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# Understanding the Children's Aid Society Process – From the Inside

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**Vicky Lowrey**, Peel Children's Aid Society

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# METRAC

## METRAC, the **Metropolitan Action Committee on Violence Against Women and Children**

- works to end violence against women, youth and children
- a not-for-profit, community-based organization

[www.metrac.org](http://www.metrac.org)

## METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

## FLEW, **Family Law Education for Women** in Ontario

- provides information on women's rights and options under Ontario family law
- in 14 languages, accessible formats, online and in print

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)

# Presenters

## **Tamar Witelson**

Legal Director, METRAC



## **Vicky Lowrey**

Senior Manager, Peel Children's Aid  
Society



# Introduction



# Topics to be Covered

1. Overview – *Child and Family Services Act*
2. Children's Aid Societies
3. Definition: Child in Need of Protection
4. Duty to Report Suspected Abuse or Neglect
5. CAS Preliminary Investigation
6. Voluntary Services
7. Involuntary Intervention
8. Additional Resources

*Information is accurate as of January 23, 2013*



# Overview

## *Child and Family Services Act*

# Overview

## *Child and Family Services Act*

- Ontario: *Child and Family Services Act*, R.S.O. 1990, CHAPTER C.11
- Paramount Purpose of the *CFSA*:
  - “to promote the best interests, protection and well being of children”

# Overview

## *Child and Family Services Act*

- **Additional Purposes of *CFSA*:**
  - Give support to the family unit
  - Aim for consent
  - Consider least disruptive action
  - Respect culture and religion, whenever possible when providing service
  - Recognize Indian and native culture, heritage, traditions and the concept of the extended family when working with Aboriginal children and families





# Children's Aid Societies

# Children's Aid Societies

- Children's Aid Societies provide child protection services required under the *CFSA*
- 47 CAS's across Ontario, including:
  - 6 Aboriginal
  - 2 Catholic
  - 1 Jewish
- Government funded, non-profit
- community-run by local Board of Directors

# Children's Aid Societies

- Investigate, and protect if child is in need of protection
- Provide guidance and counseling to families for the protection of children
- care for children in CAS care
- Supervise children under CAS supervision, including establishing foster care
- Place children for adoption



## Definition: “Child in Need of Protection”

# Definition: “Child in Need of Protection”

- “Child” means a person who is under 16 years old
- “in need of protection” in cases of:  
(adapted from *CFSA*, s. 37)

## A. Physical abuse

- Child is at risk or suffers physical harm by a person having charge of the child
- Includes failure to adequately protect from abuse

# Definition: "Child in Need of Protection"

## B. Sexual abuse

- Child at risk or has been sexually molested or exploited, by anyone
- Includes when person having charge of child knows or should know, and fails to protect child from sexual abuse

# Definition: "Child in Need of Protection"

## C. Emotional Abuse

- Child at risk or suffers emotional harm, reasonably believed to be caused by person having charge of child
- Includes failure to try to get treatment for emotional harm
- Emotional harm may be expressed as:
  - Serious anxiety
  - Depression
  - Withdrawal
  - Self-destructive/aggressive behaviour
  - Delayed development
- Includes exposure to domestic violence

# Definition: "Child in Need of Protection"

## D. Neglect

- Child at risk or harmed by failure of person having charge of child to adequately protect, care for and provide for a child
- Includes when child has a medical, mental, emotional or developmental condition and person having charge does not provide required services or treatment



# Definition: "Child in Need of Protection"

## E. Abandonment or Separation

- Child has been abandoned or parent is dead or unavailable and has not made arrangements for the child's custody and care
- Includes when parent is unable or unwilling to resume care of a child following a residential placement

# Definition: "Child in Need of Protection"

## F. Caregiver's Incapacity

- Caregiver has shown characteristics that indicate the child would be at risk of harm
- Characteristics may include:
  - History of abusing or neglecting a child
  - Inability to protect a child from harm
  - Drug abuse or limited caregiving skills
- Intervention may occur without evidence of harm to a child or apparent need of intervention

