BOOST CHILD ABUSE PREVENTION & INTERVENTION

and

TORONTO POLICE SERVICES BOARD

and

CHILDREN'S AID SOCIETY OF TORONTO

and

CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO

and

THE HOSPITAL FOR SICK CHILDREN

and

HALTON TRAUMA CENTRE - SAFE-T PROGRAM

COOPERATION AGREEMENT

DATED: September 30, 2013

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COOPERATION AGREEMENT

This cooperation agreement is dated as of September 30, 2013.

AMONG:

BOOST CHILD ABUSE PREVENTION & INTERVENTION, a not-for-profit corporation established under the laws of the Province of Ontario (hereinafter "**Boost**");

and

TORONTO POLICE SERVICES BOARD, a municipal authority established under the laws of the Province of Ontario (hereinafter "**TPSB**");

and

CHILDREN'S AID SOCIETY OF TORONTO, a not for profit corporation established under the laws of the Province of Ontario (hereinafter "**CAST**");

and

CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO, a not for profit corporation established under the laws of the Province of Ontario (hereinafter "**CCAS**");

and

THE HOSPITAL FOR SICK CHILDREN, a public hospital established under the laws of the Province of Ontario (hereinafter "**SCAN**");

and

HALTON TRAUMA CENTRE, a corporation established under the laws of Canada (hereinafter "**SAFE-T**", and collectively with Boost, TPSB, CAST, CCAS and SCAN, the "**Service Partners**");

RECITALS:

A. Each Service Partner engages in, or provides services in respect of, the prevention and treatment of child abuse in Canada, and recognizes the benefit of establishing a coordinated and inter-disciplinary approach toward the prevention and treatment of child abuse.

B. The Service Partners desire to create a Child & Youth Advocacy Centre for the City of Toronto (the "**CYAC**"), which shall be coordinated and effected through existing legal structure

of Boost, to provide a coordinated, seamless, inter-disciplinary response to child abuse victims and their non-offending family members ("**Clients**") within a child-friendly environment. The CYAC will offer investigation, protection, victim advocacy, medical examinations, treatment, support, and follow-up care through one centralized hub and any satellite locations necessary. In establishing the CYAC, the Service Partners aim to provide the City of Toronto with a centre of leadership in promoting excellence in child abuse services, research, training and prevention education. The intention is for the CYAC to be a collective voice in promoting a community response to protecting children in the City of Toronto from abuse.

C. The Service Partners have agreed to enter into this Agreement to set out a general framework and certain commitments with respect to the creation and operation of the CYAC.

D. While the TPSB is the signatory to this Agreement, pursuant to the terms of the Ontario Police Services Act, the Chief of Police and officers of the Toronto Police Service are independently responsible for the provision of the policing services identified in Section 2.1(b) of this Agreement and have indicated their willingness to provide those services in accordance with this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 **Definitions**. In this Agreement, the following capitalized terms shall have the respective meanings below:

"**Affiliate**" means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to "**control**" another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term "**controlled**" shall have a similar meaning. In respect of TPSB, "Affiliate" excludes the City of Toronto and the Province of Ontario.

"**Agreement**" means this cooperation agreement and all the schedules attached hereto, as may be amended from time to time in accordance with its terms.

"**Applicable Law**" means (i) any foreign or domestic constitution, treaty, law, legislation, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, order or other requirement having the force of law, (ii) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, the "**Law**") relating or applicable to such Person, property, transaction, event or other matter and also includes,

where appropriate, any interpretation of the Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

"**Business Day**" means any day except Saturday, Sunday or any day on which the courts are generally not open for business in the City of Toronto, Ontario.

"**Client**" has the meaning ascribed thereto in the Recitals.

"**Confidential Information**" means all information, documentation, knowledge, data or know-how owned, possessed or controlled by or relating to a Party or acquired or developed for its benefit, in whatever form communicated or maintained, whether orally, in writing, electronically, in computer readable form or otherwise, that a Party treats as confidential including, fleet management reports, financial data, business plans, information relating to existing, prior and prospective customers, trade secrets, technical information, computer systems and software, results of research, personal information regarding Clients and employees, and other data, but does not include any information that:

(a) has generally become known to the public other than as a result of disclosure contrary to this Agreement;

(b) becomes available to a Receiving Party on a non-confidential basis from a Person other than the Information Provider in circumstances where such Person is not, to the Receiving Party's knowledge, otherwise bound by a confidentiality obligation to any other party;

(c) is independently known to the Receiving Party prior to receiving same hereunder and was not received under any obligations of confidentiality; or

(d) Receiving Party is required by law to disclose.

"**CPAC**" means the Child & Youth Advocacy Community Partners Advisory Committee, organized and operated in accordance with Section 4.3.

"**Damages**" means, whether or not involving a Third Party Claim, any loss, cost, liability, claim, interest, fine, penalty, assessment, Taxes, damages available at law or in equity (including incidental, consequential, special, aggravated, exemplary or punitive damages), or expense (including reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation).

"**Dispute**" has the meaning set out in Section 9.1 of this Agreement.

"**Governmental Authority**" means, whether foreign or domestic, (i) any federal, provincial, state, municipal, local or other governmental or public department, court, commission, board, bureau, agency or domestic instrumentality, (ii) any subdivision or authority of any of the foregoing, or (iii) any quasi-governmental or private body

exercising any regulatory, expropriation or taxing authority having jurisdiction in the relevant circumstances, but not a police service or children's aid society.

"**Information Provider**" means a Service Partner that provides Confidential Information to another Service Partner or all other Service Partners, as the case may be.

"**Initial Term**" has the meaning set out in Section 6.1(a) of this Agreement.

"**JMT**" means the Joint Management Team of the CYAC, organized and operated in accordance with Section 4.2.

"**Parties**" collectively means the Service Partners, each individually referred to as a "**Party**".

"**Partner Services Agreement**" has the meaning ascribed thereto in Section 2.2.

"**Personal Information**" means information about an identifiable individual as defined in Privacy Law.

"**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

"**Privacy Law**" means the *Personal Information Protection and Electronic Documents Act* (Canada), the *Freedom of Information and Protection of Privacy Act* (Ontario), the *Personal Health Information Protection Act* (Ontario), the *Municipal Freedom of Information and Protection of Privacy Act,* and any other Applicable Law now in force or that may in the future come into force governing the collection, use, disclosure and protection of personal information applicable to any party or to any information collected, used or disclosed in the course of providing or receiving the Services.

"**Protocols**" has the meaning set out in Section 2.4(b) of this Agreement.

"**Receiving Party**" means a Service Partner that receives Confidential Information from another Service Partner, or all of the other Service Partners, as the case may be.

"**Renewal Term**" has the meaning set out in Section 6.1(b) of this Agreement.

"**Representatives**" means, when used with respect to a Service Partner, each director, officer, employee, agent, consultant, adviser, lawyer and other representative of that Party.

"**Taxes**" means all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers' compensation premiums, together with any instalments

with respect thereto, and any interest, fines and penalties, in all cases imposed by any Governmental Authority in respect thereof and whether disputed or not.

"**Term**" means the Initial Term and, if renewed, all subsequent Renewal Terms.

"**TPS**" means Toronto Police Service.

1.2 **Additional Rules of Interpretation**.

(a) *Payment Obligation*. Any payment contemplated by this Agreement shall be made by cash, certified cheque or any other method that provides immediately available funds.

(b) *Actions on Non-Business Days*. If any payment is required to be made or action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

(c) *Headings and Table of Contents*. The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.

(d) *Section References*. Unless the context requires otherwise, references in this Agreement to Sections or Schedules are to Sections or Schedules of this Agreement.

(e) *Words of Inclusion*. Wherever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" and the words following "include", "includes" or "including" shall not be considered to set forth an exhaustive list.

(f) *Statute References*. Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(g) *Gender and Number*. In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.

1.3 **Schedules**. The Schedules listed below and attached to this Agreement are incorporated herein by reference and are deemed to be an integral part of this Agreement. In the event

of any inconsistency between any of the provisions of the main terms and conditions of this Agreement and the Schedules, the main terms and conditions of this Agreement shall prevail.

Schedule 2.4(b) - CYAC Record Keeping and Disclosure Protocol

Schedule 4.1(f) - Communications Protocol

ARTICLE 2
SERVICES, COVENANTS AND OBLIGATIONS

2.1 **Partner Services**. Each of the Service Partners acknowledges and agrees to provide the following services in respect of the CYAC:

(a) *Boost Services*. Boost shall make available a facility, a manager (the "**Manager**") and advocates to facilitate support for the child and/or youth and family throughout the entire process of investigation and treatment. Boost will provide operational support, maintain a positive relationship between the advocacy team and all other personnel within the CYAC, develop plans for advocacy services, and generally provide a continuum of service throughout the process to the child and family.

(b) *TPS Services*. TPS shall conduct criminal investigations arising out of child abuse cases, interview victims, witnesses and suspected perpetrators, carry out arrests, collect evidence and work with the Crown Attorney's Office – Ministry of the Attorney General in preparation for court and to prepare for the prosecution phase.

(c) *CAST Services*. CAST shall take responsibility for all child welfare activities in respect of all cases that fall within CAST's jurisdiction. Joint investigations with TPS will continue to follow the Protocols.

(d) *CCAS Services*. CCAS shall take responsibility for all child welfare activities in respect of all cases that fall within CCAS's jurisdiction. Joint investigations with TPS will continue to follow the Protocols.

(e) *SCAN Services*. SCAN shall provide comprehensive health services for children and youth. The Nurse Practitioner – Paediatrics from the SCAN Program will provide medical consultation and medical evaluations. The Nurse Practitioner – Paediatrics will work directly with members of the SCAN Program to ensure children and youth receive appropriate and timely medical care. A SCAN psychosocial team member will provide consultation and clinical service as part of the CYAC mental health team.

(f) *SAFE-T Services*. SAFE-T shall provide mental health services including consultation to the child and/or youth and family throughout the entire process of investigation and treatment. SAFE-T will participate in case reviews/conferences, conduct trauma screening to determine if further mental health intervention is

warranted, and if so, may provide short-term intervention or will work with the advocates to make referrals.

2.2 **Partner Services Agreements**. Each Service Partner acknowledges and agrees that the terms pursuant to which the services to be provided by each Service Partner in respect of the CYAC as described in Section 2.1 shall be set out in a separate services agreement to be entered into between the Service Partner and Boost (each a "**Partner Services Agreement**"). Each Partner Services Agreement shall be executed at the same time as the execution of this Agreement and will contain a detailed description of the services to be provided by the Service Partner in connection with its participation in the CYAC, and shall set out the obligations and expectations of each Service Partner.

2.3 **Service Quality**. Each Service Partner agrees that it shall deliver the services it has committed to provide in this Agreement and in its Partner Services Agreement, and fulfill its obligations under each, in a high quality, efficient, diligent and competent manner and will exercise the degree of care, skill and diligence that is appropriate to the type of service that is being provided and shall comply with, or exceed, the standards, specifications, policies, procedures and directions as specified in such Service Partner's governing legislation, regulation, or policies and procedures.

2.4 **Joint Obligations**.

(a) *Applicable Law*. Each Service Partner shall, in performing its obligations under this Agreement and its applicable Partner Services Agreement, comply with, and will cause each of its Affiliates, as applicable, to comply with all Applicable Laws, as such Applicable Laws may be amended from time to time.

(b) *Privacy Law*. The Parties hereto acknowledge and agree that the provision of services by each Service Partner shall comply with and be governed by the Protocol for Joint Investigations of Child Physical & Sexual Abuse and the CYAC Record Keeping and Disclosure Protocol (the "**Protocols**"). A copy of the Protocols are attached to this Agreement as Schedule 2.4(b) and all activities and interactions occurring at or with respect to the CYAC shall be undertaken in accordance with the Protocols. In addition to adhering to the procedures and guidelines set out in the Protocols, each Party shall comply with all Privacy Laws and its internal policies related to privacy and Personal Information. Notwithstanding anything else in this Section 2.4(b), the Parties also acknowledge and agree that on December 14, 2005, the Governor General in Council published an order declaring that the *Personal Health Information Protection Act* (Ontario) is "substantially similar" to Section 1 of the *Personal Information Protection and Electronic Documents Act* (Canada), and Health Information Custodians (including SCAN) are exempt from Part 1 of *Personal Information Protection and Electronic Documents Act* (Canada) with respect to collection, use, and disclosure of personal information in Ontario. Additionally, Section 8 of the *Personal Health Information Protection Act* (Ontario) addresses the general inapplicability of *Freedom of Information and Protection of Privacy Act* (Ontario) and *Municipal Freedom of Information and Protection of Privacy Act* (Ontario) to

personal health information in the custody of a Health Information Custodian (as that term is defined in such applicable legislation) such as SCAN.

ARTICLE 3
FUNDING AND FINANCING

3.1 **Funding Commitments**. Each Service Partner acknowledges and agrees that it, or its Affiliates, as applicable, has agreed to obtain or designate or otherwise make available for the purposes of the creation and operation of the CYAC certain funds, which funds shall be paid to Boost for the purposes of, or shall otherwise be paid by such Service Partner only in respect of, the furtherance of the CYAC.

3.2 **Services at Cost of Service Partner**. Each Service Partner acknowledges that it, or its Affiliates, as applicable, shall deliver all services to be provided by it under this Agreement and the independent Partner Services Agreements at its own cost, and that no costs of any Service Partner related to the provision of services by such Service Partner pursuant to this Agreement and the independent Partner Services Agreements may be recovered by such Service Partner from Boost, the CYAC, or any other Service Partner.

3.3 **Funding Changes**. If a material change in the amount of funding to be made available by or to a Service Partner, as set out in the Partner Services Agreements, in respect of the CYAC occurs, or can reasonably be expected to occur, the Service Partner, in respect of which such material change has occurred or may occur shall promptly notify the Board of Directors of Boost and each of the other Service Partners, whereafter the Service Partners shall engage in good faith discussions to attempt to resolve any organizational or operational issues related to any such change.

ARTICLE 4
GOVERNANCE

4.1 **Governance of CYAC**.

(a) *Business and Affairs of the CYAC*. The Service Partners acknowledge and agree that Boost shall be the legal entity through which the activities and operation of the CYAC are coordinated. Boost and each Service Partner shall cause such meetings of Boost and the Service Partners to be held, votes cast, resolutions passed, by-laws enacted, documents executed and all things and acts done to ensure the following arrangements continue with respect to the operation and control of the CYAC:

(i) the Board of Directors of Boost (the "**Board**") shall be constituted such that it appropriately reflects the multi-disciplinary character of the CYAC;

(ii) the Board shall comprise fourteen (14) directors, which directors shall be nominated for election and appointment as follows:

(a) one director of Boost shall be a member of Toronto's aboriginal community, which director shall be nominated for appointment as a director following consultation with Native Child and Family Services of Toronto;

(b) for so long as CCAS is a party hereto and is participating in the CYAC, CCAS shall be entitled, but not required, to nominate for appointment one director of Boost;

(c) for so long as CAST is a party hereto and is participating in the CYAC, CAST shall be entitled, but not required, to nominate for appointment one director of Boost;

(d) for so long as TPSB is a party hereto and is participating in the CYAC, TPSB shall be entitled, but not required, to nominate for appointment one director of Boost;

(e) for so long as each of SCAN and SAFE-T is a party hereto and is participating in the CYAC, SCAN and SAFE-T shall be jointly entitled, but not required, to jointly nominate for appointment one director of Boost;

(f) nine (9) directors shall be community members elected and appointed in accordance with the constating documents of Boost;

(iii) if any Service Partner does not exercise its right to appoint for nomination an individual to become a director of Boost pursuant to the rights described in Sections 4.1(a)(ii)(b) through 4.1(a)(ii)(e), then the position on the Board in respect of which the Service Partner has a right to nominate an individual for election shall remain vacant until such time as the Service Partner nominates an individual for appointment to the Board and that individual is appointed a director of Boost; and

(iv) the Chair of the Board shall be a director of Boost appointed pursuant to Section 4.1(a)(ii)(f) hereof.

