

POLICE & SCHOOL PROTOCOL

Preface: *Superior-Greenstone District School Board in cooperation with the Superior North Catholic District School Board, Caramat District School Area Board, Nakina District School Area Board, Long Lake 58 and Ginoogaming First Nation Authority; and The Greenstone Ontario Provincial Police Detachment, and Nishnawbe-Aski Police Service.*

1.0 HISTORY

The Ministry of Education and the Ministry of the Solicitor General have implemented a policy directive that school boards and police services establish a protocol for the investigation of school-related occurrences.

As stated in the Provincial Model for a Local Police/School Board Protocol, their aim is to:

- Ensure consistency of approach when dealing with the local protocols developed by school boards and police services across the province;
- Provide a vehicle that will promote dialogue and the establishment of effective relationships between schools and police that are based on cooperation and shared understandings; and to set provincial expectations for local protocols, while allowing police services and school boards to address service-delivery arrangements and unique factors and/or considerations that may affect individual jurisdictions.

The provincial model also outlines the common principles and key elements upon which all local protocols should be based. The following document takes this policy directive one step further uniting all police services and school boards as mentioned above under one main protocol in which all 23 of the provincial's recommended guidelines are addressed.

2.0 SIGNATORIES TO THE PROTOCOL

The signatories to the agreement represent the above *and obtain the signatures of their designated representatives to the agreement.*

3.0 STATEMENT OF PRINCIPLES

The terms of the following agreement are based on the necessity to foster and maintain a safe, non-threatening environment for students, staff, and community members within the municipality of Greenstone, the jurisdiction of the Superior-Greenstone District School Board, Superior North Catholic District School Board, Aroland First Nations, and Reserves 58 and 77 through the implementation of effective measures to deal with violence and/or other criminal activities in schools.

These measures include the establishment of preventative procedures, the provision of appropriate early intervention procedures, and the administration of disciplinary action in accordance with the Education Act, the Safe Schools Act, Board policy, the Criminal Code and other appropriate legislation.

The protocol supports and reflects the principles of community policing and ensures a consistent approach to the way police and schools respond to school-related incidents of violence and/or criminal behaviour.

These are the guiding principles upon which the terms of the agreement are based and which are relevant to the jurisdiction:

- The need to promote respect and civility in the school environment;
- The need to respect fundamental rights pertaining to racial, cultural, religious, and other diversities among all members of the school community; and
- The need to provide a balance between rights and responsibilities.

4.0 ROLE AND MANDATE OF POLICE SERVICES

In partnership with the school boards, the police are committed to protecting life and property in accordance with the *Police Services Act* and to serving the school community. The police are further committed to enforcing the *Criminal Code of Canada*, the *Youth Criminal Justice Act* and other federal, provincial and municipal legislation and related regulations.

Legislation under Section 42 of the *Police Services Act* includes:

- Preserving the peace;
- Assisting victims of crime;
- Protecting public safety and preventing crime;
- Apprehending criminal offenders and others who may lawfully be taken into custody;
- Conducting law enforcement and criminal investigations;
- Laying charges and participating in prosecutions;
- Executing warrants; and
- Completing the prescribed training.

The police also have specific duties in accordance with community policing principles such as:

- Providing information on community safety issues;
- Promoting and fostering a reduction of crime and victimization in relation to young persons;
- Assisting in the development of students' understanding of good citizenship;
- Diverting young persons away from crime and anti-social behaviour; and
- Working in partnership with other government and community-based organizations to support positive youth development.

Police provide a visible and positive image for law enforcement. They serve as a confidential resource to counseling for students concerning problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to protect the school environment in order to maintain an atmosphere where teachers feel safe to teach and students feel safe to learn.

The police will continue to work within the school community in developing, implementing, and delivering prevention and education programs in their respective jurisdictions.

5.0 ROLE AND MANDATE OF SCHOOL BOARD

The School Boards have a responsibility to develop and implement effective measures to deal with violence in schools. The specific roles and responsibilities of the school board shall include but are not limited to:

- Complying with the requirements related to the duties of principals and teachers under the *Education Act* and regulations;
- Complying with the requirements legislated under the *Child and Family Services Act* (eg. "duty to report");
- Administering school-related disciplinary actions (eg. suspensions and expulsions);
- Maintaining the Code of Conduct, as required under current legislation
- Ensuring that resources (eg. on drug awareness, on conflict resolution) are accessible to assist school staff in promoting crime prevention;
- Developing policies on how to respond to crises, including a media plan;
- Ensuring that prevention and intervention strategies are available;
- Providing staff with opportunities for acquiring the skills necessary to promote safe school environments; and
- Developing an effective consultation mechanism for soliciting input from staff, students, parents, and school councils in the development of local protocols.

All school boards must provide complete cooperation to ensure that these measures are fully implemented in their respective schools and that students are aware of this protocol.

