



## Office of the Attorney General

26 September 2011

Charles Chauvel MP  
3.072  
**Parliament House**

Dear Charles

**Re: Video Camera Surveillance (Temporary Measures) Bill**

I refer to your letter of 23 September 2011.

I welcome your statement that you remain open-minded as to the best means of allowing the Police to continue to do their job until Parliament passes the Search and Surveillance Bill. I will address the points you raise as they appear in your letter.

First, you questioned whether I am making an attempt to achieve cross-party agreement as to the issue. Anyone looking at the issue objectively would conclude I am doing so. I provided you with a two page brief last Monday following our telephone conversation at 5:30 that day and your briefing from officials the previous Friday evening. Last week, I also supplied copies of a draft bill to all parliamentary parties and have already undertaken extensive consultation with legal stakeholders.

I have announced this afternoon that the legislation will be considered by a select committee. That committee will sit from Tuesday until the following Monday. As you know, for this to happen, the bill must be introduced under urgency.

You refer to Mr Parker's of 9 November 2010, sent to the Minister of Justice and copied to the Minister of Police and me. I have considered very carefully your suggestion – more correctly, Professor Geddis' suggestion – that provisions of the Search and Surveillance Bill could be inserted into the Summary Proceedings Act (you mistakenly refer to the Summary Offences Act).

Officials have advised that this proposal is not recommended as the effective operation of the particular provisions for surveillance warrants depends on the overall scheme of the Search and Surveillance Bill and the various definitions and protections

provided in other parts of the Bill. For example, other provisions of the Bill establish trained Issuing Officers available 24/7, departmental reporting obligations on the use of powers, evidential standards for the granting of warrants and other relevant powers and restrictions regarding the conduct of associated search powers.

In addition, the Bill was reported back from Select Committee on 4 November 2010. Since that report back several other regulatory statutes have been amended or enacted and Parliamentary Counsel has advised that consequential amendments to the Search and Surveillance Bill will need to be considered before any part of the Bill could proceed in isolation.

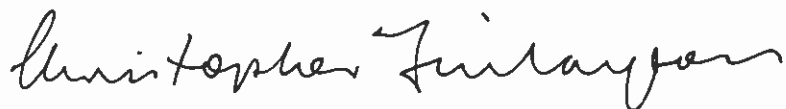
I am happy to consider your point that my "justification for giving the bill retrospective effect is circular and unconvincing". In order for me to do so, however, I need you to expand on this point.

In response to your final point, your contention that the bill "strays far from putting in place a one year 'fix' that temporarily reinstates the pre-existing law" is simply wrong on my, and officials', interpretation. The Bill will preserve the common law as it was prior to the Supreme Court's decision of 2 September. The Courts will still have the same power to exclude video surveillance evidence that has been obtained unreasonably and in violation of the New Zealand Bill of Rights Act's protections against unreasonable search and seizure.

My offer of a briefing by officials from Crown Law or the New Zealand Police still stands, if you wish to take it up.

I will ask my staff to forward your secretary a copy of this in PDF format for easy uploading to your blog.

Yours sincerely

A handwritten signature in black ink, reading "Christopher Finlayson". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.