





It Will Make a Difference



A PUBLICATION OF TAMIL NADU STATE JUDICIAL ACADEMY

STUDY MATERIAL FOR CHILD WELFARE POLICE OFFICERS

JULY 2022

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It Will Make a Difference

JUSTICE T. RAJA



No. 22, "POTHIGAI COMPLEX", GREENWAYS ROAD, CHENNAI - 600 028.



"Children are the living messages we send to a time we will not see."

- John F. Kennedy

Today's children will be the pillars of the Nation tomorrow. Therefore, not only the parents, teachers at Schools/Colleges, even the right minded persons at all walks of life shall take care of the children wherever they go to make them as responsible citizens.

It is very important to sow the right seed today so that the reap will be healthy tomorrow. When I say sowing, I am referring to the Police Officials who are bestowed with the responsibility as Child Welfare Police Officers and the right seed is the way they treat children. Handling children is not an easy task, it definitely requires special adroitness and a special sense of tutelage. It is indeed our duty as *parenspatriae* to give proper care and protection to those who dearth them.

The Juvenile Justice (Care and Protection of Children) Act is an overarching legislation construed for the protection of Children. There are colossal duties and responsibilities conferred upon Child Welfare Police Officers in the best interest of children. This enchiridion by the Tamil Nadu State Judicial Academy in association with UNICEF enunciates the role of Special Juvenile Police Unit and the Child Welfare Police Officers under the Juvenile Justice (Care and Protection of Children) Act, 2015.

I wish the children born and brought up with little care to become responsible Lawyers, Judges, Doctors, Scientists, Engineers and so on and serve the Nation.

This book makes an attempt to bring out a change to make the children responsible citizens, therefore, I record my appreciation to the Directors, Research Assistants and the Staff of the Judicial Academy in bringing out this enchiridion for the benefit of Child Welfare Police Officers.

Date: 08.07.2022

PRESIDENT, BOARD OF GOVERNORS

TNSJA, CHENNAI.

Justice P.N. Prakash Judge, High Court of Madras



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8th July, 2022



FOREWORD

Many do not know the difference betwixt hearing and listening. When a child makes a sound, it is a voice for its mother and a noise for others. That is because, its mother has been intently listening to it since its conception in her womb and so, its noise is a language for her. For the others, its language is a noise. This distinction finds recognition in the following Thirukkural couplet:

குழல்இனிது யாழ்இனிது என்பதம் மக்கள் மழலைச்சொல் கேளா தவர்.

(Chapter 7, Couplet 6)

In the cacophony of the adult world, the language of the child gets drowned and so, its feeble voice goes unheard and unnoticed.

"Listen to us", though a baby step, is a clarion call from our Judicial Academy to the stakeholders who have been statutorily invested with the duty to protect children.

I congratulate the Director of the TNSJA and his crew for bringing out this treasure trove of a compilation which will serve as a ready reckoner for the stakeholders.

I wish the programme a grand success and fondly hope that there would be a tectonic shift in the approach of the participants, viz., Child Welfare Police Officers, in their approach to dealing with child issues.

(Justice P.N. PRAKASH)

Chairman,

POCSO Committee

and

Juvenile Justice Committee

Director's Note

This Study Material is prepared by the Tamil Nadu State Judicial Academy [TNSJA], under the guidance and as per the directions of the Hon'ble Patron-in-Chief, TNSJA / Hon'ble the Chief Justice of the Madras High Court; the Hon'ble President and Hon'ble Members of the Board of Governors, TNSJA.

This publication is brought out on the occasion of the training programme organised for Child Welfare Police Officers dealing with child related legislations.

It is a misconceived notion that children are voiceless. The truth is that often we fail to listen to those voices. To shine brighter light on this truth, this study material incorporates the three requisites for a Child Welfare Police Officer, namely Attitude, Skill and Knowledge. Essentially, this goes to say, ASK the Child. Once, we are prepared to ask the child, we begin to truly listen to the child.

We are confident that this study material would be of great use to the Child Welfare Police Officers as well as other police officers dealing with children.

We acknowledge and appreciate the cooperation of the Deputy and Assistant Directors, Research Assistants and Staff of the Academy, in bringing out this publication in short time.

We extend our heartfelt thanks to UNICEF for always supporting the cause of children.

12th July 2022

D. Lingeswaran, Director

Chennai – 600028

Tamil Nadu State Judicial Academy

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PART I - INTRODUCTION

Recognizing the personhood of a child in Full – Recognizing Freedom of Dignity

The child-friendly nature of the police officers most often have to be uncovered through conducting awareness and learning programmes in schools. The role of a police officer in the society is most often mis-interpreted by children to a great extent. There is a self-imposed restraint for everyone to visit a police station in India, which is seen more in children. Therefore, police play a vital role in the upbringing of children. This can be significantly witnessed from the approach followed by developed countries. The role of a law-enforcer is less emphasized in schools.

It is imperative that all the Child Welfare Police Officers understand that they are dealing with children. This recognition is very important for drawing a society which is more affectionate to children. The personhood of a child has to be recognized. The role played by police in this aspect is not minimal.

All of us reveal different perspectives towards "our children" and "other's children". For recognizing the personhood of children, the second most vital aspect is that, there is a need for revitalizing our intellectual distinction which we show to our kith and kin. A Child Welfare Police officer is duty bound to treat every child as their own child. A contrasting idea is not expected out of a police officer. There is a need for a better mind-oriented training to Child Welfare Police Officers for uplifting their attitude, skill and knowledge in this aspect. A child welfare police officer can be awarded suitably for treating children in the best possible way.

The third limb of recognizing the personhood of a child is to understand their 'freedom' and 'dignity'. There is 'freedom' and 'dignity' attributed to a child's

identity by the Indian Constitution. This needs to be safeguarded by the Child Welfare Police Officer. Child Welfare Police Officers in India tend to limit their way of work to the normal schedule of a police officer in India. The role of a child friendly police officer should be exclusive. Child-friendly police officers should be given more individualized responsibilities and should be given continuous and comprehensive structural capacity building works to minimize the social trauma of children towards police. The role of a child-friendly police officer begins from those schools where his jurisdiction serves. The schools should have a constant coordination with those child-friendly police officers. The child-friendly police officers should also maintain a constant rapport with children. This can uncover many problems faced by children. This helps child welfare police officers to filter the problems of children and coordinate their work better. A child-friendly police officer should endeavour to promote amongst children the idea of friendliness. A police officer should be a friend in need. This coordination can very well help the child-friendly police officers in their work to uncover bad-practices amongst children and trace the sources of such bad practices.

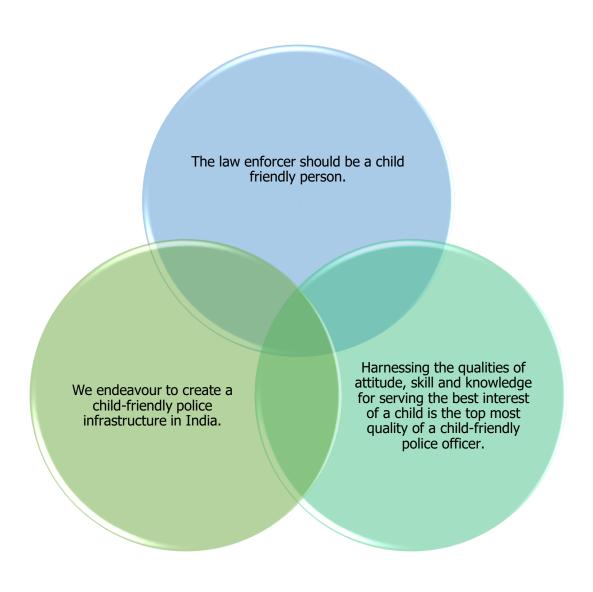
Respect the freedom attributed to the dignity of a child. The fathom of freedom a child-friendly police officer attributes to the dignity of a child's identity is very much important. There is a high-level acumen required to frame a child's mind in the right direction that can be beneficial for this country's future. This cannot be compromised at any cost.

The first person who recognizes the personhood in children is their teacher. A teacher can uncover and dimensions of potential hidden in the child. The role of teacher at school is maximally dependent upon how much the concerned teacher likes to be in the presence of his/her pupil.

The role of Child Welfare Police Officer likewise begins from the decision to crystalize the faith of children before them. Each Child Welfare Police Officer is

a teacher who takes care of the children and navigates them in the right direction. It is high time that the societal impression of police showcased to children is subsumed by more pro-active and reliable way of approach towards children.

Endeavour to create a child-friendly police infrastructure in India that can uncover the fear and disbelief that children face, to interact with law-enforcers of our country. Envisage a future where police are vigilant enough to act pro-actively. There is much to be done by each child-friendly police officer in India.



Doctrine of Children's Trust

"I am 16 years old, my parents have abandoned me and I have a sister, we came to the roads, for keeping her safe from my Uncle. I sleep in the beach, I shadow between the auto stands. When they caught me I had only one prayer, my sister isn't safe without me...please keep her safe..."

- Anonymous

A Child Welfare Police Officer is the keeper of children's trust today. Children's Trust should be understood as a subset of public trust in India. Managing Children's trust is very important for a Child-welfare police officer. A police officer is the torch bearer of the public's trust. Holding this analogous position, a police officer represents the might of the government. Government is regarded as the *Parens Patrie*. Drawing analogy to those laws which govern the safety and security of Children in India like the Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offence Act, 2012, The Prohibition of Child Marriage Act, 2006, The Immoral Traffic (Prevention) Act, 1956, Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994, Narcotic Drugs and Psychotropic Substances Act, 1985it is important for each Child Welfare Police Officer to fully and completely understand and serve the Best Interest of the Child. The best interest of a child is an abstract term for a layman but it should not be a new phrase for the Child Welfare Police Officer. A Child Welfare Police officer is supposed to be sensible to deal with children coming before him/her. There is a chunk load of duties, responsibilities and accountability that is cast upon a Child Welfare Police Officer when dealing with children.

The responsibility to secure the trust of a child begins when for the first time a Child Welfare Police Officer comes in contact with the child. It is true that amongst us, there are many who do not know how to take care of children. However, it is also true that there are many amongst us who take good care

of children coming before them. Therefore, those should be identified as Child-Welfare Police Officer who can actually render the requisite support to children.

There is a constant struggle amongst police officers to be more polite and friendly towards Children.

Training about welfare begins from gaining the child's trust. The first person who gains the child's trust is the mother and the methodologies that motherhood adopts for the welfare of the Child for their protection marks the first chapter in the lesson for a Child Welfare Police Officer. The primordial lesson which a CWPO is bound to showcase with the child is to make the child understand that the child is in safe and secure hands. There are many gray and shady areas to this aspect when it comes to practice. It would not be always likely that a child coming in contact with a CWPO might cooperate due to many externalities. The fundamental challenge for a CWPO is to identify those factors the child would love to do when it feels secured. Through this exercise the child is bound to open up more to the fears and chaos happening in their life.

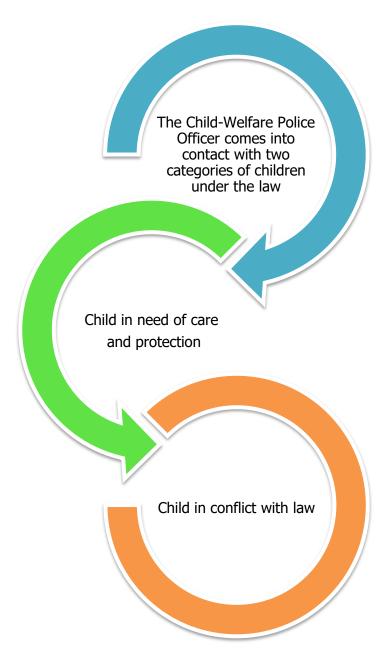
Meaning of child friendly policing should not lean towards man-hunting. It is experienced in the past that children are reportedly apprehended by police for catching hold of the accused parent or a child in conflict with law. The elder brother of a CCL was apprehended, hand-cuffed and kept at the police station till midnight until parents produce the CCL. This enforcement regime can change only if there is a change in the approach towards children. There is a constant struggle amongst police officers to be more polite and friendly towards children. This is acknowledged. However, it cannot be ignored completely that, some children are suffering and experiencing the trauma of ill-treatment from a police officer.

The Child-Welfare Police Officer comes into contact with two categories of children under the law i.e., [1] child in need of care and protection and [2] child in conflict with law.

Moving from those moral obligations to those highly imperative legal obligations of a Child Welfare Police Officer, a Child Welfare Police Officer who is coming in contact with a child in need of care and protection is bound to act *suo-moto* for serving the best interest of the child. It is the bounden duty of a Child Welfare Police Officer to serve the best interest of the child.

Child Welfare Police Officers & Children

The police are entrusted in the society with the responsibility of safeguarding the society's peace and harmony and maintain law and order. The police are entrusted with extra care when it comes to cases involving children. The interaction between police and children are not very common in the society, but when it happens, it happens for two reasons. The first reason is when a child has become a victim of some offence against the law, and the second reason is when a child itself has become an offender of law.



In simple words, police-children interaction happens when a child has been victimized as an offender. We have to understand that children are too fragile to handle, and even a slight change of approach/ usage of words would cause deteriorating effect on their mental health. Children who are offenders before law and victims of different offences shall be called **Children in Conflict with Law (CCL)** and **Children in Need of Care and Protection (CNCP)** respectively.

Children are like mirrors. Once they are broken, it is nearly impossible to get back the old shine of the mirror. Exposure to traumatic events during childhood can have dramatic and long-lasting effects¹. Be it a Child in Conflict with Law (CCL) or a Child in Need of Care and Protection (CNCP), they could have been mentally affected so much that even a slightly wrong approach towards them could cause drastic effect on their mind. So, when dealing with Child in Conflict with Law (CCL) or Children in Need of Care and Protection (CNCP), the police should be extra careful and conscious with the children. The police play an important role in the juvenile justice system, whether it is in relation to a child in need of care and protection (CNCP) or a child in conflict with the law (CCL). The police are always the first point of contact. Thus, the police really have an important and major role to play.

"He tried to force me, I went to give a complaint, but it was ignored. One day again I was cornered and forced by him, I took a rock and hit him hard...now he is in hospital, and I was arrested". – Anonymous

The police officers are entrusted with different duties like recording of statement by the child at the child's home or any place comfortable to the child, register FIR, arrange for medical examination of the child if needed, inform the parent or guardian of the child etc. and different responsibility like ensuring that the victim does not come in contact with the accused, ensuring

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¹ Richard G. Dudley, Jr, Childhood Trauma and Its Effects: Implications for Police, Harvard Kennedy School, National Institute of Justice (July 2015) Para-1, Pg.1.

that the no child is detained at night time for investigation, ensuring that no information regarding the child and the case is disclosed to the public media, report the development of the case to the child's parents, guardians or anyone on whom the child has confidence and trust etc.

Police are generally more exposed to law and order and has more orientation towards crimes and criminals. When they are given with cases involving CNCP, it requires dedicated, as well as soft, sensitive attitude and approach. The children are in such stage of life, where they cannot deal with problems themselves and needs someone to lift them up. The police, beyond being an officer who is doing his/her duty, should act as a friend or guide, and give them the confidence and courage to stand up and succeed through their problems. The Police should guide the child to reach a better position in life, overcome all the traumas the child could have faced. Our society has developed a negative stereotype about police as a result of which many children are afraid of police and police brutality and it should be the duty of the police to allay their fears and establish a friendly rapport with them, dispel their hostility, and instill confidence that the police are acting in their better interests.

"Look into their eyes, every Child before you will have a story for you, don't be the villain in their story" – Anonymous

Children in need of Care and Protection and Children in conflict with law are two sides of the same coin. CNCP alone are not the group which needs care and protection, Child in conflict with law may also need the same care and protection. A child in conflict with law is not like an adult and they should not be treated in that way.

It is found that most often Police Officers have to deal with youthful offenders as Child in conflict with law being caught for theft, street duals etc. Youthful CCLs tend to open up very less when approached softly. However, it is not correct to behave with them harshly. Police Officers should keep aside preconceived notions about what all children of such age normally tend to get involved in and how their behavior will be.

The Child in Conflict with law might not always be aware to fully comprehend the gravity or magnitude of the offence committed by them initially. It is important that the Police Officer dealing with such CCL to be cautious enough to make the CCL understand the nature and consequences of the offence committed by them.

It is most often observed that CCLs tend to repent soon after they realize the altitude of offence leveled against them and make them feel guilty themselves before being convicted or acquitted by the law.

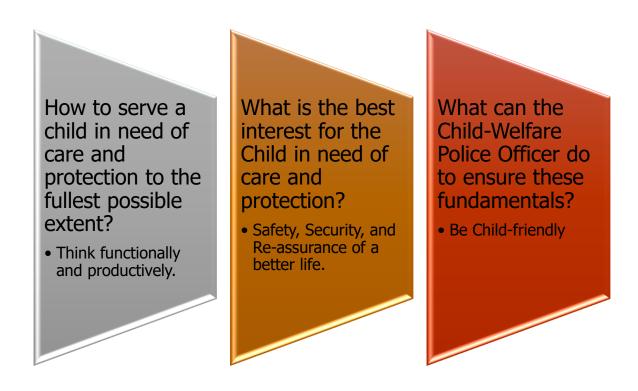
It is important for CCLs to be re-integrated back to the society at the earliest. Procedural delays in the Criminal Justice System shouldn't affect the life of CCLs. The Police Officers play a significant role in re-integration of CCLs to the society.

The role of Child Welfare Police Officer in the case of a CCL is equal compared to the role in the case of a CNCP.

"I was beaten up with a lathi by a male police officer at the police station.

They asked me, where is my father? I cried and cried and crawled into the corner of that police station" – Anonymous

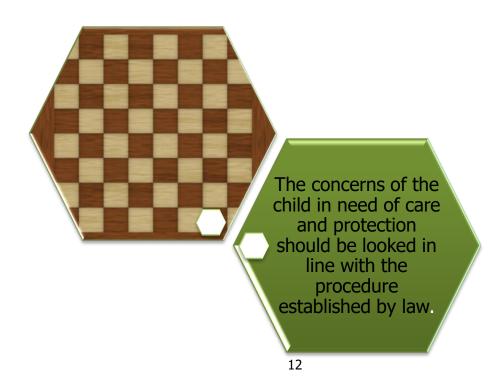
It is the bounden duty of a Child Welfare Police Officer to have a complete picture about their area and span of jurisdiction. This mapping is significant for making the operations of the Child Welfare Police Officer more efficient and cordite. There is a well-organized system of planning required before a Child-Welfare Police Officer begins their line of work.



Upon taking an assessment on the powers of the Child-Welfare Police Officer, it is known that a Child Welfare Police Officer is a person who can contact and find the parents of the child, can report the problems to his superiors, Child Welfare Committees, Department of social defence etc., and reduce delay in coordination by creating an environment of cooperation amongst their peers and those stakeholders.

The need of the child has to be specifically addressed to the fullest possible extend. There should not be any excuses leveled against serving the best interest of the child. This might not seem to be detrimental to the stakeholders dealing with the children, but affects and contributes to the trauma of the child who is in need of care and protection.

In cases of immoral trafficking, when minor children are rescued, they should not be apprehended in police stations. In situation that require the coordination of a law enforcement agency in the neighborhood jurisdiction, their cooperation should be sought for. The Child Welfare Police officer is supposed to have a proper coordination and liaison with those various agencies involved in serving the best interest of children like, protection officers, probation officers, translators, Child line, DCPOs etc.





PART II – ATTITUDE

To a child, a police officer is a superhero. A polite yet powerful superhero who comes to save children from evil, is the right spirited police officer. In order to be seen as a superhero, a police officer needs to have the right attitude. This part of the study material will discuss such tips and techniques for developing the right attitude to be the child's superhero.

Attitude Matters

Police officers dealing with children have a special objective which goes beyond the maintenance of law and order in society. This special objective is to protect the child from being victimised, or from being involved in crime, and secure their best interest. The police officers play a crucial role in leading children on the right path and helping them become well-functioning and socially responsible adults.

In order to fulfil the above objective, and to perform their functions effectively, police officers need to understand the people they deal with. Mere knowledge of the law and legal procedures is insufficient to serve the best interest of children. The attitude of the police officer determines the extent to which the letter and spirit of the law is realised.

Attitude refers to the perspective of a person regarding another person, or phenomenon, which is often projected during their interaction with others. The attitude of an individual is shaped by several factors, both internal and external. These factors include one's own familial upbringing, personal experiences, interactions and relations with surroundings, social and economic background, conditioning, learning and education, observations etc.

Given that attitude is influenced by a host of social factors, it is only natural that bias also becomes part of one's attitude. Bias refers to the pre-

determined perspective of an individual. A biased person tends to form opinions about a person. These pre-conceived opinions can determine one's behaviour and negatively impact their interaction with the other person.

Bias restrains a person from recognizing the complete personhood of the individual before them. Bias restricts a person from looking beyond the appearance of the individual before them. Bias limits a person's capacity to listen to the individual before them. Thus, bias can be said to be the evil part of one's attitude.

Bias is often projected through stereotypes, which makes a person ignorant to the diversity of people and their circumstances. Just like kindness and compassion, bias and stigma are also natural to human society. Needless to say, police officers, who come from the same human society, are not immune from having a biased attitude. However, if left unchecked, a faltered and biased attitude can make the character and integrity of the police officer questionable.

Overcoming Bias

So how does one overcome this bias? The answer is simple, by practice.

In order to practice the right attitude and scrub the bias off their minds, police officers need to imbibe self-awareness. This essentially means that the police officer needs to be aware of those aspects which triggers the bias in them. Once the problem-area of bias is identified, the practice to overcome them begins. Through continuous practice of reinforcing the ideals of right to equal dignity, respect and freedom, police officers can break through the bias and negative social conditioning.

Much of the training imparted to police officers have focussed on the 'Knowledge' and 'Skill' of police officers. Training on 'Attitude', however, has been treated as a neglected child. This is primarily due to the misconception

that it is only the intellectual capacity which impacts our functioning. However, research has shown that the behaviour of an individual is a result of both their thoughts and feelings.²

For persons whose line of work involves human interaction on a frequent scale, interpersonal skills are of crucial significance. Indeed, for proper functioning, police officers need to incorporate both their intellectual and interpersonal skills.



