

Sex Offending Students in Schools:

***Guidelines for
School Administrators***

Acknowledgements

Saskatchewan Education would like to thank the Policy Committee on Sex Offending Students in Schools and acknowledge their contribution to the development of this document. The Committee was comprised of representatives from the Saskatchewan League of Education Administrators, Directors and Superintendents, the Saskatchewan School Trustees Association, the Saskatchewan Teachers' Federation and Saskatchewan Education.

As well, appreciation is expressed to the many school division personnel whose expertise and comments also contributed to the preparation of this document. Saskatchewan Education is also grateful for the perspectives provided by officials in Saskatchewan Health, District Health Boards, Saskatchewan Justice, Saskatchewan Social Services and the Children's Advocate Office. A full list of references and resources is provided in the appendices.

You are welcome to copy and distribute this document.

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I. Introduction

In recent years, there has been growing concern among educators, parents and community members about sex offending students in schools. While this is not a common issue in Saskatchewan schools, when an incident occurs, it requires a planned and caring response to ensure the well-being of all involved.

Recognizing that the issue of sex offending behaviour in schools is one component of the larger issue of "safe schools", this publication complements other activity such as the Saskatchewan School Trustees Association's document, *One Incident is Too Many - Policy Guidelines for Safe Schools in Saskatchewan* and the Saskatchewan Teachers' Federation's *Survey of the Abuse of Teachers: Report on the Results*. It also supports goals outlined in Saskatchewan Education publications such as the *Gender Equity Policy and Guidelines for Implementation*.

Sex Offending Students in Schools: Guidelines for School Administrators provides practical suggestions for handling the issue including: principles to guide the development of policy; protocols and action plans; guidelines for coordinated action and case management; suggested roles and responsibilities; legal information; and, sources for additional information. It is not intended to provide a step by step process for schools to adopt. The issue is too complex to provide a single lock-step set of actions that will address all situations. It will, however, provide school administrators with direction and guidelines to develop effective processes for their schools and communities.

This document deals with the forms of sexual harrassment that are offences under the *Criminal Code*. However, as most sexual and gender harrassment that students encounter takes the form of unwanted physical contact or verbal abuse of a gender related nature, it is important to consider these forms of offence when developing policies.

II. Background

Sex Offending Students

The vast majority of students in Saskatchewan schools are well-behaved, take positive advantage of the learning opportunities provided to them, and develop into caring and contributing adults.

In 1991, 11% of all the offences committed by Saskatchewan youth were classed as violent (Saskatchewan Justice, 1993). Limited information is available on the prevalence of sexual offences by youth, gained from the number of victim reports filed, the number of youth charged and the number of youth convicted of a sexual offence.

Based on a snapshot of convicted young offender cases taken by Saskatchewan Social Services in January 1995, there were approximately 268 youth who had been convicted of a sexual offence. Of these convicted sex offenders serving sentences in the youth justice system, 174 were between 12 to 17 years and 94 were aged 18 years and older. The majority of these youth were on probation and living in the community, while approximately 32% were in custody or in special residential treatment. As well, there were approximately 60 children (ages 6 to 11 years) who exhibited sexually intrusive behaviour (Saskatchewan Social Services, January 1995). These children are too young to be charged or convicted under the *Young Offenders Act* but are receiving services under the Child and Family Services Program of Saskatchewan Social Services. This total of about 328 students represents 0.2% of the approximate 200,000 total student school population.

Research emphasizes the importance of prevention programs and the need for early intervention. With early, comprehensive treatment, supervision and support, sex offending behaviours can be curbed. Findings from a study involving an examination of 785 sex offender case histories in federal corrections facilities showed that one third of those reviewed had been sexually abused before the age of sixteen. (National Crime Prevention Council Canada, 1995)

Each perpetrator creates another cycle of hurt. For each offence, there is at least one victim in need of healing and treatment. Educators and the public are increasingly concerned about treatment for victims because the deep pain they experience may affect their lives and their ability to learn for years, sometimes throughout their lives. As well, the hurt and fear generated by sex offending or sexually intrusive students has the potential to impact on the entire school population.

Context

In Saskatchewan, a number of factors contribute to the current context regarding the handling of sex offending students in schools. These include:

1. The Tendency to Keep Students Requiring Special Programming in the Community

Over the past two decades, society's knowledge and beliefs regarding the education of students with mental, physical, social and emotional needs have evolved. Research studies carried out in the 1970's and 1980's (The Community Child Abuse Council of Hamilton-Wentworth, 1990) confirmed that for growth and healing to occur, it is important to provide an environment that is as nonrestrictive as reasonable. This knowledge regarding how children should be treated is expressed through the spirit and intent of a number of national and international policies and laws including:

- *The United Nations Universal Declaration of Human Rights;*
- *The United Nations Convention on the Rights of the Child;*

- *The Canadian Charter of Rights and Freedoms;*
- *The Young Offenders Act (Canada); and,*
- *The Saskatchewan Human Rights Code.*

The result of this understanding has been that more students with special learning and behavioural needs are remaining in their communities and attending local schools.

2. Growing Public Concern for and Awareness of the Impact of Violence

People and communities are becoming increasingly intolerant of violence and abuse and are emphasizing their right to safety. Growing knowledge and public awareness about the devastating effects of violence and abuse on human development have led to changes in the *Criminal Code*, the *Young Offenders Act*, as well as in other statutes to address public concerns. Increasingly, attention is being focussed on the need to support victims of crime. The challenge for society is to provide the least restrictive environment possible for the growth and healing of offenders, while protecting other individuals from violence and abuse.

3. Changing Families, Institutions and Social and Economic Conditions

Changes in family and community as well as in social and economic conditions are having a major impact on society's expectations of the role of the school. The responsibility for nurturing young people's social and emotional well-being is viewed as a shared responsibility of the school, home and community.

4. Recent Cases of Sex Offending Students in Schools

Recently, a few isolated examples of school-aged children exhibiting sexually inappropriate behaviour or sex offending students in schools have been reported. They illustrate the need to provide direction and guidelines for how such incidents can be handled.

5. School Division Survey Responses

The responses obtained from Saskatchewan school divisions in 1995 to the question - What do principals need when there is a sex offending student or victim in school? - identified the need for: information relating to victim and offender's needs, policy and guidelines, legal information, inservice training and resources, and joint planning opportunities.

III. Legal Issues and Information

This section provides information on a number of legal issues which may arise in the design of policies and protocols around the issues of sex offending students. In addition, specific legal references are provided in Appendix C and in the *Provincial Child Abuse Protocol* in Appendix F.

1. The Rights of Students to Attend School

In Saskatchewan, every person from age six to twenty-one has the right to attend school and receive appropriate instruction. This is interpreted to mean up to the student's twenty-second birthday. The obligation for ensuring this right rests with the board of education of the school division in which the student or the student's parents or guardians reside (*The Education Act*, s.144 and s.144.01). That right is further enforced by disqualification provisions. Any teacher, trustee, director or other school official who deprives or attempts to deprive a student of the right to attend school is disqualified from holding that position (*The Education Act*, s.143). That provision does not apply where school personnel are acting within their powers defined in the Act (eg. suspension).

2. Safe and Secure Learning Environment

There are provisions within *The Education Act* (s.149, s.150) which make students accountable for their behaviour at school and responsive to the discipline of school staff. These provisions, as well as the capacity given to teachers and principals to maintain order, convey that schools must provide a safe learning environment where students are able to take advantage of the educational opportunities provided for them.

For employees in a school, *The Occupational Health and Safety Act*, 1993, (s.3(a)) requires that all employers ensure, insofar as is reasonably practical, the health, safety and welfare at work of all of the workers and (s.3(c)) that their workers are not exposed to harassment at the place of employment.

3. Student Obligations

Children from their seventh birthday to their sixteenth birthday not only have the right to attend school but are required to do so (*The Education Act*, s.2(g), s.155). A student's right to attend school does not come without responsibilities. Among those responsibilities, students must cooperate with teachers and other school personnel, must behave in accordance with the board of education standards

regarding deportment, courtesy and respect of the rights of others, and must submit to discipline (*The Education Act*, s.149). Students are accountable to the school for their behaviour whenever they are under the supervision of the school or while travelling between home and school.

4. Enforcement of Student Responsibilities

It is important to note that although boards of education and their personnel have certain processes available to them for ensuring that a student fulfils his or her behavioural responsibilities, those processes are available only when students are under the supervision of the school or while travelling between home and school. The school's response to a student's behaviour while he or she is "off duty" is largely restricted to those measures agreed upon by the student, his or her parents and the school. In "off duty" circumstances the most a Board of Education can do without that agreement is to determine another school for the student to attend (s.91(g)) providing that reassignment is not contrary to *The Human Rights Code*.

Where a student's misconduct occurs while he or she is under the supervision of the school, the Board of Education is to have procedures set out for the investigation and treatment of problems (*The Education Act*, s.151). Where the principal and school staff see problems which are affecting either the student who is misbehaving or other members of the school, a committee may be formed made up of staff and consultants to attempt to correct the problem (s.152).

5. Duties and Powers of Teachers and Principals

The duties and powers of teachers and principals support maintaining order, discipline and harmony within the school (*The Education Act*, s.227(d) and (i), 175(d), (h) and (i)).

The ultimate enforcement tools which a school may use are suspension and/or expulsion of a student who has misbehaved. These are the most drastic procedures as they remove the student's right to attend school for either a definite (suspension) or indefinite (expulsion) period of time. *The Education Act* sets out the procedures which must be followed by the school system to suspend or to expel a student (s.153, s.154).

A student of compulsory school age (from the 7th birthday to the 16th birthday) may be allowed to withdraw from school where the director of education, after investigating the situation, certifies that continued attendance by the student is not productive or is detrimental to the student or to others in the school. It must be noted that this is a voluntary withdrawal situation *The Education Act*, s.156(f). If it is determined that the student be prohibited from attending, it is the suspension and expulsion procedures which must be followed regardless of the student's age.

6. Interaction with Other Agencies

Boards of education have the legal capacity to provide specialized services for students regarding their physical and psychological well-being and to make these arrangements with other agencies or departments of government (*The Education Act*, s.188 s.189, s.190). At present, there are limits to the amount of information that can be shared with those other agencies without the agreement of the students and/or their parents or guardians (*The Education Act*, s.146). Access to a student's school records is restricted to school officials designated by the board of education, authorized officers of the Department of Education, youth workers acting within the scope of their duties under the *Young Offenders Act*, the student and his/her parents or guardians. The provision (s.146) within *The Education Act* for the sharing of school records is more restrictive than those under *The Local Authority Freedom of Information and Protection of Privacy Act* (s.28(2)). However, *The Education Act* prevails. Amendments to the legislation to allow enhanced sharing of information are in progress and were introduced in the Legislature in the Spring of 1996.

In situations involving sex offending youth, the criminal justice system is often involved as well. It is important to note that where a student is under certain orders or restrictions pursuant to a court order, it is the student who is responsible for fulfilling those requirements. Such orders do not stand in the way of the school's legitimate use of its powers and duties (eg. suspension or expulsion).

Mental health professionals are also involved with sex offending youth. The *Mental Health Services Act* (1985) and the *Mental Health Services Regulations* (1986) with subsequent amendments govern their actions. Section 38 of the Act and sections 15-18 of the Regulations contain provisions relating to confidentiality and disclosure of information.

Removing barriers to cooperation among institutions and systems involved with sex offending students and victims is a priority. The overriding principle must be to provide safe and supportive schools for everyone.

7. Access to Information under the *Young Offenders Act*

Amendments to the *Young Offenders Act* (Canada) came into force in December 1995. The amendments deal with disclosure as it applies (a) generally to providing identifying information about a young offender and (b) specifically with regard to high risk offenders.

- (a) Generally, the Act provides that identifying information about a young

offender can not be published or released, except in certain limited circumstances. Those circumstances have been broadened to permit (section 38):

- youth workers to release information for the preparation of reports; and,
- police, youth workers or others who provide services to an offender, to release information to any professional or other person engaged in the supervision or care of the offender, including the representative of any school board, school or other educational or training institution, where it is necessary to ensure compliance with the terms of a temporary absence or day release or conditional supervision order (s.35), bail order or conditional supervision order; or to ensure the safety of staff, students or others.

The recipient of the information can only disclose it for the same purpose, must keep it separate from other records, control access to it, and destroy it when it is no longer required for that purpose.

These provisions go a long way towards addressing the need to share information with schools and other involved professionals. The amendments also address the need to be able to communicate to ensure compliance with the orders and the safety of those in contact with the offender.

(b) The amended Act also permits disclosure of identifying information about high risk offenders where it is necessary if:

- the young offender has been found guilty of a serious personal injury offence;
- they continue to pose a risk of serious harm; and,
- disclosure is relevant to an avoidance of that risk.

Serious personal injury offence is not defined in the Act. However, it is defined in section 752 of the *Criminal Code* to include: sexual assault (s.271), aggravated sexual assault (s.273), sexual assault with a weapon or threats to third parties (s.272).

There must be a court application made before disclosure can occur. The application can be brought by the provincial director, the police or the Crown. The applicant requests an order permitting the disclosure of specific information to specific people. (Saskatchewan Justice, 1995)

Summary of the Changes to the *Young Offenders Act* for the Release of Information

- a) Youth workers can disclose identifying information if required to prepare a report for the court.
- b) Youth workers and police officers can disclose identifying information to persons involved in the supervision or care of a young person (schools, foster parents, etc.) where it is necessary to ensure compliance with court orders or to ensure the safety of staff, students or other persons.
- c) On application, a court may order the release of identifying information about a young offender who has been convicted of a serious personal injury offence and who has completed their disposition but continues to pose a risk of serious harm to others if the court is satisfied that releasing the information will help protect others from that risk.

When the identifying information of a young offender is kept in the school, it must be located in a locked container with the key under the control of the principal, separate from the student's cumulative records. In the event that it is necessary for the school-based administrator to share the information with a staff member, this release of information must be documented and then reported to a superior. The information should be destroyed when the purpose for its provision is no longer required.

The Canadian School Boards Association has provided an overview of the amendments to the *Young Offenders Act* and outlined protocols and guidelines for information sharing between educators and young offenders personnel. In the event of a student transfer, the following procedure is suggested:

"If a student about whom information has been provided in respect of safety issues moves from one school to another in the jurisdiction, in accordance with Section 38 (1.14), there would be a need for the provincial director or youth worker to advise the principal of the school to whom the student has transferred of the safety concerns, and the principal of that school may have to inform such other staff as is necessary to ensure safety. Once that has been done, it appears to be required that the record kept at the school from which the student has been transferred be destroyed.

Where such transfer is to another school jurisdiction within the same province or to another province, it would be appropriate for the provincial director or the youth worker to inform the Superintendent of Schools of the jurisdiction to which the student has transferred of the information provided under Section 38(1.13), but once that has been done, the records in the jurisdiction from which the student has moved or transferred must be destroyed." (Canadian School Board Association, 1996)

IV. Developing Practical Responses

This section contains principles and considerations to guide the development of policies, protocols and action plans which assist school administrators and staff in developing effective processes for dealing with sex offending students and victims.

