



Canada Court Watch

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March 6, 2012

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Attn: Board of Directors

Dear Members of the Board

RE: School Policy OP.2.12 SAFE SCHOOLS

Yesterday, it came to the attention of Canada Court Watch that members of the Board of Directors are scheduled to discuss changes to or the development of a school policy which will require that the Board and its employees “cooperate” with the Children’s Aid Society.

The term, “cooperate” is a very vague and misleading term which if adopted in school policy will likely result in major problems for the Board. Potentially this could cause the Board to be the subject of multiple lawsuits by parents and their children.

The term “cooperate” has in the past been adopted in other school jurisdictions with tragic results. Children have been tragically harmed and criminal laws violated by school officials who believed at the time that they were doing the right thing by “cooperating” with the Children’s Aid Society as outlined in their school policies. In fact, there is currently a multi-million dollar lawsuit against one school board and a principal for working in “cooperation” with unregistered CAS workers who themselves were unlawfully engaged in the regulated practice of social work. Other lawsuits are in the making.

Another fact that many school boards are unaware of is that most Children’s Aid Society workers in the province of Ontario are working unlawfully by engaging in the regulated practice of social work without being registered with the Ontario College of Social workers as required under the Social Work and Social Services Work Act (1998). Most CAS workers in your school are breaking the law. The Board of Education would not hire teachers unless the teachers are properly registered with the Ontario Teacher’s College, so why would the Board of Education consider adopting a policy which would require its employees to “cooperate” with CAS workers who themselves are breaking the law?

Canada Court Watch has been working for years with children and families who have been adversely affected by Children’s Aid Societies in Ontario going into schools and unlawfully interrogating children and unlawfully obtaining information from school officials who were under the belief that they must “cooperate” with the local Children’s Aid Society. One of the many tragic

testimonials from children that our organization has videotaped can be viewed on our video website at:

<http://vimeo.com/5023797>

Members of the public do not support Children's Aid Societies being involved in schools. In fact, our organization along with other organizations in Ontario have collected thousands of signatures which specifically petition the Ontario government to get CAS agencies out of the schools in Ontario. A small sampling of some of these signatures can be viewed on page 145-148 of the document about schools and the CAS which is can be downloaded on line at:

http://www.canadacourtwatch.com/files/all/Schools_and_CAS_For_School_Officials.pdf

Because Canada Court Watch only found out about this issue yesterday, it was not possible for us to provide members of the Board with all the information which we feel can properly inform the Board members of the significant dangers of "cooperating" with the Children's Aid Society which is not part of the government and a private not-for-profit corporation which obtains funding from the Ontario government.

At this time we would simply urge the Board to defer any issue involving "cooperating" with the Children's Aid Society and to not adopt any policy which would involve "cooperation" with Children's Aid Society workers until full consultation with parents and community groups such as ours has been completed. The Board must exercise due diligence to ensure that it has properly informed itself of the issues.

Our organization has years of experience on this issue and to better inform the Board, our organization would be willing to make a formal presentation to the Board at one of its regularly scheduled meetings or at special meeting. We can arrange to have other community groups and parents with children in your school district to attend as well.

In the meantime, we would ask that member of the Board better inform themselves about this issue by reviewing the attached document, "Questions and answers for school officials" which provides information which school officials should know about CAS. This document has been published on line for over a year now and to date has not been disputed by any CAS agency, school board, law enforcement officials or government agency. This document can be downloaded at the following link:

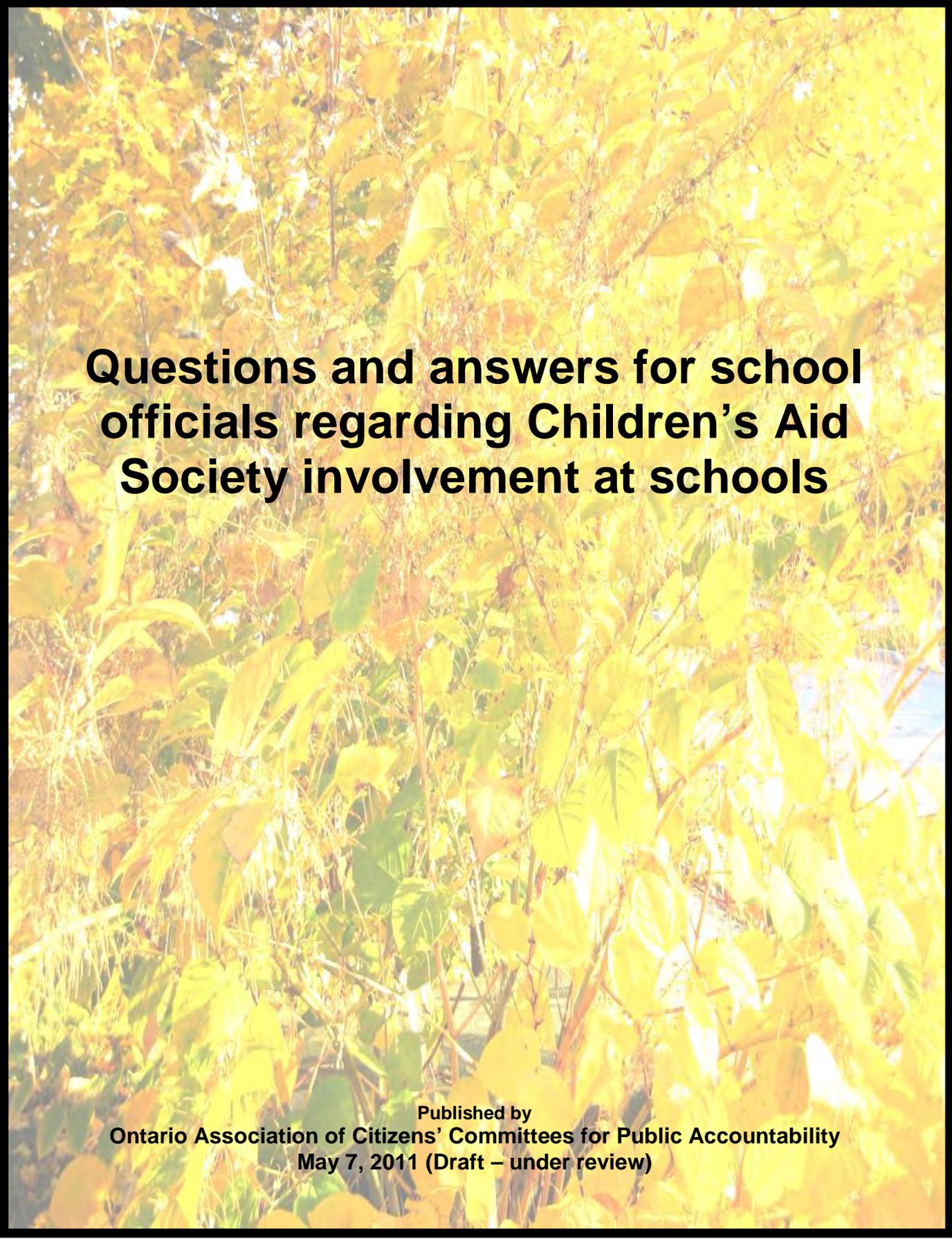
http://www.canadacourtwatch.com/files/all/Q-A_for_school_officials-CAS.pdf

If any member of the Board has any questions they would like answered immediately, I can be reached personally at 905-829-0407. Canada Court Watch would welcome the opportunity to address the Board of the Whole at some time in the near future.

Yours truly
CANADA COURT WATCH



Vernon Beck
Child and Family Advocate



**Questions and answers for school
officials regarding Children's Aid
Society involvement at schools**

Published by
Ontario Association of Citizens' Committees for Public Accountability
May 7, 2011 (Draft – under review)

Questions and answers for school officials regarding Children's Aid Society involvement at schools

Introduction and background

In recent years, many parents, civil liberties organizations, teachers and school administrators have expressed concerns over a growing and unwarranted intrusion in the private affairs of children at their schools by children's aid societies (CAS) and their workers. In addition to the public at large, many teachers feel that CAS workers are interfering with children's education at schools and interfering with the ability of teachers to fulfill their roles as educators. Many teachers have reported that they feel very much intimidated by CAS workers because they have been misled by their school boards into believing that they must fully cooperate with CAS workers without any consideration of other laws which may be applicable.

