

Multi-sectoral Agreement

concerning children who are victims
of sexual abuse or physical ill-treatment,
or whose physical health is threatened
by the lack of appropriate care



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Produced by the Ministère de l'Éducation du Québec
with the participation of the following:

Ministère de la Santé et des Services sociaux
Ministère de la Justice
Ministère de la Sécurité publique
Ministère de la Famille et de l'Enfance

English version:

Direction de la production en langue anglaise
Services à la communauté anglophone
Ministère de l'Éducation

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This Agreement covers situations involving children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care.¹ Such situations must be reported to the director of youth protection (DYP) or the police, and in some cases, acts allegedly committed against children may require not only the intervention of the DYP and the police, but also the collaboration of various other parties.

In order to streamline the intervention process and avoid the multiplication of procedural guidelines, this Agreement merges and replaces the two previous agreements on sexual abuse concluded in 1989 and 1992, respectively, by the social services network and authorities in the education sector.² It also replaces the memoranda of agreement between the former Office des services de garde à l'enfance, the Association des centres jeunesse du Québec and the directors of youth protection.³

The social and legal intervention procedure established under this Agreement is intended to provide an adequate, ongoing and concerted response that meets the need to aid and protect children, while ensuring that the rights of all parties involved are respected. In keeping with the content of the *Agreement on inter-sectoral intervention following allegations of sexual abuse in the school system*, "The Agreement establishes a spirit of cooperation between individuals and institutions which, by mutual accord and in the higher interests of children, temporarily set aside their particular goals to focus on a common primary objective: the protection, in the largest sense possible, of children."⁴



PART I

THE AGREEMENT



1. GOAL AND OBJECTIVES

■ Goal

To ensure better protection and provide the necessary aid to children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care, by ensuring effective collaboration between government departments, educational institutions and relevant bodies.

■ Objectives

- 1 To design a global agreement between the various partners concerned
- 2 To set out intervention procedures, as well as the roles and responsibilities of each partner, in light of various types of situations
- 3 To specify the methods of reporting and communication allowed by law
- 4 To agree upon appropriate methods of referral to relevant institutions or bodies, according to the circumstances
- 5 To improve the transmission of information by clarifying confidentiality guidelines
- 6 To allow for prompter intervention
- 7 To determine the conditions under which this Agreement is to be applied

2. BASIS FOR THE AGREEMENT AND GUIDING PRINCIPLES

The basis for this Agreement and its guiding principles must be shared by all parties involved in protecting and aiding children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care, while respecting the rights of all concerned.

■ Basis

- 1 All decisions concerning children must respect their rights and be in their best interests.
- 2 All children have the right to protection, respect of personal integrity, safety, and proper attention from their parents or guardians.
- 3 All children, in a manner appropriate to their age or development, must be sensitized to issues of abuse in order to recognize abusive acts and be able to react accordingly.
- 4 All children who are victims of abuse are entitled to receive the aid and support warranted by their condition.
- 5 All parents have primary responsibility for ensuring the protection of their children. The government must provide such protection when necessary.
- 6 Sexual abuse, physical ill-treatment or a threat to a child's physical health through the lack of appropriate care constitutes a criminal act.
- 7 All perpetrators of abuse, whether minors or persons of full age, are responsible for their violent behaviour.
- 8 All children and adults must be aware of society's condemnation of all acts of abuse.

■ Guiding Principles

- 1 All parties concerned have a shared objective: protecting and aiding children.
- 2 All adults are required to aid a child who is a victim of abuse, and must not assume that another person has already taken steps to ensure the child's protection.
- 3 A primary intention of all intervention measures must be to incite the perpetrator of the abuse to acknowledge his or her responsibility, take responsibility for his or her actions and cease all acts of abuse.
- 4 Joint action must be based on openness and collaboration in sharing relevant information, defining guidelines and making decisions, and on an effort to avoid any overlap in interventions and ensure that the action taken does not detract from or counteract the interventions of other parties.
- 5 All partners must acknowledge and respect each other's particular skills, qualifications and areas of authority.
- 6 Since all interventions have a decisive impact on a child's protection, they must be prompt and coordinated, and allow each child to go through the process at his/her own pace.

3. SCOPE OF THE AGREEMENT

■ Definition

This Multi-Sectoral Agreement involves a commitment to take concerted action in situations involving children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care, whenever there is reason to believe that the safety or development of a child is in danger and a criminal act has been committed.

■ Situations Targeted by the Agreement

The situations targeted by the Agreement are covered in section 38 of the *Youth Protection Act*, and concern in particular:

- a child who is a victim of sexual abuse committed by his or her parents or any other person, whether a minor or a person of full age, and whether in a position of authority over the child or not
- a child who is a victim of physical abuse or ill-treatment on the part of his or her parents or any other adult, whether in a position of authority over the child or not
- a child whose physical health is threatened because his or her parents or any other adult who has authority over him or her have not provided the appropriate care

Special attention should be paid to specific contexts in which such incidents may occur, as in certain cults or in families in which conjugal violence prevails. Specific situations and contexts are defined in Part II, Section 4.

■ Institutions and Bodies Bound by this Agreement

This Agreement is binding on the following institutions and bodies:

- the Ministère de l'Éducation du Québec and all Québec educational institutions (school boards, elementary schools, secondary schools and CEGEPs)
- the Ministère de la Justice—more specifically, the Direction générale des poursuites publiques and the offices of the prosecutors for the Attorney General
- the Ministère de la Sécurité publique
- the Ministère de la Santé et des Services sociaux and all institutions and bodies within the social services network (CLSCs, hospitals, youth centres, rehabilitation centres and regional boards)
- the Ministère de la Famille et de l'Enfance and daycare services subject to the *Act respecting child care centres and child care services*
- police departments established under and governed by the laws of Québec
- community organizations (as defined in section 334 of the *Act respecting health services and social services*) that have agreed with the applicable regional board and regional DYP to implement the Agreement, in accordance with their mission and capabilities
- all other legally constituted provincial or regional organizations (e.g. recreational organizations and sports clubs) that have agreed to implement the Agreement, in accordance with their mission and capabilities, and have been recognized by the relevant authorities

All government departments, institutions and bodies bound by this Agreement may be required to intervene as follows:

- as service providers in order to aid and protect a child
- as employers in a situation that involves an adult working under their authority

■ Scope of the Agreement

- This Agreement applies when a party to the Agreement becomes aware or suspects that a child has been the victim of sexual abuse or physical ill-treatment or denied appropriate care resulting in a threat to his or her physical health, and the situation is brought to the attention of the DYP or the police.
- The Agreement ceases to apply when it has been decided what measures should be taken to aid and protect the child and what measures should be imposed on the perpetrator of the abuse, as the case may be (e.g. criminal proceedings, disciplinary measures or administrative sanctions). When aid or protective measures are applied or legal proceedings are instituted, the partners must consult and, if warranted by the situation, appoint a coordinator.
- In cases in which the Agreement applies, the DYP should maintain a consulting role even if the reported case is not pursued.

