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## FIGHTING THE ENEMY

### ENDING THE LIFETIME BAN ON INCOME ASSISTANCE

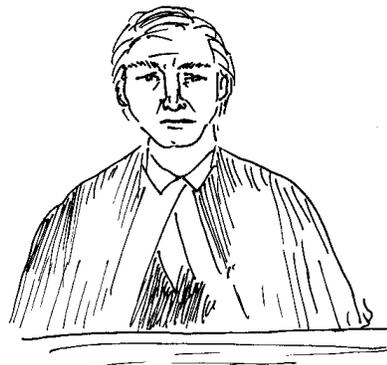
By Zoë Macmillan

#### The Ban

On April 1, 2002, then Minister Coell introduced the government's new social assistance legislation, the *Employment and Assistance Act*. This Act was to "signify a new era" and represented "a significant change in B.C.'s income assistance system." Indeed, the changes were significant. Notable was the introduction of a lifetime ban on receiving assistance for individuals convicted under the Criminal Code of income assistance fraud. In speaking to this provision, Minister Coell

stated: "The legislation will give the ministry a new tool in the fight against income assistance fraud."<sup>i</sup>

While a lifetime ban may have represented a new tool in B.C., it had already been used elsewhere in Canada with tragic consequences. In August 2001, Kimberly Rogers was found dead in her Ontario apartment. She was pregnant and serving house arrest following a conviction for assistance fraud. Kimberly's crime was that she illegally collected benefits



and student loans while attending school. In addition to her conviction, her assistance was suspended. An inquest into Kimberly's death, which was announced September 2001, produced several recommendations. Firstly, the lifetime suspension of benefits should be eliminated. The jury also recommended

(See *Fighting the Enemy*, page 6)

Together  
Against  
Poverty  
Society

#302 – 895 Fort St.  
Victoria, BC  
V8W 1H7  
Tel: 250-361-3521  
Fax: 250-361-3541  
[www.tapsbc.ca](http://www.tapsbc.ca)



# No Access

## TAPS FILES COMPLAINT WITH OMBUDSPERSON

*By Stephen Portman*

The Ministry of Social Development and Social Innovation long ago ceased to be a place where people living in poverty receive compassion and support in times of need. This is deeply unfortunate for the people who must access income assistance from this body and I do not believe we have to accept this.

Every day in the TAPS office we meet people struggling to access, or shut out from accessing, ministry services. People are required to apply for basic income assistance through a 90-page online process that is confusing and challenging to navigate for people without a computer or who experience low digital literacy; people are put on hold for great lengths of time and are often cut off when calling the ministry 1-866 number; ministry workers on the phone line work on a time-per-call basis and will often cut callers off before a matter is resolved, which is a

massive hurdle for people who rely on pay-as-you-go phone plans; and increasingly, people are told, after waiting in line to see a worker at a ministry office, to use the phone line to access support, the phone line which, as mentioned, fails to provide effective access. More and more people are seeking our help for these basic access issues and we simply cannot keep up with the demand. We do not have the resources to provide consistent advocacy help to people just trying to access the ministry, and frankly that work does not coincide with the foundational social justice orientation of our organization.

### **So what can be done?**

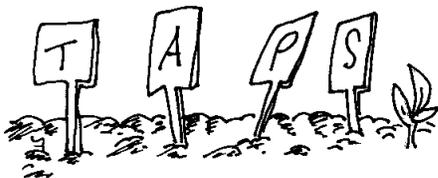
TAPS, along with the lead support of the BC Public Interest Advocacy Centre and eight other poverty advocacy organizations, compiled evidence of increasing barriers to service access at the ministry. This evidence formed the body for a complaint delivered to the Ombudsperson of BC on May 12, 2015. In this complaint, we are calling on the

## PERSONS WITH DISABILITIES

TAPS has advocates who can help you apply for PWD (Person With Disability) status through the Ministry of Social Development and Social Innovation. TAPS can also help you with an appeal if you have applied and been denied. Call TAPS at 250-361-3521 for more information. If you are at the appeal stage, be sure to get in touch with us as soon as possible after receiving your letter of denial and tell the receptionist you are calling about a disability appeal.

## TAX CLINIC

TAPS holds a tax clinic for people with low incomes every Thursday from 9 AM to 11 AM and from 1 PM to 4 PM. No appointments. First come, first served.



