

**KTUNAXA/KINBASKET CHILD AND FAMILY SERVICES AGENCY LEVEL 12 & 13 AND  
THE ROYAL CANADIAN MOUNTED POLICE - FERNIE DETACHMENT  
LETTER OF UNDERSTANDING**

The KKFSS AGENCY and the RCMP is intended to define the essential elements of the relationship between the KCFSS agency and the RCMP and First Nations Administered Policing Services. It is to be used as a framework which captures the requirements of the *AOPSI Standard #19* (p.39) and *Standard #11 Protocol with Ancillary Agencies* (p.105) and be flexible enough so that KKFSS agency, in consultation with RCMP services, can identify additional criteria that specifically defines their working relationship.

Protocol Participants	Delegated Authority	Legislation Guiding Protocol	Letter of Understanding Goal Statement	Reports of Suspected Child Abuse & Neglect	Dispute Resolution	Signing Authority
<b>KKCFSS Agency</b>  <b>RCMP</b>  <b>First Nations Administered Policing Services</b>	<p>The KKFSS Agency has the following authority</p> <p><b>Level 12 Authority</b> KKCFSS social workers have the authority to provide:</p> <ul style="list-style-type: none"> <li>▪ Support Services to Families;</li> <li>▪ Voluntary Care Agreements;</li> <li>▪ Special Needs Agreements;</li> <li>▪ Establishment of Residential Resources.</li> </ul> <p><b>Level 13 Authority</b> KKCFSS social workers have the authority to provide:</p> <ul style="list-style-type: none"> <li>▪ Level 12 Services;</li> <li>▪ Guardianship Services for Continuing Care Wards.</li> </ul> <p><b>The KKFSS agency does not have the authority to receive, assess or investigate child protection reports at Level 12 &amp; 13 delegation</b></p>	<p><b>Federal Statues</b></p> <p><i>Criminal Code of Canada</i></p> <p><i>Young Offenders Act</i></p> <p><i>Privacy Act and Access to Information Act</i></p> <p><i>RCMP Act</i></p> <p><i>Indian Act</i></p> <p><b>Provincial Statues</b></p> <p><i>Child Family and Community Services Act (CF&amp;CS Act)</i></p> <p><i>Freedom of Information and Protection of Privacy Act</i></p> <p><i>Infants Act</i></p> <p><i>RCMP Act</i></p> <p><i>Victims of Crime Act</i></p>	<p>The intent of the protocol between the KKFSS agency and policing services to the First Nations community is to:</p> <ul style="list-style-type: none"> <li>▪ establish communication guidelines between the KKFSS agency and the RCMP services;</li> <li>▪ enhance collaborative work practices;</li> <li>▪ serve as an adjunct to the <i>BC Handbook for Action on Child Abuse and Neglect (MCF 1998)</i>;</li> <li>▪ be consistent with all relevant legislation that defines practice in the delivery of policing services and child and family services.</li> </ul>	<p>RCMP and staff who have reason to believe that a child has been or is likely to be physically harmed, sexually abused or sexually exploited, or needs protection due to the specific circumstances outlined in Sec 13 of the <i>Child, Family and Community Service Act</i>, are legally responsible to report the matter to a child protection social worker.</p> <p>The <i>CFCS Sec 14 Duty to Report</i> applies to everyone, including service providers, family members and the general public.</p> <p>The legal duty to report overrides any duty of confidentiality, except in a solicitor-client relationship.</p> <p>RCMP and staff are to report their concerns to the local Ministry for Children and Family Development child protection social worker.</p> <p><b>The KKFSS agency does not have the authority to receive, assess or investigate child protection reports</b></p>	<p>Any procedural issues, and questions of jurisdiction that arise between the Level 12 &amp;13 KKFSS agency and the RCMP will be addressed by the KKFSS agency Executive Director and the RCMP Officer in Charge and/or the First Nations administered policing services' Officer in Charge.</p> <p>Any complaint regarding non compliance to the protocol would include :</p> <ol style="list-style-type: none"> <li>1. Multi-steps- <ul style="list-style-type: none"> <li>▪ efforts to resolve matter by front line social worker and individual RCMP officer;</li> <li>▪ involvement of the agency supervisor and senior RCMP staff when resolution is not obtained at initial level.</li> </ul> </li> <li>2. Time lines- to be established for responding to concerns.</li> <li>3. Documentation- concerns to be documented in writing.</li> </ol>	<p>The Protocol between the KKFSS agency with Level 12 and 13 delegation authority and the RCMP will be signed off by the KKFSS agency Executive Director and the RCMP's Officer in Charge who are responsible for ensuring the staff of their organizations are trained in and implement the protocol.</p> <p>(Please see example on Term and Sign-Off on Appendices p. 5)</p>