In situations in which it is deemed necessary to apply protective measures, the DYP must ensure that the child does in fact benefit from such measures. Even if the safety or development of the child is not in danger, the DYP still has an obligation, as stipulated in section 50 of the *Youth Protection Act*: “The director must . . . inform the child and the child’s parents of the services and resources available in their community and the conditions of access to those services and resources. He may, if they consent, direct them to the institutions, bodies or persons best suited to assist them. For that purpose, he may, where applicable, give them advice for the selection of persons or bodies that may accompany and assist them in the action they undertake.”

Specific agreements in effect or to be concluded in each region may define the roles of youth centres and other institutions and bodies at the various hierarchical levels. The DYP shall use such agreements to direct individuals toward the appropriate resources and, if they consent, inform the institution or body concerned.

The Agreement is designed to cover interaction between the DYP, the police and the prosecutor acting on behalf of the Attorney General, as well as representatives of other institutions or bodies who may be required to take action to meet a child’s need for aid or protection.

■ Implementation of the Agreement

This Multi-Sectoral Agreement is grounded in a spirit of cooperation and respect for the clearly defined roles and responsibilities of all partners. The following are essential conditions for successful implementation:

- The regional health and social services boards must establish a plan for prevention and aid in cases involving sexual abuse, physical ill-treatment or a threat to a child’s physical health caused by the lack of appropriate care.
- Training with respect to the Agreement must be designed by all partners and administered in each region to all parties concerned so that all partners may be apprised of each other’s roles and responsibilities.
- The implementation and follow-up schedule must be established by the partners in each region and sector.

■ Application of the Agreement

Certain conditions are required to facilitate the application of the Agreement:

- *clear designation of the persons responsible for applying the Agreement*
- *training of designated persons*
- *ongoing communication*
- *concerted and rapid intervention*

Responsibility for applying the Agreement

Each institution and body subject to the Agreement must designate one or more persons to ensure its proper application.

Training designated persons

Each partner in the Agreement must provide training and support to the designated persons, in light of the goal, objectives and sharing of responsibilities stipulated in this document. The training, which must be ongoing and carried out in a concerted manner by the various partners, is essential to the effectiveness of their interventions.

Ongoing communication

Ongoing communication among those who must deal with this type of situation is indispensable to the smooth application of the Agreement. All parties must observe the various steps in the process, which includes consultation, planning, decision-making and action. At all stages, the persons involved must share any relevant information that pertains to their areas of expertise.

Concerted and rapid intervention

All reported situations involving sexual abuse, physical ill-treatment or a threat to a child's physical health because of lack of appropriate care must be given high priority. The parties involved must collaborate on determining an intervention plan.

A concerted effort and rapid intervention are essential to attaining the stated goal and objectives. It is important, however, to allow each child to go through the process at his/her own pace.

4. MONITORING THE APPLICATION OF THE AGREEMENT

The successful application of this Agreement is dependent on the commitment of each government department, body and institution concerned by the reality of child abuse.

■ Across Québec

Each participating department is required to designate a province-wide representative, with a mandate defined by the deputy minister concerned. All representatives are required to work collaboratively. More specifically, they must oversee:

- the implementation of the Agreement and subsequent monitoring
- the preparation of a province-wide report (as soon as the Agreement comes into effect) specifying the targeted results, statistical requirements, etc.
- close communication with the representatives designated by each institution or body concerned
- the proper application of the Agreement when problems cannot be resolved by local or regional bodies

■ At the Regional Level

Each regional board, DYP and chief prosecutor for the Attorney General must ensure, in collaboration with the other parties involved, the efficient and harmonious application of the Agreement. Their responsibilities include:

- coordinating the content of the training and information programs required to apply the Agreement and ensure ongoing training

- designating persons to ensure that the Agreement is applied by key players such as CLSCs, school boards, police departments, the office of the prosecutor for the Attorney General, youth centres, community organizations and child-care services
- having the designated persons file an annual status report, to be submitted to each province-wide representative



Part II

**SOCIAL AND LEGAL
INTERVENTION PROCEDURE**

This Multi-Sectoral Agreement is distinct from previous agreements in terms of its scope of application. It covers all cases of alleged sexual abuse or physical ill-treatment of a child, or threats to a child's physical health because of lack of appropriate care, and thus provides key guidelines whenever a situation warrants joint intervention by the DYP, the police, a prosecutor for the Attorney General and/or other institutions or bodies subject to the Agreement.

The social and legal intervention procedure set out in this Agreement extends the effect of numerous regional documents produced in the last few years to enhance the coordination of the social and legal work involved in dealing with the sexual abuse of children. It draws primarily on the intervention procedures established by Québec government bodies in 1989 and 1992 to deal with cases of sexual abuse reported in institutions within the health and social services network or in the school system.⁵

Throughout the social and legal intervention procedure, the partners involved must adhere to the rules of confidentiality that apply to their respective areas of activity.

1. STAGES IN THE PROCEDURE



The social and legal intervention procedure involves five stages:

- 1 *reporting* the situation to the DYP
- 2 *liaison and planning* in order to secure the cooperation and assistance of all partners, adequately aid and protect the child, and meet the needs of family members
- 3 *investigation and assessment* in order to verify the allegations and gather the necessary proof
- 4 *decision-making* associated with measures to be taken on the basis of pooled information
- 5 *taking action and informing* the other partners

The measures included at each stage are a means of gathering all the relevant information available in order to make enlightened decisions. At each stage, all partners in the intervention process retain their decision-making authority and have full responsibility over their respective areas of expertise.

