

STANDARD OPERATING PROCEDURES FOR

CHILD FRIENDLY COURTS



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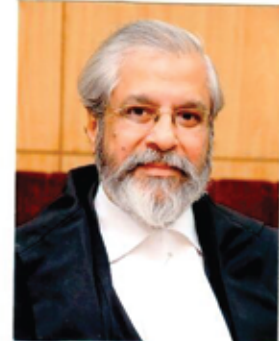
CHILD FRIENDLY COURTS



Madan B. Lokur
Judge
Supreme Court of India



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MESSAGE

Over the last couple of years, there has been a surge of interest in the rights of the child. It is a matter of great satisfaction that this interest and consequent sensitization is the result of an initiative of the judiciary, with judges in constitutional courts being deeply involved in the welfare of children. India is perhaps the only country where the judiciary has taken such an initiative. However, there is still a long way to go before we can proudly say that every child is taken care of but a strong beginning has been made and I am sure that the awareness and recognition of the rights of children will have a positive impact on the future of our great country.

State Governments and NGOs have brought out several publications on the rights of children and their welfare. There has also been a significant contribution from statutory bodies such as the National Commission for Protection of Child Rights. The Standard Operating Procedure for Child Friendly Courts (SOP) is the outcome of one such intervention in which Justice and Care has taken the lead in preparing the document. There has been a significant contribution made by Ms. Geetanjali Goel, Additional District & Sessions Judge and Special Secretary, Delhi State Legal Services Authority and Dr. Geeta Oberoi, Professor, National Judicial Academy, India who have vetted the document.

There are several areas where justice delivery needs a revisit and one of them, most certainly, are courts particularly at the district level. Quite often the court where children are brought either as victims under the Protection of Children from Sexual Offences Act, 2012 or as accused before Juvenile Justice Board

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(JJB) constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015 have a not-too-pleasant ambience. If the Presiding Officers of such courts and JJBs themselves do not have adequate facilities and amenities, it is not difficult to imagine the facilities and amenities made available (or not made available) to children. While it is necessary to meet the requirements of courts, I believe it is more important to assess the needs of children and to address them in the courts and JJBs. It is for this reason that child friendly courts are extremely important and deserve to be treated as an integral part of the justice delivery system.

In this regard, the SOP is a very welcome contribution. It deals with an important aspect of justice delivery, that is, how to make courts and the JJBs child friendly. The SOP prepared by Justice and Care in collaboration with NCPCR is virtually in the form of a Bench Book that will be of tremendous assistance not only to courts but also to the JJBs. It will also serve as a guide to Child Welfare Committees and other stakeholders including the Police and Public Prosecutors. Wherever necessary, the SOP links the protocol with the statutory provision and significantly a supporting judgment is also cited. Therefore, the SOP serves the purpose of a Bench Book and also sensitizes and educates all of us on the human rights of children to be treated with dignity by the justice delivery system whether as a victim or an accused.

I commend the Standard Operating Procedure for Child Friendly Courts for wide distribution with a hope that in due course of time more protocols are added through a sharing of experiences by all stakeholders.

May 3, 2018

Madan Lokur
(Madan B. Lokur)



स्तुति कक्कर
Stuti Kacker
अध्यक्ष
Chairperson

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GOVERNMENT OF INDIA
राष्ट्रीय बाल अधिकार संरक्षण आयोग
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FOREWORD



It is an accepted fact across the world that there should be a separate legal system for dealing with children as they are still on their developmental journey to adulthood. Children especially adolescents are more prone to peer influence and less aware of risks and benefits, when they take away decisions and even if their actions may be the same as adults, their thought processes are different along with the influences. It is this recognition that has been reflected in the setting up of a separate Juvenile Justice System in India.

Keeping in view the vulnerability of a child, the framers of our Constitution have included special provisions for children under various Articles and have also empowered the State Governments to bring special provisions, keeping in view their local requirements, for the development, care and protection of children.

The Juvenile Justice (Care and Protection of Children) Act, 2015 has incorporated General Principles, which are to be followed in administration of the Act. The said Act defines "child friendly" as any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child. The Child in Conflict with Law as well as Child in Need of Care and Protection both need to be protected for their rehabilitation and re-integration into Society.

The POCSO Act, 2012 also stresses on safeguarding of the interest and the well-being of the child at every stage of the judicial process by incorporating child friendly procedure for reporting, recording of evidence, investigation and trial of offences along with establishment of Special Courts for speedy trials.

NCPDR, with technical support from Justice and Care, is bringing this Standard Operating Procedure (SOP) for Child Friendly Courts in compliance of the orders of the Hon'ble Supreme Court. We are hopeful, it will be helpful in creating a conducive and child friendly environment in the legal system.

(Stuti Kacker)
8th May 2018

Justice B. V. Nagarathna

JUDGE
HIGH COURT OF KARNATAKA
BANGALORE - 560 001



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06th August, 2018

MESSAGE

I am happy to note that Standard Operating Procedure (SOP) on Child Friendly Courts was developed in collaboration with NCPCR. The enquiries/trial where the children are involved especially under POCSO Act require to be conducted with a high degree of sensitivity, care and empathy for the victim children who are highly vulnerable and who approach the Court with traumatic experiences. Hence, the justice delivery system should respond to make them comfortable and to ease pain and suffering. With this in mind the concept of establishing Child Friendly Court was developed.

In Karnataka during August 2017, two Child Friendly Courts, exclusively to try the cases under POCSO Act were established. Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court of India inaugurated these Courts. Since then these two Courts are catering to the purpose for which they are established so as to cater to the needs of the victims.

Even though the Child Friendly Courts are established, there is lack of perfect coordination between the stakeholders under POCSO Act. The Standard Operating Procedure specifying the role of each stakeholder was very much needed. Such procedures will identify and impose responsibilities on the respective stakeholders, who could be made accountable for any lapse.

In view of the above, the commendable work of developing a SOP on Child Friendly Courts in collaboration with NCPCR needs to be acknowledged and appreciated.

(B.V. NAGARATHNA)



MESSAGE

Dr A.P.J. Abdul Kalam in one of his messages to the nation stated, "It's when children are 15, 16 or 17 that they decide whether they want to be a doctor, an engineer, a politician or go to Mars or moon. That is the time they start having a dream, and that's the time we can work on them. You can help them shape their dreams". The fair and just treatment of children as well as the protection of their childhood is integral to helping shape children's interests and dreams. The protection of their best interests has been the firm aspiration of the legislative as well as judicial system.

Delhi, under the insightful guidance and leadership of Justice Gita Mittal, in the last one decade, has set up vulnerable witness courts to be used for child witnesses and other vulnerable witnesses in all the districts of Delhi. Their successful functioning has helped many witnesses participate in the judicial processes in a friendly, sensitive and non-intimidating manner and has also led to increased efficiency in justice delivery system.

The recent Supreme Court judgment delivered by Justice Lokur has directed the development of these courts in all districts across India. Development of child friendly courts across the country in every district is going to support the engagement of children with the judicial system in a positive way and strengthen the way towards bringing the criminals to justice. Justice and Care takes pride in having collaborated with the State Government and having set up the first child friendly court in South India (Nampally, Hyderabad, Telangana).

The photographs of the existing child friendly courts and vulnerable witness courts across India that have been included in this document are going to be a good reference point for many that are in the process of development.

There are 4 essential components for the successful existence and functioning of these courts. These include firstly, development of child friendly infrastructure/ ambience, secondly, various legal provisions that are meant to be adhered to, thirdly, the procedures and processes that all stakeholders involved need to follow and finally, the training of staff that is meant to manage these courts. While this SOP goes only as far to envelop the first three components, it is imperative to support and invest into training.

This SOP, which has been developed along with NCPDR under the guidance of Chairperson Ms. Stuti Kacker is one of its kinds that lays out the detailed procedures with respect to the development and functioning of child friendly courts. I would like to express my deepest gratitude to Ms. Stuti Kacker in providing us her valuable inputs and suggestions. I am extremely thankful to Ms. Geetanjali Goel, Special

Secretary, Delhi Legal Services Authority and Dr. Geeta Oberoi, National Judicial Academy who have lent us their time and energy in vetting this document.

I am deeply indebted to Hon'ble Mr. Justice Madan B. Lokur for having acknowledged this document and having provided us with an opening message.

I hope this document will be of great use and can be utilised by all current and prospective child friendly courts for their effective and smooth functioning. I wish them all the very best.

I would like to close with another quote by our former Indian President Dr. A.P.J Abdul Kalam who said "We will be remembered only if we give our younger generation a prosperous and safe India, resulting out of economic prosperity coupled with civilizational heritage."

Adrian Phillips

A handwritten signature in blue ink, appearing to read 'A Phillips', with a horizontal line drawn through the middle of the signature.

Senior Director - Justice and Care



INTRODUCTION

In India, crimes against children have been on the rise since the past decade or more. Apart from the increasing incidents of such crimes, there has been a corresponding decrease in the conviction in such gruesome offences. There is an increasing fear of re-victimisation and of cases being unheard.

The criminal justice system in India is designed to address the grievances and offences arising out of actions of adults. Traditional courts of law are not created with an eye for the special developmental needs of children. The courtroom environment can be intimidating to a child who is required to testify as a witness.

The Honourable Apex Court and several other High Courts around the country have recognized in more than one instance, the need for adhering to child friendly measures in trials involving a child witness.

In *State of Punjab v. Gurmit Singh*, [AIR 1996 SC 1393], the Honourable Apex Court recognised the need for sensitivity towards sexual abuse victims and opined, " trial in camera would not only be in keeping with the self respect of the victim of crime and in tune with the legislative intent but is also likely to improve the quality of the evidence of a prosecutrix because she would not be so hesitant or bashful to depose frankly as she may be in an open court, under gaze of public..... This would save any further embarrassment being caused to the victim of sex crime. Wherever possible it may also be worth considering whether it would not be more desirable that the cases of sexual assaults on the females are tried by lady Judges, wherever available, so that the prosecutrix can make her statement with greater ease and assist the Courts to properly discharge their duties, without allowing the truth to be sacrificed at the altar of rigid technicalities while appreciating evidence in such cases. The Courts should as far as possible, avoid disclosing the name of the prosecutrix in their orders to save further embarrassment to the victim of sex crime. The anonymity of the victim of the crime must be maintained as far as possible throughout."

Further in *Sakshi v. Union of India* [AIR 2004 SC 3566], the Honourable Apex Court laid out the following directions, "In holding trial of child sex abuse or rape:

(i) a screen or some such arrangements may be made where the victim or witnesses (who may be equally vulnerable like the victim) do not see the body or face of the accused; (ii) the questions put in cross-examination on behalf of the accused, in so far as they relate directly to the incident should be given in writing to the Presiding Officer of the Court who may put them to the victim or witnesses in a language which is clear and is not embarrassing; (iii) the victim of child abuse or rape, while giving testimony in court, should be allowed sufficient breaks as and when required."

The Delhi High Court reiterated the importance of child friendly measures in Court on *Its Own Motion v. State of National Capital Territory of Delhi* WP CrI 930 of 2007.,



1. It shall be endeavour of the Court to create a child friendly atmosphere while conducting its proceedings in respect of a sexually abused child.
2. Proceedings shall be conducted in camera and appropriate measures taken to ensure that the child victim is not confronted with the accused and the directions in this regard given by the Supreme Court in Sakshi v. Union of India 2004 CriLJ 2881 are enforced.
3. Wherever possible the Court may resort to the recording of statement through video conferencing.
4. The Court may, if it so thinks fit, direct that the questions to be put by the accused in cross-examination to the child victim be given in writing to the Presiding Officer of the Court, who may in turn put the same to the victim in a language, which is neither embarrassing nor confusing.
5. The Committal Court shall commit such cases to the Court of Sessions preferably within fifteen days after the filing of the chargesheet."

Further, the Protection of Children from Sexual Offences (POCSO) Act, 2012 makes provisions for avoiding the re-victimisation of the child at the hands of the judicial system. It provides for Special Courts that conduct the trial in-camera and without revealing the identity of the child, in a manner that is as child-friendly as possible. Above all, the Act stipulates that a case of child sexual abuse must be disposed of within one year from the date the court takes cognizance.

The measures for care and protection laid out in the Protection of Children from Sexual Offences Act, 2012 and Rules, 2012 and the Juvenile Justice (Care and Protection of Children) Act, 2015 and Rules 2016, in essence orients a child victim for his interaction with the criminal justice system. Keeping a child victim informed and explaining to him about procedures are best practices that go a long way in securing convictions in such cases.

Rehabilitative measures laid out in the Juvenile Justice Act, 2015, and the Juvenile Justice Rules, 2016, intend to cater to both the physical and emotional needs through care, protection, development, treatment and social reintegration.

The need for compensation is rightly stressed upon by the Protection of Children from Sexual Offences Act, 2012, and is absolutely essential for the child's immediate relief and rehabilitation, especially taking into consideration the economic background of most victims in need of economic empowerment.

There is a dire need for a child to be able to depose as a witness in a Court of Law without fearing harm from perpetrators. In this regard, Witness Protection Measures for a child victim and the family are vital to the case of the prosecution.

Vulnerability Assessments of a child victim's family based Social Investigation Reports (SIR), laid out under the Juvenile Justice Act, 2015, is also a beneficial tool aiding the Judicial Officers in securing protective measures for child witnesses.



The Juvenile Justice Act, 2015 also mandates for providing Support Services for children for their rehabilitation, which includes drawing up of Individual Care Plans that are tailor made to address a child's emotional and physical need and in turn empowers a child both socially and economically. These Support Services are also in the spirit of child friendly measures in successful prosecution.

On 09.02.2018, the Supreme Court of India in its judgment in the case of Sampurna Behura versus Union of India & Ors. WPC No. 473 of 2005 has requested and urged the Chief Justices of each High Court to seriously consider the establishment of child friendly courts and vulnerable witness courts in each district.

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I. OBJECTIVE

This Standard Operating Procedure (SOP) enunciates child friendly procedures based on the Juvenile Justice (Care and Protection of Children) Act, 2015, Juvenile Justice (Care and Protection of Children) Model Rules, 2016, Protection of Children from Sexual Offences Act, 2012, Protection of Children from Sexual Offences Rules, 2012 and the Model Law on Justice in Matters Involving Child Victims and Child Witnesses of Crime, 2009 (developed jointly by UNODC, UNICEF and the International Bureau for Children's Rights). It also covers protections accorded to children under the Immoral Traffic (Prevention) Act, 1986 in addition to measures under the Criminal Procedure Code, 1973.

This Standard Operating Procedure (SOP) attempts to facilitate as a reference material for Judicial Officers and Prosecutors on child friendly procedures in cases of child abuse including sexual abuse. It also contains protocols to be complied with by the Police and the Child Welfare Committee during the interface of various stakeholders with children. It is structured chronologically to assist Courts in understanding their role in ensuring a child friendly environment. It also contains judgements which are to be read with the procedural and substantive law relating to sexual offences against children.

This document is not gender specific and terms to designate gender have been used interchangeably throughout.



