

# “Zero Dollar Linda”

A Meditation on Malcolm Gladwell’s “Million Dollar Murray,” the Linda Chamberlain Rule, and the Auditor General of Ontario

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November 2010

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## Overview

This essay explores the weaknesses in the design of North American social welfare institutions through the stories of two individuals.

Murray Barr was a homeless and severely alcoholic man in Reno, Nevada whose story was first told by Malcolm Gladwell in *The New Yorker*. If Murray had had access to supportive housing and a supervised work environment, he could have lived out his life productively. Instead, he cost the medical, corrections, social service and shelter systems millions of dollars over his lifetime, and died in the street of internal bleeding.

Linda Chamberlain is a Toronto woman with serious disabilities living in subsidized housing. Through one of her support agencies, she found part-time work to supplement her disability income. Instead of bolstering this success story, her public housing landlord immediately made her rent unaffordable, while her disability support program severely cut her benefits. Like Murray, she too could have done better had she received the help and advice she needed. But she came to the conclusion she could only prosper by leaving the work she loved.

Murray Barr represents a small fraction of the shelter population – a minority that accounts for most of its costs. While Gladwell presents Murray's case with compassion, he clearly sees that, without structured support and firm guidance, the man was incorrigible – an outlier.

Linda Chamberlain is Murray Barr's polar opposite. She represents the great majority of social assistance recipients, who want to get ahead and be as self-reliant as they can under their individual circumstances. Why then, does our social welfare system use very tough, unbending, counterproductive rules to pounce upon people like Linda, treating her as if she were doing something wrong? Why are there no good sources of advice and support to help Linda out of her dilemma?

In this essay I explain the tangled and irrational rules and accounting practices that led to Linda's downfall and what she did to try to lessen her exposure to them. I also question why the Auditor General of Ontario did nothing to examine those practices, and chose instead to fan the flames of the public perception that Ontario's welfare system is riddled with fraud.

I also ask why the rules that led to Linda's downfall were followed so mindlessly. As taxpayers, we invest a lot in the education and compensation of our public servants, in the hope that they will administer our housing and welfare systems intelligently. Why then, do we give them the latitude and discretion of parking lot attendants?

I believe we need to create a space in the public conversation to talk about building social assistance policies based on trust in the majority, not suspicion of a minority of outliers. We need intelligent rules, administered with positive discretion, by public servants who are educated and supported in this approach.

# 1. Murray

In February of 2006, Malcolm Gladwell published an article in *The New Yorker* about an outlier named Murray Barr, a severely alcoholic, chronically sick, homeless man.<sup>1</sup> Barr had a rather sweet temperament that could endear him to the police who picked him up, the medical staff who treated the endless complications of his illness, and the social workers who helped him make the transition from hospital to the jail's drunk tank and back to the shelter and the street.

Over the course of the 10 years he spent on the streets of Reno, Nevada before he died of intestinal bleeding, Barr ran up costs to the health care, corrections, and social service systems of more than one million dollars.

At one point, Barr was placed in a program that gave him rehab, supportive housing, work, and daily supervision. He thrived, worked hard, and saved money. But Murray could not function without support and supervision. When the program ended, he went right back to the streets, drank himself sick, and got into trouble. "I don't know whether it was his military background. I suspect that it was," said one of the police officers who knew him for years, of Murray's need for supervision. "It cost us one million dollars not to do something about Murray."

People like Murray Barr are not typical of the people who use homeless shelters. Gladwell interviewed a researcher named John Culhane, who monitored people who used shelters over time. He found that 80% had short stays and did not return. Another 10% were younger people, often heavy drug users, who came and went episodically. The final 10%, Gladwell says:

...were the chronically homeless, who lived in the shelters, sometimes for years at a time. They were older. Many were mentally ill or physically disabled, and when we think about homelessness as a social problem – the people sleeping on the sidewalk, aggressively panhandling, lying drunk in doorways, huddled on subway grates and under bridges – it's this group that we have in mind.

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<sup>1</sup> Gladwell, Malcolm. February 13, 2006. "Million Dollar Murray." *The New Yorker* Vol. 82, Issue 1, pp. 96-107. Reprinted: Gladwell, Malcolm. 2009. *What the Dog Saw*. New York: Little, Brown and Company.

It is also this group that costs the health, corrections, and social service systems an astonishing amount of money. Gladwell's article is an inquiry into why, as a society, we are loathe to invest the much smaller amount of money it would cost to maintain, and even solve, the problem of outliers like Murray. Why do we opt instead for a far more expensive cycle of policing, jails, shelters, and hospitals?

"The current philosophy of welfare," says Gladwell, "holds that government assistance should be temporary and conditional, to avoid creating dependency. But someone who blows .49 on a Breathalyzer and has cirrhosis of the liver at the age of twenty-seven doesn't respond to incentives and sanctions in the usual way."