The table at the end of this section summarizes each of the five stages, as well as the roles and responsibilities of each party.

■ Stage 1: Reporting

The first step in the social and legal intervention procedure involves reporting the situation to the DYP. Under section 39 of the *Youth Protection Act*, every professional who, by the nature of his or her profession, provides care or any other form of assistance to children in the practice of his or her profession (with the exception of a lawyer in the practice of his or her profession), including any institutional employee or any teacher or police officer who has reasonable grounds to believe that the

security or development of a child is or may be considered to be in danger, must bring the situation to the attention of the DYP without delay. All citizens have an analogous obligation to report physical ill-treatment and sexual abuse.

Incidents of sexual abuse or acts of violence against children are often reported to the police. When the police department receives a complaint in this regard, it must immediately inform the DYP, who must then determine whether the complaint is admissible and whether emergency measures are required.

If no citizen has filed a complaint with the police concerning a situation involving child abuse, the DYP may do so according to the guidelines in the *Guide relatif à la divulgation de renseignements par le DPJ à la police et au substitut du procureur général* (available in French only):

- The DYP may disclose information with the consent of the child (provided he or she is 14 years of age or over), a parent or the court.
- The DYP may disclose information without the consent of the child (14 years of age or over), a parent or the court under the following circumstances:

Disclosure is necessary in urgent or grave situations, or if there is reasonable cause to believe that a child's safety or development is threatened by a person other than one of the child's parents. [Translation]

Whenever a citizen files a complaint with the police or the DYP discloses information to the police, the liaison and planning stage must follow.

■ Stage 2: Liaison and Planning

The purpose of this step is to assemble the main partners involved in the intervention process in order to ensure efficient coordination of the points to be investigated, with a focus on:

- protecting the child or children concerned and providing the necessary aid or support
- investigating the alleged incidents; it is important to avoid unnecessary duplication of interviews with the child or children concerned and to ensure that investigations and assessments are carried out smoothly and efficiently

This stage, which is coordinated by the DYP, involves the following:

- assembling a basic team (DYP, police and a prosecutor for the Attorney General); the team should be assembled at the outset, but it can be assembled later in the process if need be
- assessing the situation on the basis of the available information
- carrying out the following, according to each partner's areas of responsibility:
 - determining the urgency of the situation
 - determining how the social and legal intervention procedure should be applied, in part or in its entirety; it should be noted, however, that in situations involving adults in positions of authority in an institution or body bound by this Agreement, the intervention procedure must be carried out in its entirety
 - having a medical assessment performed, if necessary (see Part II, Section 3)
 - determining what measures should be taken to protect and aid the child and, if necessary, to provide support to family members
 - determining what measures should be taken to protect the rights of the persons involved

- determining the potential contributions of other bodies (e.g. a CLSC, child-care service, hospital or local community organization) or a resource person such as a physician
- developing a strategy for subsequent action (who is to do what, when, where and how)
- drafting a media communications plan if the situation is likely to attract media attention
- taking measures to support the witnesses of the incidents in question, if necessary

Should an urgent situation require immediate intervention from the police or DYP, steps must be taken without delay. Once the situation is under control, the social and legal intervention procedure must be followed and adapted to the specific circumstances.

At this stage, the measures to be taken can be determined by telephone, if necessary. However, depending on the specific circumstances or the complexity of the situation, a meeting may be required.

■ Stage 3: Investigation and Assessment

- **Investigation** consists in determining whether the alleged incidents have any foundation and can be proven under the *Criminal Code of Canada* or the relevant labour legislation. If the suspected abuser is an adult in a position of authority in an institution or body bound by this Agreement, an administrative inquiry must be held. In the case of child-care services, the investigation may consist of an inspection or a visit, as stipulated in the relevant legislation.
- **Assessment** consists in determining whether the facts have sufficient foundation and whether the security or development of the child is in danger, warranting intervention under the *Youth Protection Act*.

Since a reported situation involving an institution or body may lead to a police inquiry, as well as a DYP investigation and, in the case of child-care services, an administrative inquiry or inspection, it is essential that the determined strategy be adhered to in order to avoid confusion in the search for the truth. According to the investigation and assessment strategy planned at Stage 2, all partners in the intervention process must fulfill their responsibilities according to their respective areas of expertise. Moreover, all parties are required to share relevant information with each other. In order to serve as coordinator and facilitate communication between the various partners, the DYP must constantly be kept informed of the status of the investigation and assessment process.

Unless it is decided otherwise at Stage 2, an institution or body must not apply administrative sanctions or take disciplinary measures against a member of its staff before the individual has been interviewed by the police. In order to ensure that the investigation and assessment procedure is carried out smoothly and to preserve the maximum validity of any information that may have been gathered, the following precautions must be taken:

- Interviews with children who are alleged victims of abuse must be arranged and planned jointly by the police department, the DYP and, if an institution or body is involved, with the director of the institution or body.
- Interviews with adults suspected of abuse must be conducted by the police.
- Gathering and storing evidence is the responsibility of the police department, as far as the criminal aspects of the case are concerned, and the responsibility of the DYP in the area of child protection.

- The selection of measures to protect, aid and support the child and family members is the responsibility of the DYP, in conjunction with the institutions or bodies concerned. However, the parents and children should also be consulted.

■ Stage 4: Decision-Making

At this stage in the social and legal intervention process, in an urgent situation or other special circumstances, action may have already been taken by the DYP (i.e. application of emergency measures or initiation of legal proceedings), by the police (i.e. arrest and detention of the accused) or by a prosecutor for the Attorney General (i.e. authorization to charge and summons the accused to appear in court). If so, the other partners must be informed immediately. The need to take such measures, however, does not preclude carrying out Stage 4, which is still essential for actions pending or currently under way.

With the exception of emergency situations or special circumstances, Stage 4 must be carried out before further action is taken. The aim is to reach a consensus, to whatever extent possible, on the action to be taken. All partners in the intervention nevertheless retain decision-making authority and full responsibility over their respective areas of expertise.

