Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER MO-1255

Appeal MA-990046-1

The Corporation of the City of Kingston

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BACKGROUND:

The Ontario Works Act, 1997 (the OWA), proclaimed in force in 1998, provides a legislative framework for social assistance in Ontario. The OWA establishes a compulsory program colloquially known as "workfare" whereby eligible recipients of social assistance participate in community placements. The stated purposes of the OWA include: recognition of individual responsibility and promotion of self-reliance through employment; provision of temporary financial assistance to those most in need while they satisfy obligations to become and stay employed; effective service for people in need of assistance; and accountability to the taxpayers of Ontario. The appellant represents an organization which has actively opposed the introduction and implementation of workfare in Ontario.

NATURE OF THE APPEAL:

The appellant submitted a request to the City of Kingston (the City) under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for the names of all agencies which have accepted workfare placements, and the total number of workfare placements in Kingston.

The City notified 10 organizations (the affected parties) of this request pursuant to section 21 of the Act, and asked for their views regarding disclosure of the information pertaining to them. Three affected parties objected to disclosure of their identities and two affected parties provided qualified consents to disclosure. However, in considering the qualifications outlined by these affected parties, it is questionable whether they have, in fact, consented to disclosure of the information as neither the City nor the Commissioner's office can guarantee the conditions they require to consent. Therefore, in my view, these two affected parties did not consent to disclosure of the information pertaining to them. Five affected parties did not respond to the City's section 21 notice.

The City provided the appellant with the information pertaining to the total number of workfare placements in Kingston, but denied access to the names of the agencies which have accepted workfare placements on the basis of the following exemptions under the Act:

- third party information - section 10(1);
- economic and other interests - section 11(d);
- danger to safety or health - section 13; and
- invasion of privacy - section 14(1).

The appellant appealed the City's decision to deny access to the names of the agencies. In doing so, the appellant raised the possible application of the so-called "public interest override" in section 16 of the Act.

I sent a Notice of Inquiry to the appellant, the City and the 10 affected parties listed on the record. The City, the appellant and three affected parties submitted representations in response.

RECORD:

The record at issue is a one page list consisting of information about the number of individuals who have been placed in an agency sponsoring an Ontario Works Placement. The list contains the name of the agency, its address and contact person as well as the number of individuals placed in each agency and the total number of placements.

As I indicated above, the City has already provided the appellant with the total number of placements. During mediation, the appellant confirmed with the Mediator that he is only interested in the names of the agencies. Therefore, the other information in this record is not at issue.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual.

It is clear that the information at issue does not contain the names of any individual who has been placed in an agency under the workfare program. However, it must be determined whether any individuals may nonetheless be identifiable given the information contained in the record.

The appellant states that he has not asked for any personal information and is agreeable to reasonable severances to the record. In my view, it is apparent from the appellant's representations that he does not consider the names of the agencies to constitute "personal information".

The City takes the position that although the information which the appellant is seeking is not, in and of itself, "recorded information about an identifiable individual", its disclosure would inevitably lead to the identification of individual recipients who are participating in workfare placements. In this regard, the City refers to Order M-480 in which Adjudicator Donald Hale found that information would qualify as "personal information" if its disclosure would allow one to draw an accurate inference as to the identity of the individual.

The City submits that in many cases, the participating agency has only one placement and inferences could be drawn as to the identity of the participant. This concern was echoed by the affected parties, particularly in cases where the participating agency itself is small.

In Order P-230, former Commissioner Tom Wright stated:

> If there is a reasonable expectation that the individual can be identified from the information, then such information qualifies under subsection 2(1) as personal information.

I agree with this approach and adopt it for the purpose of this appeal.

Previous orders of this office have considered the impact of disclosing information which does not, itself, identify any individual, but which, because of the small number of individuals involved, could result in the identification of an individual. In Order P-644, Adjudicator Anita Fineberg considered a policy of the Ministry of Health which dealt with "small cell counts". In this regard, the Ministry made the following submissions:

> Physicians refer their patients to specialists and the fact that certain specialist [sic] also performed electrolysis was widely known. In addition, this information would be known to patients the specialist has treated. Therefore, these specialists can be identified in the public domain. The fact that there are so few in each speciality performing electrolysis would reveal or infer financial information about the individual specialists and must be severed under section 21 of the Act.

Adjudicator Fineberg considered the comments made by former Commissioner Wright in Order P-230 and applied that approach in Order P-644. She concluded that, given the small number of individuals and the nature of the information at issue, there was a reasonable expectation that the release of the information would disclose information about **identifiable** individuals.

