

Hamilton Police/School Board Protocol 2016



POLICE / SCHOOL BOARD PROTOCOL

REVISED August 2016

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*Each Lockdown, Threat Assessment, and Bomb Threat Procedure included in this document reflects the local school board protocol/procedures.


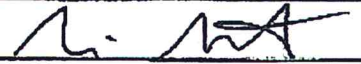
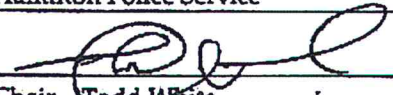
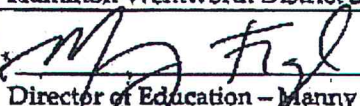

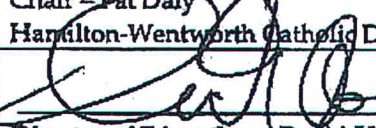

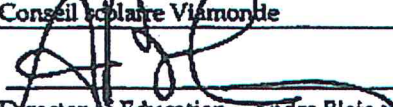
1. SIGNATORIES TO THE PROTOCOL

The Hamilton-Wentworth District School Board, the Hamilton-Wentworth Catholic District School Board, le Conseil scolaire Viamonde, le Conseil scolaire de district catholique Centre-Sud (the local School Boards), the Hamilton Police Service and the Hamilton Police Service Board support the principle that all students and staff deserve a safe learning and working environment.

This document represents a clarification of our respective roles and responsibilities and defines the need for maintaining open lines of communication. It is intended as a tool for the implementation of certain existing legal responsibilities but is not intended to supplement those responsibilities.

We, the undersigned, support the principles and procedures set out in this Protocol.

Signed at the City of Hamilton.

 Chair - Lloyd Ferguson Hamilton Police Services Board	<u>20 OCTOBER 2016</u> Date
 Chief of Police - Eric Girt Hamilton Police Service	<u>17 OCT 2016</u> Date
 Chair - Todd White Hamilton-Wentworth District School Board	<u>JUNE 23 / 16</u> Date
 Director of Education - Manny Figueiredo Hamilton-Wentworth District School Board	<u>June 24 / 16</u> Date
 Chair - Pat Daly Hamilton-Wentworth Catholic District School Board	<u>June 7, 2016</u> Date
 Director of Education - David Hansen Hamilton-Wentworth Catholic District School Board	<u>June 7, 2016</u> Date
 Director of Education - Martin Bertrand Conseil scolaire Viamonde	<u>31 october 2016</u> Date
 Director of Education - Andre Blais Conseil scolaire de district catholique Centre-Sud	<u>September 29th, 2016</u> Date

2. STATEMENT OF PRINCIPLES

It is the collaborative commitment of the Hamilton Police Service, and the local School Boards to engage in procedures that support and ensure a safe learning and working environment in all schools in the greater Hamilton community. To achieve this safe environment, the following guiding principles have been developed:

- the need to ensure that schools are safe, inclusive and equitable places for learning and teaching;
- the need to foster and support learning environments that ensure the ongoing development of positive behavior, including respect, responsibility and civility;
- the need to have a clear understanding of Police and school responsibilities;
- the need to engage Police Officers with students in schools and the broader community, where positive relationships can be fostered;
- the need to respect the fundamental rights of all students and staff pertaining to disability, race, creed, ethnic origin, and other prohibited grounds of discrimination under the Ontario Human Rights Code;
- the need to understand and support the roles and responsibilities of the School and Police partners; and
- the need to adhere to the procedures and decision-making authority process.

Providing the best possible education for students in a safe school community is a shared responsibility which requires the commitment to collaboration, cooperation and effective communication.

3. a) Introduction

It is the policy direction of the Ministry of Education and the Ministry of Community Safety and Correctional Services that School Boards and Police Service establish and follow a protocol for the investigation of school-related occurrences.

The Hamilton Police Service and local School Boards believe that students, staff and members of the school community have the right to learn and work in a safe and caring learning environment. The School Boards, the Police, and the school community participate in a number of cooperative programs to establish and maintain this positive, safe learning environment. A safe, inclusive, and equitable school environment fosters and supports learning and the ongoing development of respect, responsibility, civility, and other positive behaviours and characteristics.

b) Purpose

The purpose of the Protocol is to:

- promote student well-being and safety;
- ensure a consistent approach in the local protocol developed by the School Boards and Police Service;
- promote dialogue and the establishment of effective relationships between schools and Police based on cooperation and shared understandings;
- address unique factors and/or considerations that may affect our individual jurisdiction and negotiate service-delivery arrangements accordingly;
- promote the safety and protection of students, teachers, staff, volunteers and others in schools;
- encourage ongoing, adaptive and responsive partnerships between the Police and the school communities;
- facilitate appropriate sharing and disclosure of information in accordance with privacy laws including FIPPA and MFIPPA;
- promote joint consultation and partnerships between School Boards and the Police Service toward maintaining safe and caring school environments;
- ensure that the obligations and requirements of both education and Police Service are met;
- ensure a consistent and equitable approach in the way Police and the Schools Boards respond to school-related occurrences;
- clarify our respective roles and responsibilities and define the need for maintaining open lines of communication.

As well, the Hamilton Police Service and local School Boards meet regularly through the Police/School Boards Liaison Committee. The purpose of the liaison committee is to:

- ensure good communication among the representatives regarding both preventive and corrective programs and services for youth in the community;
- coordinate programs for use in schools with students, staff and parents/guardians*;
- consider and/or address issues and problems that arise;
- review and develop programs and services that focus on youth; and
- monitor the operation of this Protocol.

The Liaison Committee may invite additional representatives, from time to time, to act as resources to the Committee.

4. ROLE AND MANDATE OF THE HAMILTON POLICE SERVICE

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

In accordance with the declaration of principles contained in the *Police Services Act* (PSA), Police Service is provided to ensure the safety and security of all persons and property in Ontario. The Act stresses the importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*. In delivering these services, Police must cooperate with the communities they serve, and be sensitive to the pluralistic, multi-racial and multi-cultural character of Ontario society.

The specific roles and responsibilities of the local Police Service related to young people and the school communities include:

- engaging and working proactively in partnership with school officials to ensure the effectiveness of this protocol;
- protecting public safety and preventing crime;
- enforcing the Youth Criminal Justice Act, the Criminal Code, and other federal, provincial, and municipal legislation and related regulations;
- upholding the duties of police officers as delineated under Section 42 of the Police Services Act;
- assisting victims of crime through appropriate services;
- conducting Police and criminal investigations;
- assisting in the development of young people's understanding of good citizenship;
- promoting and fostering the prevention and reduction of crime, both against and committed by young people, adhering to the Hamilton Police Service Strategic Approach to Youth Crime, and;
- providing information on community safety issues;
- diverting young people away from crime and anti-social behavior; and
- working in partnership with other government and community-based service providers to support positive youth development.

5. ROLE AND MANDATE OF SCHOOL BOARDS

In cases of exigent circumstances, the Police will assume primary responsibility as may be necessary to ensure school safety. The Principal will continue to have a role consistent with his or her statutory responsibility for the health and welfare of students and to maintain discipline in the school.*

Boards develop policies and procedures that outline the processes used to promote responsibility, respect, civility and academic excellence in a safe and caring learning and teaching environment.

It is the responsibility of the School Boards to provide an education for every student enrolled in their schools. In order to provide that education, Boards must ensure that schools are safe places for children and staff. School Boards are governed by the *Education Act* and Regulations.