Myth: Thinking (cognition) and feeling (affect) are not related Reality: Thinking (cognition) and feeling (affect) are inextricably linked

Image source: Interaction-design.com

For instance, in dealing with pre-teens and teenagers, police officers need to understand that puberty is often a confusing and scary experience for children. Though they might project a crude or boisterous behaviour, a child is actually vulnerable. When a child gets into trouble or is involved in illegal activities, it is only because the child has not been taught to be better. Therefore, a child who makes irrational decisions and acts rashly, due to their undeveloped maturity, is a mere victim of their circumstances.

Likewise, police officers need to be cognizant of gender bias. It is important to understand that gender and sexual identity of a person is not restricted the

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² How Emotions Impact Cognition, Interaction Design Foundation (2021) (https://www.interaction-design.org/literature/article/how-emotions-impact-cognition)

binaries of male/female or boy/girl. When dealing with a transgender or nonbinary child, it is the duty of the police officer to have a respectful and accommodative attitude.

A police officer should not have or express any bias towards the people and children that they deal with. It is important for police officers to think beyond all bias which a layperson has. The attitude of a police officer has to be redefined to respect the child regardless of their gender, class, caste, religion or any other form of identity.

An efficient Child Welfare Police Officer is one who can get the child to trust them, that their best interests will be looked out for. This trust is established only when the police officer displays an unbiased attitude towards the child. A police officer in their endeavours, may encounter children with diverse identities, backgrounds and experiences. During such encounters, it is necessary that the police not let their bias overcome their attitude and acumen as a police officer.

Bias can be overcome through self-awareness and practice.

Empathic Policing

A significant aspect of overcoming bias and improving interpersonal skills, is developing empathy.

Empathy means the ability to understand, feel, and share the feelings of another person. An empathetic person is aware of another person's feeling and is able to relate to them, as if they themselves had experienced it. Likewise, an empathetic police officer is able to understand the mentality of the individual and be sensitive to their experiences.

In this context empathic policing refers to the practice of police officers of incorporating empathy in their functioning and interactions with the public or any individual, be it a victim or an offender.

Studies in psychology and social sciences have shown the utility of empathy in policing and justice delivery systems.³ The increasing demand for empathy in policing or 'empathic policing' goes to the fundamental principle that a police officer can adequately address the needs of a community only when they can identify and understand what those needs are.⁴

Lack of empathy in police officers, would widen the gap between the child and the police officer which further leads to distrust and lack of confidence in the police officer.

Helping police to slow down their encounters with the public and to practice more respectful and empathic communication, could go a long way toward reducing excessive force and unnecessary arrests, leading to more acceptance of their presence and role in the communities they are hired to protect.⁵

Jill Suttie, Can Empathy Improve Policing? (September 2016) (https://www.policechiefmagazine.org/empathy-what-is-it-exactly/)

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³ Chad Posick, The Role of Empathy in Crime, Policing, and Justice, Criminal Justice (March 2013) (https://scholars.org/brief/role-empathy-crime-policing-and-justice)

⁵ https://greatergood.berkeley.edu/article/item/can empathy improve policing

In the process of developing empathy towards child survivors of crime and erring children, it is important to know and understand what the child has gone through physically, mentally and emotionally.

Factors and Impact of Child Sexual Abuse

A child sex offender emerges from the very same society that preaches conformity and conservativeness. There are several social and structural factors underpinning the prevalence of child sexual abuse [CSA].

Family structure and parental factors

Child neglect contributes to child victimisation by making the child vulnerable to anti-social tendencies. Child characteristics such as intellectual and physical disabilities have been shown to increase vulnerability to CSA victimization. Family structure influences CSA risk, and risk is lowest for children who live with their biological parents. Children who live in foster care are ten times more likely to experience CSA than children who live with their biological parents. Risk of CSA is highest for children who live with an unmarried parent who has a live-in partner. These children are more likely to be victimized than children living with both of their biological parents.⁶

Family structure is a significant factor in determining the vulnerability of children to sexual abuse. Children in single-parent households or 'broken' families are more vulnerable to child neglect and child abuse. Families with too many members in the household are known to contribute to child neglect. Families where marital discord or domestic violence is prevalent, are also

⁷ Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice

(Available at: https://www.childwelfare.gov/pubPDFs/foundation 34.pdf)

⁶ Kristen Brown, Impacts of Childhood Sexual Abuse on Adult Psychosocial Functioning, Counselor Education Capstones, Winona State University (2017) (Available at: https://openriver.winona.edu/cgi/viewcontent.cgi?article=1072&context=counseloreducationcapstone

prone to child sexual abuse. Parents may show disbelief and provide little support when the child finally finds the courage to report.⁸

Lack of proper family support, family and personal history of mental health pathology, and pathological family exposures to sexual images are some of the other potential risk factors. Sexual abuse often goes hand in hand with other forms of abuse in the family be it physical, emotional, psychological. Moreover, although sexual exploitation of children in India is highly associated with poverty, sexual abuse in families occurs at all socioeconomic levels of society and across all religious traditions.

Socio-cultural Factors

Family secrecy has been and continues to remain a major factor contributing to all forms of child abuse, and child sexual abuse is no exception to this factor. Owing to regressive cultural elements of blame and shame, it is also not unusual for children to be blamed for their own abuse. Anything that would cause embarrassment to the family or tarnish their good name is kept private. This practice of secrecy only serves to protect the sexual perpetrator and allows the cycle of abuse to continue.

Emotionally less connected and more socially isolated families of any socioeconomic level in communities place children at greater risk for a variety of social ills, including various forms of child abuse and neglect that may also involve CSA. Family secrets are easier to maintain within socially isolated families, and as will be seen, this is one factor in India that may place children at higher risk for CSA.

⁸ V. Choudhary, et.al, Qualitative Study on the Impact of Child Sexual Abuse: Perspectives of Children, Caregivers, and Professionals in Indian Context, Journal of Child Sexual Abuse (2019)

Child Marriage

Child marriage is a social evil, wherein the family enables child sexual abuse, particularly penetrative sexual assault. Child sexual abuse in the form of child marriage strips the child of their rights and opportunities for a better future. It robs children of their childhood, threatening their lives and health. Girls who marry before 18 are more likely to experience domestic violence and less likely to remain in school. Child marriage results in child pregnancies, which has health consequences for both the child-parent and their baby. Further, the child-parent is ill-equipped to look after their baby, which further endangers the health and safety of the baby.

Social Inequalities and Discrimination

The patriarchal societal norms and power differentials in such societies based on class, gender, and sexual preferences, contribute to child sexual abuse. Individual factors like poor socio-economic status, death of a parent, and being born to a commercial sex worker were found to have contributed to trafficking of minor girls into commercial sex work. Early childhood experience of CSA was also documented as a risk factor for re-victimization as well as initiation into commercial sex work. Lack of sanitation and poor safety of women were also found to be community level factors that increased the risks for CSA. However negative perception about parents, lower education of mother, and perceived congeniality of family were found to be significantly associated with CSA experience. Domestic child laborers were also found to be at higher risk of all forms of abuse including CSA in one study. 10

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⁹ Child Marriage, UNICEF (Available at: https://www.unicef.org/protection/child-marriage)

¹⁰ Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V, Child sexual abuse in India: A systematic review, PLoS ONE, Vol.13(10) (2018) (Available at: https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205086)

Identifying the signs of a prospective offender

Child sex offenders are able to successfully carry out their abuse without detection, because they do not fit society's generally accepted stereotype of the dirty old man lurking around playgrounds trying to lure young children. They are fathers, uncles, brothers, neighbours and other accepted and trusted individuals in the child's lives. The sexual abuse of children frequently occurs as repeated episodes that become more invasive with time. Perpetrators usually engage the child in a gradual process of sexualizing the relationship over time (i.e., grooming). Incest/intrafamilial abuse accounts for about one third of all child sexual abuse cases. ¹¹

Grooming

The offenders, often known to the victims, take advantage of their accessibility to potential victims and with lack of severe punishment by family members and protective nature of the family members towards the abuser, often leads to the incident getting unreported. Grooming is a method of manipulation that entails a process of engaging the child in sexual acts through:

- selecting and targeting the child, especially when they are vulnerable due to socio-economic factors and difficult family circumstances.
- Gaining trust and access through special attention, sympathy to the child, playing games or giving gifts to gain the child's friendship or affection.
- Playing a special role in the child's life, and telling them that no one understands the child like they do.

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Chapter 7: Child Sexual Abuse, Guidelines For Medico-Legal Care For Victims Of Sexual Violence, WHO (Available at:

- Isolating the child from other family members and friends, by brainwashing and manipulating them.
- Creating secrecy around the relationship.
- Introducing misconceptions and misnomers about sexual behaviour.
- Initiating sexual contact and making the child accustomed to it.
- Controlling the relationship and using the advantages of age and power dynamics. Coercive elements like threats and emotional manipulation may be introduced at this stage to make the child feel that it was their fault.

Impact of Sexual Abuse

Events that happen during childhood, even small, seemingly insignificant ones, can have a direct impact on how people feel and behave as adults. Getting acquainted with child psychology is important because it can help us better understand how children function and interact with their environment, as well as how best to support them to become well rounded individuals.¹²

Despite children's lack of knowledge of sexuality issues, even very young children (2-3 years) can have a sense of discomfort with sexual touching of genitals and private parts.

Children who have been subjected to manipulation and grooming for abuse, undergo tremendous confusion, because they have shared a deep romantic and sexual relationship with the abuser. This makes it extremely difficult for them to identify the manipulation and grooming as a method of abuse, and defend themselves against the abuser. They may also refuse to accept their experience as abuse.

¹² Saranne Durham, What is Child Psychology and why is it important?, SACAP, 14th Jul 2020 (Available at: https://www.sacap.edu.za/blog/applied-psychology/child-psychology/)

Child survivors fear that if they seek help, the assault will feel fresh and it will consume them. They fear going back to that part of their life and facing the truth. In addition, the parents or caregiver's refusal to believe the child victim about the sexual abuse further exacerbates the child's distress (i.e., betrayal trauma) and prevents her or him from getting therapeutic help when needed.¹³

The Justice Verma Committee Report on Amendments to Criminal Law¹⁴, which was brought out in 2013, focussed on anti-rape laws and highlighted the short and long-term trauma that a victim of sexual assault suffers from. The report states that a cluster of reactions experienced by a survivor who experienced rape is called Rape Trauma Syndrome. The various phases of this are:

- Attack these are responses like flight, fight or freeze that the survivor exhibits during the attack to survive.
- Acute Reactions these are responses that occur after the rape. Some of the symptoms are shock, disbelief, pain/irritation, crying spells, withdrawn, confusion, tension.
- Reorganisation Reactions these are symptoms exhibited by the survivor
 when they are working on rebuilding themselves after the rape Symptoms include intrusive thoughts, images, flashbacks, panic attacks,
 avoiding thinking about the incident, feeling depressed, withdrawal,
 difficulty in everyday functioning, confusion, hyper vigilance, disturbances
 in sleep & appetite, startle responses, muscle tension, anger/rage

¹⁴ Justice J.S. Verma Committee, Report of the Committee on Amendments to Criminal Law, 66 (January 23, 2013)

¹³ David K. Carson, Jennifer M. Foster & Nishi Tripathi, *Child Sexual Abuse in India: Current Issues and Research Psychological Studies*, Vol.58, pp.318–325 (2013) (Available at: https://link.springer.com/article/10.1007/s12646-013-0198-6)

Acute phase or initial phase — the time period immediately after the rape

- Shock/disbelief/numbness are the immediate psychological responses
- Recurrent flashbacks are also something that the survivor tries to deal with
- Shame and guilt are major reactions, Increased fear and anxiety
- Depressed, Feeling suicidal, Loneliness, Confusion, Anger, Loss of memory
- Feeling dirty or contaminated by the rape

<u>Second phase — In the weeks and months that follows the rape/sexual assault</u>

- Somatic symptoms reflecting effects of physical violation & emotional trauma
- Fear of being re-victimised, anxiety, mood swings, depression, recurrent flashbacks, dreams with violent content, pre-occupation with thoughts of assault
- Survivor avoids intrusive demands which may again make them feel vulnerable
- "Why me" response is prevalent, suicidal ideation, struggle to discover the reason for assault, self-blame/guilt about not having tried enough to resist the attempt starts setting in now, attempts to do things that will give a sense of control
- Unaccepting, criticising attitudes of others around will increase the distressed psychological responses rather than help in coping

Gender non-conforming children, neurodivergent children and children with disabilities are more vulnerable to sexual abuse, owing to restricted mobility and communication. Increased risk of CSA is also prevalent among children of commercial sex workers, young girls with mental health issues, and adolescent boys and girls out of schools and in labour force (like domestic laborers etc.) Studies have also revealed that young boys in India have similar and sometimes higher prevalence of CSA as girls.

Trauma and adverse experiences, such as sexual abuse, can negatively affect the development of a child's brain. Abuse may alter brain architecture, leading to heightened stress responses and weaken cognitive development.¹⁵ It should always be remembered that survivors have varying ways of coping with sexual assaults, and survivors who do not appear distressed may be in denial or use forgetting as a coping mechanism.

From the areas of offence characteristics, those who experience childhood sexual abuse are more likely to commit sexual offences, compared to those without a history of such abuse. ¹⁶ Another legacy of sexual abuse is that children abused at any early age often become hyper-sexualized or sexually reactive. Issues with promiscuity and poor self-esteem are unfortunately common reactions to early sexual abuse. Substance abuse is another common outcome of sexual abuse.

Indicators among teenagers or older children

Older children or teenagers may display emotionally erratic behaviour i.e., being aggressive, angry, crying for no apparent reason, or for very trivial reasons, which is in conjunction with characteristics of physical and emotional development that occurs during puberty. Essentially, the child may become either emotionally more sensitive or more hardened. They may develop low self-esteem, or be confused about their self-identity, including sexual identity. They may also indulge in self-harm, due to shame, guilt, sense of

¹⁵ Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice (Available at: https://www.childwelfare.gov/pubPDFs/foundation34.pdf)

¹⁶ Yeong Yeong Lim *et. al,* Typologies and Psychological Profiles of Child Sexual Abusers: An Extensive Review (Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8146192/)

helplessness, frustration, usually by consuming sleeping pills, or by slashing wrists. They may also display symptoms of eating disorders or sleeping disorders.¹⁷

Such children may also display significant changes in their school and social life. They may experience trouble developing or maintaining relationships, including friendships. They may have either changed their friend groups, or may be unusually spending more time alone, or may tend to avoid certain people, places or activities that they previously enjoyed. They may spend a lot of time online and be secretive about their online communications. They may also experience trouble in concentrating and learning, as a result of which their performance in school may have gone down.¹⁸ They may indulge in sexual behaviour which is considered problematic or risky.

Survivors of child sexual abuse may turn to substance abuse as a coping mechanism to vent out their frustration, and may become prey to addiction to drugs, tobacco and other drugs. Studies have also shown that it is possible that the behavioural indicators simply indicate that the child is under some kind of stress. In this regard, a child whose parents are divorced, for example, may exhibit many of the same kinds of behaviour as a sexually abused child. Survivors particularly young girls, have a tendency to run away from home, which makes them prone to various kinds of delinquency such as stealing, and even snap decisions about going into sex work, which can lead to arrest and incarceration. Research suggests that at least half of all female delinquents have been sexually abused in childhood.¹⁹

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¹⁷ How to spot child sexual exploitation, NHS (Available at: https://www.nhs.uk/live-well/healthy-body/how-to-spot-child-sexual-exploitation/)

¹⁸ Signs of sexual abuse in children and teenagers (Available at: https://raisingchildren.net.au/school-age/safety/child-sexual-abuse/signs-of-sexual-abuse)

¹⁹ Shayani Sarkar, If We Don't End Child Sexual Abuse, This Is How It Can Affect A Person's Adult Life, 3rd July, 2019 (Available at: https://www.youthkiawaaz.com/2019/07/child-sexual-abuse-and-the-propensity-to-commit-crimes/)

Institutional risk zones

Schools and educational institutions continue to remain a major hotspot for child sexual abuse. Perpetrators in such institutions include teachers who are overly friendly with the students, or teachers who sexually abuse students in the name of disciplining, and even staff in schools such as lab assistants, physical training educators and attenders. A teacher may lure the child by promising better marks, grades or more leniency. This is more so in case of children considered to be academically 'weaker'. The child may also be threatened with lesser grades, or of complaining to their parents. A common response when an educator is suspected of abuse, particularly when they hold a good reputation or is a long-time employee, is to deny or ignore it. Sometimes the abuser is transferred to another school. Even with a suspension or reprimand, the violation is likely to recur in the absence of intervention and monitoring. ²¹

Another site of child sexual abuse that has largely been ignored is private tuition centres, which predominantly function in urban cities. In the absence of a regulatory mechanism for private tuitions and coaching centres, it is imperative that parents and guardians play a proactive role in ensuring the safety and well-being of their children.

Yet another major concern is the poor maintenance and monitoring of child care institutions²². Non-registration of child care institutions continues to fester the well-being of children.²³ It has been reported that 1,575 minors,

²⁰ Jon R. Conte and John R. Schuerman, Factors Associated with an Increased Impact of Child Sexual Abuse, Child Abuse & Neglect, Vol. 11, pp 201-211 (1987) (Available at: https://www.sciencedirect.com/science/article/abs/pii/0145213487900597)

²¹ Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice (Available at: https://www.childwelfare.gov/pubPDFs/foundation34.pdf)

²² Mannat Singh et.al, An Epidemiological Overview of Child Sexual Abuse, J Family Med Prim Care, Vol.3(4), pp. 430–435 (2014) (Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4311357/)

Danish, *A crying shame: sexual abuse in children shelters*, Firstpost, 19th June 2012 (Available at: https://www.firstpost.com/india/a-crying-shame-sexual-abuse-in-children-shelters-348852.html)

who were victims of sexual abuse, and 189 victims of pornography were living in 9,589 child care institutions across the country.²⁴

"There is a large gap between what we know about violence against children and what we know should be done." – James A. Mercy

Impact on Child Survivor during the Case

Given the extensive trauma experienced by a survivor of child sexual abuse, which continues through subsequent stages of their life, it is of great importance that the stakeholders in the system exercise utmost sensitivity and sensibility in dealing with a child survivor of sexual abuse, who has come before them in a very fragile state- physically, mentally and emotionally.

The criminal justice system is designed to ensure that the due process is followed by way of a fair trial. In this process, by design, the survivor is made to recount the traumatic incident on multiple occasions across different stages of a case, be it from the moment the offence is disclosed to a parent, teacher, police or a doctor, the initial examination conducted by them, right up through the questioning, recording of statements and cross examination during trial. This might further cause or deepen the psychological trauma of the survivor. Care and caution must be exercised by the stakeholders so as to not trigger or further contribute to the trauma. This requires a multidimensional and multidisciplinary approach for the holistic well-being of child's mental health rather than focusing only on recovery from the traumatic incident of abuse.

The stakeholders need to be cognizant of the fact that the child survivor would be shouldering an enormous burden. In order to begin the unburdening process, children must feel secure, supported, and believed about the abuse.

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²⁴ 1,575 minor victims of sexual abuse staying in child care institutions: Govt to SC, 14th Aug 2018, The Times of India (Available at: https://timesofindia.indiatimes.com/india/1575-minor-victims-of-sexual-abuse-staying-in-child-care-institutions-govt-to-sc/articleshow/65406848.cms)

The dynamics of child sexual abuse differ from those of adult sexual abuse. In particular, children rarely disclose sexual abuse immediately after the event. With an understanding of the effects of child sexual abuse, stakeholders in the legal and judicial system would be better equipped to assist survivors address the impact of child sexual abuse.

"There is no duty more important than ensuring that child rights are respected, that their welfare is protected, that their lives are free from fear and that they grow up in peace." - Kofi Annan

Socio-Economic Factors Leading to Juvenile Delinquency

Children coming before the Juvenile Justice System face the greatest challenge in their tender age, yet their predicaments are frequently overlooked. Mis-handling of children by the police is one common issue concerning the Juvenile Justice System. Children grieve in the framework for quite a long time, either as inhabitants of decrepit detention facilities without access to mainstream schooling and education, or as the subject of unlimited procedures that draw them away from training or work.

Maslow's theory of Hierarchy of Needs

The impact of neglect, emotional abuse and physical abuse can have a harmful and damaging effect on a child. This finds relevance with Abraham Maslow's Hierarchy of Needs. If one's physiological needs such as food, shelter and clothing are not being met they cannot reach their safety needs such as health and family security or reach a sense of belongingness. Children need love, support and affection to grow to be confident and happy adults. This can also be related to the social disorganisation theory of criminology which suggests that strong social interactions prevent crime and delinquency, and that when members of a society fail to achieve united values or to solve mutual problems, it leads to greater incidence of crime.

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²⁵ Gawel, J., Herzberg's Theory of Motivation and Maslow's Hierarchy of Needs (1997) (Available: http://files.eric.ed.gov/fulltext/ED421486.pdf)

Self-actualization

desire to become the most that one can be

Esteem

respect, self-esteem, status, recognition, strength, freedom

Love and belonging

friendship, intimacy, family, sense of connection

Safety needs

personal security, employment, resources, health, property

Physiological needs

air, water, food, shelter, sleep, clothing, reproduction

Maslow's hierarchy of needs

An investigation was made on the psycho-societal causes of juvenile delinquency in Turkey. The researchers concluded that, "Crime is a phenomenon that has continued since the emergence of civilisation. The phenomenon of child being dragged into crime has been widely used in our country's agenda. It is clear that children are victims rather than perpetrators."²⁶ According to Prof. Cyril Burt, "Among social conditions by far the most potent is family life, and next to it, the friendships formed outside the home."27

According to JPB Starker, a researcher from Zimbabwe, "the key factors in preventing delinquency are, father's discipline, mother's supervision, father's affection, mother's affection, and family cohesiveness." Shortcomings in any

²⁶ Aslı Yayak, Burcu Turk, Nurcan Hamzaoglu, A Psycho-Social Investigation On The Causes Of Juvenile Delinguency, International Journal Of Humanities And Social Development Research, Volume 3, No 2, 2019, 50-64
²⁷ Cyril Burt, The Young Delinquent (1925)

of these may produce personality disorders falling short of mental illness according to him.²⁸

Poverty as a Factor

Ms. Abhinanda Choudhury and Dr. M. Sreedevi Xavier in their article on Juvenile Delinquency in India: A Socio-Psychological Analysis, discuss that, "If the child does not get love, affection and support from the parents or the child is rejected then it is definitely going to lead to some kind of delinquency. Economically poor families can hardly provide the material needs of the children. Deprived of such needs drive children to secure them through wrong means. The people from the low-caste group are poor compared to other caste groups. Some of the ethnic groups suffer from discrimination. They are deprived of the rights by the government and also other citizens of the nation. They are also deprived of guidance from their parents as well as from teachers as many do not even experience schooling. Thus, poverty leads to more delinquent behavior."²⁹

Kavita Sahmey, A Study on Factors Underlying Juvenile Delinquency and Positive Youth Development Programs, finds that "Due to the immaturity of the child, he/she easily gets motivated by what he/she sees around him/her. It is the environment and social context that provokes his actions. In a developing country like India, juvenile crimes are steadily rising due to the persistent poverty, unemployment, inequalities and changing values, etc., inspite of these factors that are shown on the television, media, increasing population, adverse effects of peer pressure, lavish lifestyle, too much freedom from the parents, social maladjustment, and family disintegration.

