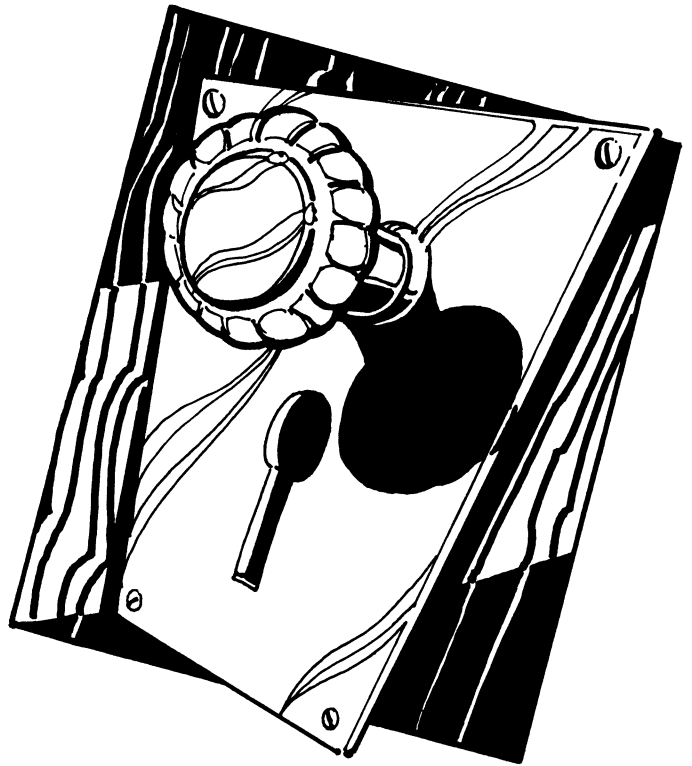


# No Lock on the Door

## Privacy and Social Assistance Recipients



In 1928 Virginia Woolf, asked to address the subject of “women and fiction,” wrote, “a woman must have money and a room of her own if she is to write.”<sup>1</sup> In *A Room of One's Own*, Woolf posited wealth and privacy, privileges denied her sex, as keys to equality:

And (pardon me the thought) I thought, too, of the admirable smoke and drink and the deep arm-chairs and the pleasant carpets: of the urbanity, the geniality, the dignity which are the offspring of luxury and privacy and space.<sup>2</sup>

Women did not have money to buy themselves time away from the daily struggle, to “escape a little from the common sitting room and see ... the sky, too, and the trees or whatever it may be in themselves.”<sup>3</sup> Women had neither the physical nor mental “room” to observe the condition of their lives, let alone question that condition or work to change it. This “room” is a basic human need. It allows us to control our accessibility to others.<sup>4</sup> It allows us secrecy, anonymity and solitude.<sup>5</sup> Of

these are born individual autonomy and personal dignity.

As this “room” was denied women in Woolf’s England, it is denied Canada’s poor. In particular, recipients of social assistance suffer incessant invasions of privacy. Ontario’s General Welfare Assistance Act directs welfare administrators to “provide assistance ... to any person in need.”<sup>6</sup> However, in assisting with recipients’ economic needs, the administration of social assistance denies them the basic psychological need of privacy and the autonomy and dignity to which privacy is essential. The inequality of already disadvantaged individuals is thereby perpetuated; and, as it stands now, these individuals find little refuge in the law.

This inequality should be reason enough for reform. Were this not in itself persuasive, Canadian governments might be compelled to act in the interests of economy. While our governments maintain that the administration of welfare must be invasive in order to ensure that individuals capable of

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supporting themselves do not remain a "drain" on the public purse, the damage done by this invasiveness only promotes recipients' continued financial dependence on the state.

