

**STEERING COMMITTEE ON THE
ABUSE OF ADULTS
IN VULNERABLE CIRCUMSTANCES**

REPORT AND RECOMMENDATIONS

December, 1997

TABLE OF CONTENTS

I.	INTRODUCTION	1
	1. Formation of the Steering Committee	1
	2. Provincial Consultations	2
II.	BACKGROUND AND PRINCIPLES	3
	1. Definitions, Risk Factors and Incidence	3
	2. Principles Guiding the Work of the Steering Committee	8
III.	CONSULTATION ISSUES AND RECOMMENDATIONS	9
	1. Education and Training	10
	2. Coordination and Delivery of Services	12
	3. Mental Health Issues	18
	4. Guardianship	24
	5. Adults in Vulnerable Circumstances and the Justice System	27
	6. Financial Abuse	33
	7. Institutional Abuse	37
IV.	CONCLUSION	40

I. INTRODUCTION

1. Formation of the Steering Committee

In recent years, the abuse of persons in vulnerable circumstances has become an issue of public concern in Saskatchewan. Initially, the focus was on the abuse of children and of women. The abuse of other adults in vulnerable circumstances, including older persons and persons with disabilities, to a large extent remained hidden. As a result, responses to this type of abuse have been slower to develop than responses to other kinds of abuse.

In 1994, the Departments of Justice, Social Services, Health and Labour formed a committee to study the abuse of adults in vulnerable circumstances. This committee examined services available for abused adults and legislative responses to the abuse.

This interdepartmental committee was expanded in the fall of 1995 to form the Steering Committee on the Abuse of Adults in Vulnerable Circumstances. The following groups and government departments are represented on the steering committee:

- DisAbled Women's Network (DAWN) Saskatchewan
- Saskatchewan Association for Community Living
- Schizophrenia Society of Saskatchewan
- Saskatchewan Deaf and Hard of Hearing Services
- Saskatoon Crisis Intervention Service
- Saskatoon Committee on the Abuse of Older Persons
- Provincial Partnership Committee on Family Violence
- Inter-hospital Domestic Violence Committee
- Aboriginal Women's Council of Saskatchewan
- Saskatchewan Seniors Mechanism
- Regina Police Service
- Sherwood Credit Union
- Department of Justice
- Department of Social Services
- Department of Health
- Department of Labour
- Department of Municipal Government

The mandate of the Steering Committee on the Abuse of Adults in Vulnerable Circumstances is to carry out community consultations respecting the abuse of adults in vulnerable circumstances and to present recommendations to the Ministers of Justice, Social Services, Health, Labour and Municipal Government respecting an improved response to this serious problem.

2. Provincial Consultations

In September of 1996, the Steering Committee on the Abuse of Adults in Vulnerable Circumstances finalized a document for use in province-wide consultations. The purpose of this document was to provide information on the abuse of adults in vulnerable circumstances and to stimulate discussion about appropriate responses to abuse. (This document is available on request from the Department of Justice, Legislative Services Branch, 8th floor, 1874 Scarth Street, Regina, Saskatchewan, S4P 3V7, phone (306) 787-2951, fax (306) 787-9111.)

This document was distributed to approximately 200 individuals and groups across the province with an interest in the abuse of adults in vulnerable circumstances. The steering committee then held consultation meetings, which were attended by 154 people. The meetings were held as follows:

- October 23, 1996: Weyburn
- October 29, 1996: Prince Albert
- November 7, 1996: Swift Current
- November 8, 1996: Yorkton
- November 21, 1996: Regina
- November 26, 1996: Moose Jaw
- November 28, 1996: Regina
- November 29, 1996: Melfort
- January 21, 1997: Saskatoon
- January 22, 1997: North Battleford

The steering committee also received submissions and presentations from some individuals and groups.

At each consultation meeting, participants were asked to respond to three questions, as follows:

1. What services are available to abused vulnerable adults in your community?
2. What are the gaps in service?
3. What responses would better serve the needs of abused vulnerable adults in your community?

Following these consultations, the steering committee circulated a draft report and recommendations, dated June 1997, to approximately 380 individuals and groups and solicited and received further comments.

This report and the recommendations contained within it are the result of the consultations of the Steering Committee on the Abuse of Adults in Vulnerable Circumstances.

II. BACKGROUND AND PRINCIPLES

The information in this part of the report is primarily a condensation of that found in the September 1996 consultation document of the Steering Committee on the Abuse of Adults in Vulnerable Circumstances¹. It also reflects community feedback on the steering committee's June 1997 draft report and recommendations. It provides definitions of "adults in vulnerable circumstances" and "abuse". It also includes a discussion of abuse risk factors and information about the incidence of abuse. Finally, it sets out the principles that guided the steering committee in making the recommendations contained in this document.

1. Definitions, Risk Factors and Incidence

"Adults in Vulnerable Circumstances"

The consultations of the steering committee concentrated on the abuse of adults with disabilities and older adults, referred to as "adults in vulnerable circumstances" in this report.

Although our focus has been specific to this group, it is important to think conceptually about the abuse of persons with disabilities and older adults within a framework which reflects the

¹ The information contained in this part has been taken from the following sources: British Columbia Ministry of Health and Ministry Responsible for Seniors, *Principles, Procedures and Protocols for Elder Abuse*, 1992; DisAbled Women's Network Canada, *Beating the "Odds": Violence and Women with Disabilities*, 1989; DisAbled Women's Network Canada, *Don't Tell Me to Take a Hot Bath: Resource Manual for Crisis Workers*, 1995; Gallagher and Pittaway, *Services for Abused Older Canadians*, 1995; Health Canada, *Resource and Training Kit for Service Providers: Abuse and Neglect of Older Adults*, 1994; Manitoba Seniors Directorate, *Abuse of the Elderly: A Guide for the Development of Protocols*; McDonald et al., *Elder Abuse and Neglect in Canada*, 1991; Pillemer and Finkelhor, "The Prevalence of Elder Abuse: A Random Sample Survey", *The Gerontologist*, 28(1), 1988; Podnieks et al., *National Survey on Abuse of the Elderly in Canada (Ryerson study)*, 1990; Roeher Institute, *Harm's Way: the Many Faces of Violence and Abuse Against Persons with Disabilities*, 1995; Saskatchewan Social Services, *Guidelines for the Development of Protocols: Community-Based Responses to the Abuse and Neglect of Older People*, 1995; Sobsey, *Violence and Abuse in the Lives of Persons with Disabilities: the End of Silent Acceptance*, 1994; Sobsey and Doe, "Patterns of Sexual Abuse and Assault", *Sexuality and Disability*, 9(3), 1991.

complex dynamics of abusive relationships. Age and disability are contributing factors, but they are not the only factors in abuse. Situational and societal factors may greatly increase vulnerability. In other words, while disability or age-related limitations may increase the risk of abuse, there are factors beyond victims' characteristics which affect vulnerability.

This perspective allows us to view vulnerability in a way which avoids stereotyping or stigmatizing groups of individuals. This is why the steering committee chose to refer to “adults in vulnerable circumstances” rather than to “vulnerable adults” in its title and throughout this report.

For the purpose of the consultation, the following definition of “adults in vulnerable circumstances” has been used:

Adults in vulnerable circumstances are persons aged 18 and over who:

- **have an illness, impairment, delay, disability and/or aging process limitation that places them at risk of abuse or neglect;**
- **have difficulty accessing help to resolve abuse because of an illness, impairment, delay, disability and/or aging process limitation and/or because of their living situations and/or a lack of appropriate services; and/or**
- **have difficulty or are unable to make decisions regarding their abuse and to initiate change in their situations.**

This definition strikes a balance between individual risk, the adult’s situation and the adult’s ability to make decisions and initiate change. It reflects and respects different degrees of choice regarding the abusive situation and differing abilities to take action to resolve the abuse.

“Abuse”

Persons with disabilities and older adults experience various forms of abuse, including neglect. Abuse occurs in domestic or institutional settings, public places or community environments. An abuser may be anyone in a position of trust or authority in an adult’s life, such as a spouse, a parent, an adult child, another relative, a friend, a neighbour, a professional caregiver or a service provider.

The precise definition of this abuse is still being debated and studied. Practical definitions of abuse have emerged from work conducted in Saskatchewan, Manitoba and British Columbia on protocol guidelines relating to the abuse of older adults. These protocol documents use a broad definition of abuse that can also apply to the abuse of persons with disabilities.

The following definition of “abuse”, adapted from that contained in the British Columbia *Adult Guardianship Act*, has been used in our consultations:

Abuse is any action or inaction which jeopardizes the health, well-being or assets of an adult.

