

# **CHILD PROTECTION AND CHILD ABUSE MANUAL**

## **Protocols For Social Workers**

**Revised 2003**

**Manitoba Family Services  
and Housing**



## Quick Reference for Suspected Child Abuse

- **A suspicion that a child may be in need of protection requires a report to a child and family services agency or the police. Individuals are not required nor should they attempt to diagnose or investigate potential abuse cases.**
- **The immediate safety of the child is the paramount concern. If either a child and family services agency or the police cannot be reached in a timely fashion, evaluation at a medical facility should be considered.**
- **An immediate medical examination is indicated only in cases where acute injuries or symptoms are present. Where there is a history of chronic abuse, a child and family service agency and/or police investigation is necessary to determine the need for medical consultation and most importantly the need for protection of the alleged victims and other potential victims.**
- **If you are unsure of an appropriate course of action, it might be helpful to consult by telephone with a local child and family services agency and/or the police. The Children's Hospital Child Protection Centre or if outside office hours, the Children's Hospital Emergency Room are also available for consultation.**

**Local Child and Family Services** \_\_\_\_\_

**Local Police Detachment** \_\_\_\_\_

**Local Medical Facility** \_\_\_\_\_

**Children's Hospital Child Protection Centre 787-2811**

**Children's Hospital Emergency Room 787-2306**

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## **ACKNOWLEDGMENTS**

These protocols have been developed for social workers to help ensure that the needs of abused and neglected children and their families are met and their rights are protected. The protocols have been jointly prepared in consultation with the Departments of Family Services and Housing, Health, Justice, and Education and Youth through the Provincial Advisory Committee on Child Abuse. The work of numerous individuals on previous versions of these protocols is acknowledged. The protocols have been endorsed by the Manitoba Association of Social Workers (MASW).

Although these protocols refer to current provincial and federal legislation, changes to such legislation will be made from time to time.

## **FOREWORD**

Social work has a unique role to play with regard to the identification, treatment and prevention of child abuse and neglect. Central to the principles of social work practice is the understanding that individuals are affected by the social, cultural, political and economic systems in which they live. It is incumbent in social work practice to address the systems that negatively impact upon them.

Social workers experience varying roles and expectations within the breadth of settings and contexts in which they work. Social workers employed by schools, hospitals, clinics, family service agencies, day care centres, recreation programs and social service agencies often find themselves the primary referral source for suspected abuse or neglect. Social workers employed by Child and Family Services agencies have the primary responsibility for mandated child protection services, including investigations, assessment, case planning, court, family group decision making, treatment and co-ordination of services.

The information shared in this document is meant to provide guidelines for intervention in abuse cases for the social work profession, along with rationale for the actions taken. Child abuse issues concern all members of society. However, it falls particularly in the domain of social work to intervene at varying levels, depending on individual or agency mandates. For the purposes of this handbook, the emphasis has been placed on non-mandated social workers as there is a much more specific and detailed protocol for Child and Family Services personnel. Included in the handbook are reporting protocols and guidelines as well as professional issues such as: handling disclosures, court, dealing with your own feelings, social work roles, and prevention and the community.

As a professional group, social workers are frequently expected to act on behalf of children in high-risk situations. Following through with this mandate necessitates clear guidelines consistent with professional social work values and standards. These protocols have attempted to give specific procedures along with some explanation and rationale for these suggested procedures. There is a wealth of information on child abuse, appendix C and D contain information and a list of selected resources.

## WHAT IS CHILD ABUSE?

Child abuse is a complex and serious social problem. It can occur in all areas of society, because child abuse cuts across cultural, social and economic boundaries. It is widely accepted that the context of child abuse and neglect includes societal, cultural and socioeconomic factors, as well as those closest to the child's social world – the parent-child relationship and the family. Generally speaking, child abuse is categorized three ways: physical abuse, sexual abuse and emotional abuse. Additional information about child abuse can be found in Appendix C, which contains excerpts from the study of child maltreatment in Canada.

In June 1996, the definition of child abuse was expanded to include abuse of a child by any person. Prior to this date, the definition only applied to abuse committed by a person having care, custody, control or charge of children. Abuse by third parties such as strangers is investigated **only** by the police unless there are circumstances surrounding the alleged incident(s) which generate protection concerns.

In some instances, child abuse is readily apparent and there is an obvious injury of a non-accidental origin such as in physical abuse cases. In cases of emotional or sexual abuse the signs are not always obvious. A child can also be considered in need of protection for acts of omission, where a person fails to do something to protect the child. This could include failure to provide proper physical care, failure to provide proper medical care or failure to act to protect the child from harm. The professional social worker must be aware of the behavioral, psychological and physical indicators of abuse. However, many of the indicators of child abuse can also be indicative of other problems or concerns. Therefore, it is crucial that each incident of suspected child abuse be thoroughly assessed. Appendix A provides a compilation of common indicators of abuse.

The primary responsibility for ensuring the safety and well-being of children lies with each child's parents/guardians. Child and Family Service agencies intervene only when parents/guardians are unable or unwilling to fulfill their parental responsibilities. The risk to the child or other children is determined through careful consideration of a number of factors. It is not only the seriousness of the particular incident. Other factors such as the age of the child(ren), supportive/protective individuals in the child(ren)'s life and alleged offender's willingness and ability to change are also considered. The role of Child and Family Services agencies is to investigate and to assess the risk to the child(ren) and determine the steps needed to protect the child(ren).

## LEGISLATION

In Manitoba, "director" refers to the Director of Child and Family Services and "agency" refers to one of the mandated Child and Family Services agencies providing services throughout the province.

Part III of the Manitoba *Child and Family Services Act* herein referred to as the *Act* addresses the issue of a child who may be "at risk" or has been abused. Individual members of the community and the community as a whole have a responsibility to ensure that children are being properly cared for and protected.

Under Section 17(1), a child is in need of protection:

*Where the life, health or emotional well-being of the child is endangered by the act or omission of a person.*

Under Section 17(2), illustrations of a child in need of protection include:

*Without restricting the generality of subsection (1), a child is in need of protection where the child*

- (a) is without adequate care, supervision or control;*
- (b) is in the care, custody, control or charge of a person*
  - (i) who is unable or unwilling to provide adequate care, supervision or control of the child, or*
  - (ii) whose conduct endangers or might endanger the life, health or emotional well-being of the child, or*
  - (iii) who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;*
- (c) is abused or is in danger of being abused;*
- (d) is beyond the control of a person who has the care, custody, control or charge of the child;*
- (e) is likely to suffer harm or injury due to the behavior, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;*
- (f) is subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;*
- (g) being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or*
- (h) is the subject, or is about to become the subject, of an unlawful adoption under the Adoption Act, or of a sale under section 84.*

The intent of the legislation was not to provide an exhaustive list but rather to illustrate examples of situations where a child may be at risk and in need of protection.

Part (c) of Section 17(2) specifically identifies child abuse or the risk of child abuse as an example of a child being in need of protection. The *Act* defines abuse as follows:

Abuse is defined as “*an act or omission by any person where the act or omission by any person results in*

- (a) physical injury to the child;*
- (b) emotional disability of a permanent nature in the child or is likely to result in such a disability; or*
- (c) sexual exploitation of the child with or without the child’s consent.”*

The Revised Manitoba Guidelines on Identifying and Reporting a Child in Need of Protection (Including Child Abuse) came into effect on September 24, 2001 and incorporate amendments made to the *Act* on March 15, 1999. These guidelines are intended to assist professional and lay persons in carrying out their responsibilities under the *Act* to protect children through early identification and reporting. They reflect a strong commitment by the Manitoba government to ensure children are protected through effective community-based delivery and coordination of services.

In identifying child abuse, the guidelines state:

*The Act refers to three conditions or types of abuse - physical injury, emotional disability of a potentially permanent nature and sexual exploitation with or without a child's consent. Where one or more of these conditions exists as a result of an act or omission of any person, the child ought to be considered as suffering abuse and the matter must be reported.*

For the purposes of these protocols, physical, sexual and emotional abuse are defined as follows:

1. *"Physical abuse" means an act or omission which results in harm to the child. It may involve hitting a child a single time, or it may involve a pattern of incidents. It also includes behavior such as shaking, choking, biting, kicking, burning, poisoning, holding a child under water, or any other harmful or dangerous use of force or restraint. It also includes failure to provide reasonable protection for the child from physical harm.*
2. *"Sexual abuse" means any exploitation of a child, whether consensual or not, for the sexual gratification of any person and includes, but is not necessarily restricted to sexual molestation, sexual assault and the exploitation of the child for purposes of pornography or prostitution.*
3. *"Emotional abuse" means acts or omissions of any person that have caused or could cause serious behavioral, cognitive, emotional or mental disorders. The acts or omissions include, but are not restricted to*
  - (a) *any unwillingness or inability to provide appropriate care, control, affection or stimulation for a child;*
  - (b) *making inappropriate demands upon a child;*
  - (c) *deliberate isolation of the child (such as forcible confinement)*
  - (d) *exposing a child to frequent family violence tending to produce permanent or long-term emotional disability, including*
    - i) *non-organic failure to thrive;*
    - ii) *developmental retardation;*
    - iii) *serious anxiety, depression or withdrawal;*
    - iv) *serious behavioral disturbances.*

In addition to the requirements of the Act, provisions dealing with the criminal aspects of child abuse, in particular child sexual abuse, are included in the *Criminal Code of Canada Bill C-15*, which came into effect in January 1988, includes crimes of sexual assault and exploitation of children and young people such as sexual interference, invitation to sexual touching and sexual exploitation, in addition to indecent exposure, bestiality and incest. (See Appendix B).