As in Woolf's "Oxbridge," the privileges of "luxury and privacy and space" and the dignity that is their "offspring" are much desired by, but denied to, the disadvantaged in Canada. A 1992 survey reported that 92 per cent of Canadians were at least moderately concerned about issues of privacy.<sup>7</sup> Furthermore, these concerns were highest in groups "which historically have been less powerful in Canadian society," including the elderly, those with less education, and women.<sup>8</sup> These are also among the most economically disadvantaged groups in Canada, and therefore the most vulnerable to privacy invasions. As social scientist Bruno Bettelheim observes, the negative correlation between poverty and privacy

and Family Benefits Act<sup>14</sup> afford recipients housing. However, what the state gives with one hand it takes away with the other. Adequate housing does not ensure the privacy, nor protect the dignity of social assistance recipients. There is more to privacy than mere physical space.

What more there is has been the subject of endless debate. In *Privacy, Intimacy and Isolation*, Julie Inness was driven to conclude that "[e]xploring the concept of privacy resembles exploring an unknown swamp."<sup>15</sup> Such an exploration reveals myriad definitions. Social philosopher Erving Goffman describes privacy as an individual's ability to "hold objects of self-feeling — such as his body, his immediate actions, his thoughts, and some of his possessions — clear of contact with alien and contaminating things."<sup>16</sup> Legal theorist Richard Posner has defined it as an economic interest in the withholding of personal

*"... what the state gives with one hand it takes away with the other. Adequate housing does not ensure the privacy, nor protect the dignity of social assistance recipients. There is more to privacy than mere physical space."*

has deep historical roots:

My home ought to be my castle where I am protected from anyone's intruding on my privacy. But my home is my castle only when it is my private possession. Understandably, it was the lord of the castle who first claimed privacy for himself and his doings. Thus from the very beginning, demands for privacy were closely connected with private property. Whoever owned no place of his own, owned no privacy either, and he has very little even today.<sup>9</sup>

The poor often find themselves quite literally without "a room of [their] own": the homeless without walls to shield them from the view of passers-by;<sup>10</sup> those in psychiatric hospitals, nursing homes, prisons and other institutions "never fully alone ... always within sight and often earshot of someone ...";<sup>11</sup> and those in subsidized and low-income housing, too many to a room, exposed to their neighbours by substandard construction.<sup>12</sup>

Between many Canadians and the street, the institution, and the slum stands social assistance. Shelter allowances provided for in regulations under Ontario's General Welfare Assistance Act<sup>13</sup>

information.<sup>17</sup> Most legal scholarship, however, has inherited from Samuel Warren and Louis Brandeis' 19th century work, "The Right to Privacy," the proposition that privacy is "the right to be left alone."<sup>18</sup>

While there is no universally accepted definition of privacy, legal theorists Anita Allen and Ruth Gavison have noted some near-universal ground. In *Uneasy Access: Privacy for Women in a Free Society*, Allen distilled from the literature a definition which characterizes privacy as the ability to control our *accessibility* to others.<sup>19</sup> In "Privacy and the Limits of the Law" Gavison arrived at a similar definition, describing privacy as a "complex of ... three independent and irreducible elements: *secrecy*, *anonymity*, and *solitude*;"<sup>20</sup> respectively, restrictions on "the extent to which we are known to others," "the extent to which we are the subject of others' attention," and "the extent to which others have physical access to us."<sup>21</sup>

It is to the secrecy, anonymity, and solitude of social assistance recipients that the state does violence. In exchange for "a room of [their] own," social assistance recipients sign away their right to control their accessibility to others. Under Ontario's

social assistance legislation, a recipient's benefits may be cancelled or suspended where she "fails to provide ... information required to determine initial or continuing entitlement to or eligibility for a benefit or the amount of an allowance."<sup>22</sup> The broad working of this provision allows welfare workers a broad scope of inquiry and recipients little room to refuse to disclose personal information. Almost any question could be loosely linked to entitlement or eligibility. In Gavison's terms, recipients are unable to maintain *secrecy*. They are unable to control "the extent to which [they] are known to others." For example, one recipient described being grilled by a worker as to how quickly she went through sanitary napkins and how much she spent on lipstick and on an occasional coke at the mall: "It was a very humiliating experience. The questions were really, really indiscreet."<sup>23</sup>

