

Provincial Model for a Local Police/ School Board Protocol

2003

*With references to the
Youth Criminal Justice Act (Canada)*

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Une publication équivalente est disponible en français sous le titre suivant :
Modèle provincial de protocole local entre la police et le conseil scolaire, 2003.

This publication is available on the Ministry of Education's
website at <http://www.edu.gov.on.ca>.

Introduction

It is the policy direction of the Ministry of Education and the Ministry of Public Safety and Security that school boards¹ and police services establish a protocol for the investigation of school-related occurrences.

This document has been prepared for the following reasons:

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

This document outlines the common principles upon which all local protocols should be based, and the key elements they must include. It recognizes that although the distinct environments in which school boards operate and the varied resources available to them challenge the development of identical protocols across the province, certain obligations and procedures are required by provincial and federal legislation (e.g., *Education Act*, *Child and Family Services Act*, *Criminal Code*, *Youth Criminal Justice Act*).

Purpose of This Document

Ontarians believe that schools must be safe places for learning and teaching. A safe school environment promotes respect, responsibility, and civility. Providing the best possible education for students in a safe school community is a shared responsibility, and it requires a commitment to collaboration, cooperation, and effective communication.

Making our schools safer requires a comprehensive strategy that includes the following elements:

- opportunities to acquire the knowledge, skills, and attitudes necessary to maintain a school environment in which conflict and differences can be addressed in a manner characterized by respect and civility;
- intervention and supports for those who are at risk of, or already engaged in, violent or antisocial behaviour; and
- an effective response to incidents when they occur – one that respects the rights of victims and witnesses, as well as those of the alleged perpetrators.

1. The terms *school board* and *board* are used in this document to refer to district school boards and school authorities.

Police play a vital role in supporting and enhancing the efforts of schools and their communities to be safer places in which to learn and to work. In addition to responding to and investigating school-related incidents, police are essential partners in the prevention of crime and violence.

At the root of effective school–police partnerships is a common understanding of each partner’s roles and responsibilities. Such an understanding has been achieved to some degree in jurisdictions where police/school board protocols already exist.

It is the policy direction of the Ministry of Education and the Ministry of Public Safety and Security that school boards and police services develop police/school board protocols so that both partners have a clear understanding of the respective roles, procedures, and decision-making authority of both police and school personnel.

The *Provincial Model for a Local Police/School Board Protocol* identifies the elements that must be included when developing a police/school board protocol or when revising an existing protocol. The content of this document is intended to allow police services and school boards to address service-delivery arrangements and unique factors and/or considerations that may affect individual jurisdictions.

Required Elements for a Local Police/School Board Protocol

To ensure consistency of approach in the development of local protocols across the province, the following twenty-three elements are considered essential components of a local police/school board protocol.

1. Signatories to the Protocol

Indicate the parties to the agreement (e.g., school board(s), police service(s), band council(s)) and obtain the signatures of their designated representatives to the agreement.

2. Statement of Principles

State the guiding principles upon which the terms of the agreement are based and which are relevant to the jurisdiction, such as:

- the need to promote respect and civility in the school environment;
- the need to respect fundamental rights pertaining to racial, cultural, religious, and other differences among students, teachers, and staff; and
- the need to provide a balance between rights and responsibilities.

3. Introduction

State the purposes of and/or the rationale for the protocol, such as:

- assisting in the greater safety and protection of students, teachers, staff, and volunteers in schools;
- encouraging ongoing, adaptive, and responsive partnerships between police and the school community;
- facilitating appropriate sharing and disclosure of information;
- promoting joint consultation and partnerships between school boards and police services on maintaining a safe school environment;
- ensuring that the obligations and requirements of both the education and law enforcement systems are met; and
- ensuring a consistent approach across a school board's jurisdiction in the way police and schools respond to a school-related occurrence.

