

TAB 6

Statement of Agreed Facts

Manjusha Pawagi
Legal Counsel
Children's Aid Society of Toronto

Best Practices For The Conduct Of A Child Protection File - Part II

Strategies to Move your Case Forward to Settlement, ADR or Trial



The Law Society of
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Continuing Legal Education

Best Practices for the Conduct of a Child Protection File – Part II

Strategies for Avoiding Delay

Statement of Agreed Facts

**Manjusha Pawagi
Legal Counsel, Children's Aid Society of Toronto**

March 9, 2004

1. Statements of Agreed Facts are the evidence upon which a final order is made on either a Child Protection Application or a Status Review Application. They are consents by parties that are filed with the court as evidence in lieu of oral testimony or affidavits.
2. It is essential to have an evidentiary basis for orders regarding finding and disposition due to the hearing requirement in s. 47 of the *Child and Family Services Act*. The court has held that reviewing an Agreed Statement of Facts can constitute a hearing under the Act.
3. Statements of Agreed Facts are different for Child Protection Applications and Status Review Applications. At the protection application stage, certain statutory findings need to be made (child's full name, date of birth, religion, etc.) as well as a finding that the child is in need of protection pursuant to a ground(s) under s. 37(2) of the Act, before the disposition can be made. At the status review stage, only the disposition needs to be made.
4. The Statement of Agreed Facts should not contain all the pleadings from the Society's Application or the entire narrative from the Society worker's affidavit. It should contain only those facts that support the order(s) sought.
5. A description of a fact should not be followed by words of denial by one of the parties. No weight can then be placed on such a fact.
Children's Aid Society of Huron County v. R.G. [2003] O.J. No. 3104, Ontario Court of Justice, Glenn J.
6. A fact should not be set out in the form of a hearsay statement. It is then a matter of interpretation whether the court intended to rely on the truth of the statement or just on the fact that the statement was made.
Ibid.
7. Consider using a Statement of Agreed Facts for finding alone, even if disposition cannot be agreed upon, as that would shorten a trial and would also allow the court to make an order for a s. 54 assessment if desired.

Best Practices for the Conduct of a Child Protection File – Part II

Strategies for Avoiding Delay

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Ontario Court of Justice

(Name of court)

Family Law Rules, O.Reg 114/99

Form 33C: Statement of

Agreed Facts

(Child Protection)

at

Court office address

TEMPLATE

Applicant(s)

Full legal name & address for service- street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

CHILDREN'S AID SOCIETY OF TORONTO
 33 Charles Street East
 Toronto, Ontario
 M4Y 1R9
 Canada
 Phone: (416)924-4646
 Fax: (416)324-2550

Lawyer's name & address - street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

SOCIETY LEGAL COUNSEL
 33 Charles Street East
 Toronto, Ontario
 M4Y 1R9
 Canada
 Phone:
 Fax:

Respondent(s)

Full legal name & address for service- street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

MOTHER

Lawyer's name & address - street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

FATHER

OTHER PARENT (if applicable)

NATIVE BAND (if applicable)

Children's Lawyer

Name & address for service for Children's Lawyer agent - street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any) and name of person represented.

THE PEOPLE SIGNING THIS AGREEMENT ARE:

(Give full legal name. If you are a respondent, state your relationship to the child(ren). If you are an employee of the children's aid society, state your position within the society.)

	Relationship to child OR position within children's aid society
	MOTHER

Signature	Date of signature
	Relationship to child OR position within children's aid society FATHER
Signature	Date of signature
	Relationship to child OR position within children's aid society OTHER PARENT (if applicable)
Signature	Date of signature
	Relationship to child OR position within children's aid society NATIVE BAND (if applicable)
Signature	Date of signature
	Relationship to child OR position within children's aid society CHILD'S COUNSEL
Signature	Date of signature

WE AGREE: (a) that the statements made on this form are true; and
 (b) that this form may be filed with the court and may be read to the court as evidence, without affecting anyone's right to test that evidence by cross-examination or to bring in other evidence.

1. The information about the child(ren) in this case is as follows:

Child

Date of Birth:
 Age:
 Gender:
 Mother's Name:
 Father's Name:
 Religion:
 Native Status:

2. The details of the children's aid society's previous involvement with one or more of these children in this case are as follows:

(Write "Nil" if no involvement. Indicate any involvement with children's aid society in another part of Ontario or a child protection agency outside Ontario. Please remember that this is a statement of AGREED FACTS. That means that you must not set out something as a fact if another party disagrees with it. If you cannot agree at all about anything, write: "No agreement reached.")

Indicate "Nil" if the Society has had no previous involvement with the family. If the Society has been working with the family on a voluntary basis or if this matter has been to court before the within Protection Application was started, indicate in this section.

3. The child(ren) was/were apprehended because:

(If there was no apprehension, write "Nil". Again, there must be full agreement by all parties. Any point on which there is disagreement must be excluded. If there is no agreement at all on anything, write "No agreement reached.")

