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## **Teenage Mothers and the Children's Aid Society:** What Teen Mothers Should Know about the Child Protection Process

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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)

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

# Presenters

## **Tamar Witelson**

Legal Director, METRAC



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# Teenage Mothers and the Children's Aid Society

## Topics to Be Covered

1. Purpose and Mandate of the Children's Aid Society
2. Teen Mothers: Risk Factors for CAS involvement
3. Working with the CAS: A Teen Mother's Considerations
4. Child Protection Court Application: A Teen Mother's Rights
5. When the CAS Apprehends a Child
6. Conclusion
7. Additional Resources

*Information is accurate as of September 24, 2013*



# The Purpose and Mandate of the Children's Aid Society

# Purpose and Mandate of the Children's Aid Society

- Children's Aid Societies provide services under the *Child and Family Services Act (CFSA)*
  - Purposes of the *CFSA*:
    - To promote the best interests, well-being and protection of children, and
      - recognize that while parents may need help caring for their children, help should support the family unit
      - help should be based on consent, wherever possible
      - consider least disruptive action
      - recognize that services should respect cultural, religious and regional differences
- (*CFSA*, s. 1)

# Purpose and Mandate of the Children's Aid Society

- Children's Aid Societies provide child protection services required under the *Child and Family Services Act*
  - Investigate, and protect if child is in need of protection
  - Provide guidance and counseling to families for the protection of children
  - Supervise children under CAS supervision, including establishing foster care
  - Care for children in CAS care
  - Place children for adoption

# Purpose and Mandate of the Children's Aid Society

- Other FLEW webinars
  - *Understanding the Children's Aid Society – From the Inside*  
[yourlegalrights.on.ca/webinar/85974](http://yourlegalrights.on.ca/webinar/85974)
  - *Dealing with the Children's Aid Society – What parents should know*  
[yourlegalrights.on.ca/webinar/dealing-childrens-aid-society-what-parents-should-know](http://yourlegalrights.on.ca/webinar/dealing-childrens-aid-society-what-parents-should-know)

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



## Defining our term: “Teenage”

- Ontario “Age of Majority” is 18
  - “Every person attains the age of majority and ceases to be a minor on attaining the age of eighteen years”  
(*Age of Majority and Accountability Act*)
- Definition of “child” under the *Child and Family Services Act*
  - Under 18 years
- CAS can intervene to protect children:
  - Under 16 years
  - 16 and 17 years
    - CAS can continue to be involved, only if court application has already been filed
    - CAS cannot intervene for the first time



# Teenage Mothers and Risk Factors for CAS Involvement

# Teenage Mothers and Risk Factors for CAS Involvement

- No obligation for every teenage mother to work with CAS
- Poverty
  - not a reason by itself for CAS involvement
  - mother must be financially responsible to care for child
    - obtain financial assistance, if appropriate
    - use food bank, if appropriate
- Isolation from community
  - teenage mother may be rejected or ostracized by family and community
  - look for culturally sensitive community supports, as appropriate
- Inadequate housing
  - pregnant girl living on street likely to be reported to CAS

# Teenage Mothers and Risk Factors for CAS Involvement

- Abuse in the home
  - by mother's partner or parents
  - between other family members
  - child must be safe
- Illegal drug use in the home
  - if a caregiver of the child is using illegal drugs, CAS may investigate safety of child
- CAS involvement in mother's life
  - mother already known to CAS
- Public scrutiny
  - social expectations that teen mothers need supervision
  - may lead to complaints to CAS



## Working with the CAS: A Teen Mother's Considerations

# Working with the CAS: A Teen Mother's Considerations

## How does the CAS get involved with a teenage mother?

- CAS is already working with a teen woman who becomes pregnant or has a child
  - under a CAS Supervision Order
  - in temporary CAS custody living in foster or group home, or with extended family (Society Ward)
  - in CAS custody (Crown Ward)
  
- After a public complaint
  - teachers, day care, medical staff, social services, neighbours
  - teen may be pregnant or have a child

## Working with the CAS: A Teen Mother's Considerations

### Possible outcomes of a CAS investigation:

- File closed
- Development of a plan and signing of Voluntary Service Agreement
- Court application if:
  - parent and CAS cannot agree on a plan as part of a Voluntary Service Agreement
  - Voluntary Service Agreement is not followed
  - CAS apprehends child because of immediate safety concerns