The specific roles and responsibilities of the School Boards, Principals, teachers, and school staff related to safe and secure schools include:

- clearly explaining the Board's code of conduct to students and their families, including definitions such as *weapon** and the potential reach of school discipline with respect to behaviours taking place outside of school that have a negative impact on school climate.*
- engaging and working proactively in partnership with police officials to ensure effectiveness of this protocol
- ensuring that all staff, including occasional, part-time, or itinerant teachers, have the means, training, and resources to implement the provisions of this protocol that may apply to them, including the ability to lock their classroom doors during a lockdown;
- complying with the requirements related to the duties of Principals and teachers under the Education Act and relevant Regulations;
- complying with the requirements legislated under the Child and Family Services Act (e.g., "duty to report");
- respecting the Board's code of conduct, as required by the Education Act (s.302)
- ensuring that resources (e.g., drug awareness, bullying prevention) are accessible to assist school staff in promoting a positive school environment with students and parents/guardians*;
- developing policies on how to respond to crises, including the development of a crisis management plan, that includes how information can be potentially shared with the community;
- ensuring that appropriate prevention and intervention strategies are available
- ensuring that all staff have opportunities to acquire the skills necessary to promote safe, equitable, and inclusive school environments, and
- training for Principals regarding their roles and responsibilities of the Principal in conducting investigations of incidents for which suspension* or expulsion* must be considered under the Education Act, including the responsibility to take 'mitigating and other factors'* into account;
- developing an effective mechanism for soliciting input from staff, students, parents, parent involvement committees, school councils, and Special Education Advisory Committees in the development of local protocols.

6. DEFINITIONS/ EXPLANATION OF TERMS

Definitions can be found in **Appendix A: Glossary**.

From time to time, there may be definitions, which are not addressed in this protocol and will be added to the protocol as necessary.

7. A CO-ORDINATED APPROACH TO VIOLENCE PREVENTION

Police and Principals collaborate to promote positive relationships.

It is important that a coordinated and multifaceted approach on the part of the School Board(s) and Police be facilitated to promote positive behaviour and prevent school violence.

Strategies that schools can use to help prevent violence include:

- helping students develop social skills, including conflict-resolution skills;
- promoting positive mental health and reducing the stigma associated with mental health issues
- pro-actively identifying students at risk and giving them extra support;
- using progressive discipline to teach and encourage appropriate behaviour in the school;
- viewing each student as an integral and contributing member of the school community;
- demonstrating, by example and leadership, that students' human rights are to be respected; and
- encouraging students to return to the school community after involvement with the criminal justice system, and supporting them in the process.

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

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

The local Police/School Board protocol is one component of a broader partnership between schools and other essential community partners, including mental health providers, health care professionals, and Children's Aid Societies, that is dedicated to violence prevention in Ontario schools.

A coordinated and multifaceted approach is required to prevent school violence. The Police work in partnership with the School Boards and other community agencies to support programs for students such as peer mediation, mentoring, drug awareness and education, conflict resolution, restorative justice, and Student Crime Stoppers.

The Ontario Curriculum incorporates violence prevention through personal and social development learning expectations from Kindergarten to graduation. Expectations focus on knowledge and skills in student development, interpersonal development, career development, healthy lifestyles, problem solving, decision-making, conflict resolution and personal goal setting.

The Police, through its school liaison programs, work with school Principals and other Board staff toward the prevention and correction of youth crime. The Strategic Approach to Youth Crime includes programs such as STOP (Strategic Targeted Offender Program) and Referral Program and uses varied internal resources, including Crime Prevention Co-ordinator, Community Service Officers, Crime Prevention Officer, the Youth Services Coordinator, Divisional Youth Officers, School Resource Officers, COAST (Crisis Outreach and Support Team), HEAT, and the Gangs and Weapons Enforcement Unit.

The Police work with parents/guardians* through presentations to school councils, on topics such as bullying, street-proofing and safety. The Police also work in concert with other agencies in bringing preventive programs such as bike safety, safe graduations, and internet safety to schools for the education of students, staff and parents/guardians*.

8. OCCURRENCES REQUIRING POLICE RESPONSE

The following incidents require mandatory reporting to Police (*for students under the age of 12, refer to section 16 p. 33*). Note that mandatory/discretionary reporting to Police, does not mean that Police will lay charges in every situation; however, for the incidents listed, **Police must be notified**. The incidents listed include those that happen at school, during school-related activities in or outside of school, or in other circumstances if the incident may have a negative impact on school climate.

The Police Officer and the Principal will communicate about the most appropriate response. This may include but is not limited to:

- no further action
- caution/warning
- Restorative Justice Conference (Extrajudicial Measures)
- criminal charges
- Restorative Practice (Education based)

a) Mandatory Notification of Police

At a minimum, the Police must be notified of the following types of incidents:

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

b) Discretionary Notification of Police

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

- giving alcohol to a minor;
- being under the influence of alcohol or illegal drugs;
- threats* of serious physical injury, including threats made on social networking sites or through instant messaging, text messaging, e-mail;
- incidents of vandalism*; and
- trespassing incidents – please refer to each Board’s procedures for dealing with trespassing.

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

For students with special education needs, (section 15, pg.32) identifies circumstances where a Police response is neither necessary nor appropriate.

9. INFORMATION SHARING AND DISCLOSURE

a) General Information

Information in the possession and control of the Police Service is governed by various acts of both the legislature and parliament and include, but is not limited to, the Youth Criminal Justice Act, the Provincial Offences Act, the Municipal Freedom of Information and Protection of Privacy Act, and the Child and Family Services Act.

Information in the possession and control of the School Board is governed by the same legislation, and in addition, by the Education Act and the Personal Health Information Protection Act. From time to time the Courts will provide interpretation to various sections contained within the above-mentioned pieces of legislation. These decisions are binding case law and require authorities to adhere to the interpretation of the law. In certain circumstances, federal and provincial laws may appear to be in conflict with one another. In such cases, it is recommended that legal advice be obtained in order to determine whether the situation is one in which the federal legislation should take precedence. When federal and provincial laws are in conflict, the federal law takes precedence.

School Board staff may be summoned to appear as witnesses in court. As with all incidents of a serious nature, including those requiring investigations, staff members are encouraged to keep written records of details relating to events where Police may be involved and should be available for reference when required. Notes should include dates, times, names of witnesses interviewed, all relevant observations and, where appropriate, a summary of any action taken by School Administration or other members of the school staff.

b) References to Disclosure of Information to Police

Criminal Code

The Police can access a student's Ontario School Record (OSR) by warrant or subpoena, or with the written consent of a parent/guardian*, or of the student if the student is 18 years of age or older, or is 16-17 years of age and has withdrawn from parental control.

In exigent circumstances*, the Police can access a student's OSR without a warrant, under section 487.1.1 of the Criminal Code.

Education Act

Disclosure of the content of the OSR to the Police during an investigation may be made in the following circumstances:

- with the written permission of a parent/guardian* of the student or, with the written permission of the student if the student is 18 years of age or older, or is 16-17 years of age and has withdrawn from parental control.
- through service of a search warrant requiring the surrender of an OSR to the Police;
- through an appropriate court order (criminal or civil); or
- where authorized under the *Municipal Freedom of Information and Protection of Privacy Act*, i.e. for purposes of "law enforcement" (see CC above).

Where records are sought, Boards should obtain advice from their Freedom of Information Coordinators or their lawyers in order to deal with such issues as the following:

- whether the *Education Act* prevents the disclosure of OSR information;
- whether the OSR in question is relevant to the investigation; and
- where the OSR is relevant, whether a copy rather than the original may be submitted.

