

MEDIA REPORTING OF SUICIDE: THE RISKS OF SUICIDE NEWS STORIES AND HOW RESPONSIBLE REPORTING CAN BE ACHIEVED

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I Introduction

The recent apparent suicide of Robin Williams drew extended, worldwide media coverage. Differences in reporting style and level of detail emerged, as each nation's press grappled with media guidelines and health professionals urging caution in the face of the extreme interest in the story. Some media outlets rejected all calls for responsibility, reporting the method of suicide in extreme detail and establishing an aerial 'live feed' of the bereaved family's home.¹ In contrast, others explicitly declined to publish details of the method and sought insight from suicide support services.² New Zealand reporting, though generally responsible, was further complicated by the media's

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¹ Catherine Taibi "ABC News apologises for streaming video of Robin Williams' home" *The Huffington Post* (online ed, United States of America, 12 August 2014).

² "Robin Williams death: social media backlash over details of suicide" *The Sydney Morning Herald* (online ed, Sydney, 13 August 2014).

apprehension of the current statutory restrictions on the reporting of suicide. As the public awareness of suicide and depression develops, it is vital that the law regulating this area remains appropriate and justified by the evidence.

The question underlying this paper is how media reporting of suicide can most appropriately be regulated. The topic has recently been addressed by the Law Commission issues paper on suicide reporting,³ whose views are referred to throughout this paper. The Government agreed to all of the Law Commission recommendations, leading to the introduction of the Coroners Amendment Bill on 31 July 2014.⁴ Given these circumstances, this paper does not enter into detailed discussion of whether the law should change, but proceeds directly to a consideration of the evidence and recommendations on what the new law should be.

The scope of this paper is limited to the research and regulations around reporting of suicide by the news media, focusing on the Coroners Act restrictions as well as independently published media guidelines. The history of such guidelines in this country has been troubled, with previous attempts in 1999 and 2011 seeing little success.⁵ While the current regulations are relatively brief and contained, the wider topic is a large and interconnected area of research. Issues which may be relevant but have been set aside include the emergence of social media and the internet, euthanasia, the history of the legislation, fictional accounts of suicide, and the more specific problems associated with youth and Maori suicide rates. It is important to note that the current restrictions apply beyond the media to the ordinary public, including bereaved families and friends recently affected by a suicide.

³ Law Commission *Suicide Reporting* (NZLC R131, 2014).

⁴ Coroners Amendment Bill 2014 (239-1).

⁵ Ministry of Health *Suicide and the media: The reporting and portrayal of suicide in the media* (2 September 1999); Media Roundtable *Reporting Suicide: A resource for the media* (Ministry of Health, 22 December 2011).

There are fundamental differences in the policy around these groups, and it may be appropriate for future regulations to differ in how they apply or are enforced against different types of person.

II *The Problem of Suicide*

Suicide is defined as the act of killing oneself intentionally.⁶ A coronial inquest is often required to make this finding, and annual statistics on suicide tend to lag by several years due to the time that may be taken to complete all relevant inquiries. However, an examination of suicide statistics over the last decade suggests that rates in New Zealand are following relatively stable trends. The most recent official statistics on suicide in New Zealand are the 2011 figures released in a January 2014 report.⁷ The suicide rate among the general population of New Zealand was reported as 10.6 per 100,000; equating to 478 deaths. More recent figures can be drawn from the provisional suicide statistics issued annually by the Chief Coroner,⁸ which confirm the relatively static figure of roughly 500 deaths a year. While the press release described this statistic as 'stubborn', the coinciding rate of population growth means the overall suicide rate has in fact been incrementally falling since the most recent peak in 1997. New Zealand's national suicide rate is around the average among OECD nations,⁹ although it should be noted that direct statistical comparisons with other countries are made difficult by differences in investigating and officially reporting on suicide.

⁶ Catherine Soanes and Angus Stevenson (eds) *Oxford Dictionary of English* (2nd ed, Oxford University Press, Oxford, 2003).

⁷ Ministry of Health *Suicide Facts: Deaths and intentional self-harm hospitalisations 2011* (27 January 2014).

⁸ Ministry of Justice "Chief Coroner releases provisional annual suicide figures" (press release, 20 August 2014).

⁹ Ministry of Health, above n 7, at 26.

Suicide rates vary drastically between different groups in society. Male suicide rates are traditionally far higher than those for females; in 2011 the male rate being 3.5 times higher.¹⁰ Māori suicide rates were 1.8 times higher than non-Māori rates. Finally, despite the general rate being unremarkable among OECD nations, New Zealand stands out as having the second highest rate of youth suicide.¹¹ The 2011 statistics place youth male rates at 28.1 deaths per 100,000 population, and female rates at 9.9. The general public might be surprised to learn that suicide is the leading cause of death among young people aged 15 – 24, with almost 50 per cent more fatalities each year than vehicle accidents.¹²

III *The Coroners Act 2006*

New Zealand is unusual among OECD nations in maintaining a general statutory restriction on publishing the details of a suicide. This restriction has been retained in various forms since the Coroners Act 1951. While an examination of the legislative history of the provision is not within the scope of this essay, reference can be made to the Law Commission report,¹³ as well as Sam Blackman's detailed paper on the topic.¹⁴

It is important to note that there is no statutory restriction on the reporting of suicide as a general topic - the offence only relates to reporting of individual deaths within New Zealand. While guidelines on reporting will always be of relevance, the media is free under the Coroners Act to publish general articles on topics such as the incidence

¹⁰ At 3.

¹¹ At 29.

¹² At 8.

¹³ Law Commission, above n 3, at 19.

¹⁴ Sam Blackman "Suicide and the Media: Whether New Zealand's Statutory Restrictions on the Reporting of Suicide are Justified" (2012) 2 NZLSJ 746 at 748.

of suicide, methods commonly used, and the risk factors associated with suicidal behaviour. By way of example, student magazine 'Craccum' published an article on suicide in 2000 which provided a detailed and graphic list of potential methods (albeit with the praiseworthy intention of dispelling the myth that 'suicide is painless').¹⁵ Without reference to a deceased individual, the Coroners Act offence could not be triggered.¹⁶ As this paper goes on to argue, although awareness and enforcement of guidelines on this subject are of paramount importance, a statutory restriction alone cannot ensure responsible reporting. It should also be reiterated that the law only covers deaths which have occurred in New Zealand.¹⁷ Naturally, many of the most high profile deaths within mainstream media culture occur overseas, reinforcing the importance of effective guidelines alongside the law.

The key restricting provision is at section 71 of the Coroners Act 2006, which draws a distinction between whether or not a coronial inquiry into the death has been completed. Section 71(1) holds that:

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.

¹⁵ "Suicide Is Painless? – The Craccum Articles" *Scoop* (Online ed, New Zealand, 7 March 2000).