²⁸ JPB Starker, Zimbabwe Law Journal (1966)

²⁹ Ms. ABHINANDA CHOUDHURY, DR. M. SREEDEVI XAVIER, Juvenile Delinquency in India: A Socio-Psychological Analysis, Vol.4(4) https://www.worldwidejournals.com/international-journal-of-scientific-research (IJSR)/fileview.php?val=April_2015_1427978877__162.pdf

Juvenile delinquency is a problem which despite of different and varied cultural backgrounds is found with common characteristics universally..."³⁰

Poverty is one of the significant factors behind juvenile delinquency. The vast majority of delinquents originate from underprivileged families. Poverty compels sometimes both of the guardians to be outside the home for a very extensive stretch to gain their everyday bread, to full fill basic needs, like hunger. In this process, the child is neglected. Such youngsters may deliberately or unwittingly hold hands with hoodlums and become delinquents. This occurs in slum zones and regions in which most regular workers individuals live.³¹

Literacy and Juvenile Delinquency

A link between literacy, positive youth and adult outcomes has been established, especially as related to the juvenile justice context. Emerging research suggests that "using systemic and intensive reading interventions can have a positive impact on youth during incarceration, which may improve their attitudes towards reading, further influencing academic and vocational outcomes following incarceration. One of the characteristics of juveniles incarcerated in correctional and detention facilities is their poor experience with elementary and secondary education. For many, difficulties in reading underlie their poor academic achievement. However, it has been demonstrated that with effective instructions like the reading levels of incarcerated youth can improve dramatically.³²

³⁰ Kavita Sahmey, A Study on Factors Underlying Juvenile Delinquency and Positive Youth Development Programs (2013) Department of Humanities and Social Sciences, National Institute of Technology Rourkela-769008, Odisha, India

³¹ K. Parihar, Social Factors Leading to Juvenile Delinquency in Indian Context, (2020), https://legaldesire.com/social-factors-leading-to-juvenile-delinquency-in-indian-context/

³² Jane Hodges, Ed.D., Nancy Giuliotti, and F.M. Porpotage II, Improving Literacy Skills of Juvenile Detainees, JUVENILE JUSTICE BULLETIN, U.S. Department of Justice (1994) https://www.ojp.gov/pdffiles/lit.pdf

Psychology of Police Officers

Police officers have been shown to have a highly stressful and demanding occupation. A growing number of publications have focussed on the negative aspects of policing, namely traumatic stressors, organisational stressors and individual factors, i.e., personality and coping, arguing that all or any of those variables can have an impact on police officers and their experience of secondary trauma.

Studies assert that police officers may experience many symptoms including feelings of being overwhelmed, anxious, emotional numbness, and inability to experience pleasure, while suffering despair, resentment and emotional exhaustion. Further practitioners can also experience self-loathing, intrusive thoughts, moments of deep rage, crying, intolerance, cynicism in their outlook on life and nightmares. Research has suggested that such feelings are psychological responses of identification with victims.³³

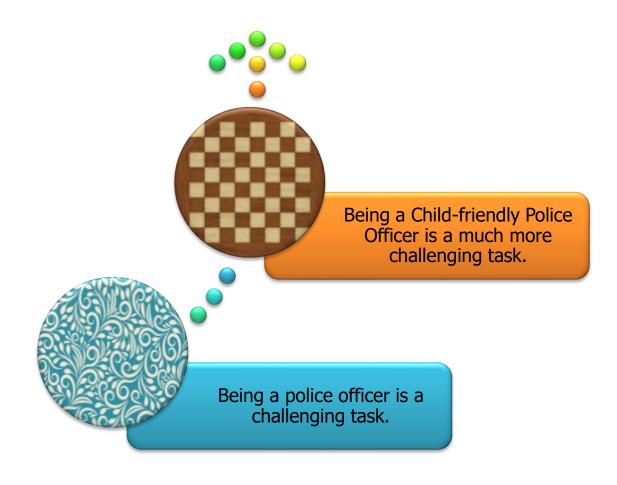
It was also noted that police officers who repeatedly encounter traumatic events through vivid and detailed descriptions of what the survivor has directly experienced, may result in the emergence of STS symptoms similar to the indicators of post-traumatic stress disorder (PTSD).

One such area where police officers may be repeatedly exposed to traumatic incidents is the field of child protection, where officers' core business is that of investigating cases of child abuse.

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³³ Alison D. MacEachern, Divya Jindal-Snape & Sharon Jackson (2011) Child Abuse Investigation: Police Officers and Secondary Traumatic Stress, International Journal of Occupational Safety and Ergonomics, 17:4, 329-339 (http://dx.doi.org/10.1080/10803548.2011.11076898)

A study looked at the impact of working with survivors of sexual assault on police officers and found that PTSD symptoms were significantly more prevalent amongst police officers dealing with rape survivors than those police officers who dealt with routine crimes and offences.³⁴



³⁴ Alison D. MacEachern, Divya Jindal-Snape & Sharon Jackson (2011) Child Abuse Investigation: Police Officers and Secondary Traumatic Stress, International Journal of Occupational Safety and Ergonomics, 17:4, 329-339 (http://dx.doi.org/10.1080/10803548.2011.11076898)

Emotional Intelligence and Stress Management for Police Officers

"The citizen expects police officers to have the wisdom of Solomon, the courage of David, the strength of Samson, the patience of Job, the leadership of Moses, the kindness of the Good Samaritan, the strategical training of Alexander, the faith of Daniel, the diplomacy of Lincoln, the tolerance of the Carpenter of Nazareth, and finally, an intimate knowledge of every branch of the natural, biological and social sciences. If he had all these, he might be a good policeman."

Police officers are usually on the front line, dealing with violent situations, dangerous criminal activities, and life or death scenarios. Most of their work involves dealing with strong emotions and stressful situations. The concept that police officers are tough, and that trauma and violence have minimal impact on their emotional health is a myth. Showing emotions is no longer considered a weakness, and as a result, law enforcement departments are placing great value on officers who exhibit emotional intelligence.³⁶

Emotional intelligence is beneficial in aiding police officers to handle the situation professionally and calmly. Emotional intelligence can be summarized as the ability to manage one's own emotions and the emotions of others, to communicate effectively, empathize with others, overcome challenges and defuse conflict.

Daniel Goleman³⁷, a psychologist, defines emotional intelligence as the capacity for recognizing our own feelings and those of others, for motivating

³⁵ Bain, Read. "The Policeman on the Beat." The Scientific Monthly, vol. 48, no. 5, 1939, pp. 450–58. JSTOR, http://www.jstor.org/stable/16785. Accessed 30 Jun. 2022.

Emotional Intelligence why all police officers need it (March 2020) (https://civilservicesuccess.com/emotional-intelligence-why-all-police-officers-need-it/)

³⁷ Understanding the Benefits of Emotional Intelligence in Law Enforcement, Walden University (https://www.waldenu.edu/programs/criminal-justice/resource/understanding-the-benefits-of-emotional-intelligence-in-law-enforcement)

ourselves, and for managing emotions well in ourselves and in our relationships. According to Goleman, there are five components to emotional intelligence, which form part of a person's Emotional Quotient or EQ. These five components are self-awareness, self-regulation, motivation, empathy, and social skill.

If police officers can manage their own emotions by understanding how an irate person affects us, they can remain calm in the face of provocation. If they understand where the anger is coming from when a person gets upset, they can empathize with their plight, even if we think it's absurd. If they empathize with their plight, they can accept a little anger if it means a professional and calm resolution to our encounter.

Every officer should be taught the concept of emotional intelligence. It is a key component for crisis negotiation and can be used daily by officers in all roles of law enforcement. The benefits include fewer complaints, fewer uses of force, a more satisfied community and better opinions of law enforcement in general.

A study by the National Institute of Justice on implications of childhood trauma for the police notes that "Police officers may also suffer from traumarelated difficulties that impair their ability to do their work. These may be long-standing difficulties stemming from their own childhood that were never identified or adequately addressed, or they may stem from traumatic experiences that occurred while working as a police officer."

Another study explored police officers' perceptions of the daily challenges involved in child abuse investigations across three Australian states. The study examined how officers considered such enquires to affect their ability to undertake their role and the management of the challenges they faced. The study found heavy caseloads and collaboration with other professional

groups to be the two key sources of negative work stress frequently associated with child abuse investigations.

Training law enforcement officers to understand and develop their emotional intelligence can improve policing and help strengthen bonds and build trust within communities. Unlike many other professions, law enforcement faces unique challenges on a frequent basis. To combat this, today's police officers must be acutely aware of their communication skills and prepared to make emotional connections to engage stakeholders in furtherance of meeting the needs of both the justice system and the community at large.³⁸



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³⁸ Understanding the Benefits of Emotional Intelligence in Law Enforcement, Walden University (https://www.waldenu.edu/programs/criminal-justice/resource/understanding-the-benefits-of-emotional-intelligence-in-law-enforcement)

How Can Police Alleviate the Impact of Trauma on Children?

A child coming in contact with a police officer by default is traumatised accepting the fact that there is societal fear factor attributed to the law enforcers. A police officer coming in contact with either a CCL or a CNCP should *prima facie* presume that, the child before them is traumatised. Therefore, the first step is to break the ice between the child and the police officer.

Trauma is literally the ancient Greek word meaning injury or wound, which is why the term trauma has been adopted by the medical field to describe an injury (e.g., trauma service, trauma surgery, etc.). And psychological trauma means an experience or group of experiences that cause an injury to brain which affects the cognitive, emotional and behavioural functioning of a person³⁹.

While some people have evolved their understanding on mental health, most of the people do not view mental illness as severe problem and they deem it to be ordinary illness which is easily curable. But primarily brain disorder or due to adverse experience and trauma which causes disorder of mind. And their adverse experience appears to confluence in brain at molecular level and then develop structurally over period of time and it becomes very difficult to explain how the individual would behave and function as person and how they are impacted by traumatic experiences.

A mind can be recognized as a lively interplay between the brain and outside world, so any interaction or experience of person with outside world must affect the brain of a person. And trauma experienced by a child is necessarily

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³⁹ Steven J. Berkowitz, Childhood trauma and adverse experience and forensic child psychiatry: The Penn Center for Youth and Family Trauma Response and Recovery, Journal of Psychiatry & Law (2012)

an experience given to it by the world which they cannot be solely blamed on. Researches have shown that there is interlink between the traumatic experience and criminal behaviour⁴⁰. One of the Research, have revealed that offenders had high prevalence of post-traumatic stress disorder (PTSD) when compared to the other population⁴¹. On the other than victims of violence are high susceptible to dissociation, depression, trauma and substance abuse. And prolonged exposure to crime as "vicitm" may make such a person, perpetrator of crime. Some of the reasons for post-traumatic reactions, aggression and anti-social behaviour are developed due to child abuse, neglect, poverty, sexual molestation and constant witness of violent crimes⁴².

When it is regarding children, violence and trauma have deep impact on child's development. UNCIEF 2017⁴³ study has shown that violence and neglect have huge psychological impact on child's brain and those children who are repeatedly exposed adverse conditions further carry exposure to violence. A child's adverse conditions and traumatic experiences can reduce child's cognitive thinking, behaviour and will further hinder development of child's social adaptation, as far as child is concerned when development of social process does not take place at right time it would be very determinantal for child growth and might create issue for him while growing in society.

The collection or build-up of traumatic stressors are often visible in the symptoms of children, which the frontline professionals including Police

⁴⁰ Ardino V, Post-traumatic stress in antisocial youth: A multifaceted reality, Blackwell Publishers

<sup>(211–229:2011)

41</sup> Wright L, Borrill R, Teers R, Cassidy T., The Mental Health Consequences Of Dealing With Self-Inflicted Death In Custody, Counselling Psychology Quarterly (2006)

⁴² Finkelhor D., Childhood Victimisation, Violence, Crime and Abuse in the Lives of Young People, Oxford University Press (2008)

⁴³ A Familiar Face: Violence in the lives of children and adolescents, UNICEF New York (2017)

officers are often not trained or well versed to address. And this can become very difficult for the child as the police officers are the one of the first to respond to both child victim as well as child in conflict with law. Researchers have indicated that young people who have encountered police officers especially sexually exploited child often described their initial encounters with police as very difficult, they had perceived this feeling as they think that police lack sensitivity and attitude towards them. This can be true because police officers do not understand the impact of trauma and abuse as children are affected by it. And for police officers in order to move forward in positive step they have to critically understand the impact of traumatic experiences and should recognize the signs and symptoms of trauma.

Traumatic Stressors may include domestic abuse, maltreatment, sexual exploitation, violence and many other activities which might affect the child. These kind stressors can range in severity and impact and might affect the people differently; meaning different children might react differently to exposure to traumatic events. Children who have experienced some kinds of trauma in early life are often susceptible to subsequent trauma as they grown up.

Dr. Kristine Hickle in her work has provided "trauma-informed approach"⁴⁴ and way as to, how it might apply to police officers who are frontlines workers. Her work has provided an explanation of symptoms and behaviours which the police officers might observe in children who are affected by trauma and has suggested some practical ways in which police officers might effectively work with the children.

⁴⁴ Dr. Kristine Hickle, A Trauma-Informed Approach: Policing Responses to Child Sexual Exploitation, The international centre for child sexual exploitation, violence and trafficking, University of Bedfordshire, The International Centre Researching Child Sexual Exploitation, Violence and Trafficking (August 2016)

A trauma-informed approach represents a new way it includes:

- ✓ Recognising the signs/symptoms of trauma
- ✓ Acknowledging the impact of traumatic experiences
- ✓ Actively seeking to avoid re-traumatisation
- ✓ Integrating an understanding of trauma in organisational policy and practice.

Police might think that trauma is outside their scope of role or clinical condition which they can't take care off, but trauma can be understood as expected outcome of exposure to dangerous circumstances.

The first step of being trauma informed starts with recognizing symptoms of trauma. Police officers can see that person when he closely observes a child which has physical symptoms like nausea or trembling, a traumatised person may also have panic attack which seems to shows his unexplainable anger or fear. At times they may suddenly freeze up or unable to recall past events. And at this juncture it is very important for police officers to acknowledge and understand feelings of child, which might help the child.

A person who is traumatized might be hyper vigilant and such person might appear to be very tensed and may show his hostility particularly if they are threatened. Some child might easily get angered when they made to recall the incidents repeatedly and they might want to dissociate and detach from their experience.

A person who wants to dissociate may either appear to be numb or checkout when being questioned. This kind of symptoms might reflect that as if they are not distressed at all or they are not affected traumatic experience and this might people lead to police think that they are uncooperative, aggressive or hostile towards to them but that is not the case and police officers once

trained to look at these symptoms, can observe that and can clearly get an understanding of child being traumatized.

The trauma informed approach could be one of useful frameworks for engaging with children. It is quite simple and useful for police as it doesn't need extensive clinically oriented trauma training. Instead in this approach, the police officers are required to understand basics of traumatic experience and know how trauma symptoms demonstrate in behaviour of child. As it will allow police officers to build trust and safety and at same time gather information about the them in child-centred way. As a whole, it will be useful for enhancing police officers understanding and managing trauma affected children.

Keep in mind that, helping a child to overcome their trauma and move on, is utmost important, to serve the purpose of POCSO Act, 2012. As stakeholders who take part in needling out the trauma of the child, they should be vigilant to not add-on to a child survivor's trauma. One of the other ways being trauma informed is following safety and trust.

Many children in conflict with law tend to have experienced one or more types of trauma, including high rates of physical or sexual abuse, witnessing domestic violence and exposure to violence in school or the community. Children may cope with traumatic stress in ways that increase their risk of arrest, including using drugs to avoid distressing memories, running away from an abusive home, and carrying a weapon or joining a gang to prevent re-victimization.⁴⁵

By properly addressing and treating issues surrounding substance abuse, school, home environment, and mental health, specifically trauma, the child

⁴⁵ Branson CE, Baetz CL, Horwitz SM, Hoagwood KE. Trauma-informed juvenile justice systems: A systematic review of definitions and core components. Psychol Trauma. 2017 Nov;9(6):635-646. doi: 10.1037/tra0000255. Epub 2017 Feb 6. PMID: 28165266; PMCID: PMC5664165 (https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5664165/)

is less likely to reoffend later on in life. To achieve this end, it is important to acknowledge that a punitive, coercive, unhelpful and anti-therapeutic juvenile justice system, does more harm than good.

It was reported that children in conflict with law, with strong peer social supports can strengthen positive relationships and recovery through mentoring, coaching, recovery groups, or community building. Thus, children in conflict with law suffering from trauma can ultimately become successful if they are properly assessed at frequent intervals using reliable measurements, the services they are connected to appropriately match their needs, and they create and maintain positive social supports.⁴⁶

As police and police organizations increase their understanding of childhood trauma and its effects, they will be more invested in and better able to develop and institute police practices that take this serious mental health problem into consideration.

A punitive, coercive, unhelpful and anti-therapeutic juvenile justice system, does more harm than good.

Police should have the aptitude to learn more and to grow further. With the right aptitude one can develop the right attitude. Attitude refers to a person's feelings or perspective about something it can also refer to one's mental will. Where there is a will there is a way. Therefore, with the right human attitude, one can develop or innovate the requisite skills. The police officers can establish safety and trust among children in following ways;

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Melinda Plucknette, Trauma in juvenile offenders, (June 2020) (https://sites.bu.edu/daniellerousseau/2020/06/21/trauma-in-juvenile-offenders/)

- ✓ They need to demonstrate that they are trustworthy, transparent and reliable
- ✓ Need to show sensitivity towards gender issues, cultural, religion and other social issues.
- ✓ Informing children what they are going to do with them and make them feel safe in the process.
- ✓ Making easier to connect with family members or person's with whom they are comfortable with and connect with other services like child protection, education etc..
- ✓ Need to be aware that trauma makes the children behave in disruptive or harmful behaviour and giving these children enough time and space to address the issue comprehensively.
- ✓ Child needs to be taken to a place where they feel safe and needs to be provided chance to speak about issue in her own speed.
- ✓ Police officers who are seeking answers from them needs to be nonjudgmental while asking questions. For example, instead of asking 'what is the problem with you?', they can ask 'what has happened to you?'.
- ✓ Need to ask child if they feel unsafe and following through it and make sure that their concerns are being acknowledged which will instil their faith towards the police as well as the process.
- ✓ To avoid re-traumatization, the police officers can prepare victims as what they can expect once the case and proceedings begins, so that there won't be unwanted stress upon the child.



PART III - SKILL

This part essentially will magnify a picture about how to strategically apply the law to serve the "best interest of the child". This part will also guide the CWPOs to be skillful in applying the legal principles and procedures. An aptitude for attitude and skill is very important. Essentially this part shall guide the CWPOs to tactfully maintain an attitude accommodating the Child's interests. This part of the book will essentially make a better person at dealing with children, particularly those children who come under the POCSO Act, 2012 and JJ Act, 2015.

The Art of Child Friendly Policing

It is trite to state that, to be designated as a Child Welfare Police Officer [CWPO], is an honour conferred upon the law enforcer. It is indeed a noble thing to be a law enforcer, particularly a law enforcer dealing with children. A successful Child Welfare Police Officer is the one who is able to read the mind of children, understand their feelings, and empathize on their trauma. Children being naïve, tend to easily trust everyone who comes in contact with them. For a police officer, it is a complicated task to genuinely gain the trust of child, especially a traumatized child. CWPOs who are successful in this skill can only transform our society. Skill is regarded as an intricate part of a CWPO's nature of work. This skill comes with experience of dealing with Children from diverse backgrounds. Children are regarded as fundamental to the future of our country. Good communication skill is expected out of a CWPO. It is important to take a cognitive and affective approach when dealing with children.

Child friendly policing strategy is an art. This art can be developed only through patience and practice. A CWPO should know how to balance tough situations and serve the best interests of Children.

It is the responsibility of all the CWPOs in action to not contribute to culpable negligence towards Children. This issue needs to be addressed by CWPOs through their skilled intervention and friendly interaction towards children. It is a good thing to be a law enforcer. It is a better thing to be a Child friendly police officer. A successful Child Welfare Police Officer is one who is able to read the mind of Children. It is a difficult job. However, the Child friendly police officers who are successful in this aspect can change our society.

Skill is regarded as a tricky part of a Child Friendly Police Officer. This skill comes with experience of dealing with Children. Children are regarded as fundamental to the future of our country. A Child Welfare Police Officer is bound to have the Skill in assessing situations that come before him and recognize when to take action and decide the appropriate course of action serving the best interest of the Child. A Child Welfare Police Officer should be responsible enough to have the Skill in reading, comprehending, retaining, and applying the written factual information relating to the Child under apprehension or such child who is in need of care and protection. A Child Welfare Police Officer's duty is twofold and multi-dimensional. The Officer is accountable for having the skill to analyze the situations quickly and objectively. The Officer should also recognize the actual and potential dangers that a child may endure.