On March 28, 1994, the Ontario government reinforced this legislated provision with a new policy called Enhanced Verification and Case File Investigation. By imposing more stringent disclosure requirements and more regular file reviews for both general welfare and family benefits recipients, the policy will further reduce their realm of secrecy. The policy's stated goal is to "maximize accountability, to ensure that clients are eligible and receiving accurate entitlements."<sup>24</sup> According to the government, it is just one in an "array of complementary initiatives" aimed at keeping costs down.<sup>25</sup>

Among these "complementary initiatives" were increases to the fraud investigation budget. On April 2, 1994, the Toronto Star reported:

Under the much-trumpeted *crackdown* on welfare fraud launched Monday, Ontario will hire 270 people, at a cost of \$21.5 million during the next 13 months, to conduct a systematic review of the 319,000 welfare cases it administers. Ontario will give a further \$20 million to municipalities during the next two years to aid them in detecting fraud among the almost 370,000 social assistance cases they handle.<sup>26</sup> [emphasis added]

Even before this latest initiative was announced, social assistance recipients had begun to feel the effects of a "crackdown". The Legal Clinic Steering Committee on Social Assistance provides a few examples:

... in one case a welfare recipient met her Reeve in the local grocery store. He followed her through the store and finally looked in her cart and commented that she didn't really need to be on welfare if she could afford to eat so well. ... Another welfare recipient who had obtained a job bought a soft drink and candy bar for her break. A local politician who knew she was on welfare saw her castigated her 'that that was not the kind of food that GWA recipients should eat.'<sup>27</sup>

These recipients were unable to maintain *anonymity*, Gavison's second indicator of privacy. With 270 newly hired "Rae's Raiders"<sup>28</sup> whose mandate is to systematically review all welfare and family benefits files, recipients will probably have even less control over "the extent to which [they] are the subject of others' attention."

The Ontario government has stated that "home visits," the most invasive investigative technique, will only be conducted "where they are required."<sup>29</sup> Social assistance recipients, however, tell a different story. The Ontario Coalition Against Poverty's Toronto Direct Action Committee recorded, among many incidents of abuse, a case where a man was given only 20 minutes notice of such a visit:

[He] says they have been most aggressive and rude. ... Malicious complaint by hostile relative the source of the problem. Man, who is just going into hospital to have third brain tumour removed, is not running business out of home as alleged.<sup>30</sup>



This story provides an example of why social assistance recipients are unable to maintain *solitude*. They are unable to control the extent to which others have physical access to them.

Finally, in June of 1994, the Ontario government revamped the Ministry of Community and Social Services' Form 3,<sup>31</sup> the Consent to Disclose and Verify Information, under the Family Benefits Act and the General Welfare Assistance Act. Now, for the purpose of determining and verifying eligibility, all recipients of social assistance in Ontario must consent to the release of their banking information, the possible disclosure to *anyone* of their personal information, and the exchange of information about them between all levels of government. In effect, recipients must sign away their right to control their *accessibility* to others.

In denying social assistance recipients privacy, the state may be perpetuating their disadvantage. Warren and Brandeis asserted that invasions of privacy such as the above can cause "mental pain and distress, far greater than could be inflicted by mere bodily injury."<sup>32</sup> Their assertion is supported by the observations of social scientists Bruno Bettelheim and Joseph Kupfer. Bettelheim remarked that too little privacy can lead to "feelings of incompetence, anomie, even violence."<sup>33</sup> Interestingly, these characteristics figure prominently in negative stereotypes of social assistance recipients. Kupfer noted, in particular, the experience of those in institutions who are "systematically, chronically denied privacy":

The total loss of privacy characteristic of Orwell's totalitarian society is found in "total institutions" such as prisons. As Erving Goffman observes in *Asylums*: ... "in total institutions these *territories* of the *self* are *violated*. ..." As a result, the individual's self-concept shrinks to fit his powerless condition and his autonomy is diminished.<sup>34</sup>

The invasions of privacy suffered by social assistance recipients are systematic and chronic. Arguably, their "territories of the self" are violated in much the same way as those of institutional inmates. This "powerless condition" may, in some recipients, lead to a kind of learned helplessness, the kind of helplessness that might be mistaken for freeloading laziness.