Seven types of abuse and three types of neglect were identified by the steering committee:

- **Physical Abuse** - Any act or rough treatment directed toward an adult, whether or not actual physical injury results, including hitting, slapping and the misuse of physical restraints;
- **Sexual Abuse** - Any sexual behaviour directed toward an adult without the adult's full knowledge and consent, including sexual assault, sexual harassment or the use of pornography;
- **Psychological or Emotional Abuse** - Any act that may diminish an adult's sense of identity, dignity and self-worth, including humiliation, intimidation, verbal abuse, threats, infantilization and isolation;
- **Medication Abuse** - The misuse of an adult's medications and prescriptions, including the withholding of medication, over-medication and the misuse of chemical restraints;
- **Financial Abuse** - The misappropriation of an adult's funds, resources or property by fraud, deception or coercion for purposes not intended by the owner, including theft of property or personal effects, unauthorized cashing of pension cheques, selling an adult's house or furnishings without permission, attempts to change a will and abuse of powers of attorney or property guardianship;
- **Violation of Civil and Human Rights** - The unlawful or unreasonable denial of the fundamental rights and freedoms normally enjoyed by adults, including the denial of information, access to communication, privacy, visitors, religious worship, health care services or the opportunity to provide informed consent to medical treatment, interference with mail, restriction of liberty or unwarranted confinement in a hospital or institution;
- **Active Neglect** - The deliberate withholding of basic necessities or care;
- **Passive Neglect** - The non-deliberate, non-malicious withholding of basic necessities or care because of lack of experience, information or ability;
- **Self-Abuse** - Any self-inflicted act which may cause serious and significant harm to an adult's health or well-being;
- **Self-Neglect** - The failure of an adult to adequately care for his or her needs such that serious and significant harm may come to his or her health, well-being or assets.

Risk Factors

Vulnerability to abuse is a multi-dimensional phenomenon. The research suggests that it involves a complex relationship and interaction between individual, situational and societal factors. For example, while disability may increase risk directly (not being able to fend off an attack, not being able to communicate what has happened), more often it indirectly increases risk because of the way society views and responds to persons with disabilities.

Although much remains to be known about the dynamics of abuse, the following identifies some of the risk factors that may be involved in the abuse of adults in vulnerable circumstances.

- **Individual Risk Factors**

- Deaf or hard of hearing persons and persons with specific disabilities such as developmental disabilities appear to be at greater risk of abuse, particularly sexual abuse.
- Persons with mental illnesses appear to be at greater risk of self-abuse or self-neglect.
- Increased age in conjunction with poor health seems to increase the risk of abuse.

- **Situational Risk Factors**

- The involvement of persons with disabilities with support and service systems increases their risk of abuse through exposure to more potential abusers. Caregiver positions may sometimes attract persons who wish to exercise power and control over others.
- Increased dependency on care providers to meet basic needs increases risk.
- Social isolation and lack of support systems appear to be risk factors in both abuse of older adults and abuse of persons with disabilities. Caregiver stress and burnout may add to the risk.
- Abusers' characteristics, such as alcohol and substance abuse and mental health problems, appear to be significant factors in the abuse of adults in vulnerable circumstances by informal caregivers such as family members.
- Mutual dependencies or co-dependencies may play a role in situations of abuse. It appears that, in some abusive situations involving older adults, it is not only the victim who may be dependent on the abuser but the abuser who may also be dependent on the victim, particularly for financial assistance and housing.
- Caregivers of some persons with mental illnesses may themselves be at risk of abuse, especially if the caregivers are elderly.

- **Societal Risk Factors**

- Negative attitudes and beliefs about older adults and the aging process and about persons with disabilities contribute to creating conditions conducive to abuse. These negative attitudes and beliefs serve to dehumanize, devalue and disempower older adults and persons with disabilities, thus making it easier for them to be made victims.
- Lack of control over one's personal affairs and environment increases vulnerability to abuse. Often, persons with disabilities and older adults have limited or no control over how support is provided to them; this can place them in situations in which other persons can take advantage of them.

Incidence of Abuse

While comprehensive research on the extent of the abuse of adults in vulnerable circumstances in Saskatchewan is unavailable, extra-provincial research and anecdotal information suggest a significant problem.

The Ryerson study, a national study on the abuse of older people, found that 4% of seniors living in private dwellings experienced abuse. Material or financial abuse was most frequently reported (2.5%). The prevalence rate for the prairies, 3%, was slightly lower than the national rate.

A recent study by Gallagher and Pittaway reviewed 489 client records of abused older Canadians, compiled by service agency workers. It focused on verified physical, psychological and material abuse and on neglect. The records showed that 40.7% of the clients had suffered psychological abuse, 28.6% had suffered physical abuse, 26.6% had suffered material abuse and 12.1% had suffered neglect.

There are no provincial or national studies of the number of older people living in institutional settings who have experienced abuse. However, because the dependency of this group and the exposure of its members to a number of potential abusers makes it particularly vulnerable, it may be subject to a higher rate of abuse than are seniors living in their own homes. Statistics Canada in 1992 reported 9,640 Saskatchewan seniors with some degree of disability living in institutions (including nursing homes, residences for seniors, hospitals, chronic care hospitals, psychiatric institutions and treatment centres and institutions for persons with physical disabilities).

The Roeher Institute has recently completed a large scale review, entitled *Harm's Way: the Many Faces of Violence and Abuse Against Persons with Disabilities*, in the area of abuse of persons with disabilities. While the study indicates that it is difficult to find reliable data relating to the incidence of such abuse, it quotes Statistics Canada (Canadian Centre for Justice Statistics) research on female abuse survivors. This research indicates that women with disabilities have a 39% likelihood of being physically or sexually assaulted by their partners (compared with a 29% likelihood for the general population of women).

A 1989 report by DAWN CANADA, *Beating the "Odds": Violence and Women with Disabilities* also suggests that the abuse of women with disabilities is widespread and more prevalent than the abuse of women in general. The report indicates that of the women with disabilities who responded to the survey, 40% indicated that they had been raped, abused or assaulted.

A more recent DAWN CANADA survey, *Don't Tell Me to Take a Hot Bath: Resource Manual for Crisis Workers*, explored the relationship between women with disabilities and suicidal thoughts and suicide attempts. Of the 371 women who responded to the survey, 66.3% reported sexual abuse, 51.1% reported psychological abuse and 50.8% reported physical abuse. Neglect was reported by 43.1%, abandonment by 34.8% and financial abuse by 28.7%. A significant relationship between suffering abuse and considering or attempting suicide was observed.

Less comprehensive studies appear to bear out these findings and to indicate that abuse is not confined to the female disabled population. For example, some researchers estimate that the risk of a single incident of abuse for persons with disabilities is at least 1½ times as great as the risk for others of similar age or gender, and that the risk is significantly higher with respect to multiple incidents of abuse.

2. Principles Guiding the Work of the Steering Committee

The steering committee believes that a strategy aimed at addressing the varying needs of adults in vulnerable circumstances should focus on providing a continuum of support. A range of services, from less to more intrusive, should be available to meet the needs of these adults.

The continuum of support should aim to balance the individual's right to self-determination and the protection of the individual. In some cases of self-abuse or self-neglect, the protection of the public may also be a factor.

The continuum of support should ensure that the intrusion into an adult's life is as minimal as possible, and it should aim to assist the adult in his or her decision-making wherever possible.

The chart appended to this report indicates the placement of the steering committee's recommendations along a continuum of support line.

The following principles have provided a framework for the work of the Steering Committee on the Abuse of Adults in Vulnerable Circumstances in all of our discussions. They have been instrumental in the preparation of our consultation document and in the development of this report and the recommendations contained within it.

- The rights of the individual will be respected, including:
 - the right to the basic necessities of life - food, clothing, shelter and social contact;
 - the right to safety;
 - the right to a life free from abuse, neglect and violation of human rights;
 - the right to be informed about one's rights and the services and options available;
 - the right to self-determination, including the right to participate in decision-making to the greatest extent possible;
 - the right to access to appropriate communication;
 - the right to support and assistance in understanding the choices available;
 - the right to privacy and confidentiality;
 - the right to treatment and appropriate services.

- In a suspected case of abuse, any intervention should be:
 - the least intrusive possible;
 - aimed at maximizing the individual's choices;
 - undertaken with the voluntary and informed consent of the individual whenever and to whatever degree possible;
 - respectful of the individual's privacy;
 - sensitive to culture, language, religion, race and gender;
 - undertaken by well-trained and sensitive assessment and treatment personnel.

- Every situation involving suspected abuse must be assessed individually to determine the individual's choices and the degree of intrusion warranted.

- Service delivery must be determined by the need of the individual at a given time.

- Services must be accessible and available in a timely manner to all adults in vulnerable circumstances.

III. CONSULTATION ISSUES AND RECOMMENDATIONS

This part of the report summarizes issues arising from the consultations carried out by the Steering Committee on the Abuse of Adults in Vulnerable Circumstances and presents the recommendations of the steering committee.

The steering committee found the issues raised in the consultation meetings to be strikingly similar. Communities across the province generally face the same issues, although problems are magnified in isolated areas of northern Saskatchewan. Some differences were noted between rural and urban communities. Rural communities often raised issues related to a lack of services. Some rural communities also had concerns about preserving the confidentiality of client information. On the other hand, rural communities reported better success in having service providers work together to respond to the abuse of adults in vulnerable circumstances.

The steering committee divided the community responses and the committee's recommendations into seven categories, as follows:

- education and training
- coordination and delivery of services
- mental health issues
- guardianship
- adults in vulnerable circumstances and the justice system
- financial abuse
- institutional abuse

The following is a discussion of the issues raised with respect to each of these categories and the recommendations of the steering committee respecting an improved response to the problems facing adults in vulnerable circumstances.

1. Education and Training

At every consultation meeting, the subject of education was a focus. Participants felt very strongly that there needs to be more education about what abuse is and about what resources are available to adults in vulnerable circumstances and to caregivers. They also stated that there is a need for information about how to prevent abuse.

Meeting participants emphasized the need for increased public awareness of what it means to be elderly and what it means to be disabled. They frequently voiced frustration about societal attitudes which reflect inaccurate stereotypes and uninformed biases about elderly persons and persons with disabilities. These attitudes hinder efforts to combat abuse.