II. ABBREVIATIONS

CrPC	Code of Criminal Procedure, 1973
CWC	Child Welfare Committee
Guidelines by Delhi High Court	Guidelines for Recording of Evidence of Vulnerable Witnesses in Criminal Matters, Delhi High Court
HC	High Court
ITPA	Immoral Traffic (Prevention) Act, 1986
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2015
JJ Rules	Juvenile Justice (Care and Protection of Children) Model Rules, 2016
POCSO	Protection of Children from Sexual Offences Act, 2012
SC	Supreme Court
SJPU	Special Juvenile Police Unit
SOP	Standard Operating Procedure
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNODC-UNICEF Model Law	Justice in Matters Involving Child Victims and Witnesses of Crime



III. LIST OF CASES

1. Ashwani Kumar Saxena v. State of M.P. AIR 2013 SC 553.
2. Court on its own motion v. State and Anr. WP CrI 930 of 2007.
3. Delhi Commission for Women v. Delhi Police W.P. (CrI) 696/2008.
4. Delhi High Court Legal Services Committee v. Union of India 214 (2014) DLT 1.
5. Freedom Firm v. Commissioner of Police and Ors. CR. Public Interest Litigation No. 4 of 2015, Bombay High Court.
6. Gowthaman v. State Criminal Appeal No. 318 of 2015 Madras HC.
7. In Re. Mungali Thandar, High Court Of Calcutta, C.R.R. 2557 of 2013.
8. Inder Mohan Goswami v. State of Uttaranchal (2007) 12 SCC 1.
9. Jarnail Singh v. State of Haryana AIR 2013 SC 3467.
10. Lavanya Anirudh Verma v. State of NCT of Delhi Cr. Misc. 301 of 2017 Delhi HC.
11. Mahadeo v. State of Maharashtra (2013) 14 SCC 637.
12. Narender Kumar v. State of NCT of Delhi (2012) 7 SCC 171.
13. Panch Lal Adivasi v. State of U.P. 2014 (84) ACC 22 (All).
14. Prerana v. State of Maharashtra and Ors. Criminal (2003)2MLJ105.
15. Prerana v. State of Maharashtra and Ors. Criminal Writ Petition No. 1694 of 2003.
16. Radhu v. State of Madhya Pradesh (2007) Cr.L.J. 4704.
17. Rameshwar v. State of Rajasthan AIR 1952 SC 54.
18. Sakshi v. Union of India [AIR 2004 SC 3566].
19. Shankar Kisanrao Khade v. State of Maharashtra, (2013)5 SCC 546.
20. State of Himachal Pradesh v. Raghubir Singh (1993) 2 SCC 622.
21. State of Karnataka v. Nagaraja Cr. Pet. No. 8267 of 2015 Kar. HC.
22. State of Maharashtra v. Chandraprakash Kewalchand Jain AIR 1990 SC 658.
23. State of Maharashtra v. Dr Praful B. Desai Criminal Appeal Nos. 476 and 477 of 2003.
24. State of MP v. Anoop Singh Cr. Appeal No. 442 of 2010.
25. State of Orissa v. Thakara Besra AIR 2002 SC 1963.
26. State of Punjab v. Gurmit Singh AIR 1996 SC 1393.
27. State of U.P. v. Pappu @Yunus AIR 2005 SC 1248.
28. Virender v. State of National Capital Territory of Delhi Cr. App. No. 121 of 2008.
29. Wahid Khan v. State of Madhya Pradesh (2010) 2 SCC 9.



Child Friendly Court - Delhi
District Court Complex, Saket, Delhi



Delhi was the first state to have set up child friendly courts / vulnerable witness courts in the country. These courts have been set up in almost all districts of Delhi and are successfully aiding vulnerable witnesses including children to testify in a non-intimidating and supportive environment.



Child Friendly Court - Delhi
District Court Complex, Saket, Delhi





IV. PROTOCOL FOR MAGISTRATE AND SESSIONS COURTS

Sr. No.	Protocols	Statutory basis
1.	Recording of statement by the Court	Section 25 and 26 of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> The Magistrate shall record the statement of the child under section 164 of the Code of Criminal Procedure, 1973 in the Children's room or, if possible in the child's place of residence including, home or institution where he or she is residing. 	Rule 54(13)(i) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> If the child is in another District/State/Country, the statement or interview or deposition of the child may also be recorded through video conferencing 	Rule 54 (15) of Juvenile Justice Model Rules.
	<ul style="list-style-type: none"> The statement shall be recorded verbatim as spoken by the child 	Sections 25(1), 26(1) of Protection of Children from Sexual Offences Act, 2012; Rule 54(13)(ii) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> The Magistrate shall record the statement in the presence of parents/guardian and/or any other person in whom the child has trust or confidence. 	Sections 26(1) of Protection of Children from Sexual Offences Act, 2012; Rule 54(13) (iv) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> The Magistrate where necessary, may take the assistance of a translator and/or interpreter and/or special educator. 	Section 26 (2) and (3) of Protection of Children from Sexual Offences Act, 2012; Rule 3 of Protection of Children from Sexual Offences Rules, 2012; Proviso of Section 164(5A)(a) Criminal Procedure Code, 1973.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The Magistrate should ensure that the statement of the child is also recorded by audio/video means, wherever possible. 	Section 26(4) of Protection of Children from Sexual Offences Act, 2012; Rule 54 (13)(iii) Juvenile Justice Model Rules, 2016; Proviso of Section 164(5A)(a) Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Statement of a child with temporary or permanent mental or physical disability made before the Magistrate shall be considered as the examination in chief. 	Section 164(5A)(b) of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> The statement made by a child with temporary or permanent mental or physical disability and with the assistance of an interpreter/special educator before the Magistrate shall be videographed. 	Section 164(5A)(a) of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Advocate of accused shall not be present during recording of statement before the magistrate. 	Proviso of Section 25(1) Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Where the child is found to have been disturbed by the experience of coming to the Court, orders for video-conferencing may be passed by the Court, on an application moved by the support person or para-legal volunteer or by the Legal Services Authority, on behalf of the child. 	Rule 54(14) of Juvenile Justice Model Rules, 2016.
Production & Jurisdiction		
	<ul style="list-style-type: none"> Sexual offences alleged to have been committed by a minor should be referred to the Juvenile Justice Board. 	Section 34(1) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> When a Magistrate is not empowered to exercise the powers of the Board under the Juvenile Justice Act, 2015, is of the opinion that the person produced before him is a child, he shall without delay, record such opinion and forward the child along with the record of the proceedings to the Juvenile Justice Board or the Child Welfare Committee, as the case may be. 	Section 9 of Juvenile Justice Act, 2015;



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • If a question arises in any proceeding before the Special Court, whether the person is a child or not, the question shall be determined by the Court after satisfying itself about the age of such a person and record in writing the reasons for such determination. 	<p>Section 34(2) of Protection of Children from Sexual Offences Act, 2012.</p> <p><i>“No Magistrate can exercise jurisdiction over any person under 18 years of age.....In almost all cases, where girls are rescued.....- such girls can more aptly fall under Section 2(b)(v) of the Juvenile Justice Act, as children in need of care and protection i.e., children who are being or who are likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts and they will have to be produced before the CWC.”</i></p> <p><i>–Prerana v. State of Maharashtra and Ors. (2003)2MLJ105, Para 37.</i></p>
	<ul style="list-style-type: none"> • On reasonable doubt that a person is a child, the Court can refer to the: <ul style="list-style-type: none"> o School record (for date of birth certificate) or matriculation; and when not available then o Birth certificate (by municipal corporation); and when not available then o Ossification test or Medical Age Determination Test (or other), when the above two options are unavailable. 	<p>Section 94 (2) of Juvenile Justice Act, 2015;</p> <p><i>Jarnail Singh v. State of Haryana Cr. Appeal No. 1204 of 2010;</i></p> <p><i>Ashwini Kumar Sarma v. State of M.P. AIR 2013 SC 553; Mahadeo v. State of Maharashtra (2013) 14 SCC 637; State of MP v. Anoop Singh Cr. Appeal No. 442 of 2010.</i></p>
	<ul style="list-style-type: none"> • No order made by the Special Court, pursuant to the determination of age by such Court, shall be deemed invalid, merely by any subsequent age proof of that person. 	<p>Section 34(3) of Protection of Children from Sexual Offences Act, 2012.</p>



Sr. No.	Protocols	Statutory basis
	<i>Process to compel the Appearance of the Accused.</i>	
	<ul style="list-style-type: none"> • Summons: A Court shall issue summons, in writing, which shall be served by a police officer or by an officer of the Court, as the State Rules provide for, to an accused person. 	Sections 61 to 69 of the Code of Criminal Procedure, 1973.
	<ul style="list-style-type: none"> • Issuance of warrant: The Court may issue a warrant for the arrest of an accused, if the accused does not appear before the Court after a summons is issued to him. • If the Court has reason to believe that an accused is unwilling to appear in the Court or if the Police are unable to find the person to serve summons, or if the accused can harm someone if not placed in custody, then it may issue a non-bailable warrant against such a person. 	Section 87 of the Code of Criminal Procedure, 1973. Inder Mohan Goswami v. State of Uttaranchal (2007) 12 SCC 1.
	<ul style="list-style-type: none"> • If the Court has reason to believe that a person against whom a warrant has been issued has absconded or is evading arrest, the Court may direct publication of a written proclamation requiring the person to appear before the Court within 30 days. 	Section 82 of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> • The Court may also order for the attachment of the property of the accused if it is satisfied that such accused is about to dispose of the whole or part of his property, or is about to remove the whole or any part of his property from the local jurisdiction of the Court. 	Section 83 of Criminal Procedure Code, 1973.
2.	Cognizance	
	<ul style="list-style-type: none"> • Special Court with the power of Court of Sessions will be designated to adjudicate cases under the Act. 	Sections 28(1) and 33(9) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> • A Special Court has the power to take cognizance of any offence upon receiving a complaint. 	Section 33(1) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> • Endeavour should be made in filing of charge-sheet within three months by the concerned police station, so that the commencement of the trial is not delayed. 	Section 173 of Criminal Procedure Code, 1973.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> A copy of the chargesheet should be provided to the child and parent or guardian or representative of the child. 	Section 25(2) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> It is the duty of the investigating Officer to make sure the chargesheet contains documents proving the age of the child. 	Panch Lal Adivasi v. State of U.P. 2014 (84) ACC 22 (All).
	<ul style="list-style-type: none"> The Special Court can pass an order for a repeat medical examination, if required, to re-ascertain the age of a person (victim under ITPA) in case the results of the first examination are under doubt. 	Prerana v. State of Maharashtra and Ors. Criminal (2003)2MLJ105 (Para 6 (f)).
	<ul style="list-style-type: none"> The Court shall ensure that the child benefits from the right to be represented by a legal counsel of his/her choice. 	Section 40 of Protection of Children from Sexual Offences Act, 2012; Rule 54(19) of Juvenile Justice Model Rules; Guideline 17 of the Guidelines by Delhi High Court.
3.	Framing of charges	
	<ul style="list-style-type: none"> Consent of a child for any sexual activity is irrelevant. 	<p>"A child is incapable of giving consent and any sexual behaviour or activity involving a child renders the participating adult open to stringent penal action under several enactments. No penal liability vests on the child for the same.."</p> <p>- Delhi High Court Legal Services Committee v. Union of India [214 (2014) DLT 1], page 228.</p>
	Additional Charges can be framed at any time before the judgment is pronounced.	Section 216 of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Against any person who has information of a child being abused and fails to report the same. 	Section 21 of Protection of Children from Sexual Offences Act, 2012.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> Against any media, studio and photographic facility/ personnel/ publisher/ owner/ organization which fails to report any sexually explicit material or object involving a child. 	Section 20 of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Against an abuser who has control and custody of the child 	Section 75 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> Against a person who gives intoxicating liquor, any narcotic drug or psychotic substance to a child 	Section 77 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> Against a person who has employed (in addition to sexually abusing) the child 	Section 79 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> Against a person who has kidnapped (in addition to sexually abusing) the child 	Section 84 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> Against any media personnel publishing information without authentication or which discloses the identity of the child. 	Section 23 (2) of Protection of Children from Sexual Offences Act, 2012; Section 74 (1) of Juvenile Justice Act, 2015.
4.	Bail (in trafficking offences against minors)	
	<ul style="list-style-type: none"> The Court must take into account the following before passing an benevolent order on an application for bail : <ol style="list-style-type: none"> The fundamental right of the victim not to be trafficked, The antecedents of the accused, The repetitiveness of the offence, The intimidation and the threat that accompanies the relationship between the accused and the victim, The economic position of the accused, if a trafficker, The violence involved in the case, The subterfuge deployed by the accused in diverting the police machinery from himself or herself. The Court should, as a general principle, refuse bail to habitual traffickers. Bail should be denied if the victim is a trafficked minor. 	Freedom Firm v. Commissioner of Police and Ors. CR. Public Interest Litigation No. 4 of 2015, Bombay High Court, Para 26 and 33.
	<ul style="list-style-type: none"> The Court should not grant bail just because the chargesheet is submitted and investigation is over. 	State of Karnataka v. Nagaraja Cr. Pet. No. 8267 of 2015 Kar. HC.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The child must be given notice when the bail application of the accused has been listed for hearing. Additionally, the victim must be informed when the accused has been granted bail. In cases of appeal, on rejection of bail applications, the Appellate Court must call for records and peruse reasons for rejection of bail by the lower court. 	State of Karnataka v. Nagaraja Cr. Pet. No. 8267 of 2015 Kar. HC.
5.	Procedure with respect to Child Victim	
	<i>Testimony of the child in Special Court and Juvenile Justice Board (as the case may be)</i>	
	Infrastructure	
	<ul style="list-style-type: none"> The Court should record the testimony of the child within 30 days of taking cognizance of the offence. 	Section 35 of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> The Court will ensure that the testimony of the child is recorded through video conferencing or with the aid of single visibility mirror or curtain so that the child does not face the accused. 	Section 36(2) of Protection of Children from Sexual Offences Act, 2012; Guidelines 29, 30, 31, 32 of Guidelines by Delhi High Court; Sakshi v. Union of India AIR 2004 SC 3566. Para 31. Amendment in the Indian Evidence Act admitting electronic evidence was interpreted by the court as admitting testimony via video conferencing in State of Maharashtra v. Dr Praful B. Desai Criminal Appeal Nos. 476 and 477 of 2003, Para 25.
	<ul style="list-style-type: none"> Testimony of child (using video conference) shall be recorded and will be placed under protective order. 	Guideline 38(b) of Guidelines of Delhi High Court.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • Testimony of the child should be recorded in camera. 	Section 37 of Protection of Children from Sexual Offences Act, 2012; Section 327 of Criminal Procedure Code, 1973; Article 28(7) of UNODC-UNICEF Model Law Guideline 27(1)(f), 29, 30 and 31 of Guidelines by Delhi High Court. State of Punjab v. Gurmit Singh (1996) 2 SCC 384; Sakshi v. Union of India AIR 2004 SC 3566.
	<ul style="list-style-type: none"> • The child victim cannot be repeatedly called to court for the purposes of recording of testimony. In the event that the child victim is present in court, the testimony must be recorded even if concerned advocates are not present. The Court may exercise judicial powers keeping the interests of the child victim as of greatest importance. 	Section 33(5) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> • Special Court may have necessary infrastructure which inter alia includes separate space for waiting area of the child, separate entrance whenever possible, video conferencing for the child, entertainment. 	Rule 54(12) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • Court can ensure a separate waiting area for the child, support person, and lawyer. The said area will be adequately furnished and should be a comfortable place. 	Guidelines 23 and 28(iii) of the Guidelines by Delhi High Court. Virender v. State of National Capital Territory of Delhi Cr. App. No. 121 of 2008.
	<ul style="list-style-type: none"> • Special Court can have separate room for recording statement of vulnerable witnesses. 	Rule 54(17) of Juvenile Justice Act.
	<i>Procedure to record testimony of the child</i>	
	<ul style="list-style-type: none"> • The Court can meet the child before the testimony in the presence/absence of the prosecutor/defence lawyer to explain the court process and procedure (to ensure the child is able to testify well). 	Guidelines 14 and 34 of Guidelines by Delhi High Court.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> Only the Court can assess the competence of the child by asking age appropriate questions to check the development level of the child, ability of child to remember, communicate, distinguish between truth and falsehood, and appreciate the duty to testify truthfully. 	Guidelines 10 and 11 of the Guidelines by the Delhi High Court.
	<ul style="list-style-type: none"> The questions to assess the competence of the child should not be related to the facts of the case. 	Guideline 11 of the Guidelines by the Delhi High Court.
	<ul style="list-style-type: none"> The Special Court must ensure that the developmental needs of the child are identified, recognised, and accommodated. 	Guidelines 28(ii) and 28 (iv) of Guidelines by the Delhi High Court.
	<ul style="list-style-type: none"> The Court must ascertain whether the child can speak the language of the court adequately and ensure presence of translator/interpreter and/or special educator as necessary. 	Section 38 Protection of Children from Sexual Offences Act, 2012; Rule 3(9) Protection of Children from Sexual Offences Rules, 2012; Rule 54(18)(v) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> If the child prefers a translator, interpreter or special educator of a particular gender, the same is to be considered. 	Rule 3(7) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The Court must ensure that the child is capable of making a voluntary statement. 	Rule 54(18)(vi) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> Statement of a child with temporary or permanent mental or physical disability recorded under Section 164 Cr.P.C. shall be considered as examination in chief. 	Section 164(5A)(b) of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> For a very young child, or an incapacitated child, the Court must use an alternative and less intimidating method of interaction and evidence collection. 	Rule 54(18)(x) of Juvenile Justice Model Rules, 2016.
	<i>Cross Examination of the child.</i>	
	<ul style="list-style-type: none"> Child may be allowed to testify in a narrative form. 	Guideline 33(iv) of Guidelines for recording of evidence of vulnerable witnesses in criminal matters by Delhi High Court.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The questions sought to be posed to the child during the trial should be communicated to the Court, which will in turn, after determining the relevancy of the questions, pose those questions to the child (or the support person who may in turn pose them to the child). 	Section 33 (2) of Protection of Children from Sexual Offences Act, 2012; Rule 54(18)(viii) of Juvenile Justice Model Rules, 2016. Guideline 33(v) of Guidelines by Delhi High Court. Sakshi v. Union of India AIR 2004 SC 3356.
	<ul style="list-style-type: none"> Questions posed to the child should be framed in a simple language based on age and development of the child. 	Guidelines 33(i), 33(iii) of the Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> The Court must ensure that the child is not aggressively questioned, or his/her character is not assassinated, and that the dignity of the child is maintained. 	Section 33 (6) of Protection of Children from Sexual Offences Act, 2012; Section 3(ii), 3(viii) of Juvenile Justice Act, 2015; Guideline 33(ii), 33(iii) of the Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> Testimony of the child should not be taxing and should be suited to the attention span of the child. 	Rule 54(18)(ix) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> Neither the prosecutor nor the defence counsel will ask questions directly to the child. The questions will be routed through the Court. 	Section 33 (2) of Protection of Children from Sexual Offences Act, 2012; Guideline 33(v) of Guidelines by Delhi High Court.
	<i>Child Friendly Environment in Court</i>	"Child Friendly" means any behavior, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child. (Section 2(15) of Juvenile Justice Act, 2015.)