A Child Welfare Police Officer should be well aware and up to date about all the children he has attended till date. The Officer is expected to have the skill of observing and remembering details. A Child Welfare Police Officer should not be evasive. A Child Welfare Police Officer may encounter multifarious issues while securing Children. Therefore, it is important that, the Officer develop qualities that can significantly minimize such technical issue and be more proactive to confront all varieties of problems and situations. It is important that there is an all-pervasive need for developing such an attitude since our country is a diverse nation-State. A Child Welfare Police Officer

should be dependable and should be reportedly having sound work habits. A child cannot be left with unreliable situations. Lastly, this is important for a Child Welfare Police Officer. A Child Welfare Police officer should technically be promoting characteristics necessary to maintain integrity, truthfulness and credibility.

Success comes to a Child Welfare Police Officer when there is proven ability to establish effective working relationships and rapport with children from different racial, ethnic and cultural backgrounds. The skill demonstrated by a Child Welfare Police Officer, relating to the public in a fair, tactful and courteous manner, regardless of cultural differences should not be more protectively enhanced before showcasing it before Children. Conclusively a person demonstrating skill to effectively deal with Children in various emotional and mental states is a good Child Welfare Police Officer.

What is Child Welfare?

Welfare of children is a continuous process as it is important for a Child Welfare Police Officer to ensure that children are safe with their families. It is also important to ensure that children are accommodated safely in their respective families. Child Welfare Police Officer should keep a constant track of the children they attended. It is important that Child Welfare Police Officer doesn't promote abuse or neglect towards Children in their approach.

Role of a Child Welfare Police Officer in ensuring Child Welfare

A Child Welfare Police Officer should be a supportive Officer and should coordinate to prevent child abuse and neglect post apprehension. The reports relating to the Child should be very much comprehensive and detailed. It is important that the Officer takes extra care and caution while writing a report about the Child under his apprehension to a higher forum. The Officer should

keep in mind the future of the children. For Children who are not feeling safe at home the Officer dealing with such children should be prudent to function more sensitively.

When dealing with a Child in Conflict with law, a Child Welfare Police Officer should not try to vacate the CCL's access to their family by delaying the procedures established by law. It is mandatory that a Child Welfare Police Officer should not restrain the family of the CCL from the CCL until produced before the JJB. On the contrary, if the Child has to be kept in the Government Observation Home due to certain exigent circumstances which has vacated the possibility of producing the CCL before the JJB, this fact should be clearly explained to the family of the CCL. The family of a CCL should not be kept at dark without being given adequate information. Being aware of this fundamentally idea of welfare of the Child makes the Child Welfare Police Officer more accountable in their work.

In the case of a Child in need of Care and Protection, it is imperative for the Child Welfare Police Officer to be taking more prudent care and measures to serve the best interest of the Child. The responsibility begins from assessing such Child's social surroundings and family background. A Child in need of care and protection should not be continuously neglected for being less responsive to a Child Welfare Police Officer.

Patience is primordial for Welfare!

To deal with Children it is very important for the Child Welfare Police Officer to be patient till the Child opens up. The real test of the Officer's emotional intelligence is put to test here. In India Child welfare laws are very effective and its first instance application begins from a Child Welfare Police Officer. It is therefore important that the Child Welfare Police Officer is patient enough to apply the law correctly and diligently. Care and caution should be exercised

while applying the law on children, lest they suffer an unending mental trauma for the rest of their life.

A Child Welfare Police Officer Should be Responsive and Accountable!!

A Child Welfare Police Officer should fundamentally be very responsive and accountable person towards the Children with whom they are dealing. There should not be a bias-driven approach from the side of a Child Welfare Police Officer to the Children coming in their contact. A prudent intervention of a Child Welfare Police Officer cannot be compromised at any cost. Child Welfare workshops in schools and parental counseling sessions should be conducted for undoing the fear and trauma inherent in each and every Child. Children from the lowest strata to the highest level should be promoted to collaborate with law enforcers.

The Child Welfare Police Officer should adopt a trauma—informed approach towards children. This will ensure the idea of serving the best interest of the Child. It is also important to keep the child safe from potentially harmful situation. Child Welfare Police Officer's actions should not endanger the life of a child. At the same time, a Child Welfare Police Officer should be extremely careful while dealing with the parents of the child.

Understanding a child's mind is the first and foremost step for a child's welfare!!!

Technical Questions that can be used to understand a child's mind

- 1. Use persuasion to encourage a child to talk depending upon the age of the Child.
- a. What does a child remember? It is important to understand how much of the incident the child remembers and how much the Child is willing to openly reveal to the Officer seeking information. Persuasion is a very viable technique to help the Officer to know more about the Child.
- b. For understanding more about the child's intellectual quotient, the Officer can interview the child on the following approach.
 - i. What do I need to know about a child's language ability? The first thing is to understand the ability of the Child to receive and transcribe to you. (Child should understand the questions the Police ask and the Police should understand the answers that the Child gives.)
 - ii. What is a child normally fearful and anxious about? For an Officer who is dealing with Children, it is important to understand what the child before him/her is fearful or anxious about?
 - iii. How does a child understand secrets? In those cases where a child in need of care and protection is involved, it is important for the Officer to know the Child's emotional quotient to open up to personal questions.
 - iv. What does a child know about Trauma? At this fourth step, the Officer should understand and analyze the Child's reception to the above three questions. The Officer should try to understand the Child's impression on trauma from the reported incident.

v. When can a child be trusted to tell the truth? As an Officer, it is also important to assess how much of the facts elicited from the Child can be considered true and how much of the information elicited can be tainted. This is the crucial step of forming an opinion on the Child's aptitude.

Best Practices in Child Protection

- ✓ Consider the Best interest of the Child.
- ✓ Adhere to the principle of non-discrimination.
- Providing treatment, therapies and access to services for traumatized children and their families.
- ✓ Training law enforcement on human trafficking.
- ✓ Monitoring the efficiency of applying child protection laws continuously.
- ✓ Developing a child protection framework around you through coordination and cooperation with your peers engaging in proper exchange of information.
- ✓ Utilize animation to encourage Children before you thereby promoting Child's participation.
- ✓ Breaking the cycle of abandonment theory. It is important for you to break the feeling in the child that they are abandoned.
- ✓ Ensure good quality of life for the families through continuous coordination.
- ✓ Mandating Reporting on Child Maltreatment in Schools.
- ✓ Follow the upkeep of alternative care and accommodation continuously by supporting the right to safe accommodation and the principles of alternative care.

- ✓ Promoting tougher sanctions for crimes committed against Children by adults.
- Continuously pursuing for compensation of Child victims of abuse and exploitation.
- ✓ Teaching Children and Caregivers about Personal Safety and Developing Resources for Families through school centered coordination.
- ✓ Educating Women and Expectant Mothers about Child Abuse.
- ✓ Attending to the needs of Children housed in Government Observation Homes. Frequent visits to verify their wellbeing. This can in turn keep in place a check and balance on the health of the Children keeping nourishment of the Child in order.
- ✓ Protecting Children from Corporal Punishments. Report of such incidents.
- ✓ Protecting Children from falling into delinquency through cultural studies and the arts conducted by local jurisdiction police stations in coordination with schools coming within its jurisdiction.
- ✓ Providing Programs to Support Child Abuse Victims, Foster Peer Support, and Protect differently abled children.
- ✓ Fighting Child Trafficking through Case Tracking, Protective Services, and Information Dissemination Campaigns.
- ✓ Creating and Promoting Well-Being of Children by fostering Children's Participation in Society.
- ✓ Seeking to eliminate violence against girls by providing counseling, shelter, and community support through improvised methods organized in Police Stations; inviting the locals for session on the topic "Raising Awareness"

- about Child Abuse and Family Violence through Training and Education".
- ✓ Reporting of children facing child marriage, trafficking, and other forms of abuse.
- ✓ Supporting child development by encouraging community participation by providing programs to promote child rights and child protection.
- ✓ Relieving distress and sickness in abandoned and orphaned children through Training Initiatives conducted by police in coordination with Govt. Observation Homes, thereby creating sustainable projects to provide orphans with nutrition, clean water, and farming skills.
- ✓ Providing psychological and emotional support for women and children victims of violence and sexual abuse.
- ✓ Providing shelter, rehabilitation, and counseling services to child sex trafficking victims.
- ✓ Building capacity of child survivors to lead the fight against child sexual exploitation and enabling girls who are at-risk or have been victimized to live independently.
- Monitoring and evaluating tourism companies to enhance protection of children from sexual exploitation. Training hotel employees to recognize indicators of child sex tourism.
- ✓ Mobilizing the protection of children from sexual exploitation enabled by information and communications technology. Educating children about cyber bullying and the dangers of interacting with strangers. Facilitating a safer internet to raise awareness of risks to children online and to combat abuse.

- ✓ Educating children about sexual abuse through child-friendly training by conducting workshops in child friendly police stations inviting children and parents to attend such programmes to bridge the gap between police and society. This endeavours to educate children about sexual health, and involves working with vulnerable communities to offer services and education opportunities to children at-risk.
- ✓ Providing adequate services to meet the needs of migrant children.Preventing child marriage and child labor through education and training amongst such Children. Protecting children from economic exploitation.
- ✓ Drawing attention to the plight of child refugees through media campaigns and research reports. Ensuring adequate treatment services to child torture survivors. Providing direct counseling support and recreational outlets for children in conflict areas.
- ✓ Providing shelter, counseling, and education programs to at-risk street children.
- ✓ Providing innovative techniques for reducing victim stress during court interviews and medical examinations for CCLs. Ensuring that children disclosing abuse are protected by intervention systems.
- ✓ Ensuring justice, pre-trial safe custody, and counseling for child victims of forced prostitution. Assisting children in testifying against traffickers and abusers and obtaining necessary documentation for reintegration.
- ✓ Prevention of Crime is equally an important responsibility of the Police just as investigation.

How to approach a youthful suspect under your apprehension?

It is the most challenging phase for a Child Welfare Police Officer to deal with children over 12 years of age. It is difficult to make them open up and it consumes a lot of time. Keeping this in mind, it is important that all the Child Welfare Police Officers give more time for dealing with such children.

Introducing Self & Rapport Building - The first step in building a rapport with such children is to provide a more welcoming approach. The Child Welfare Police Officer should first introduce himself to the child and their parents, and explain the reason for the meeting.

Managing Reluctant Children & Parents - The right to remain silent should not be abused by the Child Welfare Police Officer. The Child Welfare Police Officer may inform the Child and their Parents that, the Child Welfare Police Officer is a person designated to help the child. Lack of understanding of the role of a Child Welfare Police Officer, on part of the parents, might make them less cooperative and more evasive.

Rapport Building - Convincing a youthful suspect is not an easy task. Therefore, the Child Welfare Police Officer may require more than one interview with the suspect to build a better rapport with children. During the interview it is important to elicit more information about the history and circumstances of the child suspect.

Coping with Denials - The Child Welfare Police Officer should try to make the Children understand the importance of help and the need for treatment in case the child suspect is apprehended of serious accusations like offences against women. During the session it is important that, youthful suspects are not blatantly accused of their crime.

Closing - The Child Welfare Police Officer shouldn't treat the apprehended Child without respecting their dignity.

Policing Strategies for Child Welfare Police Officers

Like how bail is the rule and jail is the exception, prevention of children from becoming a CCL or CNCP is the rule and investigation of the CCL or rehabilitation of the CNCP should be seen as an exception by the CWPO. Investigation into crimes against children requires a cognitive approach. Crimes against children include physical and emotional abuse, neglect and exploitation, child pornography or sex trafficking. Therefore, the functional intervention of a Child Welfare Police Officer in these regards is imperative.

Child Friendly Policing and Strategies for a CNCP

A child in need of care and protection should be taken before the Child Welfare Committee by the CWPO. after interviewing the child in detail, and forming a clear opinion, the should be taken before Child Welfare Committee to secure their best interests. The Child should be taken before the Child Welfare Committee serving their best interest after interviewing the Child in detail and forming a clear opinion. This opinion formed by the Police Officer should be clearly reported before the Child Welfare Committee. The Child in need of Care and Protection cannot be cornered or traumatized by the Police Officer.

The Police Officer coming in contact with a child in need of care and protection should at first inform the parents of the child. If the parents are not traceable or not willing to receive the child or if the Police Officer finds any suspicion on the identity of the Parents during interaction with the Child, it is important that the police officer functions prudently in such critical circumstances. If the Police Officer is of the opinion that the best interest of the child will not be served if left with the parents, then the Police Officer may

report it to the Child Welfare Committee. The child should be secured by holding them in an authorised Government Reception Home, if it is not plausible to produce the Child before the Child Welfare Committee within 24 hours. However, the Police Officer shall take complete responsibility and accountability on the wellbeing of the Child. At no time shall such child in need of care and protection be ignored or ill-treated by the Police Officer. The police officer shall be accountable for culpable negligence if the Child submits such complaints before the Child Welfare Committee. The Police Officer should keep in mind that, a child in need of care and protection shall not be taken anywhere near a jail or lock-up at any cost.

A Police Officer dealing with a Child in need of Care and Protection should always be in plain clothes. There are reported incidents of Police Officers dealing with Child in need of Care and Protection who aren't particularly designated for the task and children being mentally traumatized from their uniformed approach. The use of police uniform is forbidden to those Police Officers dealing with Children. Therefore, it is also not advised to wear plain clothes over the uniform. The letter and spirit of the law mandates the Police Officer dealing with child in need of care and protection to be in plain clothes. This has to be adhered to without any compromise.

The Police Officer while in the charge of a Child in need of Care and Protection should ensure that, all the basic requirements of the Child are taken care of. The police officer should also provide for necessary amenities such as food, clothing, etc. for the Child.

A Police Officer who is dealing with a Child in need of care and protection should have the contact details of all the related stakeholders with them and the necessary reports about the Child in need of care and protection should be shared without any delay.

Child Friendly Policing Strategies for a CCL

A Child in conflict with law when apprehended by the Police Officer shall not be handcuffed or kept in a lock-up. The policy of bringing CCL to the police station, the policy of apprehension during late nights and not allowing the CCL to be accompanied by their family members, retaining CCLs at the Police Station for an unreasonable time, conducting the apprehended CCLs in a wrong way are all condemned practices.

The right of a CCL to be released on bail is a statutory right. It is a condemned practice of the Police Officer to apprehend CCLs at odd hours, restricting the CCLs family to seek for bail. There are instances reported wherein the police officers had identified the house of a CCL and tried to apprehend the CCL during late night hours. These practices are deprecated.

Upon the apprehension of a CCL by the concerned Police Officer, the first and foremost thing to be done is to inform the family or guardian of the CCL. The Police Officer should explain in detail the procedure that will be followed to the family or guardian and also explain what is their next recourse to relieve the CCL from the apprehension. In such cases wherein the family or guardian of the CCL is not traceable, it is important for the Police Officer concerned to place the child with a fit person.

The Police Officer should look into the moral, physical and psychological aspects of the CCL. The Police Officer should inform the Station House Officer to in turn inform the Probationary Officer about the CCL. The Police Officer should ensure that the report of the Probationary Officer reaches JJB without any delay. Further, there shall not be a joint trial of a child with an adult for offences committed by them jointly. Though a common investigation is made against them, charge sheets should be filed separately in the respective board and court. No security proceedings under sections 107 to 110 CrPC, shall be launched against a child.

Skill to know your Laws & Rights of the Child

The idea of child-friendly policing signifies a practice in which, when they come into contact with police and justice system, they are treated in a fair and appropriate manner which is not harmful to them⁴⁷.

The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015, is the comprehensive legislation concerning children who are in need of care and protection as well as children in conflict with law. This Act was brought to make the process and system more child-friendly and sensitive as per needs and rights of a child. This Act is labelled as progressive legislation as it mentions proper care, treatment, development and rehabilitation of vulnerable children. Child-friendly approach means providing physical spaces, languages, and accessibility to CWO, procedures followed with due to care and respecting the wishes of child.

Protection of Children from Sexual Offences Act, 2012

Protection of Children from Sexual Offences Act, 2012 was enacted to curb the sexual offences committed against children and pave way for more stringent punishments to the perpetrators. The need for an exclusive and special legislation to deal with child sexual abuse came into play due to rapid increase in children being victims of sexual offences such as harassment, child sexual abuse, child rape, child marriage, child pornography which jeopardized the overall growth of the country. The POCSO Act is gender-neutral and provides for protection of children from being sexually exploited. The Act recognizes various forms of sexual abuse against children, including penetrative and non-penetrative assault, sexual harassment, and

⁴⁷ Policing of Children and Young People: A Case for "Child-Friendly Police, (October 2021), (https://justicewithchildren.org/wp-content/uploads/2021/10/Policing-of-Children-and-Young-People.pdf)

pornography, among others. The Act mandates child-friendly methods to be followed, including *in camera* trial, interim compensation, and rehabilitation of children.

Prohibition of Child Marriage Act, 2006

To overcome the shortcoming of the Child Marriages Restraint Act, 1929 the Government of India enacted the Prohibition of Child Marriage Act, 2006 [PCM Act, 2006] which came into force in 1st November, 2007. The PCM Act, 2006, provides a civil remedy as well as criminal provisions to prohibit child marriage and protect the rights of the children. The Act defines a child as a male who has not completed 21 years of age and a female who has not completed 18 years of age. As per the definition of the PCM Act, 2006, if either or both the contracting parties to a marriage is a child as per this definition the marriage is considered as a child marriage. Child marriage can be declared null and void at the option of the contracting party. The court can order for maintenance and residence to the female contracting party, and for any child born out of such marriage. The court also has power to issue injunction for Prohibiting child marriage from taking place. The Act provides for punishment of adults, who enter into a child marriage or perform, conduct, direct or abet child marriages. Child Marriage Prohibition officers (CMPOs) have been appointed to deal with the case of child marriages. The CMPOs have the responsibility to prevent solemnization of Child Marriages, and to sensitize the community and spread awareness on the issue of Child Marriage

One of the fundamental reasons, why policing practices with children need to be provided further attention when compared to adults is that, children brain is in the process of development and are less emotionally and psychologically matured, so they would be less responsible for situation happening around them or for actions which they take. A developing emotional and psychological maturity hands out vulnerabilities within children, making them

at the risk of exploitation and abuse by police officers. These might make the children behave and respond in different way to police officers than what they might expect from the adults. In case if they have negative interactions with police, it can lead to stigmatization and have lasting impact on the development of child. It is utmost important that police officers need to engage in child-friendly manner which reflect mental capacity, stage of development and specific protection needs which respect children's rights.

The International law requires that when children come into contact with justice system either as children in need of care and protection or children in conflict with law, they need to be treated in a way which is consistent with human dignity and take into consideration their specificities of situation and their age. There is further obligation on the state to ensure that children are treated in fairly and in a manner that promote their rehabilitation and reintegration into the society.

With the ratification of Convention on the rights of the child⁴⁸, the international community has accepted that different standards need to be equipped so as provide the children legal safeguards which would take into account the distinct characteristics and rights of children when they are taken into process.

The UNODC⁴⁹ has listed that the right to be treated with dignity and compassion is one of the ten fundamental rights of child victims. This right to be treated with dignity means that child victims need to be approached as a person who is entitled to full rights. This implies the police officers need to proceed in accordance with their individual rights, and considering their

⁴⁸ Convention on the Rights of the Child, General Assembly resolution 44/25, (November 1989)

⁴⁹ Training Programme on the Treatment of Child Victims and Child Witnesses of Crime for Law Enforcement Officials,

https://www.unodc.org/documents/justice-and-prison

reform/Training_Programme_on_the_Treatment_of_Child_Victims_and_Child_Witnesses_of_Crime_-Law Enforcement.pdf

special needs, wishes, feelings and evolving capacities, and with full respect for the child's privacy, personal situation, gender, disability and their physical, mental and moral integrity.

At the same time the child victims have the right to be treated with compassion. Here compassion means, the officers need to be sensitive and try to understand the child's feelings, needs, wishes, beliefs, communication style and individual experiences as a victim. As every child would have experienced crime in a different manner, they might react differently and need professional help to understand their special needs. The police officers should recognize that child victims cannot fully recall events that would have happened. At that situation it is for Police to treat them compassionately.

Model Strategies from United Nations Office on Drugs and Crime on Treating Children in a caring and sensitive manner

Strategy 1

- ✓ Treating children in a caring and sensitive manner
- ✓ Taking into account the personal situation of the child
- ✓ Taking into account the immediate needs of the child
- ✓ Taking into account the age, gender, disability and level of maturity of the child
- ✓ Fully respecting the physical, mental and moral integrity of the child

Strategy 2

- ✓ Treating children as individuals
- ✓ Respecting the individual needs, wishes and feelings of the child

Strategy 3

✓ Limiting interference in the private life of a child to the minimum needed (but maintaining high standards of evidence collection)

Strategy 4

- ✓ Avoiding further hardship of children involved in the justice process
- ✓ Conducting interviews, examinations and other forms of investigation by trained professionals
- ✓ Proceeding in a sensitive, respectful and thorough manner

Strategy 5

- ✓ Interacting in a child-sensitive manner
- ✓ Interacting in a suitable environment that accommodates children's special needs
- ✓ Interacting according to children's abilities, age, intellectual maturity and evolving capacity
- ✓ Using language that the children use and understand

Questioning process

Police officers should make sure that they ask appropriate question like open ended questions, which are neutral in nature and do not indicate any form of expected answers from the child. This would help child to recall information and give longer and more detailed response than other kinds of questioning.

Avoidable questions

The following kind of question like "yes or No" should be avoided as much as possible. They should only be used when important information is still missing after completely exhausting open-ended question or can be used to collect

simple facts. Researches have suggested when children are questioned Yes or No, they have tendency to response affirmatively. Thus, the police officers should avoid close-ended questions as much as possible.

Inappropriate questions

Leading questions should be considered inappropriate and insensitive when used for communicating with child victims. Leading questions are also known as suggestive questions- in this type of question the professionals already provide an indication of possible answer, so this should be specifically avoided while communicating with child victims. Children do not feel comfortable to answer this kind of question and at times, it might lead to untrue statements and they are susceptible to suggestions and manipulations even more than adults. So, the police officers should avoid inappropriate questions.