This is a brief statement of facts and should not be an exact copy of the facts in the Protection Application; however, it may include facts contained in the Protection Application that all parties are in agreement with that support the order and additional relevant information. This will include only the facts with which the parties are in agreement.

4. We agree that the court should make a finding that the child(ren) is/are in need of protection on the following reason(s):

(Use only the reasons listed on page 3 of the application [Form 8B]. Any reason on which there is disagreement must be excluded. If there is no agreement at all, write, "No agreement reached." In any event, the court can always make some other finding.)

In addition to the findings, also provide the facts that support those findings.

4.1 The following important events relating to the child(ren)'s best interests have occurred since the date this application began:

5. We agree that the order that would best serve the best interests of the child(ren) is:

(Again, list only the terms and conditions on which there is full agreement by all parties. If there is no agreement at all, write, "No agreement reached." In any event, the court is always free to make some other order. If the order on which you all agree would remove the child(ren) from the care of the person who had the child(ren) before the case started, explain why less disruptive options would not be enough to protect the child(ren).)

In addition to the order sought, also provide the reason this order is in the best interests of the child(ren).

ONTARIO COURT OF JUSTICE

(Name of court)

at , , ,

Court office address

**Form 33D: Statement of
Agreed Facts
(Status Review)
TEMPLATE**

Applicant(s)

Full legal name & address for service- street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

CHILDREN'S AID SOCIETY OF TORONTO
33 Charles Street East
Toronto, Ontario
M4Y 1R9
Canada
Phone: (416)924-4646
Fax: (416)324-2550

Lawyer's name & address - street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

SOCIETY LEGAL COUNSEL
33 Charles Street East
Toronto, Ontario
M4Y 1R9
Canada
Phone:
Fax:

Respondent(s)

Full legal name & address for service- street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

MOTHER

Lawyer's name & address - street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

FATHER

OTHER PARENT (if applicable)

NATIVE BAND (if applicable)

CAREGIVER WHO HAS CARED FOR CHILD CONTINUOUSLY DURING THE SIX MONTHS IMMEDIATELY BEFORE THE HEARING (if applicable)

Children's Lawyer

Name & address for service for Children's Lawyer agent - street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any) and name of person represented.

THE PEOPLE SIGNING THIS AGREEMENT ARE:

(Give full legal name. If you are a respondent, state your relationship to the child(rsn). If you are an employee of the children's aid

society, state your position within the society.)

	Relationship to child OR position within children's aid society MOTHER
Signature	Date of signature

	Relationship to child OR position within children's aid society FATHER
Signature	Date of signature

	Relationship to child OR position within children's aid society OTHER PARENT
Signature	Date of signature

	Relationship to child OR position within children's aid society CHILD'S COUNSEL
Signature	Date of signature

	Relationship to child OR position within children's aid society NATIVE BAND (if applicable)
Signature	Date of signature

WE AGREE: (a) that the statements made on this form are true; and
(b) that this form may be filed with the court and may be read to the court as evidence, without affecting anyone's right to test that evidence by cross-examination or to bring in other evidence.

1. The information about the child(ren) in this case is as follows:

Child

Date of Birth:
Age:
Gender:
Mother's Name:
Father's Name:
Religion:
Native Status:

2. The most recent protection order dealing with the child(ren) in paragraph 1 was made on (date) and it said that: (State substance of order.)

3. Since the order under review was made, the following person(s) has/have become a "parent" under Part III of the *Child and Family Services Act*:

Full legal name

Relationship to child

This may include anyone under the following:

- 1) An individual having lawful custody of the child.
- 2) An individual who by order of the court is required to provide for the child, has custody of the child, or has the right of access to the child.
- 3) A father who has acknowledged parentage of the child in writing.
- 4) Does not include foster parent

4. Since that order was made, the following important events have happened:

(Describe only the events on which you can ALL agree. Please remember that this is a statement of AGREED FACTS. That means that you must not set out something as a fact if at least one of the persons signing this statement disagrees with it. If you cannot agree at all about anything, write: "No agreement reached.")

This is a brief statement of facts and should not be an exact copy of the facts in the Status Review Application; however, it may include facts contained in the Status Review Application that all parties are in agreement with that support the order, and any additional relevant information. This will include only the facts with which the parties are in agreement.

5. We agree that an order of the court is needed now and that it would best serve the best interests of the child(ren) because:

(If there is no agreement that an order needs to be made, write "No agreement reached on need for an order". If you agree that an order needs to be made, give reasons for it and set out its terms and conditions. If any person disagrees with a reason, term or condition, then you must not include that reason, term or condition. If you cannot agree on any reasons, write "No agreement reached on reasons for order". If you cannot agree on any terms or conditions of the order, write: "No agreement reached on terms and conditions of order.")

In addition to the order sought, also provide the reason this order is in the best interests of the child(ren). If it is a supervision order, include the conditions of supervision.

Put a line through any blank space left on this page.