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The Court must ensure that the environment in which the child is brought is child friendly, and not intimidating to the child. 	Section 33 (4) of the Protection of Children from Sexual Offences Act, 2012; Rule 54(18) Juvenile Justice Model Rules, 2016; Guideline 24 of the Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> The Court must record the testimony at an appropriate time when the child is well rested and the timing of the testimony does not disrupt the daily schedule of the child. The Court will ensure that the school arranges for remedial classes for the child if he/she misses any classes. 	Rule 54(18)(xii) of the Juvenile Justice Model Rules, 2016; Guidelines 25 and 28(vi) of Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> Court will try to minimise delay and ensure continuity. 	Guideline 28(1) of Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> The Court shall permit the child to take frequent breaks if the child needs. 	Section 33(3) of Protection of Children from Sexual Offences Act, 2012; Guideline 26 of Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> The Court shall ensure child friendly environment by allowing a family member and/or guardian and/or friend and/or any person whom the child trusts, and/or a trained social worker from a recognised NGO/institution. 	Section 33 (4) of Protection of Children from Sexual Offences Act, 2012; Guidelines 18 and 28(v) of Guidelines by Delhi High Court; Rule 54(18)(i) of the Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> The Court must ensure that the child is not exposed to the accused at any time while recording the evidence (while at the same time ensure that the accused can hear the statement of the Child). 	Section 36 of Protection of Children from Sexual Offences Act, 2012; Rule 54(18)(xi) of Juvenile Justice Model Rules, 2016. "Absolutely necessary that the victim or the witness are able to depose about the entire incident in a free atmosphere without embarrassment" - Sakshi v. Union of India AIR 2004 SC 3566. Para 31.



Sr. No.	Protocols	Statutory basis
	<i>Interpretation of Evidence</i>	
	<ul style="list-style-type: none"> Age cannot be the basis to disregard a child's statement. 	Rule 54(18)(vii) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> Presumption of Guilt: The Special Court shall presume that the Accused has committed the offence under Section 3,5,7,9 of the Protection of Children from Sexual Offences Act, 2012 unless the contrary is proved. 	Section 29 of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> The Special Court shall presume presence of culpable mental state unless the accused proves the absence of the same beyond reasonable doubt. 	Section 30 of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Court can convict the accused on the basis of the sole testimony of the child. Child cannot be treated as accomplice of the accused. 	State of Maharashtra v. Chandraprakash Kewalchand Jain AIR 1990 SC 658; State of U.P. v. Pappu @Yunus AIR 2005 SC 124; State of Orissa v. Thakara Besra AIR 2002 SC 1963; State of Himachal Pradesh v. Raghbir Singh (1993) 2 SCC 622; Wahid Khan v. State of Madhya Pradesh (2010) 2 SCC 9; Rameshwar v. State of Rajasthan AIR 1952 SC 54; Radhu v. State of Madhya Pradesh (2007) Cr.L.J. 4704; Narender Kumar v. State of NCT of Delhi (2012) 7 SCC 171.
	<ul style="list-style-type: none"> Delay in registration of First Information Report (FIR) should not be interpreted against the child. 	"The courts cannot over-look the fact that in sexual offences delay in the lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her



Sr. No.	Protocols	Statutory basis
		<p>family. It is only after giving it a cool thought that a complaint of sexual offence is generally lodged."</p> <p>State of Punjab v. Gurmit Singh AIR 1996 SC 1393</p>
	<ul style="list-style-type: none"> Absence of injury does not rule out abuse. 	<p>State of U.P. v. Pappu AIR 2005 SC 124.</p>
	<ul style="list-style-type: none"> Court may take assistance of experts such as counsellors, medical professionals, hand-writing, forensic or expert in science while forming any opinion. 	<p>Section 45 of Indian Evidence Act, 1872.</p>
	<ul style="list-style-type: none"> Evidence on character, or previous sexual experience of the victim shall not be considered relevant. 	<p>Section 53A of Indian Evidence Act, 1872.</p>
	<ul style="list-style-type: none"> For cases under Section 376(2) of IPC, the court shall presume absence of consent. 	<p>Section 114-A of Indian Evidence Act, 1872.</p>
	<ul style="list-style-type: none"> Accused will not get benefit for faulty investigation. 	<p>Gowthaman v. State Criminal Appeal No. 318 of 2015 Madras HC.</p>
6.	Judgement and Sentencing	
	<i>Judgment</i>	
	<ul style="list-style-type: none"> The Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence and must be heard, as far as possible, on a day-to-day basis. 	<p>Section 35(2) of Protection of Children from Sexual Offences Act, 2012</p> <p>"...a proceeding relating to sexual assault upon a minor child requires to be expeditiously dealt with and the learned trial Judge shall proceed with the case keeping in mind the mandate incorporated in the proviso to Section 309(1) of the Code of Criminal Procedure."</p> <p>– In Re. Mungali Thandar, High Court Of Karnataka, C.R.R. 2557 of 2013</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> In case of any inconsistency with other Acts, the Protection of Children from Sexual Offences Act, 2012 and the Juvenile Justice Act, 2015 will have over-riding effect to the extent of inconsistency 	<p>Section 42-A of Protection of Children from Sexual Offences Act, 2012.</p> <p>Section 1 (4) of the Juvenile Justice Act, 2015.</p>
	<ul style="list-style-type: none"> Principle of right to privacy and confidentiality: The Court shall ensure that the identity of the child is not disclosed at any time during the course of investigation or trial. Identity shall include the identity of the child's family, school, relatives, neighbourhood or any other information by which the identity of the child may be revealed. 	<p>Section 33 (7) of Protection of Children from Sexual Offences Act, 2012;</p> <p>Article 2(3), 2(4), 2(5) of the UNODC- UNICEF Model Law; Guidelines 27 and 38(a) of Guidelines by Delhi High Court; Section 3(xi) of Juvenile Justice Act.</p>
	<p><i>Sentencing</i></p>	
	<ul style="list-style-type: none"> When the accused is charged under multiple Acts, the Court shall sentence him under the Act with a greater degree of punishment. 	<p>Section 42 of Protection of Children from Sexual Offences Act, 2012.</p>
	<ul style="list-style-type: none"> A person who has filed a false complaint under Section 3,5,7,9 of the Protection of Children from Sexual Offences Act, 2012 with the objective of humiliating the accused shall be punished. Exception: A child is an exception. 	<p>Section 22 (1) and (2) of Protection of Children from Sexual Offences Act, 2012.</p>
	<p><i>Compensation</i></p>	
	<ul style="list-style-type: none"> The Special court may direct payment of compensation to the child to aid in immediate rehabilitation for any physical or mental trauma caused to the child. 	<p>Section 33 (8) of Protection of Children from Sexual Offences Act, 2012.</p>
	<ul style="list-style-type: none"> The Court may recommend award of compensation suo moto or irrespective of a conviction/acquittal/discharge or where the accused is not traced or identified. 	<p>Rule 7 of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Interim compensation can be granted at anytime after the registration of FIR. 	<p>Rule 7(1) of Protection of Children from Sexual Offences Rules, 2012.</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The Court must take into account all relevant factors relating to loss or injury caused to the victim. [For instance nature of abuse; expense incurred; relation with abuser; frequency of abuse; impact of abuse; loss of education or employment; resultant pregnancy, sexually transmitted disease, HIV or any disability; financial condition etc.] 	Rule 7(3) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Compensation shall be paid by the State Government within 30 days of receipt of order. 	Rule 7(4) and 7(5) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The child is entitled to be compensated under other available schemes as well. 	Rule 7(6) of Protection of Children from Sexual Offences Rules, 2012.
7.	Care and Protection	
	<i>Child Friendly Environment in JJB</i>	
	<ul style="list-style-type: none"> The Child Welfare Committee under Section 29 of the Juvenile Justice Act, 2015 is the authorized authority for the protection and welfare of the children in need of care and protection. In trials involving minor children, the Court, in the best interest of the child, may maintain a line of communication with the CWC. 	Section 29 of Juvenile Justice Act, 2015; Lavanya Anirudh Verma v. State of NCT of Delhi Cr. Misc. 301 of 2017 Delhi HC.
	<ul style="list-style-type: none"> Court may appoint someone who is familiar with the judicial process, social service programs as a Guardian-ad-litem. Such person may be a member of a Bar Association of Advocates. However, he/she should not be a witness in the case. 	Guideline 15 of the Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> A member of the CWC, being quasi judicial body, must not be summoned to be a witness in a case regarding a child. 	
	<ul style="list-style-type: none"> The Guardian-ad-litem will attend all hearings attended by the child; will recommend measures about the needs and welfare of the child; will explain legal proceedings to the child, and provide psycho-social assistance to the child 	Guideline 16 of the Guidelines by the Delhi High Court.
	<ul style="list-style-type: none"> If the offender is a family member, and the court believes that the child is in risk of further trauma, the court shall direct for the child to be taken out of the care and protection of such member and be immediately produced before the CWC 	Rule 54(18)(iii) of Juvenile Justice Model Rules, 2016.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • Court shall arrange for protective measures for the child which may include no direct contact, restraint, pre-trial detention of the accused etc. 	Guideline 39 of Guidelines by Delhi High Court.
	<ul style="list-style-type: none"> • The court may arrange for psychological counselling for the child if the need arises. 	Rule 54(18)(ii) of Juvenile Justice Model Rules, 2016.
8.	<p>Procedure with respect to Child in Conflict with Law in Juvenile Justice Board.</p>	
	<p><i>Production before the Juvenile Justice Board</i></p>	
	<ul style="list-style-type: none"> • A child in conflict with law shall be produced before the Board within 24 hours of him being apprehended. If the Board receives information that such a child has not been apprehended, it shall require for the child to be produced before the Board at the earliest so that measures for rehabilitation may be initiated. 	Rule 9 (1) and (4) of Juvenile Justice Model Rules, 2016
	<ul style="list-style-type: none"> • In instances where such child cannot be produced before the Board due to being apprehended at odd hours, the child shall be kept by the Child Welfare Police Officer in an observation home until production. 	Rule 9(6) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • On production of the child before the Board once apprehended, the Board may pass the orders including the following: <ol style="list-style-type: none"> Send the child to an observation home or place of safety or fit facility or fit person. Transfer the child to the CWC as a child in need of care and protection. Pass appropriate order for rehabilitation, including orders for safe custody and protection of the child and transfer the child to a fit facility and consider transferring the child out of the district for protection and safety. 	Section 18 of Juvenile Justice Act 2015; Rules 9, 10(1) of the Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • If the Board after due inquiry is satisfied that the child is one that is in need of care and protection, it shall transfer such matters to the Child Welfare Committee for necessary action. 	Rule 9(3) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • The Board shall ensure that witnesses produced for examination in an inquiry relating to such a child, are not examined in the spirit of strict adversarial proceedings. 	Rule 10 (7) of Juvenile Justice Model Rules, 2016.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • A child in conflict with law shall be interrogated with presumptions in his favour. • Such a child must be addressed in a child friendly manner in order to put the child at ease and encourage him to state the facts and circumstances without fear. 	Rule 10 (7) and (8) of Juvenile Justice Model Rules, 2016.
	<i>Heinous Offences</i>	
	<ul style="list-style-type: none"> • The Board shall at the first instance determine if the child is of sixteen years or above. 	Rule 10-A (1) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • The Board may take assistance of psychologists or psycho-social workers or other experts to conduct a preliminary assessment in cases of heinous offences allegedly committed by a child in conflict with law. • While making such assessment, the child shall always be presumed innocent unless proved otherwise. 	Rule 10-A (2) and (3) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • In cases of a heinous offence alleged to have been committed by a child who has completed sixteen years of age, the Child Welfare Police Officer shall produce the statement of witnesses recorded by him and other documents prepared by him during the course of the investigation, within one month of the date of first production of the child before the Board. 	Rule 10 (5) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • If an order is passed to try the child as an adult, it shall be done with reasons and the copy of such order shall be provided to the child. 	Rule 10-A (4) of Juvenile Justice Model Rules, 2016.
	<i>Procedure with regard to Children's Courts</i>	
	<ul style="list-style-type: none"> • Upon receipt of preliminary assessment from the Board, the Children's Court may decide whether there is a need for trial of such Child as an adult or as a child and pass appropriate orders. 	Rule 13 (1) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • Where an appeal has been filed against the order of the Board to try the child as a major, the Children's Court shall first decide such an appeal. 	Rule 13 (3) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> • Where the Children's Court decides that there is no need for trial of the child as an adult, it shall decide the matter itself, as if it were functioning as a Board. The Court shall ensure that proceedings are conducted in camera and in a child friendly atmosphere. 	Rule 13 (7) of Juvenile Justice Model Rules, 2016.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The Court shall ensure that there is no joint trial of a child in conflict with law along with an adult. 	Rule 13 (7) (iii) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> The Children's Court shall address the child in a child-friendly manner in order to put the child at ease and to encourage him to state the facts and circumstances without any fear not only with respect to the offence, but also to his home and social surroundings and the influence to which he might have been subjected. 	Rule 13 (7) (v) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> Final Order passed by a Children's Court shall include an individual child care plan, prepared by a probation officer or a child welfare officer or voluntary organisation on the basis on interaction with the child and his family 	Rule 13 (8) (ii) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> Records of conviction in respect of a child in conflict with law, except in cases of a heinous offence, shall be kept in safe custody only till the expiry of the appeal or for a period of seven years and shall thereafter be destroyed by the person in charge/ the board/ children's court. 	Rule 14 of Juvenile Justice Model Rules, 2016.
	<i>Child Friendly Environment in Juvenile Justice Boards</i>	<p><i>"Child Friendly" means any behavior, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child</i></p> <p>Section 2(15) of Juvenile Justice Act, 2015.</p>
	<ul style="list-style-type: none"> The Board shall ensure that only those persons around whom the child feels comfortable, are allowed to remain during the sitting. 	Rule 6 (3) of the Juvenile Justice Rules, 2016.
	<ul style="list-style-type: none"> The Board shall hold its sittings in a child friendly premises which shall not look like a court room in any manner and the sitting arrangement should enable the Board to interact with the child face to face. 	Rule 6(4) of the Juvenile Justice Rules, 2016.
	<ul style="list-style-type: none"> The Board shall not sit on a raised platform and there shall be no barriers, such as witness boxes or bars between the Board and the child. 	Rule 6(6) of the Juvenile Justice Rules, 2016.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The Board shall maintain a suggestion box or grievance redressal box in the premises of the Board at a prominent place to encourage inputs from children. 	Rule 7(1)(vi) of the Juvenile Justice Rules, 2016.
	<ul style="list-style-type: none"> The Board shall interrogate the child and proceed with the presumptions in favor of the child. 	Rule 10(7) of the Juvenile Justice Rules, 2016.
	<ul style="list-style-type: none"> The Board shall address the child in a child friendly manner in order to put the child at ease and encourage him to state the facts and circumstances without any fear, not only in respect of the offence which has been alleged against the child, but also in respect of the home and social surroundings, and the influence or the offences to which the child might have been subjected to. 	Rule 10 (8) of the Juvenile Justice Rules, 2016.
	<p><i>Procedure to be followed by Children's Court if a child is to be tried as an adult</i></p>	
	<ul style="list-style-type: none"> If the Children's Court concurs with the decision of the Juvenile Justice Board to try a child in conflict with law as an adult, the Court must pass orders after the trial considering the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere. 	Section 19 (1)(i) of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> The Court shall ensure that the final order with regard to such child shall include an individual care plan for the rehabilitation of the child as prepared by the Probation Officer, Child Welfare Officer or Voluntary Organisation. 	Section 19(2) and (5) of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> The orders must include a yearly review by the Probation Officer, District Child Protection Unit or Social Worker to evaluate the progress of the child and such reports shall be forwarded to the Children's Court for record and follow up, as may be required. The Court may also direct the child to be produced before it periodically at least once every 3 months to assess the progress made by the child. 	Rule 13(8) (iv) and (v) of Juvenile Justice Model Rules, 2016.
	<ul style="list-style-type: none"> The Court shall ensure that such child is sent to a place of safety till he attains the age of 21 and thereafter he may be transferred to a jail. 	Section 19(3) of Juvenile Justice Act, 2015.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • A court shall not sentence such a child with death or life imprisonment without the possibility of release. 	Section 21 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> • The proceedings under Chapter VIII of the Code of Criminal Procedure, i.e., Security for Keeping the Peace and for Good Behaviour, shall not apply to such a child. 	Section 22 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> • There shall be no joint proceedings of a child alleged to be in conflict with law with a person who is not a child. 	Section 23 of Juvenile Justice Act, 2015.
	<ul style="list-style-type: none"> • When the child attains 21 years of age, the Court shall interact with the child, taking into account the periodic reports submitted by the Probation Officer, District Child Protection Unit or Social Worker, and may decide to: <ul style="list-style-type: none"> o Release the child forthwith, o Release the child on the execution of a personal bond with or without sureties for good behaviour, o Release the child and issue directions regarding education, vocational training, apprenticeship, employment, counseling and other therapeutic interventions with a view to promote adaptive and positive behaviour, etc. o Release the child and appoint a monitoring authority for the remainder of the prescribed stay. 	Rule 13 (8)(vi)(c) of Juvenile Justice Model Rules 2016