The guidelines outline the procedures for handling disclosures of past abuse:

*The phrase "is abused" applies to the past as well as the present. Sometimes disclosures are received from children where abuse happened years ago. This situation is handled the same way as an allegation, which is received in the present.*

*Adults, who come forward to disclose past abuse that happened to them as children, should make a report to an agency. The agency will determine whether it should investigate and determine whether any children are or may be currently at risk. These individuals are encouraged to provide the police with a*

*statement if the alleged offence(s) falls under the purview of the Criminal Code of Canada even where the matter does not proceed to prosecution.*

## **REPORTING - THE LAW IN MANITOBA**

In Manitoba, it is everyone's legal obligation to protect children. This responsibility involves identifying and reporting a child who is or might be in need of protection. All individuals have a legal responsibility to report a child in need of protection.

*Section 18(1) of the Act states ...where a person has information that leads the person reasonably to believe that a child is or might be in need of protection as provided in Section 17, the person shall forthwith report the information to an agency or to a parent or guardian of the child.*

The key words in understanding the legal obligation to report are “*reasonably to believe that a child is or might be in need of protection*”. The obligation to report is based on a person's reasonable suspicion with respect to a given situation.

### **Reporting To A Parent Or Guardian**

Section 18(1) of the *Act* recognizes parents and guardians as the primary protectors of children in society. Often notifying a parent will ensure the protection of a child and no further action will be necessary.

Subsection 18(1.1)(b)(ii) of the *Act* also places a continuing obligation on a person to report a child in need of protection to an agency. Where, in the course of notifying a parent or guardian, the person suspects the parent or guardian is unable or unwilling to provide adequate protection to the child, there is the obligation for the person to report a child in need of protection to an agency.

### **Reporting To An Agency Only**

There are many situations where the person should report to an agency rather than a parent or guardian. Section 18(1.1) states

*Where a person....*

- (a) *does not know the identity of the parent or guardian of the child;*
- (b) *has information that leads the person reasonably to believe that the parent or guardian*
  - i) *is responsible for causing the child to be in need of protection, or*
  - ii) *is unable or unwilling to provide adequate protection to the child in the circumstances; or*
- (c) *has information that leads the person reasonably to believe that the child is or might be suffering abuse by a parent or guardian of the child or by a person having care, custody, control or charge of the child;*

*subsection (1) does not apply and the person shall forthwith report the information to an agency.*

Whenever there is uncertainty or a need for clarification, social workers should consult with a Child and Family Services agency. The agency worker can clarify if the situation needs to be reported, and to whom.

Under section 18.1(1) of the *Act*, no action lies against a person for reporting a child in need of protection in good faith and in compliance with reporting requirements. Furthermore, the identity of the reporting person shall not be disclosed to the family of the child except as may be required in the course of a judicial proceeding.

### **Duty of Professionals**

The best interests of children are the paramount consideration. For professionals especially those in positions of trust, there are higher expectations surrounding their behavior with children as well as their obligation to report children who may be in need of protection.

Section 18(2) of the *Act* states

*Notwithstanding the provision of any other Act, subsection 1 applies even where the person has acquired the information through the discharge of professional duties or within a confidential relationship, but nothing in this subsection abrogates any privilege that may exist because of the relationship between a solicitor and the solicitor's client.*

Social workers bring a set of skills, knowledge, values and experience to their jobs enabling them to make assessments of families, individuals and systems. Social workers operate under the legal requirements that apply to all professionals in their responsibility to report suspected abuse. Given their professional training, social workers must be sensitive to assessing abuse situations and intervening in appropriate ways. Appendix A contains a summary of common indicators of abuse that can assist in identifying and assessing situations.

The Canadian Association of Social Work (CASW) Code of Ethics Section 5.22 indicates that the social worker is obligated to explain to the client his/ her responsibility to release information required by law or by his/her agency. In this case, the social worker should, upon initial contact with the client, explain this requirement under the *Act* [Section 18(1)].

Section 5.26 of the CASW code reinforces the obligation of a social worker to release information if the information "involves a threat of harm" to that person. This means that social workers must report incidents of abuse that may be disclosed to them by children and/or their parents.

By reporting, social workers are able to give a message to children who are being abused that they care about their safety and well-being. Social workers also use their skills with other agencies to facilitate a planned intervention on behalf of children and families at risk.

Parental and community hostility and anger may result from an abuse report. Initially, it can be a traumatic and negative experience for all concerned. These emotions can be directed against the persons reporting. However, as difficult as this may be, reporting is both compulsory and necessary.

The report can be made to the appropriate Child and Family Services agency. At this point, the evidence will be examined. This may or may not lead to further investigation. Regardless of whether further steps are taken, the report must still be made. It is not the mandate of social workers outside the Child and Family Services agency to determine the merits of investigating a suspected/ alleged abuse case.

### **Failure to Report**

Section 18.2(1) of the *Act* outlines potential additional consequences when professionals and those who are certified, licensed or otherwise authorized to carry on their work by a licensing body, or the like, fail to meet these obligations:

*Where the Director has reasonable grounds to believe that a person has caused a child to be in need of protection as provided in Section 17 or has failed to report information in accordance with Section 18, the Director may report the matter to the body or person that governs the professional status of the person or certifies, licenses or otherwise authorizes or permits to carry on his or her work or occupation.*

18.2(2) A body or person who receives a report under subsection (1) shall

- (a) investigate the matter to determine whether any professional status review or disciplinary proceedings should be commenced against the person; and
- (b) on conclusion of the investigation and any proceedings, advise the Director of the determination under clause (a), the reasons for the determination, and, if applicable, the results of any professional status review or disciplinary proceedings.

Section 18.3 of the *Act* states

*Where a person,*

- (a) through an act or omission of the person, causes a child to be a child in need of protection as provided in Section 17;
- (b) fails to report information as required under Section 18;
- (c) discloses the identity of an informant in contravention of subsection 18.1(2); or
- (d) interferes with or harasses an informant in contravention of subsection 18.1(3);

*the person commits an offence punishable on summary conviction.*

In addition to the possible legal and professional penalties for failure to report other possible consequences exist. Failure to report can result in the child not receiving the protection required and/or may sustain further abuse. The family situation is likely to continue to deteriorate, putting the child and any siblings at further risk.

## **GUIDELINES FOR ACTION FOR SOCIAL WORKERS**

When a social worker suspects that a child may be the victim of abuse, it is his or her responsibility to report it immediately to a Child and Family Services agency. When the social worker is employed by an agency, organization or institution, there may be a designated person who is responsible for reporting the abuse. However, in all cases the social worker who suspected the abuse remains responsible under the law to ensure it is reported.

The social worker should ensure that his or her immediate supervisor is aware of the suspected abuse concerns. Each agency, organization or institution should have its own written policies, consistent with legislation and guidelines, on reporting procedures in cases of child abuse. Where written policies and procedures do not exist, the social worker should advocate their immediate development.

It is crucial that reports be made as soon as possible after abuse is suspected. Due to the inherent danger to the child, the report should be made the same working day. Timely reporting allows the agency to

assess immediately the urgency and priority of the matter. Wherever possible, a child should not be allowed to return home without prior consultation with the Child and Family Services agency.

If a child discloses abuse to you, document in writing the child's disclosure and the behaviors or injuries observed. It is not necessary to have complete details before reporting. Similarly, it is not the social worker's responsibility to obtain details beyond those which the child volunteers.

Information needed when making a report should include (if possible) specifics such as parents' names, address(es), telephone number(s), siblings, nature of the abuse, the child's explanation, how the social worker learned about/came to suspect the abuse, the name address and relationship of the alleged offender, previous known history, other indicators of abuse, other agency involvement and any other relevant or unusual information.