Responding to the issues of sex offending students presents a particular challenge for schools. Actions to address the issues must include:

- involving all parties in the discussion and developing some over-arching principles;
- treating each situation individually;
- using a joint planning, case management approach; and,
- balancing the efforts and work of all involved between reactive and preventative strategies and full consideration for victims (Jaffe, 1992).

A. *Principles to Guide Policy and Actions*

The following principles provide guidance when formulating policy and action plans:

- **Victim Priority**
The protection, well-being and comfort of the victim of a sexual offence takes priority in all activity and planning. In all cases, the least disruption to the victim's education must guide decision making.
- **Educational, Healing Response**
The response focuses on providing educational, healing and compassionate supports for both the offender and the victim.
- **Safety and Security**
The maintenance of a safe and secure teaching and learning environment for everyone in the school is the objective. This includes the school's responsibility for students when they are on school property or in transit to and from school.
- **Collaboration and Joint Planning**
Boards of education in partnership with community and government organizations use a joint planning, collaborative approach to develop policy and action plans.

Educators are not primarily responsible for the care of the offender. However, because all children must attend school, the contribution of educators is vital.

- **Information Sharing**

Relevant information only is shared. This is done in confidence on a need to know basis and in accordance with the legislation and regulations governing members of the planning group. Information sharing supports the comprehensive joint planning activities undertaken for the well-being of the victim, the offender and everyone in the school.

- **Holistic and Integrated Approaches**

Issues and needs are defined and dealt with in the whole rather than as parts. Holistic and integrated approaches are used to ensure that a comprehensive range of supports is provided to both the victim and the offender.

The policy framework entitled, *Working Together to Address Barriers to Learning: Integrated School-Linked Services*, and the *Integrated School-Linked Services for Children and Youth at Risk: Implementation Guide*, available from Saskatchewan Education, provide detailed information on how to implement joint planning and how to facilitate the integration of services.

B. Developing Policy and Protocols

School Division Policy

A key step for each school division in seeking to address the issues of sex offending students in school is to develop policy, procedures and protocols for the school division. The principles outlined in this document serve as a starting point in the development of policy. As well, boards may wish to incorporate other existing relevant policies, protocols and letters of agreement into a comprehensive set addressing all aspects of safe schools. A sample policy can be found in Appendix D.

Interagency Protocols

Responding effectively to the issues of a sex offending student and/or victim in school requires the involvement and support of a number of different service providers and agencies. The collective development of an interagency protocol provides a formal mechanism to define the intentions, specific contributions, and working relationships among each of the participants in developing and implementing plans of action. This type of formal agreement is generally developed at the community/school division level with social services, police, justice, health boards (including mental health), schools and other community agencies.

It is recognized that while many school divisions will have formal policies and protocols in place, a significant degree of cooperation is needed and is occurring at the school level among school administrators and human service providers across sectors in developing action plans. Many informal protocols are developed at this level as participants work collaboratively to provide the best possible responses to students' needs. It is also recognized that the circumstances surrounding each case are different and that flexibility in the range of responses is required.

The following chart outlines the components of an interagency protocol. In addition, examples are provided in Appendices E and F.

<p style="text-align: center;">Components of Interagency Protocols</p> <p>A protocol is an agreement among organizations to a set of procedures, roles and responsibilities for working together toward a common goal. It contains the following components:</p> <p>Preamble The preamble contains the context for the agreement. It often includes a rationale, statement of commitment, purpose, and basic principles.</p> <p>The Protocol Agreement The agreement outlines the specific contributions of each partner providing services. This section includes:</p> <ul style="list-style-type: none">• names of agencies involved;• specific services and resources to be provided by each agency;• communication procedures and information sharing processes;• roles and responsibilities of all those participating;• record keeping and documentation guidelines;• description of the plan;• approach to monitoring/evaluation of services and overall plan; and,• record and information control and destruction. <p>Signatures The collectively developed protocol is then approved and signed by the appropriate representatives of the participating agencies to indicate shared responsibility and commitment.</p>

Inservice Training

School administrators and other teachers require educational and inservice training opportunities which will provide them with further insights into the issues surrounding victims and sex offending students. These opportunities will familiarize them with board policies, interagency protocols, confidentiality issues, collaborative and case management approaches, and legal implications.

C. Considerations When Helping the Victim

Protecting children and youth from physical and sexual abuse is a responsibility which must be shared by everyone. Maintaining confidentiality is often an important concern for the victim and respecting this request should be considered to the extent allowed by legislation.

The *Provincial Child Abuse Protocol*, contained in Appendix F, provides direction to school divisions in the formulation of policies and protocols that respond to abuse cases involving children and families. Its principles are also appropriate in the case of a victim of a sexual assault by another student. They include:

- supporting the child disclosing abuse;
- treating the disclosure as a serious complaint which requires investigation;
- responding immediately to the child; and,
- using a coordinated team approach to investigation, assessment, intervention, treatment and follow-up.

The Protocol advises that when teachers and school personnel receive disclosures of abuse they should:

- "support the child;
- acknowledge the child's right to have their concern investigated;
- listen openly and calmly;
- reassure the child;
- write down what the child has told them and their observations; and
- report the suspected case of abuse immediately."

Specific guidelines are given in the *Provincial Child Abuse Protocol* around the responsibility for prompt reporting of suspected family child abuse to the police and Social Services. Protocols to assist school personnel are recommended.

In the case of a disclosure by a victim when another student is the alleged offender, the principal contacts the director of education for direction regarding reporting the matter to the police and informing the victim's parents.

After the disclosure is reported to the police and/or Social Services, with the cooperation of the victim and family, a coordinated case plan is developed and implemented. Integrated services are intended to facilitate a coordinated effort among education, health, social services, justice and other service providers to address student needs beyond the traditional mandate of educators.

Educators can support the victim by:

- observing the child's progress, including the child's behaviour, academic progress, emotional functioning, and physical well-being;

- participating in the agreed-upon case plan; and
- sharing relevant information with the child protection worker and any other persons involved in the treatment and support of the family.

If the alleged offender attends the same school as the victim, arrangements have to be considered for the protection, well-being and comfort of the victim during the subsequent investigation. Decision-making can be guided by making the safety of the victim and others in the school a priority. Possible actions to protect the victim include modifying the timetable, suspending and/or providing an alternate school setting for the offender or victim. To ensure the well being and comfort of the victim, counselling services and adequate supervision are provided when the victim is in the care of the school.

D. Considerations When Dealing with Young Children Exhibiting Sexually Inappropriate Behaviour.

Children under the age of 12 who exhibit sexually inappropriate behaviour can not be charged under the *Young Offenders Act*. They may fall under the jurisdiction of the *Child and Family Services Act* if they have committed an act which would constitute an offence under the Criminal Code if they were 12 years of age or more.

Professional help may be needed when children's:

- "sexual interest exceeds that of their friends;
- sexual behaviour and knowledge is more typical of adults.

Or when children:

- make nonsexual relationships or interactions sexual;
- behave in a sexual manner towards adults;
- seek love and caring from other children in sexual ways;
- frequently engage in sexual behaviours;
- continue their sexual behaviour after being given a clear message to stop;
- use size, age or mental development to force, pressure or bribe others into sexual activity;
- cause physical or emotional pain before, during or after sexual contact;
- express anger, fear, anxiety, confusion and intense guilt or shame following sexual activity; [and],
- show no feelings for children they have hurt as a result of sexual contact." (Interagency Planning Committee on Children and Youth, October, 1995)

Sexually inappropriate behaviour needs to be addressed by maintaining a caring relationship and by helping the child to understand that this behaviour is unacceptable. If the behaviour is discovered at school, and/or there are concerns about the behaviour and the emotional state of the child, then the principal should contact the director of education regarding proper procedures and informing the parents. With the cooperation of the parents, the assistance of child care professionals can be sought for assessment and direction. It may be necessary for the school to monitor and supervise the child's actions or to support a treatment program designed by mental health or social services workers for the child.

Parents, human service providers and the school need to work co-operatively to:

- manage the situation; and,
- maintain confidentiality by sharing appropriate information on a need to know basis to try to prevent further inappropriate behaviour and ensure the safety of others in the school.

This can involve monitoring and supervising the child at home, at school and on the playground. It includes paying attention to changes in behaviour, redirecting the child to meaningful activities, and removing the child from high risk situations. For example, at school, separate bathroom arrangements may be provided or an alternate activity planned for the child when students are involved with helping younger children on a one to one basis such as "reading buddies."

The school may also decide to further emphasize the prevention of abuse and safety in health classes by special presentations and the collection of materials and information to increase student understanding. For example, an understanding of "right touching" could be planned for elementary students.

It is important to know that inappropriate sexual behaviour in children may indicate sexual abuse. If the educator involved is unsure whether to report a situation, Child Protection Services, Social Services should be contacted to discuss concerns.

E. Considerations When Dealing with Alleged, Charged or Convicted Sex Offenders Aged 12-18.

Crimes or alleged crimes committed by youth aged 12-18 fall under the jurisdiction of the *Young Offenders Act*. This Act is based on the premise that youth be treated differently from adults. Therefore, it takes into account the developmental needs of the young offenders, and their varying levels of maturity and seeks ways to reduce the probability of re-offending.

An important provision in the Act is that identifying information about a young offender can not be published or released, except in certain limited circumstances. Those circumstances have been broadened recently (see Section III). There are also provisions that must be observed regarding the sharing of information and storage of records relating to an alleged or proven offence (see Section III). The development of policies and protocols by interagency committees needs to outline procedures which take these obligations into account.

Actions taken will vary according to whether the student has been accused, charged or convicted of an offence. Joint planning processes are initiated when:

- a charged or convicted student is registering in a school;

- an offending student is identified and is already a member of the school; or,
- a victim is reported and is registering or is already a member of a school setting.

The advantages of using a joint planning approach include:

- the involvement of all those who can contribute supports and services;
- access to resources in the community beyond the scope of the school;
- increased possibility for satisfaction with the plan due to inclusive processes and monitoring component; and,
- the plan that results from this process will be comprehensive.

Alleged sex offenders

There are a number of ways that information about an alleged offender comes to the attention of a principal. It may be reported by a friend of the victim, the victim(s), a witness, a staff member or an anonymous source. If it is not clear that reasonable grounds to report the alleged incident to the authorities exist, then consultation with other teachers, and school personnel is acceptable. Informal consultation with child protection workers or police may occur without making a formal report.

When a victim reports an alleged assault, the principal will contact the director of education for direction on reporting the matter to the police and informing the victim's parents.

In a case where the matter has been reported to the police, the subsequent investigation of an allegation may result in no action being taken and no charges being laid. If charges are laid they may, in the course of proceedings, be withdrawn or stayed by the Crown, dismissed by the Court, or the accused could be found not guilty. Regardless of the results of the investigation, the school may be required to take action related to the needs of the victim or alleged offender. The cooperation of both parents, whether of the victim or offender, and the students involved can lead to an alternative placement for either. This may result in the board assuming a portion or all of the costs involved in relocating the student(s).

As each case is unique a variety of challenges or complexities can arise. For example, participation in graduation exercises or in extra-curricular activities are sometimes matters to be discussed and resolved. The creative solutions which result from joint planning and case management can provide the support needed to resolve these problems.

Charged or Convicted Sex Offenders

The young offender worker may inform the school principal about a charged or convicted offender. This decision to inform is based on the extent to which the youth poses a risk to the safety of other students and staff at the school. If there is a safety concern, a joint planning team is formed with the school. The purpose of the joint planning is to establish a process and program to address the needs of the offender and the victim (if applicable)

in and out of school, as well as to meet the safety needs of the school population. Concrete objectives are defined to meet student needs.

Young offenders who pose a high safety risk may be placed in closed custody or in a residential program with special arrangements made for their continued education.

F. Action Plan Elements

The elements of a coordinated action plan for joint case management include:

- Identifying and including appropriate and necessary participants.
- Obtaining informed consent to share confidential information and to maintain confidentiality.
- Reviewing policies and protocols for sex offending students.
- Reviewing the issue(s), needs, objectives and specific measurable desired outcomes.

- Developing a joint case management plan.
- Implementing the plan.
- Monitoring the implementation and evaluating the effectiveness of the plan.

The planning team shares responsibility for assessing the plan's effectiveness in meeting the needs of all involved. The following chart shows topics for discussion.

Topics considered in developing the case plan include:

- a. **safety of victim, offender, siblings, students and staff**
- b. **selection of appropriate educational setting**
- c. **transition back into school**
- d. **appropriate programming, supervision, counselling supports**
- e. **family support and capacity**
- f. **plan for shared resources**
- g. **coordination of supports**
- h. **the victim's comfort level with arrangements**

- | | |
|----|--|
| i. | professional development needs of team/school staff |
| j. | needs related to evaluating the plan |
| k. | communication (internal and external) |

V. Suggested Roles and Responsibilities

The roles, and responsibilities outlined below are intended to provide guidelines to ensure that the school division is prepared and that coordinated action planning and the joint case plan are developed and implemented successfully. These are provided with the understanding that each situation is unique and that these roles and responsibilities may require adaptation.

School Division

The roles and responsibilities of the school division personnel include:

- developing policies and protocols for the division related to addressing the issue of sex offending students in schools;
- providing inservice training opportunities for school administrators and teachers to familiarize them with board policy and interagency protocols and issues surrounding victims and sex offending students;
- monitoring the process and assisting the school administrator when a sex offending student or victim is reported in a school. When a case plan is developed at the school level with other human service providers, a copy is received by the director of education. The director monitors the progress of the plan through regular contact with the school administrator. This and any subsequent plans are kept secure and destroyed according to the requirements of legislation and regulations; and,
- facilitating contacts with workers in the social services and health systems, local police or local RCMP personnel as required and requesting their input and that of parents or parent organizations in the development of policy, protocols and case plans.

School Administrator

The roles and responsibilities of the school administrator include:

- reporting a disclosure of assault to the director of education, and following the protocol and board policy in place regarding informing the parents, and contacting police and/or Social Services;

- contacting the director of education or designate immediately upon learning that a student, either registering in or attending the school, is alleged, charged, or convicted of sexual assault;
- seeking informed consent to share confidential information. Informed consent to share confidential information with human service providers is required from the students and parents involved. Students and parents need to know the full extent to which confidential information is to be shared: what information will be shared with whom; and for what purpose and benefit. When the offender is charged or convicted, the primary case manager has the responsibility for obtaining consent and this will be subject to the provisions in the *Young Offenders Act*;
- participating in/leading a meeting to develop an action plan. This meeting should occur without delay. The people invited to this meeting will depend on the individual case. The purpose of the meeting is to develop a plan for the success of the student in the school and community and for the well-being of the victim, students and staff. In the case of a victim and offender in the same school, two separate meetings and a third meeting to amalgamate the plans may be necessary to ensure the comfort of the victim;
- making the placement decision and establishing time frames to ensure the matter is dealt with expediently. If the student is registering at the school for the first time, the placement decision is made after the case plan has been developed. This placement decision is based on several factors including the assessment of risk for the victim, the offender and others in the school. Provisions for placement must be made expediently. Any delay could be perceived as a denial of access to education. In the case of a student already in school, he or she could be asked to remain out of class until a joint case plan has been developed; and,
- participating in the development and implementation of the joint case management plan. The primary case manager and/or school administrator ensures that the case plan is recorded and monitored. Any member of the joint case management planning team may request a meeting to discuss the progress of the plan. As well, the primary case manager, in consultation with the joint case management team, initiates steps to review and revise or develop another plan as required. All the information is kept in a secure place, separate from other student records.

