



Northwest
Territories Minister of Education, Culture and Employment

DEC 17 1998

**CHAIRPERSONS,
DISTRICT EDUCATION AUTHORITIES
AND DIVISIONAL EDUCATION COUNCILS**

Direction Regarding Child Abuse Protocol

In 1996, the departments of Health and Social Services, Justice, and Education, Culture and Employment, developed the attached *Child Abuse Protocol*. The protocol describes the roles and responsibilities of school staff and others in handling disclosures of child abuse.

Although the protocol was sent to education authorities and councils before, it was recently recognized that the protocol did not have the force of a directive. Therefore, I am directing that District Education Authorities and Divisional Education Councils follow the *Child Abuse Protocol*. This means that staff are bound to follow the protocol. Please ensure that all staff are aware of this requirement.

Following the protocol will ensure that disclosures of child abuse are responded to appropriately by staff. Thank you for your attention to this matter.

Charles Dent

Attachment

Child Abuse Protocol

June 1996



Child Abuse Protocol Declaration of Commitment

Whereas the abuse of children is a problem of increasing social concern, and

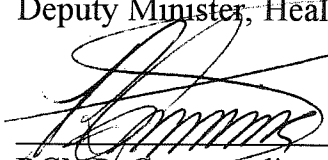
Whereas a prompt and effective response from all agencies is important for the immediate/ protection of a child suspected of being a victim of abuse, and

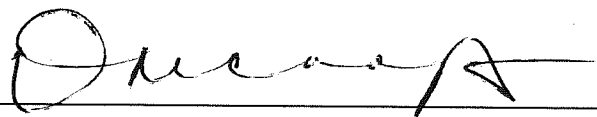
Whereas we agree to work collaboratively and cooperatively within the confines of the law in an effort to report and investigate and to respond to child abuse,

We have participated in the development of the Revised Child Abuse Protocol (1996) and hereby declare our commitment to its implementation across the Northwest Territories, effective immediately.

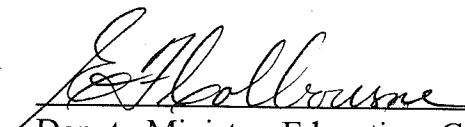
Dated at Yellowknife, NT this 25th day of June 1996.


Deputy Minister, Health and Social Services


RCMP, Commanding Officer of "G" Division


Deputy Minister, Justice


Regional Director, Department of Justice Canada,
Yellowknife Regional Office


Deputy Minister, Education, Culture and Employment

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Child Abuse Protocol: Introduction ---

Introduction

This protocol provides a coordinated response to reported child abuse by the agencies represented by the signators. It describes the roles and responsibilities of the GNWT Departments of Health and Social Services, Education Culture and Employment, Justice, as well as the RCMP, and the Department of Justice Canada, Yellowknife Regional Office (Crown Counsel) in the reporting, investigation, prosecution and follow-up of a report of suspected child abuse. It states the specific agreements between and among departments and agencies as to roles and information sharing.

This protocol replaces the document entitled *Child Sexual Abuse Protocol, Guidelines and Procedures for a Coordinated Response to Child Sexual Abuse Investigation in the NWT*, published in 1990.

Procedural responsibilities of the Department of Health and Social Services will be outlined in a *Response to Child Abuse Handbook*.

Every person who has reasonable grounds to suspect child abuse is required by Section 30(2) of the Child Welfare Act to report that information to the Superintendent of Child Welfare or his/her designate (child welfare worker) immediately.

After a report of abuse is received, child welfare workers and RCMP have the primary investigative responsibility. The Department of Health and Social Services is responsible for the safety of the child and for investigating whether a child is in need of protection as stated in the Child Welfare Act. The RCMP are responsible for investigating alleged violations of the Criminal Code with regard to complaints of abuse.

GNWT legal counsel is responsible for providing general legal advice to GNWT departments and providing legal representation to the Superintendent of Child Welfare in child protection hearings. Crown counsel is responsible for prosecuting all criminal offences resulting from abuse.