Refer to Appendix D for details of legislation relating to:

- *Youth Criminal Justice Act (YCJA);*
- *Freedom of Information and Protection of Privacy Act (FIPPA);*
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*
- *Child and Family Services Act (CFSA);*
- *Provincial Offences Act (POA);*
- *Disclosure During Court Proceedings (Criminal Cases and Civil Suits)*

10. SCHOOL PROCEDURES FOR REPORTING TO POLICE

It is a primary responsibility of the Principal to initiate contact with the Police; however, in the event of an emergency any staff member is encouraged to make such contact.

➤ **Emergency 911**

To be used for all emergency calls, including assaults* in progress, disturbances, intruders or any immediate threat* to school, student or staff safety and security.

➤ **Non-Emergency Calls for Service 905-546-4925**

To be used where no emergency exists but an officer is required to report incidents or provide assistance. Ask for Communications. Specify your position, reason for Police to attend, and your school dismissal time. Officers will be dispatched according to the Police Service Priority Response System.

➤ **General Inquiries**

Schools are encouraged to contact the SRO (School Resource Officer) or DYO (Divisional Youth Officer) concerning day-to-day events, prevention programs, etc.

➤ **Related Police Involvement—Incident and Non-Incident**

Contact the Youth Serving Officer for the School (SRO or DYO)

The Hamilton Police Service utilizes a Strategic Approach to Youth Crime, which encompasses the assumption by Police Officers of proactive measures toward crime prevention, as well as Problem-Oriented Policing. The following chart delineates the officers who are the predominant Youth Serving Officers within the Hamilton Police Service.

YOUTH SERVING OFFICERS – HAMILTON POLICE SERVICE

DIVISION 1 Central Administration & Investigative Services Division 905-546-4772	DIVISION 1 Central 905-546-4772	DIVISION 2 East End Lower Stoney Creek 905-546-2929	DIVISION 3 Mountain, Ancaster, Dundas Glanbrook, Flamborough, Stoney Creek 905-546-4930
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Youth Services Co-ordinator	Divisional Youth Officer (DYO)	Divisional Youth Officer (DYO)	Divisional Youth Officer (DYO)
	School Resource Officer (SRO)	School Resource Officer (SRO)	School Liaison Officer (SRO)
Crime Prevention Co-Ordinator	Community Services Officer (CSO)	Community Services Officer (CSO)	Community Services Officer (CSO)
	Crime Prevention Officer (CPO)	Crime Prevention Officer (CPO)	Crime Prevention Officer (CPO)
Child Abuse Branch			
Family Violence Resource Unit			
Victim Services			
Gangs and Weapons Enforcement Unit			
	H.E.A.T. Teams	H.E.A.T. Teams	H.E.A.T. Teams
	Beat Officer	Beat Officer	Beat Officer

Calls by a school for emergency service or for non-emergency Police response will be directed through regular Police channels (at 911 and 905-546-4925 respectively). The appropriate response to a call for service will be determined by the Police Service in accordance with the HPS Priority Response.

Where a Principal wishes to make an inquiry about, or seeks information in relation to, a non-incident-related Police function, he or she may contact the Officer to whom the responsibility is assigned, as noted below.

The following provides a brief description of the incident* and non-incident related activities/ functions which Youth Serving Officers will perform:

➤ **Youth Services Co-Ordinator:**

- conduct research, development and evaluation of many youth initiatives;
- review new ideas, participate in design, facilitate development and implementation, monitor and evaluate existing initiatives;
- co-ordinate Divisional Youth Officer and School Resource Officer initiatives;
- act as Service authority on the *Youth Criminal Justice Act*;
- disseminate information received on high risk offenders; and
- deliver training programs and presentations to members of the Service.

➤ **Division Youth Officers (DYO):**

- administer Extrajudicial Measures* such as the Referral (Pre-Charge Diversion Program) and Strategic Targeted Offender Program (STOP);
- liaise and work in partnership with external youth serving agencies; and
- act as a resource to other divisional personnel regarding youth issues.

➤ **School Resource Officer (SRO):**

- Resource Officer for schools;
- committed to middle (grade 6, 7 and 8)and secondary schools;
- appear in classrooms and assemblies for presentations;
- interact with students;
- liaise between schools and Police Service; and
- receive incident reports (school related) and follow up when deemed necessary.

➤ **Crime Prevention Co-Ordinator:**

- plan, develop, implement, coordinate and evaluate various crime prevention and community relations programs;
- coordinate activities among and between Community Services Officers and Crime Prevention Officers from each of the three policing divisions; and
- liaise with the various areas of the Service, other agencies and community groups.

- **Community Service Officer (CSO):**
 - deliver school-based personal safety and community based programs for Junior Kindergarten (JK) to Grade 6 students (programs may also be delivered by Police volunteers or auxiliary officers);
 - deliver youth safety and crime prevention education; and
 - develop and implement crime prevention programs.
- **Crime Prevention Officer:**
 - work in partnership with the community by managing community problem-solving plans and facilitating the delivery of community problem solving initiatives.
 - identification and training of citizen volunteers and community groups in crime prevention, who will work collaboratively with the Police to solve problems.
- **Child Abuse Branch (CAB):**
 - investigate and/or provide investigative assistance for any physical or sexual-related incidents where the victim is less than 16 years of age.
- **Domestic Violence Unit (D.V.U.):**
 - specially trained to monitor all reported incidents of domestic violence;
 - provide specialized support in high risk domestic violence situations and family court disputes;
 - investigate any out-of-province/country parental abductions.
- **Victim Services:**
 - composed of Hamilton Police Service staff and a large core of community volunteers;
 - available 24-hours-a-day, 7-days-a-week – 905-546-4904.
- **Gangs and Weapons Enforcement Unit:**
 - committed to the identification, arrest and dismantling of any gang*, criminal organization, or crime group, or its members responsible for violent criminal activities in the community;
 - act as a resource to the community and School Boards.
- **High Enforcement Action Team (H.E.A.T.):**
 - develop, implement and evaluate enforcement and prevention actions to reduce crime, and resolve “quality of life” problems in neighbourhoods.

➤ **Crisis Outreach And Support Team (C.O.A.S.T.):**

- multidisciplinary team consisting of Mental Health Workers and plainclothes Police Officers
- crisis line available 24-hours-a-day, 7-days-a-week - 905-972-8338

➤ **Mobile Crisis Rapid Response Team (M.C.R.R.T.):**

- partnership between Hamilton Police Service, St. Joseph's Health Care and C.O.A.S.T.
- Police Officer paired with a Mental Health Worker and the mobile team is dispatched to "in-progress" calls involving a reported person in crisis

➤ **Beat Officer:**

- uniformed Patrol officer assigned to neighbourhood policing districts.
- If you want to establish special initiatives, call your:
 - Divisional School Resource Officer (Grades 6 through 12)
 - Divisional Community Services Officer (K through Grade 5)

Please note that due to schedules and shift work, it may be several days before messages left for individuals can be returned.

11. INITIAL POLICE CONTACT

Except under exigent circumstances, or if the Principal is being investigated, the officer is required to follow the procedures set out below.*

Police officers, subject to the *exceptions* above, will provide to the school Principal prior notice of an intended school attendance, where the attendance is not as a result of a call from the school for a Police response.