In another Ministry of Health case, however, which again dealt with the Ministry's "small cell count" policy, she took a different approach to the issue. She stated:

> In Order P-230, Commissioner Tom Wright stated:
>
> > If there is a reasonable expectation that the individual can be identified from the information, then such information qualifies under subsection 2(1) as personal information.
>
> Based on the submissions of the Ministry and adopting the test set out above, I concluded in Order P-644 that, given the small number of individuals and the nature of the information at issue, there was a reasonable expectation that the release of the information would disclose information about **identifiable** individuals. Accordingly, I concluded that the information at issue was personal information.
>
> In this appeal, the Ministry argues that the numbers constitute personal information solely on the basis that they are in groups of less than five. Unlike the information provided in Order P-644, the Ministry has not indicated how disclosure of the fact that there was one hemophiliac in a particular province who contracted HIV and who made a claim could possibly result in the identification of that individual. For example, for one of the provinces, the number of hemophiliac HIV infected individuals is the same as the number of such individuals who have filed a claim against the province. This number has been disclosed because it is greater than five.

> In my view, disclosure of the information in Record 135 could not lead to a reasonable expectation that the individuals could be identified. Accordingly, I find that this document does not contain the personal information of any identifiable individuals. Therefore, section 21 has no application. Record 135 should be disclosed to the appellant in its entirety.

With respect to the record at issue in the current appeal, I note that in most cases, the number of placements is below two. In all of these cases, I am satisfied that the participating agency is very small and identification of the agencies could allow anyone familiar with them to make reasonable inferences as to the identities of the workfare participants. To the extent that their identities can be ascertained, this would reveal that they are on workfare and thus disclosure would reveal information "about" them. Therefore, based on the approaches taken in Orders P-230 and P-644, I find that, with two exceptions, the information at issue is personal information.

Two of the participating organizations are larger than the others and the number of participants in each is also greater. On first blush it would not appear that the principles enunciated in Orders P-230 and P-644 would apply. However, after considering the totality of the evidence, I find the City's arguments that the identities of individual recipients could still be revealed by disclosure of this information to be persuasive. In this regard, I find that, given the nature of the two remaining organizations and the nature of the types of work which would "typically" be done by individuals on workfare, there is a reasonable expectation that at least some of these individuals could be identified through disclosure of the record and would similarly reveal that they are on workfare. The possible identification of only one individual from each organization is all that is required to bring the names of the two remaining organizations within the definition of "personal information".

INVASION OF PRIVACY

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information unless one of the exceptions listed in the section applies. The only exception which might apply in the circumstances of this appeal is section 14(1)(f), which permits disclosure if it A... does not constitute an unjustified invasion of personal privacy".

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the head to consider in making this determination. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy.

The Divisional Court has stated that the only way in which a section 14(3) presumption can be overcome is if the personal information at issue falls under section 14(4) of the Act or where a finding is made under section 16 of the Act that there is a compelling public interest in disclosure of the information which clearly outweighs the purpose of the section 14 exemption [Order M-1154; John Doe v. Ontario (Information and Privacy Commissioner) (1993), 13 O.R. (3d) 767 (div. Ct.)].

The City submits that the presumption in section 14(3)(c) applies to the personal information in the record. This section provides:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,
>
> > relates to eligibility for social service or welfare benefits or to the determination of benefit levels;

Part 1 of the OWA, sections 4(a) and 7(4)(a) establish the legislative authority for the workfare program. These sections state, in part:

> 4. Employment assistance is assistance to help a person to become and stay employed and includes,
>
> > (a) community participation; and ...
>
> 7(4) A recipient and any prescribed dependents may be required as a condition of eligibility for basic financial assistance to,
>
> > (a) satisfy community participation requirements;

Directive 1.0 "Overview of Policy Directives" which is found in the Ontario Works Policy and Directives Manual outlines the intent of the workfare program as follows:

> The Act supports based on four major reform objectives:
>
> 1. To help people in financial need become employed and achieve self-reliance, through a program of mutual responsibilities, i.e.:
>
> > - participants have a responsibility to participate in program activities as a condition of eligibility for financial assistance; and
> > - the Ontario Works program has a responsibility to offer employment assistance to participants to enable them to become self-reliant;
>
> 2. To ensure that assistance is directed to those most in need, and as a last resort, through fairer eligibility requirements;
>
> 3. To improve fraud prevention and control, and increase accountability for taxpayers' dollars; and

4. To streamline the delivery system and reduce waste and duplication.

The appellant states that the requested information should be disclosed so that individuals and organizations can make "good and ethical decisions about our charitable donations".

