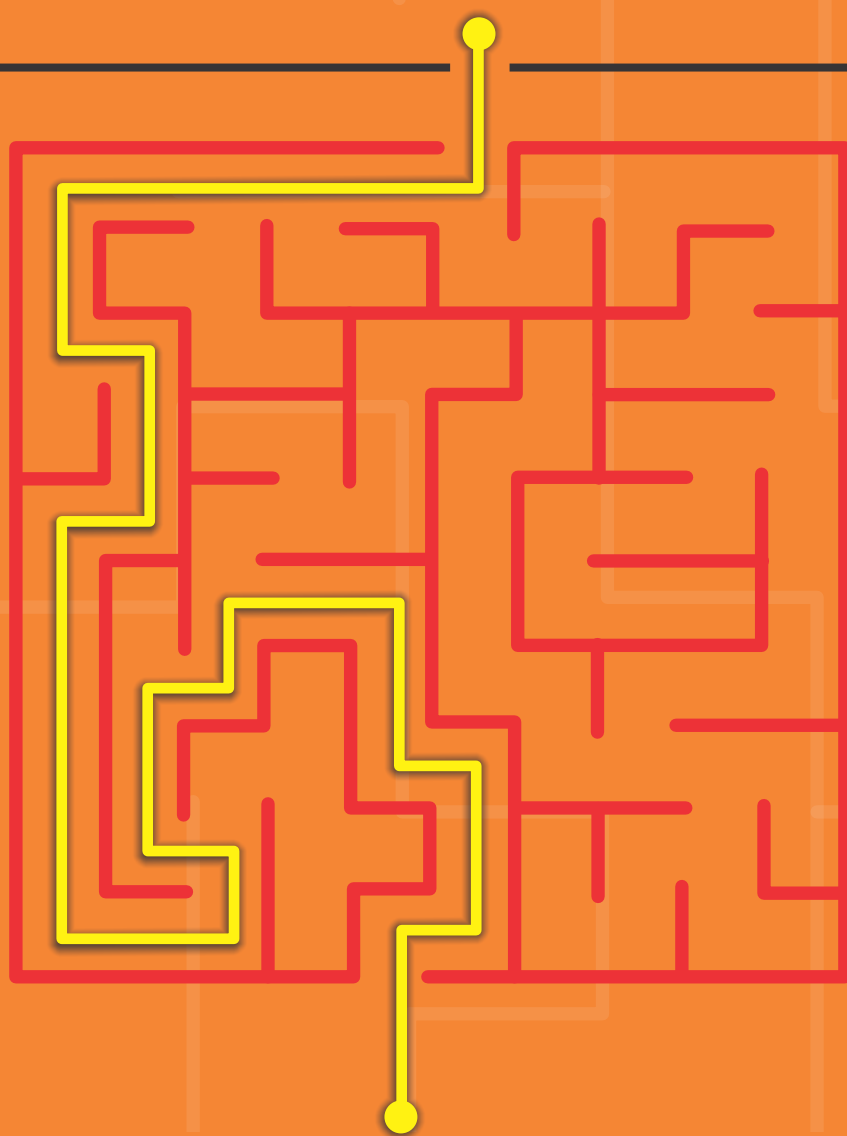


HANDBOOK FOR SUPPORT PERSONS 2021

**ASSISTING
CHILD VICTIMS
OF
SEXUAL VIOLENCE**

In the context of
POCSO Act, 2012
and POCSO Rules,
2020



“

Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear.

Nelson Mandela, Former President of South Africa — ”



Foreword

Justice Madan B. Lokur
Former Judge
Supreme Court of India

Among the more stressful cases that a judge is required to deal with, I am sure that cases of child sexual abuse under the Protection of Children from Sexual Offences Act, 2012 would be close to the top of the ladder, if not at the top.

But, what is of greater importance, and this is sometimes overlooked by a Judge, is the well-being of a child victim of sexual abuse and the stress that the child and the Support Person has to undergo. A judge is unaware of what happens ‘behind the scene’ and the challenges faced by the victim and Support Persons. These Support Persons, whether they are doctors, nurses, members of the family or other caregivers undergo far greater stress than a judge can imagine.

Generally speaking, therefore, a Support Person’s Handbook ought to have seen the light of day much earlier but I am glad that the present Handbook is being published and it is a remarkable effort by truly and sincerely dedicated individuals. Through their determination and energy, they have made a significant and perhaps the first contribution to the rehabilitation, in a larger sense, of victims of child sexual abuse. It is a valuable addition to the literature on child rights in India.

The Handbook is based on interviews with child victims of sexual abuse and several other stakeholders involved in the process of rehabilitating such victims. Their experiences and learnings have been culled out in a systematic manner so that the generation of support persons can provide greater and more meaningful assistance to victims of child sexual abuse.

The Handbook is divided into several chapters and begins with the basics through an explanation of the dynamics of child sexual abuse. Why are some children vulnerable and how can they be identified? The Handbook has taken advantage of the experiences of Support Persons and placed for consideration some identifications and ‘best practices’ that will go a long way towards fostering the best interest and welfare of a victim of child sexual abuse.

It is quite obvious that child sexual abuse is a criminal offence and must be investigated with a great degree of sensitivity. There are also several instances of the perpetrators being known to the victim and her/ his family. In such cases, investigation is more problematic as is recording the statement of the victim. The challenges are many and are fraught with legal consequences in the trial of the case.

Investigations into crimes do not begin and end with the police. Depending on the nature of the offence, medical examination of the victim becomes necessary as in cases of sexual offences. How can medical personnel - doctors and nurses - deal with cases of child sexual abuse? What is the role of Support Persons in such situations? Ethical questions sometimes arise when, for example, the perpetrator is a close relative of the victim (sometimes a stepfather) and the family of the victim is insistent on hiding the true nature of the events that have transpired.

Madan B. Lokur



Message

Soledad Herrero
Chief of Child Protection,
UNICEF India

Every year, thousands of children around the world face sexual violence and abuse. Sexual and other forms of gender-based violence against children occurs everywhere – in every country and across all segments of society. A child may be subjected to sexual abuse or exploitation at home, at school, at a playground, or in their community. While sometimes abuse by strangers takes place, most often it is perpetrated by someone the child knows - widening further the scar of the traumatic experience. Internet has provided invaluable opportunities for children to continue their education, play and access information, even more so during COVID-19 times, but has exacerbated the risks falling into the trap of sexual abuse and other forms of violence and exploitation.

India does not escape from this scourge. In recent years, India has made significant progress in ensuring the safety and protection of all children below the age of 18 years by enacting a legislation, increasing public awareness, and taking action on thousands of child abuse cases. In pursuance of strengthening the legal framework, in 2012, the Protection of Child from Sexual Offence Act (POCSO) Act was enacted. This law aims at safeguarding the child's best interest, by including explicit provisions for the child-friendly procedures, and establishing clear mechanisms for reporting, recording of evidence, investigation, and trial of offences through designated Special Courts.

Despite efforts to increase awareness, and improve the access to justice, cases of sexual violence and abuse against children remain largely under-reported. Children and families often fear revictimization, or simply are overwhelmed and incapable of navigating a legal process which is lengthy and complex.

The POCSO Rules 2012 and Amendment 2020 has a provision for the appointment of 'Support Persons' to assist a child during the legal procedures, access compensation and enable the healing process. Support Persons can play a crucial role in addressing concerns, fears, and doubts that children and their families may have—a handy friend to support them at a difficult juncture.

This Handbook unpacks the legal framework, explains the roles and responsibilities, and details good practices for professionals that take the role of Support Persons under POCSO. It draws from the wide experience of Enfold Proactive Health Trust and Prerna, two flagship organizations with extensive experience in this field. UNICEF is committed to supporting these organizations to take their work forward and build Support Persons' capacities across the country.

Building a professional and well-trained cadre of Support Persons can be decisive in overcoming some of the reporting barriers and overall experience of the victims. I sincerely hope that with this Handbook can be a valuable contribution towards building a well-trained cadre of Support Persons that can effectively help child victims to have access to a justice process that restores their rights, their dignity, and their trust.

Because it is the right thing to do, and because it is their right.

Soledad Herrero
Chief of Child Protection, UNICEF India



Acknowledgements

The Support Persons Handbook has been compiled by Enfold Trust, in partnership with Prerana, Mumbai and with the support of UNICEF India.

Several people contributed to the Handbook with their experience, knowledge and understanding of the issues on the field, their interactions with stakeholders and the challenges they have faced during the course of their work.

We take this opportunity to extend a heartfelt appreciation for the cooperation and support extended in compiling this Handbook.

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This Handbook would not have been possible without the interviews conducted with multiple stakeholders who continue to do exemplary work in their respective professions. It is their rich experience that has shaped this Handbook. Most importantly, our gratitude to all the children and families who we have had the opportunity to work with and learn from. Their positivity, resilience and strength drive us to reach higher.

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Handbook Design

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Summary of the POCSO Act

The Protection of Children from Sexual Offences Act, 2012 [‘the POCSO Act’] was notified in 2012 to strengthen the protection of children from sexual violence and exploitation. The POCSO Act marks the first exclusive law in India for addressing child sexual abuse. Sexual offences were earlier covered under different sections of the Indian Penal Code [‘the IPC’]. However, the IPC did not adequately address sexual violence against children. The POCSO Act addresses different forms of child sexual violence and provides for a child-friendly system of investigation and trial of these offences.

For the application of the Act, ‘child’ is defined as any person under the age of ‘18 years’. Thus, the Act effectively sets the age of consent to sexual activity at 18 years. Unlike the IPC, the POCSO recognises a broad range of sexual offences, including non-touch based sexual offences perpetrated against children. Further, the Act treats certain ‘aggravated’ forms of offence or where the child was more vulnerable due to a disability or below 12 years of age, or where the assault results in the death or grievous hurt to the child.

A significant feature of the POCSO Act is the stringent punishments prescribed for sexual offences against children within high minimum mandatory sentences. A judge convicting an accused person under the POCSO Act does not have the discretion to sentence the perpetrator for a period lower than the mandatory minimum sentence. The POCSO Act was amended in 2019, where provisions of punishment for child abuse were made more stringent.

List of offences as defined by the POCSO Act and their respective punishments

u/s: under section; CV: Conviction; S: Section

Offence	Punishment		Fine
	Minimum	Maximum	
<p>Section 4(1): Penetrative Sexual Assault</p> <p>‘Penetration’ here is broadly categorised and includes penetration by the penis, mouth, other body parts, or object. Similarly, the penetration may be to the mouth, vagina, anus or urethra of the child. Making a child penetrate is also an offence under this provision.</p>	10 years	Life	Yes
<p>Section 4(2): Penetrative Sexual Assault on a child below 16 years</p>	20 years	Life Imprisonment (remainder of life)	Yes
<p>Section 6: Aggravated Penetrative Sexual Assault</p> <p>Aggravated penetrative sexual assault refers to the offence of penetrative sexual assault, which fulfils any of the aggravating conditions listed under section 5 of the Act.</p>	20 years	Life Imprisonment (remainder of life) or Death	Yes



Offence	Punishment		Fine
	Minimum	Maximum	
<p>Section 8: Sexual Assault</p> <p>Sexual Assault refers to any sexual touching of the private body parts of the child without penetration. The element of sexual intent on the part of the perpetrator is required to establish this offence.</p>	3 years	5 years	Yes
<p>Section 10: Aggravated Sexual Assault</p> <p>Aggravated sexual assault refers to sexual assault which fulfils any of the aggravating conditions listed under section 9 of the Act.</p>	5 years	7 years	Yes
<p>Section 12: Sexual Harassment</p> <p>Sexual Harassment is a non-touch based offence and refers to sexual communication with a child, showing one's body parts or making the child expose his/her body parts, stalking a child, showing pornography to a child, etc. Like the offence of sexual assault, the existence of sexual intent on the part of the accused person is required to establish the offence.</p>	-	3 years	Yes
<p>Section 14(1): Using child for pornographic purposes</p> <p>This offence refers to any indecent, obscene or sexual representation of a child in any form of media.</p>	1st CV: 5 years 2nd CV: 7 years	-	Yes
<p>Section 14(1) + Section 3</p> <p>Committing penetrative sexual assault upon a child for the purpose of using a child for pornographic purposes.</p>	Punishment u/s 4 +S.14 (1)	-	Yes
<p>Section 14(1) + Section 5</p> <p>Committing aggravated penetrative sexual assault upon a child for the purpose of using a child for pornographic purposes.</p>	Punishment u/s 6 +S.14 (1)	-	Yes
<p>Section 14(1) + Section 7</p> <p>Committing sexual assault upon a child for the purpose of using a child for pornographic purposes.</p>	Punishment u/s 8 +S.14 (1)	-	Yes
<p>Section 14(1) + Section 9</p> <p>Committing aggravated sexual assault upon a child for the purpose of using a child for pornographic purposes.</p>	Punishment u/s 10 +S.14 (1)	-	Yes



Offence	Punishment		Fine
	Minimum	Maximum	
Section 15(1) Storage of pornographic material involving a child with the intention to share or transmit and failure to delete/destroy/report to the prescribed authority.	-	-	1st offence: a minimum of Rs.5000 2nd/ subsequent offence: a minimum of Rs.10000
Section 15(2) Storage or possession of pornographic material in any form involving a child for transmitting or propagating or displaying or distributing in any manner at any time except for the purpose of reporting or for use as evidence in court.	-	3 years	And/Or
Section 15(3) Storage or possession of pornographic material in any form involving a child for commercial purposes.	1st CV: 3 years 2nd/ Subsequent CV: 5 years	1st CV: 5 years 2nd/ Subsequent CV: 7 years	1st CV: Optional 2nd/ Subsequent CV:Yes

Apart from the above, the **POCSO Act also punishes attempts to commit an offence** under the Act and the abetment of any offence. While the attempt to commit an offence carries half the imprisonment or fine provided for the attempted offence, the act of abetting the commission of an offence has the same penalty as the offence committed.

From the stage of the recording of the statement of the victim to the trial of the accused person, the POCSO Act prescribes detailed procedures to ensure further protection of children and provisions for a child-friendly and age-appropriate experience within the criminal justice system. **Section 19(1)** mandates reporting an offence under the Act by any person who has the knowledge or suspicion or apprehension of an offence being committed under the Act. Section 19(7) exempts a person from civil or criminal liability for giving information in good faith for the purpose of Section 19(1). However, **a false complaint** knowingly made under the Act is punishable. Further, police officers are mandated to record every intimation of an offence committed, and the failure to do so constitutes an offence. Together, the provision for **mandatory reporting and mandatory recording** is designed to ensure that incidences of sexual abuse against children do not go unreported.

In a departure from ordinary procedure under criminal law, the POCSO Act provides for the statement of the child under **section 161 and section 164** of the Code of Criminal Procedure, 1973 to be recorded in the presence of the parents of the child or any other person in whom the child has trust or confidence.

Further, the police and Magistrate may avail the **aid of translators, special educators, or interpreters** to record the statement. The Act also encourages the use of an **audio-visual recording** of the statement of the child. The police, in particular, are prohibited from recording the statement of the child in uniform and must take the child's statement at the child's residence or any other place where the child is comfortable. All functionaries are required to maintain the **privacy and confidentiality of the child** and ensure that no identifying information of the child is released to the media unless such disclosure is permitted by the Special Court.



To provide for relief and rehabilitation of the child, as soon as the complaint is made to the Special Juvenile Police Unit (SJPU) or local police, immediate arrangements may be made to give the child care and protection, such as admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report. The SJPU or the local police are also required to report the matter to the **Child Welfare Committee (CWC)** within 24 hours of recording the complaint for long term rehabilitation of the child when required.

To try offences under the Act, the statute provides for the designation of **Special Courts and Special Public Prosecutors**. The Court must take into consideration the age and needs of the child and prevent stigmatising and aggressive questioning of the child, prevent the exposure of the child to the accused person while presenting evidence, provide breaks to the child as needed, refrain from calling the child repeatedly to court, and ensure child-friendly procedures. To comply with the spirit of the POCSO Act, several court establishments in India provide for a special waiting room for child victims, separate entrances, and even separate deposition rooms. Further, the CWC functioning under the **Juvenile Justice (Care and Protection of Children) Act, 2015**, may appoint a Support Person to assist the child and family in navigating the criminal justice process.

The Act casts a duty on the Central and State Governments to spread awareness through media, including the television, radio and the print media, at regular intervals to make the general public, children, as well as their parents and guardians aware of the provisions of this Act. The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCRs) are vested with the responsibility to monitor the implementation of the Act.

Some other additions to the POCSO Rules, 2020 include provisions of mandatory police verification of people working with children, procedures to report sexual abuse material (pornography) and imparting age-appropriate child rights education, among others.



Abbreviations

C		O	
CBI	Central Bureau of Investigation	OSC	One Stop Centre
CCI	Child Care Institution		
CICL	Child in Conflict with Law		P
CNCP	Child in Need of Care and Protection	PoC	Products of Conception
CPP	Child Protection Plan	POCSO	Protection Of Children from Sexual Offences Act, 2012
Cr.P.C.	Code of Criminal Procedure		
CSA	Child Sexual Abuse		R
CSEC	Commercial Sexual Exploitation of Children	RMP	Registered Medical Practitioner
CWC	Child Welfare Committee	RMO	Resident Medical Officer
CMO	Chief Medical Officer		
D			S
DCPU	District Child Protection Unit	SCPCR	State Commission for Protection of Child Rights
DCP	Deputy Commissioner of Police	SIR	Social Investigation Report
DLSA	District Legal Services Authority	SJPU	Special Juvenile Police Unit
DySP	Deputy Superintendent of Police	SLSA	State Legal Services Authority
		SPP	Special Public Prosecutor
		STI	Sexually Transmitted Infections
F			T
FIR	First Information Report	TIP	Test Identification Parade
FSL	Forensic Science Laboratory		
I			U
IO	Investigating Officer	UNCRC	United Nations Convention on the Rights of the Child
IPC	Indian Penal Code	UTI	Urinary Tract Infection
ICP	Individual Care Plan		
J			V
JJ	Juvenile Justice	VWDC	Vulnerable Witnesses Deposition Centers
JJB	Juvenile Justice Board		
M			W
MHP	Mental Health Professional	WHO	World Health Organization
MoHFW	Ministry of Health and Family Welfare		
MTP	Medical Termination of Pregnancy		
N			
NCPCR	National Commission for Protection of Child Rights		
NCRB	National Crime Records Bureau		
NGO	Non-Governmental Organization		



About the Handbook

The year 2012 could be considered a landmark year for child protection in India since the Protection of Children from Sexual Offences (POCSO) Act came into force. The POCSO Act was framed keeping in mind that it is a child being dealt with by the investigating agency and the Court. To this effect, it prescribes child-friendly systems, time frames, procedures, and support mechanisms to assist the child.

The POCSO Rules recognised the importance of ensuring support to the child victims and their families during the investigation and trial processes and introduced the concept of a 'Support Person' to offer such assistance to children and their families.

This Handbook elaborates the roles, responsibilities and relevant legal framework for a Support Person under the POCSO Act, the POCSO Rules, 2020, the Model Guidelines under Section 39 of the POCSO Act, 2012 and relevant sections under the Juvenile Justice (JJ) Act, 2015 and the JJ Rules, 2016. The Handbook has drawn from the experiences of Support Persons in Bengaluru, Mumbai, and Delhi, who have been assisting children and their families through the criminal justice and child protection systems. It offers insights and good practices based on the on-ground experience of Support Persons.

The Handbook elaborates on the following:

- [1] Dynamics of Child Sexual Abuse (CSA), the impact of reporting, indicators and signs to look out for.
- [2] Roles of a Support Person and their interactions with the police, Child Welfare Committees, medical practitioners, Public Prosecutors, and judicial officers.
- [3] Challenges faced by Support Persons and possible solutions and/or legal recourse.

To ensure that the Handbook is practical and reflective of the experience of children and stakeholders, online and telephonic interviews were conducted with seven children above 12 years and their parents in Bengaluru; eight Support Persons from Bengaluru, Chennai, Delhi and Mumbai; six police officers from Bengaluru; five CWC Members from Karnataka and Maharashtra; six medical practitioners from Bengaluru, three staff of District Child Protection Units from Karnataka, four NGOs and one lawyer. Support Persons known to the children conducted the interviews to ensure the children's comfort and confidentiality. The Handbook was drafted when several states were in lockdown due to the COVID-19 pandemic—physical meetings were restricted, and the interviews were conducted chiefly via phone or video calls.

Table 1: Stakeholders Interviewed

Stakeholder	State/District	No. of Persons
Children & Parents	Bengaluru Urban & Rural ¹	7
Support Persons	Bengaluru Urban & Rural ¹ , Delhi, Chennai ² , Mumbai ³	8
Police Officers	Bengaluru ¹	6
CWC Members	Bengaluru Urban & Rural ¹ , Sirsi ¹ , Bagalkot ¹ , Ahmednagar ³	5
Medical Practitioners	Bengaluru Urban ¹	6
DCCPU Staff	Bengaluru Urban & Rural ¹ , Tumkur ¹	3
NGOs	Bengaluru Urban & Rural ¹ , Delhi, Chennai ² , Mumbai ³	4
Lawyer	Bengaluru Urban ¹	1

1. Karnataka 2. Tamilnadu 3. Maharashtra



Design of the Handbook

The Handbook is divided into chapters based on the typical stages/flow of a POCSO case. Suggested formats are provided as Annexures at the end of the chapter. Information can be searched for in the electronic version by running a search for specific keywords. Example: Special Court, Investigating Officer, Mental Health Professional, Forensic Science Laboratory (FSL), Registered Medical Practitioner (RMP).

Limitations of the Handbook

- 1.** Topics and issues considered and elaborated upon in this Handbook are but a few and by no means exhaustive. Readers can refer to other works, laws and guidelines for more information.
- 2.** Inputs from stakeholders such as Special Public Prosecutors, Judges and District Legal Services Authority (DLSA) could not be obtained due to the shutdown of courts owing to the COVID-19 lockdown.
- 3.** Interviews covered only a few regions of India, so the experiences, terminology and processes might vary from one state and one district to the other.
- 4.** The suggestions and scripts given in the Handbook chapters are based on the field experiences of a few Support Persons. Personal working styles of Support Persons might differ, and situations have to be dealt with according to their local realities and situations. Interactions with children have to be sensitive and customised to each child's requirements.
- 5.** The Handbook does not cover legal aspects in detail since this is not the intention of the Handbook.
- 6.** This Handbook does not include material on imparting sexuality education to adolescents and young persons or the tools that could be used to do so. For this, the reader is referred to organisations working in those respective fields and resources available on the internet. It is recommended that adequate training is obtained before broaching these subjects with children and adolescents - more so if they have been sexually abused.

Points to Note

Quotes in all the chapters are not attributed to specific people to maintain confidentiality.

The Handbook consists of relevant legal information as well as experiences of various stakeholders working on the ground. The relevant Sections, Rules, other sources of information have been mentioned in places wherever there is a reference to a specific Act, Rule and Guideline.

The Handbook has to be read with other laws, guidelines and judgements of the Supreme Court and High Courts.

Footnotes and references have been provided, should the reader like to delve deeper into any matter.



Guide to Using this Handbook

The following shapes, icons, colours and text styles are used throughout each section of this handbook to help you navigate the material with ease:



Topic This icon appears when a core idea of a chapter is introduced.



Resource This icon appears when informational and instructional resources specific to a core idea is presented.



Information Single column text and the orange colour bullet point, together and separately, are used to present topic-specific information.



Instruction Two column text and the purple colour bullet point are used to present topic-specific instructions to be carried out.



Additional Information This icon appears when a key term or phrase is elaborated upon in the handbook, or information related to but outside the immediate context is presented.



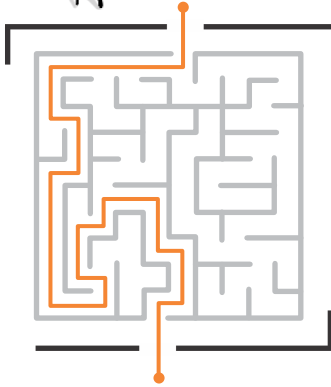
Opinions & Experiences This icon appears when verbal or written words of a key player's personal and/or professional experience are presented.



