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# Criminal procedure - Administration stage

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## Publication Number:

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## Suppression of names and information before the court

This section contains the following topics:

- [Overview of suppression provisions](#)
- [Offences relating to suppression](#)
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### Overview of suppression provisions

The [CPA](#) (sections 194 - 211) provides the legislative framework and guidelines for the publication or suppression of names and other particulars of criminal proceedings before the courts.

The provisions build upon case law and the public expectation that justice and judicial proceedings should be open, transparent and consistent with the right of the media to report fairly and accurately.

While recognising that the principle of "open justice" should prevail, the CPA also provides for situations where information should be restricted automatically or when the court is satisfied sufficient grounds exist for information to be suppressed.

In addition to the prosecutor and defendant, members of accredited media have a statutory right to be heard in court with regard to suppression orders and may also appeal the decision of the court.

Although interim suppression orders are most common in the early administrative stage of proceedings, suppression of names and evidence may be ordered at any stage through to the final disposition of the charge.

When making, varying or revoking a suppression order, the court must give reasons for its decision in open court ([s207](#)). However, the court may, if it is satisfied that exceptional circumstances exist, decline to state in public all or any facts, reasons, or other considerations taken into account to reach the decision.

### Offences relating to suppression

<b>It is an offence to...</b>	<b>Maximum penalty</b>
knowingly or recklessly publish details in breach of a suppression order or of automatic suppression	<ul style="list-style-type: none"> <li>•6 months imprisonment (individual), or</li> <li>•\$100,000 fine (body corporate).</li> </ul> (s <a href="#">211</a> (1))
publish in breach of a suppression order or of automatic suppression (not necessary to prove intent or recklessness)	<ul style="list-style-type: none"> <li>•\$25,000 fine (individual), or</li> <li>•\$50,000 (body corporate)</li> </ul> (This does not apply to a person that hosts websites or other electronic retrieval systems unless the material is placed or entered by that person). (s <a href="#">211</a> (2))

### **Related information**

See also:

- [Automatic suppression](#)
  - [Suppressing defendant details](#)
  - [Suppressing other persons details, evidence or submissions](#)
- in this chapter.

## **Automatic suppression**

This section contains the following topics:

- [Prohibition against publishing names in specified sexual cases](#)
- [Automatic protection of identity of child victims and witnesses](#)
- [Orders restricting disclosure of information about bail](#)
- [Prohibition on publishing details of a sentence indication](#)
- [Related information](#)

### **Prohibition against publishing names in specified sexual cases**

Section [201](#) of the CPA automatically prohibits the publication of the defendant's details for offending under section [130](#) or [131](#) of the Crimes Act 1961 (incest or sexual conduct with family members).

Section [203](#) of the CPA prohibits the publication of the name or particulars leading to the identification of any person upon or with whom a specified sexual offence (ss 128 - 142A or 144A of the [Crimes Act 1961](#)) has been or is alleged to have been committed unless:

- that person is of or over the age of 18 years, and
- the court, by order, permits such publication.

A complainant in prosecutions relating to the above specified sexual offences, once they have reached the age of 18 years, may apply to the court for an order permitting the publication of their name or identifying particulars, or those of the offender, if the court is satisfied they understand the nature and effect of their decision. Where the offending is incest or sexual conduct with a family member and involves multiple complainants, the court must be satisfied that all complainants consent to the publication.

### **Automatic protection of identity of child victims and witnesses**

Section [204](#) CPA prohibits the publication of the name, address, or occupation of any person under the age of 18 years who is a complainant or witness in criminal proceedings.

Despite the general prohibition on publication of the details of child complainants, the details of a child who died as a result of the offence may be published.

A complainant or witness in a proceeding may apply to the court for an order permitting the publication of their details once they have reached the age of 18 years and the court is satisfied that they understand the nature and effect of their decision.