Partners

School partners may include human service providers from Social Services, district health boards, the local police or RCMP and others in the community. In developing policies and protocols, those with a general interest can be invited to take part. In a given case, participants should include only those with an

immediate interest in it. These partners may assist the school division and school by:

- participating in the development of school division policy as requested at the school division level;
- upon invitation, participating in the protocol development process and facilitating the approval of the protocol within their organization or jurisdiction;
- providing inservice training opportunities to staff in the school and their own organizations about the school division's policy and protocol and providing the necessary support to comply with it;
- initiating contact, as necessary, with the school administrator about the registration and placement of a sex offending youth serving a disposition. Information shared will be guided by the confidentiality provisions of the *Young Offenders Act*;
- leading or participating in creating, implementing, monitoring, and revising the case management plan; and,
- making suggestions and facilitating revisions as necessary to the protocol.

Parents and Guardians

Parents or representatives from parent organizations should be invited to participate in the development of local protocol and policies. Other roles and responsibilities of the parents or guardians include:

- student registration;
- informing the school about any special needs of their child/youth;
- participating in creating, implementing, monitoring and revising the case plan. Parents and guardians can expect that personal information shared with the joint case management team will remain confidential;
- working closely with human service providers as they assist the family in developing specific family support programming, including supervision and management of their child/youth; and,
- in situations where a child is living in a foster home, the Social Services case manager and foster parent will be involved with the school, according to the individual case plan. If the school administrator is unsure who to involve in

a particular situation, the Social Services case manager should be called.

VI. Final Considerations

In responding to the issue of sex offending students, the challenge for the school is to be fair to the victim, the offender, other students and staff. Fairness requires balancing the perceived threat with the actual threat of having an offender in the school. This includes providing assurance to parents regarding the safety of the victim and support to the offender. To do this successfully, schools require the support of families, the police, health and justice systems, Social Services and other agencies. Any planning should include these partners.

It is critical to provide a holistic approach through the creation of comprehensive policies and procedures, appropriate inservice training opportunities and the dissemination of relevant information.

If comprehensive joint planning occurs among members of the school, family and community and if information is shared in a trusting environment, the rights and responsibilities of the victim, offender, other students and staff can be protected. As well, through this process, a secure school climate that is conducive to teaching and learning can be maintained. Saskatchewan Children's Advocate has pointed out that:

"many children, both male and female, have been victims of various forms of harassment. A school system which promotes the basic human rights of all people will be reflected in how that system responds to issues presented by children who are victims or perpetrators of sexual offences. I would encourage all schools to ensure that they are promoting a respectful and non violent approach to human interaction."

Appendices

- A. Glossary of Terms**
- B. Bibliography**
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- D. Sample School Division Policy**
- E. Sample Protocols**
- F. Provincial Child Abuse Protocol**

APPENDIX A: Glossary of Terms

Adolescent Sex Offender	A youth (male or female) between the ages of 12 and 18 years who engages in sexual behaviour deemed by society to be inappropriate (e.g., rape, exhibitionism).
Sexually Intrusive	Sexually offending behaviour is evident in children under 12 years of age who therefore cannot be charged under <i>The Young Offenders Act</i> , the intrusiveness of their actions is such that they require the same attention given to youth who have been charged or convicted.
Case Management	A family-driven system of service coordination involving community agencies which share common principles and are thus able to prepare and implement a plan for service to the family that enhances its strengths and addresses issues.
Sexual Behaviour Continuums	<p>Children who display sexual behaviour need to be evaluated on continuums of:</p> <ul style="list-style-type: none">• interest in sexual behaviours that ranges from intermittent and passing curiosity to preoccupation and obsession with sexual thoughts.• emotions from relaxed fun exploration, giggly and silly feelings, to confusion, anxiety, fear and anger.• sexual knowledge from age appropriate levels to superior knowledge, from abstract knowledge to knowledge that suggests personal experience (eg. sexual sounds, tactile awareness).• cooperation from mutual consenting behaviour between same age peers, to participation gained from the power position of superior size, age or strength. This may include the use of bribery, threats or aggressive tactics.• behaviour from looking to mutual touching, to forced touching, to more intrusive behaviours involving penetration: vagina, oral or anal.
Sexual Offences	Means criminal offences which have a sexual aspect to them. They can include any non-consensual sexual acts, such as oral and vaginal penetration by penis, hand, or other object, sexual touching and fondling. Non-consensual does not necessarily mean that force was used in effecting the act. Generally, the law provides that children under the age of 14 are incapable of consenting to sexual activity, although those over twelve are capable of consenting to sexual activity with those of similar ages in limited circumstances. Where a person abuses a position of trust or authority and engages in sexual behaviour with a person under the age of 18 it may be a sexual offence. The sexual offences also include actions having a sexual component but not involving physical contact such as exhibitionism, voyeurism and obscene telephone calls.
Sexual Offences Against Children	There are 16 sexual offences in the <i>Criminal Code</i> that could apply to child sexual abuse: sexual interference, invitation to sexual touching, sexual exploitation of a young person, anal intercourse, bestiality, parent or

guardian procuring sexual activity of a child, exposing genitals to a child, offenses in relation to juvenile prostitution, living off the avails of child prostitution, attempting to obtain the sexual services of a child, aggravated sexual assault, stalking, vagrancy, incest, corrupting children, sexual assault, sexual assault with a weapon and threats to a third party or causing bodily harm.

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APPENDIX C: Legal References

1. Students Rights

The Education Act:

- s. 143(1) Subject to sections 153, 154 and 156, no teacher, trustee, director or other school official shall in any way deprive, or attempt to deprive, a pupil access to, or the advantage of, the educational services approved and provided by the board of education or the conseil scolaire.
- s. 143(2) Where any of the persons mentioned in subsection (1) violates the provisions of that subsection, he shall be disqualified from holding his office or position.
- s. 144(1) Notwithstanding anything in *The Age of Majority Act*, and except as otherwise provided in this Act, every person between the ages of six and twenty-one years shall have the right to attend school in the division in which he or his parents or guardian are residents, and to receive instruction appropriate to his age and level of educational achievement in courses of instruction approved by the board of education in the school or schools of the division, or subject to the stated policies, requirements and conditions of the board, in schools or institutions outside the division with which arrangements have been made by the board to provide certain services to pupils of the division.
- s.144(2) Except as otherwise provided in this Act, and subject to subsection 144.01(2), the educational services mentioned in subsection (1) are to be provided at the cost of the school division, and no fees for tuition, transportation or any other expenses with respect to attendance at school are to be charged with respect to a pupil who is a resident in the school division or whose parent or guardian is a resident in the school division.
- s. 144.(3) Notwithstanding subsection (2), the board of education may require payment in whole or in part of costs incurred with respect to transportation pertaining to special projects or special equipment or supplies not ordinarily furnished to pupils under the policies of the board.
- s.144.01(1) Notwithstanding anything in *The Age of Majority Act*, and except as otherwise provided in this Act, every person between the ages of six and 21 years whose parent is a minority language adult has the right:
 - (a) to attend a francsaskois school in the francophone education area, that exists or becomes established, in which the person's parent who is a minority language adult or the person's guardian is resident; and
 - (b) to receive instruction appropriate to the person's age and level of educational achievement in courses of instruction approved by the conseil scolaire:
 - (i) in the francsaskois school or schools in the francophone education area under the jurisdiction of the conseil scolaire; or
 - (ii) subject to the stated policies, requirements and conditions of the conseil scolaire, in francsaskois schools or other educational institutions outside the francophone education area with which arrangements have been made by the conseil scolaire to provide certain services to pupils of the francophone education area.
- s. 144.01(2) Except as otherwise provided in this Act, the educational services provided pursuant to

subsection (1) are to be provided at the cost of the conseil scolaire of the francophone education area mentioned in subsection (1), and no fees for tuition, transportation or any other expenses with respect to attendance at a francophone school are to be charged with respect to a pupil whose parent is a minority language adult and whose parent or guardian is a resident in the francophone education area under the jurisdiction of the conseil scolaire.

- s. 144.01(3) Notwithstanding subsection (2), the conseil scolaire may require payment in whole or in part of costs incurred with respect to transportation pertaining to special projects or special equipment or supplies not ordinarily furnished to pupils under the policies of the conseil scolaire.

2. Student Obligations

The Education Act:

- s. 2(g) "**compulsory school age**" means having attained the age of seven years but not having attained the age of sixteen years.
- s. 155(1) Except as otherwise provided in this Act, every parent, guardian or other person having charge of a pupil who is of compulsory school age shall take all steps that are necessary to ensure regular attendance of that pupil:
- (a) at the school determined or authorized by the board of education of the division in which the pupil resides and for the period during which the school is in operation in each year; or
 - (b) at the francophone school determined or authorized by the conseil scolaire of the francophone education area in which the parent or guardian resides and for the period during which the francophone school is in operation in each year.
- s. 155(2) A parent, guardian or other person who neglects to discharge his duty and responsibility pursuant to subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$100.
- s. 155(3) Upon a conviction for an offence under subsection (2), the magistrate or judge may, in his discretion, substitute for and in the place of a fine the requirement that the person so convicted post a bond in the penal sum of \$200, with such securities as may be required, on the condition that that person shall cause the pupil to attend school as required, and upon breach of that condition, the bond shall be forfeited to the Crown.
- s. 155(4) This section applies to a person who has received into his home, as a resident, another person's child who is of compulsory school age, but the duty and responsibility of the parents or guardian of the child shall not thereby be affected.
- s. 149 In the exercise of his right of access to the schools of the division or the francophone education area and to the benefits of the educational services provided by the board of education or the conseil scolaire, as the case may be, every pupil shall cooperate fully with all persons employed by the board or the conseil scolaire and such other persons who have been lawfully assigned responsibilities and functions with respect to the instructional program of the school or such special or ancillary services as may be provided or approved by the board, the conseil scolaire or the department and, without restricting the generality of the foregoing, every pupil shall:
- (a) attend school regularly and punctually;
 - (b) provide himself with such supplies and materials not furnished by the board of education or the conseil scolaire, as the case may be, as may be considered necessary to his courses of study by the principal;

- (c) observe standards approved by the board of education or the conseil scolaire, as the case may be, with respect to cleanliness and tidiness of person, general deportment, obedience, courtesy and respect of the rights of other persons;
- (d) be diligent in his studies;
- (e) conform to the rules of the school approved by the board of education or the conseil scolaire, as the case may be, and submit to such discipline as would be exercised by a kind, firm and judicious parent.

- s. 150 Every pupil shall be accountable:
- (a) to the teacher for his conduct on the school premises during school hours and during such hours as the teacher is in charge of the pupil in class or while engaged in authorized school activities conducted in out-of-school hours;
 - (b) to the principal for his general deportment at any time that he is under the supervision of the school and members of the teaching staff, including the time spent in travelling between the school and his place of residence;
 - (c) subject to stated policies of the board of education or the conseil scolaire, as the case may be, to the driver of a school bus and to any other person appointed by the board or the conseil scolaire for the purposes of supervision during hours when pupils are in the personal charge of such employees of the board or the conseil scolaire, and those employees shall be responsible to and report to the principal in accordance with the procedures approved by the board or the conseil scolaire, as the case may be.

s. 151(1) Every pupil shall be subject to the general discipline of the school.

s. 151(2) Every board of education and every conseil scolaire shall make provisions, which shall be set out in its bylaws or administrative manual, applicable to the schools in its jurisdiction for the expeditious investigation and treatment of problems arising in the relationship between a pupil and the school.

3. Enforcement of Student Obligations

The Education Act:

- s. 91(g) [A board of education shall:] determine what school any of the children of the school division shall attend;
- s. 91.1(g) [A conseil scolaire shall:] determine what francsaskois school is to be attended by any child of a minority language adult who lives in the francophone education area and who chooses to have that child attend a francsaskois school in the francophone education area;
- s. 151(1) Every pupil shall be subject to the general discipline of the school.
- s. 151(2) Every board of education and every conseil scolaire shall make provisions, which shall be set out in its bylaws or administrative manual, applicable to the schools in its jurisdiction for the expeditious investigation and treatment of problems arising in the relationship between a pupil and the school.
- s. 152(1) Where, in the opinion of the principal and his staff:
- (a) a pupil fails to respond to his duties pursuant to section 149; or
 - (b) a situation has developed with respect to a pupil's attendance, studies, deportment, personal relationships in the school or attitudes toward the school; in such a manner and to such an extent as to affect adversely his own educational development or the well-being of other pupils and the school, the principal may refer the matter to a committee composed of staff members and consultants for study, diagnosis and any

investigation that may contribute to the correction of the problem.

- s. 152(2) Where a referral is made pursuant to subsection (1), the parent or guardian of the pupil shall be immediately informed by the principal of the circumstances and shall have an opportunity for consultation with the committee in any study or investigation conducted under that subsection.
- [the teacher shall:]
- s. 227(d) maintain, in cooperation with his colleagues and with the principal, good order and general discipline in the classroom and on school premises;
- s. 227(i) exclude any pupil from the class for overt opposition to the teacher's authority or other gross misconduct and, by the conclusion of that day, report in writing to the principal the circumstances of that exclusion;
- [the principal shall:]
- s. 175(d) exercise general supervision over the work of all members of his staff and of other employees of the board of the conseil scolaire whose duties relate directly to the care and maintenance of the school building and its facilities and to the well-being and good order of pupils during the period of each day when the pupils are under the control of the school;
- s. 175(h) define and prescribe the standards of the school with respect to the duties of pupils and give such direction to members of his staff and to pupils as may be necessary to maintain the good order, harmony and efficiency of the school;
- s. 175(i) administer or cause to be administered such disciplinary measures as he considers proper and as are consistent with this Act;
- s. 153(1) A principal:
- (a) may suspend a pupil from school for not more than three school days at a time for overt opposition to authority or serious misconduct; and
 - (b) where he or she suspends a pupil pursuant to clause (a), shall immediately report the circumstances of the suspension and the action taken to the parent or guardian of that pupil.
- s. 153(2) A principal may suspend a pupil for a period not exceeding ten school days where the principal receives information alleging, and is satisfied, that the pupil has:
- (a) persistently displayed overt opposition to authority;
 - (b) refused to conform to the rules of the school;
 - (c) been irregular in attendance at school;
 - (d) habitually neglected his or her duties;
 - (e) wilfully destroyed school property;
 - (f) used profane or improper language; or
 - (g) engaged in gross misconduct of a type other than that described in clauses (a) to (f).
- s. 153(3) Where a principal suspends a student pursuant to subsection (2), the principal shall:
- (a) immediately:
 - (i) report the matter to the director or person authorized to act in the director's absence;
 - (ii) notify the parent or guardian of the pupil of the circumstances of the suspension and the action taken; and
 - (iii) inform the pupil of the reason for his or her suspension; and
 - (b) as soon as is practical:
 - (i) prepare a written report of the circumstances of the suspension and cause it

to be given to:

- (A) the director or other person authorized to act in the director's absence; and
 - (B) the parent or guardian of the pupil; and
- (ii) on the request of either the pupil or his or her parent or guardian, grant a hearing to the pupil and his or her parent or guardian.