Other professionals play an important role in the response to child abuse, supporting the child during and after the investigation, and providing follow-up services to the child and family. These professionals include educators, medical professionals, mental health professionals and counsellors.

Child Abuse Protocol: Introduction

Statement of Principles

- A child (a person under the age of eighteen) alleging abuse should be presumed to be telling the truth.
- Prompt and effective response from all agencies is important for the immediate protection of a child suspected of being a victim of abuse.
- The primary objective of any response should be to ensure the safety and well-being of the child.
- All signators to this protocol agree to work collaboratively and cooperatively in an effort to report, investigate and respond to child abuse.
- Children and families should receive services which respect their cultural heritage.
- Children and families should be informed of their rights and participate in the decisions affecting them.
- Children and families have the right to the least possible interference in their affairs.

Duty to Report

- Section 30(2) of the Child Welfare Act (RSNWT 1988) states, "Every person who has information of the abandonment, desertion or need of protection of a child or the infliction of abuse on a child shall without delay report the information to the Superintendent."
- "Superintendent" means the Superintendent of Child Welfare. Child Welfare Act (RSNWT 1988) Section 1.

Commentary

- Abuse, for the purpose of this protocol, refers to neglect and to physical and sexual abuse.
- Legal guardian, for the purpose of this protocol, refers to the Superintendent of Child Welfare or to the non-offending legal guardian.

Child Abuse Protocol: Introduction

- Section 4, of the Child Welfare Act (RSNWT 1988) states, "The Superintendent may appoint persons called child welfare workers to assist the Superintendent in the performance of any of the duties of the Superintendent under this Act."
- For the purposes of the application of the Child Welfare Act, a person who has a child welfare appointment is considered to be a designate of the Superintendent of Child Welfare.

Roles and Responsibilities

CHILD ABUSE PROTOCOL

Child Abuse Protocol: Roles and Responsibilities

Roles/Responsibilities of the Child Welfare Worker

- The Superintendent of Child Welfare or designate is responsible for investigating whether a child is in need of protection as mandated by the Child Welfare Act.
- Child welfare workers investigate all reports of alleged child abuse brought to their attention and decide if the child is in need of protection. If the report is of physical or sexual abuse, s/he must notify the RCMP verbally and in writing. If the child is found to be in need of protection, the child welfare worker may apprehend the child.
- The child welfare worker must not identify the individual reporting the suspicion of child abuse outside of the legitimate investigation process, unless ordered to do so by the Court.
- The child welfare worker is the case manager for protection cases and criminal cases involving children in care and children under apprehension.
- Child welfare workers instruct GNWT Department of Justice Legal Counsel in protection hearings.
- In certain circumstances, the child welfare worker may be subpoenaed as a witness in a criminal proceeding with respect to what the child has told him/her during the child protection investigation.

- **For a child in care, the child welfare worker:**

Should usually act as a support person during the RCMP interviews.

Will share information with the principal of the school.

With the child's consent where appropriate, should provide or arrange for the necessary therapeutic counselling and may call community support persons together to plan a coordinated effort to help the child and his/her family.

- **For a child not in care, the child welfare worker:**

May act as a support person for a child during interviews with the RCMP, upon the request and the consent of the legal guardian and the child.

Will inform the legal guardian and/or child where appropriate of the available counselling services and assist in organizing those services when requested.

Child Abuse Protocol: Roles and Responsibilities_____

Roles/Responsibilities of the RCMP

- After receiving a report of child abuse from the public, the RCMP will immediately notify the local child welfare worker verbally and in writing.
- The RCMP are responsible for investigating alleged violations of the Criminal Code concerning complaints of child physical or sexual abuse.
- The RCMP conduct a criminal investigation which may include, but is not limited to, taking statements from the alleged victim(s).
- The RCMP prepare and lay charges if there are reasonable grounds to believe that a criminal offence has been committed.
- The RCMP informs the victim and the legal guardian of the on-going status of the investigation.
- When a charge is laid, the RCMP will provide Crown Counsel with all information.