### **Orders restricting disclosure of information about bail**

Section [19](#) of the Bail Act 2000 prohibits the publication of a report or account of any matters dealt with at a bail hearing apart from the following, unless specifically ordered otherwise:

- identity of the defendant applying for bail
- charges faced by the defendant
- decision of the court on the application
- conditions of bail, if bail is granted.

Despite the above, the court may make an order specifically permitting the publication of any other details.

The general prohibition and any additional prohibition ordered by the court remains in force, unless the court directs otherwise, until the expiry of any appeal period or appeal following the conclusion of a prosecution.

### **Prohibition on publishing details of a sentence indication**

Details relating to a request for a sentence indication, or the indication given, may not be published before a defendant is sentenced or the charge is dismissed.  
([s63](#)) See also '[Sentence indications](#)' in the 'Review stage (CMM)' chapter).

### **Related information**

See also '[Suppressing defendant details](#)' and '[Suppressing other persons details, evidence or submissions](#)' in this chapter.

## **Suppressing defendant details**

This section contains the following topics:

- [Power to suppress defendant details](#)
- [Community Magistrates and Justices](#)
- [Interim suppression - first appearance](#)
- [Further suppression - limited period or permanent](#)
- [Victim's views on suppression](#)
- [Duration of orders](#)
- [Defendants completing diversion](#)
- [Diagram: Defendant suppression](#)
- [Related information](#)

### **Power to suppress defendant details**

The court may prohibit the publication of the defendant's name (including particulars likely to lead to their identification), address and occupation, in addition to any automatic suppression for [specified sexual cases](#).

In prohibiting the publication of details, the court must be satisfied to the standard required by section [200](#) that an order should be granted.

Any order for suppression may be revoked, reviewed or varied by the court at any time and the reasons for making, varying, or revoking the order must be given in open court. The court may decline to state in public any fact, reason or other consideration, if it is satisfied that exceptional circumstances exist.

## **Community Magistrates and Justices**

Community Magistrates (CMs) and Justices (JPs) may make interim and final suppression orders in any matter for which they have full or sentencing jurisdiction.

For matters outside the full or sentencing jurisdiction, a CM or JP may grant interim suppression at a first appearance. The granting or renewing of a suppression order at a subsequent appearance by a CM or JP may only be made if both parties agree. A suppression order made by a CM or JP for a matter outside their full or sentencing jurisdiction is only valid for 28 days from the date the order was made.

(s362)

## **Interim suppression - first appearance**

The court may order the interim suppression of the defendant's details until the next court appearance if an arguable case is presented showing that publication would be likely to:

- cause extreme hardship to the person charged with, or convicted of, or acquitted of the offence, or any person connected with that person
- cast suspicion on another person that may cause undue hardship to that person
- cause undue hardship to any victim of the offence
- create a real risk of prejudice to a fair trial
- endanger the safety of any person
- lead to the identification of another person whose name is suppressed by order or by law
- prejudice the maintenance of the law, including the prevention, investigation, and detection of offences
- prejudice the security or defence of New Zealand.

**Note:** The fact that a defendant is well known does not of itself, mean that publication of their name will result in extreme hardship.

## **Initial orders by registrars**

A registrar may make an interim suppression order at the first appearance, if the matter is to be adjourned and all parties consent. An order granted by a registrar is only valid for 28 days. However, the registrar may renew interim suppression at the expiry of the 28 days if the next appearance has not occurred.

(ss200, 206, 208(1)(b))

## **Further suppression - limited period or permanent**

The court may order ongoing suppression of the defendant's details for a limited period or permanently, if it is satisfied that publication would be likely to result in any of the consequences listed under '[Interim suppression- first appearance](#)' above.

## **Victim's views on suppression**

The court must take into account any views of a victim before ordering permanent name suppression. Prosecutors must make all reasonable efforts to ensure any views the victim has on the application are ascertained and must inform the court of those views. (s28 Victims' Rights Act 2002)

## **Duration of orders**

Prosecutors must be vigilant in clarifying the duration of the suppression order when it is made. If the term of a suppression order is not specified by the court, it has permanent effect.

