



# PROTOCOL

Between

## THE POLICE

(Brantford Police Services)  
(Ontario Provincial Police)

and

**GRAND ERIE DISTRICT SCHOOL BOARD**

and

**BRANT HALDIMAND NORFOLK  
CATHOLIC DISTRICT SCHOOL BOARD**



September, 2011



# Table of Contents

Introduction .....	2
1. Statement of Principles .....	4
2. Purpose/Rationale.....	4
3. Role and Mandate of Police Services.....	4
4. Role and Mandate of School Boards.....	5
5. Definitions/Explanation of Terms.....	6
6. Occurrences Requiring Police Response.....	6
7. Information Sharing and Disclosure .....	7
8. School Procedures for Reporting to Police.....	8
9. Initial Police Contact.....	9
10. School and Police Investigations of Incidents .....	10
11. Police Interviews of Students .....	13
12. Reporting of Children Suspected to be in Need of Protection .....	15
13. Investigations Involving Students with Special Education Needs.....	15
14. Occurrences Involving Students Under Age 12.....	16
15. School Board Communication Strategy.....	16
16. Protocol Review Process .....	17
17. School/Police Role in Violence Prevention.....	17
18. Physical Safety Issues .....	18
19. Risk-Assessment Services.....	18
20. Emergency Planning and Threats to School Safety .....	19
21. Training .....	19
Authorization .....	20
Appendix A – Glossary.....	21

# Introduction

It is the policy direction of the Ministry of Education and the Ministry of Community Safety and Correctional Services, that school boards (the term *school board* is used in this document to refer to district school boards and school authorities) and police services establish and follow a protocol for the investigation of school-related occurrences.

This document has been prepared for the following reasons:

- to ensure a consistent approach in the local protocols developed by school boards and police services across the province;
- to promote dialogue and the establishment of effective relationships between schools and police based on cooperation and shared understandings;
- to address unique factors and/or considerations that may affect individual jurisdictions, and negotiate service-delivery arrangements accordingly.

This document outlines the common principles upon which all local protocols should be based, and the key elements such protocols 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., the *Education Act*, the *Child and Family Services Act*, the *Criminal Code*, the *Youth Criminal Justice Act*, the *Canadian Charter of Rights and Freedoms*, and the *Ontario Human Rights Code*) and by case law.

It is important for schools and police to respect the human rights of students under the *Ontario Human Rights Code* (the *Code*) in the context of this document. For more information, see [www.ohrc.on.ca](http://www.ohrc.on.ca).

**Note to readers:** *A glossary of terms is provided in Appendix A of this document. An asterisk following an italicized word or phrase at its first use in the text of the document signals that a definition of that word or phrase is provided in the glossary.*

## Purpose of This Document

Ontarians believe that schools must be safe, inclusive, and equitable places for learning and teaching. A safe, inclusive, and equitable school environment fosters and supports learning and the ongoing development of respect, responsibility, civility, and other positive behaviours and characteristics.

At the root of effective school-police partnerships is a common understanding of each partner's roles and responsibilities, as well as agreed-upon procedures and clearly delineated decision-making authority. Providing the best possible education for students in a safe school community is a shared responsibility, which requires a commitment to collaboration, cooperation, and effective communication.

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

- opportunities for staff 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;

- implementation of strategies for the prevention of violent and/or antisocial behaviour, and use of intervention and supports for those who are at risk of, or have already engaged in, violent or antisocial behaviour;
- an understanding of, and commitment to, human rights principles; and
- an effective and timely response to incidents when they occur – one that respects the rights of victims and witnesses, as well as those of the alleged perpetrators.

Police play a vital role in supporting and enhancing the efforts of schools and their communities to be safe 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.

It is the policy direction of the Ministry of Education and the Ministry of Community Safety and Correctional Services that school boards and police services work together to 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 as they relate to school safety.

The Ministry of Community Safety and Correctional Services' guideline LE-044 on Youth Crime indicates that every police service's procedures on the investigation of offences committed by young persons should include the steps to be taken by officers, in accordance with the local police/school board protocol, when responding to school-related occurrences. The guideline also states that every chief of police, and the Commissioner of the Ontario Provincial Police (OPP), should work, where possible, with local school boards to develop programs for safe schools. Every chief of police and the OPP Commissioner should consider the need for a multi-agency strategy to prevent or counter the activities of youth gangs in the community, including working, where possible, with school boards, municipalities, youth and other community organizations, business, and the Crown.

As per the *Provincial Model for a Local Police/School Board Protocol* the following elements have been included in the development of this local police/school board protocol. For each of the twenty-two necessary elements, this protocol sets out mandatory requirements and provides relevant explanations of legislation and policy.

This local protocol includes, but is not limited to, the following relevant legislation:

- *Youth Criminal Justice Act*,
- *Criminal Code*,
- *Police Services Act*,
- *Canadian Charter of Rights and Freedoms*,
- *Ontario Human Rights Code*,
- *Provincial Offences Act* (specifically Part VI, "Young Offenders"),
- *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA),
- *Freedom of Information and Protection of Privacy Act* (FIPPA),
- *Child and Family Services Act*,
- *Personal Health Information Protection Act, 2004*, and
- *Education Act*.

