



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER MO-2466

Appeal MA08-385

Toronto Transit Commission



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NATURE OF THE APPEAL:

The Toronto Transit Commission (the TTC) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) from a member of the media for access to the statistics for the number of suicides and the types of suicides and attempted suicides for the last ten years that occurred on TTC property. The requester clarified that it was not requesting access to any personal information.

The TTC denied access to the information claiming that it was exempt pursuant to section 13 of the *Act* because disclosure of the information could reasonably be expected to seriously threaten the safety or health of an individual.

The requester, now the appellant, appealed the decision. In the notice of appeal, the appellant stated that disclosure of the requested information is in the “broader public interest” as it relates to an investigation it is conducting about “the adequacy of institutional response to suicide, an issue of significant public interest and implications.” As a result, during mediation, the parties agreed that section 16 was an issue in the appeal. No further issues were resolved and this matter was moved to the inquiry stage of the appeal process.

I began my inquiry by issuing a Notice of Inquiry to the TTC inviting it to submit representations on the facts and issues set out in the notice. I received representations from the TTC.

I then issued a Notice of Inquiry to the appellant inviting it to submit representations on the facts and issues set out in the notice and in response to the representations of the TTC. In doing so, I provided the appellant with a complete copy of the representations of the TTC, including all of the attachments. I received representations from the appellant.

I decided that the representations of the appellant raised issues to which the TTC should be given an opportunity to reply. As a result, I provided the TTC with a complete copy of the appellant’s representations, including all of the attachments, and invited the TTC to submit representations in reply. I received representations from the TTC.

During the inquiry, the appellant clarified that it no longer seeks access to information relating to the types of suicides. Therefore, the scope of this request includes information revealing the number of deaths by suicide and the number of attempted suicides over the specified period.

RECORDS:

The record at issue is a one page document entitled “Table of Suicide Statistics” consisting of a table revealing the numbers of deaths by suicide and suicide attempts per year for the period from 1998 to 2007.

DISCUSSION:

THREAT TO SAFETY OR HEALTH

Section 13 states:

A head may refuse to disclose a record whose disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

For this exemption to apply, the institution must demonstrate that disclosure of the record “could reasonably be expected to” lead to the specified result. To meet this test, the institution must provide evidence to establish a reasonable basis for believing that endangerment will result from disclosure. In other words, the institution must demonstrate that the reasons for resisting disclosure are not frivolous or exaggerated [*Ontario (Information and Privacy Commissioner, Inquiry Officer) v. Ontario (Minister of Labour, Office of the Worker Advisor)* (1999), 46 O.R. (3d) 395 (C.A.)].

The term “individual” is not necessarily confined to a particular identified individual, and may include any member of an identifiable group or organization [Order PO-1817-R].

Previous orders have found that any determination regarding the application of section 13 requires a consideration of the type of information at issue and the behaviour or potential behaviour of the individual who is requesting the information [Order MO-2229; *Big Canoe v. Ontario* (1999), 46 O.R. (3d) 395 (C.A.)]. I agree and, consequently, the fact that the appellant is a member of the media who is likely to publish the information is an appropriate consideration in this appeal.

Summary of the Institution’s Representations

The TTC takes the position that the publication of statistics regarding the number of suicides on TTC property could pose a threat to individuals with mental illness who have suicidal tendencies, and to young people who may be prone to imitative or “copy cat” behaviour. It states that the mentally ill and the young are particularly susceptible to suicidal behaviour and are vulnerable to carrying out imitative behaviour which can be triggered by media reporting on suicides. In other words, the TTC states that disclosure to the media could result in an increase in suicides, or as will be referred to in this order, “suicide contagion.”

In support, the TTC relies on a report entitled “*The Role of the Press in the Control of Suicide Epidemics*” written by S. K. Littmann of the Clark Institute of Psychiatry (Littmann Report), a copy of which was attached to its representations. It argues that the Littmann Report establishes a direct correlation between media reporting and the frequency and number of subway suicides involving the mentally ill.

The TTC states:

The Littmann Report identifies the mentally ill as being particularly prone to suicidal behaviour and it also establishes a direct correlation between media reporting and the frequency and number of subway suicides involving the mentally ill. ...The statistical graphs on pages 2 – 4 of the Littmann Report show upward and downward trends in the number of subway suicide incidents directly related to the frequency of media reporting on the issue during the same time periods.