Kupfer also observed: "Depending on the individual and the extent of privacy loss, the

individual's sense of trustworthiness is threatened. Loss of privacy tends either to obstruct the formation of a sense of trustworthiness or erode one already formed."<sup>35</sup> This would suggest that the constant scrutiny, with its implied accusation of dishonesty, harms social assistance recipients. Everything they say must be verified and corroborated as if they are presumed to be lying. It would follow from Kupfer's observations that public suspicions, as expressed by the government, cause social assistance recipients to doubt themselves.

Like Virginia Woolf, Simone de Beauvoir, in *The Second Sex*, cited women's poverty and lack of privacy as one reason for their absence from the ranks of celebrated artists, writers, and philosophers. She wrote: "When the struggle to find one's place in the world is too arduous, there can be no question of getting away from it. Now, one must first emerge from it into a sovereign solitude ..." <sup>36</sup> In denying social assistance recipients privacy, the state may be denying them the opportunity for creative self-fulfillment. Gavison explained:

By restricting physical access to an individual, privacy isolates that individual from distraction. ... Freedom from distraction is essential for all human activities that require concentration, such as learning, writing, and all forms of creativity.<sup>37</sup>

Indeed, the system does not allow social assistance recipients "the freedom from distraction" they would require to upgrade their education, for example. Bettelheim wrote of impoverished children: "To think the thoughts we want such children to think and make their own requires bigger spaces for interaction than are presently available to them and their parents."<sup>38</sup> The same arguably applies to social assistance recipients. In order to envision avenues out of financial crisis, recipients must have more room than the invasive administration of social assistance allows them.

These invasions of privacy are imposed on social assistance recipients in the name of "fiscal responsibility." On January 20, 1994, the Toronto Star quoted a Thunder Bay politician recommending welfare recipients be stripped of their privacy rights to prevent any unjustified dipping into public coffers. "The right of the public to protect its money must outweigh the right of an individual to privacy," Alderman Evelyn Dodds reportedly told a legislative committee reviewing Ontario's

Municipal Freedom of Information and Protection of Privacy Act.<sup>39</sup>

Ironically, a recent Quebec study concluded that measures to reduce welfare fraud in that province cost taxpayers far more than they uncovered in fraud.<sup>40</sup> Furthermore, the Legal Clinic Steering Committee on Social Assistance observed that “[p]eople living in deep poverty are already in a state of financial and emotional crisis.”<sup>41</sup> The observations of social scientists like Bettelheim and Kupfer suggest that the harm done by invasions of privacy will only exacerbate that crisis, thereby increasing the barriers to recipients’ financial self-sufficiency.

Kupfer writes that, “[t]he necessity of privacy for the development and maintenance of an autonomous self-concept ... grounds the public policy of privacy, arguing against a totalitarian state.”<sup>42</sup> His use of the word “totalitarian” may seem, in the context of a discussion of privacy, alarmist. However, it derives from the understanding that privacy is essential to autonomy. Privacy is power. An unequal distribution of privacy is both cause and effect of an unequal distribution of power. Unfortunately, it is an inequality which the law has been hesitant to recognize and for which, as yet, there is no adequate legal remedy.

## PRIVACY AND THE CHARTER

Privacy has been called “the most comprehensive of rights and the right most valued by civilized men.”<sup>43</sup> In this light, it is perhaps surprising that the right to privacy is not explicitly provided for under the Charter and that the courts have been reluctant to find it implied there. In *Canada (D.I.R., Combines Investigation Branch) v. Southam*, the Supreme Court of Canada characterized the right against unreasonable search and seizure under section 8 as merely one aspect of a broader Charter right “to be secure against encroachment upon the

citizen’s reasonable expectation of privacy in a free and democratic society.”<sup>44</sup> However, in the ten years since *Southam*, there has not been a great deal of judicial development of this broader right to privacy.

The right to privacy might have been situated under section 26, which provides that the guarantees of specific rights and freedoms under the Charter “shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.” The United States Supreme Court has upheld a right to privacy under the Ninth Amendment, a parallel provision of the United States Constitution. However, only the British Columbia County Court, in *R. v. Otto*,<sup>45</sup> and the Ontario Court, General Division, in *Roth v. Roth*,<sup>46</sup> have followed this American lead.