One of the most significant issues causing problems in schools today is CAS workers going into schools and questioning students in secret without the knowledge or consent of the parents or the student based on just the mere speculation that a student may be the subject of maltreatment at home. In many cases, students are being forced against their will into a situation which is nothing less than an unlawful detention and interrogation at their own school. This often traumatic event causes a lot of damage to students and adversely affects the relationship which students have with their teachers and peers.

Unfortunately, many CAS agencies have worked their way onto the policy committees of many school boards and have influenced school boards to implement policies relating to child abuse and maltreatment which in effect violate the law and significantly infringe on the fundamental rights and freedoms of children and parents. It has been reported that CAS workers are going into schools and threatening and intimidating children right in their schools. Some school boards have been so misled by CAS officials that CAS workers are working inside of schools alongside of the teachers themselves.

Also troubling is the fact that the vast majority of front line CAS workers in Ontario are breaking the law by engaging in the unauthorized practice of social work in violation to Ontario's Social Work and Social Service Work Act (1998) which requires all CAS workers who are engaged in the practice of social work to be registered with the Ontario College of Social Workers and Social Service Workers. Most CAS workers are not registered with the College. Unregistered CAS workers have been going into many schools in Ontario and breaking the law since the Act was passed into law on August 15, 2000. More about the unlawful practice of social work by CAS workers in Ontario can be viewed on line at the following link:

http://www.canadacourtwatch.com/files/all/The_Unlawful_Practice_of_Social_Work.pdf

This document has been prepared to answer many of the questions which school board officials may have to help them better understand the role schools play in dealing with child protection and to better understand the limits to the power and authority of children's aid agencies in Ontario. It is hoped that this document will help school officials to understand that CAS workers have very little place in the lives of children at their schools.

Public input invited

This document is currently under development and review. Members of the public, especially those in the teaching profession are encouraged to provide their feedback on this document. All comments may be directed to:

Ontario Association of Citizen's Committees for Public Accountability

Email: oaccpa@canadacourtwatch.com

By phone:

East/Central Ontario	(705)-242-1567
North Ontario	(705) 805-2322
GTA/Central-South Ontario	(705)-243-1405
Niagara/South Ontario	(519) 842-6217
Mr. Vernon Beck, Project Coordinator	(905)-829-0407

Note: This document is being updated on a regular basis. To obtain the most updated copy of this document visit:

www.canadacourtwatch.com/files/all/Q-A_for_school_officials-CAS.pdf

Important terms for teachers and school official to understand

“Informed Consent”

The term *informed consent* is a phrase referred to in many places in this document and is the one most significant component influencing how school officials must take into consideration when dealing with CAS workers in a school environment.

Informed consent is a phrase used in law to indicate that the consent a person gives meets certain minimum standards. As a literal matter, in the absence of fraud and extortion it is redundant. In terms of schools, the informed consent of a student can be said to have been given based only upon the student’s clear appreciation and understanding of the facts, implications, and future consequences of their actions. In order to give informed consent, the student concerned must have adequate reasoning faculties and be in possession of all relevant facts and options at the time consent is given. Impairments to reasoning and judgment which may make it impossible for a student to give informed consent include such factors as basic intellectual or emotional immaturity, high levels of stress such as post traumatic stress disorder, mental retardation, mental illness, Attention Deficit Hyperactivity Disorder (ADHD), etc.

Some acts, such as a children’s aid society worker questioning a child at his/her school without the student specifically requesting this beforehand, cannot legally take place because of the lack of informed consent by the student. In cases where a student is considered unable to give informed consent, then informed consent must be obtained from another person who is authorized to give consent on his/her behalf, e.g., parents or legal guardians of the student.

In cases where a student or his/her parent is provided insufficient information to form a reasoned decision, serious ethical issues arise and give rise to cause for damages and the potential of a civil lawsuit against those who acted without the informed consent of the student or his/her legal guardians.

In order for informed consent of a student to have been obtained, the following conditions must exist.

- 1) The student must express specifically and without coercion by any person of authority (such as a teacher) to want to meet a children’s aid society worker at the school.
- 2) The student must understand the potential consequences of speaking to the children’s aid society worker such as the possibility of the children’s aid becoming involved with his/her family.
- 3) The student must understand that they have the rights not to be detained or questioned if they do not wish to speak to the children’s aid society worker.
- 4) The student must be advised that they have the right to have a guardian or other person that they trust to be present with them should they choose to speak with children’s aid society workers.
- 5) The student must be advised that they have the option of meeting the children’s aid society worker outside the school if they would prefer.

In general, most students in primary grade schools would not be considered to be of an age of maturity where they can give their informed consent to speak with children’s aid society workers so therefore informed consent must be obtained from parents.

“Due Diligence”

"**Due diligence**" is a term used for the concept involving either an investigation of a business or person prior to signing a contract, or an act with a certain standard of care. It can be defined as the responsibility and care that is expected from, and exercised by a reasonable person to avoid harm to another person. Due diligence is the precaution sufficient to prevent foreseeable harm, but not the unforeseen, the unexpected, the unknown, or the unintended harm.

From a legal perspective teachers, school administrators and school boards are expected to exercise “due diligence” to ensure that students under their care and control are not harmed and that the rights and freedoms of students are not infringed upon, including rights and freedoms under the Canadian Charter of Rights and Freedoms. In other words, school board must develop policies which do not infringe on the Charter Rights of students or parents. School officials who fail to exercise due diligence in their responsibilities and a student is harmed as a result, could face civil or criminal prosecution.

“Undue Influence”

“**Undue influence**” is the term used to describe when one person applies mental or emotional pressure to induce another person to do something which on the surface would appear to be voluntary but in reality done without the informed consent of the other person. In the context of a school setting, when a person of authority (such as a teacher or school official) instructs a student that he/she must meet with a Children’s Aid Society worker at the school, then this would fall under the category of *undue influence*. In most cases, a student would do what the teacher told him to do simply because in most cases, students are trained by their parents to do what the teacher tells them to do without question. A school official who gets a student to speak to a Children’s Aid Society Worker without the student being made fully aware of his/her rights, would be seen as exercising undue influence over the student.

“Detention” (Section 9 and 10 of the Canadian Charter of Rights and Freedoms)

“**Detention**” is the term used to describe the removal of liberty by physical constraint or also by non constraint such as when a person of authority (police officer, teacher, CAS worker, or other agent of the state assumes control over the movement of a student by an instruction or direction which may have significant legal consequence and which prevents or impedes access to counsel or direction by parents or legal guardians. The Supreme Court of Canada has clearly ruled that detention includes non physical detention of a person.¹

Questions and answers

The following are a sampling of questions and answers which relate to issues involving child protection and detaining children which school officials may find helpful to better understand their roles when it comes to protecting children.

1) What responsibilities do teachers and school officials have under the law when it comes to neglect and/or maltreatment of a student?

When it comes to child neglect and maltreatment, the main role that school officials have is to report suspicion of maltreatment to the local child protection agency should a school official

¹ Supreme Court of Canada - R. v. Therens, [1985] 1 S.C.R. 613

become aware of warning signs through normal day to day interaction with students at their schools **AND** it would appear that the person having charge of the child is failing to protect the child from the suspected maltreatment.

Unless there is a valid court Order specifically directing school officials to fulfill other more specific duties, **reporting** suspected abuse of a child to the local children's aid society is the only mandatory requirement under the law that school officials are required to comply with.

When reporting suspected abuse, school officials are acting in the capacity as private persons (witnesses) and once a report of child abuse has been made, are required to provide their testimony in court relating to the matter which caused them to report suspected abuse to child protection workers. While each and every school official has an obligation to report suspected abuse based on their personal observations and is free to speak to qualified child protection workers about any child, this does not give school officials the right to disclose the contents of school records which are considered separate from their personal observations as witnesses.

A second but optional role that school official have is to educate students about child abuse and neglect. There is nothing wrong with educating students about this subject as long as the materials being used are appropriate, balanced, gender neutral and taught by those who do not have a conflict of interest such as CAS workers themselves. Educating students about all forms of abuse with a balanced perspective helps them to know what to do should they feel that they are the subject of abuse or neglect or know of one of their friends who may be. Educating students themselves is one of the most effective tools to combat abuse and neglect with students and provides students with the knowledge to make their own informed choices on the matter. Children who are being physical and emotionally abused while in care of the CAS by CAS workers themselves should also be taught about their rights. CAS workers will ignore this aspect of child abuse as it involves CAS workers themselves.