¹⁶ An amalgamated complaint to the Press Council also failed: Case 786, *Health Waikato v Craccum* (2003).

¹⁷ Coroners Act 2006, s 71(1)(a).

Under section 60(1)(a)(i) of the Coroners Act any death which appears to be self-inflicted must be the subject of an inquiry, a sometimes lengthy process. Once the inquiry has been completed and the death determined as a suicide, section 71(2) alters the restrictions:

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.

The penalty for breach of such provisions consists of a maximum fine of \$5000 for body corporates or \$1,000 in any other case.¹⁸

A Particulars of Death

Section 71(1) is most relevant to reporting by the news media, as urgent deadlines and commercial competition demand the publishing of newsworthy suicides well before any inquiry is complete. There is considerable ambiguity as to the actual extent of the restriction, and the meaning of the term 'any particular relating to the manner in which the death occurred'.¹⁹ The Law Commission suggested that the most crucial distinction is whether the prohibition covers only reporting of the method, or extends to all details including the bare fact of a suicide.²⁰

¹⁸ Section 139(a).

¹⁹ John Burrows and Ursula Cheer *Media Law in New Zealand* (6th ed, LexisNexis, Wellington, 2010) at 500.

²⁰ At 19.

'Making public' is defined to include broadcasting, newspapers, and journals, among other publications.²¹ The same section defines 'particular' as "a detail relating to the manner in which the death occurred, to the circumstances of the death, or to an inquiry into the death", which does little to clarify what may or may not be published. Read in isolation the words suggest that a wider interpretation is the intended one, extending even to the existence of the inquiry itself. But in the context of section 71(1), which itself restricts 'any particular relating to the manner in which a death occurred', it could be argued that only the first element of the extended definition is included.

Insofar as the author can find, no case exists which deals directly with the interpretation of this section. The Chief Coroner is reported as taking a wider interpretation of the provisions, treating 'particular' as including the method of suicide, cause of death and preceding circumstances, and the restrictions being breached even by describing a death as an 'apparent' or 'suspected' suicide.²² This has resulted in the media resorting to euphemisms to indicate the suspicion of a suicide without saying the specific prohibited words. The Law Commission report did not come to a final conclusion on whether a wider or narrower interpretation of the statutory provision is correct, setting the question aside given the lack of clarity and need for a new provision anyway.²³ Given the statements of the Chief Coroner and use of euphemisms by the media, it would appear that the wider approach is the one which has been 'adopted' by those whom the provision actually concerns.

The problems associated with this lack of clarity extend beyond the media. Coroners are placed in a difficult position of conflict, the

²¹ Coroners Act, s 73. This definition adequately covers the mainstream media considered in this paper, and the Law Commission has recommended that it be preserved.

²² Media Roundtable, above n 5, at 10.

²³ At 24.

unclear restrictions clashing with their statutory duty to issue recommendations and advice on the prevention of further deaths.²⁴ Although coroners are empowered under section 71 to authorise an exception, the statutory test states that the 'only ground' on which an exception may be made is where the release is unlikely to be detrimental to public safety.²⁵ Accordingly there may be cases where coroners wish to make an important recommendation, but the unclear wording of the Act prevents them from making an exception even for their own publication.

Despite the apprehension of both the media and coroners, the restriction provisions have seen a complete lack of enforcement over their long history. An examination of New Zealand reporting reveals a willingness to report in clear breach of the provision, however uncertain its extent may be. The Law Commission's own review of 83 articles in the course of its report found that nearly a third did not comply with the provisions.²⁶ Despite this, no judgment on the prosecution of this offence could be found. Interestingly, however, media representatives do occasionally refer anecdotally to prosecution.²⁷ It may be that rare prosecutions do occur but attract very little attention due to the strict liability of the offence, relatively minor penalty, and the disincentive to report anything further. Whether or not this is the case, the overall situation appears to be one of uncertainty and non-enforcement.

²⁴ Coroners Act, ss 3(1)(b) and 4(2)(b).

²⁵ Section 71(3).

²⁶ At 34.

²⁷ See for example the summary of facts in *M v Radio 531 PI* BSA 2001-028, 26 April 2001; and the comments in Jim Tully and Nadia Elsaka *Suicide and the media: A study of the media response* (Ministry of Health, 1 April 2004) at 11.

IV Overseas Restrictions

Safe reporting overseas is sought primarily through use of guidelines rather than statutory restrictions. However, some relevant international legislation does exist. The New South Wales Coroners Act 2009 provides coroners with a power to suppress any report of the proceedings, or any report which identifies a person (or relative of a person) whose death may have been self-inflicted.²⁸ If there is a finding of suicide, then a report of the proceedings must not be published unless the coroner makes an exception.²⁹ The coroner may not make such an exception unless they are 'of the opinion that it is desirable in the public interest'.³⁰

These provisions appear to have been adopted from New Zealand's early restrictions, their origin lying in a 1975 Law Reform Commission paper which recommended that in relation to suicide "a more specific power of controlling what is published may be an advantage and in the public interest".³¹ The report later referred to the purposes of avoiding distress to relatives, as well as preventing imitative suicides which the Commission described as "undoubtedly a phenomenon which has been noticed here".³² Although this provision appears to establish a positive constraint on reporting, in reality any restriction will be almost completely obsolete. It is the law which applies prior to the conclusion of an inquiry which matters most to the time-pressured media, and the New South Wales restriction would have no effect on the vast majority of reporting occurring shortly after death. It is therefore unsurprising that, as in New Zealand, there is a distinct lack of case law and commentary on the application of these restrictions.

²⁸ Coroners Act 2009 (NSW), s 75(2).

²⁹ Section 75(5).

³⁰ Section 75(6).

³¹ New South Wales Law Reform Commission *Report on the Coroners Act, 1960* Report No 22 (1975) at 9.

³² At 94.

Further references to suicide in overseas legislation exist as discretionary powers rather than positive presumptions. The Saskatchewan Coroners Act 1999 provides that, where it appears at an inquest that a death may have been self-inflicted, the coroner may order that no evidence of proceedings be published or broadcast until a finding is returned.³³ Though based on a discretionary suppression order rather than a presumption of restriction, the provision is another example of an overseas Parliament recognising a specific need to control reporting of self-inflicted deaths.

Even if New Zealand were completely alone in maintaining a statutory restriction on reporting of suicide, this would not necessarily mean that our law is outdated or unjustified. One suggestion is that enacting these provisions in the modern era is impossible, given the extensive media opposition to restrictions of this sort.³⁴ New Zealand also has sufficiently unique circumstances in relation to suicide to justify its own laws, most notably our very high rates of suicide among young persons - who have been identified as a group more vulnerable to contagion effects.³⁵

V Justifying the Restrictions

Suicide is a sensitive topic, and reporting in this area is subject to a number of competing interests and factors. The Coroners Act restrictions on reporting are based on the public health concern of contagion effects, the integrity of the coroner's inquiry, and the protection of families recently bereaved by suicide.