It is clear from the OWA and the Directives made pursuant to it that in order to maintain eligibility for social assistance, a recipient of social assistance must, with a few exceptions, participate in the workfare program. In my view, identification of a participating agency which could, in turn, serve to reveal the identity of the individual placed under this program could indirectly disclose information relating to the individual's eligibility for social service. Therefore, I find that the presumption in section 14(3)(c) applies to the personal information in the record. Consequently, in the circumstances, it is not necessary for me to consider the application of any factors or considerations weighing either for or against disclosure.

None of the exceptions in section 14(4) apply to this information. The appellant has raised the possible application of section 16. I will consider this section below.

In order to fully canvass the issues in this appeal, I will also consider the possible application of section 11(d) to the information to which I have found section 14(1) applies.

ECONOMIC AND OTHER INTERESTS

Section 11(d) states:

> A head may refuse to disclose a record that contains,
>
> > information whose disclosure could reasonably be expected to be injurious to the financial interests of an institution;

In order for section 11(d) to apply, the City must demonstrate a reasonable expectation of injury to its financial interests.

The City attached a copy of a letter dated May 28, 1999 from the Ministry of Community and Social Services (the Ministry) regarding the impact to the City should its social services department be unable to deliver the Community Participation component of Ontario Works. In this letter, the Ministry advises the City that Ontario Works delivery sites have minimum target expectations with respect to Community Participation, and that funding for Community Placement is "performance based". The Ministry indicates that underachievement of targets will reduce the subsidy payment to the municipality resulting in actual expenditures being borne solely by the municipality. The Ministry also indicates that the City may choose to contract out the Community Placement component of the program or, should the City be unwilling or unable to deliver all three components of the Ontario Works program, Community Participation being one

component, the legislation permits the Ministry to select another service delivery agent. In either case, however, the financial accountability for the program continues to rest with the City.

The City states that the organizations objecting to workfare in the City, including the appellant have made their intentions very clear with respect to the use of the information sought. In particular, the City indicates that the appellant and others in the City have openly stated that they "will do everything within their power to ensure that the Ontario Works program does not succeed in Kingston, including picketing businesses and organizations which accept Workfare placements". The City describes some of the activities which have taken place and has attached a number of documents confirming the actions taken by these organizations, including:

- copies of pamphlets which have been distributed by these groups;
- copies of letters which have been sent by groups associated with this movement which indicate that donations may be jeopardized for organizations participating in the program;
- a newspaper article which indicates that, as a result of picketing by those objecting to workfare, one organization cancelled its plans to take on two individuals under the program; and
- a copy of a videotape of the Kingston Low Income Needs Coalition Town hall meeting respecting Ontario Works, held May 28, 1998 (produced by COGECO Community Television). The videotape records the comments made by a number of representatives of these organizations. It is very clear from the comments that various organizations will be taking active steps to picket participating agencies and disrupt their operations.

The City submits that its financial position will be negatively impacted by the use which will be made of the information contained in the record. In this regard, the City refers to letters it has received from a number of participating agencies indicating that should they be subjected to such actions, they will cease to participate in the program. The City also refers to the above newspaper article and indicates that not only did the agency identified in the article withdraw from participation in the program, but that three other agencies discontinued their involvement as a direct result of the negative publicity.

The City indicates that following the events referred to in the newspaper article, the placement program had to be temporarily suspended and the City's 1998 placement targets re-negotiated with the Ministry. However, the City states that, as the letter from the Ministry referred to above indicates, should it not meet its 1999 targets, one of two things could reasonably be expected to occur: "the performance based funding model mandated by the province necessitates funding clawbacks", or the Ministry may assign another municipal delivery agent for the Ontario Works program, paid for by the City. The City estimates that it could be liable for expending up to an additional $120,000 annually for lost provincial funding in the first scenario, and up to $400,000 in the second.

The City states that should the participating agencies withdraw from the program, it will be unable to meet its 1999 placement targets and will face a "financial clawback" as a result. The City submits that this will be

injurious to its financial interests as it will result in unanticipated and unbudgeted costs being incurred, which will have to be passed on to Kingston area taxpayers, either through increased taxes or reduced service levels.

The appellant submits that there is no evidence that municipalities that fail in the implementation of workfare will suffer any financial loss.