(b) *Board Responsibilities.* The Board shall be responsible for providing oversight of CYAC operations and activities, setting appropriate policies where necessary, and ensuring consistency with the by-laws of Boost.

(c) *Committees.* The Board shall form and maintain the following committees, each of which shall have at least one member that is a representative appointed by one of the Service Partners:

(a) Executive Committee;

(b) Finance Committee; and

(c) Governance and Nominating Committee;

provided, however, that this Section 4.1(c) shall not prohibit the Board from forming and maintaining any other committees of the Board as may be provided for by the constating documents of Boost. The Finance Committee and the Governance and Nominating Committee shall each have at least one member nominated jointly by the directors appointed pursuant to Sections 4.1(a)(ii)(b), (c), (d) and (e).

(d) *Prohibition and Limitation.* The Board may prohibit or limit the right of any Service Partner to provide services in conjunction with the CYAC, where the Service Partner is disruptive or fails to adhere to the policies and procedures established by the Board or the JMT pursuant to a Partner Services Agreement, in which event Service Partner shall, to the extent they are prohibited or limited from providing services, be released from obligations to provide services pursuant to this Agreement or the Partner Service Agreement.

(e) *Review.* Within thirty six (36) months from the date of final execution of this Agreement, the Board will conduct a review of the Board's structure and function, the JMT mandate, structure and operations, and other matters related to the CYAC as may be directed by the Board or agreed to by the Parties. The Board will present any recommendations and outcomes of this review to the Service Partners.

(f) *Communications Protocol.* The Parties hereto agree that the communications protocol attached hereto as Schedule 4.1(f), as updated and amended from time to time, shall be the communications protocol by which all external communications relating to the CYAC shall be governed.

4.2 **Joint Management Team.**

(a) *JMT Responsibilities.* The Service Partners agree to create the JMT, which shall be responsible for the development of procedural norms and the provision of strategic leadership, direction, and coordination of the delivery of interdisciplinary services through the CYAC. The JMT will also be responsible for participating in the evaluation of CYAC services and assessing the feasibility of new program developments. The JMT is accountable collectively to the Executive Director of the CYAC and the Board; however each on-site partner is accountable to its own organization.

(b) *Participant Responsibilities.* Each member of the JMT will:

(i) supervise the designated staff from his or her organization;

(ii) contribute his/her expertise;

(iii) participate fully and actively through consistent attendance;

(iv) complete required tasks outside meeting times within the agreed upon timelines; and

(v) keep his or her direct supervisor informed of the JMT's development, and obtain any approvals when necessary.

(c) *Frequency of Meetings.* Each of the Parties hereto acknowledges and agrees that the JMT shall meet once each week, or as more frequently agreed to by the Parties, and each of the Parties hereto covenants that it shall do all things and cause all things to be done to ensure that meetings of the JMT occur in accordance with this Section 4.2(c).

(d) *JMT Composition.* The JMT shall comprise the following individuals:

(i) The Executive Director of Boost;

(ii) the CYAC Advocacy and Support Services Manager of Boost;

(iii) the Supervisor from CCAS assigned to the CYAC;

(iv) the Supervisor from CAST assigned to the CYAC;

(v) the Detective Sergeant (or his or her designate) from TPS assigned to the CYAC;

(vi) the Nurse Practitioner from SCAN assigned to the CYAC; and

(vii) the Mental Health Manager from SAFE-T assigned to the CYAC.

4.3 **Child & Youth Advocacy Community Partners Advisory Committee ("CPAC")**

(a) *CPAC Responsibilities.* CPAC is intended to provide ongoing collaborative support for the CYAC and its future evolution and development through:

(i) continuing cooperation in the establishment, implementation and advancement of the CYAC for the City of Toronto as a centre of leadership in excellence in child abuse services, research, training and education;

(ii) promoting and facilitating a coordinated, seamless, interdisciplinary response to child abuse victims and their families;

(iii) serving as a forum for guidance on matters related to the CYAC, including serving as a forum for the resolution of issues and disputes among Parties participating in CYAC as set out in this Agreement;

(iv) advising and working with the Board on the future development of the CYAC by identifying further opportunities for improved coordination and

effectiveness in the delivery of services to children and youth experiencing or at risk of experiencing child abuse in Toronto; and

(v) supporting collective actions that enhance public awareness and understanding of the needs of abused children and their families.

(b) *CPAC Composition.* CPAC shall comprise the following individuals

(i) Executive Director of Boost

(ii) Senior Officer - Toronto Police Service

(iii) Executive Director - Catholic Children's Aid Society of Toronto

(iv) Executive Director - Children's Aid Society of Toronto

(v) Executive Director - Jewish Family & Child

(vi) Executive Director - Native Child & Family Services of Toronto

(vii) Executive Director - SAFE-T Program

(viii) Clinical Director - SCAN Program, SickKids

(c) *Team Members Responsibilities.* Each participant is a representative of his/her respective agency and will support the mandate of the CYAC through:

(i) contributing his/her expertise;

(ii) participating fully and actively through consistent attendance;

(iii) completing required tasks outside of meeting times within the agreed upon timelines; and

(iv) keeping his/her Board or Board of Directors of the respective Service Partner informed of CYAC development, and to obtain approval as necessary.

(d) *Frequency of Meetings.* Each of the Parties hereto acknowledges and agrees that CPAC will meet at least quarterly for the first year of CYAC operations. By agreement of the parties, the number of meetings may be changed. There will be a joint meeting of CPAC and the Board at least once a year to review and discuss the CYAC including CYAC performance and effectiveness, community awareness and support, and future opportunities and directions. CPAC will consider and provide advice to the Board on the terms of reference for the review referenced in Section 4.1(e) and will consider the findings and recommendations of the review and provide comments and advice to the Board.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 **Representations and Warranties of each Service Partner**. Each Service Partner (the "**Representing Service Partner**") represents and warrants as follows:

(a) *Due Authorization.* The Representing Service Partner has all necessary power, authority, and capacity to enter into this Agreement and to carry on the services outlined in Article 2 and otherwise comply with its obligations hereunder.

(b) *Enforceability of Obligations.* This Agreement constitutes the valid and binding obligation of the Representing Service Partner enforceable against the Representing Service Partner in accordance with its terms, subject to limitations on enforcement imposed by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of the rights of creditors and others and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought.

ARTICLE 6
TERM AND TERMINATION

6.1 **Term.**

(a) *Initial Term.* The term of this Agreement will commence on the date of final execution of this Agreement and will remain in effect for an initial term of five (5) years (the "**Initial Term**").

(b) *Renewal Term.* This Agreement will automatically renew for successive five (5) year periods (each a "**Renewal Term**"), unless a Party provides written notice of its intent not to renew, for any reason and in its sole discretion, six (6) months prior to the expiry of the Initial Term or any Renewal Term, following which this Agreement shall terminate with respect to the Party who has provided such notice of non-renewal but shall otherwise remain in force with respect to any Parties who have not delivered a notice of non-renewal pursuant to this Section 6.1(b).

(c) *Continuing Validity.* For greater clarity, the failure to renew the Agreement by any of the Service Partners for whatever reason shall not affect the validity of this Agreement in respect of the remaining Service Partners as it relates to those Service Partners.

6.2 **Termination Rights of Service Partners**. Each Service Partner other than Boost may immediately and without penalty terminate its obligations under this Agreement, at any time during the Term upon written notice to the other Service Partners, if:

(a) *Material Breach.* Boost is in material breach of any of the terms or conditions of this Agreement or the Partner Services Agreement to which the terminating Service Partner is a party, and fails to cure, to the satisfaction of the Service Partner, acting

reasonably, such breach within ninety (90) days following the date of delivery of written notice to Boost.

(b) *Representations and Warranties.* The representations and warranties of the Boost in Section 5.1 were not true and correct in all material respects as of the date hereof.

(c) *Fraud.* An individual acting as a representative of Boost at the CYAC is associated with fraud, corruption, or any other criminal or regulatory investigations or charges that could reasonably be expected to damage the reputation of a Service Partner.

(d) *Cease Conducting Business.* Either Boost or the CYAC ceases conducting activities, substantially changes the nature of its activities, or, as a result of other Service Partners having severed their relationship with Boost and the CYAC, is no longer able to perform its activities.

(e) *Bankruptcy.* If Boost becomes bankrupt or insolvent or takes the benefit under Applicable Law of any statute for bankrupt or insolvent debtors or makes any proposal, assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding-up or other termination of Boost's existence or the liquidation of its assets, or if a trustee, receiver, receiver/manager or like person is appointed with respect to the business or assets of Boost.

Continuing Validity. For greater clarity, the termination of the Agreement by any of the Service Partners other than Boost for whatever reason shall not affect the validity of this Agreement in respect of the remaining Service Partners as it relates to those Service Partners.

6.3 **Termination Rights of Boost:** This Agreement may be terminated with respect to an individual Service Partner immediately and without penalty by Boost, at any time during the Term upon written notice to the other Service Partners, if:

(a) *Material Breach.* The Service Partner is in material breach of any of the terms or conditions of this Agreement or the Partner Services Agreement to which the Service Partner is a party, and fails to cure, to the satisfaction of Boost, acting reasonably, such breach within ninety (90) days following the date of delivery of written notice to the Service Partner.

(b) *Representations and Warranties.* The representations and warranties of the Service Partner in Section 5.1 were not true and correct in all material respects as of the date hereof.

(c) *Fraud.* An individual acting as a representative of the Service Partner at the CYAC is associated with fraud, corruption, or any other criminal or regulatory

investigations or charges that could reasonably be expected to damage the reputation of Boost or the CYAC.

(d) *Cease Conducting Activities.* The Service Partner ceases conducting activities or substantially changes the nature of its activities.

(e) *Bankruptcy.* If the Service Partner becomes bankrupt or insolvent or takes the benefit under Applicable Law of any statute for bankrupt or insolvent debtors or makes any proposal, assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding-up or other termination of the Service Partner's existence or the liquidation of its assets, or if a trustee, receiver, receiver/manager or like person is appointed with respect to the business or assets of the Service Partner.

(f) *Continuing Validity.* The termination of the Agreement by Boost with respect to an individual Service Partner for whatever reason shall not affect the validity of this Agreement in respect of the remaining Service Partners as it relates to those Service Partners.

6.4 **Partner Services Agreement Termination**. If the Partner Services Agreement between a Service Partner and Boost is terminated for any reason, then the provisions of this Agreement applicable to the Service Partner party to the Partner Services Agreement that is terminated shall immediately terminate with respect to such Service Partner as of the date of termination of the Partner Services Agreement between that Service Partner and Boost.

6.5 **Survival**. The following provisions shall survive the expiration and any termination of this Agreement: Article 7 (*Confidentiality*) and Article 11 (*Miscellaneous*).

ARTICLE 7
CONFIDENTIALITY

7.1 **Confidential Information Policy.** The use and disclosure of all Confidential Information disclosed by the parties pursuant to this Agreement or a Partner Services Agreement shall be subject to the Protocols attached hereto as Schedule 2.4(b). The terms, conditions and policies set out in the Protocol shall have priority over any other terms of this Agreement respecting Confidential Information.

ARTICLE 8
INDEPENDENT CONTRACTORS

8.1 **No Legal Partnership**. Nothing herein constitutes or is to be construed as or creates in any way or for any purpose a partnership, joint venture, a fiduciary relationship, obligation or duty on the part of any Service Partner, or principal-agent relationship among the Service Partners. No Service Partner shall have power or authority to bind or commit another Service Partner. In performing its obligations under this Agreement and the separate Partner Services Agreements hereunder, none of the employees and agents of

a Service Partner other than Boost are employees or agents of Boost, the CYAC, or each other, nor are they eligible or entitled to any compensation, benefits, perquisites or privileges (including severance) given or extended to any Boost or CYAC employees or employees of another Service Partner.

ARTICLE 9
RESOLUTION OF DIFFERENCES

9.1 **Good Faith Discussions**. In the event of any dispute, controversy or claim arising out of or relating to this Agreement or the validity, interpretation, breach or termination of any provision of this Agreement, including claims seeking redress or asserting rights under Applicable Law (each, a "**Dispute**"), the Parties shall use their respective reasonable efforts to negotiate in good faith and attempt to resolve such Dispute amicably for a period of thirty (30) days following one Party's written request to the other Parties for such a meeting. If, however, any relevant Party refuses or fails to so meet, or the Dispute is not resolved by negotiation within the thirty (30) days, the provisions of Section 9.2 shall apply. All discussions, negotiations and other information exchanged among the Parties during the foregoing proceedings will be without prejudice to the legal position of any Party in any subsequent mediation.

9.2 **Escalation of Dispute Resolution.** Any Dispute under this Agreement that is not otherwise settled in the manner described in Section 9.1 shall be referred to the Executive Director of CYAC and the executive leads of the Service Partners. If the Dispute is not resolved by the Executive Director and executive leads within 30 days, then the dispute shall be referred to the Board. The Executive Director may also refer the dispute to the Board at his or her discretion at any time during the 30 day period. If the Dispute has not been resolved by the Board within an additional 30 days, then the affected Parties may seek such additional recourse as may be available to them.

9.3 **Dispute Exceptions**. Notwithstanding the dispute resolution provisions provided in Sections 9.1 and 9.2 above, the Parties need not attend a meeting for the purpose of resolving a Dispute or otherwise escalate the consideration of the Dispute in accordance with Sections 9.1 or 9.2 prior to seeking relief from a court of competent jurisdiction for a Dispute that relates to:

(a) a breach of Article 7 (*Confidential Information*) of this Agreement;

(b) a breach of Section 2.4(b) (*Privacy Law*) of this Agreement;

(c) any other claim where injunctive relief (whether prohibiting a Party from acting or commanding a Party to act) is sought from the court;

9.4 **Continuation of Services**. Notwithstanding the dispute resolution provisions provided in Section 9.1, 9.2, 9.3 and 9.4, the Service Partners shall continue to provide the applicable services during a Dispute.

ARTICLE 10
MISCELLANEOUS

10.1 **Good Faith**. The Parties hereto agree that each Party shall deal at all times in good faith with the other Parties hereto with respect to all matters governed by this Agreement.

10.2 **Assignment**. No Service Partner may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its respective rights or obligations under this Agreement without the prior written consent of the other Service Partners.

10.3 **Third Party Beneficiaries**. Except as is expressly set forth to the contrary in this Agreement, all rights, remedies, and obligations of the Parties under this Agreement shall accrue or apply solely to the Parties hereto or their permitted successors or assigns and there is no intent to benefit any third Person.

10.4 **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in such Province and this Agreement shall be treated, in all respects, as an Ontario contract. Subject to Article 9, the courts of the Province of Ontario shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.

10.5 **Entire Agreement**. This Agreement (including the schedules hereto), taken together with the Partner Services Agreement entered into by each Service Partner, contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, proposals and understandings, oral or written, with respect to such matters, including the draft Memorandum of Understanding among the Service Partners.