Roles/Responsibilities of Crown Counsel

- After the RCMP have laid a charge, Crown Counsel will assess the strength of the case, prepare witnesses, research legal issues, prepare and take the case to trial, or alternatively end or suspend prosecution.
- Crown Counsel informs the victim and his/her legal guardian of the ongoing status of the case.
- Crown Counsel helps victims to prepare for court.

Roles/Responsibilities of Health Care Providers

- A health care provider who suspects child abuse must report the abuse verbally and in writing to the local child welfare worker. This requirement under the Child Welfare Act overrides the professional obligation to maintain patient confidentiality.

Child Abuse Protocol: Roles and Responsibilities

- With the consent of the legal guardian and the child, a health care provider may conduct a medical examination as part of either a child protection investigation and/or a criminal investigation. In all cases, the child must not be forcibly examined.
- Where recent abuse has occurred, the health care provider will schedule the examination as soon as possible.
- Forensic evidence will be turned over directly to the RCMP.
- The health care provider will arrange with the legal guardian for treatment of any illness or injury that the child has suffered.
- Health care providers will refer the child/family to the local child welfare worker to arrange for therapeutic counselling where appropriate.
- In a criminal investigation, the health care provider will make the results of the child's medical examination, pertaining to the abuse, available to the RCMP upon the consent of the legal guardian and the written request of the RCMP. If consent is not obtained from the legal guardian then the RCMP must obtain a search warrant.
- For a child who is either a permanent or temporary ward, the health care provider will make the results of the child's medical examination available to the Superintendent of Child Welfare or his/her designate (legal guardian) upon his/her written request.
- If the Superintendent of Child Welfare is not the legal guardian, the health care provider must obtain consent of the legal guardian before the release of medical information.

Roles/Responsibilities of School Personnel

- During their course of work, school personnel shall be watchful for signs of child abuse.
- School personnel who suspect abuse of a child must report this information immediately to the local child welfare worker verbally and in writing. No school personnel shall delegate this duty to another person.
- School personnel shall not notify the families of the alleged victim or alleged abuser.
- School personnel shall not investigate the allegation of child abuse.

Child Abuse Protocol: Roles and Responsibilities

Roles/Responsibilities of the GNWT Legal Counsel, Department of Justice

- The GNWT Department of Justice, Legal Division (GNWT Counsel) has several lawyers whose role is to provide legal advice to GNWT departments. Child welfare workers, school personnel, and health care providers employed by the GNWT have access to this service through their respective departments.
- GNWT Counsel will provide legal advice to GNWT departments regarding requests for disclosure of departmental records. This includes requests for disclosure of information from within and from outside government.
- GNWT Counsel advise on matters of law as they may relate to child protection matters.
- GNWT Counsel provide legal advice and legal representation to the Superintendent of Child Welfare, in child protection hearings.
- GNWT Counsel act in an advisory capacity to the Superintendent of Child Welfare when a child in care is involved as a alleged victim or offender in a criminal matter.
- Non-government employees are expected to contact their own legal counsel and/or the legal counsel of their employer if they are asked for their records and/or asked to appear at a child welfare hearing.

Roles/Responsibilities of the Support Person

- A support person provides services for a child who has been the victim of physical or sexual abuse.
- The child has the choice of having an appropriate adult support person present for all interviews with the RCMP and/or interviews with the child welfare worker.
- A support person may be a compellable witness.
- The role of a support person during the interviews is to provide support for the child, to ensure the child is comfortable and not under duress. A support person's role is to listen, not to take notes or to ask questions nor to participate or lead the child in any way.

Child Abuse Protocol: Roles and Responsibilities

- Following the interview(s) the support person should have a discussion with the child and help the child understand the events that are taking place.
- A support person may also provide additional victim support services to the child and the family.

Community Services for Children Who Have Been Abused

Each community or region should establish a child support team under the direction of Regional Health and Social Services. This team will coordinate support for victims and their families ensuring no duplication or gaps in service. This support includes emotional support at interviews, court preparation, helping the child and family obtain accurate information on court process, debriefing from interviews and court, and obtaining short- and long-term counselling.