If the alleged facts are founded, three questions must be addressed:

- 1 What is the best way to ensure the child's protection and prevent a similar occurrence from affecting the same or another child? In other words, how can a repeat offence be prevented?

In this context, the possibility of undertaking one or more of the following actions should be assessed:

- a) instituting criminal proceedings
- b) taking in charge the situation of the child as a voluntary measure or by order of the Youth Division of the Court of Québec
- c) having the institution or body concerned impose disciplinary measures or administrative sanctions

2 What aid should be provided to the child and/or his or her parents under the circumstances?

If the situation does not warrant protective measures, but the assessment process nevertheless indicates a need for aid, the following actions should be considered:

- a) personalized referral to the appropriate resources, to which the relevant information will be forwarded with the consent of the persons involved
- b) mobilization of specialized resources (CLSC, a community organization or any other appropriate resource) to work with the child and his or her family

3 What communications strategy should be adopted in cases that could attract media attention?

- The DYP is responsible for determining protective measures and ensuring that they are properly applied.
- A designated person, institution or body is responsible for providing the child and his or her family with aid and support measures.
- The institution or body concerned (if applicable) is responsible for administrative sanctions or disciplinary action.

A person must be designated by the DYP or the other partners to accompany the child and family members and provide them with the necessary information and support throughout the social and legal intervention process and in conjunction with any action taken.

Particular attention must be paid to relaying information on the action and follow-up measures taken in order ensure a cohesive intervention process. Moreover, when legal proceedings are under way—before the criminal courts and pursuant to the *Youth Protection Act*—the prosecutor for the Attorney General and counsel for the DYP must consult each other on how to proceed and inform each other of the results of the action taken.

■ Stage 5: Action and Information

The overall coordination of this stage is to be carried out by the worker designated by the team members. All members must nevertheless carry out the necessary coordination measures in their respective areas of responsibility, as follows:

- The prosecutor for the Attorney General is responsible for instituting criminal proceedings.

SUMMARY OF SOCIAL AND LEGAL INTERVENTION PROCEDURE PERTAINING TO CHILDREN WHO ARE VICTIMS OF SEXUAL ABUSE OR PHYSICAL ILL-TREATMENT, OR WHOSE PHYSICAL HEALTH IS THREATENED BY THE LACK OF APPROPRIATE CARE

1	2	3	4	5
REPORTING	LIAISON AND PLANNING	INVESTIGATION AND ASSESSMENT	DECISION-MAKING	ACTION AND INFORMATION
<p>POLICE</p> <ul style="list-style-type: none"> Receive the complaint and report the case to the DYP. <p>INSTITUTION OR BODY BOUND BY THE AGREEMENT</p> <ul style="list-style-type: none"> Report the case to the DYP. <p>DYP</p> <ul style="list-style-type: none"> Receive the report, determine whether it is valid and decide whether the child and parents should be referred to the appropriate resources. Inform the police, the prosecutor for the Attorney General and, if applicable, the institution or body concerned, as stipulated in the <i>Guide relatif à la divulgation de renseignements par le DPJ à la police et au substitut du procureur général</i> (available in French only). 	<p>A) LIAISON</p> <ul style="list-style-type: none"> DYP: assemble the basic team (consisting of the DYP, police and prosecutor for the Attorney General). <p>B) PLANNING</p> <ul style="list-style-type: none"> Assess the situation. Determine the following: <ul style="list-style-type: none"> the urgency of the situation measures to protect the rights of the persons involved the potential contributions of the other partners and the composition of a multi-sectoral team how the social and legal intervention procedure should be applied whether a medical assessment is necessary Establish an action plan (who does what, how, when and where). Establish a communications plan. 	<ul style="list-style-type: none"> Conduct the necessary investigations and assessments, according to the determined action plan: <ul style="list-style-type: none"> The DYP checks facts and assesses the necessary protective measures. The DYP or police interview the child, depending on prior agreement; the interview is preferably recorded or videotaped. The police records or transcribes the testimony of the suspect and witnesses. The police gathers and stores evidence. 	<ul style="list-style-type: none"> Compile all the information gathered. Determine what action should be taken if the allegations are shown to be true. <ol style="list-style-type: none"> Choose appropriate action: <ul style="list-style-type: none"> criminal proceedings, voluntary action or request for court protection under the <i>Youth Protection Act</i> disciplinary measures or administrative sanctions by the institution or body concerned Aid the child and his or her family <ul style="list-style-type: none"> provide a referral to the appropriate resources, if applicable (as per the <i>Act respecting health services and social services</i>) Plan and implement a communications strategy, if necessary 	<ul style="list-style-type: none"> Implement the decisions made by all the workers. Keep the other partners constantly informed of the progress being made and the results of the action taken.

Aid and support for the child and his or her family

DYP, INSTITUTION OR REGIONAL RESOURCES

Coordinator:

DYP, UNLESS AN ALTERNATE AGREEMENT HAS BEEN MADE WITH THE PROSECUTOR FOR THE ATTORNEY GENERAL IN THE CASE OF LEGAL ACTION

2. THE ROLES AND RESPONSIBILITIES OF THE MAIN PARTNERS AT EACH STAGE IN THE INTERVENTION PROCESS

1. The Police

Reporting

Section 39 of the *Youth Protection Act* stipulates that any police officer who, in the performance of his or her duties, has reasonable grounds to believe that the security or development of a child is or may be considered to be in danger must bring the situation to the attention of the DYP without delay.

In addition to reporting such situations, the police, by virtue of their status as peace officers, are required to receive all complaints pertaining to offences against the person, as set forth in the *Criminal Code of Canada*.

The police officer must take the deposition, protect the scene of the crime (if applicable), collect any evidence and initiate an investigation. When the DYP assesses the risk of violence, the police officer must provide the necessary assistance.

Liaison and planning

The police officer, in conjunction with the DYP, the prosecutor for the Attorney General and the institution or body concerned (if applicable), must establish a follow-up plan. In order to do so, he or she must relay the information he or she has gathered, determine how the investigation will be conducted and ensure that the measures taken ensure the safety of the child and of any other children concerned.