Participants were specific about who should be educated. The following were frequently mentioned:

- adults in vulnerable circumstances
- caregivers or service providers, both paid and family
- the families and friends of adults in vulnerable circumstances
- the public
- consumers generally
- school-age children
- governments and district health boards
- medical personnel
- the police and RCMP, lawyers and judges
- crisis workers
- home care workers
- employees of financial institutions

The recommendations of the steering committee relating to education and training fall within the less intrusive end of the continuum of support. They will have a positive effect on the lives of adults in vulnerable circumstances generally, but they will be unintrusive with respect to the lives of specific adults.

The following general recommendations relate to education and training. Education-related recommendations respecting specific types of abuse appear throughout this report.

Coordinated Education and Training

The steering committee and the participants in our consultations share a belief that a coordinated effort is essential to ensure appropriate responses to the abuse of adults in vulnerable circumstances. In the area of education and training, it will be important to ensure the coordination of existing education and training, the identification of additional needs for education and training and the determination of mechanisms for future education and training.

Recommendation #1

That the provincial government work with others in the community who provide education and training respecting the abuse of vulnerable adults to ensure the coordination of existing education and training, the identification of additional needs for education and training and the determination of mechanisms for future education and training.

Public Education

The general public remains uninformed about the abuse of adults in vulnerable circumstances. Members of the public don't know what abuse is, who to call when they see abuse or how to prevent abuse.

Often, adults themselves do not recognize that they are being abused. Even when they do recognize abuse, they do not know where to go to get help. Public education must be designed to reach these adults. This diverse group includes adults with intellectual disabilities or mental illnesses, deaf or hard of hearing adults and others who may have specialized needs. It also includes adults who are isolated and those in institutions. It includes adults who do not understand English or who use sign language.

The steering committee recommends that the provincial government work in partnership with community bodies, such as financial institutions and media outlets, to raise public awareness in this area.

Recommendation # 2

That the provincial government work with community agencies to raise public awareness respecting the abuse of adults in vulnerable circumstances. Education should focus on what abuse is, what to do if one becomes aware of an abusive situation and how to prevent abuse. Public education should be accessible by and understandable to adults in vulnerable circumstances.

Education and Training for Service Providers and Caregivers

An understanding of the abuse of adults in vulnerable circumstances is just beginning to emerge in society. Participants at our consultation meetings, many of them service providers and caregivers, identified a need for education and training of service providers and caregivers. Many of them said, "If we don't know what abuse is or what to do in a situation of abuse, how can we expect the public to recognize and respond to abuse?" They asked for consistent education and training across the province and suggested that existing efforts should not be duplicated. They suggested that education and training about the abuse of adults in vulnerable circumstances should be included in the curricula of professionals such as doctors, nurses, social workers and lawyers.

Recommendation # 3

That the provincial government work with service providers and caregivers to provide education and training to service providers and caregivers with respect to the abuse of adults in vulnerable circumstances. As much as possible, this education and training should be consistent across the province. The provincial government should encourage professional schools or bodies to include material about the abuse of adults in vulnerable circumstances in their university curricula or continuing education.

2. Coordination and Delivery of Services

The need for a coordinated response to the abuse of adults in vulnerable circumstances was a common theme during our community meetings. Many participants suggested the implementation of a province-wide toll free abuse line. Many recommended the use of community protocols detailing local responses to abuse. They also suggested that those working with adults in their communities are best able to recommend what services are needed in those communities.

As in the section relating to education and training, the recommendations in this section provide responses to the abuse of adults in vulnerable circumstances that are at the unintrusive end of our continuum. They aim to coordinate the response to abuse so that adults do not "fall through the cracks". They do not refer to the development of interventionist responses to abuse.

Single Entry Point Toll Free Telephone Line

One of the questions asked frequently during our consultation meetings was, “Who are you going to call?” There is a variety of numbers listed in the telephone book which deal with specific abuse situations faced by adults. There are crisis, suicide information, farm stress, rape crisis and sexual assault lines. There are numbers for persons with problems such as alcohol abuse or gambling addiction. There is a seniors information hotline. There are also numbers listed for the police and RCMP.

Sometimes an individual may require assistance for a problem that does not fall into any of the specific categories served by these telephone lines. Or the problem may not represent an immediate crisis. Or it may not be criminal in nature. Even where there is an applicable crisis or other telephone line, an individual may not know what number to call or how to find it.

Also, not all help lines are toll free. This may be a deterrent to adults in abusive situations who need assistance but are afraid to risk long distance calls appearing on telephone bills.

The steering committee does not think another toll free line, working alongside all the others, is the answer to these problems. However, we do recommend a consolidation of services in this area. In other words, we recommend a toll free telephone number that represents a single entry point into the response system.

Current communication technology allows the development of a telephone line that covers the province while allowing regional responses. A single entry point toll free number, placed prominently at the front of the telephone book or identified by a coloured page, would provide information, referral and crisis counselling respecting all forms of abuse. Calls would be automatically forwarded to numbers in the service areas or health districts closest to the originating call, and action relating to the call would be regional action. Each region would maintain up-to-date information regarding community services.

Some crisis groups in the province have already been working on the development of a province-wide crisis line. We recommend that this work be the basis for further discussions about a toll free telephone number. We also recommend that the provincial government work with other groups which have set up help telephone lines in developing the recommended toll free number.

The steering committee is aware of the ongoing work to create a province-wide 911 line. It may be that this work will be of assistance in the creation of a province-wide toll free abuse line. The idea of sharing technology or combining resources should be pursued.

It is important to stress that the toll free number recommended by the steering committee is not meant to replace the 911 number. That number is an emergency number. The toll free number we are recommending will be staffed by persons who will have the time and expertise to provide information, referral and crisis counselling in non-emergency situations.

This telephone line must be accessible to adults in vulnerable circumstances. We recommend that TTY (Telecommunications Typewriter) access be included so that deaf or hard of hearing adults may have access to information, referral and crisis counselling. As well, the needs of the elderly should be considered. Many of them may not have touch tone telephones or may be uncomfortable using telephone lines that require choosing which button to push from an array of choices. Touch tone responses will also present a challenge to many adults with intellectual disabilities.

Funding for the service should be sufficient to include 24 hour a day, seven day a week coverage and to maintain up-to-date information. References to this line should be prominent in the public awareness campaign we have recommended (see recommendation #2).

The success of this recommendation is closely tied to the implementation of community protocols (see recommendation #5). When a call is placed, there must be a response in place; that response will be set out in the relevant community protocol.

Recommendation # 4

That the provincial government work with SaskTel, district health boards and bodies presently operating or developing help telephone lines to develop a province-wide single entry point toll free number, placed prominently at the front of the telephone book or identified by a coloured page, to provide information, referral and crisis counselling with respect to all types of abuse situations. Calls to the toll free number should be automatically forwarded to the closest community for response. The line should have TTY capability to facilitate use by persons who are deaf or hard of hearing. It should be adequately funded to ensure continuous service and the use of current information.

Protocols

The communities we consulted identified a gap regarding the coordination of services provided to adults experiencing abuse. There appears to be a lack of communication between agencies for a number of reasons, including concerns about the confidentiality of client information, lack of understanding of the mandates of other agencies and lack of trust that other agencies will act appropriately. Many of those consulted mentioned turf protection as a particular problem. The result of all of these barriers to communication can be that clients don't receive the best service available.

A coordinated approach requires that service providers work together to meet the needs of the adults they serve. Working together requires that service providers understand and respect other organizations' mandates and trust that these organizations will act appropriately and predictably.

There are already a number of protocols in place that are either problem-specific (e.g. respecting child sexual abuse or domestic violence) or population-specific (e.g. Social Services Community Living Division protocol respecting persons with intellectual disabilities). Some communities have also begun to use protocols as a way of working together to respond to the abuse of older adults.

Protocols are documents which detail the procedures to be followed in abuse situations. Each community has the flexibility in its protocol to determine what works for it. Protocols increase the likelihood that adults in vulnerable circumstances will receive the services they require. Protocols provide a continuum of responses to abuse, from less to more intrusive. They are based on principles such as those guiding the work of the steering committee.

Community protocols should include the following elements:

- definitions of abuse
- principles of intervention
- outline of the roles and responsibilities of service providers covered by the protocol
- description of the referral and intervention process, including intake, assessment and action to be taken
- description of appropriate information sharing practices, including relevant legislation
- agreement respecting the collection of statistical information
- agreement respecting the evaluation of the protocol

A frequently voiced concern of service providers attending our consultation meetings relates to legislative restraints on sharing personal information with other service providers. While participants believe that confidentiality is very important, they want to be able to share personal information appropriately in providing coordinated services to clients.

In 1995, as part of an initiative relating to service provision to school children at risk, legislative provisions governing service providers were reviewed, with an eye to identifying and eliminating barriers to the appropriate sharing of personal information between service providers. In the 1996 session of the Legislature, a number of amendments were made which facilitate appropriate information sharing. Our consultation suggests that government departments have not yet adequately informed their staff about changes to their governing legislation. Misunderstandings about legislative constraints abound. We recommend that the protocols clearly address this important issue.

Protocols must also ensure that adults in vulnerable circumstances receive coordinated client-centred support. Individual adults should be able to expect that services will be provided in an effective, timely and appropriate manner. Clients and their right to self-determination should be front and centre.