6.0 DEFINITIONS/EXPLANATION OF TERMS

Arrest (Within the meaning of *the Charter of Rights*)

When a peace officer or other agent of the state assumes control over the movement of a person by a demand or direction that may have significant legal consequences. The seizure of a person and the taking of a person into custody.

Arson

The deliberate setting of a fire.

Assault (As defined in *the Criminal Code of Canada*)

- 1) A person commits an assault when:
 - (a) Without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
 - (b) He attempts or threatens, by act or gesture, to apply force to another person, if he has, or causes that person to believe on reasonable grounds that he has, present ability to effect his purpose; or
 - (c) While openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.
- 2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.
- 3) For the purpose of this section, no consent is obtained where the complainant submits or does not resist by reason of:
 - (a) The application of force to the complainant or to a person other than the complainant;
 - (b) Threats of fear of the application of force to the complainant or to a person other than the complainant;
 - (c) Fraud; or
 - (d) The exercise of authority.

As Soon As Possible

At the earliest possible time in the context of an investigation or review process with due regard for the safety and rights of those involved.

Bodily Harm (As defined by the *Criminal Code of Canada*)

For the purpose of this section, “bodily harm” means any hurt or injury to the complainant that interferes with the health or comfort of the complainant and that is more than merely transient or trifle in nature.

Bullying

Bullying is defined as repeated negative actions (eg. taunts, teasing, name-calling) on the part of one or more persons which are characterized by an imbalance or strength between the bully and the victim, and which are attacks made with the intention to hurt.

Children's Aid Society

For the purpose of this protocol shall also include an equivalent child protection agency.

Criminal Harassment (As defined by the *Criminal Code of Canada*)

- 1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all circumstances, to fear for their safety or the safety of anyone known to them.
- 2) The conduct mentioned in (1) consists of:
 - (a) Repeatedly following from place to place the other person or anyone known to them;
 - (b) Repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
 - (c) Besetting or watching the dwelling-house or place where the other person, or anyone known to them resides, works, carries on business or happens to be; or
 - (d) Engaging in threatening conduct directed at the other person or any member of their family.

Drugs

Controlled substances as listed in the Controlled Drugs and Substances Act.

Emergency Contacts

Refer to the specific directions for getting assistance or help in emergencies as outlined in the school's Emergency Plan.

Extortion (As defined by the *Criminal Code of Canada*)

Everyone commits extortion who, without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or cause anything to be done.

Firearm (As defined by the *Criminal Code of Canada*)

A barreled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm.

Freedom of Information and *Protection of Privacy Act, 1989*

An institution shall not disclose personal information in its custody or under its control except, (g) if disclosure is to an institution or law enforcement agency in Canada to aid an investigation undertaken with a view to law enforcement proceeding or from which a law enforcement proceeding is likely to result.

Gang/Group-related Violence

A gang/group is comprised of three or more persons who, while acting or congregating together, display a pattern of anti-social and/or delinquent behaviour, which may result in violent activities. The members may associate with each other for mutual protection and/or profit. Gangs may be spontaneously organized or more formally established.

Hate/Bias Motivated Crime (As defined in the Policing Standards Manual)

A criminal occurrence committed against a person or property which is motivated by hate/bias prejudice based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.

Intimidation

Intimidation is defined in the Criminal Code of Canada and includes but is not limited to, compelling another person to do anything, or preventing them from doing anything he or she has a lawful right to do. Such actions may include, but are not limited to:

- (a) Using threats of violence.
- (b) Persistent following or following in a disorderly manner.
- (c) Hiding property owned or used by the person or hindering the person in his or her use of that property.
- (d) Besetting or watching the place where the person works or resides.
- (e) Blocking or obstructing the person's passage.

Mischief/Vandalism to Property (As defined in the *Criminal Code of Canada*)

Every one commits mischief who willfully:

- (a) Destroys or damages property;
- (b) Renders property dangerous, useless, inoperative or ineffective;
- (c) Obstructs, interrupt or interferes with the lawful use, employment or operation of property; or
- (d) Obstructs, interrupts or interferes with any person in the lawful use, employment or operation of property.

Noxious Substances

Harmful material inclusive of, but not limited to, legal or illegal drugs and products listed under Workplace Hazardous Materials Information System (WHMIS).

Parties to An Offense

Anyone who commits an offence, anyone who does anything (or omits to do anything) to aid another in planning or committing an offence or anyone who abets (encourages) another in committing an offence is party to an offence.

Police Involvement

Follow-up after an incident

Police Response

Intervention at an incident

Principal

School principal or designate

Racial/Ethno cultural/Hate Related Violence

Is any behaviour that is unwelcome and results in differential treatment of any person or group based on religion, race, colour, ethnicity, or gender.

Requiring Medical Attention (As a Result of a Physical Assault)

Refers to bodily harm that requires diagnosis and/or treatment by a health care professional. Such a serious physical assault would require that a violent incident form be generated.