Child Friendly Court - Hyderabad
Bharosa Centre, Hyderabad





V. PROTOCOLS FOR SPECIAL PUBLIC PROSECUTORS

Sr. No.	Protocols	Statutory basis
1.	Cognizance	
	<ul style="list-style-type: none"> State Government will appoint an advocate with not less than 7 years of practice as Special Public Prosecutor for cases under the Act. 	Section 32 of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Must give legal opinion while drafting the chargesheet against a person accused of sexual offenses against a minor. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation.
2.	Bail	
	<ul style="list-style-type: none"> Ensure opposition of bail of any person arrested for committing a sexual offence against a minor. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation.
	<ul style="list-style-type: none"> The Public Prosecutor may also interact with the victim or the family of the victim before arguing on the application for the bail of the accused. 	
3.	Testimony of the child	
	<ul style="list-style-type: none"> Ensure victim/witness protection during the trial and in post-trial situations. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation.
	<ul style="list-style-type: none"> Witnesses are to be made aware of the Witness Protection Scheme. 	Delhi Witness Protection Scheme, 2015.
	<ul style="list-style-type: none"> Make an application for an in-camera trial wherever necessary in the interest of the victim. 	Section 37 of Protection of Children from Sexual Offences Act, 2012. Section 327 (2) Cr. PC (read along with Sakshi v. Union of India, AIR 2004 SC 3566 para 31).
	<ul style="list-style-type: none"> Communicate to the Special Court, while recording evidence of a child, the questions to be put to such child and such court in turn shall put such questions to the child. 	Section 33 (2) of Protection of Children from Sexual Offences Act, 2012.



Sr. No.	Protocols	Statutory basis
4.	Judgement and Sentencing	
	<ul style="list-style-type: none"> • Ensure Fast track mechanisms for expeditious trial. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation. Act, 2012.
	<ul style="list-style-type: none"> • Ensure an appeal is filed in the appropriate court on acquittal when there is merit in the appeal. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation.
	<ul style="list-style-type: none"> • Seek enhanced punishment in cases of subsequent conviction and offences committed against children. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation.
5.	Care and Protection	
	<ul style="list-style-type: none"> • Ensure protection of the identity of the victim. 	Section 33 (7) of Protection of Children from Sexual Offences Act, 2012. Delhi Witness Protection Scheme, 2015.
	<ul style="list-style-type: none"> • Ensure accused is prosecuted if he threatens the victim/ witness in any manner. 	Section 195-A of Indian Penal Code, 1860.



Child Friendly Court - Bengaluru

Bengaluru City and Rural Bengaluru





Child Friendly Court - Bengaluru

Bengaluru City and Rural Bengaluru





VI. PROTOCOLS FOR SPECIAL JUVENILE POLICE OFFICERS AND LOCAL POLICE OFFICERS

Sr. No.	Protocols	Statutory basis
1.	First Information Report	
	<ul style="list-style-type: none"> Any person who has information about any offence can report such abuse to the SJPU or Local Police 	Section 19(1) and (2) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Police officer will disclose name, designation, address, contact number of himself/herself and his/her supervisor, to the person making the report. 	Rule 4(1) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Police will file an FIR immediately on receipt of information. Registration of FIR is mandatory if the information discloses commission of a cognizable offence. 	Section 154 of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> If the informer is a child, the first report will be recorded in a simple language understandable by the child. 	Section 19(3) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Police will record the information in writing and ascribe a number to the same. 	Section 19(2)(a) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Police officer will read over the information to the informant. 	Section 19(2)(b) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Police will provide a copy of the FIR for free to the complainant. 	Section 154(2) of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Police will record the information in a book maintained by the Police Unit. 	Section 19(2)(c) of Protection of Children from Sexual Offences Act, 2012.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> Police cannot detain a child at night for any reason. Police will not take child to the Police Station. 	<p>Section 24(4), Protection of Children from Sexual Offences Act, 2012;</p> <p>Standing order (Delhi Police) as per the direction given in Delhi Commission for Women v. Delhi Police [W.P. (Crl) 696/2008].</p>
	<ul style="list-style-type: none"> A person in charge of a place that houses children, must report the sexual abuse to the SJPU or local police and all such persons are to maintain utmost secrecy. 	<p>"The persons in-charge of any place where children are housed....are directed to report those facts keeping utmost secrecy to the nearest S.J.P.U. or local police, and they, depending upon the gravity of the complaint and its genuineness, take appropriate follow up action casting no stigma to the child or to the family members"</p> <p>–Shankar Kisanrao Khade v. State of Maharashtra, (2013)5 SCC 546, para 55.</p>
	<ul style="list-style-type: none"> It is the duty of the Investigating Officer to make sure that the chargesheet contains documents proving the age of the child. 	<p>Panch Lal Adivasi v. State of U.P. 2014 (84) ACC 22 (All).</p>
2.	Recording Statement	Section 161, Criminal Procedure Code, 1973
	Procedure	
	<ul style="list-style-type: none"> Statement will be recorded either at permanent residence or temporary residence, including shelter homes or any place of child's choice. 	<p>Section 24 (1) of Protection of Children from Sexual Offences Act, 2012;</p> <p>Sakshi v. Union of India AIR 2004 SC 3566. Para 31;</p>



Sr. No.	Protocols	Statutory basis
		Model Guidelines prepared by the Ministry of women and Child development- Chapter 3, 1.2- Things to be kept in mind while interviewing a child.
	<ul style="list-style-type: none"> As far as possible a woman police officer (not below the rank of sub-inspector) will record the statement of the child. 	Section 24 (1) and (2) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Police officer to be dressed in civilian clothing. 	Section 24 (2) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> If the child does not speak the language of the state, the police can take assistance of a translator and/or interpreter with necessary qualification and experience. 	Sections 19(4) and 26(2) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> If the child has any mental or physical disability, the police can take the assistance of a special educator. 	Section 26(3) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> If the child prefers translator, interpreter or special educator of a particular gender, the same must be respected. 	Rule 3(7) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Police will record statement using audio-video electronic means when possible. 	Section 26(4) of Protection of Children from Sexual Offences Act, 2012; Section 154(3) Proviso (b) of Criminal Procedure Code, 1973.
	Child-friendly environment	
	<ul style="list-style-type: none"> The more comfortable a child is, the more information he/she is likely to share. 	Model Guidelines prepared by the Ministry of Women and Child Development- Chapter 3, 1.1- Interview Setting.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • During the recording of statements the child victim should be accompanied at all times by some person the victim trusts. Such person can include a member of the victim's family or in the case where the perpetrator is a member of the victim's family, by a trained lady member of a recognized welfare institution. 	<p>Section 26(1) of Protection of Children from Sexual Offences Act, 2012.</p> <p>Court on its own motion v. State of National Capital Territory of Delhi WP CrL 930 of 2007. "Absolutely necessary that the victim or the witness are able to depose about the entire incident in a free atmosphere without embarrassment." - Sakshi v. Union of India AIR 2004 SC 3566, Para 31.</p>
	<ul style="list-style-type: none"> • Sensitivity towards Trauma suffered by the child- <ul style="list-style-type: none"> o Approach Children with extreme sensitivity and their vulnerability recognized and understood. o Identify oneself as a person trying to help o Make the child comfortable. o Ask the children if they know why they come to see them. o Do not stare or sit uncomfortably close; avoid sitting too close and respect the child's personal space. o Follow the child's lead, while delicately introducing the topics of the abuse; do not ask direct questions; avoid unnecessary details. o Clarify description of events, identity of perpetrators, whether allegations involve a single event or multiple events, Presence and identities of other witnesses, whether similar incidents happened to other children, whether the child told anyone about the event, time frame and location. o Do not prolong the enquiry. o Check if the child is hungry or thirsty, tired or sleepy, and address those needs immediately. o Avoid correcting child's behaviour. 	<p>Model Guidelines prepared by the Ministry of Women and Child Development- Chapter 3, 1.2- Things to be kept in mind while interviewing a child.</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> The Police must ensure that a child victim of abuse is treated as child in need of care and protection and not child in conflict with law. The child should be produced before the appropriate forum. 	Prerana v. State of Maharashtra and Ors. Criminal (2003)2MLJ105.
	<ul style="list-style-type: none"> The police must keep the child and parents or guardian updated about the progress in investigation and trial. 	Rule 4(12) of Protection of Children from Sexual Offences Rules, 2012; Article 9 of UNODC-UNCEF Model Law; Guideline 21 of Guidelines by Delhi High Court.
3.	Medical Examination	
	<ul style="list-style-type: none"> Police must take the child for medical examination within 24 hours of receiving such information and with the consent of such child. 	<p>Section 27 of Protection of Children from Sexual Offences Act, 2012;</p> <p>Section 164A of Criminal Procedure Code, 1973;</p> <p>Rule 4(2)(c) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> First Information Report (FIR) is not a pre-requisite for availing medical services and attention. 	<p>Section 27(1) of Protection of Children from Sexual Offences Act, 2012;</p> <p>Rule 5(3) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Medical examination of the child should be conducted in the presence of the child's parents or guardian or someone the child trusts. Emergency Medical care shall be rendered in such a manner as to protect the privacy of the child. 	<p>Section 27(3) of Protection of Children from Sexual Offences Act, 2012;</p> <p>Rule 5(2) of Protection of Children from Sexual Offences Rules, 2012.</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> In absence of a parent/guardian or someone whom the child trusts, the hospital shall appoint a woman nominated by the head of the medical institutions. 	Section 27(4) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> The medical officer conducting the medical examination shall do so according to Section 27 of the POCSO Act and must ensure that the samples are sent to the forensic labs at the earliest. 	Rule 4(2)(d) and 5(5) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The medical officer shall treat the child for cuts, bruises, sexually transmitted disease, HIV, discuss emergency contraceptives and refer for counselling, if required 	Rule 5(4) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Police shall collect forensic evidence at the earliest. 	Rules 4(2)(d) and 5(5) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Medical examination of a girl child shall be conducted by a woman doctor. 	Section 27(2) of Protection of Children from Sexual Offences Act, 2012.
4. Investigation		
	<ul style="list-style-type: none"> Police to conduct investigation speedily. 	Section 173 of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Ensure keen and consistent opposition to bail & anticipatory bail applications of a person accused of sexual offenses under POCSO. 	UNODC SOP on Trafficking for Commercial Sexual Exploitation.
	<ul style="list-style-type: none"> Ensure the chargesheet is filed before the expiry of two months (in offences where the punishment is less than 10 years). 	Section 167 (2) of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Ensure the chargesheet before the expiry of three months (in case of rape and similar offences). 	Section 173 (1-A) of Criminal Procedure Code, 1973.
	<ul style="list-style-type: none"> Record statement as spoken by the child in the presence of parents or any person that the child trusts. 	Section 26 (1) of Protection of Children from Sexual Offences Act, 2012.
	<ul style="list-style-type: none"> Provide escort for the child victim. 	Section 95 (2) of Juvenile Justice Act.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> Accused will not get benefit for faulty or invalid investigation. 	<p>Gowthaman v. State Criminal Appeal No. 318 of 2015 Madras HC R.A.H Siguran vs Shankare Gowda and Anr. Criminal Appeal 1439 of 2017</p>
4.	Care and Protection	
	<ul style="list-style-type: none"> If the child is in need of care and protection, the police will make necessary arrangement of shelter and/or medical care within 24 hours of report. 	<p>Section 19(5) of Protection of Children from Sexual Offences Act, 2012.</p>
	<ul style="list-style-type: none"> Child-victims or potential child-victims of sexual abuse ought to be treated as children in need of care and protection and therefore must be produced before the CWC and not the Juvenile Justice Board nor the Judicial Magistrate First Class. 	<p>Section 2(14)(iii) and 2(14)(viii) of Juvenile Justice Act. "... children who are being or who are likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts...will have to be produced before the CWC." - Prerana v. State of Maharashtra (2003)2MLJ105, Para 28.</p>
	<ul style="list-style-type: none"> If a child in need of care and protection is produced before the Juvenile Justice Board, the Board, after due inquiry is satisfied that the child is one that is in need of care and protection, it shall transfer such matter to the Child Welfare Committee for necessary action. The Police must assist the Juvenile Justice Board for the same. 	<p>Rule 9(3) of Juvenile Justice Model Rules, 2016.</p>
	<ul style="list-style-type: none"> Police will inform about the case to CWC and Special Court within 24 hours. 	<p>Section 19(6) of Protection of Children from Sexual Offences Act, 2012.</p>
	<ul style="list-style-type: none"> If case is of incest or where child is without parental support or child was staying in an institution and is without parental support, the child has to be produced before CWC together with reasons in writing as to whether the child is in need of care and protection. 	<p>Rule 4 (3) of the Protection of Children from Sexual Offences Rules, 2012. Section (5) of section 19 of the Juvenile Justice Act, 2015.</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> Police can produce the child before CWC even after working hours. 	<p>Rules 18(1) of Juvenile Justice Model Rules, 2016.</p>
	<ul style="list-style-type: none"> The police shall inform the Special Court about appointment of support person within 24 hours of appointment. 	<p>Rule 4(9) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Assist the child welfare officer or social worker in conducting the Social Investigation Report. 	<p>Section 36 of the Juvenile Justice Act, 2015.</p>
	<ul style="list-style-type: none"> DCPU will have list of interpreters, translators and special educators which can be used by the Police, Magistrate and Special Court. 	<p>Rule 3(1), (3), (4) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Name of the victim, family and their address shall be confidential. Police officers in charge of the case shall ensure this. In the event that this is not observed, the Police Officer in charge of the case is to initiate immediate criminal action. 	<p>Section 24 (5) of Protection of Children from Sexual Offences Act, 2012; Section 74 of Juvenile Justice Act, 2015.</p>
	<ul style="list-style-type: none"> Police shall inform the parent/guardian about compensation. 	<p>Rule 4(12) (iii) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Police shall inform parent/guardian about services under the Act. 	<p>Rule 4(2)(e) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Police shall inform parent/guardian about the right to legal aid and legal representation and assist them in availing such services. 	<p>Rule 4(2)(f) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> If the child needs medical intervention, the police must take the child for such medical examination 	<p>Section 27 of Protection of Children from Sexual Offences Act, 2012 Rule 4(2)(c) of Protection of Children from Sexual Offences Rules, 2012.</p>



