



*Coach Stream Post Task
Reading Package*

FRAMEWORKS FOR INTERVENTION AND PROTECTION

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International Framework

U.N. Convention on the Rights of the Child

The first international statement on children's rights was made by the United Nations in 1959. "The child shall enjoy special protection and shall be given opportunities and facilities, in law and by other means, to enable them to develop mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration" (Van Stolk, 1979, p. 102). This declaration provided the groundwork for the international community to develop and define the rights of children and youth.

On November 20, 1989 the General Assembly of the United Nations adopted the Convention on the Rights of the Child. Canada ratified the convention on December 13, 1991 (Multiculturalism & Citizenship Canada, 1991). By 2003, 192 U.N. countries had signed and ratified this document—the most rapid world-wide acceptance of any treaty. Two countries have signed but not ratified it: the United States and Somalia.

This comprehensive document outlines the many ways that societies are responsible for their children. The over-riding theme is the **best interest of the child**. *The child shall enjoy special protection and shall be given opportunities and facilities, by law and other means, to enable him (her) to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interest of the child shall be paramount.*

A child is defined as every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained. Five articles deal directly with issues of child abuse and neglect and four articles address parental rights and responsibilities.

CHILD ABUSE AND NEGLECT

Articles 19, 27, 34, 36, and 39

PARENTAL RIGHTS AND RESPONSIBILITIES

Articles 9, 14, 18, 27

OTHER ARTICLES THAT SUPPORT THE ARTICLES ON ABUSE AND NEGLECT

Articles 12, 21, 24, 25, 28, 32, 35, 37, 40

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Articles 1, 2, 3, 10

For more information concerning the U.N. Conventions on the Rights of the Child, go to

<http://www.unhchr.ch/html/menu3/b/k2crc.htm>.

Other International Human Rights Instruments Protecting Children

- Universal Declaration of Human Rights, 1948
- International Humanitarian Law (IHL), 1949; Additional Protocols, 1977
- UN Report 'A World Fit For Children" 2002

National Framework

CANADIAN LEGISLATION and COMMON LAW PROTECTING THE RIGHTS OF CHILDREN

- Canadian Charter of Rights and Freedoms
- Canadian Human Rights Legislation
- Canadian *Criminal Code*
- Canada *Evidence Act*
- *Immigration and Refugee Protection Act* IPRA, 2001
- Immigration and Refugee Protection Regulations and Rules, 2002
- Civil Liability
- The *Youth Criminal Justice Act*

THE CANADIAN HUMAN RIGHTS ACT

By world standards, Canada is a country that respects and protects human rights. In 1977, Parliament passed the *Canadian Human Rights Act*. The purpose of the Act is to ensure equality of opportunity and freedom from discrimination in federal jurisdiction.

THE CRIMINAL CODE OF CANADA

The *Criminal Code* prohibits all forms of violence against children. It contains specific offences prohibiting the sexual exploitation of children. Although there is no specific offence of “child abuse” or “family violence”, offences such as assault, sexual assault, criminal harassment, uttering threats, forcible confinement apply. There are three categories of offences in the *Criminal Code*:

- summary conviction offences, which are less serious with lighter penalties
- indictable offences, which are more serious
- dual or hybrid offences, which can be prosecuted as summary conviction offences or indictable offences depending on the election of the Crown.

YOUTH CRIMINAL JUSTICE ACT

Canada’s Youth Criminal Justice Act is a new law with a new approach. “Youth” cases involve offenders between the ages of 12 and 17; the new law is built on core principles of societal protection, separate treatment for young people from adults, accountability of offenders, and involvement of parents and victims.

Provincial/Territorial Framework

In most cases, human rights issues will fall under Provincial/Territorial human rights legislation. While prohibited grounds of discrimination cover similar prohibited grounds, they are not the same in all provinces and territories.

Discrimination means treating people differently, negatively or adversely on the following prohibited grounds: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability [physical or mental, including dependence on alcohol or drugs] or conviction for an offence for which a pardon has been granted.