It is **not** the role of school officials to be conducting their own investigations into child abuse or neglect or to be actively gathering information about students or their families which would have the purpose of investigating child abuse or neglect in the homes of students. Schools are not meant to be spy agencies for CAS agencies which are corporations and not part of the Ontario government. Under the law, CAS workers are considered as private citizens and school board employees are under no obligation to do what CAS workers tell them to do.

2) What authority does a children's aid society worker have regarding entering a school to speak to a student without a court Order?

Under the law in Canada, a children's aid society worker in Ontario has no more authority than does any ordinary citizen off the street to enter a school or to speak to a student at any school. CAS workers are simply employees of a non-profit corporation (CAS) which gets funding from the Ontario Government. As ordinary employees of a CAS agency CAS workers have absolutely no authority (*Ultra vires**) over school boards or their employees.

****Ultra vires* is a Latin phrase often referenced in law meaning "beyond the powers". The *ultra vires* doctrine can apply to an officer or to a corporate body such as a school board or children's aid agency. An act done by an officer or body that is in violation to any law or beyond its capacity (unauthorised) is considered invalid and described as *ultra vires*.**

3) I have been told that most CAS workers in Ontario are breaking the law by not being registered with the Ontario College of Social Workers. Is this true?

As unbelievable as it may sound to most school officials, the vast majority of front line CAS workers in the province of Ontario are breaking the law in Ontario and have been since the year 2000 when the Ontario Social Work and Social Services Work Act (1998) was passed into law . The vast majority of CAS workers are simply not supposed to be in schools or working with families at all because they are simply violating the law. In order to engage in the practice of social work, CAS workers **MUST** be registered with the Ontario College of Social Workers and Social Service Workers. This is a requirement of the *Social Work and Social Services Work Act (1998)* which was passed into law on August 15, 2000.

While most CAS workers will deny that need to be registered with the College a close review of the legislation will reveal that they must be registered. Comprehensive information about the unlawful practice of social work in Ontario by unregistered CAS workers can be found in the document titled, *“The unlawful practice of social work in Ontario by CAS workers providing services to the public under false pretences”* which can be downloaded from the Canada Court Watch website at: <http://www.canadacourtwatch.com>

4) Are there any circumstances which would give a children’s aid society worker the authority to enter a school to speak to a student?

The only time that a CAS worker would have the authority to enter a school to question a student would be in the following circumstances:

- 1) The CAS worker has obtained prior informed consent from the student if the student is mature enough to give his/her informed consent separate and apart of the parents.
- 2) The CAS worker has obtained the prior informed consent of the parents where the student may not be mature enough to give his/her own informed consent.
- 3) CAS has a court Order (judgement) which gives CAS workers the lawful right to specifically enter the school to speak to a specific student.

In the case of #3 above, it is highly unlikely that any court of competent jurisdiction would issue such an Order as this involves Charter rights violations and potential harm to the child. At the time of writing of this document no such court order was known to have been issued in Ontario. Even in a case where case where CAS workers did obtain an Order to interview a student at his/her school, such a court Order would have no force if the child is mature enough to indicate to school officials that he/she does not wish to speak to a CAS worker at his/her school. Courts can and do make mistakes.

Even a judge cannot issue a court Order which in effect forces a child to be detained and questioned at his/her school. While theoretically a court Order could be issued granting the CAS worker the right to enter a school and to bypass the need for a parent’s informed consent, the student is still under no obligation to comply with the court order as the court Order would only allow the CAS workers to enter the school. No court Order can violate a student’s individual right to provide his/her informed consent prior to having contact or speaking with a CAS worker. Very simply, no student can be ordered to speak to or to disclose information to anyone which is why CAS workers often unlawfully use coercion, trickery, bribery and sometimes extortion during secret meetings at schools to get a student to say what the CAS workers want the student to say.

5) I have been led to believe that CAS workers get the authority to enter schools and to speak to students under the Child and Family Services Act of Ontario. Is this true?

There is no reference contained in Ontario's Child and Family Services Act which gives CAS workers the specific authority to enter schools or any other institution to speak to a student without the prior informed consent of the student or his/her parents. No legislation exists which gives CAS workers this authority. The reason why no legislation exists is because no law can "force" a person, including a student in school, to be detained or interrogated. While the Child and Family Services Act does give the power for CAS workers to legally seize a child (referred to as apprehend) from any location, a legal apprehension still does not give the CAS worker the authority to engage the student in questioning at the school. An apprehension only allows the CAS worker to pick up the child and to take the child back to the CAS offices or some other place of safety.

6) If there is a suspicion that a student is being abused at home by his/her parents is it not a good idea for the student to be questioned at the school without the parents being informed first?

This by far, is the one big misunderstanding which CAS workers and school officials rely on to support their belief that detaining and questioning a student at the school without the knowledge of the parents is acceptable. While the thought of a student being questioned first before alerting the parents does seem to make some sense, the mere suspicion of abuse or neglect does not give justification to violate the fundamental rights and freedoms of the student and/or the parents.

Protections guaranteed under the Canadian Charter of Rights and Freedoms take precedent above all else. Respecting the fundamental rights of persons is one of the very principles which are embraced within the Rule of Law. A free and democratic society cannot exist without the Rule of Law respected. The Supreme Court of Canada has determined that officials, including police, cannot engage in actions which have the effect of violating a person's rights based on what is referred to as "speculative concerns". Any laws which do restrict the personal rights of persons are meant to be applied against those who commit criminal acts, not the victims of crimes.

It must also be remembered that just because CAS is conducting an investigation does not mean the student is being abused. Many CAS investigations are the result of false allegations. CAS workers themselves have been known to fabricate information and to perjure themselves in court documents to justify their intrusion into the lives of children. It must also be remembered that CAS workers are considered just "private citizens" under the law.

Questioning students at their school without the informed consent of the student or the knowledge and informed consent of the parents is fundamentally wrong and in violation to the principles of fundamental justice. In addition, child protection workers are not properly qualified to interview students nor have child protection agencies adopted procedures which require their workers to audio or video record their interviews with children for accuracy purposes. The integrity of an interview with a student at school by child protections workers cannot be relied upon in this environment.

If school authorities and parents are do their jobs right and are properly educating the students about abuse and neglect, then students will come forth of their own free will and make a voluntarily disclose. Under circumstances of voluntary disclosure the student would be considered as having enough knowledge to provide their informed consent to be questioned at school without the parents being informed. Even younger students will come forth on their own to disclose abuse if their

teachers have properly informed them of what to do and to explain to them what steps are taken to make them safe after they report.

If a student does not voluntarily come forth on their own to make a report, then the only approach that can be legally taken is that either the child is lawfully apprehended and taken by CAS workers to be questioned or the CAS workers contact the parents and advise the parents that CAS workers have concerns which require that they need to interview the student alone at their offices.

7) As a teacher, do I have an obligation to cooperate with CAS workers when there is no court Order?

When there is no court Order, school officials are under no obligation to cooperate with CAS workers. All CAS workers are ordinary citizens under the law and have no authority to tell any school official what to do. CAS workers are merely employees of the local CAS agency which itself is a non profit organization with the mandate to investigate the abuse of children. All CAS workers must work within the limits of the law just like any other person off the street. Employees of a CAS have no more authority to tell school officials what to do without a court Order than do school authorities have to tell CAS workers what to do.

8) What harm can there possibly be to a student in allowing a student to be questioned by a CAS worker at the school?

Many teachers and school officials wrongly believe that allowing CAS workers to come into their schools to interview children is acceptable because CAS workers have told them so. However, throughout history there are countless examples of good people doing bad things to other people for what they believed at the time was for a good reason. In Canada, thousands of native children were forcefully taken away from their families by child protection workers and placed into residential schools where many children were beaten, abused and sexually assaulted. Yet most good Canadians at the time thought this was good for the children. During the Second World War, good German citizens drove the trains and kept them on time for those being taken to the gas chambers while believing that they were doing an efficient job as an employee of the train company. While neither of these examples are to be used as a comparison to the harm done by CAS workers in schools today, the examples given do show how easily even good people can be misled into doing bad things to others.