The social worker should not contact the parents or guardians of the child if the alleged offender is a family member, has a significant relationship with the parents or guardian, or if the identity of the offender is unknown. It is the responsibility of the Child and Family Services agency to initiate contact with the family unless exceptional circumstances exist. In cases of suspected assaults by an individual who is not a parent or guardian and does not have care, custody or control, the social worker should consult with the Child and Family Services agency to assist in determining who should contact the parent or guardian.

In response to a child making a disclosure, the social worker should remain calm, assume the child is telling the truth, remain non-judgmental while supporting the child, and inform the child of the worker's responsibility to report the abuse. (See "Handling Disclosures" for further details.)

The Child and Family Services worker should advise you as to what initial action steps are planned and when they are to occur. Section 19 of the *Act* requires that the Child and Family Services agency investigate all reports where it is suspected a child may be in need of protection.

The social worker should inform the Child and Family Services worker if he or she is prepared to participate in ongoing assessment/treatment with the family.

When in doubt as to whether a particular situation or series of events warrants a child abuse report, it is always advisable to consult with the appropriate Child and Family Services agency.

## **AFTER REPORTING**

The significance of professional involvement prior to reporting a child believed to be in need of protection will, in part, determine ongoing involvement and information sharing.

The Child and Family Services agency shall report the conclusion of the investigation to the person who reported the information that gave rise to the investigation, except where disclosure is not in the best

interests of the child or where a criminal investigation into the matter is pending. Conclusions refer to the outcome of the investigation, not to the sharing of detailed findings or confidential information.

Child abuse investigations require close collaboration by all those involved. To ensure the best course of action is taken in every case, there shall be mutual sharing of all relevant information by the agencies and professionals involved in the investigation and treatment process.

Section 86.1 of the *Act* states

*If a provision of this Act is inconsistent or in conflict with a provision of The Freedom of Information and Protection of Privacy Act, the provision of this Act prevails.*

The *Act* requires an agency to immediately investigate a report that a child is or reasonably might be in need of protection. The regulations set out procedures for investigating suspected abuse of a child.

On receiving information that causes an agency to suspect that a child is or might be abused, the agency shall:

- (a) where there is a preliminary opinion that serious physical injury or sexual exploitation of the child has occurred, immediately consult with a duly qualified medical practitioner, and where believed necessary and appropriate, arrange for a medical examination of the child and any other child by a duly qualified medical practitioner or at a medical child abuse facility;
- (b) notify and consult immediately with an appropriate police agency for the area as to the particulars of the case;
- (c) share all relevant information, including information of a confidential nature, with the police officers, medical and hospital professionals and other agencies or person involved in the investigation and management of the case, to ensure the best course of action for the protection of the child is taken; and
- (d) refer the matter to the agency's child abuse committee in accordance with section 18.5 of the *Act*.

The *Act* requires agencies to establish at least one child abuse committee to review cases of suspected abuse. The expertise on child abuse committees provides a multi-disciplinary approach to child abuse investigations and case reviews. The child abuse committee reviews as required the involvement of the police, medical professionals and others involved in the investigation and management of the case and provides consultation in the investigation and management. The child abuse committee makes recommendations where it is considered appropriate or necessary to protect a child or other children. The child abuse committee is made up of representatives from the Child and Family Services agency, the medical profession, education and the police. Additional composition may include other professionals or individuals who are knowledgeable about and committed to the well-being of children and families within their communities.

The social worker may be asked to participate in a case-specific "team" meeting: a "team" referring to those professionals, family members and/or other concerned individuals who are, or may be, involved with the specific abuse case. Mutuality in case planning and sharing of professional assessment material will be determined on a case-by-case basis. The *Freedom of Information and Protection of Privacy Act* allows for the sharing of information under section 44(1)(l) *A public body may disclose personal information where necessary to protect the mental or physical health or safety of any individual or group of individuals.*

## **PROFESSIONAL ISSUES FOR SOCIAL WORKERS**

### **THE SOCIAL WORK ROLE**

As a profession, social work believes that the abuse or neglect of children is wrong, illegal and unacceptable in our society. Child abuse affects all family members and treatment effectiveness is greatly enhanced when all family members are involved. Social workers agree there is a need to balance the rights of the child and the rights of the parents, but child protection is the paramount concern in any child abuse situation.

The continuum of social work involvement makes social work unique as a profession in the handling of child abuse cases. Other professions often have time-limited and defined periods where and when they intervene. Social workers are present in the school system, the health system, the court system, the correctional system and a wide variety of treatment facilities. The profession's broad roles can impact on all aspects of intervention, from detection and reporting through to assessment and treatment.

The social worker's role in some situations may be limited to the crucial reporting of detected or disclosed child abuse cases. In other situations, the focus of the social worker's involvement might be to provide an assessment on any or all family members for the courts, Child and Family Services agency or a treatment facility. The social worker's role may be to provide support or counseling to the child or other family members during or following the investigation. These services may be provided in individual, group or family sessions.

The social worker may have previously had an ongoing role with the child or the family prior to the child abuse report. It is important that the original reasons for social work input continue to be addressed in addition to the child abuse related issues. If the social worker was the individual who made the initial child abuse report, this issue must also be resolved with the child or family. Similarly, the social worker may be engaged after the abuse disclosure to work with the child or family on the abuse issues or on other issues identified as the result of the abuse investigation and assessment.

Whatever their role or involvement, social workers must remember that they will be part of a multidisciplinary team for that specific abuse case. The Manitoba government, through legislation, guidelines and standards, strongly endorses the multidisciplinary approach. As such, each social worker who is or has been actively involved in a reported case of child abuse should have the opportunity and responsibility to participate in the planning process. While the Child and Family Services agency and law enforcement authorities have the legal mandates, other professionals are crucial as each individual provides a piece of the puzzle, enabling the team or committee to see the overall picture.

In some situations, the social worker may be in disagreement with other team members respecting the case plan. The social worker, as a team member, needs to be open and flexible, listening carefully to other opinions and recommendations. He or she must trust the professional judgment of other team members and be able to accept and provide constructive criticism. At the same time, when the worker is confident and convinced that the proposed plan does not meet the family's needs or ensure the child's protection, the worker would be expected to advocate on behalf of the particular client and/or family.

### **HANDLING DISCLOSURES**

Social workers in many settings may encounter disclosures of physical or sexual abuse either through a spontaneous disclosure by the child or through discussion with the child around a presenting concern.

When a child discloses physical or sexual abuse, it is important to act on the assumption that the child is telling the truth, in spite of any personal doubts you may have. While some disclosures by children are found to be false, studies show that a large percentage of reported cases of abuse are verified through investigation, and the greatest proportion of those reported cases not verified arose from sources other than a disclosure by the child. Chronic lying and other acting-out behaviors, lack of appropriate affect during the disclosure, dissatisfaction on the part of the child with family rules, and other factors that may affect the child's credibility are all quite common in children who have been abused.

When receiving a disclosure it is your role to document the disclosure and to report it. It is the role of the child protection/abuse worker and police to further investigate and determine whether or not abuse has occurred.

A social worker who has not previously encountered child abuse, or who meets with a totally unexpected or particularly disturbing disclosure, may experience shock that the child has been mistreated in this way. If this is transmitted to the child, it may increase the child's sense of guilt, shame and stigmatization. It is important, therefore, to deal with the child calmly, imparting a sense that you can handle the information the child has disclosed.

When a child is disclosing sexual or physical abuse, the role of the social worker is twofold. First, obtain the information that would lead the social worker reasonably to believe that a child is or might be in need of protection and refer to a Child and Family Services agency. It is not necessary to probe the child for details of the abuse. The child will be interviewed by police and Child and Family Services. The social worker should not attempt to contact the child's parents, this will be done by the Child and Family Services worker.

The second role of the social worker is to provide encouragement and support. When talking to a child who has disclosed physical or sexual abuse the following are some suggestions:

<b>Do:</b>	<b>Don't</b>
<ul style="list-style-type: none"> <li>➤ find a private, quiet place to listen</li> <li>➤ listen in a calm, non-judgmental manner</li> <li>➤ reassure the child that it is right to tell; "You did the right thing by telling me. I know it's hard to tell someone about this and I'm glad you had the courage to do so."</li> <li>➤ assure the child that what happened was not their fault</li> <li>➤ acknowledge the child's feelings</li> <li>➤ say "I'll try to help"</li> <li>➤ let them know you must report this</li> <li>➤ write down what you heard and saw:               <ul style="list-style-type: none"> <li>- as soon as possible</li> <li>- quoting the child's words as much as possible</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ interrupt the child's story</li> <li>➤ promise to keep the disclosure confidential</li> <li>➤ ask leading questions</li> <li>➤ show horror or anger</li> <li>➤ conduct your own investigation</li> <li>➤ provide opinions or judgements</li> <li>➤ promise the child what the next steps will be</li> <li>➤ promise that things will get better</li> <li>➤ assume the child hates or is angry at the offender</li> </ul>

It is important to let the child know that you have to report the incident. If the child is distressed by this, ask what he or she is afraid will happen as a result of your report. You can then provide some appropriate support. It is of the utmost importance, however, to ensure that you give accurate information and do not make any promises you can't keep.