For a child in the care of the Superintendent of Child Welfare, the child welfare worker should be the case manager, which means coordinating the intervention and support services for the child and attending interviews where appropriate with the RCMP and Crown Counsel.

For a child not in the care of the Superintendent of Child Welfare, the child and family may receive support from the child welfare worker, another team member, or another person from the community. If the legal guardian and the child consent to use any support services, the service provider must not give any information to another person or agency without the legal guardian's written consent.

Members of the support team must ensure that all actions, from disclosure to healing, are in the best interests of the child. They should also remember that children have choices and must receive accurate information throughout the process.

Agreements

CHILD ABUSE PROTOCOL

Child Abuse Protocol: Agreements_____

Interviews to Investigate Suspected Child Abuse

**RCMP and Department of Health and Social Services
agree to the following:**

General

- Interviews to investigate suspected child abuse should not be done by anyone other than the child welfare worker and/or the RCMP. The child welfare worker may interview the child as one of the ways to determine if the child is in need of protection.
- In a separate interview, the RCMP may interview the child to obtain evidence in a criminal investigation.

1. Receipt of A Disclosure of Child Abuse

By the child welfare worker

- The child welfare worker must investigate a disclosure of child abuse to determine whether the child is in need of protection. The child welfare worker then proceeds to the Alert Stage if the report is of an alleged physical or sexual abuse.

By the RCMP

- If the RCMP receive a disclosure of child abuse, they must notify the child welfare worker verbally and in writing and then proceed to the Alert Stage.

2. Alert Stage

- Child welfare workers and the RCMP agree to inform each other immediately of relevant information regarding the current alleged incident(s) of child physical or sexual abuse. This is information sharing only and is to be known as the *Alert Stage*. Any further action such as the laying of charges are agreed to be done with the consent and request of the victim and/or legal guardian.
- The RCMP and child welfare worker must provide each other with written confirmation of the verbal alerts.

Child Abuse Protocol: Agreements

Protection Investigations

**GNWT Department of Justice Legal Division and
Department of Health and Social Services and
Department of Education, Culture and Employment
agree to the following:**

1. Child welfare workers may consult GNWT Legal Division Counsel(GNWT Counsel) on legal matters.¹
2. The Superintendent of Child Welfare or designate instructs the GNWT Counsel in the protection hearings and makes all final decisions regarding protection proceedings, apprehensions and types of hearings such as: Temporary Care and Custody, Supervision Orders or Permanent Care and Custody. The child welfare worker heads the child protection case management and alerts the GNWT Counsel to potential witnesses. The child welfare worker and the GNWT Counsel work together for the benefit of the child.
3. Depending on the complexity of the case, Regional Supervisors of the Department of Health and Social Services, headquarters personnel and the Superintendent of Child Welfare may become directly involved.
4. The child welfare worker organizes witness meetings and sends the child welfare file to the GNWT Counsel.
5. Child welfare workers will keep GNWT Counsel informed of the status of the criminal investigation and the names of all the witnesses involved in the criminal investigation.
6. The GNWT Counsel, representing the Superintendent of Child Welfare, may subpoena school personnel and health care providers who have either received the initial disclosure of abuse or who have observations which might prove useful at a child welfare hearing(s). The subpoenas may also require the individual to bring the child's records to the child welfare hearing.
7. GNWT school personnel and health care providers shall contact the GNWT Counsel for advice, if they are asked for their records and/or to appear at a child welfare hearing.

¹ Communities who have jurisdiction over child welfare functions must retain their own legal counsel. For example: the Town of Iqaluit Social Services retains its own legal counsel.