Helpful Hints This icon appears when suggestions based on Support Persons' collective experiences are presented to effectively deal with or optimise outcomes of a process or procedure.

chapter

1 Dynamics of Child Sexual Abuse



1

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CSA: VULNERABILITY FACTORS

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FACTORS IMPACTING REPORTING OF CSA

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EFFECTS AND INDICATORS OF CSA

4

p5

SUPPORT FOR CSA VICTIMS



CSA [is] 'the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society...'¹



The Study on Child Abuse: India 2007², published by the Ministry of Women and Child Development, found that 53% of the 12,447 child respondents interviewed had faced one or the other form of sexual violence.

Children rarely talk about sexual abuse or the offenders of this crime with their family members/guardians, and more often than not, these instances of CSA go undisclosed and unreported. Often the abuser is a person known to the child. When they mention the abuse, the child is usually disbelieved.

According to Crime in India, 2019³ published by the National Crime Records Bureau (NCRB), 94.9% of offenders under Section 4 (penetrative sexual assault) and Section 6 (aggravated penetrative sexual assault), POCSO Act, 2012, were known to child victims.

1**CSA: VULNERABILITY FACTORS**

Perpetrators of sexual violence are more likely to target and exploit children who are already in a vulnerable position because of factors like the children's socio-economic, cultural and educational backgrounds. Some of these factors are listed below:

- Age, gender, disability, socio-economic background, violence at home.
- Children leaving/running away from home because of various factors.
- Children without parental support
- Lack of personal safety, life skills and sexuality education in schools and at home.
- Lack of awareness among parents about personal safety and discomfort regarding sexuality and sexual violence.
- Socio-cultural attitudes towards sexuality and sexual violence, leading to the silence around the issue.
- Parents lack livelihood options, social securities and sustained income, leading to the migration of families to other places.
- Offenders are not held accountable or responsible and are often protected by the non-offending parent or family members and even the community.
- Power dynamics, especially in caste-based violence, can make a child from a lower caste more vulnerable.

1. [World Health Organisation \(1999\), Report of the Consultation on Child Abuse Prevention](#)

2. [Kacker, L., Kumar, P., & Varadan, S. \(2007\), Study on Child Abuse: India 2007, Ministry of Women and Child Development, GOI](#)

3. [National Crime Records Bureau \(2019\), Crime in India Page 307-312\(Table 4 A.2\(ii\)\)](#)



CSA and Children with Disabilities: Young people with disabilities, especially girls, are far more vulnerable to violence than their peers without disabilities. Children with disabilities are almost four times more likely to become victims of violence than children without disabilities and nearly three times more likely to be subjected to sexual violence, with girls at the greatest risk. Children who are deaf, blind, autistic, or living with psychosocial or intellectual disabilities are most vulnerable to violence. Studies have found that these children are five times more likely to be subjected to abuse than others and are far more susceptible to bullying.

Global Study on Ending Gender-based Violence and Realising Sexual and Reproductive Health and Rights, UNFPA⁴



With offenders being known persons in most cases, a child is often left very conflicted about reporting the case. Once the case gets reported, feelings of guilt, shame, responsibility for breaking up the family, putting a family member/known person in 'jail', pressure to take the case back and not being accepted in the family are some of the doubts, confusion and anxiety that a child might feel.

Professor of Forensic Medicine, Bengaluru



2

FACTORS IMPACTING REPORTING OF CSA

Even though CSA is common and has a severe impact on the lives of children, it is a topic that is not often discussed openly, and reporting is low⁵.

2.1

Concerns of the Child and Family

- Parents fear for their child's future since the idea of 'shame' and 'honour' are linked with the 'reputation' and 'behaviour' of women. There is also the concern of stigma attached to gender-based violence.
- The child may experience guilt, shame and feel responsible for breaking up the family, along with the fear of not being accepted in the family or putting a family member/known person in 'jail.'
- When the abuser has access to the child, they may be able to groom and control the child and prevent disclosure by threatening, intimidating and/or coercing the child.
- The family and child are reluctant to report when the offender is known to them for fear of victimization from the family and community and fear of further violence and intimidation.
- There are fears of possible loss of financial stability - children may be asked to forgive and forget the abuse or keep quiet about it.
- The offender and their associates may threaten or blackmail the child and family and/or promise to settle/compromise matters fast or marry the victim.

4. UNFPA, (2018), *Young Persons with Disabilities*

5. Srivastava K, Chaudhury S, Bhat PS, & Patkar P, (2017), *Child sexual abuse: the suffering untold. Industrial Psychiatry Journal*



- Fear of being re-traumatized during their journey through the criminal justice and child protection systems.
- Transgender children may find it even more difficult to report abuse for fear of being shamed and blamed for bringing it upon themselves.
- Children with disabilities may find it challenging to identify and communicate about the abuse because of their disability.
- Families are often clueless about the process involved, and the procedures also seem daunting.
- Families do not trust the criminal justice system, along with concerns about the long wait for justice.
- Reporting is further impacted when the victim is a male. Families often do not take the matter seriously or do not want to report it because of a patriarchal mindset in the society.

Data from Crime in India 2019⁶ shows that only 2.8% of victims were male, and the remaining were female victims.

“

If I report the case, my family members and neighbours will think that my son is weak and transgender and start teasing him. He will not be able to live in peace if this comes out...People tend to undermine the trauma and impact of abuse on boys by saying, 'oh, he cannot get pregnant...'

Father of a 15-year-old male survivor, before reporting the case, Bengaluru

”

2.2

How an Incident of CSA Becomes Known

- Parents may notice something amiss regarding the child's behaviour and attitude, and upon questioning, find out about the abuse.
- The abuse can also be disclosed when a child is taken to a doctor/ mental health professional because of psychosomatic symptoms or unexplained injuries and/or pain. During the examination, the attending doctor discovers that the child has faced sexual violence. **(More on this in Chapter 2 - Support Persons).**
- The child can also share the information with someone in school, with a neighbour or a teacher who may report it to an NGO or Childline.
- A person who witnesses CSA or comes to know of sexual abuse happening to a child through their contacts may also report it to Childline.
- When parents/family report a missing child complaint or file a case regarding elopement of the child.

3

EFFECTS AND INDICATORS OF CSA

Child sexual abuse can have temporary and sometimes lasting effects on the child. The Adverse Childhood Experiences Study⁷ has also shown that considerable and prolonged stress in childhood has life-long consequences on a person's health and well-being.

6. National Crime Records Bureau (2019), [Crime in India](#)

7. World Health Organisation (2018), [Adverse Childhood Experiences International Questionnaire](#); [Centres for Disease Control and Prevention](#)



3.1 Physical indicators of sexual violence are unexplained injuries, marks and bruises on the body, bleeding and injury in the genitals, frequent urinary tract infections (UTI), pain while passing urine/defecating, Sexually Transmitted Infections (STIs) and pregnancy.

3.2 Psychological and behavioural indicators are anxiety, depression, insomnia, psychosomatic disorders, frequent nightmares, sleep talking, bed-wetting, fear of certain persons and/or places, low self-esteem, withdrawal from routine activities, higher levels of aggression, anger, hostility, and disobedience.

There can also be cognitive and attitudinal consequences, such as lower cognitive functioning, poor school performance, acceptance of violent behaviours and attitudes and substance abuse.

Other signs of sexual abuse include changes in academic performance, food habits and dressing, and truancy (running away). In the long term, children may exhibit age-inappropriate/sexualised behaviour or unusual sexual knowledge for their age. They may go through Post Traumatic Stress Disorder (PTSD) and engage in self-harming behaviours, and have suicidal tendencies.

Behavioural indicators can also be the inability to trust or maintain relationships with people around them.

Other consequences of survivors of CSA may include an increased risk of perpetration of CSA on other children or peers.

Please note that these are indicators that may raise a suspicion of sexual abuse. These are not diagnostic of child sexual abuse. There may also be other warning signs; this is not an exhaustive list. There may also be children who do not exhibit any of these above behaviours or indicators.

“

There are times when the child has not been able to tell the family that abuse has happened, and they come to us with a mental health problem like anxiety, depression, trauma, nightmares or declining academic performance or aggressive behaviour. Some children might also exhibit hyper-sexualized behaviour. We cannot directly ask the child; we have to give them some time. Sometimes, we continue to treat the child for symptoms like depression and physical symptoms like urinary tract infection. On assessment and talking to the child, we often find out that the child has faced sexual abuse and has not told anyone about it.

Psychiatric Social Worker, Bengaluru

”

4

SUPPORT FOR CSA VICTIMS

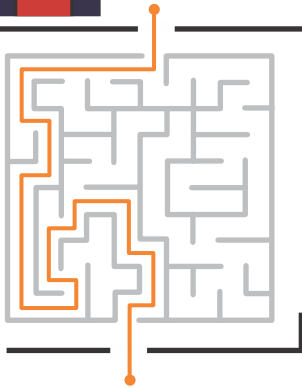
The child and family who report CSA to the police should be protected from external pressure and supported in their journey within the criminal justice system.

A trained Support Person can ease the child and family's journey through the criminal justice and child protection systems. The Support Person provides information and updates from time to time, facilitates emotional and psychological support and assists with rehabilitation. The Support Person becomes a vital liaison between stakeholders, the child and the family by assisting them through the various stages of the case.

(More details in Chapter 2 - Support Person: Appointment, Roles, Best Practices)

chapter

2 Support Person: Appointment, Roles, Best Practices



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APPOINTMENT OF A SUPPORT PERSON

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TERMINATION OF SERVICES



Experience of child rights professionals showed that victims of child sexual abuse and their families required support at different stages. It was essential that an organisation or individual working in child rights and protection play this supportive role. The POCSO Rules, 2020¹ institutionalised this role played by the NGO or individual with the appointment of the Support Person.

The child and family have to engage with the police, hospitals, the Magistrate, Special Court/Juvenile Justice Board (JJB), Child Welfare Committee (CWC) and others. The process itself can last for years and can be confusing and overwhelming.

In addition, the stakeholders face issues such as inadequate staffing, lack of infrastructure, and insufficient training adds to their burden leading to victims and their families rarely being supported or receiving information regarding the processes, procedures and progress of the case.

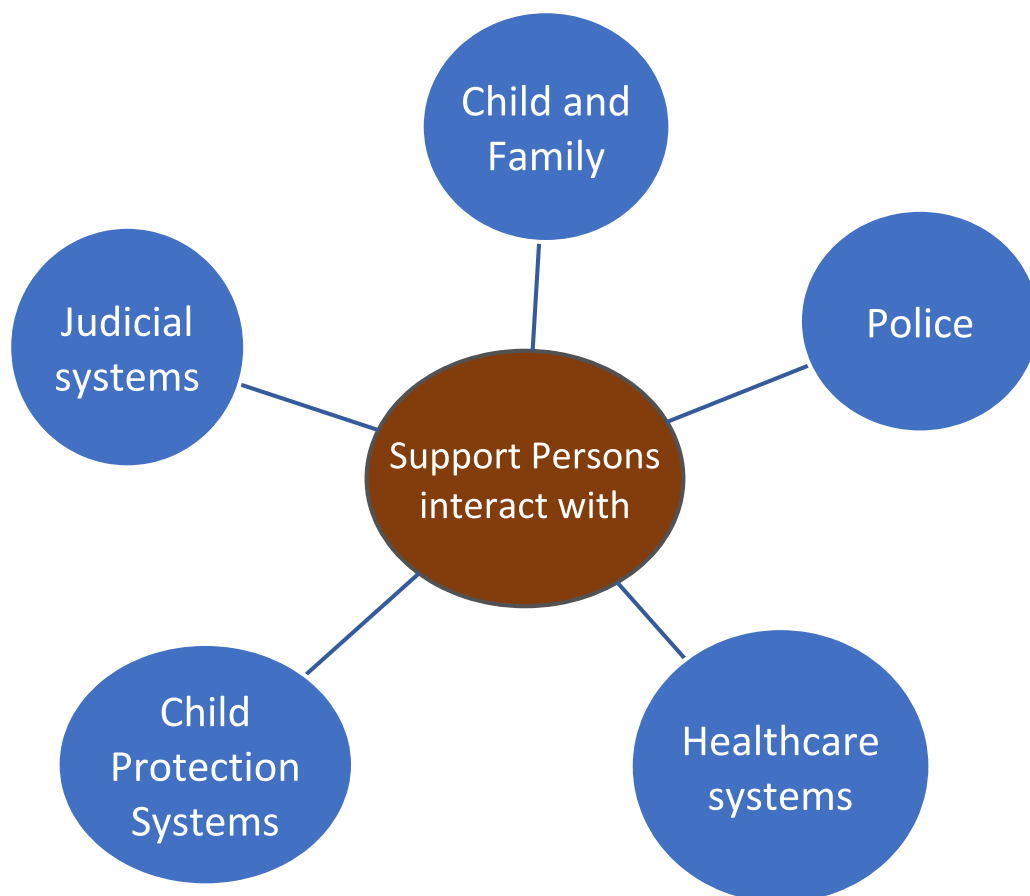


Fig 1: The Support Person - Stakeholders interaction diagram

1. [The Protection of Children from Sexual Offences Rules, 2020](#)

**1****APPOINTMENT OF A SUPPORT PERSON**

When an incident of sexual abuse is reported to the police or the Special Juvenile Police Unit (SJPU), they must inform the CWC within 24 hours. Based on the assessment and need of the child, the CWC can provide a Support Person after taking the consent of the child and the child's parent, guardian, or another person whom the child trusts. **(Details regarding the appointment of Support Person in Chapter 6 - Engaging with the CWC.)**

1.1**Relevant Legal Reference****POCSO Act,
Section 2(d)**

POCSO Act, Section 2(d) defines a 'child' as any person below eighteen years.

**POCSO Rules,
2012,
Rule 1(f);
Rule 2020
2(f)**

Introduced the concept of a 'Support Person' assigned by the CWC, under sub-rule (7) of rule 4, who can assist the child through the process of investigation and trial, or any other person assisting the child in the pre-trial or trial processes in respect of offences under the Act.

**POCSO Rules,
2020,
Rule 4(8)**

The Support Person is a person assigned by the CWC to assist the child through the process of investigation and trial, or any other person assisting the child in the pre-trial or trial process in respect of an offence under the Act.

**POCSO Rules,
Rule 5(6)**

Support Person can be a person or an organisation working:

1. In the field of child rights or child protection or,
2. An official of a children's home or shelter home having custody of the child or,
3. A person employed by the District Child Protection Unit (DCPU).

2**ALTERNATE INFORMATION SOURCES OF A CSA CASE**

A child victim and their family may have sought assistance from an NGO or individual. Under the POCSO Rules, 2020, an NGO or individual may assist the child and family in the same manner as a CWC appointed Support Person and plays a corresponding role to support the child and family. 'Thus the Support Person may be appointed by the Child Welfare Committee or engaged by the child and their family themselves'.²

2. [Model Guidelines under Section 39 of the Protection of Children from Sexual Offences Act \(2012\), Social Workers and Support Persons](#)



2.1 Relevant Legal Reference

POCSO Rules, 2020, Rule 5(6) Proviso

Provides that nothing in these rules shall prevent the child and the child's parents or guardian or another person in whom the child has trust and confidence from seeking the assistance of any person or organisation for proceeding under the Act.



2.2 Information Sources of Child Sexual Abuse

It has been observed that victims of CSA and their families may approach an NGO or the Support Person even before they report the matter to the police. In such cases, the NGO becomes the first person of contact for the child providing referrals for counselling, legal advice and assistance to report the matter.

A few of the sources where Support Persons receive information from are listed below:

Hospitals: There can be instances when a child has gone to the doctor or the hospital for illness. The doctor may discover sexual abuse of the child and may reach out to a Support Person and file a medico-legal case with the police.

Mental Health Professionals: Parents or guardians may seek the services of a mental health professional to address psychological issues a child is facing. The Mental Health Professionals may reach out to a Support Person when it is found that the child has faced sexual abuse.

Educational Institutions: Children may disclose the sexual abuse they have experienced during or after sessions on child/personal safety or with the school counsellor. In such cases, the educational institution may reach out to Support Persons to provide assistance to the child and help the school interact with the police.

Childline 1098: Children or families may call Childline on 1098, and Childline, in turn, reaches out to Support Persons in order to provide long term assistance with reporting and rehabilitation.

Police may reach out to Support Persons that support and request their intervention to help the child and family.

Children, parents and well-wishers of the child may reach out after searching online for organisations working on CSA for support to understand the legal procedures.

The CWC: When the matter is brought to their notice by the police, the CWC may appoint a Support Person for the child (**More information in Chapter 6 regarding engaging with the CWC**).

In addition, private medical practitioners, schools, lawyers, resident welfare associations, district child protection officials, and personal safety educators may also reach out to Support Persons for assistance.

When a Support Person is informed about a case of CSA from any of the above sources, other than the CWC, the Support Person can request the CWC to be appointed for the case.



“

When a child discloses sexual abuse through the course of therapy and when some things are not clear; we seek a Support Person who knows what the next steps are in the legal sphere, and what is available to the child as a support system. It could be a highly complex case, and we do not know how to proceed and if it will affect the child's wellbeing. In this kind of a situation, we have reached out to individuals from Prerana or Majlis to seek guidance.

— An NGO, Mumbai —

”

3

ROLES AND RESPONSIBILITIES

The roles and responsibilities of a Support Person are defined under Rule 4, POCSO Rules. A Support Person may be required to provide a range of services and information to the child and family.⁴

3.1

Relevant Legal Reference

POCSO Rules Roles and responsibilities of a Support Person are detailed in Rule 4(9) (12), (13), (14) and (15) of the POCSO Rules.

POCSO Rules, Rule 5(12) A Support Person must maintain the confidentiality of the child at all times.

3.2

Role of Support Person

- **Maintain confidentiality** of all information pertaining to the child and addressing any concerns the child and the family have.
- **Accompany the child** during statement recording, medical examination and trial.
- **Address safety concerns** that the child may have concerning the accused.
- **Provide information** promptly to the child and the family about the procedural steps involved in a criminal prosecution:
 - The Support Person's role in the investigation, pre-trial and trial process.
 - Availability of public or private emergency and crisis services.
 - Availability of free legal aid, assistance and victim compensation scheme.
 - Status of the investigation of the crime, arrest and filing of charges against the suspected offender.
 - Schedule of the court proceedings when a child and family is required to attend.
 - The bail, release or detention status of an offender.
 - The potential outcome of the case and rendering of a verdict and sentence upon completion of the trial.

The roles and responsibilities of a Support Person may go beyond those mentioned above. The subject, as defined by the POCSO Rules, 2020, has been dealt with elaborately in the subsequent chapters.

4. [Model Guidelines under Section 39 of the Protection of Children from Sexual Offences Act \(2012\), Social Workers and Support Persons](#)



4

MEETING THE CHILD & FAMILY FOR THE FIRST TIME

- Introduce themselves, sharing their contact details and that of their organisation, and answering questions that the child/family have.
- Enquire about the well being of the child and the family members. Let the family know that the CWC had appointed the Support Person in other cases.
- Inform the family that the Support Persons' services are offered free of cost to the family.
- Let the child know that a person they trust (such as a parent, older sibling or a Support Person) can be present when interacting with other stakeholders.
- Encourage the parent or guardian to consult a medical or mental health professional as and when the child requires.
- Inform the child/family about the child's rights under the POCSO Act and JJ Act, including the right to compensation, medical intervention and legal representation.
- Not set unrealistic expectations - that the accused will be punished, that the accused will never get bail, or the case will get over in a year.
- Familiarise the family with the basics of the law, including the procedures involved and the expected time frames.

5

BEST PRACTICES

Support Persons should bear in mind these principles when engaging with the children and families - the *principle of dignity and worth*, the *principle of participation*, the *principle of best interest*, the *principle of safety, positive measures*, the *principle of non-stigmatising semantics*, the *principle of equality and non-discrimination* and the *principle of the right to privacy and confidentiality*, as stated under **Section 3, Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act)**.

The experiences of Support Persons from different jurisdictions have given insights into practices that have assisted Support Persons in carrying out their roles and responsibilities.



Tips for Support Persons

1 When there is a delay on the part of the CWC in informing the police and court about their appointment, the Support Person can hand over the letter to the police and Special Public Prosecutor with a request for it to be included in the case documents.

2 It helps to have two Support Persons (one primary and the other to assist that person) from the same or different organisation(s) named in the appointment letter. That allows for one Support Person to step in when the other is unable to assist the case. However, the primary Support Person would need to be accountable to the CWC and other stakeholders.





5.1

Recommended Best Practices

- Needs to maintain a child-centric and sensitive approach when dealing with child victims to avoid re-victimisation.
- Clearly state their name, association with an organisation or department and their formal appointment as Support Person on the case by the CWC.
- Needs to carry valid identity proof, along with a copy of the order passed by the CWC appointing them as Support Person, when they visit the Police station, hospital, Special court, or any other location where they are presenting as a Support Person in a specific case.
- Should have a working knowledge of the POCSO Act, Rules and Guidelines, relevant sections of the Medical Termination of Pregnancy Act and other child-related laws in India.
- Needs to stay updated about latest developments/judgements related to the POCSO Act and Rules. any concerns or questions.
- To have an ability to build and nurture network through convergence with stakeholders in the criminal justice and child protection systems and other service providers.
- As far as possible, put communication with stakeholders in writing, either over email or letter.
- The Support Person must maintain a telephonic/electronic communication record about the matter with the stakeholders.
- Use clear and understandable language to inform the child and family of their role and their services.
- Inform that the child has the right to refuse or withdraw consent for the services of a Support Person and explain the process to do so.
- Should be mindful about what to say, in which kind of situation, and be respectful about the family's cultural, religious and socio-economic background.
- Encourage the child and their family to ask questions, answer these empathetically, using simple words and in a language understood by them.
- Provide services within the boundaries of their education, training, certification, consultation received, or relevant professional experience.
- Can refer the child to relevant experts, professionals and service providers in order to provide services that they may not be trained/qualified to provide.
- Can take steps to involve translators, special educators, or sign language experts, wherever required, during the investigation and trial stages.
- Check-in with the child, parent, guardian or person whom the child trusts after each procedure to assess if they are comfortable and have any concerns or questions.
- Maintain documentation of cases with all information (either soft or hard copies) for easy access to case timelines and status – maintain a log of day-to-day occurrences and their interactions with stakeholders.
- While engaging with stakeholders and child/family, Support Persons have to maintain and respect professional and personal boundaries in their interest and to safeguard the wellbeing of the child being supported.
- Bring any inappropriate conduct on the part of a guardian or family member to the attention of the CWC.



“

My role is to be with the child throughout the process, provide psycho-social support and take a trauma-informed approach while working with the child, while also connecting the child to professional mental health service if the need arises.

Support Person, Delhi ”

5.2

Practices to Avoid

- Do not seek personal information from the child/family unless required for the case.
- Do not share case-related information with the media or any social circles as this amounts to breaking the confidentiality of the child and family.
- No favours such as being picked up and dropped, buying food or other refreshments should be asked of the child and family.
- Do not accept or demand monetary compensation, gifts, remuneration from the child, family or another stakeholder.
- Derogatory language should not be used while communicating with or about the child, family and other stakeholders.
- A Support Person should not engage in any sexual activities with the child or their family members.
- Avoid forcing opinions and making the family do what that the Support Person wants to be done.

“

It is important for Support Persons to be with the family to try and ensure that they do not turn hostile. Sometimes the accused gives money to the family and asks them to take back the case, and the child and family turn hostile. Sometimes, the victim's parents may feel they have to go to court repeatedly. Support Persons are needed to keep them informed about what is happening in the court, the status of the case, and the outcome of the trial.

District Child Protection Officer, Tumkur ”



6

TERMINATION OF SERVICES

6.1

Relevant Legal Reference

POCSO Rules, 2020, Rule 4(11)

Services of a Support Person can be terminated by the CWC upon request by the child, family or guardian. The child requesting the termination shall not be required to assign any reason for such a request.

The Special Court/JJB should be informed about the same in writing.