Today in these politically correct times, we now have a situation where teachers and school officials have been misled by CAS workers into believing that it is the right that children to be questioned in secret at schools by CAS workers who are literally breaking the law and grossly violating the rights of children and parents. Some of the negative consequences of teachers and school officials allowing CAS worker entering schools to question students in secret at schools are as follows:

- Violates the rights of students and their parents under Section 7 to 9 of the Canadian Charter of Rights and Freedoms. Once the schools engage themselves in violating the rights of students under the Charter, society has begun down the slippery slope where other fundamental rights and freedoms will be lost.
- Fosters disrespect for teachers and school boards. Most parents and children become angry at the teachers and the school board for allowing this.
- Embarrasses and humiliates the child which adversely affects the student. Many children report that after CAS workers have come to the schools to question them that they felt embarrassed and humiliated amongst their peers and their teachers.

- Labels the parents as bad parents. Just the involvement of CAS workers at the school often gets the parents labelled as abusive parents.
- Labels the child as an abused child. As soon as a CAS worker makes contact with a child at school many within the school will assume that the students is being abused by his/her parents.
- Exposes the child to the potential use of trickery, bribery, coercion and extortion by CAS workers. It is well known in the legal community that CAS workers often twist information and in some cases commit perjury in court about what children have said during secret meetings in school to suit the purpose of the CAS. Many children report being threatened and bribed at their schools by CAS workers during these secret interrogations. Some children report being taken out to lunch and given presents by CAS workers in order to extract information. Not only are these tactics unethical but unlawful.
- Places teachers and school officials at risk of lawsuit. No matter how school policies are worded, once a student has being detained at school with the assistance of teaching staff, the teachers involved and the school board are implicated in any wrongdoing that may occur between the child and the CAS worker during this “secret” interrogation with the student. Teachers and school officials could very well be taken to court for facilitating such an unlawful interrogation.
- Goes against the basic principles of accountability and transparency. No matter how one looks at it, taking children and leading them into a room at their school to be questioned by a CAS worker who is breaking the law and who refuses to maintain an audio or video record of the interrogation, smacks of unaccountability and transparency. These sorts of tactics have no place in Canadian society. Police electronically record their interviews with children, yet unregistered and unqualified CAS workers are being given carte blanche access by school officials to secretly interrogate children at their schools.
- Violates the principles of fundamental justice. Justice simply cannot exist in an environment where children are being secretly interrogated by CAS workers who are clearly breaking the law.

9) What should school officials do when the local child protection agency asks the school to distribute a questionnaire for students put out to the students regarding child abuse and neglect?

Some child protection agencies have been known to approach school boards and request that a questionnaire be given to students about child abuse and neglect. Rather than obtaining information on the general issues of child abuse and neglect in these questionnaire forms, many of the questions ask students to describe their personal living situations at home as well as their personal relationships with family and relatives. Many of these questionnaires are part of a hidden agenda of the CAS agency to go on a “fishing expedition” to gather personal information without school officials realizing what the real purpose of these questionnaires or the implications on teachers or school officials. Parents in some jurisdictions have reported that CAS workers have come around to their homes and made surprise visits after their child filled out such a questionnaire at his/her school.

Schools should not allow their staff to be involved with any activity in which students are expected to disclose confidential information about their home life and personal relationships to outside parties without the “informed consent” of their parents. In fact, if such a questionnaire is not part of

the official published school curriculum, then such a questionnaire should not be distributed to students at all. Gathering information for an outside private agency in this way is much the same as having students being detained and interrogated by child protection workers in their school. Students in a class environment where they are being asked to answer a questionnaire of course feel compelled to participate because they are doing this at the request of persons having authority over them.

Gathering personal information about the family and then turning this private information over to the local privately owned child protection agency is a violation of the rights of the student and his/her parents. Some would say that this form of information gathering is akin to having students act as spies on their families. During the Second World War, Nazi Germany used similar tactics during its reign as part of its campaign to make children more loyal to the government than to their own parents. Educating students about child abuse and neglect in school is one thing but to use places of education as places to gather confidential information about students and their families is something totally inappropriate. School officials should not be allowing their facilities to be used as places for private interrogation.

10) What should school officials do if a child protection agency wishes to have workers provide classroom instruction to students?

School Boards must be very vigilant of allowing CAS workers in schools. Many children whose families are involved with CAS feel uncomfortable with CAS workers in their school as this makes it appear to students as if CAS workers are friends of the teachers. Children whose families made be subjected to intervention of CAS workers outside the school should not be made to have to face CAS workers in their school. If CAS agencies feel that there might be some information that children should be taught, then they should submit their suggestions to the Board of Education for approval and adoption into the official school curriculum.

11) What should school officials do if the Children's Aid Society asks to have one of their workers stationed inside of a school?

Children's Aid Society Agencies have been known to have their workers stationed inside of schools. In some cases, CAS workers have been given offices inside of schools to use as their own offices. CAS agencies may sell this idea to school boards by dressing it up as providing direct assistance to teachers in schools.

At first glance, the idea of having a free CAS worker at the school sounds like a good deal, but like with most good deals there is usually a catch. CAS agencies are not in the business of providing free services. CAS agencies get funding for every file they open and for every family they get involved with. Having a CAS worker stationed inside of a school puts CAS workers right at the source for new customers. In essence CAS workers are using the schools as places where they can gather information about children directly and to seek out new sources of revenue for the CAS agency they work for. It is clearly a significant conflict of interest for CAS workers to be in schools. CAS agencies get money for each file they open so therefore there is a direct interest for the CAS worker at the school to identify problems with students so that CAS can get involved with the student's family. Many CAS workers fabricate problems in order to open files on children and their families.

12) What should school officials do if a children's aid society worker calls the school and requests to interview or question a student at school?

In the event that a school official gets a request from a child protection worker indicating that the

CAS worker would like to interview a student at the school, the school official should advise the child protection worker that unless the decision has been made by the worker to legally apprehend a student or unless there is a court Order allowing the CAS worker to enter the school, then the CAS worker must be told to contact the parents of the student first and make the necessary arrangements with the parents to question the student. School officials should also tell the child protection worker that they should conduct any interviews off school premises as the school is not the most appropriate place for CAS workers to be conducting interviews with students.

If child protection workers want to speak to student to gather information about another student, the same guidelines must apply in that child protection workers must contact the parents and conduct their interviews off school property.

School officials must be aware that to detain any student for questioning by a CAS worker who is considered as a private citizen under the law, would violate the Charter Rights of the student and the student's parents. No person has the lawful authority to detain someone's child and to interrogate that child. This could result in both the school board and the individual school board employee being subjected to a civil lawsuit and/or criminal charges.

13) What should school officials do if a children's aid agency worker calls the school and requests to take a student out of school for a short period of time?

As part of their efforts to secretly get information from students without the knowledge or consent of parents, CAS workers have been known to call the school and request to take students out of school without parental permission. In some cases, school officials are told this is simply to take the student out for lunch. In most cases, these "excursions" off school property are to get the student away from prying eyes of school officials and other students and to allow the CAS worker to gain the confidence of the student and to extract information about the student's family from the student.

Under NO circumstances should school officials allow CAS workers to take a student off school property for any reason whatsoever unless the student is in the legal custody of the local children's aid agency.

In most cases, CAS workers use these off-school excursions to befriend students and in some cases to engage in unlawful activities. Canada Court Watch has one video disclosure of an 11-year-old student who reported being sexually assaulted by the CAS worker in the worker's van. There have been a number of cases reported where children have been sexually or physically assaulted by CAS workers. Allowing a student to leave school property with a worker from a CAS agency (who, again, is a private citizen) can leave school officials exposed to the most serious of consequences including a lawsuit against the Board and the school board employees involved. The consequences for the school board and its employees would be even worse should something unfortunate happen to the student while off school property with a CAS worker such as being involved in a motor vehicle accident in which the student was harmed.

14) What should school officials do if a child protection worker requests that school officials question a student or be present during questioning?

Children's aid society workers have been known in the past to ask for school officials to be present when they interview a child at the school. CAS workers attempt to involve teachers, especially the first time they meet children at the school to influence the child into believing that the student's teachers are giving their consent to the child protection worker to interview the child. It's all part of the psychological game to gang up on the child at his/her school and to put the student in a position where he/she feels forced to answer questions in front of persons who are perceived as *persons of*

authority in the eyes of the law.

When a student does something at the request of a teacher or school official such as obeying a request to go to a room to meet with a CAS worker, it is generally interpreted that the student has not given his/her informed consent to this action but is merely following the instructions of the person who in law is considered as a *person of authority*. Teachers and school officials who are in a position of authority over the child can be held liable for the consequences of the actions of the student if the actions of the student were undertaken without the prior informed consent of the student. First and foremost is that students should never be interviewed by anyone without prior informed consent of the student or his/her parents.