- s. 153(4) The director or person authorized to act in the director's absence shall:
- (a) before the expiration of the period of suspension pursuant to subsection (2);
 - (b) after consultation with the principal and any other persons he or she considers appropriate; and
 - (c) after granting a hearing to the pupil and his or her parent or guardian;
- confirm, modify or remove the suspension.
- s. 153(5) After confirming, modifying or removing a suspension pursuant to subsection (4), the director or person authorized to act in the director's absence shall immediately submit a written report to the board of education or the conseil scolaire setting out the circumstances of the suspension.
- s. 153(6) A board of education or conseil scolaire may investigate the circumstances of a suspension submitted to it pursuant to subsection (5) and, where it does investigate, it shall conclude the investigation before the period of suspension ordered pursuant to subsection (4).
- s. 153(7) Where a board of education or conseil scolaire:
- (a) has conducted an investigation pursuant to subsection (6); and
 - (b) is satisfied, based on the investigation, that the pupil has acted in a manner to warrant suspension for a period greater than ten school days;
- the board or the conseil scolaire, as the case may be, may suspend the pupil from all or any of the schools in the division or the francophone education area, as the case may be, for a period not greater than one year.
- s. 153(8) Notwithstanding subsections (6) and (7), a board of education or a conseil scolaire may:
- (a) appoint; or
 - (b) authorize the director or a person authorized to act in the director's absence to appoint;
- a committee composed of those members of the board of education or the conseil scolaire, as the case may be, and officials and consultants that the board or the conseil scolaire considers appropriate to conduct an investigation pursuant to subsection (6) and to make a decision to suspend pursuant to subsection (7).
- s. 153(8.1) The committee appointed pursuant to subsection (8) may include:
- (a) the principal; and
 - (b) the director or a person authorized to act in the director's absence.
- s. 153(9) Where a committee appointed pursuant to subsection (8) makes a decision to suspend a pupil, that decision:
- (a) is deemed to be a decision of the board of education or the conseil scolaire and is of the same force and effect as if made by the board or the conseil scolaire.
 - (b) shall be reported immediately to the board of education or the conseil scolaire;
 - (c) may be altered, amended or revoked by the board of education or the conseil scolaire at a subsequent meeting of the board or conseil scolaire.
- s. 153(10) The pupil and his or her parent or guardian shall be given:
- (a) a notice of every investigation pursuant to subsection (6) or (8); and

- (b) an opportunity to appear and make representations before the board of education, the conseil scolaire or the committee appointed pursuant to subsection (8), as the case may be.

- s. 153(11) Where a pupil has been suspended pursuant to subsection (7) or (9):
- (a) the pupil and his or her parent or guardian, at the expiration of any period that the board of education or the conseil scolaire, as the case may be, may specify, in the resolution suspending the pupil, may request the board of education or the conseil scolaire, as the case may be, to review and reconsider the suspension of the pupil; and
 - (b) on receipt of a request pursuant to clause (a) and where the board or the conseil scolaire, as the case may be, considers it to be appropriate, the board or the conseil scolaire, as the case may be, may:
 - (i) rescind or vary the resolution suspending the pupil; and
 - (ii) admit the pupil to a school on those terms and conditions that the board considers appropriate.
- s. 154(1) Notwithstanding section 153, a board of education, by resolution, may exclude a pupil from attendance at any or all schools in the division for a period greater than one year where, in the opinion of the board, it is appropriate to do so based on:
- (a) an investigation conducted pursuant to subsection 153(6); or
 - (b) the unanimous report of a committee pursuant to subsection 153(9).
- s. 154(1.1) Notwithstanding section 153, a conseil scolaire, by resolution, may exclude a pupil from attendance at any or all schools in the francophone education area for a period greater than one year where, in the opinion of the conseil scolaire, it is appropriate to do so based on:
- (a) an investigation conducted pursuant to subsection 153(6); or
 - (b) the unanimous report of a committee pursuant to subsection 153(9).
- s. 154(2) A pupil who has been expelled, or his parent or guardian, may, after the expiration of one year, request a review and reconsideration by the board or the conseil scolaire, as the case may be, of the status of the pupil, and the board or the conseil scolaire, as the case may be, may, in its discretion, rescind the resolution expelling that pupil and admit him to a school under such conditions, if any, as it may see fit to prescribe in the circumstances.
- s. 156 A pupil may be exempted from attendance at a school, and no parent, guardian or other person shall be liable to any penalty imposed in this Act, where:
- s. 156(f) The director, upon due inquiry or investigation, is of the opinion, and certifies in writing to that effect, that continued attendance at school is not productive or is detrimental to the pupil or to the school;

4. Interaction with Other Agencies

- s. 188(1) Subject to subsection (2), a board of education, a conseil scolaire or the conseil général or any combination of two or more of them, jointly on such terms as are mutually agreed on, may provide for medical and dental examination and treatment of pupils and of children under the age of seven years in the division or francophone education area, as the case may be, and for those purposes may, subject to the regulations, employ such personnel as may be determined by the board, conseil scolaire or conseil général, or combination of them.
- s. 188(2) No treatment mentioned in subsection (1) shall be given without the consent of the parent or guardian of the pupil or child.

- s. 188(3) Notwithstanding subsections (1) and (2), a board of education or a conseil scolaire, as the case may be, may enter into arrangements directly with the Department of Health or any agency thereof for the provision of any of the services mentioned in this section or may participate in health service programs for schools which are conducted or coordinated cooperatively by the department and the Department of Health.
- s. 188(4) Every school shall observe the regulations with respect to the maintenance of standards concerning sanitation, lighting and communicable diseases and may make provision for safety patrols for the protection of pupils in the vicinity of the schools.
- s. 189(1) A board of education or a conseil scolaire may employ one or more teachers qualified in guidance to provide specialized services to pupils and such counselling as will enable them to plan, select and pursue studies for their educational and vocational advancement.
- s. 189(2) A board of education or a conseil scolaire may employ specialized personnel to provide psychological and related services considered by the board of the conseil scolaire, as the case may be, to be necessary to the growth, development and general well-being of pupils as individuals and in their educational advancement.
- s. 190 A board of education or a conseil scolaire, as the case may be, may enter into arrangements with other departments of the government and their agencies and with agencies and individuals in the community that provide specialized services related to the health and welfare of pupils, for the purpose of maximum rationalization and coordination of such services and for the enhancement of the benefits thereof to the pupils.
- s. 146 All records of a board of education or a conseil scolaire pertaining to a pupil are confidential, but access is to be granted, under any conditions that may be prescribed by the board of education or the conseil scolaire, as the case may be, to:
- (a) a pupil who requests access and whose parent or guardian is in attendance when access is granted;
 - (b) a pupil who is 16 or more years of age and who is living independently of a parent or guardian;
 - (c) duly authorized officers of the department;
 - (d) school officials designated by the board of education or the conseil scolaire, as the case may be;
 - (e) a youth worker as defined in the *Young Offenders Act (Canada)*, as amended from time to time, who requests access for the purposes of that Act;
 - (f) a parent or guardian of a pupil, where the pupil is dependent on the parent or guardian.

The Mental Health Services Act.

- s.38(1) All records maintained by a facility are the property of the facility.
- s.38(2) Subject to sections (3) and (4) and to the regulations, no person shall disclose any information concerning a patient that comes to his knowledge in the course of performing his duties pursuant to this Act or the regulations.
- s.38(3) A person shall disclose information described in subsection (2) where:
- (a) the disclosure is required by law; or
 - (b) the minister orders that the information be disclosed.
- s.38(4) A person may disclose information described in subsection (2) where:
- (a) the information is required to administer this Act or the regulations or to perform a duty or exercise a power imposed or conferred by this Act or regulations;
- or

(b) the disclosure is requested or approved by the patient to whom the information relates.

The Local Authority Freedom of Information and Protection of Privacy Act

s. 28(2) Subject to any other Act or regulation, personal information in the possession or under the control of a local authority may be disclosed:

- (a) for the purpose for which the information was obtained or compiled by the local authority or for a use that is consistent with that purpose;
- (b) for the purpose of complying with:
 - (i) a subpoena or warrant issued or order made by a court, person or body that has the authority to compel the production of information; or
 - (ii) rules of court that relate to the production of information;
- (c) to the Attorney General for Saskatchewan or to his or her legal counsel for use in providing legal services to the Government of Saskatchewan or a government institution;
- (d) to legal counsel for a local authority for use in providing legal services to the local authority;
- (e) for the purpose of enforcing any legal right that the local authority has against any individual;
- (f) for the purpose of locating an individual in order to collect a debt owing to the local authority by that individual or make a payment owing to that individual by the local authority;
- (g) to a prescribed law enforcement agency or a prescribed investigative body:
 - (i) on the request of the law enforcement agency or an investigative body;
 - (ii) for the purpose of enforcing a law of Canada or a province or territory or carrying out a lawful investigation; and
 - (iii) if any prescribed requirements are met;
- (h) pursuant to an agreement or arrangement between the local authority and:
 - (i) the Government of Canada or its agencies, Crown corporations or other institutions;
 - (ii) the government of Saskatchewan or a government institution;
 - (iii) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;
 - (iv) the government of a foreign jurisdiction or its institutions;
 - (v) an international organization of states or its institutions; or
 - (vi) another local authority;for the purpose of administering or enforcing any law or carrying out a lawful investigation;
 - (i) for the purpose of complying with:
 - (i) an Act or a regulation;
 - (ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or
 - (iii) a treaty, agreement or arrangement made pursuant to an Act or an Act of the Parliament of Canada;
- (j) where disclosure is by a law enforcement agency:
 - (i) to a law enforcement agency in Canada; or
 - (ii) to a law enforcement agency in a foreign country;pursuant to an arrangement, a written agreement or treaty or to legislative authority;
- (k) to any person or body for research or statistical purposes if the head:
 - (i) is satisfied that the purpose for which the information is to be disclosed is not contrary to the public interest and cannot reasonably be accomplished unless the information is provided in a form that

- (ii) would identify the individual to whom it relates; and obtains from the person or body a written agreement not to make a subsequent disclosure of the information in a form that could reasonably be expected to identify the individual to whom it relates;
- (l) where necessary to protect the mental or physical health or safety of any individual;
- (m) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (n) for any purpose where, in the opinion of the head:
 - (i) the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure; or
 - (ii) disclosure would clearly benefit the individual to whom the information relates;
- (o) to the Government of Canada or the Government of Saskatchewan to facilitate the auditing of shared cost programs;
- (p) where the information is publicly available;
- (q) to the commissioner;
- (r) for any purpose in accordance with any Act or regulation that authorizes disclosure; or
- (s) as prescribed in the regulations. 1990-91, c.1-27.1, s.28

Appendix D: Sample School Division Policy

SCENIC VALLEY SCHOOL DIVISION #117	CODE: IGGA
LEGAL REFERENCE:	Sexual Harassment and/or Abuse: Student to Student

POLICY

A school must always aim to be a place where all children and young people can feel safe, free from harassment or threat.

The Board of Education feels that where there is sufficient grounds to suspect, based on a thorough internal investigation by the Principal of the school, that a student (or students) have engaged in sexual harassment or sexual abuse of another student (or students), the Board will take action to remove the alleged perpetrator(s) from the educational environment of the alleged victim(s), at least pending a resolution in the courts and perhaps, longer.

Regulations

1. The RCMP shall be notified of all cases of suspected sexual abuse involving student and student. The school will co-operate with the RCMP in their subsequent investigation.
2. Parents of any alleged victim under the age 16 shall be notified by the school subsequent to the matter having been reported to the RCMP. For victims 16 years of age or more, the school will be guided in its decision to report to parents, by the wishes of the student.
3. The Principal shall conduct a thorough investigation of the incident(s) and shall keep the Director apprised throughout the investigation. The Director will, in turn, keep the sub-division trustees advised of said investigation.
4. Where the Principal, Director and Division Board feel that there are reasonable grounds to suspect that a student (or students) feels strong emotional or physical threat from the presence of the alleged perpetrator in the school, the Board will take action to remove the alleged perpetrator from the school being attended by the alleged victim, pending a resolution by the courts.
5. Pending the outcome of a trial, the alleged perpetrator(s) may, at the discretion of the Board, be offered alternatives for continued high school education either in a school within the division or in a school outside the division. In either case, the

Board will assume costs of tuition, board/room and travel.

6. Should the alleged perpetrator be found not guilty at a subsequent trial, that student shall be allowed to return to the home school or may have the option to continue at the new school at the Board's discretion.
7. Should the alleged perpetrator be found guilty at a subsequent trial, the Board may consider expulsion of the student. Expulsion decisions would be based on the student's(s') actions and attitude subsequent to the original incident(s), the penalty imposed by the court and the implied ramifications for the well being of or message given to other students' in the school division.
8. Should the courts fail to act on the matter, the Board reserves the right to educate the alleged victim and the alleged perpetrator separately should that be deemed to be in the best interest of these students as well as other students in the Division.

Notwithstanding the preceding

1. The School Division will offer counselling to: the alleged victim(s), the alleged perpetrator(s), and the families of each (where desired, practical and possible.)
2. This policy is concerned with high school students. Elementary students, by virtue of their age require a more flexible approach which emphasizes individual counselling and self-concept development.

Adopted: December 13, 1994

Appendix E: Sample Protocols

The following sample protocols are provided as guides:

Sample Protocol 1 - provided by the Saskatoon (West) School Division in response to the registration, attendance and placement of special needs children.

