

# **How to obtain your child protection file from a CAS agency in Ontario**

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Everyone in Ontario has the right under fair disclosure to obtain a copy of their family's CAS file. In fact, any family involved with a child protection agency should obtain a copy of their file. Obtaining a copy of the file is considered as one of the basic rules of fair disclosure in any court matter. This being said, however, most, if not all CAS agencies will attempt to obstruct the rights of most children and/or their parents to obtain a copy of any files that may be in the possession of the CAS.

Those who are dealing with a CAS agency in Ontario should review the video package put out by the Law Society of Upper Canada for its members called, **“Best Practices for the conduct of a Child Protection Matter”**. It is available on two VHS videotapes or DVDs. The workshop covers about seven hours of information specifically related to dealing with a CAS agency in Ontario. While the video seminar was intended to educate lawyers on how to best act for their clients in CAS matters, the information is just as valuable to parents who find themselves fighting against the CAS. Copies of this program can be obtained from the Law Society of Upper Canada for a price or loaned through some of the advocacy groups in Ontario who have obtained a copy for their libraries. Unfortunately, many lawyers are not competent when it comes to dealing with CAS matters and most lawyers in Ontario do not even know about the videotape package, **“Best Practices for the conduct of a Child Protection Matter”**. Many lawyers do not even know that their clients have the right to obtain disclosure of their CAS files.

One of the first things to realize is that CAS agencies are private charitable organizations and are not a part of the Ontario government as many believe they are. CAS agencies are private organizations which only receive government funding. Because of this, they are therefore are not covered under Freedom of Information legislation nor can the Ombudsman of Ontario get involved to assist in obtaining files.

The main reason why CAS workers do not want parents to have copies of files is because in most cases, evidence can be uncovered which will expose wrongdoing and incompetence by CAS workers. In many cases, upon close investigation of the files, evidence of faulty investigations and bias by workers can be uncovered. In many cases, mistakes that workers have made can often be found in the files for those who take the time to analyze the information in the files carefully enough.

For CAS workers to make sure that their errors do not become apparent from a review of the files, workers would literally have to read through the entire file and then to remove sections which might expose their errors. This takes a lot of work which is why none of the workers want to take the extensive time necessary to have to go through their files to check for their errors. For this very reason, it is imperative that every family ensure that they go through the process of requesting a copy of their CAS files. Asking for disclosure of CAS agency files also helps to promote greater accountability because once workers get to know that their notes can be examined, that they will take greater care in the work they do and in the notes they prepare.

While CAS agencies know that they must eventually provide copies, few will do this voluntarily. Those parents who do take the time to study their rights and to learn the process of obtaining their file, will, with some hard work and determination, get the files they seek.

### **Some of the excuses that CAS workers and supervisors may give to interfere with your rights to obtain your file**

In most cases, the case will employ a number of excuses in an attempt to prevent parents or children from being able to obtain files. Some of these excuses include the following:

- That you are not allowed to see the files because they are confidential.
- That the CAS agency is only allowed to give a copy to your lawyer.
- That you are only allowed to view the files at their offices by appointment in the presence of a Society worker.
- That you cannot view or have a copy of the files without a court Order.
- That you must have the written consent of your child to release files.
- That you cannot have access the files because you do not have custody of the child.
- That you cannot have access to the files without the consent of the other parent.

**In any matter, no matter what the excuse, following the steps outlined below should result in you being able to get your files.**

**Note: You may at any time instruct your lawyer to send a letter to the child protection agency asking for a copy of your family file although it is always better to attempt this yourself and to audiotape the response from child protection workers. Lawyers will not do things such as audio record their conversations with child protection workers. Audio recordings of conversations with child protection workers may catch them threatening you or incriminating themselves. This type of evidence is always helpful in your case.**

### **Step #1**

The first thing to do is to simply call up the child protection worker you are used to dealing with and to tell them that you would like to obtain a copy of the agency's file on your family. Simply ask how you go about doing this. You **MUST** covertly audio record your telephone call with the worker. The purpose of recording the call is to get any excuse the worker gives you over the phone accurately recorded. This information may be valuable in an affidavit should you have to apply for a court order to obtain your file. It's also easier to get good quality audio recordings over the phone.

If after speaking over the phone to your worker, you are unable to get the cooperation of the worker to obtain your file then proceed to step #2. Remember that some workers simply play dumb in hopes of frustrating parents in their quest to obtain information and hope that parents will just go away without making further inquiries.