Ombudsperson to investigate the ministry's shift toward inaccessibility through increased reliance on phone and internet service delivery models, office closures and a reduction in hours, as well as the dehumanising treatment that this system perpetuates

*(See No Access, page 5)*

# TAPAS FOR TAPS 2015

Another wildly successful TAPAS for TAPS fundraiser blew out Heron Rock Bistro on June 3<sup>rd</sup>. This marks the fifth year that Heron Rock Bistro in James Bay has so generously provided the venue for this event and, of course, the delicious tapas—enjoyed by all. Many thanks to Andrew Moffat and the team at Heron Rock for their wonderful hospitality and their continuing support of TAPS' advocacy and anti-poverty work.



This year we were delighted to have as guest speakers Andrew McLeod of the online newspaper The Tyee, who spoke about inequality in British Columbia, and Alison Latimer, a litigator at Farris, who spoke about the role of non-profit organizations in public interest cases. A big thank you to Alison and to Andrew for sharing their knowledge and insights.

And it wouldn't be TAPAS for TAPS without the much-anticipated silent auction—a great success again this year! We want to send out a huge thank you to

the local businesses and artists who donated items and services to the auction. And thank you to all who supported TAPS by coming and making TAPAS for TAPS such a success.



## STUDENTS AT TAPS

We say good-bye to Jasmine Nicolici, who was our practicum student through the spring term. Jasmine worked in our disability advocacy project and helped many of our clients access disability benefits. Thanks, Jasmine, for all your great work, and best wishes for your future.

We welcome Lukas Bhandar and Gwyneth Dustan to TAPS. Lukas is a fourth year Writing student at UVic, and he is here as our Canada Summer Jobs student. Gwyneth is a fourth year Social Work student, doing her practicum here. Lukas and Gwyneth will be at TAPS until August providing income assistance advocacy to our clients.

## TAPS ADVOCATES

**John Cooke** Tenant Advocate (on leave)

**Jen King** Employment Standards Legal Advocate

**Yuka Kurokawa** Tenant Advocate

**Zoë Macmillan** Income Assistance Advocate

**Jen Matthews** Income Assistance Advocate

**Thea McDonagh** Income Assistance Advocate and Coordinator of the Volunteer Disability Advocacy Project

**Stephen Portman** Interim Executive Director and Employment Standards Legal Advocate

**Noah Ross** Tenant Advocate

**Ryan Tonkin** Federal Disability Advocacy Project Coordinator

Taproot is published bi-monthly. Newsletter artists:  
Mitch Lindsay  
Joan Stiebel

**Together Against  
Poverty Society**

#302 – 895 Fort Street  
Victoria, BC V8W 1H7  
Tel: 250-361-3521  
Fax: 250-361-3541  
www.tapsbc.ca

# NEW AND IMPROVED (BUT NOT BETTER)

## GATEWAY OFFICE REBRANDED AS SERVICE BC

*By Lukas Bhandar*

On March 30, 2015, the Ministry of Social Development and Social Innovation transitioned the Disability Assistance office at 403-771 Vernon Avenue (known as the Gateway office) into a Service BC centre. As a result, the services available to individuals on income or disability assistance have changed. For example, all face-to-face interaction with ministry workers no longer exists, and the centre now serves a wider range of clients, including businesses.

Prior to this transition, the Gateway office had Employment and Assistance Workers (EAWs) available to offer in-person assistance to ministry clients. As a Service

BC centre, these EAWs are no longer accessible for in-person meetings. Instead, clients must now talk to Service BC employees, who are limited in the services they are able to provide to individuals seeking ministry assistance.

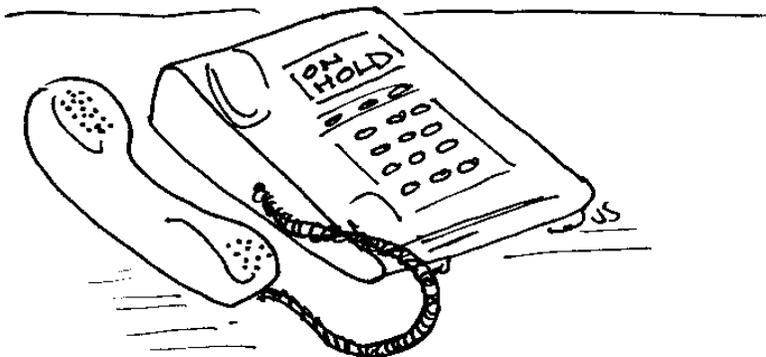
Richard Stebeck, a manager with Service BC, says that the Service BC employees will focus on trying to help clients use self-serve tools at the centre. These include online applications and the ministry's toll-free phone number. The Service BC centre has six computer and phone stations available for public use. There are another three phones, and a printer and copier also available. However, this raises concerns

### WRITE FOR TAPROOT

Have you had a difficult time getting a benefit you needed from MSDSI? Had a nightmare with a landlord from hell? An exploitative boss? Or some other experience you want to let others know about? Then write it up for the Taproot. Please make your article 600 words or less. Drop off or mail articles with your name and contact information to Heidi at TAPS at #302 - 895 Fort Street, Victoria, BC V8W 1H7, or send by e-mail to [volunteers@tapsbc.ca](mailto:volunteers@tapsbc.ca), or by fax to 250-361-3541.

for individuals who may face barriers to using these technologies. The stations are also extremely restricted in their use: the computers are limited to accessing only government websites and applications. Clients are not allowed to use tools such as e-mail or Google to aid them in seeking and applying for assistance.