Parents & child victims

Children when they become immediate victims, he or she has the right to priority to get attention from prosecutors, and also comfort and assistance from parents and other caregiver as well. The parents of the child also need to treated in a dignified and compassionate attitude. An effective strategy is to assist parents of the victim in understand the situation. This will ultimately benefit the child who has been victimized. Police officers can inform the parents about what they can expect in the process and how they need to treat the child and how can they console child. Showing dignity and compassion has an enormous positive impact on the well-being of the child.

Strategy 1

- Treating children in a caring and sensitive manner
- Taking into account children's personal situation
- Taking into account children's immediate needs
- Taking into account children's age, gender, disability and level of maturity
- Fully respecting children's physical, mental and moral integrity

Strategy 2

- Treating children as individuals
- Respecting children's individual needs, wishes and feelings

Strategy 3

 Limiting interference in children's private life to the minimum needed (but maintaining high standards of evidence collection)

Strategy 4

- Avoiding further hardship of children involved in the justice process
- Conducting interviews, examinations and other forms of investigation by trained professionals
- Proceeding in a sensitive, respectful and thorough manner

Strategy 5

- Interacting in a child-sensitive manner
- Interacting in a suitable environment that accommodates children's special needs
- Interacting according to children's abilities, age, intellectual maturity and evolving capacity
- Using language that the children use and understand

Diversion

Diversion means the conditional channelling of children in conflict with the law away from judicial proceedings through the development and implementation of procedures, structures and programmes that enable the children to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record.

Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

Diversion has been identified as a positive and cost-effective contribution towards the rehabilitation and reduction of re-offending of child offenders. Depending upon the severity of the offence committed, the law mandates the system to explore options where judicial proceedings may not be used. Section 3(xv), JJ Act, 2015 enshrines the principles of diversion, by stating that "measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

In this context, the Model Juvenile Justice Rules of 2016 has provided for nonfiling of FIR for petty offences.

Section 8(3)(g) of the JJ Act 2015 provides for "transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved"

The aim is to divert children into diversion programmes where they can learn various life or vocational skills and are subsequently integrated into the community. Diversion can happen at any stage of the juvenile justice process.

This principle seeks to establish a formal framework for dealing with children in conflict with law throughout the criminal justice process, with a view to ensuring that detention or institutionalisation is a measure of last resort.⁵⁰

In a success story from Cambodia, it was observed that the seemingly simple process to keep children out of prison has a lot of moving parts. Social agents, prosecutors, and police officers must understand their role and cooperate for juvenile justice to be rightfully served. Up until 2019, low awareness on the law and its application resulted in growing numbers of children interrogated and detained like adults. In 2019 alone, there were nearly 2000 children in detention in Cambodia.⁵¹

Juvenile diversion programs and approaches hold child accountable for their behaviour without resorting to legal sanctions or the threat of confinement. The goal is for children to mature into adulthood without being thrown off track by the negative effects of involvement with the justice system, including a criminal record that can seriously damage the child's opportunities for future employment and higher education.

Diversion differs from probation in several fundamental ways.

- Diverted children should never be assigned to probation or supervised by a probation officer.
- There should be no possibility of placement or confinement for failure in diversion. This means that diverted youth should never be subject to courtordered conditions. Except in rare cases involving chronic offending and significant risk to public safety, they should not face court-imposed consequences for failing to comply with a diversion agreement or contract.

(http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S001608/P001809/M027659/ET/1520850 656FinalPrinciplesofJJsystem.pdf)

⁵⁰Principles of JJ System, E-Pathshala, INFLIBNET

⁵¹ Cambodia Stories, UNICEF (https://www.unicef.org/cambodia/stories/diversion-juvenile-justice-success-story)

 There should be no court-imposed contact standards to guide how often diversion program providers meet or speak with diverted youth or their families.⁵²

Key Points

Diversion can be instigated from the time of apprehension (before arrest) to any point up until the final disposition hearing (including after pre-trial detention) – either as a generally applicable procedure or on the case-by-case decision of the police, prosecutor, court or similar body.

Diversion should take place as soon as possible in the process, although national legislation varies on this issue.

Diversion must comply with human rights/child rights and legal safeguards as established in CRC Art. 40.3.

Aims of Diversion

- ❖ To hinder the potential negative effects of formal judicial proceedings
- To avoid 'over-reacting' to an offence by applying the principle of proportionality / minumum intervention
- To facilitate the child's social reintegration and provide a constructive response to the child's offending.
- ❖ To reduce the number of children detained in police custody and pretrial detention facilities such as remand centres, and the number of children appearing before the court.

In theory, diversion can be used for children committing any kind of offence (though in practice this is rarely used for the most serious crimes or for persistent offenders).

What is Diversion in Juvenile Justice?, The Annie E. Casey Foundation October (2020) (https://www.aecf.org/blog/what-is-juvenile-diversion)

In some cases, diversion may not be appropriate or in the best interests of the child. For example, persistent offenders who have already experienced diversion in the past, but which has failed to address the offending behaviour, may require formal judicial intervention to help them get back on track. Diversion is also not appropriate for children who do not admit responsibility for an offence (see the 'ground rules' below).

Diversion can take the form of no action, a simple caution or warning, an apology to the victim/survivor, payment for damage done, or it may involve referral to a structured diversion programme (e.g. community work or a life skills or competency development programme) or to a restorative justice process (e.g. dialogue / mediation or family group conference) amongst other things.

The structures involved may vary. They may include police, statutory services, administrative bodies, commissions, NGOs, community-based organisations and faith-based organisations. In practice, diversion options often involve some form of formal or informal community support.

In some contexts, where provision or discretion for diversion already exists, it may be relatively simple to implement. In other contexts, it may require major system-wide reform. In all cases, however, it requires coordination and collaboration amongst stakeholders.

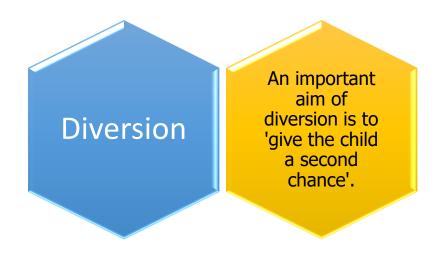
Diversion programmes may be of varying duration and intensity and there must be clear guidelines in place as to who has the authority to determine this.

Diversionary measures should allow for diversion to be suspended and judicial proceedings to be restarted if the child fails to comply with the agreed terms and conditions of diversion.

Diversion options are not, per se, 'restorative justice' options. For example, in theory a child in conflict with the law could be 'diverted' away from judicial proceedings by being given a warning by police and then released. This option does not include elements to 'restore the harm caused' by the offence, nor does it necessarily involve the child taking responsibility for his or her actions in a positive way.

Diversion options are also not, per se, 'child rights-based' options. For example, in theory a child in conflict with the law could be 'diverted' away from the formal justice system by being sanctioned instead to corporal punishment by a community leader. This is technically 'diversion' but it is also contrary to child rights. Although the CRC promotes the use of measures for dealing with children in conflict with the law without resorting to judicial proceedings (i.e. diversion), it specifically adds "providing that human rights and legal safeguards are fully respected" (CRC Art. 40.3(b)). This is generally interpreted to mean that the 'ground rules / legal safeguards' listed below must be respected.

Diversion options must be based on child rights and in accordance with principles of restorative justice.



Ground Rules/Legal Safeguards

Diversion is to be used only where the child admits to an offence and consents to a non-judicial response. This must be an 'informed decision', made of their own free will, without pressure or undue influence, and based on an understanding of the pros and cons of the options available. Those who maintain their innocence have the right to a full and fair trial. The child's parent or guardian should also be involved in the decision-making process.

The case can be referred to a regular court system if no solution acceptable to all can be reached or if the measures at the disposal of the diversion system are not deemed appropriate by the authorities mandated to assess cases for diversion. If the child fails to fulfil the terms of the diversion measure, the prosecution retains the right to restart judicial proceedings. The accused always retains the right to a court hearing or judicial review.

Corporal punishment and public humiliation as well as any other measures contrary to the CRC cannot form part of a diversion programme. Deprivation of liberty in any form - i.e., where the child is not free to leave - (including in 'rehabilitation centres' or 'special schools') cannot form part of a diversion programme.

Some diversion programmes incorporate a residential component (e.g., treatment for substance abuse or 'wilderness' programmes). In such cases, the child who has given their informed consent to participate in the programme is free to leave. In such cases, leaving the programme would constitute a failure to complete the terms of the diversion measure and may result in reverting to judicial proceedings but this is the choice of the child. These 'residential' components of diversion programmes should not be confused with the placement of children in facilities where they are not free to leave (which is prohibited as a diversion measure).

The content, conditions and the period of time that a child is required to attend a diversion programme should take into account his / her age, maturity, religious and cultural background as well as any other needs and circumstances to prevent any further offending. It should also address the needs of any victims/survivors involved. The child has the right to be heard and should be given the opportunity to participate in the decision-making process.

The measures imposed through diversion should be proportionate to the violation and should not be more severe or restrictive than the sanction the child would have received through judicial proceedings.

Principle of Convergence

Be it the Juvenile Justice (Care and Protection of Children) Act, 2015, or the Protection of Children from Sexual Offences Act, 2012, child related legislations entail multiple stakeholders from various disciplines. These stakeholders have their own purpose and manner of functioning.

A car with four functioning wheels cannot make the car run properly, unless all the four wheels rotate in unison and in the same direction. Likewise, for the best interests of the child to be secured, it does not suffice that the stakeholders perform their functions in tandem with the law. It is just as crucial for the stakeholders to work in unison with seamless coordination. This is what is referred to as the principle of convergence.

According to UNICEF, Convergence is the coming together and integration of two or more distinct entities (e.g., sectors, programmes, departments, agencies, or levels of implementation) to work towards a common goal.⁵³

The role of international organisations such as UNICEF play a vital role in convergence by bringing together the various machineries of the State, for serving the best interest of a child survivor by conducting experience sharing and sensitization programmes. The idea of convergence is also welcomed by the Supreme Court in a plethora of its decisions.

The principle of convergence also espouses the significance of interdepartmental coordination.

The United Kingdom is a worthy example of the efforts undertaken to foster interdepartmental coordination in their child protection services. During the 1970s, the UK had setup an interagency mechanism which mandated

⁵³ Technical Note on Convergent Programming, UNICEF (https://www.unicef.org/media/68221/file/GP-2020-Technical-Note-Convergent-Programming.pdf)

coordination between the police, and other governmental departments including social welfare, education and healthcare.

Prior to setting up the interagency mechanism, it was found that the approach adopted by government had led to a predominant emphasis on investigation, evidence gathering and preparation for court proceedings. There was a need for a more balanced agenda, covering all concerns of child protection equally, i.e., prevention, investigation and treatment. This would involve the contribution of all agencies including health and education as well as the police and social services. This need was in the backdrop of a wide-spread criticism of poor relations between the police department and other agencies working to address child sexual abuse.

In a study conducted in the UK during the 1990s⁵⁴, it was found that the police could play a valuable role in both prevention and treatment if they were prepared, along with others, to allow the agenda of the juvenile justice system to shift from a virtual preoccupation with investigation to a wider overview incorporating all three aspects of an effective child protection system.

The study referred to the Maria Colwell Report of 1974, which had emphasised that the police should recognise and develop their responsibility for the protection of the child as extending beyond the collection of evidence for court proceedings. This should include their attendance at case conferences and assistance to the other child protection agencies. The Report had also recommended the establishment of Specialist Assessment Teams, which would draw on a senior social worker, an approved medical practitioner and a police officer of authority, to coordinate an investigation.

⁵⁴ Sanders, Robert & Jackson, Sonia & Thomas, Nigel. (1996). The police role in the management of child protection services. Policing and Society: An International Journal. 6. 87-100. 10.1080/10439463.1996.9964743. (https://www.researchgate.net/publication/232941192)

What was proposed in the 1970s took almost two decades to stabilise, with smoother relationship between police and other professionals involved in child abuse and child protection including social workers, materialising in the 1990s. This coordination between stakeholders from diverse disciplines and with distinct objectives and methods of working was possible due to two significant factors. Firstly, there was considerable attitude change on the part of practitioners in each of those agencies and secondly, this change was supported by the context within which child protection work was undertaken.

On the police side, the study observed the increasing incorporation of 'caring' functions into the 'care and control' strategy of policing. The caring functions where particularly exercised in relation to specific groups, women who are victims of assault, cases of child sexual abuse, mentally ill persons and juvenile offenders. It had been observed that the simplistic equation of police as controllers and social workers as carers does not portray the complexity of the work; the police have had to become more aware of welfare considerations and social workers to accept the need for control.

The role of convergence is manifested in the step undertaken to address the trauma of child survivors through therapy or other forms of treatment.

Lack of coordination among the stakeholders not only threatens the protection of child rights, but the very core of our social fabric. Therefore, unification of efforts of the stakeholders is essential in order to ensure that children are protected against abuse and exploitation, and are given facilities to develop in a healthy manner, in conditions of freedom and dignity.

For an effective child protection system and a sustainable juvenile justice system, the efforts of all stakeholders need to be coordinate and converge. Through such coordination, the police officers are well-prepared and are equipped to deal with any situation concerning children.



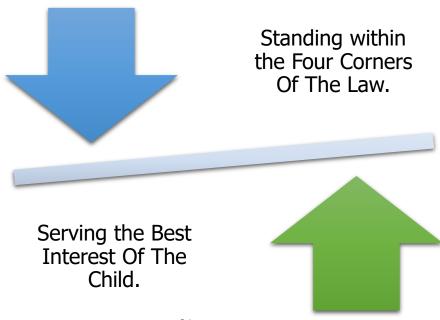
PART IV - KNOWLEDGE

This part essentially will draw a picture about how to apply the law to serve the "best interest of the chid". This part will also guide the CWPOs to correctly apply their attitude and skill with the Child, standing within the four corners of the law. Essentially this part shall guide the CWPOs how to maintain a check and balance between serving the best interest of the Child standing within the four corners of the law.

General Principles

Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.

Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.



Protection of Identity of Children

Just as any other stakeholder who comes in contact with children under the criminal justice system, the police, including the SJPU or CWPO, have the duty to safeguard the best interest of all children they deal with, regardless of whether they are a CCL or a CNCP. Safeguarding the best interest of children also includes protecting the identity of children and maintaining confidentiality in this regard.

Section 3(xi), JJ Act, 2015 is the principle of right to privacy and confidentiality, which states that every child shall have a right to protection of their privacy and confidentiality, by all means throughout the judicial process.

Section 74, JJ Act, 2015, prohibits the disclosure of identity of children. It states that no mass media or communication in their reporting, shall publish the picture of the child or disclose any information or particular which may lead to the identification of the child, be it the name, address or school of the child. However, the JJB or CWC can permit such disclosure, after recording the reasons in writing, only if the JJB or CWC opines that such disclosure is in the best interest of the child. [Section 74(1), JJ Act, 2015]

Violation of this provision is punishable with imprisonment of maximum six months and/or a fine of maximum two lakh rupees. [Section 74(3), JJ Act, 2015]

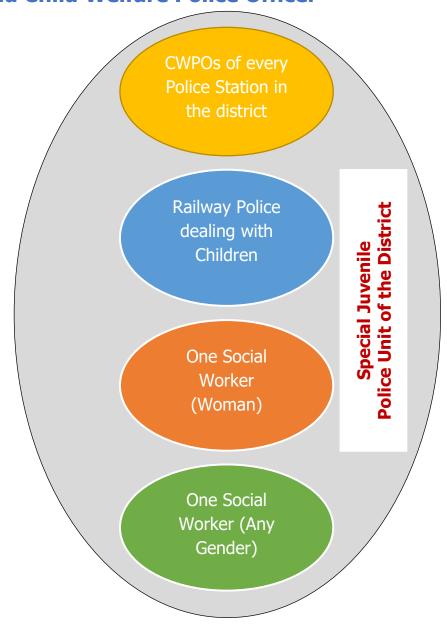
The police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of. [Section 74(2), JJ Act, 2015] Maintain confidentiality as to the identity of the child and respect the privacy of child in conflict with law. No information which leads to identification of Child in Conflict with Law should be published and or made public by any police officer either directly or indirectly.

Journey of a Child under JJ Act, 2015: Ensuring Protection of Children

All the children who come in contact with the Juvenile Justice System are children in need of care and protection. Although the Juvenile Justice (Care and Protection) Act, 2015 [hereinafter JJ Act, 2015] classifies children into two categories, namely, Child in Conflict with Law [CCL] and Child in Need of Care and Protection [CNCP], both categories of children require due care and protection.



Constitution and Composition of Special Juvenile Police Unit and Child Welfare Police Officer

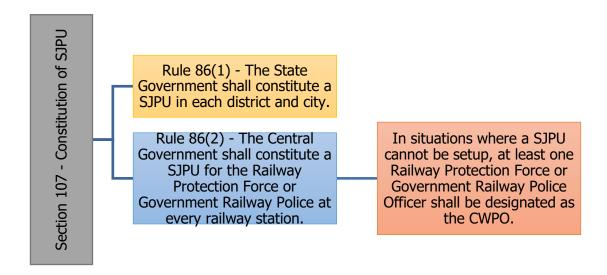


Section 107 of Juvenile Justice (Care and Protection of Children) Act, 2015 provides for constituting Special Juvenile Police Unit (SJPU) in every district headed by a police officer not below the rank of Deputy Superintendent of Police. The SJPU includes the CWPOs of every police station in the district, railway police dealing with children, and two social workers with experience in child welfare. Amongst the two social workers, one of them must be a woman.

The police officer designated to be a CWPO shall be a police officer not below the rank of Assistant Sub Inspector of Police. The functions of the CWPO are to exclusively deal with children both as Victims and as Perpetrators.

Setting up of SJPU

- The State Government shall constitute a SJPU in each district and city. The
 primary objective of the SJPU is to co-ordinate all functions of police
 related to children. [Rule 86(1), JJ Model Rules, 2016]
- The Central Government shall constitute a SJPU for the Railway Protection
 Force or Government Railway Police at every railway station. [Rule 86(2),
 JJ Model Rules, 2016]
- In situations where a SJPU cannot be setup, at least one Railway Protection Force or Government Railway Police Officer shall be designated as the CWPO. [Rule 86(2), JJ Model Rules, 2016]



At the time of induction, the CWPOs and other police officers of the SJPU shall be given, appropriate training and orientation to deal with matters concerning children. [Rule 86(3), JJ Model Rules, 2016] The training shall also include matters of child psychology, use of child friendly procedures and ensuring child friendly environment, care, protection and rehabilitation of children. [Rule 89, JJ Model Rules, 2016]

The transfer and posting of the designated CWPOs may be within the SJPUs of other police stations or the district unit. [Rule 86(4), JJ Model Rules, 2016]

The Special Juvenile Police Unit shall have a list of: (i) the Board and Child Welfare Committee in its due jurisdiction, their place of sitting, hours of sitting, names and contact details of Principal Magistrate and members of the Board, names and contact details of Chairperson and members of the Committee and the procedures to be followed before the Board and the Committee; and (ii) contact details of the Child Care Institutions and fit facilities in its due jurisdiction. [Rule 86(10), JJ Model Rules, 2016]

The names and contact details of the Special Juvenile Police Unit or Child Welfare Police Officer shall be placed at a conspicuous part at the police stations, Child Care Institutions, Committees, Boards and the Children's Courts. [Rule 86(11), JJ Model Rules, 2016]

Points to bear in mind while interacting with children

- ✓ As far as possible, wear plain clothes and not uniform. [Rule 86(5), JJ Model Rules, 2016]
- ✓ For dealing with girl child, woman police personnel shall be engaged. [Rule 86(5), JJ Model Rules, 2016]
- ✓ Speak in polite and soft manner and maintain dignity and self-esteem of the child. [Rule 86(6), JJ Model Rules, 2016]
- ✓ Where questions that may lead to discomfort of the child are to be asked, such questions shall be asked in tactful manner. [Rule 86(7), JJ Model Rules, 2016]
- ✓ The police should have audio/video provision for recording the child's statement.
- ✓ There should not be any discrimination against the child on the basis of sex, caste, religion, region, and economic or social status.
- ✓ During enquiry by the Police Officials, the child must be provided with nutritious food and clean drinking water.
- ✓ Every police station must be equipped with a child-friendly room and any enquiry with the child must be conducted in such rooms. Such rooms shall also have a functioning surveillance camera affixed. In every Police Station, there must be a notice board displaying the names and contact numbers of all stakeholders who could help the child in every police station.

- ✓ When an FIR is registered for offence against a child, a copy of the FIR shall be handed over to the complainant or child victim. Subsequently, copy of investigation report and other relevant documents shall be handed over to the complainant or any person authorised to act on his behalf.
 [Rule 86(8), JJ Model Rules, 2016]
- ✓ No accused or suspected accused shall be brought in contact with the child and where the victim and the person in conflict with law are both children, they shall not be brought in contact with each other. [Rule 86(9), JJ Model Rules, 2016]

Duties and Responsibilities of Child Welfare Police Officer

- ✓ Be well acquainted with all acts/laws/notifications which recognize and protect rights of children
- ✓ Produce the apprehended child alleged to be in conflict with law, before the JJB, within 24hrs [Section 10, JJ Act, 2015]
- ✓ Section 13, JJ Act, 2015 inform the parents of apprehended child
- ✓ Produce child in need of care and protection before Child Welfare Committee [Section 31, JJ Act, 2015]
- ✓ Preparation of social background report of CCL, in accordance with FORM 1 [Rule 2(xvi), JJ Model Rules, 2016]
- ✓ Conduct investigation in case of offences against children.
- ✓ Coordinate with the District Child Protection Unit, the Board and the Committee in the matters concerning the welfare of children within its jurisdiction. [Rule 86(12), JJ Model Rules, 2016]
- ✓ Coordinate with the District Legal Services Authority to provide legal aid to children. [Rule 86(13), JJ Model Rules, 2016]
- ✓ Register FIR for offences committed against children (both CNCP and CCL) [Sections 8(k) and 8(l), JJ Act, 2015]
- ✓ Be updated on the list of recognized and approved Child Care Institutions, Fit Facilities, Fit Persons, Shelter Homes for children
- ✓ Be prepared with a list of government hospitals with paediatric unit.
- ✓ Assist the JJB and CWC, in transferring a child from one fit facility/fit person to another.
- ✓ Assist the JJB and CWC, in other regard as necessary, including rehabilitation and victim compensation.
- ✓ Treat the child with dignity, compassion and respect.

