



Court file number

(Name of Court)
at
Court office address

Child Protection Order –
Office of the Children’s
Lawyer

Applicant(s)

Table with 2 columns: Full legal name & address for service, Lawyer’s name & address. Includes fields for street & number, municipality, postal code, telephone & fax numbers, and e-mail address.

Judge (print or type name)

Respondent(s)

Table with 2 columns: Full legal name & address for service, Lawyer’s name & address. Includes fields for street & number, municipality, postal code, telephone & fax numbers, and e-mail address.

Date of order

The Court heard an application/motion made by (name of person or persons)

The following persons were in Court (names of parties and lawyers in Court)

The Court received evidence and heard submissions on behalf of (name or names)

THIS COURT ORDERS THAT:

1. In accordance with s.38 of the Child and Family Services Act, legal representation is determined to be desirable to protect the children’s interests in these proceedings, due to the following circumstances (please check off the applicable provisions):

- checkbox there is a difference of views between the child(ren) and the parent
checkbox there is a difference of views between the child(ren) and the Society
checkbox the child is in the Society’s care and no parent appears before the Court
checkbox the child is in the Society’s care and it is alleged that the child is in need of protection because of:
checkbox physical harm
checkbox sexual molestation or exploitation
checkbox emotional harm
checkbox a mental, emotional or developmental condition that could impair the child’s development
checkbox the child is not permitted to be present at the hearing
checkbox the child is a minor parent
checkbox other: (please specify)

2. The Office of the Children's Lawyer provide legal representation: *(please check off the applicable box(es))*

for the child(ren), namely:

\_\_\_\_\_, born \_\_\_\_\_,  
\_\_\_\_\_, born \_\_\_\_\_,  
\_\_\_\_\_, born \_\_\_\_\_

for the minor parent, namely:

\_\_\_\_\_, born \_\_\_\_\_

3. The Children's Lawyer shall have full power to act for the said child(ren) as though they were a party(ies) to these proceedings, and without limiting the generality of the foregoing, the Children's Lawyer shall have the right to:

- (a) make a full, independent enquiry of all the circumstances relating to the best interests of the child(ren);
- (b) receive copies of all professional reports and all records relating to the child(ren);
- (c) have production and discovery according to the Rules;
- (d) appear and participate in this proceeding, including the right to examine and cross-examine witnesses, call evidence and make submissions to the Court, such submissions to include the position(s) advanced on behalf of the child(ren);
- (e) apply to set aside this order for legal representation, if the Children's Lawyer believes that such involvement is no longer required to protect the child(ren)'s interests;
- (f) take appeal proceedings; and
- (g) seek costs.

4. Upon the Children's Lawyer obtaining Authorizations signed by the parties and other involved person(s), (e.g. partners of the parties), in this matter authorizing and consenting to the release of records to the Children's Lawyer, and upon the Children's Lawyer requesting by letter (enclosing the Authorizations, this Order and the dates of birth of any party or other involved person(s) to the action), the Chief of Police and/or Commissioner of the police service(s) holding the requested records shall within 30 days from the request being received or in such additional period as agreed between the Children's Lawyer and the police force in question, send to the Children's Lawyer copies of the said records and documents pursuant to the terms set out in Appendix "A" of this Order.

5. In the event that the Children's Lawyer is ordered to provide legal representation to a minor parent under s.38(5) of the *Child and Family Services Act*, this Order shall cease to be in effect once the minor parent attains the age of eighteen years. If a trial date has been fixed before the minor parent reaches the age of eighteen, the Children's Lawyer shall be automatically removed after another lawyer has been retained to act at the trial on behalf of that parent. If this condition is not met, the Children's Lawyer may bring a motion to be removed from the record.

6. This matter shall be adjourned to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
*Date of Signature*

\_\_\_\_\_  
*Signature of Judge*

# APPENDIX A

## RECORDS

1. (a) The Chief of Police and/or the Commissioner of the police service(s), (“the Police”), holding the requested records shall, in accordance with paragraph 4 of the attached Order, (“Order”), produce to the Office of the Children’s Lawyer (“OCL”) or its agent in this matter a copy of any such records. “Records” shall include all criminal records (local and CPIC) and all occurrence reports in their possession and control relating to all police contact.
- (b) The Records produced and copied shall be given to the OCL or its agent for its own use and, if deemed appropriate by the OCL or if directed by the Court, for further production by the OCL to counsel for the parties or the parties themselves if self-represented. Such further productions shall be subject to the *Family Law Rules and/or Rules of Civil Procedure* (“the Rules”) and an explicit acknowledgement of the restrictions set out in this Order. Any Records produced and copied may only be used for the purpose of the within litigation.

## ADDITIONAL RECORDS

2. (a) The OCL may make a request, in writing, for the production of any of the corresponding memo-book notes, reports, diagrams, photographs, statements, and audio or video recordings related to the Records (“Additional Records”). Such Additional Records produced and copied shall be given to the OCL or its agent for its own use and, if deemed appropriate by the OCL or if directed by the Court, for further production by the OCL to counsel for the parties and such production shall be subject to paragraph 3 of this Appendix.
- (b) Where a party is self-represented and the OCL deems it appropriate to allow access to all or some of the Additional Records, the OCL will arrange for viewing of the Additional Records at the OCL’s office or another mutually arranged location, but the self-represented party will not be given copies of the Additional Records, subject to the requirements of the *Rules* and an explicit acknowledgement of the restrictions set out in this Order, or any further Order of the Court. Any Records produced and copied may only be used for the purpose of the within litigation.