4. Role and Mandate of Police Services

Outline the specific roles and responsibilities of the local police service related to young people and the school community, such as:

- enforcing the *Criminal Code*, the *Police Services Act*, the *Youth Criminal Justice Act*, and other federal, provincial, and municipal legislation and related regulations;
- upholding the duties legislated under s. 42 of the *Police Services Act*;
- assisting victims of crime;
- conducting law enforcement and criminal investigations;
- protecting public safety and preventing crime;
- assisting in the development of young people's understanding of good citizenship;
- promoting and fostering a reduction of crime, both against and committed by young people;
- providing information on community safety issues;
- diverting young people away from crime and antisocial behaviour; and
- working in partnership with other government and community-based organizations to support positive youth development.

5. Role and Mandate of School Boards

Outline the specific roles and responsibilities of the school board, principals, teachers, and school staff related to safe and secure schools, such as:

- complying with the requirements related to the duties of principals and teachers under the *Education Act* and regulations;
- complying with the requirements legislated under the *Child and Family Services Act* (e.g., "duty to report");
- administering school-related disciplinary action (e.g., suspensions and expulsions);

- developing a code of conduct, as required by the *Education Act* (s. 302);
- ensuring that resources (e.g., on drug awareness, on conflict resolution) are accessible to assist school staff in promoting crime prevention;
- developing policies on how to respond to crises, including a media plan;
- ensuring that prevention and intervention strategies are available;
- providing staff with opportunities for acquiring the skills necessary to promote safe school environments; and
- developing an effective consultation mechanism for soliciting input from staff, students, parents, and school councils in the development of local protocols.

6. Definitions/Explanations of Terms

To assist those who will be administering local protocols, provide definitions of selected terms, such as:

- "police response" versus "police involvement" (i.e., "police response" at the incident versus "police involvement" in a follow-up after the incident); and
- "as soon as possible" (e.g., with respect to contacting a student's parent/legal guardian).

Where a term is defined in a related document, such as a ministry, board, school, or police policy document, the same definition should be used in the protocol, where appropriate, to maintain consistency among interrelated policies and protocols.

7. Occurrences Requiring Police Involvement or Response

List the types of incidents requiring police involvement or response. The types of incidents listed must include, at a minimum:

- physical assault causing bodily harm requiring medical attention;
- sexual assault;
- robbery;
- criminal harassment;
- weapons offences; and
- drug offences (e.g., trafficking).

8. Other Occurrences Requiring Police Involvement or Response

List the types of incidents, beyond those listed in section 7 above, that would result in police involvement or response, such as:

- hate- and/or bias-motivated incidents;
- gang-related incidents;
- extortion;
- threats of serious physical injury;

- incidents of vandalism; and
- trespassing incidents (provisions under the Access to School Premises Regulation (O. Reg. 474/00), and the *Trespass to Property Act*).

It is expected that all other school-related occurrences will be dealt with on a case-by-case basis.

9. Information Sharing and Disclosure

Describe the procedures and obligations required under the *Youth Criminal Justice Act* and the *Child and Family Services Act*, as follows:

a) *Youth Criminal Justice Act*

The Act includes provisions that deal with the disclosure, security, storage, and destruction of information pertaining to young offenders. Clearly articulate how such information will be shared "to balance (a) the need to share information in a timely fashion, particularly when safety is a concern, with (b) the need for confidentiality ...".²

Identify the legal authorities pertaining to disclosure, such as:

- s. 32(g) of the *Municipal Freedom of Information and Protection of Privacy Act*;
- s. 42(g) of the *Freedom of Information and Protection of Privacy Act*;
- s. 110(1) of the *Youth Criminal Justice Act* (identity of offender not to be published);
- s. 125(6) of the *Youth Criminal Justice Act* (provides for access to records by a representative of a school board or school for specific purposes, as set out in the Act);
- binding case law; and
- any existing policies or protocols on disclosure and/or information sharing among schools, police services, courts, and correctional services.

b) *Child and Family Services Act*

Clearly articulate that the professional's duty is to report to a children's aid society³ those children who are suspected to be in need of protection (under s. 72(1) of the Act). This requirement overrides the provisions of any other provincial statute that may prohibit disclosure. Information should be shared in a manner that respects the vulnerabilities of children who may be in need of protection. The *Youth Criminal Justice Act* (in s. 35) also outlines the authority to refer a young person

2. Canadian School Boards Association, *The Need to Know: A Guide for Timely and Ongoing Information Sharing Between School Officials and Justice System Personnel with the Youth Criminal Justice Act* (Ottawa: Canadian School Boards Association, 2000), p. 14.

