

JWNZ - Framework for a Criminal Investigation: COVID-19 Vaccine-Related Harm in New Zealand

Introduction

Justice Watch New Zealand is an incorporated society made up of private individuals who are undertaking a structured examination of whether the COVID-19 vaccine rollout in New Zealand may give rise to criminal liability under the law. This work arises from the situation in which serious harm and death have been acknowledged in association with COVID-19 vaccination, and where such outcomes, if occurring without lawful justification, properly give rise to scrutiny under the criminal law. In that context, this document outlines the basis upon which Justice Watch New Zealand is applying both the criminal law and the law of evidence to assess the available material, with the purpose of determining whether it is capable of proving or disproving allegations of criminal conduct, and the steps proposed to bring that analysis to formal legal review.

This document then sets out the legal and constitutional framework within which government must operate, including the fundamental principle that all persons are equal before the law and that the exercise of State power is subject to defined legal limits. It explains the role of civic participation in a free society and the legitimacy of public inquiry where serious harm or death has occurred.

Question:

Why is it necessary to explain the basis of a criminal investigation in this way?

Answer:

It is necessary because the circumstances in which harm has occurred are not of the usual kind. In more typical cases—for example, where an individual commits a violent act—the basis for criminal investigation is self-evident. In contrast, the circumstances addressed in this document are more complex and arise from actions taken within a broader governmental and public health context.

Accordingly, this document serves to explain the nature of those circumstances, and to set out clearly the legal and evidential basis upon which they may properly be examined under the criminal law.

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1. Foundational Principles and Investigative Context

The people of New Zealand are free to live their lives as they choose, subject only to the Rule of Law. Freedom, in its proper sense, means that individuals are unfettered in their actions except to the extent that those actions are lawfully constrained.

The law in New Zealand is enacted by Parliament, being the democratically elected legislative body representing the people. In this way, the creation of law reflects the will of the people through their elected representatives and is the practical expression of democratic governance.

It follows from this principle that the people retain the right to participate in the democratic process at all levels, including through advocacy, legal proceedings, public communication, and engagement with institutions of government. This participation may take many lawful forms, including correspondence, expression of opinion, and engagement in public discourse.

Active civic participation is a defining feature of a functioning democracy. Through such engagement, the law and its application are subject to ongoing scrutiny and refinement, helping to ensure that the will of the people continues to be reflected in the governance of the State.

The Rule of Law operates on the fundamental basis that all persons are equal before the law, and that the law applies equally to all, including those who exercise public power.

Accordingly, the constitutional position is that individuals are free except where lawfully constrained. This stands in contrast to systems of governance that slip away from democratic principles into authoritarian control, in which power is exercised arbitrarily and becomes its own justification, with the result that fundamental freedoms are no longer recognised as inherent, but are made subordinate to the will of those who govern.

The New Zealand Bill of Rights Act 1990 affirms a number of fundamental and pre-existing rights and freedoms, placing them within the legal framework. While these rights exist independently as fundamental principles, their statutory recognition serves to define and reinforce the limits of governmental authority, ensuring that the exercise of public power remains subject to lawful constraint.

For a lawful system of governance, the Act operates as a clear point of reference for those limits. It signals where the exercise of State power approaches, and must not exceed, the boundary beyond which rights are infringed. In this sense, it functions as a form of constitutional control, indicating when further action is not lawfully permissible.

While some rights may, in carefully defined and limited circumstances, be subject to justified restriction, there are other rights that are of such fundamental importance that they admit of no limitation. These include the right to life, the right to be free from cruel, degrading, or inhumane treatment, and the right to refuse to be subjected to medical or scientific experimentation without consent.

2. Limits on Governmental Authority

What this necessarily means is that the government, and all of its officials, must also act within the law. This requirement extends to all actions taken by the State in its dealings with the people it governs.

There is no lawful basis upon which the government may act outside the law or contrary to it. Government itself is constrained by law and does not possess the same freedom as the people it governs. An example of this is that of a state employee who exists to fulfil some lawful obligation of the State. That person is not free to simply do as they please. Rather, where they are exercising public power or performing a public function, their actions must comply with the legal requirements of their role and are subject to the limitations imposed by the New Zealand Bill of Rights Act 1990, particularly in how that power is exercised toward individuals.

Democratic governance, therefore, is not characterised by freedom of action, but by lawful constraint. The exercise of public power must be justified by reference to legal authority, rather than by choice or preference.

By contrast, civil liberty is characterised by freedom. Individuals are, in principle, free to live as they choose and to make decisions according to their own preferences, subject only to the constraints of law. That law, in turn, is made by Parliament through the democratic process, reflecting the will of the people.