Provincial/territorial governments are empowered to make laws in areas of their jurisdiction including the provision of victim's services. Provincial/Territorial Acts against family violence have more recently been developed and passed, while Child Protection Legislation is frequently under review with added amendments.

To date Alberta, Saskatchewan, Manitoba and Prince Edward Island as well as the Yukon have proclaimed specific legislation on family violence:

- Alberta: Protection Against Family Violence Act – June, 1999
- Saskatchewan: Victims of Domestic Violence Act – February, 1995
- Manitoba: Domestic Violence, Stalking, Prevention, Protection and Compensation Act- September, 1999
- Prince Edward Island: Victims of Family Violence Act – December, 1996
- Nova Scotia: Domestic Violence Intervention Act - 2003
- Yukon: Family Violence Prevention Act – 1999
- Northwest Territories: Protection Against Family Violence Act - not yet in force.

These pieces of legislation complement Canada's *Criminal Code* by offering further protection to victims of family violence.

PROVINCIAL/TERRITORIAL CHILD PROTECTION LEGISLATION

Provincial and territorial bodies have the responsibility for protecting children and families through child welfare or child protection legislation. The actual **Child Protection Legislation** in each province/territory defines the circumstances when a child is "in need of protection". Factors to be considered in making this determination vary from jurisdiction to jurisdiction, but generally include protection from emotional maltreatment, physical abuse, neglect and sexual abuse. Although provinces and territories have similar legislation to protect children and youth, each offers variations of age and services offered.

Provincial/Territorial Child Protection Legislation

Province/Territory	Provisions	Age for Protection*	Age of Majority
Newfoundland and Labrador	The Department of Health and Community Services can extend services to 19 or 21 under an extension of wardship.	Under 16	19
Prince Edward Island	The Ministry of Health and Social Services, Child, Family and Community Services Section can extend wardship to 21.	Under 16 but can be up to 18	18
Nova Scotia	The Department of Community Services, Family and Children's Services Division can sign wardship to 21.	Under 16	19
New Brunswick	The Department of Health and Community Services may sign post Guardianship Service Agreements for those between ages 19 and 23 (inclusive).	Under 19	19
Québec	The Ministère de la Santé et des Services Sociaux can extend foster care to 21.	Under 18	18
Ontario	The Ministry of Community and Social Services, children's Services Branch within Child, Family and Community Services Division can extend wardship to either 18 or 21 depending on circumstances.	Under 16	18
Manitoba	The Department of Family Services, Child and Family Services Division, Child, Family and Community Development Branch can extend wardship to age 21.	Under 18	18
Saskatchewan	The Department of Social Services, Family and Youth Service Programs can extend a variety of services from age 16 to 18.	Under 16	18
Alberta	The Ministry of Family and Social Services oversees services and can extend services to age 20.	Under 18	18
British Columbia	The Ministry of Children and Families, Child Protection Services can extend support until age 21.	Under 19	19
Yukon	The Department of Health and Social Services can extend wardship to age 19.	Under 18	19
Northwest Territories	The Department of Health and Social Services, Community Programs and Services Division, Child and Family Services Unit can extend wardship to age 19.	Under 16	19
Nunavut	The Department of Health and Social Services, Community Programs and Services Division, Child and Family Services Unit can extend wardship to age 19.	Under 16	19

* The age of protection represents the age under which child protection authorities can intervene in order to protect the well-being of the child. The defined age of protection is the general rule but some exceptions do exist. Therefore consulting with appropriate authorities is recommended.

CIVIL LIABILITY

Sport organizations must ensure that their employees and volunteers do not abuse young people under their care.

“Duty of care”: This legal concept defines when a person or institution is obligated to protect others from harm. In certain circumstances, persons/institutions must exercise reasonable care to ensure that others are not harmed. For example, when an employee/volunteer/officer acting on behalf of a youth serving institution or organization causes harm to a child in his or her care, that person, as well as the organization itself, can be found legally responsible to pay damages to the child. In this scenario, the person who causes harm can be found directly liable, and the organization can be held vicariously liable for the harm done by the person who acts on its behalf. Non-profit organizations, even those staffed, have a duty to prevent the abuse of children while they are participating in their programs.