6.2

The Child/Family or Support Person can request Termination of Service when:

- The child does not want to work with the assigned Support Person.
- Multiple organisations simultaneously work with the child/family, leading to too many people engaging with the child.
- A romantic/elopement case gets booked under POCSO Act, and the girl may turn hostile; she may request termination of services.
- The parent or extended relatives influence the child to turn hostile; they may request for termination of the services of the Support Person.
- A Support Person believes that they cannot provide the support required and informs the CWC of the same so that another person/organisation can be assigned to support the child.
- There is a conflict between the child and the Support Person; the CWC can appoint another Support Person. (Some situations where conflicts could arise are if the Support Person knows the accused or has contrary religious or cultural beliefs and lacks empathy towards a particular child/case/situation.)



Remuneration of Support Persons: For the Support Person to extend their service for any duration, a remuneration mechanism needs to be set up at the State and district level. As per POCSO Rules 2020, Support Persons are required to be remunerated, the same as experts, translators, and special educators.

Relevant Legal Reference

Rule 5(7), POCSO Rules, 2020

Support Persons listed in the District Child Protection Unit (DCPU) directory can be remunerated.

The State Government is to remunerate the Support Person from the funds maintained under Section 105, Juvenile Justice (Care and Protection of Children) Act, 2015, or from other funds placed at the disposal of the DCPU.

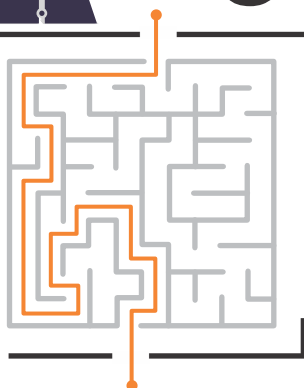
Rule 5(8), POCSO Rules, 2020

Remuneration shall not be less than the amount prescribed for a skilled worker under the Minimum Wages Act, 1948 (11 of 1948).



chapter

3 Reporting a Case and Investigation by the Police



1

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LODGING A REPORT

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ANNEXURE



“

After an incident of child sexual abuse, families are confused and scared, and they are looking for someone to support them in the process and who can explain to them the procedures. This is where I feel Support Persons are very important. There are many cases when Support Persons have given the family the confidence to report and move forward.

— Police Inspector, Bengaluru City Police —

”

The police functions include recording information, registering the First Information Report (FIR), taking the victim's and witnesses' statements, arresting the accused, investigating the case, and submit the charge sheet in the court. The POCSO Act requires the police to adhere to the child-friendly provisions incorporated in the law during the investigation. These provisions are based on, among other rights, children's right to be protected from violence, to be heard and to promote their best interests.

The presence of a Support Person who is familiar with the processes and laws provides much-needed encouragement, strength, and guidance for the child and the family to make a formal complaint. The procedure to be followed by the police during every step of the process and the role of the Support Person is detailed below.

1**LOGGING A REPORT**

When a Support Person is involved in the early stages, they can assist the child and family in filing a report and lodging an FIR. An FIR can be lodged in the jurisdictional police station where the alleged offence was committed. It is also possible to lodge an FIR in a different police station. This is referred to as a Zero FIR.



A **Zero FIR** can be filed in any police station by the victim or by any person on the victim's behalf, irrespective of their residence or the place of occurrence of crime¹ for investigation. After registering the 'Zero FIR', the police should transfer it to the relevant police station, where the offence was committed, for investigation. For instance, the offence may have occurred in Bengaluru, but the child may have disclosed it months after the family relocated to Kolkata. The FIR can then be lodged in a police station in Kolkata. The police officer's duty in Kolkata will be to transfer it to the jurisdictional police station in Bengaluru.

While coordinating a case where Zero FIR has been lodged in another jurisdiction (location/district/ state), the Support Person can reach out to the jurisdictional Childline, Child Welfare Committee (CWC), District Child Protection Unit (DCPU) or NGOs and seek their assistance to follow up with further processes of investigation and trial.



1. [Law Times Journal \(2020\), What is a zero FIR? What is the procedure to file a zero FIR?](#)



1.1

Relevant Legal Provisions

Reporting CSA	Any person having knowledge or apprehension of a child facing sexual abuse must inform the SJPU or the local police under Section 19(1), POCSO Act, 2012. This also applies to persons working in the media, hotels, lodges, hospitals, clubs, studios, or photographic facilities. They must report to the police if they come across materials or objects sexually exploitative of a child under Section 20 of the POCSO Act.
Failure To Report	Failure of an adult to report the commission of a sexual offence to the SJPU or police is an offence under Section 21(1) of the POCSO Act and is punishable with imprisonment up to 6 months or fine or both. This provision does not apply to a child. In case a person in charge of an institution or company fails to report to the police a sexual offence against a child by a subordinate, they can be punished with jail time of up to 1 year and a fine under Section 21(2), POCSO Act.
Failure To Record	Failure on the part of the police to record a case is punishable with imprisonment, which may extend to six months and fine, under Section 21(1) of the POCSO Act. Section 166A(c) India Penal Code (IPC) also prescribes a punishment of a minimum term of six months which may extend to two years, and a fine.
Register Information & FIR	On receiving a complaint or information, the SJPU or local police should record the report as per Section 19(2), POCSO Act and register the FIR under Section 154, Criminal Procedure Code (Cr.P.C.) 1973. If a child gives the information, it should be recorded in a simple language to ensure that the child understands the recorded contents (Section 19(3), POCSO Act). The information should be reduced to writing if given orally.
False Report	Making a complaint or providing information with the intention to humiliate, extort, threaten or defame is a punishable under Section 22, POCSO Act. However, a child making a false complaint or providing false information is NOT punishable.
Police Obligation To Record A Case	<p>[1] The police should read out the report to the complainant and obtain their signature on the report as per Section 19(2)(b), POCSO Act and Section 154(1) Cr.P.C. 1973.</p> <p>[2] A free copy of FIR has to be handed over to the person submitting the information as per Rule 4(3) (a), POCSO Rules, 2020 and Section 154(2), Cr.P.C. 1973.</p> <p>[3] The SJPU/local police should share details about the names, telephone numbers, designation and contact details of the officer who supervises the officer receiving the information with the person making the report as per Rule 4(1), POCSO Rules, 2020.</p> <p>[4] The SJPU/local police should provide information regarding available services and entitlement to the child and family as per Form A under Rule 4(14), POCSO Rules, 2020. (Refer to Annexure 1 for Form A).</p>



1.2

Role of Support Person

When the Support Person is informed of a child sexual abuse case by the police, the Support Person can assist the child and family by explaining the process of lodging a report and help them draft the complaint.

Support Person needs to be aware of the following when a report is lodged:

- The information given in the FIR or during the child's interview need not include legal or technical terms.
- It can be in the language the child and family are familiar with, and recorded by the police as spoken by the child.
- Information about CSA has to be submitted either orally or in writing. If it is an oral complaint, SJPU or the local police can reduce it in writing.
- Police are obligated to record the information received about the commission of a sexual offence committed against a child and cannot insist on interviewing the child before registering the FIR.
- Relevant provisions of the POCSO Act and other Acts such as the Indian Penal Code, Prohibition of Child Marriage Act 2006, Immoral Traffic Prevention Act 1956, Juvenile Justice (Care and Protection of Children) Act 2015, the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989, Rights of Persons with Disabilities Act 2016 and the Information Technology Act 2000 and other laws need to be included. They can be suggested to the Investigating Officer (IO).
- **Support Person can check if the following information is provided in the report to the police (in order to register an FIR):**
 - Date(s) on which the offence was committed.
 - Name /address/ phone number of the informant.
 - Accused's relationship with the child victim.
 - Age of the child.
 - What the child is currently doing: studying, at home, etc
 - The nature/type of assault in detail.
 - Time frames/duration of offence: if it occurred over a period/months/years, an approximate number of incident/s.
 - Location/s of the abuse/assault/s.
 - Information about the accused, whether known/unknown and relationship with the child victim.
 - Situations where the child was in the company of the alleged offender.
 - Use of any weapons, threats, blackmail, intimidation.
 - Details of the last incident that occurred.
 - Reason for delay in reporting the case to the police, if any, including delayed disclosure by the child.



2

CHILD'S IMMEDIATE CARE & PROTECTION

While the role of a Support Person in accessing care and protection during reporting of the case is not clearly defined, assisting a case can include working closely with the police and other stakeholders to liaise with CWC and other child protection functionaries to ensure that the child is provided necessary care and protection. **(Refer to Chapter 6 - Engaging with CWC for more information).**

Support Persons can share information regarding the care and protection needs of the child and steps taken by the police in this regard with the CWC/ Special Court / JJB if required.



2.1 Relevant Legal Provisions

Information to the CWC & Special Court	The SJPU or local police should inform the CWC and the Special Court/JJB within 24 hours of registering a report as per Section 19(6) POCSO Act.
Placement and Medical Needs	As per Section 19(5) POCSO Act, when the police assess that the child needs care and protection, they need to make arrangements to provide such care by placing the child at a 'shelter home' or in the nearest hospital.
Production Before the CWC	When the police assess that a child requires care and protection, they must produce the child before the CWC within 24 hours as per Rule 4 (4) POCSO Rules, 2020 and Section 31(1) (i) JJ Act, 2015.
Preliminary Report to the CWC	The police should submit a Preliminary Assessment Report in Form B (Annexure 2) within 24 hours to the CWC as per Rule 4(14) POCSO Rules, 2020.

3

RECORDING THE STATEMENT BY THE POLICE

Following the registering of FIR, the police will record the child's statement under Section 161, Cr.P.C. Recording of the statement is guided by several child-friendly procedures.

3.1 Relevant Legal Provisions

Recording Location	<p>A child does not have to visit the police station, and the statement can be recorded at the child's residence, or at a place where the child resides or a place where the child is comfortable as per Section 24(1) POCSO Act.</p> <p>No boy below 15 years or a girl child below 18 years should be summoned to the police station for investigation as per Cr.P.C., Section 160(1) proviso.</p> <p>No child can be detained in the police station at night for any reason under Section 24(4), POCSO Act.</p>
Recording Officer	A woman police officer not below the rank of Sub Inspector should record a child's statement, as far as practical, as per Section 24(1) POCSO Act. Further, the police officer should not be in uniform while recording the child's statement under Section 24 (2) POCSO Act.
No Exposure To The Accused	The IO must ensure that the child does not come in contact in any way with the accused during the recording of the statement under Section 24(3) POCSO Act.
Presence of Parents/ Guardians	The police officer should record the statement as spoken by the child in the presence of the child's parents or any other person in whom the child has trust or confidence under Section 26(1) POCSO Act.



Expert Services

Section 26(3) POCSO Act provides for seeking the services of translators and interpreters while recording the child's statement. Rule 5 (1), (2), (3), (4), (5) of POCSO Rules provides for the use of translators, interpreters, special educators, experts and Support Persons.

Recording Statement of the Child by the Police



1. Preferably to be taken by a woman officer, not in uniform



2. At a place where the child is comfortable



3. In the language and manner spoken by the child



4. In the presence of a trusted adult



5. Record using audio-video means, if available



6. Recorded statement to be read to the child by the police officer

CHILD-FRIENDLY MEASURES

Provide frequent breaks to the child, if required

Prevent victim from coming into contact with accused

Provide the child with services of interpreter/ translator/ special educator and Support Person



3.2

Role of Support Person with the Child & Family

The Support Person can play an important role in allaying the fears of the child and the family by providing them information about the purpose of the statement, child-friendly procedures that need to be followed by the police, and responding to their queries and concerns.

In particular, the Support Person can:

- Explain the reason for recording the child's statement: *"The police have registered a complaint based on the report lodged by you and/or your parent/guardian. They have to record your statement, which will help them investigate the case better. They will ask you some questions about the incident/s, the accused, time and place of the crime, if anybody saw the accused with you and other such details."*
- Explain the requirement of a statement also before a Magistrate. **(Refer to Chapter 6 for statement before the Magistrate.)**
- Explain that an audio-visual statement could be recorded to ensure there is no coercion of the child, to establish that the child is giving the statement voluntarily and in their own words. The child's/family's consent is taken before recording audio-visual statement.
- Encourage the child to describe the incident in their own words when the police ask them. Tell the child: *"You can talk openly and freely about the abuse/assault to the police from your memory. Do not feel shy and embarrassed. The police have come across many such cases; they are there to help you."*
- Let the child and family know that the procedure may take a few hours since the police officers have multiple responsibilities and tasks.
- Inform that additional statements may be recorded if the child remembers more details or if other facts emerge.
- Put the child at ease by informing that the accused will not be present at the police station when the child's statement is recorded.
- Convey to the child that a woman police officer will record the child's statement as far as possible.
- Convey to the parent that wherever the police are recording the statement, they should stay silent and not prompt or tutor the child. Tutoring could affect the case adversely if the child so reveals in court. The child can be prepared before the statement by explaining the procedures and requesting the child to provide all possible details regarding the incident.
- Convey that if the child does not understand a question, they should inform the police of the same and request the police to repeat or rephrase the question.
- Convey that if the child speaks a language other than that which is the state's official language, services of a translator may be sought.
- Convey to the parent/guardian of a child with disabilities that the services of an interpreter, special educator and sign language experts can be sought, if required.
- Convey that the identity of the child and family will not be disclosed to the media or any other person not concerned with the case.



3.3

Role of Support Person with the Police

While interacting with the police, the Support Person can convey to the police the needs, vocabulary, and any other information that will enable the police to record the child's statement in a child-friendly manner.

In particular, the Support Person can:

- Urge the child's statement is recorded at the child's residence or a place of their choice, where the child/family is comfortable. If the accused is from the family or immediate neighbourhood, the place can be a Community Centre (in a dedicated room, if available), local parks (as long as there are not many people around), in a school after hours or a relative's house as suggested by the child/family/guardian.
- Request the police officer to not be in uniform while talking to the child during the statement.
- Encourage the police officers to identify a separate or child-friendly space if the child's statement has to be recorded in the police station.
- Inform the IO in advance the need for interpreter, translator, special educator and/or other experts if the child requires one.
- Suggest that the assistance of a family member or person familiar with the manner of the communication for the child with speech and hearing impairment can be taken, particularly if the child has not accessed any school or learnt sign language or any other form of communication.
- Request that a male police officer records statements of a male child if the child is embarrassed to speak with a female police officer so that the child is at ease.
- Inform the police officer about the child's pace and mental state and make sure that the child gets frequent breaks, food, water and refreshment.
- Request the police that multiple people should not interview the child and that the interview is conducted at the child's pace and needs to prevent the child's re-traumatisation.
- Request the police to ensure that the child does not come face to face with the accused at any stage of the investigation.
- Request that the statement is recorded the way the child narrates it, using vocabulary that the child is familiar with. Police can seek clarification from the child if required.
- If an audio-visual facility is present, the child's statement should be recorded audio-visually.
- Remind police that a child's statement should be recorded in the presence of a parent or trusted adult.
- Ask the police from being judgemental with the child and family, refrain from using derogatory language or victimise the child for any behaviour.
- Liaise between the police and child/family to ensure additional information/documentation if required, can be furnished to the police by the Support Person so that the family does not have to visit the police station repeatedly.



4

FACILITATION OF MEDICAL EXAMINATION & EMERGENCY CARE

It is the responsibility of the police to take the child for medical examination and facilitate emergency medical care. The child may need first aid and medical treatment, which may have to be arranged on priority. The medical examination is also relevant for the collection of evidence.

4.1

Relevant Legal Provisions**Medical Examination**

Medical examination of a child should be conducted by a registered medical practitioner in a government hospital or a hospital run by a local authority. If such a practitioner is not available in a government hospital, it can be conducted by any other registered medical practitioner under Section 164A, Cr.P.C.

Emergency Medical Care

Section 19(5) POCSO Act and Rule 6(1) POCSO Rules require the police to assess if the child against whom an offence has been committed needs urgent medical care and protection and arrange to take the child to the nearest hospital or medical care facility for emergency medical care within 24 hours. As per the proviso to Rule 6(1) POCSO Rules, 2020, in cases of penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, or aggravated sexual assault, the police have to refer the victim to emergency medical care.

4.2

Role of Support Person

The Support Person can play a key role in facilitating convergence between the police and the medical facility/ practitioner while also ensuring the child's comfort during this process.

In particular, the Support Person can:

- Check with the police and inform the child and family regarding the visit to the hospital and explain the process briefly and the requirements for the same.
- Emphasise that the child can be taken for medical treatment/psychological care even before the FIR is registered if the child needs immediate medical attention.
- Suggest that the medical examination can be scheduled in the morning hours if the offence was reported 72 hours after it occurred or is a non-touch based sexual offence.
- Explain to the IO about Section 94², JJ (Care and Protection of Children) Act, 2015, which lists the documents that can be accepted as age proof, the situations under which age estimation tests need to be done and the need to obtain an order from the CWC/JJB for the age estimation test.
- Request that a woman police officer accompanies the child to the hospital for a medical examination. The Support Person can also offer to accompany the child and family.

2. [Age determination as per Section 94, JJ Act 2015](#)



- Request the police to collect forensic medical evidence with the due chain of custody in place and hand it over to a Forensic Science Laboratory (FSL) with the requisition for necessary forensic tests.
- Request that the police collect the Provisional Medical Opinion within 24 hours of the examination from the doctor.
- Request that the Products of Conception (POC) is collected by the police after the Medical Termination of Pregnancy procedure and handed over to the FSL, following due process such as proper sealing and signature on the containers.
- Check with the police if the doctor has submitted the final medical report after FSL reports have come in and duly submitted to the court. **(Refer to Chapter 4 - Medical Intervention for detailed information on Medical Processes.)**



Tips to Share with the Child & Family during the Investigation

- 1 Carry the child's Aadhaar card or another form of identification.
- 2 Avoid prompting or tutoring the child at any point during the investigation.
- 3 Carry water and snacks in case of delay in the proceedings.
- 4 Preserve the child's clothes worn at the time of the incident and give it to the police for DNA evidence and other tests.
- 5 Carry some activities to keep the child engaged in case of delay at the police station or hospital. *The Support Persons can also keep such items handy.*



5

INVESTIGATION

Following the registration of the FIR and the medical examination, the police will take steps to identify and arrest the accused, visit the crime scene, record statements of witnesses, and carry out an investigation.

5.1

Relevant Legal Framework

Practices & Protocol

The investigation should be carried out under the provisions of the **POCSO Act**, the **Cr.P.C.** and other relevant laws.

5.2

Role of Support Person with the Child & Family

Support Persons can assist the child and family while visiting the scene of crime/place. Revisiting the location of assault/abuse can be traumatic for the child and the family.



In particular, the Support Person can:

- Inform the child and parents/guardian that the police will take them to the location of the incident.
- Tell the child and parents/guardian that the procedure is important to help the police build the case against the accused.
- Assure the child that parents, Support Person or a trusted adult will be present with them and accompany the child when possible.
- Enquire how the child is feeling and reassure them that they are safe now as the police are there with them.
- Explain the procedures and what to expect, as this could help in calming and reassuring the child.
- Inform the child and parents in advance that the child would be required to point out the exact locations where the offence took place, and they might have to narrate the incident while doing so.
- Inform the child and family that they may be told to hand over any gadgets, phones, or computers with electronic evidence or any other material associated with the crime.



5.3

Role of Support Person with the Police

- Speak to the IO to know in advance the date and time as to when the child and family will be taken to the crime scene.
- Inform the police that the Support Person and the trusted adult will accompany the child.
- Inform the police to arrange for an interpreter/translator in advance if required. The DCPU is required to maintain a directory/list of interpreters and translators who can be contacted.
- Request the police to ensure that the confidentiality of the child/family/case is maintained at all times during the visit to the crime scene. Suggest sensitive ways of posing questions to the child if the officer is rude, intrusive, demeaning, or confusing.
- Request the police to permit the child to leave the crime scene as soon as the child's role is complete, or the child feels stressed and overwhelmed by the process.
- When the alleged accused is a minor, request the police officer to produce the child in conflict with the law before the Juvenile Justice Board (JJB) and inform the child/family accordingly.



Test Identification Parade (TIP)³: If the accused is a stranger and not known to the child before the offence was committed, the police may conduct a Test Identification Parade (TIP) to establish the accused's identity to ensure the actual offender is prosecuted.⁴ TIP is not required if the accused is known to the child or the child cannot identify the accused.

It is important to inform the child that their parents or guardian will be present during TIP and that they cannot prompt the child while the TIP is underway. The Support Person can intervene and recommend stopping the process if the child is asked to touch the accused, show the accused, or face the accused.



³.The Centre for Police Studies and Public Security, TISS and BPRD, Government of India (2018), [A Hand book on the Legal Processes for the Police in respect of Crimes Against Children, Page No. 97 & 98](#)
⁴. [Rakesh Kumar v. State](#) (Para 5)



6

FILING OF CHARGE SHEET

Following the completion of the investigation, a charge sheet or final report is to be prepared by the police and submitted to the Special Court/JJB basing on which the framing of charges is enabled against the accused. The police are required to complete their investigation into charges under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DA, 376DB and 376E of IPC within two months from the date on which the information was recorded by the officer in charge of the police station.⁵ However, no such timeline has been specified for offences under the POCSO Act.

The charge sheet will include the investigation findings, appropriate sections, medical and forensic reports, statements of the child and other witnesses, reports from the crime scene and all other relevant information about the case.

6.1

Role of Support Person

After completion of the investigation and when the charge sheet is filed, **the Support Person can:**

- Follow up with the IO on the submission of a charge sheet and, once submitted, request the IO to provide the details of the date and Case Number (Special Calendar Case number/ Criminal number) in court.
- Once the chargesheet is filed, the family can be guided to collect the charge sheet from the court free of cost.⁶ The IO can also be requested to provide a copy of the charge sheet from the police station.
- Stay in touch with the IO to get updates about the bail, the arrest status of the accused, and convey the same to the family.



Tips for Interacting with the Police

- 1 Carry a copy of the POCSO Act and Rules, 2020.
- 2 Introduce yourself to the Officer-in-charge of the local police station and explain your role in the case under the POCSO Act and Rules.
- 3 Check if the police are in receipt of the CWC order copy assigning the Support Person. If they are not, offer to share it.
- 4 Keep in touch with the SJPU/Police officer/IO to get timely information on the investigation of the case and provide updates to the child/family.
- 5 Be helpful and supportive of the investigation. Both you and the police have the child's best interest in mind.



5. [Section 173\(1A\), Cr.P.C. and Criminal Law Amendment Act \(2018\)](#)

6. Minor child represented by her father v. State, W.P.(Cri) 3822/2018 decided on 28.01.19 by the Delhi High Court



FROM The Support Person Case Files

“

We have noticed that police tend to be judgmental about older girls who have been involved in romantic relationships or when they run away from their homes. In one case, we were working with a 15 years old girl who would often run away from her home. The third time when she ran away, she faced sexual abuse. When the parents tried filing a missing person complaint, the police officer remarked to the parents, 'We are not here to only file missing complaints for your daughter. We have other work also.' We had a lot of conversations with that officer and other senior officers to tell them that the families have nowhere else to go, and they look to the police to provide them that help. Talking to them rudely or blaming them will not help the child.

— Support Person, Mumbai —

”

“

There was a recent case where there was a pending procedure in the police investigation, and they had to draw the site map as the IO did not do it while filing the charge sheet earlier. So, the IO wanted the child to be present there. Our colleague was there throughout the procedure to ensure that the police followed child-friendly procedures. We wanted to make sure that the child is not re-traumatised, the child feels safe, and their mental state is taken into consideration.

— Support Person, Delhi —

”

“

The family member accused in one of the cases was a very influential person. Because of the family pressure, the present family members were hesitant to get the statement recorded at their home. Understanding their situation, the IO arranged for a woman sub-inspector to record the statement in a secluded room in the police station. Within two days, all the procedures, including the medical examination, were done because of the police officer's proactiveness.

— Support Person, Bengaluru —

”



7

CHALLENGES & POSSIBLE SOLUTIONS

Shamu, a Support Person, receives a call about a case in which his 25-year-old neighbour sexually assaulted a 10-year-old boy. The family says the police are refusing to register the complaint. What can Shamu do in such a situation?