10.6 **Notices**. Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent by fax or other similar means of electronic communication, in each case to the applicable address set out below:

if to BOOST, to:

BOOST CHILD ABUSE PREVENTION & INTERVENTION
890 Yonge Street, 11th Floor,
Toronto, ON M4W 3P4
Tel: (416) 515-1100
Fax: (416) 515-1227
Attn: Karyn Kennedy – Executive Director
E-mail: kennedy@boostforkids.org

if to TPSB, to:

TORONTO POLICE SERVICES BOARD
40 College Street

Toronto, ON
M5G 2J3
Tel: (416) 808-8080
Fax: (416) 808-8082
Attn: Executive Director

if to CAST, to:

CHILDREN'S AID SOCIETY OF TORONTO
30 Isabella Street
Toronto, ON
M4Y 1N1
Tel: (416) 924-4646
Fax:
Attn: David Rivard, Chief Executive Officer

if to CCAS, to:

CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO
26 Maitland Street
Toronto, ON
M4Y 1C6
Tel: (416) 395-1501
Fax: (416) 395-0583
Attn: Mary McConville

if to SCAN, to:

THE HOSPITAL FOR SICK CHILDREN
555 University Avenue
Toronto, Ontario M5G 1X8
Attn: President and CEO

With a copy to: Legal Services Department at the same address

if to Safe-T, to:

HALTON TRAUMA CENTRE – SAFE-T PROGRAM
Lakeshore Road West
Oakville, ON
L6K 1E1
Tel: (905) 825 3242
Attn: Darryl Hall

10.7 **Severability**. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision has no effect on the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid, illegal or unenforceable under any rule of Applicable Law or public policy, (i) the Parties will substitute for the invalid provision a valid provision that most closely gives effect to the original intent of the Parties such that the provisions contemplated hereby (and associated economic effect) are fulfilled to the fullest extent possible and (ii) the remainder of this Agreement and the application of such provision to other Persons, entities or circumstances will not be affected by such invalidity, illegality or unenforceability, nor will such invalidity, illegality or unenforceability affect the validity, legality or enforceability of such provision, or the application thereof, in any other jurisdiction.

10.8 **Equitable Remedies**. Each of the Parties acknowledges that a breach by it of any of the covenants contained in Article 7 (*Confidentiality*) or Section 2.4(b) (*Privacy Law*) would result in Damages to the other Parties and that such Parties may not be adequately compensated for such Damages by monetary award alone. Accordingly, the Parties agree that in the event of any such breach, in addition to any other remedies available at law or otherwise, the aggrieved Party shall be entitled as a matter of right to apply to a court of competent jurisdiction for relief by way of injunction, restraining order, decree or otherwise as may be appropriate to ensure compliance by the breaching Party and its Affiliates with the provisions of Article 7 (*Confidentiality*) or Section 2.4(b) (*Privacy Law*). Any remedy expressly set out in this Agreement shall be in addition to and not inclusive of or dependent upon the exercise of any other remedy available at law or otherwise. For greater certainty, the rights under Article 6 (*Term and Termination*) shall be in addition and without prejudice to any other rights which the non-defaulting Party may be entitled at law or under this Agreement by way of Damages, and any such termination shall not affect such Party's right to any other remedies to which it may be entitled by reason of breach hereunder at the date of such termination.

10.9 **Amendment**. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by the Parties, or in the case of a waiver, by the Party against whom the waiver is to be effective.

10.10 **Waiver**. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

10.11 **Time of the Essence**. Time shall be of the essence of this Agreement.

10.12 **Further Assurance**. Each Party shall, from time to time, promptly execute and deliver all further documents and take all further action necessary or appropriate to give effect to the provisions and intent of this Agreement.

10.13 **Absence of Presumption**. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly among the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement.

10.14 **Counterparts**. This Agreement may be executed in one or more counterparts, and/or by using electronic means of communication, each of which shall be deemed to be an original, and all of which shall constitute one and the same agreement.

[Signature Page Follows.]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

BOOST CHILD ABUSE PREVENTION & INTERVENTION

By: _____
Name: Michael Richard
Title: Chair

TORONTO POLICE SERVICES BOARD

By: _____
Name: Alok Mukherjee
Title: Chair

CHILDREN'S AID SOCIETY OF TORONTO

By: _____
Name: DAVID RICARD
Title: CEO

CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO

By: _____
Name: MARY A. McConville
Title: Executive Director

THE HOSPITAL FOR SICK CHILDREN

By: _____
Name: JEFF MAINLAND
Title: Executive Vice President

HALTON TRAUMA CENTRE

By: _____

Name:

Title: EXECUTIVE DIRECTOR

SCHEDULE 2.4(b)

CYAC Record Keeping and Disclosure Protocol

The Child and Youth Advocacy Centre of the City of Toronto provides a collaborative community response to the investigation, treatment and prosecutions of child abuse cases. Employees of Agencies participating in the CYAC will be housed in one central location in order to improve communication and coordination of services to children and families. The following framework will govern record keeping of CYAC and the participating agencies and the disclosure of information between those agencies.

- All professionals working in the CYAC will continue to document their work in accordance with legislation and standards governing their discipline and their specific employers agency's policies and procedures.
- Each Agency will retain sole custody and control of its own records at all times, and the CYAC will have no access to the records of the partner agencies, nor will professionals employed by any one agency have access to records of another agency.
- All the above documentation will be kept in separate and secure filing system within the centre.
- A separate central CYAC record will be created for each child and/or family receiving services at the CYAC. This record will identify the CYAC staff assigned, and will contain information that will be required for research purposes, but no confidential client material (except for the signed consent form).
- The central CYAC record will be coded with a number that will be cross-referenced in all of the separate documentation as maintained by the different professionals.
- As soon as is possible and appropriate, the Advocate will introduce themselves to clients, explain their role and that of the CYAC and request that the client sign a consent form permitting disclosure of information between the various professionals.
- One consent form will be used at the CYAC to allow for free disclosure between all professional staff.
- If the client refuses to sign the consent, all case conferences or case discussions will be non-identifying from that point onward.
- Whether consents are signed or not, police and child welfare will continue to have free and open disclosure as per the Protocol for Joint Investigations of Abuse (2006).
- Formal Case Conferences will be documented by each participant and kept in their agency's records. A template for collecting non-identifying data for research purposes will be created to be used for all formal case conferences and these will be kept in the CYAC file.
- Should any person associated with CYAC have reason to suspect that a child may be in need of protection they will report this suspicion to the appropriate child welfare agency in accordance with the Child and Family Services Act, whether consents have been provided or not.

- All professionals working in the CYAC will keep records held by them pertaining to a young person dealt with under the Youth Criminal Justice Act (YCJA) separate from the rest of the record. Prior to further disclosure of, or granting access to, YCJA records, the person authorized under the YCJA to access these records will determine the grounds for so doing pursuant to Part 6 of the YCJA. Reasons for further disclosure will be documented in the file.

Protocol for Joint Investigations of Child Physical & Sexual Abuse

[Copy attached]

PROTOCOL FOR JOINT INVESTIGATIONS OF CHILD PHYSICAL & SEXUAL ABUSE:

Guidelines & Procedures For A Coordinated Response To Child Abuse In The City Of Toronto ©

FOURTH EDITION
MAY 2006

Catholic Children's Aid Society of Toronto
Child Care Advisory Committee of Toronto
Children's Aid Society of Toronto
Conseil scolaire de district catholique Centre-Sud
Conseil Scolaire de District Centre Sud Ouest
Jewish Family and Child Service
Ministry of Children and Youth Services
Ministry of Community Safety and Correctional Services
Ministry of the Attorney General (Toronto Region)
Native Child and Family Services
Toronto Catholic District School Board
Toronto Child Abuse Centre
Toronto Children's Services
Toronto District School Board
Toronto Police Service
UJA Federation Board of Jewish Education

Child Sexual Abuse Protocol:
First Edition: November 1983
Second Edition: June 1986
Third Edition: March 1995
Fourth Edition: May 2006

Child Physical Abuse Protocol:
December 1995

Copies of this document are available to individuals who work within each of the signatory organizations listed on the front cover. All other individuals or organizations may request an electronic copy or purchase a copy from:

TORONTO CHILD ABUSE CENTRE ©
890 Yonge Street, 11th Floor
Toronto, Ontario M4W 3P4
Tel: (416) 515-1100 Fax: (416) 515-1227
E-mail: info@tcac.on.ca Website: www.tcac.on.ca

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FOREWORD

DECLARATION OF COMMITMENT

WHEREAS the abuse of children is a problem of significant social concern, and,

WHEREAS we agree that children have a right to be protected, not abused, and that offenders must be held accountable for their actions, and,

WHEREAS an effective and humane response requires a shared philosophy and coordinated strategy among those systems mandated to act on behalf of the community,

WE have participated in the review and re-affirm our commitment to its continued implementation across Toronto.

Dated this 19th day of May, 2006

Catholic Children's Aid Society of Toronto

Child Care Advisory Committee of Toronto

Children's Aid Society of Toronto

Conseil scolaire de district catholique Centre-Sud

Conseil Scolaire de District Centre Sud Ouest

Jewish Family and Child Service

Ministry of Children and Youth Services

Ministry of Community Safety and Correctional Services

Ministry of the Attorney General, Office of the Director of Crown Operations – Toronto Region

Native Child and Family Services

Toronto Catholic District School Board

Toronto Child Abuse Centre

Toronto Children's Services

Toronto District School Board

Toronto Police Service

UJA Federation Board of Jewish Education

Dedication

This document is dedicated to those children and families who have experienced the devastation of abuse, whose cases we used as examples to re-think and re-shape the way we, as professionals, carry out our respective roles in the broad systems' response.

We hope that this Protocol will indeed result in a better response for children and their families, and ensure that they will be provided with sensitive, coordinated, and skilled intervention.

ACKNOWLEDGEMENTS

The revision of the *Protocol For Joint Investigations Of Child Physical & Sexual Abuse: Guidelines & Procedures For A Coordinated Response To Child Abuse In The City Of Toronto* was made possible through the coordination of Toronto Child Abuse Centre and the generous assistance of the Protocol Advisory Committee:

- Gerald McNeely & Sal Salmena, Catholic Children's Aid Society of Toronto
- Lynn Belanger, Child Care Advisory Committee of Toronto
- Nancy Andrews & David Fleming, Children's Aid Society of Toronto
- Bernie Finnigan & Bonita Majonis, Jewish Family and Child Service
- Allar Viinamae, Ministry of Community Safety and Correctional Services
- Jon Ball & Paul Normandeau, Ministry of the Attorney General
- Karen Hill, Native Child and Family Services
- Maureen O'Neil & John Wilhelm, Toronto Catholic District School Board
- Sue Hunter, Karyn Kennedy & Pearl Rimer, Toronto Child Abuse Centre
- Brenda Patterson & Jane Walker, Toronto Children's Services
- Janice Currie, Toronto District School Board
- Paul Cote, Andrew Gibson & Janet Sullivan, Toronto Police Service

The Protocol Advisory Committee extends sincere appreciation to everyone who read the various drafts and provided feedback.

The Committee gratefully acknowledges the funding from the Children's Aid Foundation for this project.

PRINCIPLES

This "Child Abuse Protocol" articulates the shared commitment of the systems responsible for the prevention, detection, reporting, investigation and prosecution of child abuse to work collaboratively and cooperatively for the well-being of children. The principles below provide a context for this document.

1. **All children have the right to a safe, nurturing environment in which to grow to their full potential, free from violence, abuse and neglect**. It is a shared responsibility to ensure that these conditions are fulfilled.

2. **All children who have experienced or witnessed abuse will be treated with dignity, respect and care**. Their culture, ethnicity, and religion will be valued and respected. Within the context of a collaborative investigative process and relevant legal principles, confidentiality will be respected.

3. **All actions taken will be in the best interest of the child(ren).** A coordinated, cooperative and collaborative approach to child abuse prevention, detection, reporting, investigation, prosecution and treatment puts the best interest of the child(ren) first. This approach also minimizes the opportunity for, and the potential of, re-victimization. It is recognized that the process may be traumatic, but the child will be supported throughout.

4. **Joint investigations are in the best interest of the child and will be the starting point for all child abuse investigations**. The partnership will involve both child protection and police. The collaboration could expand to include the education system, the child care system and will expand to the criminal justice system when charges are laid.

5. **The fundamental principle of joint investigations is that decisions are made together through a consultative process and that a plan for the investigation is developed**. The plan should take advantage of the particular strengths and abilities of each of the participants.

6. **The child(ren)'s developmental level will be taken into account throughout the entire investigative process.** Investigative decisions need to be based on a child's intellectual, physical, social and communication abilities.

7. **Training and ongoing professional development are critical to positive investigative outcomes**. Joint training has the further advantage of providing opportunities for front line workers to develop and strengthen the relationships that build a climate of trust and increase the capacity of systems to respond collaboratively.

8. **Investigators should proceed on the assumption that a child's disclosure warrants a full investigation**. A subsequent recanting by the child should <u>not</u> be taken as proof that the abuse did not occur. Children who cannot verbalize a disclosure due to communication barriers may provide key information through their behaviour.

INTRODUCTION

The *Protocol For Joint Investigations Of Child Physical & Sexual Abuse: Guidelines & Procedures For A Coordinated Response To Child Abuse In The City Of Toronto* is the fourth edition of a document last revised in 1995. This edition incorporates changes made to the *Child and Family Services Act** effective in 2000, and reflects a number of systemic changes that have occurred since 1995. In addition, this Protocol integrates procedures for both sexual and physical abuse investigations.

Child physical abuse or harm is any act **resulting in physical harm** to a child* that could be a violation of the *Criminal Code of Canada*, the *Youth Criminal Justice Act,* or could place a child in need of protection as defined in Section 37(2)(a) of the *Child and Family Services Act*, **where the child has suffered physical harm** resulting from a:

- caregiver* inflicting harm;
- caregiver failing to adequately care/provide for the child;
- caregiver failing to adequately supervise the child;
- caregiver failing to adequately protect the child; or
- pattern of neglect* in caring/providing for, supervising or protecting the child. (See Appendix, Part I – Introduction.)

Physical abuse may result from inappropriate or excessive discipline and in fact, the caregiver may not have intended to hurt the child. This may involve minor injury (such as a bruise), to a more serious injury, causing permanent impairment or death (e.g., shaken baby syndrome). Physical harm may also result from neglect, for example a child who is unsupervised and is hit by a car.

Child sexual abuse refers to the use of a child by an adult for sexual purposes, whether or not consent is alleged to have been given, which could be a violation of the *Criminal Code of Canada* and/or could place a child in need of protection as defined in Section 37(2)(c) of the *Child and Family Services Act.* It includes: acts of exposure; sexual touching; oral, anal or vaginal penetration; inappropriate sexual language; sexual harassment; and the exposing of a child to, or involving a child in, pornography or prostitution.

Any form of direct or indirect sexual contact between a child and an adult is abusive since it is motivated purely by adult needs and involves a child who by virtue of age and position in life is unable to give consent.

Sexual activity between children constitutes sexual abuse when it is clear, by differences in development levels, coercion and/or lack of mutuality, that one child is taking advantage of the other. These same criteria should be applied when the children involved are siblings.

*Note to reader: the asterisk symbol indicates that the word/term is defined in the glossary section of the Appendix.

While the focus of the Protocol is the joint investigation of child abuse by police and child protection workers, it recognizes and identifies the important roles and responsibilities of other systems in supporting positive outcomes for children. A significant majority of children are involved with the education and child care systems, and many reports of suspicions of child abuse come from schools and child care settings*. Part IX addresses the role of the school/child care setting in supporting the child, the family and the investigative process. It also describes the responsibilities of the Investigative Team (child protection and police) to the school/child care setting. Part XIII outlines the role of the criminal justice system in the prosecution of child abuse cases.

In the spirit of collaboration, it is important to recognize that there is a role for police in providing assistance to child protection workers for those investigations where the child protection worker has a concern about safety.