Gladwell thinks our reluctance to give outliers like Murray the lifelong support and supervision they need has something to do with our collective sense of fairness. We do not feel comfortable offering free housing for the rest of his life, to a person like Murray, when we offer no such luxury to a welfare mother. "Our usual moral intuitions are little use, then, when it comes to a few hard cases... We can be true to our principles or we can fix the problem. We cannot do both."

In other words, we accept Murray's million dollar price tag because we cannot bring ourselves to invest a much smaller amount into programs that would privilege him in any way.

Let us turn our attention away from Murray now and look at the case of an Ontario woman, Linda Chamberlain, who is in many senses Murray's polar opposite – a woman who demonstrates courage and initiative and achieves some success, in spite of a lifetime of disability. Surely our welfare and housing systems would strive to support such a person in achieving greater self-reliance, would it not?

Sadly, the rules and supports in Ontario's welfare system are so complex and so rigid that they can make no distinction between outliers and the mainstream, the "Murrays" and the "Lindas" of this world. It is a system that views all social benefits recipients with suspicion. Listen to Linda's story.

## 2. Linda

Linda Chamberlain is a determined woman who wants to help others. Although she lives with disabilities that are lifelong and severe enough to qualify her for disability benefits from the province of Ontario, she succeeded in getting a part-time job.

The *Toronto Star* showcased the dilemma Linda faced when the combination of higher rent and reduced benefits resulted in her being not much better off than before she started to work. There are few instances when the same human interest story would be written twice in a short period. Yet Linda's story was written up three times in the space of a month in the winter of 2009-10 by two different *Toronto Star* columnists, Catherine Porter and Carol Goar.

Linda lives in rent-geared-to-income housing and receives an allowance from the Ontario Disability Support Program (ODSP). Stories like hers are common when people try to get ahead but receive benefits from more than one program. They lose benefits from both and often net less overall income from working harder. In fact, when Linda first reduced her hours of work, she was much better off.

In the newspaper stories, we hear first how Linda went back to work against all the odds, helping to mentor other people with disabilities through a service agency, where she is also a client. Then, we are told about the problem with disability allowance reductions. Linda's work hours fluctuated, and because of a delay in administrative processing, Linda received several overpayments.

Next, Linda experienced a dramatic rent increase from her public housing landlord, based on the fact that she was earning income. This combined with the allowance reductions, her ongoing bills, and the money she had to pay back for the overpayments, was in excess of what she earned. She reduced her hours of work and noticed she was better off. She reasoned that her only way out of the mess was to quit her job.

Here is how Catherine Porter described Linda's situation in the *Toronto Star*:

She paid \$109 in rent every month. This summer, working 2 and 1/2 days a week, her ODSP cheque plummeted to \$183 and her rent – pegged to her income – soared to \$623. The bills are mounting. She received a



letter from Canadian Tire threatening “legal action.” She owes \$500 to Toronto Hydro. Now, her landlord is threatening eviction. “I’ve hit rock bottom,” Chamberlain says. “I’m worse off now than I was when I wasn’t working...”<sup>2</sup>

The *Star*’s Carol Goar sums up the impact of these policies well:

Chamberlain didn’t cheat, lie or withhold information. She was ensnared by rules that penalize welfare recipients for being more diligent, less predictable or luckier than the systems allows. In her case, the government couldn’t – or didn’t – adjust her monthly benefit to reflect her employment income. The rules required that her assistance be cut by 50 cents for every dollar she earned. But her computer file showed she was working 1 and 1/2 days a week, when she was actually up to five days most weeks. She spotted the discrepancy, but couldn’t get it corrected.

Meanwhile, her non-profit housing provider was raising her rent as fast as her income increased. She now pays the market rate for her apartment in a supportive housing complex.

“I don’t see a way out. I’m just sinking in the quicksand,” she says.

Any deviation from past trends will land a welfare recipient in a similar predicament. A long-awaited tax refund, child support arrears or back pay from a previous job will result in an “overpayment” on his or her account.

But punishing people for working too hard stands in a class of its own.<sup>3</sup>

Finally, we hear of a mystery benefactor who, having read the first two stories, donated cash to help Linda out of her dilemma. But the policies that affected Linda Chamberlain are still in place. This means that if she keeps trying to become more self-reliant – a course that most of us (including Linda) would like to see – there are going to be more rent increases and more income clawbacks. Linda will need more mystery benefactors to bail her out.

For Linda, it will be Groundhog Day. (Remember the movie in which the main character wakes up to live the same day over and over again?) If the policies stay in place, the result will ever be the same.

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<sup>2</sup> Porter, Catherine. December 22, 2009. “Model of success in a system that keeps her down.” *Toronto Star*. <http://www.thestar.com/news/gta/article/741686>. (date accessed: November 3, 2010)

<sup>3</sup> Goar, Carol. December 16, 2009. “Punished for working too diligently.” *Toronto Star*. <http://www.thestar.com/comment/article/739279>. (date accessed: November 3, 2010)

### 3. The Five Policy Artefacts that Lie Behind Linda's Story

The newspaper stories did not explain the bad policies that underlie Linda's dilemma – the confluence of rules and funding imbroglios that anonymously target her and others. Nor did they discuss the complex financial advice that Linda badly needed to balance work, rent, and benefits.