Child in Need of Care and Protection

All those vulnerable children who do not have proper care and shelter come under the category of Child in Need of Care and Protection. Section 2(14) of Juvenile Justice (Care and Protection of Children) Act, 2015 defines Child in need of care and protection as under;

Abandoned children, homeless or unsheltered children; child labourers, child beggars, children with unfit or incapacitated parents/guardian, missing/runaway child, child vulnerable to sexual abuse, drug abuse or trafficking, child is victim of exploitation or abuse or neglect, or is facing a threat, child facing imminent risk of child marriage, mentally or physically challenged children, victim of armed conflict, civil unrest or natural calamity

Who is a Child in Need of Care and Protection

In paras 63 and 64 of the case, *Exploitation of Children in Orphanages, In re [(2017) 7 SCC 578]*, the Supreme Court observed that "The provisions of the POCSO Act do not provide any definition of a child in need of care and protection. But no one can deny that a child victim of sexual abuse or sexual assault or sexual harassment is a child in need of care and protection. Similarly in a given case, a child accused of an offence and brought before the Juvenile Justice Board or any other authority might also be a child in need of care and protection." ... Even though a child in need of care and protection is defined in Section 2(14), JJ Act, 2015, the definition does not specifically include some categories of children. ... since the JJ Act is intended for the benefit of children and is intended to protect and foster their rights, the definition of a child in need of care and protection must be given a broad interpretation. ... Beneficial legislations of the kind that we are dealing with demand an expansive view to be taken by the courts and all concerned."

"child in need of care and protection" means a child—

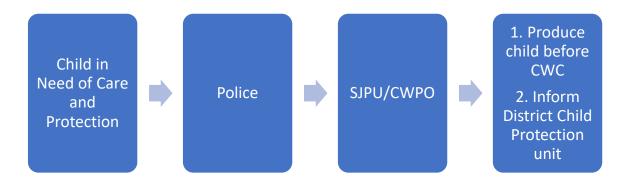
- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or
- (iii) who resides with a person (whether a guardian of the child or not) and such person
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or
- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

- (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
- (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
- (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or
- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or
- (x) who is being or is likely to be abused for unconscionable gains; or
- (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage.

Rescue of Child in Need of Care and Protection

When a police officer comes in contact with a child who may need care and protection, they must immediately inform the SJPU. The SJPU, which includes the CWPOs needs to assess if the child needs care and protection. The SJPU will pass the information to the concerned CWPO who will rescue the child and immediately place them in Children's Home established as per Section 50, JJ Act, 2015 for safe custody.

The CWPO while rescuing such children must be in plain and simple clothes. If the child is injured or is a survivor of sexual abuse, then such a child must be immediately taken for medical examination and treatment. The CWPO must inform the District Children Protection Unit established as per Section 106 about the Child(ren) rescued. In case the CNCP is a girl child, a woman officer shall only be designated.



Production of Child before Child Welfare Committee

The CWPO must be aware of the CWC(s), its place and days of sittings and the names, addresses and phone numbers of its individual members.

The CWPO shall produce the child in need of care and protection before the CWC at its place of sitting. If it is beyond the working hours of the CWC, the CWPO shall produce the rescued child before an individual member of the CWC, as per the duty roster. In situations where the child cannot be produced before the CWC, the CWC shall reach out to the child where the child is located. [Rule 18(1), JJ Model Rules, 2016]

The CWPO shall also make a report in FORM 17 containing the particulars of the child as well as the circumstances in which the child was received or found. [Rule 18(2), JJ Model Rules, 2016]

If the child is aged below two years, or medically unfit, the CWPO shall send a written report along with the photograph of the child to the CWC within 24 hours. Once the child is medically fit, the CWPO shall produce the child before the CWC, along with a medical certificate. [Rule 18(3), JJ Model Rules, 2016]

Once the child is produced before the CWC, the CWC may issue directions for placing the child with their parent/guardian, or a Children's Home, or in safe custody with a fit facility/fit person. [Rule 18(4), JJ Model Rules, 2016] Further, the CWC may also order for immediate medical examination of the child if required. [Rule 18(6), JJ Model Rules, 2016] The CWPO is to assist the CWC in this regard.

Once the CWC issues orders for placing the child in need of care and protection with their parent/guardian or fit person, pending inquiry, such person shall submit an undertaking in FORM 20. [Rule 18(8), JJ Model Rules, 2016] The CWPO is to assist the CWC in this regard.

The CWPO shall be appraised of the approved list of fit facilities [Rule 18(9), JJ Model Rules, 2016]

Procedure in Case of Offences against Children

On receipt of information in respect of a cognizable offence against a child, the police shall register a FIR forthwith. [Rule 54(2), JJ Model Rules, 2016] On receipt of information of a non-cognizable offence against a child, the police shall make an entry in the Daily Diary which shall be transmitted to the Magistrate concerned forthwith who shall direct appropriate action under Section 155(2), CrPC, 1973. [Rule 54(3), JJ Model Rules, 2016]

In all cases of offences against children, the investigation shall be conducted by the CWPO. [Rule 54(4), JJ Model Rules, 2016]

The child and his family shall be provided access to paralegal volunteers under the District Legal Service Authority. [Rule 54(9), JJ Model Rules, 2016] An immediate need assessment of the child will be conducted in terms of the need for food, clothing, emergency medical care, counselling, psychological support and the same shall be immediately extended to the child at the police station. [Rule 54(10), JJ Model Rules, 2016]

Where a child has been subjected to sexual abuse, the child may be referred to the nearest District Hospital or One-Stop Crisis Centre, as the case may be, if locally available. [Rule 54(11), JJ Model Rules, 2016]

in case the child is found to be in use of drugs or psychotropic substances [Sections 77 & 78, JJ Act, 2015], the CWPO shall inquire as to how the child came to posses such substances. [Rules 56-60, JJ Model Rules, 2016]

Protection of Children from Child Marriage

Section 75, JJ Act, 2015 imposes penalty for acts of cruelty meted out to a child at the hands of their caregiver. Rule 55(1), JJ Model Rules 2016 states that conducting child marriage is considered as cruelty towards the child.

On receipt of information of risk of a child being given in marriage, the police or any officer authorised under the Act or under the Prohibition of Child Marriage Act, 2006, shall produce the child before the CWC for appropriate directions and rehabilitative measures.

Rescuing a child facing the danger of child marriage also has an interplay with the POCSO Act, 2012. Section 5, POCSO Act, 2012, defines the offence of aggravated penetrative sexual assault. Section 17, POCSO Act, 2012, prescribes the punishment for abetting a sexual offence against a child. Therefore, child marriage arranged by the parents or other family members of the child, once consummated, rises the ground for abetment of aggravated penetrative sexual assault upon the child. Such a child needs to be rescued by the CWPO and be produced before the CWC.

Consequence of Non-registration of FIR

The Consequence of Non-registration of FIR begins from Section 166A of the Indian Penal Code, 1860. A Police Officer who wilfully refuses to register the First Information Report (FIR) or evasively restrains from registering an FIR is deemed by law as a public servant disobeying direction under law under Section 166A of the Indian Penal Code, 1860.

The law enables the police to register FIR or a "Zero" FIR (in case the crime is committed outside the jurisdiction of police station) in the event of receipt of information on commission of a cognizable offence, which includes cases of sexual assault on women. Registration of FIR under Section 154(1), CrPC, 1973 is compulsory. Section 166A(c) of IPC provides for punishment to a

public servant for failure to record FIR in relation to cognizable offences punishable under section 326A, Section 326B, Section 354 Section 354B, Section 370, Section 370A, Section 376A, Section 376AB, Section 376C, Section 376D, Section 376DA, Section 376DB, Section 376E or Section 509.

The Supreme Court in *Rhea Chakraborty v. State of Bihar [Tr. Petition (Crl.) No. 225 of 2020 dated 19.08.2020]* held that, "integrity and credibility of the investigation is discernible, the trust, faith and confidence of the common man in the judicial process will resonate." Thinking from the perspective of serving the best interest of the Child, it is important that no child loses their trust, faith, and confidence in the system.

In <u>Pooja Pal v. Union of India, [(2016) 3 SCC 135]</u> the Supreme Court held that, "As every social order is governed by the rule of law, the justice dispensing system cannot afford any compromise in the discharge of its sanctified role of administering justice on the basis of the real facts and in accordance with law. This is indispensable, in order to retain and stabilise the faith and confidence of the public in general in the justice delivery institutions as envisioned by the Constitution." A Child Welfare Police Officer is an indispensible person who is destined to stabilise the faith and confidence of the Children in justice delivery institutions as envisioned in the Constitution.

The expression "fair and proper investigation" in criminal jurisprudence was held by the Apex Court in <u>Vinay Tyagi v. Irshad Ali [Vinay Tyagi v. Irshad Ali, [2013] 5 SCC 762: (2013) 4 SCC (Cri) 557]</u> to encompass two fundamental imperatives; firstly, the investigation must be unbiased, honest, just and in accordance with law; and secondly, the entire emphasis has to be to bring out the truth of the case before the court of competent jurisdiction.

The Supreme Court in *Pooja Pal v. Union of India, (2016) 3 SCC 135* discussed the role of the Police, "the role of the police to be one for protection of life, liberty and property of citizens, with investigation of offences being one of its foremost duties, it was underscored in Manohar Lal Sharma v. <u>Union of India [(2014) 4 SCC (Cri) 1]</u> that the aim of investigation is ultimately to search for truth and to bring the offender to book. The observations of Lord Denning in his rendering in The Due Process of Law, First Indian Reprint, 1993, p. 102 were alluded to as under: (SCC p. 553, Para 25) "... 'In safeguarding our freedoms, the police play a vital role. Society for its defence needs a well-led, well-trained and well-disciplined force of police whom it can trust: and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice. The police, of course, must act properly. They must obey the rules of right conduct." From the above reminder of the Apex Court, it is necessary for a Child Welfare Police Officer to devote cent percentage sincerity which is expected out of a Police Officer while dealing with Children. Fundamental priority should be given to registration of FIR if cognizable offence against Children is reported.

The Supreme Court reminded the Judges to deal with cases of sexual crime against women with utmost sensitivity in <u>Bodhisattwa Gautam v. Subhra Chakraborty [AIR 1996 SC 922]</u>. The apex Court also noted in <u>State of Punjab v. Ramdev Singh, [(2004) 1 SCC 421]</u> that, "Sexual violence apart from being a dehumanizing act is an unlawful intrusion on the right of privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity — it degrades and humiliates the victim and where the victim is a helpless innocent child or a minor, it leaves behind a traumatic experience." A lesson well learned by the Judges of our country is supposed to be shared with their auxiliaries. The Police Officers should also behave with utmost sensitivity in cases involving sexual offences. The prudent and proactive role of a Child Welfare Police Officer is supplied emphasis by the

Apex Court when such sexual offences are reportedly conducted by youthful offenders. No delay in registration of FIR should be promoted at any cost. The Apex Court in *Ramdev (Surpa)* has also held that, "Delay in lodging the FIR cannot be used as a ritualistic formula". Further in *Samaj Parivartan Samudaya v. State of Karnataka, [(2012) 7 SCC 407]* the Apex Court has reiterated that, "The machinery of criminal investigation is set into motion by the registration of a first information report (FIR) by the specified police officer of a jurisdictional police station or otherwise....Section 154 CrPC places an obligation upon the authorities to register the FIR of the information received, relating to commission of a cognizable offence, whether such information is received orally or in writing by the officer in charge of a police station."

The report of a Police Officer to the Court should be the result of a faithful and fruitful investigation as laid down by the Apex Court in <u>Manu Sharma v.</u> <u>State (NCT of Delhi), [(2010) 6 SCC 1].</u> A Child Welfare Police Officer should keep in mind that, the all the reports relating to the Child are sent to the JJB on time without any delay. The Child Welfare Police Officer should be aware that delay can significantly impact the Child's future.

Child in Conflict with Law

Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.

Apprehension of a Child

FIR is to be registered only in a heinous offence or in cases where the offence is alleged to have been committed jointly with adults. If a FIR is registered, copy should be given the child or the police report to the parent or guardian.

In all other matters, the information regarding the offence should be entered in the General Diary followed by a social background report of the child in Form 1 and forwarded to the Board before the first hearing.

Power to apprehend shall only be exercised with regard to heinous offences, unless it is in the best interest of the child.

Where the child is not apprehended or where apprehending the child is not necessary the SJPU or CWPO shall forward the social background report in Form 1 to the Board.

When a child alleged to be in conflict with law is apprehended by the police, the police officer concerned shall place the child under the charge of the Special Juvenile Police Unit or the Child Welfare Police Officer.

The Jharkhand High Court in <u>Guddu Kumar Singh Vs. State of Jharkhand</u> [2021 SCC OnLine Jhar 373], reiterated the requirement of Section 10, JJ Act, which provides that as soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer. Child apprehended by any police, should be handed over to SJPU/CWPO. No matter the circumstance, the apprehended child shall not be placed in the police lockup or jail.

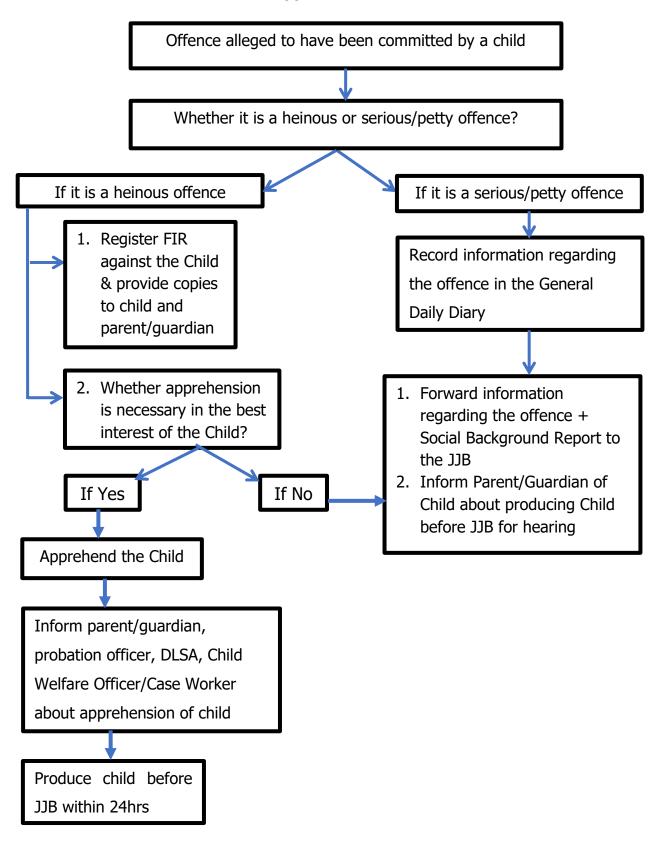
Rule 8, JJ Model Rules, 2016 pertains to the pre-production action of the police and other agencies, i.e., the responsibilities of the police from the moment when they apprehend a child till the moment the child is produced before the JJB.

In matters where FIR can be registered, the CWPO shall record information pertaining to the offence, in the general daily diary. This information shall include the circumstances under which the child had been apprehended. The CWPO should forward this information along with the social background report, to the JJB before its first hearing. Such information should be forwarded to the JJB, even in cases where the child is not apprehended, i.e., in cases of petty or serious offences. The CWPO can contact the parent/guardian of the child to collect the required information. [Rule 8(1),

JJ Model Rules, 2016]

Therefore, though apprehension is not necessary in all cases, information to the parents/guardian and JJB is mandatory in all cases, whether it be a petty, serious or heinous offence.

Flow chart: Apprehension of a Child



Immediately after apprehending the child, the CWPO should inform the parents/guardian, probation officer and child welfare officer/case worker, regarding the apprehension of the child. The Child Welfare Officer/ Case Welfare is to accompany the SJPU/CWPO while producing the apprehended child before the JJB. [Rule 8(2), JJ Model Rules, 2016]

13, JJ Act, Section • The CWPO/SJPU shall inform, 2015 About the apprehension of Child. Ask them to be present before the JJB by giving them the address of the JJB. **Parent/Guardian** Ask for cooporation in preparation of Social Background Report (Form 1, JJ Model Rules, 2016). About the apprehension of Child. Ask to facilitate the preparation of **Probation Officer** Social Investigation Report (Form 6, JJ Model Rules, 2016) About the apprehension of Child. **District legal Services Authority** Providing free legal aid to the Child. Child Welfare Officer / About the apprehension of Child. **Case Worker**

In cases where apprehension of the child is not warranted, the CWPO may inform the parent/guardian or fit person, about the undertaking as per the format prescribed in FORM 2. The parent/guardian or fit person taking custody of the child should provide an undertaking on a non-judicial paper, assuring to take charge of the child to produce the child before the JJB as and when required. [Rule 8(7) of the JJ Model Rules, 2016]

Duties of a Police Officer Apprehending a Child

[Rule 8(3), JJ Model Rules, 2016]

×	Not send the child to police	✓	Send the apprehended child to
	lockup		observation home, only in accordance
			with Rule 9, JJ Model Rules, 2016
×	Not delay the child being	✓	Inform the child of the charges levelled
	handed over to the CWPO		against them, directly and promptly
×	Not hand-cuff, chain or fetter	✓	Give a copy of FIR (if registered) to
	the child		the child
×	Not use any coercion or force	✓	Give a copy of police report to the
	on the child		parent/guardian of the apprehended
			child
×	Not compel the child to	✓	Interview the child only at the
	confess their guilt		SJPU/child-friendly premises/child
			friendly corner in the police station.
			The parent or guardian, may be
			present during the interview.
×	Not ask the child to sign any	✓	Provide medical assistance,
	statement		interpreter/special educator, any other
			assistance as required
		✓	Inform District Legal Services Authority
			for providing free legal aid to the child

CWPO shall be in plain clothes and not in uniform. [Rule 8(4), JJ Model Rules, 2016]

The names and contact details of the following stakeholders shall be displayed in every police station: [Rule 8(6), JJ Model Rules, 2016]

✓ CWPOs

✓ Registered NGOs within the district

✓ SJPUs

✓ Principal Magistrate & other members of JJB

✓ Probation Officers

✓ Members of SJPU

✓ Paralegal Volunteers

✓ Childline Services

✓ District Legal Services Authorities

Production of the Child before JJB

Rule 9, JJ Model Rules, 2016 prescribes the manner of producing the apprehended child before the JJB.

The CWPO shall produce the apprehended child before the JJB, within 24 hours of apprehension, along with a report explaining the reasons for the child being apprehended. [Rule 9(1), JJ Model Rules, 2016]

In situations where the apprehended child could not be produced before the JJB, because the JJB is not in sitting, the CWPO should instead produce the apprehended child before a single member of the JJB. [Section 7, JJ Act, 2015]

Rule 6(8), JJ Model Rules, 2016 states that in times when the JJB is not in sitting, one member of the JJB shall be available to take cognizance and to issue directions to the SJPU in case of any emergency. A roster of all the JJB members including the days and times of their availability, including during weekends and holidays will be circulated to all police stations and the SJPUs.

Once the CWPO produces the child before the JJB, the JJB may pass orders for sending the child to an observation home or a place of safety or a fit facility or a fit person. [Rule 9(2), JJ Model Rules, 2016]. The CWPO must assist the JJB in this regard.

In cases where a child is being used by any militant group [Section 83, JJ Act, 2015] the CWPO shall produce the child before the JJB. Thereafter, the JJB, will conduct due inquiry transfer the child to the CWC to be dealt with as a Child in Need of Care and Protection, for the purpose of rehabilitation or safe custody of the child. [Rule 9(3), JJ Model Rules, 2016] The CWPO must assist the JJB and CWC in this regard.

In cases where the child alleged to be in conflict with law has not been apprehended, the JJB shall require the child to appear before it at the earliest so that measures for rehabilitation, where necessary, can be initiated, though the final report may be filed subsequently. [Rule 9(4), JJ Model Rules, 2016]

(5) In cases of heinous offences alleged to have been committed by a child, who has completed the age of sixteen years, the CWPO shall produce the statement of witnesses recorded by him and other documents prepared during the course of investigation within a period of one month from the date of first production of the child before the Board, a copy of which shall also be given to the child or parent or guardian of the child. [Rule 9(5), JJ Model Rules, 2016]

Protective Stay of Child

When the apprehended child cannot be produced before the JJB, or even before a single member, because the child was apprehended during odd hours or long distance, the CWPO shall keep the child in the Observation Home or in a fit facility. Once the apprehended child is placed in the

Observation Home or in a fit facility, the CWPO shall produce the child before the JJB within 24 hours. [Rules 9(6) and 69D, JJ Model Rules, 2016]

Rule 69D, JJ Model Rules, 2016, guarantees overnight protective stay for the apprehended child. The purpose of guaranteeing protective stay is to ensure shelter to the apprehended child, thereby preventing the child from being kept at the police station and avoiding the child being vulnerable to custodial violence.

The CWPO should move a written application for protective stay to the Receiving Officer, along with the copy of the relevant documents showing the circumstances under which the child was apprehended and the medical condition of the child. [Rule 69D(3), JJ Model Rules, 2016] The CWPO receive a copy of FORM 42, filled by the Receiving Officer

The protective stay is only from 20:00 hours to 14:00 hours i.e., 8 o'clock in the night to 2 o'clock in the afternoon of the following day. The CWPO should take charge of the child the following day

- (5) The child shall be handed over to the charge of the Child Welfare Police Officer the next day at the time stated in the form under receipt by the said Child Welfare Police Officer in the copy of the form. (6) In case of the Child Welfare Police Officer not taking the charge of the child at the designated time, the child shall be produced before the Board concerned or the Committee by the Person-in-charge of the Child Care Institution with a report stating such fact. [Rule 69D(5), JJ Model Rules, 2016]
- (8) The child shall be searched physically and all his personal belongings, if any that are found, shall be handed over to the Child Welfare Police Officer who has produced the child and who shall seize the articles and furnish a copy of such seizure to the Receiving Officer. [Rule 69D(8), JJ Model Rules, 2016]

(9) The child shall be provided food to eat and drink, if the child is hungry, irrespective of the time of receiving such child.