Implementation of the Protocol will be monitored and reviewed through the vehicle of Protocol Implementation Groups. These multi-sectoral groups will meet on a regular, on-going basis to review the effectiveness of the Protocol, and to make recommendations as to changes that would increase the capacity of the systems to respond to children coping with child abuse.

The signatories to this document are in agreement that the Protocol outlines best practice for joint investigations. Discussion material is included in the Appendix. Rather than restate internal policies, reference is made throughout the document to the internal policies and procedures that also guide staff.

The Protocol represents the best efforts of the systems to respond as effectively and compassionately as possible, supporting these children through disclosure, the investigation, treatment and the criminal justice system.

THE TEAM

1. THE CONCEPT OF THE TEAM

a) A key element of this Protocol is a 'team' approach to the investigation, prosecution and coordination of child abuse cases.

b) A Team response is required for all allegations of abuse involving a child where the circumstances could be a violation of the *Criminal Code of Canada* and may render the child in need of protection under the *Child and Family Services Act.*

i. In Toronto, a child protection worker and a police officer will constitute the Team, and where applicable, conduct interviews together, communicate, and share information that may assist each other's objectives at every stage of the investigation.* During a joint investigation, the police and a Children's Aid Society (CAS) shall disclose to each other any and all relevant information related to the investigation as soon as is practical. Such exchange of information is necessary for each service to perform its duties. On occasion, there may be judgment involved in determining what is relevant. The information may take the form of verbal information and/or written information (e.g., case notes).

ii. As each case progresses through child protection proceedings, criminal court proceedings, and through to post disposition, the concept of the Team continues to apply, but the members may increase to include the designated probation officer as an active member of the Team.

iii. In certain circumstances (e.g., death of a child), police may limit the sharing of information so as not to compromise an investigation, with an understanding that the duty to report under the *Child and Family Services Act* continues to apply. (See Part VI, Section 4.)

2. PERSONNEL

a) Information may be gathered from schools, child care settings and other locations, however, it is the sole responsibility of child protection workers and police officers to conduct investigations and the formal interviews with children and other witnesses (see Parts V and IX).

b) Responsibility for specific duties will be as defined in this Protocol, and in accordance with each system's internal policies and procedures.

i. The police officer is responsible for the criminal investigation, identification of the alleged offender, and the laying of criminal charges where warranted.

ii. The child protection worker is responsible for the child protection investigation and for protection of the child.

iii. Although the above separation of responsibilities exists, it is always in the best interest of the child that each member of the Team contributes to decisions in either area.

*The *Municipal Freedom of Information and Protection of Privacy Act,* the *Freedom of Information and Protection of Privacy Act*, the *Education Act*, the *Case Information Disclosure Policy Manual*, the *Police Services Act* and internal policies and procedures must be followed when sharing information.

RESPONDING TO THE INITIAL REPORT FROM THE COMMUNITY

Mutual Reporting

Reports of abuse of a child received by either the police or a CAS will be reported to the other and documented by each agency according to its internal procedures.

1. WHEN THE INITIAL REPORT INVOLVES A PERSON WHO HAS CHARGE OF A CHILD* AND/OR IS IN A POSITION OF TRUST OR AUTHORITY*

a) When a report or suspicion of abuse of a child comes to either a CAS or police where it involves a person who has charge of a child and/or is in a position of trust or authority, the child protection worker and police officer will mutually plan the interview before attending the scene.

b) If the person involved is a person in a position of trust or authority but not a person in charge of the child, the CAS will determine if it is necessary for the CAS to be involved in the investigation and shall immediately advise the police of the decision in that regard.

c) If the Team plans to conduct an investigation on school/child care premises, the school principal/child care supervisor or designate will be consulted. (See Part IX, Section 1a-f.)

d) When a report or a suspicion of abuse of a child comes to the police and it is responded to by a uniformed police officer, the officer will secure the situation (if necessary), advise the officer in charge of the Police Division to notify a designated police officer, and call a CAS in accordance with the *Child and Family Services Act*.

e) When a report or suspicion of abuse comes to a CAS or to the police after regular CAS business hours, the CAS "Emergency After Hours Service" and a police officer will decide whether or not the investigation should proceed immediately or be scheduled for another time. Factors to consider when making this decision include:

   i. immediate safety of the child;
   ii. apprehension of the alleged offender;
   iii. potential for gathering forensic medical evidence;
   iv. the ability to obtain other evidence in a timely fashion;
   v. if the quality of the investigation will suffer from a delay; and/or
   vi. disruption to the child's sleep, and/or hour of night.

2. WHEN THE INITIAL REPORT INVOLVES A PERSON WHO DOES NOT HAVE CHARGE OF THE CHILD NOR IS IN A POSITION OF TRUST OR AUTHORITY

f) When a CAS receives an initial report of a child who may have been harmed by a person not in charge of that child nor in a position of trust or authority, a child protection worker will assess if there are any child protection concerns. The child protection worker will contact a police officer to discuss the role, if any, of the CAS.

g) When the police receive a report or suspicion of this nature, the call will be responded to in accordance with police procedures. Where there are any protection concerns, the police will contact a CAS (in accordance with the *Child and Family Services* Act) to discuss the role of the CAS.

h) If there is no role for the child protection worker in the investigation, then the police officer will proceed with the criminal investigation. Any child protection concerns that arise in the course of the criminal investigation will be reported to a CAS (in accordance with the *Child and Family Services* Act). The police may consult with a CAS with regard to treatment/support services for the family. (See Part XII.)

i) If either a CAS or police is conducting an investigation without the other system and new information emerges that indicates the need for a joint investigation, the investigator will use his/her judgment to determine if it is in the best interest of the child to limit the interview and immediately contact the other system, or continue the interview and contact the other system upon completion of the interview.

3. CAS/POLICE AS ALLEGED OFFENDER

a) When there is a report of suspected child abuse and the alleged offender is an employee of a CAS, the investigation will be conducted by a child protection worker from one of the other societies and a police officer.

b) The investigating child protection worker will notify a police officer.

c) When there is a report of suspected child abuse and the alleged offender is a police officer employed by the Toronto Police Service who was performing duties in the capacity of a police officer at the time of the alleged abuse, the allegation will be investigated according to internal police policies and procedures. Where necessary, the police will notify the Special Investigations Unit (SIU). If any child protection concerns arise in the course of such an investigation, a report will be made to a CAS in accordance with the *Child and Family Services* Act.

d) When there is a report of suspected child abuse and the alleged offender is a police officer employed by the Toronto Police Service, but was not performing duties in the capacity of a police officer at the time of the alleged abuse, the investigation will be conducted by an investigator assigned according to Toronto Police Service policy, along with a child protection worker.

e) In cases where an allegation arises in a foster home, the investigation will be conducted in accordance with internal policies and procedures of the CAS.

PROCEDURE FOR INITIAL STAGES OF THE INVESTIGATION

1. PREPARATION & PLANNING

a) Careful preparation and planning is essential to ensuring the best possible outcome. Prior to interviewing the child, the Team will consider, discuss and plan the following:

   i. respective roles and responsibilities;

   ii. the need to interview other children, witnesses, other caregivers and other individuals who may have information about the child;

   iii. conducting an interview of the person who initially reported the abuse, including how to respond to any concerns raised by the interviewee (e.g., retaliation, confidentiality, follow-up);

   iv. timing and location of the interview; and

   v. whether or not to contact a child's caregiver(s) prior to interviewing the child.

2. RECORD CHECKS

a) The police officer will check the appropriate police records regarding the alleged offender in accordance with police procedures and guidelines.

b) The child protection worker will check CAS records, the provincial database and the Child Abuse Register regarding possible information on the child, family and/or alleged offender.

c) Team members will gather all relevant information regarding the past conduct of the alleged offender, including making appropriate checks with other agencies in communities where the alleged offender has previously resided.

3. TIMING OF THE INTERVIEW OF THE CHILD

a) The timing of the interview of the child following the report will be determined by the Team. The Team should see the child together as soon as possible in accordance with the following factors:

   i. the time frame mandated by application of the *Risk Assessment Model For Child Protection In Ontario* (Revised, 2000)*;

   ii. the immediate safety of the child;

   iii. the proximity of the child to the alleged offender;

   iv. the risk to other children;

   v. unique circumstances with regard to collection, handling and preservation of evidence, including the use of warrants, documentary evidence, photographs, and forensic and medical evidence;

vi. the need for a collaborative plan to interview multiple victims;

vii. consideration of the child's physical, emotional and developmental needs;

viii. the availability of the child's caregiver(s);

ix. location of the interview, keeping in mind the preference for video recording*; and

x. the availability of an interpreter.

4. LOCATION OF THE INTERVIEW OF THE CHILD

a) In order to minimize trauma to the child, the interview should be conducted in a neutral setting considering the needs and best interest of the child. A child will likely be more comfortable in a room that is child-friendly (e.g., quiet and free of distractions, equipped with age-appropriate comfort items, access to a private washroom). If the initial contact is to occur in a school or child care setting, the principal/child care supervisor will assist the Team ahead of time in choosing a suitable interview space, and time of day for the interview (e.g., trying to avoid naptime).

b) Factors to consider in determining the location include:

i. where and how the disclosure occurred;

ii. anticipated or actual reaction of the child's caregiver(s);

iii. avoiding the location where the alleged abuse occurred;

iv. if a sibling(s) is involved;

v. where the victim will feel safe;

vi. where the interview can be conducted without interruptions and away from curious observers;

vii. the whereabouts of the alleged offender;

viii. accessibility of a suitable location for children with physical challenges;

ix. access to a child-friendly, neutral video recording facility (generally, a police station is not preferred; ultimately, the final decision whether or not to use a police facility rests with the Team) (See Appendix, Part VII – Video Recording Investigative Interviews for a list of video recording facilities/equipment);

x. availability of a qualified interpreter;

xi. availability of a specialized professional(s);

xii. availability of a culturally literate professional(s);

xiii. where relevant, the gender of the interviewer; and

xiv. the availability of the caregiver to consent to moving the child to another location.

5. CONTACTING CAREGIVERS

a) Wherever possible, caregivers should be contacted by a member of the Team prior to an interview with the child. In determining if it is appropriate to notify a caregiver(s) prior to the interview, the Team should consider the following factors:

   i. whether or not one of the caregivers is the alleged offender;

   ii. if the alleged offender is a family member and there is a concern that the caregiver may contact him/her first;

   iii. whether or not the child's caregiver(s) supports the child or alleged offender, if known;

   iv. if the caregiver(s) actively cooperates with the investigative process;

   v. if the child requests that a caregiver be present;

   vi. whether or not a medical examination must be done immediately (see Part VI, Sections 1, 2 and 3); and

   vii. if the caregiver(s) cannot be reached and it is in the best interest of the child to proceed immediately (see Part IX, Section 1e-g).

b) If the Team determines that it is not appropriate to contact the caregiver(s) prior to the child's interview, the caregiver(s) should be informed immediately following it, or as soon as is reasonably possible.

6. CHILDREN WITH SPECIAL NEEDS

a) Specialized resources and/or information will be required to assist in the investigative interview of a child with special needs in order to facilitate accurate communication. (See Appendix, Part IV – Procedure For Initial Stages Of An Investigation.)

b) All necessary steps will be taken by the Team and school/child care personnel to identify and accommodate any child known to have a behavioural, intellectual, physical, communication or learning disability.

c) The Team, in cooperation with the school/child care setting, will determine the need for an interpreter, including language interpreters and interpreters for deaf students.

INVESTIGATIVE INTERVIEWS

1. JOINT INTERVIEW OF THE CHILD

a) The goals of an investigative interview are four-fold:

   i. to minimize the trauma of the investigation on the child;

   ii. to maximize the information obtained about the alleged abusive event(s);

   iii. to minimize any possible contaminating effects the interview(s) might have on the child's memory; and

   iv. to maintain the integrity of the investigative process.

b) All interviews will be conducted in accordance with police and CAS training, policies and procedures.

c) Where possible, investigators should wear casual attire (e.g., no suit jackets or ties) to assist in developing rapport with the child.

2. SUPPORT PERSON*

a) If at all possible, it is best to interview a child without any other person(s) present. This provides for unbiased, free-flowing information without direct or indirect pressure from a loved one or someone in authority. The presence of a support person should be based on the needs of the child versus those of others. The Team may consider offering the presence of a support person for the child.

b) If a child wants to have a support person in the room (e.g., a caregiver, relative, school or child care personnel) during the interview, the Team will decide if this is advisable and in the best interest of the child.

c) The Team will tell support persons that should they sit in on an interview, there is a possibility of being subpoenaed as a witness in a court proceeding.

d) If a support person is going to be present in an interview, the Team will discuss the possibility that s/he may be exposed to sensitive and distressing information and the importance of remaining neutral to avoid influencing the disclosure.

e) Support persons will be asked to sit behind or next to the child (but not in direct eye view) and to refrain from speaking during the interview.

f) In some instances, the Team may have to assist adults (e.g., caregivers, school/child care personnel) to understand that the child may <u>not</u> want anyone else in the interview, or that it may not be in the best interest of the child for anyone else to be present (e.g., because the information is embarrassing or too personal, the child may be afraid of upsetting others). In such cases, the child may be more comfortable with the Team alone.

3. PRIMARY INTERVIEWER

a) The interview(s) will be conducted with either the police officer or the child protection worker as primary interviewer. The choice of primary interviewer will depend upon:

   i. rapport with the child;

   ii. experience, training and skill level of the investigators;

   iii. previous involvement the child or witness may have had with either system; and

   iv. comfort level and skills with children of that particular age.

b) Although the Team will have mutually planned the interview, flexibility and responsiveness to the individual child are essential (e.g., with young children, it is unlikely that one meeting with the child will suffice; it is more likely and beneficial if several interviews occur in a timely manner).

4. INTERVIEWING ADDITIONAL WITNESSES/POTENTIAL VICTIMS

a) The Team should complete a face-to-face interview with the child's caregiver(s), the sibling(s) of the child victim and/or any other witnesses to the event separately and in private. Best practice is to video record these interviews, unless circumstances dictate otherwise. (See Part VII, Section 1.)

5. ROLE OF THE TEAM MEMBERS IN INTERVIEWING THE ALLEGED OFFENDER

a) Initial contact and investigative interview(s) with the alleged offender is the responsibility of the police officer where the allegation is criminal in nature, and will proceed in accordance with police procedures and legal requirements relating to statements made to persons in authority.

b) The child protection worker should <u>not</u> discuss the details of the allegation or disclosure with the alleged offender, prior to the police interview. A CAS has statutory obligations that may require the child protection worker to provide certain information to the alleged offender. If this is the case, the child protection worker will notify the police of this requirement <u>before</u> contacting the alleged offender.

c) In the event that polygraphs are used with suspects, the police officer will communicate the results to the child protection worker, and the Team will jointly discuss the results and determine how best to communicate with the child and the child's caregiver(s).

d) Upon completion of all interviews of the alleged offender(s), the police officer will immediately disclose fully any relevant information to the child protection worker. The child protection worker will disclose any relevant information to the police officer.

e) If the initial interview of the alleged offender is delayed, the police officer and the child protection worker will discuss how the delay will impact the ability to assess the risk and

safety of the child, the status of the investigation and an expected date for completion. The Team should give consideration to the fact that failure to interview the alleged offender in a timely manner may compromise the child's safety and/or the outcome of the investigation.

f) Once the police have indicated the investigation is complete, the child protection worker will interview the alleged offender to:

   i. explain the role of a child protection worker; and

   ii. continue a complete child protection assessment that includes how the alleged offender responded to the allegations.