Shamu can draw the attention of the police to Section 21(1), POCSO Act and Section 166A(c), IPC and impress upon the officer that the police is obligated under the law to record the complaint. If the officer still refuses to register the complaint, Shamu can bring the matter to the notice of a senior officer or Superintendent of Police, in writing and by post, as per Section 154(3), Cr.P.C. If the case details indicate the commission of a cognisable offence, the Superintendent can either investigate the case or direct investigation to a subordinate officer. Suppose no response is received or action is taken even after the senior officers have been approached, Shamu can inform the child/family about their right to file a complaint before a Judicial or Metropolitan Magistrate or the Special Court. If the family cannot afford a private lawyer, Shamu can connect them to the District Legal Services Authority for Legal Support.

Lakshmi, a Support Person, observes that the officers of a police station routinely fail to adhere to child-friendly procedures. They repeatedly call children to the police station and do not allow the parents to be present when recording the statement. Although Lakshmi has drawn this to their attention multiple times, it has made no difference. What can Lakshmi do in such a situation?

Lakshmi can discuss the matter with her team members and meet with the Senior

Child Welfare Police Officer or Deputy Commissioner of Police (DCP) or Deputy Superintendent of Police (DySP) of the area to bring the lapses to the attention of the officer. Lakshmi can make a written submission to the officer, listing out the situations when the police officers had failed to follow child-friendly procedures as defined in Section 24, POCSO Act, 2012. Brief details of the case, along with FIR numbers, can be included. The senior police officer can take up the matter with the Child Welfare Police Officers of all the police stations in that jurisdiction.

Lakshmi must also be aware that she and her team members may have to approach the same local police stations for other cases and avoid confrontations with the police. Regular lapses on the part of police officers to follow procedures and time frames stipulated in the law and non-compliance of child-friendly procedures can be taken up by Support Persons with Unit Heads of police divisions and with District and State Heads of police.

Shikha, a 7-year-old, was allegedly raped by her neighbour. Shikha has an intellectual disability, and her parents are worried about the police interrogation. What role can the Support Person play when the child is very young or has a disability?

In this situation, the Support Person can try to ensure that the services of an expert/special educator are taken at all stages of investigation and trial. Police can be encouraged to reach out to the DCPU for the list of qualified experts. Younger children often do not have the vocabulary to describe what happened to the police. It may be suggested that the police use body diagrams to enable the child to communicate the nature of abuse/assault



Rumi and her family were getting threatened and blackmailed by the accused after they reported a complaint of sexual abuse with the police. The accused was out on bail. The Support Person was also threatened by the accused. In this situation, how can the Support Person assist the child and family?

The Support Person can inform the police regarding the threats received. The Support person can also file a complaint in the jurisdiction the threat was received and provide proof of such threats, if available. The Support Person can also assist the child and family in bringing it to the attention of the police in order to seek protection.

If no notice was given to Rumi and her family about the bail application, this should be brought to the notice of the Special Court. Under Section 439(1A), Cr.P.C, presence of the informant is mandatory during a bail hearing in cases of rape or gang-rape of girls below 12 years and girls below 16 years. The family can also be supported to access legal Support through the DLSA to challenge the grant of bail. The application for bail cancellation could be facilitated through the Special Public Prosecutor. The right of the informant to be present during bail hearings should be explained.

The Support Person can also inquire and assist the family in moving a Witness Protection Application under the Witness Protection Scheme⁷ approved by the Supreme Court or the State Witness Protection Scheme, as may be applicable.

Vishal's family told the Support Person that they felt that the police were delaying the arrest of the accused, despite seeming to have exact information on identity and whereabouts. What can a Support Person do in this situation?

The Support Person can enquire about the reason for the delay from the police and explain the concerns shared by the child and family. If the delay seems deliberate, the Support Person can also raise the issue with senior police officers.

Sometimes the police may need to find the current location of the accused or may or may not have information that could lead to the accused's accomplices and may be waiting for this information. There could also be a concern for possible backlash against the child and family and the police for securing their safety before arresting the accused, thus, leading to the delay. In such instances, police might not be able to share all the reasons with the family members, which could also be explained to the family.

7. [Mahendra Chawla vs Union of India ministry of Home, \(2016\) SC 156](#)



8

ANNEXURE 1

SJPU or the local police shall also inform the child and child's parents or guardian or another person in whom the child has trust and confidence about their entitlements and services available to them under the Act or any other law for the time being applicable as per Form-A. — **Rule 4(14), POCSO Rules, 2020.**

FORM A

ENTITLEMENT OF CHILDREN

who have suffered sexual abuse to receive information and services

1. To receive a copy of the FIR.
2. To receive adequate security and protection by police.
3. To receive an immediate and free medical examination by civil hospital/PHC etc.
4. To receive Counseling and consultation for mental and psychological well being
5. For the recording of statement of the child by a woman police officer at child's home or any other place convenient to child
6. To be moved to a Child Care Institution where the offence was at home or in a shared household, to the custody of a person in whom the child reposes faith.
7. For immediate aid and assistance on the recommendation of the CWC.
8. For being kept away from the accused at all times, during the trial and otherwise.
9. To have an interpreter or translator, where needed.
10. To have a special educator for the child or other specialised person where the child is disabled.
11. For Free Legal Aid.
12. For a Support Person to be appointed by the Child Welfare Committee.
13. To continue with education.
14. To privacy and confidentiality.
15. For a list of important contact numbers, including that of the District Magistrate and the Superintendent of Police.

Date:

Duty Officer
(Name & Designation to be mentioned)

I have received a copy of 'Form A'
(Signature of Victim/Parent/Guardian)

(Note: The Form may be converted in local and simple child-friendly language)



8

ANNEXURE 2

SJPU or the local police shall also complete the **Preliminary Assessment Report** in Form B within 24 hours of the registration of the First Information Report and submit it to the CWC.
 — **Rule 4(14), POCSO Rules, 2020.**

FORM B

PRELIMINARY ASSESSMENT REPORT

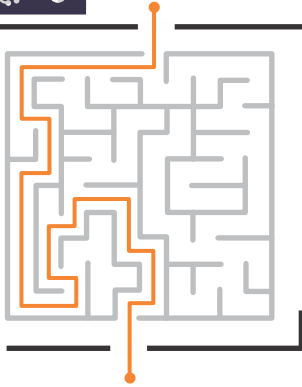
#	Parameters	Comment
1	Age of the Victim	
2	Relationship of the Child to the Offender	
3	Type of Abuse and Gravity of the Offence	
4	Available Details and Severity of Mental and Physical Harm/Injury Suffered by the Child	
5	Whether the Child is Disabled (Physical, Mental Or Intellectual)	
6	Details Regarding the Economic Status of the Victim's Parents, the Total Number of Child's Family Members, Occupation of Child's Parents and Monthly Family Income	
7	Whether the Victim has Undergone or is Undergoing any Medical Treatment Due to the Incident of the Present Case or Needs Medical Treatment on Account of Offence.	
8	Whether there has been a Loss of Educational Opportunity Due to the Offence, Including Absence from School Due to Mental Trauma, Bodily Injury, Medical Treatment, Investigation and Trial Or Other Reasons?	
9	Whether the Abuse was a Single Isolated Incident or Whether the Abuse Took Place Over a Period Of Time?	
10	Whether the Parents of the Victim are Undergoing any Treatment or have any Health Issues?	
11	Aadhaar No. of the Child, if Available.	

Date:

Station House Officer

chapter

4 Medical Intervention



1

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INFORMATION TO CHILD AND FAMILY
ON MEDICAL PROCESSES

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MEDICAL EXAMINATION, TREATMENT
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FORENSIC MEDICAL EVIDENCE

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WHEN A CHILD VICTIM IS PREGNANT

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IMPORTANCE OF ACCESSING
MENTAL HEALTH SERVICES

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CHALLENGES AND POSSIBLE
SOLUTIONS



The doctor has to assess the child's physical and mental health, treat, examine and collect medical evidence of a child victim of sexual assault. Children and families may have many fears and apprehensions regarding the medical processes, and a Support Person could help them through these processes.

“

I always found that when the Support Person is around, all other stakeholders like the doctors, police, are more interactive and empathetic to the child and family. Support Persons are the ones who keep the threads together; they are aware of what happens in the system so they can coordinate better.

Medical Practitioner, Bengaluru

”

1

INFORMATION TO CHILD AND FAMILY ON MEDICAL PROCESSES

Following an incident of sexual violence, a child might visit a hospital or medical facility on their own or with family or be taken there by the police after a case is registered under the POCSO Act.

The following information can be shared with the child and family before the examination:

- Explain the purpose of the medical examination and what to expect in simple terms and a language understood by the child and family. Support Person could tell the child and family:

"Before starting the medical examination, the doctor will request your consent. When the doctor speaks to you/your child, please share all the details you remember for the doctor to include in the medical report. The doctor may need to collect some samples from your body."
- If the child is upset and scared and does not seem ready to undergo the examination, the examination can be deferred for a short while till the child is ready.
- If clothes worn at the time of the assault have not been handed over to the police, inform the child/family to hand them over to the doctor.
- Inform the child that bath can be deferred until after the medical examination
- The child could be asked to inform the examining doctor if the offender had used a condom or any form of lubricant.
- The child can be encouraged to inform if any drugs/psychotropic substances or alcohol was given before or after the assault.

1.1

Relevant Legal Provisions

Section 21, POCSO Act, 2012

Any person who fails to report the commission of an offence under the Act will be punished with a term of 6 months imprisonment and/or fine/penalty.

Section 357C, Cr.P.C.*

Any medical facility, government or private, should provide medical aid and treatment free of cost to women (and girls) who have faced offences under Section 326 (Acid attack) and Section 376 (Rape), IPC, 1860.

*Amendment 2013



Section 357C, Cr.P.C. & Section 19 (1) & 20, POCSO Act, 2012

Hospitals are required to inform the police about an incident of sexual violence.

Section 166B, IPC

Person-in-charge of the hospital who is found to violate Section 357C of Cr.P.C. will be punished with a term of 1 year and/or fine.

Section 164A, Cr.P.C.

Explains the legal provisions governing medical examinations of victims of rape.

2

MEDICAL EXAMINATION, TREATMENT AND SAMPLE COLLECTION

Medical staff play an important role when a child has faced sexual assault visits or is brought to the medical facility. Several child-friendly provisions are in place through the laws and guidelines.

2.1

Relevant Legal Provisions

Section 27 (1), (2), (3) & (4), POCSO Act, 2012

The medical examination and treatment of a child can be initiated before a First Information Report (FIR) is registered.

The medical examination should be as per section 164 A Cr.P.C.

A woman doctor should conduct the medical examination in the case of a girl child. In the absence of a woman doctor, the examination can be performed by a male doctor in the presence of a female attendant.¹

The medical examination should be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence. Further reiterated in Rule 6 (2), POCSO Rules, 2020, is that doctors must protect the child's privacy when rendering emergency medical care.

In the absence of parents or any other trusted person, the head of the medical institution can nominate a woman to be present during the examination to give support to the child.

Rule 6(4), POCSO Rules, 2020

The Registered Medical Practitioner (RMP) rendering medical care needs to attend to the needs of the child, including treatment for cuts, bruises and injuries, treatment and prophylaxis for exposure to sexually transmitted infections (STIs) including HIV, possible pregnancy and referrals for mental health needs.

Rule 6(5), POCSO Rules, 2020

The RMP shall submit a report on the child's condition within 24 hours to the SJPU or local police.

¹. Ministry of Health and Family Welfare, Government of India (2014), [Guidelines & Protocols - Medico-legal care for survivors/victims of sexual violence, Page no 29](#)

**Rule 6(8),
POCSO Rules,
2020**

If the child is found to have been administered any drugs or other intoxicating substances, access to drug de-addiction programs needs to be ensured.

**Rule 6(9),
POCSO Rules,
2020**

If the child is a person with a disability, suitable measures and care shall be taken as per the provisions of The Rights of Persons with Disabilities Act, 2016.²

**Section
30(vi) &
Section
2(31),
JJ Act,
2015**

Where the child is in a Child Care Institution (CCI) and/or does not have a parent or family or they are unwilling to consent for medical procedures, the Child Welfare Committee (CWC) can recognise the person-in-charge of the CCI as a guardian.

**Section
164A,
Cr.P.C,
1973**

The medical examination of a victim of sexual violence has to be conducted by an RMP employed in a hospital run by the government or a local authority and in the absence of such a practitioner, by any other RMP.³

The medical report should specifically record the consent of the child or the person competent to give consent on their behalf. The medical examination should be conducted 24 hours from the time of receiving the information relating to the commission of a sexual offence.

**MoHFW
Guidelines**

Doctors have to seek written consent for the medical examination, sample collection and treatment of the child. When the child is over 12 years of age, consent will be taken from the child themselves, and if the child is below 12 years of age, parents' consent will be sought. If the child and the family does not consent for the medical examination, 'Informed Refusal' has to be documented by the doctor in writing and signed by the child/care-giver as per the Ministry of Health and Family Welfare Guidelines.⁴

2.2**Support Persons need to be aware of the following procedures by RMP**

- The medical procedures have to be explained to the child and family in an age-appropriate and sensitive manner by the doctor.
- Any injuries or any other medical conditions have to be attended to immediately.
- A detailed medical history and information about the incident/abuse to be obtained sensitively by the doctor from the child using age-appropriate language and using dolls, body charts and diagrams⁵ if required.
- Therapeutic (psychological and physical) care to be initiated, irrespective of the time elapsed between sexual assault and disclosure.
- Detailed medical examination to be conducted in the presence of the parent or guardian or person in whom the child has trust to assess and document the physical and emotional impact of the assault.

2. [The Rights of Persons With Disabilities Act, \(2016\)](#)

3. <https://devgan.in/crpc/section/164A/>

4. Ministry of Health and Family Welfare, Government of India (2014), [Guidelines & Protocols - Medico-legal care for survivors/victims of sexual violence](#) Page No. 24, 25 and 60

5. Ibid. Page no 18 and 26



- Body evidence, samples, swabs, blood and urine samples to be collected based on the history of the assault to test for STIs, possible intoxicants and pregnancy.
- Any physical or intellectual disabilities have to be taken into account during the examination and documented accordingly.
- Emergency Contraception and post-exposure prophylaxis for HIV to be prescribed, based on the history of assault⁶.
- The medical facility to intervene in cases of pregnancies of child victims by providing maternal care or to help in the Medical Termination of the Pregnancy (MTP), as decided by the child/ family.
- When a child victim comes directly to the hospital, the case is to be entered into the Medico-Legal register of the hospital and jurisdictional police station to be informed by the RMP.
- Chain of custody to be maintained and preservation of the samples, swabs and other medical/forensic evidence collected from the child victim as per prescribed protocols⁷.
- Upon receipt of requisition from the police, RMP has to hand over all materials and samples related to the case to the police officer in a sealed and signed manner. These will be sent to the Forensic Science Laboratory (FSL) for further analysis.
- The provisional medical opinion and the final medical opinion must be submitted to the police by the RMP.
- The RMP has to refer the child to an MHP if required.

“

We do not have separate wards. So, we have to examine them in labour rooms. Though we try to use screens, they get to see everything. And to see so many patients and so many attendees, the children get uncomfortable.

We don't have pacifiers like dolls and all; having that would be better. Even asking about body parts is very difficult, whether penetration has happened or fingering has happened. It isn't easy, so it is ideal to have dolls and all such tools to help them illustrate.

Given the high caseloads in our hospital, we find it challenging to spend the necessary time with victims of sexual violence. We are conflicted whether to attend to a medical emergency or to the child who has faced trauma....

Gynecologist, Government Hospital, Bengaluru

”

6. Ministry of Health and Family Welfare, Government of India (2014), [Guidelines & Protocols - Medico-legal care for survivors/victims of sexual violence](#) Page no. 23, 25 and 33

7. Ibid (Page 34)



2.3

Support Persons Can Ensure Child-friendly Medical Procedures

“

The most difficult point for me was when I took my child to the hospital. The child was made to repeat her trauma at the hospital., but I understand that they were just following the rules, and they had to ask the same questions. I could just watch and not do anything. The Support Person did tell stakeholders not to make the child repeat what happened and to not ask the same questions again.

— Parent of a Child Victim —

”

“

Children are more comfortable giving medical history once I take them to the room along with their mother. It is just communication and counselling. I tell the police not to come inside when I'm examining or taking the history of POCSO cases. We try to maintain privacy as much as possible.

— Medical Practitioner, Bengaluru —

”

- Request the doctor to examine the child in a separate room to ensure the child's privacy and comfort.
- Request the doctor to ensure the child's wellbeing and needs during the procedures. (Example: Doctor can check if the child is hungry and hasn't eaten if the child needs to use the restroom and if the child needs water.)
- Liaise with One-Stop Centers (OSCs) / Sakhi Kendra's/ Social Work department of the hospital to help the child access services in a more timely and organised manner.



One-Stop Centers (OSC)⁸ - The Ministry of Women and Child Development, Government of India, initiated the setting up of OSCs. The Centers are usually located in a government hospital. They are established to provide support to women (and girls) affected by domestic and sexual violence in private and public spaces within the family, community, and workplace to provide medical care at one location.

**Tips for Support Persons Before the Child's Medical Examination**

- 1** Advise the family to carry identification of the child such as an Aadhaar card.
- 2** Suggest the family to carry water and snacks as processes could be lengthy.
- 3** Request the family to carry age-appropriate activities for the child to keep the child engaged while waiting for the medical procedures. Support Persons can carry some themselves too.
- 4** Having a rapport with the district hospitals and health officials helps ensure quick and sensitive interventions at hospitals.



8. [Ministry of Women and Child Development, Government of India \(2017\), One Stop Centre Scheme](#)



“

Support Persons know when they have to bring the child for the follow-up...they will know where to get it done and when to come and approach us. With no Support Person, the mother may have to run around between departments. Support Persons stay in touch with us, so they know about our schedule, when does our shift end, and so they try to reduce the trauma of the child and parents.

Medical Practitioner, Bengaluru

”

2.3

Support Persons Can Ensure Child-friendly Medical Procedures

In the absence of any documents⁹ to establish the child's age, an age estimation test is undertaken. A Support Person needs to be aware of the following:

- Circumstances under which an age estimation (physical and sexual characteristics/dental examination/bone ossification) test needs to be conducted (**Section 94, Juvenile Justice (Care and Protection of Children) Act, 2015**).
- Coordination with police for a necessary requisition from either the Special Court, CWC or JJB, which states the reasons for conducting the age estimation test.

3

FORENSIC MEDICAL EVIDENCE

3.1

Relevant Legal Provisions

Section 27, POCSO Act & Rule 6(6), POCSO Rules

Any forensic evidence collected while rendering emergency medical care must be collected per Section 27 of the POCSO Act and (Rule 6 (6), POCSO Rules).

“

The evidence collected during the medical examination heavily influences the course of the investigation. The assault may not always leave visible physical evidence. Therefore, in addition to the child's evidence, which is often not as effective, the evidence of an expert medical witness during trial may be beneficial.

Professor of Forensic Medicine, Bengaluru

”

3.2

Forensic Medical Evidence Collected by Doctors

The likelihood of finding evidence after 72 hours (3 days) of a sexual crime is significantly reduced. However, it is better to collect evidence up to 96 hours in case the survivor may be unsure of the number of hours elapsed since the assault. If a victim reports within 96 hours (4 days) of the assault, all evidence, including swabs, must be collected.¹⁰

9. [The Juvenile Justice \(Care and Protection of Children\) Act, 2015, Section 94 \(2\)](#)

10. Ministry of Health and Family Welfare, Government of India (2014), [Guidelines & Protocols - Medico-legal care for survivors/victims of sexual violence, Page no 29](#)



Based on the nature of the assault that has occurred, some of the medical evidence that is collected from victims of sexual violence, notwithstanding gender, are:

The following information can be shared with the child and family before the examination:

- Clothes the child was wearing during the incident - air-dried and packed separately in paper envelopes, not plastic.
- Vaginal, anal, oral swab - depending on the nature of the assault.
- Any cells or scrapings of the nails.
- Pubic hair, hair, or other trace evidence from the accused, either on the victim's clothes or their body.
- Grass, dirt or other trace materials from clothes and footwear worn by the child at the time of the incident.
- Blood and urine samples to test for STI, HIV, pregnancy and intoxicants.

“

Most stakeholders assume that any form of sexual violence, including child sexual abuse, is limited to peno-vaginal intercourse, and they expect semen or blood evidence in every case. But child sexual abuse could be in various forms; penetration could be with objects or other body parts. Thus, there need not be obvious evidence visible. Non-penetrative forms of sexual violence are also quite common.

Often offenders are acquitted as there is no trace of evidence or injuries (when the injury is healed and the child seems normal), or the demeanour of the child has not been consistent, or if the child has adapted to the situation and has overcome it psychologically, and if the child is behaving normally. That is a very limited and fallacious understanding of trauma and what evidence really means.

Professor of Forensic Medicine, Bengaluru

”

4

WHEN A CHILD VICTIM IS PREGNANT

There have been several instances when minor girls have become pregnant following the assault/consensual relationship. The pregnancy could be detected at various stages and the pregnant girl may want to continue the pregnancy, give the baby for adoption or terminate it. The Support Person should be aware of the provisions and services available for a child under the Medical Termination Act (MTP Act), 1971 and the MTP (Amendment) Rules, 2021.

Few key provisions are:

- In cases where the pregnancy is alleged to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.
- The opinion formed by the RMPs that continuance of the pregnancy would involve a risk to the life of the pregnant woman or grave injury to her physical or mental health is considered.
- Due consideration is made by the RMPs that there is a substantial risk if the child were born, it would suffer from such physical or mental abnormalities to be seriously handicapped.
- The pregnancy of a minor (below the age of eighteen years), or a woman with intellectual disabilities, shall be terminated with the consent in writing, of her guardian.



4.1 Relevant Legal Provisions

MTP Act, 1971 & Rule 6(7), POCSO Rules

If the child is found to be pregnant, then the RMP shall provide the child and her parents the various legal options for termination or continuation of the pregnancy that are available to the child.

MTP (Amendment) Act, 2021

The Act inter alia modifies Section 3 of the MTP Act to extend the upper limit for medical termination of pregnancy to 24 weeks, from the present stipulation of 20 weeks, for certain categories of women which is defined the MTP Rules.¹¹

Section 30(vi), Section 2(31), JJ Act, 2015

Where the child is in a Child Care Institution (CCI) and does not have a parent or guardian or they are unwilling to consent for the MTP, the CWC can recognize the person-in-charge of the CCI as the guardian to provide consent for MTP.

4.2 Medical Termination of Pregnancy (Amendment) Act 2021¹²

The MTP (Amendment) Act, 2021 was notified across India on 24th September, 2021. The Act amends the Medical Termination of Pregnancy Act 1971 ('MTP Act') which regulates the conditions under which medical termination of pregnancy be pursued.

The key provisions of the newly amended Act are briefly mentioned in the table below.

Table 1: Comparison of provisions under MTP Act 1971 vs MTP Amendment Act 2021

Duration of Pregnancy	MTP Act, 1971	MTP Amendment Act, 2021
12 weeks or less	Permitted termination with the opinion of 1 RMP	Permitted termination with the opinion of 1 RMP
12-20 weeks	Permission of 2 RMPs required for MTP	Permitted termination with the opinion of 1 RMP
20-24 weeks	Provides for medical recourse to save the life of the pregnant woman	Permitted with the opinion of 2 RMPs
24 weeks or more	Medical termination to save the life of a pregnant woman is possible	Length of the pregnancy will not apply to MTP where such termination is necessitated by the diagnosis of substantial foetal abnormalities by a Medical Board [^] and where termination is necessary to save the life of a pregnant woman

[^] Medical Boards comprising of (i) a gynaecologist, (ii) a paediatrician, (iii) a radiologist or sonologist, and (iv) other members, as may be specified.

11. [MTP \(Amendment\) Rules, 2021](#)

12. [MTP \(Amendment\) Act, 2021](#)

“

After the process of MTP is done, we collect the Products of Conception and preserve it in a glass bottle with salt, refrigerate it and send it for DNA testing after securing police requisition and completion of other procedures. That needs to happen immediately, and this is where Support Persons play a huge role in coordinating with the police.

