

June 10, 2003.

796 Edmond St.
Hawkesbury, Ontario
K6A 3C1

The Honourable Ernie Eves, Premier of Ontario
Room 281, Main Legislative Building
Toronto, Ontario
M7A 1A1

Dear Premier Eves:

Re: Dismal failure of Ontario's Office of the Children's Lawyer and the courts to protect children.

Just recently, I came out of a trial where my step 11-year-old daughter gave testimony under Oath in family court. In her testimony she told about how Ontario's Office of the Children's Lawyer and the local Children's Aid Society miserably failed her and her other siblings. Attached to this letter, is an article written by Louise Malenfant called "Lawyers for kids a flawed idea" which seems to reflect our sentiments about the Office of the Children's Lawyer as well.

On the stand, my step daughter testified how she told workers with the Ontario's Office of the Children's Lawyer that she was being physically and emotionally abused by her mother. My stepdaughter had been thrown up against a wall, slapped and hit, threatened with not seeing her father and threatened with death by her mother. Of course all this physical and emotional abuse occurred after a judge in a previous family court had determined a few years earlier that this girl was best to be in the care of her abusive mother. She was scared during these incidents. Being forced by the family court to be kept under the sole custody of an abusive custodial mother for these past years has been an absolute nightmare for this child. She also mentioned how she witnessed her mother assault myself and her testimony was supported by evidence from other sources.

She told how the Office of the Children's Lawyer did nothing to help. What is very strange is that although a worker with Ontario's Office of the Children's Lawyer spoke to my stepdaughter as part of a custody assessment, the worker did not even mention in her report of having interviewed the girl. In other words, the worker just turned a blind eye to the abuse that this young girl had reported to the worker. The worker with the Children's Aid Society told the girl that it was OK if her mother physically abused her, as long as her mother "spoke to her afterwards."

When she testified in court as to the assaults on her, nobody in the court did anything as well. Clearly, a victim of abuse, a child, sat on the stand and reported physical abuse against her in front of all kinds of authorities, yet everyone in the court system just listened but did nothing. Nobody from the court called the CAS or to follow up on this or to see that the mother was made accountable for her crime. Could it be because the perpetrator is a mother and that it is not politically correct in the family court system to charge mothers for assaulting their children?

With the millions of dollars of taxpayer's monies that are being given by the Ontario government to these agencies, I find it absolutely deplorable that workers with Ontario's Office of the Children's Lawyer are not competent enough or professional enough during a custody assessment to deal with a situation where a child is being abused. Thousands of dollars of taxpayer's money were spent by the Government of Ontario in my case and in the end, these government funded agencies failed miserably. They did absolutely nothing except to collect money from the taxpayers. I ended up hiring a private agency and for a few hundred dollars, got the truth exposed in about two or three days.

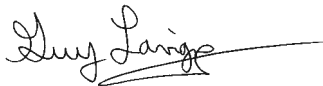
It's about time that the Ontario Government shut down this Office of the Children's Lawyer. My experience has shown that they are incompetent and biased and I have heard many other stories of corruption and incompetence as well. They clearly are not doing the job that the taxpayers of Ontario would expect. The task of assessing children should be hired out to the private sector where there is less of a bureaucracy and where those in the private sector can be held liable should they mishandle a case. As it now stands, everyone from the police to the Crown Attorney's office back up the Office of the Children's Lawyer even when they are wrong as they are seen as being part of the huge government of Ontario bureaucracy. Why should the taxpayers of Ontario be paying for this shoddy and incompetent work. Is there no accountability with the Office of the Children's Lawyer?

Another point I would like to make is that had these agencies not been involved, court matters would have likely been resolved much quicker. If anything, these agencies did nothing except to slow down the process of resolving matters as it was just another layer of bureaucracy that had to be given time to do their assigned jobs. The Office of the Children's Lawyer and the family court system in general have created nothing but more anguish, more paperwork, more money spent and created more delays. The result – children abused by the system and matters made far worse than they should have been. I also found out that Mr. Wilson McTavish, the former head of the Office of the Children's Lawyer, testified before a Parliamentary committee that Ontario's Office of the Children's Lawyer did not represent the best interests of children when it acted on their behalf, which in itself is a shameful example of the failure of government to help children.

If you are interested in knowing more about my family's experience, transcripts of my stepdaughter's testimony at court can be provided.