6. POST-INTERVIEW CONSULTATION

a) After the investigative interviews, the Team will discuss the content and outcome of the interviews and jointly determine the next steps, including the need for any additional interviews.

b) Police and the child protection worker will discuss the appropriateness of laying charges, commencing child protection proceedings, apprehension of the child* or other plans for the protection of the child. (See Part X, Part XI and Part XIII, Section 1.)

MEDICAL SITUATIONS

1. SEXUAL ABUSE: URGENT MEDICAL SITUATIONS

a) An immediate medical examination is advisable for children and adolescents who have been sexually abused where:

   i. there has been recent anal, vaginal, oral penetration or attempted penetration;

   ii. injuries have occurred;

   iii. the victim is experiencing physical symptoms (i.e., pain, bleeding, discharge);

   iv. there are other medical concerns (pregnancy, sexually transmitted infections); and/or

   v. there is a concern that the victim may be at risk of self-harm.

b) Forensic evidence can be gathered within 24 hours, or as recommended by medical personnel. The Team will consult with the Suspected Child Abuse and Neglect (SCAN) Program at the Hospital for Sick Children if there are any questions regarding the gathering of forensic evidence.* (See Appendix, Part VI – Medical Situations.)

c) Where an acute medical examination for a child/adolescent is indicated:

   i. where the child is 13 years or over, the local hospital that serves adult sexual assault victims will be contacted to see what age range it serves; or

   ii. where the child is 12 years or under, or the Hospital for Sick Children is the closest hospital, the SCAN Program will be contacted.

2. SEXUAL ABUSE: NON-URGENT MEDICAL SITUATIONS

a) Children and adolescents can be seen by their regular medical practitioner:

   i. where forensic evidence is unlikely;

   ii. there are no specific medical concerns, or physical symptoms; and/or

   iii. there is no allegation of penetration.

b) Referrals should be made to SCAN when:

   i. the family's physician is unable to examine the child (the child is not willing or fearful, or the physician is uncomfortable with children or with conducting a genital examination);

   ii. upon examination, the physician finds there are indications of abnormality; and/or

   iii. upon examination, the physician is unsure of the nature or significance of a finding.

*The SCAN Program is available for telephone consultation to community agencies, professionals, hospitals, a CAS, and police 24 hours a day. Always call the on call SCAN clinician (416-813-7500) before bringing a child down to the Hospital for Sick Children, so that an appropriate plan can be worked out with those involved.

3. PHYSICAL ABUSE

a) If a child's injuries warrant, immediate medical attention is the first priority.

b) Although the list below is not meant to be all-inclusive and the judgment of the Investigative Team must still apply, immediate medical examination of the child will occur to assess, treat and document the injuries or symptoms under the following circumstances:

   i. symptoms of distress, disease and pain;

   ii. visible marks such as large bruises, lacerations and scars;

   iii. obvious deformity;

   iv. nutritional neglect; and/or

   v. the child and/or caregiver are upset and need reassurance.

c) A medical examination will also occur within 24 hours of the child being seen by the Investigative Team under the following circumstances:

   i. the history is incompatible with the reported physical injuries;

   ii. an injury is incompatible with the developmental age of the child;

   iii. injuries appear older than the historical account; and/or

   iv. there is a previous history of child abuse allegations or suspicious injuries.

d) Where there is a concern of physical abuse with a child or adolescent, s/he should be seen by a pediatrician as soon as possible. The SCAN Program is available for assessment or consultation 24 hours a day for cases of physical abuse.

(See Appendix, Part VI – Medical Situations, Informed Consent.)

4. DEATH OF A CHILD UNDER SUSPICIOUS CIRCUMSTANCES

a) A joint police/CAS investigation will occur in all situations where a child has died under suspicious circumstances, or as a result of abuse and/or neglect, and there may be other children at risk.

b) Where there appear to be no other children at risk, police will, at a minimum, inform a CAS as to the circumstances surrounding the child's death if it is suspected or known that the child died as a result of abuse and/or neglect.

c) The principles of mutual reporting and information sharing are essential and continue to apply in these serious situations. However, in the event of the death of a child, the police may limit the sharing of information so as not to compromise an investigation.

d) The Coroner has jurisdiction in all instances involving the death of a child, and involved systems must take direction from the Coroner.*

*The procedures in such cases are outlined in the *Coroners Act* and the *Child Death Reporting and Review Procedures and Mechanisms For The Ministry of Children and Youth Services (formerly The Ministry of Community and Social Services), The Ontario Association of Children's Aid Societies, Children's Aid Societies, The Association of Native Child and Family Services in Ontario, and The Office of the Chief Coroner for the Province of Ontario (October '99).*

VIDEO RECORDING INVESTIGATIVE INTERVIEWS

Any interview being conducted should be video recorded. Video recorded statements provide the best possible record of the interview. When interviewing a child(ren), a child-friendly environment is best. Where the interview cannot be conducted in a child-friendly setting, mobile video recording equipment should be considered. The Team is to keep in mind that in many circumstances, the video record(s) of a child's disclosure may be admissible in criminal court, and is therefore particularly valuable.

1. VIDEO RECORDING PROCEDURES

a) All investigative interviews with children alleged to be victims of abuse will be video recorded unless circumstances dictate otherwise. (See Appendix, Part VII – Video Recording Investigative Interviews.)

b) The Team will explain fully to the caregiver, if present, and the child:

   i. the purpose of the video recording;

   ii. the advantages of the video recording;

   iii. restrictions on its use; and

   iv. access by others to the video recording.

c) The decision whether or not to video record lies with the Investigative Team. The final decision about whether or not to video record will be made by the police officer, taking into consideration the *Guidelines For Not Video Recording* listed below.

d) Another possible option is the use of mobile video recording equipment. Whenever possible, mobile video recording equipment will be used so as to avoid taking a child to a different location for the purpose of video recording. If mobile equipment is unavailable, the Team will confirm the location of the interview from the pre-determined child-friendly, neutral sites in their area, unless it is not in the child's best interest to move to a video recording site at all.

e) Where an initial investigative interview has been video recorded, every effort will be made to video record subsequent investigative interviews with the child. It is important to remember that the courts have recognized that many children disclose incrementally. Additionally, some children test the reaction of interviewers and will proceed only as they gain confidence. Thus, the disclosure of all relevant facts may take a number of interviews. The "process of disclosure" is progressive and, for many children, happens over time.

f) Sometimes video recording can begin after the first interview. When a decision is made to video record an interview that is not the initial interview, every effort will be made to document:

   i. the reason(s) for this delay; and

   ii. all prior discussions, interviews or other contacts with the child.

g) Taking a child from a location without permission of a caregiver is an apprehension. Investigators must have sufficient grounds before considering apprehension for any reason, including video recording. (See Part IX, Section 1g.)

h) Police and Children's Aid Societies have agreed that police will maintain ownership and control of video recorded interviews. Child protection workers are permitted to view the recording(s) at a later time. If a CAS wishes to obtain a copy of a video recording(s), it shall be instructed to obtain a subpoena or court order.

Guidelines For Not Video Recording

Sometimes it is not possible or appropriate to video record. Each situation is unique and challenging in and of itself, and a decision about whether or not video recording is useful or appropriate must be made in each situation.

Reasons for not video recording include:

- *video recording was part of the alleged abuse process;*
- *the child and/or caregiver objected to the procedure after being given a full explanation; in these circumstances consideration must be given to the caregiver's reasons, taking into account the caregiver's general level of support of the child and reaction to the disclosure (document clearly the caregiver(s) reasons and why it was not seen to be in the child's interests to proceed);*
- *video recording was not in the child's best interest (reasons must be clearly documented);*
- *the child begins to disclose and stopping the process in order to video record would seriously inhibit the process of disclosure; and*
- *the interview had to take place where neither taping facilities nor a mobile unit was available (e.g., at school, at a child care setting, at grandmother's).*

2. AUDIOTAPING INTERVIEWS

a) If an interview is not video recorded, it will be audiotaped unless circumstances dictate otherwise.

b) The Team will explain the nature and purpose of the tape to the child and the caregiver(s).

c) Police and Children's Aid Societies have agreed that police will maintain ownership and control of audiotapes. Child protection workers are permitted to listen to an audiotape(s) at a later time. If a CAS wishes to obtain a copy of an audiotape(s), it shall be instructed to obtain a subpoena or court order.

MULTIPLE VICTIM/ALLEGED OFFENDERS INVESTIGATIONS

a) Investigations that involve a number of victims and/or offenders can exist in a number of venues:

   i. abuse of children in a facility such as a residence, school, child care setting, correctional facility etc.;

   ii. abuse within a community perpetrated by one person, usually in a position of trust or authority, with many victims;

   iii. abuse within a defined geographical community with many victims and many offenders; or

   iv. extensive abuse in an extended family system. (See Appendix, Part VIII – Multiple Victim/Alleged Offenders Investigations.)

b) Where more than one society or several branches of a CAS are involved, a Team leader will be designated from the society/branch that has the most victims. This Team leader will communicate with a Team leader from the police in order to develop an investigation plan, including consideration given to meeting. In the interest of a thorough and comprehensive investigation, the child protection workers involved will consider the possibility of conducting/witnessing interviews jointly with police.

c) If the abuse occurred within a facility (e.g., school, child care setting), the police division in which the facility is located has the responsibility for coordinating the investigation and subsequent arrests of the offender(s).

d) The police Team leader will be designated according to police procedures and where appropriate, in accordance with the *Ontario Major Case Management Manual.*

e) Where legal advice is felt to be required, the police officer will consult with crown counsel.

f) A child protection worker may seek advice from a CAS counsel and/or crown counsel.

INVESTIGATIONS IN SCHOOLS OR IN CHILD CARE SETTINGS

Responding To A Suspicion Of Child Abuse

- ***Staff, students on placement and volunteers in schools and child care settings will report any suspicions that a child is, may have been or is likely to be abused or neglected (i.e., in need of protection) in accordance with the Child and Family Services Act.*** (See Appendix, Part IX – Investigations In Schools Or In Child Care Settings.)
- ***School and child care personnel will not conduct an investigation regarding a suspicion or disclosure of abuse. It is the responsibility of a CAS and/or police to investigate, gather evidence, assess the child and family's situation, and decide on the appropriate action to be taken on behalf of the child.***
- ***School and child care personnel will consult with a child protection worker or police officer before informing a caregiver(s) that suspicion of child abuse has been reported. The child protection worker/police officer will provide direction as to when it is appropriate for school/child care personnel to discuss the matter with a caregiver(s).***
- ***In some situations, the cause of a child's injuries, the nature of the child's disclosure, or the behaviours observed are not clear. Before speaking further with a child or caregiver, school/child care personnel will consult with a CAS to discuss the appropriateness of clarifying a situation and to obtain direction.***

1. INVESTIGATING IN A SCHOOL/CHILD CARE SETTING

a) There are four situations outlined below where a child abuse investigation may occur on school premises or in a child care setting.

i. Abuse is suspected or disclosed at a school or child care setting and the matter has been reported to either a CAS or police.

ii. Abuse is disclosed outside the school/child care and the Investigative Team believes it is in the child's best interest to interview the child at the school/child care.

iii. Subsequent to an initial investigation, a child protection worker or police need access to a child at school or in a child care setting as a continuation of that process.

iv. There are allegations against a school/child care personnel (see Section 2, School/Child Care Personnel As Alleged Offender).

b) Investigators will exercise discretion and sensitivity when deciding to conduct an investigation on school/child care property. Consideration of privacy and confidentiality for children within the school/child care setting must be taken into account.

c) The Team will make every effort to discuss with the principal/child care supervisor:

   i. the intent to visit the school/child care setting, and the estimated time of arrival; and

   ii. if the investigation is to be delayed, indicating when the interview of the child will occur.

d) In order to support the Team in the investigation, school and child care personnel will share information about the child and family as it relates to the alleged incident(s) and/or safety of the child.

e) The Team will make every effort to:

   i. seek prior consent from a caregiver for the interview; and

   ii. notify the school principal/child care supervisor of the caregiver(s)' consent to the interview.

f) Where the Team has determined that the best interest of the child requires that an interview take place without the prior knowledge of, and in the absence of, the caregiver(s), the principal/child care supervisor should permit an interview to take place without prior consent from a caregiver if the Team:

   i. is investigating a reported case of suspected abuse and/or related offences, with respect to that child;

   ii. are investigating an offence in which the student is at personal risk, or an offence in which the presence of the caregiver(s) during the interview can reasonably be expected to compromise the safety of the child or the integrity of the investigation;

   iii. intends to interview the child without the prior knowledge of, and the absence of, the caregiver(s) in any event; and

   iv. undertakes to inform the caregiver(s) of the interview as soon as is reasonably possible.

   Ultimately, the decision to allow an interview of a child on the premises of a school/child care rests with the principal and/or child care supervisor. (See Part V, Section 2.)

g) If a child is apprehended from a school, the principal will notify the child's caregiver(s) unless otherwise instructed by a member of the Team. If a child is apprehended from a child care setting, a member of the Team will inform the child's caregiver(s) of the apprehension. If a caregiver could not be contacted before the expected pick-up time of the child, it is the responsibility of the Team to:

   i. inform the school principal/child care supervisor of the situation;

ii. discuss who will inform the caregiver upon his/her arrival; and

iii. decide how to inform the caregiver of the situation.

h) If as a result of an investigation, a child is placed in the care of a CAS, the child protection worker will inform the school principal and/or child care supervisor, and indicate if and when the child is expected to return to the school/child care setting.

i) If a child does not return when expected, the school principal/child care supervisor will inform the CAS to report this fact, so that the CAS can determine if this signals a protection/safety concern.

j) The Team will provide to the principal and/or child care supervisor sufficient information to:

i. enable school/child care personnel to support the child and other children in the setting;

ii. provide ongoing protection and safety of the child and other children in the setting; and

iii. continue the ongoing relationship between home and school/child care setting.

2. SCHOOL/CHILD CARE PERSONNEL AS ALLEGED OFFENDER

a) Where the report involves a school employee as the alleged offender, the Team will contact the Director of Education or designate as soon as possible, and will proceed with the investigation in cooperation with school board officials and in accordance with school policies.

b) Where the report involves an alleged offender in a child care setting, a member of the Team will:

i. indicate to the supervisor if an investigation will occur, or alternatively, if it is appropriate for the supervisor to respond to the incident following internal policies, including a review of the "Behaviour Management" policies and procedures of the child care setting;

ii. contact the owner and/or operator before proceeding with the investigation to discuss details around informing the alleged offender; and

iii. advise the supervisor/owner/operator as to the protection of the children in care until the Team arrives.

c) School boards and child care settings have an obligation to investigate inappropriate actions by staff/volunteers/placement students, and must respond promptly in accordance with policies, collective agreements and/or legislation. Therefore, when the alleged offender is a staff person/volunteer/placement student in a school or child care setting, the Team will communicate promptly with school/child care officials to discuss the appropriate action, including whether or not school/child care officials should approach the alleged offender.

d) School/child care officials will not question a child(ren) or any other staff, nor make any other inquiries about the alleged incident until directions are received from a member of the Team.

e) Where there have been allegations against a staff/volunteer/placement student in a school or child care setting, a member of the Team will discuss with the school principal/child care supervisor:

   i. who should be informed of the matter (e.g., parents of the alleged victim(s), other parents, other children in the setting, staff, operator);

   ii. what specific information should be conveyed;

   iii. how to share the information;

   iv. who should relay the information; and

   v. the timing of the release of information.

f) When criminal charges have been laid against an individual who performs professional or official duties with children in a school or child care setting, but was not performing duties in relation to the school/child care at the time of the alleged abuse (e.g., a soccer coach), the police, where appropriate, will inform the Director of Education or designate and/or the child care supervisor/owner, and the Ministry of Children and Youth Services Child Care Supervisor where allowed by Disclosure of Personal Information, Ont. Reg. 265/98 under the *Police Services Act*. (See Part XIII, Section 1d.)

