



**Charles  
CHAUVEL**

Labour List MP based in Ohariu



23 September 2011

Hon Christopher Finlayson  
Attorney-General  
Parliament Buildings  
Wellington 6011

Dear Christopher

### **Video Camera Surveillance (Temporary Measures) Bill**

Thank you for your letter received late Wednesday, enclosing a copy of your draft bill and replying to aspects of my summary of Labour's general position earlier that day.

My colleagues and I have always said that there is an issue here that requires resolution, namely defining the scope of powers that Police should have to enable them to do their job until Parliament passes the Search and Surveillance Bill, and we remain openminded as to the best means of achieving that.

However, I am bound to say that your letter and the draft bill are disappointing on a number of fronts, so much so that I wonder whether you are even making an attempt to achieve cross-party agreement as to this issue.

First, you do not address our requirement that the legislation be the subject of a parliamentary committee process. This is essential if the claims made to date as to the need for a bill, and the desirable shape of the bill, are to be tested by reference to expert opinion and in public.

Secondly, you do not address our requirement that urgency be avoided or minimized in the parliamentary process of dealing with the bill.

Thirdly, you fail to address our letter dated 9 November 2010, tabled by me on the House a week later, offering you and your colleagues support to pass the Search and Surveillance Bill, an offer which, if you had taken it up, would have avoided the current debacle.

Fourthly, your justification for giving the bill retrospective effect is circular and unconvincing.

Fifthly, you have not dealt with our suggestion that the solution advocated by Professor Geddis, that provisions of the Search and Surveillance Bill that have been agreed across Parliament after the select committee process, should be inserted into the Summary Offences Act as an interim prospective solution concerning Police powers. This would expressly empower Police to seek a warrant for covert video surveillance when a serious offence is alleged.

Finally, you have not explained why the bill would take powers that go so far beyond the



scope of what you and Mr Key have contended is necessary. The bill strays far from putting in place a one year 'fix' that temporarily reinstates the pre-existing law. It appears to authorize more or less all covert video surveillance in the course of a warrantless search. This interpretation is difficult to avoid when reading the definitions of 'search' and 'otherwise lawful' in cl 4 with the provisions in cl 5, and recalling your contention that it is not now possible to know when a warrantless search involving covert video surveillance is lawful. The proposal to deprive the court of a discretion under s30 Evidence Act is also disturbing.

Thank you for the offer of a briefing from officials. This may well be of assistance, and we will contact your office if we decide to take it up. However, I need to make it clear that such a briefing is not a substitute for a select committee process, on which our support for a first reading largely continues to depend.

I trust that this makes the Opposition's position entirely clear.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Charles Chauvel', followed by a horizontal line.

Charles Chauvel  
Labour List MP based in Ohariu  
Labour Spokesperson for Justice  
Labour Spokesperson for the Environment