The intervention strategy is essentially based on the following:

- a police investigation, which is primarily carried out to prepare for possible legal action, in which case the intervention of the prosecutor for the Attorney General is required

- the anticipated extent and the terms and conditions of court intervention
- the nature of the involvement of other institutions or bodies
- child protection (by controlling the abuser, among other measures)

Investigation and assessment

The police officer must establish the facts of the case and gather and retain any evidence pertaining to the alleged offence.

In order to fulfill the requirement of providing the criminal courts with evidence of the offence beyond a reasonable doubt, the police officer must:

- conduct an in-depth interview with the complainant or the person who has reported the incident, in order to verify the allegations and identify the suspect
- meet with the victim, along with the DYP, as quickly as possible, using a video-recording device if at all possible
- conduct the necessary interviews with the parents and/or any adults who have authority over the child, as well as witnesses, if applicable
- consult the prosecutor for the Attorney General on the legal aspects of the case
- identify, arrest, interrogate and, if necessary, detain the suspected abuser

Decision-making

- Decisions must, to the extent possible, be based on a consensus reached by all the partners.
- The police officer involved must submit his or her report to the prosecutor for the Attorney General and discuss with him or her whether it is necessary to take the case to court.

- The police officer must present the results of the investigation, the examination of the evidence and the assessment of past or future actions.
- The consultation and the sharing of information are intended to address two questions:
 - a) Have sufficient and appropriate measures been applied?
 - b) Are the support mechanisms used consistent with the decisions that have been made?

Action and information

The police officer is responsible for decisions in his or her area of expertise. He or she must inform the other partners of the follow-up to any action taken and advise the prosecutor for the Attorney General as soon as possible so that the hearing into the release of the suspected abuser may be prepared.

If the alleged abuser is released, he or she is required to sign a condition of a recognizance, which must be sent by the police department to the other partners in the intervention process.

Any violation of a court order can be used to lay an information with the police department involved in the case. The police department is responsible for taking further measures, as appropriate.

■ 2. The DYP

Reporting

The responsibility of the DYP begins when he or she receives a report concerning a situation involving abuse. The report may be submitted by a professional, as defined in section 39 of the *Youth Protection Act*, or any other individual who deems that the child's situation requires the intervention of the DYP.

At this stage, the DYP must:

- determine whether the report is admissible
- process the report
- determine whether the matter should be pursued
- determine the priority status of the case and assign a classification
- take emergency measures if necessary
- refer the child and his or her parents to the appropriate services if the case is rejected

The DYP may disclose information to the police and the prosecutor for the Attorney General according to the guidelines set out in the *Guide relatif à la divulgation de renseignements par le DPJ à la police et au substitut du procureur général* (available in French only).

Liaison and planning

At this stage, the DYP must:

- coordinate application of the Agreement
- determine the role of other institutions or bodies, if applicable
- relay the pertinent information to the various partners involved and organize a meeting with them as soon as possible
- establish a common intervention strategy
- take immediate measures, as warranted by the child's situation

Investigation and assessment

At this stage, the DYP must:

- coordinate application of the Agreement
- meet with the child (the logistics of the meeting must be coordinated with the police department)

- meet with the victim’s parents and the people in his or her immediate environment
- in conjunction with the police and the prosecutor for the Attorney General, discuss the possibility of meeting with the alleged abuser and witnesses once the case has been assessed
- determine whether the security or development of the child are in danger

Decision-making

The measures to be taken and means of recourse must be determined in collaboration with the various partners.

At this stage, the DYP must:

- coordinate application of the Agreement
- ensure that the appropriate measures are taken if the security or development of the child are in danger
- decide on the legal measures to be taken (e.g. whether the case will be brought before the Youth Division or whether an agreement on voluntary measures can be reached)
- help decide whether legal action should be instituted against the alleged abuser
- refer the child and his or her family to the appropriate bodies so that they can benefit from the full range of services warranted by the situation, even if the child’s security and development are not in danger

Action and information

The DYP is responsible for acting in accordance with any prior decisions.

Throughout the process, he or she must share all relevant information with the other partners involved, apply the protective measures agreed upon and coordinate the service plan.

■ 3. The Prosecutor for the Attorney General

Reporting

In general terms, the prosecutor for the Attorney General does not have any particular responsibilities at the reporting stage, as he or she is normally informed by the police or DYP of situations in which children are victims of sexual abuse or physical ill-treatment, or in which their physical health is threatened by the lack of appropriate care.

However, should the prosecutor for the Attorney General be informed of such a situation before the DYP, he or she is required, under section 39 of the *Youth Protection Act*, to bring the case to the attention of the DYP without delay.

Liaison and planning

At this stage, the prosecutor for the Attorney General should provide legal counsel on whether or not to institute criminal proceedings and on any related matters.

Investigation and assessment

Under section 4(i) of the *Act respecting Attorney General’s prosecutors*, the prosecutor for the Attorney General must advise the police investigator as well as any persons entrusted with law enforcement and acting in the performance of their duties on any matter under the jurisdiction of the *Criminal Code* or of any penal provision of a law or regulation of Québec.

At the request of a police officer, the prosecutor must assess the scope of the allegations, approve the use of the necessary means to obtain evidence, meet with the child, and examine and authorize recourse to the procedures provided for by law with respect to the arrest or court appearance of the accused.

Decision-making

The prosecutor for the Attorney General must address two questions:

- On the basis of the investigation report, has the law been violated and, if so, can the offence be proved legally?
- If the previous question is answered affirmatively, is it appropriate to lay charges at this time?

In keeping with the guidelines that must be followed, the prosecutor for the Attorney General may not authorize legal proceedings before meeting with the child, except in special circumstances.

The prosecutor for the Attorney General may meet with the child at either the third or fourth stage of the social and legal intervention procedure, depending on the specific case.

In order to assess the option of instituting legal proceedings, the prosecutor must examine a series of factors and weigh the advice and suggestions of the police investigator, the DYP and the other partners involved. The factors to be taken into account are as follows: the gravity of the offence, the circumstances, duration and number of occurrences; the risk of repeat offences; the number of children involved, and their age and level of maturity; the relationship between the victim(s) and the abuser; the consequences a trial would have on the child or children and their relationships with their families.