³³ The Coroners Act SS 1999 c C-38.01, s 36(1).

³⁴ Blackman, above n 14, at 769.

³⁵ Madelyn Gould, Patrick Jamieson and Daniel Romer "Media Contagion and Suicide Among the Young" (2003) 46 ABS 1269 at 1270.

Despite the common perception of a 'taboo' around the discussion of suicide, media reporting on the topic is relatively common. A 2012 study commissioned by the Ministry of Health found that in a 12 month period a total of 3,483 media items on suicide were published in New Zealand.³⁶ Over half of these publications were newspaper articles, and another 40.2 per cent were found on the internet, leaving relatively few radio and television items. Discussion of the risks of such articles in New Zealand is accordingly not purely hypothetical; reporting of suicide does occur here and is likely to carry the same risks as have been demonstrated worldwide.

A Contagion

The primary justification for the restriction provision is the prevention of contagion effects and copycat suicides through reporting. This is strongly suggested by the statutory test for an exception being based on 'public safety'; as well as the Parliamentary debate on the restrictions' preservation in the Coroners Act 2006.³⁷

There are a number of terms for the effects of media reporting on suicide, including 'contagion', 'mass clusters' and 'copycat effects'.³⁸ Different effects and terms seem to easily be conflated with one another, but the overarching issue is that reporting on suicide in certain ways appears to increase the rate of suicides for a period afterwards. The size of the effect varies: meta-analysis reports have found average increases in suicide rates from 0.26 per cent,³⁹ to 2.51 per cent over the

³⁶ Katey Thom and others "Reporting of Suicide by the New Zealand Media" (2012) 33 *Crisis* 199 at 200.

³⁷ See Law Commission, above n 3, at 23.

³⁸ Merike Sisask and Airi Värnik "Media Roles in Suicide Prevention: A Systematic Review" (2012) 9 *Int J Environ Res Public Health* 123 at 123.

³⁹ Thomas Niederkrotenthaler and others "Changes in suicide rates following media reports on celebrity suicide: a meta-analysis" (2012) 66 *J Epidemiol Community Health* 1037 at 1041.

subsequent month.⁴⁰ Case studies on major figures such as Marilyn Monroe have found far greater effects.⁴¹ The effect has generally been found to peak within three days of the report and attenuate over two weeks,⁴² and appears to be heavily dependent on the type and content of reporting, as well as the qualities of the deceased who is focused on.⁴³ The actual impact of reports around an individual death may therefore be significantly higher or lower for some vulnerable groups than is reflected by the suicide rate of the general population. While in past decades the evidence for such effects was contentious and plagued by criticism of methodology,⁴⁴ more recent studies have added to the dominant consensus that reporting on suicide in certain ways will produce a greater risk of further deaths.⁴⁵

There is some disagreement as to the underlying psychological basis for different contagion effects. Social learning theory is one of the main theoretical explanations, suggesting that vulnerable persons exposed to reporting of suicide which is sensationalised, simplistic and/or high in volume can internalise the idea that suicide is an acceptable response to adverse life circumstances and imitate that behaviour.⁴⁶ This effect is amplified in role models, such as entertainment celebrities and political figures who receive high levels of coverage and idealisation. The Law Commission report provides a detailed exploration of the way

⁴⁰ S Stack "Media coverage as a risk factor in suicide" (2003) 57 *J Epidemiol Community Health* 238 at 238.

⁴¹ Steven Stack "Suicide in the Media: A Quantitative Review of Studies Based on Nonfictional Stories" (2005) 35 *Suicide and Life-Threatening Behaviour* 121 at 122.

⁴² Jane Pirkis and others "Media Guidelines on the Reporting of Suicide" (2006) 27 *Crisis* 82 at 83.

⁴³ At 83.

⁴⁴ See Stack, above n 41, for a wide-scale review on the debates and problematic differences in methodology at that time.

⁴⁵ Sisask and Värnik, above n 38; Niederkrotenthaler, above n 39; Pirkis, above n 42.

⁴⁶ Warwick Blood and Jane Pirkis "Suicide and the Media: Part III: Theoretical Issues" (2001) 22 *Crisis* 163.

contagion can proliferate through 'advertising', 'normalising' and 'sensationalising' the death.⁴⁷ Other researchers have based their analysis on three distinct effects: 'imitation', 'contagion' and 'normalisation'.⁴⁸ For the purposes of this discussion (based on the research and guidelines assessed) it is sufficient to deal with the two broad issues of normalisation and actual imitation. The former concerns the more social aspects, relating to the suggestion of suicide as being an acceptable behaviour or 'answer', and could be transmitted through reporting which glorifies suicide without any mention of a method. The latter relates to more direct imitation and learning, where detailed descriptions of a particular method of suicide are taken up by vulnerable individuals who might otherwise not have the necessary means or knowledge. While an irresponsibly written report could easily give rise to both risks, it is useful to distinguish between them for the purpose of directing law and policy on the matter. The distinction emphasises that preventing publication of suicide methods will not resolve all risks, and must be supported by responsible standards of reporting.

The Law Commission concluded that the risks arising from reporting of the method were greater than any other factor, such that only they warranted a statutory restriction.⁴⁹ However, this author's examination of the cited research did not come to the same conclusion – rather, it seems that the studies support the conclusion that a number of similarly dangerous risk factors (such as high volumes of sensationalist reporting) contribute to the overall effect. That said, reports of the method have been demonstrated to have some of the most extreme effects in significant case studies.

⁴⁷ At 13.

⁴⁸ Thom, above n 36, at 199 made a similar distinction of 'imitation', 'contagion' and 'normalisation' effects.

⁴⁹ At 38.

One vivid example of the dangers of reporting a novel suicide method is that of the 'charcoal burning' phenomenon, which originated in Hong Kong and is now spreading in East Asia. The original study on the event found that prior to 1998 there had been no reported deaths using the method (involving carbon monoxide poisoning through the burning of barbecue coal in an enclosed space).⁵⁰ In November of 1998 a high profile suicide using the method was followed by extensive sensationalist reporting of the death, including detailed descriptions of the means used. Within the subsequent twelve months, 56 more deaths had occurred using the exact same method. A recent 2014 review revealed that the method now accounts for around 17 per cent of suicides in Hong Kong, down from a peak of 24 per cent in 2003, and has spread to Taiwan where the method is used in 31 per cent of suicides.⁵¹ The review also noted that the rise in deaths by this method was not met with an equivalent fall in deaths by other methods. This strongly indicates that knowledge of this new technique has significantly raised suicide rates in at-risk groups, who would otherwise not be completing the act.