# Police/School Board Protocol

## 1. STATEMENT OF PRINCIPLES

This agreement is based on the following guiding principles:

- the need to have a clear understanding of police and school responsibilities;
- the need to promote respect and civility in the school environment;
- the need to respect the fundamental rights of students, teachers, and staff pertaining to disability, race, creed, ethnic origin, and other prohibited grounds of discrimination under the *Ontario Human Rights Code*; and
- the need to support both rights and responsibilities.

## 2. PURPOSE/RATIONALE

The purpose and/or rationale for this protocol include:

- assisting in the greater safety and protection of students, teachers, principals, staff, and volunteers in schools;
- encouraging constructive, ongoing, adaptive, and responsive partnerships between police and the school community;
- facilitating appropriate sharing and disclosure of information in accordance with privacy laws, including FIPPA and MFIPPA;
- 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 police systems are met; and
- ensuring an equitable and consistent approach across a school board's jurisdiction in the way police and schools respond to a school-related occurrence.

## 3. ROLE and MANDATE of POLICE SERVICES

In cases of *exigent circumstances\**, police will assume primary responsibility as may be necessary to ensure school safety.

The specific roles and responsibilities of the local police services related to young people and the school community are:

- engaging and working proactively in partnership with school officials to ensure the effectiveness of this protocol;
- protecting public safety and preventing crime;

- enforcing the *Youth Criminal Justice Act*, the *Criminal Code*, and other federal, provincial, and municipal legislation and related regulations;
- upholding the duties legislated under section 42 of the *Police Services Act*;
- assisting victims of crime;
- conducting police and criminal investigations;
- assisting in the development of young people's understanding of good citizenship;
- promoting and fostering the prevention and 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.

#### 4. ROLE and MANDATE of SCHOOL BOARDS

In cases of exigent circumstances, the police will assume primary responsibility as may be necessary to ensure school safety. The principal (in this document, the term *principal* refers to the principal or the principal's designate) will continue to have a role consistent with his or her statutory responsibility for the health and welfare of students and to maintain discipline in the school.

The specific roles and responsibilities of school boards, principals, teachers, and school staff related to safe and secure schools, such as:

- clearly explaining the board's code of conduct to students and their families, including details such as the definition of the term *weapon\** and the potential reach of school discipline with respect to behaviours taking place outside of school that have a *negative impact on school climate\**;
- engaging and working proactively in partnership with police officials to ensure the effectiveness of this protocol;
- complying with the requirements related to the duties of principals and teachers under the *Education Act* and regulations (in particular Safe Schools legislation, including PPM 144 – “Bullying Prevention and Intervention”);
- roles and responsibilities of the principal in conducting investigations of incidents for which *suspension\** or *expulsion\** must be considered under the *Education Act*, including the responsibility to take *mitigating and other factors\** into account, as set out in Ontario Regulation 472/07;
- complying with the requirements legislated under the *Child and Family Services Act* (e.g., “duty to report”);
- respecting the board's code of conduct, as required by the *Education Act* (s. 302);
- ensuring that resources (e.g., on drug awareness, on bullying prevention) are accessible to assist school staff in promoting a positive school environment with students and parents;
- developing policies on how to respond to crises, including the development of a communications plan;
- ensuring that appropriate prevention and intervention strategies are available;

- providing staff with opportunities to acquire the skills necessary to promote safe, equitable, and inclusive school environments; and
- developing an effective mechanism for soliciting input from stakeholders, such as staff, students, parents, parent involvement committees (PIC), school councils, and Special Education Advisory Committees (SEAC).

## 5. DEFINITIONS/EXPLANATION of TERMS

A glossary is included to provide definitions of terms that are important to assist those who will be administering local protocols. (see Appendix A)

## 6. OCCURRENCES REQUIRING POLICE RESPONSE

### ***Mandatory Notification of Police***

The following incidents require mandatory reporting to police (for students under the age of 12, refer to section 14 below). Note that mandatory police reporting does not mean that police will lay charges in every situation; however, for the incidents listed, police *must* be notified. The incidents listed include those that happen at school, during school-related activities in or outside school, or in other circumstances if the incident has a negative impact on school climate.

The police must be notified of the following types of incidents:

- all deaths;
- physical assault causing bodily harm requiring medical attention;
- *sexual assault\**;
- *robbery\**;
- *criminal harassment\**;
- *relationship-based violence\**;
- possessing a weapon, including possessing a firearm;
- using a weapon to cause or to threaten bodily harm to another person;
- *trafficking\** in weapons or in illegal drugs;
- possessing an illegal drug;
- *hate and/or bias-motivated occurrences\**;
- *gang-related occurrences\**; and
- *extortion\**.

### ***Discretionary Notification of Police***

Police response may also be needed in connection with the following types of incidents:

- giving alcohol to a minor;
- being under the influence of alcohol or illegal drugs;
- *threats\** of serious physical injury, including threats made on social networking sites or through instant messaging, text messaging, e-mail, and so on;
- incidents of vandalism; and
- trespassing incidents.