In the event that a school official gets a request from a child protection worker indicating that they would like school officials to question the student and informed consent has been obtained, the school official should still decline any such requests to participate. Once school officials directly engage themselves in such actions, they have become a direct participant in a child abuse investigation. Interviewing children is a specialized field with legal responsibilities which are outside the mandate of the teaching profession. School officials who engage in any kind of questioning process at the informal request of a child protection worker may find themselves in court as witnesses. Teachers could also find themselves subject to a civil lawsuit if the questioning of the student is not conducted in a professional manner. Such intervention also puts the student's relationship with his/her teachers and school at risk and could potentially damage the student's trust in his/her school officials.

School officials must always remember that it is the role of child protection workers and/or law enforcement officials, not school officials, to conduct investigations into child abuse or neglect. School officials should also be aware that once they get involved with any kind of interview of a child, they become a direct witness and therefore can be forced to attend court and be required to testify on the witness stand. This can be messy and put school officials, students and parents in a situation where school officials and the school board can lose the respect of families in the community. School officials should never be a party to an interview with a student unless the student has previously asked for the help and support of the school official. CAS agencies and police have all the necessary resources to conduct questioning of children without getting school officials involved.

15) What should school officials do if a lawyer representing the parent of a student calls the school and requests to question a student at school or to obtain information?

On occasion, school officials may get a call from a lawyer representing one of the student's parents requesting information or to requesting an interview with a student or with teachers. If a lawyer representing one of the parents calls, it is usually done with the purpose to unlawfully obtain information from school officials which is then used against the other parent. Quite often these lawyers are of the belief that they can intimidate school officials, especially those who work for small school boards, into giving them information that will benefit their client in court.

Should school officials get such calls then the lawyers should be advised that no information can be released and that they should address their concerns in court. It is not professional for a lawyer to be making personal calls to any school without a court order to that effect. If the lawyer is persistent, the school officials should tell the lawyer to call the lawyer for the school board.

16) What should school officials do if the student's lawyer calls the school and requests to question a student at school or to obtain information?

Another situation which may arise may be a request by a lawyer with Ontario's office of the Children's Lawyer claiming that they are the lawyer representing the student in a family court matter and that they wish to speak to the student at the school. School officials should provide the same response to workers from Ontario's Office of the Children's Lawyer as they do to child protection workers and to have their meetings with the student conducted off the school property. Schools are not the places for lawyers to be meeting with their young clients unless informed consent has been obtained beforehand.

All that a meeting at school does is to draw attention to the student, violate the student's privacy at school and in most cases embarrass the student in front of his/her peers and teachers. School officials should also be aware that students who may have a court appointed lawyer may have been assigned this lawyer without their informed consent. These lawyers generally are forced upon the students at the insistence of other lawyers in court. A vast number of children who are appointed lawyers from Ontario's Office of the Children's Lawyer report unsatisfactory service from these taxpayer funded lawyers. Some children have reported that their Ontario Office of the Children's lawyer have lied to the court about what the children have said to their lawyers. Video testimony from children and parents can be found on the internet. Examples of testimony can be found at:

<http://www.vimeo.com/1323226>

<http://www.vimeo.com/1112830>

17) What should school officials do if local police call and indicate that they want to question a student regarding a child protection matter

The same considerations apply to police as do to child protection workers. Police cannot detain or question a student for the very same reasons that child protection workers cannot detain a child at the school without informed consent.

About the only time that police can detain or question a student would be if the student is suspected of being involved in some sort of criminal activity or is a witness to a crime, but even in that situation, the student's parents must be contacted first and the student allowed to have a parent or legal representative present. In matters of child protection, police have authority to conduct an apprehension in the same manner as a child protection worker but they must exercise this authority by a formal apprehension before they are allowed to detain a student.

18) What should school officials do if a children's aid society worker shows up at the school with a police officer and asks to question a student?

Some parents and students have reported that CAS workers have shown up at their school with a police officer to question a student without informed consent. Unfortunately, school officials often comply with the request of the CAS workers when there is a uniformed police officer present. CAS workers may at times ask for the assistance of a uniformed police officer to accompany the CAS worker for the purpose of giving the appearance that their activities are lawful. When a CAS worker appears at school with a police officer, school officials are misled into believing that the CAS worker is working jointly with police and has the endorsement of police to question the student. The use of police officers is often used as a form of intimidation by CAS workers in order to gain the cooperation of school officials while the CAS workers conduct their often unlawful and unethical activities.

In most jurisdictions, police officers do not understand that CAS workers have no more authority than do police to go into a school and to detain and question a student. Generally, police officers go along with the instructions of CAS workers out of the belief that they must do as CAS workers tell them to do. Even police officers do not realize that CAS workers are breaking the law.

Should a CAS worker show up to a school with a police officer then both should be told to provide either a court Order or proof of prior informed consent. If neither of these documents can be produced then the CAS worker and the police officer should be denied access to school property. Under the law, school property is considered as private property and a warrant from the court is required to enter private property.

19) What should school officials do if a student reports that he/she is of the opinion that another student at the school is in need of protection?

Should a student approach school officials with a report that they feel another student is in need of protection, then school officials should assist that student to make a report directly to the CAS. Remember, information through a third party is considered as only hearsay, so primary responsibility of reporting should lie with the person who is most aware of the circumstances. If school officials are doing their jobs right, even those students who are reporting abuse involving another student, will be aware of what the process involves. The main responsibility of school officials is to guide the student making the report to call the CAS. Once school officials have confirmed that the reporting student has contacted CAS, then questioning of the student by child protection workers should be done off school property. Under no circumstances should school officials begin any sort of investigation with the student who is the subject of the alleged abuse or neglect.

20) What should school officials do if a child protection worker calls the school and advises that they are coming to apprehend a student?

In the event that a school official gets a call from a child protection worker, indicating that the child protection agency wishes to apprehend a student, the school official should first request that the apprehension be conducted away from the school if at all possible to minimize the harm to the child.

NOTE: School officials should also be aware that students who are 14 years of age or older cannot be apprehended by CAS workers without a official court Order specifically authorizing the teen to be apprehended by CAS workers or Police using force. This includes even students who may be Wards of the CAS and living in care.

With the full power and authority of the law and the police at their disposal, there is absolutely no reason why child protection workers cannot apprehend students outside of the school environment in order to avoid all the disruption and harm to the student that this causes at the school.

In the vast majority of cases, apprehension of students at their schools is not really required but often done deliberately by child protection authorities for the purpose of convenience and also to make the student and his/her family look bad in the eyes of school officials and to the student's peers.

If the child protection agency says that they are going to come to the school anyway, then ask for the CAS to send an official notification by fax of their intent to apprehend the student at the school. School officials cannot interfere with a lawful apprehension but at the same time cannot be directly involved with the detention or apprehension itself. If CAS workers indicated that they have an

Apprehension Warrant, then the CAS workers should bring the Warrant and show it to school officials when they come to apprehend the student.

When the CAS worker arrives at the school, if the worker is not known to school staff, then the school staff should check the identity of the person claiming to be a CAS worker by also calling the CAS offices to confirm that the worker was sent to the school for the purposes of apprehending a student. All CAS workers should carry some form of photo ID. Next, summon the student to the office to meet the CAS worker. The school official should first explain to the student that the CAS worker has come to apprehend them and that under the law, the school cannot interfere. Reassure the student that it is OK to go with the child protection worker. Advise the student that the school will call the parent to advise them of the apprehension. Immediately, attempt to contact the parents to advise them that their child has been apprehended. The CAS worker should introduce herself/himself to the student and let the student know where they are being taken and why.

In all instances, school officials must immediately notify the parents even if the CAS workers instruct otherwise. While school officials cannot impede an apprehension, school officials do have a fiduciary responsibility to notify the parents once care and control of the child has been taken away from them by another third party which in this situation would be the CAS. There is absolutely no authority in law which gives CAS workers the authority to instruct teachers and school administrators not to call the parents if their child has been taken from his/her school.

School officials DO have a fiduciary responsibility of notifying the parents as there is an implied understanding between the school and the parents that when their child goes into a school that school officials have the responsibility to care for the child at that school. School officials have an implied duty to the parents under the law, not to the CAS or its workers.

21) What should school officials do if a student refuses to leave the school with a child protection worker during a lawful apprehension?