B The Coroner's Role

As discussed above, it is currently uncertain whether "particulars of the death" include bare statements that a death is suspected to be a suicide, though this is the interpretation which appears to have been adopted. As the Law Commission explained, media reporting of a death as a suicide or suspected suicide prior to that determination by a coroner is problematic.⁵² The Coroners Court has been established by Parliament to determine the cause of sudden or otherwise reportable deaths, and

⁵⁰ Wai Sau Chung and Chi Ming Leung "Carbon Monoxide Poisoning as a New Method of Suicide in Hong Kong" (2001) 52 *Psychiatric Services* 836 at 836.

⁵¹ Ying-Yeh Chen and others "The diffusion of a new method of suicide: charcoal-burning suicide in Hong Kong and Taiwan" (10 June 2014) Springer Link <<http://link.springer.com>>.

⁵² At 17.

make recommendations in the public interest to reduce the occurrence of those deaths.⁵³ Coroners are judicial officers and carry out their duties with authority and powers equivalent to those of a District Court Judge.⁵⁴ It is important that the coroner's role and the integrity of their inquiry are not undermined by inappropriate media prejudgment or misrepresentation of a death.

C Privacy

Privacy is an important value upheld by the courts of New Zealand. The privacy of those bereaved by suicide is a significant factor to account for in restrictions of media reporting on the topic. However, there are existing remedies for breaches of privacy by the media. New Zealand common law recognises a privacy tort of disclosure, providing a remedy where 'facts in respect of which there is a reasonable expectation of privacy' are given publicity which would be highly offensive to an objective reasonable person.⁵⁵ The courts have also more recently recognised a privacy tort of intrusion, actionable where there is an intentional and unauthorised intrusion into seclusion, infringing a reasonable expectation of privacy and being highly offensive to the reasonable person.⁵⁶ Regulatory bodies for the media provide another avenue to remedy breaches of privacy. Both the Broadcasting Standards Authority (BSA) and the Press Council have incorporated privacy principles into their codes, and deal with complaints on a frequent basis. The BSA's incorporated 'advisory opinion' on privacy is particularly detailed, distinguishing between intrusions into solitude and disclosure of offensive facts, and had a prominent role in the development of the law in this area.⁵⁷ However, both complaints procedures can only be initiated once a publication has

⁵³ Coroners Act, ss 3 and 4.

⁵⁴ Section 117(1).

⁵⁵ *Hosking v Runting* [2005] 1 NZLR 1 (CA) at [117].

⁵⁶ *C v Holland* [2012] NZHC 2155, [2012] 3 NZLR 672 at [94].

⁵⁷ John Burrows and Ursula Cheer, above n 19, at 350.

already been released;⁵⁸ there is no power for intervention in anticipation of a damaging report. The regulatory bodies essentially provide a low-cost way for complainants to ensure they are heard, and have an important role in setting expectations of responsible reporting.

It should be emphasised that the privacy interest to be protected is that of the bereaved family, not the deceased. Though there is uncertainty in the matter, the law does not appear to extend privacy rights to the dead - primarily due to the loss of dignity interests upon death.⁵⁹ Law and policy on this issue are best focused on the experiences of and risks to the family itself, rather than on a general sense of privacy around the matter as a whole. The aim is to encourage responsible reporting and reduce harm, rather than to chill valid media discussion of suicide.

Beyond the remedies above, there is an argument that those bereaved or otherwise affected by suicide warrant further protection of privacy under the law than the ordinary person. Strong support for this position lies in the evidence that those friends and family who have recently experienced a suicide are at higher risk of attempting suicide themselves.⁶⁰ A restriction on the reporting of suicide can assist in reducing these risks by limiting the harmful details which the media may publish, such as recorded images and suicide notes.

Other research indicates that while policy and guidelines on suicide are generally focused on the prevention of copycat effects, bereaved family members are more concerned with 'hounding' by journalists and

⁵⁸ Rosemary Tobin "Media Regulation: The Press Council and the Broadcasting Standards Authority" in Stephen Penk and Rosemary Tobin (eds) *Privacy law in New Zealand* (Brookers, Wellington, 2010) at 207.

⁵⁹ Stephen Penk "Future Directions and Issues" in Stephen Penk and Rosemary Tobin (eds) *Privacy Law in New Zealand* (Brookers, Wellington, 2010) at 369.

⁶⁰ John Jordan "Is Suicide Bereavement different? A Reassessment of the Literature" (2001) 31 *Suicide and Life-Threatening Behaviour* 91 at 95.

inaccuracies in later reporting.⁶¹ Interviews by the Law Commission identified a difficult conflict within the policy on this matter, in that some families have extremely high expectations of privacy (including privacy over information published on public forums), while others deliberately seek publication of their circumstances.⁶² These issues may be best dealt with through media standards rather than legislation, being based on the more discretionary topics of responsible reporting and sensitivity.

The privacy of families of certain cultures with a significant taboo against suicide requires additional consideration. Inappropriate media speculation can be seriously harmful to surviving family members, ostracising them from their community and inflicting further emotional distress. In one noteworthy decision the Broadcasting Standards Authority dealt with a complaint wherein a 20 year old Tongan man was falsely reported as having committed suicide.⁶³ The Authority noted that suicide in the Tongan community is considered “a major crime” and would be highly objectionable to the reasonable person, upholding the complaint and awarding \$500 in compensation to the family. Where circumstances demand it, both the media and coroners must refer themselves not only to the interests of the general public, but to more specific cultural factors relevant to the case.

D Media Responses to the Evidence for Harm

There are several common arguments raised against suicide reporting restrictions which this paper can address. There is a continued reluctance on the part of the media to acknowledge the strong evidence

⁶¹ Alison Chapple and others “How people bereaved by suicide perceive newspaper reporting: qualitative study” (2013) 203 *British Journal of Psychiatry* 228 at 230.

⁶² At 17.

⁶³ *M v Radio 531 PI*, above n 27.

for contagion effects and imitative suicide.⁶⁴ Articles are still published by mainstream media outlets which reject the evidence altogether.⁶⁵ The position of this paper is that there is conclusive evidence for a contagion effect by which inappropriate media coverage can increase the rate of suicide. This has been recognised by researchers and governments across the OECD,⁶⁶ by the World Health Organisation,⁶⁷ and by the Law Commission in their recent report.⁶⁸ Contagion effects are moderated by the context and elements of reporting,⁶⁹ suggesting a blanket restriction is inappropriate and can be replaced with a targeted set of restrictions or guidelines. However, it is no longer credible to assert that the effect simply does not exist or that the evidence is inconclusive.

One persistent claim is that the research has not established causation between media reporting and subsequent increases in suicide. It is argued that this would require proof that persons who have committed suicide actually saw the media reports in question.⁷⁰ While in cases of completed suicide this is difficult to establish, some studies have found strong links to media articles on suicide in coroners' reports,⁷¹ while others have interviewed survivors of suicide attempts.⁷² In one leading study, researchers gauged the relationship between different mediums

⁶⁴ S Collings and C Kemp "Death knocks, professional practice, and the public good: The media experience of suicide reporting in New Zealand" (2010) 71 *Social Science and Medicine* 244 at 246.