Ontario Premier Dalton McGuinty has lamented the presence of bad policies. “Unwittingly, we have developed a policy that stomps you into the ground,” he told a 2009 gathering of Ontarians who rely on social assistance.<sup>4</sup>

While governments rarely develop bad policy on purpose, they often implement policies in isolation one from another. There is insufficient understanding on how the rules of one policy will impact the rules of another and too little good advice on what one should do when they face the many “moving parts” of the system. Over time, isolated policies grind upon one another like tectonic plates. There is insufficient thought about whether their combined effects will lead to disaster in the life of an individual.

Let's spend a little time understanding just what happened to Linda from a policy perspective.

#### Artefact #1: The Ontario Disability Support Program (ODSP) – Clawbacks and Overpayments on Earned Income

Most people would say that Linda is “on disability.” The program from which she receives her benefits is called the Ontario Disability Support Program (ODSP). It is a social assistance program. The province implemented it in the late 1990s as part of the Harris government's social assistance reform. It initially forced municipalities to pay for a portion of it under the “Who Does What” strategy. This strategy uploaded some costs to the province in return for

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<sup>4</sup> Quoted by Carol Goar. June 29, 2009. “Poor grow tired of waiting for premier.” *TheStar.com – Opinion* <http://www.thestar.com/comment/article/657499> (date accessed: November 3, 2010)

downloading other costs to municipalities. Full funding of ODSP by the province will be completed in 2011.<sup>5</sup>

Linda's ODSP is broken into two parts: basic needs and shelter. When she is not working, her disability cheque is \$687 a month:

Basic needs:	\$578
Shelter:	\$109

When people who receive ODSP earn money, the province reduces their disability allowance. It takes half of what they earn off their monthly cheque. In Linda's case, the clawback reduced the "basic needs" portion of her ODSP cheque to \$183 a month. Punitive as this 50% clawback may seem, Ontario's is a fairly generous policy, compared to other provinces.<sup>6</sup>

There was also an error in Linda's computerized government record during the time she was working. It showed her working less than she actually was. That meant Linda had been overpaid, and owed money back to the government. Linda did not make the error, and tried to have it corrected. A new \$25 a month deduction was placed on her disability allowance through ODSP. In addition, the fact that she was in an overpayment situation made her suspect in the eyes of Ontario's Auditor General. I'll have more to say about that later.

### *Disentangling the rent portion of Linda's dilemma*

Next we need to look at the policy artefacts that led to the big rent jump. When Linda started working, her rent went from \$109 to \$623 a month. That's an increase of 471%. Four entangled policies contributed to that:

- Artefact #2: Rent calculations for ODSP recipients in public housing – out of line with reality but in line with provincial/municipal politics.
- Artefact #3: Moving from ODSP shelter allowance to rent-gear-to-income – a huge shock to Linda's budget.

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<sup>5</sup> For more information about this process, see "Local Services Realignment: A User's Guide." <http://www.mah.gov.on.ca/Page1792.aspx> (date accessed: November 3, 2010)

<sup>6</sup> Most provinces allow a small exemption but then reduce benefits by more than 50%. In Ontario, a small exemption was cancelled to help pay for the more generous 50% clawback, implemented by the McGuinty government in 2005. Before 2005, the clawback was 75%.

- Artefact #4: The \$440 rule – obscure in its origins, buried in the policy handbooks, this rule amounts to zero tolerance for disabled people who try to become self-reliant.
- Artefact #5: Double-dipping into Linda’s earned income – how two government silos managed to penalize Linda twice for earning the same money.

Let’s look at each of these policies.

#### Artefact #2: ODSP Rents in Public Housing – Out of Line with Reality but in Line with Provincial/Municipal Politics

You may have noticed that Linda’s ODSP shelter allowance of \$109 looks very low, even in relation to the rest of her meagre income. That’s because the province pays her rent, in the form of her shelter allowance. When the Ontario Government implemented the Ontario Disability Support Program, they set up a special ODSP rent scale. It is much lower than the rent-geared-to-income scale that other people in public housing pay. The ceiling on the shelter component for a single person with disabilities is \$464.

The scale hasn’t changed in the more than 12 years since it was set up. Why? Because raising the shelter component would mean transferring more money to Linda’s municipal public housing landlord. Linda wouldn’t see any of the money. The public housing landlord would bill the allowance back immediately in the form of rent.

The amounts are not trivial. There are approximately 40,000 ODSP recipients living in municipal public housing. Even a \$10 monthly increase in the shelter allowance for each of them would result in increased costs of \$4.8 million a year to the Ontario Government. The province has no wish to transfer such a windfall to municipal landlords.

So, the province keeps housing allowances for ODSP recipients unrealistically low.