Staff at TAPS are concerned that the needs of income and disability assistance recipients will not be adequately met by this new centre. Service BC is a one-size-fits-all resource that



*(Cont'd from New and Improved, Page 4)*

provides provincial government services to individuals and businesses. Stebeck explained that the Gateway office now provides BC Registry services (i.e., registration for businesses), Rural Property Tax, and Residential Tenancy Branch information. Service BC is also looking to introduce new services in the next six months.

In trying to serve as many different kinds of clients as possible through cost- and resource-saving measures, Service BC and the ministry may neglect to consider the needs of their clients on income and disability assistance, who often face numerous barriers including literacy, physical and mental health issues, and

### TAPS' FEDERAL DISABILITY ADVOCACY PROJECT

TAPS' Federal Disability Advocacy Project can provide information on CPP - Disability, the Disability Tax Credit and the Registered Disability Savings Plan. If you would like to speak with an advocate about any of these benefits, or would like help applying, contact Ryan Tonkin at TAPS at 250-361-3521.

colonialism and other forms of oppression. Stebeck states that this transition is good for ministry clients, as it sets Service BC as the "first stop" for general information, while freeing trained ministry professionals to conduct more "behind-the-scenes work." TAPS feels this shift in services is detrimental to clients, and believes the ministry should adopt a client-centered approach to service delivery.

Access to this centre is further complicated by new rules about its catchment area. Before, the Gateway office served disability assistance clients from anywhere in Victoria; now Service BC can only distribute cheques and documents to clients who live in its catchment area. This area starts north of Finlayson Street (Mayfair Mall), and includes Saanich and the West Shore. If you are a ministry client and prefer to use the downtown office (Pandora), you can request to have it changed to your home office, regardless of where you live. ■



*(Cont'd from No Access, Page 2)*

as a public service. We are calling for this investigation to make recommendations to the ministry to restore access and compassion to services directed at people living in poverty in Victoria and across the province.

### What can you do?

If you have difficulty or are unable to access services from the ministry, we strongly encourage you to contact the Office of the Ombudsperson directly to file a complaint. The Ombudsperson needs to be made aware of just how substantial the barriers to service are. We know it can be difficult to go into yet another office, but it may be easier than you think. You can file a complaint in person, about half a block up the street from the TAPS office, on the second floor at 947 Fort Street. You can call in and make a complaint by dialling (250) 387-5855, or you can file a complaint online at <https://www.bcombudsperson.ca/how-to-make-a-complaint>. The workers at the Office of the Ombudsperson have a reputation for being compassionate and effective. They are there to help you file your complain and make your voice heard. ■

## TAPS' SILENT WITNESS PROGRAM

Many of our clients find that appointments with the Ministry of Social Development and Social Innovation (MSDSI) can be stressful. Some find that having another person at their appointment lessens their stress and helps the appointment proceed smoothly. At TAPS, we have volunteer silent witnesses who can accompany individuals to ministry appointments. If you would like a silent witness to accompany you to an appointment with the ministry, call TAPS at 250-361-3521.

(Cont'd from *Fighting the Enemy*, page 1)

improved communication between government departments. This was in response to evidence that the advocate in Kimberly's trial had not known a fraud conviction would lead to suspension of benefits.

Despite these recommendations and proof of their deadly consequences, the B.C. fraud provisions continue to exist. However, we may soon be rid of them. TAPS has learned there is proposed legislation to amend the *Act* by removing the lifetime ban and instead

making offenders repay their debt. While the change is certainly welcomed, we believe it has come too late for many, and should never have existed in the first place.