Child Friendly Court - Hyderabad
Nampally, Hyderabad



Pre renovation



Child Friendly Court - Hyderabad
Nampally, Hyderabad



Post renovation



VII. CHILD WELFARE COMMITTEE

Sr. No.	Protocols	Statutory basis
1.	<p>Procedure</p> <ul style="list-style-type: none"> CWC shall be informed of the case by the Police within 24 hours. 	<p>Section 19(6) of Protection of Children from Sexual Offences Act, 2012; Rule 4(3) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> Who can produce a child before the CWC? <ul style="list-style-type: none"> Police officer SJPU Child Welfare Police officer DCPU Any police under labour laws Public servant Childline NGO Child Welfare Officer Probation Officer Social Worker or Public Spirited person Child himself or Any nurse, doctor, management of hospital or nursing home. 	<p>Section 31(1) of Juvenile Justice Act, 2015.</p>
	<ul style="list-style-type: none"> CWC shall determine the age of the child to ascertain its jurisdiction. 	<p>Rule 19(2) of Juvenile Justice Model Rules, 2016.</p>
	<ul style="list-style-type: none"> CWC shall ensure informed participation of the child based on age and maturity of the child and informed participation of parents or guardian. 	<p>Rule 19(5) of Juvenile Justice Model Rules, 2016</p>
2.	<p>Role of CWC</p> <ul style="list-style-type: none"> CWC is in charge of psycho-social care for any child in need of care and protection. Any child who is abused by a person with whom the child resides or any person who is exploited for sexual abuse is a child in need of care and protection 	<p>Section 30(xiii) of Juvenile Justice Act, 2015; Section 2(14)(iii) and 2(14)(viii) of Juvenile Justice Act, 2015.</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> • CWC shall interview the child sensitively and in child-friendly manner. The tone should not be accusatory and should not have adversarial impact. CWC should respect the dignity and self-esteem of the child. 	<p>Rule 19(6) of Juvenile Justice Model Rule, 2016.</p>
	<ul style="list-style-type: none"> • CWC shall obtain home study report to ensure safety of the child at home. 	<p>Rule 82(2) of Juvenile Justice Model Rules 2016; Rule 4(4) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> • Factors to be considered while determining the safety of the child: <ul style="list-style-type: none"> o Capacity of parents, o Child's need to be with family, o Child's age, o Maturity of child, o Gender of child, o Socio-economic condition, o Disability, o Chronic Illness, o History of violence in family o Other relevant factors 	<p>Rule 4(5) of Protection of Children from Sexual Offences Rules, 2012.</p>
	<ul style="list-style-type: none"> • CWC shall inform the family about the home study report. 	<p>Rule 4(6) of Protection of Children from Sexual Offences Rules, 2012;</p>
	<ul style="list-style-type: none"> • In incest cases, in the best interest of the child, CWC shall verify all documents and reports before releasing the child. • In cases where the Social investigation reports establishes that restoration to the family is not in the best interest of child, the CWC may order for the child not be restored to the family. • In cases where the child is not produced before the CWC, the CWC may ask for the child to be produced before it, if they are of the view that the child is one in need of care and protection. 	<p>Rule 82(8) of Juvenile Justice Model Rules, 2016.</p>



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> When the offender is a person living in the same or shared household with the child, or the child is living in a child care institution and is without parental support, or the child is found to be without any home and parental support, the concerned SJPU, or the local police will produce the child before the concerned Child Welfare Committee within 24 hours along with detailed assessment on the same. The CWC will determine within three days, either on its own or with the assistance of a social worker, as to whether the child needs to be taken out of the custody of his family or shared household and placed in a children's home or shelter home. 	Rule 4(3) and 4(4) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The assigned social worker or case worker or child welfare officer shall make assessment before restoring the child in best interest of the child. 	Rule 19(8) of Juvenile Justice Rules, 2016.
3. Services for child		
	Translator, Interpreter, Counsellor and Special Educator	
	<ul style="list-style-type: none"> Child must be informed of the availability of Support persons- Translators, Interpreters, Counsellors and Special Educators. 	Rule 4 (7) of the Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Translators, Interpreters, Counsellors and Special Educators should have functional familiarity of language spoken by the child and language of the state. It can be a native language or medium of instruction in school till at least primary or secondary level or knowledge through vocation, profession or residence. 	Rule 3(4) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Special Educator should have relevant qualification in relevant discipline from recognised university or institution recognised by Rehabilitation Council of India. 	Rule 3(5) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> They should work without bias and with impartiality. They shall interpret correctly. They shall disclose any conflict of interest. 	Rule 3(8) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Translators, interpreters, special educators and counsellors shall be bound by confidentiality. 	Rule 3(10) of Protection of Children from Sexual Offences Rules, 2012.



Sr. No.	Protocols	Statutory basis
	<ul style="list-style-type: none"> Translator, interpreter and special educator shall be paid from the State Fund maintained by the DCPU under Juvenile Justice Act. 	Rule 3(6) of Protection of Children from Sexual Offences Rules, 2012.
	Support Person	
	<ul style="list-style-type: none"> CWC shall appoint a support person with the consent of the child and child's parent or guardian. 	Rule 4(7) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Family can choose a support person of their choice. 	Rule 4(7) Proviso Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Any person working on child rights, child protection or officer in children home or staff of DCPU is eligible to be a support person. 	Rule 4(7) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The Special Court will be informed of appointment within 24 hours. 	Rule 4(9) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Parents can withdraw the service of support person anytime. 	Rule 4(10) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The Special Court will be informed about the withdrawal of services. 	Rule 4(10) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The support person will address all concerns of the child and parents/guardians and inform them about update in court proceedings, available assistance under the Act, judicial procedure, potential outcome of the case, role of the child during testimony. 	Rule 4(8) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> Support person is bound to maintain confidentiality of the child. 	Rule 4(8) of Protection of Children from Sexual Offences Rules, 2012.
	<ul style="list-style-type: none"> The child welfare officer shall make an individual care plan for rehabilitation and social integration of the child which will be a family based care plan. The CWC may also direct a person or an organisation concerned to develop individual care plans for a child in need of care and protection 	Section 39(1) of Juvenile Justice Act, 2015; Rule 2(ix), 19(4) of Juvenile Justice Model Rules, 2016.



Child Friendly Court - Mumbai
Bombay City Civil and Sessions Court, Gr. Bombay





ANNEXURE

Relevant Provisions referred to in the SOP

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015	
Section 2(14)(iii)	"child in need of care and protection" means a child- (iii) who resides with a person (whether a guardian of the child or not) and such person— (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;
Section 2(14)(viii)	"child in need of care and protection" means a child- who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts;
Section 2(15)	"child friendly" means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child
Section 2(31)	"guardian" in relation to a child, means his natural guardian or any other person having, in the opinion of the Committee or, as the case may be, the Board, the actual charge of the child, and recognised by the Committee or, as the case may be, the Board as a guardian in the course of proceedings;
Section 3(ii)	Principle of dignity and worth: All human beings shall be treated with equal dignity and rights
Section 3(viii)	Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.
Section 3 (xiii)	Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.
Section 19	Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest. (1) After the receipt of preliminary assessment from the Board under section 15, the Children’s Court may decide that—



	<p>(i) there is a need for trial of the child as an adult as per the provisions of the Code of Criminal Procedure, 1973 and pass appropriate orders after trial subject to the provisions of this section and section 21, considering the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere;</p> <p>(ii) there is no need for trial of the child as an adult and may conduct an inquiry as a Board and pass appropriate orders in accordance with the provisions of section 18.</p> <p>(2) The Children's Court shall ensure that the final order, with regard to a child in conflict with law, shall include an individual care plan for the rehabilitation of child, including follow up by the probation officer or the District Child Protection Unit or a social worker.</p> <p>(3) The Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail: Provided that the reformatory services including educational services, skill development, alternative therapy such as counselling, behaviour modification therapy, and psychiatric support shall be provided to the child during the period of his stay in the place of safety.</p> <p>(4) The Children's Court shall ensure that there is a periodic follow up report every year by the probation officer or the District Child Protection Unit or a social worker, as required, to evaluate the progress of the child in the place of safety and to ensure that there is no ill-treatment to the child in any form.</p> <p>(5) The reports under sub-section (4) shall be forwarded to the Children's Court for record and follow up, as may be required.</p>
Section 21	No child in conflict with law shall be sentenced to death or for life imprisonment without the possibility of release, for any such offence, either under the provisions of this Act or under the provisions of the Indian Penal Code or any other law for the time being in force.
Section 23	<p>(1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 or in any other law for the time being in force, there shall be no joint proceedings of a child alleged to be in conflict with law, with a person who is not a child.</p> <p>(2) If during the inquiry by the Board or by the Children's Court, the person alleged to be in conflict with law is found that he is not a child, such person shall not be tried along with a child</p>
Section 30(xiii)	taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012
Section 31	(1) Any child in need of care and protection may be produced before the Committee by any of the following persons, namely:— (i) any police officer or special juvenile police unit or a designated Child Welfare Police Officer or any officer of District Child Protection Unit or



inspector appointed under any labour law for the time being in force; (ii) any public servant; (iii) Childline Services or any voluntary or non-governmental organisation or any agency as may be recognised by the State Government; (iv) Child Welfare Officer or probation officer; (v) any social worker or a public spirited citizen; (vi) by the child himself; or (vii) any nurse, doctor or management of a nursing home, hospital or maternity home: Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty-four hours excluding the time necessary for the journey. (2) The State Government may make rules consistent with this Act, to provide for the manner of submitting the report to the Committee and the manner of sending and entrusting the child to children's home or fit facility or fit person, as the case may be, during the period of the inquiry.

Section 36

(1) On production of a child or receipt of a report under section 31, the Committee shall hold an inquiry in such manner as may be prescribed and the Committee, on its own or on the report from any person or agency as specified in sub-section (2) of section 31, may pass an order to send the child to the children's home or a fit facility or fit person, and for speedy social investigation by a social worker or Child Welfare Officer or Child Welfare Police Officer: Provided that all children below six years of age, who are orphan, surrendered or appear to be abandoned shall be placed in a Specialised Adoption Agency, where available. (2) The social investigation shall be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child: Provided that for orphan, abandoned or surrendered children, the time for completion of inquiry shall be as specified in section 38. (3) After the completion of the inquiry, if Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may send the child to a Specialised Adoption Agency if the child is below six years of age, children's home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child, as may be prescribed, or till the child attains the age of eighteen years: Provided that the situation of the child placed in a children's home or with a fit facility or person or a foster family, shall be reviewed by the Committee, as may be prescribed. (4) The Committee shall submit a quarterly report on the nature of disposal of cases and pendency of cases to the District Magistrate in the manner as may be prescribed, for review of pendency of cases. (5) After review under sub-section (4), the District Magistrate shall direct the Committee to take necessary remedial measures to address the pendency, if necessary and send a report of such reviews to the State Government, who may cause the constitution of additional Committees, if required: Provided that if the pendency of cases continues to be unaddressed by the Committee even after three months of receiving such directions, the State Government shall terminate the said Committee and shall constitute a new Committee. (6) In anticipation of termination of the Committee and in order that no time is lost in constituting a new Committee, the State Government shall maintain a standing panel of eligible persons to be appointed as members of the Committee. (7) In case of any delay in the constitution of a new Committee under



	<p>sub-section (5), the Child Welfare Committee of a nearby district shall assume responsibility in the intervening period.</p>
Section 37(1)	<p>(1) The Committee on being satisfied through the inquiry that the child before the Committee is a child in need of care and protection, may, on consideration of Social Investigation Report submitted by Child Welfare Officer and taking into account the child's wishes in case the child is sufficiently mature to take a view, pass one or more of the following orders, namely:— (a) declaration that a child is in need of care and protection; (b) restoration of the child to parents or guardian or family with or without supervision of Child Welfare Officer or designated social worker; (c) placement of the child in Children's Home or fit facility or Specialised Adoption Agency for the purpose of adoption for long term or temporary care, keeping in mind the capacity of the institution for housing such children, either after reaching the conclusion that the family of the child cannot be traced or even if traced, restoration of the child to the family is not in the best interest of the child; (d) placement of the child with fit person for long term or temporary care; (e) foster care orders under section 44; (f) sponsorship orders under section 45; (g) directions to persons or institutions or facilities in whose care the child is placed, regarding care, protection and rehabilitation of the child, including directions relating to immediate shelter and services such as medical attention, psychiatric and psychological support including need-based counselling, occupational therapy or behaviour modification therapy, skill training, legal aid, educational services, and other developmental activities, as required, as well as follow-up and coordination with the District Child Protection Unit or State Government and other agencies; (h) declaration that the child is legally free for adoption under section 38.</p>
Section 39(1)	<p>(1) The process of rehabilitation and social integration of children under this Act shall be undertaken, based on the individual care plan of the child, preferably through family based care such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care: Provided that all efforts shall be made to keep siblings placed in institutional or non-institutional care, together, unless it is in their best interest not to be kept together.</p>
Section 74	<p>(1) No report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure, shall disclose the name, address or school or any other particular, which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published: Provided that for reasons to be recorded in writing, the Board or Committee, as the case may be, holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the best interest of the child. (2) 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. (3) Any person</p>



	contravening the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to two lakh rupees or both
Section 75	Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both: Provided that in case it is found that such abandonment of the child by the biological parents is due to penal provisions of this section shall not apply in such cases: Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees: Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees. circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the
Section 77	Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees.
Section 79	Notwithstanding anything contained in any law for the time being in force, whoever ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees. Explanation.— For the purposes of this section, the term “employment” shall also include selling goods and services, and entertainment in public places for economic gain.
Section 84	For the purposes of this Act, the provisions of sections 359 to 369 of the Indian Penal Code, shall mutatis mutandis apply to a child or a minor who is under the age of eighteen years and all the provisions shall be construed accordingly.
Section 94	(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further



confirmation of the age. (2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining — (i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof; (ii) the birth certificate given by a corporation or a municipal authority or a panchayat; (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board: Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order. (3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

Section 95 (2)

(2) Once the decision to transfer is finalised, the Committee or Board, as the case may be, shall give an escort order to the Special Juvenile Police Unit to escort the child, within fifteen days of receiving such order: Provided that a girl child shall be accompanied by a woman police officer: Provided further that where a Special Juvenile Police Unit is not available, the Committee or Board, as the case may be, shall direct the institution where the child is temporarily staying or District Child Protection Unit, to provide an escort to accompany the child during travel.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) MODEL RULES, 2016

Rule 2(ix)

"individual care plan" is a comprehensive development plan for a child based on age and gender specific needs and case history of the child, prepared in consultation with the child, in order to restore the child's self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address the following, including but not limited to, needs of a child, namely:- accordingly the plan shall address the following, including but not limited to, needs of a child, namely:-

- (a) health and nutrition needs, including any special needs;
- (b) emotional and psychological needs;
- (c) educational and training needs;
- (d) leisure, creativity and play;
- (e) protection from all kinds of abuse, neglect and maltreatment;
- (f) restoration and follow up;
- (g) social mainstreaming;
- (h) life skill training.



Rule 9(2)	On production of the child before the Board, the Board may pass orders as deemed necessary, including sending the child to an observation home or a place of safety or a fit facility or a fit person.
Rule 9(6)	In case the child alleged to be in conflict with law cannot be produced before the Board or even a single member of the Board due to child being apprehended during odd hours or distance, the child shall be kept by the Child Welfare Police Officer in the Observation Home in accordance with rule 69 D of these rules or in a fit facility and the child shall be produced before the Board thereafter, within twenty-four hours of apprehending the child.
Rule 9(3)	Where the child produced before the Board is covered under section 83 of the Act, including a child who has surrendered, the Board may, after due inquiry and being satisfied of the circumstances of the child, transfer the child to the Committee as a child in need of care and protection for necessary action, and or pass appropriate directions for rehabilitation, including orders for safe custody and protection of the child and transfer to a fit facility recognised for the purpose which shall have the capacity to provide appropriate protection, and consider transferring the child out of the district or out of the State to another State for the protection and safety of the child.
Rule 9(6)	In case the child alleged to be in conflict with law cannot be produced before the Board or even a single member of the Board due to child being apprehended during odd hours or distance, the child shall be kept by the Child Welfare Police Officer in the Observation Home in accordance with rule 69 D of these rules or in a fit facility and the child shall be produced before the Board thereafter, within twenty-four hours of apprehending the child.
Rule 10(1)	On production of the child before the Board, the report containing the social background of the child, circumstances of apprehending the child and offence alleged to have been committed by the child as provided by the officers, individuals, agencies producing the child shall be reviewed by the Board and the Board may pass such orders in relation to the child as it deems fit, including orders under sections 17 and 18 of the Act, namely: (i) disposing of the case, if on the consideration of the documents and record submitted at the time of his first appearance, his being in conflict with law appears to be unfounded or where the child is alleged to be involved in petty offences; (ii) referring the child to the Committee where it appears to the Board that the child is in need of care and protection; (iii) releasing the child in the supervision or custody of fit persons or fit institutions or Probation Officers as the case may be, through an order in Form 3, with a direction to appear or present a child for an inquiry on the next date; and (iv) directing the child to be kept in the Child Care Institution, as appropriate, if necessary, pending inquiry as per order in Form 4.