IMMEDIATE PROTECTION OF THE CHILD

1. SEPARATION OF ALLEGED OFFENDER FROM VICTIM

a) Immediate action will be taken to separate the alleged offender from the victim for the duration of the investigation in situations where the immediate safety of a child is a concern and/or the integrity of the investigation may be compromised. Immediately following a child's disclosure of abuse, the alleged offender should have no contact with the child – to do so could put the child at risk for re-victimization. Additionally, the offender could put pressure on the child. Examples of this include the offender focusing on his/her own plight and making the child feel guilty for disclosing, or coercing the child to recant*. These are also some considerations when making decisions concerning the return of a child to the home following an apprehension.

2. RELEASE OF ALLEGED OFFENDER

a) In all cases where criminal charges are laid, it is recommended that police and the CAS discuss what conditions of release are appropriate to protect the victim(s) and other members of the public. It is especially important to have this discussion if a no contact order is being considered. (See Part XI, Section 2d.)

b) The police will obtain the conditions of release and advise the CAS. Where appropriate, the Team will advise the following individuals of the current conditions of release:

   i. the child;

   ii. the allied caregiver(s)*;

   iii. the school principal; and

   iv. the child care supervisor.

   The Team will advise the above individuals that if there is any imminent danger to the child or if any breach of release conditions occurs, police are to be contacted immediately.

c) A police officer and/or a child protection worker will immediately take the necessary action for enforcement once any violation of release conditions or of a civil or family court order is reported. In particular, without limiting the generality of the foregoing, a child protection worker will notify the police of any violation of release conditions, and the police will notify the assigned crown counsel of any violation of release conditions. If appropriate, charges should be laid by the police officer for breaches of any releases. In situations where there is an outstanding child protection order limiting contact between parties and police become aware of any violation of the order, they will notify the CAS.

CHILD PROTECTION PROCEEDINGS

1. COMMENCING PROCEEDINGS

a) Whether or not criminal charges are laid should not be a factor affecting the decision to commence child protection proceedings. Attention should be paid to the distinction between the onus of proof in child protection proceedings (the balance of probabilities) versus the onus of proof in criminal proceedings (beyond a reasonable doubt). The determination of whether or not a child is in need of protection or is at risk, are decisions independent of the criminal process.

b) A CAS will decide, in consultation with the Team and a CAS supervisor, whether or not:

   i. to leave the child in the home or make an alternate safety plan;

   ii. to commence child protection proceedings (e.g., seek a supervision order); and

   iii. protection concerns exist with respect to a sibling(s) and/or any other child(ren) at risk from the alleged offender.

2. COMMUNICATION BETWEEN CRIMINAL JUSTICE PERSONNEL & CHILD PROTECTION PERSONNEL

a) Where child protection proceedings are initiated, the child protection worker shall keep the police officer informed of any order that has been made that may impact on the criminal proceedings, and of dates of future court appearances.

b) The police officer shall keep the child protection worker informed of the outcome of any criminal proceedings, and of dates of future court appearances.

c) If a child protection worker is subpoenaed to testify for the defence at any time, s/he will advise the police officer and/or the assigned crown counsel immediately.

d) Where a CAS believes that release conditions should be amended to allow for interaction between the child and the offender, the child protection worker, the police officer and/or assigned crown counsel will discuss the matter before taking any steps to allow for access. (See Part X, Section 2.)

3. WHERE CONFLICTING ORDERS EXIST

a) Generally, to the extent that it is more restrictive, the criminal order prevails over the child protection order, or private custody and access proceeding, while the child protection order prevails over any private custody and access proceeding. It is to the advantage of all parties (the professionals who must enforce the order(s), the caregiver(s) and children affected by the orders) if there is consistency, particularly between the criminal and child protection orders.

b) Where a civil proceeding is commenced, CAS counsel and counsel for the child (if any) will have copies of any civil order regarding access to the child and will share this information with the police officer. This information will also be shared with the school principal and child care supervisor to the extent that it is necessary to enact a safety plan.

SUPPORT SERVICES♦

a) If criminal charges are laid, the Team will refer the child and his/her allied caregiver(s) or alternative support person to the Child Victim-Witness Support Program at Toronto Child Abuse Centre who will coordinate services with the appropriate Victim Witness Assistance Programme to prepare the child.

b) The Crown Attorney's office will assume primary responsibility for liaison and preparation of the child and other witnesses for criminal court proceedings. This may be done in conjunction with a Victim-Witness Assistance Programme.

c) The child protection worker should advise the child and the child's caregiver(s) of the child's right to apply to the Criminal Injuries Compensation Board.♦♦ (If the child is a ward of a CAS, that agency may make an application on behalf of the child.)

d) The Team will undertake to fully inform the child and family as to the progress of the case, and that the child understands and is helped through the process of any child protection or criminal court proceeding.

e) When a CAS decides that there is no further child protection concerns and closes a case, the child protection worker will inform the police officer if the case is still before the criminal courts. If closing the case, where appropriate, the child protection worker will refer the family for support and treatment.

♦Community Information Toronto provides specific information on all community agencies. Call 211 or (416) 397-4636, or log onto 211Toronto.ca for a listing of children's mental health agencies and other organizations that provide specific services to children and families.

♦♦Where appropriate, the child and caregiver(s) can be referred to agencies such as Toronto Child Abuse Centre, which can support and assist families through the process of Criminal Injuries Compensation.

CRIMINAL PROCEEDINGS

1. LAYING CRIMINAL CHARGES

a) The police officer will decide if reasonable grounds exist to lay charges under the *Criminal Code of Canada.* (See Appendix, Part XIII – Criminal Proceedings, The *Criminal Code of Canada* – Criminal Offences Against Children.)

b) If the alleged offender is under the age of 16 years, in addition to proceeding under the *Youth Criminal Justice Act*, the Team will consider if there are reasonable grounds to believe that a child(ren) is in need of protection.

c) When the police officer decides whether or not to lay charges in a particular case, the factors influencing that decision will be explained fully to the child protection worker.

d) In the event that criminal charges are laid, the police officer will, where appropriate:

   i. notify the allied caregiver(s), child, school principal and/or child care supervisor;* and

   ii. discuss with the school principal and/or child care supervisor the process for notifying other caregivers. (See Part IX, Section 2e.)

e) It is incumbent upon police officers to provide full disclosure to the criminal court when charges are laid. Failing to do so can result in charges being stayed. Persons involved in interviewing a child regarding an allegation of abuse or receiving a child's disclosure, must be prepared to give a full statement detailing their involvement in the case. Further, where notes are taken with respect to a child's disclosure and/or an interview of a child regarding an allegation of abuse, and where a criminal investigation is occurring, the notes must be provided to the police to be disclosed to the court.

2. ASSIGNMENT OF CROWN COUNSEL

a) A crown counsel should be assigned to the case at the earliest opportunity and no later than one month before the preliminary hearing or trial. The same assigned crown counsel should continue with the case until its conclusion.

b) The assigned crown counsel will keep in mind that time is of the essence in getting a child witness to court in order to preserve memory and minimize stress upon the child.

c) Where any delay or adjournment of a trial or preliminary hearing is confirmed, the police officer, in consultation with the assigned crown counsel, will direct the child that attendance at court will <u>not</u> be required on that specific date. The child will only attend at court when the assigned crown counsel confirms that the child's attendance is necessary.

*In the case of a young person, the Team will determine what information to disclose to the school principal/child care supervisor in accordance with s. 38(1.13) of the *Youth Criminal Justice Act** (i.e., to ensure safety of staff, students or other persons; pursuant to a court order concerning bail, probation or conditional supervision).

d) The assigned crown counsel will consult with the Team and counsel for the child (if any) to the fullest extent allowed by law, as to the:

   i. facts of the case;

   ii. transcript or tape of the victim's statement;

   iii. capacity of the child to testify (see Appendix, Part XIII – Criminal Proceedings, Procedural Mechanisms For Child Witnesses); and

   iv. case records, medical reports and assessments prepared for child protection proceedings.

e) The police officer is responsible for identifying the assigned crown counsel, communicating his/her name to the child and allied caregiver(s), and arranging a meeting between the child witness(es) and the assigned crown counsel. This meeting will be arranged in conjunction with a Victim/Witness coordinator, if the service exists at the court.

3. VICTIM IMPACT STATEMENTS*

a) **Upon a finding of guilt**, the police officer will supply a "Victim Impact Statement Form" to the child and allied caregiver(s) and inform them of the purpose and use of the form (i.e., for sentencing purposes).

b) The assigned crown counsel must consider the use of any victim impact statements for sentencing purposes.

(See Appendix, Part XIII – Criminal Proceedings, Pre-Sentence Reports.)

4. SENTENCING OR DISPOSITION

a) If the victim and/or caregiver(s) are present at the sentencing, every effort will be made by police/assigned crown counsel/Victim Witness personnel to explain the disposition.

b) Where the victim and/or caregiver(s) are <u>not</u> present at the sentencing, the police officer will inform the victim, victim's caregiver(s), and the child protection worker of the court's disposition, including any conditions.

c) If the court disposition includes any provision about access to the child(ren), the police officer, where appropriate, will communicate the necessary information to the child's school and/or child care setting.

d) If charges are to be withdrawn or stayed by the Crown, complainants should be notified in advance by either the police or the assigned crown counsel. If this is not possible, they should be notified as soon as possible thereafter.

5. WHERE PROBATION OR A CONDITIONAL SENTENCE IS BEING CONSIDERED

a) The assigned crown counsel should specifically consider the following conditions, and where possible, to consult with the child protection worker if there is ongoing CAS involvement:

i. a provision restricting access to the victim;

ii. a provision restricting access to the victim's family;

iii. a provision restricting access to other child(ren) at risk of the offender; and

iv. a condition to attend, participate in, and complete sex offender specific treatment. (See Appendix, Part XIII – Criminal Proceedings, Treatment For Offenders As A Condition Of Probation/Conditional Sentence.)

6. WHEN PROBATION &/OR A CONDITIONAL SENTENCE HAS BEEN ORDERED OR PAROLE GRANTED

a) The probation/parole officer will:

i. consider contacting interested parties and agencies to inform them of the role and function as a probation/parole officer and to provide general information about the applicable probation, parole and conditional sentence processes;

ii. advise the police officer of the probation/parole conditions that pertain to treatment or non-association conditions in order that the police can determine whether or not it is appropriate to provide information with respect to those conditions to individuals, agencies, schools, and child care settings, and to advise them to contact police if there is any breach of probation/parole conditions/conditional sentence (see Appendix, Part XIII – Criminal Proceedings, Enforcement & Variation Of Probation Orders/Conditional Sentence Orders);

iii. consider disclosing further information when a release of information signed by the offender has been obtained specifically permitting such disclosure; and

iv. consider sharing personal information regarding the offender in compelling circumstances, affecting the health and safety of an individual in accordance with Section 42(h) of the *Freedom of Information and Protection of Privacy Act* and subject to the approval of the Freedom of Information Coordinator.*

b) The Team and allied caregiver(s) should decide who will provide the information to the child.

c) When the offender submits a plan indicating intent to reunite with the family and child for the period of probation/parole, the following steps will be taken:

i. the probation/parole officer will report to the CAS that the offender wants to have contact with the child (see Appendix, Part XIII – Criminal Proceedings, Reintegration Of The Offender Into The Family); and

ii. the probation/parole officer will provide the victim's family and the CAS with adequate information regarding the parole process, relevant court ordered conditions and/or conditions of parole.

*The *Ministry of Correctional Services Act* also outlines certain circumstances under which information may be disclosed regarding an offender.

PART I – INTRODUCTION

***Child and Family Services Act of Ontario*, a Child in Need of Protection**

37(2) A child is in need of protection where,

(a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that persons,

(i) failure to adequately care for, provide for, supervise or protect the child, or
(ii) pattern of neglect in caring for, providing for, supervising or protecting the child;

(b) there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,

(i) failure to adequately care for, provide for, supervise or protect the child, or
(ii) pattern of neglect in caring for, providing for, supervising or protecting the child;

(c) the child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child;

(d) there is a risk that the child is likely to be sexually molested or sexually exploited as described in clause (c);

(e) the child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment;

(f) the child has suffered emotional harm, demonstrated by serious,

(i) anxiety,
(ii) depression,
(iii) withdrawal,
(iv) self-destructive or aggressive behaviour, or
(v) delayed development

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;

(f.1) the child has suffered emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv), (v) and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable to consent to, services or treatment to remedy or alleviate the harm;

(g) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv), (v) resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;

(g.1) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv), (v) and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm;

(h) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment or remedy or alleviate the condition;

(i) the child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;

(j) the child is less than twelve years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment;

(k) the child is less than twelve years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately; or

(l) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve years of age or older, with the child's consent, to be dealt with under this part.

For a summary of the duty to report* under the *Child and Family Services Act*, see Appendix, Part IX – Investigations In Schools Or In Child Care Settings.

PART II – THE TEAM: No Additional Items

PART III – RESPONDING TO THE INITIAL REPORT FROM THE COMMUNITY: No Additional Items

PART IV – PROCEDURE FOR INITIAL STAGES OF THE INVESTIGATION

REPORTS THAT INVOLVE ADDITIONAL/CHALLENGING CIRCUMSTANCES OR VARIABLES

There are a variety of circumstances and situations that pose unique challenges to a Children's Aid Society (CAS) and the police. Children in such circumstances are often at greater risk of abuse, yet their cases may be the most difficult to verify.

CHILDREN WITH SPECIAL NEEDS*

Although we are still learning about the complex interactions between abuse and disabilities, two facts are well documented:

- children with disabilities are more likely to be abused than other children; and
- many childhood disabilities result from child abuse (e.g., traumatic brain injury as a result of shaking an infant, violence during pregnancy).

A number of factors contribute to the increased risks experienced by children with special needs.

1. Many people think that children with special needs do not experience violence or abuse. Some people think that individuals with disabilities are not sexual, or sexually attractive, or that no one would ever want to hurt them. In fact, it is the child's vulnerability, not "sexual attractiveness" that draws the abuser who is looking for control.

2. Children with special needs may have multiple caregivers, and are much more likely to live outside their natural families than other children. Children with disabilities who are placed in these settings are at an increased risk for child abuse as a result of their exposure to a greater number of caregivers.

3. Children with disabilities have unequal power in relationships. Children whose mobility is impaired are unable to escape. Children with disabilities may not have had the learning opportunities and social interactions with peers available to other children. This may leave them at a disadvantage because of lack of knowledge of appropriate or inappropriate behaviour. Children may be unable to express themselves, to disclose or ask for help if communication is impaired.

4. Children with disabilities are more dependent on their caregivers, which may include extensive care necessary for washing, toileting and dressing, and may not recognize a situation as inappropriate or abusive. Additionally, these children may be unable to tell due to a communication difficulty, or may be afraid to tell for fear of: not being believed; being separated from their families; or losing needed services.

*Source: Rimer, P. (2003). *Making A Difference: The Community Responds To Child Abuse, Resource Manual, Fourth Edition.* Toronto: Toronto Child Abuse Centre.

5. Forms of restraint are sometimes used with children who have special needs. Restraining a child who is deemed to be a risk to him/herself and/or others may be considered necessary to protect the child or others in close contact with him/her. The risk of hurting a child increases when there is: a lack of consistent reasons for restraining a child; an unclear definition of "harm to oneself or others"; and caregivers who lack training to safely restrain children. Restraint may also serve to escalate a situation and therefore increase the risk of injury.