Child Abuse Protocol: Agreements

Information Sharing

**GNWT Department of Justice Legal Division and
Department of Health and Social Services and
Education, Culture and Employment and
Justice Canada, Yellowknife Regional Office and RCMP
agree to the following:**

1. The GNWT Legal Division Counsel (GNWT Counsel) does not have a formal role with abused children who are not in the care and custody of the Superintendent of Child Welfare. However, they may be asked to act in an advisory role by other GNWT departments. This is done on a case-by-case basis.
2. GNWT school personnel, health care providers and child welfare workers shall contact the GNWT Counsel if asked to provide any information written or oral by any non-GNWT lawyer or RCMP. This refers to (1) a subpoena for information, such as child welfare files, medical records or school files (2) a subpoena for a court appearance (3) a search warrant. If a GNWT employee is served with a search warrant, he/she must comply and then contact the GNWT Counsel immediately. If a GNWT employee is served with a subpoena, s/he must contact the GNWT Counsel immediately.
3. GNWT Counsel and Crown Counsel will advise each other of known and/or anticipated requests or subpoenas for records from GNWT Departments involving alleged victims in a criminal prosecution.
4. In a criminal investigation regarding physical or sexual abuse of a child in care, the RCMP should inform the child welfare worker of the status of the investigation and court proceedings.
5. The RCMP will provide the names of all witnesses involved in the criminal investigation to the child welfare worker upon his/her request.
6. The child welfare worker will keep GNWT Counsel informed of the status of the investigation and the names of all the witnesses involved in the criminal investigation.

Child Abuse Protocol: Agreements_____

Criminal Procedures

**RCMP and Justice Canada and
Department of Health and Social Services
agree to the following:**

1. Interviewing the alleged offender(s) is solely the responsibility of the RCMP. The RCMP are responsible for initiating criminal charges.
2. The RCMP have the responsibility of keeping the legal guardian informed of the status of the investigation.
3. Once the case has been referred to the Crown Counsel's office, it then becomes their duty to keep the legal guardian informed with respect to the Court proceedings.
4. Where there is the potential of a child (alleged victim) to testify, Crown Counsel will provide, where possible, continuity of counsel once criminal charges have been laid.
5. For children not in care, the legal guardians or their appointed designate if appropriate, should be involved in the Court preparation to the same extent as a child welfare worker.
6. Where appropriate, Crown Counsel should consult both the RCMP and the child welfare worker on such issues as the physical, mental and emotional protection of a child during court proceedings, the preparation of the child as a witness, and sentencing submissions.
7. In sentencing submissions, Crown Counsel may consider such elements as: the assessment of the child; the effect of the offence on the child and the family, including victim impact statements; and the effect of the court proceedings on the child and the family.
8. Final responsibility for the conduct of criminal prosecutions, including whether to accept a guilty plea to a lesser charge and/or any plea negotiation, rests with Crown Counsel. Where possible, Crown Counsel will consult with the RCMP and legal guardian(s) regarding decisions which could result in the termination of the prosecution and/or discussions regarding changes of the original charge.

Child Abuse Protocol: Agreements_____

Information Sharing

**Department of Education Culture and Employment
And Department of Health and Social Services
agree to the following:**

1. This protocol replaces the publication, *Child Abuse, Procedures for Reporting Suspected Child Abuse* (Yellow Book) published in 1987 by the NWT Department of Education.
2. School personnel will give a verbal report and the original written report of suspected child abuse to the local child welfare worker, with a copy to the Superintendent of Child Welfare.
3. If the child welfare worker is not available in the community, the child welfare worker's immediate supervisor must be notified. Normally, it is the responsibility of the child welfare worker to notify the RCMP. However, this does not prevent school personnel from notifying the RCMP.
4. School personnel must follow their own procedures outlined in ECE's publication, *Dealing with Child Abuse* (1995).
5. School personnel, after receiving advice from their legal counsel, will cooperate throughout the investigation by providing information when requested by the RCMP and/or a child welfare worker.

Information to be shared between a Child Welfare Worker and the principal of a school regarding a child in care.

A child welfare worker may share information about children in care, if sharing information does not place the child in jeopardy, interfere with the criminal investigation or reveal confidential information.

1. The child welfare worker will advise the principal of the school when a child is taken into care by the Superintendent of Child Welfare as a result of a child protection investigation.
2. The child welfare worker will inform the principal where the child is residing and the name of the care provider and legal guardian. The child welfare worker will inform the principal if there are any people with whom the child is not to have contact.