Principals should consider mitigating and other factors when deciding whether to call the police in these discretionary situations. It is expected that all other school-related occurrences not specified in the protocol will be dealt with by the principal on a case-by-case basis, and that police will be notified at the principal's discretion.

For students with special education needs, refer to section 13.

## **7. INFORMATION SHARING and DISCLOSURE**

A number of different statutes deal with information sharing and disclosure. These include federal legislation (the *Criminal Code*, the *Youth Criminal Justice Act*) and provincial legislation (the *Municipal Freedom of Information and Protection of Privacy Act*, the *Education Act*, and the *Child and Family Services Act*). In situations where federal and provincial laws are in conflict with each other, the federal law takes precedence.

### **a) Criminal Code**

The police can access a student's Ontario Student Record (OSR) by warrant or subpoena, or with the written consent of a *parent\** (in this document, the term parent(s) refers to parent(s) or legal guardian(s)) or of the student, if the student is 18 years of age or older. In exigent circumstances, the police can access a student's OSR without a warrant, under section 487.1.1 of the *Criminal Code*.

### **b) Youth Criminal Justice Act (YCJA)**

The YCJA sets out the procedural requirements for dealing with young persons charged with offences. [Refer to Part 6 (ss. 110 to 129) of the YCJA, "Publication, Records and Information".] There may be occasions when it is necessary for police to share confidential information with school officials. Section 119 of the YCJA provides the circumstances under which confidential information may be shared.

The following subsections of Part 6 of the YCJA are of particular relevance for police/school board protocols:

- subsection 110(1), which states that no person shall publish the name of the young person or any information that would identify the young person as a young person dealt with under the YCJA;
- subsection 111(1), which states that "no person shall publish the name of a child or young person, or any other information related to a child or a young person, if it would identify the child or young person as having been a victim of, or as having appeared as a witness in connection with, an offence committed or alleged to have been committed by a young person";
- subsection 118, which states that no person shall be given access to a record and no information in the record shall be given to any person, where to do so would identify the young person as being dealt with under the YCJA;
- subsection 125(1), which states that "[a] peace officer may disclose to any person any information in a record kept under section 114 (court records) or 115 (police records) that it is necessary to disclose in the conduct of the investigation of an offence";



- subsection 125(6), which permits a provincial director, youth worker, peace officer, or any other person engaged in the provision of services to young persons to disclose to a representative of a school board or school any information kept in a record under sections 114 to 116 of the YCJA if the disclosure is necessary:
  - to ensure compliance with an order made by the youth justice court for a young person released from custody to attend school;
  - to ensure the safety of staff, students, or other persons; or
  - to facilitate the rehabilitation of the young person.

**c) *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)***

This legislation regulates the collection and disclosure of personal information that is not related to the YCJA. As part of the local protocol, police services and school boards have developed a policy for the disclosure of personal information in situations under subsection 32(g) of the MFIPPA (i.e. “to aid an investigation undertaken with a view to a law enforcement proceeding ...”).

Further information regarding the release of students’ personal information can be found in the Office of the Information and Privacy Commissioner’s *Guide to Ontario Legislation Covering the Release of Students’ Personal Information*, at: [www.ipc.on.ca/english/Resources/Discussion-Papers/Discussion-Papers-Summary/?id=495](http://www.ipc.on.ca/english/Resources/Discussion-Papers/Discussion-Papers-Summary/?id=495)

**d) *Child and Family Services Act (CFSA)***

The overall duty, under subsection 72(1) of the CFSA, is to report to a Children’s Aid Society (in some jurisdictions, Children’s Aid Societies are also called Child and Family Services Agencies) those children who are suspected to be in need of protection. The duty to report persons “who perform professional or official duties with respect to children”, including teachers and principals, is emphasized. This provision applies, as well, to information that is confidential or privileged (except under solicitor/client privilege), and there is no liability against a person who reports unless the reporting was done maliciously or without reasonable grounds.

**8. SCHOOL PROCEDURES for REPORTING TO POLICE**

The following are procedures relating to the reporting to police of incidents that involve students, whether as victims or as alleged perpetrators, such as:

- different types of police contact

When there is a need to make a mandatory police notification (see section 6), a principal or designate must report the incident to the police forthwith.

A principal or designate may contact police for incidents that require discretionary notification as soon as possible (see section 6).

- procedures to follow in reporting incidents to police

As a general rule, the principal or designate will call the police:

- If the principal or designate is unavailable, any school staff will contact the police directly. In these situations, the principal will be contacted as soon as possible and information shared regarding the nature of the call;
  - In an emergency situation (i.e. incidents involving serious bodily harm) which doesn't allow for consultation with the principal, any school staff will contact the police immediately.
- points of contact
    - Emergency situations: **911**
    - Non-emergency situations: local police administration telephone number
    - Each school should have a list of these telephone numbers clearly displayed for staff use.
  - procedures for reporting an imminent threat to the safety of students and/or staff (refer to the school's Emergency and Crisis Response Plan or School / Site Security and Lockdown);

When informing the police of an imminent threat to safety, the following information should be considered:

- type of incident
- degree of harm and level of threat
- location of threat
- access point in building
- number of persons involved
- injuries
- the presence of a weapon
- perpetrator information
- age of the student
- any other relevant information
- the information and support that police will require, upon arrival, from school personnel (secondary information).