Robbery

The illegal taking of property from the person of another, or in the person's presence, by violence or intimidation.

School Official

Any person employed by the school board who has responsibilities or obligations under any law, policy or guideline to take action on behalf of, in respect of, others in the school or school board.

Searches of Persons

School officials should not generally conduct searches of persons. However, unique or exigent circumstances may require this to be done. Therefore, for the purpose of school officials acting according to this protocol, examination of a person's clothing or person that is necessary and minimally intrusive may be lawfully done in the best interests and safety of school staff, the student body and other persons. Guidance has been provided by the Supreme Court of Canada in the case of R. v M. (M.R.) [1998] 3 S.C.R. for a reasonable search of persons by a school official by enumerating the following factors to be considered. First, school officials are authorized under the Education Act to conduct searches of their students in appropriate circumstances without a warrant. Secondly, the search must be carried out in a reasonable manner with sensitivity and with minimal intrusion. Thirdly, in order to determine whether the search is reasonable, all of the surrounding circumstances have to be considered. The school authority must have reasonable grounds to believe that there has been a breach of school regulations or code of discipline and that a search of a student would reveal evidence of that breach. The court noted that the school authorities would be in the best position to assess information given to them and relate it to the situation existing in their school. Reasonable grounds for a search might include information received from one student considered to be credible, information received from more than one student, observations made by school officials, or any combination of these pieces of information which the school official considers to be credible in the context of the circumstances existing at the time.

Sexual Assault

Sexual assault is an act committed, or threatened, in circumstances of a sexual nature such as to violate the sexual integrity of the victim.

Sexual Harassment

Sexual harassment is behaviour, comments, gestures, or physical conduct of a sexual nature that are deliberate, unsolicited, unwelcome, and personally offensive and which create discomfort, interfere with work effectiveness, or threaten the livelihood or status of an individual.

Trespassing

Occurs when a person who is not acting under a right or authority:

- (a) Enters on premises when entry is prohibited under this act;
- (b) Engages on activity on premises when activity is prohibited; or
- (c) Does not leave the premises immediately after he is directed to do so by the occupier of the premises or a person authorized by the occupier.

Uttering Threats (As defined in the *Criminal Code of Canada*)

Every one commits an offence who, in any manner, knowingly utters, conveys, or causes any person to receive a threat:

- (a) To cause death or bodily harm to any person;
- (b) To burn, destroy or damage real or personal property; or
- (c) To kill, poison or injure an animal, or bird that is the property of any person.

Vandalism

Willfully or maliciously destroying or damaging property.

Victim

A person who is the recipient of physical, psychological or emotional harm or unfair treatment as the result of an event, circumstance, an act of aggression or crime.

Secondary Victims are those who witness acts of violence and/or believe they are at risk of being a victim as a result of the event or circumstances.

Weapon (As defined in the *Criminal Code of Canada*)

Anything used, designed to be used, or intended for use:

- (a) In causing death or injury to persons whether designed for such a purpose or not, or

- (b) For the purpose of threatening or intimidating any person, and, without restricting the generality of the foregoing, includes a firearm.

Weapon Offences (As defined in the *Criminal Code of Canada*)

Every person commits an offence who carries or possesses a weapon, an imitation of a weapon, a prohibited device, or any ammunition or prohibited ammunition for a purpose dangerous to the public peace or for the purpose of committing an offence.

7.0 OCCURRENCES REQUIRING POLICE INVOLVEMENT OR RESPONSE

The types of incidents requiring police involvement or response include:

- Possession of weapons;
- Offences involving weapons;
- Physical assault requiring professional medical attention;
- Assault of a domestic nature (i.e., dating violence);
- Sexual assault;
- Robbery;
- Drug offences – possession, usage, and distribution;
- Providing alcohol to minors;
- Criminal harassment;
- Uttering threats of serious physical injury;
- Gang-related incidents – where the principal determines that a group of persons is violating or threatening to violate the school’s code of behaviour;
- Any hate/bias motivated crime (e.g., incidents involving racism);
- Vandalism causing extensive damage to school property or property located on school premises;
- Trespassing incidents (new provisions under the Access to School Premises Regulation (O. Reg. 474/00), and the *Trespass to Property Act*) - where, in the principal’s discretion, the incident warrants police involvement;
- Extortion; and
- All other school-related occurrences and/or information on a case-by-case basis that, in the principal’s judgment require police response or involvement.

8.0 DEALING WITH THE MEDIA

The police will, whenever reasonable and practicable, issue media releases relating to school-related incidents. The police and school officials should consult each other prior to dealing with the media. Sensitivity will be given to the wording of releases to minimize to the degree possible any risk of “copycat” actions.

Both the police and the school will identify for each other who the lead spokesperson is for dealing with the media during the incident.

The school spokesperson will be the Director of Education/Supervisory Officer or designate. While the event or police investigation is in progress, the police spokesperson will normally take the lead in dealing with the media.

