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May 25, 2026

The Honourable Doug Downey
Attorney General of Ontario
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

Via Email (attorneygeneral@ontario.ca)

Dear Attorney General Downey:

Re: State Interference with Criminal Defence Counsel

We are a litigation firm based in the Rainy River District in Northwestern Ontario.

We are in receipt of new information which raises serious concerns regarding conduct targeting members of our firm by the Crown Attorney's Office and the Ontario Provincial Police (OPP) officers who acted at its behest. The conduct of these state actors threatened defence counsel in our office with criminal prosecution for carrying out routine and necessary legal work to effectively represent accused persons before the court.

The conduct at issue has an intimidating effect on defence counsel and raises profound concerns about state overreach and abuse of process. It also constitutes a fundamental and unconstitutional interference with our lawyer-client relationships, the independence of the bar, and our lawyer-client privilege.

We understand that Assistant Crown Attorney Sivadanesh (Sivi) Koveerasingham has already been transferred out of the jurisdiction and has been conflicted out of all Rainy River District prosecutions. But in light of these serious intrusions into our practice – which the Crown continues to downplay and deny – we write to request that the Ministry of the Attorney General provide the public and the legal community with clarity and assurances about the appropriate internal processes and policies governing the referral of opposing criminal defence counsel for police investigation.

The basis for our request is set out below and is supported by the enclosed materials.

New Revelations Regarding Actions of the Crown Targeting Defence Counsel

On May 19, 2026, the Ministry confirmed – for the first time – that counsel in the Fort Frances Crown Attorney's Office who had carriage of the prosecution of our clients had requested that the OPP investigate defence counsel in our office for potential criminal charges. In its representations in an appeal before the Information and Privacy Commissioner of Ontario (IPC), the Ministry stated:

The Crown's Office in a small Ontario jurisdiction became concerned with the conduct of a firm of Criminal Defence Counsel who were representing accused parties in the local criminal court. The conduct was sufficiently concerning that the Crown's Office asked the Ontario Provincial Police to conduct an investigation to determine whether the conduct met the threshold for criminal charges to be laid. The police investigated and spoke with Crown Attorneys who had carriage of prosecutions in which these Criminal Defence Counsel had been retained by accused parties. Ultimately, no charges resulted from this police investigation.

[...]

The requested records were created for the purpose of gathering evidence in anticipation of potential criminal charges against the Criminal Defence Counsel.

These are extraordinary and disturbing admissions. The "conduct" described by the Ministry appears to have consisted of core defence functions: interviewing witnesses, obtaining sworn statements, and gathering evidence on behalf of accused persons facing criminal prosecution. These are routine and necessary tasks carried out in the effective representation of an accused person. The failure of defence counsel to carry out these tasks would verge on professional negligence.

The Ministry's representations to the IPC follow over a year of obfuscation by Crown officials who have been engaged directly by our office, as well as by our external counsel. Notable is the Ministry's ongoing, tacit suggestion that it is business-as-usual for a Crown prosecutor to simultaneously refer opposing counsel for police investigation, appear in court across from and negotiate resolution with those same lawyers, and make themselves a witness in relation to the same matters they are prosecuting – apparently without any oversight, checks, balances, or policy-driven process.

Background to this New Information

The facts preceding these new revelations, contained in the IPC representations, are as follows:

- In late 2024, we became aware of police officers seeking to question witnesses who had provided statements to our office. This was disturbing to us, and the suggestion of contemporaneous Crown disclosure was that prosecutors had prompted these attendances. This was further confirmed on March 6, 2025, when members of our office discovered Mr. Koveerasingham fraternizing with OPP Detective Constables Kevin Costa and Declan Weir at a bar in Fort Frances. Mr. Costa and Mr. Weir are the OPP officers that were recruited to engage in the investigation of our practice. They appear to have made numerous trips from southern Ontario to Fort Frances to do so over several months.
- Upon reporting this information to Ann Pollak, the Crown Attorney for the Rainy River District, Mr. Koveerasingham was immediately transferred to the Thunder Bay Crown Attorney's Office. We understand he has been conflicted out of all Fort Frances matters (even though his superiors continue to deny that this is the reason for his transfer). Notably, Ms. Pollak's non-response to our concerns raised further questions regarding the authorization, oversight, and propriety of this investigation of opposing counsel while her office had continuing carriage of our clients' prosecutions.
- On March 25, 2025, our former placement student from the Bora Laskin Faculty of Law at Lakehead University was publicly confronted by Mr. Costa and Mr. Weir. The officers were