### Artefact #3: Moving from ODSP Shelter Allowance to Rent-Geared-to-Income – A Huge Shock to Linda’s Budget

Now we know why Linda’s rent seems so low. What happens when she starts to work?

As long as Linda is not working, her rent is controlled by the province. But when her income reaches \$440 a month, the municipal landlord must, by law, switch her over to the rent-geared-to-income system.

So now we need to understand the difference between Linda’s ODSP shelter allowance scale and the rent-geared-to-income (RGI) scale.

The RGI scale is set (with some exceptions) at 30% of a tenant’s total income. For instance, if a tenant’s income is \$1,000 a month, their rent is set at \$300 a month. When Linda’s social housing landlord moved her over to the RGI scale, her rent was set at \$623 a month – 30% of her earnings from her job.

Overnight, Linda’s rent almost quintupled. Any person living on ODSP faces the same disincentive – an enormous shock to the household budget, caused by earning money.

But what about Linda’s shelter allowance – wouldn’t that be adjusted upwards too? Yes, but the monthly ceiling on that provincial allowance is \$464 leaving her to pay 100 cents on the dollar, any rental costs over \$464 with no help from ODSP.

### Artefact #4: The \$440 Rule – Buried in the Social Housing Regulations, this Obscure Rule Amounts to Zero Tolerance for Disabled People Who Try for Self-reliance

We’ve seen that earning money causes a sudden and dramatic change in Linda’s budget. But *why* did the change happen so suddenly?

The answer lies deep in the policy handbook of Linda’s municipal housing authority, where a little rule tells the landlord when to shift ODSP recipients over to the RGI scale. The rule says this should happen as soon as a recipient has had income of \$440 a month (over and above their ODSP cheque) for ten weeks. The rule is hard and fast. There are no exceptions.

Why such an abrupt transition? \$440 is only equal to minimum wage at 10 hours per week – hardly a full-time job. It’s in no way equivalent to self-

sufficiency. This is a zero-tolerance rule. Zero tolerance for working while disabled.

But Linda's municipal landlord did not make up this rule. The province did. Rent-geared-to-income Regulation 48 (6) of the Social Housing Reform Act (SHRA) does indeed obligate municipalities to enforce it. Table 5 of the regulation sets \$440 in "non-benefit income" as the threshold for moving a tenant to the RGI scale.<sup>7</sup>

Why \$440, one may ask? Why are rents allowed to soar after someone works just 10 weeks at the minimum wage? Ontario government policy makers recognized in the late 1970s that people who lived in social housing and collected social assistance would get whopping rent increases if they succeeded in getting work. As a result, a sliding scale was put in place, which moved people early but gradually to the RGI scale, cushioning the shock.

However, when Social Housing Reform Act came into effect in 1998, a flat amount of \$440 was used that has no relation to allowances as they are calculated now and nothing to do with minimum wages. But the amount is related to the artificially low \$109 a month rent for a single ODSP recipient in subsidized housing. The \$440 minus a \$75 a month earnings exemption in subsidized housing equals \$365. Thirty per cent of \$365 is equal to the \$109 amount. The \$440 figure is now an embedded artefact that relates to the income required to generate a rent of \$109 a month.

#### [Artefact #5: Double-dipping into Linda's Earned Income – How Two Government Silos Managed to Penalize Linda Twice for Earning the Same Money](#)

When Linda's municipal landlord switched her over to RGI, they followed the rules set out in the SHRA legislation and enforced by Ontario's Ministry of Municipal Affairs and Housing. According to those rules, Linda's rent should be calculated as 30% of her earned income. So her rent soared.

When the Ontario Ministry of Community and Social Services saw Linda's earned income, they effectively cut it in half, reducing her basic needs allowance to \$183 a month. So Linda's actual income didn't change much at all.

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<sup>7</sup> Social Housing Reform Act, 2000. Ontario Regulation 298/01. Rent-Geared-To-Income Assistance and Special Needs Housing.  
[http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_010298\\_e.htm#BK79](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_010298_e.htm#BK79) (date accessed: November 3, 2010)

But Linda's municipal landlord didn't take that into account. They counted her earnings at 100%, although Social Services had effectively cut them by 50%.

So here we have two social programs, created by the same provincial level of government, counting the same money to both raise charges and reduce benefits. Both Ministries set their policies in isolation from the other. Both made hard and fast rules.

The net result is "Zero Dollar Linda" as she moved from full-time hours, to part-time and finally no paid work at all. Gladwell's "Million Dollar Murray" epitomizes our strange willingness to spend millions in order to keep outliers dying on the streets. Linda's story shows us that we are also strangely willing to penalize disabled people for working – not once, but *twice*. And how strange it is that Ontario's social assistance programs spend so much on training, especially employability training. Then they waste that money by creating rules that make it very difficult to work.

I have taken to calling this toxic policy combination the *Linda Chamberlain rule*. As a society, we seem to have little interest in discovering bad rules and changing them. We almost expect to find rules that don't make any sense.

Why don't we have the imagination to solve problems like Murray, and reward successes like Linda?