9.0 INFORMATION SHARING AND DISCLOSURE

The legal authorities pertaining to disclosure include:

- The Youth Criminal Justice Act
- Section 32(g) of the *Municipal Freedom of Information and Protection of Privacy Act*;
- Section 42(g) of the *Freedom of Information and Protection of Privacy Act*;
- Section 129 of the *Youth Criminal Justice Act* - indicates who has access to records. No person who is given access to a record or to whom information is disclosed under this Act shall disclose that information to any other person unless the disclosure is authorized under this Act (Section 125).
- Binding case law;
- The *Education Act*; and
- Any existing policies or protocols on disclosure and/or information sharing among schools, police services, courts, and correctional services.

The procedures and obligations required under the *Youth Criminal Justice Act*, the *Child and Family Services Act*, the *Education Act*, and the *Municipal Freedom and Protection of Privacy Act* include:

a) *Youth Criminal Justice Act*

The Youth Criminal Justice Act includes provisions that deal with the disclosure, security, storage S125 (7), and destruction of information (S128 (7)) pertaining to young offenders. Such information will be shared in a manner that ensures that there is a balance between the “need to know” and the “rights of the young offender”.

The Youth Criminal Justice Act protects the privacy and identity of young persons. The provisions of the *Youth Criminal Justice Act* prohibits all persons, including police youth courts and school board officials, from publishing or making public any report of an offence committed or alleged to have been committed by a young person or any report of a hearing, adjudication, disposition or appeal concerning a young person in which the name of the young person, the victim or any witness is likely to be disclosed. “Report” should be interpreted in a broad sense to include virtually all information or publication that might disclose the identity of a young person.

School boards may also acquire information if it is published (made available to the general public).

According to sections 110 through 112 of the YCJA, the general rule is that no one can publish the name of a young person, or any other information related to that person, if it would identify him or her as an individual being dealt with under the Youth Criminal Justice Act or the Young Offenders Act, a victim of a young person or a witness in the trial of a young person. The situations when information may be published are:

- If the information relates to a young person who is subject to an adult sentence (section 110(2)(a));
- If the judge does not impose a ban and the information relates to a young person, subject to a youth sentence for
 - First degree murder or second degree murder,
 - Attempt to commit murder,
 - Manslaughter,
 - Aggravated sexual assault,
 - A serious violent offence for which an adult could be sentenced to imprisonment for more than two years if, at the time of the offence, at least two previous judicial determinations have been made that the young person has committed a serious criminal offence (for which the Attorney General has been notified) (section 110 (2)(b));
- In the case where the publication of information is made in the course of the administration of justice, but not for the purpose of making the information known to the community (section 110 (2)(c));
- When a young person turns 18 and is not in custody as a result of the Youth Criminal Justice Act, he or she may publish or cause to be published information that would identify himself or herself as having been dealt with under the Youth Criminal Justice Act or the Young Offenders Act (Section 110(3));
- A youth justice court judge shall order, on *ex parte* application of a peace officer, that a publication (to be in effect for 5 days after the order was made) be made identifying a young person if the judge is satisfied that:
 - a) The young person is a danger to others, and
 - b) The publication is necessary to assist in apprehending the young person (section 110(4));
- A youth justice court may, on application of a young person permit the young person to publish information that would identify himself or herself as having been dealt with under the Youth Criminal Justice Act or the Young Offenders Act, if the court is satisfied that the publication would not be contrary to the young person's best interests or the public interest (section 110(6)).

This does not prevent disclosures pursuant to a court order, principals from suspending or excluding students for the reasons set out in the *Education Act and Regulations*, or Boards from hearing the appeal of a parent/guardian or an adult student, nor does it prohibit school boards from exercising their right to expel a student. In each of these cases, evidence of the events may be presented despite the existence of the *Youth Criminal Justice Act* at the proceeding.

In prosecutions of students under the *Youth Criminal Justice Act* and the *Criminal Code*, courts frequently impose obligations upon the accused students that also affect the schools themselves, for example, a bail or probation order may require the student to attend or prohibit the student from returning to school, or require the student not come closer than some minimal distance from the alleged victims. At the same time the court action is proceeding, the school may be in the process of suspending or expelling the student pursuant to the authority of the *Education Act*.

In order to avoid any conflict between the judicial proceedings and the school board's actions in dealing with the incident, the police officers involved in the case should consult with the school administrators before recommending bail and/or probation conditions.

Correspondingly, school administrators are encouraged to initiate discussions with the police regarding such conditions. In addition, police officers will endeavor to alert the school and seek to assist the school in its efforts to accommodate the bail or probation order while at the same time continuing to exercise its powers and fulfill its obligations under the *Education Act*. The principal, subject to an appeal to the school board, may refuse to admit to the school or classroom a person whose presence in the school or classroom would in the principal's judgment be detrimental to the physical or mental well being of the pupils and/or staff.

b) *Child and Family Services Act*

Professionals and the public are required to report to a society if there are reasonable grounds to suspect that a child may be in need of protection. Professionals and the public cannot delegate the duty to report to another individual and the duty to report is an ongoing obligation. Information should be shared in a manner that respects the vulnerabilities of children who may be in need of protection.

