

Fergus J. (Chip) O'Connor, B.A., LL.B.

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August 22nd, 2008

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Barristers and Solicitors
250 University Avenue
Suite 501
TORONTO, Ontario
M5H 3E5

ATTENTION: MR. CHRIS G. PALIARE

Dear Mr. Paliare:

**RE: INQUIRY COMMITTEE REGARDING THE HONOURABLE
MR. JUSTICE PAUL COSGROVE**

Thank you for your letter of July 9th, 2008. In it, you ask whether I am familiar with Mr. Justice Cosgrove's character and, if so, you request a letter setting out my views on Mr. Justice Cosgrove's character as regards integrity, fairness and competence. You ask that I base my comments on my knowledge of and dealings with Mr. Justice Cosgrove.

I was called to the Bar in March of 1974 and have practiced in Kingston since December of 1975. I conducted a general practice for many years and gradually limited my practice and acquired expertise in criminal law and, in particular, matters relating to penitentiary prisoners. My practice has been limited to criminal law matters for approximately the last 10 years.

During my years of practice in Kingston, I have accepted retainers throughout eastern Ontario, including Brockville. I have appeared before Mr. Justice Cosgrove in numerous criminal cases. I have also appeared before Mr. Justice Cosgrove in habeas corpus matters. I have knowledge of and dealings with Mr. Justice Cosgrove in pretrial discussions, in trials in which Mr. Justice Cosgrove has presided, and in jury trials. Mr. Justice Cosgrove has convicted and sentenced clients of mine. I have not always agreed with his decisions. I appealed at least one of his sentencing decisions unsuccessfully to the Court of Appeal for Ontario.

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Mr. Justice Cosgrove, in 1994, rendered a decision on a habeas corpus Application in favour of a group of clients of mine, being female prisoners at Prison for Women who were threatened with imminent transfer to Kingston Penitentiary. His Honour's decision was consistent with another decision made contemporaneously by Mr. Justice Lally. The federal government appealed unsuccessfully to the Court of Appeal for Ontario. The scenario that gave rise to that case also ultimately led to a Commission of Inquiry Chaired by Madam Justice Louise Arbour following which Madam Justice Arbour made some scathing comments as to the conduct of the Federal Government, both in the treatment of the prisoners and in their willingness to be forthcoming and candid with the Inquiry. The position taken by Mr. Justice Cosgrove in that case was consistent with that taken by Madam Justice Arbour.

My experience in the courts, including that before Mr. Justice Cosgrove, includes cases both before and after the enactment of the **Canadian Charter of Rights and Freedoms**. Following the enactment of the **Charter**, I recall pretrial discussions in Judicial Pretrial in which Mr. Justice Cosgrove presided and in which he, in my view, exhibited a conservative attitude toward the **Charter** and its potential for the extension of rights. I had occasion last year to represent an individual in a dangerous offender application. This was a rehearing. The original decision had been made by Mr. Justice Cosgrove and overturned by the Court of Appeal for Ontario. Mr. Justice Cosgrove had imposed a Long Term Offender disposition. The Court at the rehearing imposed a dangerous offender designation.

The foregoing are examples. In cases presided over by Mr. Justice Cosgrove, I have seen decisions favourable to the accused and decisions favourable to the government. I have seen him impose stiff sentences in cases that he considered that to be warranted and have seen the Court of Appeal of Ontario uphold his decisions. On the other hand, I have seen him make decisions favourable to accused persons and other individual applicants. In each case, I have never had any reason to doubt the good faith of Mr. Justice Cosgrove. On the contrary, he has always conducted proceedings with integrity, fairness and competence. I would describe his style as that of a stern judge who has the courage to render decisions based on his best judgment of how the evidence requires the facts to be decided and with a conservative and common sense attitude as to how the law must be applied to the facts.

I have had occasion to discuss Mr. Justice Cosgrove with other counsel, both in Brockville and in Kingston. Like most, if not all judges, he is not universally viewed with affection. No local litigator, however, to my knowledge, has questioned his integrity or his competence.

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I hope the foregoing is of some assistance. If I can add any further detail, do not hesitate to contact me. You may feel free to file this letter with the Tribunal.

I thank you for your attention.

Yours very truly,

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by a long horizontal stroke that tapers to the right.

FERGUS J. (CHIP) O'CONNOR

FJO/hjo