Saskatoon (West) School Division Policy
Category: Students

Protocol to Attendance and Placement of Special Needs Students in the Saskatoon (West) School Division

Relative to the educational philosophy of the Saskatoon (West) School Division re. developing an environment of learning and safety to ensure the happiness of all children, the following protocol will prevail upon the registration, attendance, and grade placement of special needs children in Saskatoon (West) School Division schools:

1. Students will be registered but their attendance and placement (grade level) will be contingent upon appropriate information sharing. The Saskatoon (West) School Division is intent upon providing a learning environment that will ensure maximum safety, learning, and success for all of its students. Depending upon the needs of individual students, developing the environment necessitates information sharing, planning, and time. Therefore, for some students, immediate attendance and placement in a school may not be possible. That placement will be contingent upon a team process of planning and development of resources to ensure the appropriate environment is established. (The team should consist of members of the school staff, guardians, and other individuals with information pertinent to the child's past.)
2. Schools in the Saskatoon (West) School Division will expect the Department of Social Services to forward an introductory letter re. the placement of foster children in our jurisdiction.
3. The Saskatoon (West) School Division expects a continued sharing of information, planning participation, resource development, and commitment to teamwork.

Date approved: April 14, 1994

INTERAGENCY PROTOCOL

**This protocol applies to
Education - Region 6**

January, 1993

PURPOSE OF THE PROTOCOL:

- to facilitate service delivery to children in school settings
- to clarify procedures for coordination of information across agencies
- to clarify procedures for consultation across agencies
- to specify contact persons in case procedures break down
- to coordinate existing practices and procedures within the framework of this document (i.e., School Protocols; Social Services; Mental Health)

USING THIS PROTOCOL:

- left hand side of page refers to education procedures
- right hand side of page refers to Social Services procedures
- clear boxes reference support documents
- shaded boxes reference legislation

CHILD PROTECTION

CHILD ABUSE AND NEGLECT

- a) Reporting**
- b) Investigations**

CHILD PROTECTION CASES

REPORTING

Education Process

- Each school division develops a child abuse policy which addresses reporting.
- Reporting process is followed.

Social Services Process

See Appendix:

Social Services Support Documents

- Child Protection
- When you make a report

Section 12(1) *Child and Family Services Act*

* **Legal requirement to report**

Section 81(2)(e) Penalty for failure to report

INVESTIGATION

Education Process

Social Services Process

School Child Abuse policy includes:

- support mechanism for child during and after the interview
- support mechanism for the referring teacher

Preparation

- telephone call to principal to advise when interview will take place where possible
- Letter of Notification is provided to the principal at the time of the interview
- advises "support person" of their role in interview

Investigation

- * primary responsibility around investigation rests with Social Services/RCMP
- * any inquiries from parents are to be directed to the investigating Child Protection Worker

Feedback

- * on-site feedback to the principal:
 - status of notification to parents concerning investigation
 - substantiation of the report if referral made by the school
 - inform if child is apprehended
 - on-going feedback will be on a "need to know basis"
- will notify school if there is a "Protective Intervention Order" prohibiting access by a parent

See Appendix:

Education Support Documents

- Child Abuse Protocols

Social Services Support Documents - Child Protection

- Letter of Notification
- Child Protection Services Process
- Protocol for Investigation of Child Assaults

Section 13(1) *Child and Family Services Act*
* **Duty to investigate**

CHILDREN'S SERVICES

CHILDREN IN FOSTER CARE

a) Placement/Planning

PLACEMENT/PLANNING

Education Process

Social Services Process

* Settling into the foster home

Information Sharing



School Records & History
(Cumulative Records)

Social Behavioral History
(Quick Form to be faxed to principal
with a copy to Division Office)

Education Plan Approved Prior to School Entry
(Goal: Plan Approved within 7 days)

Registration at School by Foster Parent

On-going Coordination/Consultation
- Case reviews initiated as needed by either party

See Appendix:

	Social Services Support Documents
	- Children's Services
	- Quick Form - page
2	- Section 9
	Agreements

Section 52(1) *Child and Family Service Act*
* **Minister as parent**

Section 144(1) *Education Act*
* **Provision of appropriate education**

APPENDIX F: Provincial Child Abuse Protocol

Provincial Child Abuse Protocol

Prepared by the
Interdepartmental
Child Abuse Committee

Saskatchewan Health
Saskatchewan Justice
Saskatchewan Social Services
Saskatchewan Municipal Government
Saskatchewan Education, Training
and Employment

April 1995

Saskatchewan

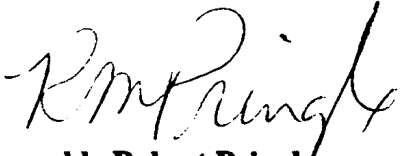
Provincial Child Abuse Protocol

The provincial Child Abuse Protocol reflects a strong commitment by the Government of Saskatchewan and various police services to improve the well-being of children across the province.

The protection of children from physical and sexual abuse is a responsibility that must be shared by all individuals, groups and organizations in Saskatchewan. This Protocol reinforces this responsibility by describing principles to guide the response to child abuse and by setting out roles and responsibilities of communities, professionals, individuals and organizations involved.

The Protocol promotes a coordinated and integrated approach to child abuse investigations.

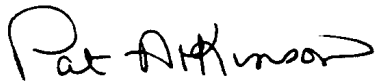
We are pleased to endorse the Saskatchewan's Provincial Child Abuse Protocol.



Honourable Robert Pringle
Minister of Social Services



Honourable Robert Mitchell, Q.C.
Minister of Justice



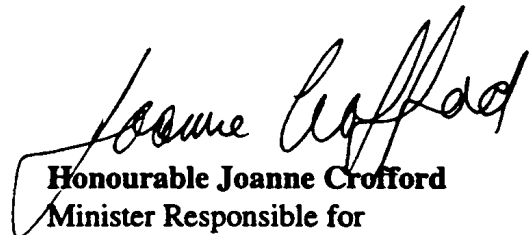
Honourable Pat Atkinson
Minister of Education, Training
and Employment



Honourable Lorne Calvert
Minister of Health



Honourable Carol Carson
Minister of Municipal Government



Honourable Joanne Crofford
Minister Responsible for
the Women's Secretariat and
the Indian and Metis Affairs Secretariat

Provincial Child Abuse Protocol

Endorsement by Saskatchewan Police Services

The Provincial Child Abuse Protocol is endorsed by the following:

Chief Murray Langgard
Regina City Police Service

Chief E.G. McCullagh
Prince Albert City Police

Chief Merv Schenk
Moose Jaw Police Service

Chief Superintendent R.K. Leatherdale
R.C.M.P "F" Division, Regina

Deputy Chief Norm Doell
Saskatoon Police Service

Chief W.S. Millar
Weyburn Police Service

Chief R.W. Worsnop
Estevan Police Service

Provincial Child Abuse Protocol

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Provincial Child Abuse Protocol

Introduction

All individuals, groups and organizations in Saskatchewan have a responsibility to ensure the protection of children.

This protocol is intended to give direction to the professionals involved in child abuse cases involving children and families, including educators, police, social workers, and health professionals.

First Nations are in the process of implementing Child and Family Service agencies across the province, which will be responsible for the delivery of services to Indian children and families living on-reserve and will be developing their own protocols.

The Child and Family Services Act (section 11) provides that every person who believes that a child is in need of protection must report this to an officer appointed pursuant to *The Child and Family Services Act* or to a police officer.

After a report is made, a number of professionals are legally responsible for the investigation of child abuse cases, including child protection workers, police and crown prosecutors. Other professionals play an important role in assisting with the investigation, supporting the child during and after the investigation, and providing follow-up services to the child and family. These professionals include teachers, medical professionals, mental health professionals, and counsellors.

Purpose

To ensure the protection and support of children, and the protection of the public, a coordinated and integrated approach to child abuse investigations must continue to be promoted. Mandates of each agency must be respected, overlapping areas of activities among professionals must be acknowledged, and partnerships expanded to more effectively meet the needs of Saskatchewan children, families and communities.

This protocol describes the principles guiding the response to child abuse and sets out the roles and abilities of the communities, professionals, individuals and organizations involved.

The protocol is being developed in phases. It will ultimately include guidelines and procedures for:

- A. Reporting and investigation of child abuse.
- B. Involvement of schools.
- C. Interviewing the child.
- D. Abuse involving youth, ages 16 and 17.
- E. Offenders under 12.
- F. Multiple victim and multiple perpetrator situations.
- G. Abuse involving children with special needs.
- H. Abuse involving children residing in out-of-home-care.
- I. Treatment and follow-up services.
- J. Information sharing.

Provincial Child Abuse Protocol

Guiding Principles

The Provincial Child Abuse Protocol is based on the following guiding principles:

Suspected child abuse must be treated seriously and must be reported to an officer under *The Child and Family Services Act* or to the police. Professionals and organizations working with children must develop protocols to ensure prompt reporting of suspected cases of child abuse.

When a child discloses abuse, particular care will be taken to ensure that the child has the support he or she needs upon making the disclosure.

The disclosure of abuse by a child will be treated as a serious complaint and investigated with the same concern as if the complaint has been made by an adult.

An immediate response to allegations of child abuse will be provided.

Complaints of child abuse require a coordinated, team approach to investigation, assessment, intervention, treatment and follow-up.

Sharing information is essential to ensure good decisions are made about the protection, safety and well-being of the child, and the protection of the public.

Where there is an assessed need for treatment or support services for the child, the abuser, or any family member, services should be provided.

As physical or sexual abuse of children is a criminal act, abusers must be held accountable for their actions while treatment may assist in preventing future abuse.

Roles and Responsibilities

All Agencies and Community Members

All members of the public have a duty to report situations where they believe a child is being abused or neglected to an officer under *The Child and Family Services Act* or a police officer. An officer includes social workers employed by the Department of Social Services or employees of Indian Child and Family Service Agencies.

The duty to report applies in spite of any claim of confidentiality or professional privilege other than solicitor/client privilege or Crown privilege. Failure to report is an offence under *The Child and Family Services Act*.

A person making a report of suspected child abuse may request that his or her name be kept confidential. However, if the child abuse investigation results in a child protection hearing or a criminal proceeding, the name of the person making the report can no longer be protected. In many cases, particularly where the report is received from a professional working with the child and the family, it is difficult to maintain the confidentiality of the professional. Protecting the confidentiality of the professional often does not promote effective work with the family. Legal action may only be successfully taken against the person making the report if the person making the report makes it maliciously and without reasonable grounds.

Professionals and agencies within the community will often provide assessment, treatment and support services to children and their families. They will be required to share information with the professionals and individuals involved to protect and plan for the child.

Other individuals, volunteers, service clubs, churches, recreational centres and other community organizations provide a variety of support and recreational services to children and their families. They play a vital role in preventing child abuse and supporting high-risk children and families.

Saskatchewan Social Services

Provincial Child Abuse Protocol

The Child and Family Services Act establishes the mandate for Saskatchewan Social Services which includes:

- receiving and investigating reports of children in need of protection from abuse or neglect;
- assessment of the family's ability to protect the child;
- provision of support services to children and families to maintain the family wherever it is safe for the child; and
- provision of out-of-home care where support services to the family cannot provide for the child's safety.

The Department also provides services to youth under the *Young Offenders Act (Canada)*.

Saskatchewan Justice

The provincial Department of Justice is responsible for the administration of justice in Saskatchewan, including:

- prosecution services in criminal law matters, including the preparation of witnesses for trials;
- general legal advice to the government of Saskatchewan;
- supervision of policing services;
- the provincial Victims Services Programs, to provide assistance and support to victims involved in the legal process;
- court services to the public; and
- corrections services for offenders.

Police

Municipal police forces and the RCMP are primarily responsible for public safety and have responsibility to:

- receive reports of a child in need of protection and potential offenses against a child;
- investigate alleged criminal acts;
- provide an emergency response to children in need of protection; and
- provide crime prevention and victim services.

Saskatchewan Health and Health Professionals

The role of health professionals, including medical professionals, medical social workers, mental health professionals and public health nurses is to:

- report suspected cases of child abuse in accordance with *The Child and Family Services Act*;
- cooperate with police by providing information on the criminal abuse of children;
- provide assistance and support to child abuse investigations;
- provide physical and mental health assessments of children who have been or are suspected of having been abused;
- provide support to the abused child and family during and after the child abuse investigation;
- provide physical and mental health treatment and consultation to alleged victims and perpetrators of child abuse and their families; and
- monitor progress of child abuse victims and perpetrators.

Provincial Child Abuse Protocol

Schools and Education Professionals

The role of school personnel, including teachers, administrators, counsellors, social workers, supervisory personnel, parent volunteers, paraprofessionals and support staff is to:

- report suspected cases of child abuse in accordance with *The Child and Family Services Act*;
- cooperate with police by providing information on the criminal abuse of children;
- cooperate with other professionals involved in investigations of child abuse;
- monitor the progress of the child, and share information regarding the child as required throughout the investigation, assessment, and treatment of the child and his or her family; and
- provide academic, social and emotional support to the child.

First Nations Agencies, Bands and Tribal Councils

Where allegations of child abuse involve Indian children, the child's band should be involved in planning for the child. Some bands will have family support workers to provide support services. Where Indian Child and Family Services agencies are in place, the agencies will be providing family support and may be providing child protection services to Indian children and families living on-reserve.

The Departments of Social Services; Justice; Health; Education, Training and Employment; Municipal Government; and police services should work cooperatively with all Indian Child and Family Service agencies, bands and Tribal Councils, and should share information as required to plan for Indian children.

Métis Organizations

In some communities across the province, family support services have been developed and are being delivered by Métis organizations, including Friendship Centres. Examples of services available include: parent aide, child nutrition and development, respite (e.g. Children's Haven in Prince Albert) and generalized family counselling and support.

Provincial Child Abuse Protocol

Local Child Abuse Protocol Committees

In order to promote sensitivity, consistency and coordination in child abuse investigations, the Departments of Justice; Social Services; Health; Education, Training and Employment; the police; and health boards; school divisions; and other community agencies may designate personnel as members of the Local Child Abuse Protocol Committee. First Nations Agencies, local Tribal Councils, or bands should be invited to participate as members of the Committee.

The role of the Committee is to:

- develop detailed Local Function Statements as described below;
- meet at least quarterly to discuss problems, issues and opportunities related to coordination and investigation, and to review the management of problem or difficult child abuse cases; and
- ensure that all staff involved in child protection matters are fully informed of the Provincial Child Abuse Protocol and the attached guidelines and procedures.

Problem or difficult child abuse cases may be brought to the Committee for review by any member of the Committee. The purpose of this review is to examine local systems that respond to child abuse cases, not to manage individual cases. For example, the results of such a review could lead to amendments to Local Function Statements or to the Provincial Protocol.

Any member of the Committee may request the assistance of, or make a referral to, another member of the Committee as appropriate.

Local Function Statements

Within the context of these principles, roles and responsibilities, and guidelines and procedures, specific procedures called Local Function Statements are to be developed by the Local Child Abuse Protocol Committee for the investigation, treatment and follow-up of child abuse in each region of the province. In particular the Local Function Statements must establish timelines for beginning and concluding investigations of alleged child abuse. When establishing timelines, the Local Committees should take into account factors like the nature and severity of the alleged abuse, as well as the duration of the alleged abuse.