School staff and police should refer to their respective protocol between the school board and the Children's Aid Society.

c) ***Education Act***

Under the *Education Act* and in accordance with the regulations and the guidelines issued by the Ministry of Education, a principal is responsible for collecting information for inclusion in a student's record.

The Ontario Student Record (OSR) contains information such as transcripts, report cards, and photographs. The OSR will also include, where applicable, a *Violent Incident Form* containing:

- A description of the serious incident;
- A reference to the call to police, if applicable;
- A reference to the school board/disciplinary response to the incident, if applicable; and/or
- A copy of the school board's letter(s) to the student and/or parent(s)/guardian(s) regarding the suspension or expulsion for violent behaviour.

Copies of the Violent Incident Forms shall not be kept in the school outside the OSR folder; however, the notes made by a school official in the process of preparing the Violent Incident Form may be shared with the police.

Under the statute, information in the OSR is privileged for the information and use of supervisory officers and the principal and the teachers of a school for the improvement of instruction of a student. Disclosure of its contents to the police may be made in the following circumstances:

- With the written permission of a parent or guardian of the student or where the student is an adult with the written permission of the student;
- Through a search warrant requiring the surrender of an OSR to the police;
or
- Through a subpoena or appropriate court order.

d) ***Freedom of Information Acts***

Despite the restrictions contained in the *Education Act* records of personal information whether or not contained in the OSR are subject to the provisions of the *Freedom of Information and Protection of Privacy Acts*. These acts expressly permit a school board to disclose confidential information to the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

Accordingly, since principals and teachers are permitted to share information with police in such circumstances, in non-urgent situations, police should be prepared to provide a written statement that identified information is required by the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. In urgent situations where there is insufficient time for police to prepare a written statement prior to accessing the information, the police will provide the written statement as soon as possible.

10.0 SCHOOL REPORTING PROCEDURES

The school will follow procedures in accordance with information outlined in this section for the reporting of incidents that involve both students as victims and students as alleged perpetrators.

Police may be involved with the school in three basic ways:

- Community policing services and projects;
- Police responses and interventions as incidents occur; and
- Police involvement after an incident.

School officials will report to the police all incidents defined as requiring police involvement in section 7 of this protocol.

In situations where there is no imminent threat to the safety of people in the school, school staff will consult with the principal as appropriate and a decision will be made as to who contacts the police.

In a situation where there is an imminent threat to the safety of people in the school, the individual staff members who recognize the threat will contact the police immediately.

In cases where a staff member has reasonable grounds to suspect that a child is or may be in need of protection, the staff member shall comply with the provisions of the *Child and Family Services Act* and any applicable school board guidelines such as child abuse protocols with the Children's Aid Society that outline the duty to report.

11.0 INITIAL POLICE CONTACT

The police officer that responds to a report of a school-related incident is responsible for obtaining and thoroughly documenting information on the incident. If the focus of the investigation or complaint is on the principal/designate, or under other exigent circumstances, the officer may not be required to follow the procedures set out below:

- The police officer will report to the principal upon entering the school, and will provide proper identification.
- The police officer will explain the purpose of the visit.
- The police officer will contact or make arrangements with the principal to contact parents/legal guardians under the age of 18 years, unless it is determined that this may hinder the investigation or jeopardize the safety of the student.

Note: refer to Section 12(a) “when the principal is the subject of the investigation”.

12.0 INVESTIGATING SCHOOL INCIDENTS

a) Legal Rights and Procedures

Students under 12 years of age:

Students under 12 years of age (children) shall have a parent or legal guardian present (or any other adult acting in loco parentis if the parent/guardian is not available) during the interview with the police unless it is determined that this may hinder the investigation or jeopardize the safety of the student.

Students 12 to 17 years of age:

i) School Officials

- Contact the police to initiate an investigation when the principal believes that a criminal act has occurred.
- Maintain a journal of actions.
- Provide the necessary information as requested for the police report.
- Notify the police officer of any learning disability or other exceptionality of the student that may impede the student from expressing or understanding written/oral communication.
- In consultation with the investigating police officer, contact the parent/legal guardian as soon as possible. The final decision as to immediate notification is at the police officer’s discretion.
- Ensure confidentiality of police involvement with students and/or parents.
- Summon the student to the office and provide a private setting for the interview.

ii) Police

- Police must ensure students are advised of their rights, if under arrest or if criminal charges are being considered. For students whose parent/legal guardian is not available, notification may be given to an adult relative or other adult known to the student. Where the student is married, notice may be given to the spouse of the student. In the absence or unavailability of the parent/legal guardian the youth has the right to have an adult of their choice present during any police interview.