# Working with the CAS: A Teen Mother's Considerations

## **When a teenage girl is pregnant**

- No obligation to work with the CAS
- CAS may offer services
- Agreeing to a Voluntary Service Agreement with the CAS can benefit mother and child
- Agreeing to a Voluntary Service Agreement may avoid apprehension of child at birth
- Rejecting or not following a plan of care under a Voluntary Service Agreement can lead to apprehension of child at birth
- Lack of cooperation with CAS may be used against the mother to place child in CAS custody



# Working with the CAS: A Teen Mother's Considerations

## **Teenage Mothers**

- CAS may investigate home and parenting skills, if there is concern that child is in need of protection
- Agreeing to a Voluntary Service Agreement with the CAS can benefit mother and child
- Rejecting or not following a plan of care under a Voluntary Service Agreement can lead to apprehension of child
- CAS may apprehend child believed to be in need of protection
- Lack of cooperation with CAS may be used against the mother to place child in CAS custody

# Working with the CAS: A Teen Mother's Considerations

- Possible CAS resource referrals
  - High Risk Pregnancy Care Worker
    - voluntary
  - Residential Programs
    - voluntary
    - counseling and parenting support
  - High Risk Infant Nurse
  - Monitored settings
  - Parenting classes
  - Early daycare
  - Drug testing for mother and child

# Working with the CAS: A Teen Mother's Considerations

- Other Considerations:
  - Mothers should be appropriate, polite, strategic
  - Defensive, uncooperative behaviour can be used to support child apprehension and placement in CAS custody
  - If mother fears CAS will apprehend child, it is wise to talk to a lawyer early
  - Legal Assistance
    - Justice for Children and Youth Legal Aid Clinic  
[www.jfcy.org](http://www.jfcy.org)
    - May be eligible for Legal Aid  
[www.legalaid.on.ca/en/getting/default.asp](http://www.legalaid.on.ca/en/getting/default.asp)
    - Children's Lawyer not available until child protection hearing, and appointed by Court Order

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## Child Protection Court Application: A Teen Mother's Rights

# Child Protection Court Application: A Teen Mother's Rights

- CAS may file child protection application in Court when it believes child is in need of protection because:
  - Voluntary Service Agreement offered and refused
  - Voluntary Service Agreement not followed
  - Child is at risk of imminent harm
  - Child is apprehended

# Child Protection Court Application: A Teen Mother's Rights

- Mother has right to be represented by a lawyer in child protection hearing
  1. Children's Lawyer
    - if mother is under 18 years
    - cannot be requested until the first Court appearance
    - must be appointed by Judge's Order
    - lawyer works under Office of the Children's lawyer
    - mother may have a Children's Lawyer already representing her in another CAS case (as a child in need of protection)
      - Children's Lawyer represents her as the child in the other case
      - mother can ask the Children's Lawyer to represent her as the parent

# Child Protection Court Application: A Teen Mother's Rights

- Mother has right to be represented by a lawyer in child protection hearing (continued)
  2. Legal Aid certificate
    - May apply at any time
    - Must be financially eligible
    - Certificate pays private lawyer who accepts it
  3. Hire a private lawyer



# Child Protection Court Application: A Teen Mother's Rights

- Benefits of getting a lawyer before a Court application is filed:
  - Children's Lawyer will not be appointed until the hearing
  - If mother is already working with a Children's Lawyer for another reason, that lawyer cannot work on a different case until appointed by Court
  - Legal Aid or private lawyer is a good idea
  - Preparing early avoids delays, may prevent removal of child from mother for long period



## When the CAS Apprehends a Child

# When the CAS Apprehends a Child

- The CAS may apprehend a child at birth, if they believe the child is at risk
- In such cases:
  - CAS issues a birth alert
  - CAS is advised when child is born
  - CAS takes custody of newborn

# When the CAS Apprehends a Child

- Mother's rights:
  - Mother has right to custody of child if she can provide safe care, unless Court orders otherwise
  - CAS must commence a child protection application in Court within 5 days of apprehension
  - Mother has the right to be represented by a lawyer

