



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

News Release

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Court ruling strikes down privacy-invasive provisions of adoption disclosure law: Commissioner Cavoukian

TORONTO – Today's court decision quashing the opening of past adoption records through Ontario's *Adoption Information Disclosure Act* confirms the importance of an individual's right to privacy, said Ontario Information and Privacy Commissioner, Ann Cavoukian.

The ruling declares that the law is unconstitutional – it breaches section 7 of the *Canadian Charter of Rights and Freedoms* and thus, the sections of the *Act* relating to access to birth registration information “are declared invalid and of no force and effect.” As the Court noted, the Charter, “... is intended primarily to protect individuals and minorities against the excesses of the majority.”

The Commissioner constantly urged the government to amend the legislation to protect the privacy of past adoptions, giving birth parents and adoptees the right to file a “disclosure veto,” which would allow them the option of blocking access to their birth registration information. While this would provide much-needed protection for the minority, it would, as the Court noted, “... in fact allow the vast majority to get the information they were seeking.”

“While I supported the overall thrust of this *Act*, I fought long and hard to convince the Ontario government to introduce a crucial amendment that would provide much-needed protection for a number of deeply worried birth mothers and adoptees. Some literally feared that the *Act* – without the amendment I proposed – would shatter their lives. Now their prayers have been answered.”

Commissioner Cavoukian did not object to the opening of future records, but repeatedly cautioned that changing the rules retroactively, and exposing the identities of birth parents who entered into the adoption process in an era when secrecy was the norm, could have major repercussions. Despite the passing of the *Act* last year, the Commissioner continues to receive heart-wrenching letters, e-mails and calls from birth parents and adoptees expressing their concern – and in some cases great fear and despondency.

This court ruling will mean that Ontario residents no longer have less privacy protection than persons in the three other Canadian provinces that have adoption disclosure laws where the legislation is applied retroactively. Each of those provinces – unlike Ontario – passed laws with a provision for a disclosure veto for those who were involved in adoptions prior to the new legislation. “This is what should have happened here” says Commissioner Cavoukian.

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In the words of the Court, “People expect, and are entitled to expect, that the government will not share [confidential personal] information without their consent. The protection of privacy is undeniably a fundamental value in Canadian society, especially when aspects of one’s individual identity are at stake.”

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*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*, and helping to educate the public about access and privacy issues.

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