Why do we run our social welfare system like a parking lot?

## 4. The Mindless Application of Poorly Conceived Policies

Last fall, I parked my car at one of my favourite downtown parking lots and greeted Barry the attendant. “I’m only here for ten minutes,” I told him. “I have to deliver a parcel and I’ll be right back.”

Barry scribbled down my plate number and gave me my ticket stub. I paid him the \$22 deposit and returned ten minutes later as promised. I fished in my pockets for the ticket stub and had that sinking feeling after I checked my last pocket. I told Barry that I had lost my ticket and reminded him that I’d only been gone ten minutes.

“Sorry,” he said. “I can’t give you the refund without the ticket stub.”

I said “Aw c’mon, you know that I was only here ten minutes!” But the discussion was over. I needed the ticket stub. Barry noted that the money would come out of his own pocket because the ticket stubs and money would not reconcile at the end of the day. I appealed to him again, saying that his boss likely trusted him and would want to keep a good customer. Besides I would write a note and sign it.

“Sorry,” said Barry. Barry felt badly for me. He didn’t feel bad about the rule, even though I thought the rule was absurd under the circumstances. And he didn’t feel bad about his lack of discretion to adjust the rule to the situation. Barry is neither trained nor paid enough to exercise discretion in the application of a policy. No, Barry just felt sorry for me because I had lost my ticket.

Dealing with customer upset is a top-of-mind requirement for anyone taking a course to become a parking lot attendant.<sup>8</sup> That’s because the job of parking lot attendant is a zero-tolerance job. The rules must be obeyed to the letter. There is no customer-facing discretion built into the attendant’s job.

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<sup>8</sup> For example, course number 235 on the Michigan Jobs and Career portal of the state government website notes the following requirements for a parking lot attendant: “You should be able to write a letter of apology to any customer that you may have upset...You should be able to decide the best way to talk to an enraged customer without angering him or her more.” <http://www.michigan.gov/careers/0,1607,7-170-46398-64376--,00.html> (date accessed: November 3, 2010)



Parking lot attendants are tested every day. Customers press hard. They constantly want the rules bent. This is why Barry has to remain resolute.

I once asked Barry about the sign posted in the parking lot that said, “NOT RESPONSIBLE FOR DAMAGE HOWEVER CAUSED.”

“So,” I mused, “If the parking lot owner comes here and takes a sledgehammer to my car and smashes it up, you have no responsibility at all to me?”

“That’s what the sign says,” said Barry.

Barry works for an *institution with tough rules*. From a policy-making perspective, the overriding principle, or *policy objective*, is that people pay for the time they park. Tickets are just a means of ensuring that. The policy is a fair one, and it’s fair that people should be responsible for retaining their parking stubs.

No exceptions are allowed. Attendants cannot refund money even when the customer is knowingly overcharged. That rigidity violates the principle behind the policy.

In Linda’s case, the policy objective is to help her become self-reliant. Keeping rents low for people on disability is a fair policy. It is also fair to charge higher rent when someone on disability starts to realize more earnings. And it’s certainly fair that a person on disability should receive less from the state as they start to make their own way in life. Taken singly, each one of these policies seems fair.

But taken in aggregate, the policies and practices that affect Linda deny and override the fundamental desired outcome. They do not help her become more self-reliant as she earns more. She starts to actually keep less as she earns more.

Institutions with tough rules place a higher premium on their own rules than they place on their fundamental objectives.

## 5. Turning Government Institutions into Parking Lots

Let's accept (perhaps grudgingly) that parking lot attendants are not expected to exercise any discretion in the interpretation of policy. ("That's the rule.") Nor are they paid to take part in discussions about policy design. ("That's what the sign says.") They're trained to deal with customer anger, not the reasons for it.

Is that the kind of role we want for those we pay to design, interpret, and carry out our public policies? More and more, matters of public policy have been stripped of discretion, in favour of hard and fast, zero-tolerance rules. At the same time, public institutions have become more and more distrustful. We have distrustful schools, for instance, with zero-tolerance rules that lead to even poorer outcomes for the most troubled kids.

It feels good to be tough and allow no nonsense. It also feels good to create rules that are crystal clear and unambiguous. And then there's our notion of civil society, founded on fairness and equity. If the same rules apply to everyone, then the result should be greater fairness and equity among citizens. It's not hard to understand why we have voted in governments that create zero-tolerance policies.

The problem is that zero-tolerance rules remove the possibility of discretion. Unlike parking lot attendants, public servants go to school and obtain advanced degrees in order to manage ambiguity and exercise discretion where warranted. We pay administrators, auditors, and whole departments large salaries to find better ways.

But often, we don't allow them the leeway to act. Public institutions are terrified that the exercise of discretion might lead to an improper decision and a public uproar. So we turn our public servants into parking lot attendants. We allow their skills in discretion to atrophy. Then we get upset that they are paid well.