The participation of families or other personal supporters, wherever possible, is critical in planning for adults in vulnerable circumstances. When they are the care providers for adults in vulnerable circumstances, families' or supporters' inclusion in planning is doubly important. Particular effort should be made to include the families or personal supporters of adults with mental illnesses; our consultations indicated this group has felt left out of the planning process.

The steering committee regularly heard about caregiver pressures. Often, aging parents care for adult sons or daughters with severe disabilities. The unmitigating responsibility and the lack of support for these parents can make them adults in vulnerable circumstances. Culturally sensitive counselling and respite for caregivers should be part of community protocols.

There are guidelines available for use as community resources. A publication entitled *Guidelines for the Development of Protocols: Community-based Responses to the Abuse and Neglect of Older People* was developed by the Department of Social Services in 1995. (This document is available on request from the Department of Social Services, Communications Branch, 1920 Broad Street, Regina, Saskatchewan, S4P 3V6, phone (306) 787-3686, fax (306) 787-1032.)

The Seniors' Education Centre at the University of Regina has also developed a short video explaining what community protocols are and who should be involved in developing protocols respecting the identification, intervention and prevention of abuse of older persons. (This seven minute video is available to purchase (\$10) or to rent (\$5) from the Seniors' Education Centre, University of Regina, Room 106, Gallery Building, College Avenue and Cornwall Street, Regina, Saskatchewan, S4S 0A2, phone (306) 585-5816, fax (306) 585-5736.)

Ideally, community protocols should be implemented in conjunction with the implementation of a province-wide toll free abuse line (see recommendation # 4). However, there is an urgent need for protocol development, regardless of whether a toll free number is in place. Once community protocols are in place, information about them will have to be included in the training of service providers and caregivers (see recommendation #3).

Recommendation # 5

That provincial government service providers work with other service providers in each community to develop a protocol which details the procedures to be followed in situations of abuse of adults in vulnerable circumstances.

Service Recommendations

Along with the problem of service coordination, a number of service gaps were identified in our consultations. Communities frequently cited the need for the development or improvement of services in their areas.

The following services were often identified across the province as requiring development or improvement:

- advocacy and supported decision-making for adults in vulnerable circumstances
- respite
- home care
- transportation (especially in rural areas)
- peer support
- appropriate housing and housing supports (physical and service supports for various shelter options, e.g., transition houses, safe shelters, subsidized long-term housing or personal care homes) for some adults in vulnerable circumstances
- sign language interpreting and other communication aids for adults who are deaf or hard of hearing

Another issue concerns the enhancement of the effectiveness of *The Victims of Domestic Violence Act*. This Act has been applauded by the community, as it provides three new remedies for persons subjected to domestic violence. Emergency intervention orders, available from specially trained justices of the peace, provide immediate protection to victims of domestic violence; for example, they can grant victims exclusive occupation of their homes or restrain abusers from contacting victims or family members. Victim's assistance orders, from the Court of Queen's Bench, provide the remedies that are available under emergency intervention orders and others. Warrants of entry allow investigation where there is concern that a person who is unable to act on his or her own is suffering from domestic violence and access to that individual has been denied.

A goal of the Act is to help victims of domestic violence stay in their own homes where appropriate. However, many adults in vulnerable circumstances rely on their abusers to provide care. Supports may be required if these adults are to remain at home.

The steering committee supports service coordination at the community level. Each protocol community will know best what services are lacking or inadequately provided in their area. They should be the ones to make recommendations regarding needed services. Provincial and local governments and district health boards should work closely with these communities to ensure that funding is used to provide the services considered most important by the communities.

This recommendation will require that provincial and local governments and district health boards authorize their staff to be actively involved in protocol communities and to participate in making recommendations to the provincial and local governments and district health boards as part of those protocol communities.

That the provincial government, together with local governments and district health boards, authorize each protocol community to make recommendations to provincial and local governments and district health boards regarding needed services in the community, and that they work closely with each community to ensure that funding is used to provide the services considered most important by the community. In particular, the need for the following should be considered when determining service needs:

- **advocacy and supported decision-making for adults in vulnerable circumstances**
- **respite**
- **home care**
- **transportation (especially in rural areas)**
- **peer support**
- **appropriate housing and housing supports (physical and service supports for various shelter options, e.g., transition houses, safe shelters, subsidized long-term housing or personal care homes) for some adults in vulnerable circumstances**
- **sign language interpreting and other communication aids for adults who are deaf or hard of hearing**

3. Mental Health Issues

Mental health issues were frequently raised during our consultation meetings. This is an area where self-abuse and self-neglect are often problems. Participants at our meetings stressed the need for public education aimed at reducing the stigma related to mental illness. They suggested legislative and service delivery responses to treatment issues. They recommended more mental health services geared specifically to seniors. They expressed concerns over a lack of appropriate housing for persons with severe psychiatric disabilities. Inadequate funding for mental health services was a common refrain.

Some of the recommendations in this section begin to enter the more intrusive end of the continuum of response. There is a need in providing services to persons with mental illnesses to be sensitive to the fine balance between an individual's right to self-determination and the protection of the public and/or the individual. We have tried to achieve that balance in this section of the report.

The recommendations in this section will obviously affect the district health boards which deliver mental health services. Because the mandate of the steering committee is to make recommendations to provincial government ministers, we have framed our recommendations in terms of the provincial government and district health boards working together to provide mental health services to Saskatchewan residents.

The stigma attached to mental illness has a long history. The practice until the 1960's of removing affected persons from society and putting them into asylums contributed to this stigma. Today, persons with mental illness are still often isolated and considered by society to be "crazy" rather than ill, and they are often subjected to discrimination because of their illnesses. Media portrayals of mental illness frequently reinforce negative stereotypes about mentally ill persons.

Neurological disorders which alter thinking and behaviour are frightening to the persons affected, to their families and friends and to outside onlookers. General ignorance about the causes and effects of such disorders perpetuates this fear and the stigma associated with mental illness. Indeed, this fear and this stigma may lead some persons to delay or forego accessing the mental health services they require.

Some public education has been done in this area. Service providers and advocates for mentally ill persons attending our consultations stressed the need for increased educational efforts aimed at combatting the prevailing lack of information and misinformation about mental illness.

Recommendation # 7

That the provincial government work with district health boards and community agencies to expand public education programs designed to challenge and overcome the stigma attached to mental illness.

Treatment Issues

Some meeting participants had difficulty getting persons with mental illnesses to accept assessment and treatment. They suggested that the nature of these persons' illnesses often led them to deny the reality of their illnesses and to reject help. They discussed provisions under *The Mental Health Services Act* with respect to involuntary treatment, and they also discussed ways to deliver services that would encourage persons to voluntarily accept treatment.

Participants raised concerns about individuals with dual or multiple diagnoses. Our consultation indicated that service provision to members of this group is inadequate in many instances.

- **Legislation Respecting Involuntary Treatment**

The Mental Health Services Act includes procedures for the provision of involuntary treatment to persons with mental illnesses. Because of the invasive nature of providing treatment without consent, the Act contains a number of hurdles that must be overcome before involuntary treatment is provided. Some participants at our meetings suggested that these hurdles are too high and that they represent barriers to helping people who, because of their illnesses, cannot help themselves or do not acknowledge that intervention is required.

represents a “last resort” for the person’s family or other supporters. Participants at our meetings spoke of the emotional toll on persons seeking involuntary treatment for their loved ones under this legislation. They described the difficulty that families and friends have bringing themselves to go to court to get warrants to have their loved ones apprehended. They noted that warrants are generally executed by police officers and that this further inhibits action by families and friends.

They also noted that even after warrants are executed and mentally ill persons are apprehended, these persons may only be admitted to in-patient facilities for treatment if they are likely to cause harm to themselves or others or to suffer substantial physical or mental deterioration if not detained and treated in in-patient facilities.

On the other hand, rights advocates caution against making it too easy for individuals to be forced into treatment. The balancing act between individual self-determination and individual protection is a delicate one.

Officials in the Department of Health have indicated their intention to review *The Mental Health Services Act*. The steering committee recommends that this review proceed as soon as possible and that alternatives to the current provisions respecting involuntary treatment be explored. We also recommend that the review include broad community consultations.

Recommendation # 8

That the Department of Health review *The Mental Health Services Act* as quickly as possible, that alternatives to the current provisions respecting involuntary treatment be explored as a part of the review and that the review include broad public consultations.

- **Service Delivery - Outreach and Early Intervention**

Participants at our consultation meetings discussed ways to change the delivery of services so that individuals would be more likely to voluntarily accept assessment and treatment. They suggested that one of the problems with the present system is that in most cases the ill person is required to go to a mental health facility to be assessed and receive treatment. This presents difficulties for many persons with mental illnesses. The fact is they don’t always voluntarily go to get the services they need. Therefore, it was suggested that the mental health system should go to them. Individuals who refuse to go to get assessment and treatment may be persuaded to be assessed and receive treatment in their own homes.

The Mental Health Services Act was recently amended to include outreach for persons who have been in-patients in mental health facilities. “Community treatment orders” allow treatment in the community for such persons. The amendments to the Act were welcomed by service providers and advocates for persons with mental illnesses.

services are sometimes available. The steering committee recommends an expansion of these services. Services should include staff trained to make in-home assessments, and if possible, to provide treatment where a mentally ill person will not voluntarily go to see a mental health practitioner. Services must be appropriate to the individual; for example, sign language interpreting should be available to deaf persons who use this method of communication.

