



Demystifying the OCL

A Practical Guide for Front-Line Professionals

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Child Welfare • Family Law • IPV Services • Administrative Support

Welcome & Introductions



Facilitators & Participants

Quick round of who's in the room — child welfare, family law, IPV services, and administrative support.



Quick Icebreaker

This session is for everyone in the room — we welcome questions at the end of our presentation.

Workshop Objectives

By the end of this session, you will be able to:



1

Describe the OCL's mandate

What the OCL does, why it exists, and where it fits within Ontario's child welfare and family law systems.



2

Identify types of OCL involvement

The OCL's role shifts across custody disputes, child protection, adoption, property, and more.



3

Articulate the OCL's limitations

What falls outside the OCL's scope — so you can set realistic expectations with families and colleagues.

Why This Matters



The Problem

- Parents call the OCL expecting them to be their lawyer
- Child welfare workers get frustrated when the OCL challenges their plan
- Administrative staff field calls from confused families
- Family lawyers expect the OCL to investigate for their case



The Solution

- A clear understanding improves collaboration across every role
- Families get accurate information from the start
- Professionals can prepare realistically for OCL involvement
- The child's voice is heard more clearly — leading to better decisions



QUICK POLL

"The OCL represents the child's best interests in court."

TRUE or FALSE?

What Is the OCL?



An independent office

Part of Ontario's Ministry of the Attorney General — but not part of government policy-making, and not aligned with any agency or interest group.



Led by an independent Crown law officer

The Children's Lawyer is appointed by the Lieutenant Governor in Council, on the Attorney General's recommendation.



A mandate defined by statute

A sole mandate to represent children — allowing positions that may be unpopular with government, a CAS, or a parent, always in service of the child's views.

Core Mandate

The OCL doesn't choose its cases at will — its authority comes from specific legislation.



CYFSA

Child, Youth and Family Services Act — court can order OCL representation in a child protection proceeding.



Courts of Justice Act

Court can request a clinical investigator in custody & access (DPC) cases under the Divorce Act or CLRA.



Also: additional provisions allow OCL involvement in openness cases, property rights cases, and secure treatment proceedings — each with its own statutory trigger.



KEY POINT

The OCL Is Not a General Child Advocacy Service

- Cannot be accessed simply because someone believes a child needs a lawyer
- Involvement is always triggered by a court order or specific legal criteria
- In child protection: the court orders involvement. In DPC: the court can request it, but the OCL has discretion

Two Primary Roles

The OCL Lawyer vs. the OCL Clinician — often confused, always distinct.

Feature	 The Lawyer	 The Clinician
Represents	The child (legal counsel)	The court (investigator)
Main task	Advocates for the child's views & preferences	Investigates & reports on the child's needs/interests
Output	A position communicated to parties & court	A written report filed as evidence
Confidentiality	Solicitor-client privilege applies	Not privileged — unless assisting a lawyer
Where used	Child protection & DPC cases	DPC cases only

The Clinician's Role

In DPC cases, the clinician is a clinical investigator



- Investigates and reports to the court on the child's needs and interests
- Meets with the child, parents, and collateral sources
- May observe the child together with each parent
- Writes a report with custody & access recommendations
- Report is filed with the court and becomes part of the evidence
- Commonly referred to in Court as a section 112 report.

Clinical Assist: When a Clinician Assists a Lawyer



- Works under the lawyer's direction
- Covered by solicitor-client privilege
- Contributes to the lawyer's position and advocacy — brings a clinical lens to family dynamics and the child's needs
- If evidence is needed, provides it by affidavit or testimony

Key distinction: In a Clinical Assist, the clinician does NOT write a report — unlike a primary clinical investigator.

Interactive: Match the Role

Who is assigned — lawyer, clinician, or both?



Scenario 1

A judge in a divorce case orders the OCL to investigate and report on a custody dispute.



Scenario 2

A child is apprehended by a CAS, and the court orders the OCL to represent the child.

DPC Cases vs. Child Protection Cases

Where a lot of the confusion — and frustration — lives.



DPC Cases

Decision-making, Parenting Time & Contact

- A court order here is a REQUEST only
- The OCL has discretion to accept or decline, based on published intake criteria
- Role: provide information to the court so it can decide in the child's best interests
- Court makes the best-interests decision — not the OCL
- The parties must complete intake forms within 14 days of the court order.



Child Protection

Brought by a CAS under the CYFSA

- Involvement is MANDATORY if ordered under s.78 CYFSA
- The OCL will assign a lawyer — no discretion to decline
- Role: give the child an effective voice in the proceeding
- No clinician involved — lawyer only
- Parties are not required to complete intake forms.