Child Abuse Protocol: Agreements_____

3. If for any reason the child will be absent from school, the child welfare worker or care provider will tell the principal in advance. The principal will inform the child welfare worker when a child in care is absent from school, if the principal has not been made aware of this absence by the care provider or the child welfare worker.
4. For a child in temporary or permanent care and custody, the child welfare worker may choose to talk further with the principal, providing the discussion is limited to the child's academic progress and school adjustment.
5. The principal will ensure that the information remains confidential and will share relevant information with the child's teacher as necessary.

Other Situations

1. **For a child under a Supervision Order, or a child under a Custody by Agreement, or a child under Apprehension** the child welfare worker will not provide information to the principal without the legal guardian's written consent. In these cases, the principal must make a written request for information from the child welfare worker, who will reply in writing with the consent of the legal guardian.
2. **For a child not in care of the Superintendent of Child Welfare**, the child welfare worker will suggest to the legal guardian that s/he keep the principal informed of the significant events, such as change of address, those who cannot have contact with the child, and periods of expected absences.

Child Abuse Protocol: Glossary

Legal Guardian: A legal guardian refers to the person(s) legally responsible for the child. These persons could be the natural parents, or anyone who has been given legal status by the Court such as adoptive parents, Superintendent of Child Welfare, or a combination of the Superintendent of Child Welfare and parent(s).

A child requires consent to be given on their behalf by their legal guardian for procedures such as: a forensic medical examination, release of confidential information to any agency including schools, permission for interviews by lawyers, RCMP and other professionals. A foster parent cannot give consent for such procedures as named above because they are not the legal guardian of a child.

Child in Care: A child in care refers to a child who is in the care and custody of the Superintendent of Child Welfare. These children can have different types of legal status. The three major categories are Apprehension, Court Ordered Care and Custody, and Voluntary Agreements.

When a child is under Apprehension (except for intra-family abuse) it is advisable to obtain the consent of the parent(s) and the child welfare worker in the absence of a court order.

Court Ordered Care and Custody can be permanent wardship(PW), or temporary wardship (TW). In the case of TW and PW the Superintendent of Child Welfare is the legal guardian.

A supervision order is an Order of the Court but the parents are the legal guardians.

Voluntary agreements can be either a custody by agreement (CBA) or a support agreement (SA). The latter is used to provide income support and other services for children who are sixteen and older. In both instances the parents are legally responsible for the child.

Please refer to Department of Health and Social Services publication, *The Family and Children's Services Program Manual*, for more detail.

Child Welfare Worker: A child welfare worker is a person who has received the statutory training and has been appointed by the Superintendent of Child Welfare. There are exceptional circumstances when a person who does not have the statutory training may be appointed as a child welfare worker on a temporary basis.

Child Abuse Protocol: Glossary _____

Social Worker: For the purposes of this protocol, a social worker is a person who is employed by the Department of Health and Social Services or a health board as a social worker. In most cases, social workers hold a child welfare appointment and thus have the duties of child welfare workers.

Subpoena: This is a command to appear in court at a certain time and place to give testimony. Some subpoenas will also require a person to bring records or documents in their possession or under their control and produce them at a trial and/or hearing. A subpoena does not allow anyone to obtain or even look at the records or documents prior to the trial or hearing.

Search Warrant: This is an order issued by a Judge or a Justice of the Peace which allows the RCMP to search for and seize any property or evidence connected to the investigation.

ACKNOWLEDGMENTS

Child Abuse Protocol Committee

A special acknowledgement must be made about the commitment, collaboration and cooperation of the members of the Child Abuse Protocol Committee. Their hard work and concern for the welfare of children have made this protocol possible.

Robert O'Rourke (Chair)	Department of Health and Social Services
Gina Corvari	Department of Education, Culture and Employment
Marilyn Hurrell	Department of Health and Social Services
Wendy Hutchinson,	GNWT Department of Justice
Eric LaFoy	RCMP
Pat McManaman	RCMP
Les Rose	Crown Counsel Canada, Yellowknife Region