Where a course of action is not authorised by existing law, it is not open to the executive to proceed on its own authority. Instead, the proper course is to return to Parliament, as the legislative branch, to seek the enactment of lawful authority for that action.

In this way, the exercise of governmental power remains subordinate to the law, and ultimately to the democratic will from which that law is derived.

3. Temporal Application of Law

The law cannot operate retrospectively. It follows that the law means what it means at the time it is in force, and its application must be determined by reference to that point in time.

Conduct must therefore be assessed against the law as it existed when the act or omission occurred. It is not open to reinterpret or alter the legal position after the fact in order to justify or excuse conduct that was unlawful at the time it was undertaken.

4. Circumstances Giving Rise to Investigation

This, therefore, is the situation that confronts any government and its representatives whose actions have resulted in the death and serious harm of those people it governs. In that same context, this situation also confronts the people governed, including those who have been injured and the families of those who have lost their lives.

In summary, New Zealand is a democracy in which people are entitled to actively participate in civic life, and that participation is a recognised and fundamental feature of its constitutional framework. Where individuals have been injured or have lost their lives through the apparent actions of the State, those circumstances are properly open to public inquiry. That position reflects a foundational principle of a free society operating under the Rule of Law, which governs the State on the basis that all persons are equal before the law and that the exercise of public power always remains subject to scrutiny, lest a free society slip away from democratic governance into one in which power is exercised without legal constraint and becomes its own justification.

5. Role of Justice Watch New Zealand

Justice Watch New Zealand is an incorporated society comprised of private individuals, meaning persons who are not part of the machinery of the State, who have freely chosen to associate for the purpose of contributing in a civic capacity as described above.

That contribution includes asking questions of the State, seeking and obtaining information, providing information, forming and expressing representations, and, where considered necessary, pursuing legal action. These activities form part of active civic participation and reflect rights recognised under the New Zealand Bill of Rights Act 1990.

Such participation ought not to be regarded as a matter of concern to the State or its officials. On the contrary, it is a recognised and legitimate feature of a democratic society. In substance, it is affirmed by law itself through the recognition and protection of the rights and freedoms set out in the Act.

6. Acknowledgement of Harm and Investigative Position

The government has formally acknowledged that harm may arise in association with COVID-19 vaccination. This is reflected in the findings of the Royal Commission of Inquiry into COVID-19 Lessons Learned, which recognises instances of serious adverse outcomes, including death and serious harm, and in particular identifies myocarditis as a condition associated with vaccination.

This situation was not unknown to Justice Watch New Zealand, which has been actively engaged in examining the broader circumstances, including their potential relevance to the criminal law.

In this context, JWNZ recognises that, absent lawful justification, conduct that results in death or serious harm may give rise to scrutiny under the criminal law. JWNZ considers itself well placed to undertake such examination, as its members and associates bring experience in legal analysis and criminal law processes, including aspects of prosecution preparation. In addition the team has full access to experts in most aspects of medicine and the science involved in mRNA technology, being people who are fully able to interpret any medical science data whatsoever with some members of the team having been actively engaged in this analysis for several years

On that basis, JWNZ can advise as follows:

There appears to be no evident lawful justification for a State official to intentionally cause serious harm or death to any person through the use of the Comirnaty vaccine (BNT162b2). Further, where actions are continued in circumstances in which serious harm or death is a known or reasonably foreseeable outcome, such circumstances provide a proper basis for criminal investigation.

7. Evidential Basis and Case Example

This analysis is informed, in part, by government records that demonstrate more than 24,000 reports of serious harm following COVID-19 injection, together with reported fatalities occurring post-injection, all recorded over an extended period of approximately 34 months.

In addition, the acknowledged death of 26-year-old Rory Nairn on 17 November 2021, approximately 10 months into the rollout, attributed to vaccine-induced myocarditis, is of particular concern.

8. Investigative Development and Next Steps

To date, JWNZ has developed an understanding of how the criminal law may interpret these circumstances, including through the application of the law of evidence. The team has formalised this work into a structured blueprint and is actively engaged in evaluating the available evidential material to determine whether it is capable of proving or disproving allegations of criminal conduct.

Upon completion of this analysis, senior criminal barristers will be engaged to review the material and provide independent legal advice.

In New Zealand, criminal proceedings may be initiated by the State or by way of private prosecution. JWNZ, as an incorporated society, is able to pursue a private prosecution, although the availability of funding remains a practical consideration.

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