It also relies on a second study entitled “*Reporting on Suicide: Recommendations for the Media*” (the CDC Report) co-authored by the Centers for Disease Control and Prevention, the National Institute of Mental Health, the Office of the Surgeon General, the Substance Abuse and Mental Health Services Administration, the American Foundation for Suicide Prevention, the American Association of Suicidology and the Annenberg Public Policy Center. The TTC argues that the CDC Report “substantiates ... the reality of imitative suicidal behaviour on the part of the mentally ill and how media reporting on the subject can actually trigger such a tragic act.”

With regard to this report, the TTC further submits:

The CDC Report provides that research finds an increase in suicides when:

- the number of stories about individual suicides increases;
- a particular death is reported at length or in many stories;
- the story of an individual death by suicide is placed on the front page or at the beginning of a broadcast;
- the headlines about specific suicide deaths are dramatic.

Summary of the Appellant’s Representations

The appellant submits that section 13 does not apply because media stories on suicide that are reported in accordance with expert recommendations, and general stories about suicide statistics, in particular, pose a low risk of suicide contagion. With regard to this “responsible reporting” of suicide-related stories, the appellant states:

Publishing graphic stories about individual suicides, in an irresponsible manner, does contribute to suicide contagion.

However, when reported in accordance with expert recommendations, stories on suicide pose a low risk of contagion and stories about suicide statistics in particular are recommended as an appropriate topic for newspapers to cover.

The appellant takes the position that the publication of statistics, as opposed to information about specific suicide cases, does not pose a reasonable threat of harm, let alone a serious one, to any

individual or group. On the contrary, it argues that the overwhelming body of research on suicide contagion supports the release of suicide statistics as safe, appropriate and responsible.

With respect to the Littmann Report, the appellant states that the report is 25 years old, it was not intended as a definitive paper on suicide contagion and the findings of the study were incomplete. It also argues that the Littmann Report's recommendations merely state that during a suicide epidemic, the press should subordinate its duty to inform. In the appellant's view, the report does not address the disclosure of statistics on suicide as a potential contributor to suicide contagion.

The appellant relies on a number of reports or studies, copies of which it submitted with its representations, including:

- *Media Guidelines for Reporting Suicide*, The Canadian Psychiatric Association;
- *Suicide, A Media Resource Book*, Canadian Association for Suicide Prevention;
- *Guidelines in dealing with the Media in the event of a Suicide*, Mental Health Commission of New Brunswick Suicide Prevention Program;
- *Safe Reporting on Suicide*, Suicide Prevention Resource Centre;
- *Suicide Contagion and the Reporting of Suicide: Recommendations from a National Workshop*, CDC;
- *Preventing Suicide: a resource for media professionals*, World Health Organization (WHO); and,
- *Guide to Engaging the Media in Suicide Prevention*, Suicide Prevention Action Network.

Relying on these reports or studies, the appellant makes a number of submissions including:

- sensitive reporting may have a positive effect on people at risk of suicide;
- news accounts of real life suicides may trigger additional suicides but information can be communicated in a way that has a low risk of encouraging imitative behaviour;
- trends in suicide rates can be reported and suicide statistics should be interpreted carefully and correctly; and
- suicide statistics are publicly available and are routinely published by the media.

On the other hand, it acknowledges that the reports also show that media reporting of the following kinds poses a risk of suicide contagion:

- details of the method used,
- use of the word suicide in headlines,
- stories that romanticize or glorify suicide,
- front page prominence, and
- repetitive or excessive coverage.

The appellant also provided this office with a copy of a report entitled "*Railway and Metro Suicides*" written by Brian Mishara of the Centre of Research and Intervention on Suicide and

Euthanasia, in which the author considers the impact of deaths by suicide involving railways and subways on drivers and the cost to society as a whole. In addition, the appellant provided copies of a number of media reports on suicide in general and relating to particular deaths. The appellant states that news organizations around the world publish stories that detail statistics on suicide in various forms.

Reply Representations

In reply, the TTC argues that the test in section 13 is whether the disclosure could reasonably be expected to seriously threaten or harm an individual and states that the appellant's own submissions support the application of the exemption. It states that although responsible reporting may reduce the risk, it does not eliminate it. It also states that the literature relied on by the appellant does not indicate that all potential risks of contagion are eliminated by following published guidelines for journalists. It submits:

If one individual within an identified group (youths or those suffering from mental illness) is at risk of being harmed, that is one too many. In our respectful submission, this is what Section 13 of [the *Act*] was designed to protect. ...The Appellant's submissions and materials support that the link is still prevalent and that the Section 13 test is relevant to the issue.