It is our view that outreach and other forms of early intervention are essential before individuals are in crisis (and families are considering measures under *The Mental Health Services Act*), and that these interventions may indeed reduce stress throughout the system, including stress on the in-patient system. The provincial government and district health boards should explore the development of alternative services aimed at early intervention and voluntary treatment.

Recommendation # 9

That the provincial government work with district health boards to expand and enhance mental health outreach services and to explore the development of other services aimed at early intervention and voluntary treatment.

- **Dual or Multiple Diagnosis**

Some persons with psychiatric illnesses also have other disabling conditions such as intellectual disabilities, acquired brain injuries, dementia or substance abuse problems. They may also have visual, hearing, communication or mobility problems. There are separate service delivery systems involved with each of these various disabilities, and when an individual has a dual or multiple diagnosis, the coordination between these systems is very important.

During our consultation meetings, frequent problems were cited respecting communication and coordination between different service providers working with persons with dual or multiple diagnoses. A number of participants suggested that the Department of Social Services (Community Living Division) and the district health boards (mental health services) should work together to better serve persons with both intellectual disabilities and mental illnesses.

Mistaken understandings of confidentiality and information sharing constraints related to mental health services were seen in some communities to be barriers to successful interagency cooperation.

Persons who have substance abuse problems as well as mental illnesses also require special services. Problems of substance abuse exacerbate psychiatric disorders and complicate their management. Traditional mental health services are often inadequate to meet the challenges of this population.

Mental health services are also not always adequate to meet the needs of persons who are deaf or hard of hearing, blind or visually impaired, unable to communicate or quadriplegic.

The steering committee has recommended that provincial government service providers work with other service providers in their communities to develop protocols which detail the procedures to be followed in situations of abuse of adults in vulnerable circumstances (see recommendation #5). It will be important that these protocols include procedures to be followed by service providers involved with persons with dual or multiple diagnoses. It will also be extremely important for members of this population to receive coordinated client-centred support to ensure that their diverse needs are met.

Recommendation # 10

That provincial government service providers work with other service providers in each community to ensure that the needs of persons with dual or multiple diagnoses are taken into account in developing community protocols. In particular, active measures should be taken to ensure coordination between service delivery systems for persons with mental illnesses and intellectual disabilities and/or substance abuse problems.

Psychogeriatrics

A number of meeting participants expressed concerns respecting the lack of mental health services specifically for seniors. Seniors with mental health problems are a large and very vulnerable population, and they also have special needs respecting services and medications.

Recommendation # 11

That the Department of Health assess the need for specialized mental health services for seniors throughout the province and monitor the mental health services for seniors provided by health districts.

Services for Long-Term Mentally Ill Persons

The steering committee frequently heard concerns about inadequate services for the long-term mentally ill. In particular, long-term housing seems to be a great need.

As mental hospitals have been phased out, there has not been sufficient concurrent development of community care resources or supportive living arrangements to replace institutional care. In particular, there are few options for those who are most severely affected by mental disorders. These persons have brain diseases which are resistant to medications, or have severe adverse side effects to medications or are likely to be non-compliant to treatment regimes. They may require 24 hour supervision to ensure basic self-care and monitoring of medications.

Because of the behaviour resulting from their illnesses, individuals who are severely disabled are often considered too difficult to manage in approved or group homes. When on their own, these severely disabled persons end up living on the street or rotating through substandard rooming houses from which they are readily evicted. Their untreated symptoms and problematic behaviour often result in conflicts with the law.

Currently, the only facility for severely affected mentally ill persons in Saskatchewan is Saskatchewan Hospital at North Battleford. Access to Saskatchewan Hospital is extremely restricted. The policy there is to return people to the community as soon as possible. Unfortunately, there is no cure for brain diseases such as schizophrenia. In spite of very good programs at Saskatchewan Hospital, there are few resources in the province to accommodate discharged persons and to continue their management regimes in the community.

There are also limited options for persons with mental illnesses who can maintain an independent lifestyle with ongoing support. Most of this support is now provided by family members who may be overburdened and aging. Group homes or approved homes are unacceptable lifestyle choices for some persons. Group homes tend to be transitional accommodation, not places for individuals to make their homes in the long term. There are not enough supportive living programs; available ones are often inadequately staffed. Many persons could manage with one to three hours a day assistance, but are unable to manage with two or three hours a week assistance.

There are also limitations with approved homes which provide no programs or activities (social, recreational, leisure and supportive employment). There is a need for an adequate number of approved homes to meet the needs of persons with mental illnesses and for support, including training, of approved homes which have faced increased demands because of a reduction in long-term beds for persons with mental illnesses.

Recommendation # 12

That the Department of Health work with district health boards to conduct needs assessments respecting the long-term accommodation needs of persons with psychiatric disabilities in each district, and to ensure that adequate accommodation and support services, including rehabilitation services, are available to meet the needs of persons with psychiatric disabilities in each mental health service area.

Funding Issues

Funding for mental health services was a frequently raised issue during our consultations. Underlying this concern is a fear that the devolution of health care services to the district health boards may result in a reduced commitment to mental health services. Specific concerns were raised regarding the inadequacy of pre-vocational and vocational services, the high caseloads of psychiatrists and case managers, the reduction in the number of acute care beds and the lack of day and respite programs for persons being cared for by family members.

medications are often more effective than those currently in use, particularly for the “hard to treat”, but they are very expensive. There is often a long delay between approval of the medication by Health Canada and coverage of it by the Saskatchewan Drug Formulary. This deprives seriously ill persons of effective medication because of the cost.

Recommendation # 13

That the Department of Health provide additional funds to health districts to be used for mental health services and that funds provided to districts for mental health services not be allowed to be transferred to other health services.

Recommendation # 14

That the Department of Health ensure that new medications for mental illnesses be considered for inclusion in the Saskatchewan Drug Formulary as quickly as possible.

4. Guardianship

A common topic during our consultations was guardianship. In particular, many meeting participants called for public personal guardianship to respond to situations in which adults in vulnerable circumstances are unable to make their own decisions but there is nobody willing or able to apply for personal guardianship under *The Dependent Adults Act*. Participants also called for a general review of that Act. They described its procedures as complex and costly and they asked for provisions that would ensure the accountability of guardians. Finally, they suggested that there is a need to build supported decision-making into community protocols.

Guardianship provisions fall within the intrusive end of our response continuum. For that reason, it is recommended that guardianship always be seen as a response of last resort. The right of individuals to choose to live with some degree of risk must be recognized.

Public Personal Guardianship

Public personal guardianship was a major issue for service providers and advocates dealing with persons with mental illnesses, persons with intellectual disabilities and seniors. We heard numerous stories of adults who are in need of personal guardianship but for whom there are no suitable candidates to become their guardians. We frequently heard of elderly persons living alone who have lost the ability to make decisions respecting their nutrition, personal care or safety. We heard about elderly parents caring for their intellectually or psychiatrically disabled adult sons or daughters; these parents asked who would care for their offspring after the parents' deaths. We also heard about parents who were unable to handle severely disabled adult sons or daughters with very difficult behaviour problems that put themselves and others at risk. In these cases, there was often no family member or friend who could take on the guardianship role.

public personal guardianship legislation. Under such legislation, Public Guardians act where there is no willing or appropriate applicant for personal guardianship. Public Guardians generally have the power to carry out investigations as to the need for public personal guardianship in specific situations, and they are able to make personal care decisions respecting the individuals under their guardianship. For example, a Public Guardian might decide where a person should live or what health services he or she should receive.

Mindful of the need for fiscal responsibility, the steering committee recommends that, rather than creating a new Office of the Public Guardian, the provincial government expand the Office of the Public Trustee to include public personal guardianship services. This approach would allow for administrative efficiencies. As well, many adults for whom the Public Trustee presently acts have both personal and financial issues. Combining property and public guardianship would allow such adults to be served in a holistic way. Indeed, abuses may be discovered more quickly if property and personal guardianship functions are combined, and a quicker response may be possible.

It is also recommended that public personal guardianship be seen as a last resort response in Saskatchewan. This approach will respect adults' right to autonomy and self-determination and their right to receive the least restrictive intervention.

Recommendation # 15

That the provincial government pass legislation expanding the role of the Public Trustee to include public personal guardianship. Legislation should authorize the Office of the Public Trustee and Public Guardian to investigate the need for public personal guardianship in individual cases. The legislation should ensure that public personal guardianship is pursued only as a last resort.

Review of The Dependent Adults Act

Some meeting participants had concerns about current guardianship provisions in *The Dependent Adults Act*. Under this Act, court applications may be made for personal guardianship or property guardianship of dependent adults. The Act defines dependent adults as persons 16 years of age or over, whose ability to receive and evaluate information effectively or to communicate decisions is impaired.

Where personal guardianship is sought, such ability is impaired to the extent that the person lacks capacity to care for himself or herself or to make reasonable decisions relating to his or her person. Where property guardianship is sought, such ability is impaired to the extent that the person lacks capacity to make reasonable decisions relating to his or her estate. Once a guardian is appointed, the dependent adult loses all decision-making authority in relation to those matters within the guardian's authority.

During our consultations, there were also calls for legislative amendments which would provide for mandatory periodic reviews of guardianship orders. As well, some meeting participants suggested that the Act should allow for temporary guardianship in emergency situations, to ensure the safety of adults in vulnerable circumstances.

Finally, we heard about some problems with the application of the Act. It appears that judges often do not require that alleged dependent adults are served with guardianship applications; it was suggested that it should only be in exceptional circumstances that service is waived.