In addition these Statements must establish guidelines in the following areas:

- A. Reporting and investigation of child abuse, including formation of a local Child Abuse Investigation Team.
- B. Involvement of schools.
- C. Interviewing the child.
- D. Abuse involving youth, ages 16 and 17.
- E. Offenders under 12.
- F. Multiple victim and multiple perpetrator situations.
- G. Abuse involving children with special needs.
- H. Abuse involving children residing in out-of-home-care.
- I. Treatment and follow-up services.
- J. Information Sharing.

Local Function Statements are to be approved by the regional or head office persons in charge of the participating departments and agencies. Once they are approved, ongoing evaluations of these procedures should commence.

Sharing Information

Mutual sharing of confidential information among the professionals and individuals involved is essential to maximize satisfactory outcomes during an investigation, assessment, treatment and follow-up of a child abuse case. In particular, it is essential that police and child protection workers share case information fully to ensure the investigation proceeds in an expedient manner. Feedback to the professional making

Provincial Child Abuse Protocol

the report on the progress and outcomes of the investigation is critical. In many cases this professional is responsible for monitoring and supporting the child during the investigation and during treatment (eg. schools should be advised promptly if a child has been apprehended and the plan for the child).

Guidelines and procedures for sharing information at the various stages of the investigation, assessment, treatment and follow-up must be developed by the Local Child Abuse Protocol Committees and should be reflected in the Local Function Statements. Guidelines should include a section on information-sharing.

Appendices

Definitions of terms used in this document are included in Appendix A. Relevant legislation is included in Appendix B.

Provincial Child Abuse Protocol - A: Reporting and Investigations

Introduction

Police and Social Services staff shall co-operate to ensure **immediate** contact occurs between the police and Social Services on all reports of suspected physical or sexual abuse. Agencies are directed to maximize information sharing to assess the initial report and throughout the investigation. Where physical or sexual abuse is suspected, the agency contacted is required to ensure that information is immediately relayed to the other agency.

Each agency will then assess its need to be involved with the case and make every reasonable effort to coordinate investigation responsibilities with the other agency. It is preferable to consult more rather than less with each other to ensure the safety and security of children and the public.

It must be remembered that: the responsibility to assess whether the facts raise criminal law or public protection concerns is a matter for police and Crown determination; and, similarly, the responsibility to assess whether the facts raise a child protection concern is a matter for Social Services determination.

Provincial Child Abuse Protocol - A: Reporting and Investigations

Reporting

The suspicion of child abuse should be treated seriously and will be reported to an officer under *The Child and Family Services Act* or to the police. Professionals and organizations working with children will develop protocols to ensure prompt reporting of suspected cases of child abuse.

Duty to report

Anyone having reason to believe that physical or sexual abuse of a child, under the age of 16 years, has occurred must report the matter to a child protection worker or the police. The person contacted will immediately act to involve the other.

The person making the report of child abuse is not required to determine if the abuse is caused by the child's parent or by another person. However, the person making the report will be required to give all available information to the officer or to the police to assist with any investigation. It is the responsibility of the child protection worker and the police to determine who may have caused the alleged abuse.

A person making a report of suspected child abuse may request that his or her name be kept confidential. However, if the child abuse investigation results in a child protection hearing or a criminal proceeding, the name of the person can no longer be protected. In many cases, particularly where the report is received from a professional working with the child and the family, it is difficult to maintain the confidentiality of the professional's name. Attempting to maintain confidentiality can be counterproductive to working with the family.

Legal action may only be successfully taken if the person making the report makes it maliciously and without reasonable grounds.

Investigation

The disclosure of abuse by a child should be treated as a serious complaint and investigated with the same concern as if the complaint has been made by an adult.

An immediate response to allegations of child abuse should be provided.

Purpose of the investigation

The purpose of any investigation is to determine whether action under the *Criminal Code (Canada)* or *The Child and Family Services Act* is required. Physical assault of a child, or the use of a child by another person for a sexual purpose, is child abuse and is a criminal act. Where an investigation supports allegations of this nature, Team members shall collaborate on and coordinate proceedings to be taken under the *Criminal Code* or *The Child and Family Services Act*, or both.

Reports of suspected child physical or sexual abuse must be jointly investigated by the police and a child protection worker, unless one agency does not consider its involvement necessary or appropriate. Investigations of child physical and sexual abuse must be coordinated between the police and a child protection worker. Not every aspect of the investigation will require the direct, personal involvement of both agencies. The entire investigation must be completed in an integrated fashion with full information-sharing and joint decision-making.

For the purpose of the initial interview, the alleged child victim and the alleged offender must be separated. Wherever possible, the child should not be apprehended to conduct the initial interview.

Provincial Child Abuse Protocol - A: Reporting and Investigations

Abuse by family or non-family members

No matter who the alleged offender is, the child's parent or someone other than a family member, the child protection worker and the police will work together to:

- determine the safety of the child and whether the non-abusing parent is taking appropriate steps to protect the child;
- determine whether the alleged offender has sufficient access to other children such that these children may be at risk of abuse, and what actions are necessary to protect these children;
- determine whether the family is aware of community counselling, treatment and support services; and
- ensure the appropriate referrals are made.

In cases where the alleged offender is someone other than a family member, police will undertake a criminal investigation as required.

Assessment of child's safety

Where abuse is alleged to have occurred, the person receiving the report (if other than a child protection worker) must contact a child protection worker immediately to ensure that the child's safety or that of other children can be assessed. The child protection worker will act to involve the police.

When making decisions concerning actions necessary to ensure the safety of a child, factors such as the likelihood of future abuse, the maintenance of family life and the ability to provide support to the child should be considered.

Whenever possible the child should remain in the home. The assessment of the non-abusing parent's capacity to protect the child is critical in determining if the child should remain in the home. Such cases should be carefully monitored to ensure that the child's safety is not further endangered by contact with the offender.

Provincial Child Abuse Protocol - A: Reporting and Investigations

The Child Abuse Investigation Team

Complaints of child abuse require a coordinated, team approach to investigation, assessment, intervention, treatment and follow-up.

Sharing of information is necessary to make good decisions to ensure the protection, safety and well-being of the child, and the protection of the public.

Responsibilities of the child protection worker

The primary responsibility to ensure the safety of children resides with the child protection worker.

Whether proceedings are being taken under the *Criminal Code*, the child protection worker must make an independent determination with respect to the child's need for protection. If it is believed the child remains in need of protection, action must be taken under *The Child and Family Services Act*. There must be no delay in proceeding with any necessary action to ensure the child's safety.

When there is ongoing child protection involvement with the family and a case plan has been developed, the case management role will be provided by the child protection worker.

Where a report of suspected child abuse is received by the child protection worker, the investigation should begin in a timely fashion, in accordance with the guidelines on immediate and non-immediate investigations.

Responsibilities of the police officer

Primary criminal investigation and public protection responsibility rests with the police. Agencies participating under the protocol will report cases without delay to the police to ensure evidence is protected, investigation procedures are not hampered and the victim and the public are protected.

Where a report of suspected child abuse is received by the police, the police should complete the investigation in a timely fashion.

Upon completion of an investigation, the police will forward a report of their investigation to the Crown Prosecutor. This is not intended to disrupt the usual process of determining whether charges should be laid.

Responsibilities of the Crown Prosecutor

The Crown Prosecutor is responsible for reviewing police investigation files when requested to do so by the police. The Prosecutor will also advise when criminal charges should be laid, what the appropriate charges would be, and whether any further investigation is advisable. The prosecutor will prepare witnesses for court appearances to ensure the best evidence available is presented to the court.

Responsibilities of the medical or health professional

The medical or health professional who first suspects the possibility of child abuse as a diagnosis must report his or her suspicions to a child protection worker or to the police.

The medical or health professional evaluating an alleged case of child abuse is responsible to:

- preserve the physical and emotional well-being of the child being examined;
- assess, diagnose and treat any condition associated with abuse or neglect. This includes referrals for any subsequent medical care, counselling, treatment or support; and
- provide sound medical evidence, documentation and expert opinion in the court proceedings.

Sharing Information

Provincial Child Abuse Protocol - A: Reporting and Investigations

It is expected that case information concerning a child or an alleged offender will be shared among the members of the Team and other involved professionals (eg. police, child protection workers, teachers, health professionals) for the purpose of protecting and planning for the child. In particular, it is essential that police and child protection workers share case information fully to ensure the investigation proceeds in an expedient manner. Case information includes reports, assessments, observations or any other information that relates to an investigation of child abuse.

It is also understood that information so shared will not be released outside the members of the Team without the authorization of the agency supplying the information, except as required for proceedings in court.

Written information such as witness statements obtained by the police should be considered as highly confidential, particularly while the investigation is ongoing.

Provincial Child Abuse Protocol - B: Involvement of Schools

Introduction

The neglect and abuse of children is considered by society to be unacceptable. Neglect and abuse in the family is often physically and always emotionally devastating, not only to the child, but to the entire family.

To prevent child abuse and neglect, schools, human service agencies, families, community members and government must work together with common goals, mutual commitments, shared decision-making and ownership responsibilities. The identification, treatment, follow-up and support of child abuse and neglect requires the close collaboration of child protection workers, police, crown prosecutors, medical professionals, mental health professionals, educators and all whose concerns touch upon and affect the lives of children.

Schools play a significant role in the lives of children and their families. Because all children must attend school, teachers, principals and school support personnel are in an excellent position to protect children from abuse and neglect and to ensure their well-being.

Provincial Child Abuse Protocol - B: Involvement of Schools

Indicators of Child Abuse and Neglect

There are a variety of physical and behavioural indicators suggesting **possible** abuse and neglect. While one indicator may not provide sufficient proof, a **pattern of indicators** increases the likelihood of child abuse or neglect.

Physical Indicators		Behavioural Indicators
Physical Abuse	<ul style="list-style-type: none"> injuries (bruises, cuts, burns, bite marks, fractures, etc.) that are not consistent with the explanation offered (e.g. extensive bruising to one area) the presence of several injuries that are in various stages of healing the presence of various injuries over a period of time facial injuries in infants and preschool children (e.g. cuts, bruises, sores, etc.) injuries not consistent with the child's age and development 	<ul style="list-style-type: none"> runaway attempts and fear of going home stilted conversation, vacant stares or frozen watchfulness, no attempt to seek comfort when hurt describes self as bad and deserving to be punished cannot recall how injuries occurred, or offers an inconsistent explanation wary of adults or reluctant to go home, absences from school may flinch if touched unexpectedly infants may display a vacant stare or frozen watchfulness extremely aggressive or extremely withdrawn displays extremely indiscriminate affection-seeking behaviour extremely compliant and/or eager to please sad, cries frequently
Emotional Abuse	<ul style="list-style-type: none"> bedwetting and or diarrhea which is non-medical in origin frequent psychosomatic complaints; headaches, nausea, abdominal pains child fails to thrive 	<ul style="list-style-type: none"> mental or emotional developmental lags, behaviours inappropriate for age fear of failure, overly high standards, reluctance to play unusual fear of consequences of actions, often leading to lying extreme withdrawal or aggressiveness, mood swings overly compliant, too well-mannered; too neat and clean extreme attention-seeking behaviours displays extreme inhibition in play poor peer relationships severe depression, often suicidal running away from home constantly apologizes

Provincial Child Abuse Protocol - B: Involvement of Schools

	Physical Indicators	Behaviourial Indicators
Sexual Abuse	<ul style="list-style-type: none"> • sores in the mouth • eating or sleep disturbances • recurring physical ailments • unusual or excessive itching in the genital or anal area • torn, stained or bloody underwear (observed if the child requires bathroom assistance) • pregnancy or venereal disease • injuries to the vaginal or anal areas (e.g. bruising, swelling or infection) 	<ul style="list-style-type: none"> • reluctance to participate in physical activities or to undress or take a shower after sports • fear of normal physical contact, especially when initiated by an adult • self-mutilation, depression, suicide attempts, anxiety, withdrawal, phobic behaviour • dramatic behavioural changes, sudden non-participation in activities • poor peer relationships, self-image, overall self-care • overly compliant or conversely, overly aggressive and destructive behaviour • age-inappropriate sexual play with toys, self, others (e.g. replication of explicit sexual acts) • age-inappropriate, sexually, explicit drawings and/or descriptions • bizarre, sophisticated or unusual sexual knowledge • promiscuity, prostitution, seductive behaviours directed towards members of opposite sex • fear of home, excessive fear of men or women
Neglect	<ul style="list-style-type: none"> • abandonment • unattended medical and dental needs • consistent lack of supervision • consistent hunger, inappropriate dress, poor hygiene • persistent conditions (e.g. scabies, head lice, diaper rash or other skin disorder) • developmental delays (e.g. language, weight) 	<ul style="list-style-type: none"> • demands for constant attention • lack of parental participation and interest • delinquency or abuse of alcohol or drugs • regularly displays fatigue or listlessness, falls asleep in class • steals food, begs from classmates • reports that no caretaker is at home • frequently absent or tardy • self-destructive • school dropouts (adolescents)

Rarely is any one indicator conclusive proof that a child has been harmed. In most instances, neglect or abuse is indicated when children present a cluster of behavioural and physical indicators.

Provincial Child Abuse Protocol - B: Involvement of Schools

Reporting suspected cases of child abuse and neglect

Mandate

Suspected child abuse must be treated seriously and must be reported to a child protection worker or to the police. Professionals and organizations working with children must develop protocols to ensure prompt reporting of suspected cases of child abuse.

The Child and Family Services Act deals with the protection of children from abuse and neglect by their parents. Parents include all persons who provide the day-to-day care and supervision of the child. Section 11 (Appendix B) defines the circumstances in which a child is in need of protection and generally includes:

- child physical abuse;
- child sexual abuse;
- emotional maltreatment of a child;
- parental failure to provide essential medical treatment to a child, or failure to remedy a mental, emotional or developmental condition of a child;
- exposure of a child to domestic violence or severe domestic disharmony;
- child neglect or abandonment;
- children under 12 who have committed criminal offenses and cannot be charged under the *Young Offenders Act* (Canada) because of their age, but require services to prevent a recurrence.

If school personnel have reasonable grounds to believe that a child may be abused or neglected, *The Child and Family Services Act* requires them to report their concerns to a child protection worker or police officer. As part of the education system, school divisions should have protocols to assist school personnel with reporting.

It is not the responsibility of school personnel to determine if a child is abused or neglected before they report; it is their responsibility to report **suspected** cases of abuse or neglect. If it is not clear that reasonable grounds to report exist, then consultation with other teachers, school personnel is acceptable. Informal consultation with child protection workers or police is encouraged and may occur without making a formal report.