Criteria for Accepting a Parenting Case

- Resources – availability of lawyers and/or clinicians in the area.
- There is a dispute about the child's wishes;
- The case is high-conflict, and the child appears to be caught in the middle;
- One parent is seeking to move the child outside of the jurisdiction;
- There are interjurisdictional issues involving Hague Convention or non-Hague Convention countries;
- There are allegations of family violence;
- There are allegations of substance abuse or mental health issues with one or both parent and/or the child;
- A non-parent is seeking parenting time, contact or decision-making authority; and
- The court specifies how or why the OCL would be helpful.

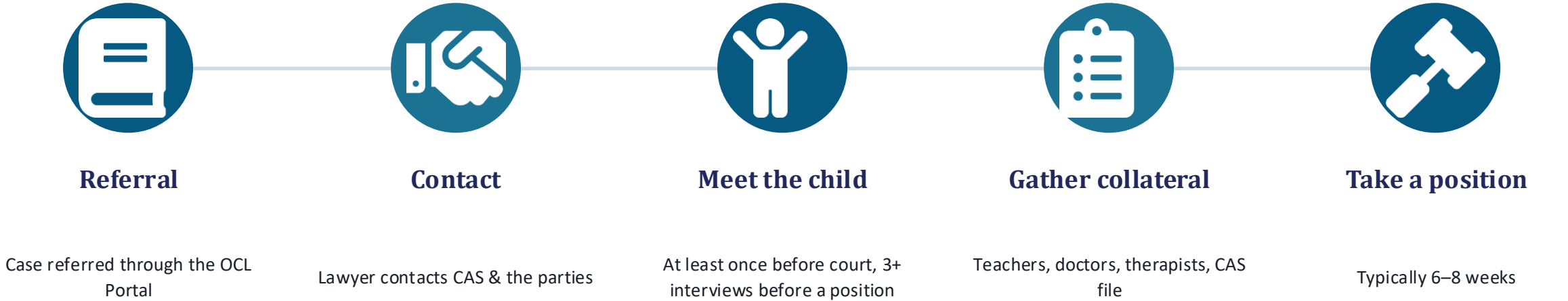
Child Protection Cases: The Role

Providing an “effective voice” for the child



- Advise the child on their options and the process
- Facilitate settlement discussions between the parties
- Push for timely resolutions — reduce unnecessary delay
- Position is based on the child's views & preferences — unless not strong, consistent, or independently formed

Child Protection: How the Process Works



Why 3 interviews minimum? To assess whether the child's views are strong, consistent, and independently formed before a position is taken.

In domestic family law (DPC) cases, the OCL does not have to accept a case.

In child protection cases, the OCL will assign a lawyer if the court makes an order.

The court order is a request in DPC cases — a guarantee in child protection.

Beyond DPC and Child Protection

The OCL's work reaches into several specialized streams.



Openness (Adoption)



Property Rights



**ADR / Family Group
Conferencing**



Secure Treatment



**Minor Parent
Representation**



**16- & 17-Year-Olds /
VYSAs**

Minor Parent Representation

Under s.78(5) CYFSA — a distinct role from representing a child



- OCL represents minor parents (under 18) in child protection proceedings
- Role: provide legal advice and follow the client's instructions — just like any adult parent client
- Different from representing a child: the lawyer advocates for the minor parent's position, not the child's best interests
- Minor parents often face added challenges: trauma history, involvement in care, youth justice involvement

The OCL lawyer must be diligent in maintaining contact — going the extra mile to reach an unresponsive client and persisting in efforts to obtain instructions.

Minor Parent Representation: Key Points



- OCL lawyer must determine the minor parent's position and advocate for it
- Must help the minor parent develop a plan of care
- Must advocate for placement & access that maintains the parent-child relationship
- Representation ends when the minor turns 18 — unless a trial is already scheduled

16- and 17-Year-Olds and VYSAs

Ontario's age of protection has included all children under 18 since 2018



- Youth aged 16–17 who need protection are eligible for the full range of child protection services
- A Voluntary Youth Services Agreement (VYSA) is a voluntary agreement between a youth and a CAS for financial support and services
- OCL referral is required when a society considers a VYSA, kinship placement, temporary care agreement, or court order
- OCL provides legal advice on options, and may represent the youth if they enter a VYSA

VYSA: Key Points



- Voluntary — the youth can end it at any time
- The youth must be involved in developing the Voluntary Youth Services Plan
- OCL lawyer can attend planning meetings and review the agreement
- If the society proposes termination, the OCL is notified and can advise the youth
- Can continue to age 18 — with possible eligibility for Continued Care and Support for Youth (CCSY) to age 21

Openness (Adoption) Cases



Maintaining connections

A legal framework for a child to keep relationships with siblings, extended family, or a FNIM community after adoption — from occasional letters to regular visits.