No matter what the age of the student, if a student refuses to voluntarily leave the school with the child protection worker during an official apprehension, then school officials should not participate in any physical way such as physically holding or forcing a student into a child protection worker's vehicle. This will only cause harm to the child's relationship with his/her teachers and school. Only a child protection worker or police officer has the legal authority to apprehend a student using force and even then force can ONLY be used during a legal apprehension. It is up to the child protection worker to call police for assistance or to have police come with them to the school if trouble with the student is anticipated. At no time should school officials use force or the threat of force at any time.

Another point which school officials should be aware of is that once a child reaches the age of 14, no person, including a CAS worker or police officer can use force against the child without a warrant from the court which specifically gives the authorities the authority to use force against the student. Such a situation would be extremely rare and likely used only in cases where a student may be at serious risk of physical harm to himself/herself.

22) Are there situations in which it would be acceptable for a student to be questioned at school by child protection workers?

The only time that questioning a student at the school would be acceptable would be in a situation in which the if the student approached came to school officials on his/her own and made a voluntary disclosure of abuse and made it clear to school officials that they were afraid of their parents and wanted help from outside sources and were willing to speak to child protection workers at the

school. In such a situation, the child should be coming forward to disclose abuse and indicate a fear of disclosure to his/her parents. This condition would meet the criteria for informed consent requested to speak to child protection workers at the school.

In regards to child protection workers coming into a school to question a student without informed consent, there is no reason whatsoever that would justify a student being detained and interviewed at his/her school. Involving the school in any way creates a potential embarrassment for the student and his or her family (which is a violation of their rights) plus it ties up valuable school resources and staff time. Should a child protection worker feel that they need to interview a student, all they simply have to do is to call the parents and arrange to have the parents bring the student to CAS facilities to be interviewed after school. Child protection workers can also meet with a student at his/her home.

If the child protection worker feels that the parents may not be cooperative or should the worker feel that the student is at risk of imminent harm, then the child protection worker should exercise his/her authority to legally apprehend the student and to take the student to CAS offices. This will ensure that the due process of law is followed and that the action of the CAS workers can be scrutinized by court of law. Even if the child protection worker tells the school official that the parents are not cooperative (which CAS workers should not do), this does still not give CAS workers the lawful right to question a student at his/her school.

23) What should school officials do if a children's aid society worker asks for the student's school information?

Unless there is a court Order, all information about a student contained in school records is confidential and must not be given to a CAS worker without the proper release forms being signed by the parent or guardian. No verbal information should be given as well about the student's record at school.

School officials should also ensure that should a child protection worker call the school, that the worker be asked if they are a registered social worker. Only those who are registered as social workers in the Province of Ontario are authorized to engage in the practice of social work. Conducting an investigation is considered as engaging in the profession of social work. While refusing to disclose information to CAS workers may seem uncooperative, CAS workers do have tools at their disposal to easily obtain this information lawfully through proper legal channels.

24) What should school officials do if a children's aid society worker asks to speak to school officials about a specific child at the school when there is no court Order?

Should a child protection worker call the school and request to speak over the phone or in person to teachers about a specific child, then school officials should simply advise the CAS worker to provide his/her questions in writing to the school officials in writing and that the a response will be provided once the questions have been received and reviewed.

Unfortunately, these meetings between CAS workers and teachers end up doing a lot of harm to the child and his/her family. In many cases, CAS workers will disclose information to the school teachers in such a manner to gain the support of the school officials. It has also be found that CAS workers have misquoted school officials in court documents in a deliberate attempt to make the family look bad in court.

School officials must be wary of their obligations to minimize the risk of harm to the student who

may be the subject of questions by a CAS worker. Below are some tips to minimize the risk of potential harm to a student:

- **Any exchange of information between child protection workers and school officials should be in writing only. There should be no need for personal contact between CAS workers and school officials.**
- **At no time should the contents of school records be provided to the CAS workers without the consent of the student (16 or older) or the parents if the student is under the age of sixteen.**

25) Should CAS workers be disclosing the nature of their concerns about the student's family to school officials?

Under no circumstances should a CAS worker disclose ANY information about problems or suspicions related to a student or the student's family to any school official. Unfortunately, many child protection workers disclose information to school officials hoping to gain the sympathy and support of school officials but this is very unprofessional and in fact in violation of the privacy rights of the student and his/her family. CAS workers do this during meetings with school officials in which information is exchanged verbally with no record of what the CAS worker has said to influence the school official.

School officials must also be wary about what child protection workers tell them as it is not uncommon for child protection workers to distort the truth and in some cases fabricate totally false information in order to present a false picture of the student or his/her family. Claims of child protection workers twisting the truth and committing perjury in court documents are rampant today.

This should never be a problem if school board employees insist that any and all communication and exchange of information between school officials and CAS workers be on the record and in writing only.

26) Are there any situations which would justify a school official physically detaining a child at school when a parent is not present?

There are a few situations which would justify a school official detaining a student with none of them having anything to do with a child protection agency. These situations generally involve the physical safety of a child being at clear and imminent risk. Below are a couple of examples of when it may be considered justifiable to detain a student for his/her own safety.

Situation #1 - Dangerous weather conditions

Should dangerous weather conditions become apparent such as hail, snow, tornado, or hurricane, flood etc. and it would appear that allowing letting the student to go outside of the school may be placing the student at risk of harm, then it would be reasonable to detaining the student and keep the student in the school. However, if a parent shows up to take the student out of the schoolchild, then the school official must turn the child over to the lawful parent as the decisions relating to the safe care of the student now becomes the parent's.

Situation #2 - School is in lock down mode

Sometimes schools go into what is referred to as a lockdown. This is usually due to some imminent perceived threat such a person with a weapon near the school or reports of a stranger in the school. In lockdown mode it would be considered acceptable for the child to be forced to be detained in the school until the lockdown ends. Lockdown mode is usually due to something criminal occurring on

school property.

In the above two examples, the risks to a child are reasonably known and understood by school officials and without a doubt, the outcomes of the detention certain.

27) Are there any situations which could justify a school official physically detaining a student from being released into the care of a parent?

Situation #1 - Parent arrives at school impaired due to alcohol or drugs

While extremely rare, should a parent or person having lawful care of a young student arrive at the school in an obviously impaired condition because of alcohol or drugs and it would appear that the caregiver is not in a state of mind to take safe control of the student, then the school official could be justified to detain the student although it would be appropriate to call authorities to deal with situation. While detaining a student may still technically be a violation of the law, charges would not likely be laid if sufficient evidence was to show that the parent was not capable of providing appropriate care for the student.

In such a situation, the school official should first tell the parent that they feel that the parent is in no condition to take control of the child and then ask the parent to make alternate arrangements to pick up the child. At this point the school official has still not detained the child but has in effect requested the informed consent of the parent to leave the care of the child with the school official. Hopefully, the parent can be convinced to have someone else come to take charge of the student.

Should the parent say no and demand that the student be released into his/her care, then the school official could refuse and detain the student from going with the parent. If there is any possibility of the situation turning violent than school officials could allow the student to leave with the parent but then immediately call police to the scene. Police have the authority to apprehend the child legally and under such circumstances will likely respond quickly. In all cases, it is better to avoid any direct confrontation at the school.

While technically the school official is violating the rights of the parent, individual rights can be violated to protect the individual rights of another person. In this case, the student has the right to security of his/her person and therefore when a school official intervenes in such a situation, the school official is in effect protecting the rights of the children. No court would rule that a parent's rights were violated in this scenario. When the parent is intoxicated poses a clear and imminent danger to the student.

Should any parent arrive at school to pick up a student in an obviously intoxicated state of mind, this should be interpreted as a sign of potential abuse or neglect and should be reported to the local child protection agency. Any parent who would show up at their child's school in such a state is clearly not making choices which are in his/her child's best interest.

Situation #2 - Parent attempts to pick up student when there is a court Order which specifically forbids this.

Although extremely rare, a court Order may exist which **specifically states that a specified parent cannot attend the school where his/her child attends**. Providing school officials have a copy of this court Order on file at the school, school officials may be justified in preventing a student from being released into the care of a parent who has such a court Order against him/her. While this action may still be considered as technically unlawful, it would be extremely unlikely that the school official would be charged or prosecuted in such a situation if in fact the court order was current and valid.

It must always be remembered that enforcing the law is the role of law enforcement officials, not school officials so even in this situation it would still be best for school officials to release the child to the parent and to advise that parent that the school is compelled to call the police. Should the parent still take the child under these circumstances then school officials should immediately call the police and the other parent or lawful guardian of the student.