It is apparent from the documentation provided by the City that there is a direct correlation between meeting the targets established by the Ministry and financial consequences to the City. It is also apparent from the documentary evidence provided that there is an organized movement in the City to protest against the program itself through direct contact with the participating agencies and the individuals who work in them and use their services in an effort to dissuade them from participating. I am satisfied that at least some of the participating agencies would succumb to such pressure and that others would reconsider entering into an agreement with the City to provide a Community Placement. As a result, it is likely that the City will be unable to meet its targets and would thus be unable to deliver the Community Participation component of Ontario Works. The City has established that it would consequently be liable for additional financial responsibility for the program.

In my view, based on the above, the City has demonstrated a reasonable expectation of harm to its financial interests resulting from disclosure of the information which identifies the participating agencies.

Because of my findings under sections 14(1) and 11(d), it is not necessary for me to consider the possible application of sections 10(1) and 13.

COMPELLING PUBLIC INTEREST

The appellant relies on section 16 of the Act, arguing that there exists a compelling public interest in the disclosure of the record.

Section 16 states:

> An exemption from disclosure of a record under sections 7, 9, 10, 11, 13 and 14 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption. [emphasis added]

It has been established in a number of orders of the Commissioner's office that in order for section 16, "the public interest override", to apply, two requirements must be met. First, there must exist a compelling public interest in the disclosure of the records. Second, this interest must clearly outweigh the purpose of the personal information exemption [Order P-1398, upheld on judicial review in Ontario (Ministry of Finance) v. Ontario (Information and Privacy Commissioner), [1998] O.J. No. 420, 107 O.A.C. 341, 5 Admin. L.R. (3d) 175 (Div. Ct.), reversed (January 27, 1999), Docs. C29916, C29917 (C.A.)].

In Order P-984, Adjudicator Holly Big Canoe described the criteria for the first requirement mentioned in the preceding paragraph, as follows:

> In order to find that there is a compelling public interest in disclosure, the information contained in a record must serve the purpose of informing the citizenry about the activities of their government, adding in some way to the information the public has to make effective use of the means of expressing public opinion or to make political choices.

Adjudicator Big Canoe went on to address the second component of the "public interest override" as follows:

> Once a compelling public interest is established, it must be balanced against the purpose of the exemption which has been found to apply. Section 23 (the equivalent provision to section 16 in the provincial Act) recognizes that each of the exemptions listed therein, while serving to protect valid interests, must yield on occasion to the public interest in access to government information. Important considerations in this balance are the principle of severability and the extent to which withholding the information is consistent with the purpose of the exemption.

I adopt the approach to the interpretation of the "public interest override" articulated by Adjudicator Big Canoe for the purpose of this appeal.

Is there a compelling public interest in disclosure?

In Order P-1398, Adjudicator John Higgins stated:

> Order P-984 relies on the Oxford dictionary's definition of "compelling" to mean "rousing strong interest or attention". I agree that this is an appropriate definition for this word in the context of section 23.

In upholding Adjudicator Higgins's decision in Order P-1398, the Court of Appeal for Ontario in Minister of Finance (above) stated:

> . . . in our view the reasons of the inquiry officer make clear that in adopting a dictionary definition for the term "compelling" in the phrase "compelling public interest", the inquiry officer was not seeking to minimise the seriousness or strength of that standard in the context of the section [at p. 1].

In light of the Court of Appeal's comments, I am adopting Adjudicator Higgins's interpretation of the word "compelling" contained in section 16.

The appellant's representations on this issue are very brief. He essentially takes the position that the provincial government created a "public interest" in the requested information when it publicly promised that

workfare placements would not result in job loss. He submits that "[i]f agency names are kept secret there is no way for the public to hold the program accountable to the Government's public promises".

The appellant states further that similar information has been made available to the public in other municipalities.

In Order MO-1254, issued November 29, 1999, I dealt with a similar request made to the City for the same record. The appellant in that case made extensive representations on the compelling public interest issue. In my view, the discussion and my findings in that order are equally relevant to the current appeal. With respect to whether there is a compelling public interest in disclosure of the requested information I stated:

> The appellant provides extensive representations on this issue. In doing so, she comments generally on the workfare issue as follows:
>
> > Workfare has been historically a controversial topic and a matter of open debate in the media, in provincial and local government sittings, and in townhall meetings across Ontario. It has been reported upon as an area of concern by the United Nations ... It has been condemned by many groups across Canada as violating international human rights laws and covenants, as contravening provincial human rights codes and statutes, and as a program that displaces workers from their paid employment.
>
> She states that the OWA, its regulations, policies, guidelines and principles collectively mandate that Ontario Works programs be administered in a way that is accountable to the taxpayers of Ontario. She adds that participating organizations accepting community placements must comply with their service contract agreements and all standards set out in the Ontario Works Policy and Directives Manual.
>
> She states further that the workfare program is supported by public funds and submits that refusal to disclose the identities of the participating organizations contravenes the statutory provisions of the OWA and its spirit and intent.
>
> In taking both the public opposition to the program and the legislative requirements of the OWA into account, the appellant states:
>
> > It follows that an agency or business that accepts community placements is one that is aware of the public debate and has decided to participate nonetheless. At the same time, this participating organization not only agrees to accept workfare placements, it agrees to being audited, monitored for compliance with program standards, and scrutinized for accountability ...

The appellant argues that all of this amounts to a compelling public interest in disclosure of the information in the record and submits that "participating organizations cannot reasonably expect to accept placements anonymously and without being accountable to the public". Moreover, she argues that:

> It is in the public interest and in the interests of the City of Kingston, the Ontario Works program, and all participants - organizations and social assistance recipients - that workfare is an accessible and candidly-operated community program. Isolated and segregated community placements cannot be part of a publically funded program, and could endanger social assistance recipients who would otherwise be too afraid to raise concerns for fear of losing their eligibility for benefits.

In concluding, the appellant states:

> A healthy democratic community is one in which people can fearlessly raise issues, air concerns, protest peaceably, participate in public debate, and verify government accountability.

The City submits that there is no compelling public interest in the disclosure of the record. Rather, the City argues that the public interest favours non-disclosure because to disclose the record would lead to the identification of individuals in receipt of social assistance and to increased costs to the public for the administration and provision of social services. The City submits further, that, in its view, disclosure of the record would not add in any way to the public's mean of expressing opinion or making political choices.

In determining this issue, I have considered the totality of the evidence, including the documentary evidence submitted by both parties. The appellant speaks to her objectives in monitoring the program, ensuring public accountability for a public program and protecting the rights of individuals receiving social assistance during and as part of the program's implementation. The documentary evidence reveals an organized protest movement against the principles and implementation of the Ontario Works program. One clearly mandated objective coming from this movement is the disruption of services and defeat of the program. In noting this, I am, by no means, criticising or questioning the legitimacy of the protesters' motives, actions or ability to express their opinions or demonstrate their objections. On the contrary, it is a basic democratic right to be able to initiate and pursue active and critical debate over government programs and policies. In this regard, I find that the evidence and submissions clearly demonstrate that this program has attracted wide public debate. I am satisfied that accessing the information in the records pertaining to the participating agencies will enable the appellant and the organizations with which she is associated to:

- inform the citizenry about the activities of their government by revealing the elements of and participants in the Ontario Works program and allowing the public to understand how the program is being implemented;

- add in some way to the information the public has to make effective use of the means of expressing public opinion. The evidence indicates that the protest movement believes that it must direct its challenges not only to the provincial government and municipalities, but to the organizations participating in the program in an attempt to educate them as to the "evils" they see in the program, and to dissuade them from participating.

I accept that there is a public policy interest in non-disclosure of records which could reveal the identities of individual social assistance recipients which goes beyond the individual privacy interests. In my view, the integrity of the social assistance scheme and the vulnerability of recipients relating to their dependence on such a scheme and to their social and political status or lack thereof resulting from their circumstances requires an environment which protects and promotes confidentiality and sensitivity to their needs. Therefore, I agree that there is a public interest in non-disclosure of the personal information in the record.

However, as I indicated above, the documentary evidence presented by the parties indicates that the subject of workfare has received wide ranging attention and that much concern has been expressed about it. This issue has received critical attention from a variety of sources, including the United Nations Committee on Economic, Social and Cultural Rights and, initially, by City council. The evidence demonstrates that this issue has brought together many grassroots and organized labour organizations in common protest, not only in the City but across the province. The clear message from the documentary evidence is that the motivation for and driving force behind the protest movement is the concern for the rights of the "poor" in Ontario. Many of the supporters of the grassroots organizations involved in protesting this issue in the City are likely in receipt of social assistance themselves. While I accept that there is a public interest in non-disclosure, I find that the evidence establishes a public interest in disclosure which is "rousing" regarding the issue of workfare.

On the basis of the above, in my view, the public interest in disclosure in this case is "compelling" as that word has been interpreted in section 16. Accordingly, I am satisfied that there is a compelling public interest in the disclosure of the record at issue under section 16 of the Act.