Medical Practitioner, Bengaluru

”

4.3

The Support Person's Assistance during MTP

With the child and family

- Facilitate consultations with a medical practitioner under Rule 6(7), POCSO Rules, 2020 and mental health professionals who can provide the legal options available to help the child/family decide.
- Assist the child during hospital admission and the MTP procedure.
- Can ensure child-friendly procedures are followed during the hospitalisation.

With the stakeholders

- Liaise between the doctor and the police to ensure that the necessary requisitions and documentation are in place.
- Liaise with the police and the RMP to ensure that Products of Conception (POC)¹³ are sent to FSL with required documents. The PoC can be stored by the RMP until the police arrive to take the same to the FSL within the stipulated time frame.
- Coordinate with the CWC of the district when the child is brought for MTP from other districts to higher medical

4.4

The Support Person's Assistance to a Child Continuing Pregnancy

- Assess whether the child's family/guardian supports the decision of the pregnant girl and accordingly attend to the medical, nutritional and emotional needs of the girl and her child.
- If the parent/guardian is not able to/not interested in supporting the pregnant girl, recommend her placement with a 'fit person' or CCI through the CWC.
- Coordinate with the CWC and District Child Protection Unit (DCPU) to ensure that the pregnant child receives necessary nutrition, other maternal benefits, access to sponsorship schemes and regular health checkups.
- Assist the girl, and the newborn baby in accessing sponsorship and neonatal care where the girl decides to keep the baby.
- If the girl requires assistance in surrendering the baby, facilitate the process with the CWC, as per Section 30 (xi) JJ Act, 2015.

13. Ministry of Health and Family Welfare, Government of India (2014), [Guidelines & Protocols - Medico-legal care for survivors/victims of sexual violence, Chapter - Medical examination and reporting for sexual violence](#), Page no. 34



“ Experience of Support Persons

There have been instances where doctors have gone beyond the line of duty and helped children during medical examinations and treatment. Doctors have even provided clothes, food and other needs in a few cases and followed up on the health and wellbeing of the child long after the initial examination.

— Support Person, Bengaluru —

We started intervening in a case five months back, where this boy was in a boarding school, and he came home and fell; he and his family took him to the doctor, and the doctor realised that there were wounds around his anus and this is how sexual abuse was discovered. It was their family doctor who very sensitively handled the entire situation - where he sat down and explained to the family what he means when he says there was sexual violence, and what would happen next.

— Support Person, Mumbai — ”

5

IMPORTANCE OF ACCESSING MENTAL HEALTH SERVICES

5.1

Relevant Legal Provisions

**Rule 4(3)(e),
POCSO Rules**

The police should inform the child and family about support services, including counselling.

**Rule 4(12),
POCSO Rules,
2020**

Monthly reports have to be submitted by the Support Persons to the CWC and must include information about the health, mental wellbeing, psychological care and counselling services provided to the child.

**Rule 6(4)(e),
POCSO Rules,
2020**

Wherever necessary, the doctor examining the child may make a referral or consultation for mental or psychological health needs, or other counselling, or drug de-addiction services and programmes.

Only qualified and trained MHPs (including counsellors, clinical psychologists and psychiatrists) should provide counselling and therapy to a child victim of sexual violence. MHPs offer a range of services, including:

- Counselling/therapy/treatment addresses trauma, fear, anxiety and other emotions that the child may be experiencing.
- Address possible feelings of guilt and shame that a child might be feeling.
- Handle the child's anxiety related to reporting the crime and the criminal justice processes.
- Support the child (and family) to decide on the pregnancy that has resulted from the sexual abuse.
- Help family members to come to terms with what the offender has done to their child.
- Provide tips to the family members to recognise signs and symptoms of trauma and suggesting coping mechanisms.



5.2 Assisting the Child Access Mental Health Services

- Try to gauge the child and family's mental health and refer them to available MHPs as required.
- Connect with the district hospital/or DCPU and access the list of MHPs in the vicinity.
- Facilitate the visits to or consultations with the MHP. The manner of conducting a mental health assessment of a child victim has been detailed in Chapter 5, Psychologists and Mental Health Experts, of the Model Guidelines.

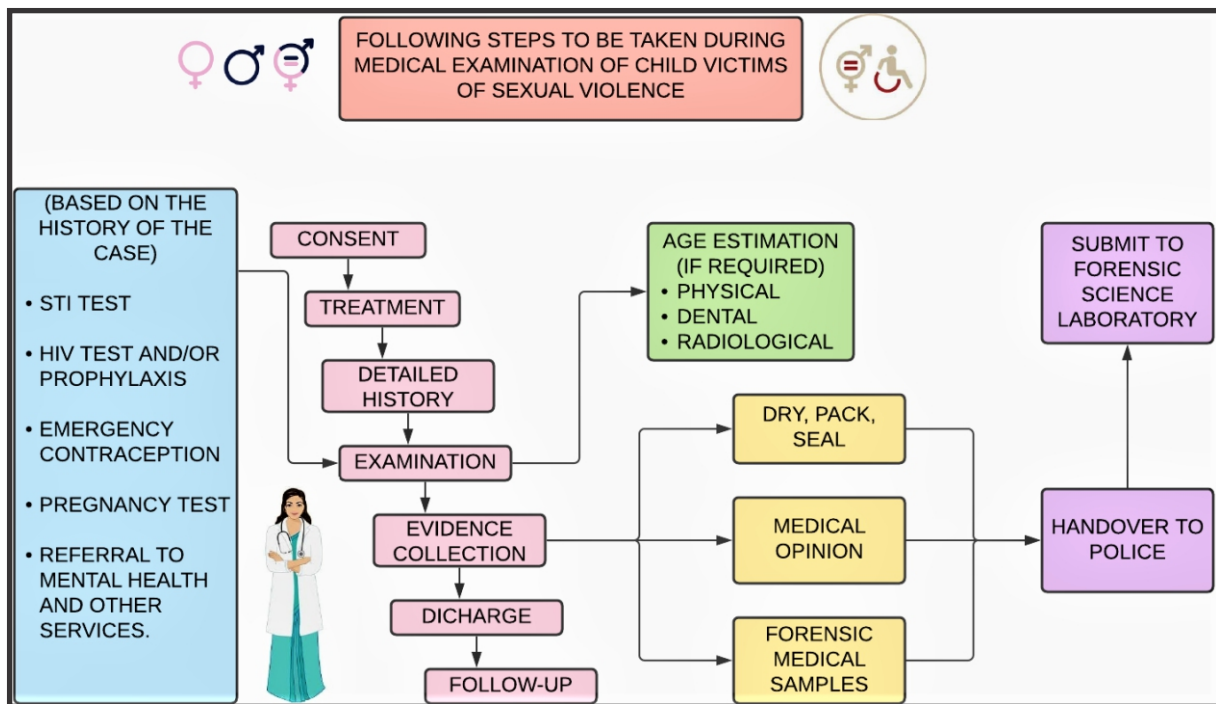


The accused and the family are very rich and influential. They were constantly pressuring us to withdraw the case. No one came to our support. The Support Person's presence and support gave us all the required strength to face multiple challenges. It reduced our worries and fears. My daughter is now very calm and composed. If I get disturbed, my daughter asks me to call our Support Person to seek help. The mental health of my daughter is much better. With the help of Support Persons, we are facing everything with courage.

Mother of a Child Victim



Medical Examination Process Diagram



Adapted by Enfold
 Source: User Handbook D'Souza, D. (2004). CEHAT,
 A Manual and Evidence Kit for the Examining Physician.



6

CHALLENGES AND POSSIBLE SOLUTIONS

Support Persons come across several situations/challenges when assisting children during the medical processes. Some of them are discussed below:

The resident doctor told the Support Person that since the gynaecologist was not on duty, the medical examination of the child could not be conducted, which delayed the procedure. What can the Support Person do in this situation?

The gynaecologist not being present was delaying the procedure and causing stress to the child and parent. The Support Person explained and shared with the concerned doctors that as per the MoHFW Guidelines¹⁴, any RMP can examine a victim of sexual violence. The resident doctor then conducted the medical examination.

Sourabh's parents were asked to pay money for the medical examination procedure and the treatment. The hospital refused to give the medical report to the family until the payment was cleared. What can the Support Person do when the family tells them about this?

In situations like these, the Support Person can coordinate with the Resident Medical Officer (RMO)/ Chief Medical Officer (CMO)/ Medical Superintendent of the hospital to make all treatment free of cost per Section 357C, Cr.P.C.

In such a scenario, the Support Person can approach the hospital administration and request the report on behalf of the family. As per the MoHFW Guidelines, the hospital must hand over a free copy of the medical report to the victim/family. Support Persons can also request the CWC/DCPU to intervene, especially when the medical reports are required to process compensation and financial relief.

Anju, a 17-year-old, was taken for a medical examination and refused to give her consent because she was in a romantic relationship with Sumit. She feared that if she underwent a medical exam, that might further implicate Sumit, which she did not want. What can the Support Person do in this situation?

Support Persons can request the doctor to ensure that the child's consent is taken before conducting a medical examination. Doctors can explain to Anju that the medical examination is done to make the case strong, ensure that the girl is medically fine, and check for any STIs and pregnancy. Post which, if the girl gives consent, they can do a medical exam. If she does not consent, the doctor can document the child's 'Informed Refusal.'

Sixteen-year-old Shweta wants to terminate the pregnancy, but her uncle (alleged accused and father of the baby) does not want her to go ahead with the termination. What can the Support Person do in this situation?

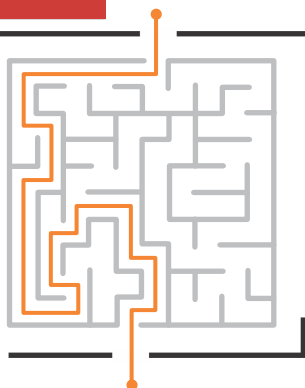
MTP Act considers only the consent of the pregnant individual. In the case of minor girls (below the age of 18 years), the decision to terminate the pregnancy rests with the girl, but the consent for the medical procedure has to be taken from her parents or her guardian when she is below 18 years.¹⁵ For a girl residing in a CCI, the Superintendent of the Institution is considered the guardian as per Section 2 (31) JJ Act.

14. Ministry of Health and Family Welfare, GOI (2014), [Guidelines & Protocols - Medico-legal care for survivors/victims of sexual violence](#), Page 8

15. Bhatia, G., (2018), [Oxford Human Rights Hub, Is Consent of the Husband Needed for an Abortion in India?](#)

chapter

5 Recording of Child's Statement by Magistrate



1

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STATEMENT UNDER
SECTION 164 OF Cr.P.C.

2

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SUPPORT PERSON'S ROLE
DURING STATEMENT

3

p49

CHALLENGES AND POSSIBLE
SOLUTIONS



The objective of section 164, Cr.P.C. is to provide a method of securing a reliable record of statements or confessions made during the police investigation, which could be used, if necessary, during the inquiry or trial. To record a statement before the Magistrate, the child may be entering the court premises for the first time. The court can be a frightening place for children, and they might have concerns about this process. Having a Support Person during the statement recording could make the child and family feel comfortable.

1**STATEMENT UNDER SECTION 164 OF Cr.P.C.**

The child's statement before a Magistrate is recorded under Section 164 Cr.P.C.¹ During this process, if the child witness cannot articulate and explain what happened, the Magistrate can make use of visual guides/diagrams and dolls to enable the child's statement.

1.1**Relevant Legal Provisions**

Section 164, Cr.P.C. Statement to be given by the child before a Judicial or Metropolitan Magistrate, preferably a lady Magistrate.²

Section 25, 26 POCSO Act, 2012 Refers to the recording of a child's statement by Magistrate and additional provisions regarding statement to be recorded, respectively.

Section 164(5A), Cr.P.C. Makes it mandatory that when offences under section 354, 354A, 354B, 354C, 354D and 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E and Section 509 under Indian Penal Code are committed, and the same is brought to the knowledge of the police officer, the officer is bound to take the victim immediately to the Judicial Magistrate for the recording of the statement.

2**SUPPORT PERSON'S ROLE DURING STATEMENT****2.1****Relevant Legal Provisions**

Section 25, 26, POCSO Act Explains how the child's statement is to be recorded by a Magistrate under Section 164, Cr.P.C.

Section 26(1), POCSO Act, 2012 Provides for a parent or any other person in whom the child has trust or confidence to be present during the recording of the statement. The statement is to be recorded as spoken by the child.

1. Kumari, B.S., Senior Civil Judge Rajam, (n.d.) [Scope and Relevance of Statements Recorded Under Section 161 and 164 of Cr.P.C.](#)
2. [State of Karnataka v. Shivanna, \(2014\) 8 SCC 913](#)



Section 26(2) & (3), POCSO Act	Allows for the assistance of a translator, interpreter, or special educator to facilitate communication with the child during the recording of the statement.
Section 26(4) & (3), POCSO Act	Requires the statement to be recorded using audio-video means, when possible.
Section 164(5A) (b), Cr.P.C. 1973	For a child with a temporary or permanent disability, the statement recorded by the Magistrate will be considered in place of the examination-in-chief, and such witnesses will not have to repeat it before the Special Court/Juvenile Justice Board (JJB).
Section 25(1), POCSO Act	The accused's advocate cannot be present when a child victim's statement under section 164 Cr.P.C. is being recorded.
Section 25(2), POCSO Act	The Magistrate should hand over a copy of the statement to the child after the final report (charge sheet/challan) is submitted by the police to the Special Court/JJB.

2.2

The Support Persons assistance during MTP

The Support Persons can explain the purpose of recording the child's statement before the Magistrate and accompany the child and the family to the court premises if required.

The Support Person can explain to the child - *"The Magistrate will ask you some questions about the incident. You may feel scared or confused as to why the Magistrate is asking all these questions. That is an opportunity that the law provides to narrate the incident, including what you may have forgotten to tell the police. You are safe here; your trusted adult(s) will be with you throughout."*

- Explain to the child that the statement will be recorded in the room; only the Magistrate and a typist, besides the child and the child's parent, guardian, or the person whom the child trusts, will be present.
- Reassure the child that the accused or their associates will not be present.
- Inform the child that if a question is not understood, clarification should be sought from the Magistrate.
- Inform the child and the trusted adult that the statement will be read back for their confirmation and that they should sign the document only once the statement has been read to them. If the child is below 12 years of age, the signature of the parent/trusted adult will be taken.
- Children below the age of 12 years are not required to take an oath³ before the Magistrate, if in the opinion of the court, such child 'does not understand the nature of an oath or affirmation.'
- Request the Investigating Officer (IO) to contact the District Child Protection Unit (DCPU) for referrals of experts, interpreters, translators, a special educator or any other expert so that arrangements can be made in advance.

3. Section 4(1)(c), The Oaths Act, 1969



Tips for Support Persons

- 1 Coordinate and confirm with the police regarding the date, time and location of where the statement will be recorded. Share those details with the family.
- 2 Request the parents to carry some age-appropriate activities, or a Support Person can bring them to keep the child engaged while waiting.
- 3 Suggest that the family carry water and snacks. The child can be asked to inform the Magistrate if a break is needed.
- 4 Request the police to pick up and drop the child and to not be in uniform, if possible.



“ Experiences of Support Persons during 164 Statement

In one case where the girl child was five years old, the Magistrate taking the statement was a male. He took consent from the child for the statement. He was patient and understanding. The child did not have any problem and soon warmed up and started talking freely. The Magistrate had the mother in the room, and a translator as the child could only speak her native language. Within no time, the child started talking about the abuse and replied to the Magistrate's open-ended questions. The statement was recorded in the Magistrate chamber in a very relaxed atmosphere and an unhurried manner.

Support Person, Bengaluru

There are several instances where Magistrates have not permitted the parent/guardian to be present while the statement was recorded, causing a lot of fear and anguish to the child. Generally, in our experience, the Magistrate speaks to the child alone, and neither the parent nor the Support Person is allowed to go inside the chamber unless the child requests or the child has a disability and requires assistance in the procedure.

Support Person, Bengaluru

For a particular case, even though I was not the appointed Support Person, I was requested to be present to help with recording the statement of a child with intellectual disabilities, as I am also a special educator. I requested some time to build rapport with the child, and the Magistrate obliged. I told the Magistrate if it is okay that she can pose the question to me, and I can then ask the child in a manner that the child will understand. The Magistrate was very kind and obliging.

Support Person, Bengaluru





3

CHALLENGES AND POSSIBLE SOLUTIONS

Support Persons face several situations/challenges when assisting children with the recording of statements under Section 164 Cr.P.C. Some of these challenges and the steps taken to address them are listed below:

The child victims were called to the court for recording statement, but it did not happen on the first instance due to reasons such as:

- (a) Interpreter, special educator, sign language expert not organised in advance;**
- (b) Magistrate not available, high caseload in court;**
- (c) Child unprepared to give statement and/or broke down.**

What can the Support Person do to avoid these situations?

Support Persons could prepare in advance by:

1. Coordinating between police and DCPU to engage interpreter/translator/special educator services, when required.
2. Coordinating with police to reconfirm availability of the Magistrate.
3. Explain the process in advance so the child is not caught unaware at the last moment.

Somu's statement before a Magistrate was recorded in the courtroom, not in the Magistrate's chamber. Somu felt strangers could overhear what he was saying and was upset. What can the Support Person do in this situation?

A request can be made to the Magistrate through the police, explaining Somu's concerns and recording the statement in the Magistrate's chambers. The Magistrate complies in most cases.

The Magistrate denied the presence of the child's (Smita) parent, guardian or trusted adult while the child's statement was being recorded. Smita was scared and refused to say anything before the Magistrate. What can a Support Person do?

The Support Person can allude to Section 26(1), POCSO Act, 2012, while requesting the Magistrate to allow the parent to accompany Smita. A separate request can be placed before the Magistrate recording the statement by the police, stating the concerns of the child and making reference to the provisions of the POCSO Act and Rules.

Prakash had sexually abused his daughter. Owing to the pressure from family and society, the mother did not support the child. The Magistrate insisted on having the mother with the child record the statement, resulting in the child visiting the court thrice, but the statement was not recorded. What can the Support Person do in this situation?

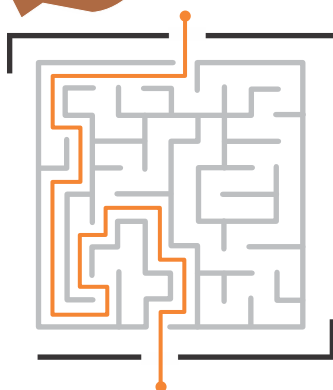
The Support Person can inform the Magistrate about the family situation of the child and why the Support Person was accompanying the child. In this particular situation, the Magistrate finally agreed to have the teacher who had filed the complaint be present while the child was giving her statement.

During COVID-19, with courts being shut, statements of children before the Magistrate were getting delayed.

In a few cases, statements before the Magistrate were recorded through video conference, and the police facilitated this. The police set up the laptop in different locations in different instances - in a room in a college, in an empty restaurant, a neighbour's house, the CPU's office or a community centre. The Support Person accompanied the child and stayed with the child during recordings as requested by the Magistrate. The police left the room once the Magistrate began recording the child's statement.

chapter

6 Engaging with the Child Welfare Committee



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ANNEXURE



Once informed about a case, a Support Person can ensure that the child's care, protection, and other needs, if any, are brought to the attention of the Child Welfare Committee and other relevant authorities. For a child without parental/familial support, the assistance of the CWC becomes key to enable access to protection, rehabilitation, reintegration, healing and justice to the child. As per Rule 4(8), POCSO Rules 2020, the CWC may, based on an assessment and with the consent of the child and family, appoint a Support Person to assist the child through the processes of investigation, trial and rehabilitation.

“

Support Persons are the linkage between the child, family and the legal system. They are familiar with the law and other procedures. They also provide a good network between different systems - CWC, the police, the district administration, legal services and the institutions. Many times, we find that the stakeholders may not prioritize the child's protection or needs. So, a Support Person can continuously follow-up on the process and suggest better alternatives to stakeholders keeping in mind child's protection.

CWC Member, Bangalkot

”

1**APPOINTMENT OF SUPPORT PERSON/ORGANIZATION**

To ensure the child victim's best interest, the CWC and the Support Person must work closely for sharing information and provide the child with the necessary assistance.

1.1**Relevant Legal Provisions****Section 29(1), JJ Act, 2015**

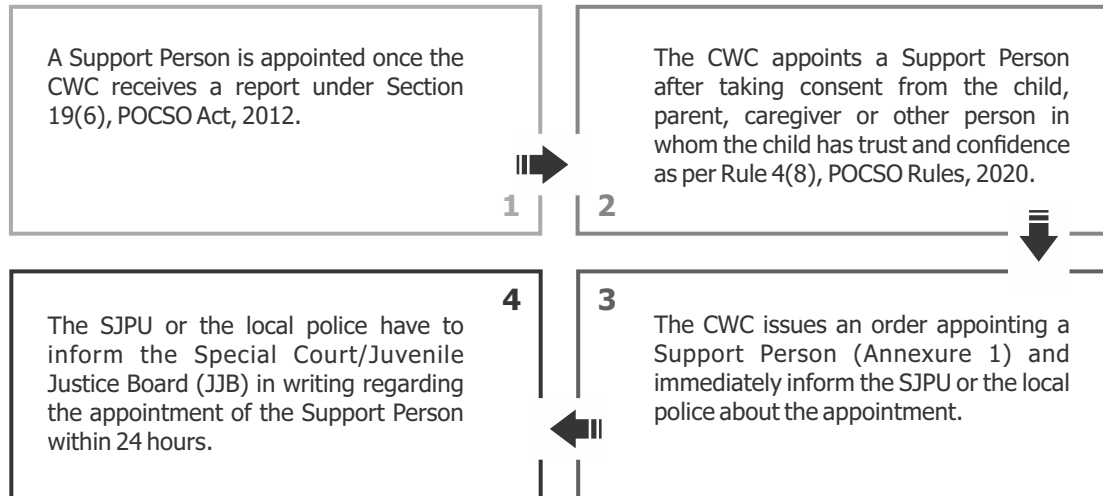
Child Welfare Committee (CWC) is a statutory body with authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection

Rule 4(8), POCSO Rules, 2020

The CWC can appoint a Support Person with the child's and their parent/guardian or other trusted adult's consent.

1.2**Process of Appointment of Support Person**

- Support Person/Organization should be appointed by the CWC, through an order, upon assessing whether such person/organization is suitable to perform Support Person/Organization functions for a particular case.
- Such an order should state that the Support Person/Organization should perform their duties per the POCSO Act and the POCSO Rules, 2020.
- A copy of the said order should be handed over to the Support Person/Organization appointed and the SJPU or local police should be informed.
- A suggested format for the appointment letter of Support Persons by the CWC is in **Annexure 1**.

**Fig.1: Procedure for Appointment of a Support Person****2****SUPPORT PERSONS' RESPONSIBILITIES**

POCSO Rules have defined the duties of a Support Person while engaging with the CWC.

2.1**Relevant Legal Provisions****Rule 4(8), POCSO Rules, 2020**

Rule 4(8), POCSO Rules, 2020 requires the CWC to inform the police immediately regarding the appointment of a Support Person.

Rule 4(12), POCSO Rules, 2020

Support Persons to submit monthly reports to the CWC till the completion of the trial.

Rule 4(11), POCSO Rules, 2020

The CWC can terminate the services of a Support Person. **(This has been elaborated in Chapter 2.)**

2.2**Role of Support Person with the Child and Family**

The Support Person can play a key role in facilitating convergence between the police and the medical facility/practitioner while also ensuring the child's comfort during this process.

In particular, the Support Person can:

- If the CWC refers a case, it will help to meet the child and family in the presence of the Committee so the child and family can get acquainted with the Support Person before giving their consent for such an appointment.
- Explain the role of the CWC and the reason for the child being produced before the CWC. Reasons could be:
 - The child needs care and protection.
 - Offender lives in the same or shared household as the child.



- Child is in a CCI and is without parental support.
- The child is without a home or parental support.
- Inform the child/family that the CWC will attend to the care and protection needs of the child, including education, healthcare and/or sponsorship.
- Reassure the child and family that all efforts will be made to reintegrate the child back with the family if the situation permits.
- Remain in touch with the child and family and visit the child in person at least once a month for follow-up.