Post-production Process

Rule 10, JJ Model Rules, 2016 is concerned with the responsibilities of the CWPO once the apprehended child has been produced before the JJB.

Once the apprehended child is produced before the JJB, the JJB may grant bail to the child, along with the condition that the child shall be present before the JJB, on the dates fixed for the purpose of inquiry and other proceedings. The presence of the child before the JJB on such dates is mandatory, unless an exemption has been granted for valid reasons, upon an application seeking exemption from presence before the JJB. [Rule 10(3), JJ Model Rules, 2016]

After producing the child before Juvenile Justice Board and in case they are not bailed, then such child must be sent to Observation Home or Shelter Home for safe custody. In case where the Child in Conflict with Law does not have access to legal aid, the Child Welfare Police Officer may forward such information to District Child Protection Unit and District Legal Service Authority for providing free legal aid. The CWPO shall also ensure that nutritious food is provided to the child.

If the child who has been released on bail, fails to appear before the JJB on the dates fixed for hearing, without any valid exemption, the JJB shall issue further directions to the CWPO for production of the child. If even after such directions, the CWPO fails to produce the child before the JJB, the JJB shall pass orders as if the child is a run-away child, as per Section 26, JJ Act, 2015, instead of issuing process under Section 82, CrPC. [Rule 10(4), JJ Model Rules, 2016]

If the case involves a heinous offence alleged to have been committed by a child aged sixteen years or above, the CWPO shall record the statement of witnesses and produce them to the JJB, along with other documents prepared during the course of investigation. The CWPO should produce these documents and statements within one month from the date of production of the child before the JJB. The CWPO shall also provide a copy of the documents and statements to the child or their parent/guardian. [Rule 10(5), JJ Model Rules, 2016]

In case of petty or serious offences, the CWPO should file the final report to the JJB within two months from the date of information to the police. However, the JJB can grant extension of time to file the final report, if the police could not make out that the person involved in the offence is a child, despite reasonable means. [Rule 10(6), JJ Model Rules, 2016]

Destruction of Records

With a view to undo the stigma associated with a child in conflict with law, and to remove any disqualification that a child might face upon a finding of conviction for an offence, Section 24, JJ Act, 2015, provides that the JJB can direct the police to destroy the relevant records of conviction of child in conflict with law, after the expiry of the period of appeal or, as the case may be, a reasonable period as prescribed.

Rule 14, JJ Model Rules, 2016 states that the records can be destroyed after seven years, by the Person-in Charge, JJB or Children's Court.

Placement of child in Child Care Institutions

When a Judicial Magistrate comes to know of a complaint of corporal punishment inflicted on a child in a child care institution, the Judicial Magistrate can order the CWPO to investigate the case. [Rule 60, JJ Model Rules, 2016]

The CWPO should inform the Child Welfare Officer or the Case Worker of the child care institution about the child being placed in the child care institution.

[Rule 62(4), JJ Model Rules, 2016]

Procedure in case of Missing child

A missing child is a child, whose whereabouts are not known to the parents, legal guardian or any other person or institution legally entrusted with the custody of the child, whatever may be the circumstances or causes of disappearance, and shall be considered missing and in need of care and protection until located or his safety and well-being established. [Rule 92(1), JJ Model Rules, 2016]

When a complaint is received about a child who is missing, the police shall register a FIR. [Rule 92(2), JJ Model Rules, 2016] The police shall inform the CWPO and forward the FIR to the SJPU for immediate action for tracing the child. [Rule 92(3), JJ Model Rules, 2016]

Responsibilities of Police in case of Missing Child

[Rule 92(4), JJ Model Rules, 2016]

- ✓ collect a recent photograph of the missing child and make copies for District Missing Persons Unit, Missing Persons Squad, National Crime Records Bureau/ Media etc.;
- ✓ fill the form in the designated portal, the specific designed 'Missing Persons Information Form' and immediately send to Missing Persons Squad, District Missing Persons Unit, NCRB, SCRB, CBI and other related institutions;
- ✓ send the copy of the FIR by post/email to the office of the nearest Legal Services Authority along with addresses and contact phone numbers of parents or guardian of the missing child or the Child Care Institution, after uploading the relevant information onto the designated portal;

- ✓ prepare sufficient number of Hue and Cry notices containing photograph and physical description of the missing child to be sent for publication; give wide publicity by publishing the photographs and the description of the child media missing mass (a) leading newspapers Television/electronic media (c) local cable television network and social media. This publication should later be ratified by the JJB/CWC or the Children's Court.; give wide publicity in the surrounding area through the use of loud speakers and the distribution and affixture of Hue and Cry notice at prominent places. Social networking portals, SMS alerts and slides in cinema halls can be used to reach out to the masses; distribute Hue and Cry notice at all the outlets of the city or town, that is, railway stations, bus stands, airports, regional passport offices and other prominent places;
- ✓ identify and search areas and spots of interest including public places where missing or run-away children frequent;
- ✓ scan the recordings of the CCTV installed in the vicinity of the area from where the child was reported missing and on all possible routes and transit destination points like bus stands, railway stations, and other places;
- ✓ inquire from under construction sites, unused buildings, hospitals, and clinics, childline services, and other local outreach workers, railway police, and other places;
- ✓ details of missing children should be sent to the District Crime Record Bureaus of the neighbouring States and Station House Officers (SHOs) of the bordering police stations including in-charge of all police posts in their jurisdiction and shall conduct regular interaction with the concerned so that follow up action is ensured.

Where a child cannot be traced within a period of four months, the investigation of the case shall be transferred to the Anti-Human Trafficking Unit in the District which shall make reports every three months to the District

Legal Services Authority regarding the progress made in the investigation.

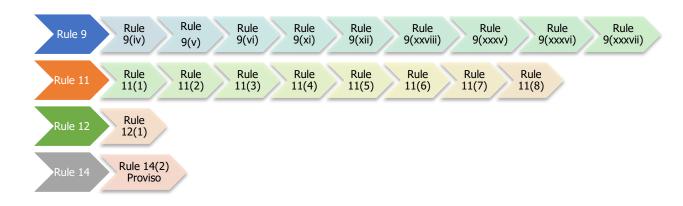
[Rule 92(5), JJ Model Rules, 2016]

When a child is traced: (i) he shall be produced before the Board or the Committee or the Children's Court, as the case may be, for appropriate directions; (ii) the police shall send a report to the District Legal Services Authority which shall provide counselling and support services to the child and the family; and (iii) the police shall conduct an inquiry whether the child has been subjected to any offence under the Act or any other law and if so, proceed accordingly. [Rule 92(6), JJ Model Rules, 2016]

Tamil Nadu Juvenile Justice (Care and Protection) of Children Rules, 2017

Chapter III of the Tamil Nadu Juvenile Justice (Care and Protection) of Children Rules 2017

Rule 9 Rule 11 Rule 12 Rule 14



Chapter III of the Tamil Nadu Juvenile Justice (Care and Protection) of Children Rules, 2017 talks about the procedure to be followed in relation to Children in Conflict with law.

Rule 9(iv) mandates the CWPO producing the apprehended child before the JJB to give a declaration in writing. The JJB from this declaration shall observe that, [1] the child was not kept in police lock up or jail prior to the production before the JJB, [2] the child was produced before the JJB without any loss of time but within twenty-four hours of taking charge of the child excluding travel time. The JJB shall take into consideration the views and expressions of the child, upon the declaration of the CWPO as above, and record the proceedings.

Rule 9(iv)

The CWPO producing the apprehended child before the JJB to give a declaration in writing.

The JJB from this declaration shall observe that:

The child was not kept in police lock up or jail prior to the production before the JJB

The child was produced before the JJB without any loss of time but within twenty-four hours of taking charge of the child excluding travel time.

The JJB shall take into consideration the views and expressions of the child, upon the declaration of the CWPO as above, and record the proceedings.

Rule 9(v) mandates the JJB shall satisfy from the Child that, the police has indeed intimated about the apprehension of the child to the Probation Officer concerned in Form II and parents/guardian of the child under Section 13, JJ Act 2015. The JJB shall also require the police to file a written statement

stating that the concerned probation officer and parents or guardian of the child has been intimated.

Rule 9(vi) mandates the JJB shall satisfy from the child that, the child has not been subjected to ill treatment or harassment by the police or any other person who had taken charge (including the CWPO) for the purpose of bringing the child before the JJB.

Rule 9(xi) doesn't allow Police to take girl child into custody between sunset and sunrise. The JJB is duty bound to ensure this is not done.

Rule 9(xii) talks about a declaration. A declaration has to be submitted by the Police before the JJB in writing. The declaration shall ensure that the child in conflict with law was dealt with due regard for decency. The JJB shall also inquire about this with the child in conflict with law and record the same.

Rule 9(xxviii) states that, in case any complaint on victimisation or exploitation of a child is brought before the JJB, the JJB shall direct the police to register a case on such complaint.

Rule 9(xxxv) mandates when a heinous offence is reportedly committed by a child over the age of 16 years the CWPO shall produce the Statements of witnesses recorded along with other documents prepared during the course of investigation within a period one month before the JJB from the production of the child before the JJB.

Rule 9(xxxvi) mandated when a petty or serious offence is reportedly committed by a child the final report shall be filed by Police before the Board before three months from the date of information to Police.

Rule 9(xxxvii) Police has to complete the investigation within three months. If the investigation didn't complete with the prescribed time period of three months, police shall furnish the reason for delay before the JJB. If the reason for delay is not submitted by the Police, the JJB shall fix a date for final enquiry serving notice to the police to be present, adjudicate and dispose the case on the basis of materials available before it. In the event of the delay being justified as satisfactory for the JJB, the JJB may extend a specified time limit to Police to complete the investigation and file necessary report with a copy marked to the concerned Commissioner/Superintend of Police. Further if the Police do not complete the investigation beyond the extended time granted by the JJB, the JJB is free to adjudicate the final disposal of the case as it deems fit.

Rule 9(xxxvii)

Police has to complete the investigation within three months.



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Further if the Police do not complete the investigation beyond the extended time granted by the JJB, the JJB is free to adjudicate the final disposal of the case as it deems fit.

Rule 11 deals with Persons through whom the child alleged to be in conflict with law may be produced.

Rule 11(1) provides that the Child apprehended shall not be handcuffed or fettered. The Police officer after apprehending the alleged child in Conflict with law shall inform the designated Child Welfare Police Officer in the Police Station or the Special Juvenile Police Unit to take charge of the matter and the child.

Rule 11(2) the Child Welfare Police Officer shall produce the child before the JJB within 24 hours.

[Rule 11(3), TN JJ Rules, 2017] In case of an offence committed by an adult, that entails an imprisonment of seven years or more, when alleged to have been committed by a child, the police shall register FIR against the child. The police shall register FIR in case of an offence committed by the child jointly with adults.

In case of any other kind of offence alleged to have been committed by the Child, the SJPU or CWPO shall record the information regarding the offence in the general daily diary. This information shall be followed by the social background report of the child, which should be prepared by the CWPO. For the purpose of preparing the social background report, the CWPO shall contact the parents/guardian of the Child to avail the best information regarding the child.

The CWPO shall forward the information regarding the offence, and the social background report, along with the circumstances of apprehension to the JJB before its first hearing.

Rule 11(3) TN JJ Rules, 2017

- In case of an offence committed by an adult, that entails an imprisonment of seven years or more, when alleged to have been committed by a child, the police shall register FIR against the child.
- The police shall register FIR in case of an offence committed by the child jointly with adults.
- In case of any other kind of offence alleged to have been committed by the Child, the SJPU or CWPO shall record the information regarding the offence in the general daily diary.
- This information shall be followed by the social background report of the child, which should be prepared by the CWPO.
- For the purpose of preparing the social background report, the CWPO shall contact the parents/guardian of the Child to avail the best information regarding the child.
- The CWPO shall forward the information regarding the offence, and the social background report, along with the circumstances of apprehension to the JJB before its first hearing.

Rule 11(4) Once the FIR is registered the copy shall be made available to the child or copy of the police report should be given to the parents/guardian at free of cost.

Rule 11(5) in cases when the apprehension of the Child is not warranted the child may be released taking an undertaking provided in FORM VII. The Undertaking shall be furnished by the parents/guardians/ fit person having the custody of the child, ensuring their presence on the dates of enquiry or proceedings before JJB.

Rule 11(6) the CWPOs or Officer in Charge of the SJPU shall be in plain clothes and not in uniform.

Rule 11(7) when the CCL who was released on bail fails to appear before the Board on the dates fixed for hearing and when no application is moved for exemption of his behalf or no reason is found for granting the CCL an exemption, the JJB shall issue directions to the CWPO and the Person-in-Charge of the Police Station concerned to produce the Child.

Rule 11(8) If the child who has been released on bail, fails to appear before the JJB on the dates fixed for hearing, without any valid exemption, the JJB shall issue further directions to the CWPO for production of the child. If even after such directions, the CWPO fails to produce the child before the JJB, the JJB shall pass orders as if the child is a run-away child, as per Section 26, JJ Act, 2015, instead of issuing process under Section 82, CrPC, and the Child shall be treated as a missing child.

Rule 12 talks about those procedures to be followed in the case of a Runaway Child in conflict with law. In the case of runaway child the CWPO/SJPUs/area Police Station shall be informed and shall receive a report from the Child care institution along with the details and description of the child, the identification marks and photograph with a copy marked to the JJB or the Children's Court

as well as to the Director of Social Defence from the Officer-in-Charge of the Child Care Institution. It is mandatory to receive such a report within 24 hours.

Rule 12 - Runaway Child in conflict with law

In the case of runaway child the CWPO/SJPUs/area Police Station shall be informed and shall receive a report from the the Officer-in-Charge of the Child Care Institution.

The Report should include, the details and description of the child, the identification marks and photograph.

The Copy of the report should be also marked to the JJB or the Children's Court as well as to the Director of Social Defence.

The report shall be received within 24 hours.

Rule 14 envisages the procedures to be followed when sending of a Child to an Observation home or place of safety. The Officer-in-Charge of the police station shall submit a written requisition under Form VIII to the Officer in charge of the Observation Home or place of safety for admission of the child.

Rule 9(5) - Transaction of Business

Form II - Information to the Probation Officer about Apprehension of Child in Conflcit of Law

Rule 11(5) - Runaway child in conflcit of law

Form VII - Undertaking/Bond to be exected by Parent/Guardian/Relative/Fit Person in whose care a child in conflcit with law is placed.

Rule 14 - Sending of a child to an observation home or place of safety

Form VIII - Requisition for temporary admission of child in conflcit with law in Observation Home/Place of Safety.

Role of Police in dealing with Child Survivors of Sexual Abuse as per POCSO Act, 2012

The first stakeholder to come in contact with a child, who has faced sexual abuse, is the Police. The responsibilities and duties of the Police in the pretrial stage of a POCSO case, with respect to reporting of the offence, examination of the child and recording of the child's statement, goes a long way in avoiding secondary victimisation and trauma during trial.

The POCSO Act, 2012, along with the JJ Act, 2015, envisages the stepping in of the Special Juvenile Police Unit [SJPU], for handling cases involving child victims and child offenders. When the SJPU or the police receive information relating to an offence that has been or is likely to be committed, they should take the following steps:

Firstly, the information is to be recorded as a complaint in writing. Where the information is provided by the child, the complaint must be recorded in simple language such that the child understands it. After recording the information in writing, the police must assign an entry number to the information, and read it over to the complainant. In case the child does not understand the language in which the complaint is recorded, then the police must arrange for a qualified interpreter or translator for the child, as per Sections 19(4) and 26(2) & (3), POCSO Act, 2012.

Secondly, the concerned child must be assessed to see if they are in need of care and protection. Upon assessment of the child, if the police believes that the child needs to be relocated as they are in need of care and protection, the police has to record the same in writing and make the necessary arrangements, which includes admitting the child to a hospital (whether government or private one) in case they need immediate emergency medical care, or a Shelter Home within 24 hours.

If the child is without parental support, or are living with an abuser or a potential abuser, the police must produce the child before the Child Welfare Committee within 24 hours of the information, as per Rule 4(3), POCSO Rules, 2020.

Thirdly, as per Rule 4(2)(c), POCSO Rules, 2020, the police must facilitate the medical examination of the child, by taking them to the hospital for medical examination within 24 hours of the information, and also ensure that the forensic samples are sent to the Forensic Laboratory at the earliest, as per Rule 4(2)(d), POCSO Rules, 2020.

Fourthly, the police must submit a report to the Child Welfare Committee and the Special Court (or in its absence, a Sessions Court), about the details of the case and the steps taken to ensure care and protection to the child, within 24 hours of receipt of the information.

Fifthly, as per Rule 4(1), POCSO Rules, 2020, the police must provide their name, designation, address, telephone number and the contact details of their supervisor, to the informant.

Importantly, the child must be informed of their right to free legal aid and legal representation, and must be given contact information of the District Legal Services Authority.

The police further have the duty to inform the child and their parent/guardian or the informant about the availability of:

- ✓ Emergency health services, support services, and connect the child and their parent/guardian to such service providers if necessary
- ✓ Procedures and stages involved in a criminal case, status of arrest of accused and investigation
- ✓ To the extent that it does not interfere with the investigation,
 developments in the case including applications filed and court

proceedings; status of bail application of the accused; filing of charges against the accused; filing of chargesheet; schedule of court proceedings

- ✓ Availability of victim compensation
- ✓ Outcome of the trial, sentence imposed on the offender, details of the judgment and its implications

Timely updates on the above should also be provided by the police to the child or their parent/guardian or the person whom the child trusts.

The Role of a Child Welfare Police Officer in Rescue and Rehabilitation

The role of a Child Welfare Police Officer begins with rescuing the child. The child is recued and has to be necessarily rehabilitated considering the factors and externalities influencing the 'best interest of the child'.

What do you mean by "best interest of the child"? The Juvenile Justice (Care and Protection) Act, 2015 under Section defines 2(9) "best interest of child". "best interest of child" means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development;

The primordial role played by a Child Welfare Police Officer, coming in contact with a child is to assess the best interest of the child.

This definition doesn't use the word rescue and rehabilitation. Therefore, the role of Child Welfare Police Officer to indulge in the conundrums between rescue and rehabilitation may seem limited at the outset. However, it does not imply that a Child Welfare Police Officer does not have any role. The Child Welfare Police Officer should take into consideration the basic rights and needs of the child as soon as the child is rescued. This is the first step in serving the best interest of the child by a police officer. Basic rights and needs

of the child may include information to their parents or guardian, food, clothing or safety and security from potential predators etc. The child should at the first instance feel safe with the Child Welfare Police Officer. The second step is to identify the identity of the child at hand. The Child Welfare Police Officer should take steps to find the whereabouts of the Child. The Child Welfare Police Officer should carefully record all the information given by the Child because each and every minute information given by the Child can be a turning point for the Child's identity. For example, a Child may tell the Child Welfare Police Officer about their age. But, in certain cases it might seem that the child is older or younger than the age stated by them. The Child might not be aware about it.

In these pressing circumstances, it is important to gather information from available sources and seek help from a psychologist or a trained social worker, to know more from the child rather than compelling the child to tell certain facts more clearly and precisely. The last step to serve the best interest of the child that has to be taken by a Child Welfare Police Officer is to ensure the "social well-being and physical, emotional and intellectual development" of the Child.

A child coming before a Child Welfare Police will long for care and social well-being. The law understands social well-being as physical well-being, emotional well-being and intellectual development. It is important for a Child Welfare Police Officer to understand and fulfill the emotional well-being and intellectual development by welcoming child-friendliness and support with children.

What is Child-friendliness? How can a Child Welfare Police Officer be friendly to a rescued child?

The Juvenile Justice Act (Care and Protection) of Children, Act 2015 defines "Child-friendly"

"Child friendly" means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child;

Seven characteristics of being human and considerate in the best interest of the child:

Behaviour: Be Gracious

Conduct: Be Responsible

Practice: Be Advisory

Process: Be Obliged

Attitude: Be Compassionate

Environment: Be Disciplined

Treatment: Be Analytical

It is important for the Child Welfare Police Officer to be very welcoming in their behaviour, conduct, practice, process, attitude, environment, and treatment with the Child. Understanding what is rescue and rehabilitation for a "child in need of care and protection" is fundamental. The phrase "child in need of care and protection" has been illustratively and exhaustively discussed in the JJ Act, 2015.

The JJ Act, 2015 applies to all matters concerning children in need of care and protection and children in conflict with law. Section 107, JJ Act, 2015 envisages that, a Child Welfare Police Officer will be appointed who shall have

aptitude, appropriate training and orientation to exclusively deal with children either as victims or perpetrators, in co-ordination with the police, voluntary and non-governmental organizations. It is to be understood that, the word used is "to co-ordinate" which supplies emphasis that the role of a Child Welfare Police Officer in rescue and rehabilitation. Therefore, a Child Welfare Police Officer ought to be affectionate, driven by drawing a solution to problems of the Child.

Comparative Analysis: Child Friendly Policing Practices around the World

To have an effective and positive impact on existing and future children in need of care and protection with the law and to reduce the number of children pulsing for care and protection.

To build a solid and sustainable foundation for a modern juvenile justice system that can continually develop and improve in the future.

Police officers are a frequent focus of public criticism. Because criticisms are frequently general, inclusive and widely divergent, a policeman of superhuman qualities is needed to disrupt or change the prevailing community image.⁵⁵

Twin objectives which the Police should seek to achieve.

- ✓ To build a solid and sustainable foundation for a modern juvenile justice system that can continually develop and improve in the future.
- ✓ To have an effective and positive impact on existing and future children in need of care and protection with the law and to reduce the number of children pulsing for care and protection.

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⁵⁵ Robert L. Derbyshire, Children's Perceptions of the Police: A Comparative Study of Attitudes and Attitude Change, 59 J. Crim. L. Criminology & Police Sci. 183 (1968)

On a comparative analysis of countries around the world where the law enforcement is open towards children. The law enforcement in the global south and the global north countries are different in their approach. It is fundamental to understand how the law enforcement of different countries approach the problems of Children.

Child friendly policing comes with a lot of standard operating procedures for different countries. Certain aspects are common in all the law enforcement systems throughout the world.

The first aspect that is common is a "vulnerable child". A vulnerable child can be found in your neighbourhood. Every child requires proper parenting care and supervision.

