



News Release

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A Victory for Openness and Transparency: The Supreme Court of Canada Supports the Public's Right to Know

Toronto, April 28, 2014 - Ontario's Information and Privacy Commissioner Dr. Ann Cavoukian is delighted that the Supreme Court of Canada just released a unanimous decision upholding her 2009 Order in favour of openness and transparency: the Ministry of Community Safety and Correctional Services was told to disclose a 14-page document containing statistical information on the first three characters of Ontario postal codes (FSAs) and the number of registered sex offenders living in each FSA.

"Three different Courts have now sided with my office on this issue, which is a good indicator that we were on the right side of this matter," said Dr. Cavoukian. "It is truly unfortunate how many years and resources have been wasted on this pursuit."

In its decision, the Supreme Court of Canada stated: "As an expert in privacy rights, as well as in access to information requests, the Commissioner's decisions deserve deference." The fact that the Supreme Court has recognized the Commissioner's expertise in interpreting privacy rights in a law enforcement context, and that deference must be shown to her decisions.

"What this means is that a 'trust me' model will no longer suffice: institutions must now demonstrate a reasonable expectation of probable (not possible) harm, which must be based on something other than a mere belief," said Commissioner Cavoukian. "In short, the Court stated that all provincial FOI statutes that employ the same language should adopt the 'reasonable expectation of probable harm' test, which requires proof well beyond the level of mere possibility. The Supreme Court ruling is a vote in favour of transparency, and, in turn, privacy."

This further strengthens her findings relating to the need to exercise discretion when determining whether attempted suicide information should be uploaded to CPIC. Her recent Special Investigation Report, *Crossing the Line: The Indiscriminate Disclosure of Attempted Suicide Information to U.S. Border Officials via CPIC*, has been met with strong support from numerous mental health organizations and members of the public.

"I am especially pleased that my report has received widespread support from mental health organizations such as the Centre for Addiction and Mental Health, the Canadian Mental Health Association and the Mental Health Commission of Canada," said Commissioner Cavoukian. "The indiscriminate release of mental health information has the potential for considerable harm and stigmatization to those affected."



About the IPC

The Information and Privacy Commissioner is appointed by, and reports to, the Ontario Legislative Assembly, and is independent of the government of the day. The Commissioner's mandate includes overseeing the access and privacy provisions of *the Freedom of Information and Protection of Privacy Act* and *Municipal Freedom of Information and Protection of Privacy Act*, as well as *the Personal Health Information Protection Act*, which applies to both public and private sector health information custodians. A vital component of the Commissioner's mandate is to help educate the public about access and privacy issues.

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