2.3

Role of Support Person with the CWC

- Discuss case details and their intervention with the CWC and share any relevant documents pertaining to the case if the Support Person is already assisting the child before appointment by the CWC.
- Seek an order from the CWC appointing them as the Support Person in that particular case, and obtain copies of such order for submission to relevant authorities. Follow up with the CWC to ensure that the order appointing the Support Person is handed over to the police.
- Request the CWC to meet the child and family through video conference, teleconference if the child/family cannot visit the CWC in person.
- Liaise with the CWC to determine the day and time as to when the family appears before the CWC and convey the same to the family.
- The monthly reports submitted to the CWC are required to cover the condition, and care of the child, family situation, physical, emotional and mental wellbeing, progress towards healing from trauma and other details as suggested in the POCSO Rules can be listed.

A suggested **monthly report format is included as Annexure 2.**



If the child is in the care of CWC for short-term, we observe what happens in the next 1-2 months such as medical, age-determination of the child and counselling based on the case. If the child is pregnant and will stay in a CCI for extended periods, we identify an institution where she can reside, have the baby, and get some education/skill training. If the child is going to stay with the parents, we assess the child's living environment and monitor how the child is settling in. If the child requires long-term or extended care, the plan differs. Many of these interventions are also coordinated by the Support Persons.

CWC Member, Ahmednagar



Tips for Support Persons

- 1 Meet and introduce oneself to the CWC as a trained Support Person, with relevant documents and identification.
- 2 Bring lapses related to child-friendly procedures by any stakeholder to the CWC's attention for possible intervention.
- 3 Schedule a date for individual monthly reports for POCSO cases will be sent to the CWC and ensure it is sent accordingly.
- 4 Suggest to the family to bring food and water when coming for a meeting with the CWC if there is a wait.



**3****SUPPORT PERSON'S ROLE IN THE CHILD'S CARE AND PROTECTION**

The CWC determines the care and protection of a child in need. The Support person can assist with the process wherever required.

3.1**Relevant Legal Provisions****Rule 4(4) &(5),
POCSO Rules,
2020**

The CWC will conduct a detailed assessment of child victims' care and protection needs and make a determination¹ within three days, either on its own or with the assistance of a social worker, as to whether the child needs to be taken out of the custody of the child's family or shared household and placed in a children's home or shelter home.

**Rule 10(2),
POCSO Rules,
2020**

The CWC, assisted by the DCPU and Support Person, will facilitate the procedures for opening a bank account or arranging for identity proofs.

**Rule 8 (1),
POCSO Rules,
2020**

Special relief to be provided for contingencies such as food, clothes, transport and other essential needs, CWC may recommend immediate payment of such amount to any of the following:

- (i) the District Legal Service Authority (DLSA) under Section 357A or
- (ii) the DCPU out of such funds placed at their disposal by state or
- (iii) funds maintained under section 105 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

**Section 37(f),
JJ Act, 2015**

The CWC may pass sponsorship orders to provide supplementary support.

3.2**Role of Support Person with the Child and Family**

The Support Person can play a key role in facilitating convergence between the police and the medical facility/ practitioner while also ensuring the child's comfort during this process.

In particular, the Support Person can:

- Assist the child and family in opening bank accounts and obtaining identity proof documents to facilitate the transfer of compensation and fine amounts. Inform the CWC of the same.
- Where necessary, explain to the child and the family/guardian the reason why the CWC found it necessary to move the child to a Child Care Institution (CCI) - such information should be shared in a child-friendly manner :
 - *"It appears like your home may not be safe for you right now. What are your thoughts about this?"*
 - *"The CWC has assessed that you may be safer in a CCI for now; how does that make you feel?"*
 - *"Life in the hostel will be different from what you are used to. But you will be safe there. Do you have any concerns or questions?"*
 - *"I will drop in and meet you shortly. This is temporary until the CWC assesses your safety and wellbeing."*

¹.The JJ Act, 2015, Section 31



Social Investigation Report (SIR): A Support Person, in the capacity of a social worker associated with an NGO, may be requested by the CWC to conduct a Social Investigation in some cases where the child is residing in a CCI and submit a Social Investigation Report (SIR) according to Section 30(iii), JJ Act, 2015. SIR contains detailed information about the child's circumstances, the child's situation on economic, social, psycho-social and other relevant factors, and the recommendation thereon as defined under Rule 2(xvii), JJ Model Rules, 2016.

In the event of a SIR prepared and submitted by the social worker/caseworker/child welfare officer as per Form 22 of the JJ Model Rules, 2016, the Support Person appointed in that specific case can provide inputs to ensure that all relevant information is included and is accurate.

Individual Care Plan (ICP) : An ICP as defined in Rule 2 (ix) of the Juvenile Justice (Care and Protection of Children) Rules, 2016, Form 7 is submitted for cases by the caseworker of a CCI. The Support Person can assist the CCI and the caseworker for a particular case if requested and required by the CWC.



“ Experiences of Support Persons engaging with the CWC

As a Support Person, when I interact with the police or Magistrate since they know that CWC has some role and authority in the system, there is some sort of backing that I have. When we are appointed by CWC, it also helps us in speeding up the processes, getting information and helping the child.

— Support Person, Delhi —

We have sought the assistance of CWCs in coordinating inter-jurisdictional (inter-district and inter-state) cases. In cases where the child was from another jurisdiction or a minor girl was pregnant and required assistance with delivery or termination of pregnancy, we have helped in coordinating with district authorities like CWCs, DCPU and police in these jurisdictions. Assistance has ranged from ensuring shelter, access to healthcare, financial relief and child protection services.

— Support Person, Bengaluru —

It is for the CWC and the Support Person to discuss cases so that the child is able to avail provisions and services provided in the POCSO Act and the JJ Act, 2015. When a case is complex, the Support Person could initiate a case conference, where organizations and individuals trained / experienced in working with children are invited, depending on the facts and circumstances of that case, to deliberate the most suitable next steps, confidentially.

— Advocate, Child Rights Activist, Mumbai —





4

CHALLENGES AND POSSIBLE SOLUTIONS

Support Persons have shared several situations/challenges that they faced when working with the CWC. Some are listed below along with a possible way to address them.

Sapna, a 12-year-old from another state, was sexually assaulted in a district in Karnataka and became pregnant. Her parents needed to travel to the district to provide consent for the MTP and take Sapna back to her home state. How can a Support Person assist?

Through directions of the CWC in the district, Support Persons can contact the CWC in the state where Sapna's parents reside and get the DCPU of the parent's district to book tickets and facilitate their travel to Karnataka.

Sapna's return/repatriation to her home state has to be coordinated between the CWCs of the two states and financial relief and travel arrangements for the family. NGOs in other states, if any, can be contacted to enable such inter-district/inter-state coordination.

Reva was sexually assaulted by a religious head of the community, and a case was registered. The offender began to influence the mother to take the case back. What can the Support Person do?

The CWC requested NGO staff appointed as Support Person for this case to conduct a home investigation to assess Reva's safety. Once it was found that Reva would not be safe in her home, she was placed in a CCI. The CWC asked the Support Person to remain in touch with Reva, ensure her health care needs were met and accompany her to court for hearings. Any interactions between Reva and her mother were facilitated by the Support Person, with the permission of the CWC.





Seema is a 14-year-old girl who became pregnant following an assault by her mother's live-in partner. The mother approached the police to file a complaint and to have the termination of pregnancy done. What role does the Support Person play?

The CWC appointed a Support Person to help Seema during the MTP, visit her regularly, check if she was under threat or coerced, and assess if Seema resumed education. Following the termination of pregnancy, it became apparent that Seema's mother was trying to convince her daughter to turn hostile in court and promised Seema that the offender would marry her very soon. Based on the report of the Support Person, CWC decided to remove the child from the custody of her mother and place her in a CCI for her safety and continued education.

Anu, a 17-yr-old girl, was in a relationship with a 20-year-old boy and eloped with him. The boy had married the girl in a temple and consummated the marriage. Following the registration of the case, Anu was heartbroken when her 'husband' was arrested and did not want to return to her parents. She was placed in a CCI, and a Support Person was appointed. Anu's family was called to the CWC when she attempted suicide. Anu remained uncooperative throughout the investigation and turned hostile during the trial. She also refused to cooperate and speak with the Support Person. What can the Support Person do?

The Support Person approached the CWC, submitted their monthly reports on this case, and requested a termination from the case as Anu did not want to interact with the Support Person. However, since Anu's family struggled with the legal processes, the Support Person assisted them during the investigation and trial. The CWC called Anu, evaluated the case and tried to bridge the gap. Anu outright said she did not want a Support Person or any other help. The CWC discussed and issued a letter of termination.

When the child and family do not wish to continue the Support Person's services, the CWC can issue an order to terminate their services as per Rule 4(11), POCSO Rules, 2020 and inform the police and Special Court of the same.





5

ANNEXURE 1

SUGGESTED FORMAT FOR APPOINTMENT OF SUPPORT PERSON BY CWC

(Order of the CWC Appointing Support Person) (Fill in relevant details)

Child Welfare Committee, (Place)

(Constituted under section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and conferred powers of Judicial Magistrate of First Class under Code of Criminal Procedure, 1973)

(Reference No)

(Date)

Subject: Appointment of Support Person for child victim under POCSO Act, 2012.

Reference: (FIR no)

(Dated)

In compliance with Rule 4(8) of Protection of Children from Sexual Offences (POCSO) Rules, 2020 notified under Protection of Children from Sexual Offences (POCSO) Act, 2012, the Child Welfare Committee (CWC), (Place), has appointed (Full Name of the Support Person) to be the Support Person for the child named (Full Name of the Child) being the child of (Parent/s Full Name) in (FIR Number) at Police Station, (Jurisdiction), to render assistance during the process of investigation and trial.

(Full Name of the Support Person), henceforth referred to as the Support Person, will be the point of contact for matters relating to the coordination of the case and will discharge their duties as mentioned in the POCSO Rules, 2020 and other directions issued for this matter from time to time by the State Government.

Details of the Support Person

Full Name

Mobile Number

Email

It is hereby informed that the Investigation Officer (Full Name of the Investigation Officer) shall intimate the Hon'ble Special Court/Juvenile Justice Board-Protection of Children from Sexual Offences (POCSO) Act, 2012(Full Name of Hon'ble official/organisation) about the appointment of (Full Name of the Support Person) as the Support Person for the child, (Full Name of the Child), child of (Full Name of the Parent/s) within 24 hours of receipt of this order, as mandated under Rule 4(10) of Protection of Children from Sexual Offences (POCSO) Rules, 2020.

Kindly extend necessary cooperation to the Support Person in order to enable him/her in discharging of the above duties.

Thanking you,

(Seal of the Child Welfare Committee)

Chairperson

Members

CC:

1. Concerned Investigation Officer (IO) (Name), Police Station, (Jurisdiction)
2. District Child Protection Unit, (District)
3. (Full Name of the Support Person)



5

ANNEXURE 2

SUGGESTED FORMAT FOR MONTHLY REPORT FROM SUPPORT PERSON TO THE CWC - PART 1**CASE DETAILS**

Support Person Order (Y/N)		Support Person Name	
Source of Case Information		Police Station	
Victim's Name		FIR Number	
Victim's Age		FIR Date	
Date of Incident		Name of Complainant	
Mother's Name		Father's Name	
Charge Sheet Submission Date		Courthall Number	
School		Special CC Number	
Relationship with Accused		Age of Accused	

Brief Case Summary:

--

RECORD OF DATES OF FURTHER STEPS

Event	Date/s
161 Statement	
164 Statement	
Medical Examination	
Compensation Applied	
Bail for Accused	
Child's Evidence	
Sentence and Order	



5

ANNEXURE 2

SUGGESTED FORMAT FOR MONTHLY REPORT FROM SUPPORT PERSON TO THE CWC - PART 2

Child's Name

Date

District

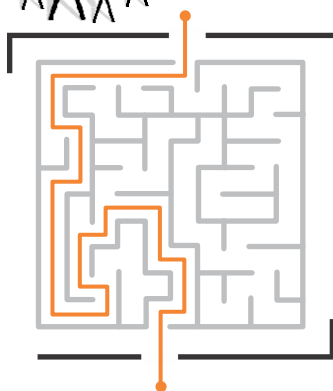
.....

CWC Case #

Case Status			
Location of the Child			
Name of Caregiver			
Condition and Care of Child			
Well-Being of Child	Physical	Emotional	Mental
Family Situation (Employment of family members/ caregiver, overall wellbeing of other family members)			
Child's and family's progress of Healing from Trauma			
Child's Engagement with Medical Facilities			
Mental Health Interventions for Child			
Rehabilitation: -Resumption/Continued Education of Child -Reintegration -Sponsorship			
Dates of interaction with the child/family during the month			
Special Remarks			

chapter

7 Rehabilitation and other interventions for the Child Victim



1

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SUPPORT PERSON'S ROLE
IN THE CHILD'S REHABILITATION

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CHILD'S PLACEMENT IN
A CCI FOR REHABILITATION

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CHALLENGES AND POSSIBLE
SOLUTIONS



The child victims and their families are likely to require access to a range of information and support that enables healing, closure, rehabilitation and reintegration during the investigation or judicial process and post the trial. The child and the family will need to be connected to social services, Mental Health Professionals (MHPs), legal aid, healthcare, and sometimes educational and vocational courses. The District Child Protection Unit (DCPU), the Child Welfare Committee (CWC) and the Support Person may be familiar with individuals, organisations, institutions, professionals and experts who provide the above services in their jurisdiction/district and can refer the child and the family as and when the need arises.

“

Rehabilitation needs to focus on assisting the normalisation of the child's life, the overall wellbeing of the child and recovery from trauma, extending psycho-social support to the child and family. This can be accomplished by referring to professionals and experts when required and coordinating with stakeholders for ensuring child-centric processes during rehabilitation.

Support Person, Bengaluru

”

1

SUPPORT PERSON'S ROLE IN THE CHILD'S REHABILITATION

A child who has faced sexual violence and is also navigating the criminal justice system might require extensive rehabilitation and support through the processes. This support may need to be continued even after the disposal of the criminal case (completion of trial) to facilitate/enable rehabilitation of the child.

1.1

Relevant Legal Provisions

**Rule 4(6),
POCSO Rules,
2020**

All recommendations concerning placement (CCI, foster care, adoption, reintegration with family, capacity of the parents, child's age, level of maturity, disability and other such factors) of the child have to take into account the preference/opinion expressed by the child and their best interest.

**Section 37(1)
& (2), JJ Act,
2015**

Orders that the CWC may pass concerning a child, including declaring the child in need of care and protection (CNCP), restoring the child to their family, placement in an institution or with a fit person or in foster care, sponsorship and declaring the child legally free for adoption.

**Section 39(1)
JJ Act, 2015**

Rehabilitation and social integration of a child shall 'preferably be through family-based care such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care'.

**Section 2(58),
JJ Act, 2015**

Defines sponsorship as the provision of supplementary support, financial or otherwise, to meet the education, medical and developmental needs of a child.

**Section 30 (xiii),
JJ Act, 2015**

CWCs to take action to rehabilitate sexually abused children and are reported as children in need of care and protection (CNCP) to the CWC by SJPU or local police under the POCSO Act, 2012.



1.2

Support Person can assist with the following as required

- **Safety and Security:** The Support Person, in coordination with the CWC, police and District Child Protection Unit (DCPU), can take appropriate steps for the child's safety and their family.
 - The Support Persons can help the child and the family find alternate residences and connect them with people who can support them to relocate.
 - **Health:** Based on the situation and conversations with the child, family members/guardians, the following can be looked into:
 - If the child is experiencing stress or trauma, refer them to a mental health professional.
 - If the child requires medical care, connect the child and the trusted adult with a doctor/hospital.
 - **Education:** Normalisation of the child's routine could often mean resuming education. The following can be pursued:
 - Ensuring resumption of/enrolling the child for education by ascertaining when the child is ready to resume school and facilitate the same. If the child has dropped out of school, the same can be discussed and resolved, and the child is encouraged to resume education.
 - Support Persons can assist the child in accessing the Education Department's sponsorship programs.
 - A Support Person can assist the child in obtaining admission in government-run residential, educational institutions like Jawahar Navodaya Educational Schools, Kasturba Gandhi Balika Vidyalaya or other state-run residential schools.
- Understand if the child is in proximity or under the influence of the accused and/or their associates and report to the CWC and the police.
 - On relocation, the Support Person should assist the child in accessing facilities such as education, health services, and Public Distribution System.
 - If the child is pregnant, connect the child with hospitals that can address the child's healthcare needs.
 - If the child is HIV positive or infected by Sexually Transmitted Infections, connect the child to services and organisations with the necessary expertise.
 - In case of financial difficulty, Support Persons can also connect with philanthropic organisations or individuals willing to sponsor the child or refer to the government scheme in their region to fund their education.
 - Exercise the child's right to receive free and compulsory education till completion of elementary education under the Right to Education Act, 2009.



Sometimes our work as a Support Person goes beyond the stipulated roles and the legal provisions, but we may have to, as the families might not know how to proceed. The parents of one of the children lived in a hut and did not have any documents. So to send the child to the school we had to liaison with the District Authority to get their Aadhar card made.

Support Person, Bengaluru





■ **Vocational Skills Training:**

- Where a child is not keen or cannot resume school, Support Persons can connect them with vocational training/skill development centres that help develop a skill that enables the child's financial independence.

■ **Assistance with Documentation:**

- Support Persons can help families obtain identity documents like Aadhar, PAN card, ration card, BPL card, and open bank accounts in coordination with and assistance from the CWC/ DCPU/CCI.

- Support Persons can make referrals to training institutions with the consent of the child and family, and also facilitate this process with the help of the CWC.

- The families can be assisted in collecting and organising documents related to the case, such as copies of the FIR, medical reports, statements and charge sheet.

“ **TESTIMONIES from the Child and Parents regarding Support Persons**

I was very concerned about my studies. I didn't know if I would study beyond 12th class. The Support Person helped me with sorting out everything - which college and what subject I should choose. They also helped find a good place to stay because the place I was staying in before was horrible. They also found a sponsor within 15-20 days for me. My sponsor has been looking after my tuition, boarding, and sometimes my other expenses. If I need any immediate help, they are there. When I tell them that I'm not able to study because of the case that is going on, they are always there for support.

— Child Victim, Bengaluru —

I don't have much worldly knowledge with a poor education background. In all matters, the Support Person has stood by me. In the court, a Support Person was present with us during the entire period of case proceedings. In the hospital they helped us for hospital expenses, discussing and coordinating with the doctors. Support Person's way of talking, behaviour, trustworthiness, the way they maintain confidentiality have given tremendous courage to me. For 3 months while I was in the hospital, attending to my child, the Support Person was able to mobilise money to pay the hospital expenses and my house rent.

— Mother of A Child Victim, Bengaluru —

Before meeting the Support Person, I didn't know about the case. I thought I would take my daughter back to the village. After meeting them, I felt strength inside and thought that I will not run away. I will educate my daughter. We thought we would leave because we didn't have anyone in Bengaluru, but not now. After meeting the Support Person and talking to her, we found strength. My daughter is admitted into school again and has been studying for 3 years now.

— Mother of A Child Victim, Bengaluru —





“ TESTIMONIES of Support Persons in the Process of Rehabilitation

In one of the cases, the girl's parents were also co-accused. The girl needed a lot of handholding and emotional support. In such a scenario, restoration is tough, but CWC and us were trying to reintegrate the child with parents. Through our intervention, she started talking to her elder brother.

Support Person, Bengaluru

For me, reintegration is not about 'normalising' life, it is a process and it means getting the child back into the whole system...whatever the child, the family needs, whatever the situation demands of - assisting them, getting them back into the swing of things.

Support Person, Chennai ”

2

CHILD'S PLACEMENT IN A CCI FOR REHABILITATION

A family is considered a safe space for children. JJ Act also reiterates that institutionalisation should be the last resort for any child. But there are instances where children face sexual violence within their homes and other places where they reside with their family members/guardians. Therefore, they may need to be placed in a CCI, either temporarily or long term.

2.1

Relevant Legal Provisions

Section 39(3), JJ Act, 2015

Children in need of care and protection who are not placed with their families for any reason, can be placed in a registered CCI or with a fit person or in a fit facility, on a temporary or long-term basis, and the process of rehabilitation and integration has to be undertaken wherever the child is placed.

Section 3 (xii), JJ Act, 2015

According to the General Principles, a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

Section 3 (xiii), JJ Act, 2015

According to the General Principles, every child in the juvenile justice system has the right to be reunited with their family at the earliest and to be restored to the same socio-economic and cultural status that they were in; only if such restoration and repatriation are conducive by providing a healthy and nurturing environment for the child.

2.2

Support Person's Role in Assisting Child Victim's Residing in CCI

- Can work with the CCI caseworkers through the process of investigation and trial.
- Can provide information to the CCI when they prepare the Individual Care Plan (ICP) and Social Investigation Report (SIR).
- Accompany the child during the investigation and trial and update the CWC.
- Keep the child informed about the progress of the case, submission of the charge sheet, the status of the accused and dates for evidence through the caseworker and when meeting the child in a CCI.



2.3 Restorative Practices as part of Rehabilitation for Children, Family and Caregivers

Restorative Practice is a process that is used to engage with children, families, the person(s) who have caused the harm, and the affected community, to understand the nature of the offence and take a path in which the main focus is on the healing of the victim and the family. The process focuses on changing behaviours, restoring relationships, acceptance and owning responsibility for actions. Experts can facilitate a restorative approach to repair broken relationships and enable all affected parties to move forward.

Restorative Approaches and Practices are not being advocated as an alternative to punishment for the offender. These practices should be resorted to healing a child's relationship with those not involved in the offence but did not believe the child at the first instance, thereby breaking the child's trust in such an adult. For example, when the accused is the child's father, and the mother initially did not believe the child – Restorative Approaches and Practices can play a significant role in restoring the relationship.

Restorative circles can also be adopted for abuse victims to facilitate the healing process with family members, in the CCI, with the staff and other children. Whatever be the situation, an assessment should be made as to whether the child will benefit from the restorative process – consent of the child should be sought when the child is of appropriate age.

“

In cases where the accused is from the same household, families are often shattered. The offender may be arrested in that case, and there is a gap between what the child wants, and what the non-offending parent and their siblings want. The children get a sense of relief after they testify in court because they recognise that the court heard them. But the child will have a lot of questions related to the support they receive from the family, or they are trying to process what has happened with them. I feel restorative processes may help in these situations to repair relationships and provide healing from the trauma.

Support Person, Delhi

”



3

CHALLENGES AND POSSIBLE SOLUTIONS

During the process of rehabilitation of the child, the Support Persons do face challenges, and a few are listed below.

Renu (the child victim) nor her mother have a bank account or valid ID to apply for compensation. How can the Support Person help them?

The Support Person contacted a local NGO working in this area and, with the help of a local corporator, assisted the child and her mother in getting the Aadhaar card done and opening a bank account. Following this, the child was able to get the compensation amount transferred from the DLSA to her bank account.

Support person with the help of the CWC and DCPU can also facilitate this process.

Seema, a 15-year-old, was abused by her father, and a case was registered. She was placed in a CCI for her safety, but she missed her family and often asked to meet them. Seema's mother worked two jobs to maintain her family with the father arrested and therefore could not keep Seema at home. Seema's brother also needed to be taken care of. Can the Support Person help with reintegration in this case?

After a home visit and after enquiring with Seema's neighbours, it appeared like Seema would be safe at her house. The Support Person recommended that the CWC send Seema back to her mother and pass orders for sponsorship for Seema and her brother to continue their education. Accordingly, Seema was placed with her mother, and the Support Person continued their follow up with the child and family.

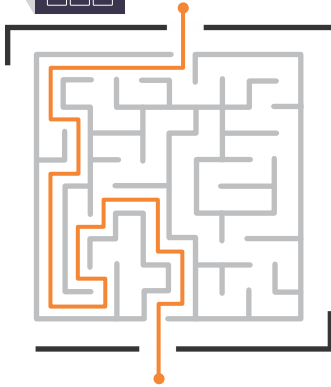
Following the reporting of a case against Chethan's uncle, who was supporting the family financially, the family faced great hardship. Chethan, who is 17-yr-old, was forced to take up a job to make ends meet and had to drop out of school. What can the Support Person do to help Chethan and his family?

