

Legislative/Regulatory Requirements

Section 29 of the Adequacy Standards Regulation requires a police services board to have a policy on investigations into the physical and sexual abuse of children. In addition, section 12(1)(a) requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into the physical and sexual abuse of children.

Furthermore, the *Child and Family Services Act (CFSA)* mandates that the paramount purpose of any child abuse and neglect investigation is to promote the best interests, protection and well being of the child.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to child abuse and neglect investigations that the Chief of Police will:

- a) in partnership with the local Crown, Children's Aid Societies, municipalities, school boards and other appropriate service providers, including hospital staff, work to establish a committee to develop a local strategy to prevent, and respond to complaints of, child abuse and neglect;
- b) develop and maintain procedures on and processes for undertaking and managing child abuse and neglect investigations;
- c) enter into a child abuse protocol with their local Children's Aid Societies with respect to investigations into complaints of child abuse and neglect, and the sudden unexpected death of any child; and
- d) if the alleged child abuse fits the definition of a major case, require officers to comply with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*.

Police Service Guidelines

Multi-Disciplinary Coordination

1. Every Chief of Police should, in partnership with the local Crown, Children's Aid Societies (CAS), municipalities, school boards and other appropriate service providers, including hospital staff, work to establish a committee to coordinate the development of a local strategy for preventing, and responding to issues and complaints of, child abuse and neglect.

2. The mandate of the committee should include:
 - a) addressing information sharing among the member organizations, in order to facilitate a coordinated response to child abuse and neglect;
 - b) the implementation of local community strategies and education/awareness initiatives/programs for addressing issues related to child abuse and neglect; and
 - c) liaising with the local Child Abuse Review Team(s) (CART), where one(s) exists within the community.
3. The mandate of the above committee may be fulfilled through an existing CART, or other planning and review committee, already established within the community (in which case the committee (referred to in sections 1 and 2) need not be established).

Child Abuse Protocol

4. Every Chief of Police shall enter into a child abuse protocol with their local Children's Aid Societies (CAS), which should:
 - a) include a statement of principles consistent with prevailing legislation;
 - b) provide definitions of terms consistent with current applicable legislation, including:
 - i) child;
 - ii) neglect;
 - iii) sexual abuse and assault;
 - iv) physical abuse;
 - v) assault;
 - vi) emotional abuse and assault;
 - vii) child at risk;
 - viii) place of safety;
 - ix) child in need of protection;
 - x) criminal negligence;
 - xi) abandonment;
 - xii) failure to provide the necessities of life;
 - xiii) duty to report, including an officer's legislative duty to report;
 - xiv) person having charge of a child;
 - xv) sudden infant death and sudden unexpected death; and
 - xvi) major case and threshold major case;
 - c) provide for police participation in the local Child Abuse Review Team(s) (CART), including in every child abuse and neglect case in which there is a history of domestic violence or a firearm is known to be in the home;
 - d) set out the circumstances in which each organization will notify the other regarding a case/occurrence where children may be at risk of physical or emotional abuse or otherwise in need of protection as set out in the section 37(2) of the *CFSA*, including in domestic violence occurrences;
 - e) set out the initial response procedures;



- i) when a Children's Aid Society contacts the police regarding a case, including where applicable the use of a referral form if one has been developed;
 - ii) when the police contact a Children's Aid Society, including in domestic violence occurrences where children, in the care of the victim or suspect, may be at risk of physical or emotional abuse or otherwise in need of protection as set out in the section 37(2) of the *CFSA*; and
 - iii) for consultation between police and CAS workers regarding the extent of police involvement;
- f) require procedures for undertaking and managing joint investigations that:
- i) set out the respective roles and responsibilities;
 - ii) address interviewing children, non-offending parents and/or person having charge of the child and alleged offenders, including the use of audio/videotaping and *R. v. K.G.B.* statements where appropriate; and
 - iii) set out the procedures for the collection, handling and preservation of evidence taking into consideration the unique circumstances of child physical and sexual abuse investigations, including for arranging for the child to be medically examined;
- g) address information sharing and disclosure at the time of initial notification, during the joint investigation and after the investigation has been completed, including the sharing of information on any legal proceedings arising from the investigation;
- h) set out procedures for the apprehension of children with and without a warrant;
- i) establish procedures for undertaking investigations involving suspects employed by a police service or a Children's Aid Society;
- j) address the investigation requirements/procedures following the death of a child, including where foul play is suspected or the death is sudden and unexpected, in accordance with the *Ontario Major Case Management Manual* and the Chief Coroner's memorandum on the protocol to be used in the investigation of the sudden and unexpected death of any child under 2 years of age;
- k) address the requirement for an assessment of the risk to other children be completed in any case following the death of a child where foul play is suspected;
- l) address the procedures for the investigation of multiple victim incidents, including, but not limited to, those occurring at a school, residential facility or a correctional facility;
- m) address the duty to report that a child is or may be in need of protection, and the subsequent laying of charges in relation to a failure to report;
- n) if the alleged child abuse fits the definition of a major case, require compliance with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*;
- o) address compliance with the *ViCLAS Regulation*; and
- p) require the regular monitoring and evaluation of the effectiveness of the local protocol.