Organizational Policies

INSTITUTIONAL AND ORGANIZATIONAL FRAMEWORK

Organizations and institutions are required by law to:

- Provide a safe environment for children and youth.
- Follow fair procedures.
- Respect human rights.
- Comply with the obligations to report abuse/neglect under child protection legislation.
- Avoid criminal actions.

RISK MANAGEMENT

Risk is the possibility of suffering loss – a chance that something might happen that will have an impact on an individual or an organization – such as sexual abuse of a child or youth. It is measured in terms of consequences and likelihood. Risk management is the culture, processes and structures that are directed towards the effective management of potential adverse effects and opportunities; it is comprehensive prevention planning.

Effective risk management consists of four steps:

1. **Identifying risks connected with the activity** – locating risks before they become problems. *How can a child be harmed within the organization and service delivery?*
2. **Assess the relative significance of risks** – evaluating impact, probability while classifying and prioritizing risks. *How serious is the risk that a child could be harmed?*
3. **Eliminate or minimize identified risks** – translating risk information into mitigating decisions and actions. *What is the organization going to do to prevent violence or harm to children and youth?*

4. **Evaluating the risk management plan** – monitoring risk indicators and mitigating action; correcting deviations. *How effective is the risk management plan?*

Risk management can also be understood as risk reduction as it reduces both the factors that lead to risks occurring and the impact of the risk once it has occurred. A vitally important aspect of risk management is the policies and procedures that organizations and institutions put in place in order to:

- shape their response to child protection, the laws and human rights legislation
- provide safety for participants; protect them from harm
- protect personnel from compromising situations and false allegations
- protect the organization from liability.

POLICIES AND PROCEDURES

Policies provide a road map for an organization and its members. The value and importance of good policies for every organization or association cannot be over-emphasized. Apart from providing continuity to the activities of the organization over time as personnel come and go, they also ensure that matters are dealt with in a consistent fashion. Members and others dealing with the organization can know, in advance, the norms of behaviour expected of them.

An organization has an obligation to provide a safe environment, and to protect participants from harm, including physical and emotional harm, which can result from bullying, harassment or abuse. Even though such harm might be brought on by individuals acting in their own interest, and not for the organization, **the law has clearly established that the organization has a duty to act diligently and prudently to prevent such action and behaviour.** If an individual within the organization commits a crime, the organization can be vicariously liable for failing to be diligent.

Formal organizational policies need to be in place to address common situations. These policies should do four things:

- Reflect the philosophy and values of the organization
- Establish a standard of behaviour
- Protect children and youth from harm
- Protect the organization and its members from liability.

Coaches and other hockey personnel must adhere to standards of behaviour which ensure the safety and respect of all players. It is much easier to prevent bullying, harassment and abuse than to deal with the results. Bullying, harassment and abuse may still occur with guidelines in place, but their prevalence will be minimized.

CODES OF CONDUCT FOR ALL PERSONNEL

Codes of conduct for all personnel including coaches, are vitally important in establishing safe environments. Although most organizations have established codes of conduct, the following list outlines generic standards of behaviour which all personnel should adhere to at all times:

- Respect the dignity and spirit of all athletes:** children, youth and adults
- Treat all athletes fairly and equitably.**
- Establish supportive, positive environments** for the purpose of healthy competition, skill development, fun and achievement of goals.
- Avoid contact or conduct that may be interpreted to have sexual connotations** or which are defined as inappropriate by the organization.
- Do not take part in or tolerate behaviour that frightens, embarrasses, demoralizes or negatively affects athletes' self-esteem,** including hazing and initiation rites or undue criticism.
- Do not tolerate acts of aggression.**
- Work towards eliminating bullying, harassment and abuse from sport environments.**
- Be prepared to intervene if a child or youth under the age of majority is being bullied, harassed or abused.**
- Follow the appropriate Child Protection legislation as noted previously.**
- Engage in "fair play" both during and outside of all sports organizations' activities.** "Fair Play" is defined as showing considerate regard for athletes, personnel, parents, spectators and officials; abiding by all rules of the sport; abiding by officials' decisions.
- Adhere to the policies of your local minor hockey organization.**

