



Court File Number

(Name of Court)

at _____

Court office address

Custody/Access Order – Office of the Children's Lawyer

Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).	Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Judge (print or type name)

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).	Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Date of order

ON MOTION for an Order requesting the Children's Lawyer to provide such services as the Children's Lawyer deems appropriate;

ON READING the Affidavits of the party(ies), filed (if applicable); and upon hearing submissions on behalf of the parties:

1. **THIS COURT ORDERS** that (name of party) _____

shall serve the Office of the Children's Lawyer, c/o MGS Mail Delivery Services, M2B-88 MacDonald Block, 77 Wellesley Street West, Toronto, Ontario, M7A 1N3, Telephone: (416) 314-8000, Fax: (416) 314-8050, with a copy of this Order within 14 days of this date.

2. **THIS COURT ORDERS** that each of the parties shall complete and forward a separate Intake Form of the Office of the Children's Lawyer to that office within 14 days of this date.

3. (a) **THIS COURT ORDERS** that this matter be referred to the Children's Lawyer to provide such services, under s. 89(3.1) and s. 112 of the *Courts of Justice Act*, as she deems appropriate for the minor child(ren), namely,

_____, born _____,

_____, born _____,

_____, born _____,

_____, born _____

(If there are more children, please attach a separate sheet.)

(b) **THIS COURT ORDERS** that if the Children's Lawyer determines no such services are appropriate, she will notify the court in writing forthwith.

4. **THIS COURT ORDERS** that if the Children's Lawyer determines to provide legal representation under s. 89 (3.1) of the *Courts of Justice Act*, the Children's Lawyer shall have full power to act for the said child(ren) as though they were parties 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) 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 be removed as the legal representative of the child(ren), if the Children's Lawyer believes that such involvement is no longer in the child(ren)'s interests;
 - (f) take such appeal proceedings as deemed appropriate; and
 - (g) seek costs related to these proceedings.
5. **THIS COURT ORDERS** that if the Children's Lawyer determines to provide an investigation and report under s. 112 of the *Courts of Justice Act*, the Children's Lawyer shall have the right to:
 - (a) conduct an independent investigation into 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); and
 - (c) receive from any party copies of all further documents in this proceeding as she requests, within 10 days of such request.
6. **THIS COURT ORDERS** that 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.
7. **THIS COURT ORDERS** that this matter be adjourned to

(Judge's comments. Please note that comments are of particular assistance to the Office of the Children's Lawyer.)

Signature

(Please put a line through any blank space left on this page. If additional space is needed, extra pages may be added.)

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 6 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.