

15 April 2020

TO: New Zealand Law Society
New Zealand Bar Association
Criminal Bar Association
Defence Lawyers Association of New Zealand

Tēnā koutou e hoa mā

COVID-19: Update on certain criminal justice processes
Our Ref: SOL115/2785

1. I recently circulated a copy of a letter I sent to all public prosecutors last week. I am aware some practitioners disagree with some of the material in the letter.
2. The concerns that have been expressed to my Office reflect a misunderstanding of the purpose of this correspondence. For the avoidance of doubt, the steps that are being taken by individual agencies are administrative and operational. Plainly, all substantive decisions (for example, decisions as to whether a person should be released into the community from custody, whether on bail or on a community-based sentence, and on what conditions), are for Courts to make, taking into account information and submissions from both prosecutors and defence counsel.
3. I took the somewhat unusual step of circulating my correspondence with prosecutors because I consider it is useful for defence counsel to be aware of the approach that prosecutors are taking, in advance. There is no expectation that defence counsel will necessarily agree with the stance taken by prosecutors in individual cases, but early advice of the approach being taken should minimise delays in matters being resolved (whether by way of consent or judicial decision).
4. I must also emphasise that prosecutorial practice will continue to evolve in accordance with guidance from the Ministry of Health and any changes to New Zealand's alert level. Indeed, there have already been some significant changes in the short time that has elapsed since my previous letter. I **enclose** a copy of a letter that has been sent to prosecutors today, together with the previous letter dated 7 April.¹

Ngā mihi
Crown Law



Una Jagose QC
Solicitor-General

¹ I have not included the attachments to the 7 April letter as they are already outdated and in the process of being modified. The 7 April letter also refers to previous correspondence; that earlier correspondence did not relate to the issues presently being discussed and will not be circulated further.