Action and information

If legal action is approved, the same prosecutor should remain in charge of the case until the end of the proceedings. Should there be a change in assignment under exceptional circumstances, the case may not be transferred unless the child and the person accompanying him or her are adequately informed and prepared.

- The prosecutor for the Attorney General must ensure that aid and support services are made available to the child, and must refer the child to an organization that can provide adequate services if the child is not under the authority of the DYP.

The prosecutor for the Attorney General must also:

- ensure that the measures provided under the *Criminal Code* to protect the child's identity or facilitate testimony are requested, if necessary, before the judge presiding over the preliminary hearing and trial (e.g. proceedings *in camera*, publication ban, testimony behind a screen or via closed-circuit television, documents under seal)
- inform the other partners of any legal rulings

Moreover, law and jurisprudence define the duties and responsibilities of the prosecutor for the Attorney General in instituting and carrying out criminal proceedings. For example, all evidence held by the public prosecutor must be disclosed to the accused or to his or her lawyer. When offences of a sexual nature are concerned, however, the *Criminal Code* stipulates a specific procedure with respect to records containing personal information on the victim, such as medical, social services or therapists' files. This procedure, which into came effect on May 12, 1997, is intended to better protect the privacy of victims.⁶

■ 4. Personnel of Institutions, Child-Care Services and Bodies Bound by This Agreement

Reporting

- The personnel of the institution or body must:
 - take seriously any allegations or information indicating that a child may have been the victim of sexual abuse or physical ill-treatment, or denied appropriate care, resulting in a threat to his or her physical health
 - immediately report any situations involving abuse to the DYP if the information brought to their attention gives reasonable grounds to believe that the child’s security or development may be in danger (under section 39 of the *Youth Protection Act*)
 - confidentially inform the director of the institution or body or a designated person if the allegation involves an adult in a position of authority within the institution or body, after reporting the situation to the DYP
 - inform the director of the institution or body in case the latter has any other information at hand that might support the plausibility of the allegation, even if no report has been filed with the DYP because of doubts over the validity of the allegation
 - keep any information received in strict confidence and, if necessary, see that the child receives any necessary aid and support in order to ensure his or her protection until the DYP or the police are able to intervene
- The director of the institution or body or the designated person must:
 - upon receiving information indicating that an adult within the institution or body is implicated, ask the following question: “In light of the information brought to my attention in this instance, are there reasonable grounds to believe that the allegation may be true?”
 - ◆ If the answer is affirmative, the case must be reported immediately to the DYP. To answer the question, which must be dealt with rapidly, it is not advisable to immediately attempt to corroborate the allegations with either the child or the suspected abuser. Any verification must be cursory and limited to information in the possession of the director of the institution or body—for instance, knowledge that the child and the alleged abuser could have been in each other’s presence. In case of doubt, the DYP should be consulted to determine whether a report should be filed.
 - inform the designated person within the institution or body to ensure that this Agreement is applied, if necessary
 - assess the urgency of the situation and the need to implement measures to protect the victim and other children who could be potential victims of the alleged abuser
 - report the situation to the DYP and agree upon what information should be given to the parents
 - offer the victim the necessary aid or support or refer him or her to resources that can provide the necessary aid or support (e.g. a CLSC or community organization)
 - file a complaint with the police if the act allegedly committed constitutes a criminal offence or if the actions of the alleged abuser constitute an imminent danger to the victim or other persons

Liaison and planning

- The director of the institution or body or the designated person must:
 - relay the information in his or her possession to the other partners involved at this stage (the information should be limited to information on the victim or alleged abuser that is absolutely necessary for decisions to be made on subsequent action to be taken)
 - participate in developing a common strategy concerning the required investigations in order to ensure maximum respect for the victim, retain evidence and provide protection or aid for the victim

Investigation and assessment

- The director of the institution or body or the designated person must:
 - work in collaboration with the DYP or the police, according to the strategy agreed upon at the previous stage
 - carry out an administrative inquiry (visit and inspection in the case of child-care services), according to the strategy agreed upon at the previous stage
 - determine which laws or regulations were violated by the alleged abuser (e.g. rules of school conduct and local employment conditions) and what measures should be taken

Decision-making

- The director of the institution or body or the designated person must:
 - report the facts that have come to his or her attention and inform the other partners of the administrative or disciplinary measures that may be taken, as well as measures to protect or aid the victim
 - participate in determining what action would be desirable or necessary in each area of intervention

Action and information

- The director of the institution or body or the designated person must:
 - apply the necessary administrative or disciplinary measures and inform the other partners of the follow-up measures taken
 - implement the measures determined at the previous stage in order to aid or protect the victim and inform the other partners of the follow-up measures taken
 - collaborate with the DYP or police in applying the relevant measures, as needed

3. MEDICAL ASSESSMENT

■ General Considerations

The need and urgency of assessing the state of health of children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care must be established in every case on the basis of the following considerations:

- **Need for care**

In situations involving children who are subject to physical ill-treatment or whose physical health is threatened by the lack of appropriate care, and situations involving children who are injured or sick, it is essential to ensure that they receive the necessary care within an appropriate time frame.

In situations involving children who are victims of sexual abuse, a medical assessment is necessary to determine if the child is injured, has a sexually transmitted disease or is pregnant. In addition, a medical examination often helps to reassure the child concerned.

- **Supporting evidence in cases of sexual abuse**

Although the physician is not the only person responsible for establishing, definitively, whether or not a child is a victim of sexual abuse or physical ill-treatment, or whether the child's physical health is threatened by the lack of appropriate care, the physician's contribution to the gathering of evidence can be critical. The physician is the only professional able to interpret the physical injuries and illnesses exhibited by the victim, and to determine their cause. In cases involving sexual abuse, the new medical and social assessment kit (*trousse médicosociale*) without the materials to gather medicolegal samples should be used, and the medicolegal kit (*trousse médicolégale*) should also be used where necessary.

- **Identifying less obvious but equally serious consequences**

The medical assessment also allows the physician to detect other health problems, such as psychomotor retardation, failure to thrive, chronic toxic effects, etc., and to link them to abuse or neglect on the part of the child's parents or of others.