When a report is made to Child and Family Services, the Child and Family Services worker will usually become the case manager. The Child and Family Services worker is also responsible for investigating the allegations of abuse, reporting to police, ensuring the child receives medical attention, and ensuring the protection of the child.

## LEGAL PROCESSES

The child abuse committee, the child abuse registry, Family Court and Criminal Court are all legal processes that may be involved during an abuse investigation. The following is a summary of common legal processes however each case is specific to its circumstances and variations may occur. There also exist programs that offer alternatives to the court process.

1. The provincial requirements of the *Act* set out specific procedures to be followed in the management of child abuse cases. The *Act* requires agency child abuse committees to review all suspected cases of child abuse.

Child abuse committees are composed of persons from many disciplines and include the agency child abuse co-ordinator, another agency staff member, a qualified medical practitioner, local law enforcement personnel, a representative from the local school division, plus any others who may have significant input (e.g. Elder, probation officer, nurse).

*The Personal Health Information Act (PHIA)* allows for the sharing of personal health information without the consent of the individual to facilitate a child protection investigation.

2. The *Act* requires the Director of Child and Family Services to maintain a Child Abuse Registry. Upon completion of a full abuse investigation, an agency, where there is a finding of abuse (and upon the review of the agency's abuse committee) will submit to the Director of Child and Family Services the names of abusers for entry in the Registry where:
  - (a) a person has been convicted of abusing the child;
  - (b) a court finds on the basis of abuse that a child is in need of protection; or
  - (c) where an agency's child abuse committee has reviewed the case and is of the opinion that the person abused the child and that the person's name should be entered on the Registry. The person's name and the circumstances of the abuse will be forwarded to the Director.

Under (c) the name(s) will not be forwarded to the Director for placement on the Registry until the following steps occur. Anyone being considered under part (c) for possible registration will be first provided with an opportunity to provide information to a child abuse committee. The information will be reviewed by the child abuse committee and considered when they formulate their opinions. If the child abuse committee is of the opinion under (c) that a person abused a child and that the person's name should be entered in the Registry that person is notified of the intent to register and the reasons why. The person can object to the entry by filing an objection with the Court of Queen's Bench of Manitoba within 60 days and a hearing will occur. The name is not forwarded to the Registry until the appeal period has passed or the court hearing has been concluded.

3. If child abuse cases are legally processed this may occur by two routes (which often occur simultaneously):
  - (a) Family Court and/or
  - (b) Criminal Court.

Therefore the legislation that principally guides child protection services is to be found either in:

- (c) *The Child and Family Services Act* (Manitoba)
  - (d) *The Criminal Code* (Canada).
4. It is important to note that where a child is defined to be in need of protection and a change in guardianship is required, an apprehension hearing will take place in Family Court. This type of hearing will take place regardless of whether a criminal hearing is scheduled to take place.
  5. In order for an abuse case to be heard in Family Court, the Child and Family Services agencies will have investigated a report of abuse to a child. This means that, as well as interviewing the child and family, the agency will have sought information from pertinent collateral sources.
  6. As a result of this investigation, the agency will determine whether or not it is necessary to remove the child from the home (apprehension). When apprehension of a child occurs, evidence must subsequently be presented in Family Court. The court hearing is necessary in order to facilitate an impartial inquiry regarding the child's need for protection and to allow the parents to present (with legal representation) their interpretation of the events of concern to the agency.
  7. Generally, a Family Court hearing does not attempt to find a guilty party. It attempts to answer the question, "Is the child in need of protection?" If the judge finds the child to be in need of protection, he or she will grant the application (made by the agency) for an Order of Guardianship or Supervision of the child. With the exception of extreme cases of child abuse (for example, the child permanently disabled by the abusive injury or a previous history of abusive injuries) this Order of Guardianship (granted at a first hearing) would be a Temporary Order of Guardianship.
  8. Permanent Orders of Guardianship of a child are rarely requested at a first hearing. It is hoped that during the period of temporary guardianship, the parents will be able (with help) to make the type of changes that would result in a non-abusive home environment. The Temporary Order of Guardianship also allows the child to receive, through substitute care, the nurturing and stimulation appropriate to his/her age and developmental stage, thus helping to ameliorate some of the deficits of the abusive home.
  9. In addition to the Family Court hearing, a Criminal Court hearing may be scheduled for the same case. It is important to note that the criminal process varies considerably from that of Family Court. For a Criminal Court hearing to take place, charges must be laid against one or both parents (or other persons). The primary purpose in Criminal Court is to determine the guilt or innocence of the alleged offender(s), not the protection needs of the child. This does not mean that the Criminal Court disregards the needs of the child but that the focus is different from that of Family Court.
  10. In those cases where an alleged offender is found guilty in the Criminal Court, sentencing will take place as it would for any other criminal offence. Therefore, a person found to be guilty of child abuse may be put on probation or given a jail sentence. Sentencing can occur in Criminal Court regardless of the decision made in Family Court. On the other hand, a guardianship order

can be made in Family Court even if the alleged offender is found not guilty in Criminal Court. Therefore, the two processes can be viewed as separate in intention and focus, but both related to abuse allegations.

11. Manitoba, like other provinces, has developed guidelines for helping to determine which cases should be referred to Criminal Court. All sexual abuse cases are referred to the police (special unit) for investigation. The police, in consultation (where necessary) with the crown prosecutor, determine whether charges will be laid. If charges are laid, the case will be processed through the criminal system.
12. Physical abuse cases, where there are serious injuries that can be conclusively determined to be abusive in nature (by medical practitioner), are usually referred to the police for investigation. If charges are laid, the case will be processed through the criminal system in the same manner as sexual abuse cases.
13. In both types of abuse, the difficulty in criminal prosecution is related to the type of evidence that is admissible in Criminal Court. When abuse occurs to young children (particularly nonverbal children) and there are not witnesses to the abusive act, it is often difficult to proceed in Criminal Court unless there is corroboration such as medical evidence. Recent changes in the *Criminal Code* have reduced, but not completely eliminated, these difficulties.
14. There exists a growing recognition that the court system, with its adversarial roles is not always effective. There are a number of programs that exist as alternatives to the Criminal or Family Court process such as: mediation, family group conferencing, family decision making, child protection circles and sentencing circles.

## **DEALING WITH YOUR OWN FEELINGS**

There is little doubt that the experiences encountered in dealing with abused or neglected children provoke strong feelings. Shock, denial, disbelief, anger, pity and disgust are all common reactions to hearing abuse disclosures. All of these reactions must be dealt with in order to be able to provide appropriate support to the child.

When we deal with a hurt child professionally and recognize that child's helplessness and vulnerability, it may reawaken our own childhood memories and fears. Listening to parental circumstances that led to the abuse may touch a chord of recognition in ourselves as parents or parent surrogates. Use of our own upbringing to gauge child care as good or bad, acceptable or unacceptable, may be inevitable. The process requires our being aware of what belongs to our personal lives alone, and what has general validity. There are no easy answers. Each situation demands individual judgment, which requires continual self-evaluation.

Parents often deny responsibility for their child's condition, and sometimes evidence is not as clear as we wish it could be. A difficult decision must be made when parents are uncooperative and evidence is insufficient to do what is necessary to protect the child. The requirement to report, and the action that follows, may appear to make things worse for the child. But it may be equally true that if we do not report, the child's life may be in jeopardy. Such responsibility can feel overwhelming.

Once we recognize our reactions and the feelings associated with them, we can begin to put them in perspective:

- Self-awareness should help social workers use themselves more constructively with parents, neither to accost them with anger nor to over-identify with them;
- Self-awareness should ensure that the social worker avoids imposing personal values on persons who are too helpless to ward off the imposition except by passive resistance;
- Self-awareness should facilitate objectivity in the social worker's caring, allowing the case situation to be seen in its own light.

Social workers are called upon to use all their skill and compassion to try to "reach" a hurt, untrusting, wary child and often equally untrusting and wary parent(s). It is not easy. Social workers have an important opportunity to participate in the reduction of child abuse. It is essential that they understand their own feelings and attitudes so that they can control them for the benefit of their clients.

## **ALLEGATIONS AGAINST A SOCIAL WORKER**

On occasion a social worker may be accused of causing a child to be in need of protection. This could be an alleged act or omission that occurred where the child is in the care of the social worker through their employment, or where the child lives in the social worker's home or family or in the community where the social worker resides. The allegation would be treated the same as one concerning any other professional group and an investigation would be conducted. Under such circumstances, some actions may need to be taken to ensure the safety and well-being of children the social worker has access to through their employment while an investigation is being conducted.