Reporting procedures must comply with the "duty to report" provisions under the *Child and Family Services Act*.

## **9. INITIAL POLICE CONTACT**

Under exigent circumstances, or if the principal is being investigated, the officer is not required to follow the procedures set out below.

The police officer who responds to a report of a school-related incident is responsible for obtaining and thoroughly documenting information on the incident. The officer is normally required to take the following steps:

- report to the principal, providing proper identification;
- explain the purpose of the visit, and plan with the principal on how to proceed;
- consider alternatives that limit the disruption to the school day;
- obtain information from the principal about the student (e.g., regarding accommodation needs or barriers to communication) before making contact with the student; and
- contact, or make arrangements with the principal to contact, parents of students under the age of 18 (see section 11(a) below).

If the principal is under investigation, the responding police officer will ensure that the Director or Education is notified as soon as possible.

## **10. SCHOOL and POLICE INVESTIGATIONS of INCIDENTS**

The following procedures must be followed when both the principal and the police are investigating the same incident at the same time.

It is important that the principal not do anything to prejudice the police investigation and it is also important that the police recognize and respect the principal's obligations under the *Education Act*. For example, under the Act, a school board's decision regarding expulsion of a student must be made within twenty school days from the date when the student was suspended. Police need to be aware of this fact and should, when possible, share with the principal information that may be relevant to that decision. There is the need for police and schools to cooperate, whenever possible, regarding their investigations.

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

The principal will inform police of any logistical information about the school (e.g., the hours of the school day and class rotation schedules) that may be relevant to the investigation process. Police services will endeavour to work within these logistical considerations in order to minimize the disruption to the school.

### **a) Legal Rights**

In the investigation of school-related incidents where a young person is a suspect, particular attention should be given by the principal and police 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*);
- right not to make a statement (s. 146, *Youth Criminal Justice Act*); and
- protection of privacy (s. 110, *Youth Criminal Justice Act*).

## **b) Search and Seizure**

Where investigations involve search and seizure, the police and the principal should pay particular attention to the following procedures and responsibilities:

It is the responsibility of the principal or vice-principal to advise the students, at the beginning of the school year, that desks and lockers are school property and there is no expectation of privacy on the part of the students; therefore, a search of such property is permissible by the school administrator. In this case, the principal or the vice-principal is acting under the authority of the *Education Act* to maintain proper order and discipline in the school, and not as an agent of the police. The administrator shall have another person present to conduct any search.

- procedures to be followed in personal and premise searches, in accordance with the Ministry of Community Safety and Correctional Services' Guidelines LE-011 on search of premises, and LE-012 on search of persons, and relevant federal legislation;
- police will notify the principal before conducting searches on school premises. (Under some exigent circumstances, police may execute a search without a warrant and without notice to the principal.);
- the principal continues to be responsible for students even when police are on school premises.

## **c) Detainment and Arrest**

Where investigations result in detainment and/or arrest, the police and the principal should pay particular attention to the following procedures and responsibilities.

When possible, non-school related incidents resulting in the arrest of a student shall take place away from school property.

If the police wish to arrest or charge a student on school property, the police officer shall contact the principal of the school that the student is attending and advise as to the nature of the visit and to request a meeting with the student. In the case of "fresh pursuit", the police may not be able to advise the school administrator immediately of the reason for their actions but will advise the school administrator at the first opportunity of any students charged or arrested.

If the student who is being arrested or charged by the police is under 18 years of age, the police shall inform that student about the nature of the charges and his/her rights.

Subject to the Youth Criminal Justice Act, and in consultation with the police, the school will attempt to contact the student's parents/guardians to inform them that their child is being arrested or charged by the police. There may be times when the police will direct the school administrator **not** to contact the parents/guardians of a charged or arrested student, for example:

- i) The parents/guardians are the suspects of a crime about which the student is being interviewed and/or;

- ii) Contacting the parents/guardians could interfere with the police investigation.

In such cases, the police determine the proper course of action. The school administrator will follow police direction in this regard and will document the name and badge number of the officer and the direction given.

If a student is a Crown ward or a ward of the Children's Aid Society, the legal guardian is the Children's Aid Society and shall be contacted in the same way as a parent/guardian.

If the student who is being arrested or charged by the police is 18 years of age or older, and therefore an adult, (or a 16 or 17 year old who has withdrawn from parental control), the school shall not contact the parents/guardians without the permission of the student.

It is the responsibility of the school to communicate to the police officer if any student has a learning disability or other exceptionality that may impede the student from expressing or understanding written/oral communication. Refer to section 13 of this protocol for further information.

If the student is not in attendance at school on that day, the school shall inform the police officer of the student's date of birth, address, phone number, and the parent's/guardian's home and business phone numbers on file, in accordance with section 32(g) of the Municipal Freedom of Information and Protection of Privacy Act, which is the authority for providing such personal information to law enforcement officials who are conducting an investigation of law enforcement proceedings. Refer to section 7 of this protocol for further information.