The Education Act provides that teachers and principals are to act as a "wise and judicious parent". Access by child protection workers or police to children possibly suffering from abuse is a proper course of action. The responsibility of the teacher and principal is to:

- ensure all staff are familiar with school division protocols with regard to reporting suspected cases of child abuse or neglect;
- make reports of suspected child abuse or neglect;
- facilitate contact with the child by child protection workers and police during an abuse investigation; and
- monitor the progress of the child and share information regarding the child as required throughout the investigation, assessment and treatment of the child and his or her family.

Procedures

Each teacher or other school system employee who believes that a child is in need of protection shall immediately inform the principal of the school. The principal must immediately report suspected cases of child abuse or neglect to a child protection worker or police officer.

The principal, in consultation with the person reporting the suspected abuse or neglect, shall maintain a factual record of all evidence and reports to aid both reporting and recall.

A principal who has received a report of suspected abuse or neglect may consult with school guidance counsellors, school social workers, school nurses or other involved persons. **This consultation can not cause a delay in making a report to a child protection worker or police that would further put the child at risk.**

Provincial Child Abuse Protocol - B: Involvement of Schools

Interviews of children by child protection workers and police

Whether a report originates from the school or from another source, it may be necessary for the child to be interviewed in the school setting without parental consent. In cases of suspected abuse, a child protection worker and police officer may jointly conduct the investigation, and would likely come to the school together to conduct the interview. The interview of the child without parental consent is done routinely in cases of sexual abuse. It is critical to the child's safety that the child be interviewed first and receive protection from their parent, if that is required.

In cases of suspected neglect, a child protection worker may not be accompanied by a police officer. This is because neglect is not a criminal offence unless it is very severe.

Where an interview is requested by a child protection worker or police officer, direct access to the child is to be allowed.

As school staff are not responsible to investigate the allegations, they **shall not** contact the child's family, the alleged abuser or other individuals to either inform or further investigate the cause or circumstance of the suspected abuse. This is the role and responsibility of the child protection worker or the police.

The child protection worker and police will usually interview the child alone. This procedure must be observed because of the sensitive nature of some investigations and to ensure that individuals who may not be comfortable with the subject matter do not hinder the effort to provide protection services to the child. The child protection worker or police may request that the teacher or someone from the school be present during the interview to support the child.

The school principal may request to be present at the interview; however, he or she should be cautioned to bear in mind that by doing so, there is a possibility of being subpoenaed to give testimony at a child protection hearing or any criminal proceedings.

Procedures

A child protection worker or police officer wishing to interview a child at school shall make the request of the principal and provide written confirmation of the request at the end of the investigation.

The principal shall make the necessary arrangements for such confidential interviews and shall retain the written confirmation in school files.

The written confirmation shall confirm the meeting arrangements, acknowledge the assistance of the principal and indicate the general outcome of the investigation with respect to the child in the school setting.

Receiving disclosures of abuse

Whether a child reports physical abuse, emotional abuse or sexual abuse, it is wise to treat all disclosures in a similar fashion. Without carrying out the investigation personally, it is impossible to know whether the case will come to court. Therefore, for teachers and school personnel to be the most helpful they should:

- support the child;
- acknowledge the child's right to have their concern investigated;
- listen openly and calmly;
- reassure the child;
- write down what the child has told them and their observations; and
- report the suspected case of abuse immediately.

Provincial Child Abuse Protocol - B: Involvement of Schools

Treatment and follow-up

Integrated services are intended to facilitate a coordinated effort among education, health, social services, justice and other service providers to address student needs beyond the professional mandate of educators. Follow-up services to child victims of abuse or neglect require these service providers to work together in the development and delivery of a coordinated case plan for the child and family.

Where a child has been found to be in need of protection, services will be provided to the child and family. The role of the teacher and the school is to:

- observe the child's progress, including the child's behaviour, academic progress, emotional functioning, and physical well-being;
- participate in the agreed-upon case plan; and
- share information with the child protection worker and any other persons involved in the treatment and support of the family.

The degree of observation and participation required from the school should be agreed upon between the child protection worker, the school and any other persons involved with the child and family.

In some cases, a child may have to be removed from the parent's care to ensure the child's continued safety. Where a child has been apprehended, he or she may be placed in foster care or other residential programs outside the school or school division where the child normally attends school. In this case, the child protection worker is responsible to advise the principal of the child's new location. The principal of the sending school shall be responsible for notifying the principal of the receiving school about the situation. The child protection worker would also contact the principal of the new school to inform him/her of the child's situation. Any files or documentation at the school may be transferred with the child as agreed between the principals.

Provincial Child Abuse Protocol - Appendix A

Definitions

Child - anyone under 16 years of age

Child Abuse Investigation Team - the group of professionals involved in the management of any given child abuse case prescribed by these procedures. Not all potential team members will be involved in every phase of the case.

Child in need of protection - defined in Section 11 of *The Child and Family Services Act*, and includes situations where the child has suffered or is likely to suffer physical harm, or has been or is likely to be exposed to harmful interaction for a sexual purpose.

Child Protection Worker - includes:

- a Social Worker employed by Saskatchewan Social Services, or
- in the case of Indian Child and Family Service agencies, includes an employee of the agency who is providing services to the children and families living on-reserve.

Officer - means a person designated as an officer under *The Child and Family Services Act* and includes:

- a Social Worker employed by Saskatchewan Social Services, or
- in the case of Indian Child and Family Service agencies, includes an employee of the agency who is providing services to the children and families living on-reserve.

Parent - includes:

- the mother and father of the child
- a person to whom custody of the child has been granted by a court or by an agreement
- a person with whom the child resides and who stands in place of the parent

Youth - A person aged 16 or 17

Provincial Child Abuse Protocol - Appendix B

The Child and Family Services Act

Child in need of protection

11 A child is in need of protection where:

- (a) as a result of action or omission by the child's parent:
 - (i) the child has suffered or is likely to suffer physical harm;
 - (ii) the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
 - (iii) the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including conduct that may amount to an offence within the meaning of the *Criminal Code*;
 - (iv) medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child;
 - (v) the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or
 - (vi) the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- (b) there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or
- (c) the child is less than 12 years of age and:
 - (i) there are reasonable and probable grounds to believe that:
 - (A) the child has committed an act that, if the child were 12 years of age or more, would constitute an offence under the *Criminal Code*, the *Narcotic Control Act* (Canada) or Part III or Part IV of the *Food and Drug Act* (Canada); and
 - (B) family services are necessary to prevent a recurrence; and
 - (ii) the child's parent is unable or unwilling to provide for the child's needs. 1989-90, c.C-7.2, s.11.

Duty to report

- 12 (1) Subject to subsections (2) and (3), every person who has reasonable grounds to believe that a child is in need of protection shall report the information to an officer or peace officer.
- (2) Subsection (1) applies notwithstanding any claim of confidentiality or professional privilege other than:
 - (a) solicitor-client privilege; or
 - (b) Crown privilege.
- (3) No action lies against a person who makes a report pursuant to subsection (1) unless that person makes it maliciously and without reasonable grounds for his or her belief.
- (4) Every peace officer who has reasonable grounds to believe that a child is in need of protection shall immediately report the information to an officer. 1989-90, c.C-7.2, s.12.

Duty to investigate

- 13 (1) An officer shall investigate a report made pursuant to subsection 12(1) or (4) if, in the opinion of the officer, reasonable grounds exist to believe that a child is in need of protection.
- (2) Where:
 - (a) an officer believes on reasonable and probable grounds that a child is in need of protection; and

Provincial Child Abuse Protocol - Appendix B

- (b) the parent or person having care of the child refuses to give the officer access to the child; the officer may apply to a justice of the peace or a judge for a warrant to be issued pursuant to subsection (3).
- (3) Where a justice of the peace or a judge is satisfied by the oath of an officer that the officer believes, on reasonable and probable grounds, that:
 - (a) a child is in need of protection;
 - (b) the parent or person having care of the child refuses to give the officer access to the child; and
 - (c) there is evidence to be found at the place to be searched that a child is in need of protection; the justice of the peace or judge may issue a warrant under his or her hand.
- (4) A warrant issued pursuant to subsection (3) authorizes the person named in the warrant to enter the place named in the warrant and every part of the place named in the warrant and of the premises connected with that place to:
 - (a) examine the place and connected premises; and
 - (b) search for and seize and take possession of anything that there are reasonable and probable grounds to believe will afford evidence that a child is in need of protection.
- (5) An officer may exercise all or any of the powers mentioned in subsection (4) without a warrant issued pursuant to this section if:
 - (a) the conditions for obtaining a warrant exist; and
 - (b) the officer believes, on reasonable and probable grounds, that the delay necessary to obtain a warrant would result in a risk of serious harm to a child or the loss, removal or destruction of evidence.
- (6) No person shall obstruct any person who is authorized to make an entry pursuant to this section. 1989-90, c.C-7.2, s.13.

Duty to offer family services

- 14
- (1) Where, on investigation, an officer concludes that a child is in need of protection, the officer shall:
 - (a) notify the parent in writing of the officer's conclusion; and
 - (b) offer family services to the parent.
 - (2) Where a parent acknowledges the need for family services and agrees to the provision of those services, a director may enter into an agreement with the parent for the provision of family services.
 - (3) Section 9 applies, with any necessary modification, to an agreement for residential services made pursuant to this section.
 - (4) Where the parent and the director do not enter into an agreement pursuant to subsection (2) and an officer believes that the child is in need of protection, the officer shall, within 30 days of giving notice to the parent pursuant to clause (1)(a):
 - (a) apply to the court for a protection hearing; or
 - (b) submit the officer's reasons for that belief to a mediator pursuant to section 15.
 - (5) An application pursuant to clause (4)(a) may be made by telephone in accordance with the regulations. 1989-90, c.C-7.2, s.14.

Provincial Child Abuse Protocol - Appendix B

Mediation services

- 15 (1) Where an officer has concluded that a child is in need of protection, the officer may offer to the parent to submit the officer's reasons for that conclusion to a mediator for the purpose of obtaining assistance in concluding an agreement with the parent for the provision of family services.
- (2) Mediation offered pursuant to subsection (1) shall be carried out by a person who, in the opinion of the minister, is:
 - (a) qualified to provide mediation services; and
 - (b) representative of community parenting standards.
- (3) Where:
 - (a) the parent and the director do not enter into an agreement pursuant to subsection (1); and
 - (b) an officer believes that the child is in need of protection;the officer shall, as soon as is practicable, apply to the court for a protection hearing.
- (4) An application pursuant to subsection (3) may be made by telephone in accordance with the regulations. 1989-90, c.C-7.2, s.15.

Protective intervention orders

- 16 (1) Subject to subsection (2), where an officer has reasonable grounds to believe that contact between a child and another person would cause the child to be in need of protection, the officer may apply to the court for a protective intervention order directed to that person.
- (2) An officer shall give three clear days' notice of an application pursuant to subsection (1) to the person to whom the protective intervention order is proposed to be directed and to each parent.
- (3) Where, on an application pursuant to subsection (1), the court is of the opinion that contact between a child and another person would cause the child to be in need of protection, the court may make a protective intervention order containing any terms and conditions that the court considers to be in the best interests of the child, including, without limiting the generality of the foregoing, a direction to a person named in the order to refrain from any contact or association with the child.
- (4) Subject to subsections (5) and (6), a protective intervention order is effective for any period specified in the order that does not exceed six months.
- (5) At any time before the expiry of a protective intervention order, an officer or a person named in the order may apply to the court to:
 - (a) make changes in or additions to the terms and conditions contained in the order;
 - (b) decrease the period for which the order is to remain in force; or
 - (c) where the court is of the opinion that contact between the child and the person named in the order would no longer cause the child to be in need of protection, terminate the order.
- (6) An officer may:
 - (a) before the expiry; or
 - (b) within 15 days after the expiry;of a protective intervention order, apply to the court to extend the order for an additional period of not more than six months.
- (7) Subsections (2) and (3) apply, with any necessary modification, to an application made pursuant to subsection (5) or (6).
- (8) The total of the periods of all orders made pursuant to this section with respect to a child shall not exceed 24 months unless the court determines that an extension is required because contact between the child and the person named in the order continues to cause the child to be in need of protection. 1989-90, c.C-7.2, s.16.

Confidentiality

Provincial Child Abuse Protocol - Appendix B

- 74 (1) Notwithstanding section 18 of *The Department of Social Services Act*, members of the board, members of family review panels, mediators, officers and employees of the department, foster parents and all other persons who are employed in or assist with the administration of this Act:
- (a) shall preserve confidentiality with respect to:
 - (i) the name and any other information that may identify a person that comes to their attention pursuant to this Act or *The Family Services Act*; and
 - (ii) any files, documents, papers or other records dealing with the personal history or record of a person that have come into existence through anything done pursuant to this Act, *The Adoption Act* or *The Family Services Act*; and
 - (b) shall not disclose or communicate the information mentioned in clause (a) to any other person except as required to carry out the intent of this Act or as otherwise provided in this section.
- (2) The minister, a director or an officer may disclose or communicate information mentioned in subsection (1) relating to a child to:
- (a) the guardian, parent or foster parent of that child; or
 - (b) the child to whom the information relates.
- (3) On the request of a person, the minister or a director may:
- (a) disclose; or
 - (b) authorize an officer to disclose;
- information mentioned in subsection (1) relating to that person in any form that the minister or director considers appropriate.
- (4) Notwithstanding subsection (2) or (3), no person shall, except while giving evidence in a protection hearing, disclose to anyone who is not an officer or a peace officer the name of a person who:
- (a) makes a report pursuant to section 12; and
 - (b) requests that his or her name not be disclosed.
- (5) Any information that may be disclosed to the person to whom it relates may, with the written consent of the person to whom it related, be disclosed to any other person.
- (5.1) Information mentioned in subsection (1) may be released where, in the opinion of the minister, the benefit of the release of information clearly outweighs any invasion of privacy that could result from the release.
- (5.2) The information mentioned in subsection (5.1) may be released in any form that the minister considers appropriate.
- (6) Any disclosure of information pursuant to this section does not constitute a waiver of Crown privilege, solicitor-client privilege or any other privilege recognized in law.

Offences

- 81 (1) For the purposes of this section, "abuse" means:
- (a) to act or omit to act so as to result in physical injury to a child;
 - (b) to act or omit to act so as to result in substantial impairment of a child's mental or emotional functioning as evidenced by a mental or behavioral disorder;
 - (c) to exploit a child or treat a child cruelly; or
 - (d) to contact a child for a sexual purpose.
- (2) Any person who:
- (a) having the care, custody, control or charge of a child, neglects, abuses, wilfully abandons or exposes the child to abuse or abandonment or causes or procures the child to be abused, abandoned or exposed;
 - (b) detains or harbours a child after a demand has been made by an officer or a person acting on behalf of the minister for delivery of the child;
 - (c) induces or attempts to induce a child who:

Provincial Child Abuse Protocol - Appendix B

- (i) has been taken into the care and custody of the minister by apprehension pursuant to this Act;
 - (ii) has been placed in the custody of the minister pursuant to clause 37(1)(c) or subsection 37(3);
 - (iii) has been committed to the minister pursuant to subsection 37(2) or section 46;
 - (iv) is deemed to be in the custody of or committed to the minister pursuant to subsection 60(2), as the case may be;
 - (v) is in the custody of an officer pursuant to section 7 or 8; or
 - (vi) is receiving residential services pursuant to section 9 or 10;
- to leave the premises in which the child has been lawfully placed;
- (d) contravenes a protective intervention order made pursuant to section 16;
 - (e) contravenes subsection 12(1); or
 - (f) contravenes subsection 13(6) or 82(4);
- is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both fine and imprisonment. 1989-90, c.C-7.2, s.81.

