



BRITISH
COLUMBIA

JUN 27 2008

June 26, 2008

Mr. Robert D. Holmes
President
BC Civil Liberties Association
50 – 1188 West Georgia Street
Vancouver BC V6E 4A2

Dear Mr. Holmes:

I am responding to your May 28, 2008 letter, also addressed to the Honourable Wally Oppal, Attorney General, in which you express concerns regarding the undertaking of confidentiality required of participants of consultations related to proposed legislative amendments to the *Police Act*. While my Ministry and the Ministry of Attorney General value receiving input from the British Columbia Civil Liberties Association (BCCLA) regarding these and other issues, we are not prepared to amend the undertaking.

The consultation drafts disclosed during consultations are considered to be legal advice to the government respecting policy that has either been approved by Cabinet or that is to be submitted to Cabinet for approval and is therefore protected by solicitor-client privilege. Furthermore, these drafts are protected by legislative privilege. The undertaking has been developed in order to protect both solicitor client privilege and legislative privilege to give the opportunity for persons and organizations with an interest in particular policy issues to provide meaningful input to the legislative process and to have open discussion regarding the consultation draft. It is imperative that discussions relating to the consultation draft and the substance of the consultation draft are not disclosed prior to or after a Bill has been introduced into the legislature.

It is a concern that the second and third paragraphs on the second page of your letter, in particular, appear to indicate that BCCLA wishes to be permitted to disclose “confidentiality regarding the discussions or the substantive legislative proposals ...”, subsequent to introduction

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of legislation. It is not the intention of the undertaking to prohibit comment of any kind on the substance of the legislation once it is introduced. It is the fact that such comments were made during consultation that is the subject of the undertaking. In addition, comments related to the documents or the contents of those confidential discussions or relating to any legislative proposals or alternatives discussed are not permitted, since such disclosure would contradict the notion of confidentiality and would tend to inhibit the purpose of engaging in those confidential discussions.

As I noted, my Ministry and the Ministry of Attorney General value input from the BCCLA and would be pleased to involve the BCCLA in these upcoming consultations. Should you change your view regarding your objections to the undertaking, please contact Mr. Gordon McPherson, Senior Policy and Legislation Analyst, at your earliest convenience. Mr. McPherson can be reached as follows:

Mr. Gordon McPherson
Senior Policy and Legislation Analyst
Policing and Community Safety Branch
PO Box 9285 Stn Prov Govt
Victoria BC V8W 9J7

Thank you for writing.

Yours sincerely,



John van Dongen
Solicitor General

pc: The Honourable Wally Oppal
Mr. Gordon McPherson
Mr. Dirk Ryneveld