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

- report to the Principal, providing proper identification;
- explain the purpose of the visit, and plan with the Principal on how to proceed;
- Police Services will endeavor to work within the logistical considerations of the school in order to minimize the disruption to the school.
- subject to the provisions of the Education Act and MFIPPA, obtain information from the Principal about the student (e.g., regarding accommodation needs or barriers to communication) before making contact with the student; and
- contact, or make arrangements with the Principal to contact parent/guardian* of students under the age of 18 (see section 13(1), pg. 25).

Unless other options have been exhausted, police services should not use the school as a place

of convenience in which to interview or arrest students for matters that do not pertain to the school.

Where the Principal is under investigation, Police will contact the Superintendent of Human Resources and/or the Director of Education through the appropriate chain of command.

12.1 COMMUNICATION OF SCHOOL AND POLICE INVESTIGATIONS OF INCIDENTS

Stranger Danger

School Boards and Hamilton Police Services have the same goal in mind—to keep students safe both at school as well as travelling to and from school. When any type of incident* occurs that potentially threatens a student's safety, Police and School Boards work closely together throughout the investigation.

School Boards take their direction from Police in communicating an incident based upon the findings of an investigation. There are three types of communication that may occur under the direction of Police:

VERBAL ALERT

This alert would be made by the Principal on the school's PA system to remind students to walk in pairs when travelling to and from school.

WRITTEN ALERT

Details about the incident would be communicated to the school community in writing which would also serve as a reminder to students to walk in pairs and to take steps to ensure their continued safety.

MEDIA ALERT

At times, Police may choose to broaden their reach beyond a school community, based upon the findings of an investigation. In this instance, Police will work with local media to ensure the community is aware of the incident and its impact on the broader community.

In some cases, based upon the findings of an investigation, Police and School Boards may take no action regarding communication. This means that the investigation has revealed that the threat* was unsubstantiated and there is no perceived threat to the community; however, the school Principal, in consultation with the Superintendent, may choose to issue a communication to parents/guardians*, explaining an investigation occurred which was not substantiated. Principals/Superintendents should call Corporate Communications for more direction.

For all other circumstances involving Police, communications will be coordinated between the Police, School Board and school.

The Police and School Board will continue to work closely together to ensure our communities are well informed and receive timely and accurate information that will benefit public safety.

12.2 SCHOOL AND POLICE INVESTIGATIONS OF INCIDENTS

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

Note that Police investigations should also be undertaken in accordance with the Hamilton Police Service criminal investigation management plan and, where required, with the Ontario Major Case Management Manual.

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

a) Legal Rights

In the investigation of school-related incidents where a young person* is a suspect, particular attention should be given by the Principal and Police to procedures that are consistent with the following provisions:

- parent/ guardian* notification upon arrest (s. 26, Youth Criminal Justice Act);
- right to counsel (s. 25, Youth Criminal Justice Act);
- right not to make a statement (s. 146, Youth Criminal Justice Act);
- protection of privacy (s. 110, Youth Criminal Justice Act); and parent/ guardian* notification of victim and alleged aggressor. (Ref. Bill 157 and PPM 144).

b) Search and Seizure—General Information

Principals must inform students, parents/guardians, and staff through school newsletters or student agendas of the school's right to search school property (e.g. lockers and desks).*

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

- roles and responsibilities of Police and school personnel in conducting searches of persons or property (see search by Police and School Board staff below);
- the requirement that Police notify the Principal before conducting searches on school premises. (Under some exigent circumstances*, Police may execute a search without a warrant and without notice to the Principal.);
- the continuing responsibility of the Principal for students even when Police are on school premises;
- Police are to ensure that procedures are followed in personal and premise searches, in accordance with the Ministry of Community Safety and Correctional Services' Guidelines LE-011 on search of premises, and LE-012 on search of persons, and relevant federal legislation;

- where a search is being conducted, Police and School Board staff shall ensure an involved student understands what is occurring by explaining in language appropriate to the student's age;
- when dealing with a student with a disability which affects communication or comprehension, or with a person who does not speak English, Police or School Board staff shall, where practicable, obtain the assistance of an interpreter or other person who can help the student understand the process.

c) Search of the Person

(i) BY POLICE:

- Police officers may search a student with consent.
- On Arrest—Police officers are permitted to search for, and seize, items that may cause injury, assist in an escape, or constitute evidence. A “frisk” or “pat down” search is permissible as an incident to any arrest.
- If an officer has reasonable grounds to believe that it is not desirable (in the interests of safety of a person or other persons) for the person to possess any bullet, weapon, prohibited device, ammunition or prohibited ammunition; and grounds exist to obtain a search warrant, but by reason of a possible danger to the safety of that person or any person, it would not be practicable to obtain a search warrant, the officer may search for and seize any of the above-mentioned items. [117.04(2) CC]

Furthermore, if an officer believes on reasonable grounds that any of the above-mentioned items were used during an offence, or that an offence has been committed, that involves any of the following:

- firearm
- imitation firearm
- a crossbow
- prohibited weapon
- restricted weapon
- prohibited device
- ammunition
- prohibited ammunition
- explosive substance

and the evidence can be found on a person, in a vehicle or any place or premise if there are exigent circumstances* and it is not practicable to obtain a search warrant, the officer may search and seize the evidence of the offence. (S 117.02(1), *Criminal Code*)

Searches for the above-mentioned items can also occur with a search warrant. The Police shall not be denied access to conduct such searches on School Board property. In relation to illegal drugs, the Police may enter and search a place with a warrant. Also, a Police officer can search a place without a warrant if there are reasonable grounds to believe that there are illegal drugs contained in any place but because of exigent circumstances, it would be impracticable to obtain a warrant.

(ii) BY SCHOOL BOARD STAFF:

Under the *Charter of Rights* (Section 8), everyone has a right to be secure against unreasonable search or seizure. The Supreme Court of Canada and the Ontario Court of Appeal have ruled that a Principal, who has reasonable grounds to do so, may conduct a search of a student or their possessions in carrying out his or her duties to maintain order and discipline in the school. (Reference: *R. v. M.R.M.* (1998) (S.C.C.) and *R. v. J.M.G.* (1986) (O.C.A.) However due to the potential for legal challenges, School Board staff shall consult with his/her Supervisory Officer before conducting a search of the person.

d) Search of School Premises—Desks/Lockers

(i) BY SCHOOL BOARD STAFF:

- Desks and school lockers are school property. Accordingly, the courts have ruled that there is no expectation of privacy, which must be protected. As such, a search of such property is permissible by the school administration when acting as an agent of the School Board but not as an agent of the Police. The school personnel may wish to have the student present when the locker or desk is opened to avoid allegations relating to the search and/or to the location of any property.
- It is the responsibility of the Principal to ensure that students are informed at the beginning of the school year that desks and lockers are assigned to them for their use but remain school property and that, accordingly, there is no entitlement to privacy therein.
- Where an offence is reported to a Principal, the Principal has the duty to carry out an investigation to establish the nature and extent of the alleged offence. This may include a search of the locker or desk. As a rule, when it becomes apparent that an offence has been committed the Police shall be notified to continue the investigation. However, in the case of minor offences, whether or not to call the Police is within the discretion of the Principal.