Rule 10(5)	In cases of heinous offences alleged to have been committed by a child, who has completed the age of sixteen years, the Child Welfare Police Officer 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 10(7)	When witnesses are produced for examination in an inquiry relating to a child alleged to be in conflict with law, the Board shall ensure that the inquiry is not conducted in the spirit of strict adversarial proceedings and it shall use the powers conferred by section 165 of the Indian Evidence Act, 1872 (1 of 1872) so as to interrogate the child and proceed with the presumptions in favour of the child.
Rule 10A	(1) The Board shall in the first instance determine whether the child is of sixteen years of age or above; if not, it shall proceed as per provisions of section 14 of the Act. (2) For the purpose of conducting a preliminary assessment in case of heinous offences, the Board may take the assistance of psychologists or psycho-social workers or other experts who have experience of working with children in difficult circumstances. A panel of such experts may be made available by the District Child Protection Unit, whose assistance can be taken by the Board or could be accessed independently. (3) While making the preliminary assessment, the child shall be presumed to be innocent unless proved otherwise. (4) Where the Board, after preliminary assessment under section 15 of the Act, passes an order that there is a need for trial of the said child as an adult, it shall assign reasons for the same and the copy of the order shall be provided to the child forthwith.
Rule 13(1)	(1) Upon receipt of preliminary assessment from the Board the Children's Court may decide whether there is need for trial of the child as an adult or as a child and pass appropriate orders.
Rule 13(3)	Where an appeal has been filed under sub-section (2) of section 101 of the Act against the finding of the preliminary assessment done by the Board, the Children's Court shall first decide the appeal.
Rule 13(7)	Where the Children's Court decides that there is no need for trial of the child as an adult, and that it shall decide the matter itself: (i) It may conduct the inquiry as if it were functioning as a Board and dispose of the matter in accordance with the provisions of the Act and these rules. (ii) The Children's Court, while conducting the inquiry shall follow the procedure for trial in summons case under the Code of Criminal Procedure, 1973. (iii) The proceedings shall be conducted in camera and in a child friendly atmosphere, and there shall be no joint trial of a child alleged to be in conflict with law, with a person who is not a child. (iv) When witnesses are produced for examination the Children's Court shall ensure that the inquiry is not conducted in the spirit of strict adversarial proceedings and it shall use the powers conferred by section 165 of the Indian Evidence Act, 1872 (1 of 1872). (v)



While examining a child in conflict with law and recording his statement, the Children's Court shall address the child in a child-friendly manner in order to put the child at ease and to encourage him to state the facts and circumstances without any fear, not only in respect of the offence which is alleged against the child, but also in respect of the home and social surroundings and the influence to which the child might have been subjected. (vi) The dispositional order passed by the Children's Court shall necessarily include an individual care plan in Form 7 for the child in conflict with law concerned, prepared by a Probation Officer or Child Welfare Officer or recognized voluntary organisation on the basis of interaction with the child and his family, where possible. (vii) The Children's Court, in such cases, may pass any orders as provided in sub-sections (1) and (2) of section 18 of the Act.

Rule 13(8)

Where the Children's Court decides that there is a need for trial of the child as an adult:

- (i) It shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 of trial by sessions and maintaining a child friendly atmosphere.
- (ii) The final order passed by the Children's Court shall necessarily include an individual care plan for the child as per Form 7 prepared by a Probation Officer or Child Welfare Officer or recognized voluntary organisation on the basis of interaction with the child and his family, where possible.
- (iii) Where the child has been found to be involved in the offence, the child may be sent to a place of safety till the age of twenty-one years.
- (iv) While the child remains at the place of safety, there shall be yearly review by the Probation Officer or the District Child Protection Unit or a social worker in Form 13 to evaluate the progress of the child and the reports shall be forwarded to the Children's Court.
- (v) The Children's Court may also direct the child to be produced before it periodically and at least once every three months for the purpose of assessing the progress made by the child and the facilities provided by the institution for the implementation of the individual care plan.
- (vi) When the child attains the age of twenty-one years and is yet to complete the term of stay, the Children's Court shall:
 - (a) interact with the child in order to evaluate whether the child has undergone reformative changes and if the child can be a contributing member of the society.
 - (b) take into account the periodic reports of the progress of the child, prepared by the Probation Officer or the District Child Protection Unit or a social worker, if needed and further direct that institutional mechanism if inadequate be strengthened.
 - (c) After making the evaluation, the Children's Court may decide to:
 - (ca) release the child forthwith;
 - (cb) release the child on execution of a personal bond with or without sureties for good behaviour;



- (cc) release the child and issue directions regarding education, vocational training, apprenticeship, employment, counselling and other therapeutic interventions with a view to promoting adaptive and positive behaviour etc.;
- (cd) release the child and appoint a monitoring authority for the remainder of the prescribed term of stay. The monitoring authority, where appointed shall maintain a Rehabilitation Card for the child in Form 14.

For the purpose of sub-rule (vii) (c) (cd) of this rule:

- (a) A Probation Officer or Case Worker or Child Welfare Officer or a fit person may be appointed as a monitoring authority.
- (b) The District Child Protection Unit shall maintain a list of such persons who can be engaged as monitoring authorities which shall be sent to the Children's Court along with bi-annual updates.
- (c) The child shall for the first quarter after release, meet with the monitoring authority on a fortnightly basis or at such intervals as may be directed by the Children's Court. The monitoring authority shall fix a time and venue for such meetings in consultation with the child. The monitoring authority will forward its observations on the progress of the child on a monthly basis to the Children's Court.
- (d) At the end of the first quarter the monitoring authority shall make recommendations regarding the further follow up procedure required for the child.
- (e) Where the child, after release is found to be indulging in criminal activities or associating with people with criminal antecedents, he shall be brought before the Children's Court for further orders.
- (f) If it is found that the child no longer requires to be monitored, the monitoring authority shall place the detailed report with recommendations before the Children's Court which shall issue further directions either terminating the monitoring or for its continuation.
- (g) After the first quarter, the child shall meet the monitoring authority at such intervals as may be directed by the Children's Court based on the recommendations made by the monitoring authority at the end of the first quarter and the monitoring authority shall forward its report to the Children's Court which shall review the same every quarter.

Rule 14

The records of conviction in respect of a child in conflict with law shall be kept in safe custody till the expiry of the period of appeal or for a period of seven years, and no longer, and thereafter be destroyed by the Person-in-charge or Board or Children's Court, as the case may be: Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19 of the Act, the relevant records of conviction of such child shall be retained by the Children's Court.



Rule 18(1)	<p>Any child in need of care and protection shall be produced before the Committee during the working hours at its place of sitting and beyond working hours before the member as per the duty roster:</p> <p>Provided that where the child cannot be produced before the Committee, the Committee shall reach out to the child where the child is located</p>
Rule 19(4)	<p>The Committee shall direct the person or organisation concerned to develop an individual care plan in Form 7 including a suitable rehabilitation plan. The individual care plan prepared for every child in the institutional care shall be developed with the ultimate aim of the child being rehabilitated and re-integrated based on the case history, circumstances and individual needs of the child.</p>
Rule 54(12)	<p>Special children's rooms may be designated in every Court Complex with facility for separate space for children waiting and children who are giving their statement or interview; separate entrances, wherever feasible; video-conferencing facilities for interacting with children, wherever possible; provision for entertainment for children such as books, games, etc. Statements and interviews, other than during trial of children who are, victims, or witnesses, shall be recorded through child friendly procedure in a children's room.</p>
Rule 54(13)(i)	<p>The Magistrate shall record the statement of the child under section 164 of the Code of Criminal Procedure, 1973 in the Children's room or, if possible in the child's place of residence including, home or institution where he or she is residing.</p>
Rule 54(13)(ii)	<p>The statement shall be recorded verbatim as spoken by the child.</p>
Rule 54 (13)(iii)	<p>The statement may also be recorded by audio-visual means as per the provisions of sub-section (1) of section 164 of the Code of Criminal Procedure, 1973.</p>
Rule 54(13)(iv)	<p>The child may be accompanied by parent or guardian or social worker.</p>
Rule 54(14)	<p>The Legal Services Authority may provide a support person or para legal volunteer for pre-trial counselling and to accompany the child for recording of the statement who shall also familiarize the child with the Court and Court environment in advance, and where the child is found to have been disturbed by the experience of coming to the Court, orders for video-conferencing may be passed by the Court, on an application moved by the support person or para-legal volunteer or by the Legal Services Authority, on behalf of the child.</p>
Rule 54 (15)	<p>If the child victim or witness does not belong to the District or State or Country, the statement or interview or deposition of the child may also be recorded through video conferencing.</p>
Rule 54(17)	<p>Separate rooms for vulnerable witnesses may be designated in every Court Complex to record the evidence of child witnesses.</p>



Rule 54(18)(i)	During a trial involving children, as far as possible Parents or guardian(s) shall accompany the child at all times (only if it is in the best interest of the child). If the said person has a conflict of interest, another person of the child's choice, or fit person, or representative of the fit institution identified, or psychologist appointed by the Committee or Court, shall accompany the child at all times, on approval of the Court.
Rule 54(18)(ii)	During a trial involving children psychological counselling may also be provided to the child wherever necessary.
Rule 54(18)(iii)	During a trial involving children ,in a situation where parents or guardians may have been involved in the commission of the crime, or where the child is living in a place where the child is at risk of further trauma, and the same is brought to the notice of the Court, or the Court on its own motion shall direct the child to be taken out of the custody or care, or out of such situation and the child should be immediately produced before the Committee.
Rule 54(18)(iv)	During a trial involving children, For the age determination of the victim, in relation to offences against children under the Act, the same procedures mandated for the Board and the Committee under section 94 of the Act to be followed.
Rule 54(18)(v)	During a trial involving children, Separate rooms for vulnerable witnesses may be designated in every Court Complex to record the evidence of child witnesses.
Rule 54(18)(vi)	During a trial involving children, Before the statement of the child is recorded, the Court to ensure that the child is capable of making a voluntary statement.
Rule 54(18)(vii)	During a trial involving children, No statement of the child to be disregarded as evidence in the trial solely on the basis of the age of the child.
Rule 54(18)(viii)	During a trial involving children, Images or statements admissible in the interview of the child not to be detrimental to the mental or physical well- being of the child.
Rule 54(18)(ix)	During a trial involving children, Length and questions admissible at the interview not to be taxing and to be suitable to the attention span of the child.
Rule 54(18)(x)	During a trial involving children, In case of young children, or otherwise incapacitated child, alternative methods of interaction and evidence collection that is less intimidating to be adopted.
Rule 54(18)(xi)	During a trial involving children, The Court to ensure that at no stage during trial, the child comes face to face with the accused.
Rule 54(18)(xii)	During a trial involving children, Special permission from school and arrangement for remedial classes for days lost to be ensured by the school authorities.



Rule 54(19)	The child may be represented, as the case may be, by: (i) a lawyer of his choice, or, (ii) public prosecutor, or, (iii) a lawyer designated or empanelled by the Legal Services Authority.
Rule 82(8)	When a child expresses his unwillingness to be restored back to the family, the Board or the Committee or the Children's Court shall interact with the child to find out the reasons for the same and record the same and the child shall not be coerced or persuaded to go back to the family. The child may also not be restored back to the family where the social investigation report prepared by the Child Welfare Officer or the social worker or the Case Worker or the non-governmental organisation establishes that restoration to family may not be in the interest of the child. The child would also not be restored back to the family where the parents or guardians refuse to accept the child back. In all such cases, the Board or the Committee or the Children's Court may provide alternative means for rehabilitation.
Rule 62	(1) Every Child Welfare Officer or Case Worker in the Child Care Institution shall carry out all directions given by the Board or the Committee or the Children's Court. (2) The Child Welfare Officer or Case Worker shall establish linkages with voluntary workers and organisations to facilitate rehabilitation and social re-integration of the children and to ensure the necessary follow up. (3) The Child Welfare Officer or Case Worker available in the Child Care Institution at the time of receiving a child shall interact with the child received with a view to put the child at ease and befriend him and shall supervise the process of receiving of the child. (4) On receipt of information from the police or Child Welfare Police Officer or on arrival of a child in the Child Care Institution, the Child Welfare Officer or Case Worker shall forthwith conduct social investigation of the child through personal interviews with the child and his family members, social agencies and other sources, inquire into antecedents and family history of the child and collect such other material as may be relevant, and submit the Social Investigation Report to the Board or the Committee or the Children's Court, within fifteen days. (5) All the children in the Child Care Institution shall be assigned to a Child Welfare Officer or Case Worker and such Child Welfare Officer or Case Worker shall be responsible for the child assigned to him in all respects viz. care and development of the child, reporting to the Board or the Committee or the Children's Court about the child or maintaining the child's record in the Child Care Institution. (6) Upon assignment of the child to a Child Welfare Officer or Case Worker, the Child Welfare Officer or Case Worker shall: (i) Prepare the case file of the child; (ii) Maintain the Protective Custody Card; (iii) Prepare and maintain the medical record of the child and ensure that the treatment of the child is not interrupted or neglected; (iv) Meet the child every day to ensure his safety, welfare and development; assist the child to adjust to the life in the Child Care Institution. A newly received child shall be met more often than once a day; (v) Gather information about the child within the initial five days to ascertain the child's education, vocational status and aptitude and emotional status; (vi) Have the necessary medical or mental tests, assessments and examinations of the child conducted;



(vii) Study the reports and prepare in consultation with the child and his family members, an individual care plan for the child in Form 7 for the period pending inquiry, to be placed in the case file of the child. The Child Welfare Officer or Case Worker may consult the counsellor, psychologists or such other person as he deems fit in this regard; (viii) In keeping with the individual care plan, a daily routine shall be developed for the child and explained to him; (ix) Ensure that the child adheres to the routine activities so developed and take timely reports from the caregivers in this respect; (x) Review periodically the implementation and effectiveness of the individual care plan and if necessary, suitably modify the individual care plan in Form 7 and/or the routine activities of the child with the approval of the Management Committee; (xi) Resolve the problems of the child and deal compassionately with their difficulties in life in the Home; (xii) Participate in the orientation, monitoring, education, vocational and rehabilitation programmes in respect of the child and attend parent teacher meetings in schools in respect of children assigned to them; (xiii) Attend proceedings of the Board or the Committee or the Children's Court and furnish all information and file all reports that may be called for; (xiv) On receiving the copy of the order of declaration of age, to make the necessary changes in the record as regards the age of the child if any change is required and to place the copy of the said order in the case file of the child; (xv) Participate in the pre-release programme and help the child to establish contact which can provide emotional and social support to the child after the release; (xvi) Maintain contact with the children after their release and extend help and guidance to them; (xvii) Visit regularly the residence of the child under their supervision and also places of employment or school attended by such child and submit fortnightly reports or as otherwise directed; (xviii) Accompany the child wherever possible from the Board or the Committee or the Children's Court to Child Care Institution as the case may be; (xix) Maintain record of the next date of production of the child before the Board or the Committee or the Children's Court or for medical treatment and ensure the production of the child before the Board or the Committee or the Children's Court or for medical treatment on the said date; (xx) Maintain the registers as may be specified from time to time; (xxi) Any other duty assigned by the Person-in-charge of the Child Care Institution. (7) The Child Welfare Officer or Case Worker who has been assigned the duty of verifying the daily cleaning in the premises of Child Care Institution shall do so twice a day, one after the morning cleaning and the other after the evening cleaning. The Child Welfare Officer or Case Worker shall make a note of the same in the House-keeping register. (8) The Child Welfare Officer or Case Worker who has been assigned the duty of verifying the daily cooking shall make a note of the same in the Meals Register, in respect of every meal.



