

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

B E T W E E N:

SOLICITOR GENERAL AND MINISTER OF
CORRECTIONAL SERVICES

Appellant

) Sara Blake
) Counsel for the Appellant

v.

INFORMATION AND PRIVACY COMMISSIONER
AND JOHN DOE, REQUESTER

Respondent

) William Challis
) Counsel for the Respondent

AND BETWEEN:

THE CHAIR, MANAGEMENT BOARD OF
CABINET

Appellant

) Sara Blake
) Counsel for the Appellant

v.

TOM MITCHINSON, ASSISTANT COMMISSIONER
et al

Respondent

) Paul Schabas
) Counsel for the Respondent

AND BETWEEN:

THE ATTORNEY GENERAL FOR ONTARIO

Appellant

) Sara Blake
) Counsel for the Appellant

v.

TOM MITCHINSON, ASSISTANT COMMISSIONER
et al

Respondent

) Paul Schabas
) Counsel for the Respondent

AND BETWEEN:)
)
 SOLICITOR GENERAL AND MINISTER OF) Sara Blake
 CORRECTIONAL SERVICES) Counsel for the Appellant
 Appellant)
 v.)
)
 TOM MITCHINSON, ASSISTANT COMMISSIONER) William Challis
 AND JANE DOE, REQUESTER) Counsel for the Respondent
 Respondent)

AND BETWEEN:)
)
 THE ATTORNEY GENERAL FOR ONTARIO) Sara Blake
 Appellant) Counsel for the Appellant
 v.)
)
 TOM MITCHINSON, ASSISTANT INFORMATION) William Challis
 AND PRIVACY COMMISSIONER OF ONTARIO,) Counsel for the Respondent
 AND JOHN DOE, REQUESTER)
 Respondent)

AMENDED REASONS FOR DECISION

COSGROVE J.

[1] My decision herein is to approve and grant the Order in Tab #6 of the Commissioner’s motion record.

[2] There was an alternative proposal that a procedure could be adopted whereby counsel could be permitted to sign an undertaking to access the sealed portion of the Record.

[3] There is a powerful tradition and philosophy that the operation of the courts should be open and transparent. The cases support this tradition. Notwithstanding, the courts which operate in a democratic context are subject to legitimate legislative limitations.

[4] I have engaged counsel in discussions of sections 52(13) and 51(1) of the Act. I am, with respect, unable to agree that these sections (in the context of the whole legislation) support the proposition that it was intended that representations be excluded. I have concluded the Act does not warrant the sealing of the representations.

[5] I appreciate my decision may have application to other cases; be that as it may, my decision is based on the material now before me which I have considered and upon which my decision rests.

[6] This principle shall apply unless representations are otherwise ruled confidential by the Commissioner.

COSGROVE J.

RELEASED: September 10, 1999