I believe that, on the whole, public servants are able and willing to perform their jobs with skill and subtlety. They are prevented from doing so by policies that won't allow them to do the work they were trained for.

It's a commonplace that we all "hate bureaucracy."<sup>9</sup> Yet ironically, when we clamber for zero-tolerance policies, we strengthen the kind of bureaucracy we hate. Then, when zero tolerance leads to a situation like Linda's, we blame bureaucracy for a total loss of common sense.

We can't have it both ways. The policy-makers responsible for the Linda Chamberlain rule are working with the same mindset as parking lot attendants. That's not because they lack the creativity to work out something better. It's because they belong to public institutions that hold strict rules in high regard.

Even when rules trump overarching policy objectives, they are still reluctant to change the rules.

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<sup>9</sup> Anne Golden, President and CEO of The Conference Board of Canada, speculated in a June 2009 *Readers Digest* article that people have the least respect for occupations they feel they could do just as well themselves. [http://www.readersdigest.ca/mag/cms/xcms/other-facts-about-canada--s-most-trusted\\_2749\\_a.html](http://www.readersdigest.ca/mag/cms/xcms/other-facts-about-canada--s-most-trusted_2749_a.html) (date accessed: November 3, 2010)

## 6. Distrustful Institutions and Exception-based Policy-making

When I began my career in social services in 1968, I heard much vilification of welfare recipients. They were “layabouts,” who had chosen an indolent life on the dole to avoid honest work. They were taking the taxpayer for a ride, gallivanting about town in taxicabs, calling in at the liquor store while thumbing their noses at a hard working public – a bunch of fools not smart enough to take advantage of the system themselves.

Over the next 40 years, I met thousands of people on social assistance. In my mind, I would compare the people I met to the image that had been created for them. I kept waiting to meet someone who fit the image.

Finally, in 1979, I met one. She was a middle-aged woman who said, baldly, that she had no intention of working another day in her life, had no intention of becoming retrained, and her only concern was to advocate for higher welfare rates so that she could be more comfortable. I remember just how astonished I was.

In the ensuing 29 years, I met three more social assistance recipients with no prospects and little intent to pursue any that came along. The total score, over the course of my career, was four people who fit the bill of the welfare recipient who did not want a real future. The overwhelming majority would do almost anything to escape poverty and stigma.

Yet those four people out of thousands are the ones for whom the welfare system is designed. It is a system designed for the hard cases. Almost every rule in Ontario’s ODSP and welfare law is phrased in the negative: “A person is not eligible unless...”

The plight of “Zero Dollar Linda” is a prime example of what happens in a public institution that bases its policy-making on exceptions. The rules are designed for people who want to cheat the system and avoid honest work, not people like Linda Chamberlain. Even though she represents the institution’s most fundamental policy objective, it has no idea what to do with her. At an individual level, the system fails because it forces Linda to quit her job. At a policy level, it fails because its rules are at odds with its own overarching objectives.

At a system-wide level, it is bound to fail too, as we shall see. When the rules are designed to catch cheaters, they make everybody look like one.

## 7. Auditing a Distrustful Institution: What the Auditor General Should Have Known

In December 2009, Ontario's Auditor General released his annual report, in which he reviewed Ontario's two social assistance programs – Ontario Works (OW) and the Ontario Disability Support Program (ODSP).

The report focused on “overpayments” to recipients. “More should be done to ensure these overpayments do not occur in the first place,” said the Auditor General in his press release. “If the required financial and other eligibility procedures were being properly followed, many of these overpayments might not have been given out.”<sup>10</sup>

The manner in which the report was received by the media led many members of the public to conclude that there is widespread fraud in the welfare system. Once again, we felt the old, familiar, Harris-era *frisson* of outrage at the poor.

### Does “overpayment” mean fraud?

Just what is an “overpayment” and why are there so many of them in the OW and ODSP systems? Overpayments are routinely generated because of the distrustful way the system was set up. Any number of daily life occurrences can cause the system to generate an overpayment, for example:

- A recipient estimates and reports income from another source and the amount actually received is higher than estimated.
- A recipient receives back pay from a previous time period.
- A recipient reports a move into lower cost rental accommodation without yet knowing the exact amount of rent.

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<sup>10</sup> Office of the Auditor General of Ontario. December 7, 2009. “Spend Money Like It Was Your Own, Says Auditor General.” [http://www.auditor.on.ca/en/news\\_en/09\\_newsreleases/09news\\_overall.pdf](http://www.auditor.on.ca/en/news_en/09_newsreleases/09news_overall.pdf) (date accessed: November 3, 2010)

- A part-time employer asks a recipient to work a couple of hours more than usual.
- An absent spouse unexpectedly pays a bit more child support.
- Another social program sends an unexpected cheque.

The vast majority of what we call “overpayments” is routine occurrences like these. They are not overpayments at all in the way that the Auditor General insinuates – they are not false claims that resulted in undeserved benefits. They are simply differences between *budgeted* and *actual* amounts of assistance, caused by normal changes in people’s lives.