⁶⁵ Dan Satherley "Suicide reports won't inspire copycats – expert" 3 *News* (online ed, New Zealand, 13 August 2014).

⁶⁶ Sisask and Värnik, above n 38, at 131.

⁶⁷ *Preventing suicide: A global imperative* (World Health Organisation, Geneva, 2014) at 32.

⁶⁸ At 16.

⁶⁹ Stack, above n 41, at 123.

⁷⁰ Law Commission, above n 3, at 12.

⁷¹ Paul Yip and others "The effects of a celebrity suicide on suicide rates in Hong Kong" (2006) 93 *Journal of Affective Disorders* 245 at 250.

⁷² Kathy Chan and others "Charcoal-burning suicide in post-transition Hong Kong" (2005) 186 *British Journal of Psychiatry* 67 at 69.

of reporting and increased rates of suicide by criteria including consistency, strength and temporality.⁷³ They found it was reasonable on the evidence to conclude that there was a causal relationship between reporting and the harm, although the findings were stronger for print newspapers than for broadcasting. The weight of the research supports the conclusion that irresponsible reporting of suicide plays a causal role in pushing further vulnerable people to complete the act.

Another frequent misconception is that policy makers and health professionals seek to reinforce a 'taboo' of silence around suicide as a topic in general. It must be emphasised that modern calls for caution and media guidelines are focused on particular elements of reporting which generate risk. Guidelines exist around the world to encourage responsible, informed reporting of suicide, not to bar discussion altogether. The reason for this perception probably lies with the significant uncertainty around the provisions of the Coroners Act. While the current restrictions do not prevent reporting of suicide as a general topic, reviews of New Zealand journalists' attitudes on the subject have found that the statutory restrictions, guidelines, and general silence on the topic are often conflated with one another.⁷⁴ As the Law Commission has suggested, any entrenched views that the media is under 'under attack' may not be shifted until the provisions are clarified.⁷⁵

Media representatives are sometimes eager to point out that the New Zealand suicide rate remains 'high' despite the unique provisions, and that they therefore must not be working.⁷⁶ This argument fails to account for the multifactorial nature of suicide – media contagion is

⁷³ Jane Pirkis and Warwick Blood *Suicide and the news and information media: a critical review* (Commonwealth of Australia, 2010) at 2.

⁷⁴ Collings and Kemp, above n 64, at 246.

⁷⁵ At 51.

⁷⁶ "Editorial: Media can help fight this scourge" *The Dominion Post* (online ed, New Zealand, 1 January 2009).

only one of a number of risk factors. Were the provisions having an impact, other circumstances in New Zealand could be such that the final suicide rate is balanced out. It is also possible that with the law unenforced and guidelines largely ignored, the New Zealand restrictions carry far less weight than one might assume. This was certainly the view of some journalists in a recent set of interviews, one of whom commented that “the rules as they are might as well not exist anyway”.⁷⁷

Finally, there is sometimes a claim within the media that discussion and reporting of suicide can only be beneficial and therapeutic, and that the current restrictions are preventing the suicide rate from improving.⁷⁸ It should be emphasised that this assertion is based on media values and viewpoints, rather than the research on the topic. While responsible media reporting of suicide can minimise contagion effects and may provide an outlet for bereaved family members, there is no evidence that public attention has a positive effect on risks of suicide.⁷⁹ There are indications that ‘protective’ reporting can be achieved - one study found that media articles may be beneficial where they avoid emphasising death and instead provide positive accounts of surviving or coping with suicidal thoughts.⁸⁰ However, a high volume of reporting (even where responsible) was identified as a risk factor rather than having any positive effect. Public awareness of related issues such as mental health may be important, but merely discussing suicide more openly and frequently has not been shown to help.

⁷⁷ Collings and Kemp, above n 64, at 246.

⁷⁸ See, for example, Michael Cummings “Editorial: Opening our eyes to suicide” *Manawatu Standard* (online ed, New Zealand, 2 December 2010).

⁷⁹ Annette Beutrais and David Fergusson “Media reporting of suicide in New Zealand: “more matter with less art (Hamlet, Shakespeare)” (21 September 2012) *New Zealand Medical Journal* <www.nzma.org.nz/journal> at 2.

⁸⁰ Thomas Niederkrotenthaler and others “Role of media reports in completed and prevented suicide: Werther v. Papageno effects” (2010) 197 *British Journal of Psychiatry* 234 at 241.

VI *Freedom of Expression*

Media reporting on important public health topics such as suicide is protected by freedom of expression under the New Zealand Bill of Rights.⁸¹ Prima facie, the right extends to all communication however distasteful it may be.⁸² The question is whether in the given case it is appropriate to place a restriction on freedom of expression, weighing the public interest and value of free speech against the harm that may be caused.

As discussed above, the strongest justification for the restriction provision is the protection of vulnerable members of the public against contagion effects. The aforementioned lack of case law on the Coroners Act provisions provides little judicial guidance on the balancing of freedom of expression against this particular risk of harm. However, some reference can be made to the comments of Williams J in *Board of Trustees of Tuakau College v Television New Zealand Ltd*.⁸³ There the Court granted a rare permanent prior injunction against the broadcasting of a current affairs item dealing with two school suicides. The decision was based primarily on concerns about the triggering of a cluster suicide, either within the school or among youths across New Zealand,⁸⁴ and the court 'drew assistance' from the Coroners Act provisions in reaching its conclusion.⁸⁵ Given the extended discussion of prior injunctions and freedom of speech under the Bill of Rights, the implication here is that the Coroners Act indicated greater weight be placed on the side of restraint and public safety in the given circumstances. The decision was a highly controversial one, criticised

⁸¹ New Zealand Bill of Rights Act 1990, s 14.

⁸² Grant Huscroft "Freedom of Expression" in Paul Rishworth and others *The New Zealand Bill of Rights* (Oxford University Press, Melbourne, 2003) at 312.

⁸³ *Board of Trustees of Tuakau College v Television New Zealand Ltd* (1996) 2 HRNZ 87 (HC).

⁸⁴ At 16.

⁸⁵ At 17.

for enforcing a very strong prior injunction on grounds that were largely speculative.⁸⁶ On the other hand, it is somewhat remarkable in its foresight and early weighing of the issues around suicide and contagion effects in relation to young New Zealanders. The balancing of freedom of expression for any future legislation should be more carefully assessed against modern standards, but the *Tuakau College* judgment stands as judicial support for one view of where the balance lies.