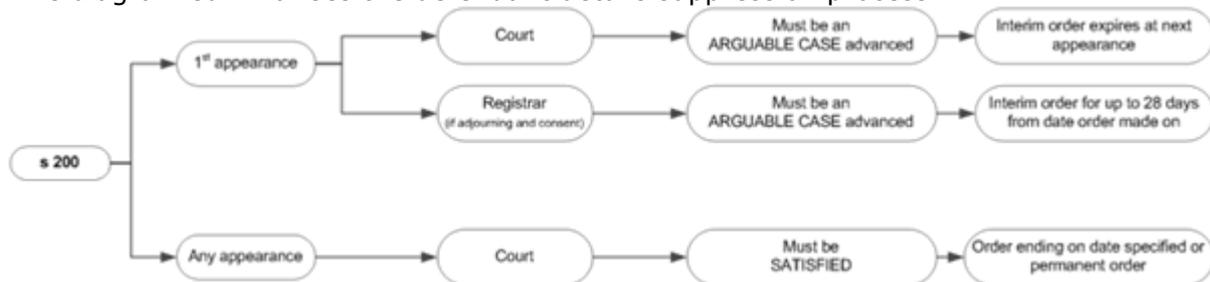
The court may revoke permanent name suppression at any time.

## **Defendants completing diversion**

If a defendant successfully completes [diversion](#) and seeks permanent name suppression, they must apply to the court for consideration and determination as above. A defendant, having completed diversion, will not be able to have permanent name suppression granted by a registrar.

### Diagram: Defendant suppression

This diagram summarises the defendant details suppression process.



### Related information

See also '[Automatic suppression](#)' and '[Suppressing other persons details, evidence or submissions](#)' in this chapter.

## Suppressing other persons' details, evidence or submissions

This section contains the following topics:

- [Suppression of witness, victim, or connected person details](#)
- [When can evidence and submissions be suppressed?](#)
- [Related information](#)

### Suppression of witness, victim, or connected person details

In addition to the [automatic suppression](#) provisions of the Act, other witnesses, victims and connected persons (those connected with the proceedings or the defendant) may have their details suppressed.

(s202)

The court may make an order prohibiting the publication of the name, address, or occupation of a victim or witness of or over 18 years of age or of a connected person if satisfied that publication would be likely to:

- cause undue hardship to the witness, victim, or connected person
- create a real risk of prejudice to a fair trial
- endanger the safety of any person
- lead to the identification of another person whose name is suppressed by order or by law
- prejudice the maintenance of the law, including the prevention, investigation, and detection of offences
- prejudice the security or defence of New Zealand.

### Duration of orders

Any suppression order relating to a witness, victim or connected person other than [automatic suppression](#) may be for a limited period or permanent. Any order may be renewed, varied or revoked at any stage. If a specific period is not specified, the order is considered permanent.

### When can evidence and submissions be suppressed?

The court may make an order forbidding the publication of any report or account of the whole or any part of the evidence adduced or submissions made in any proceedings, if the court is satisfied that publication is likely to:

- cause undue hardship to any victim of the offence
- create a real risk of prejudice to a fair trial
- endanger the safety of any person
- lead to the identification of another person whose name is suppressed by order or by law
- prejudice the maintenance of the law, including the prevention, investigation, and detection of offences
- prejudice the security or defence of New Zealand.

It is important that the prosecutor is made aware of any of the above issues that may be present, so that an application for suppression can be made, if required.

### **Duration of orders**

Any suppression order relating to evidence or submissions may be for a limited period stated by the court or permanent. If a specific period is not specified, the order is considered permanent.

Any order may be renewed, varied or revoked at any stage.

### **Related information**

See also '[Automatic suppression](#)' and '[Suppressing defendant details](#)' in this chapter.