The TTC argues that the appellant has misinterpreted the WHO report by stating that there is no risk of reporting on suicide or suicide statistics. It states that there is no conclusive evidence to support a finding that statistical reporting about subway suicides is risk-free. It submits that much of the information and research relied on by the appellant regarding the publication of statistics relates to other jurisdictions and it rejects the suggestion that it should be following the lead of these other jurisdictions by disclosing this information. It also states that the news articles referred to by the appellant in its representations relate to suicides that occurred in different circumstances and did not involve subways.

Analysis and Findings

Section 13 raises the issue of whether the *disclosure* of the information could reasonably be expected to seriously threaten the safety or health of an individual or group of individuals. The position of the TTC in this appeal is not that the disclosure will directly result in the harms protected by section 13 but that the disclosure, combined with the subsequent publication of this information by the appellant, will result in the harms protected by section 13.

Having carefully reviewed the representations and the background materials provided by the parties, I accept that leading members of the psychiatric community have identified a phenomenon known as "suicide contagion" which affects vulnerable individuals and, in particular, young people and those with mental health disorders. Suicide contagion arises where these vulnerable individuals are prone to carrying out imitative behaviour. The appellant and the TTC appear to be in agreement that there exists a direct correlation between some types of news

coverage of suicides and suicide contagion as was suggested by the Littmann Report referred to above. The positions of the parties differ, however, in the applicability of the concept of suicide contagion to the disclosure of the statistics at issue in this appeal.

The TTC states that even “responsible” reporting of general statistical information about suicide poses a risk, although it may be a low risk. It argues that any risk of contagion, whether high or low, could seriously threaten the safety or health of an individual and that is sufficient to support the application of section 13. The appellant argues that there is no risk associated with the “responsible” reporting of information relating to suicide statistics and, therefore, section 13 does not apply.

The issue I must determine here is not whether the risk is high or low but whether there exists a *reasonable expectation* of a serious threat to safety or health of an individual. With respect to the burden of proof under section 13, the Ontario Court of Appeal in *Ontario (Information and Privacy Commissioner, Inquiry Officer) v. Ontario (Minister of Labour, Office of the Worker Advisor)*, cited above, has stated (at pp. 403-404):

The expectation of harm must be reasonable, but it need not be probable. Section 14(1)(e) [the provincial equivalent to section 8(1)(e)] requires a determination of whether there is a reasonable basis for concluding that disclosure could be expected to endanger the life or physical safety of a person. In other words, the party resisting disclosure must demonstrate that the reasons for resisting disclosure is not a frivolous or exaggerated expectation of endangerment to safety. Similarly section 20 [the provincial equivalent to section 13] calls for a demonstration that disclosure could reasonably be expected to seriously threaten the safety or health of an individual, as opposed to there being a groundless or exaggerated expectation of a threat to safety. Introducing the element of probability in this assessment is not appropriate considering the interests that are at stake, particularly the very significant interest of bodily integrity. It is difficult, if not impossible, to establish as a matter of probabilities that a person’s life or safety will be endangered by the release of a potentially inflammatory record. Where there is a reasonable basis for believing that a person’s safety will be endangered by disclosing a record, the holder of that record properly invokes [sections] 14(1)(e) or 20 to refuse disclosure.

In my view, the party with the burden of proof under section 13, that is, the party resisting disclosure, must provide evidence of a reasonable expectation of harm to discharge its burden. This evidence must demonstrate that there is a reasonable basis for believing that endangerment could be expected to result from disclosure or, in other words, that the reasons for resisting disclosure are not frivolous or exaggerated [see Orders MO-1262, PO-1747 and MO-2229].

Having carefully reviewed the representations and the attached reports and studies, in my view, the disclosure of these statistics could not reasonably be expected to seriously threaten the safety or health of an individual. Based on my review of the literature that has been provided by the

parties, I find that, on balance, the evidence does not persuade me that the “responsible” reporting of suicide statistics could result in a reasonable expectation of harm to any individuals. Seen in the overall context, the literature and arguments provided do not establish a basis to conclude that there is a reasonable basis for believing that a person’s safety will be endangered should the records be disclosed.

The evidence provided by the appellant establishes that news coverage which provides details of methods used, uses the word “suicide” in headlines, romanticizes suicide, or provides prominence to a particular death or attempt could reasonably be expected to result in harm. This is in contrast to the simple publication of suicide statistics which do not focus on the details of a particular death. I have not been provided with any evidence to support a finding that the publication of suicide statistics alone raises a reasonable expectation of harm.