Organizations and agencies should have policies in place to deal with such investigations. A plan to ensure the protection of any children while the investigation is being conducted is usually needed. This may involve suspending the accused social worker with or without pay during the investigation or reassigning them to duties that do not involve access to children. If the individual is not suspended the plan of protection should be developed in consultation with the investigating Child and Family Services Agency.

Where a person's employment involves the care and supervision of children, the name of the person shall be reported through an agency to the Director of Child and Family Services in situations where:

- (a) that person has caused a child to be in need of protection or
- (b) that person has failed to report a child in need of protection.

The Director may report to the body or person that governs the professional status of the person or certifies, licenses, or otherwise authorizes or permits the person to carry on his or her work occupation.

The Act describes situations where the employer must be notified of the conclusions of an investigation:

*Where an agency concludes, after an investigation under subsection (1), that a child is in need of protection, the agency shall report its conclusion*

- (c) *in the case of a person who is identified by the investigation as the person who caused the child to be in need of protection;*
- (d) *in the case of a person under clause (c) whose employment*
  - (i) *involves the care, custody, control or charge of children, or*

(ii) *permits unsupervised access to children, to the employer or the manager or supervisor at the place of employment.*

In addition, the conduct of a social worker is guided by the Canadian Association of Social Work Code of Ethics which states, "A social worker shall not exploit a relationship with a client for personal benefit, gain or gratification." This is specified further under the section which describes limits on the professional relationship, section 4.1 states, "The social worker shall not have a sexual relationship with a client."

## **PREVENTION AND THE COMMUNITY**

*"In our society, we typically see child abuse and neglect - as we do all problems - as the result of individual deficiency. We concentrate on parents who are mentally ill or have unrealistic expectations about what children can and should not do.... (However) abuse and neglect are not only problems of individual abusers and their victims, but are also problems of the social contexts in which these individuals live.. If child maltreatment is grounded, at least in part, in the social context in which individuals live, then solutions to the problem must go beyond individualistic therapies and rehabilitation techniques to embrace personal networks, neighborhoods and communities. '*

James Garbarino & S. Holly Stocking,  
**PROTECTING CHILDREN FROM ABUSE  
AND NEGLECT:**

*The Child and Family Services Act* provides a general mandate for the provision of community based preventive services. All parents/guardians face challenges from time to time in bringing up their children. That is when prevention services are of the most value in helping families learn to cope with problems and issues. Prevention measures are most effective when they are developed and delivered in a collaborative manner, involving families and communities, as well as service providers from all sectors – education, health, justice, child care, social services and recreation. The principles that guide prevention and early intervention initiatives are:

- build capacities of individuals, families and communities to promote healthy relationships
- enable people to take control of their health and social well-being
- focus on the underlying factors and conditions that affect health and social well-being
- develop policies and practices that support the well-being and safety of all children

It is now widely accepted that the most effective way to enhance family life is to facilitate the community's responsibility for the welfare of its members. In this respect, the following values provide a framework for community development in a child and family services context:

- Problems faced by families can often find their origins in the social, political, economic and cultural systems in which families live. Solutions to these problems must include strategies for change at these larger systems levels.
- The more neighborhoods are aware of their own problems of child and family living, and the more they are prepared to provide supports and/or take collective action to resolve these problems, the less need there is for crisis intervention, as a result of family breakdown.

- Effective preventive community programs and services are those that respond to the expressed needs of local residents, in a manner consistent with community norms, culture and values.
- The most effective means of developing, delivering and monitoring programs and services to children and families is through the participation of local residents and service providers in identifying and responding to community and neighborhood needs.
- Programs and services must respect the cultural and linguistic heritage of the communities being served.
- An integral part of preventive programs involves working in conjunction with other agencies and organizations for more effective development, co-ordination and use of programs and services.
- Community development and prevention work requires agencies to take stands on certain community problems or issues, and to advocate and act for change on behalf of the communities served.

## APPENDIX A

### INDICATORS OF ABUSE

#### A Caution About The Use of Indicators

Notwithstanding the critical role of the offender, child abuse and neglect is rarely caused by a single factor. Various risk signs are usually present, but risk signs may be common to many families under stress who do not harm their children. Since there are many types of abuse, abusers and abused children, no single list of indicators applies to all to them. Thus, one must exercise caution in the use of the indicator tables. As well, the following section is not all-encompassing, but present many of the common indicators. These indicators should be used as a guide, together with other assessment skills, to determine the presence or absence of abuse. The presence of one of these indicators, or even several of them, does not necessarily mean that abuse has occurred. However, it may mean that the family does need some help. As well, it is estimated that as many as 25% of children who have been abused have no significant behavioral changes.

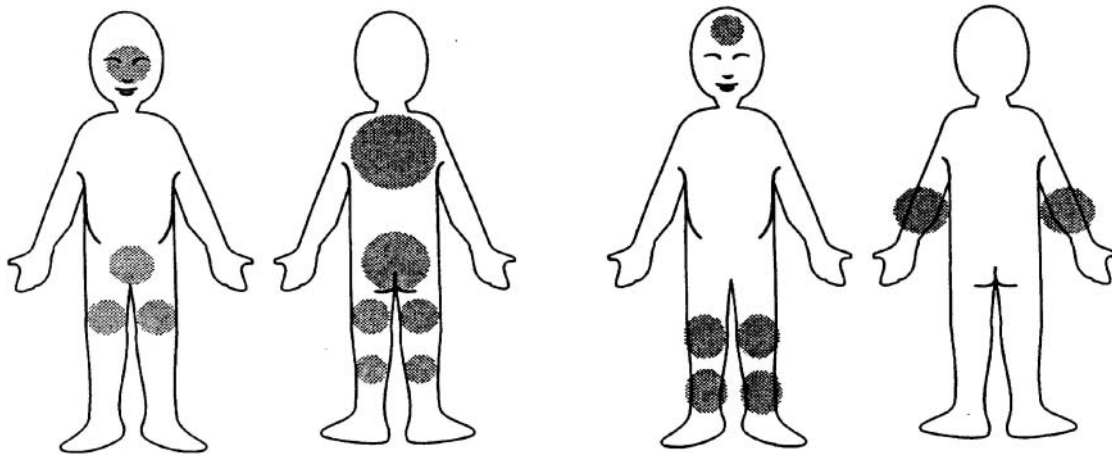
#### PHYSICAL ABUSE INDICATORS IN CHILDREN

Important in the differentiation of non-accidental trauma from accidental injury is the location and pattern of the injury.

#### Location of Bruises and Abrasions

##### Suspicious Sites

##### Common Accidental Sites



## **PHYSICAL INDICATORS**

### **Unexplained**

- Bruises, welts, lacerations or abrasions

### **Locations of Concern**

- Buttocks or lower back
- Soft parts of the body such as cheek, fleshy part of arm, abdomen, lips, gums, mouth, eyes
- Cheek or ear lobe
- Neck
- External genitalia or inner thigh

### **Shape**

- Clustered, forming regular patterns, teeth marks, handprints
- Same as article used to inflict injury (e.g., cord, belt buckle)
- Multiple planes and at various stages of healing

### **Unexplained burns**

- Small circular burns, particularly on soles of feet, palms of hands, back or buttocks
- Rope burns on arms, legs, neck or torso
- Patterned burns indicating a hot object (e.g., stove element, "dip" burn)
- Forced immersion burns or sock/glove type burn
- Infected burns may indicate a delay in seeking treatment

### **Unexplained fractures/dislocations skull, facial bones spinal fractures**

- Skull, facial bones
- Spiral fractures
- Dislocations, particularly of shoulders and hips
- Multiple fractures in various stages of healing

**Note:** In children <2 years old, fractures and dislocations usually result from blows, throws, or other forceful action or from severe shaking.

### **Other Forms**

- Ingestions
- Bald patches on scalp
- Subdural haematomas in children <2 yrs
- Retinal hemorrhages

## **HEALTH INDICATORS**

- Malnutrition
- Eating disorder

### **BEHAVIORAL INDICATORS**

- Runaway behavior
- Very wary of adults or physical contact
- Speaks in monosyllables
- Vacant stare or frozen watchfulness
- Withstands examination and painful procedures with little movement and/or crying
- Does not turn to parent for support
- Does not seek comfort when injured or in a threatening situation
- Child believes he/she was bad and deserves to be punished by parent
- Constantly trying to please the parents and assessing parental reaction to statements
- Role-reversal: child trying to take care of parent
- Behavioral extremes: aggressiveness or withdrawal
- Afraid to go home
- Does not participate in gym, for no apparent reason
- Inappropriately dressed (e.g., long pants and long-sleeved shirt in summer) to hide bruises
- Indiscriminately seeks affection
- Inappropriate or precocious maturity
- Psychosomatic complaints

### **PHYSICAL ABUSE INDICATORS IN PARENTS/CAREGIVERS**

The following indicators, while not being conclusive evidence that abuse is occurring, can be signals from the parent/caregiver of abuse or potential abuse.