Openness is NOT access.

Access is a parent's right to see their child. Openness preserves other meaningful relationships.



What contact looks like: The legislation allows written, verbal, or face-to-face contact — the key is maintaining the child's connections without undermining the adoptive placement.

Openness: The OCL's Role



- Represent the child in openness applications or negotiations
- Advise the child on their right to seek openness
- Negotiate agreements on the child's behalf
- Litigate the matter in court, if necessary

The 30-day limitation period to bring an application is strict and CANNOT be extended — flag this immediately.

Adoption Consents and Independent Legal Advice (ILA)



- Any child seven years or older must receive ILA about their adoption
- OCL assigns counsel to meet with the child, review the legal issues, and determine if the child wishes to sign consent
- The child has a solicitor-client relationship with OCL counsel — discussions are private
- The child has 21 days to withdraw consent after signing

Property Rights Representation



What it is:

When a child has a legal interest in property, estates, or trusts — for example, an inheritance from a grandparent.

The OCL's role:

Assign a lawyer to represent the child's property interests, ensuring financial and material assets are protected in estate litigation, trust disputes, or civil cases.

Alternative Dispute Resolution (ADR) / Family Group Conferencing (FGC)



What it is:

A process to resolve child protection issues outside of court — bringing together family, CAS, and service providers to develop a plan for the child's care.

The OCL's role:

May assign counsel to represent the child in an FGC/FGDM process — ensuring the child's voice is heard and their interests are protected in the family's plan.

Secure Treatment Proceedings

Under Part VIII of the CYFSA



- OCL represents children on applications for commitment to long-term secure treatment facilities
- An order commits the child to a locked facility for treatment — engaging liberty interests under the Charter
- Legal representation is mandatory; the OCL follows the client's instructions
- Six strict criteria must be met before a court can order secure treatment; expert evidence is almost always necessary

Voice of the Child Report



- Requested by a judge or hired by the parties on consent.
- **Process:** Usually involves two or three confidential interviews where a neutral clinician speaks with the child. The child often reviews the notes to ensure accuracy before completion.
- The report only outlines what the child says. It does not contain professional recommendations, psychological diagnoses, or a formal assessment of the child's best interests.
- The parties have one business day of the date of the order to complete the intake forms and email them to OCL.

Which Path Is This?

For each scenario: type of involvement, OCL professional(s), and primary goal.

A



A 5-year-old is the subject of a contentious custody dispute. The judge orders an OCL investigation.

B



A 14-year-old Crown ward with an access order to her brother is being placed for adoption.

C



A 10-year-old is apprehended by a CAS. The court orders the OCL to represent her.

D



A 16-year-old inherits a house from a grandparent; there's a dispute over who manages it.

E



A 16-year-old mother is in a child protection case; CAS seeks extended society care of her infant.

What the OCL Is NOT

Setting accurate expectations starts here.



A decision-maker

The court decides best interests — the OCL advocates for a position.



A family's lawyer

The OCL represents only the child; it cannot advise parents or caregivers.



An assessor for adults

Reports serve the court, not a parent's case; the lawyer never investigates.



An emergency service

For imminent risk, contact a CAS or police — the OCL's work follows the court process.



Automatically involved

In DPC cases the OCL can decline — a court order there is a request, not a guarantee.

Setting Expectations, By Role



Administrative Staff

- You can't “make” the OCL take a case
- Help families complete intake forms accurately
- Manage expectations on decision timelines (several weeks)



Child Welfare Providers

- OCL lawyer will need access to your file and workers
- They may challenge your plan if it doesn't match the child's views
- See them as a partner in ensuring the child's voice is heard



Family Law / IPV Providers

- The OCL is not your investigator — it doesn't gather evidence for a client
- They will not take sides with a parent
- Involvement can encourage settlement, but adds a new independent voice

Mythbusters

Myth or fact — call it out.

The OCL will represent a parent who can't afford a lawyer.

The OCL must take every case a judge refers to them.

The clinician's report is just a recommendation the judge can ignore.

The OCL lawyer will tell the judge what the child wants.

** Mandatory for child protection cases; discretionary for DPC cases.*



Three Key Takeaways



Role

The OCL's core job is to give the child a voice in court — not to decide what is best for them.



Process

Involvement is specific to the legal stream (DPC vs. CP) and can mean a lawyer, a clinician, or both. Mandatory in CP; discretionary in DPC.



Limits

The OCL is not a general support service, a family's lawyer, or an emergency responder. Understanding its limits is key to effective collaboration.



Questions & Discussion

Thank you for your engagement today.