
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**

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Provincial Child Abuse Protocol 1995

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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, social workers and health professionals.

First Nations are in the process of implementing Child and Family Services 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. The 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 is being developed in phases. It will ultimately include guidelines and procedures for:

- (a) Reporting and investigating child abuse.
- (b) Involvement in 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.

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 suspect 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 a 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 further 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 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 with out 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

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 a 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 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 province 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 RCMP are primarily responsible for public safety and have a responsibility to:

- Receive reports of a child in need of protection and potential offences 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 Service 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.

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 the investigation 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 the 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 Services agencies, bands and Tribal Councils, and should share information as required to plan for Indian children.

Metis Organizations

In some communities across the province, family support services have been developed and are being delivered by Metis 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.

Local Child Abuse Committees

In order to promote sensibility, 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 investigation, 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 the 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 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 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 social needs.

- (h) Abuse of 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 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 (e.g. 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 shall cooperate 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 access 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 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 in this matter for police or Crown determination; and, similarly, the responsibility to assess whether the facts raise a child protection concern is a matter for Social Services determination.

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.

Abuse by Family of 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 (of 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.

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 be 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 of neglect. This includes referrals for any subsequent medical care, counselling, treatment or support, and
- Provided sound medical evidence, documentation and expert opinion in the court proceedings.

Sharing Information

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 (e.g. 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 in 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.

Indicators of Child Abuse and Neglect

There are a variety of physical and behavioral 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	Behavioral 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">• run away 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 and 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/ or eager to please• sad, cries frequently

	Physical Indicators	Behavioral Indicators
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, behaviour 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 • constantly apologizes
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 behavior • dramatic behavioural changes, sudden non-participation in activities • poor peer relationships, self image, overall self-care • overly compliant or conversely overly aggressive or 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 behaviors directed towards members of the opposite sex • fear of home, excessive fear of men or women
Neglect	<ul style="list-style-type: none"> • abandonment • unattended medical and dental needs • lack of supervision • consistent hunger, inappropriate dress, poor hygiene • persistent conditions (e.g. scabies, head lice, diaper rash and or other skin disorder) • development delays (e.g. language, weight) 	<ul style="list-style-type: none"> • demands for consistent 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 • frequency absent or tidy • 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.

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 reoccurrence.

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 principle is to:

- Ensure all staff are familiar with school division protocols with regard to reporting suspected cases of child abuse and 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 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 in 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 cannot cause a delay in making a report to a child protection worker or police that would further put the child at risk.

Interviews of Children by Child Protection Workers and Police

Whether a report originates from 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 or police officer may jointly conduct the investigation, and would likely come to the school together to conduct the interview. The interview of a 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 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.

Treatment and Follow-up

Integrated services 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 and neglect require these service providers to work together in the development and delivery of a coordinated case plan for 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 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 one of 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 a case of Indian Child and Family Services agencies, includes an employee of an 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 a case of Indian Child and Family Services agencies, includes an employee of an agency who is providing services to the children and families living on-reserve.

Parent – includes:

- The mother and father of a 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 a 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*;
 -)ii 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;
 -)iii The child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or
 -)iv 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, is 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 grounds and probable grounds that a child is in need of protection; and
 - (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).
 - (2) Where a justice of the peace or a judge is satisfied by the oath of an officer that the officer believes, on reasonable 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.
 - (2) 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.
 - (2) 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 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.

- (2) 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.
- (2) An application pursuant to clause (4)(a) may be made by telephone in accordance with the regulations. 18909-, c.C-7.2, s.1.

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.
- (2) 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.
- (2) 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 at that person.
- (2) An officer shall give three clear days' notice of an application pursuant to subsection (1) to the person 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.
- (2) An officer may:
- (a) Before the expiry; or
 - (b) Within 15 days of the expiry;
- of a protective intervention order, a protective intervention order, apply to the court to extend the order for an additional period of not more than 6 months.
- (2) Subsections (2) and (3) apply, with any necessary modification, to an application made pursuant to subsection (5) and (6).
- (3) 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

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 in respect to:
 - (1) 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
 - (2) 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
- (a) Shall not disclose or communicate the information mentioned in the 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 whom the information relates.
- (1) On the request of the person, the minister or a director may:
 - (a) Disclose; or
 - (b) Authorize and 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) and (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 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 the 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 as to result in a substantial impairment or a child’s mental or emotional functioning as evidenced by a mental or behavioural 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, willfully abandons 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:
 - (i) Has been taken into 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;
- (a) Contravenes a protective intervention order made pursuant to section 16;
- (b) Contravenes subsection 12(1); or
- (c) 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, s81.

Criminal Code

Section 43 Every school teacher, parent or person standing in 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, 271 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 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.

- (1) 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 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.
- (2) Section (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.
- (1) 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 in the 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, 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 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 be reasonably be expected to be present, or a daycare centre, school ground 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.
- (1) The probation may be for life or for any shorter duration that the court considers desirable and, in the case of 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.
- (1) 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.
- (2) 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 depicted as being under the age of eighteen years and is engaged in explicit sexual activity or
 - (ii) The dominant characteristic of which the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years; or
- (a) 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.
- (1) Every person who makes, prints, or publishes or possesses pornography 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.
- (1) 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.
- (1) Every person who possesses 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.
- (1) It is not a defence to charge under subsection (2) in respect to 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 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.
- (2) 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.

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 be in the 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.1885,c.19(3RD Supp.) s.6]
- (3) For the purpose 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 assistance of a recognized society for the protection of children or by an officer of a juvenile court.

Section 173

- (1) Every one who willfully 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.
- (1) 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 by 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 the necessaries of life.

(1) 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),

(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

(a) 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.

(1) 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.

(1) 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 failed without lawful excuse to provide necessaries of life for them; and

(d) The fact that the spouse or child is receiving or has received necessaries of life from another person who is not under 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.,Cc-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 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 assault who, in committing a sexual assault, wounds, maims, disfigures or endangers the life of the complainant.
- (2) Every one who commits an aggravated 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 purpose of subsections 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 section 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 and authority;
 - (d) The complainant expressed, by words or conduct, a lack of agreement to engage in the activity; or
- (1) Nothing in subsection (2) shall be construed as limiting the circumstances in which no consent is obtained; 1992, c.38, s.1.

Section 273.2

It is not a defence to 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 willful blindness; or

- (a) 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 custody order in relation to that person made by the court anywhere in Canada, with the 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.

- (1) No proceeding 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

- (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 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 purpose of subsection (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 any 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.

- (1) 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 the 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 mental or physical disability, the presiding judge or justice, as the case may be, may order that the complainant testify outside the courtroom 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 courtroom 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 or justice is of the opinion that the proper administration of justice requires the accused to personally conduct cross-examination and, where the accused is not personally conducting cross-examination, the presiding judge, provincial court judge or justice shall appoint counsel for the purpose of conducting cross-examination.
- (2) Subject to subsection (4), where an accused is charged with an offence under section 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.
- (3) 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.
- (1) Every one who fails to comply with an order made pursuant to subsection (3) is guilty of an offence punishable by summary conviction.

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 the 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.