In some cases, the worker may tell you that you can come down to their office to view the file only in the presence of a Society worker. Society workers sometime use this approach to divert you

from obtaining a copy of the file but hoping that you might believe this approach and think that this is the only way to view your file. Viewing your file in person is one way to start the process and every parent should take up the worker's offer to view the files at their office as a first start.

**Refer to section at the end of this document on reviewing files in person at the Society's office. (Optional)**

### **Step #2**

The next step is to contact the worker's supervisor by phone and to go through the same process at outlined under Step #1. Again, you **MUST** audio record your telephone conversation. The whole idea is to get an accurate record of what the supervisor says to you verbally over the phone. Again, this information may be valuable in an affidavit should you need to take matters to court. In most cases, supervisors will attempt to deflect your request using one of the standard excuses outlined in this document. Some agencies will cooperate.

If you are unable to get the cooperation of the supervisor to obtain the file over the phone, then proceed on to step #3. Remember that the Supervisor will just as likely as the worker, attempt to deflect phone inquiries as they feel that because there is no record of what has been said over the phone that they have nothing to worry about. It's only when things are in writing that issues are taken more seriously.

### **Step #3**

The next step is to write a letter to the supervisor requesting to be provided a copy of the file. In your letter you will ask that the supervisor provide a written response to your request for a copy of the files. Once the supervisor receives your letter, the supervisor will then see that you are serious about obtaining your files and will likely act more carefully. At this point the supervisor will either cooperate or start to put more barriers in your way.

### **Refer to sample letter**

Give the supervisor about 10 days to respond to your letter and if you do not get a reply then make a second phone call to the supervisor to follow up on your letter. Again, you **MUST** record the phone conversation. If the supervisor is not going to cooperate then he/she will likely start giving some lame excuses. The purpose of the phone conversation after the letter is to see what lame excuses the supervisor may give to you over the phone. If the excuses are lame enough and you manage to get this recorded, this could result in getting the supervisor fired or reprimanded.

If the supervisor agrees to your request for the files, then press for a date when the files can be picked up at Society offices.

If the supervisor is still giving lame excuses and refusing to provide you with a copy of your files then follow-up with the next step. The purpose of a second letter is to demonstrate that you have given ample opportunity for the agency to act in a reasonable manner and to cooperate.

### **Refer to sample letter**

#### **Step #4**

The next step is to file a complaint letter to the Executive Director of the Society complaining that workers are refusing to provide you with a copy of your family's file.

#### **Refer to sample letter**

#### **Step #5**

The next step is to write a letter to the Board of Directors of the CAS agency. Generally, CAS workers and senior employees try to isolate the Board of Directors from knowing about problems being created by their workers. In many CAS agencies, the Board of Directors are not much more than puppets. The purpose of writing the letter is to get the Board of Directors on the hook if they refuse to allow release of your files. It does not look good on the agency to have Members of the Board helping the agency keep parent's files secret.

#### **Refer to sample letter**

#### **Step #6**

If all previous steps have failed, then file a motion to the court for disclosure of the files. More about the process of filing for a motion will be added to this document at a future release date.

#### **Refer to section at end of document on how to file a motion to release CAS files**

#### **Some other thing to remember**

At all times speak to Society workers in a polite and businesslike manner. Never sound angry or lose your temper over the phone or in person. Some CAS workers have been known to call police to have parents charged, claiming that they are being harassed and threatened over the phone. Other workers may add yet more notes in the file, claiming that you have been angry at meetings or over the phone. This is one of the reasons why it is imperative that in order to protect yourself from false allegations by child protection workers that you secretly record all phone conversations and conversations in person with child protection workers.

Never tell workers that you are electronically recording them, even if they ask you if you are. Once workers find out you are recording them, they will become more careful not to say anything which may incriminate them and they will then look for ways to make things even more difficult for you and your family members. In some cases, they may stop talking to you or become very hard to reach. Recording is one of the best ways to protect yourself from false allegations while at the same time gather evidence of their wrongdoings.

If all parties are being truthful, no one should have any objection with having their conversation with another person recorded. Only those intending to do wrong or with something to hide should object to having meetings electronically recorded.

