

## Summary of proposals

Our report deals with five areas of contempt law. The full report contains detailed recommendations under each of these areas of law and the reasoning that led to our recommendations. Below is a brief summary of those recommendations.

### **PUBLICATION CONTEMPT**

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1. Our report proposes a new law prohibiting the media from publishing or reporting on an arrested person's previous convictions and any concurrent charges. This prohibition applies from the time a person is arrested for an offence for which he or she is liable to be tried by a jury.
2. The Court will also have the power to postpone publication of other information if it is satisfied that this is necessary to avoid a real risk of prejudice to a fair trial. It will also have the power to order an online content host to take down or disable public access to any specific information covered by the law.
3. Members of accredited media, and any other person reporting on the proceedings with the permission of the court, can apply to renew, vary or revoke any order preventing them from publishing information.
4. There will be a new offence, which will replace the common law, of publishing information that poses a real risk of prejudicing a person's right to a fair jury trial.

### **DISRUPTIVE BEHAVIOUR IN THE COURTROOM**

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5. Our report recommends a new law for dealing with disruptive behaviour in the court that interrupts proceedings and poses a threat to the due administration of justice. This law will allow judges to deal with the immediate disruption by citing the person for disrupting the court and, if necessary, ordering the person to be taken into the court cells until the end of the day.
6. The person would have the opportunity to exercise his or her right to a lawyer under section 24(c) of the New Zealand Bill of Rights Act 1990. He or she would also get a reasonable opportunity to apologise to the court.
7. The judge will need to review the matter before the end of day and decide whether he or she considers further punishment may be necessary, by having the matter set down for determination.

## **JUROR CONTEMPT**

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8. Our proposed new law will make it an offence for a member of a jury to investigate or research information which he or she knows, or ought reasonably to know, is relevant to the case.
9. We also recommend that the Ministry of Justice review the educational information it provides to jurors to ensure it provides clear guidance on the problems, risks and consequences if jurors undertake their own investigations or research.
10. We recommend the juror oath and affirmation should change to ensure jurors expressly agree to decide the case according to the evidence presented in court, and to not undertake their own investigations or research.

## **NON-COMPLIANCE WITH COURT ORDERS**

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11. Our proposed new law would allow a person who has obtained a court order to apply to the court for an order that the other party has failed to comply with the first order.
12. If the court finds that a person has failed to comply with an applicable court order, the court may sentence the person to a term of imprisonment not exceeding six months or a fine not exceeding \$25,000.

## **ABUSIVE ALLEGATIONS AND FALSE ALLEGATIONS AGAINST JUDGES AND COURTS - SCANDALISING THE COURT**

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13. The common law of contempt of scandalising the court should be abolished.
14. However it should be an offence for anyone to publish an untrue allegation or accusation against a judge or a court when there is a real risk that the publication could undermine public confidence in the independence, integrity or impartiality of the judiciary or a court.
15. People can defend themselves from this charge by proving, on the balance of probabilities, that the allegation or accusation was true, or that the person was the online host or distributor of the publication and, after taking all reasonable care, was unaware it contained the allegation or accusation.
16. The Solicitor-General should be responsible for receiving complaints and deciding whether there is a sufficient evidence to bring a prosecution and whether prosecution is in the public interest.
17. The Court can, subject to the Bill of Rights Act, order people to make a correction or apology.

## External media contacts

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