Provincial Child Abuse Protocol - Appendix B

Criminal Code

Section 43 Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

Section 150.1 Where an accused is charged with an offence under section 151 or 152 or subsection 153(1), 160(3) or 173(2) or is charged with an offence under section 271, 272 or 273 in respect of a complainant under the age of fourteen years, it is not a defence that the complainant consented to the activity that forms the subject matter of the charge.

Section 151 Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

Section 152 Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

Section 153

- (1) Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who
 - (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
 - (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction

- (2) In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.

Section 155

- (1) Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person.
- (2) Every one who commits incest is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.
- (3) No accused shall be determined by a court to be guilty of an offence under this section if the accused was under restraint, duress or fear of the person with whom the accused has the sexual intercourse at the time the sexual intercourse occurred.
- (4) In this section, "brother" and "sister", respectively, include half-brother and half-sister.

Section 159

- (1) Every person who engages in an act of anal intercourse is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

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- (2) Subsection (1) does not apply to any act engaged in, in private, between
 - (a) husband and wife, or
 - (b) any two persons, each of whom is eighteen years of age or more, both of whom consent to the act.
- (3) For the purposes of subsection (2),
 - (a) an act shall be deemed not to have been engaged in private if it is engaged in a public place or if more than two persons take part or are present; and
 - (b) a person shall be deemed not to consent to an act
 - (i) if the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent misrepresentations respecting the nature and quality of the act, or
 - (ii) if the court is satisfied beyond a reasonable doubt that the person could not have consented to the act by reason of mental disability.

Section 160

- (1) Every person who commits bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.
- (2) Every person who compels another to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.
- (3) Notwithstanding subsection (1), every person who, in the presence of a person under the age of fourteen years, commits bestiality or who incites a person under the age of fourteen years to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

Section 161

- (1) Where an offender is convicted, or is discharged on the conditions prescribed in a probation order under section 736, of an offence under section 151, 152, 155, or 159, subsection 160(2) or (3) or section 170, 171, 272 or 273, in respect of a person who is under the age of fourteen years, the court that sentences the offender or directs that the accused be discharged, as the case may be, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, shall consider making and may make, subject to the conditions or exemptions that the court directs, an order prohibiting the offender from
 - (a) attending a public park or public swimming area where persons under the age of fourteen years are present or can reasonably be expected to be present, or a daycare centre, schoolground or community centre; or
 - (b) seeking, obtaining or continuing any employment, whether or not the employment is remunerated, or becoming or being a volunteer in a capacity, that involves being in a position of trust or authority towards persons under the age of fourteen years.
- (2) The prohibition may be for life or for any shorter duration that the court considers desirable and, in the case of a prohibition that is not for life, the prohibition begins on the later of
 - (a) the date on which the order is made; and
 - (b) where the offender is sentenced to a term of imprisonment, the date on which the offender is released from imprisonment for the offence, including release on parole, mandatory supervision or statutory release.

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- (3) A court that makes an order of prohibition or, where the court is for any reason unable to act, another court of equivalent jurisdiction in the same province, may, on application of the offender or the prosecutor, require the offender to appear before it at any time and, after hearing the parties, that court may vary the conditions prescribed in the order if, in the opinion of the court, the variation is desirable because of changed circumstances after the conditions were prescribed.
- (4) Every person who is bound by an order of prohibition and who does not comply with the order is guilty of
 - (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
 - (b) an offence punishable on summary conviction.

Section 163.1

- (1) In this section, "child pornography" means
 - (a) a photograph, film or video or other visual representation, whether or not it was made by electronic or mechanical means,
 - (i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity or
 - (ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years; or
 - (b) any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act.
- (2) Every person who makes, prints, publishes or possesses for the purpose of publication any child pornography is guilty of
 - (a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or
 - (b) an offence punishable on summary conviction.
- (3) Every person who imports, distributes, sells or possesses for the purpose of distribution or sale any child pornography is guilty of
 - (a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or
 - (b) an offence punishable on summary conviction.
- (4) Every person who possesses any child pornography is guilty of
 - (a) an indictable offence and liable to imprisonment for a term not exceeding five years; or
 - (b) an offence punishable on summary conviction.
- (5) It is not a defence to a charge under subsection (2) in respect of a visual representation that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being eighteen years of age or more unless the accused took all reasonable steps to ascertain the age of that person and took all reasonable steps to ensure that, where the person was eighteen years of age or more, the representation did not depict that person as being under the age of eighteen years.
- (6) Where the accused is charged with an offence under subsection (2), (3) or (4), the court shall find the accused not guilty if the representation or written material that is alleged to constitute child pornography has artistic merit or an educational, scientific or medical purpose.

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Section 170 Every parent or guardian of a person under the age of eighteen years who procures that person for the purpose of engaging in any sexual activity prohibited by this Act with a person other than the parent or guardian is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, if the person procured for that purpose is under the age of fourteen years, or to imprisonment for a term not exceeding two years if the person so procured is fourteen years of age or more but under the age of eighteen years.

Section 171 Every owner, occupier or manager of premises or other person who has control of premises or assists in the management or control of premises who knowingly permits a person under the age of eighteen years to resort to or to be in or on the premises for the purpose of engaging in any sexual activity prohibited by this Act is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, if the person in question is under the age of fourteen years, or to imprisonment for a term not exceeding two years if the person in question is fourteen years of age or more but under the age of eighteen years.

Section 172

- (1) Every one who, in the home of a child, participated in adultery or sexual immorality or indulges in habitual drunkenness or any other form of vice, and thereby endangers the morals of the child or renders the home an unfit place for the child to be in, is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.
- (2) [Repealed.R.S.C.1985,c.19(3rd Supp.), s.6]
- (3) For the purposes of this section, "child" means a person who is or appears to be under the age of eighteen years.
- (4) No proceedings shall be commenced under subsection (1) without the consent of the Attorney General, unless they are instituted by or at the instance of a recognized society for the protection of children or by an officer of a juvenile court.

Section 173

- (1) Every one who wilfully does an indecent Act
 - (a) in a public place in the presence of one or more persons, or
 - (b) in a place, with intent thereby to insult or offend any person, is guilty of an offence punishable on summary conviction.
- (2) Every person who, in any place, for a sexual purpose, exposes his or her genital organs to a person who is under the age of fourteen years is guilty of an offence punishable on summary conviction.

Section 215

- (1) Every one is under a legal duty
 - (a) as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of sixteen years;
 - (b) as a married person, to provide necessaries of life to his spouse; and
 - (c) to provide necessaries of life to a person under his charge if that person
 - (i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and
 - (ii) is unable to provide himself with necessaries of life.
- (2) Every one commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse, the proof of which lies upon him, to perform that duty, if
 - (a) with respect to a duty imposed by paragraph (1)(a) or (b),

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- (i) the person to whom the duty is owed is in destitute or necessitous circumstances, or
 - (ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently; or
 - (b) with respect to a duty imposed by paragraph (1)(c), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.
- (3) Every one who commits an offence under subsection (2) is guilty of
- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
 - (b) an offence punishable on summary conviction.
- (4) For the purpose of proceedings under this section,
- (a) evidence that a person has cohabited with a person of the opposite sex or has in any way recognized that person as being his spouse is, in the absence of any evidence to the contrary, proof that they are lawfully married;
 - (b) evidence that a person has in any way recognized a child as being his child is, in the absence of any evidence to the contrary, proof that the child is his child;
 - (c) evidence that a person has left his spouse and has failed, for a period of any one month subsequent to the time of his so leaving, to make provision for the maintenance of his spouse or for the maintenance of any child of his under the age of sixteen years is, in the absence of any evidence to the contrary, proof that he has failed without lawful excuse to provide necessaries of life for them; and
 - (d) the fact that a spouse or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide them is not a defence.
- R.S.,c.C-34, S. 197;1974-75-76, c. 66, S. 8; 1991, C. 43, S. 9.

Section 218

Every one who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured, is guilty of an indictable offence and is liable to imprisonment for a term exceeding two years.
R.S.,c.C-34, S. 200.

Section 271

- (1) Every one who commits a sexual assault is guilty of
- (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or
 - (b) an offence, punishable on summary conviction.

Section 272

- (1) Every one who, in committing a sexual assault,
- (a) carries, uses or threatens to use a weapon or an imitation thereof,
 - (b) threatens to cause bodily harm to a person other than the complainant,
 - (c) causes bodily harm to the complainant, or
 - (d) is a party to the offence with any other person,
- is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Section 273

- (1) Every one commits an aggravated sexual assault who, in committing a sexual assault,

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wounds, maims, disfigures or endangers the life of the complainant.

- (2) Every one who commits an aggravated sexual assault is guilty of an indictable offence and liable to imprisonment for life.

Section 273

- (1) Subject to subsection (2) and subsection 265(3), "consent" means, for the purposes of sections 271, 272 and 273, the voluntary agreement of the complainant to engage in the sexual activity in question.
- (2) No consent is obtained, for the purposes of sections 271, 272 and 273, where
 - (a) the agreement is expressed by the words or conduct of a person other than the complainant;
 - (b) the complainant is incapable of consenting to the activity;
 - (c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
 - (d) the complainant expressed, by words or conduct, a lack of agreement to engage in the activity; or
- (3) Nothing in subsection (2) shall be construed as limiting the circumstances in which no consent is obtained; 1992, c.38, s.I.

Section 273.2

It is not a defence to a charge under section 271, 272 or 273 that the accused believed that the complainant consented to the activity that forms the subject-matter of the charge, where

- (a) the accused's belief arose from the accused's
 - (i) self-induced intoxication, or
 - (ii) recklessness or wilful blindness; or
- (b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting; 1992, c.38.s. 1.

Section 283

- (1) Every one who, being the parent, guardian or person having the lawful care or charge of a person under the age of fourteen years, takes, entices away, conceals, detains, receives or harbours that person, whether or not there is a custody order in relation to that person made by the court anywhere in Canada, with intent to deprive a parent or guardian, or any other person who has the lawful care or charge of that person, of the possession of that person, is guilty of
 - (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or
 - (b) an offence punishable on summary conviction.
- (2) No proceedings may be commenced under subsection (1) without the consent of the Attorney General or counsel instructed by him for that purpose.

Section 715.1 In any proceeding relating to an offence under section 151, 152, 153, 155 or 159, subsection 160(2) or (3), or section 170, 171, 172, 173, 271, 272 or 273, in which the complainant was under the age of eighteen years at the time the offence is alleged to have been committed, a videotape made within a reasonable time after the alleged offence, in which the complainant describes the acts complained of, is admissible in evidence if the complainant, while testifying, adopts the contents of the videotape.

Section 486

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- (1) Any proceedings against an accused shall be held in open court, but where the presiding judge, provincial court judge or justice, as the case may be, is of the opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude all or any members of the public from the court room for all or part of the proceedings, he may so order.
 - (1.1) For the purposes of subsections (1) and (2.3) and for greater certainty, the "proper administration of justice" includes ensuring that the interests of witnesses under the age of fourteen years are safeguarded in proceedings in which the accused is charged with a sexual offence, an offence against any of sections 271, 272 and 273 or an offence in which violence against the person is alleged to have been used, threatened or attempted.
 - (1.2) In proceedings referred to in subsection (1.1), the presiding judge, provincial court judge or justice may, on application of the prosecutor or a witness who, at the time of trial or preliminary hearing, is under the age of fourteen years, order that a support person of the witness' choice be permitted to be present to be close to the witness while testifying.
 - (1.3) The presiding judge, provincial court judge or justice shall not permit a witness in the proceedings referred to in subsection (1.1) to be a support person unless the presiding judge, provincial court judge or justice is of the opinion that the proper administration of justice so requires.
 - (1.4) The presiding judge, provincial court judge or justice may order that the support person and the witness not communicate with each other during the testimony of the witness.
- (2) Where an accused is charged with an offence mentioned in section 274 and the prosecutor or the accused makes an application for an order under subsection (1), the presiding judge, provincial court judge or justice, as the case may be, shall, if no such order is made, state, by reference to the circumstances of the case, the reasons for not making an order.
 - (2.1) Notwithstanding section 650, where an accused is charged with an offence under section 151, 152, 153, 155 or 159, subsection 160(2) or (3), or section 170, 171, 172, 173, 271, 272 or 273 and the complainant, at the time of the trial or preliminary inquiry, is under the age of eighteen years or is able to communicate evidence but may have difficulty doing so by reason of a mental or physical disability, the presiding judge or justice, as the case may be, may order that the complainant testify outside the court room or behind a screen or other device that would allow the complainant not to see the accused, if the judge or justice is of the opinion that the exclusion is necessary to obtain a full and candid account of the acts complained of from the complainant.
 - (2.2) A complainant shall not testify outside the court room pursuant to subsection (2.1) unless arrangements are made for the accused, the judge or justice and the jury to watch the testimony of the complainant by means of closed-circuit television or otherwise and the accused is permitted to communicate with counsel while watching the testimony.
 - (2.3) In proceedings referred to in subsection (1.1), the accused shall not personally cross-examine a witness who at the time of the proceedings is under the age of fourteen years, unless the presiding judge, provincial court judge or justice is of the opinion that the proper administration of justice requires the accused to personally conduct the cross-examination and, where the accused is not personally conducting the cross-examination, the presiding judge, provincial court judge or justice shall appoint counsel for the purpose of conducting the cross-examination.
- (3) Subject to subsection (4), where an accused is charged with an offence under section

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151, 152, 153, 155, 159, 160, 170, 171, 172, 173, 271, 272, 273, 346 or 347, the presiding judge or justice may make an order directing that the identity of the complainant or of a witness and any information that could disclose the identity of the complainant or witness shall not be published in any document or broadcast in any way.

- (4) The presiding judge or justice shall,
 - (a) at the first reasonable opportunity, inform any witness under the age of eighteen years and the complainant to proceedings in respect of an offence mentioned in subsection (3) of the right to make an application for an order under subsection (3); and
 - (b) on application made by the complainant, the prosecutor or any such witness, make an order under that subsection.
- (5) Every one who fails to comply with an order made pursuant to subsection (3) is guilty of an offence punishable on summary conviction.

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Canada Evidence Act

Section 16 allows a witness under 14 years of age or a person whose mental capacity is challenged to testify if they show an ability to communicate. They can testify under oath if the child understands the nature of the oath or, if not, on the promise to tell the truth.