The second aspect that is common is the phrase "best interest of the child". Law enforcement is a justice actor for the child. Best interest, refers to those factors that justice actors consider when deciding what type of services, actions or orders will best serve a child.

The third aspect that is common is being "child friendly". Being child friendly means creating an environment, that can sustain and integrate the rights of children. This including a physically safe, non-threatening and welcoming reception of the child, a communication style that builds rapport, and gathering and imparting information in a way that the child can understand.

The last aspect that is common is the principle of confidentiality. Principle of confidentiality is fundamental and intricate in cases that involve children. It is important that, personal information of the child cannot be divulged to third parties without the express consent of the child, excepting those who, by reason of their participation in the investigation or prosecution proceedings, should have legal access to such information. At no stage shall any

information be provided for publication that may lead to the identification of the child.

Keeping these four key aspects in mind Police Officers should try to improvise our system, adapt to new ideas of change by creating for children a healthier and more trustworthy environment for sustenance and upcoming. As a law enforcer, it should be kept in mind that, it is our duty to safeguard intergenerational equity in India.

The **Ghana** Police Service functions with the objective of promoting a framework for collaboration with key stakeholders, governmental and non-governmental, who support police efforts to protect children from harm and prosecute offenders. In line with the rules governing the Ghana Police Service, any breach of the Standard Operating Procedures is misconduct, calling for disciplinary proceedings, once these standard operating procedures are fully operational.⁵⁶



The Ghana Police Service functions with the objective of promoting a framework for collaboration with key stakeholders.

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⁵⁶ Ghana Police Service, Standard Operating Procedures For Child-Friendly Policing Procedures For Child Victims And/Or Witnesses, (August 2016)

⁽https://www.unicef.org/ghana/media/1891/file/SOP%20-%20Child-Friendly%20Policing.pdf)



Law enforcement should fundamentally work to supplement and complement the prevailing agencies and institutions in the arena of child protection.

Singapore The model demonstrates about an institution called Children's Ombudsman. The effectiveness of their existing systems and mechanism are bolstered by the establishment of

such an institution. This institution fundamentally works to supplement and complement prevailing agencies and institutions in the arena of child protection. It bridges a gap between State and non-State actors working



The idea of police to work together with the people around them is an important aspect to reach the goal.

towards a common goal and vision of child development, welfare and protection.⁵⁷

The **United States** model states that a Child friendly Police Officer should

maintain a good rapport with the communities in their territorial jurisdiction for making the police officer more approachable to the issues faced by Children in those communities. Community Police in Child Development has gradually come to India from the western influence. The idea of police to work together with the people around them is an important aspect to reach the goal. Community oriented policing is very important for a Child Welfare Police Officer in India. Community Policing helps in prevention of crimes and further pools the resources resolving the pressing concerns of children within the community. The abbreviated term "COP" in the United States stands to

⁵⁷ Dr. Anuradha Saibaba, Juvenile Justice: Critically Juxtaposing The Models In India And Singapore, Working Paper Series No.028, Asian Law Institute (September 2012)

mean "Community Oriented Policing". ⁵⁸ Community Policing works upon three fundamental principle namely [1] positive interaction [2] partnership and [3] problem solving.



Civil society to ensure an integrated and holistic approach to implement a responsible workforce for healing children. The **South African** model of protecting the child gives a noteworthy lesson. The Child Justice Act, 2008 (Act No 75 of 2008) in its preamble comprehensively evaluates the eventualities that a child will face in the criminal justice

system. One Stop Child Justice Centre promotes co-operation between government departments and between non-governmental sector and civil society to ensure an integrated and holistic approach to implement a responsible workforce for healing children from their past, and teaching

children to lead a dignified life

valuing human quality etc.



An informed and capable frontline officer from the law enforcement keeps a continuous track of the community in their jurisdiction.

Cambodia, Lao PDR,
Thailand and Vietnam are
countries which survive
significantly on tourism.
Tracking children trapped in
sex work and rescuing them is

a challenging task. This is carried out with continuous exchange of information and proper coordination. An informed and capable frontline officer from the law enforcement keeps a continuous track of the community in their

⁵⁸ Community Oriented Policing Service, US Department of Justice, U.S. Department of Justice Office of Community Oriented Policing Services 145 N Street NE Washington, DC 20530 ISBN: 978-1-935676-06-5 e051229476(2014) (https://cops.usdoj.gov/RIC/Publications/cops-p157-pub.pdf)

jurisdiction. There is a comprehensive training and capacity building delivered in an institutionalized approach alongside, enhanced networking and communication mechanism between the key stakeholders. Operation plans of the frontline officers are frequently reviewed and revised from the results and lessons learned from the past.

The **United Nations** Department of Peacekeeping operations team has peace keeping forces. The Child Welfare Police Officer is a key person who operates as task force for the welfare of Children in Indian criminal Justice System. The roles and responsibility that attributed to a Child Welfare Police Officers are to be understood drawing an analogy from the working of the UN



The Child Welfare Police Officer is a key person who operates as task force for the welfare of Children in Indian criminal Justice System. Department of Peacekeeping operations. The art of protection of children affected by armed conflict between two tensed nations is worth a lesson for the CWPOs. The roles fulfilled by a Child

Protection Officer takes care of monitoring grave violations, fulfilling reporting obligations, engaging in dialogue with parents, advocating for protective, preventive and remedial measures in relation to other violations of children's rights, providing training, guidance and expertise on child protection issues, tools and methodologies, acting as a child protection entry point. A Child Welfare Police Officer should also act as an entry point in a case relating to Children in India.

Thus, in all actions and decisions concerning children, the best interest of the child shall be a primary consideration.⁵⁹ Assessing the best interest of a child means evaluating and balancing all elements necessary to make a decision in a specific situation for a specified individual child or group of children is expected out of a Child Welfare Police Officer.

For understanding how community policing reaches children, a study of child friendly policing practices around the world with a focus on the countries from the Global South. On assessing the path-breaking innovations done by police in all these countries, the drive home message for the CWPOs in India is to behave proactively with the community they serve, and protect the best interest of the child, by standing within the four corners of the law and with the limited resources available.



⁵⁹ Department of Peacekeeping Operations Department of Field Support Department of Political Affairs, Policy on Child Protection in United Nations Peace Operations, United Nations, (2017) (https://peacekeeping.un.org/sites/default/files/1._protection_-_3_child_protection_policy_0.pdf)

Relevant Case Laws

The Supreme Court in <u>Contagion of Covid 19 Virus in Children Protection Homes, In re, [2021 SCC OnLine SC 3177]</u> highlighted the role of Child Welfare Police Officer towards Children in Street Situations. The Apex Court took cognizance of the Standard Operating Procedure for Care and Protection of Children in Street Situations prepared by the National Commission for Protection of Child Rights in the year 2020 (NCPCR SOP), National Plan of Action for Children, 2016 and the Commission for Protection of Child Rights Act, 2005 to highlight the need for rehabilitation of Children in Street Situations (CiSS).

The Calcutta High Court in <u>Jiban Mondal, In re. [2017 SCC OnLine Cal 1919]</u> held that, a child in conflict with law is to be placed under charge of the Special Juvenile Police Unit or the designated Child Welfare Police Officer and thereafter he is to be produced before the J.J. Board within 24 hours of his apprehension.

The Calcutta High Court in <u>Court in Its Own Motion, In re. [2020 SCC OnLine Cal 2078]</u> held that, "That child has to be dealt with empathy and sympathy and the compassion is the hallmark of the juvenile system. There is lack of sensitivity in the police administration in dealing with the juvenile as manifestly seen in the instant case. It is high time where officials of the police administration should be sensitized to deal with the minor child in conflict with law."

The Calcutta High Court in <u>Court in Its Own Motion, In re. [2020 SCC OnLine Cal 2933]</u>, held that, "When violation of fundamental right of a child is established, it could be a wakeup call for all of us and for the administration in particular, it needs to be addressed and deal with appropriately with all emphasis and importance it deserves. Civil Volunteers shouldn't be manning the designated Child friendly Corner replacing a regular SJPU or a designated

child welfare police officer. The CCTV installed at the Child Friendly Corner of the Police Station should be functional. If a minor has committed any offence cognizable under the Penal Code, 1860, he needs to be treated as a child in conflict with law under the said Act and to be produced before the JJB as expeditiously as possible. The District Child Protection Officer has to be informed at the earliest."

The Supreme Court in its decision in [Sampurna Behura v. Union of India, (2018) 4 SCC 433] came heavily on the tardy implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 (the 2000 Act) and the Juvenile Justice (Care and Protection of Children) Act, 2015 (the JJ Act) and empathized that, "State to strongly and proactively acknowledge that even children in our country have fundamental rights and human rights and they need to be enforced equally strongly." The Apex Court further found that, the role of police is fundamental for the State to be proactive. The Court discussed the importance of Section 107 of the JJ Act, 2015. The Court held that, "Child Welfare Police Officer (for short "CWPO") and a Special Juvenile Police Unit (for short "SJPU") in each district have to be appointed by the State. Efforts towards child welfare should be revitalized."

In the case of <u>Uma Devi v. State of T.N., [2019 SCC OnLine Mad 1329]</u> the Madras High Court held that, "a Child in need of care and protection should be produced before the CWC."

The Patna High Court in <u>Ashish Kumar v. State of Bihar, [2019 SCC OnLine Pat 3010]</u> held that, "Child Welfare Police Officer's Report plays a vital role in the life of a CCL."

The Allahabad High Court in <u>Shahaab Ali Vs. State of U.P., [2020 SCC OnLine All 45]</u> supplied emphasize on the role and responsibilities of a Child Welfare Police Officer in detail.

The Madras High Court in K. Vignesh v. State [2017 SCC OnLine Mad 28442] comprehensively discussed the statement and object behind legislating a new law called the JJ Act, 2015 replacing the JJ Act, 2000. The Court noted that, "The Legislature, being aware of the consequences that ensue the arrest, has avoided to empower the police to arrest a child in conflict with law. At the same time, the child in conflict with law cannot be let free as it would not be in the interest of the child in conflict with law as well as the society. Therefore, the Legislature had obviously thought it fit to give only a limited power to the police. In other words, the Legislature has empowered the police simply to apprehend a child in conflict with law and immediately, without any delay, cause his production before the Juvenile Justice Board. The Juvenile Justice Board has also not been empowered to pass any order of remand of the child in conflict with law either with the police or in jail. The proviso to Section 10 of the Act makes it very clear that in no case a child alleged to be in conflict with law shall be placed in police lock-up or lodged in a jail. The Board has been obligated to send the child either to an observation home or a place of safety.

After the child in conflict with law is so apprehended or detained by the police or appears or brought before the Board such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person. Thus, a child in conflict with law apprehended or detained is, as of right, entitled for bail irrespective of whether the offence said to have been committed by him is bailable or non-bailable.

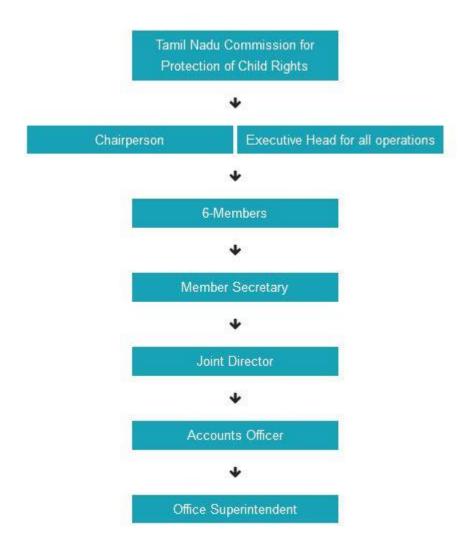
The Juvenile Justice (Care and Protection of Children) Act, 2015 is a self-contained Code which is both substantive as well as procedural. The Act takes care of the interest of the child in conflict with law on the child being apprehended. Even after bail is refused to the child, the child cannot be

remanded to either judicial custody or police custody. The Board shall ensure the welfare of the child by keeping the Child in an Observation Home or a place of safety."

The Uttarakhand High Court in *Rashid Rao v. State of Uttarakhand [2022 SCC OnLine Utt 481]*, highlighted that "The United Nations Convention on the Rights of Children, ratified by India on 11th December, 1992, requires the State Parties to undertake all appropriate measures in case of a child alleged as, or accused of, violating any penal law, including (a) treatment of child in a manner consistent with the promotion of the child's sense of dignity and worth (b) reinforcing the child's respect for the human rights and fundamental freedoms of others (c) taking into account the child's age and the desirability of promoting the child's reintegration and the child assuming a constructive role in society."

Tamil Nadu State Commission for Protection of Child Rights

The Tamil Nadu Commission for Protection of Child Rights [TNSCPCR] works with the objective of [1] Preventing child rights violations and protection of child rights across the State. [2] Monitoring the implementation of all child welfare/Rights Acts in force. [3] Recommending the relevant Government Departments and institutions to resolve the child rights issues [4] Submitting annual report on activities of Commission to the State Government as per Section 23 of the Commissions for Protection of Child Rights Act, 2005.



The Right of Children to free and Compulsory Education Act 2009

As per Section 31 of The Right of Children to free and Compulsory Education Act 2009, TNSCPCR is assigned the responsibility to monitor the implementation the Act. Further, as per section 12 (1C) of the Act, TNSCPCR also has the power to verify that 25% of admissions to private and grants-in-aid receiving schools across the State who belongs to the weaker section and disadvantaged groups. As per section 32(3) the Act, TNSCPCR is the appellate authority for issues arising out of the decision taken by the "Local Authority".

The Protection of Children from Sexual Offences Act 2012

As per Section 44 of The Protection of Children from Sexual Offences Act 2012, TNSCPCR is the monitoring authority for the effective implementation of the Act, throughout the State. TNSCPCR is to monitor the designation of Special Courts by State Governments and appointment of Special Public Prosecutors by State Governments. As per Section 44 of the Act, TNSCPCR is to monitor and conduct activities and awareness programmes by itself and by the stakeholders.

The Juvenile Justice (Care and Protection of Children) Act 2015

As per section 109 of The Juvenile Justice (Care and Protection of Children) Act 2015, TNSCPCR is assigned the responsibility to monitor the implementation of the Act. As per the powers conferred, the Chairperson and Members of TNCPCR are to carry out the spot inspections and ensure the implementation of the Integrated Child Protection Scheme (ICPS) at child care institutions functioning under Government and NGOs across the State.

Guidelines/Standard Operating Procedures/ Government Orders

National Action Plan for Children, 2016	https://wcd.nic.in/sites/default/files/ National%20Plan%20of%20Action% 202016.pdf
Standard Operating Procedure for Care and Protection of Children in Street Situations, National Commission for Protection of Child Rights in the year 2020	https://www.savethechildren.in/wp-content/uploads/2020/12/Standard-Operating-Procedure-for-CISS Revised.pdf
NCPCR Annual Report 2020-2021	https://ncpcr.gov.in/uploads/165648 813162bc00c370bdd Annual%20Rep ort%202020- 2021%20(,%2011046%20KB).pdf
Tamil Nadu State Child Policy Note, 2019	http://www.tncpcr.tn.gov.in/docs/Chi ld%20Policy%20Note%202019%20(Final%20-%2006012020).pdf



PART V - CONCLUSION

This study material essentially has walked you through a journey. The need to have a proper attitude, enabling skill and workable knowledge is emphasized. The fundamental idea behind the trifurcation of this study material was for having a proper understanding of the attitude, skill and knowledge expected of police officers dealing with children.



The Supreme Court in <u>Sampurna Behura v. Union of India, [(2018) 4 SCC 433</u>] observed that, "If Nelson Mandela is to be believed, "Our children are our greatest treasure. They are our future. Those who abuse them tear at the fabric of our society and weaken our nation." [Address by President Nelson Mandela at National Men's March, Pretoria on 22-11-1997.]" ... It is their constitutional obligation to ensure that social justice laws enacted by the Parliament are effectively and meaningfully enforced.

A Child Welfare Police Officer ought to have an aptitude for attitude, skill and knowledge. Aptitude can only be developed through continuous training and experience. It is highly important that CWPOs develop an aptitude for collaborative peer learning. The purpose of this study material will be met only when the children coming before you feel safe and secure. A CWPO is identified as the key person who can fundamentally accommodate the concerns of the child and coordinate with their parents at the same time. A CWPO being the officer at the first instance will know the complete details in each and every case. Therefore, it is important that CWPOs should not abuse or manipulate their roles and responsibilities. CWPOs should realize that they have the power to make a positive difference in the lives of children, if they Listen to Them.

"Everyman's Watchman is his Conscience" — Harper Lee in *Go Set a Watchman*

Recommendations and Suggestions

- Accountability of law enforcement begins from reducing misconduct, restricting the use of policing practices involving excessive force, enhancing transparency, and establishing best practices. Being a Child Welfare Police Officer is not a qualified immunity. It is recommended to have a national registry to compile data on complaints and records of police misconduct. Police officers should be given training specifically on profiling, implicit bias, and the duty to intervene when another officer uses excessive force.
- 2. It is recommended to have a Model Manual for Child Friendly Policing Procedures in India consolidating all the standard operative procedures, Government Orders and best practices followed by CWPOs along with Success stories of Social Re-Integration, for easy access and exchange of information.
- 3. It is recommended to organise training programmes through a collaborative approach. The CWPOs can simulate challenging situations to increase their endurance and refine their approach.
- 4. It is recommended to promote community policing for furthering the cause for emotional and intellectual development of Children. Police Officers need to adopt measures to reduce psychological harm to Children and ensure that effective health, mental health, educational and social work services are available for the Child.
- 5. It is recommended to conduct awareness and public outreach programmes by coordinating Schools and Police Stations. Each Police station can pilot this programme by conducting continuous exchange of information with local schools.

- 6. It is recommended to avoid using police vehicles to commute the Child. It is important that Children are not made to feel like a criminal while taking them from one particular point to the other in a Police Vehicle. Therefore, there can be a policy decision to take the Children in vehicles other than a police vehicle to reduce the trauma a child receives from entering into a Police vehicle.
- 7. It is suggested to instill coordination and cooperation from all stakeholders to help complete the investigation in time and complete the case against CCLs as soon as possible since it can impact the education of the child.
- 8. It is suggested to designate CWPOs on exclusive charge and not promote Child Welfare Policing as an additional responsibility for Police Officers. This fundamental aspect as to be kept in mind as it would prejudice S. 107(1) JJ Act, 2015, which states that the designation of a CWPO is to exclusively deal with children. CWPOs should be exclusively identified, and given distinct uniforms.
- It is suggested not to make frequent transfers of CWPOs from one place to another since all of them are imparted training and their work will be significantly impacted.
- 10. It is recommended that for securing the best interest of children with diverse gender identities, CWPOs take an accommodative approach and take the advisory support of psychologists for helping the child better.

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PROGRAMME SCHEDULE







TAMIL NADU STATE JUDICIAL ACADEMY

and

INTEGRATED TRAINING CENTRE FOR SOCIAL EMPOWERMENT

(Department of Social Defence, Government of Tamil Nadu)

in association with

UNICEF

Training Programme for Child Welfare Police Officers (CWPOs) on Child related Legislations

S. No.	Place	Proposed Dates
1.	TNSJA Headquarters, Chennai	12 th , 13 th and 14 th July, 2022
2.	Regional Centre, Madurai	2 nd , 3 rd and 4 th August, 2022
3.	Regional Centre, Coimbatore	23 rd , 24 th and 25 th August 2022
* The remaining 6 programmes will be conducted between September and December, 2022.		

Training Programme for Child Welfare Police Officers (CWPOs) on Child related Legislations At TNSJA

09.30 a.m. – 09.35 a.m.	Invocation
	Welcome Address
09.35 a.m. – 09.50 a.m.	Scope and Object of the Programme
09.50 a.m. – 10.20 a.m.	Relevance of the UN Convention on the Rights of the Child for CWPOs
10.20 a.m. – 11.30 a.m.	Belligerence to Benevolence: The Right Attitude Brings Light
11.30 a.m. – 11.45 a.m.	Tea Break
11.45 a.m. – 12.15 p.m.	Session continues
12.15 p.m. – 01.00 p.m.	Be Bright, Bring Light – An interactive session
01.00 p.m. – 02.00 p.m.	Lunch Break
02.00 p.m. – 03.00 p.m.	Despair to Delight: Developing Skills for Rehabilitation of Children
03.00 p.m. – 03.30 p.m.	Success Stories of Skillful Saviours
03.30 p.m. – 03.45 p.m.	Tea Break
03.45 p.m 05.05 p.m.	Know how to Handle Sensitive Situations (Emotional Intelligence)
	Police : The Heroes of Children
	Render Justice to Children: An Interactive Session
	Vote of Thanks
National Anthem	

JUST LISTEN TO ME!

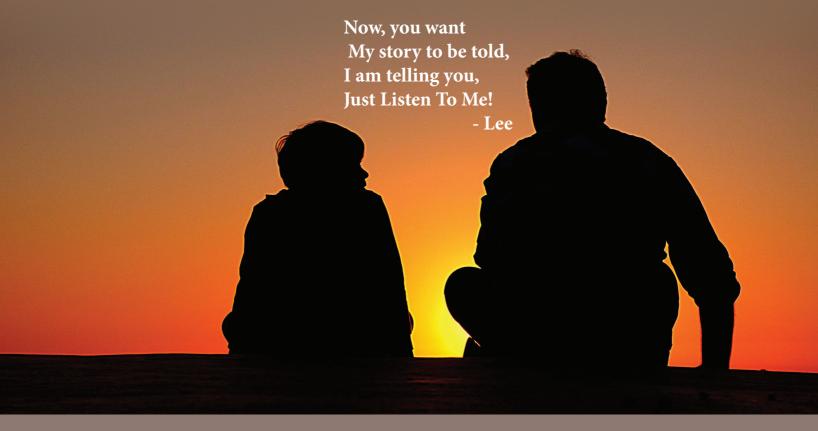
Nobody Listened! Nobody Cared! I ran away from home!

Nobody Gave! Nobody Cared! I stole a loaf of bread!

Nobody Loved! Nobody Cared! I wanted to be touched!

Nobody watched! Nobody Cared! I drowned in weed!

Nobody helped! Nobody Cared! I had this monster killed!



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