Rule 64

(1) On receipt of information from the Police or Child Welfare Police Officer under clause (ii) of sub-section (1) of section 13 of the Act, without waiting for any formal order from the Board, the Probation Officer shall inquire into the circumstances of the child as may have bearing on the inquiry by the Board and submit a social investigation report in Form 6 to the Board. (2) The social investigation report should provide for risk assessment, including aggravating and mitigating factors highlighting the circumstances which induced vulnerability such as traffickers or abusers being in the neighbourhood, adult gangs, drug users, accessibility to weapons and drugs, exposure to age inappropriate behaviours, information and material. (3) The Probation Officer shall carry out the directions given by the Board and shall have the following duties, functions and responsibilities: (i) To conduct social investigation of the child in Form 6; (ii) To attend the proceedings of the Board and the Children's Court and to submit reports as and when required; (iii) To clarify the problems of the child and deal with their difficulties in institutional life; (iv) To participate in the orientation, monitoring, education, vocational and rehabilitation programmes; (v) To establish co-operation and understanding between the child and the Person- in-charge; (vi) To assist the child to develop contacts with family and also provide assistance to family members; (vii) To participate in the pre-release programme and help the child to establish contacts which could provide emotional and social support to the child after release; (viii) To establish linkages with Probation Officers in other Districts and States for obtaining social investigation report, supervision and follow-up. (ix) To establish linkages with voluntary workers and organisations to facilitate rehabilitation and social reintegration of children and to ensure the necessary follow-up; (x) Regular post release follow-up of the child extending help and guidance, enabling and facilitating their return to social mainstreaming; (xi) To prepare the individual care plan and post release plan for the child; (xii) To supervise children placed on probation as per the individual care plan; (xiii) To make regular visits to the residence of the child under his supervision and places of employment or school attended by such child and submit periodic reports as per Form 10; (xiv) To accompany children where ever possible, from the office of the Board to the observation home, special home, place of safety or fit facility as the case may be; (xv) To evaluate the progress of the children in place of safety periodically and prepare the report including psycho-social and forward the same to the Children's Court; (xvi) To discharge the functions of a monitoring authority where so appointed by the Children's Court; (xvii) To maintain a diary or register to record his day to day activities such as visits made by him, social investigation reports prepared by him, follow up done by him and supervision reports prepared by him; (xviii) To identify alternatives of community services and to establish linkages with voluntary sector for facilitating rehabilitation and social reintegration of children; and (xix) Any other task as may be assigned.



THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Section 19(1)	(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to - (a) the Special Juvenile Police Unit; or (b) the local police.
Section 19(2)	Every report given under sub-section (1) shall be— (a) ascribed an entry number and recorded in writing; (b) be read over to the informant; (c) shall be entered in a book to be kept by the Police Unit.
Section 19(3)	Where the report under sub-section (1) is given by a child, the same shall be recorded under sub-section (2) in a simple language so that the child understands contents being recorded.
Section 19(4)	In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, shall be provided to the child if he fails to understand the same.
Section 19(5)	Where the Special Juvenile Police Unit or local police is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection including admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report, as may be prescribed.
Section 19(6)	The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.
Section 20	Any personnel of the media or hotel or lodge or hospital or club or studio or photographic facilities, by whatever name called, irrespective of the number of persons employed therein, shall, on coming across any material or object which is sexually exploitative of the child (including pornographic, sexually-related or making obscene representation of a child or children) through the use of any medium, shall provide such information to the Special Juvenile Police Unit, or to the local police, as the case may be.
Section 21	(1) Any person, who fails to report the commission of an offence under sub-section (1) of section 19 or section 20 or who fails to record such offence under sub-section (2) of section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both. (2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence



	under sub-section (1) of section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine. (3) The provisions of sub-section (1) shall not apply to a child under this Act
Section 22	(1) Any person, who makes false complaint or provides false information against any person, in respect of an offence committed under sections 3, 5, 7 and section 9, solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term which may extend to six months or with fine or with both. (2) Where a false complaint has been made or false information has been provided by a child, no punishment shall be imposed on such child.
Section 24 (1)	(1) The statement of the child shall be recorded at the residence of the child or at a place where he usually resides or at the place of his choice and as far as practicable by a woman police officer not below the rank of sub-inspector.
Section 24 (2)	The police officer while recording the statement of the child shall not be in uniform.
Section 24 (4)	No child shall be detained in the police station in the night for any reason.
Section 24 (5)	The police officer shall ensure that the identity of the child is protected from the public media, unless otherwise directed by the Special Court in the interest of the child.
Section 25	(1) If the statement of the child is being recorded under section 164 of the Code of Criminal Procedure, 1973 herein referred to as the Code), the Magistrate recording such statement shall, notwithstanding anything contained therein, record the statement as spoken by the child: Provided that the provisions contained in the first proviso to sub-section (1) of section 164 of the Code shall, so far it permits the presence of the advocate of the accused shall not apply in this case. (2) The Magistrate shall provide to the child and his parents or his representative, a copy of the document specified under section 207 of the Code, upon the final report being filed by the police under section 173 of that Code.
Section 26	(1) The Magistrate or the police officer, as the case may be, shall record the statement as spoken by the child in the presence of the parents of the child or any other person in whom the child has trust or confidence. (2) Wherever necessary, the Magistrate or the police officer, as the case may be, may take the assistance of a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, while recording the statement of the child. (3) The Magistrate or the police officer, as the case may be, may, in the case of a child having a mental or physical disability, seek the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed, to record the statement of the child. (4) Wherever possible, the Magistrate or the police officer, as the case may be, shall ensure that the statement of the child is also recorded by audio-video electronic means.



Section 27(1)	(1) The medical examination of a child in respect of whom any offence has been committed under this Act, shall, notwithstanding that a First Information Report or complaint has not been registered for the offences under this Act, be conducted in accordance with section 164A of the Code of Criminal Procedure, 1973
Section 27(2)	In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
Section 27(3)	The medical examination shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence
Section 27(4)	Where, in case the parent of the child or other person referred to in sub-section (3) cannot be present, for any woman nominated by the head of the medical institution
Section 28(1)	(1) For the purposes of providing a speedy trial, the State Government shall in consultation with the Chief Justice of the High Court, by notification in the Official Gazette, designate for each district, a Court of Session to be a Special Court to try the offences under the Act: Provided that if a Court of Session is notified as a children's court under the Commissions for Protection of Child Rights Act, 2005 or a Special Court designated for similar purposes under any other law for the time being in force, then, such court shall be deemed to be a Special Court under this section.
Section 29	Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections 3, 5, 7 and section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be unless the contrary is proved.
Section 30	(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution. (2) For the purposes of this section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability. Explanation.—In this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact
Section 32	(1) The State Government shall, by notification in the Official Gazette, appoint a Special Public Prosecutor for every Special Court for conducting cases only under the provisions of this Act. (2) A person shall be eligible to be appointed as a Special Public Prosecutor under sub-section (1) only if he had been in practice for not less than seven years as an advocate. (3) Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provision of that Code shall have effect accordingly.



Section 33 (2)	The Special Public Prosecutor, or as the case may be, the counsel appearing for the accused shall, while recording the examination-in-chief, cross-examination or re-examination of the child, communicate the questions to be put to the child to the Special Court which shall in turn put those questions to the child.
Section 33(3)	The Special Court may, if it considers necessary, permit frequent breaks for the child during the trial
Section 33 (4)	The Special Court shall create a child-friendly atmosphere by allowing a family member, a guardian, a friend or a relative, in whom the child has trust or confidence, to be present in the court.
Section 33(9)	Subject to the provisions of this Act, a Special Court shall, for the purpose of the trial of any offence under this Act, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, and as far as may be, in accordance with the procedure specified in the Code of Criminal Procedure, 1973 for trial before a Court of Session
Section 34	(1) Where any offence under this Act is committed by a child, such child shall be dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. (2) If any question arises in any proceeding before the Special Court whether a person is a child or not, such question shall be determined by the Special Court after satisfying itself about the age of such person and it shall record in writing its reasons for such determination. (3) No order made by the Special Court shall be deemed to be invalid merely by any subsequent proof that the age of a person as determined by it under sub-section (2) was not the correct age of that person.
Section 35	(1) The evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court. (2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence.
Section 36	(1) The Special Court shall ensure that the child is not exposed in any way to the accused at the time of recording of the evidence, while at the same time ensuring that the accused is in a position to hear the statement of the child and communicate with his advocate. (2) For the purposes of sub-section (1), the Special Court may record the statement of a child through video conferencing or by utilising single visibility mirrors or curtains or any other device.
Section 37	The Special Court shall try cases in camera and in the presence of the parents of the child or any other person in whom the child has trust or confidence: Provided that where the Special Court is of the opinion that the child needs to be examined at a place other than the court, it shall proceed to issue a commission in accordance with the provisions of section 284 of the Code of Criminal Procedure, 1973.



Section 38	(1) wherever necessary, the Court may take the assistance of a translator or interpreter having such qualifications, experience and on payment of such fees as may be prescribed, while recording the evidence of the child. (2) If a child has a mental or physical disability, the Special Court may take the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed to record the evidence of the child.
Section 40	Subject to the proviso to section 301 of the Code of Criminal Procedure, 1973 the family or the guardian of the child shall be entitled to the assistance of a legal counsel of their choice for any offence under this Act: Provided that if the family or the guardian of the child are unable to afford a legal counsel, the Legal Services Authority shall provide a lawyer to them.
Section 42-A	The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.



THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES RULES, 2012

Rule 3

- (1) In each district, the DCPU shall maintain a register with names, addresses and other contact details of interpreters, translators and special educators for the purposes of the Act, and this register shall be made available to the Special Juvenile Police Unit (hereafter referred to as "SJP"), local police, magistrate or Special Court, as and when required
- (2) The qualifications and experience of the interpreters, translators, Special educators, and experts, engaged for the purposes of sub-section (4) of section 19, sub-sections (3) and (4) of section 26 and section 38 of the Act, shall be as indicated in these rules.
- (3) Where an interpreter, translator, or Special educator is engaged, otherwise than from the list maintained by the DCPU under sub-rule (1), the requirements prescribed under sub-rules (4) and (5) of this rule may be relaxed on evidence of relevant experience or formal education or training or demonstrated proof of fluency in the relevant languages by the interpreter, translator, or special educator, subject to the satisfaction of the DCPU, Special Court or other authority concerned.
- (4) Interpreters and translators engaged under sub-rule (1) should have functional familiarity with language spoken by the child as well as the official language of the state, either by virtue of such language being his mother tongue or medium of instruction at school at least up to primary school level, or by the interpreter or translator having acquired knowledge of such language through his vocation, profession, or residence in the area where that language is spoken.
- (5) Sign language interpreters, Special educators and experts entered in the register under sub-rule (1) should have relevant qualifications in sign language or special education, or in the case of an expert, in the relevant discipline, from a recognized University or an institution recognized by the Rehabilitation Council of India
- (6) Payment for the services of an interpreter, translator, Special educator or expert whose name is enrolled in the register maintained under sub-rule (1) or otherwise, shall be made by the State Government from the Fund maintained under section 61 of the Juvenile Justice Act, 2000, or from other funds placed at the disposal of the DCPU, at the rates determined by them, and on receipt of the requisition in such format as the State Government may prescribe in this behalf.
- (7) Any preference expressed by the child at any stage after information is received under sub-section (1) of section 19 of the Act, as to the gender of the interpreter, translator, Special educator, or expert, may be taken into consideration, and where necessary, more than one such person may be engaged in order to facilitate communication with the child.



- (8) The interpreter, translator, Special educator, expert, or person familiar with the manner of communication of the child engaged to provide services for the purposes of the Act shall be unbiased and impartial and shall disclose any real or perceived conflict of interest. He shall render a complete and accurate interpretation or translation without any additions or omissions, in accordance with section 282 of the Code of Criminal Procedure, 1973.
- (9) In proceedings under section 38, the Special Court shall ascertain whether the child speaks the language of the court adequately, and that the engagement of any interpreter, translator, Special educator, expert or other person familiar with the manner of communication of the child, who has been engaged to facilitate communication with the child, does not involve any conflict of interest.
- (10) Any interpreter, translator, Special educator or expert appointed under the provisions of the Act or its rules shall be bound by the rules of confidentiality, as described under section 127 read with section 126 of the Indian Evidence Act, 1872.

Rule 4

- (1) Where an SJPU or the local police receives any information under sub-section (1) of section 19 of the Act from any person including the child, the SJPU or local police receiving report of such information shall forthwith disclose to the person making the report, the following details:-
 - (i) his name and designation;
 - (ii) the address and telephone number;
 - (iii) the name, designation and contact details of the officer who supervises the officer receiving the information.
- (2) Where an SJPU or the local police, as the case may be, receives information in accordance with the provisions contained under sub-section (1) of section 19 of the Act in respect of an offence that has been committed or attempted or is likely to be committed, the authority concerned shall, where applicable, -
 - (a) proceed to record and register a First Information Report as per the provisions of section 154 of the Code of Criminal Procedure, 1973, and furnish a copy thereof free of cost to the person making such report, as per sub-section (2) of section 154 of the Code;
 - (b) where the child needs emergency medical care as described under sub-section (5) of section 19 of the Act or under these rules, arrange for the child to access such care, in accordance with rule 5;
 - (c) take the child to the hospital for the medical examination in accordance with section 27 of the Act;
 - (d) ensure that the samples collected for the purposes of the forensic tests are sent to the forensic laboratory at the earliest;
 - (e) inform the child and his parent or guardian or other person in whom the child has trust and confidence of the availability of support services including counselling, and assist them in contacting the persons who are responsible for providing these services and relief;



- (f) inform the child and his parent or guardian or other person in whom the child has trust and confidence as to the right of the child to legal advice and counsel and the right to be represented by a lawyer, in accordance with section 40 of the Act.
- (3) Where the SJPU or the local police receives information under sub-section (1) of section 19 of the Act, and has a reasonable apprehension that the offence has been committed or attempted or is likely to be committed by a person living in the same or shared household with the child, or the child is living in a child care institution and is without parental support, or the child is found to be without any home and parental support, the concerned SJPU, or the local police shall produce the child before the concerned Child Welfare Committee (hereafter referred to as "CWC") within 24 hours of receipt of such report, together with reasons in writing as to whether the child is in need of care and protection under sub-section (5) of section 19 of the Act, and with a request for a detailed assessment by the CWC.
- (4) Upon receipt of a report under sub-rule (3), the concerned CWC must proceed, in accordance with its powers under sub-section (1) of section 31 of the Juvenile Justice Act, 2000, to make a determination within three days, either on its own or with the assistance of a social worker, as to whether the child needs to be taken out of the custody of his family or shared household and placed in a children's home or a shelter home.
- (5) In making determination under sub-rule (4), the CWC shall take into account any preference or opinion expressed by the child on the matter, together with the best interests of the child, having regard to the following considerations:
 - (i) the capacity of the parents, or of either parent, or of any other person in whom the child has trust and confidence, to provide for the immediate care and protection needs of the child, including medical needs and counselling;
 - (ii) the need for the child to remain in the care of his parent, family and extended family and to maintain a connection with them;
 - (iii) the child's age and level of maturity, gender, and social and economic background;
 - (iv) disability of the child, if any;
 - (v) any chronic illness from which a child may suffer;
 - (vi) any history of family violence involving the child or a family member of the child;and,
 - (vii) any other relevant factors that may have a bearing on the best interests of the child: Provided that prior to making such determination, an inquiry shall be conducted in such a way that the child is not unnecessarily exposed to injury or inconvenience.
- (6) The child and his parent or guardian or any other person in whom the child has trust and confidence and with whom the child has been living, who is affected by such determination, shall be informed that such determination is being considered.
- (7) The CWC, on receiving a report under sub-section (6) of section 19 of the Act or on the basis of its assessment under sub-rule (5), and with the consent of the child and his



parent or guardian or other person in whom the child has trust and confidence, may provide a support person to render assistance to the child through the process of investigation and trial. Such support person may be a person or organisation working in the field of child rights or child protection, or an official of a children's home or shelter home having custody of the child, or a person employed by the DCPU:

Provided that nothing in these rules shall prevent the child and his parents or guardian or other person in whom the child has trust and confidence from seeking the assistance of any person or organisation for proceedings under the Act.

