

March 30, 2020

Kristina Reitmeier
Children's Aid Society of Toronto
30 Isabella St.
Toronto, Ontario
M4Y 1N1

Paul Rosebush
Chief Executive Officer
Children's Aid Society of Toronto
30 Isabella St.
Toronto, Ontario
M4Y 1N1

Dear Ms. Reitmeier and Mr. Rosebush:

Re: Society's Policy of Suspending All In-Person Access During Pandemic

It has come to our attention from our membership, confirmed by numerous Society counsel, that your agency has implemented a blanket policy of suspending all face-to-face parental access for all children receiving services from the Society. This includes all access visits at Society offices, in the community, at parents' homes, or at kin homes, for all children in Society care or in the care of parents or kin under Society supervision, during the COVID-19 crisis. Further, we understand that this indiscriminate suspension is being applied even in instances where access is unsupervised or supervised by consenting kin caregivers.

The OACPL is concerned about the broad overreach of your blanket policy and its illegality. The current health crisis does not relieve the Society from its obligation to comply with the terms of court orders, including parental access orders. The Society has no discretion or authority to disobey court orders or invite parents and caregivers to similarly not follow court orders. This pandemic does not change that fundamental principle or make your actions any more legal. The directive from the Ontario government is that there ought not to be gatherings larger than five (5) people. As a result, there is currently no public health directive or other legal basis to absolve the Society from complying with all access orders.

Furthermore, it is our position that even where parental access is in the Society's discretion or not otherwise subject to a court order, the access that was occurring prior to this crisis should

continue unless the Society has case-specific evidence or examples of behaviour or plans by the parent that are inconsistent with COVID-19 protocols.

The best interests, including the health, safety and well-being, of children under its mandate should be the Society's foremost consideration during the health crisis. The current policy prevents Society service teams from considering any individual child's best interests with respect to parental access. The consideration of individual and particular circumstances of each child is the hallmark of the "best interests" test and has been specifically emphasized in multiple court decisions.

The Society's blanket policy not only prevents the consideration of each child's best interests, it has harmed and continues to harm many children that it serves. This policy denies children meaningful parental and family access at a time when children's lives are being significantly disrupted by the health crisis. The denial of access introduces another source of insecurity and uncertainty in children's lives, which adds another layer of trauma to what has already been experienced by children who receive your services and as a result of this pandemic. We are aware that the Society is trying to provide access through video conferencing, but for most children, video access is a poor substitute for in-person access. For example, for babies and infants, video access is not meaningful access.

Moreover, this policy presumes that parents are not capable or willing to follow COVID-19 protocols; an assumption that is wholly without merit or a basis in fact.. As can be seen from many domestic family law judgments that have been released since this crisis started, courts have applied a presumption that parents will follow COVID-19 protocols unless the contrary is established with specific evidence. The actions of the Society in this regard send a clear and unequivocal message to families and the community at large that parents involved with the agency cannot be trusted and will not to follow COVID-19 protocols in order to protect their children. This is disrespectful at best and harmful to the relationships established throughout our community to protect and support children and their families.

This blanket prohibition on in-person access is in direct violation of the CYFSA and its governing principles. The OACPL is calling on the Society to undertake a case by case review regarding in-person access arrangements for children with their family and then provide evidence of what steps the Society has considered and tried to implement in order to comply with the current operative access orders and access arrangements. The OACPL is further calling on the Society to ensure that in-person access is offered on new Court Applications and voluntary interventions with families.

Finally, we note that some other child protection agencies have not adopted your policy and are continuing to make every effort to facilitate face-to-face access between children and their parents. We urge you to share best practices with these agencies to maintain family access during this difficult time.

Yours truly,

A handwritten signature in black ink, appearing to read "Tammy Law". The signature is written in a cursive, flowing style.

Tammy Law

On Behalf of the Board of Directors: Katharina Janczaruk, David Miller, Sarah Clarke, Gilead Kay, Deborah Stewart, and Lainie Basman