- Explanation does not fit the injury; story is inconsistent, or there is no explanation or totally denied
- May blame the child because he/she is bad, over reactive or defiant
- Parent's reaction to the injury is inappropriate (e.g., very upset over a relatively minor injury or unconcerned over a serious one)
- Unaware of normal developmental stages of children
- View the child as capable of meeting own needs
- Describe their own childhood as unhappy
- Express feelings of isolation, both as an individual and as a parent; have no identifiable support systems
- Parent does not support the child physically or verbally (e.g., no eye contact or touching)
- Lengthy time interval between occurrence of injury and seeking medical attention
- Routinely uses harsh, unreasonable discipline
- Demonstrate poor impulse control when questioned about how they handle anger
- Abuse of alcohol or drugs
- Have suffered abuse or family violence as children
- Be mentally ill or suffer from other disorder
- Lack of food, shelter, clothing, cleanliness, safety and supervision
- Evidence of inter-spousal abuse
- Transient lifestyle, frequent moves and mobility

## **SEXUAL ABUSE INDICATORS IN CHILDREN**

### **Physical Indicators**

- Difficulty in walking
- Pain, swelling or itching in the genital area
- Bruises, bleeding or lacerations of the external genitalia, vulva or anal areas
- Pregnancy, especially in early teens
- Pain during urination
- Vaginal/penile discharge
- Sexually transmitted disease (STD), especially in preadolescents
- Recurrent vaginal infections in a child <12 yrs.
- Constant sore throat of unknown origin

### **Behavioral Indicators**

#### **A. Reactions similar to those precipitated by other severe stress including:**

- Regressive behavior in younger children (e.g., thumb sucking, bed-wetting)
- Sudden fear or phobias (e.g., fear of dark, school)
- Running away from home
- Abuse of drugs and alcohol
- Noticeable personality changes (e.g., depression, anger, hostility)
- Change in school performance
- Self-mutilation and self-destructive behavior
- Depression, anxiety, withdrawal
- Poor peer relationships, self-image, overall physical care

#### **B. Reactions directly related to Sexual Abuse including:**

- Provocative drawings of a sexual nature
- Age-inappropriate sexual play
- Bizarre, sophisticated or unusual sexual behavior or knowledge
- Overtly seductive behavior or aversion to intimacy with adults of the opposite sex
- Sexualized expressions of affection
- Promiscuity
- Withdrawal from peers
- Extreme mistrust
- Prostitution
- States that he/she is sexually assaulted
- May feel it is her/his fault
- Confusion about sexual identity, norms, love, care getting/care giving, physical boundaries

#### **C. Other reactions may include:**

- Child may state relationship with parent is poor; may be very angry at non-offending parent because of inability to protect him/her

- Child assumes inappropriate parenting and household responsibilities

## **SEXUAL ABUSE – OFFENDER CHARACTERISTICS**

David Finkelhor proposed four offender characteristics as necessary pre-conditions to sexual abuse.

### **1) The motivation to sexually abuse**

The motivation to abuse a child sexually derives from an offender's sexual arousal to children, the blockage of appropriate outlets for sexual gratification, and the sexualization of unmet emotional needs (such as the need for power and control, narcissistic identification with the self as a young child, and the unconscious reenactment of childhood trauma). These individual needs may be fostered by societal practices such as the erotic portrayal of children in mainstream advertising and pornography.

### **2) Overcoming internal inhibitors**

The offender must overcome internal resistance to sexually abusing a child. Impulsiveness, lower intelligence, psychosis and senility, lack of empathy for the child, and alcohol abuse are examples of offender characteristics that reduce inhibition. There are also society-level factors that reduce resistance to such offending, such as weak criminal sanctions, the acceptance of alcohol as an excuse for behavior, and the cultural belief that family matters are private and at the parents' discretion. The offender's efforts to establish a relationship with the child, such as time alone or singling the child out as favored or special, may also reduce internal inhibitors via a distortion of the caretaking role and blurring of interpersonal boundaries. An offender may develop a sense of entitlement and privilege with a child, and may come to distort the parental role to include sexual instruction or role reversal.

### **3) Overcoming external inhibitors**

This precondition considers the need to overcome external barriers to sexual abuse. Factors that may increase a child's vulnerability to abuse include a parent who is absent, ill, overwhelmed, experiencing family violence, or not emotionally close to or protective of the child; a lack of child supervision and monitoring; opportunities to be alone with the child; marital dissatisfaction and social isolation. Additional society level variables may include erosion of social networks, the lack of social supports to the mother, and barriers to women and children's rights.

### **4) Overcoming the child's resistance**

This involves the offender's ability to overcome the child's resistance. An important factor here is the illusion of a trusting relationship, often where childcare is part of the offender's responsibilities, as in the case of a parent, step-parent, coach, or babysitter. Factors that make it more difficult for a child to rebuke abuse attempts include an emotionally vulnerable child (such as emotionally or physically deprived, a compliant or quiet child), the use of coercion and/or seduction, the child having witnessed parental conflict, the lack of education about sexual abuse, and the social powerlessness of children. Children may respond out of a need for affection, a desire for money/gifts, or pursuit of an adventure. Methods used to lower the child's resistance include friendship, playing games, giving rewards, hobbies, interests that appeal to the child, and using peer pressure. If subtle methods are not successful, coercion and violence may be used, often in a deceptive manner such as framing abuse as "discipline".

## **NEGLECT INDICATORS IN CHILDREN**

### **Physical Indicators**

- Underweight, poor growth pattern, failure to thrive, constant hunger, dehydration
- Poor physical hygiene - severe diaper rash, skin rashes, dirty hair and face, persistent body odor
- Unattended needs (e.g., glasses, dental work); untreated injuries or medical needs
- Consistent lack of supervision or abandonment
- Fatigue, listlessness, lethargy
- Inappropriate or inadequate clothing for the weather, clothing may be unclean

### **Behavioral Indicators**

- Infants may be dull, passive and inactive, no vocalization
- Children may be pale, listless, thin, unkempt
- Children may beg, steal or hoard food
- Frequent absence from school, or arriving at school very early and leaving very late
- Constant squinting at the board
- Complaining of aching teeth
- States there is no-one to look after him/her
- Role reversal, assuming adult responsibilities and concerns for home or siblings
- Engaging in delinquent acts and/or abuse of alcohol or street drugs
- Constant fatigue, listlessness, or falling asleep in class
- Underachievers
- Obvious lack of energy when playing

### **NEGLECT - POTENTIAL INDICATORS IN PARENTS OR CAREGIVERS**

- Externalize blame for situation
- Describe a chaotic home life
- Show lack of understanding of needs of children (e.g., food, supervision)
- May be mentally handicapped or borderline I.Q.
- Have little motivation or skill to effect changes in their lives
- Are often passive, socially isolated individuals who have not experienced success
- Unable to postpone immediate gratification
- Describe inappropriate parenting in own childhood
- Often maltreated or neglected as children

### **Other Indicators**

- Provide unsafe, unclean and/or crowded living conditions and inappropriate sleeping arrangements
- Lack of food, shelter, clothing, cleanliness and safety
- Offer little or no supervision
- Have children born close together
- Limited knowledge of/or access to supports and resources
- Often live in marginally economic circumstances
- Experience marital instability
- Have history of inter-spousal violence

- Frequent moves and/or mobility
- Abuse of alcohol, drugs or prescription drugs

## **EMOTIONAL ABUSE INDICATORS IN CHILDREN**

### **Physical Indicators**

- Speech disorder
- Failure to thrive with no organic cause
- Sleep disorders
- Presence of psychosomatic complaints (e.g., headaches, nausea, abdominal pains)
- Involuntary twitching of muscles, especially on face
- Lags in physical development
- States no one cares about him/her or that he/she is no good and cannot succeed
- Extreme lack of confidence, withdrawn, depressed
- Inability to concentrate, continual procrastination
- Over-participation, e.g. involvement in too many activities
- “Has to win” attitude

### **Behavioral Indicators**

- Mental or emotional developmental lag apparent, with unexplained etiology
- Hyperactive/disruptive behaviors
- Behavior extremes (e.g., withdrawn, aggressive and demanding)
- Overly adaptable and compliant behavior (e.g., too well-mannered)
- Inhibition of play
- Unusually fearful of consequences of actions, which often leads to lying
- Threatened or attempted suicide
- In play, demonstrates emotional unattachment to dolls or children
- Compulsively clean and neat
- Habit disorder: sucking, biting, rocking

## **EMOTIONAL ABUSE - POTENTIAL INDICATORS IN PARENTS OR CAREGIVERS**

- Deny problem or blame child for it
- Appear unconcerned about child's welfare
- Refuse all offers of help
- Discrepancy between verbal and nonverbal communication to the child
- State that child is inadequate, compared to others in family
- Demonstrate poor impulse control, overcontrolling and/or combination of the two extremes
- Use of predominantly negative comments to and about the child
- Have trouble developing normal, healthy relationships with others
- React immaturely to most situations

## **APPENDIX B**

### **EXCERPTED FEDERAL LEGISLATION**

#### **LAWS PERTAINING TO ASSAULT AND SEXUAL ASSAULT (CRIMINAL CODE OF CANADA)**

##### **Assault**

265. (1) person commits an assault when
- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
  - (b) he attempts or threatens, by an act or gesture, to apply force to another person, if he has, or causes that other person to believe upon reasonable grounds that he has, present ability to effect his purpose; or
  - (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

(2) Application:

This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

(3) Consent:

For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of

- (a) the application of force to the complainant or to a person other than the complainant;
- (b) threats or fear of the application of force to the complainant or to a person other than the complainant;
- (c) fraud; or
- (d) the exercise of authority.