### **Reviewing files in person at the Society's offices**

One of the common tricks used by Society workers to get you off the trail to the truth is to tell you that you may come down to the Society offices to review your file in person. Be aware, however,

that this is a trick to get you to believe that this is the extent of your rights. They may also tell you that you are allowed only a specific amount of time to view your files or they may schedule your appointment at a time when they know that the office will be closing or workers will be going to lunch. The goal of the CAS workers is to get you in and out as quickly as possible so that you really don't get a chance to fully understand what is in your file.

What child protection workers know is that when you come to their offices to view your file in person, that it is almost impossible for you to be able to analyze your file and to be able to sort things out. Workers will often remove pages from the file temporarily while the file is being examined by you and then reinsert the pages back into the file after the parent has viewed them. It is not uncommon for workers to commit fraud and conspire to rig files with false documents or to make changes to documents afterwards to cover their backsides. One of the main reasons why workers do not want parents to get an actual copy of the files, is that this makes it next to impossible for workers to make alterations to documents in the files afterwards.

### **Starting the meeting**

Go to the Society offices at the prescribed time. Ideally, take a person with you as witness. If workers ask why you have brought someone with you then simply tell them that you want a support person with you to help you better understand some of the documents in the file. Wire yourself up with a hidden recording device to capture all audio conversations starting before you enter the building. Take a good quality digital camera and hide it in a bag so that workers will not see that you are bringing in a camera. Remember, you are entering a private facility to speak to other ordinary citizens. CAS workers have no lawful rights to search your body as this is considered as an unlawful search.

### **At the meeting in CAS offices**

When in the meeting, the first thing to do is to count the number of pages in the file. Mark this in your notepad. Also note the date of the most current document or entry in the file. Scan through the file and read any document that you feel seems to be important. Mark the document down so that you can return to it later. Make a list of key documents that you would like to get a copy of immediately.

Once you have finished scanning the file, then ask the worker in the room if you can get copies of certain key documents. Get the response on audiotape. The worker will likely say no but you may get a surprise where the worker might say OK.

If the worker says that you are not allowed copies then take out your digital camera and if you would like to push to exercise your rights, then pull out your digital camera and attempt to take a picture of a document. At this point the worker may ask you what you are doing. Tell the worker that you are simply taking your own copy of the document while you are there because you wish to review it when you get home. At this point the worker will either allow you to continue or will attempt to interfere themselves or leave to get other workers to help confront you.

If the worker tries to physically take your camera from you, then resist. Workers have no lawful rights to take your camera from you. Simply put your camera in your pocket so that it is difficult to take from you. Should the worker attempt to seize your camera from you then this is considered as an assault under the Criminal Code of Canada and that worker can be charged with assault as long

as you have an audio recording to support the charge. Remember, CAS workers are only considered as regular citizens under the law and have no special privileges to search your person.

If you are confronted by the worker or other workers or should the worker appear to be blocking your attempt to leave, then simply say, “please get out of my way. I wish to leave the building now.”

If CAS workers tell you that you cannot leave the building until you hand over your camera, then you are being detained unlawfully. The more that CAS workers do to attempt to seize your property or attempt to interfere with your rights to freely leave the building with your own possessions, then the more trouble they get into. Restraining you in their office becomes kidnapping which is also a criminal offence. Again, always speak in a cool, non provoking manner. If CAS workers ask you for your camera then ask them under what law do they believe gives them the right to take your possessions from you. Keep repeating that you wish to leave the building and that you feel that you are being unlawfully detained by workers.

If you can get a good audio recording of the workers threatening you or preventing you from leaving the building or even physically touching you, then you will likely be able to have workers charged by police once you get out. Such evidence will be extremely helpful in the movement to make CAS agencies accountable. If workers try to beat you up (which is unlikely) then this will only look worse for the CAS agency and its workers. Most politicians would not take kindly to CAS workers threatening parents with the use of physical force.

Remember to take whatever amount of time you feel you need to properly review the file you need. Don’t let workers convince you to leave because of time limitations. If workers tell you that your time is up, then tell them that you have not had enough time and that you want to schedule another time to return to finish reviewing the files.

If you decide not to confront workers with the use of a camera during your viewing then at the end of the meeting tell the worker that there was too much information for you to be able to fully comprehend at the viewing. Ask the worker that you really want to obtain a copy of the file. Record what the worker has to say in response to this question as this may be helpful in a motion to the court.

### **Blacked out files**

## **Filing a court motion for the release of files**

To be added in future version of this document