

MEDIA RELEASE

DEFICIENT SECURITY LAWS THREATEN ESSENTIAL RIGHTS AND FREEDOMS



NEW SOUTH WALES
BAR ASSOCIATION

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Recent Australian Federal Police raids on journalists and media institutions have called into question whether the laws of this nation have struck the right balance between security and freedom of speech, the President of the New South Wales Bar Association Tim Game SC said today.

“Although the offences specified as being the subject of the recent raids were made under a previous law, due to the timing of the alleged offences, the Bar Association is still deeply concerned about the implications of the current laws which came into effect late last year. Raids upon journalists should only be countenanced in extreme circumstances.” Mr Game said.

“Last year amendments made to the Commonwealth Criminal Code created offences relating to disclosure of information that may be prejudicial to national security. The amendments provide a limited defence for journalists, media staff and media entities, but like the previous law, they do not provide for a full public interest defence which was agitated for by the Law Council of Australia. Such a defence is necessary to protect the confidentiality of sources, which in turn enables proper reporting and robust debate regarding matters of public importance in a democratic society.” Mr Game said.

“Although the Association does not propose to comment on the particular circumstances of this week’s events, which we understand are subject to ongoing investigation, there is no doubt that the legal framework surrounding these kinds of matters is inadequate. Apart from the lack of a public interest defence, the process of obtaining warrants by the Federal Police to carry out searches is opaque, with no broad scrutiny of the justification for the exercise of such highly intrusive search and seizure powers. Applications for such warrants are routinely put before a registrar for approval at short notice without any opportunity for proper judicial oversight” said Mr Game.

“Without proper safeguards, both regarding protecting the flow of information from sources to journalists in the public interest and in the process for obtaining warrants, these laws have the very real potential to stifle debate on crucial matters of public importance and promote a culture of secrecy which impinges on the freedoms of every Australian” said Mr Game.

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