- The student has the legal right to waive the option of having anyone other than the police officer present during the interview. Such waiver must be made in writing and signed by the student.

Adult Students (18 years of age) or Employees:

Adult students and school board employees have the right of confidentiality.

- Contact the police to initiate an investigation when the principal or supervisory officer believes that a criminal act has occurred.
- Maintain a journal of actions.
- Provide the necessary information as requested for the police report.
- Police must ensure students and staff are advised of their rights, if under arrest or if criminal charges are being considered.
- Notify the police officer of any learning disability or other exceptionality of the student that may impede the student from expressing or understanding written/oral communication.
- Summon the student/employee to the office and provide a private setting for the interview.
- Immediately inform the appropriate school supervisory officer who shall inform the director when arrest, detention or removal of a board employee occurs while on board property.

When the principal is the subject of an investigation:

- The police officer will contact the appropriate supervisory officer of the school board to determine an appropriate procedure given the context of the investigation.

b) Search and Seizure

Teachers and principals are placed in a position of trust that carries with it not only the onerous responsibilities to teach the students, but also to ensure their safety and well being. The Supreme Court of Canada has ruled that searches of students by elementary and secondary school officials who are entrusted with the care and education of children are not an unreasonable violation of a student's rights under the Charter of Rights and Freedom to be secure from unreasonable search and seizure so long as certain procedures are followed. The manner in which students are treated in these situations will determine their respect for the rights of others in the future. According to the courts searches should be gender appropriate and minimally intrusive.

Right to Search Persons and Property

- A principal has the duty to carry out an investigation to determine the nature of the circumstances surrounding an infraction.

- It is the responsibility of the principal to advise the students at the beginning of the school year that desks and lockers are considered school property and that a search of such property is permissible by school administration.
- In carrying out his/her duties to maintain proper order and discipline in the school, the Principal **who has reasonable grounds to do so**, may conduct a search of a student's clothing, possessions or any area (desk, locker, backpacks) where his/her possessions may be stored.
- All searches by school officials will be carried out in the presence of a witness.
- **As much force as necessary may be lawfully employed to safely and effectively complete the search.**
 - Search locker and personal property.
 - Have the student empty and turn out pockets.
 - Have student remove outer clothing (jackets)
 - Have student remove shoes and socks.
 - Call the police if a more intrusive search is deemed necessary unless exigent circumstances prevail.
 - Keep the student under observation until police arrival.
- Searches conducted by police shall be done in accordance with lawful authority.
- The police should notify the principal before conducting searches on school premises. (Under some exigent circumstances, police may be required to execute a search warrant without notice to the principal.)

c) **Detention and Arrest**

Whether or not the incident-giving rise to the necessity to arrest is school-related, the police shall, in the interest of school safety and morale, consult with the principal prior to the arrest to arrange a suitable procedure by which police will access the student.

When it is necessary that a student be arrested at school during school hours, such an arrest will be made in a manner that will minimize disruption of school routines.

Where a student is to be arrested, police shall not be denied access to the student.

There may be circumstances in which physical restraints will be necessary. These will be employed with full regard for the safety of those involved in accordance with the protocol, police procedure and the arresting officer's discretionary powers.

In the interest of safety or in exigent circumstances, police may affect an arrest of a student forthwith and following the arrest shall notify the principal or designate as soon as possible.

d) **Victim Assistance**

The roles and responsibilities of police and school personnel include providing notice to victims of the services available to them, such as police services for victims, student support services of the local school board, and services offered by other municipal, community, and social service agencies. Contact the local police for information on victim's services.

Procedures will be consistent with the Ministry of the Attorney General's Guideline to Victims' Assistance. Additional information can be found on the web site www.vaonline.org.

13.0 POLICE INTERVIEWS OF STUDENTS

For routine investigations involving incidents that are not school-related, police officers will attempt to interview students at home outside school hours unless there is immediate danger or emergency or unless contacting the student at school is a last resort.

The police have a responsibility to conduct interviews related to criminal investigations of incidents that involve students as alleged perpetrators, victims or witnesses. The nature of the police interview will depend on whether the student is a suspect, a victim or a witness. The roles and responsibilities of the police are those set out in local police service's procedures.

Police Officers should have the permission of the principal when interviewing a student on school or board properties or at school functions or notify the principal as soon as practical if it was not possible to first obtain such permission.

School officials will recognize that the police and the Children's Aid Society may conduct a joint interview if a child is suspected to be need of protection.

School officials will assist in preparing for an interview by providing, as available, a secure location and other supports.

a) **Notification of Parents**

- i) Students under 12 years of age (children) shall have a parent or legal guardian present (or any other adult acting in loco parentis if the parent/guardian is not available) during the interview with the police unless it is determined that this may hinder the investigation or jeopardize the safety of the student. The following procedures should be recognized in occurrences involving children under the age of 12.