#### **d) Supports for Victims**

It is important that police and the principal be aware of the following procedures and responsibilities with respect to providing support for victims/witnesses:

- procedures consistent with the Ministry of Community Safety and Correctional Services' Guideline VA-001 on victims' assistance;
- roles and responsibilities of police and school personnel, such as:
  - the obligation that the principal inform the parents of victims who have been harmed as a result of an activity for which suspension or expulsion must be considered unless, in the principal's opinion, doing so would put the victim at risk of harm from the parents (*Education Act*, s. 300.3(1) and O.Reg. 472/07); and
  - the requirement that all board employees who work directly with students are expected to support all students, including those who disclose or report such incidents, by providing them with contact information about professional supports (e.g., public health units, community agencies, Help Phone lines);
- notice to victims of the services available to them and other considerations, such as:
  - police services for victims;
  - student support services of the local school board;
  - services offered by other municipal, community, and social service agencies, including legal services;

- access to information; and
- confidentiality of victim and witness identity (s. 111, *Youth Criminal Justice Act*);
- procedures for information sharing and community referrals

## 11. POLICE INTERVIEWS of STUDENTS

General procedures, requirements, and considerations related to police interviews of students on school premises include the following:

- the principal must make best efforts to contact parents as soon as possible before the interview (see also section 11(a), “Notification of Parents”, below);
- a parent/legal guardian, third-party adult, or the principal, if no alternative is available, must be present when students under the age of 18 are being interviewed at school;
- the requirement, in cases where a student aged 12 to 17 waives the right to have an adult present at the interview, that the police and the principal consider the most appropriate location for conducting the interview and take steps to ensure that the student’s rights are respected during the interview;
- factors to consider in determining the most appropriate time and place to conduct a student interview;
- the 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;
- procedures for including the local Children’s Aid Society (CAS) in a joint interview if the child is suspected to be in need of protection;
- roles and responsibilities of police in interviewing students, as set out in the local police service’s procedures for interviewing witnesses, victims, and suspects;
- 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);
- the need for police to consult with the principal to consider alternatives for conducting interviews at a location other than the school; and
- the need for police to act in a manner that respects the dignity of the student and minimizes disruption to the school when it is necessary to interview, search, or arrest a student at school during school hours.

### a) Notification of Parents

Except in exigent circumstances, it is the principal’s responsibility to contact parents of:

- victims who have been harmed as the result of an activity for which suspension or expulsion must be considered, unless, in the principal’s opinion, notification of the parents would put the student at risk of being harmed by the parents. If that is the case, the parents must not be contacted (*Education Act*, s. 300.3(3));
- students receiving a suspension (*Education Act*, s. 311);
- all other students being interviewed by police during an investigation, except:
  - if the principal is otherwise directed by police because of exigent circumstances or where the police believe the parent may be implicated;

- if the student is 18 years of age or older (unless the student consents to or requests such contact or is incapable of providing consent); or
- if the student is 16 or 17 years of age and has withdrawn from parental control (unless the student consents to or requests such contact or is incapable of providing consent).

If a CAS is involved, school and police officials should discuss and come to agreement with the CAS regarding the timing and procedure for notifying the parents.

If a student is detained or arrested, the police will notify his or her parents unless the student is 18 years of age or older. The parents should not be contacted if the police determine that doing so may endanger the safety of the student or another person or the integrity of an investigation. In such cases, the student will be advised that he or she may contact another adult person.

### **b) Preparation for Interviews**

Procedures and considerations related to preparing for interviews include the following:

- determining whether circumstances allow for the interview to be conducted at the student's home or another location rather than at school, in view of the stigma and the potential impact on the student;
- evaluating the need for specialized resources where a student is known to have mental health needs or special education needs (see section 13 below);
- determining the methodology of the interview;
- deciding which officer will take the lead in conducting the interview, if more than one officer is interviewing;
- arranging for the audio/videotaping of interviews and statements, and meeting 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) and/or for information to be provided in an alternative format (e.g., Braille for a student who is blind or has low vision).

### **c) Conduct of Interviews**

Procedures and considerations related to conducting interviews include the following:

- the need for police officers to employ appropriate techniques when interviewing children and young persons;
- the requirement that police follow the *Guide to Officers for Section 146 Youth Criminal Justice Act Statements*;
- the requirement that police provide, upon arrest or detention, 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*];
- 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; and

- the requirement that an adult be present throughout the interview, except when the student can waive and has waived the right to have an adult present. Best efforts must be made to have the student's parent(s) or another adult of the student's choice present. In circumstances when this cannot be done, the principal must attend the interview.

## **12. REPORTING of CHILDREN SUSPECTED to be in NEED OF PROTECTION**

The legal requirements and the procedures to be followed in cases where child abuse and/or neglect are suspected are found in the joint Child Protection Protocol between H-N CAS / Brant CAS and BHCNCSB and GEDSB.

For additional information, refer to the document *Reporting Child Abuse and Neglect*, developed by the Ministry of Children and Youth Services, which is available at: [www.children.gov.on.ca/htdocs/English/topics/childrensaid/reportingabuse/index.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaid/reportingabuse/index.aspx).