The age and maturity of a student must also be carefully considered. If a student is mature (generally over the age of 12) and the student clearly appears to want to go with the parent who has come to pick him/her up, it would not be wise for school officials to intervene in such a situation even if a court Order is believed to exist. Sometimes court Orders are old and do not reflect the current situation where a child is mature and aware of their personal safety. In many cases, hostile-aggressive parents may attempt to engage school officials to help them keep the child from seeing the other parent, not because of any real risk to the child, but because of their need to exercise power and control over the child and over the child's other parent.

This situation must not be confused with the situation in which a parent has access to a child at specific times. Any parent of a student who has some form of access to the student at school, even if the times are specified, has the right to have contact with their child at school, even if this is not their scheduled time to be with the child. Access times normally specified in most family court orders for a specific parent are the times in which that parent has priority with the child over the other parent. Access times specified in a court Order do not, however, eliminate the general rights of parents or children which are protected under the Charter of Rights and Freedoms. **Parental rights, unless specifically removed by a court Order, apply at all times.**

28) What should school officials do if police call the school and request to speak to a student regarding a criminal matter which occurred outside of the school?

Although very rare, it is possible that school officials may get a request from a police officer to interview a student at the school regarding some trouble that the student may be suspected of being involved in or a witness to outside of the school. This situation is rare because most police officers are trained to understand what "informed consent" means and to know that they cannot speak to a student without the informed consent of parents first or without the student being given the option of having a lawyer present.

While the police can make a request to question a student at school, it is highly unlikely that police would do so if they were to know that such a request would go against the general policies at the school. School officials should request that police do their questioning of the student off of the school property. The main reason for this is that significant emotional harm can be done to the student as a result of such interventions at the school. Police have the authority to question a student at his home or outside of the school so this should always be the preferred option. It is always best that students feel that their schools are a place of safety from the stress arising from issues outside of their schools.

Permitting police to come to the school to question a student at school for unlawful activities committed while on school premises would be acceptable situation in which to allow a student to be questioned at the school. Students who engage in unlawful activities at their schools lose their right to privacy at school. Allowing police into schools to investigate unlawful activities at the school has some benefits in that some of the other students will see that school officials do take appropriate action against those students who do not conduct themselves within the standards of behaviour as set down by their school. While it is important that students witness law enforcement officials

doing their jobs professionally, students must also see that law enforcement professionals respect a student's right to privacy at school should matters under investigation not involve school issues.

29) What should school officials do if one parent calls the school and advises that they want the school not to allow the other parent to see the child during school hours or to be involved with activities at the school?

Schools often get requests from separated parents who are in the midst of a family court matter and who have been appointed as the custodial parent or primary caregiver parent requesting the school to prevent the other parent from being involved with their child at school. Unfortunately, most of the requests by parents to exclude or to limit another parent's contact with the child at school are motivated by an inability of the parent making the request to act in their child's best interest.

Unless, there is a court Order which specifically states that a parent cannot see or to have contact with a student at the school, then school officials must treat both parents equally and to not interfere with any reasonable request by any parent to see their child during or after school. Such contact may include:

- Taking the student out of school during lunch periods
- Visiting with the child after school
- School trips
- Working as a volunteer in class

While a parent having primary care or custody of a child gives that parent priority over the child at certain times in accordance to the parenting schedule, this does not mean that the custodial parent has the right to order school officials to interfere with the rights of the child to spend time with the other parent during times when their child is attending the school.

It is important that school officials be neutral and not take sides in issues between parents. In most cases, students want both of their parents to be involved at schools and want both of their parents to be treated equally by school officials. Should school officials get themselves involved by supporting one parent's request just because that parent is the custodial parent then school officials risk losing the trust and respect of the student involved.

If the custodial parent wishes to exclude the other parent from involvement with the child at school, then the custodial parent must go to court and obtain a court Order to that effect. This forces the custodial parent to explain to the court why such an order is necessary to exclude the other parent from the student's activities at school. Rarely, will courts issue such an order because it is widely recognized by most professionals that the involvement of a parent at their child's school is in the child's best interest.

30) What should school officials do if one parent calls the school and says that they want their child interviewed by CAS workers at the child's school in regards to child protection concerns involving the other parent?

In some cases, schools may get a request from custodial parents who are in conflict with the non custodial parents of students requesting school officials to have CAS workers question their child at the school.

School officials must exercise extreme caution in these circumstances. In many cases where parents are separated, it is not uncommon for one parent to deliberately try to drag school officials into their personal conflict with the other parent by discussing their allegations with school officials and then

getting the CAS involved. Once school officials get involved, the parent can force those school officials involved to appear in court to provide testimony. This is one of the signs of a hostile-aggressive parent (HAP). In many cases, the real reason why these parents do this is to make the other parent look like a bad parent and to get school officials to take sides with them in their personal vendetta against the other parent. Many parents have been known to coach their children to tell school officials lies which will then get school officials in a position where they can be forced to attend court.

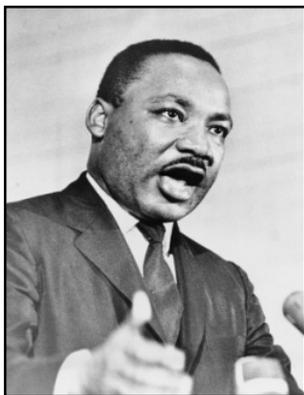
In such situations, school officials should not allow themselves to get dragged into the conflict between parents and to simply advise the parent to deal with their issues outside of the school and to discuss their issues directly with the local CAS agency. Parents should be advised that any questioning of the student should be done off school property. There are plenty of private counsellors and other professionals where parents can go for this kind of service.

This neutral hands-off approach by school officials when parents are in conflict will help to ensure that the parents who may be the subject of allegations are not alienated from the school and also ensure that the students do not feel that school officials have taken sides against one of their parents.

31) What should school officials do if there is a conflict between published school policies and procedures and the rights and freedoms of children and parents?

When faced with a situation in which published school board policies and procedures conflict with the rights and freedoms of children and parents, school officials must remember that school board policies do not override the law. Teachers must respect prevailing laws and the rights and freedoms of students and parents ahead of any school board policy. Teachers and school officials can be taken to court for violating the rights and freedoms of students and parents. It must be remembered that school board policies and procedures cannot overrule the laws which are applicable in Canada nor the provisions of the Canadian Charter of Rights and Freedoms.

Teachers and school officials must bring to the attention of their board, any policy or procedure which is not consistent with the laws of the land with the provision of the Canadian Charter of Rights and Freedoms being ranked supreme above all other laws and school board policies. Teacher unions must oppose the involvement of CAS agencies in schools as this puts teachers at risk of lawsuit and interferes with the education of students. Teachers must disobey any school board policy which in their good conscience they feel is inconsistent with the law or violates the rights and freedoms of students and furthermore be willing to challenge their employer. One of the world's most notable civil rights leaders, Dr. Martin Luther King, once stated:



“An individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law.”

32) What should school officials do if CAS workers want to interview students who are “Wards” of the CAS?

When a student is a “Ward” of the CAS, technically the CAS is the student’s parent. Under such circumstances CAS agencies should be treated no differently than any other parent. Schools do not generally allow parents to come into their child’s school to use school facilities to question or to discipline their own children so neither should school officials allow CAS workers to use school facilities for this purpose. CAS workers can easily interview their own “Wards” at their foster or group homes or at the CAS offices. Many CAS workers use school facilities to interview their own wards, not out of necessity but as part of the overall objective to isolate students from any perceived source of support and to deceive students into believing that CAS is an integral part of the school system. CAS workers want students to believe that the school is on the side of the CAS and that school is not really a place of safety for the student. Students being abused while in care of the CAS are less likely to tell their teachers about being abused by CAS workers if the student feels that the CAS and the teachers are working together at the school.

33) What should school officials do if a student advises school officials that he/she does not want child protection workers coming to the school to have contact with them or to speak to them?

In some cases students may advise school officials that they do not want child protection workers coming into their school to speak to them. Once a child is mature enough to express such a request, this should be considered as the student refusing to give his/her informed consent to meet with child protection workers. Under such circumstances, school officials must respect the student’s wishes and insist that child protection workers make arrangements to interview the student outside of the school.

The key point to always consider is that “informed consent” must be obtained first and once a student is mature enough to refuse their consent, then their wishes must be respected. If a student is considered as being too young to give his/her informed consent then school officials must get informed consent from a parent. Unless CAS workers have a court order or come to the school to lawfully “apprehend” a student, school officials must refuse access to the student by CAS workers if the student indicates that they do not want CAS workers meeting with them at school.