In other business systems, what social assistance calls “overpayments” are called “adjustments” or “debits.” For example, heating and hydro bills are typically adjusted at the end of the year. When families use more heat or water than expected, they owe money to the utility company. When they have used less, they get a credit. We don’t think of these end-of-year adjustments as “abuse” or “fraud.”

A utilities company can develop systems to minimize the size of overpayments and underpayments, but it can’t reduce the number of instances. It is simply not possible to predict usage to the penny.

Similarly, the federal government determines GST credits and child benefits once a year. As long as a person’s “base eligibility” stays the same (where they live, how many children live at home, and so on), the amount they get is not adjusted until they file their next tax return. Nobody calls this fraud either.

### How monthly reconciliation inflates the numbers

Social assistance conducts business in a distrustful way that is very different from a normal business system. For systems like income tax or public utilities usage, a yearly reconciliation of accounts is the standard method of doing business. However, OW and ODSP adjust and reconcile credits and debits each *month*.

Not only does this result in twelve times the paperwork of a normal business, it also increases, by a factor of twelve, the appearance of overpayment “abuse.” These are programs designed with cheating in mind. It’s easy to make them look as if they are rife with fraud.

The Auditor General’s preoccupation with the need to reduce overpayments indicates that he fully accepts and endorses the distrustful manner in which OW

and ODSP work. The irony is that, from a fiscal point of view, overpayments are a good thing. They mean that more money is being paid to recipients from “other sources.” More people have found part-time work, or increased their hours, or succeeded in getting spousal support. That reduces the cost of social assistance to government.

### Attaching inflated costs to the inflated numbers

In his news release, the Auditor General pegs the yearly cost of both OW and ODSP at \$5 billion. He then compares this figure to the cumulative value of all present and historical overpayments in the system, possibly over many decades (\$1.2 billion). The Auditor General invites the public to conclude that overpayments make up 24% of the cost of the programs.

The sensational comparison of these two numbers is unfair and misleading. It is apples-to-oranges. The Auditor General should be comparing annual program costs with the annual amount of overpayments. In any event, fraud is a miniscule portion of all overpayments.

### The need for lots of rules

Report after report has demonstrated that the social assistance system is overly and unnecessarily complicated. One of the most compelling of those reports was authored by the Honourable Deb Matthews, former Minister of Children and Youth Services, Minister Responsible for Women’s Issues, chair of the Cabinet Committee on Poverty Reduction and current Minister of Health and Long-Term Care, in 2004:

There are now approximately 800 rules and regulations within the system that must be applied before a client’s eligibility and the amount of their monthly cheque can be determined. Many of those rules are punitive and designed not to support people, but rather to keep them out of the system. Because there are so many rules, they are expensive to administer and often applied inconsistently from one caseworker to another, even within the same office. Further, the rules are so complicated that they are virtually impossible to communicate to clients, and it takes years to train a caseworker.<sup>11</sup>

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<sup>11</sup> Matthews, Deb. December, 2004. “Review of Employment Assistance Programs in Ontario Works & Ontario Disability Support Program.” p. 25.  
<http://www.crvawc.ca/documents/EmploymentAssistanceProgram.pdf> (date accessed: November 3, 2010)

There are so many instances when an overpayment can be generated – arrears, back pays, underestimates of income, unexpected income – all counted and reconciled in the month following receipt, that the system is overburdened.

Because the Auditor General accepted without question the system’s distrustful disposition, its 800 supporting rules, and its monthly monitoring of overpayments, it became inevitable that he would identify widespread abuse. The system is so distrustful, it can appear to be designed to create abuse. It is almost impossible for an honest person to navigate the system without unintentionally running afoul of the rules.

### The Auditor General invents a new rule

The Auditor General is an officer of the Ontario Parliament. This means that he tables his reports directly to the legislature and, by convention, his reports are made public at the same time. He is not influenced by ministries or the Ontario Cabinet. His independence is a good thing.

The welcome page of the Auditor General’s website states that his office is “serving the public interest.” His basic role is to examine government programs and hold the government to the rules it has set for itself. Given that welfare is such a distrustful system, it is easy to understand why the Auditor General saw it as his role to focus on overpayments and look for abuses.

It is less easy to understand why the Auditor General said this:

Although the government considers Ontario Works assistance as temporary, about one-third of recipients in three municipalities were paid longer than two years and 13% longer than five years.

There is no legislation, no regulation, and no guideline or government directive that places time limits on the receipt of Ontario Works. Why did the Auditor General feel that it is within his mandate to set a program objective, specify time frames, and report on failure rates for a nonexistent rule?

In a 2007 report titled, “Why is it so tough to get ahead?” I set out some of the problems with the role of government watchdogs in general:

Government watchdogs, such as ombudsmen and auditors, are charged with making governments and government-funded agencies accountable for their actions. Unfortunately, auditors and watchdog agencies of various sorts operate within the constraints of the prevailing government



“business model.” This model sees departments, ministries and agencies as “silos,” responsible for their own particular piece of the “business.”