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Protocol Participants	Information Sharing		Reporting Requirements	
<p><b>KKCFSS Agency</b></p> <p><b>RCMP</b></p> <p><b>First Nations administered policing services</b></p>	<p style="text-align: center;"><b>Re Legislation &amp; Regulations</b></p> <p>The parties disclose information consistent with the legislation that guides their mandated authority-</p> <p>RCMP –<i>Federal Privacy Act and the Access to Information Act</i>;</p> <p>First Nations administered policing services <i>Freedom of Information and Protection of Privacy Act (FOIPPA)</i>;</p> <p>First Nations Child and Family Services <i>Freedom of Information and Protection of Privacy Act (FOIPPA)</i>;</p> <p>Note: all parties are governed by the information release provisions of the <i>Young Offenders Act(YOA)</i>;</p> <p>Note: federal legislation overrides the <i>Freedom of Information and Protection of Privacy Act</i>.</p> <p>Note: Refer to <i>The BC Handbook for Action on Child Abuse and Neglect Appendix A ‘Summary of the Law on Access to and Disclosure of Information’</i></p>	<p style="text-align: center;"><b>To and From a KKCFS Level 12 &amp;13 Social Worker</b></p> <ul style="list-style-type: none"> <li>▪ KKCFS agency will provide a staff list to the RCMP and/or First Nations administered policing services;</li> <li>▪ KKCFS social worker will be prepared to show proper identification;</li> <li>▪ When the KKCFS social worker requests information from RCMP, the request will be: <ul style="list-style-type: none"> <li>▪ as specific as possible;</li> <li>▪ in writing (unless an emergency situation makes this impractical);</li> <li>▪ state the legal authority for requesting the information;</li> <li>▪ confirm the social worker making the request has the appropriate authority (letter of delegation);</li> <li>▪ provide proof of guardianship (in cases where info is requested for a Continuing Care child) or Consent for Release of Information from the child’s guardian (if the child is in care by agreement);</li> <li>▪ identify the child by known name, birth date.</li> </ul> </li> </ul> <p>(Additional criteria may be required. Consult with local RCMP for input )</p>	<p style="text-align: center;"><b>To and From the RCMP</b></p> <ul style="list-style-type: none"> <li>▪ When RCMP request information as part of a criminal investigation it can be shared or they can compel release of information through judicial authorization (warrant or subpoena);</li> <li>▪ When RCMP share information, they may release information arising from their investigations prior to charges being laid and subject to the discretion of the investigating RCMP officer;</li> <li>▪ RCMP must comply with privacy legislation-<i>Privacy Act</i> and <i>FOIPPA</i> and where applicable, information sharing provision of <i>YOA</i>;</li> <li>▪ Information may be withheld by RCMP if disclosure could reasonably be expected to be harmful to law enforcement;</li> <li>▪ Under the <i>Acts</i> identified above, RCMP must disclose to affected members of the public information of ‘public interest’ where health or safety is at risk.</li> </ul>	<p><b>The KKCFS social worker will report to the RCMP when:</b></p> <ul style="list-style-type: none"> <li>▪ a child’s health or safety is in immediate danger (the KKCFS social worker will also report to a child protection social worker);</li> <li>▪ requesting RCMP intervention in cases where it appears there is an imminent risk to the child. (The RCMP may be able to mobilize the required staff faster than a child protection worker). Upon taking charge of a child, the RCMP must report the circumstances of the child immediately to a child protection social worker;</li> <li>▪ a child is being sexually exploited and/ or enlisted in criminal activity;</li> <li>▪ a child in care by agreement and/or a Continuing Care ward is missing, lost, or runaway.</li> </ul> <p><b>The RCMP will report to the KKCFS social worker when:</b></p> <ul style="list-style-type: none"> <li>▪ the RCMP have taken charge of a child who is a Continuing Care ward in the care of the KKCFS agency, under the age of 12 and has broken the law;</li> <li>▪ a child, who is a Continuing Care ward in the care of the KKCFS agency has killed, assaulted or endangered another person.</li> </ul>