Given the detrimental impact of privacy invasions on individual autonomy and personal dignity, it would seem that privacy protection might, alternatively, be encompassed within section 7 of the Charter under the right to “life, liberty and security of the person.” In *Morgentaler, Smoling and Scott v. The Queen*,<sup>47</sup> the Supreme Court of Canada noted:

counsel for the appellants argued that the Court should recognize a very wide ambit for the rights protected under s. 7 of the *Charter*. Basing his argument largely on American constitutional theories and authorities, Mr. Manning submitted that the right to “life, liberty and security of the person” is a wide ranging right to control one’s own life and promote one’s individual autonomy. The right would therefore include a right to privacy ...<sup>48</sup>

However, Chief Justice Dickson held: “It is not necessary in this case to determine whether the right [to life, liberty and security of the person] extends further, to protect either interests central to personal autonomy, such as the right to privacy, or interests unrelated to criminal justice.”<sup>49</sup> More

▲  
“ ...  
*Privacy is power. An unequal distribution of privacy is both cause and effect of an unequal distribution of power. ... it is an inequality which the law has been hesitant to recognize*  
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recently, in *Rodriguez v. British Columbia (Attorney General)*,<sup>50</sup> Justice Sopinka wrote for the majority of the Supreme Court that

... personal autonomy, at least with respect to the right to make choices concerning one's own body, control over one's physical and psychological integrity, and basic human dignity are encompassed within security of the person, at least to the extent of freedom from criminal prohibitions which interfere with these.<sup>51</sup> [emphasis added]

However, he declined to discuss whether a broader right to privacy might, at most, be encompassed within security of the person.

Furthermore, a fundamental difficulty in advancing constitutional claims in the context of social assistance is the refusal of courts to recognize such assistance as a constitutionally protected interest. For example, in *Gosselin v. Quebec (Procureur Generale)*,<sup>52</sup> claimants brought a class action under section 7 of the Charter challenging a change in that province's social assistance scheme. Under the new policy, allowances for single employable people under 30 were reduced to one-third the amount allowed for people over 30, unless they participated in a "workfare" program. The Quebec Superior Court dismissed the claim on the ground that section 7 does not protect economic interests. The court failed to recognize that the reduction would deprive the claimants of a minimum standard of living, arguably rendering meaningless their Charter right to life, liberty and security of the person.<sup>53</sup>

In characterizing the receipt of social assistance as an economic interest outside the protection of the Charter, the courts are exhibiting a reluctance to interfere with governments' flexibility in balancing the needs of their constituents against fiscal restraints.<sup>54</sup> Martha Jackman criticizes this reluctance:

... [T]o the extent that social welfare dependence is the primary indicator of poverty, and poverty is the most pervasive manifestation of disadvantage in our society, I conclude that because courts are unwilling to address social welfare claims, they have deprived the Charter of meaning where it should have held the greatest promise.<sup>55</sup>

Were a right to privacy to be recognized under the Charter, the characterization of social assistance as

a mere economic interest would allow a court considering a recipient's claim to privacy to invoke what amounts to a doctrine of waiver. If an individual has no constitutionally protected interest in receiving social assistance, it could be found under section 1 of the Charter that requiring recipients to "consent" to the relinquishment of their privacy rights in exchange for such assistance is reasonable in a "free and democratic society." Thus, the Charter is unlikely to remedy the invasions of privacy suffered by social assistance recipients.