## OTHER CONDITIONS AND RESTRICTIONS

3. Production of any Records or Additional Records pursuant to paragraphs 1 and 2 of this Appendix shall be subject to the following conditions and limitations, and any reference to Records in this paragraph also applies to the Additional Records:
  - (a) Records involving child sexual abuse, sexual offences, child pornography, torture or similar conduct shall be produced pursuant to paragraph 1 of this Appendix but any electronic, video, audio or photographic evidence relating to same shall be provided to the Court in a sealed envelope and the OCL shall be notified of this. Such records shall only be viewable pursuant to subsequent Court order;
  - (b) the parties directly involved in the litigation in this matter shall not disclose the Records produced and copied, or any information contained in the Records, to any person who does not have a direct interest in this proceeding (except to an expert consulted or retained by the OCL, or a party, or appointed by the Court, for the purpose of rendering an opinion or doing an assessment);
  - (c) any Records to be produced are those in the possession and control of the Police and nothing in this Order requires the Police to search or obtain documents from any other agency or person. However, the Chief of Police and/or the Commissioner of the police service(s) to whom the request is made shall advise the OCL of the existence of any Records in the custody of any other police service to the extent that they are aware of same;
  - (d) no Records containing Young Person information (as set out in the *Youth Criminal Justice Act*) regarding investigations, charges, sanctions or convictions of or by the Young Person will be produced unless such release is ordered by a Youth Justice Court in compliance with the *Youth Criminal Justice Act*, but the Police shall advise the OCL of the existence of such Records;

- (e) in the event that the Police or Crown claim that any Records are subject to statutory or common law protections, including but not limited to, DNA, public interest immunity and/or privilege (such as solicitor/client, informant or investigative privilege, victim/witness safety information or plans and information that could compromise law enforcement interests or officer safety, including internal law enforcement codes, classification numbers, Information to Obtain Search Warrants, warrants and Returns to Justices – to the extent that such information has not been authorized for release or part of the public record), the Police or Crown shall so notify the OCL upon discovery of such claim, and if such claim is not agreed to, the OCL may bring a Motion on at least 7 days notice for a determination of the issue;
- (f) if the Police or Crown later assert a claim of privilege in regard to a document or information that was produced, the OCL, a party, or any person in possession of the document or information, on notification by the Police or the Crown, shall return such document and expunge any notes or copies of or relating to the document or information for which the privilege is claimed, unless such document has been relied upon in the litigation. In the first situation, if the claim of privilege is not agreed to, the OCL or a party may bring a Motion for a determination of the issue, which may include seeking interlocutory or permanent return of the document to the OCL or party. In the latter situation, where the document in question has already been relied upon in the litigation, the Police or the Crown will be responsible for bringing a Motion for a determination of the issue, which may include seeking interlocutory or permanent return of the document and/or destruction or sealing of the applicable portion(s) of the Court file;
- (g) the production of the Crown Brief and its contents in its entirety is subject to a specific order of the Court upon notice to the Crown (Crown Law Civil or Department of Justice, Canada – depending upon which is prosecuting the matter) or with the consent of the Crown and shall not be subject to this Order;
- (h) information identifying persons who are not parties to the proceeding may be released with the consent of the person(s) and/or subsequent order of the Court;
- (i) if the Records include personal health records:
  - (i) of the parties, such records will be segregated or sealed when provided to the OCL for review;
  - (ii) of parties or other persons who have not consented to the release of such records, Police will identify the existence of such to the OCL for determination as to whether they are required and whether a subsequent order of the Court or consent of those non-consenting party(s) or other person(s) is required;
- (j) where Records relate to an investigation that is on-going and charges are pending and likely and/or a matter before Criminal Court, the Police shall produce within 30 days of receipt of this Order or as otherwise agreed: (i) the Information setting out the charges currently before the Criminal Court; (ii) any terms of release/recognizance of bail terms in relation to the charges; and (iii) with the consent of the Attorney General, Crown Law – Criminal (Wagg Unit) and Department of Justice Canada, if a federal prosecution, any other information (for example, a synopsis or investigative summary, summaries of interviews, etc.), provided that the issue of full production of records in those matter(s) is adjourned without prejudice to the OCL's right to bring this matter back before the Court, on at least 7 days notice to the Attorney General, Crown Law – Criminal (Wagg Unit) and/or Department of Justice Canada, for a determination on further production;
- (k) the Police shall make a copy of the Records to be produced and may mail such by either regular mail or courier to the OCL or its agent upon production of a copy of this Order;
- (l) the Police shall advise the OCL of any technical or retention period limitations on its search for the requested Records;
- (m) pursuant to this Order, if the Police have any concern regarding the production of the Records or the Additional Records herein, the Police have 30 days from receipt of this Order to bring a motion seeking an amendment or quashing of the Order as it relates to the Police; and
- (n) the costs payable arising out of this Order as it relates to the production of the Records are limited to the Police's entitlement to charge the OCL a reasonable fee, set at 25 cents a copy for matters involving 100 pages or more, for the copying of all Records; the reasonable cost of reproducing any audio or video Records; and the mailing/courier fee for such, which fees may be required prior to delivery of the documentation.