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Protocol Participants	Protocol Review Process	Training	
<b>KKCFSS Agency</b>  <b>RCMP</b>  <b>First Nations administered policing services</b>	Participants establish time frames and process to be used to review: <ul style="list-style-type: none"> <li>▪ the implementation of the protocol;</li> <li>▪ adjustments to the text as needed and required;</li> <li>▪ updating of information, local resources, contact information;</li> <li>▪ change in the level of delegation and authority of the First Nations agency.</li> </ul>	Participants define the following aspects of training: <ul style="list-style-type: none"> <li>▪ how the different levels of staff in the organizations will be trained in the use of the protocol;</li> <li>▪ if the training is to be delivered by a multi-disciplinary team to a multi-disciplinary audience;</li> <li>▪ if the training will be an integral part of staff training.</li> </ul>	

**APPENDIX A**  
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**Terms of Reference**

<b><i>Child</i></b>	a person under 19 years of age.
<b><i>Youth</i></b>	a person who is 16 years of age or over but is under 19 years of age.
<b><i>Parent</i></b>	the mother of a child; the father of a child;  a person to whom custody has been granted by a court of competent jurisdiction or by an agreement;  a person with whom a child resides and who stands in the place of the child's mother or father, but does not include a caregiver or director.
<b><i>RCMP</i></b>	are defined in the <i>RCMP Act</i> to include the RCMP, independent municipal RCMP and those established under section 4.1 as designated policing units, such as First Nations administered RCMP services.
<b><i>Ktunaxa/Kinbasket Child &amp; Family Service Agency</i></b>	an agency with the authority to provide Level 12, 13 child and family services for a defined First Nations community or population
<b><i>Ktunaxa/Kinbasket Child &amp; Family Service Level 12 Social worker</i></b>	a social worker with the delegated authority to provide Support Services to Families; Voluntary Care Agreements; Special Needs Agreements; and the establishment of residential resources.
<b><i>Ktunaxa/Kinbasket Child &amp; Family Service Level 13 Social worker</i></b>	a social worker with the delegated authority to provide all Level 12 Services and Guardianship Services for Continuing Care Wards

**Term and Sign-Off**

Regardless of the date of execution and delivery of the agreement, the term of this Agreement starts on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_, and continues until a Party has given the other Parties at least \_\_\_\_\_ days written notice that this Agreement is to end and the period of notice has elapsed. The Parties have signed this Agreement as follows:

Signed on behalf of the \_\_\_\_\_ (KKCFS Agency) by its authorized representative on the \_\_\_\_ day of \_\_\_\_\_, 200\_.

Signed \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

Signed on behalf of the \_\_\_\_\_ (RCMP Cranbrook Detachment) by its authorized representative on the \_\_\_\_ day of \_\_\_\_\_ 200\_.

Signed \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

## Acknowledgments

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*Trilateral Protocol Agreement Central Vancouver Island Ministry for Children and Families, RCMP and Nanaimo–Ladysmith School District , October, 1999*

*BC Handbook for Action on Child Abuse and Neglect (MCF 1998)*

Federal Statues

*Criminal Code of Canada*

*Young Offenders Act*

*Privacy Act and Access to Information Act*

*RCMP Act*

*Indian Act*

Provincial Statues

*Child Family and Community Services Act (CF&CS Act)*

*Freedom of Information and Protection of Privacy Act*

*Infants Act*

*RCMP Act*

*Victims of Crime Act*

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