(ii) BY POLICE:

Police may conduct a search of school property on one or more of the following grounds:

- with the consent of the school Principal where the area/item to be searched is school property (e.g. desk, locker); Principals must do so with great care to avoid being an agent of the police;
- incidental to arrest (immediate area of arrest); and/or
- by warrant.

e) Search of Vehicles Parked on School Property

The Police may conduct a search of a vehicle parked on school property on one or more of the following grounds:

- with the consent of the owner/operator;
- incidental to arrest where the arrest occurs within the immediate vicinity of the vehicle; and/or;
- by warrant.

f) **Detainment and Arrest**

- Whether or not the incident giving rise to the need to arrest is school-related, the Police will, in the interests of school safety and morale, consider alternatives to arrest on school property, where possible;
- Police procedures are to be followed in the detention and/or arrest of suspects, in accordance with the Ministry of Community Safety and Correctional Services Guideline LE-005 on arrest and the Youth Criminal Justice Act;
- When it is necessary for a student to be arrested at school during school hours, the Police will affect the arrest in a manner to minimize disruption of school routines, to the extent possible;
- Where a student is to be arrested on school property during school hours, and where permitted by the circumstances, the Police will contact the Principal to arrange a suitable procedure to access the student. However, where a student is to be arrested, the Police shall not be denied access to the student, in any case;
- Upon arrest, a search of the student will be conducted in accordance with law (Reference: Search and Seizure s.12.2 b) of this Protocol);
- Where detention is not required, the student may be released from the school, in accordance with the release provisions of the Criminal Code. The student may be required to sign documentation for this purpose;
- Where physical restraints are required, they will be employed in accordance with Police policies and procedures pertaining to arrest.
- School Board staff shall not interfere with, or obstruct, a Police officer during the course of an arrest;
- Where an arrest or detention occurs on school property, School Board staff shall assist in notification to the parent/guardian*, as required/directed. Where the student is removed from the school in Police custody, and notification has not occurred prior thereto, school personnel **subject to Police consultation**, shall continue to make reasonable efforts to contact the parent/guardian* of the student and advise of the fact of the arrest and the location of the student;
- Parents/guardians* will not be notified in certain circumstances (i.e. where the parent/guardian is/may be a party to the offence and to contact him/her could interfere with the Police investigation or cause child protection issues). In such cases, it is the responsibility of the Police in consultation with a Children's Aid Society, where applicable, to determine the proper course of action. The Principal may assist in suggesting alternative adults to serve in a supporting capacity to the student; and
- Legal grounds exist for the Police to demand entry into a school (e.g. For weapon or drug searches, to arrest a person wanted for indictable offence, to save lives)

g) Supports for Victims

Local School Boards

Principals or delegates have the obligation to inform the parents/guardians* of victims who have been harmed as a result of an activity for which suspension or expulsion must be considered unless, in the Principal's opinion, doing so would put the victim at risk of harm from the parents/guardians (Education Act, s. 300.3(1), Bill 157 and O. Reg. 472/07).

It is required that all Board employees who work directly with students are expected to support all students, including those who disclose or report such incidents, by providing them with contact information about professional supports (e.g., Public Health units, community agencies, Help Phone lines).

The local School Boards offer guidance, counseling, and professional services through their social work department.

Hamilton Police Service

The Hamilton Police Service has available a 24-hour-a-day/ 7-day-a-week Victim Services Branch operated out of Police Headquarters at 155 King William Street, which can be accessed by contacting 905-546-4904 or through any Police Service member.

The Police Service will notify victims of crime and other circumstance of the availability of Police Service Victim Services, as appropriate. Victim Services will assist with community referrals.

If a young person* is dealt with by an Extrajudicial Sanction*, the identity of the young person and how the sanction was dealt with can be provided to the victim on the request. Any information which could identify a child or young person as a victim or a witness to an offence committed or alleged to have been committed by a young person is prohibited from being published. (s.111, Youth Criminal Justice Act)

13. POLICE INTERVIEW OF STUDENTS

Relevant Legislation

- (i) The following provincial and federal legislation may affect the manner in which a Police investigation will be conducted:
 - The *Criminal Code of Canada* (CC),
 - The *Youth Criminal Justice Act* (YCJA),
 - The *Controlled Drugs and Substances Act* (CDSA),
 - The *Police Services Act* (PSA),
 - The *Food and Drugs Act* (FDA),
 - The *Canadian Charter of Rights and Freedoms* (Charter of Rights),
 - The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA),
 - The *Education Act* (EA),

- The *Child and Family Services Act* (CFSA),
 - The *Trespass to Property Act* (TPA),
 - The *Provincial Offences Act* (POA) (Specifically Part VI “Young Offenders”), and
 - The *Freedom of Information and Protection of Privacy Act* (FIPPA)
- (ii) Federal legislation, such as the Criminal Code and the *Charter of Rights*, will take precedence over provincial legislation. Investigations conducted by the Police will comply with the requirements of all applicable legislation and will be conducted pursuant to the provisions of the Hamilton Police Service Criminal Investigations Management Plan and, where required by the nature of the offence, the Ontario Major Case Management Manual.
- (iii) Where the incident being investigated involves a child in need of protection, Police officers and School Board staff will comply with their legal duty to forthwith report to a Children’s Aid Society. (Reference: CFSA, ss.72(3) and (4))

General

While School Board staff have a responsibility to support students being interviewed by Police, they must be careful at all times not to compromise the Police investigation.

Except in exigent circumstances*, when the Police interview students on school premises, the following procedures will be followed in relation to Police interviews of students:

- Police are required to conduct interviews related to criminal investigations of incidents that involve students as alleged perpetrators, victims, or witnesses. Any person who may have information related to the incident may be interviewed by Police.
- Principals must make best efforts to contact parents/guardians* through all available contact numbers, as soon as possible before the interview, and document such attempts.
- Wherever possible, Police will contact the school Principal prior to attending to conduct an interview, and shall arrange, in conjunction with the Principal, the most appropriate time and place to conduct a student interview, taking into account factors such as the need to disrupt school programs to the most minimal degree possible.
- Where the parent/guardian* refuses the request for an interview to commence at school, Police will conduct the interview off of school property.
- The Police will determine the methodology of the interview. The Police will also determine if the interview will be audio or videotaped and will obtain any necessary consent. If there is more than one officer involved, the officers will determine who will take the lead in conducting the interview.
- A parent/guardian*, third-party adult, or the Principal if no alternative is available, must be present when students under the age of 18 are being interviewed at school.
- Where a student aged 12 to 17 waives the right to have an adult present at the interview, the Police and the Principal must consider the most appropriate location for conducting the interview and take steps to ensure that the student’s rights are respected during the interview.
- School personnel shall assist Police in making the required preparations (e.g., securing a quiet room and establishing a time for the interview).
- Police must consult with the Principal to consider alternatives for conducting interviews at a location other than the school.

- When taking statements from accused youth, Police will follow the *Guide to Officers for Section 146 Youth Criminal Justice Act Statements* (Appendix D).
- Police will act in a manner that respects the dignity of the student and minimizes disruption to the school when it is necessary to interview, search, or arrest a student at school during school hours.
- If the student to be interviewed is not in attendance at school, the Principal shall inform the Police of the student's full name, date of birth, address, phone number and the parent/guardian's* home or business phone numbers in accordance with the provisions of MFIPPA. This provides authority to disclose personal information to law enforcement officials conducting a law enforcement investigation. (Section 32(g))
- Refer to Appendix G for flowcharts regarding the following situations; interviewing a victim/witness, interviewing suspects under 12, interviewing suspects 12-17 years old and interviewing suspects over 18 years of age.