## **13. INVESTIGATIONS INVOLVING STUDENTS with SPECIAL EDUCATION NEEDS**

School administrators have a duty to ensure that all members of the school community are able to work and learn in a safe and positive environment, they are obliged to report incidents to police as outlined in section 6 of this document. However, in investigations that involve a student known to have special education needs, additional considerations must be taken into account by school personnel and police.

Additional considerations should be taken into account when an investigation involves a student (or students) known to have special education needs, who may be identified as having an exceptionality in any of the following categories: behaviour, communication, intellectual, physical, or multiple. Such considerations include:

- the responsibility of the school to communicate to the police that a student is known to have special education needs or communication difficulties;
- the requirement to accommodate the student, especially when interviewing is necessary. Every attempt should be made to provide specialized supports/resources, as needed, for the student during an investigation;
- the need to ensure that the student's parent is contacted as soon as possible, except in exigent circumstances or where the police believe the parent may be implicated in the incident.

In cases involving students with special education needs, the principal should review the student's Individual Education Plan (IEP) and other relevant student records in order to identify whether further intervention strategies and/or resources are required for the student. These may include the development of and/or revisions to a behaviour management plan or a safety plan.



## **14. OCCURRENCES INVOLVING STUDENTS UNDER AGE 12**

Where children under the age of 12 are involved, school boards are expected to use their discretion in applying the rules outlined in section 6 for reporting incidents to the police. Children under 12 cannot be charged with an offence under the *Criminal Code*, *Youth Criminal Justice Act*, or the *Provincial Offences Act*, but police may take reports of incidents allegedly committed by students in this age group and may respond in an appropriate manner.

Early intervention for children involved in such incidents is essential, and involving police and parents as early as possible may facilitate the provision of appropriate intervention and support.

The principal is required to conduct an investigation of an incident for the purpose of school discipline – for example, where a recommendation for suspension or expulsion may be required – regardless of the age of the students involved. The following are considerations when responding to occurrences involving students under the age of 12:

- the requirement to notify the child's parent as soon as possible, except in exigent circumstances or where the police believe the parent may be implicated in the incident;
- the authority police have to take reports, make referrals to additional services (e.g., health/counselling), and conduct interviews;
- 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 subsection 72(1) of the *Child and Family Services Act* (e.g., when there is evidence of abuse or neglect, or the risk thereof; when the child has committed serious acts and the child's parents are not accessing appropriate treatment); and
- the requirement to provide accommodations and/or modifications for students with special education needs, as outlined in their IEPs.

For further information, refer to the Child Protection Protocol or to the document *Reporting Child Abuse and Neglect*, developed by the Ministry of Children and Youth Services, which is available at:

[www.children.gov.on.ca/htdocs/English/topics/childrensaidthereportingabuse/index.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaidthereportingabuse/index.aspx).

## **15. SCHOOL BOARD COMMUNICATION STRATEGY**

A communication plan will be developed to promote knowledge and understanding of the contents of the protocol, as well as consistency in its application.

Key targets of the communication strategy are students and their families, who need to be aware of the range of situations in which police may be called (including any criminal activity involving students that takes place away from school, if that activity has a negative impact on school climate). Communications materials should use plain language, and should be available in multiple languages and accessible formats, as appropriate.

## **16. PROTOCOL REVIEW PROCESS**

A review will be conducted of the local protocol every two years, or sooner if required.

The review is conducted by the police and school board, who should develop an effective mechanism for soliciting input from school staff, students, and parents.

## **17. SCHOOL/POLICE ROLE in VIOLENCE PREVENTION**

It is important that school boards and police work together to promote positive student behaviour and prevent school violence.

School boards and principals should develop, promote, and maintain strong partnerships with police and seek to benefit from their support in the implementation of the school's violence-prevention policies, particularly where those policies pertain to addressing the risk factors associated with antisocial, gang-related, or criminal behaviour. In a closely cooperative relationship, police may also offer support in a consulting role, to assist school personnel in determining appropriate action when dealing with violent behaviour and to explain the procedures for police investigations.

Police work in partnership with schools and other community agencies to administer crime-prevention programs that focus on areas such as peer mediation, conflict resolution, referral to appropriate community resources (e.g., those providing counselling or mentoring services, drug awareness and education programs, or support for seeking employment or housing). Such programs would include DARE, VIP, School Resource Officers, and Crime Stoppers.

Working from a crime-prevention perspective, police can play an important role in the school community, which presents extensive opportunities for employing the strategy of "crime prevention through social development" (CPSD). CPSD involves preventing and reducing crime by identifying and addressing the risk factors associated with crime and victimization. Police use proactive measures that focus on the factors that precipitate the onset of criminal and antisocial behaviour.

CPSD recognizes that the intersection of multiple and complex social, economic, health, and environmental factors may lead to criminality. CPSD involves long-term, sustainable, multi-agency, integrated actions that deal with the risk factors (e.g., mental health issues, certain types of behavioural issues, involvement in the criminal justice system, victimization/abuse) that can start a young person on the path to crime, and build protective factors (e.g., strong adult role models, enhanced self-esteem, effective personal coping skills and strategies) that may mitigate those risks.