(3) Accused's belief as to consent:

Where an accused alleges that he believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.

##### **Sexual Assault**

271. (1) Every one who commits a sexual assault is guilty of
- (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or
  - (b) an offence punishable on summary conviction.

##### **Sexual Assault with a Deadly Weapon, Threats to Third Party causing Bodily Harm**

272. Every one who, in committing a sexual assault,
- (a) carries, uses or threatens to use a weapon or an imitation thereof,
  - (b) threatens to cause bodily harm to a person other than the complainant,

- (c) causes bodily harm to the complainant, or
- (d) is a party to the offence with any other person, and is guilty also of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

### **Aggravated Sexual Assault**

273. (1) Every one commits an aggravated sexual assault who, in committing a sexual assault, wounds, maims, disfigures or endangers the life of the complainant.

(2) Every one who commits an aggravated sexual assault is guilty of an indictable offence and is liable to imprisonment for life.

### **Corroboration Required**

274. Where an accused is charged with an offence under section 151 (Sexual Interference), 152 (invitation to Sexual Touching), 153 (Sexual Exploitation), 155 (incest), 159 (Anal Intercourse), 160 (Bestiality), 170 (Parent or Guardian Procuring Sexual Activity), 171 (Householder Permitting Sexual Activity), 172 (Corrupting Children), 173 (indecent Acts), 212 (Procuring), 272 (Sexual Assault with a Deadly Weapon ...), or 273 (Aggravated Sexual Assault), no corroboration is required for a conviction and the judge shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration.

### **Evidence of Complainant's Sexual Activity - Idem Factors that judge must consider**

276. (1) In proceedings in respect of an offence under section 151, 152, 153, 155 or 159, subsections 160(2) or (3), or section 170, 171, 172, 173, 271, 272 or 273, evidence that the complainant has engaged in sexual activity, whether with the accused or with any other person, is not admissible to support an inference that, by reason of the sexual nature of that activity, the complainant

- (a) is more likely to have consented to the sexual activity that forms the subject-matter of the charge; or
- (b) is less worthy of belief.

(2) In proceedings in respect of an offence referred to in subsection (1), no evidence shall be adduced by or on behalf of the accused that the complainant has engaged in sexual activity other than the sexual activity that forms the subject-matter of the charge, whether with the accused or with any other person, unless the judge, provincial court judge or justice determines, in accordance with the procedures set out in sections 276.1 and 276.2, that the evidence

- (a) is of specific instances of sexual activity;
- (b) is relevant to an issue at trial; and
- (c) has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.

(3) In determining whether evidence is admissible under subsection (2), the judge, provincial court judge or justice shall take into account

- (a) the interests of justice, including the right of the accused to make a full answer and defence;
- (b) society's interest in encouraging the reporting of sexual assault offences;
- (c) whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case;
- (d) the need to remove from the fact-finding process any discriminatory belief or bias;
- (e) the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury;

- (f) the potential prejudice to the complainant's personal dignity and right of privacy;
- (g) the right of the complainant and of every individual to personal security and to the full protection and benefit of the law; and
- (h) any other factor that the judge, provincial court judge or justice considers relevant.

### **Reputation Evidence**

277. In proceedings in respect of an offence under section 151, 152, 153, or 159, subsection 160(2) or (3), or section 170, 171, 172, 173, 271, 272, or 273, evidence of sexual reputation, whether general or specific, is not admissible for the purpose of challenging or supporting the credibility of the complainant.

### **Spouse May Be Charged**

278. A husband or wife may be charged with an offence under section 271, 272 or 273 in respect of his or her spouse whether or not the spouses were living together at the time the activity that forms the subject-matter of the charge occurred.

## **CHILD SEXUAL ABUSE LEGISLATION (CRIMINAL CODE OF CANADA)**

### **Consent No Defence**

150.1 (1) Where an accused is charged with an offence under section 151 or 152 or subsection 153(1), 160(3) or 173(2) or is charged with an offence under section 271, 272 or 273 in respect of a complainant under the age of fourteen years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge.

(2) Notwithstanding subsection (1), where an accused is charged with an offence under Section 151 or 152, subsection 173(2) or section 271 in respect of a complainant who is twelve years of age or more but under the age of fourteen years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge unless the accused

- (a) is twelve years of age or more but under the age of sixteen years;
- (b) is less than two years older than the complainant; and
- (c) is neither in a position of trust or authority towards the complainant or is a person with whom the complainant is in a relationship of dependency.

(3) No person aged twelve or thirteen years shall be tried for an offence under section 151 or 152 or subsection 173(2) unless the person is in a position of trust or authority towards the complainant is in a relationship of dependency.

(4) It is not a defence to a charge under section 151 or 152, subsection 160(3) or 173(2), or section 271, 272 or 273 that the accused believed that the complainant was fourteen years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

(5) It is not a defence to a charge under section 153, 159, 170, 171 or 172 or subsection 212(2) or (4) that the accused believed that the complainant was eighteen years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

### **Sexual Interference**

151. Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Invitation to Sexual Touching**

152. Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Sexual Exploitation**

153.(1) Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction.

(2) In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.

### **Incest**

155.(1) Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person.

(2) Every one who commits incest is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

(3) No accused shall be determined by a court to be guilty of an offence under this section if the accused was under restraint, duress or fear of the person with whom the accused had the sexual intercourse at the time the sexual intercourse occurred.

(4) In this section, "brother" and "sister", respectively, include half-brother and half-sister.

### **Anal Intercourse**

It should be noted that a recent court decision has found this section of the criminal code to be unconstitutional.

159.(1) Every person who engages in an act of anal intercourse is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

- (2) Subsection (1) does not apply to any act engaged in, in private, between (a) husband and wife, or (b) any two persons, each of whom is eighteen years of age or more, both of whom consent to the act.
- (3) For the purposes of subsection (2),
- (a) an act shall be deemed not to have been engaged in private if it is engaged in in a public place or if more than two persons take part or are present; and
  - (b) a person shall be deemed not to consent to an act
    - (g) if the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent misrepresentations respecting the nature and quality of the act, or
    - (ii) if the court is satisfied beyond a reasonable doubt that that person could not have consented to the act by reason of mental disability.

### **Bestiality**

160.(1) Every person who commits bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(2) Every person who compels another to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(3) Notwithstanding subsection (1), every person who, in the presence of a person under the age of fourteen years, commits bestiality or who incites a person under the age of fourteen years to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Parent or Guardian Procuring Sexual Activity**

170. Every parent or guardian of a person under the age of eighteen years who procures that person for the purpose of engaging in any sexual activity prohibited by this Act with a person other than the parent or guardian is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, if the person procured for that person is under the age of fourteen years, or to imprisonment for a term not exceeding two years if the person so procured is fourteen years of age or more but under the age of eighteen years.

### **Householder Permitting Sexual Activity**

171. Every owner, occupier or manager of premises or other person who has control of premises or assists in the management or control of premises who knowingly permits a person under the age of eighteen years to resort to or to be in or on the premises for the purpose of engaging in any sexual activity prohibited by this Act is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, if the person in question is under the age of fourteen years, or to imprisonment for a term not exceeding two years if the person in question is fourteen years of age or more but under the age of eighteen years.

### **Corrupting Children**

172. (1) Every one who, in the home of a child, participates in adultery or sexual immorality or indulges in habitual drunkenness or any other form of vice, and thereby endangers the morals of the child or renders the home an unfit place for the child to be in, is guilty of an indictable offence and liable to imprisonment.

## Indecent Acts

173. (1) Every one who willfully does an indecent act
- (a) in a public place in the presence of one or more persons, or
  - (b) in any place, with intent thereby to insult or offend any person, is guilty of an offence punishable on summary conviction.