13.1 Notification to Parent/ Guardian

Except in exigent circumstances*, it is the Principal's responsibility to contact parent/guardian* of:

- victims who have been harmed as the result of an activity for which suspension or expulsion must be considered, unless, in the Principal's opinion, notification of the parent/guardian* would put the student at risk of being harmed by the parent/guardian*. If that is the case, the parent/guardian* must not be contacted (Education Act, s. 300.3(3));
- students receiving a suspension (Education Act. 311);
- all other students being interviewed by Police during an investigation, except:
 - if the Principal is otherwise directed by Police because of exigent circumstances* or where the Police believe the parent/guardian may be implicated;
 - if the student is 18 years of age or older, or if the student is 16 or 17 years of age and has withdrawn from parental control (unless the student consents to, or requests such contact, or is incapable of providing consent.)

13.2 Preparation for Interviews

When preparing for interviews of students:

- determine whether circumstances allow for the interview to be conducted at the student's home or another location rather than at school, in view of the stigma and the potential impact on the student;
- if the incident is not related to the school and will have no impact on school safety, Police should not conduct interviews at the school;
- evaluate the need for specialized resources where a student is known to have mental health needs or special education needs (see Section 15);
- determine the need for an interpreter (e.g., a language interpreter, an interpreter for a student who is deaf or hard of hearing) and/or for information to be provided in an alternative format (e.g., Braille for a student who is blind or has low vision);
- determine the methodology of the interview (e.g. which officer will take the lead, will it be videotaped and the requirement to inform if so).

13.3 Conduct of Interviews

When conducting interviews of students:

- Police shall follow the *Guide to Officers for Section 146 Youth Criminal Justice Act Statements* (see Appendix D);
- Police shall provide, upon arrest or detention, a legal caution and notification of the right to counsel where there are reasonable grounds to believe that the student being interviewed has been involved in the commission of a criminal offence;
- involve the local Children's Aid Society in the interview process, which is recommended when an interview involves a child who may be in need of protection;
- an adult must be present throughout the interview, except when the student can waive, and has waived, the right to have an adult present. Best efforts must be made to have the student's parent/guardian*, or another adult of the student's choice present.
- when a parent/guardian*, or other adult selected by the student cannot be present, the Principal must attend the interview.
- where a student is 18 years of age or older, or if the student is 16 or 17 years of age and has withdrawn from parental control, and expresses a desire not to have a parent/guardian* contacted, the Principal may be present during any interview of the student held at the school, provided the Police and the student agree.
- persons under the age of 12 years cannot be charged with an offence in accordance with the provisions of the POA, the YCJA and the Criminal Code; however, where there are reasonable grounds to believe an offence has been committed by a child under 12 years of age, Police may apprehend the child without warrant. The child shall be turned over to their parent/guardian* as soon as practicable. (*Ref: Child and Family Services Act, s.42(1)*). Where it is not possible to turn a child over to their parent/guardian* within a reasonable time, the child shall be taken to a place of safety as determined by a Children's Aid Society until the child can be returned to the parent/guardian*. (*Ref: Child and Family Services Act, s. 42*)
- except in exigent circumstances affecting the health or safety of the student, or any other person, a student under the age of 12 years will only be interviewed in the presence of the Principal, if the parent/guardian* is not available.

13.4 Interviewing Students Considered to be Witnesses or Victims

Refer to Flow Chart: Appendix G

Where the Police need to speak to students who are considered to be witnesses or victims, or who may have knowledge of criminal activity, the following procedures will be used:

- Except in cases involving a Police response at the request of the school, the Police will contact the Principal of the school to advise of the nature of the visit and to request a meeting with the student.
- Where the Police wish to question the student on school property:
 - i) if the student is under the age of 18 years, the school will advise the student that their parent/guardian* shall be contacted by the school and the parent/guardian* shall be provided with a reasonable opportunity to attend prior to the commencement of the interview by the Police, subject to 13.5, pg. 28; and
 - ii) if the student is 18 years of age or older, or is 16 or 17 years of age and has withdrawn from parental control, he or she is considered an adult and the school staff shall not contact the parent/guardian* without the permission of the student; however, if permission is received the parent/guardian* shall be contacted and provided with a reasonable opportunity to attend prior to the commencement of the interview by the Police, subject to 13.5, pg. 28.
- Where the parent/guardian* is contacted, he/she shall be advised that the Police wish to interview the student as a witness or victim. If the parent/guardian* refuses to grant permission for the student to be interviewed by the Police, the school administrator may require that the Police conduct the investigation off school property.
- Should the parent/guardian* not wish to attend the school, or the school is unable to contact the parent/guardian* within a reasonable amount of time, the Principal shall be present during any interview of the student held at the school provided the Police and the student agree.
- Where a student is 18 or older, or is 16 or 17 years of age and has withdrawn from parent/guardian* control, and expresses a desire not to have a parent/guardian* contacted, the Principal may be present during any interview of the student held at the school, provided the Police and the student agree.
- If the Police wish to question the student off school property, the responsibility for proper parent/guardian* notification is that of the Police.
- When dealing with a student with a disability which affects communication or comprehension, or with a person who does not speak English, Police or School Board staff shall, where practicable, obtain the assistance of an interpreter or other person who can help the student understand the process.

Notes:

- There may be exceptional circumstances where the parent/guardian* should not be contacted, i.e. if the parent/guardian* is a suspect of the crime about which the student is being interviewed and to contact the parent/guardian* could interfere with the Police investigation. In such cases, it is the responsibility of the Police, in consultation with the appropriate School Board officials, to determine the proper course of action including whether to notify or involve the CAS. In such circumstances, the School Board may require that the Police conduct the investigation off school property and shall consider the direction from the involved Police officer regarding the contact of the parent/guardian*.
- If the student is a Crown ward or a ward of the (Catholic) Children's Aid Society, the parent/guardian* shall be considered to be the (Catholic) Children's Aid Society.
- Except in exigent circumstances* affecting the health or safety of the student or any other person, a student under the age of 12, if the parent/guardian* is not available, will only be interviewed in the presence of the Principal or designate.

13.5 Interviewing Students Considered to be Suspects or Accused

Refer to Appendix G Flow Chart

Students Under 12 Years of Age

- The Police will contact the Principal of the school to advise of the nature of the visit and to request to meet with the student.

Notification will not occur in cases involving a Police response at the request of the school, or in exigent circumstances, including, for example, where a student is pursued by Police into the school and/or where the time required for notification may jeopardize the Police investigation. In those circumstances, the Police will advise the Principal of what has occurred at the first opportunity.

- Persons under the age of 12 years cannot be charged with an offence in accordance with the provisions of the POA, the YCJA and the CC. However, where there are reasonable grounds to believe an offence has been committed by a child under 12 years of age Police officers may apprehend the child without warrant. The child shall be turned over to his or her parent/ guardian as soon as practicable. (Reference: *Child and Family Services Act*, s.42(1))

Where it is not possible to turn a child over to his or her parent/guardian* within a reasonable time, the child shall be taken to a place of safety as determined by a (Catholic) Children's Aid Society until the child can be returned to the parent/guardian*. (Reference: *Child and Family Services Act*, s. 42)

- Except in exigent circumstances* affecting the health or safety of the student or any other person, a student under the age of 12, if the parent/guardian* is not available, will only be interviewed in the presence of the Principal.
- When dealing with a student with a disability which affects communication or comprehension, or with a person who does not speak English, Police or School Board staff shall, where practicable, obtain the assistance of an interpreter or other person who can help the student understand the process.