The Attorney General is required to advise Parliament on whether an introduced Bill is inconsistent with the Bill of Rights.⁸⁷ It is noteworthy that the Crown reviews of both the Coroners Bill 2004 (now the current Coroners Act 2006) and the Coroners Amendment Bill 2014 referred to the restrictions on freedom of expression, and concluded that they were justifiable.⁸⁸ Focus was placed on the balancing interests of protecting the privacy of bereaved persons, as well as the coroner's power to allow an exception.

VII *Law Commission's Recommendations*

The Law Commission recently surveyed much of the above evidence and made recommendations on how the law should be balanced. In relation to the restriction provision, the Commission found that only a narrow provision preventing publication of the method of suicide could be justified by the evidence.⁸⁹ Any wider considerations such as sensationalist or otherwise irresponsible reporting were better dealt

⁸⁶ Huscroft, above n 84, 335.

⁸⁷ New Zealand Bill of Rights Act, s 7.

⁸⁸ Letter from Joanna Davidson (Crown Counsel) to Margaret Wilson (Attorney General) regarding consistency with the New Zealand Bill of Rights Act 1990: Coroners Bill (2 November 2004) at [4.2]; Letter from Peter Gunn (Crown Counsel) to Chris Finlayson (Attorney General) regarding consistency with the New Zealand Bill of Rights Act 1990: Coroners Amendment Bill (29 July 2014) at [15].

⁸⁹ At 39.

with through guidelines and education. Reporting of deaths as 'suspected suicides' was held to be preferable to the current use of euphemisms to communicate the exact same information, though to maintain the integrity of the coroner's inquiry no death should be referred to as a 'suicide' until that finding has been made. Finally, it was suggested that the power to make an exception to the provisions be confined to the Chief Coroner only, promoting consistency in decisions which otherwise could markedly differ across regions. On a separate note, the Law Commission recommended that a new set of guidelines be drafted and presented.⁹⁰ Despite the failure of previous guidelines, the Commission argued that co-operative discussion alongside the changes to the law could finally achieve a satisfactory level of awareness and compliance with agreed standards.

It should be noted that, due to time pressure, the Law Commission report was released following limited consultation and without any call for submissions.⁹¹ While a large proportion of this paper's recommendations align with those of the Commission, several of their suggestions are found by this paper to be inappropriate. Given the need for dialogue and compromise between the various groups involved, it is vital that the Select Committee discussion of the upcoming Coroners Amendment Bill 2014 be as open and informed as possible.

VIII *This Paper's Recommendations on the Restriction Provision*

As discussed above, freedom of expression is one of the fundamental rights enshrined in s 14 of the New Zealand Bill of Rights. These rights may be subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society".⁹² In testing

⁹⁰ At 51.

⁹¹ At 7.

⁹² New Zealand Bill of Rights Act, s 5.

a law against this requirement, the Supreme Court has found that four central issues must be determined:⁹³

- (i) Does the limiting measure serve a purpose sufficiently important to justify curtailment of the right or freedom?
- (ii) Is the limiting measure rationally connected with its purpose?
- (iii) Does the limiting measure impair the right or freedom no more than is reasonably necessary for sufficient achievement of its purpose?
- (iv) Is the limit in due proportion to the importance of the objective?

Drawing on the evidence and arguments discussed above, the conclusion of this paper is that a statutory restriction on the reporting of suicide is justified by the public health risks and privacy issues of certain types of reporting. Preventing harmful contagion to vulnerable members of the public and protecting the privacy of bereaved families are 'sufficiently important' objectives to justify such restrictions. Restrictions on media reporting have been rationally linked to these purposes of public safety by the considerable research on the topic. However, to ensure the restriction limits freedom of expression no more than is necessary, it must be kept within the bounds of what is clear and can be appropriately regulated by legislation.

A Restricted Details

Any restriction provision should be clear in defining what details are not to be published. A major issue with the current provision is the varying interpretations which can be taken of it, leading to confusion among both media and coroners as to what exactly is prohibited. On a similar note, legislation should not attempt to strictly control matters

⁹³ *R v Hansen* [2007] NZSC 7, [2007] 3 NZLR 1 at [104].

which are too vague to be adequately described or regulated. Issues such as sensationalism, 'responsible reporting' and sensitivity for the bereaved are better left to guidelines and education than state enforcement.

The evidence makes clear that descriptions of the method of death are one of the clear elements in a report which carry a distinct risk of imitative suicide. These details are easily identifiable and confined, and are suitable for legislative intervention. Accordingly, a restriction on publishing the method of suicide is a reasonable limitation on the right to freedom of expression. The prohibition should be extended to details of the cause of death, images, recordings, and descriptions of the location which would suggest the method of suicide, as these carry a similar risk and could otherwise be published to defeat the legislation's purpose. The 'cause' of death, photographs and recordings were not addressed by the Law Commission's recommendation, though upon prosecution they would be likely to satisfy the suggested test of 'indirectly make public the method of death'. In the interests of clarity these should be explicitly stated. Unlike the Law Commission recommendation,⁹⁴ the analysis here is not based on the method of death being the only detail which carries sufficient risk to justify a prohibition. There is equally clear evidence that sensationalist, repetitive and 'glorifying' reports of suicide can result in further harm among vulnerable members of the public. However, these matters cannot be adequately regulated through legislation without extending a restriction provision beyond what is workable, proportional and justifiably open.

This paper agrees with the Law Commission on several subsidiary points. The definition of 'make public' is comprehensive and should be maintained.⁹⁵ Any distinction between reporting before and after an inquiry should relate only to whether a death may be described as a

⁹⁴ At 6.

⁹⁵ At 42.

'suicide'; there is no evidential support for a confusing shift in the restrictions on details.⁹⁶

B 'Suspected Suicide'

The importance of maintaining the integrity of the coroner's inquiry was discussed above. This paper is in agreement with the Law Commission that descriptions of a death as a 'suicide' prior to the coroner releasing their determination should be prohibited, but the term 'suspected suicide' should be explicitly permitted.⁹⁷ As is evident from current media practice, this is an area of reporting where euphemisms can be used in place of any prohibited words. Even responsible adherence to guidelines could indicate the suspicion of suicide to readers, most obviously in articles where the contact details of self-harm support groups are provided. Though the distinction may seem inconsequential, reporting of a death as a 'suspected suicide' is less likely to infringe on the coroner's jurisdiction. Both the law and the media's language could be clarified, with no further disclosure or speculation than currently occurs anyway, by allowing the term 'suspected suicide' to be used prior to the release of the coroner's determination.

C Authorised Exceptions

In ensuring a provision limits protected rights as little as possible, it is beneficial to reserve a power to make an exception in appropriate cases. The current provisions allow for the relevant coroner to make an exception and allow publication, but only on the grounds that it is 'unlikely to be detrimental to public safety'.⁹⁸ This test is remarkably unhelpful, potentially excluding important considerations such as the family's wishes or public interest in release. Considerable inconsistency

⁹⁶ At 41

⁹⁷ At 39.