Informed refusal forms to prevent CAS workers from contacting student at school

To help ensure that the rights of students are protected at their schools, community groups have come together and have developed informed refusal forms for parents and students to submit to the school or school board. Copies of these forms can be found at the end of this document. Once a student or a parent has filed an informed refusal form to the school or to the board of education, school officials should take immediate action to ensure that CAS workers do not contact the student at the school. Once the form is in the hands of the Board and principal it is likely that serious legal liability will fall on school officials should CAS workers be allowed to enter school property to either detain or speak to a student who had submitted this form or had a form submitted by a parent.

CAS workers should not even be allowed in the school for educational purposes once the forms have been signed. A CAS worker who may be working with a particular family may accidentally come in contact with one of the students where a form has been signed. This is one of the problems caused when CAS workers get involved with both child protection and going into the schools.

In an attempt to mislead school officials and parents, some CAS workers have tried to claim that these forms are not legal and have no force because the child is not 18 years of age and not old

enough to sign. This approach by some CAS workers is totally without foundation and only another example of how CAS workers try to twist information to mislead school officials. While a person under the age of 18 may not be able to enter into a binding legal agreement, the informed refusal forms do not constitute a legal agreement between two parties. The informed refusal form is simply a signed instruction to put School Board officials on notice that they must fulfill their fiduciary responsibility to protect the Charter rights of the student from the unlawful activities of CAS workers while students are in their school or school officials will be legally held accountable. There are no protections for school officials who are found responsible for allowing the Charter Rights of students to be violated.

For more information on the forms school officials may check out this link on the Canada Court Watch website:

www.canadacourtwatch.com/files/all/Request_for_non_interference_at_school_by_CAS_workers.pdf

34) Can school officials be held personally liable for violating the rights and freedoms of children and/or parents as a result of allowing CAS workers to conduct unlawful interviews of children at their schools?

All school officials are expected to exercise “due diligence” and to be aware of their fiduciary responsibility to parents at all times. School officials are also expected to be familiar with laws which may apply to them and their students in a school environment. School officials who participate in or contribute to the violation of the rights and freedoms of children or their parents can be the subject of a civil lawsuit in addition to the criminal aspects of such infringements.

It is of utmost importance for school officials to exercise due diligence and make themselves fully aware of the law and any policies which their employers may have in place concerning child protection issues involving students at schools. When drafting policies for school board employees, school board trustees must exercise due diligence to ensure that policies do not conflict with various other pieces of legislation such as the Canadian Charter of Right and Freedoms or the Criminal Code of Canada.

School officials should also be aware that there is also no statute of limitations on either criminal or Charter violations so it is possible for a child or a parent to launch a criminal or civil suit at anytime in the future against a teacher or school official. It is not uncommon for children to launch lawsuits when they turn 18 years of age which could result in school officials being served court documents even after they have entered retirement and no longer working for a school board. Examples of similar lawsuits include those against church officials who were found to have abused children when they were young or who permitted such abuses to continue when they had knowledge of the abuses going on. The residential school fiasco involving native children is another well published example of lawsuits occurring years after the damages had occurred.

35) What can school officials do to help protect the rights of students from abuse by the child protection system itself?

There are a number of steps things that school officials can do to protect not only the rights of the students but to protect themselves and their employers from lawsuits as well. Some of these steps include the following:

- School officials should read and fully comprehend their school board policies relating to child protection and to bring to the attention of their Board any policies which would appear to conflict with the rights or freedoms of children and/or parents.

- School officials must not follow the instructions given to them by private sector CAS employees without fully understanding the implications to themselves and their students.
- School officials should ensure that on any matter involving discussing information about a student or family that they deal only with CAS workers who are properly trained to engage in the practice of social work and who are registered with the Ontario College of Social Workers.
- School officials must educate students about child abuse and to teach students specifically what they can do if they are a victim of any kind of maltreatment. This education must also include teaching students about the process of dealing with child abuse and the rights of students during the process of investigation by CAS workers.
- School officials should make themselves aware of parent support or student resource groups on the internet and pass this information on to parents and students. It is well documented that many children are abused while in care of child protection agencies or directly as the result of intervention by child protection workers. Many of these resource groups provide valuable information which can help to students and parents protect themselves from the abused of the child protection system itself.
- School board employees must vigorously oppose any school board policy which is inconsistent with the law or the rights and freedoms of Canadians.

All teachers and school officials must do their part to help to protect democracy and freedom in Canada by preventing children's aid society workers from trampling over the rights and freedoms of children at their schools.



“We must vigilantly stand on guard within our own borders for human rights and fundamental freedoms which are our proud heritage.....we cannot take for granted the continuance and maintenance of those rights and freedoms.”

**John Diefenbaker 1895-1979
Canada's 13th Prime Minister 1957 -1963**

Sample Notice of Informed Refusal forms

Notice of informed refusal to allow Children's Aid Society workers to have contact or to question a student at his/her school (Student)

Where it is true:
That under section 7, 8 and 9 of the Canadian Charter of Rights and Freedoms all students have the right to their liberty and to not be detained by anyone for questioning without their informed consent or the informed consent of their parent(s), and;
That Children's Aid Society workers are considered as private citizens under the law and have no special legal authority to detain or question a student at his/her school or to obtain any school record without the informed consent of the student or his/her parent(s) or a court Order to that effect.

In recognition of the above, I, the undersigned student, state the following:

- That I do not wish to have Children's Aid Society workers contact me or speak to me at my school.
- That if Children's Aid Society workers wish to speak to me for any reason then they are to contact me at my home.
- That I expect school officials to protect me from any form of contact or interference by Children's Aid Society workers while I am on school property effective from the date of signing of this form.
- That I understand the intent and purpose of this form and am signing my name below willingly and of my own free will.

Signature of Student _____ Date _____

Name Printed _____ Phone number _____

Name of school student currently attends _____ Grade or Class No. _____

Witness to student's signature _____ Relationship to Student _____

This form is directed to:

Name of school Board or CAS agency _____

Street _____

City/Town/Postal Code _____

Note: The student should sign this document in the presence of another person over the age of 18 and to send one copy of this form to the local Board of Education and one copy to the principal of the school where the student attends and an additional copy to the CAS (optional). Confirmation of delivery of document should be obtained or requested from school officials. A scanned copy of this signed form may also be emailed to Canada Court Watch at info@canadascourtwatch.com.

Notice of informed refusal to allow Children's Aid Society workers to have contact or to question a student at his/her school (Parent or Guardian)

Where it is true:
That under section 7, 8 and 9 of the Canadian Charter of Rights and Freedoms all students have the right to their liberty and to not be detained by anyone for questioning without their informed consent or the informed consent of their parent(s), and;
That Children's Aid Society workers are considered as private citizens under the law and have no special legal authority to detain or question a student at his/her school or to obtain any school record without the informed consent of the student or his/her parent(s) or a court Order to that effect.

In recognition of the above, I, the undersigned parent/guardian, state the following:

- That I do not wish Children's Aid Society workers to have any contact with my child(ren) at the school where my child(ren) attend.
- That if Children's Aid Society workers wish to speak to my child(ren) for any reason then they are to contact myself or my child(ren) at my home.
- That I expect school officials to protect my child(ren) from any form of contact or interference by Children's Aid Society workers while my child(ren) are on school property effective from the date of signing of this form.

Signature of Parent or Guardian _____ Date _____

Name Printed _____ Phone number _____

Name of Student	School student attends	Grade

This form is directed to:

Name of school Board or CAS agency _____

Street _____

City/Town/Postal Code _____

Note: The parent or guardian of the child(ren) should sign this document and to send one copy of this form to the local Board of Education and one copy to the principal of the school where the student attends and an additional copy to the CAS (optional). Confirmation of delivery of document should be obtained or requested from school officials. If a parent has children that go to different school Boards then a separate form should be sent to each school board. A scanned copy of this signed form may also be emailed to Canada Court Watch at info@canadascourtwatch.com.

The informed refusal forms shown above put School Board officials on notice that they must exercise due diligence to fulfill their fiduciary responsibility to protect the Charter rights students from the unlawful activities of CAS workers while students are in their school. School officials can be held legally accountable for failing to protect Students while they are at school. There are no protections for school officials who are found responsible for allowing the Charter Rights of students to be violated while at their schools.