## Procuring

212. (1) Every one who
- (a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada,
  - (b) inveigles or entices a person who is not a prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit intercourse or prostitution,
  - (c) knowingly conceals a person in a common bawdy-house or house of assignation,
  - (d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute,
  - (e) procures or attempts to procure a person to leave the usual place of abode of that person in Canada, if that place is not a common bawdyhouse, with intent that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,
  - (f) on the arrival of a person in Canada, directs or causes that person to be directed or takes or causes that person to be taken, to a common bawdy-house or house of assignation,
  - (g) procures a person to enter or leave Canada, for the purpose of prostitution,
  - (h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally,
  - (i) applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person, or
  - (j) lives wholly or in part on the avails of prostitution of another person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.
- (2) Notwithstanding paragraph (1)(j), every person who lives wholly or in part on the avails of prostitution of another person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.
- (3) Evidence that a person lives with or is habitually in the company of a prostitute or lives in a common bawdy-house or in a house of **assignation is**, in the absence of evidence to the contrary, proof that the person lives on the avails of prostitution, for the purposes of paragraph (1) (j) and subsection (2).
- (4) Every person who, in any place, obtains or attempts to obtain, for consideration, the sexual services of a person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

**CANADA EVIDENCE ACT PROVISIONS SECTION 16, "WITNESS WHOSE CAPACITY IS IN QUESTION..."**

16. (1) Where a proposed witness is a person under fourteen years of age or a person whose mental capacity is challenged, the court shall, before permitting the person to give evidence, conduct an inquiry to determine a) whether the person understands the nature of an oath or a solemn affirmation; and b) whether the person is able to communicate the evidence.
- (2) A person referred to in subsection (1) who understands the nature of an oath or a solemn affirmation and is able to communicate the evidence shall testify under oath or solemn affirmation.
- (3) A person referred to in subsection (1) who does not understand the nature of an oath or a solemn affirmation but is able to communicate the evidence may testify on promising to tell the truth.
- (4) A person referred to in subsection (1) who neither understands the nature of an oath or a solemn affirmation nor is able to communicate the evidence shall not testify.
- (5) A party who challenges the mental capacity of a proposed witness of fourteen years of age or more has the burden of satisfying the court that there is an issue as to the capacity of the proposed witness to testify under oath or a solemn affirmation.

## APPENDIX C

Child Maltreatment in Canada: Canadian Incidence Study of Reported Child Abuse and Neglect 2001 (Excerpts)

This report highlights major descriptive findings from the Canadian Incidence Study of Reported Child Abuse and Neglect (CIS). The CIS is the first nationwide study to examine the incidence of reported child maltreatment and the characteristics of the children and families investigated by Canadian child welfare services. The incidence estimates presented in this report are based on a survey completed by child welfare workers, of a representative sample of 7,672 child maltreatment investigations.

In 1998 an estimated 135, 573 child investigations were conducted, 45% of the investigations were substantiated by the investigating worker, 22% there was insufficient evidence to substantiate maltreatment, however, maltreatment remained suspected by the investigating worker; 33% of investigations were unsubstantiated.

31% of the investigations were related to physical abuse concerns, 10% had sexual abuse as the primary investigation classification, 40% involved allegations of neglect as the primary reason for investigation and 19% emotional maltreatment was the primary reason for investigation.

Physical harm to the child was indicated in 28% of physical abuse investigations, 6% in sexual abuse investigations, 2% of emotional maltreatment investigations and 19% in multiple categories of maltreatment.

Physical abuse investigations in which harm was reported most often involved bruises, cuts and scrapes (88% of harm situations). Cases involving more serious injuries were indicated less often: broken bones 3%, burns and scalds 2% and head trauma 5%.

Across all four categories of substantiated maltreatment, family members or other persons related to the child victim constituted the vast majority (93%) of alleged perpetrators. Not surprisingly, one or both biological parents were most often the alleged perpetrator (with the notable exception of sexual abuse). Across all categories of maltreatment, biological mothers were identified as the alleged perpetrator most often (60%) followed by biological fathers (41%), step-fathers/common-law partners (9%), and step-mothers/common-law partners (3%). Alleged perpetrators who were non-relatives (7%) included babysitters, family friends, parental partners, teachers, other professional acquaintances and strangers. Sexual abuse, in contrast to the other categories of maltreatment, was committed much less often by the child's primary caregiver. Most alleged perpetrators were either other relatives (44%) or non-relatives (29%). Non-relative perpetrators of sexual abuse were connected to the child's life in the vast majority of cases. They were family friends (5%), parent's boyfriend or girlfriend (2%), babysitters (7%), teachers (4%), other professionals (2%), other acquaintances (8%), or a child's friend or peer (5%). Notably, very few substantiated sexual abuse cases involved a stranger (2%).

Knowledge of age and sex of maltreated children adds to an understanding of the possible developmental factors that might increase the risk of maltreatment. Sixty percent of substantiated cases of physical abuse involved boys and 40% involved girls. There was a linear age trend for both sexes, in that physical abuse was generally lower in the youngest age group (0-3) and increased incrementally among older children. In substantiated cases of sexual abuse, 69% of the victims were girls and 31% were boys. 4-7 year old boys accounted for about three times more cases than other age groups of boys. Girls aged 4-7 and 12-15 were the victim in about twice as many cases of sexual abuse as the other two age groups. In neglect and emotional maltreatment the age and sex distribution was generally even.

Maltreated children experience ongoing, uncontrollable events that are a pervasive challenge to their successful development and adaptation and pose a threat to their core psychological well-being. Although many abused children who face these developmental challenges will not develop a psychological disorder, they are at a much greater risk of significant emotional and adjustment problems. Physically abused children were generally reported as having considerable problems in child functioning across several types. In 56% of substantiated cases the child was described as having some type of child functioning issue such as behavior problems (39%), negative peer involvement (15%), depression or anxiety (15%), violence to others (11%), and developmental delay (9%). In substantiated sexual abuse cases 58% of children had some child functioning issue. The five most often reported were: depression and anxiety (29%), age-inappropriate sexual behavior (17%), behavior problem (14%), negative peer involvement (13%), and irregular school attendance (10%). In 52% of the substantiated neglect cases the child was described as showing some form of child functioning issue. The four most common concerns were: behavior problems (26%), irregular school attendance (15%), developmental delay (11%), and negative peer involvement (10%). Child functioning issues were noted in only 36% of substantiated emotional maltreatment cases with depression and anxiety (13%), and behavior problems (17%) being most often reported.

Family characteristics provide important information concerning household structure and context of child maltreatment. Across all categories of substantiated maltreatment, 44% of the cases involved children who lived in a family led by a lone parent, 28% of cases children lived with two biological parents, and in 19% children lived in a two-parent blended family. About 60% of families of physically or sexually abused children derived their household income from full-time employment, compared with 24% of families involved in neglect and 34% of families involved in emotional maltreatment. Neglect and emotional maltreatment were more likely to be associated with families who relied on social assistance or some other form of benefit. Over half of all substantiated cases of maltreatment involved children living in rental accommodations (44% in private market rentals and 12% public housing), 28% in purchased homes and 1% in shelters or hostels. Housing conditions were mostly described as safe (63%). Problems related to caregiver functioning and family stressors were relatively common across the four categories of substantiated maltreatment. At least one caregiver functioning issue/family stressor was identified in 74% of substantiated investigations. Alcohol/drug abuse (40%) and mental health problems (28%) affected caregivers. Families were also described as having many other major stressors and background factors that may play a role in maltreatment, such as childhood history of abuse (38%), spousal violence (33%), and custody disputes (9%). Moreover about 1 in 3 families were described as lacking in supports.

Through their contact with children, professionals made 64% of all referrals of substantiated cases of child maltreatment. The two largest sources of professional referrals were school personnel and the police. Non-professional referrals were parents (17%), relatives (8%), and neighbors or friends (7%).

## APPENDIX D

### Bibliography and Selected Resources

#### Books

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Porett, J. When I Was Little Like You. Washington, DC: Child Welfare League of America

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Spelman, C. Your Body Belongs to You. Morton Grove, Illinois: Albert Whitman & Company

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## **Pamphlets**

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Child Protection Centre. Never shake a baby! Child Protection Centre, Health Sciences Centre, Winnipeg, Manitoba.

## **Booklets**

National Clearing House on Family Violence, Health Canada:  
 Sexual Abuse Counselling: A guide for parents and children  
 When Children Act Out Sexually: A guide for parents and teachers  
 When Boys Have Been Sexually Abused: A guide for young boys  
 When Teenage Boys Have Been Sexually Abused: A guide for teenagers  
 Sexual Abuse - What Happens When You Tell: A guide for children

## **Videotapes**

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