and mental illness: a Mindframe resource for media professionals* (2002).

<http://www.mindframe-media.info/for-media/reporting-suicide/Downloads/?a=5139>

Australian Press Council *Standards Relating to Suicide* (2011).

<http://www.presscouncil.org.au/document-search/standard-suicide-reporting/>

United Kingdom

Samaritans (UK) *Media Guidelines for Reporting Suicide and Self-Harm*.

<http://www.samaritans.org/media-centre/media-guidelines-reporting-suicide>