



April 30, 2026

Vaia Pappas (vaia.pappas@ontario.ca)
Ministry of the Attorney General
Court Services Division
Operational Support Branch

Dear Ms. Pappas,

RE: Consultation on Improving Information-Sharing Between Criminal and Family Courts

I am writing on behalf of the Federation of Ontario Law Associations (“FOLA”). FOLA represents Ontario’s 46 county and district law associations, and through them, their members. We appreciate and thank you for your invitation to comment on the Consultation Paper on Improving Information-Sharing between Criminal and Family Courts.

With respect to the questions asked as part of the consultation, we note that the 15-day consultation period was short and does not allow for a fulsome and robust response. As such we are not able to provide as detailed as a response as desired. We are happy to discuss in more detail at your convenience or if the time is extended, we would be happy to provide a more fulsome response.

While twelve questions have been provided as part of the consultation, FOLA has focused our response on the following questions:

1. Do you often encounter families navigating criminal court and family court proceedings simultaneously?

While families navigate criminal court and family proceedings simultaneously, it would be an overstatement to say that it often happens. The vast majority of family court proceedings do not have concurrent criminal law proceeding. Having said that, where there are concurrent proceedings, it typically involves cases of domestic violence.

2. In your view, do current practices (e.g., pursuant to the rules and duties set out in family law legislation, the Criminal Code, the Canadian Charter of Rights and Freedoms, common law, etc.) sufficiently facilitate information-sharing?

Yes, current information sharing is generally sufficient. Ongoing changes to family law legislation over the last 20 years, put into place positive disclosure obligations for the parties before the family court. Form 35.1 and 35.1A require disclosure of past charges, ongoing charges, past and current involvement with Child Protection Agencies and the court, as well

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as disclosure of violence or abuse that the Court should consider in the context of decision-making decisions.

3. What do you perceive as barriers to information-sharing?

There are limited Unified Family Courts in Ontario. As such, Family law proceedings can occur at the OCJ or SCJ. The vast majority of all criminal proceedings in Ontario occur in the OCJ. The limited information sharing between the OCJ and SCJ is a barrier.

4. If, in your view, current information-sharing practices are not sufficient, what additional information would be helpful to litigants in navigating between the criminal and family courts?

Having direct access (from the court) to all existing orders for each party would be beneficial.

5. At what stage of the criminal justice proceedings would it be most beneficial to share information and why?

It would be most beneficial to share post-conviction, if any. Prior to a conviction, individuals are entitled to the presumption of innocence and all of the protections of the Charter.

8. Are there concerns as to potential impacts on judicial independence? Is there a defined scope of information that could be shared between the courts that would reduce the concerns regarding judicial independence?

There are and should be concerns regarding judicial independence. Decisions made should only be based on the information and evidence that is presented and tested in court by the trier of fact hearing the proceeding, whether it be criminal or family court.

9. Are there concerns as to potential impacts of prejudice to the accused person in a criminal proceeding? Is there a defined scope of family court information that could be shared with the criminal court that would not prejudice the accused person?

There are serious concerns as to the impacts of prejudice to the accused person in a criminal proceeding. The standard of proof in each area of law is different. The rules of evidence can be different. For example, in a family law motion, hearsay is permitted, pursuant to Rule 14(18). The exact same evidence is presumptively inadmissible in criminal law proceedings.

11. We are aware of the challenges faced by “cross-over youth” – i.e., children and youth who start off in the child protection system and end up in the youth criminal justice system.

a. Would greater information-sharing between the child protection and youth criminal justice court systems assist children and youth in these cases?

Greater information-sharing may assist children and youth. There is a clear link between involvement in child protection proceedings and youth involvement in the criminal justice system. These particular young persons are overrepresented in the Youth Criminal Justice System. This overrepresentation is studied across many common-wealth countries.

It is important to note, that children have limited standing in child protection proceedings, dependent upon their age and what order is sought. Legal representation is not automatically available for children in a family law proceeding.

12. What safeguards, specific for cross-over youth, could be put in place to uphold the principles of fairness, natural justice and to protect the presumption of innocence

Independent legal representation for the young person is essential. State funding must be provided to make this a reality.

FOLA supports and endorses the needs for a properly funded, robust Legal Aid Ontario, to assist in protecting and advocating for all participants in the justice system, whether it be in family court or criminal court.

We thank you for the opportunity to participate in the Consultation.

Yours very truly,

Karen M. Seeley
Criminal Law Committee Chair, FOLA