Students between 12-17 Years of Age (Young Persons under the YCJA)

Where Police attend school property to interview a student as a suspect, or Police charge or arrest a student and interview him/her as an accused, the following procedures will be followed:

- The Police will contact the Principal of the school to advise of the nature of the visit and to request to meet with the student.

There may be cases where notification will not occur, such as in cases involving a Police response at the request of the school, or in exigent circumstances*, including for example, where a student is pursued by Police into the school and/or where the time required for notification may jeopardize the Police investigation. In those circumstances, the Police will advise the Principal of what has occurred at the first opportunity.

- Whether the interview occurs on school property or elsewhere, the Police shall comply with the requirements of the YCJA and *Charter of Rights*, informing the student of:
 - the nature of the charge(s) to which the interview pertains and/or the reason for arrest/ detention;
 - his/her right to retain and instruct counsel;
 - the standard cautions.

Prior to conducting the interview of a young person*, or taking an oral or written statement from a young person, the Police will explain the following:

- that he/she is under no obligation to give a statement;
- that any statement given may be used as evidence in proceedings against him/her;
- that he/she has the right to have a reasonable opportunity to consult with counsel and a parent/guardian*, or in the absence of a parent/guardian, an adult relative, or in the absence of a parent/guardian or adult relative, any other appropriate adult chosen by the young person, which may include the Principal or other School Board staff, but cannot be a co-accused or someone under investigation in respect of the same offence.
- that any statement made by him/her will be made in the presence of counsel or the other person consulted unless he/she specifically waives this right in writing.

Where the young person* wishes to have a parent/guardian/other adult present, the Principal in consultation with the Police will attempt to make the contacts as required and to provide a reasonable opportunity for the individual to attend prior to conducting the interview of the young person. In any event, subject to the *Notes* below, the school will attempt to contact the student's parent/guardian* to inform them that the Police wish to interview the young person and/or is being arrested by the Police.

Where:

- i) the parent/guardian* or other chosen adult does not wish to attend the school, or
- ii) the school is unable to contact the parent/guardian*, or other chosen adult within a reasonable amount of time; the Principal shall be present during any interview of the student held at the school provided the student agrees.

A reasonable amount of time is to be determined in co-operation between the Police and the Principal; however, the ultimate test of reasonableness will rest with the Police.

The parent/guardian*/other adult has no right to attend the interview unless the young person agrees (the young person would be required to waive the right to have a parent/guardian* present in writing).

Notes:

- Parent/guardian* will not be notified in certain circumstances. For example where the parent/guardian* is/may be a party to the offence and to contact him/her could interfere with the Police investigation or cause child protection issues. In such cases, it is the responsibility of the Police, in consultation with, the (Catholic) Children's Aid Society, where applicable, to determine the proper course of action. The Principal may assist in suggesting alternative adults to serve in a supporting capacity to the student.
- If the student is a Crown ward or a ward of a (Catholic) Children's Aid Society, the parent/guardian* shall be considered to be a (Catholic) Children's Aid Society.
- The Police may elect to interview a student at the Police Station. If the student is removed from school property, subject to Police consultation, the Principal, subject to *Notes* immediately above, will notify the parent/guardian* as soon as possible.
- No person shall publish the name of the young person or any other information related to a young person if it would identify the young person as a young person dealt with under the YCJA. See above *Notes*.

Students 18 Years of Age and Older

Students 18 or older are considered to be adults. In these circumstances, the following procedures will be followed:

- The Police will contact the Principal of the school to advise of the nature of the visit and to request to meet with the student.

There may be situations where notification will not occur, such as in cases involving a Police response at the request of the school, or in exigent circumstances*, including, for example, where a student is pursued by Police into the school and/or where the time required for notification may jeopardize the Police investigation. In those circumstances, the Police will advise the Principal of what has occurred at the first opportunity.

- Whether the interview is conducted on school premises or elsewhere, the Police shall ensure the student is advised of his/her legal rights on detention or arrest, in accordance with the provisions of the *Charter of Rights*, including the nature of the charges / reasons for detention or arrest, his/her right to counsel, and any required Police Cautions.
- Neither the Police nor the school shall contact the student's parent/guardian* without the permission of the student.

Exception:

The provisions of the YCJA are not applicable unless the offence being investigated for which the student is arrested was committed while the student reached the age of 12 but was under the age of 18. In these circumstances, the procedures under Students 12-17, will be followed.

14. REPORTING OF CHILDREN SUSPECTED TO BE IN NEED OF PROTECTION

The local School Boards have developed policy and procedures in partnership with the respective local Children's Aid Societies (Catholic Children's Aid Society of Hamilton and the Children's Aid Society of Hamilton). The local Children's Aid Societies and the Hamilton Police Service have a protocol in place for investigation of children suspected to be in need of protection. All documents have been shared amongst the five agencies and form part of the respective Boards of Education Safe Schools Protocols.

If a young person* has been charged with an offence, a Youth Justice Court may refer the young person to a Children's Aid Society to determine if the young person is in need of protection.

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

When the Police remove students from school property for further investigation, Police shall ensure that the parents/guardians* of such students are notified in a timely manner.

- Where the parent/guardian* is contacted, they shall be advised that the student is being interviewed as a witness or victim. If the parent/guardian* refuses to grant permission for the student to be interviewed by the Police, the Principal may request that the Police conduct the investigation off school property.
- Should the parent/guardian* not wish to attend the school, or the school is unable to contact the parent/guardian* within a reasonable amount of time, the Principal shall be present during any interview of the student held at the school provided the Police and the student agree.

The onus is on the Police to advise the Principal if notification of the parent/guardian* would endanger the student of the investigation. The parent/guardian* should not be contacted if the Police determine that doing so may endanger the safety of the student, or another person, or the integrity of an investigation.

Unless directed not to by the Police, Principals shall notify the parent/guardian* if police remove a student from school property.

If a student is detained or arrested, the Police will notify their parent/guardian*, unless the student is 18 years of age or older, or if the student is 16 or 17 years of age and has withdrawn from parental control. The parent/guardian* should not be contacted if the Police determine that doing so may endanger the safety of the student or another person or the integrity of an investigation. In such cases, the student will be advised that he or she may contact another adult person.

15. INVESTIGATIONS INVOLVING STUDENTS WITH SPECIAL EDUCATION NEEDS

In investigations that involve a student known to have special education needs, mitigating and other factors must be taken into account by school personnel and Police.*

Identify the mitigating and other factors to be taken into account when an investigation involves a student (or students) known to have special education needs, who may be identified as having an exceptionality in any of the following categories: behaviour, communication, intellectual, physical, or multiple. (Refer to Section 8 and Appendix E of this Protocol)

- It is the responsibility of the school Principal to communicate to the Police when any student has a special need that may impede the student from expressing or understanding written/oral communication. In order to accommodate these types of situations consideration should be given to providing the student with a support person who is knowledgeable about the student's exceptionality and with whom the student feels comfortable. The Police should be sensitive to the vulnerability of such students in situations, which may be intimidating.
- Where an interpreter is required, the Principal will notify the Police in advance where possible. Where practical, the Police will arrange for an interpreter.
- Wherever possible, specialized resources (ie. FM system) will be arranged prior to the initial contact with the student through the co-operative efforts of the Police and the school board.
- The Principal needs to ensure the student's parent/guardian* is contacted as soon as possible, except in exigent circumstances* or where the Police believe the parent/guardian* may be implicated in the incident. The Police may allow the parent/guardian* of a child with special needs to be present during an interview. Should the Police officer make his/her intentions known to arrest a student, the Principal shall comply. The Police officer shall ensure that the student is advised of his/her legal rights.
- Where investigating an incident involving a student with special needs, Police may consult with the Police Service Child Abuse Branch to make use of the expertise of its members in interviewing children.

