

Friday, 3 July 2020

Law Council expresses concern over AFP referral, calls for legal reform to protect journalism

The Law Council of Australia has expressed concern that the Australian Federal Police has provided a brief to the Office of Public Prosecutions over the ABC's 'Afghan Files' report.

While details of the brief of evidence are not yet known, the Law Council has reiterated the importance of press freedom and public interest reporting as a cornerstone of Australian democracy.

Law Council of Australia President Pauline Wright said law reform is urgently needed at every step of the process when it comes to the formal investigation of journalists suspected of breaching secrecy provisions. These reforms should include:

- search warrants must be issued by judges of a superior court of record
- when considering whether to issue a search warrant, judges should apply a statutory public-interest test
- creating a public interest advocate or monitor role to contest search warrants relating to journalists

“We need a proper review of Australia’s laws to ensure journalists do not face the risk of prosecution for doing their job,” Ms Wright said.

“Disclosures of classified information should only be criminalised if it causes real harm to national security and ‘harm’ must be clearly defined as more than simply embarrassment to the government.

“The Law Council also considers that classified information held or published by the media should only be criminalised if it can be proven the disclosure was not in the public interest. The onus should not be on the journalist to prove a report was in the public interest. I note ABC management's observation that the accuracy of the 'Afghan Files' has never been challenged.

“The prosecution of journalists engaging in public interest reporting should not be left to prosecutorial and Ministerial discretion.

“Accurate journalism in the public interest should never be a criminal offence. All Australians benefit from a free and fearless media that scrutinises power and holds it to account. It is clear we need legislative reform to ensure this.”

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