CODES OF BEHAVIOUR, ETHICS AND RESPECT

The cliché “in the heat of action” has frequently been used as an acceptable rationale for harassing and abusive behaviour during competition. It is important that coaches and personnel recognize that bullying, harassment and abuse must not be tolerated during competition under any circumstances.

Codes of Behaviour for players, coaches, officials and spectators have been developed and must guide and govern “the talk and the walk” or “the words and the actions” of all participants during competition. It is vital that sport administrators create an environment for competition where standards of behaviour are built on respect:

- Respect for the game/sport
- Respect for the rules
- Respect for the officials
- Respect for the opposition
- Respect for teammates/coaches

The responsibility to **PREVENT** bullying, harassment and abuse during competition lies with sport administrators, players and coaches. The responsibility to **CONTROL** bullying, harassment and abuse during competition lies with coaches, officials and sport administrators.

Setting Up Safe Environments During Competition

An association action plan should include:

- Sport Administrators implementing codes of conduct for coaches, players and officials
- Sport Administrators establishing quality rules and regulations for competition
- Sport Administrators providing coaches with clear expectations of appropriate and inappropriate behaviours during competition
- Sport Administrators facilitating coaching Certification Programs
- Coaches providing athletes and parents with clear expectations of appropriate and inappropriate behaviours during competition
- Coaches being role models for players
- Athletes demonstrating respect for the sport, the rules, the officials, the opposition, and teammates and coaches during competition

All personnel and participants must be educated how the concept of “Respect” impacts their own conduct and how they model respect for their players, colleagues and parents.

	Coaches/Personnel/Parents	Players
“The Game/Sport”	<ul style="list-style-type: none"> to coach for healthy competition to participate in coaching certification programs to teach players sportsmanship and fair play to be good role models to think and act according to the coach’s code of conduct 	<ul style="list-style-type: none"> to play for healthy competition to play for fun to play for fitness to play for skill development
“The Rules”	<ul style="list-style-type: none"> to hear the rules of play to teach players fair play to promote sportsmanship 	<ul style="list-style-type: none"> to play by the rules to play fairly
“The Officials”	<ul style="list-style-type: none"> to support the officials to teach players to respect officials 	<ul style="list-style-type: none"> to ensure fair play in competition to ensure the safety of players to ensure the environment of healthy competition to ensure that the rules are applied consistently and fairly to eliminate bullying, harassment or abuse
“The Opposition”	<ul style="list-style-type: none"> to congratulate the opposition in defeat and victory to avoid use of intimidating tactics to teach players to respect their opponent 	<ul style="list-style-type: none"> to avoid intimidating tactics and discriminating remarks to avoid intentionally physically hurting opposing players to congratulate your opposition in defeat and victory.
“The Players and Team Personnel”	<ul style="list-style-type: none"> to treat all players equally to stay centred and control strong emotions to set boundaries that enable safe, healthy relationships to use effective questioning to think and act ethically 	<ul style="list-style-type: none"> to be a team player to praise teammates to listen and support coaches and team staff

Summary

It is important for sports leaders to develop programs which reinforce that competition must be free of bullying, harassing and/or abusive behaviours by players, coaches, officials and spectators. It is also essential for each sport to have playing rules that will discipline players and coaches for bullying, harassing and/or abusive behaviours during competition. Codes of Conduct need to be developed for players, coaches, officials and all personnel, and organizations must implement policies and procedures through which they can determine when and if a breach of these codes has occurred. It is similarly important for sport leaders to develop guidelines requiring personnel to be trained through available

programs. Education will reinforce the Codes of Conduct that discourage bullying, harassing and/or abusive behaviours by all involved.