## PROVINCIAL PRIVACY LEGISLATION

Some provinces, including British Columbia and Ontario, have enacted privacy protection legislation. Ontario, where social assistance is administered both by municipalities and the province, has two acts: the Freedom of Information and Protection of Privacy Act (FIPPA)<sup>56</sup> and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).<sup>57</sup> The Ontario Information and Privacy Commissioner has described the scope of protection under the acts:

When a government institution collects personal information from an individual, it may only use the personal information for the purpose for which it was collected, or a consistent purpose. In most cases, an individual should be able to see his or her own personal records, and a government institution may not disclose personal information unless permitted by this Act.<sup>58</sup>

The most obvious limitation of the Ontario acts is that they offer protection only against the release of personal information collected by government authorities, without recognizing the privacy interest in its initial collection. Furthermore, the acts' protection against subsequent release is largely discretionary. Under section 21(1) of FIPPA, the government may not disclose personal information to third persons, unless one of six conditions is met, including that "disclosure does not constitute a justified invasion of privacy." Section 21(2) then sets out six criteria for determining when an "unjustified invasion of personal privacy" exists. Under section 21(3)(c), an "unjustified invasion" is presumed where the personal information relates to "eligibility for social services or welfare benefits or to the

determination of benefit levels,” pursuant to section 23. However, the presumption will not apply where “a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.”

This complex structure of broadly worded conditions, criteria, presumptions and exceptions leaves a great deal of discretion in the hands of officials, and permits after-the-fact justifications of government action. In 1990, the Hastings County Council ordered its welfare administrator to release the names of all social assistance recipients to the council. The Legal Clinic Steering Committee on Social Assistance reports that “some Council members implied that this was to allow them to crack down on supposed fraud, while others suggested disingenuously that this would allow them to ‘assist’ welfare recipients to find work.”<sup>59</sup> When the welfare administrator resisted, the council argued section 32(d) of MFIPPA:

An institution shall not disclose personal information in its custody or under its control except, . . .

(d) if the disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and if the disclosure is necessary and proper in the discharge of the institution’s functions.

The Information and Privacy Commission accepted that council members were officers of the same institution as the welfare administrator, the municipality. It also accepted that council “needed to know” the names of social assistance recipients, despite the fact that no supporting evidence of such “need” was offered. Moreover, even if the commission had taken a stand against the council’s order, it could have done no more than make non-binding recommendations to the welfare administrator and the council.

The Hastings County Legal Clinic brought a successful judicial application to prohibit the transfer of this information.<sup>60</sup> The judge denied the council access to the records because he determined that no need had been established: “. . . section 32(d) requires more than mere interest and concern on the part of the councilors.”<sup>61</sup> However, he conceded that he saw “no reason why, in a proper case, the warden of the county could not be entitled to see the names of welfare recipients.”<sup>62</sup> Furthermore, he

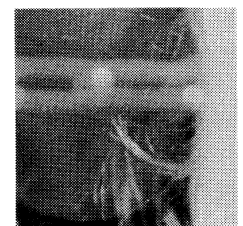
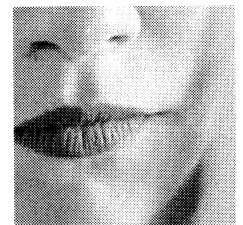
did not elaborate the “proper case,” leaving the privacy rights of welfare recipients in a state of uncertainty. The Ontario government finally responded to the Hastings County Council case with an amendment to section 11 of regulation 537 of the revised regulations under the General Welfare Assistance Act, which provides:

11(3) A person administering or enforcing this Act on behalf of [a municipality, an approved band or a district welfare administration board] shall not disclose the identity of a person who is eligible for or receives assistance to the head or a member of that body without the prior approval of the Director.<sup>63</sup>

This amendment appears to address the particular situation of intra-municipality disclosure. However, myriad other invasions remain inadequately addressed.<sup>64</sup> The absence of restrictions on the initial collection of personal information, the complexity of the legal framework, the commission’s inability to make binding orders, and the uncertainty of litigation combine to make FIPPA and MFIPPA ineffective protection for social assistance recipients.

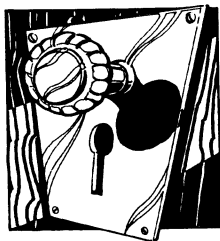
Virginia Woolf wrote that “a lock on the door means the power to think for oneself.”<sup>65</sup> While social assistance recipients may physically have “a room of [their] own,” the law, as it is now stands, affords them no “lock on the door” against persistent invasions of their privacy. The quantity and scope of the personal information recipients are required to provide, the regularity with which they must undergo reviews of this information, the scrutiny to which the spectre of fraud subjects them, and the invasions of their homes they must endure precludes their secrecy, anonymity and solitude. Recipients must sign away their ability to control their accessibility to others in order to receive assistance. Their “power to think for [themselves]” is undermined.