This can cause them to be government and business-focused, as opposed to citizen-focused. In other words, their first question tends to be: “Did this department as a business entity get good value for the money spent within a government business plan?”

The first question is **not**: “Did the citizen get good service for the money that was spent on their requirements as individuals, families, or communities?”<sup>12</sup>

Ontario’s Auditor General, charged with a review of a deeply distrustful system, took the first of these questions to heart. He asked the “business” questions so enthusiastically that he even conjured up a “two-to-five year rule” that can’t be found among the 800-odd rules designed to ensnare welfare cheats in Ontario.

But he failed to ask the most fundamental question an auditor should ask. Does the money we spend on Ontario Works and Ontario Disability Support help people to realize the overarching goals of these programs? Does it support them toward greater self-reliance? Do its rules treat recipients fairly when they strive for greater self-reliance?

#### What the Auditor General could have said

Wouldn’t it have been visionary if the Auditor General had asked these fundamental questions? Instead he asked, in effect, “Why do we have so many cheaters in our welfare systems?” He did not ask, “What is an overpayment?” Or, “Why does welfare’s accounting system generate so many of these, compared to other public and private accounting systems?” Or, “What is the impact of this accounting system on an individual attempting to transition to more self-reliance – someone like Linda Chamberlain, for instance?”

As members of a civil society, when we look at an institution and we see that it has rules, and the rules apply to everyone, we judge the institution and its systems to be “fair.” Welfare institutions and systems throw into relief a difficulty we have in our public discussion of fairness. It was fair, for example, that Murray had access to the hostel system, just as other homeless people do. But wouldn’t it be *better for everyone* to have different rules for Murray, rules that gave him housing and supervision and help with controlling his addiction?

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<sup>12</sup> Stapleton, John. 2007. “Why is it so tough to get ahead?” Toronto: Metcalf Foundation. p. 46.

What does the concept of fairness mean in a welfare system that suspects everyone of abuse? Can we really talk about fairness when all of the rules are zero-tolerance rules, and there is little positive discretion?

I have no doubt that there are people in Ontario who have obtained welfare benefits fraudulently – people who, for example, collect multiple issuances under false names. I think that we should have different rules for this tiny minority of recipients. Hard rules for hard cases.

For the vast majority of people on social assistance, we should have a different set of rules entirely: trustful, supportive rules that treat them as the ordinary Ontarians they are. Rules that sustain and even reward them for striving to gain maximum self-reliance.

It is unlikely, in fact, that we will soon achieve any kind of real dialogue between welfare advocates and those with the power to reform the system. On the one hand, we have a system built on the premise of distrust, bent on catching cheaters with rules designed to ensnare them. On the other, we have a constituency far too preoccupied with questions of basic survival to even acknowledge the possibility of real fraud in such a system. We have been at this impasse for quite some time.

I believe we need to create a space in the public conversation to talk about trust. Civil society should build public-facing institutions based on trust in those whom the institution serves, governed by intelligent rules that are administered with positive discretion. In other words, public-facing institutions, like our legal system, should start by giving each person the benefit of the doubt.

That way, outliers can be dealt with as exceptions, subject to tougher rules that apply in exceptional cases. Meanwhile, people who seek society's help out of need and in good faith will see their way clear to building a life of minimum dependence and maximum human dignity.

## 8. Postscript: Linda

On May 13, 2010, Linda celebrated her last day on the job at a party in her honour. Colleagues and friends wished her well knowing they were also bearing witness to a gross failure in public policy. On her June statement from her disability income program, her last earnings from the month of May and her overpayment recovery reduced her cheque from \$1,106.14 to \$469.70.

Out of that amount, she paid rent of \$428.14 and survived during June on her last two weeks of salary from May. Leaving work was not easy as her last paycheque reduces the next month's disability payment.

Linda still owes an overpayment of \$2,132.46 that will be collected from future disability payments. But without a paycheque, Linda's rent will quickly reduce to \$109 a month from \$428 (a decrease of 292%) and her cheque will rise to \$687 (a 46% increase). She will make do.

On July 5, 2010, I bought lunch for Linda and friend Pat Capponi at Fran's restaurant in downtown Toronto. Linda told us that she is planning lots of volunteer activities for the rest of the year. She is also doing some writing. When I dropped Linda off at her apartment complex, a younger woman waited patiently for the car door to open to ask Linda her advice.

Linda is good at what she does but she will not get paid very much for what she does best in the near future. Maybe she will try to get a job in the future that allows her to work just enough to maximize her income before extra hours of work once again start to reduce her take home pay. For Linda, all the options are still open. She is hopeful that the changes that will make the system work for her will come to pass.

**“Zero Dollar Linda”**  
Toronto: November 2010

**This report was prepared by:** John Stapleton

**ISBN # 978-0-9808981-2-5**

**Published by:**  
George Cedric Metcalf Charitable Foundation  
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Toronto, Ontario M5R 2J1

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