As well, we heard that judges are often not using their power to restrict guardianship to specific areas of decision-making rather than granting total guardianship. It appears that judges often grant total guardianship without considering whether less intrusive partial guardianship powers may be effective.

Recommendation # 16

That the Department of Justice review *The Dependent Adults Act* and ways of facilitating the use of the Act by the public. The government should consider legislative amendments respecting the mandatory periodic review of guardianship orders and respecting temporary guardianship in emergency situations. If legislative amendments are made, the Minister of Justice should make information available to the Chief Justices of the Court of Queen's Bench and the Court of Appeal respecting new provisions.

Supported Decision-Making

During our consultations, there were discussions about the benefit to many adults of supported decision-making. For some adults, the appointment of a personal guardian under *The Dependent Adults Act* is more than they need. They may be able to make their own decisions with a little help. Particularly if judges are taking an "all or nothing" approach to the guardianship provisions in the Act, granting total guardianship powers rather than restricting guardianship powers to specific areas of decision-making, the idea of supported decision-making has appeal.

The steering committee is of the view that supported decision-making procedures could be built into the community protocols we have recommended (see recommendation #5). This would fit well with the client-centred approach we support.

If good procedures were in place for supported decision-making where appropriate, there may be less use of the personal guardianship procedures contained in *The Dependent Adults Act*.

5. Adults in Vulnerable Circumstances and the Justice System

Our consultations told us that adults in vulnerable circumstances, specifically those with intellectual disabilities, mental illnesses or communications problems, find that access to the justice system is an issue. Justice system personnel often do not understand the special needs of members of this group, and the system does not always deal with their issues in a coordinated fashion. As witnesses, their stories are often not believed or their evidence is deemed unacceptable. As victims of crime, they are among society's easiest targets. As offenders, they may not get the services they need; this issue was a major one for service providers and advocates dealing with mentally ill offenders.

Recent amendments to the *Criminal Code* and the *Canada Evidence Act* have helped adults in vulnerable circumstances with the provision of testimony in court. Under the *Criminal Code*, a complainant or other witness who has difficulty communicating evidence because of a mental or physical disability may now testify behind a screen. Under the *Canada Evidence Act*, a person with a mental disability, who cannot understand the nature of an oath or solemn affirmation but who is able to communicate evidence, may testify upon promising to tell the truth. These provisions formerly applied to children only and have been extended to cover some adults with disabilities.

The provincial government has amended *The Saskatchewan Evidence Act* to allow the receipt in civil cases of evidence from witnesses whose mental capacity is challenged. If they do not understand the nature of an oath or a solemn affirmation but are able to communicate their evidence, they may testify on promising to tell the truth.

The Department of Justice has worked to improve prosecutions practice by developing policy and practice guidelines with respect to witnesses with special communication needs. Among other things, these guidelines require prosecutors to make every reasonable effort to provide witnesses with interpreters, special equipment or other assistance as required. The guidelines are aimed at ensuring full access to the criminal justice system for witnesses with special communication needs.

Department of Justice Victims Services programs also assist vulnerable victims of crime by providing information, support and referral as they proceed through the criminal justice process. Financial compensation, to a maximum of \$1,000, is also available to all victims of crime to cover the cost of counselling. This compensation is primarily used while victims are involved in the criminal justice process; however, compensation may continue after the court process has been completed.

Many consultation participants identified a need for education and training for justice system personnel. They suggested training to improve the sensitivity of justice system personnel to the needs of adults in vulnerable circumstances as they proceed through the justice process. In particular, they noted a need for the inclusion of cross-cultural awareness training with respect to aboriginal and other cultures. They also recommended specialized training relating to communication issues and interview techniques that would assist in the investigation and prosecution of cases involving the abuse of adults in vulnerable circumstances.

Recommendation # 18

That the provincial government work with police departments and the RCMP to provide justice system personnel with education and training on the abuse of adults in vulnerable circumstances and on the effects of intellectual, psychiatric and communications disabilities. Training should include improving sensitivity to the needs and requirements of such adults, improving awareness of the dynamics of the abuse of adults in vulnerable circumstances and improving cross-cultural awareness, particularly with respect to aboriginal cultures.

Recommendation # 19

That the provincial government work with police departments and the RCMP to provide police and prosecutors with specialized training regarding communication issues and interview techniques for cases involving adults in vulnerable circumstances.

Recommendation # 20

That the Minister of Justice make information available to the Chief Judge of the Provincial Court and the Chief Justices of the Court of Queen's Bench and the Court of Appeal respecting the issues of disability, aging and abuse.

Provision of Information to Vulnerable Adult Victims

Our consultation process told us that there is a need to ensure that information is provided throughout the province with respect to vulnerable adults' legal rights and the supports available to them within the criminal justice process.

The Department of Justice, through the Victims Services Program, is responsible for increasing understanding about the needs of victims of crime and for providing information, support and assistance to victims throughout the province. Victims Services gives priority to vulnerable persons who are victims of crime. Through various educational initiatives, Victims Services works to improve understanding among the public and professionals about the needs of victims of crime and how to respond in a helpful and compassionate way.

Department of Justice victim/witness services in Regina, Saskatoon and Prince Albert provide information on the criminal justice process, court orientation, court accompaniment, support and referral for victims of crime. These programs assist victim/witnesses with special needs as they proceed through the court process. This support helps reduce the trauma often experienced by victims and prevents them from feeling re-victimized by their experience with the criminal justice process.

Thirteen community-based police-affiliated Victims Services Programs provide victims with information about the crime which affected them, how they can prevent being re-victimized and how the criminal justice system will deal with the crime. Included in these services are home security checks, personal security information and crime prevention advice to seniors. To some extent, the court-based programs provided in Regina, Saskatoon and Prince Albert are also provided throughout the province.

The steering committee recognizes the work of Victims Services in supporting adults in vulnerable circumstances within the justice system. However, we are concerned that access to necessary information is still uneven across the province. We recommend that Victims Services continue to work toward ensuring that all adults in vulnerable circumstances in Saskatchewan have access to information regarding their rights in the criminal justice system and the services that are available to support them through the criminal justice process.

Recommendation # 21

That the Department of Justice continue to work toward ensuring that all vulnerable adult complainants and witnesses and their families receive information regarding the adults' rights in the criminal justice system and the services that are available to support them through the criminal justice process.

Coordination of the Criminal Justice Response to the Abuse of Adults in Vulnerable Circumstances

A central theme emerging from the consultations was the need to improve the coordination of services relating to the abuse of adults in vulnerable circumstances. The steering committee believes that improved coordination within the justice system should be an integral component of this overall process and that the justice system response should be linked to the overall response to the abuse of adults in vulnerable circumstances. We also believe that the families or other supporters of these adults should be included in the coordinated response.

community agencies. This protocol could build on the existing Public Prosecutions policy for witnesses with special communication needs. A model to be used as a starting point in protocol development is a protocol developed by the British Columbia Attorney General's Department with respect to violence against women in relationships, entitled "Policy on the Criminal Justice System Response to Violence Against Women and Children" (updated August 1996).

Recommendation # 22

That the Department of Justice work with other government agencies, the police and community agencies to develop a protocol aimed at improving the coordination of the criminal justice response to the abuse of adults in vulnerable circumstances. The protocol should allow for the involvement of the families and other supporters of vulnerable adult victims wherever possible.

Amendments to the Criminal Code and The Saskatchewan Evidence Act

The consultations did not identify specific changes to legislation; however, some participants identified issues relating to the inflexibility and insensitivity of the justice system in responding to the needs of adults in vulnerable circumstances. The steering committee has identified two changes to the *Criminal Code* and three changes to *The Saskatchewan Evidence Act* that may help to improve these adults' access to and participation in the justice system. The recommended amendments would assist vulnerable adult witnesses when they testify in court.

- ***The Saskatchewan Evidence Act: Testifying Behind a Screen***

It has been noted that the *Criminal Code* has been amended to allow complainants and other witnesses who have difficulty communicating evidence because of mental or physical disabilities to testify behind a screen in criminal cases. It is recommended that this provision be included in *The Saskatchewan Evidence Act* with respect to civil cases.

Recommendation # 23

That the provincial government amend *The Saskatchewan Evidence Act* to allow complainants and other witnesses who have difficulty communicating evidence because of mental or physical disabilities to testify behind a screen.

- **Support Persons**

Under subsection 486(1.2) of the *Criminal Code*, a judge may allow a witness under the age of fourteen to have a support person of his or her choice close to him or her while testifying. Generally, a support person is allowed to sit next to the witness or in the body of the court. However, the support person is not allowed to communicate with the witness while he or she is testifying. The support person's function is to provide emotional support to the witness.

testimony. A similar amendment to *The Saskatchewan Evidence Act* with respect to civil cases is also recommended.

Recommendation # 24

That the provincial government amend *The Saskatchewan Evidence Act* and urge the federal government to amend the *Criminal Code* to allow persons with mental or physical disabilities who would benefit from the presence of support persons to have such support persons with them when they testify.

- **Videotaped Evidence**

Section 715.1 of the *Criminal Code* allows a videotape of the statement of a child to be admissible as evidence in cases involving sexual offences, if the videotape was made within a reasonable time after the offence and the child adopts the contents of the videotape in his or her testimony.

The intent of this section is to preserve the evidence of a child by having a videotape that assists him or her in recalling his or her evidence. Videotaping the child's statement also has additional benefits: it reduces the number of pre-trial interviews and helps to lessen the trauma and anxiety that the child may experience in testifying.