3. In some jurisdictions, children's aid societies are also called child and family services agencies.

to a child welfare agency to determine whether the youth is in need of child welfare services.

10. School Reporting Procedures

Provide information and outline the procedures relating to the reporting of incidents that involve both students as victims and students as alleged perpetrators, such as:

- descriptions of the different types of police contact (e.g., police response versus police involvement);
- procedures that school officials are to follow in reporting incidents to police, such as:
 - who should call police (e.g., the principal, the principal's designate, a teacher);
 - the points of contact (e.g., 911 for emergencies);
- procedures for reporting an imminent threat to the safety of students and/or staff (cross-reference the school's emergency and crisis response plan);
- the information and support that police will require, upon arrival, from school personnel; and
- procedures for reporting incidents to the school board.

Ensure that reporting procedures comply with the "duty to report" provisions under the *Child and Family Services Act*.

11. Initial Police Contact

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

Outline the procedures to be followed by the responding officer, such as:

- report to the principal/principal's designate, providing proper identification;
- explain the purpose of the visit; and
- contact, or make arrangements with the principal/principal's designate to contact, parents/legal guardians of students under the age of 18 (see section 13(a) on page 10).

Designate alternative reporting procedures for situations where the principal is under investigation.

12. Investigating School Incidents

Cite all the relevant legislation and regulations with which police must comply when conducting investigations in schools, including, but not limited to, the *Youth Criminal Justice Act*, the *Criminal Code*, the *Canadian Charter of Rights and Freedoms*, the *Provincial Offences Act* (specifically Part VI, "Young Offenders"), the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Freedom of Information and Protection of Privacy Act*.

Cite all the relevant legal requirements with which police must comply and the procedures police must follow when investigating incidents that involve students as alleged perpetrators, victims, or witnesses.

Note that investigations should also be undertaken in accordance with the local police service's criminal investigations management plan and, where required, with the *Ontario Major Case Management Manual*.

a) Legal Rights

In the investigation of school-related incidents committed by young persons, particular attention should be given to procedures that are consistent with the following provisions:

- parental notification upon arrest (s. 26, *Youth Criminal Justice Act*);
- right to counsel (s. 25, *Youth Criminal Justice Act*);
- protection of privacy (s. 110, *Youth Criminal Justice Act*); and
- admissibility of statements (s. 146, *Youth Criminal Justice Act*).

In addition to these provisions, relevant provisions under the *Charter of Rights and Freedoms*, the *Child and Family Services Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Freedom of Information and Protection of Privacy Act* should also be included.

b) Search and Seizure

Include the following:

- procedures to be followed in personal and premise searches, in accordance with the Ministry of Public Safety and Security's Guideline on Search of Persons and Premises, relevant federal legislation, and case law;
- roles and responsibilities of police and school personnel in conducting searches of persons or property;
- the requirement that police notify the principal/principal's designate before conducting searches on school premises. (Under some exigent circumstances, police may be required to execute a search warrant without notice to the principal/principal's designate.)

Outline how school personnel will widely disseminate information regarding the right to search school property (e.g., lockers and desks), as well as any police strategies that may be used to address incidents involving illegal drugs (e.g., locker sweeps with police dogs).