Your response and views about Ontario's Office of the Children's Lawyer would be most appreciated.

Yours truly



Guy Lavigne, *A victim of Ontario's totally incompetent and biased family court system*

Attachments: Article – Lawyers for kids a flawed idea

cc: Ombudsman of Ontario
Various members of Provincial Parliament

Lawyers for kids a flawed idea

By Louise Malenfant

Printed in the Calgary Herald - Wednesday, June 04, 2003

Although we can't blame her for trying to protect the interests of children in divorce cases, I have trouble agreeing with Children's Services Minister Iris Evans over the need for children to be represented by lawyers in contentious custody cases, (Kids Get Rights to Lawyers, the herald, May 4).

There aren't too many people left in Canada who haven't lived in or near one of these family meltdowns, where allegations of abuse and virulent denials make it seem impossible to determine who is telling the truth and who is living in the danger zone of violence.

Evans believes that if children are given legal representation, it will signal a zero-tolerance policy when abuse allegations are made. The Plan hasn't worked for Ontario, however, where the Office of the Children's Lawyer (OCL) has operated for more than a decade. As the family advocate of Parents Helping Parents, I have advised the people of Ontario to stay away from the OCL or get rid of it as soon as possible if it has already entered the case. Our organization's mandate is to reduce high-conflict divorce by ensuring that every person receives a full and fair investigation when abuse allegations are made in custody battles. Unfortunately, the last place to find fairness is in the Office of the Children's Lawyer.

The OCL of Ontario subscribes to the theory that it is critically important for a child to have one primary parent, known as the "anchor parent" in their jargon. While they don't say it in so many words, they are referring to the custodial parent, the primary caregiver - the mother, of course. According to this theory, it is critical that the family courts do everything to make the anchor parent happy, for it stands to reason that she will then be able to make her children happy. Even in cases where the children's lawyer readily acknowledges that false allegations of child abuse are being made, they argue that the only way to end the conflict is to end visitation for the accused parent, all in a bid to "make the anchor parent happy." I have seen this disturbing bias applied like a cookie cutter to any case where allegations of abuse or access denial is rampant.

It doesn't seem to matter that many of these mothers have a history of conflict with the world, and they are just as likely to cut off all ties with their own families as they are with the paternal families. According to the OCL, nothing must interfere with the power of the anchor parent to make decisions for the children, even if that means subjecting them to the depredation of repeated investigations for abuse that are never verified by police or child welfare authorities.

Far from reducing conflict, the OCL watched as nearly 85,000 cases entered the arena of family court in 1999, with almost half of the litigants opting to get rid of lawyers altogether and represent themselves. This idea is a budget breaker, as the elimination of visiting rights brings more people into the courtroom, not less, where devastated families fight for years to resume contact with the lost children.

So, perhaps, there are those will understand if I get a little nervous when Evans calls for zero tolerance on allegations of abuse in divorce proceedings. Zero tolerance is just another code word for "presumed guilty," which suggests that Alberta's children's lawyer will have the mandate of imposing strict restrictions on any case where allegations of abuse are made. The inherent bias of zero tolerance creates a system of injustice which is a recipe for disaster. Corner any animal, and eliminate freedom, due process and basic needs, and what you get is a very dangerous and explosive animal ready to do harm to himself and others. Add to this volatile mix the emotional trauma that always attends divorce, and what you end up with is a policy that may even endanger the safety of women and children.

As for the idea that more lawyers will enhance the operation of the legal system, no offence, but lawyers are already the primary weapons for prosecuting false allegations in the courts.

If we are honestly looking for solutions, then we need not look any further than Edmonton's pilot project for a special investigator, which has operated in that city for two years. With a mandate to investigate any allegations arising in custody battled before the Court of Queen's Bench, this office has brought back the art of effective investigation to these volatile cases. This program needs to be expanded for the entire province of Alberta, as it has succeeded in reducing false allegations, reducing violent explosions, and returning the court to a level of respectability it enjoyed before perjury destroyed its reputation. Lawyers have a poor track record for reducing anything, but investigators and their talents bring with them a realistic hope of bringing peace to the family court and holding back those family disasters that chill us to the bone.

lmalenfant@shaw.ca

Louise Malenfant is the Family Advocate of Parents Helping Parents, a men's rights organization affiliated with Calgary's Family of Men Support Society.