The Support Person identified a government-run residential school and recommended to the CWC that the boy be placed here to ensure that he continues his education. The Support Person also assisted Chethan's parents to submit an application to the Special Court for interim compensation - Rule 9(1), POCSO Rules 2020, which was awarded within six months of the case being registered. Support Person can request the CWC to pass orders for Special relief for contingencies such as food, clothes, transport and other essential needs under Rule 8(1), POCSO Rules, 2020



chapter

8 Judicial Proceeding



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CHALLENGES AND POSSIBLE
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The POCSO Act, 2012 and Rules, 2020 specify the provisions of the Special Court, bearing in mind the child's best interest and in an attempt to make the procedure as child-friendly as possible. Despite the provisions, the courts can still be an unfamiliar and often scary place for children to be, given the sombre environment and the presence of many adult strangers around them.

A Support Person can ensure that the procedures provided under the POCSO Act, 2012, are followed in the Special Courts and provide assistance of necessary human resources and adequate legal representation for the child victim.

1

THE SPECIAL COURT/JJB TRIAL

The Support Person can assist a child and family in preparing for the judicial proceedings.

1.1

Relevant Legal Provisions

Trial proceedings of cases under the POCSO Act are governed by the Code of Criminal Procedure (Cr.P.C.) and the POCSO Act.

**Section 28(1)
POCSO Act,
2012**

To facilitate speedy trials, the Sessions Courts or Children's Courts in each district, under the Commissions for Protection of Child Rights Act, 2005, should be designated as Special Courts for the trial of offences.

**Adult
Offender**

When the alleged offender is an adult (over 18 years of age), the trial is conducted in the Special Court.

**Section 34(1)
POCSO Act**

When the alleged offender is a person below the age of 18 years and is considered as a Child in Conflict with the Law (CCL), the inquiry is to be conducted by the JJB as per Section 34(1), POCSO Act.

**Section 32(1)
POCSO Act**

The State Government should appoint a Special Public Prosecutor (SPP) for each Special Court to prosecute cases under the POCSO Act. SPP should be a lawyer who has "been in practice for not less than seven years" as per Section 32(2), POCSO Act.

**Section 35(1),
POCSO Act**

Section 35(1), POCSO Act, provides for the Special Court to record the evidence of the child within 30 days of the Court taking cognisance of the case.

**Section 40,
POCSO Act**

Section 40, POCSO Act, allows a child to avail the assistance of a legal practitioner of their choice for any offence under this Act. If the family or the child's guardian are unable to afford such a lawyer, the District Legal Services Authority (DLSA) shall provide a lawyer to them.



1.2 Support Person's Role Before the Trial

- Request the police officer to provide the courtroom number, the Case number and SPP details.
- Inform the child and the family of the provision to appoint an independent lawyer and assist them with appointing such a lawyer or a free legal aid lawyer through the DLSA if the child/family requests for one.
- Visit the court and meet the SPP for the case and facilitate a meeting between the child and family/guardian and the SPP before the child's evidence.
- Connect with the police, SPP, and court clerk to keep track of the case status.

1.3 Support Person's Role Related to Bail

The child and the family have a right to be informed about bail proceedings of the accused under Rule 4 (15) (viii), POCSO Rules, 2020, Section 439 (1A), Cr.P.C.. The Support Person can be present during a bail hearing and provide the requisite information to the SPP and child's lawyer to make submissions to the Special Court if found necessary. In addition, the Support Person can:

- Seek updates regarding the filing of the bail application by the accused from the Investigating Officer and/or SPP to ensure that the child's lawyer /and/or child's family is present during the hearings and while orders are being passed. Update the child and family regarding the same¹.
- In the event the accused is granted bail:
 - Obtain a copy of the bail order from SPP or child's lawyer, hand it over to the family, and explain the same.
 - Inform the CWC and seek protection for the child if needed when the accused is a family member and is released on bail.
 - Inform the police and the SPP/child's lawyer if the accused is found violating bail conditions and the child/family is threatened or approached.
 - Convey bail cancellation requests from child/family to the SPP/child's lawyer and coordinate with the police.

“

Many times the children have asked me - "What if the person comes out on bail?" "Why is the accused getting out on bail?" It's very difficult to explain to a child why a person, who's done something wrong, has the right to be granted bail. But we need to be realistic with the family in terms of telling them that bail is largely dependent on the Court and that we will try to ensure their rights are not violated... Having this kind of honest conversation with the child and family really helps.

Support Person, Delhi

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1. HAQ, Centre for Child Rights, (2021), [Practice Note - Rights of Complainants in POCSO Bail Applications](#)



1.4

Support Person’s Role in Preparing the Child for Evidence

- Follow up on the date of the child's evidence either by checking the E-court portal or by confirming with the SPP or jurisdictional police station if a summons has been issued to the family.
- Prepare the child and the family for the upcoming court hearings by giving them information, clarifying the role of the Support Person, the SPP, and responding to their queries.
- Any specific concerns/requests expressed by the child/family members about the court procedures should be communicated to the SPP and the Special Court so that the child does not suffer undue hardship. For example, to postpone the date of a child's evidence if it is during a school examination or if the child is unwell.
- If the child requires a special educator, translator, any other experts such as a Mental Health Professional (MHP) or sign language experts, request the SPP to apply to the Court in advance for the same. Arrange a meeting between the expert and the child before the date of the evidence to familiarise the child with the expert.
- Inform the child and family that they might have to go to the Court more than once for an examination-in-chief and cross-examination, and that adjournments may occur.
- A Support Person can prepare the child for evidence by asking the child, 'Do you remember what happened to you and what you had said to the police officer when the case was getting registered? The judge will ask you questions about this. So, please try and refresh your memory.'



At the Court the accused, who was a family friend and known to the child, tried to offer us some amount and asked us to close the case. But I did not want to take the offer, rather (I wanted to) proceed with the case. The accused had betrayed our trust; hence I shared my feelings with the Support Person and on hearing me the Support Person encouraged me to proceed with the legal action.

Mother of A Child Victim



2

DURING AND AFTER THE TRIAL



2.1

Relevant Legal Provisions

**Section 32(2),
POCSO Act**

The SPP and the lawyer for the accused, during examination and cross-examination, have to communicate their questions to the judge of the Special Court, who will, in turn, put the questions to the child.

**Section 33(3),
POCSO Act**

The Special Court can permit frequent breaks for the child during the trial as per Section 33 (3), POCSO Act.



Section 33(4) POCSO Act, 2012	The Special Court is required to create a child-friendly atmosphere by allowing a family member, guardian, friend or relative in whom the child has trust and confidence to be present during the child's evidence.
Section 33(5) POCSO Act, 2012	The Special Court has to ensure that the child is not called repeatedly to testify in Court.
Section 33(6), POCSO Act, 2012	The Special Court should not permit aggressive questions or character assassination of the child and maintain the child's dignity at all times during the trial.
Section 33(7), POCSO Act, 2012	The Special Court has to ensure that the child's identity is not disclosed during the investigation or the trial.
Section 36(1) & (2), POCSO Act, 2012	The Special Court should ensure that the child is not exposed to the accused during the time of recording child's evidence, while also ensuring that the accused can hear the statement of the child and communicate with their advocate. To enable this, the Special Court may record the child's statement through video conferencing or by using single visibility mirrors or curtains.
Section 37, POCSO Act, 2012	The Special Court should try cases <i>in camera</i> and in the presence of the child's parents or any other person in whom the child has trust or confidence.
Proviso to Section 37, POCSO Act	Where the Special Court is of the opinion that the child needs to be examined at a place other than the Court, it should issue a commission following the provisions of Section 284 Cr.P.C.
Section 38 (1) & (2), POCSO Act, 2012	The Court may take the assistance of a translator, interpreter, a special educator or any other expert during the recording of the evidence of the child if needed.



2.2

Support Person's Role During the Child's Evidence

Following are procedures and protocols that the Support Person should keep in mind:

- Reconfirm with SPP or through police about possible adjournments because of reasons like Judge/SPP on leave, Court holiday or vacant Court to avoid unnecessary visits to the Court for the child and family.
- Confirm if the child can attend Court on the given date. If for any reason (exams, illness, trauma or fear) the child cannot give evidence on a specific date, request SPP to seek another date.
- Request/facilitate a meeting between the child and family and the SPP on the morning of the evidence to reassure the child and family.



- On the first date of the child's evidence, the child and family could be anxious.

The following can be said to calm them:

"You may be feeling anxious or afraid. The law has child-friendly procedures. We will also be there with you to support you as the trial progresses."

"The SPP and the lawyer representing the accused will be there in the Court. The judge will ask you questions. If you don't remember or understand something, don't make up answers just because a person is asking you repeatedly. Address all your answers to the judge instead of the SPP or defense lawyer."

"The judge or the SPP may ask you to identify the accused in Court during your evidence. The accused will be standing away from you. This is part of the process to identify the accused."

- Give an overview of the day, starting with the court premises, the courtroom, the scenes they will witness in court premises, including coming across the accused, others in handcuffs, police and strangers.

- Keep the child away from the courtroom and from facing the accused and/ or their associates while waiting for the case to be heard. If there is a designated waiting room for children, the child can be taken there. Request the police constable on duty to call the child to the courtroom only when their case is called.

- Inform the child of the available arrangements in the courtroom, such as a screen or enclosure for the accused to ensure that the child does not come face-to-face with the accused.

- The Support Person should assure the child that a family member and Support Person will be present in the courtroom when the child's testimony is being recorded. Those not connected with the matter will be asked to leave the courtroom.

- If the child feels uncomfortable or feels exhausted, communicate the same to the SPP, who can request the Court for a break or give another date for continuing with the proceedings.



Vulnerable Witnesses Deposition Centers (VWDC)

Some court complexes have separate VWDC/child-friendly areas with activities and toys, waiting rooms, toilet facilities and video conferencing. However, this infrastructure is available only in a few district courts in a few states.



In Delhi Saket Courtroom, we have something called the vulnerable witness complex, where there are designated rooms for children who come to testify. The entrance to this courtroom is very private, and children don't have to sit outside the main courtroom. This is all done to reduce the child's fear to testify and reduce the risk of the child running into the accused or the family of the accused. They also have many things in the room, like games and drawing books and everything that is child-friendly.

Support Person, Delhi





“ Experiences of Support Person During Trial

After the case is registered at the police station, I do not wait for the chargesheet to be submitted. I meet the SPP and inform them about the case and facilitate a meeting with the child so a comfortable relationship with the public prosecutor is developed. This also allows for the Support Person to engage with the SPP with regard to bail proceedings which might happen before the charge sheet.

Support Person, Bengaluru

I have kept the child engaged while waiting in Court by asking them 'Do you have friends, what do you all do together? And when you come back from school, what is your routine?' Slowly at some point of time, I'll say 'You know why we are here, right?' and I'll draw them back a little bit to tell them about the process and what is required of the child. 'Do you remember what happened? They are going to ask you about that.' If the child has visited several times, Support Persons could say 'Hopefully this will be the last time that you will have to tell what happened. I'm sorry you have had to come so many times.

Support Person, Bengaluru

As Childline, we are called as witnesses in certain cases and receive summons from Court. Also, when we get to know the dates for the child's evidence, we guide the child about the process. We assist them and also explain about the role of a Special Public Prosecutor and also insist that the SPP meets them before the trial. The child is prepared for trial and in case the child is not comfortable to give their evidence in the courtroom, we encourage the child and family to request the judge for recording evidence through video-conferencing.

Support Person, Bengaluru

In Karnataka, once the Spl CC number is assigned, the status of the case can be checked through the Electronic Court (E-court) portal by referencing the Special Case number and/or FIR number, especially in Bengaluru district. The portal also has information related to the accused, stage of the case, upcoming dates of hearing and uploads the testimonies of key witnesses. We use this platform to know and share information with the child and family.

Support Person, Bengaluru

”

2.2

Support Person's Role During the Child's Evidence

- In the event of the child/family being aggrieved by the Special Court's final order/judgement, the Support Person can explain the reasons for acquittal of the accused and inform them regarding the pros-and-cons of challenging the order and to facilitate in preferring an appeal, if the child/family so wish.
- If the accused is acquitted, the Support Person should address the safety concerns of the child and family.
- In cases where judgements have ordered final compensation, the Support Person can pursue this with the DLSA to expedite speedy awarding.



Tips for Support Persons

1 Support Persons must not socialise with the Judges or SPPs of Special Court/JJB. The defence lawyers can challenge such interactions as conflict of interest.

2 Request the child's parents to carry age-appropriate activities to keep the child engaged while waiting to be called for the hearing. If necessary, the Support Persons may themselves bring such activities.

3 Suggest to the family to carry water and snacks to the Court when waiting.

4 At the end of the day's proceedings, explain what progress was made in the case, what happens next and when.



3

WHEN A CASE IS BEFORE THE JJB

3.1

Relevant Legal Provisions

**Section 34(1),
POCSO Act,
2012**

If a child allegedly commits an offence under the POCSO Act, the child will be dealt with under the provisions of the JJ (Care and Protection of Children) Act, 2015.

**Section 8(1),
10(1),
JJ Act, 2015**

When the alleged offender is a minor (below 18 years of age), the inquiry is to be conducted by the JJB as per the procedure under the Juvenile Justice Act (2015). The police are required to produce the alleged offender before the JJB.

3.2

Support Person's Role Before the JJB

- Crucial for the Support Person to acknowledge that both the victim and the accused are children.
- Submit a copy of the Support Person appointment order to the Public Prosecutor (PP) of the JJB.
- Accompany the child victim to the JJB for evidence.
- Engage with PP for trial-related matters and update the child and family accordingly.
- Ensure confidentiality and privacy for both the victim and the alleged offender.
- Ensure that the alleged offender and the victim do not come face to face in the JJB.
- Similar child-friendly procedures to be followed as in POCSO Special Courts regarding human resources, procedures and time frames.
- Assist the child/family to submit a complaint to the JJB or the PP if there are any violations of child-friendly processes.



3.3

Challenges Faced During POCSO Cases Before JJB

- Children's evidence gets delayed for years, matters are getting adjourned repeatedly, and bail is also inordinately delayed.
- Families are mostly ignorant of the status of the trial and who their lawyers (PP) are.
- There is no proper coordination between JJB, Police and the families.
- In most cases, JJBs are not following the child-friendly provisions of the POCSO Act. For example, CCL and victim are in the same physical space while waiting for the case to be called; during the child victim's testimony, there was no proper screen to shield victims from offenders.
- Support Persons were not permitted to attend JJB sitting, even if the Support Person produced an appointment order from CWC.
- Support Persons were struggling to get the case status from the JJB.
- JJB was not ordering compensation to the families, especially interim compensation.

In districts where the members of the JJB are approachable, a Support Person can bring the issues to their attention and have them addressed at the district level. In situations where issues cannot be resolved at the district level, a Support Person can bring them to the attention of state officials and before the High Court Juvenile Justice Committee for resolution.

4

DISPOSAL OF CASES BY SPECIAL COURT

4.1

Relevant Legal Provisions**Section 35(2),
POCSO Act,
2012**

As far as possible, the trial shall be completed within one year, from when the Special Court takes cognisance of the offence. However, there can be several instances when trials have extended well beyond one year.

Some Reasons for Delays Observed by Support Persons

- Accused untraceable or absconding after being released on bail.
- Witnesses, including child victims and family, untraceable or absent for hearings.
- Investigating Officer and/or other expert witnesses absent because of being transferred or not receiving summons on time.
- Presiding Officer transferred or on leave.
- SPP not assigned to the Special Court.
- Delays in receiving reports from State Forensic Science Labs.
- Child unable to attend court because of exams, illness, trauma of the sexual violence or fear of the criminal justice system.
- Child victim's refusal to testify against the accused due to their 'romantic' relationship.
- Family unable to accompany child due to illness /trauma or other reasons.



5

CHALLENGES AND POSSIBLE SOLUTIONS

Support Persons have shared several situations/challenges that they faced during the judicial proceedings. Few are listed below.

When Anshu, a Support Person, comes to speak to the SPP about a particular case, he realises that the police had not informed the Special Court about a Support Person being appointed. What can Anshu do?

Anshu can proactively submit a copy of the CWC's appointment order to SPP, with a request to include the same in court proceedings and inform the Presiding Officer of the same.

When 8-year-old Smita is called to give her evidence in the Court, the Presiding Officer disallows her mother's presence during Smita's evidence. Since the father was the accused, the Presiding Officer cites the reason that the mother is a prosecution witness. What can the Support Person do in this case?

The Support Person can help the child and family make a written submission to the SPP in this regard to allow the mother's presence, referring to Section 33 (4), POCSO Act, 2012. The Support Person can also suggest that the mother's evidence be recorded before the child's evidence so that she can be present in Court when the child deposes.

6-year-old Suman cannot identify the accused in the Court since ten months have elapsed since the incident. What can the Support Person do?

The Support Person can inform the SPP in advance that due to the lapse of time and/or the young age of the Suman, the child may not be able to recognise the accused and request the SPP to bear this in mind while the child is asked to identify the accused in Court.

The SPP is uncooperative and is telling the family that the case is weak. SPP also suggests that the case might end in an acquittal and hints that the family could compromise the case. What role can a Support Person play in this scenario?

The Support Person can make attempts to communicate with SPP to understand their reasons for telling the family that the case is weak/to be compromised. If the SPP is still unsupportive, the parents can be assisted to submit a letter to the Directorate of Prosecutions to address the issue or change the SPP, if required. If SPP does not cooperate, the Support Person should raise the same with the Chief Public Prosecutor of the Sessions Court or the Directorate of Public Prosecution or the Secretary of the Department of Law and Parliamentary Affairs.



Sita, a 16-year-old, has an intellectual disability (mental age of a 3-4-year-old) and is called to give her evidence in Court. Parents are apprehensive and share their concern about Sita's inability to depose in Court. How can the Support Person assist Sita?

Being aware of the possible challenge in understanding Sita, the Support Person can request the SPP in advance to seek the services of a special educator or mental health professional to interpret what Sita wishes to communicate.

The Support Person can assist SPP to submit to the Special Court that the child witness be exempted from giving her examination-in-chief in this case. The statement made before the Magistrate can be used in the place of the examination-in-chief in accordance with Section 164(5A)(b), Cr.P.C.

Jamuna, a 14-yr-old, was asked questions by the counsel appearing for the accused while recording her cross-examination. Some of the questions were aggressive bordering on character assassination which resulted in her feeling re-traumatized and upset. Because she broke down and started crying in court the hearing was adjourned and moved to another date. She did not want to come back to court again to complete her cross examination. What can be done by the Support Person and the Prosecutor in a situation like this?

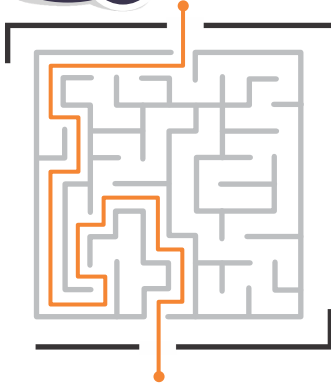
The Support Person can consult with the Prosecutor and a submission can be made in court that the questions cannot be asked directly to the child and instead submit the questions in writing to the Special Court which in turn can be put to the child by the Judge as mandated in Section 33 (2) of the POCSO Act. Regarding the aggressive questioning since it is a violation of Section 33(6) of the POCSO Act the Special Court can be requested to reprimand and object to this practice by the defence counsel and ensure the dignity of the child be maintained at all times during the trial.

The child can be taken for counselling or therapy to recover from the trauma and adjournment may be sought until she is ready and comfortable to come back to the court again for continuation of her cross examination.



chapter

9 Compensation and Special Relief



1

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ACCESSING COMPENSATION AND SPECIAL RELIEF

2

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OTHER FINANCIAL RELIEF

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CHALLENGES AND POSSIBLE SOLUTIONS



While the child or the family cannot be compensated for the trauma of the incident, the amount received as victim compensation can be critical for a child's welfare and rehabilitation. Timely payment of special relief, interim and final compensation to the victim eases the child and the family's financial burden. It often supports the child and family to return to normalcy gradually.

1**ACCESSING COMPENSATION AND SPECIAL RELIEF**

Children and families are often unaware of their entitlements to compensation under POCSO Act and other state schemes. The Support Person can play an enabling role in assisting the child and family in accessing such compensations.

1.1**Relevant Legal Provisions**

Children and families are often unaware of their entitlements to compensation under POCSO Act and other state schemes. The Support Person can play an enabling role in assisting the child and family in accessing such compensations.

**Section 357A,
Cr.P.C.**

Every State Government should 'prepare a scheme for providing funds as compensate to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.' Compensation is payable irrespective of whether the accused has been traced or not and regardless of whether the offender was convicted, acquitted or discharged. Compensation is to be ordered by the Special Court, and the quantum of compensation has to be determined by the District Legal Services Authority (DLSA) or the State Legal Services Authority (SLSA).

**Section 33(8),
POCSO Act,
2012**

The Special Court should, in appropriate cases, order payment of fine, in addition to the punishment of imprisonment. The compensation may be awarded to the child for any physical/mental trauma caused to the child and for immediate rehabilitation of the child.

**Rule 9(3),
POCSO Rules,
2020**

The Special Court has to take into account relevant factors related to the loss or injury suffered by the child such as type of abuse, gravity, the severity of physical and mental harm suffered by the child including getting infected with sexually transmitted infections or a disability as a result of the offence, expenses incurred for the child's medical treatment, loss of educational opportunity, whether the child became pregnant as a result of the offence, loss of employment, relationship to the offender, frequency of the abuse, and the financial condition of the family.

1. 357A Cr.P.C.

The Centre for Police Studies and Public Security, TISS and BPRD, Government of India (2018), [A Handbook on the Legal Processes for the Police in respect of Crimes Against Children](#)

**Rule 9(2),
POCSO Rules,
2020**

The Special Court may recommend the award of additional compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.

**Section 357A,
Cr.P.C., 1973,
& Rule 9(4),
POCSO Rules,
2020**

The compensation ordered by the Special Court is to be paid by the DLSA from the Victims Compensation Fund or from another scheme or fund established by it to compensate and rehabilitate victims.

**Rule 9(5),
POCSO Rules,
2020**

The State Government shall pay the compensation ordered by the Special Court within 30 days of receipt of such order.

Interim Compensation**Rule 9(1),
POCSO Rules,
2020**

The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation.

**Rule 9(1),
POCSO Rules,
2020**

The Special Court can pass the order for interim compensation for relief or rehabilitation of the child at any stage after registering the First Information Report (FIR). Such compensation will be adjusted against final compensation, if any.

**Rule 9(6),
POCSO Rules,
2020**

Nothing in the POCSO Rules prevents the child or child's parent or guardian or any other person whom the child trusts, including the Support Person, from applying for seeking relief under any rules or scheme of the Central Government or State Government.

**Rule 10(1),
POCSO Rules,
2020**

The Child Welfare Committee (CWC) shall coordinate with the DLSA to ensure that any amount of fine imposed by the Special Court under the Act is to be paid to the child victim.

1.2**Support Person's Role with the Child and Family**

- Inform the child and their family of the government assistance or relief schemes available to them, especially the victim compensation scheme.
- If the child is eligible for compensation, convey the same to the parent and assist them in submitting an application before the Special Court/JJB through the Special Public Prosecutor (SPP). The Support Person can also apply for compensation on behalf of the child, providing all details, especially when the child may not have familial support.
- Understand the factors for which compensation is required for a particular child. For example, the child and family's relocation due to threats and presence of stigma in their former locality due to the accused's influence.
- Help the child and family submit relevant documents such as the FIR, Medical Reports, income proof for compensation to the administering authorities like the office of Department of Women Child Development/Social Welfare Department/DLSA.