- Procedures* 5. Every police service's procedures on and processes for undertaking and managing child abuse and neglect investigations should:
- a) require that investigations be conducted in accordance with the police service's local child abuse protocol, the criminal investigation management plan, and where applicable the Ministry's designated *Ontario Major Case Management Manual* and the Chief Coroner's memorandum on the protocol to be followed during the investigation of a sudden and unexpected death of any child under 2 years of age;
 - b) require that the audio/videotaping of victim, suspect and witness statements be in accordance with the local child abuse protocol, and with *R. v. K.G.B.* guidelines where appropriate;
 - c) address the investigation into the past conduct by a suspect towards children, where necessary, including making appropriate checks with other agencies in communities where the suspect has previously resided;
 - d) address the legal duty to report when a child is in need of protection, including the requirements for officers;
 - e) address the unique circumstances involved in collecting, handling and preserving evidence in child physical and sexual abuse cases;
 - f) provide that officers are to take into account the statutory responsibilities of a Children's Aid Society when investigating a homicide or suspicious death of a child;
 - g) address the provision of victim services to the child, other siblings, and the non-offending parent and/or person having charge of the child; and
 - h) require the referral to a local Children's Aid Society in situations where children are involved in a domestic violence occurrence, and are believed to be at risk of physical or emotional harm or otherwise in need of protection as set out in the section 37(2) of the *CFSA*.
6. Every Chief of Police should ensure that police officers involved in the investigation of child physical and sexual abuse have the knowledge, skills and abilities required, including:
- a) knowledge of current relevant legislation and case law;
 - b) knowledge of local protocols with their Children's Aid Societies;
 - c) understanding of child development and implications for an investigation;
 - d) interviewing and investigative techniques relating to children, including children who have witnessed violence;
 - e) evidentiary procedures relating to child abuse and neglect, including knowledge of:
 - i) Munchausen Syndrome by Proxy;
 - ii) Shaken Baby Syndrome;
 - iii) Sudden Infant Death Syndrome; and
 - iv) Sudden Unexplained Death Syndrome;
 - f) use of the Special Interest Police (SIP) category on CPIC; and
 - g) the dynamics of child sexual abuse, child physical abuse and child neglect.



Appendix

FRAMEWORK FOR MODEL CHILD ABUSE PROTOCOL

Signatories

Statement of Principles

Introduction

- purpose of model protocol to:
 - assist in the greater safety and protection of children;
 - provide guidelines to support components of the revised Risk Assessment Model for Child Protection in Ontario;
 - provide direction on the components which should be included in all police/CAS protocols;
 - ensure that the fulfilment of all mandated requirements for all investigations involving children is facilitated, by:
 - providing for appropriate sharing and disclosure of information;
 - emphasizing the importance of joint consultation;
 - emphasizing the importance of teamwork; and
 - respecting requirements of both systems;
 - serve as a basis of review for current police/CAS protocols;
 - ensure consistency with the *Ontario Major Case Management Manual*; and
 - contribute to the overall integrity of the justice system.

Role and Mandate of Police Services

- *Criminal Code, Police Services Act* and its regulations and guidelines;
- to protect public;
- burden of proof (beyond a reasonable doubt);
- police powers/CFSA;
- duty to report;
- participate in the CART (at minimum in every child abuse and neglect case where there is a history of domestic violence or a firearm known to be in the home); and
- compliance with the *Ontario Major Case Management Manual*.