# Definition: Child in Need of Protection

G. Child is less than 12 years old in severe circumstances:

- Has killed or seriously injured a person, or caused serious damage to property, and
- Services are necessary to prevent a recurrence, and
- Person who has charge of child does not or is unable to provide for services

# Definition: Child in Need of Protection

**G. Child is less than 12 years old in severe circumstances:**

- Has injured a person or damaged property more than once, and
- Person having charge of the child encouraged the behaviour or failed to adequately supervise the child



# Duty to Report Suspected Abuse or Neglect

# Duty to Report

*(CFSA, s. 72)*

- Every person has a duty to report directly to a CAS a reasonable suspicion that a child is or may be exposed to abuse or neglect
- Child is or appears to be under 16 years
- The report must provide the information on which the suspicion is based
- The duty to report is ongoing, for every occurrence where a reasonable suspicion of abuse or neglect arises

# Duty to Report

- Duty to report applies to every person who performs professional or official duties with respect to children
- Failure to report a suspicion of child abuse or neglect when information was obtained in the course of professional/official duties is an offence punishable by fine up to \$1,000

# Duty to Report

- A person who performs professional or official duties with respect to children includes:
  - Health care: doctors, nurses, dentists, psychologists, pharmacists
  - Education and counselling: teachers, principals, daycare staff, social workers, youth and recreation workers
  - Religious officials and clergy members
  - Mediators and arbitrators



# Duty to Report

- Lawyers have a duty to report a suspicion of child abuse or neglect obtained in the course of legal duties
- No duty to report privileged information between a lawyer and client
- Lawyer may disclose where he/she believes there is imminent risk of serious bodily or psychological harm to an identifiable person

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Senior Manager, Peel Children's Aid Society





# CAS Preliminary Investigation

# CAS Preliminary Investigation

- Child protection worker takes report, including:
  - Details about the cause for concern
  - Information about the child and family
  - Knowledge of family's support network
  - All calls screened for domestic violence

# CAS Preliminary Investigation

- CAS may conclude:
  - Contact with child's family is not necessary
  - Caller and family should be referred to a community service agency
  - Child protection worker will meet with child and family within 7 days to assess child's safety
  - Extremely severe case: child protection worker meets with child and family within 12 hours
- CAS can interview child without parental consent

# CAS Preliminary Investigation

- CAS must determine:
  - Would a Court find this child to be in need of protection?
  - What is the least disruptive action that will protect the child?
- CAS must regularly consult with Indian band or native community about action or services regarding an Indian or native child

(CFSA, s. 213)



# Voluntary Services

# Voluntary Services

- Where CAS determines child is in need of protection:
  - Parents may voluntarily agree to services, including:
    - In-home visits
    - Counselling and supportive services to parents and child
    - Child goes to temporary alternate care with:
      - Another family member (called Kinship Service)
      - A residential service, such as group or foster home



# Voluntary Services

- Children 16 years or older must consent to services, unless by Court Order
- For children 12 years and older:
  - Child must consent to counselling; no other consent required
  - For children under 16, child will be told it is desirable to involve parent(s)

# Voluntary Services

- Temporary Care Agreements
  - Person with custody who is temporarily unable to care for child may make an agreement for CAS care and custody of child under 16 years
  - Child between 12-15 years must agree
  - CAS must be satisfied there is no less disruptive action

# Voluntary Services

- Temporary Care Agreements
  - must be in writing
  - cannot be more than six months
  - can be extended for up to 12 months, time in CAS care is cumulative
  - A party can terminate an agreement at any time with notice



# Involuntary Intervention

# Involuntary Intervention

- When CAS meets child and family, full assessment must be complete within 30 days
- child protection worker may determine child is in need of protection:
  - In home under supervision order
  - In a safe environment outside of home
    - Will apprehend child
      - May seek warrant
      - In emergency, without warrant
    - May call police to assist