in plainclothes, and somehow located our student outside of her Dean's Fellow session in the law school building in Thunder Bay. The officers identified themselves as being from the "Serious Fraud Department" of the OPP and confirmed that they were investigating our firm. They proceeded to demand that the student answer questions. Our student reported to us that the officers implied that her career could be impacted. She was frightened and intimidated by this.

It appears that Mr. Costa and Mr. Weir were intending to extract a statement from our student that the statutory declaration bearing her signature had been fabricated – which is untrue. She immediately recognized the privilege concerns at issue and declined to speak with the officers.

Mr. Weir's and Mr. Costa's attendance has been brought to the attention of the law school, which has expressed grave concern about the OPP's actions and the potential use of vulnerable students to intrude into privileged legal matters. For obvious reasons, we are disgusted that police officers would do this, and are troubled that they may have done so at the recommendation of Crown counsel. It is unclear if Mr. Koveerasingham, based on his personal social knowledge of our firm, directed officers to our student's whereabouts.

- On May 14, 2025, after failing to get any productive response to our concerns from Ministry officials, we issued a [public statement](#) (a copy of which is enclosed) expressing our concerns about these acts of interference with our clients' representation, our professional obligations, and the failure of Ministry officials to address these issues. As we stated at the time:

We are steadfast in our view that if there was any question about the work we have done in investigating cases and interviewing witnesses, the appropriate response is to test the evidence in court. It is not to hamper the ability of the defence to carry out that work. In fact, leading legal texts confirm that threatening counsel with criminal proceedings to discourage attempts to interview a witness is unethical.

By doing so, the Crown and police are implicitly sending the message that defence counsel will be personally at risk of criminal sanction and scrutiny simply for performing their core duties for their clients. This strikes us as an intimidation tactic for not taking police allegations at face value, or for assisting our clients to identify favourable witnesses and evidence. We see this as a reckless effort to harass our lawyers, to coerce witnesses into making unfounded allegations against our office, and to interference with lawyer-client privilege, litigation privileged communications, and our professional duties to our clients.

- These same issues were raised in a May 5, 2025 complaint to Randy Swartz, the Assistant Deputy Minister for the Criminal Law Division. Mr. Swartz's July 21, 2025 response failed to meaningfully address the primary concerns raised by our office that Crown counsel had directed a police investigation of criminal defence lawyers who were engaged in normal professional duties. We found Mr. Swartz's letter especially inappropriate and dismissive, given his supervisory duties over Crown prosecutors, the serious nature of the issues we raised, and their ramifications for the administration of justice in our community. We enclose copies of our correspondence with Mr. Swartz.

Importantly, all of the relevant criminal prosecutions involving our clients were stayed or withdrawn by the same Crown counsel who triggered the investigation against our firm, despite being

“concerned” enough trigger a resource-intensive police investigation into our office. In addition, in all but one case, the police interviews of witnesses about our firm took place *after* our clients’ charges were withdrawn. These decisions and this timing raise further questions regarding the basis for the investigation, given the Crown’s unwillingness to test any of this “concerning” evidence in court. We are left with the distinct impression that Mr. Koveerasingham triggered an irresponsible, malicious, and resource-intensive police investigation on the bald allegation that members of our firm prepared false sworn statements – which he never bothered to test in court through cross-examination.

These Actions Attack the Proper Administration of Justice and Lawful Defence Practice

The right to be represented by independent legal counsel, who can fulfill their professional obligations without fear of reprisals by the state, is vital to our justice system. The steps taken against our office and staff weaken the ability of accused persons to make full answer and defence to their charges. The recent revelations from the Ministry’s IPC representations confirm that the Crown launched an investigation into opposing defence counsel at our office. This is deeply troubling.