Based on the reasoning in Order MO-1254 I find that there is a compelling public interest in disclosure of the requested information in the current appeal as well.

Does the compelling public interest in disclosure "clearly outweigh" the purpose of the section 14(1) and/or 11(d) exemptions?

With respect to the second component of the section 16 test, I made the following comments in Order MO-1254:

> **Section 14(1)**
>
> Under section 1 of the Act, the protection of personal privacy is identified as one of the central purposes of the Act. It is important to note that section 14 is a mandatory exemption whose fundamental purpose is to ensure that the personal privacy of individuals is maintained except where infringements on this interest are justified.
> Commenting generally on the personal privacy exemption under the Freedom of Information scheme, the drafters of Public Government for Private People: The Report of the Commission on Freedom of Information and Individual Privacy/1980, vols. 2 and 3 (Toronto: Queen's Printer, 1980) (the Williams Commission Report) indicated that the legislation must take into account situations where there is an undeniably compelling interest in access, situations where there should be a balancing of privacy interests, and situations which would generally be regarded as particularly sensitive in which case the information should be made the subject of a presumption of confidentiality. In this regard, the Williams Commission Report recommended that "[a]s the personal information subject to the request becomes more sensitive in nature ... the effect of the proposed exemption is to tip the scale in favour of non-disclosure".
>
> I found above that disclosure of the information pertaining to eight of the agencies on the list would constitute a "presumed" unjustified invasion of personal privacy pursuant to section 14(3)(c) of the Act. Applying the general principles referred to above, the inclusion of the exemption relating to eligibility for social services or welfare benefits demonstrates an intention by the legislature to recognize the particular sensitivity of this type of information to the individuals to whom it relates. In my view, the inclusion of this type of information under a presumption of confidentiality demonstrates an intention to protect the personal integrity and autonomy of the individual.

The City submits that:

> [I]t is against public policy to allow persons who are in a vulnerable situation to be publicly identified in any circumstances, but particularly in circumstances, such as these, where that identification may reasonably be expected to lead to harm to the individual's health or personal safety and well-being.

The appellant notes that the type of information which was requested in this appeal has been disclosed by another municipality without any detrimental effects. She submits that:

> ... the information requested is neutral information, without negative connotation and suggests that any interpretation of the information as negative or positive is a matter of public debate, freedom of thought and opinion, and democratic right.

The evidence indicates that, as part of its overall objectives, the organized protest movement has targeted the directing of donations away from agencies participating in the program, "boycotting" such agencies and mounting a media campaign to "embarrass" or further redirect potential fundraising for these agencies. I also find, based on the totality of the evidence that there is a reasonable expectation that should the information be disclosed, individual recipients will be approached, whether they wish the contact or not, simply because they are recipients. In my view, disclosure of information which would serve to identify those recipients would be contrary to the very purpose of the presumption in section 14(3)(c) which is, as I indicated above, to protect the personal integrity and autonomy of the individual.

Without detracting from the legitimacy or freedom of the appellant to effectively express her objections to the Ontario Works program, I find that the privacy interests of the individual recipients outweighs the public interest in disclosure. In so concluding I am mindful of the other avenues of protest and of informing social assistance recipients and participating agencies of the concerns and objections to the program which are currently available to the appellant, many of which have taken place.

With respect to the public interest in monitoring the adherence of established standards, in my view, the public accountability process is, at least in part, ensured through the reporting mechanisms to the Ministry. In balancing this public interest with the privacy interests of individual recipients, I note that the appellant has not raised any concern that standards have not been met. In my view, the public interest in monitoring the implementation or conduct of the program does not outweigh the rights of individual recipients to their personal autonomy.

Accordingly, I find that section 16 does not apply with respect to the personal information in the circumstances of this appeal. The personal information contained in the record is, therefore, exempt under section 14(1).

In my view, my reasoning in Order MO-1254 regarding the second requirement is also applicable in the circumstances of the current appeal. Therefore, I conclude that monitoring the implementation or conduct of the program, or otherwise holding the government accountable with respect to its promises concerning the program do not outweigh the rights of individual recipients to their personal autonomy. Consequently, I find that section 16 does not apply in the circumstances of this appeal and the personal information is exempt under section 14(1) of the Act.

Because of my findings under sections 14(1) and 16, it is not necessary for me to consider the "public interest override" with respect to section 11(d).

ORDER:

I uphold the City's decision.

Original signed by: November 30, 1999
Laurel Cropley
Adjudicator