Strategies that schools can use to help prevent violence include:

- helping students develop social skills, including conflict-resolution skills;
- proactively identifying students at risk and giving them extra support;

- using progressive discipline to teach and encourage appropriate behaviour in the school;
- viewing each student as an integral and contributing member of the school community;
- demonstrating, by example and leadership, that students' human rights are to be respected; and
- encouraging students to return to the school community after involvement with the criminal justice system, and supporting them in the process.

Strategies that police can use to help prevent violence in schools include:

- developing positive partnerships with all members of the school community, including parents;
- being visible within the school community;
- being a positive adult role model for students;
- establishing positive relationships with children and youth;
- making referrals based on the best interest of the students;
- helping deliver educational sessions on crime and criminal justice issues;
- being part of an integrated, multi-agency team that can respond to children and youth at risk of conflict with the law;
- facilitating communication and cooperation with school officials, Youth Justice Probation Services, other police officers, courts, and other social services; and
- supporting students as they return to the school community after involvement with the criminal justice system.

This protocol is one component of a broader partnership between schools and other essential community partners; including mental health providers, health care professionals, and children's aid societies, that is dedicated to violence prevention in Ontario schools.

## **18. PHYSICAL SAFETY ISSUES**

When requested, police services may work in cooperation with local schools to assess the physical safety of the school premises, including the building and outdoor areas (e.g., lighting, building design, landscaping) as part of the Crime Prevention Through Environmental Design (CPTED). In all cases, final decisions about alterations rest with the school board, as does the responsibility to carry out any desired work.

## **19. RISK-ASSESSMENT SERVICES**

Incidents of violence in schools are often preventable through early intervention in response to threatening behaviour, or non-threatening but worrisome behaviour. Taking steps to identify at-risk students through early and ongoing assessment and intervention strategies may reduce the need for disciplinary action and police interventions. A multi-agency approach to threat/risk assessment can be a highly effective means of preventing and managing situations that could otherwise negatively affect the safety of student and/or school staff (refer to Threat/Risk Assessment Community Protocol).

In addition, several larger police services, including the Ontario Provincial Police, have Threat Assessment Units. In those locations which do not have a multi-disciplinary team in place, boards may contact their local police service, who will assist in obtaining the required services from another police service.

## **20. EMERGENCY PLANNING and THREATS to SCHOOL SAFETY**

Every school is expected to develop an Emergency and Crisis Response Plan, which must include, but is not limited to, a *lockdown*\* plan and procedures following a lockdown or other emergency, in keeping with school board and ministry policies. Teachers, staff, parents, and students should be involved in the development and monitoring of the Emergency and Crisis Response 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 in the protocol. As well, schools are asked to notify the police dispatch officer when lockdown drills are occurring.

The *Provincial Policy for Developing and Maintaining Lockdown Procedures for Elementary and Secondary Schools in Ontario*, issued in June 2009 by the Ministry of Education and the Ministry of Community Safety and Correctional Services and included in this document as Appendix B, specifies two mandatory components, as follows:

1. All publicly funded school boards in Ontario must establish a lockdown policy to ensure the development and implementation of individual school plans; and,
2. A minimum of two lockdown drills must occur each school year.

Every school should be guided by the provincial policy in developing its lockdown plan.

## **21. TRAINING**

The school board and police services will provide joint training on this protocol to their respective staff on an annual basis. To improve collaboration between local police services and schools:

- training should be based upon effective/leading practices; and
- where possible, the training should be delivered by police and school board personnel.

# AUTHORIZATION

---

John Forbeck, Director of Education  
Grand Erie District School Board

---

Date

---

Cathy Horgan, Director of Education  
Brant Haldimand Norfolk Catholic D.S.B.

---

Date

---

Jeff Kellner, Chief of Police  
Brantford Police Services

---

Date

---

Inspector Dave Durant, Detachment Commander  
County of Brant – Ontario Provincial Police

---

Date

---

Inspector John Periversoff, Detachment Commander  
Haldimand County – Ontario Provincial Police

---

Date

---

Inspector Zvonko Horvat, Detachment Commander  
Norfolk County – Ontario Provincial Police

---

Date

# Police/School Board Protocol

## GLOSSARY

The purpose of this glossary is to explain some of the terms that are used in the present document or that may be used in local protocols. The definitions provided here relate only to usages in the context of this document and cannot be attributed to usages in any other document. Although some of the definitions are based on language used in the *Criminal Code of Canada*, they are not to be taken as the official legal definitions set out in the Code. For the actual definitions, please refer to the Code itself.

**criminal harassment** – Criminal harassment occurs when: (1) a person repeatedly follows an individual from place to place or repeatedly communicates, directly or indirectly, by any means (including electronic means), with an individual, or watches the home or place of work of an individual, or engages in threatening conduct directed at a person or a member of that person's family; and (2) the victim of the criminal harassment is caused to reasonably, in the circumstances, fear for his or her safety.

**exigent circumstances** – Urgent, pressing, and/or emergency circumstances. Exigent circumstances usually exist when immediate action is required for the safety of the police or others. Such circumstances may include a bomb threat, a person possessing or using a weapon, or a fire on school property.

**expulsion** – The removal of a student from his or her school or from all schools of the board. Students expelled only from their school are assigned to another school of the board. Students expelled from all schools of the board must be offered a program for expelled students. Activities for which expulsion must be considered are found in section 310(1) of the *Education Act*. An example is using a weapon to cause or to threaten bodily harm.

