

**Issues proposed by Hon James TO in the review of  
existing statutory provisions on search and seizure of journalistic material**

1. Whether “a real risk that journalistic material may be hidden or destroyed” put forward in the judgment of Hartmann, J should be adopted as the test for the issue of warrants to search journalistic material.
2. Whether warrants to search journalistic material should only be issued when certain serious offences are at issue and, if so, what are the offences.
3. Whether there should be any procedural safeguard to avoid information included in affidavits involved in inter parte applications for a production order be revealed.
4. Whether the appeal procedure for the issue of search warrants should be provided in the Interpretation and General Clauses Ordinance (Cap. 1).
5. Whether a distinction should be drawn between the source and content of the journalistic material in giving protection under the Interpretation and General Clauses Ordinance.
6. Whether all journalistic material seized should be sealed on seizure until opening is authorized by court.
7. Whether the additional condition proposed by the Hong Kong Journalists Association “that a judge would have to be satisfied that the public interest in obtaining the journalistic material clearly overrides the public interest in protecting press freedom and that the circumstances are of a sufficiently vital and serious nature” (head 5 item (3) of its submission) be adopted for the issue of a production order under section 84 or a warrant under section 85.
8. Whether the degree of protection should be different if the journalist is suspected to be a party to a crime, or merely in possession of material that would be useful to a law enforcement body.

9. Whether the degree of protection should be different if the journalistic material involved is already published.
10. Whether statutory guidelines should be prescribed on the meaning of “public interest” in Part XII of the Interpretation and General Clauses Ordinance (Cap. 1).
11. Whether it should be specifically provided in Part XII that a law enforcement body should follow the production order route under section 84 before making an application for a search warrant under section 85.

18 January 2005