Specify that school personnel should not conduct searches of persons.

c) Detention and Arrest

Include the following:

- procedures to be followed in the detention and/or arrest of suspects, in accordance with the Ministry of Public Safety and Security's Guideline on Arrest, relevant federal and provincial legislation, and case law;
- roles and responsibilities of police and school personnel in the event of an arrest or a detention on school property;
- legal grounds for police to demand entry (e.g., for weapon and drug searches, to arrest a person wanted for an indictable offence, or to save lives);
- requirements to be followed under the *Youth Criminal Justice Act* when a young person is arrested and detained (e.g., notice to parents under s. 26).

d) Victims' Assistance

Include the following:

- procedures consistent with the Ministry of Public Safety and Security's Guideline on Victims' Assistance;
- roles and responsibilities of police and school personnel;
- notice to victims of the services available to them, such as:
 - police services for victims;
 - student support services of the local school board;
 - services offered by other municipal, community, and social service agencies;
 - access to information (s. 12, *Youth Criminal Justice Act*);
 - confidentiality of victim and witness identity (s. 111, *Youth Criminal Justice Act*); and
- procedures for information sharing and community referrals.

13. Police Interviews of Students

Outline the procedures to be followed in police interviews of students on school premises, such as:

- responsibility of police to conduct interviews related to criminal investigations of incidents that involve students as alleged perpetrators, victims, or witnesses;
- procedures for police to follow in requesting permission to conduct interviews on school premises (the authority to grant permission will vary, depending on circumstances);

- procedures for including the local children's aid society in a joint interview if the child is suspected to be in need of protection;
- the need for school personnel to assist police in making the required preparations (e.g., securing a quiet room and establishing a time for the interview);
- factors to consider in determining the most appropriate time and place to conduct a student interview; and
- roles and responsibilities of police in interviewing students, as set out in the local police service's procedures for interviewing witnesses, victims, and suspects.

a) Notification of Parents

Include the following procedures and considerations:

- police must advise a student under the age of 18 that he/she may request his/her parent/legal guardian to be in attendance during the police interview;
- if a children's aid society is involved (e.g., because of suspected abuse or neglect at the student's home), school and police officials should discuss and come to agreement with the children's aid society on the timing and procedure for notifying the parent/legal guardian;
- school and police officials should determine, if required, who will contact the parent/legal guardian before the police interview (e.g., the principal or the investigating officer);
- the parent/legal guardian should not be called if the student is 18 years of age or older, unless the student gives his/her consent or makes the request him/herself or is incapable of providing consent; and
- if the parent/legal guardian cannot be contacted, the student may identify another family member or other person, or the principal may, provided the student so wishes, be present during an interview held in the school.

b) Preparation for Interviews

Include considerations for the following:

- interviewing by police of persons suspected of criminal offences;
- evaluating the need for specialized resources where a student is known to have a behavioural, cognitive, physical, or learning disability;
- determining the methodology of the interview;
- deciding which officer will take the lead in conducting the interview, if more than one officer is interviewing;
- audio/videotaping of interviews and statements, and the requirement for police to inform the interviewee that the conversation is being recorded; and
- determining the need for an interpreter (e.g., a language interpreter, an interpreter for a student who is deaf or hard of hearing).

c) Conduct of Interviews

Include considerations for the following:

- employing appropriate interviewing techniques in police interviews of young persons and children;
- providing a legal caution and notification of the right to counsel where there are reasonable grounds to believe that the student being interviewed has been involved in the commission of a criminal offence;
- taking into account legal considerations respecting the admissibility of statements made to persons in authority (s. 146(2) of the *Youth Criminal Justice Act*); and
- involving the local children's aid society in the interview process, which is recommended when an interview involves a child who may be in need of protection.

14. Reporting of Children Suspected to Be in Need of Protection

The local children's aid society should be involved in the development of this section of the protocol, so that a trilateral understanding can be established. Refer to the document *Reporting Child Abuse and Neglect* developed by the Ministry of Community, Family and Children's Services.