Extending this provision to adults with memory impairments would aid them in recalling their evidence and lessen the anxiety that they may experience when testifying. This amendment would assist not only persons with intellectual disabilities but also persons with cognitive impairments or psychiatric illnesses that affect memory or recall. A similar amendment to *The Saskatchewan Evidence Act* with respect to civil cases is recommended.

Recommendation # 25

That the provincial government amend *The Saskatchewan Evidence Act* and urge the federal government to amend the *Criminal Code* to allow for videotaped evidence from adults with disabilities that affect their memory or ability to recall.

- **Sexual Exploitation**

Subsection 153(1) of the *Criminal Code* makes it an offence for anyone in a position of trust or authority to exploit a young person (between the ages of fourteen and eighteen) for a sexual purpose, even where consent was given by the young person.

After much discussion, the steering committee supports the inclusion in the *Criminal Code* of a provision which would make it an offence for a caregiver in a position of trust or authority to exploit for a sexual purpose an adult with a mental disability. This would be an absolute prohibition against sexual activity, which would preclude the defence of consent to the sexual activity. (Note that this would not apply to spouses; however, spouses could still be found guilty of sexual assault if sexual activity was non-consensual.)

We are aware that a previous *Criminal Code* offence relating to sexual intercourse with “feeble-minded” female persons was repealed. Certainly, there is a balance to be struck between protection of the individual and individual rights. However, we are concerned that persons with mental disabilities may be targeted by sexual abusers either because they will not complain or because they will be unable to provide the evidence necessary for a prosecution. It is our view that, just as it is improper for doctors to have sexual relationships with patients, so it is improper for caregivers to have sexual relationships with the mentally disabled adults they care for.

Recommendation # 26

That the provincial government urge the federal government to amend the *Criminal Code* to make it an offence for caregivers in a position of trust or authority to exploit for a sexual purpose an adult who has a mental disability, even where consent has been given by the adult. This would not apply to spouses, who could still be found guilty of sexual assault if sexual activity was non-consensual.

Adults in Vulnerable Circumstances As Accused Persons or Offenders

Some of the consultation participants identified issues relating to adults in vulnerable circumstances, in particular those with mental illnesses, as accused persons or offenders. Many of these adults have needs which cannot be adequately met by the usual services provided in correctional centres. Recognizing the needs of mentally ill offenders, the Department of Justice has established a forensic psychiatric unit at North Battleford.

Sometimes, the corrections system becomes the resource of last resort as a result of a lack of community services to deal with mentally ill adults with offending behaviours. The Department of Justice has been working with community agencies in order to provide coordinated services to these adults and to arrange for ongoing services for them once they leave correctional facilities.

The steering committee recommends a continuation and expansion of this cooperative approach. This should involve the Department of Justice, mental health services in the health districts and community agencies working together to explore options for dealing with the needs of adults in vulnerable circumstances who are involved in the criminal justice system as accused persons or offenders. Some of the options to be explored include improving communication and service links between various departments and agencies assisting these clients and examining possible alternatives to incarceration, taking into account the needs of both the victims and the accused persons.

should be examined. The steering committee was told that there are shortages of sexual therapists and of counsellors for individuals with dual or multiple diagnoses (mental illness, intellectual disability and/or substance abuse problems), for example.

Recommendation # 27

That the Department of Justice work with district health boards and community service providers to explore options for dealing with the needs of adults in vulnerable circumstances, particularly those with mental illnesses, involved in the criminal justice system as accused persons or offenders. This work should include examining alternatives to incarceration and access to appropriate treatment and therapy in correctional facilities.

6. Financial Abuse

We know from the studies that have been done that financial abuse is one of the major types of abuse faced by adults in vulnerable circumstances. This section of the paper explores legislative responses to this problem.

The Saskatchewan government has recently strengthened consumer protection legislation aimed at combatting financial abuse. Adults in vulnerable circumstances are often the target of unfair and unethical business practices. *The Consumer Protection Act* prohibits the use of such practices. Generally, it is an unfair practice to make representations that are deceptive or misleading, make false claims or take advantage of vulnerable consumers. The Act provides the public with tools to resolve disputes. Where it is in the public interest, the director under the Act can also take action on behalf of vulnerable persons against a business that is engaging in unfair practices. *The Direct Sellers Act* also affords some protection for vulnerable consumers, as the Act provides for a ten day “cooling off” period in the case of door to door or telemarketing sales. The Saskatchewan government has been working interjurisdictionally to deal with issues related to fraudulent telephone solicitation.

Some of the recommendations in this section, aimed at preserving the assets of an adult in vulnerable circumstances before it is too late, are fairly intrusive. Therefore, it will be necessary to have strict criteria respecting the use of the legislative provisions recommended, in order to ensure that there is a balance between individual self-determination and the protection of the individual. As well, this will ensure that the reputations of family members and others are not unfairly damaged.

Recommendations 28 to 31 will generally work together in the order in which they appear in this report. If information is disclosed to the Public Trustee, resulting in an account being frozen while allegations of financial abuse are being investigated, it will be necessary to ensure the temporary administration of the account, so that bills are paid as necessary.

banks, are generally regulated under federal jurisdiction. However, there may be some ability for provincial regulation of banks in some instances. Further study of this issue will be required in the implementation of the recommendations in this section.

Disclosure of Personal Information

Financial institutions are on the front line. Their personnel know the people in their communities. They may be the first to realize that other persons are taking or attempting to take the funds of an adult in vulnerable circumstances. The unusual movement of money may be a danger signal for financial institutions.

Financial institutions may also be the first to notice when an adult appears to be temporarily incapacitated, for example, due to the effects of schizophrenia, manic depression or Alzheimer disease. Again, unusual account activity may raise suspicion.

Provincial and federal legislation prohibits financial institutions from breaching confidentiality by disclosing personal financial information without the consent of the person to whom it relates. Financial institutions may wish or need to share personal financial information with the Public Trustee (see recommendations 29 to 31) when there are concerns about financial abuse or temporary incapacity.

Because of the intrusiveness of this recommendation, strict criteria should have to be met before a financial institution is able to disclose personal financial information to the Public Trustee.

Recommendation # 28

That the provincial government pass legislation and, if necessary, urge the federal government to pass legislation which allows financial institutions, on their own initiative or at the request of the Public Trustee, to disclose to the Public Trustee personal financial information respecting an adult in vulnerable circumstances, where there are allegations of financial abuse or allegations of temporary incapacity.

Freezing Accounts

Financial institutions would like to be able to freeze accounts in order to preserve financial assets while it is determined whether there is a problem of financial abuse or temporary incapacity. Presently, financial institutions have no authority to freeze the accounts of adults in vulnerable circumstances. Similarly, if the Office of the Public Trustee becomes aware of allegations, that office has no method of requesting that accounts be frozen.

Under new legislation in British Columbia, which is not yet in force, the Public Guardian and Trustee will have the power to protect the assets of vulnerable persons, including the authority to freeze bank accounts for up to seven days. It is our view that freezing an account for a longer period may sometimes be necessary in order for appropriate action to be taken. We are recommending a maximum of 30 days.

Because of the intrusiveness of this recommendation, strict criteria should have to be met before a financial institution is able to freeze an account.

Recommendation # 29

That the provincial government pass legislation and, if necessary, urge the federal government to pass legislation which allows financial institutions, on their own initiative or at the request of the Public Trustee, to freeze the accounts of adults in vulnerable circumstances for a period of up to 30 days, where there are allegations of financial abuse or allegations of temporary incapacity.

Investigations

In many instances, a financial institution, family member or professional will have concerns that someone is financially abusing an adult in vulnerable circumstances. The suspicion, when communicated to the Office of the Public Trustee, is merely an allegation. It will be necessary to follow up on the allegations.

The Ontario *Substitute Decisions Act* allows the Public Guardian and Trustee to investigate cases of alleged abuse and neglect of “incapable persons”, including situations where an adult’s property is at risk. Under new British Columbia legislation, not yet in force, the Public Guardian and Trustee will be able to investigate alleged cases of financial abuse involving adults.

Recommendation # 30

That the provincial government pass legislation which authorizes the Public Trustee to investigate the financial affairs of an adult in vulnerable circumstances where there are allegations of financial abuse or allegations of temporary incapacity.

Temporary Administration

It may be necessary in certain instances to temporarily look after the finances of an adult in vulnerable circumstances. Temporary intervention may be appropriate to prevent deterioration of financial resources where an adult in vulnerable circumstances is temporarily incapacitated or where there are allegations that he or she is being abused. While accounts are frozen pursuant to recommendation 29, temporary administration of the accounts will be necessary.

British Columbia and Ontario provide for temporary property administration in urgent situations. British Columbia authorizes temporary orders regarding property guardianship for 21 days. Ontario allows temporary orders for property guardianship for up to 90 days.

Recommendation # 31

That the provincial government pass legislation which authorizes the Public Trustee to temporarily administer the financial affairs of an adult in vulnerable circumstances for a period of up to 90 days, where there are allegations of financial abuse or where there is evidence of temporary incapacity.

Powers of Attorney

There are many forms used for powers of attorney. Every financial institution has a different form, each law firm prepares a different form and stationary stores print different forms. Some are long; some are short. Also, there are no procedures as to how a power of attorney is signed and no legislated rules as to how the attorney must conduct himself or herself once appointed.