- **Procedural elements**

Except in situations when it is necessary to rescue a child immediately, the decision as to whether or not to request a medical assessment and the choice of the physician are generally made at the liaison and planning stage, at the time of the police investigation, or during the DYP evaluation. The consent of one of the parents, or of the child if aged 14 or over, must be obtained before a medical assessment can be made. If consent is refused, the DYP may intervene.

When a child's physical health is threatened by the lack of appropriate care, or when the child has recently suffered physical abuse, the decision as to whether or not to request a medical assessment must be made as soon as possible after the initial report. In cases of sexual abuse, the same applies when it is observed or suspected that there has been sexual contact within the last five days. If the contact took place six or more days earlier, it is advisable to consult a physician beforehand concerning the need to make a medical assessment.

When a decision has been made to request a medical assessment, it is extremely important to offer the child emotional support during the entire process.

4. FURTHER INFORMATION CONCERNING SPECIFIC CASES



■ Children Exposed to Conjugal Violence

In many situations involving conjugal violence, children are also the victims of sexual abuse or physical ill-treatment, or their physical health is threatened by the lack of appropriate care. If this is the case, the Agreement applies as soon as the police and the DYP have been informed of the situation.

When children witness conjugal violence, but are not themselves subject to physical or sexual abuse or a lack of appropriate care, the Agreement does not apply. However, the vulnerability of these children, who often need help or protection, requires that a particular intervention procedure be defined and followed:

- Every worker who has reasonable grounds to believe that the safety or development of a child exposed to conjugal violence may be compromised must report the situation to the DYP; in borderline cases, the DYP should be consulted.
- Every worker who becomes aware of such a situation must ensure that the child receives appropriate help, either by dealing directly with the child and the child's parents or, with their consent, by referring them to an appropriate organization or institution, such as a CLSC.

When the situation of a child exposed to conjugal violence requires the intervention of the DYP and the police, workers should base their actions on this Agreement. Coordinated action and the effective communication of information remain the essential conditions for successful intervention, since these situations often involve several different players.

■ Cults and Sects

Although sects have always been a part of our society, their numbers have increased dramatically since the 1970s. In Québec, on several occasions, children living with or belonging to a sect have allegedly been subject to sexual abuse or physical ill-treatment, or their physical health has allegedly been threatened by the lack of appropriate care. In addition, when children are kidnapped or sequestered by the members of a sect, there are often signs that they have been subjected to violent treatment.

Intervention is a difficult process in cases of abuse, and the situation is made even more complicated when it is necessary to define the meaning of "sect" and membership in a sect.

The investigations are difficult and complex, and require a high degree of collaboration and expertise. When intervention becomes necessary, the required information is not always available and, given the freedom of belief and religion guaranteed by the charters of rights, it is always advisable to have a solid grasp of the situation before carrying out any checks.

Some sects are wary of outside influences and reluctant to provide information. Experience has shown that several different strategies may be used by a sect to block an investigation, including

- refusing to speak or providing misleading information
- attempting to manipulate public opinion
- launching multiple legal challenges
- changing children's names, moving them around or hiding them

When there are reasonable grounds to believe that the safety or development of a child may be compromised following allegations of sexual abuse, physical mistreatment, a health-threatening lack of care, abduction or sequestration, this Agreement applies. The intervention procedure is particularly important in such cases. When planning the investigation, it is often advisable to call on outside experts or to contact other government departments and agencies for help in understanding sectors.

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■ Sexual Abuse

The *Reference Manual on Youth Protection* defines sexual abuse as follows:

An act by a person giving or seeking sexual stimulation inappropriate to the age and level of development of a child or adolescent, thereby adversely affecting his bodily or psychological integrity, in the case where the abuser is related to the victim or is in a position of responsibility, authority or domination in his regard.

Sexual abuse consists essentially in acts of a sexual nature that are inappropriate because they are imposed on a child, who is not of an age, and does not have the emotional development, maturity or knowledge required to react adequately.⁷

In the above definition, the notion of an “act” may consist of touching, bodily exposure or exploiting a child for sexual purposes.

The *Criminal Code of Canada* prohibits a series of behaviours that could threaten the sexual integrity of another person, in some cases, taking into account not only the age of the victim but that of the aggressor as well. Since 1983, sexual assault has been included in the chapter on offences against the person among the clauses pertaining to assault. Three degrees of severity are listed: *sexual assault*, *sexual assault with a weapon* and *aggravated sexual assault*. The degrees of severity vary according to the circumstances of the offence and the nature of the violence inflicted.

Other provisions address specific concerns with respect to the protection of children, young persons (i.e. adolescents) and persons with disabilities. These provisions are intended to counter sexual exploitation and prohibit sexual contact with children under 14 years of age,

the sexual exploitation of young persons between 14 and 18 years of age by persons in a position of trust or authority over them, and the sexual exploitation of persons with a mental or physical disability. Moreover, the *Criminal Code* contains a provision that is preventative in nature, prohibiting an individual from coming into contact with children under 14 years of age if it is feared that he or she could commit sexual offences against one or more children.

■ Physical Ill-Treatment

The *Reference Manual on Youth Protection* defines *physical ill-treatment* as follows:

Situations of physical ill-treatment refer to actions or omissions directed toward a child, causing bodily trauma and affecting the child’s physical integrity. This ill-treatment may be caused through excess or neglect.

Physical ill-treatment through excess consists of “acts that cause bodily harm or trauma with potentially serious consequences for the health, development or life of a child. The acts are considered unreasonable because of their force or their frequency. [. . .]”

Physical ill-treatment through neglect refers either to “chronic insufficiency in terms of quality and/or quantity in responding to the physical needs of the child” or to “the parents’ failure to take the necessary steps to prevent physical ill-treatment by a third party.”⁸

Physical violence among young people is not covered by this Agreement.

According to the *Criminal Code*, the physical ill-treatment of a child or young person is punishable as an act of assault. If the physical ill-treatment results in bodily harm, death or other consequences for the health or life of the child, charges may be laid under the relevant provisions of the *Code*.

Furthermore, anyone who abandons or exposes a child under 10 years of age so that his or her life could be endangered or his or her health could be injured is subject to prosecution for abandoning a child.