# When the CAS Apprehends a Child

- Going to Court after CAS apprehends child
  - Court orders Children's Lawyer to represent a mother under 18 years
    - Mother may have a children's lawyer already representing her in another CAS case (as a child in need of protection)
    - Mother can ask the Children's Lawyer to represent her as the parent
  - Mother may be represented by lawyer with Legal Aid certificate
  - Mother may be represented by private lawyer

# When the CAS Apprehends a Child

- Other Considerations
  - grandparents of the apprehended child
    - may offer to support mother with parenting
    - may apply for temporary custody of the child
    - may apply to adopt child
  - mother with a safety plan in place, under a Voluntary Service Agreement, has right to custody of the child
    - unless Court orders otherwise
  - possibility of CAS apprehension continues
    - if CAS believes child is in need of protection
      - Voluntary Service Agreement breaks down
      - someone reports to the CAS



# Conclusion

# Conclusion

- Teenage mothers face many challenges as both youth and parents
- They can be vulnerable
- They may have to interact with the CAS
  - As a child in need of protection
  - As a mother to a child in need of protection
- They are often under higher scrutiny by society, the CAS and the Court
- Service and support providers can encourage young mothers to:
  - Be open to learning and asking for help
  - Co-operate with the CAS when offered voluntary services
  - Make best efforts to comply with a Voluntary Service Agreement
  - Talk to a lawyer early, if they fear the CAS may apprehend their child
  - Talk openly and honestly with the lawyer, to get the best help



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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/childrensaid/childrensairsocieties/index.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaid/childrensairsocieties/index.aspx)
- Ministry of Children and Youth Services
  - duty to report child abuse/neglect  
[www.children.gov.on.ca/htdocs/English/documents/topics/childrensaid/Reportingchildabuseandneglect.pdf](http://www.children.gov.on.ca/htdocs/English/documents/topics/childrensaid/Reportingchildabuseandneglect.pdf)

# Additional Resources

- Ministry of Children and Youth Services
  - Child Protection Standards in Ontario  
[www.children.gov.on.ca/htdocs/English/topics/childrensaidthechildprotectionstandards.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaidthechildprotectionstandards.aspx)
- Ontario Association of Children's Aid Societies Website  
[www.oacas.org/childwelfare/index.htm](http://www.oacas.org/childwelfare/index.htm)
- Family Law Education for Women (FLEW)  
[www.onefamilylaw.ca](http://www.onefamilylaw.ca)
- Ontario Women's Justice Network  
[www.owjn.org](http://www.owjn.org)

# Additional Resources

- Justice for Children and Youth Legal Aid Clinic  
[www.jfcy.org](http://www.jfcy.org)
- Legal Aid Community Clinics in Ontario  
[www.legalaid.on.ca/en/contact/contact.asp?type=cl](http://www.legalaid.on.ca/en/contact/contact.asp?type=cl)
- Legal Aid Ontario  
Toll-free: 1-800-668-8258 TTY: 1-866-641-8867  
Toronto: 416-979-1446 (accepts collect calls)  
[www.legalaid.on.ca/en/getting/default.asp](http://www.legalaid.on.ca/en/getting/default.asp)
- Office of the Children's Lawyer  
[www.attorneygeneral.jus.gov.on.ca/english/family/ocl](http://www.attorneygeneral.jus.gov.on.ca/english/family/ocl)

# Additional Resources

- Law Society of Upper Canada Lawyer Referral Service  
Toll-free: 1-800-268-8326  
Toronto: 416-947-3330  
TTY: 416-644-4886  
[www.lsuc.on.ca/with.aspx?id=697](http://www.lsuc.on.ca/with.aspx?id=697)
- Toolkit for a good Client-Lawyer Relationship  
(Barbra Schlifer Commemorative Clinic)  
[schliferclinic.com/vars/legal/pblo/toolkit.htm](http://schliferclinic.com/vars/legal/pblo/toolkit.htm)
- Helpful Tips for Lawyers Representing Clients in  
Proceedings Under the Child and Family Services Act, Legal  
Aid Ontario  
[www.legalaid.on.ca/en/info/downloads/cfsa\\_tips\\_08mar.pdf](http://www.legalaid.on.ca/en/info/downloads/cfsa_tips_08mar.pdf)
- What You Should Know About Child Protection Court  
(Cases, Ministry of the Attorney General Website)  
[www.attorneygeneral.jus.gov.on.ca/english/about/pubs/child\\_protection.asp](http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/child_protection.asp)