



MAY 11 2005

Anne Stokes, Clerk
Standing Committee on Social Policy
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario
M7A 1A2

Re: Statement in Support of the Remarks of the Information and Privacy Commissioner of Ontario, Concerning the Privacy Implications of Bill 183

Dear Ms. Stokes:

I am writing to the Standing Committee on Social Policy to express my views on the proposed adoption disclosure legislation which you have before you for consideration, in Bill 183. Although it is certainly not routine for this Office to comment on matters before the provincial legislatures, the retroactive disclosure of birth parent identities will affect the privacy rights of Canadians residing across the country, and possibly in other jurisdictions around the world. It is a matter on which privacy and data commissioners are generally in agreement, and I am writing to support the request of Privacy Commissioner Dr. Ann Cavoukian, to include a possibility for birth parents to veto disclosure.

As Dr. Cavoukian has pointed out, every other Canadian province provides birth parents with the right to block the retroactive release of their identity. Unsealing the documents respects the right of the individual to explore their own identity through identifying and possibly locating their parents. I heartily support this legislation and the United Nations Declaration on *Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally*, which has provided an important framework for protecting the rights of children in adoption. However, the rights of the child should not be an unqualified right, because we must respect the rights of others, namely those of the birth parents, and most particularly, the birth mothers, on whom the stigma of an unwanted pregnancy has fallen throughout our history.

Consent for the collection, use and disclosure of personal information is the cornerstone of our privacy law in Canada. Confidence in the assurances of government rests on our respecting the terms under which we gathered personal information. In 2005, we find governments around the world increasingly asking for the right to collect ever more information, and ever more personal and intrusive types of information, all with assurances that privacy will be respected. Government has a responsibility to keep its word, and release information it gathered under assurances of confidentiality only when absolutely necessary, and when the harm of release is minimal.

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In this case, the information at play is absolutely some of the most sensitive information in our society, and it was gathered under the assurance of the utmost confidentiality. Reckless release of this information even sixty years after the event could certainly damage relations within families, and harm individuals. While I believe it is quite right to go back and modify adoption policy to permit the more open approach we have today, which respects the human rights of the child, we cannot with the stroke of a pen rewrite the history of the lives of the individuals who trusted government to keep their birth records and adoption arrangements secret. Confidentiality commitments do not expire like patent protection.

I would urge you, please, to consider Commissioner Cavoukian's suggestions for amendment carefully, and follow the practice of all the other provinces in Canada who have included a mechanism to seek the consent of the birth parents prior to disclosure. Thank you for giving me this opportunity to share my views with you.

Sincerely,



Jennifer Stoddart
Privacy Commissioner of Canada

c.c.: Dr. Ann Cavoukian
Information and Privacy Commissioner, Ontario