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

16. OCCURRENCES INVOLVING STUDENTS UNDER AGE 12

Children under 12 cannot be charged with an offence under the Criminal Code, Youth Criminal Justice Act, or the Provincial Offences Act, but Police may take reports of incidents allegedly committed by students in this age group and may respond in an appropriate manner. Early intervention for children involved in such incidents is essential, and involving Police and parents/guardians* as early as possible may facilitate the provision of appropriate intervention and support.

In addition, the Principal is required to conduct an investigation of an incident for the purpose of school discipline, for example, where a recommendation for suspension* or expulsion* may be required, regardless of the students involved.

Considerations for responding to occurrences involving students under the age of 12, include:

- Principals are expected to use their discretion in applying the rules outlined in Section 8 for reporting incidents to the Police;
- the requirement to notify the child's parent/guardian* as soon as possible, except in exigent circumstances*, or where the Police believe the parent/guardian may be implicated in the incident;
- the authority Police have to take reports, make referrals to additional services (e.g., health/counselling), and conduct interviews;
- the circumstances under which there is a duty to report children suspected to be in need of protection to the local Children's Aid Society, under subsection 72(1) of the Child and Family Services Act (e.g., when there is evidence of abuse or neglect, or the risk thereof; when the child has committed serious acts and the child's legal guardian is not accessing appropriate treatment); and
- the requirement to provide accommodations and/or modifications for students with special education needs, as outlined in the student's Individual Educational Plan (IEP).

School Principals and Police will refer to the local CAS/CCAS protocol for child maltreatment, including child abuse and neglect.

17. SCHOOL BOARD COMMUNICATION STRATEGY FOR THIS PROTOCOL

To promote knowledge and understanding of the contents of the protocol as well as consistency in its application, parties of this protocol will develop communication mechanisms such as newsletters, student agendas, websites, safe school handbook, etc.

Key targets of the communication strategy are students and their families, who need to be aware of the range of situations in which Police may be called, including any criminal activity involving students that takes place away from school, should that activity have a negative impact on school climate.

Communication materials should use plain language, and should be available in appropriate language(s) and accessible formats, as deemed appropriate.

This 2016 edition of the Police/School Board Protocol was updated using the Provincial Model for a Local Police/School Board Protocol (Ontario 2015). This updated edition of the document includes new policy regarding Bomb Threat Procedures (Appendix C); updates information on Threat Awareness/ Management Appendix H); updates on Lockdown Procedures (Appendix B) and reflects the ever-increasing focus on the importance of school boards and police in implementing violence prevention strategies to create and maintain safe and healthy schools. The protocol will be shared with students and parents/guardians*. Other stakeholder groups to consider include:

- Trustees;
- Senior Administration;
- Principals, and through the Principals:
 - staff; and
 - school councils;
- Social Workers
- Parental Involvement Committee (PIC)
- Special Education Advisory Committee (SEAC)
- Safe Schools Committees; and
- Community agencies deemed appropriate by both the School Boards and the Hamilton Police Service.

Each stakeholder group will be responsible for ensuring that members of their organizations are aware of the changes in this updated document. Copies of the Protocol, in print and/or electronically, will be available at each school, each Police division and at the respective Board offices.

The Police/School Boards Liaison Committee will monitor the implementation of the Protocol and will meet periodically thereafter to ensure the Protocol's legislative accuracy and to serve in a dispute resolution capacity.

18. PROTOCOL REVIEW PROCESS

The review of the local protocol will be facilitated by the Police/School Board Liaison Committee every two years, or sooner if required.

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

19. PHYSICAL SAFETY ISSUES

When requested, Police may work in cooperation with local schools to assess the physical safety of the school premises, including the building (e.g. lighting, building design) and outdoor areas (e.g. landscaping). Final decisions about alterations to enhance the safety of students, staff, and teachers rests with the school board, as does the responsibility to carry out any desired work.

The Police/School Boards Liaison Committee has, as one of its main objectives, the monitoring and reviewing of safety issues. School floor plans have been shared with the Police and a safe school survey has been developed and employed.

When physical alterations to a School or Board building are being considered, especially with the goal of enhancing safety, the Police/School Boards Liaison Committee may be consulted for input and/or direction. Concepts derived from C.P.T.E.D. (Crime Prevention Through Environmental Design) may be utilized. This is accessed through the Divisional Crime Prevention Officer via the school's respective Superintendent.

20. RISK/THREAT ASSESSMENT/THREAT MANAGEMENT SERVICES

Refer to Appendix H Violent Treat/ Risk Assessment (VTRA)

Incidents of violence in schools are often preventable through early intervention in response to threatening behaviour, or non-threatening but worrisome behaviour. Taking steps to identify at-risk students through early and ongoing assessment and intervention strategies, many of which are identified in the School Board's progressive discipline policies, may reduce the need for disciplinary action and Police interventions.

A multi-agency approach to threat/risk assessment can be a highly effective means of preventing and managing situations that could otherwise negatively affect the safety of students and/or school staff. School Boards, along with Police and other community partners (e.g., mental health agencies, Youth Justice Probation Services, and other youth-focused agencies), have developed risk and/or threat assessment procedures. Violent Threat Risk Assessment (*Refer to Appendix H*), developed with multiple agencies, school boards, and police services outlines steps and contacts.

21. EMERGENCY PLANNING AND THREATS TO SCHOOL SAFETY

Refer to Appendix B Lockdown Hold and Secure, Shelter in Place and Appendix C Bomb Threat

The School Boards have Emergency/Crisis Response Procedures in place. Schools carry out emergency drills on a regular basis and continue to develop school-based plans to address emergency situations. As part of the Emergency and Crisis Response Plan, it is anticipated that the School Boards will provide the Police Service copies of floor plans for all the schools under their control for use in emergency situations.

The City of Hamilton coordinated an emergency measure plan and included all stakeholders in the development of a Community Emergency Response Plan. The Hamilton Police Service provided an education package on the Police response to acts of violence in the schools.

Emergency and crisis response plans are included within the SPEAR Protocol - *Refer to Appendix I School Police Emergency Action Response*

The Provincial Policy for Developing and Maintaining Lockdown Procedures for Elementary and Secondary Schools in Ontario, issued in 2009 and updated in 2015 by the Ministry of Education and the Ministry of Community Safety and Correctional Services specifies two mandatory components, as follows:

- All publicly funded School Boards in Ontario must establish a lockdown policy to ensure the development and implementation of individual school plans.
- A minimum of two lockdown drills must occur each school year.

The Provincial Policy for Developing and Maintaining Bomb Threat Procedures for Elementary and Secondary Schools in Ontario was mandated as part of the Police/School Board Protocol effective 2015. There are two components to this directive:

- All school boards establish policy/procedures that require individual schools to develop bomb threat response plans, and
- Boards ensure that staff, students, and other partners are aware of their respective responsibilities in the event of a bomb threat;
- Bomb threat drills can be practiced as part of the emergency procedure drills in the school.

22. TRAINING

School Boards and Police Services will provide training on the local Police/School Board protocol to their respective staff on an annual basis. Best efforts should be made to include all staff, including part-time, itinerant, and occasional staff in this training. Day-care, parenting centres, and other community partners must also be trained.

To improve collaboration between local police services and schools:

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