⁹⁸ Coroners Act 2006, s 71(3).

has resulted: while some coroners have admitted a practice of declining requests for exceptions out of hand,⁹⁹ others have released full details primarily on the basis that the method was already widely used.¹⁰⁰ Given both the evidence for wider contagion effects and importance of freedom of expression, neither of these positions is satisfactory.¹⁰¹ Requests for exceptions appear to be very rare; as of December 2010 the Chief Coroner was reported as having never had an application come before him.¹⁰² On the other hand, some commentators report that applying for and gaining such an exception can be very difficult,¹⁰³ possibly due to the infrequency with which individual coroners are called upon to deal with these requests.

To resolve the lack of clarity and ensure the exception provision functions, a change in wording is necessary. The Law Commission recommended that the new test require an assessment that 'the risk of copycat suicidal behaviour is small and outweighed by other matters in the public interest'.¹⁰⁴ This wording remains somewhat restrictive, and still runs the risk of being misinterpreted by parties who have not carefully investigated the phenomenon. Instead, this paper recommends the wider test that 'the coroner may authorise an exemption to the restriction, provided they are satisfied that the public safety risk of publishing the restricted details is outweighed by legitimate public interest in those details being known'. This wording is phrased in terms of positive authorisation ('may' rather than 'must not

⁹⁹ *Board of Trustees of Tuakau College v Television New Zealand Ltd*, above n 85, at 10.

¹⁰⁰ Stacey Kirk "Obsessive man took own life" *Stuff* (online ed, New Zealand, 2014).

¹⁰¹ Contrast with the example of highly appropriate release and news coverage in Ian Stewart "Law process criticised in jail suicide" *Stuff* (online ed, New Zealand, 18 May 2009).

¹⁰² Steven Price "Ask and ye shall receive?" (2 December 2010) *Media Law Journal* <www.medialawjournal.co.nz>.

¹⁰³ Graeme Edgeler "Suicide Reporting; or, The System Doesn't Work" (20 June 2014) *Legal Beagle* <<http://publicaddress.net/legalbeagle>>.

¹⁰⁴ At 43.

unless') sufficiently wide to allow considerations of the family's interest, and provides a mandatory consideration of public interest against the contextual issues of public safety. The lack of reference to 'copycat effects' or 'contagion' is deliberate, avoiding misinterpretation of those terms or an unnecessarily narrow assessment. The current exemption provisions require mandatory reference to a practice note issued by the Chief Coroner,¹⁰⁵ and it is through this that coroners should be referred to the issues, evidence and guidelines on the risks of reporting of suicide. Unlike legislation, such a practice note could be updated appropriately as research and attitudes in this area advance, providing a valuable point of co-operation between coroners, health professionals and media representatives.

The Law Commission recommended that the power to make exceptions should be confined to the Chief Coroner in order to promote consistent and educative practice in reporting of these potentially harmful details.¹⁰⁶ The Coroners Court is a system of judicial officers, and it would be unusual for the Chief Coroner to be assessing the evidence and making the decision to release information on a case currently before another coroner. While the Chief Coroner should provide the 'interface' with the media, it is more appropriate for applications to then be referred to the relevant coroner and decided in accordance with the Coroners Act and practice note. This would provide the desired consistency and informed decision making, maintain the Chief Coroner's position as spokesperson for the Court, and ensure the decision-maker is the relevant coroner with the evidence (and family) before them.

The Law Commission raised the issue of timeliness in responding to applications, suggesting that a request could be made by phone call or

¹⁰⁵ Coroners Act, s 71(4)(b); unfortunately such a practice note has never been issued despite the specific statutory reference.

¹⁰⁶ At 43.

video conference under a statutory requirement of urgency.¹⁰⁷ This is not appropriate in light of the above recommendation that the actual decision be referred to the relevant coroner. Applications should be written and describe which details are requested for an exemption, with brief reasons as to why the public interest outweighs the risk. This will contribute to consistency, ensure both media and coroner engage with the core issues, and is a more appropriate format for a judicial officer to make a balanced decision on the public interest. Given the narrower scope of the recommended restrictions, the media's need for an urgent exemption to be able to 'tell the story' should be greatly reduced. The urgency of the application should be a matter explained by the applicant and communicated by the Chief Coroner, rather than incorporated as a highly specific mandatory requirement under the Act.¹⁰⁸ An established process and greater clarity in both the test and the accompanying practice note should ensure decisions are made with reasonable timeliness.

In anticipation of greater use of the exemption provision, it may be appropriate to allow the publication of a press release by the Chief Coroner explaining which details may be published following a high profile case. Studies on the 'newsworthiness' and subsequent report rates of suicide stories suggest that while reporting of suicide is relatively high, it tends to occur in tight clusters following high profile deaths rather than being spread evenly throughout the year.¹⁰⁹ A single considered press release would allow for a consistent and efficient exercise of the exemption power in circumstances where a large volume of exception requests are made in relation to the same newsworthy death.

¹⁰⁷ At 40.

¹⁰⁸ Note the Coroners Act, s 5 already requires coroners to 'perform their duties without delay'.

¹⁰⁹ Anna Machlin, Jane Pirkis and Matthew Spittal "Which Suicides Are Reported in the Media – and What Makes Them "Newsworthy"?" (2013) 34 *Crisis* 305 at 307.

IX *Guidelines*

Guidelines, rather than statutory restrictions, are the primary means used internationally to encourage safer reporting of suicide. While this paper's conclusion is that a narrow statutory restriction on reporting is still justified and necessary, this must be supported by a system of guidelines and education which can reduce risky elements of reporting otherwise unsuitable for statutory control.¹¹⁰

Following a wide examination of overseas standards, this paper argues that the fundamental guidelines on the reporting of suicide have remained essentially the same across the international community for more than a decade. The key issue in ensuring responsible reporting by the media is not the existence or wording of guidelines, but the extent of media awareness and education. Any development of 'new' guidelines should therefore be undertaken with the primary purpose of achieving media acknowledgement and compliance, rather than breaking any new ground in the substance of the recommendations.

The reasons for this position become clearer upon examination of guidelines on the topic across the world. A comprehensive 2006 study examined nine leading guidelines from nations including New Zealand, Australia, the UK, the US, Canada and Hong Kong.¹¹¹ They found that the guidelines were all "remarkably similar",¹¹² sharing (but not being limited to) seven fundamental points:

- (i) Avoid sensationalising or glamorising suicide.
- (ii) Avoid giving undue prominence to stories on the subject.

¹¹⁰ This conclusion broadly tallies with the recommendations of the Law Commission's, at 51.

¹¹¹ Pirkis, above n 42, at 83.

¹¹² At 84.

