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## Public interest advocate role would help protect public interest journalism, promote due process

A federal Public Interest Advocate or Monitor role would provide greater scrutiny of search warrants and help protect public interest journalism, the Law Council has told a hearing on the impact of law enforcement and intelligence powers on press freedom.

Appearing before the Parliamentary Joint Committee on Intelligence and Security today, Law Council President, Arthur Moses SC, said three improvements were needed to the process of determining warrants relating to journalists or media.

“First, the issuing officer of a warrant must be a judge of a superior court of record.

“Second, the judge should apply a statutory public interest test, similar to the test that already exists in section 180T of the *Telecommunications (Interception and Access) Act 1979* (Cth) for journalist information warrants,” Mr Moses said.

“Third, adopting a Public Interest Advocate or Monitor model would provide greater transparency and accountability to search warrants relating to journalists, including an annual reporting requirement that discloses:

- the number of warrant applications made;
- the applicant organisation; and
- the number of warrant approvals and refusals.”

Public Interest Monitors already exist in Queensland, Victoria and Canada. The Law Council believes these jurisdictions provide useful best practice models to consider.

Canadian legislation requires a search warrant must be issued by a judge of a superior court and also allows the media to contest the disclosure of documents obtained during a search.

“The reforms we propose would not undermine the integral work of our law enforcement and intelligence agencies to keep our communities safe but seek to balance legitimate aims of safety and security with the rights to freedom of expression and freedom of the press. Proportionality is key,” Mr Moses said.

“In protecting the rights and freedoms of Australians, our parliament is aided by the media which plays a key role in defending the public interest and scrutinising the exercise of power.

“Our legal framework must respect the role a free, independent media plays in safeguarding human rights and freedoms, especially in national security legislation.”

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