Role and Mandate of Children's Aid Societies

- principles of CFSA;
- functions of a CAS;
- grounds for protection;
- burden of proof (balance of probabilities);
- Risk Assessment Model for Child Protection In Ontario (revised 1999) and Standards:
 - Eligibility Spectrum; and
 - Requirements Regarding Protection Investigations;
- duty to report;
- Child Abuse Register;
- Child Welfare Information System; and
- role and mandate of Child Abuse Review Team (CART).

Definitions

- child;
- neglect;
- sexual abuse and assault;
- physical abuse;
- assault;
- emotional abuse and assault;
- child at risk;
- place of safety;
- child in need of protection;
- criminal negligence;
- failing to provide the necessities of life;
- duty to report, including a police officer's legislative duty to report;
- person having charge of the child;
- major cases and threshold major case;
- sudden infant death;
- sudden unexpected death; and
- domestic violence.

Initial Response Procedures

- circumstances in which each organization will notify the other, including in domestic violence cases where children may be at risk of physical or emotional abuse or otherwise in need of protection as set out in the section 37(2) of the *CFSA*; and
- initial consultation between police and CAS regarding police involvement.

The Investigation

A) Planning the Joint Investigation

- set out respective roles and responsibilities;
- how determination of response time is made;
- planning for the interview of victims, suspects and witnesses;
- how determination of where to conduct initial investigation interviews is made;
- how to determine who takes lead in interview;
- audio/videotaping of statements; and
- the need for and availability of an interpreter.

B) Collection and Preservation of Evidence

- unique circumstances for collecting, handling and preserving evidence in child physical and sexual abuse investigations, including:
 - warrants;
 - documentary evidence;
 - photographs; and
 - forensic evidence and medical evidence, including the use of a Sexual Assault Evidence Kit, and interviewing physicians regarding prior disclosures and examinations.

C) Conducting Joint Investigative Interviews of the Child(ren)

- review of interview lead;
- general considerations for interview of the child:
 - access to school-age child;
 - providing safe and comfortable environment;
- requirements regarding videotaping interviews; and
- requirements regarding audio taping interviews.

D) Post-Interview Consultation

- discussion on interview;
- discussion regarding the possibility of laying criminal charges;
- discussion on the need for additional interviews;
- discussion on the next steps for each system; and
- need for medical examination.

E) Interview with Non-Offending Parent

- when to interview;

- preparation for the interview; and
- roles and responsibilities of the police and CAS.

F) Interview of Alleged Offender

- legal requirements relating to statements made to persons in authority, including:
 - when to be conducted;
 - who is present for interview;
 - preparation, lead, methodology, videotaping, etc.;
 - statements to CAS by an alleged offender who has not been cautioned; and
 - spontaneous utterances by an alleged offender.

G) Victims' Assistance

- roles and responsibilities of police/CAS; and
- information sharing and referrals.

H) Ongoing Consultation and Case Tracking

- mutual notification of key events; and
- CART.

Information Sharing and Disclosure

- at time of initial notification;
- dispositions of investigations, including consultation in cases involving a failure to report;
- dispositions of court proceedings and/or orders;
- during joint investigation; and
- ongoing joint investigation.

Child Protection Proceedings

Joint Training Between Police and CAS

Special Circumstances

1. Investigation of Child Deaths

- Sudden Infant Death and Sudden Unexplained Deaths;
- role of police and CAS in respect to investigation of child homicides;
- information sharing;
- assessment of risk for other children; and

- role of local coroner, police/Coroner protocol.

2. Multiple Victim Investigation

- at a school, residential facility, correctional facility, etc; and
- applicability of the *Ontario Major Case Management Model*.

3. Investigations Involving Domestic Violence

4. Assistance with Apprehensions of Children

- with a warrant; and
- without a warrant.

5. Neglect

6. Duty to Report

7. Investigations Involving Police or CAS Staff

7. Major Cases

8. Historical

9. Monitoring and Evaluation

Appendices

- Applicable Criminal Charges for physical and sexual abuse, including child pornography;
- Consent no Defence;
- CFSA Grounds for Protection;
- Ministry of the Solicitor General guideline on *Child Abuse and Neglect*;
- Relevant agreements with other community organizations; and
- *Ontario Major Case Management Manual*.