**extortion** – The use of threats, intimidation, or violence towards a person to obtain something of value from that person or someone else, or to cause that person or someone else to do something.

**extra-judicial measures** – Measures used by police to hold a young person accountable for his or her alleged criminal behaviour, in a timely manner, outside the formal youth justice system. The formal system would include charging the individual and going through the court process. Extra-judicial measures hold a youth accountable for his or her actions and provide sanctions outside of judicial proceedings. Some examples of sanctions include substance abuse counselling, volunteer work, repair of or compensation for damaged or stolen property, and a letter of apology.

**gang-related occurrences** – Incidents involving a group, consisting of three or more persons, however organized, having as one of its main purposes the commission or facilitation of a criminal offence in which any or all of the members engage.

**hate- and/or bias-motivated occurrences** – Incidents (e.g., involving statements, words, gestures) motivated by hatred or bias towards an identifiable group (i.e., a group distinguished by colour, race, religion, gender, sexual orientation, or ethnic origin) that are publicly communicated and that are willfully intended to promote or incite bias or hatred against such a group.

**lockdown** – A procedure used in response to a major incident or threat of violence within the school, or in relation to the school.

**mitigating and other factors** – Circumstances that must be considered by the board and school administrators in situations involving suspension and/or expulsion of a student, as required by the Education Act and as set out in Ontario Regulation 472/07 (quoted below):

2. *For the purposes of subsections 306(2), 306(4), 310(3), 311.1(4) and clauses 311.3(7)(b) and 311.4(2)(b) of the Act, the following mitigating factors shall be taken into account:*
  1. *The pupil does not have the ability to control his or her behaviour.*
  2. *The pupil does not have the ability to understand the foreseeable consequences of his or her behaviour.*
  3. *The pupil's continuing presence in the school does not create an unacceptable risk to the safety of any person.*

**Other factors**

3. *For the purposes of subsections 306(2), 306(4), 310(3), 311.1(4) and clauses 311.3(7)(b) and 311.4(2)(b) of the Act, the following other factors shall be taken into account if they would mitigate the seriousness of the activity of which the pupil may be or is being suspended or expelled:*
  1. *The pupil's history.*
  2. *Whether a progressive discipline approach has been used with the pupil.*
  3. *Whether the activity for which the pupil may be or is being suspended or expelled was related to any harassment of the pupil because of his or her race, ethnic origin, religion, disability, gender or sexual orientation or to any other harassment.*
  4. *How the suspension or expulsion would affect the pupil's ongoing education*
  5. *The age of the pupil.*
  6. *In the case of a pupil for whom an individual education plan has been developed,*
    - i. *whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan,*
    - ii. *whether appropriate individualized accommodation has been provided, and*
    - iii. *whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct.*

**negative impact on school climate** – A possible result of inappropriate activities or behaviours, whether those activities/behaviours occur inside or outside the school. Actions or behaviours that occur outside school may still have a negative impact on school climate. For example, cyberbullying often occurs outside school, but if it targets individual students and causes them to be afraid to come to school, it is having a negative impact on school climate.

**parent/legal guardian** – A person legally entrusted with the care of, and managing the property and rights of, another person, usually a child/youth who is under the age of 18. For the purposes of Part XIII of the *Education Act*, students who are 18 years of age or older, and students who are 16 or 17 years of age but have withdrawn from parental control, are considered to be adults.

**possession of drugs** – Having a controlled substance (e.g., a drug or narcotic, as set out in the *Controlled Drugs and Substances Act*) in one's personal possession or possessing it jointly with others, including knowingly possessing an illegal drug elsewhere.

**relationship-based violence** – Any behaviour or action that is used to scare, harm, threaten, control, intimidate, or injure another person within an intimate relationship. The behaviour or action can be physical, sexual, or emotional, and it may comprise a single act of violence, regardless of the level of physical injury, or a number of acts forming a pattern of abuse through the use of assaultive and controlling behaviour.

**robbery** – The use of violence or threats of violence to steal money or property from a victim.

**sexual assault** – Any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim. The term refers to a range of behaviours that involve the use of force or control over the victim. In some cases, no overt physical force is used – instead, the victim may be threatened with words or pressured into doing something he or she doesn't want to do.

**suspension** – The removal of a student from his or her school and all school-related activities for a minimum of one school day to a maximum of twenty school days. Activities for which suspension must be considered are found in subsection 306(1) of the *Education Act*. An example is possessing alcohol or illegal drugs.

**threats** – Any statement, act, or communication, by any means, including electronic means, of an intent to cause harm, whether physical or emotional, to any person or thing, in circumstances where the person threatened believes or has grounds to believe the threat may be carried out.

**trafficking** - Assisting in any manner with the distributing of a controlled drug or substance, as set out in the *Controlled Drugs and Substances Act*, or with the distributing of weapons.

**weapon** – Any article designed as a weapon or used or intended to be used for the purpose of threatening, intimidating, or injuring a person. All firearms, including replica firearms and imitation firearms, are always considered weapons.