We know that, while most holders of powers of attorney act ethically, some attorneys abuse their powers. We recommend a review of the law in this area to determine whether amendment of *The Powers of Attorney Act* would be appropriate. Any amendments should aim to strike a balance between the individual right to self-determination and the protection of the individual. The review should look at whether there is a need for legislative requirements for accounting and monitoring, and should explore other ideas respecting responses to clear violations of trust in exercising authority under powers of attorney.

Recommendation # 32

That the Department of Justice review the law relating to powers of attorney to determine whether amendment of *The Powers of Attorney Act* is appropriate. The review should address the issues of standard forms of powers of attorney, procedures for signing powers of attorney, obligations of attorneys, accounting requirements for attorneys and the monitoring of attorneys' activities.

Property Guardians

Family members or others can proceed to court under *The Dependent Adults Act* to be appointed property guardians. Once appointed, they may have broad powers to administer the financial affairs of dependent adults. Sometimes the court requires an annual accounting; other times it does not. If a property guardian wishes to abuse his or her authority, there is little to prevent him or her from taking the property of an adult in vulnerable circumstances.

A requirement to account would act as a deterrent to abuse. We recommend that property guardians file annual accounts with the Public Trustee, who should have the power to investigate and require information to ensure that a proper accounting has been made. For this recommendation to be effective, the Public Trustee's office must have the resources to analyse accounts, take steps to correct problems and have property guardians removed and replaced.

Recommendation # 33

That the provincial government amend *The Dependent Adults Act* to require a property guardian to prepare an annual accounting and file a copy with the Public Trustee, and to provide the Public Trustee with the power to investigate and require additional information to ensure that a proper accounting has been made.

7. Institutional Abuse

Institutional abuse was raised as a concern at a number of our consultation meetings. Individuals in institutions are particularly vulnerable to abuse because of their isolation and extreme dependence on their caregivers.

Meeting participants were concerned that the issue of abuse in institutions has not yet been adequately addressed. While most institutions provide good care, it is difficult to detect abuse when it occurs, and there may be minimal repercussions for abusers. Participants felt that, at a minimum, institutions should post abuse guidelines where adults in vulnerable circumstances and their families or other supporters can see them. A manual or guide to the facility, distributed to each resident and their family members or other supporters, could include information about abuse policies. Participants also felt that some standard practices in effect in institutions (for example, with respect to the use of restraints) are in fact abusive, but that society has not yet defined them that way. They recommended that ways be found to make institutions accountable with respect to their treatment of adults in vulnerable circumstances.

The recommendations in this section emphasize the protection of the individual rather than individual self-determination and represent some intrusion into adults' lives. However, it is the view of the steering committee that making institutions accountable for their treatment of their residents is in fact an affirmation of the dignity of the individual. An institution is the home of an adult in vulnerable circumstances; adults have the right to live in homes free of abuse.

Development of Common Standards

The Department of Health has responsibility for the legislation governing nursing homes, special-care homes, personal care homes and approved homes. The Department of Social Services has responsibility for the legislation governing private-service homes, group homes, transition houses and shelters. Both departments have developed some policies, procedures and guidelines for these various types of homes and have prepared handbooks for licensees. The Department of Social Services has also developed an abuse protocol for use in its facilities.

Thinking about what constitutes abuse of adults in vulnerable circumstances has changed a great deal in the last few years.

The steering committee recommends that the Departments of Health and Social Services work together to develop common standards for all of the kinds of homes which fall within their legislative mandates. These standards must reflect an intolerance of abuse of any sort. Standards should cover such matters as appropriate staffing, appropriate programming for residents and training and education. Where the Departments of Health and Social Services have funding relationships with other bodies, funding agreements should require adherence to the standards, and licensing of these bodies should be dependent on such adherence. Standards should be posted where adults in vulnerable circumstances and their families and other supporters can see them. "User-friendly" complaint procedures should be easily accessible.

One issue that should be addressed in these common standards is that of physical and chemical restraints. It is only recently that the misuse of physical and chemical restraints has been identified as abuse; present policies may not in all instances mandate zero restraint or restraint as a last resort.

Recommendation # 34

That the Departments of Health and Social Services work together to develop common standards (policies and procedures) which reflect intolerance of the abuse of adults in vulnerable circumstances. Included should be standards respecting appropriate staffing, appropriate programming for residents, training and education for service providers and the use of restraints. These departments should also ensure that government funding agreements (and licensing of homes) require adherence to the common standards.

Review of Legislation

The Department of Health has responsibility for *The Housing and Special-care Homes Act*, regulating nursing homes and special-care facilities, *The Personal Care Homes Act*, regulating personal care homes, and *The Mental Health Services Act*, regulating approved homes. The Department of Social Services has responsibility for *The Residential Services Act*, regulating residential-service facilities (group homes, transition houses and shelters) and private-service homes (family homes in which unrelated persons with intellectual disabilities live).

Our cursory review of these Acts suggests that they do not generally contain provisions which clearly define and prohibit abuse, authorize investigation of abuse (including neglect), authorize intervention when abuse is discovered, authorize monitoring of facilities and provide for the enforcement of strict penalties for non-compliance.

Thinking about what constitutes abuse of adults in vulnerable circumstances has changed a great deal in the last few years.

The steering committee recommends that the Departments of Health and Social Services work together to develop common standards for all of the kinds of homes which fall within their legislative mandates. These standards must reflect an intolerance of abuse of any sort. Standards should cover such matters as appropriate staffing, appropriate programming for residents and training and education. Where the Departments of Health and Social Services have funding relationships with other bodies, funding agreements should require adherence to the standards, and licensing of these bodies should be dependent on such adherence. Standards should be posted where adults in vulnerable circumstances and their families and other supporters can see them. "User-friendly" complaint procedures should be easily accessible.

One issue that should be addressed in these common standards is that of physical and chemical restraints. It is only recently that the misuse of physical and chemical restraints has been identified as abuse; present policies may not in all instances mandate zero restraint or restraint as a last resort.

Recommendation # 34

That the Departments of Health and Social Services work together to develop common standards (policies and procedures) which reflect intolerance of the abuse of adults in vulnerable circumstances. Included should be standards respecting appropriate staffing, appropriate programming for residents, training and education for service providers and the use of restraints. These departments should also ensure that government funding agreements (and licensing of homes) require adherence to the common standards.

Review of Legislation

The Department of Health has responsibility for *The Housing and Special-care Homes Act*, regulating nursing homes and special-care facilities, *The Personal Care Homes Act*, regulating personal care homes, and *The Mental Health Services Act*, regulating approved homes. The Department of Social Services has responsibility for *The Residential Services Act*, regulating residential-service facilities (group homes, transition houses and shelters) and private-service homes (family homes in which unrelated persons with intellectual disabilities live).

Our cursory review of these Acts suggests that they do not generally contain provisions which clearly define and prohibit abuse, authorize investigation of abuse (including neglect), authorize intervention when abuse is discovered, authorize monitoring of facilities and provide for the enforcement of strict penalties for non-compliance.

Therefore, the steering committee recommends that these departments, in consultation with the Department of Labour, which has responsibility for the occupational health and safety legislation, work with employers and employees to address issues in this area.

Recommendation # 36

That the Departments of Social Services and Health, in consultation with the Department of Labour, work with employers and employees of residential facilities in which vulnerable adults live to explore options which will accommodate the needs of both vulnerable adults and facility employees. These options should be aimed at ensuring worker safety while also ensuring that vulnerable adults are removed from their homes only as a last resort.

Resident and Family or Supporters Advisory Groups

In order to help ensure that abuse does not occur in institutions, residents need an active and effective voice. Advisory groups made up of residents and their families or supporters can supply that voice and can be agents of change in institutions.

Some institutions already have advisory groups, although some do not include families or supporters in their membership. We suggest that all institutions of a sufficient size to warrant the implementation of advisory groups work toward having resident and family or supporters advisory groups.

Recommendation # 37

That the Department of Health work with nursing homes, special-care homes, personal care homes and approved homes, and that the Department of Social Services work with private-service homes, group homes, transition houses and shelters, of a sufficient size to warrant the implementation of advisory groups, to institute resident and family or supporters advisory groups in these homes.

IV. CONCLUSION

consultation document, as the issues and possible responses to them which we identified were frequently discussed in the communities we visited. It was instructive that the same issues came up over and over across the province.

The steering committee has attempted to remain true in this report to the principles we identified upon embarking on this consultation. In particular, we believe that a strategy aimed at addressing the varying needs of adults in vulnerable circumstances should focus on providing a continuum of support. A range of services, from less to more intrusive, should be available to meet the needs of these adults. The continuum of support should aim to balance the individual's right to self-determination and the protection of the individual. The continuum of support should ensure that the intrusion into an adult's life is as minimal as possible, and it should aim to assist the adult in his or her decision-making wherever possible.

The recommendations in this report are not without financial implications for the provincial government. In particular, recommendations respecting more intrusive responses to the abuse of adults in vulnerable circumstances will have more significant funding implications.

The steering committee sees its work as a starting point. It will take time to implement the recommendations of this report that are approved by the Ministers of Justice, Social Services, Health, Labour and Municipal Government. The steering committee will be happy to be available as needed to ensure the effective implementation of approved recommendations. This may include the ministers reconvening the committee as appropriate to monitor the progress of the report's implementation.

The abuse of adults in vulnerable circumstances is a serious problem in our society. The Steering Committee on the Abuse of Adults in Vulnerable Circumstances is confident that the provincial government, along with local governments, district health boards, community service providers and advocates for adults in vulnerable circumstances will work together to effectively respond to the abuse of these members of society.