6. Cultural attitudes and beliefs about children with special needs have been linked to child abuse and violence, such as the belief that their lives have less value, they are less than fully human, they are incapable of suffering or they suffer excessively.

Non-English Speaking Children

There are many children for whom English is not their first language and who would be unable to provide a full account of the allegations without the use of an interpreter. Interpreters should be aware of cultural issues that may affect comprehension (e.g., dialects) and expression. Even though children may have some knowledge of English, the investigators should be aware that, if English is not the child's first language, the assistance of an interpreter may be necessary. If the child is stressed or frightened they may regress and, with that regression, could resort to their native tongue, both in comprehension and expression.

Professionally qualified interpreters and not family or friends should be used with children/witnesses and individuals with communication barriers.

Young Children

Special interviewing skills and a knowledge base about developmental levels are required when working with young children. These children can be challenging because of their limited verbal and comprehension skills. They can be the most vulnerable victims due to their age, dependence on others and perceived lack of credibility, yet it is not uncommon for investigators to stop an investigation with a young child either because they are unable to communicate with the child or are uncomfortable with the child's behaviour (e.g., lack of attention, unfocused, fidgety). Young children can be considered a "special needs" group and the Team may require resource persons to assist in the interview. Such resource persons could include social workers, therapists, pediatricians, teachers, child care workers or any professional who specializes in this age group.

Allegations Arising In Custody & Access Disputes

Investigations involving allegations in the context of custody and access disputes can be difficult in that information is often received from a parent or other adult, and the Team may be unable to have allegations substantiated by the child. There are many reasons why an abusive situation could come to light after parents have separated including that the:

- child may feel safe enough for the first time to disclose about previous abuse;

- child may be fearful of an upcoming visit due to previous abuse;
- child may feel that all previous threats against him/herself or the allied parent now are not likely to occur because of the separation;
- thought of being isolated with the offending parent may be more threatening to the child than when the child and offender were living in the same home with other family members; and
- non-offending parent may now feel safe enough to report the abuse.

Children in these situations may be very young, their communication skills can be limited and they cannot successfully argue on their own behalf. They are potentially at high risk since, without verification of the allegations, the accused parent may continue to have or gain access to, or custody of, the child. In these circumstances, the abusive parent gains extended and private access to the child, as well as increased opportunity for abuse and coercion.

The Team must be aware of some of the unique aspects of these types of allegations, as well as of any preconceived notions they themselves might hold about the validity of such allegations.

Allegations Involving Children In Residential Care

Investigations in residential care settings may be complicated from both an investigative and organizational perspective. This complexity is due, in part, to the following:

- the number of children in the setting who may be possible victims, and the applicability of the *Ontario Major Case Management Manual;*
- possible behavioural problems and/or developmental limitations of the residents;
- the number of placement agencies and/or individuals responsible for these children;
- the fact that one or more members of the staff may be alleged abusers; and
- the (possible) involvement of the Ministry of Children and Youth Services program supervisor and staff of any on-site school or child care program in addition to a CAS, CAS's from other jurisdictions, and police.

Ministry of Children and Youth Services Children's Residential Licensing Directives require that residential care settings (as defined by the *Child and Family Services Act*) establish joint protocols with the local CAS for abuse investigations. As well, all such settings are required to report suspected abuse to a CAS as per s.72 of the *Child and Family Services Act*.

The residential care setting must not undertake to conduct its own internal child abuse investigation; this remains the mandate of a CAS and/or police. Staff should work cooperatively with the Team throughout the investigation and should have no direct involvement in it unless so directed by the Investigative Team. If the Team encounters any difficulties in this area, it might be useful to refer to the internal protocol of the institution.

In investigating allegations of abuse within residential care settings, the Team will need to consider the unique concerns of the children's caregivers and of non-offending staff members. For example, parents may fear reprisal from staff should abuse be reported. If the alleged abuser is a staff member, some parents may prefer that the individual be dismissed or disciplined, rather than reporting to authorities. Both these situations may be further complicated if parents have become very dependent on the staff. If a report is made in these circumstances, the possibility for recantation exists.

Youth Who Are Suspects Or Offenders Who Disclose That They Are Victims

In the context of an investigation involving a youth as a suspect or offender, the youth may disclose previous or ongoing abuse in his/her life. Research continues to indicate that youth who are suspects/offenders who have been abusive toward others may have been victims of abuse themselves. In a study by Ryan et al.,* it was found that 41.8% of youth who were offenders had a known history of being physically abused, and 39.1% had been victims of sexual abuse. This information was recorded at intake, before further disclosures or discoveries during the treatment process occurred. Youth who, in the course of their questioning, disclose that they themselves were victims of abuse can pose unique issues for investigators. These allegations require follow-up in accordance with established procedures.

PART V – INVESTIGATIVE INTERVIEWS: No Additional Items

*Ryan, G., Miyosyhi, T.J., Metzner, J.L., Krugman, R.D. & Freyer, G.E. (1996). Trends in a national sample of sexually abusive youth. *Journal of the American Academy of Child and Adolescent Psychiatry* 34, 17-25.

PART VI – MEDICAL SITUATIONS

INFORMED CONSENT

a) Informed consent must be obtained to:

   i. conduct a medical examination;

   ii. perform a medico-legal examination*; and

   iii. communicate and/or release information about the results of a medical examination.

b) The consent should be obtained from the child if capable to consent, or his/her substitute decision maker* if the child is incapable.

THE SUSPECTED CHILD ABUSE AND NEGLECT (SCAN) PROGRAM

The Suspected Child Abuse and Neglect (SCAN) Program at the Hospital for Sick Children offers care, support, and assessment to children and adolescents who have been maltreated. SCAN Program members include physicians, social workers, a nurse practitioner, and a psychologist.

The Suspected Child Abuse and Neglect (SCAN) Program is available for telephone consultation to community agencies, professionals, hospitals, a CAS, and police 24 hours a day. Always call the on call SCAN clinician (416-813-7500) before bringing a child down to the Hospital for Sick Children, so that an appropriate plan can be worked out with those involved.

If a child or adolescent who has been sexually abused needs to be seen after hours at the Hospital for Sick Children, they will be seen by a Crisis Response Team nurse and an emergency physician. The Crisis Response Team is a team of nurses who have special training in the area of sexual abuse. A SCAN physician is always available to them as needed.

Where sexual abuse concerns are present, keep in mind that the majority of examinations are normal and show non-specific findings, particularly when there are no physical symptoms and the alleged abuse/assault happened greater than 24 hours ago. It is inappropriate to rely upon findings of a physical examination in order to rule in or out a diagnosis of child sexual abuse.

The SCAN Program runs a clinic for children who do not require immediate examination and care, and children and families who require follow-up. Appointments can be arranged through the SCAN clinician on-call. The SCAN Program also sees children and families who need to be seen urgently, or arranges for the Crisis Response Team to see them after hours.

CHILD SEXUAL ABUSE FORENSIC EVALUATION PROGRAM (SAFEP)

The Child Sexual Abuse Forensic Evaluation Program (SAFEP) at SCAN is designed to provide extended evaluation of child sexual abuse concerns when the abuse cannot be verified through

typical investigative procedures. In order to be eligible for the program, the following basic criteria must be met:

- the child is 3 to 7 years of age;
- there are allegations/suspicions that the child is a victim of sexual abuse;
- the alleged offender must be 12 years of age or over;
- the suspected abuse cannot be confirmed through normal investigations (e.g., insufficient evidence, vague or incomplete disclosure, the child has contracted a sexually transmitted infection, the child exhibits sexualized behaviour, etc.); and
- the child's parent or guardian must consent.

Referrals must be received from police and/or a child protection worker. SCAN will review each submission on a case by case basis, and further criteria will be considered at the time of referral. Upon arrival, SCAN will obtain written consent from a parent/guardian for the police to provide SCAN with all victim interviews (video and audio). Investigating officers shall also provide applicable occurrence reports, **however all third party information shall be removed**.

SCAN's assessment will involve 6 to 8 sessions with the child and family. Parent interviews, family history and child developmental assessment will be included as part of the assessment.

SEXUALLY TRANSMITTED INFECTIONS

- In cases involving a child who has a sexually transmitted infection, the Toronto Public Health Department will be aware of the child's positive result and will communicate with the physician involved.
- The Team should seek out opinions on the mode of transmission for sexually transmitted infections from experts such as SCAN, as this information is critical in sexual abuse investigations. Furthermore, many health care professionals are not well informed on the modes of transmission of sexually transmitted infections, and SCAN will be aware of the current medical information in this area.

In Ontario, all positive results for sexually transmitted infections are automatically reported to the public health department. The public health department is mandated to ensure contact is made with all persons with reportable positive sexually transmitted infections, in order to ensure that proper treatment and contact follow up is pursued. Staff at the public health department are aware of the need for a sexual abuse investigation to be carried out effectively, and will consult with the Team, so that the investigation is not jeopardized.

The police and the CAS should try to ensure that all other household members where a child was found to be positive for a sexually transmitted infection, as well as other close contacts, be tested as soon as possible. Public health can be involved if there is a need for consultation.

The sooner the testing is done on possible offenders, the more likely it is that a positive result will be found. With delays, an alleged offender can get antibiotic treatment with or without a diagnosis of a sexually transmitted infection, and no connection or "corroborative evidence" can be obtained.

PART VII – VIDEO RECORDING INVESTIGATIVE INTERVIEWS

TECHNICAL PROCEDURES FOR VIDEO RECORDING

It is ultimately the Team's decision to use whatever tool(s) will best facilitate the interview. Legally, in Ontario, written evidence of consent of the child or the parent(s) is not required for video recording to proceed.

When video recording investigative interviews, the following procedures should be followed.

- The camera must be on from the moment the child either enters the room or is spoken to, whichever comes first, and must remain on for the duration of the interview.
- All persons within the room (including the support person) must be on camera at all times to ensure no gestures, looks or other distractions are used to lead, coerce or silence the child.
- Where possible, a close-up of the child's face should be superimposed in the corner of the screen to show expression. Where split-screen imagery is not available, ensure the child faces the camera and is the central focus.
- Ensure continuity by having the time sequence recorded throughout the filming (e.g., use a camera that shows the time on tape or keep a clock within camera view). This is necessary to prove that there were no intervals during which, for example, the child could have been coached.

The *Criminal Code of Canada* outlines that video recorded evidence is admissible in any proceeding. The child victim or witness must have been under 18 at the time of the alleged offence, and the video recording must have been made **within a reasonable time after the alleged offence**. The video recorded testimony must describe the acts and the child must adopt the contents of the video at trial.

Video recording facilities/equipment include:

Catholic Children's Aid Society (Toronto West)
900 Dufferin Street
(416) 395-1690 (business hours)

Earlscourt Child and Family Centre
46 St. Clair Gardens
(416) 654-8981 (call for availability)

Jewish Family and Child Service
4600 Bathurst Street
(416) 638-7800 (investigations with JF&CS only)

SCAN Program
Hospital for Sick Children
555 University Ave., 6th Floor, Black Wing
(416) 813-7500

The Gatehouse
3101 Lakeshore Blvd. West
(416) 255-5900

PART VIII – MULTIPLE VICTIM/ALLEGED OFFENDERS INVESTIGATIONS

SPECIAL ISSUES

Special issues often compound multiple victim investigations. These issues include:

- challenges in interviewing because of the potentially large number of victims, some of whom may be very young and many of whom may be known to each other;
- ensuring that evidence is not contaminated because of the proximity and/or familiarity of the victims and offenders with one another;
- researching, recording and sorting through historical data when the alleged abuse occurred many years ago;
- dealing with allegations of the occult and ritualism that can detract from the abuse issues and potential criminal offences;
- contending with potentially long delays in the court system, both child protection and criminal because of the number of victims and offenders;
- adapting a victim/witness support program to meet the needs of the many victims;
- meeting the special treatment needs of many victims, families and offenders;
- responding to the media attention that may surround these cases; and
- the impact on the staff of institutions, schools, or facilities that may be involved.

PART IX – INVESTIGATIONS IN SCHOOLS OR IN CHILD CARE SETTINGS

REVIEW OF REPORTING REQUIREMENTS UNDER THE *CHILD AND FAMILY SERVICES ACT* FOR SCHOOL & CHILD CARE PERSONNEL

- All individuals in schools and child care settings that perform professional or official duties with respect to children are required to report any suspicion that a child is, may have been, or is likely to be abused. The suspicion and the information upon which that suspicion is based, must be reported to a CAS immediately.

- The individual who suspects that a child is, may have been, or is likely to be abused must report directly to a CAS, and cannot rely on anyone else to report on his/her behalf.

- Individuals in school and child care settings who perform professional/official duties with respect to children include a: teacher; principal; social worker; psychologist; educational assistant; operator or employee of a child care; and health care professional.

- Any additional suspicions and information must be reported, even if previous reports with respect to the same child have already been made to a CAS.

- It is an offence under the CFSA if a person who has professional or official duties with respect to children does not report a suspicion of child abuse (i.e., a child in need of protection). (A "failure to report" charge can result in a fine up to $1,000.)

- The Team should advise the:

  - Director of Education or his/her designate whenever a "failure to report" charge is laid against a school employee; or

  - the child care centre owner and/or operator whenever a "failure to report" charge is laid against personnel in a child care setting.

PART X – IMMEDIATE PROTECTION OF THE CHILD: No Additional Items

PART XI – CHILD PROTECTON PROCEEDINGS: No Additional Items

PART XII – SUPPORT SERVICES: No Additional Items

PART XIII – CRIMINAL PROCEEDINGS

THE *CRIMINAL CODE OF CANADA* – CRIMINAL OFFENCES AGAINST CHILDREN

The *Criminal Code of Canada* clearly defines a number of offences against children. The Code sets out specific definitions of the nature of the acts committed, the age of the child, the age of the alleged offender, and the relationship between the child and the offender.

Offences relating to the neglect and physical abuse of children include:

- Failing to Provide the Necessaries of Life* (s. 215)
- Abandonment (s. 218)
- Infanticide (s. 233)
- Neglect to Obtain Assistance in Child Birth (s. 242)
- Concealing Body of Child (s. 243)
- Assault (s. 265)
- Assault With a Weapon or Causing Bodily Harm (s. 267)
- Aggravated Assault (s. 268)
- Forcible Confinement (s. 279(2))

The passing of Bill C-15 in 1988, brought some changes to the *Criminal Code* that specifically apply to child sexual abuse. These offences prohibit sexual conduct between a child/youth or adult. The social value reflected in these statutes is that children should be allowed to develop and discover their own sexuality without being interfered with or exploited by an adult, or by someone in a position of trust or authority. Listed below is a summary of *Criminal Code* offences relevant to child sexual abuse.

- Sexual Interference (s. 151)
- Invitation to Sexual Touching (s. 152)
- Sexual Exploitation (s. 153)
- Sexual Exploitation of Person With Disability (s. 153.1)
- Incest (s. 155)
- Bestiality (s. 160)
- Order of Prohibition (s. 161)
- Child Pornography (s. 163)
- Parent/Guardian Procuring Sexual Activity (s. 170)
- Householder Permitting Sexual Activity (s. 171)
- Corrupting Children (s. 172)
- Luring a Child (by means of a computer) (s. 172.1)
- Genital Exposure to a Child (s. 173(2))
- Loitering of Sex Offenders (s. 179(1)(b))
- Procuring (s. 212(1))
- Lives on Avails of Young Person (s. 212(2))
- Obtain Sex of Young Person (s. 212(4))
- Sexual Assault (s. 271)
- Sexual Assault With a Weapon, Threats or Bodily Harm (s. 272)
- Aggravated Sexual Assault (s. 273)
- Removal of a Child from Canada for Sexual Exploitation (s. 273.3)

Criminal Code charges that may apply in situations where a child is harmed or killed include:

- Causing Death by Criminal Negligence* (s. 220)
- Homicide (s. 222)
- Attempt to Commit Murder (s. 239)
- Torture (s. 269.1)
- Abduction (s. 281-283)

Consent

The *Criminal Code of Canada* defines 14 as the age of consent to sexual acts. Children under 14 years of age cannot consent to sexual acts, and a child's consent cannot be used in defense of one's actions. The Code recognizes that adolescents engage in exploratory sexual behaviour (i.e., "youthful sexual experimentation") and children between the ages of 12 and 14 may not be charged criminally if consent for sexual involvement is mutual, and there is no more than 2 years difference in age between the individuals.