My views are supported by the United States Centre for Disease Control (CDC) which published the 1994 report entitled “*Suicide Contagion and the Reporting of Suicide: Recommendations from a National Workshop*,” a copy of which was submitted by the appellant and was shared with the TTC. In that report, the authors state:

Some characteristics of news coverage of suicide may contribute to contagion, and other characteristics may help prevent suicide. Clinicians and researchers acknowledge that it is not news coverage of suicide per se, but certain types of news coverage, that promote contagion. Persons concerned with preventing suicide contagion should be aware that certain characteristics of news coverage, rather than news coverage itself, should be avoided.

...

In addition to recognizing the types of news coverage that can promote suicide contagion, the workshop participants strongly agreed that reporting of suicide can have several direct benefits. Specifically, community efforts to address this problem can be strengthened by news coverage that describes the help and support available in a community, explains how to identify persons at high risk for suicide, or presents information about risk factors for suicide.

The CDC Report entitled “*Reporting on Suicide: Recommendations for the Media*,” which was provided to this office by both the appellant and the TTC, provides the following list of stories that media should consider covering:

- trends in suicide rates,
- recent treatment advances,
- individual stories of how treatment was life-saving,
- stories of people who overcame despair without attempting suicide,
- myths about suicide,
- warning signs of suicide, and

- actions that individuals can take to prevent suicide by others.

This report also includes the following noteworthy passage:

The media can play a powerful role in educating the public about suicide prevention. Stories about suicide can inform readers and viewers about the likely causes of suicide, its warning signs, trends in suicide rates, and recent treatment advances. They can also highlight opportunities to prevent suicide. Media stories about individual deaths by suicide may be newsworthy and need to be covered, but they also have the potential to do harm. Implementation of recommendations for media coverage of suicide has been shown to decrease suicide rates.

Some of the reports and studies submitted by the appellant contain guidelines for the media on reporting of information relating to suicide. For example, in the WHO Report entitled "*Preventing Suicide: a resource for media professionals*," the authors state:

Clinicians and researchers acknowledge that it is not news coverage of suicide per se, but certain types of news coverage, that increase suicidal behaviour in vulnerable populations. Conversely, certain types of coverage may help to prevent imitation of the suicidal behaviour. Nevertheless, there is always the possibility that publicity about suicide might make the idea of suicide seem "normal". Repeated and continued coverage of suicide tends to induce and promote suicidal preoccupations particularly among adolescents and young adults.

...

Specific issues that need to be addressed when reporting on suicide include the following:

- statistics should be interpreted carefully and correctly;
- authentic and reliable sources should be used;
- impromptu comments should be handled carefully in spite of time pressures;
- generalizations based on small figures require particular attention, and expressions such as "suicide epidemic" or "the place with the highest suicide rate in the world" should be avoided;
- reporting suicidal behaviour as an understandable response to social cultural changes or degradation should be resisted.

In the Canadian Psychiatric Association publication, *Media Guidelines for Reporting Suicide*, the authors state:

There is evidence in the literature that implementation of guidelines for media reporting of suicide actually decreases the rate of copycat suicides and the incidence of suicide.

In other guidelines, also attached to the appellant's representations, it is suggested that suicide must be talked about to avoid stigma and that sensitive articles can actually reduce the stigma. In my view, it is noteworthy that the guidelines nowhere indicate that the media should not report on statistics relating to deaths by suicide and attempted suicide. Given the length and detail of the media guidelines that have been provided to me, it is not unreasonable to infer from the silence on the issue of publication of statistics on suicide that these organizations have little or no concern about the "responsible" reporting of information of this nature.

Finally, I find it noteworthy that the information at issue in this appeal consists solely of the number of suicides and suicide attempts for a ten-year period. The record contains no personal information. Not only does it not provide details of any particular suicide or attempt, it contains no information relating to the methods or locations of suicides.

For all of these reasons, I find that the TTC has not provided sufficient evidence or information to support a finding that the disclosure of the record at issue could reasonably be expected to result in the harms protected by section 13. Accordingly, I find that the discretionary exemption in section 13 does not apply.

In view of my findings regarding the application of this section, it is not necessary for me to consider the TTC's exercise of discretion in applying section 13. In addition, it is not necessary for me to consider the appellant's argument that the public interest override in section 16 should apply.

ORDER:

I order the TTC to disclose the record in its entirety to the appellant by **November 26, 2009**.

Original signed by: _____
Brian Beamish
Assistant Commissioner

October 27, 2009