■ Threat to Physical Health

Situations that threaten a child's physical health come under the category of threats to a child's physical health owing to the lack of appropriate care.

The *Reference Manual on Youth Protection* defines *threat to physical health* as follows:

The term "threat" implies a real or probable danger that is imminent or likely to occur in the medium term. . . .

The term "care" refers not only to health care, but also to the care required to maintain a child's physical integrity: food, personal hygiene, supervision, clothing.⁹

Only one clause in the *Criminal Code* can apply to situations involving a lack of appropriate care: section 215, which stipulates the responsibilities of each parent, foster parent, guardian or head of a family to provide the necessities of life for a child under the age of 16. However, this provision is seldom used in Canada, as it is generally considered preferable to direct such cases to child-protection services.

■ Penal Provisions under the Youth Protection Act

In certain situations, one may have recourse to the penal provisions of the *Youth Protection Act*. Under the provisions of the Act, anyone who fails, refuses or neglects to protect a child in his or her custody or performs acts that may endanger the security or development of a child is guilty of an offence.

■ Conjugal Violence

Conjugal violence includes psychological, verbal, physical and sexual abuse, as well as acts of economic domination. It does not result from a loss of control, but, on the contrary, constitutes a deliberate attempt to dominate and exert power over another person. Conjugal violence can be experienced in a marital, extramarital or love relationship at any age.¹⁰ [Translation]

Acts of conjugal violence may constitute an offence under the *Criminal Code* and could engender a situation in which the security or development of a child is compromised. The DYP may intervene if a situation involving conjugal violence affects the security or development of a child and the parent does not wish to or fails to take steps to seek the necessary help.¹¹

■ Community Organization

Section 334 of the *Act respecting health services and social services* defines *community organization* as follows:

A legal person constituted under an Act of Québec for non-profit purposes whose affairs are administered by a board of directors

composed in the majority of users of the services offered by the organization or of members of the community served by the organization and engages in activities related to the field of health and social services.¹²

In this Agreement, the community organizations referred to are legally constituted bodies that operate in areas such as recreation, justice and amateur sports.

■ Cult or Sect

A *sect* may be defined as “a group of people that . . . has a particular set of religious or political beliefs” (*Collins Cobuild English Language Dictionary*). The term therefore encompasses any movement of people who profess a particular set of beliefs, whether they have a religious or spiritual connotation or not.

The Centre jeunesse de l’Estrie, which has had to intervene in such situations, uses the following definition: “A sect is considered dangerous when it fails to respect democratic values, public order or the well-being of individuals in situations covered by the *Youth Protection Act*.” [Translation]

The meaning ascribed to the notion of *cult movements* and *cult mentality* by Info-Secte, a cult information and resource centre, seems to correspond to the concept of “dangerous sects,” and is given below.

• Cult movements

Highly manipulative movements that exploit their members and cause damage that may be of a psychological, monetary or physical nature. They dictate their members’ behaviour, thoughts and feelings in absolute terms. Manipulative techniques are also used to transform new recruits into loyal and obedient followers. Cults adopt deceptive behaviour and mask reality in order to attract new members. Cults claim a unique or special status. They claim to have a mission of salvation and view society in negative or simplistic terms.¹³ [Translation]

• Cult mentality

A way of conceiving of reality and society by separating them into two monolithic blocks: black and white, good and bad, the saved and the damned. In such views, there is no room for “grey areas.” Individuals and movements that adopt this mode of thinking naturally consider themselves to be among “the righteous” and “the saved.” They thus seek scapegoats in order to explain the problems that they or society may experience. This type of thinking inevitably leads to intolerance or fundamentalism. Cult mentality is especially apparent in times of uncertainty and personal, social or economic crisis.¹⁴ [Translation]

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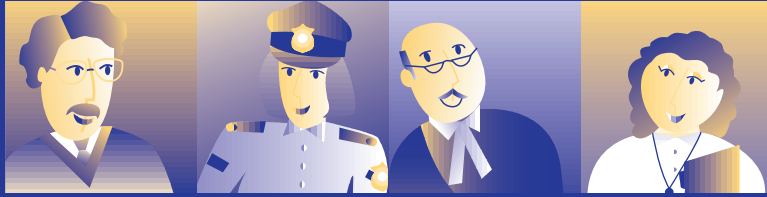
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ENDNOTES

1. The terms used here are those contained in the Youth Protection Act.
2. Québec, *Protocole d'intervention intersectorielle dans des situations d'abus sexuels institutionnels* (Québec: Gouvernement du Québec, 1989) and *Agreement on inter-sectoral intervention following allegations of sexual abuse in the school system* (Québec: Gouvernement du Québec, 1992).
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7. Québec, *Reference Manual on Youth Protection, Part 2, Section 2: "Situations Contemplated by the YPA"* (Québec: Gouvernement du Québec, 1999), 148.
8. *Ibid.*, 148.
9. *Ibid.*, 144.
10. Québec, *Politique d'intervention en matière de violence conjugale* (Québec: Gouvernement du Québec, 1995), 23.
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12. Québec, *An Act respecting health services and social services* (Québec: Gouvernement du Québec), chapter V, section 334.
13. Bernard Lefebvre, *Document d'information en support à l'intention psychosociale en contexte sectaire* (July 1992, updated January 1995), 16.
14. *Ibid.*, 17.



The *Multi-sectoral agreement concerning children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care* merges and replaces the different protocols and agreements on sexual abuse previously entered into by the various government departments, institutions and bodies that must take responsibility for child protection. The multi-sectoral agreement is part of the broader government guidelines dealing with sexual assault (i.e. *Orientations gouvernementales en matière d'agression sexuelle*)

The social and legal intervention procedure covered by the Agreement involves five stages:

1. reporting a situation to the Director of Youth Protection
2. liaison and planning
3. investigation and assessment
4. decision-making
5. action and information

The Agreement is designed to improve the protection and assistance available to children by setting up a process for close collaboration between the Director of Youth Protection, the prosecutor for the Attorney General, police departments and, where applicable, other key players such as schools, child-care centres and daycare services, health and social services institutions and recreational organizations and sports clubs.