- (iii) Avoid providing specific detail about the method or location of the death.
- (iv) Consider the importance and influence of role models and celebrities.
- (v) Take the opportunity to educate the public.
- (vi) Provide help and support to vulnerable readers.
- (vii) All guidelines besides the Canadian set (described as 'briefer than most') urged media professionals to consider the aftermath of suicide and privacy of the bereaved.

Since then, several further guidelines have been published overseas. The World Health Organisation 2008 resource shares all 7 points,¹¹³ as do the 2013 Samaritans guidelines for the UK media,¹¹⁴ and the Australian 2014 Mindframe Initiative resource.¹¹⁵ Shared new developments in these guidelines include the advice that media avoid 'simplistic explanations' of suicide, and consider the emotional effects of suicide reporting on journalists themselves. The indication is that despite differences in consultation, resources and cultural context, the core recommendations of media guidelines are shared across the world.

A New Zealand Guidelines

In 2011 the most recent set of guidelines for the New Zealand media was released by the Ministry of Health, following a 'roundtable' consultation with leading media bodies.¹¹⁶ Reviews of effectiveness had criticised the previous 1999 guidelines for failing to consult the media,

¹¹³ *Preventing Suicide: A Resource for Media Professionals* (World Health Organisation, Geneva, 2008).

¹¹⁴ *Media Guidelines for Reporting Suicide* (Samaritans, United Kingdom, 2013).

¹¹⁵ *Reporting suicide and mental illness: A Mindframe resource for media professionals* (Hunter Institute of Mental Health, Newcastle, 2014).

¹¹⁶ Media Roundtable, above n 5.

and attributed their failure to a lack of media 'ownership'.¹¹⁷ The new media-friendly guidelines were more successful in being adopted by both the Media Freedom Committee and the Newspaper Publishers Association. Though they received criticism from health experts for downplaying the evidence of harm,¹¹⁸ the new guidelines otherwise retained the basic structure of the general international body discussed above. The resource shared only six of the seven 'fundamental' guidelines, failing to refer to the importance of care around influential role models and celebrities, but included additional guidance on cultural appropriateness and social networking. Despite the initial appearance of acceptance, anecdotal evidence suggests that these guidelines have also largely been ignored by the media.¹¹⁹

The strong implication is that whether the guidelines are successful depends more on how aware the media are of the guidelines, and less on the content of the guidelines or the circumstances of their creation. As suggested by the Law Commission,¹²⁰ inspiration can be drawn from the Australian Mindframe Initiative, which is highly proactive in developing and disseminating advisory resources in cooperation with the media. The Initiative receives funding by the Australian Government through their National Suicide Prevention Program, and is linked to the SANE Media Centre, an expert advisory program specifically created for aiding media professionals in preparing stories on mental health and suicide.¹²¹ Subsequent reviews of Mindframe have found significant improvements in certain areas of media reporting: in the six year period following its inception the number of individual

¹¹⁷ Tully and Elsaka, above n 27, at 14.

¹¹⁸ Beautrais and Fergusson, above n 80, at 2.

¹¹⁹ Law Commission, above n 3, at 28.

¹²⁰ At 27.

¹²¹ Mindframe National Media Initiative "About Mindframe" (2014) <www.mindframe-media.info>.

articles on suicide doubled, but reporting of the method of suicide fell from 49.6 per cent to 14 per cent of articles.¹²²

The New Zealand guidelines have not seen this level of ongoing support from the Government or regulatory bodies. While a major focus of the government funded Suicide Prevention Action Plan 2008 – 2012 was ensuring safe reporting of suicide by the media, the recommended systems for ongoing support and education for journalists do not appear to have materialised. The current Suicide Prevention Action Plan 2013 – 2016 is focused on other objectives and makes next to no mention of the media. Perhaps most disappointing is the failure of the Press Council or Broadcasting Standards Authority to incorporate the guidelines, or otherwise adopt a comprehensive policy in relation to suicide and mental health reporting. The attitude of these self-regulatory bodies will undoubtedly have an influence on what the media considers to be responsible reporting. The Broadcasting Standards Authority provides under principle 2(e) of the Free-to-Air code that “programmes should not glorify suicide and should not give detailed descriptions around methods of suicide”, but does not appear to have heard any complaints addressed to this standard. The Press Council standards make no reference to suicide, but have heard multiple complaints on the subject. In one disappointing case the body bluntly stated that a breach of the 1999 guidelines could not be a valid ground on which to uphold a complaint.¹²³ In a later case however, the Press Council developed its position in directing that on a major topic such as suicide a newspaper must commit all its resources to reporting responsibly, including reference to the 1999 guidelines.¹²⁴ While the current position is therefore not one of total neglect, it falls short of the educative and supportive role required of these bodies in this matter. It

¹²² Jane Pirkis and others “The Media Monitoring Project: Changes in media reporting of suicide and mental health and illness in Australia: 2000/01 – 2006/07” (2009) 30 *Crisis* 25 at 29.

¹²³ Case 910, *Canterbury Suicide Project v The Dominion Post* (2003).

¹²⁴ Case 1084, *Kapiti College v Kapiti News* (2007).

is imperative that, alongside changes to the restrictions and guidelines, a set of comprehensive standards be developed by all relevant regulatory bodies to inform journalists on what constitutes responsible reporting on this matter.

The majority of this paper has been somewhat critical of the media's position. However, despite the apparent rejection of guidelines by both the media and their regulatory bodies, much reporting of suicide in New Zealand is undertaken relatively responsibly. This is likely due to a large proportion of the guidelines, relating to educating the public and avoiding sensationalism, simply being matters of responsible reporting. Studies on the effectiveness of guidelines in New Zealand have noted that although the media tend to either be unaware of guidelines or conflate them with the restrictions,¹²⁵ they largely report in accordance with them anyway.¹²⁶ Some of the above evidence indicates that the current restriction provisions have resulted in our media developing a real 'distaste' for the gratuitous reporting of suicide methods undertaken by overseas tabloids. While this position may be reassuring in the short term, given the fickle nature of media outlets, for long-term change what is needed is for reporters to understand and acknowledge what the weight of the evidence suggests: that reporting certain details of suicide in an irresponsible way can generate risk.

X *Conclusion*

With the proposed changes to the law, New Zealand society is moving towards a more open discussion of suicide than has been permitted in the past 60 years. The evidence conclusively establishes that irresponsible reporting of suicide can cause further deaths among vulnerable members of the community, but this paper has argued that the area is not suitable for full regulation by way of statute. The

¹²⁵ Collings and Kemp, above n 64, at 246.

¹²⁶ Thom, above n 36, at 204.

Government has indicated its willingness to create a detailed system of regulation involving specific restrictions, public interest exemptions, and wider guidelines backed by the evidence. If this is to succeed in impacting positively on suicide rates it demands the willing and engaged participation of the media, both in accepting their responsibility and the potential for harm, and in contributing their position on how responsible reporting can best be conducted.