



The Hon Christian Porter MP
Attorney-General
Minister for Industrial Relations
Leader of the House

Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600

04 JUL 2019

Dear Chair

I am writing to you to refer, for inquiry and report, the impact of the exercise of law enforcement and intelligence powers on the freedom of the press to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) pursuant to subparagraph 29(1)(b)(ia) of the *Intelligence Services Act 2001* (IS Act).

The recent execution of search warrants on journalists' premises has resulted in significant public discussion about the importance of press freedoms, especially in relation to matters of public interest and national security.

The Government is committed to ensuring our democracy strikes the right balance between a free press and keeping Australians safe – two fundamental tenets of our democracy.

As such, the Government will consider proposals that aim to ensure that balance. This includes carefully reviewing all materials and proposals that media organisations and interested bodies provide to the Government.

Given the importance of these matters, the Government considers it is appropriate, at this stage, that the impact of the exercise of law enforcement and intelligence powers on the freedom of the press be referred to the PJCIS.

I ask that you, as Chair, accept this referral and that you report back to both Houses of Parliament by 17 October 2019. The terms of reference for the inquiry are enclosed.


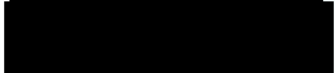
The terms of reference provide an opportunity for the PJCIS to hear from both journalists and media organisations about the experience of being subject to the exercise of law enforcement and intelligence powers, as well as from government officials and agencies as to the reasons why these powers have been used. The PJCIS is well placed to conduct this inquiry given its responsibility for, and experience in, handling issues concerning national security information and legislation.

I request that the proceedings for this referral to the PJCIS be conducted in public to the extent this is possible. For the purposes of clause 20(2) of Schedule 1 of the IS Act, relevant Ministers have been consulted and have approved the review occurring in public to the extent possible.

The Morrison Government is committed to ensuring press freedoms are preserved as a key part of our democracy, while also keeping Australians safe and recognising that nobody is above the law. As such, I hope the PJCIS will accept this referral.

I have copied this letter to the Prime Minister, the Hon Scott Morrison MP, the Minister for Home Affairs, the Hon Peter Dutton MP, the Minister for Communications, Cyber Safety and the Arts, the Hon Paul Fletcher MP, the Leader of the Opposition, the Hon Anthony Albanese MP, the Shadow Minister for Home Affairs, Senator the Hon Kristina Keneally, the Shadow Minister for Communications, Ms Michelle Rowland MP, and the Shadow Attorney-General, the Hon Mark Dreyfus QC MP.

Yours sincerely



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Encl. PJCIS terms of reference

**Terms of reference - Parliamentary Joint Committee on Intelligence and Security
inquiry into the impact of the exercise of law enforcement and intelligence powers on
the freedom of the press**

The Committee is to inquire into and report back to both Houses of Parliament on the following matters:

- (a) The experiences of journalists and media organisations that have, or could become, subject to the powers of law enforcement or intelligence agencies performing their functions, and the impact of the exercise of those powers on journalists' work, including informing the public.
- (b) The reasons for which journalists and media organisations have, or could become, subject to those powers in the performance of the functions of law enforcement or intelligence agencies.
- (c) Whether any, and if so what, changes could be made to procedures and thresholds for the exercise of those powers in relation to journalists and media organisations to better balance the need for press freedom with the need for law enforcement and intelligence agencies to investigate serious offending and obtain intelligence on security threats.
- (d) Without limiting the other matters that the Committee may consider, two issues for specific inquiry are:
 - a. whether and in what circumstances there could be contested hearings in relation to warrants authorising investigative action in relation to journalists and media organisations.
 - b. the appropriateness of current thresholds for law enforcement and intelligence agencies to access electronic data on devices used by journalists and media organisations.

The Committee is to report back to both Houses of Parliament by 17 October 2019.