Prime Minister Jean Chretien recently declared social assistance “the safety net that guarantees the dignity of every Canadian.”<sup>66</sup> While social assistance may ensure that the minimum financial needs of Canadians are met, it denies those who receive it the minimum psychological need of privacy. Without privacy there is no dignity. The inequality of already disadvantaged Canadians is perpetuated by the invasive administration of social assistance.



Moreover, neither the Charter nor Ontario's FIPPA and MFIPPA provide an adequate remedy.

The mandate for reform is clear. However, Ontario's government has been moving toward even more aggressive denials of recipients' privacy with "cost containment" measures like "Enhanced Verification" and the new Form 3. It is unlikely this pattern will change under the province's new government. Unhappily, invasive measures such as these will only inhibit recipients' ability to recover from the "financial and emotional crisis" that accompanies poverty, and promote their continued financial dependence on the state. Only greater guarantees of privacy for recipients would, in the long run, satisfy both the seemingly competing goals of equality and economy. ▲



#### ENDNOTES

- 1 Virginia Woolf, *A Room of One's Own* (London: Grafton, 1929) at 1.
- 2 See note 1 at 28.
- 3 See note 1 at 122-23.
- 4 Anita L. Allen, *Uneasy Access: Privacy for Women in a Free Society* (Tatowa: Rowman & Littlefield, 1988) at 11.
- 5 Ruth Gavison, "Privacy and the Limits of Law" (1980) 89 Yale L.J. 421.
- 6 General Welfare Assistance Act, R.S.O. 1990, c. G.6, s. 7(1).
- 7 Frank Graves, Nancy Porteous and Patrick Beauchamp, *Privacy Revealed: The Canadian Privacy Survey* (Ottawa: Ekos Research Associates Inc., 1993) at i.
- 8 Graves, see note 7 at iii.
- 9 Bruno Bettelheim, "Some Comments on Privacy" in *Surviving and Other Essays* (New York: Vintage Books, 1980) at 407-8.
- 10 A census by the Canadian Council on Social Development in 1987 indicates that in 1986 there were between 130,000 and 250,000 people in Canada who did not have housing or whose housing was grossly inadequate. See Patricia Begin, *Homelessness in Canada* (Ottawa: Library of Parliament, Research Branch, 1994) at 4-5.
- 11 Erving Goffman, *Asylums* (Garden City: Doubleday, 1961) at 25.
- 12 The federal government found in its 1985 "Consultation Paper on Housing" that more than 500,000 rental house-holders could not afford physically adequate and uncrowded accommodation. "The Federation of Canadian Municipalities reported in *Housing and Homelessness* that of Canada's 2.6 million renting households, 560,000 (one in five) were found to be in dwellings classified by the Canada Mortgage and Housing Corporation as inadequate or unsuitable." See *Homelessness in Canada*, note 10 at 10-13.
- 13 R.R.O. 1990, Reg. 537, s. 13.
- 14 R.R.O. 1990, Reg. 366, s. 12.
- 15 Julie C. Inness, *Privacy, Intimacy, and Isolation* (New York: Oxford University Press, 1992) at 3.
- 16 Goffman, see note 11 at 23.
- 17 Richard A. Posner, "An economic theory of privacy" in Ferdinand Schoeman, ed., *Philosophical Dimensions of Privacy* (Cambridge: Cambridge University Press, 1984) at 333-34.
- 18 Samuel Warren and Louis Brandeis, "The Right to Privacy" (1890) 4 Harv. L. Rev. 193 at 193.
- 19 Allen, see note 4 at 11.
- 20 Gavison, see note 5 at 433 (emphasis added).
- 21 Gavison, see note 5 at 423.
- 22 Section 12(c) of Ontario's Family Benefits Act, R.S.O. 1990, c. F.2. See also s. 10(2)(b) of Ontario's General Welfare Assistance Act, at note 6.
- 23 Konrad Yakabuski, "How Ontario's Welfare Police Could Work" *The Toronto Star* (2 April 1994) A8.
- 24 Ontario, *Enhanced Verification and case file investigation for general welfare assistance* (Toronto: Queen's Printer for Ontario, 1994) at 1.
- 25 See note 24.
- 26 Yakabuski, see note 23.
- 27 Ontario, Legal Clinic Steering Committee on Social Assistance, *Municipal Freedom of Information and Privacy Act* (Toronto: 20 January 1994) at 4 (Presentation to the Standing Committee of the Legislative Assembly).
- 28 Yakabuski, see note 23.
- 29 Yakabuski, see note 23.
- 30 The Toronto Direct Action Committee, *Report on the Ontario Coalition Against Poverty's Toronto Direct Action Committee after First Full Month of Work* (Toronto: 18 October 1994) at 2.
- 31 O. Reg. 318/94, s. 6.
- 32 Warren and Brandeis, see note 18 at 196.
- 33 Bruno Bettelheim, "Mental Health and Urban Design" in *Surviving and Other Essays* (New York: Vintage Books, 1980) at 205.
- 34 Joseph Kupfer, "Privacy, Autonomy, and Self-Concept" (1987) 24 American Philosophical Quarterly 81 at 83.
- 35 Kupfer, see note 34 at 85.
- 36 Simone de Beauvoir, *The Second Sex* as cited in Allen, see note 4 at 36.