### The Fight Against Fraud

While the introduction of the ban was a significant change to B.C.'s income assistance system, it was not unexpected. The so-called "war on welfare fraud" has been a battle long in the making. Between 1948 and 1974 there was little change in the province's social assistance legislation as it related to fraud. However, 1974 saw the first ominous clouds in what has become an all-out war. With the amendment of the *Social Assistance Regulations*, new provisions addressing overpayments and fraud were introduced. Since that time, successive legislation has resulted in increasingly complex rules, further restrictions on eligibility, and growing investigative powers and penalties for fraud.<sup>ii</sup>

Is it possible these measures are necessary because we *are actually* at war? Reports indicate the vigorous pursuit of "welfare fraud" is questionable at best. Canadian and international research has repeatedly documented

overpayment and fraud in fewer than 5% of cases. Moreover, studies suggest investigators are more likely to find cases of underpayment of assistance than evidence of fraud.<sup>iii</sup>

So if there is no overwhelming evidence of a fraud problem, why do we assume there is? One suggestion is that increasing measures against fraud should be understood as a political tool, rather than a response to a larger social problem.<sup>iv</sup> It is in government's best interest to minimize public expenditures. Not only is it fiscally prudent, it is generally a politically popular thing to do. Decreasing the number of assistance recipients, even during poor economic times, means a better bottom line. However, how does one dismantle a social assistance regime while maintaining public popularity? One option: create an enemy in the form of welfare fraudsters. Suggesting fraud is rampant, by creating harsher penalties and increased monitoring, fosters a public perception that recipients are basically criminals in waiting. Stigmatizing income assistance and those who receive it, enables government to reduce the

(See *Fighting the Enemy*, page 7)

(Cont'd from *Fighting the Enemy*, Page 6)

availability of benefits without incurring public backlash.

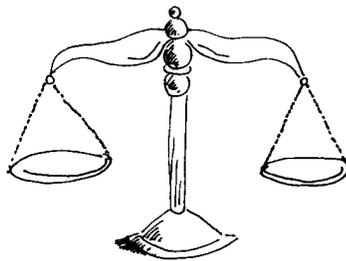
And the creation of this enemy has been highly effective. As a paper prepared for the Law Commission of Canada concluded: "the impression that there is widespread defrauding of benefits by recipients has been so successfully installed in public discourse and government policy that social assistance is now primarily viewed not as a necessary form of support for those in need, but rather negatively, as a burdensome problem of regulation, policing and crime control."<sup>v</sup>

### Who Is the Real Enemy?

There is no denying fraud occurs. There are individuals who intentionally mislead the government by withholding or providing false information in order to receive assistance. However, there are also many individuals caught in the web of complexity that is income assistance rules. And this lack of clear information regarding rules and lifetime bans has made criminals of otherwise unsuspecting individuals.

In *R. v. Dennis* the B.C. Court of Appeal highlighted the problems with current information on lifetime bans. The case involved Tiffany

Dennis, an Aboriginal woman receiving Persons With Disabilities benefits. She had significantly impaired intellectual and memory function and suffered from anxiety and depression. Tiffany pled guilty to a number of charges, including defrauding the ministry by cashing two cheques which she claimed she had lost and



failing to report her child tax benefit cheque. When sentenced for her crimes neither she, her lawyer, the Crown lawyer, or the judge were aware that she would be subject to a lifetime ban from assistance due to her conviction.

In the appeal of the sentence, the judge was finally made aware of the legislation. He further acknowledged that although Ms. Dennis was eligible to receive Hardship Assistance, this was not comparable to her regular benefits. Ultimately the judge reduced Tiffany's sentence so that she would be not subject of a lifetime ban. To find otherwise represented a

disproportionately severe sentence for her crime.

### Ending the Ban

While TAPS applauds steps to remove the lifetime ban, we believe it should never have been introduced in the first place. Instead of creating an enemy in the form of phantom fraudsters, the public would be better served by focusing resources on those who need assistance in the first place. Ending the ban may be one step in ending the stigma. However, we have a long way to go.

If you should find yourself under investigation by the ministry, contact an advocate at TAPS at 250-361-3521. And if you are being told fraud charges are under consideration, do not plead guilty without first obtaining legal advice.

- i. *Debates of the Legislative Assembly (Hansard)* British Columbia. April 16, 2002. Pg 2850.
- ii. Rachert, J.A. "Welfare Fraud and the State: British Columbia 1970-1977" (1990).
- iii. Canadian Centre for Policy Alternatives, "A Bad Time to Be Poor: An Analysis of British Columbia's New Welfare Policies" (2003).
- iv. *Rachert*
- v. Mosher & Hermer, "Welfare Fraud: The Constitution of Social Assistance as Crime" (2005).

## ABOUT TAPS

TAPS was established and registered as a society in 1989 and serves the Greater Victoria area. We provide legal information and representation on issues relating to income assistance, provincial disability benefits, residential tenancy, and employment standards. We also provide public education in these areas and on broader poverty issues.

You can reach us between 9:30 am and 4:30 pm, Monday to Friday, by phone at 250-361-3521 or in person at #302 - 895 Fort Street. The office is closed daily for lunch between noon and 1:00 pm and is closed to walk-in clients on Monday and Friday mornings.

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