- Police may arrest but not process charges against these young children under the *Youth Criminal Justice Act*, the *Provincial Offences Act* or the *Criminal Code*.
 - The parent/guardian must be notified as soon as possible.
 - The police have the authority to take reports and conduct interviews.
 - The specific types of incidents that are to be reported for students under twelve years of age are those identified as serious incidents of violence and/or threats of violence and/or those situations where it is suspected that the child is in need of protection.
- ii) Students 12 to 17 years of age **may** have present a parent, legal guardian or any other adult chosen by the student during the interview with the police. Police will, when appropriate, advise the student of this right before taking an oral or written statement and must provide the student with a reasonable opportunity to consult with counsel or a parent or any appropriate adult chosen by the young person. The student has a right to refuse to have a parent/legal guardian or any other adult present during the interview. Police will follow accepted procedure as it applies to admissibility of statements (ie. notifying the young person of rights, including the right to refuse to give a statement). If the Children's Aid Society is involved (as in suspected abuse or neglect), the school official(s), police and child protection worker(s) will discuss and come to agreement on the timing and procedure for notifying the parent/legal guardian.
- iii) The parent/legal guardian need not be called if the student is 18 years of age or older, unless the student gives his/her consent, or makes the request him/herself, or is incapable of providing consent.

The principal will contact the parent/guardian or another adult chosen by the student as soon as possible, unless advised by police that this action may contravene the rights of the student or hinder the investigation or jeopardize the safety of the student. If circumstances and timing of the investigation preclude this action, the principal will notify the parent/legal guardian of the interview as soon thereafter as possible unless requested not to do so by the investigating officer.

b) Preparation for Interviews

Consideration shall be given by school and police representatives to preparations for interviews including details such as:

- Secure locations for interviews of persons suspected of criminal offences;
- The need for specialized resources where the student is known to have a behavioural, cognitive, physical or learning disability, especially where these exceptionalities and needs have been identified in the student's Individual Education Plan;

- The methodology of the interview relative to the age of the student; and
- Determination of the need for an interpreter (eg. a language interpreter, an interpreter for deaf or hearing-impaired students).

c) **Conduct of Interview**

Considerations shall be given to:

- Providing legal caution and notification of the right to counsel, where there are reasonable grounds to believe that the student being interviewed has been involved in the commission of a criminal offence;
- Taking into account legal considerations respecting the admissibility of statements made to persons in authority; and
- Involving the local Children's Aid Society in the interview process, which is required when the child is potentially in need of protection.

14.0 REPORTING OF CHILDREN SUSPECTED TO BE IN NEED OF PROTECTION

The *Child and Family Services Act* includes the duty to report a child suspected to be in need of protection. Professionals and the public are required to report if there are reasonable grounds to suspect that a child may be in need of protection. Professionals and the public cannot delegate the duty to report to another individual and the duty to report is an ongoing obligation. The school boards have and will maintain a policy and guidelines to ensure the safety of the students (ie. the protocol for contacting the Children's Aid Society).

15.0 INVESTIGATION INVOLVING STUDENTS WITH SPECIAL NEEDS

Additional considerations shall be given by school and police representatives in investigations that involve a student known to have a behavioural, cognitive, physical or learning disability, especially where these exceptionalities and needs have been identified in the student's Individual Education Plan (IEP). Where available, some investigations may require the assistance of child mental health professionals.

16.0 INVOLVING CHILDREN UNDER 12

Children under 12 are not considered criminally responsible, which means that they are not accountable under criminal law, for any offence they might commit. In Canada, a child under the age of 12 cannot be charged with an offence under any act of legislation. However, it is necessary to contact the police if their actions are considered criminal and/or a serious nature in order that appropriate preventative action can be considered. These actions must include timely notification of both parents and police.

Police have the authority to arrest when necessary, take reports and conduct interviews. The principal will record attempts made to contact the parents/guardians. In the cases of students who are Crown Wards, the legal guardians are considered to be the Children's Aid Society (does not include foster parents).

17.0 SCHOOL BOARD COMMUNICATION STRATEGY

Regular and meaningful communication will garner support for this protocol from school councils, parents, staff and students for the development and understanding of the contents. The school boards will have opportunity to provide input on the final version of this protocol and annual reminders of the existence of the protocol will be provided to the school community through newsletters, school council meetings, or other appropriate strategies.

18.0 PROTOCOL EVALUATION PROCESS

A formal review will be conducted after the first year of implementation and every three years thereafter by a designated working group. Feedback from the review will be carried forward to a working group designated by the signatories, at which time, the feedback will be considered and revisions will be made to the protocol where deemed necessary.

All police agencies should keep track of statistics relating to school violence in their respective areas.