Section 150.1 of the *Criminal Code of Canada* prevents an accused from relying on the consent of a complainant under a specified age in defence to particular sexual offences against children (e.g., sexual interference, invitation to sexual touching, sexual assault). The Code also outlines that a youth between 14-17 years can never give consent to an adult who is in a position of trust or authority over the child, or to an adult who is in a position of dependency over the child. Lastly, the section also outlines that it is not a defence in certain enumerated sections to claim that the accused thought the child was over a certain age at the time the offence is alleged to have been committed.

PROCEDURAL MECHANISMS FOR CHILD WITNESSES

The assigned crown counsel should consider requesting the legislative procedural mechanisms identified in sections 486 and 715.1 of the *Criminal Code of Canada* to assist a child to testify in court. These special provisions are not automatic, and must be balanced with the constitutional rights of the accused.

a) *Legislative Mechanisms*:

- use of closed circuit T.V. system;
- exclusion of the public;
- use of a screen;
- a non-publication order;
- admission of the video recording of the investigative interview as evidence pursuant to the *Criminal Code of Canada*;
- allowing the child victim of tender years to sit on the lap of the support person; and/or
- allowing the support person to sit with, or stand next to, the child in the witness box.

If a screen or closed circuit system is proposed, consideration should be given to the evidence of the child protection worker, therapist or allied parent(s) on a *voir dire**.

b) *Non-legislative Aids & Supports:*

- explanation to the child of court proceedings and activities;
- using simple language (e.g., no compound sentences or questions) with attention to tone of voice;
- ensuring the time that the child testifies accommodates age limitations, daily routine and attention span;
- use of communication aids, particularly for children with special needs (e.g., drawings, writings, photographs);
- use of a booster seat;
- a microphone for the child;
- a child-friendly waiting room for child witnesses;
- anything the child identifies as helpful (e.g., a stuffed animal);
- breaks for snack and washroom; and
- any other assistance that could reasonably be provided to lessen the child's stress of testifying.

The assigned crown counsel should always consider calling an expert witness to address:

- the dynamics of child abuse within his/her expert discipline (e.g., radiologist, forensic psychiatrist);
- child development;
- the child's competencies as a witness (if very young or has a communication barrier); and/or
- balancing any expert witness for defence counsel on offender profiles and risks of re-offending.

PRE-SENTENCE REPORTS

- When preparing a pre-sentence report, probation officers should consult with the police officer and child protection worker to determine relevant factors about the offence, the child and the offender.
- Probation officers who prepare pre-sentence reports should avoid direct interviews of the victim. All relevant information should be obtained directly from:
  - the child protection worker;
  - any on-going family service worker;

- the child's counsel (if any);
- the caregiver(s);
- school/child care personnel;
- any other support person;
- the police;
- the Victim Impact Statement; and
- the Crown.

TREATMENT FOR OFFENDERS AS A CONDITION OF PROBATION/CONDITIONAL SENTENCE

Any treatment/counseling condition of probation or conditional sentence should be as specific as possible and include that the offender:

- sign any necessary release of information forms to facilitate treatment;
- attend, participate in, and complete a sex offender treatment program as directed by the probation officer; and
- provide proof of participation in treatment to the probation officer.

ENFORCEMENT & VARIATION OF PROBATION ORDERS/CONDITIONAL SENTENCE ORDERS

In cases where the offender re-offends and is charged with an offence, the probation officer will submit a supervision summary to the attention of the assigned crown counsel. The assigned crown counsel may rely on the summary in speaking to sentencing following a finding of guilt, or a full pre-sentence report may be requested. A probation officer is required to lay an allegation of breach of a conditional sentence upon learning that a new criminal charge has been laid against the offender on a conditional sentence order, where the police have not done so already.

Any violation of a treatment, access or conditional sentence condition should be brought back before the court on a "failure to comply," or an allegation of breach of a conditional sentence.

REINTEGRATION OF THE OFFENDER INTO THE FAMILY

- To carry out thorough case planning and coordination, it is critical for all professionals to request signed "Release of Information Forms" from the victim, the offender and family members.
- If the case is active with a CAS, the child protection worker should, as soon as possible, notify the probation officer of any indication that the family intends to reunite with the offender.
- The probation officer should notify the child protection worker of any request from the offender to alter the Probation Order to have access to the child victim and/or to reunite with their family.
- The child protection worker, probation officer, and treatment providers for all parties including the child, the allied parent(s), any siblings and the offender should develop a coordinated plan that ensures protection of the victim and other children.
- Consideration should be given to the following factors when developing a plan of family reunification:
  - whether or not reunification is in the child's best interests;
  - the offender has successfully completed treatment as evaluated by the treatment provider(s), and has provided proof thereof;
  - demonstration of responsibility for the abuse by the offender as evaluated by treatment providers;
  - no known reoccurrence of abuse of the child or abuse of another child(ren);
  - demonstration by the child victim that s/he wants, and is ready to have the offender in the home, and is agreeable to and supported by the child's treatment provider(s);
  - demonstration of allied caregiver(s)' understanding of how to protect the child(ren);
  - demonstration of allied caregiver(s)' willingness to have the offender return; and
  - demonstration that the child and other family members will report any indications of further abuse.

GLOSSARY

The following terms are found in the Protocol and/or the Appendix.

Allied Caregiver(s): a caregiver(s) (as defined below) who actively supports the child victim/witness throughout the process of disclosure, child protection and/or criminal proceedings, treatment and disposition.

Apprehension of a Child: under the powers outlined in the *Child and Family Services Act*, a child protection worker or police officer may, with or without a warrant, remove a child from his/her current circumstances and bring the child to a place of safety* if the child is believed to be at imminent risk and there are no other means to protect the child.

Caregiver: someone who is in a permanent or temporary caregiving role (e.g., mother, father, live-in partner, caregiver exercising access contact, adult with a custody and control order for the child, foster parent, a teacher, child care staff, babysitter, recreational group leader, school bus driver, a family member providing temporary substitute care, a partner of the caregiver with no legal relationship to the child).

Child: a person under the age of 16 years (i.e., up to and including 15 years of age). The definition of a child can include a 16 or 17 year old if s/he is subject to a court order under Section 3 of the *Child and Family Services Act*.

Child Care Setting: a licensed facility/agency where children are being cared for by an adult(s) who are not of common parentage, primarily for the purpose of providing temporary care and/or guidance to the children.

***Child and Family Services Act (CFSA)*:** the legislation in the province of Ontario that outlines the roles and responsibilities of a child protection worker, and that governs child protection functions including defining a child in need of protection.

Criminal Negligence: where a person, in doing anything or in omitting to do anything that is his/her duty imposed by law to do, shows wanton or reckless disregard for the lives or safety of other persons. A parent/caregiver may be criminally liable under the *Criminal Code of Canada* for failing to protect a child from illegal violence used by the other parent/caregiver or a third party, especially in circumstances where the failure to do so contributes to the death or bodily harm caused to a child.

Duty to Report under the *CFSA*: if a person has reasonable grounds to suspect that a child is or may be in need of protection, the person must promptly report the suspicion and the information upon which it is based to a Children's Aid Society. The duty to report is an ongoing obligation. If a person has made a previous report about a child, and has additional reasonable grounds to suspect that a child is or may be in need of protection, that person must make a further report to a Children's Aid Society. Further, the person who has the reasonable grounds to suspect that a child is or may be in need of protection shall not rely on anyone else to report on his or her behalf. Persons who perform professional or official duties with respect to children include, but are not limited to: health care professionals, teachers, school principals, social workers, priests, rabbis and other members of the clergy, operator or employee of a day nursery, youth and recreation worker, peace officers, coroners, solicitors, and service providers and their employees. If a person who has professional or official duties in their work with children does not report a suspicion of child abuse, then this person can be charged and fined up to $1,000.

Failing to Provide the Necessaries of Life: everyone is under a legal duty as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of 16 years. A person commits an offence where s/he fails without lawful excuse, the proof of which lies on him/her, to perform the duty, if the failure to do so endangers the life of the child or is likely to cause the health of the child to be endangered permanently.

Medico-legal Examination: relating to both medicine and the law or to medical jurisprudence.

Neglect: the chronic inattention or omission on the part of the caregiver to provide for the basic emotional and/or physical needs of the child, including food, clothing, housing, adequate supervision, health and hygiene, safety, and medical and emotional care.

Person Who Has Charge of a Child: a person who has care and control of a child. This can include a parent, teacher, child care provider, babysitter, etc.

Place of Safety: according to the *Child and Family Services Act*, means a foster home, a hospital, or a place designated by a Director (which usually includes child protection agency offices). No other location is considered a place of safety, including a police station, places designated as temporary detention facilities or open or secure custody facilities pursuant to the *Youth Criminal Justice Act*, a hostel or a shelter.

Position of Trust or Authority: as it relates to the charge of sexual exploitation of a child, a person in a position of trust is a person who is in a particular position with respect to the child which imposes on him/her a duty of care in relation to the child; a person in position of authority with respect to a child means that the person exercises the power of authority (i.e., the power or right to enforce obedience) over the child.

Recant: when a child "takes back" the original allegation, claiming it is not true. A recantation should not immediately lead an individual to assume that the allegation is false. Many children recant who have been faced with the anxiety, disruption and intrusion caused by the investigation, and/or threats from family members or the alleged offender.

Risk Assessment Model For Child Protection In Ontario: consists of three specific mandated tools that are used to enhance consistency of child protection services within Ontario. The three tools are:

- **Eligibility Spectrum** is a tool designed to assist Children's Aid Society staff in making consistent and accurate decisions about eligibility for service at the time of referral. It assists in interpreting the legal requirements for initial and ongoing child protection intervention.
- **Safety Assessment Tool** supports the determination of whether or not the child is safe at the time of the first face-to-face contact.
- **Risk Assessment Tool** is the process that the child protection worker utilizes to support his/her decision about the level of risk of future harm to the child(ren) in the family.

Substitute Decision Maker: in most cases, the substitute decision maker will be a parent. In some circumstances, other family members or legally appointed persons may be permitted to give consent in accordance with the *Health Care Consent Act*, which lists substitute decision makers in order of priority. Persons accompanying children who are not listed (e.g., teachers, child care staff, babysitters) have no legal authority to authorize treatment for that child. Only persons 16 years of age and over may act as substitute decision makers. Capable persons under 16 may make decisions for their own children.

Support Person: any person from whom **the child** wishes assistance during any process related to an investigation (e.g., the investigative interview, a medical examination, court appearances or parole hearings).

Victim Impact Statement: a written account of the physical and/or emotional harm done to, or loss suffered by the victim (e.g., fears of revictimization, sleep disturbances, difficulties in school, behavioural problems) as the result of a crime. A Victim Impact Statement can be prepared by the victim or a member of his/her family. The statement is presented to the court for consideration during the sentencing phase of a criminal trial. The court has the right to question any individual who submits a Victim Impact Statement.

Video Recording: refers to a VHS recording, a digital video recording (DVD), or the recording technology that is current at the time.

Voir Dire: a legal term often referred to as a trial within a trial, used as an opportunity for the judge to make a decision about the admissability of evidence. Expert witnesses such as psychologists may be called to testify at a voir dire.

***Youth Criminal Justice Act*:** federal legislation that governs and dictates the handling of youth alleged to have committed a criminal offence who are 12 or older but under the age of 18 at the time of the alleged offence. This legislation outlines procedures for these youth such as special interview techniques, the ability to use alternative measures prior to a finding of guilt, and protects the widespread publication of any information that may serve to identify the accused or convicted youth.

ADDITIONAL RELEVANT TERMS

Although the following terms are not found in the Protocol or the Appendix, they are relevant to joint investigations of child physical and sexual abuse.

Domestic Violence: means any physical, sexual or psychological harm caused, or attempted, by one family member to another and includes assault, murder, sexual assault, threatening, harassment, intimidation, unlawful interference with personal liberty, any other criminal offence, and offences under provincial statutes (e.g., *Family Law Act, Children's Law Reform Act,* etc.).

Emotional Abuse: a pattern of caregiver behaviour that includes but is not limited to: rejecting, isolating, degrading, terrorizing, corrupting, exploiting, and not responding emotionally to a child. Children who are exposed to violence in their homes may suffer emotional damage.

Major Case: police are governed by the *Ontario Major Case Management Manual* in certain situations. The definition of a major case in the manual includes sexual assaults and attempts where certain conditions are not believed to exist, and criminal harassment occurrences in which the victim does not know the offender.

Major Case Primary Investigator: an officer assigned by the Major Case Manager who has the knowledge, skills and abilities to conduct the investigation in accordance with the criminal investigative management plan developed by the police service.

Threshold Major Case: under the *Ontario Major Case Management Manual,* police identify a threshold major case and assign a Primary Investigator who shall undertake the investigation. These include homicides and attempts, sexual assaults and attempts (including sexual interference, sexual exploitation, and invitation to sexual touching) where the victim is under 14 years of age and the offender is in a position of trust or authority or is a person with whom the victim is in a relationship of dependency. They also include missing person occurrences where the circumstances indicate a strong possibility of foul play, non-familial abductions and attempts, and major cases linked to another major case within the same or another jurisdiction.

SCHEDULE 4.1(f)

Communications Protocol

CYAC COMMUNICATIONS PROTOCOL

Rationale for a Communications Protocol

The CYAC is a new initiative in the City of Toronto and will bring together police, child protection, advocates, as well as medical and mental health service providers to provide coordinated, seamless services to children, youth and their families where child sexual abuse or serious physical abuse has occurred. The following protocol will outline the process that the CYAC will follow with respect to public and media inquiries.

A Communications Committee will be established that will include designated communications representatives from the Toronto Police Service, Children's Aid Society of Toronto, Catholic Children's Aid Society of Toronto and the Child & Youth Advocacy Centre. Other members may be added as required.

Media Inquiries

It is the responsibility of the CYAC to respond quickly, respectfully, efficiently and helpfully to all media requests and/or inquiries. All calls from the media that come through the CYAC will be directed to the CYAC Communications Manager, who will immediately contact the appropriate communications person at Toronto Police Service, Children's Aid Society of Toronto, and Catholic Children's Aid Society of Toronto so that they can respond accordingly.

Responses to the media will incorporate the following principles:

- Organizations will only speak about themselves and not others and, expect that other organizations will not speak on their behalf.
- The intent is to keep each other informed and to communicate in ways that are helpful to each other.
- Each organization needs to know what the other(s) are doing and be respectful of one another.

Any CYAC staff member who is approached by the media for information or assistance must direct the inquiry to the Communications Manager.

Messages to the media and collaterals will:

- include clear and positive message about the role of the CYAC ;
- stress the community's responsibility for child protection;
- promote the collaborative nature of our work;
- encourage community support for our work; and
- respect confidentiality.

Media Releases/Public Service Announcements

The CYAC Communications Committee and/or Manager will draft media releases on behalf of the CYAC. Media releases will direct media members to a designated spokesperson(s).

Media Conferences

Media conferences will be planned and coordinated by the CYAC Communications Committee and/or Manager.