1.2

Support Person's Role with the Child and Family

- Inform the child and their family of the government assistance or relief schemes available to them, especially the victim compensation scheme.
- If the child is eligible for compensation, convey the same to the parent and assist them in submitting an application before the Special Court/JJB through the Special Public Prosecutor (SPP). The Support Person can also apply for compensation on behalf of the child, providing all details, especially when the child may not have familial support.
- Understand the factors for which compensation is required for a particular child. For example, the child and family's relocation due to threats and presence of stigma in their former locality due to the accused's influence.
- Help the child and family submit relevant documents such as the FIR, Medical Reports, income proof for compensation to the administering authorities like the office of Department of Women Child Development/Social Welfare Department/DLSA.

1.3

Support Person's Role with Stakeholders

- Coordinate and follow up with DLSA (state compensation scheme) and SPP (Special Court) and communicate the application status to the child and the family, and subsequently with DLSA for release of funds.
- Interim compensation can be paid at any stage and is not linked to the child's evidence. The Support Person can seek the SPP's help to have the interim compensation passed at the earliest.
- Support Persons can follow up with the DLSA to release such funds once the Special Court passes the order of interim or final compensation.
- Follow up with the CWC regarding any financial relief ordered for the child.



National Legal Services Authority (NALSA) Scheme²

The NALSA Scheme applies to women survivors of sexual assault and other crimes. The SLSA and the DLSA are responsible for implementing the scheme at the state and district level. In *Nipun Saxena v. Union of India*, W.P(C) No. 565/2012 order dated 05.09.18, the Supreme Court held that the NALSA Scheme should serve as a guideline for Special Courts awarding compensation to victims of CSA.

THE NALSA SCHEME: FEW SALIENT FEATURES

The SLSA Compensation Disbursement

As direct deposit in a bank in the joint or single name of the victim/dependent(s).

If the victim does not have any bank account, the DLSA concern will facilitate the opening of a bank account in the victim's name.

If the victim is a minor along with a guardian, or the minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian.

If the victim is a foreign national/refugee, the compensation can be disbursed as cash cards.

The Final Compensation Amount

75% (seventy-five per cent) of the same shall be put in a fixed deposit for a minimum period of three years;

The remaining 25% (twenty-five per cent) shall be available for utilisation and initial expenses by the victim/dependent(s), as the case may be.

In the Case of A Minor

80% of the amount of compensation so awarded shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.

In exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/ DLSA.

If in FDR form, the interest on the sum shall be credited directly by the bank in the savings account of the victim/dependent(s) every month, which the beneficiary can withdraw.

Interim Relief

The SLSA/DLSA, as the case may be, may order for the immediate first-aid facility or medical benefits to be made available free of cost.

Any other interim relief can be made (including interim monetary compensation) as deemed appropriate to alleviate the victim's suffering. (On the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/ dependents or suo motu)

As soon as the SLSA/DLSA receives the application for compensation, a sum of Rs.5000/- or as the case warrants up to Rs. 10,000/- shall be immediately disbursed to the victim through a preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary, SLSA.

The interim relief granted shall not be less than 25% of the maximum compensation awarded as per applicable schedule, which shall be paid to the victim in totality.



2. [National Legal Services Authority \(NALSA\) scheme](#)



Tips for Support Persons

1 Assist the child and their family in opening a bank account in the child's name (a joint account with parent) as soon as possible.

2 Check with the DCPU/CWC for the State's compensation/relief schemes available for the child's immediate medical/incidental expenses.

3 Meet the officials of DLSA and DCPU in their district to enable smoother coordination when applications for compensation are submitted.



2

INFORMATION ON OTHER FINANCIAL RELIEF

Some states have set up schemes to pay financial relief to children and their families to meet immediate expenses. Information regarding schemes of other states can be found on the websites of the relevant states. Some of these schemes are mentioned below.

2.1

Relevant Legal Provisions

**Rule 8(1),
POCSO Rules,
2020**

Special relief: The CWC may recommend immediate payment of Special Relief towards contingencies such as food, clothes, transport and other essential needs, as required at that stage:

- (i) the DLSA under Section 357A
- (ii) the DCPU out of such funds placed at their disposal by state, or
- (iii) funds maintained under Section 105 of the JJ Act, 2015 (2 of 2016)

The special relief recommended by the CWC is to be paid by the District Legal Service Authority (DLSA) under Section 357A, Cr.P.C., 1973 or the District Child Protection Unit (DCPU) under Section 105 of the JJ (Care and Protection of Children) Act, 2015.

**Rule 8(2),
POCSO Rules,
2020**

The special relief payment must be made within a week of such recommendation from the CWC.

2.2

State-specific Schemes

Apart from the victim compensation paid by the DLSA under the NALSA Scheme, some states have specific schemes for children and women who have faced sexual violence. (Protocols and dispensation may vary from state to state.) A few are listed below:

- **Karnataka:** Bala Nyaya Nidhi
- **Maharashtra:** Manodhairya scheme
- **Uttar Pradesh:** Rani Laxmi Bai Mahila Samman Kosh
- **Kerala:** Aswasanidhi Child Protection Scheme



“ Experiences of Support Person in Accessing Compensation for the Child & Family

We know that victim compensation is prescribed by law, but when we apply for victim compensation on behalf of the child with the SPP assistance, there have been questions raised by the Judge asking, "Why do they need money? They look fine.

Support Person, Delhi

I followed up with the District Legal Services Authority for interim compensation. Usually, they are very cordial and concerned for the child and family and regretted the delay in processing the order of the Special Court, because of lack of funds.

Support Person, Bengaluru

In many cases, the victim had gotten married to the accused after turning 18. If the girl crosses the age of 18 while the case is still going on, the court feels that there is no need for compensation because the girl will turn hostile. It's not the fault of the court.

District Child Protection Unit, Karnataka ”

3

CHALLENGES AND POSSIBLE SOLUTIONS

Despite the POCSO Act and Rules making provisions for compensation and special relief, the child and family face challenges accessing them. Several situations/challenges that have been met by the child and the family in accessing victim compensations have been listed below:

Reena is the Support Person in a case where the trial has been going on for over four years. She is following up for compensation as the family was facing a lot of problems financially. What can Reena do?

Reena can ascertain if the Special Court has passed orders for interim compensation. She can check the same with the SPP. The Support Person can refer to Rule 9(1), POCSO Rules, which allows the Special Court to order interim compensation.

Suppose the Special Court has passed orders, but the amount has not been awarded to the child and family even beyond 30 days (as stipulated in Rule 9(5), POCSO Rules). In that case, the Support Person can bring the matter to the attention of the Member Secretary of the DLSA cases. Non-payment of compensation to child and family and delays in making such payment can be brought to the attention of higher

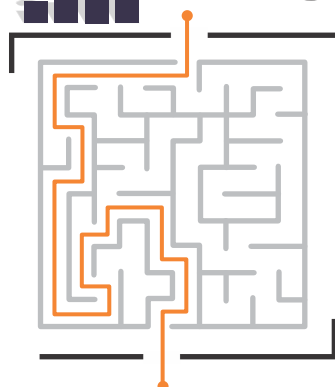
authorities like State Legal Services Authority (SLSA), High Court Juvenile Justice Committee and the State Commission for the Protection of Child Rights (SCPCR).

Anju and her family were being called to the DLSA repeatedly to process the application for compensation, submit and sign documents, and sometimes to verify them. What can Anju's Support Person do in this situation?

The Support Person can approach the Member Secretary of the DLSA and explain how the frequent visits to the DLSA were causing great hardship to the parents who are daily wage workers and the child who missed school during those days. Support Persons can understand from the DLSA what documents and information are required from the child and family and assist them in submitting the same to the DLSA.

chapter

10 Challenges faced by Support Persons



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APPOINTMENT AFTER COMPLETION OF INVESTIGATION



To be a Support Person, one requires a multitude of skills, aptitude, professional, and personal values. Support Persons also need to have the ability to work sensitively in high pressure and demanding situations. Support Persons have experienced various challenges while interacting with stakeholders, namely absence of prompt action by referral services, demand by child/family that are not consistent with their duties as a Support Person.

1**SHORTAGE OF TRAINED SUPPORT PERSONS**

With a limited number of Support Persons identified, trained and appointed in most districts across the country, the following issues have arisen:

- There is a low Support Person to child ratio, resulting in one Support Person being appointed in more cases than they can manage.
- Not all districts have Support Persons, and, in some states, they find themselves working in neighbouring jurisdictions too.
- In some districts/states, stakeholders in the system might be overdependent on the Support Person for providing rehabilitation and other victim assistance services.
- There is a lack of training and capacity building for Support Persons; they too require mentoring and support when providing constant support to children/families.
- Lack of remuneration which does not attract people to become Support Persons.

Possible solution: Support Persons can request the Child Welfare Committee (CWC) and/or District Child Protection Unit (DCPU) to identify and train more Support Persons from NGOs, Childline, DCPU staff, previous CWC members and Para Legal Volunteers.

“

When there is an increased caseload on Support Persons, they are not able to report to us in the prescribed time. We feel there are very few well-trained, confident and educated Support Persons available. For instance, the number of Support Persons in my district is very low. So, how many cases can we refer to the few available Support Persons?

CWC Member, Ahmednagar

”

2**LACK OF CLARITY IN ROLES WITH CHILDREN IN CCI**

There may be confusion in roles and boundaries between the Support Person and Social Workers/Caseworker/Child Welfare Officer, especially in cases of children living in Child Care Institutions. A Support Person is appointed in a case with the consent of the child and family and is required to support them in their journey through the criminal justice system. If such a child is in a CCI, the Social Caseworker/Child Welfare Officer is equally involved with the child's welfare and rehabilitation under the juvenile justice system during their stay in CCI and follow-up after that. Sometimes there is an overlap between the roles performed by the Caseworker/Social Worker and the Support Person, leading to accountability issues.



Possible Solution: It is important that the Support Person on being appointed identifies the needs of that child/family per the POCSO Act, and prepares a note relating to this and discuss with the CWC to ensure that there is no overlap of roles with caseworkers/social workers of the CCI who may be otherwise engaged with the same child/case. If the child is in a CCI, discuss with the other functionaries so that each person's role is defined and does not overlap and accountability is ensured.

3**UNTRACEABLE FAMILIES**

Victims of sexual violence may lose touch/ go out of contact; the families may change their place of residence owing to stigma and discrimination associated with the abuse or fear of threat from the accused. Follow-ups and getting in touch with the child and family for procedures under the Criminal Justice System becomes a challenge in such cases. The services that the Support Person can provide to the child and family become limited.

Possible Solution: The Support Person should build a rapport with the child/family so that they do not break contact and inform the Support Person in the event of any shift, permanent or temporary.

Support Persons can inform the Police, the CWC and Special Public Prosecutor about the inability to contact the child or the family. Once the police are able to trace them, the contact with Support Persons can be reinitiated, but only if the child/family so desire.

4**THREAT TO SAFETY OF SUPPORT PERSONS**

There may be instances where the Support Person receives threats from the accused and/or their associates. The physical and emotional safety of Support Persons should be taken into consideration and attended to. For ways to address this situation, please refer to Chapter 4 on Challenges and Solutions.

Possible Solution: Support persons should first communicate with the police station that deals with the POCSO cases and seek their intervention in coordinating with the police station under whose jurisdiction the threat was made to submit any evidence they have to substantiate the same. The same can be brought to the notice of the SPP also.

5**MENTAL HEALTH OF THE SUPPORT PERSONS**

Support Persons work very closely with the victims of sexual violence. Such an engagement might expose some people to possible triggers (vicarious trauma) affecting their mental health, relationships, physical health, and overall well-being. Support Persons often find themselves getting involved with the child victim and family, and in some instances, professional boundaries get blurred. The Support Person may become exhausted by taking on more responsibility or overstepping boundaries.



Possible Solution: Some strategies shared by Support Persons and other stakeholders to safeguard Support Person's emotional and general well-being are:

- Discussing and debriefing about their experiences and challenges with team members and others in this profession,
- Seeking regular interventions such as counselling or therapy and identifying one's coping mechanisms.
- It is also essential that the Support Persons know when to step back so that the family can identify other coping mechanisms and support systems.
- Having a candid/explicit conversation with the family at the very outset about the role and the extent of Support Person involvement.

Example: *"There are certain limitations with regard to the extent to which we can assist you. But we will help you in seeking the services of experts and organisations working in mental health, legal matters as and when required."*

- To establish some clear boundaries, Support Persons can also say:

"Just as you do not go to school on Sundays and spend time with your family at home, similarly we also need to keep some personal time for ourselves and our families. Unless it is really important or an emergency, please avoid calling past regular working hours/holidays."

“

Since we work so closely with the families, boundaries get blurred. We consciously talk to the child and family every few months about their expectations. We also constantly sit together as a team and reassess if we are taking away the family's agency. It's important for us to help them make their own decisions or do the things by themselves and not be dependent on us.

Support Person, Mumbai

”

6

INSUFFICIENT REMUNERATION

A Support Person may need to spend a lot of time with the child and family, travel to the residence of the child, accompany them to the police station, hospital, court on multiple occasions, thereby incurring many expenses. Most states have not set up a mechanism to remunerate Support Persons, which may be an obstacle to dispensing their roles. Existing practices indicate that the amounts currently being paid to Support Persons are quite low. In a few states, Support Persons from NGOs are paid by the DCPU from the JJ Fund. These are one-time payments ranging from Rs. 1,000/- to Rs. 2,000/- per case per year. In other states where the Support Persons are Para Legal Volunteers, the District Legal Services Authority pays them on a per-day basis as per the amount notified for PLVs by the State Legal Services Authority.

The support person's work is paramount for the welfare of the child victim, and this inadequate remuneration limits the capacity of Support Persons to fulfil their roles in the long run. The system must acknowledge Support Persons as professionals, having skill and experience, and not as altruistic/charitable volunteers. Due to the paucity of remuneration, only those employed with NGOs and receiving salaries can come forward to act as Support Person, thereby limiting the number of Support Persons.

**Possible Solution:**

- Financial remuneration for services of Support Persons needs to be strengthened. This can motivate individuals to take up the role of a Support Person so that even professional social workers are encouraged to seek appointments as Support Persons.
- Rules 5(7) and (8), POCSO Rules, 2020 defines how a Support Person is to be remunerated (Refer Chapter 2). Few states are setting up a mechanism to remunerate Support Persons and other experts based on these Rules. Rajasthan has notified guidelines for the payment of Support Persons and other experts. The other States can also be encouraged to do the same. (Rajasthan State Bal Mitre Yojana)
- Support Persons could approach the CWC and DCPU in their jurisdiction to follow up on any notification regarding remuneration from the concerned departments/state administration, and the same can be expedited with the concerned state department.

7**LACK OF CONVERGENCE WITH STAKEHOLDERS**

A Support Person has to interact and collaborate to bring about convergence between stakeholders to discuss cases, systemic challenges and possible solutions. With limited or no convergence between stakeholders and Support Persons, children do not get access to the services they are entitled to. There is also a lack of awareness among some of the stakeholders regarding the provisions under the POCSO Act and Rules and the role of Support Persons, making it challenging to bring about such a convergence.

A few challenges and solutions related to specific stakeholders have been discussed in the other chapters.

Possible Solution:

- Support Persons should be proactive and adopt innovative methods to interact with other stakeholders to ensure the interest of the child. The Support Persons should be confident about the significance of their role in safeguarding the rights of a child.
- Support Persons and the DCPU can initiate and facilitate regular case conferences and convergence meetings with district-level officers.
- Support Persons can work towards convergence by networking with the stakeholders and sharing Support Persons' experiences in similar situations. Over time, Support Persons develop rapport with all stakeholders and receive regular support, information and updates regarding cases building credibility and trust.

“

If there is a problem with the stakeholders, we find a solution as a team, and it is a collective decision. There will be someone in my team who I can reach out to who will help me arrive at a solution. So, the team coming together for each other really helps me and keeps me positive.

Support Person, Delhi

”



8

UNREALISTIC EXPECTATIONS

The Support Person's role is related to the sexual offence under the POCSO Act but may often be asked by the child/family to play a larger role.

Possible Solution:

- Support Persons should recognise their limitations and clearly inform the child/family that they are not able to singly respond to all their needs.
- If the Support Person thinks that a particular need requires resolution, they may refer the child/family to a relevant professional.
- In case of conflict of interest, the Support Person can immediately disengage from that case and inform the CWC of the same, requesting that another Support Person be appointed.

9

DELAY IN ACTION BY REFERRAL SERVICE

Support Persons tasks are defined under the POCSO Act, and the POCSO Rules, 2020, but the child and family's needs are manifold, which the Support Person is not equipped to handle alone. The Support Person may refer the child/family to other suitable professionals who may be busy with other work and may not promptly respond to the child/family's needs, resulting in the child/family losing trust in the Support Person. However, such delay is not in the Support Person's control.

Possible Solution:

- A Support Person should maintain a list of professionals and experts to whom the child and family may be sent in case of specific issues.
- The role of such professionals should be explained to the child family and should also be given the option of going to a relevant professional of their choice or seeking assistance from the DCPU for a referral.
- Before referring the child family to a relevant professional, the Support Person should contact such professionals as to whether they have the time and the inclination to deal with that case and facilitate a rapport built with the child if required.
- Inform the child/family that the professional they are being referred to is skilled and experienced, but due to workload, they may not be in a position to deal with their matter immediately.

10

APPOINTMENT AFTER COMPLETION OF INVESTIGATION

Though the POCSO Act and the POCSO Rules, 2020, provides for assistance of Support Persons 'through the process of investigation and trial', generally the Support Person is appointed during the trial stage; hence, a child victim is denied a Support Person's assistance at crucial stages - recording of FIR / Section 161 Cr.P.C statement; recording of section 164 Cr.P.C statement; during forensic evidence collection, medical examination and treatment and during rehabilitation processes.



Entry of the Support Person at this late stage compels the child to traverse through the investigation alone, with family, most of whom are unaware of the process, and much is lost due to the absence of a Support Person, which may, in turn, affect the outcome of the case.

Possible Solution:

- Any person/organisation interested in acting as a Support Person should contact the DCPU, the CWC and police/SJPU to offer their services whenever required.
- If contacted for an appointment as a Support Person, they should agree to such a request and inform the CWC wherever required.
- Support Persons who perform their job diligently should be appreciated and contacted by the police, the CWC/DCPU in the future to perform such roles.



Prerana's research—4 years Since POCSO: Unfolding of the POCSO Act in Maharashtra—released in 2018¹, highlights the under-utilisation of the provision of Support Person in the State. Further on shared forums with the organisations working on POCSO cases across the country, it has been observed that the provision of Support Person is not being utilised in full capacity apart from the few Tier-1 and Tier-2 cities.



1. Patkar, P., Kandula, P., (2018), Aarambh India, [4 years Since POCSO: Unfolding of the POCSO Act in Maharashtra](#)



Brief Note on the Authors

Enfold Proactive Health Trust Since 2001

Enfold Trust has been working in the space of child safety and gender empowerment since 2001, having now reached over 2 lakh children, about 73,000 parents, teachers, students, police officers, doctors, judicial officers and other stakeholders; in over 60 cities / rural areas of India. Enfold's Vision is healthy and safe children living with dignity supported by empathetic adults and has adopted a 360-degree pan-India strategy.

We create awareness and an understanding of child sexual abuse and its prevention and sexual development of children and adolescents. We sensitize parents, teachers and children through life skills-based sexuality and personal safety education. We also support caregivers and teachers of children with disabilities to help children in their care learn personal safety and sexuality etiquette by using Enfold's Suvidha Kit.



Enfold works extensively with government and other agencies to support the effective implementation of policies and laws relating to children, including the POCSO Act, 2012 and the JJ Act, 2015. Capacity building is conducted on prevention and management of sexual violence and their roles and

responsibilities under the POCSO Act, 2012 for adult stakeholders, including school staff, parents, police, counsellors, medical personnel, social workers, judiciary and the media. Team members are also designated as Support Persons under the

POCSO Rules to provide psycho-socio-legal assistance to child survivors through the processes.

Since 2016 staff have been trained in Restorative Justice/practices and processes by international experts. Team members are engaged in ongoing learning while conducting research, training individuals working in different settings such as schools, educational institutions, Child Care Institutions in the Juvenile Justice system, families, and the wider community. The Team is also involved in facilitating Restorative Circles in government-run homes for children.

Enfold has built successful state and national level partnerships in the last two decades, actively participated in policy making, advocacy, and creating public awareness in child safety and child rights.

Reach us for assistance and collaboration on **Child Safety and Gender Empowerment** in India

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Brief Note on the Collaborator

Prerana Since 1986

Prerana is a civil society organization that started working in the Red-Light Areas (RLA) of Mumbai in 1986 to eliminate inter-generational trafficking, i.e., trafficking of the children of the sex-trafficked prostituted women into the sex trade, its allied activities or exploitative labour. Prerana expanded the scope of its intervention to address the issues of the prostituted women of the RLAs, especially to fight violence against them and protect their legal and human rights. Prerana further extended its work to address child sexual abuse and other such child protection issues.

Prerana's initiatives and interventions to combat trafficking and provide victim assistance have been duly acknowledged by the state and various international bodies. It actively works with child victims who have been rescued from commercial sexual exploitation, who are victims of sexual maltreatment, those rescued from begging and also with children who are in child care institutions. Prerana takes a 360-degree approach to its efforts in ending commercial sexual exploitation and trafficking, and other forms of violence against children by playing roles in protection, prevention, vigilance, rescue, post-rescue operations, victim care services, assisting victims through trials (prosecution), empowerment of victims, advocacy, legal support, policy level and administrative reforms, rehabilitation and social reintegration, generating social awareness. Prerana is also involved in research and documentation, sensitization and training special functionaries (like police, judiciary, etc.), networking and capacity building of fellow organizations.

To achieve this, Prerana evolved several interventions, piloted them, evolved a success story out of each intervention, and disseminated them to facilitate their mainstreaming.

Reach us
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combating **trafficking** and providing
victim assistance in India

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Enfold's Empowering Apps

On Google Playstore



Enfold Proactive Health Trust, Directorate of Child Protection (Govt of Karnataka), UNICEF India, CDAC, Ministry of Electronics and Information Technology, Govt of India collaboratively launched the following apps:

Available for Android on Google Playstore



Surakshith
In 11 Indian Languages

Surakshith App- Personal Safety information app for children. The information includes Personal Safety Rules, Safe and Unsafe touch, Safe Adults and has stories about this for 6 to 18-year olds. The Surakshith app is available in 11 Indian languages.



Bal Suraksha
In 10 Indian Languages

Bal Suraksha App - For adult stakeholders involved in responding to child sexual abuse - namely parents, school management, police, medical, judicial and media personnel. It elaborates prevention strategies and management guidelines as per the POCSO Act 2012. Available in 10 Indian languages.



Stri Suraksha
In 10 Indian Languages

Stri Suraksha App –An information app for people concerned about women’s safety. It details how one can recognize and report violence against women in different places - home, public places, workplace and cyberspace; learn about relevant laws and sections, resisting, being proactive, intervention and community based Restorative Justice. Emergency numbers for reporting and exercises for recovery are also included. This App is available in 10 Indian languages.

Scan to download SURAKSHITH



Scan to download BAL SURAKSHA



Scan to download STRI SURAKSHA



Turn on your smartphone camera to scan the code

“

If we don't stand up for children, then we don't stand for much.

Marian Wright Edelman, Activist for Children's Rights

”

HANDBOOK FOR SUPPORT PERSONS 2021

ASSISTING CHILD VICTIMS OF SEXUAL VIOLENCE

In the context of POCSO Act, 2012 and POCSO Rules, 2020

This Handbook elaborates the roles, responsibilities and relevant legal framework for a Support Person under the POCSO Act, 2012, the POCSO Rules, 2020, the Model Guidelines under Section 39 of the POCSO Act and relevant sections under the Juvenile Justice (JJ) Act, 2015 and the JJ Rules, 2016. The Handbook has drawn from the experiences of Support Persons who have been assisting children and their families through the criminal justice and child protection systems.

The Handbook discusses the dynamics of Child Sexual Abuse (CSA), impact of reporting, the roles of a Support Person and their interactions with the stakeholders such as the police, Child Welfare Committee, medical practitioners, public prosecutors, and judicial officers and the rehabilitation of child survivors. In addition, the challenges faced by Support Persons and the possible solutions and/or legal recourse are also highlighted.