19.0 NON-INCIDENT RELATED POLICE INVOLVEMENT

The following is a quotation from the National Association of School Resource Officers:

"Police provide a visible and positive image for law enforcement. They serve as a confidential source of counseling to students concerning problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to protect the school environment and to maintain an atmosphere where teachers feel safe to teach and students feel safe enough to learn."

Their involvement goes far beyond simply responding to incidents. The police:

- Establish and develop partnerships with stakeholders including school staff, students, parents, and members of the school community.
- Develop and deliver pro-active programs with the school community.
- Develop links with youth service agencies in the community.
- Identify police issues/concerns and respond appropriately.
- Provide lectures and presentations upon request.
- Participate in special events and meetings within the school community.
- Counsel and advise students on police related matters.

All police services involved offer valuable programs, lectures, displays, seminars, and safety tips to the school community. Contact the local police for information.

20.0 VIOLENCE PREVENTION PROGRAMS

Students, staff and the community have the right to learn and work in a healthy, non-threatening environment free from physical and psychological violence. In order to provide this environment, school boards must work with police services, the Children's Aid Society and other community stakeholders to present school programs dealing with such issues as drug and alcohol awareness, bullying, assault, sexual assault, dating violence and anger management. In addition to collaboration with community agencies, school boards will continue to develop preventative and appropriate intervention procedures and the administration of its discipline policy and school codes of conduct in accordance with the *Education Act*, the *Safe Schools Act*, Board Policy, the *Criminal Code* and other appropriate legislation.

21.0 PHYSICAL SAFETY ISSUES

Boards of Education place a very high value on the health and safety of its students, employees, and the public. All school boards are guided by the following principles:

- Working safely is a condition of employment.
- Boards are committed to meeting or exceeding the requirements of all Occupational Health and Safety laws and regulations.
- All board officials, principals, managers, and supervisors are committed to and are held accountable for providing a safe and healthy work environment.
- Every employee is held accountable for working safely, for confronting unsafe acts by others, in a positive manner, and for correcting and/or reporting all unsafe conditions.

Physical safety issues in school will be addressed through joint occupational health and safety committees (when applicable) acting within appropriate legislation. To enhance the safety of students, staff and teachers, when requested, police can work in cooperation with local schools to assess the physical safety of buildings and/or school premises. School officials can discuss details about the level of support and available resources with their local police service. The school may wish to add this information in an appendix to the school's copy of the protocol.

Similar support may be available to the school through the local police service for obtaining risk and/or threat assessment services. This can include specific procedures for obtaining criminal reference checks.

22.0 RISK ASSESSMENT SERVICES

School officials should be concerned when a student displays high-risk behaviour that may lead to serious criminal activity. This behaviour may include collecting information on weapons or how to design bombs, creative writing assignments on death and destruction, etc.

In cases of such behaviour, the principal will contact the police. The police will assess the incident and if need be, contact the OPP Behavioural Sciences Section. The Threat Assessment Unit may become involved.

23.0 EMERGENCY AND CRISIS RESPONSE PLAN

Schools are expected to develop an Emergency and Crisis Response Plan, in keeping with school board policies, with appropriate follow-up measures. Response plans should be developed for the following emergencies:

- Fire
- Bomb Threat/Explosion
- Armed Intruder
- Violent or Potentially Violent Incident (ie. Active Shooter)
- Tragic Response (ie. School bus collision involving death/injury.)
- Evacuation to An Alternate Site
- Safe arrival procedures for elementary schools.
- Any other threats unique to the school that require emergency preparedness.

The development and monitoring of this plan should include teachers, support staff, students, and school councils. This plan should be fully communicated to members of the school community and police services. Mechanisms for sharing Emergency Response Plan with police services should be specified.

24.0 CRISIS INTERVENTION REPORTING

The principal will review the school's emergency plan with staff and school council at least annually and will ensure that staff is aware of the emergency contacts (eg. 1-807-824-).

When police arrive at the school on response to a crisis, the school will provide the following upon request:

- Lists of staff and students with information such as photographs, addresses, telephone numbers, next of kin, etc.;
- Class schedules and timetables;
- Attendance records for that day;

- Bus rosters;
- Floor plans of the school building including environmental and mechanical systems;
- Master keys;
- Indicators for marking doors of areas searched;
- Crisis and evacuation kits that include such items as the school's emergency plan, a megaphone, a first aid kit, markers, and notebooks, a 'Guide' to crisis management, school board policies applicable to crises, name tags, and tape; and
- Telephones, including teachers with access to cellular phones.

25.0 FOLLOW-UP PROCEDURES

The principal shall report to the appropriate supervisory officer, as soon as possible, the basic details of a crisis event and shall follow up with a detailed written report when the crisis has passed. The Supervisory Officer will provide information for the Director and School Board Trustees.

The principal will involve the local crisis events response team(s) as deemed necessary to help students and staff members cope with critical and/or tragic events.

School officials, not students, should be made aware of certain police response tactics that can be expected in instances of an emergent ongoing incidents of a violent nature.