# Involuntary Intervention

- If child apprehended:
  - CAS may return child to his/her home
  - Otherwise, Child Protection Hearing must be held within 5 days
  - At Child Protection Hearing
    - CAS presents evidence in Court to support why child should remain in CAS care
    - Parents have right to participate, with a lawyer, and give evidence in Court
    - Anyone who has continuously cared for child 6 months before hearing may make submissions in Court, with a lawyer

# Involuntary Intervention

- At Child Protection Hearing:
  - Child may have independent legal representation
  - Child 12 years and older may attend hearing, unless Court orders otherwise because the child would suffer emotional harm
  - Child under 12 will not attend, unless Court orders child may attend because child:
    - is capable of understanding the hearing, and
    - will not suffer emotional harm

# Involuntary Intervention

- Child Protection Hearing (after apprehension)
  - First appearance happens within 5 days
  - Final hearing must occur within 120 days
  - Issues to be determined:
    - Is child in need of protection
    - Should child have been apprehended
    - Temporary custody and care of child during proceedings
    - Order for best interests of child



# Involuntary Intervention

- Possible Court Orders when child in need of protection:
  1. Supervision Order
    - Child in care of parent or another person
    - Care of child supervised by CAS
    - For minimum 3 months
    - For maximum 12 months

# Involuntary Intervention

- Possible Court Orders when child in need of protection:

## 2. Society Wardship

- Child in temporary care in place of safety
  - Kinship care with family acting like foster home
  - Foster home
  - Group home
- For maximum 12 months
- Possible extension to maximum 24 months for child 6 to 17 years
- Time in care is cumulative

# Involuntary Intervention

- Possible Court Orders when child in need of protection:

## 3. Crown Wardship

- Child in permanent care in place of safety
- CAS has guardianship of child
- With or without parent access
- CAS will consider plan for permanency which may include adoption

# Involuntary Intervention

- Permanency Planning
  - “to promote the best interests, protection and well being of children”
  - Consider who is important in child’s life
    - Family
    - Friends
    - Community
  - Support connection to culture and heritage

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# Additional Resources

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- Ministry of the Attorney General

- child protection, court process, forms

[www.attorneygeneral.jus.gov.on.ca/english/family/divorce/child\\_protection](http://www.attorneygeneral.jus.gov.on.ca/english/family/divorce/child_protection)

- Ministry of Children and Youth Services

- role of Children's Aid Societies

[www.children.gov.on.ca/htdocs/English/topics/childrensaids/childrensaidsocieties/index.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaids/childrensaidsocieties/index.aspx)

- Ministry of Children and Youth Services

- duty to report child abuse/neglect

[www.children.gov.on.ca/htdocs/English/documents/topics/childrensaids/Reportingchildabuseandneglect.pdf](http://www.children.gov.on.ca/htdocs/English/documents/topics/childrensaids/Reportingchildabuseandneglect.pdf)

# Additional Resources

- Peel Children's Aid Society
  - provides multi-language information

[www.peelcas.org/index.asp](http://www.peelcas.org/index.asp)
- Ontario Association of Children's Aid Societies
  - [www.oacas.org/childwelfare/locate.htm](http://www.oacas.org/childwelfare/locate.htm)
- Ontario Council of Agencies Serving Immigrants (OCASI)
  - Reporting child abuse

[www.settlement.org/sys/faqs\\_detail.asp?faq\\_id=4001345](http://www.settlement.org/sys/faqs_detail.asp?faq_id=4001345)



# Additional Resources

- Family Law Education for Women (FLEW)

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)

- booklet on Child Protection and Family Law

[www.onefamilylaw.ca/doc/FLEW\\_legal\\_EN\\_02.pdf](http://www.onefamilylaw.ca/doc/FLEW_legal_EN_02.pdf)

- Ontario Women's Justice Network

[www.owjn.org](http://www.owjn.org)

- Ministry of Children and Youth Services

- Child Protection Standards in Ontario

[www.children.gov.on.ca/htdocs/English/topics/childrensaid/childprotectionstandards.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaid/childprotectionstandards.aspx)