- 37 Gavison, see note 5 at 446-47.
- 38 Bettelheim, "Mental Health and Urban Design," see note 33 at 207.
- 39 Kelly Toughill, "Welfare users should lose privacy rights, politician says" *The Toronto Star* (20 January 1994) A15.
- 40 Legal Clinic Steering Committee on Social Assistance, see note 27 at 5.
- 41 Legal Clinic Steering Committee on Social Assistance, see note 27 at 4.
- 42 Kupfer, see note 34 at 87.
- 43 *Olmstead v. U.S.*, 277 U.S. 439 (1928) at 478.
- 44 *Canada (D.I.R. Combines Investigation Branch) v. Southam*, [1984] 2 S.C.R. 145 at 159.
- 45 *R. v. Otto* (1984), 16 C.C.C. (3d) 289.
- 46 *Roth v. Roth* (1991), 9 C.C.L.T. (2d) 141.
- 47 *Morgentaler, Smoling and Scott v. The Queen* (1988), 44 D.L.R. (4th) 385.
- 48 *Morgentaler*, see note 47 at 397.
- 49 *Morgentaler*, see note 47 at 401.
- 50 *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519.
- 51 *Rodriguez*, see note 50 at 521.
- 52 *Gosselin v. Quebec (Procureur Generale)*, [1992] R.J.Q. 1647 (C.S.).
- 53 Martha Jackman, "Poor Rights: Using the *Charter* to Support Social Welfare Claims" (1993) 19 *Queen's L.J.* 65 at 78.
- 54 Jackman, see note 53 at 86-87.
- 55 Jackman, see note 53 at 67.
- 56 R.S.O. 1990, c. F.31.
- 57 R.S.O. 1990, c. M.56.
- 58 Information and Privacy Commissioner/Ontario, "Local Government and the Municipal Freedom of Information and Protection of Privacy Act" (1990) 24 *L. Soc. Gaz.* 247 at 247.
- 59 Legal Clinic Steering Committee on Social Assistance, see note 27 at 6.
- 60 *H.(J.) v. Hastings (County)* (1992), 8 *Admin. L.R.* 157.
- 61 *Hastings*, see note 60 at 160.
- 62 *Hastings*, see note 60 at 160.
- 63 O. Reg. 640/94.
- 64 For example, the exchange of information between Ontario's Ministry of Community and Social Services and the federal Ministry of Citizenship and Immigration regarding refugees and new immigrants who are in receipt of social assistance.
- 65 Woolf, see note 1 at 115.
- 66 Interview with Jean Chretien on "Morningside," C.B.C. Radio (1 March 1995).