The ability of defence counsel to investigate facts, interview witnesses, and gather evidence without fear of retaliatory state scrutiny is not a peripheral feature of our justice system. It is fundamental to the administration of justice, the constitutional right to make full answer and defence, and the independence of the legal profession itself. We rely here on *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, which discussed the parameters of the *Charter* rights of accused persons and defence counsel.

Where police and prosecutors coordinate investigative efforts directed at defence lawyers for carrying out ordinary advocacy functions, the implications extend far beyond any individual lawyer or law firm. Such conduct risks creating a chilling effect on criminal defence advocacy, particularly in smaller jurisdictions where defence counsel regularly oppose the same prosecutors and police services appearing to have initiated or participated in the investigation.

This issue cannot be dismissed as a mere disagreement between institutional actors. The Ministry’s own representations appear to confirm that:

- Crown counsel had “concerns” regarding criminal defence lawyers representing accused persons they were prosecuting;
- the Crown engaged the OPP to investigate those “concerns” (which appear to amount to efforts to identify and preserve evidence supportive of the accused’s defence);
- evidence was gathered in anticipation of possible criminal charges against defence lawyers;
- Crown Attorneys involved in prosecutions communicated with police during the course of that investigation, as witnesses; and
- These same Crown counsel continued to engage defence counsel at our firm in other matters, while soliciting information about our firm’s practice related to statutory declarations, despite the obvious conflict of interest their actions created.

These are extraordinary admissions. They fall well beneath the calling of Crown counsel to conduct themselves as ministers of justice. We, our clients, the bar, and the public are entitled to know:

- what is the threshold for triggering an investigation into criminal defence counsel;
- who authorized or directed the investigation;
- whether prosecutorial independence and professional boundaries were respected;
- whether any privileged or confidential defence information was compromised;
- whether similar practices have occurred elsewhere in Ontario and, if so, under what circumstances; and
- what policies, protocols, and safeguards exist to prevent inappropriate state interference with lawful defence advocacy.

The proper administration of justice depends not only on prosecutorial independence, but also on the fearless independence of the defence bar. Lawyers cannot properly represent unpopular clients, challenge police conduct, test Crown evidence, or advance controversial positions if ordinary defence work may expose them to covert investigative scrutiny and intimidation by the state.

Importantly, this letter of request is not intended to suggest that police should be incapable of investigating genuinely concerning criminal conduct by lawyers where credible evidence exists. Lawyers are not above the law. But where the state undertakes investigative steps targeting defence counsel arising from the exercise of ordinary advocacy functions, the matter demands a policy framework that promotes transparent and independent scrutiny. Public confidence in Ontario's justice system requires nothing less.

Our Request

Accordingly, we call upon you to direct the Ministry to provide clarification to the bar and the public about its policies setting out the threshold for the referral of opposing counsel for criminal investigation, and the protocols to ensure that those extraordinary measures do not interfere with the fair prosecution of accused persons before the court.

It remains our view that in reaction to these incidents, the Ministry continues to rubber-stamp serious misconduct which chills effective representation of accused persons, subverts public confidence in the administration of justice, and undermines the independence of lawful defence advocacy. These issues engage the rule of law itself. They warrant independent examination, public transparency, and meaningful accountability.

We remain available to provide further information and look forward to your response.

Sincerely,

JUDSON HOWIE LLP



Douglas W. Judson

- Encl. Media Release, dated May 14, 2025;
Letter to the Ministry of the Attorney General, dated May 5, 2025;
Letter from the Ministry of the Attorney General, dated July 21, 2025;
IPC Representations of the Ministry, dated May 19, 2026

- C. The Hon. Greg Rickford, MPP (Kenora-Rainy River), *Via Email (greg.rickfordco@pc.ola.org)*;
Peter Wardle, Treasurer, Law Society of Ontario, *Via Email (treasurer@lso.ca)*;
Etienne Esquega, Regional Bencher, Law Society of Ontario, *Via Email (ee@esquegalaw.com)*;
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Criminal Lawyers' Association, *Via Email (ed@criminallawyers.ca)*;
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