Outline the legal requirements and the procedures to be followed in cases where child abuse and/or neglect is suspected, incorporating any protocols that may already exist (e.g., with the local children's aid society) and ensuring that the protocol, and existing school board policies and guidelines, reflect the new requirements of s. 72(1) of the *Child and Family Services Act*, as amended ("Duty to report child in need of protection").

The *Youth Criminal Justice Act* (in s. 35) also outlines the authority to refer a young person to a child welfare agency to determine whether the youth is in need of child welfare services.

15. Investigations Involving Students with Special Needs

Identify additional considerations to be taken into account by school personnel and police in investigations that involve a student known to have behavioural, intellectual, or physical exceptionalities, and/or difficulties in communicating, such as:

- additional requirements to consider when responding to and investigating incidents involving exceptional students (especially when interviewing is necessary);
- how to evaluate the need for specialized resources; and
- the need to ensure, where appropriate, that the student's parent/legal guardian is contacted.

16. Occurrences Involving Children Under Age 12

The local children's aid society should be involved in the development of this section of the protocol, so that a trilateral understanding can be established. Refer to the document *Reporting Child Abuse and Neglect* developed by the Ministry of Community, Family and Children's Services.

Describe the procedures for responding to occurrences involving children under the age of 12, such as:

- lack of legal authority to charge these young children under the *Youth Criminal Justice Act*, the *Provincial Offences Act*, or the *Criminal Code*;
- requirement to notify the parent/legal guardian as soon as possible;
- the authority police have to take reports and conduct interviews;
- the specific types of incidents that are to be reported for students under 12 years of age; and
- the circumstances under which there is a duty to report children suspected to be in need of protection to the local children's aid society, under s. 72(1) of the *Child and Family Services Act* (e.g., abuse, neglect or the risk thereof, serious acts of a child when the child's parents are not accessing appropriate treatment).

17. School Board Communication Strategy

School boards must continue to solicit input from school councils, parents, staff, and students in developing this protocol. Support from the community is essential, and it can be garnered through regular and meaningful communication.

Develop a communication plan to promote knowledge and understanding of the contents of the protocol.

18. Protocol Evaluation Process

Establish a time frame in which to review past events and analyse ways in which improvements can be made, as well as to conduct a formal review of the local protocol (e.g., every three years). Include school staff, police, school councils, parents, and students in the review process. Consider using existing forums, if available, for the review.

19. Non-Incident-Related Police Involvement

Police play an important role in the school community. Their involvement goes far beyond simply responding to incidents.

Include a description of the non-incident-related roles that police may play in relation to the school community. The following quotation from

the National Association of School Resource Officers offers a possible source of wording:

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

Determine and list, in this section, additional supports that local police service(s) are prepared to offer to the school community.

20. Violence Prevention Programs

A coordinated and multifaceted approach is required to prevent school violence. Police work in partnership with schools and other community agencies to administer programs such as peer mediation, mentoring, drug awareness and education, conflict resolution, and High School Crime Stoppers. This protocol, therefore, is one component of a broader partnership among schools and other essential community partners (including mental health providers, health care professionals, and children's aid societies) in the area of prevention.

Attach to this section of the protocol related ministry, board, and police policies on violence prevention.

21. Physical Safety Issues

Alterations to the physical space (e.g., lighting, building design, landscaping) can be made by the school or board to enhance the safety of students, staff, and teachers. When requested, police services should work in cooperation with local schools to assess the physical safety of buildings and/or school premises. If such support is desired and available, the protocol should provide details about it.

22. Risk Assessment Services

Identify the procedures for requesting and obtaining risk and/or threat assessment services from police services.

23. Emergency and Crisis Response Plan

Schools are expected to develop an Emergency and Crisis Response Plan, in keeping with school board policies and containing appropriate follow-up measures. Teachers, staff, parents, and students should be involved in the development and monitoring of this plan, and the plan should be fully communicated to members of the school community and police services. Mechanisms for sharing the Emergency and Crisis Response Plan with police services should be specified.



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