- (8) The support person shall at all times maintain the confidentiality of all information pertaining to the child to which he has access. He shall keep the child and his parent or guardian or other person in whom the child has trust and confidence, informed as to the proceedings of the case, including available assistance, judicial procedures, and potential outcomes. He shall also inform the child of the role he may play in the judicial process and ensure that any concerns that the child may have, regarding his safety in relation to the accused and the manner in which he would like to provide his testimony, are conveyed to the relevant authorities.
- (9) Where a support person has been provided to the child, the SJPU or the local police shall, within 24 hours of making such assignment, inform the Special Court in writing.
- (10) The services of the support person may be terminated by the CWC upon request by the child and his parent or guardian or person in whom the child has trust and confidence, and the child requesting the termination shall not be required to assign any reason for such request. The Special Court shall be given in writing such information.
- (11) It shall be the responsibility of the SJPU, or the local police to keep the child and his parent or guardian or other person in whom the child has trust and confidence, and where a support person has been assigned, such person, informed about the developments, including the arrest of the accused, applications filed and other court proceedings.
- (12) The information to be provided by the SJPU, local police, or support person, to the child and his parents or guardian or other person in whom the child has trust and confidence, includes but is not limited to the following:-
 - (i) the availability of public and private emergency and crisis services;
 - (ii) the procedural steps involved in a criminal prosecution;
 - (iii) the availability of victims' compensation benefits;
 - (iv) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;
 - (v) the arrest of a suspected offender;
 - (vi) the filing of charges against a suspected offender;
 - (vii) the schedule of court proceedings that the child is either required to attend or is entitled to attend;
 - (viii) the bail, release or detention status of an offender or suspected offender;
 - (ix) the rendering of a verdict after trial; and
 - (x) the sentence imposed on an offender.



Rule 5

- (1) Where an officer of the SJPU, or the local police receives information under section 19 of the Act that an offence under the Act has been committed, and is satisfied that the child against whom an offence has been committed is in need of urgent medical care and protection, he shall, as soon as possible, but not later than 24 hours of receiving such information, arrange to take such child to the nearest hospital or medical care facility centre for emergency medical care:
Provided that where an offence has been committed under sections 3, 5, 7 or 9 of the Act, the victim shall be referred to emergency medical care.
- (2) Emergency medical care shall be rendered in such a manner as to protect the privacy of the child, and in the presence of the parent or guardian or any other person in whom the child has trust and confidence.
- (3) No medical practitioner, hospital or other medical facility centre rendering emergency medical care to a child shall demand any legal or magisterial requisition or other documentation as a pre-requisite to rendering such care.
- (4) The registered medical practitioner rendering emergency medical care shall attend to the needs of the child, including --
 - (i) treatment for cuts, bruises, and other injuries including genital injuries, if any;
 - (ii) treatment for exposure to sexually transmitted diseases (STDs) including prophylaxis for identified STDs;
 - (iii) treatment for exposure to Human Immunodeficiency Virus (HIV), including prophylaxis for HIV after necessary consultation with infectious disease experts;
 - (iv) possible pregnancy and emergency contraceptives should be discussed with the pubertal child and her parent or any other person in whom the child has trust and confidence; and,
 - (v) wherever necessary, a referral or consultation for mental or psychological health or other counselling should be made.
- (5) Any forensic evidence collected in the course of rendering emergency medical care must be collected in accordance with section 27 of the Act.

Rule 7

- (1) The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the immediate needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.
- (2) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.



- (3) Where the Special Court, under sub-section (8) of section 33 of the Act read with sub-sections (2) and (3) of section 357A of the Code of Criminal Procedure, makes a direction for the award of compensation to the victim, it shall take into account all relevant factors relating to the loss or injury caused to the victim, including the following:-
 - (i) type of abuse, gravity of the offence and the severity of the mental or physical harm or injury suffered by the child;
 - (ii) the expenditure incurred or likely to be incurred on his medical treatment for physical and/or mental health;
 - (iii) loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
 - (iv) loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
 - (v) the relationship of the child to the offender, if any;
 - (vi) whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
 - (vii) whether the child became pregnant as a result of the offence;
 - (viii) whether the child contracted a sexually transmitted disease (STD) as a result of the offence;
 - (ix) whether the child contracted human immunodeficiency virus (HIV) as a result of the offence;
 - (x) any disability suffered by the child as a result of the offence;
 - (xi) financial condition of the child against whom the offence has been committed so as to determine his need for rehabilitation;
 - (xii) any other factor that the Special Court may consider to be relevant.
- (4) The compensation awarded by the Special Court is to be paid by the State Government from the Victims Compensation Fund or other scheme or fund established by it for the purposes of compensating and rehabilitating victims under section 357A of the Code of Criminal Procedure or any other laws for the time being in force, or, where such fund or scheme does not exist, by the State Government.
- (5) The State Government shall pay the compensation ordered by the Special Court within 30 days of receipt of such order.
- (6) Nothing in these rules shall prevent a child or his parent or guardian or any other person in whom the child has trust and confidence from submitting an application for seeking relief under any other rules or scheme of the Central Government or State Government.



CODE OF CRIMINAL PROCEDURE, 1973

Section 82	<p>(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may public a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.</p> <p>(2) The proclamation shall be published as follows:-</p> <p>(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;</p> <p>(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;</p> <p>(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;</p> <p>(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.</p> <p>(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.</p>
Section 83	<p>(1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person: Provided that where at the time of the issue of the proclamation the Court is satisfied, by affidavit or otherwise that the person in relation to whom the proclamation is to be issued, -</p> <p>(a) is about to dispose of the whole or any part of his property, or</p> <p>(b) is about to remove the whole or any part of his property from the local jurisdiction of the Court, it may order the attachment simultaneously with the issue of the proclamation.</p> <p>(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.</p>



- (3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made-
 - (a) by seizure; or
 - (b) by the appointment of a receiver; or
 - (c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or
 - (d) by all or any two of such methods, as the Court thinks fit.
- (4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the State Government, be made through the Collector of the district in which the land is situate, and in all other cases-
 - (a) by taking possession; or
 - (b) by the appointment of a receiver; or
 - (c) by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or
 - (d) by all or any two of such methods, as the Court thinks fit.
- (5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.
- (6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908).

Section 154

- (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.
- (2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.
- (3) Any person, aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer Subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.



1["Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

- (a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;
- (b) the recording of such information shall be videographed;
- (c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.".]

Section 161

- (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.
- (2) Such person shall be bound to answer truly all questions relating to such case Put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.
- (3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.
["Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.".]

Section 164A

- (1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in



the absence of a such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

- (2) The registered medical practitioner, to whom such woman is sent shall, without delay, examine her and prepare a report of his examination giving the following particulars, namely:-
 - (I) the name and address of the woman and of the person by whom she was brought;
 - (II) the age of the woman;
 - (III) the description of material taken from the person of the woman for DNA profiling;
 - (IV) marks of injury, if any, on the person of the woman;
 - (V) general mental condition of the woman; and
 - (IV) other material particulars in reasonable detail.
- (3) The report shall state precisely the reasons for each conclusion arrived at.
- (4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.
- (5) The exact time of commencement and completion of the examination shall also be noted in the report.
- (6) The registered medical practitioner shall, without delay forward the report to the investigation officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of sub-section (5) of that section.
- (7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.

Explanation. – For the purposes of this section, “examination” and “registered medical practitioner” shall have the same meanings as in section 53’]

Section 164(5A)(a)

- (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:
Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:
Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.



Section 164(5A)(b)	(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.".]
Section 167 (2)	<p>(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:</p> <p>Provided that-</p> <p>(a) The Magistrate may authorize the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding-</p> <ul style="list-style-type: none">(i) Ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;(ii) Sixty days, where the investigation relates to any other offence, <p>And, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be to released under the provisions of Chapter XXXIII for the purposes of that Chapter;]</p> <p>(b) No Magistrate shall authorize detention in any custody under this section unless the accused is produced before him;</p> <p>(c) No Magistrate of the second class, not specially empowered in this behalf by the high Court, shall authorize detention in the custody of the police.</p> <p>[Explanation I. For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in Custody so long as he does not furnish bail.]</p> <p>[Explanation II. If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorizing detention.]</p>
Section 173	(1) Every investigation under this Chapter shall be completed without unnecessary delay.



- (2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-
 - (a) the names of the parties;
 - (b) the nature of the information;
 - (c) the names of the persons who appear to be acquainted with the circumstances of the case;
 - (d) whether any offence appears to have been committed and, if so, by whom;
 - (e) whether the accused has been arrested;
 - (f) whether he has been released on his bond and, if so, whether with or without sureties;
 - (g) whether he has been forwarded in custody under section 170.
- (ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any by whom the information relating to the commission of the offence was first given.
- (3) Where a superior officer of police has been appointed under section 158, the report, shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.
- (4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.
- (5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report-
 - (a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
 - (b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witness.
- (6) If the police officer is of opinion that any part of any such statement is not relevant to the sub-matter of the proceeding or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.
- (7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).



	<p>(8) Notwithstanding in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed and the provisions of sub-section (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).</p>
Section 319	<p>(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.</p> <p>(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.</p> <p>(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.</p> <p>(4) Where the Court proceeds against any person under sub-section (1), then-</p> <p>(a) the proceedings in respect of such person shall be commenced a fresh, and the witnesses re-heard;</p> <p>(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.</p>
Section 327	<p>(1) The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open court, to which the public generally may have access, so far as the same can conveniently contain them: Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code shall be conducted in camera: Provided that the presiding judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the court.</p> <p>(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the court. (Provided that the ban on printing and publication of the trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of parties).</p>



Section 437

When bail may be taken in case of non- bailable offence.

- (1) When any person accused of, or suspected of, the commission of any non- bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but-
 - (i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;
 - (ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non- bailable and cognizable offence: Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm: Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that It is just and proper so to do for any other special reason: Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.]
- (2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non- bailable offence, but that there are sufficient grounds for further inquiry into his guilt the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail] or at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.
- (3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court may impose any condition which the Court considers necessary-
 - (a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or
 - (b) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or
 - (c) otherwise in the interests of justice.



- (4) An officer or a Court releasing any person on bail under sub- section (1) or sub- section (2), shall record in writing his or its reasons or special seasons] for so doing.
- (5) Any Court which has released a person on bail under sub- section (1) or sub- section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.
- (6) If, in any case triable by a Magistrate, the trial of a person accused of any non- bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.
- (7) If, at any time after the conclusion of the trial of a person accused of a non- bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

INDIAN EVIDENCE ACT, 1872

Section 45

When the Court has to form an opinion upon a point of foreign law or of science or art, or as to identity of handwriting [or finger impressions], the opinions upon that point of persons specially skilled in such foreign law, science or art, [or in questions as to identity of handwriting] [or finger impressions] are relevant facts.

Such persons are called experts.

Illustrations

- (a) The question is, whether the death of A was caused by poison.
The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.
- (b) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.
The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.
- (c) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.
The opinions of experts on the question whether the two documents were written by the same person or by different persons are relevant.



Section 53A	In a prosecution for an offence under section 354, section 354A, section 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E of IPC or for attempt to commit any such offence, where the question of consent is in issue, evidence of character of victim or such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of the consent.
Section 114-A	In a prosecution for rape under clause(a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (g) of sub-section (2) of section 376 of the Indian Penal Code, (45 of 1860), where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and she states in her evidence before the Court that she did not consent, the Court shall presume that she did not consent.]

GUIDELINES FOR RECORDING OF EVIDENCE OF VULNERABLE WITNESSES IN CRIMINAL MATTERS - Issued by the Delhi High Court

Guideline 10	The assessment of a child as to his competence as a witness shall be conducted only by the judge.
Guideline 11	The questions asked to assess the competency of the child shall be appropriate to the age and developmental level of the child; shall not be related to the issues at trial; and shall focus on the ability of the child to remember, communicate, distinguish between truth and falsehood, and appreciate the duty to testify truthfully.
Guideline 14	The Judge may meet a vulnerable witness suo motu on reasons to be recorded or on an application of either party in the presence of the prosecution and defence lawyer or in their absence before they give evidence, for explaining the court process in order to help them in understanding the procedure and giving their best evidence.
Guideline 17	A vulnerable witness may be provided with legal assistance by the court, if the court considers the assignment of a lawyer to be in the best interests of the child, throughout the justice process in the following instances: (a) at the request of the support person, if one has been designated; (b) pursuant to an order of the court on its own motion.
Guideline 18	(a) A court shall allow suo motu or on request, verbal or written, to child testifying at a judicial proceeding to have the presence of one person of his own choice to provide him support who shall within the view and if the need arise may accompany the child to the witness stand, provided that such support person shall not completely obscure the child from the view of the opposing party or the judge. (b) The court may allow the support person to hold the hand of the vulnerable witness or take other appropriate steps to provide emotional support to the vulnerable witness in the course of the proceedings. (c) The court shall instruct the support persons not to prompt, sway, or influence the vulnerable witness during his testimony. The support person shall also be directed that he/she shall in no circumstances discuss the evidence to be given by the vulnerable



witness. (d) Where no other suitable person is available only in very rare cases should another witness in the case be appointed as a support person. The court shall ordinarily appoint a neutral person, other than a parent, as a support person. It is only in exceptional circumstances keeping the condition of the vulnerable witness in mind, that the court should appoint a parent as a support person.

Guideline 21

A vulnerable witness, his or her parents or guardian, his or her lawyer, the support person, if designated, or other appropriate person designated to provide assistance shall, from their first contact with the court process and throughout that process, be promptly informed by the Court about the stage of the process and, to the extent feasible and appropriate, about the following: (a) procedures of the criminal justice process including the role of vulnerable witnesses, the importance, timing and manner of testimony, and the ways in which proceedings will be conducted during the trial; (b) existing support mechanisms for a vulnerable witness when participating in proceedings, including making available appropriate person designated to provide assistance; (c) specific time and places of hearings and other relevant events; (d) availability of protective measures; (e) relevant rights of child victims and witnesses pursuant to applicable laws, the Convention on the Rights of the Child and other international legal instruments, including the Guidelines and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985; (f) the progress and disposition of the specific case, including the apprehension, arrest and custodial status of the accused and any pending changes to that status, the prosecutorial decision and relevant post-trial developments and the outcome of the case.

Guideline 23

The courts shall ensure that a waiting area for vulnerable witnesses with the support person, lawyer of the witness facilitation, if any, is separate from waiting areas used by other persons. The waiting area for vulnerable witnesses should be furnished so as to make a vulnerable witness comfortable.

Guideline 24

It shall be the duty of the court to ensure comfortable environment for the vulnerable witness by issuing directions and also by supervising, the location, movement and deportment of all persons in the courtroom including the parties, their counsel, child witnesses, support persons, guardian ad litem, facilitator, and court personnel. The child may be allowed to testify from a place other than the witness chair. The witness chair or other place from which the child testifies may be turned to facilitate his testimony but the opposing party and his counsel must have a frontal or profile view of the child even by a video link, during the testimony of the child. The witness chair or other place from which the child testifies may also be rearranged to allow the child to see the opposing party and his counsel, if he chooses to look at them, without turning his body or leaving the witness stand. While deciding to make available such environment, the judge may be dispensed with from wearing his judicial robes



Guideline 25	The court may order that the testimony of the vulnerable witness should be taken during a time of day when the vulnerable witness is well-rested.
Guideline 26	The vulnerable witness may be allowed reasonable periods of relief while undergoing depositions as often as necessary depending on his developmental need.
Guideline 27	<p>(1) At the request of a child victim or witness, his or her parents or guardian, his or her lawyer, the support person, other appropriate person designated to provide assistance, or the court on its own motion, taking into account the best interests of the child, may order one or more of the following measures to protect the privacy and physical and mental well-being of the vulnerable witness child and to prevent undue distress and secondary victimization: (a) expunging from the public record any names, addresses, workplaces, professions or any other information that could be used to identify the child; (b) forbidding the defence lawyer and persons present in court room from revealing the identity of the child or disclosing any material or information that would tend to identify the child; (c) ordering the non-disclosure of any records that identify the child, until such time as the court may find appropriate; (d) assigning a pseudonym or a number to a child, in which case the full name and date of birth of the child shall be revealed to the accused within a reasonable period for the preparation of his or her defence; (e) efforts to conceal the features or physical description of the child giving testimony or to prevent distress or harm to the child, including testifying: (i) behind screen; (ii) using image- or voice-altering devices; (iii) through examination in another place, transmitted simultaneously to the courtroom by means of video link; (iv) through a qualified and suitable intermediary, such as, but not limited to, an interpreter for children with hearing, sight, speech or other disabilities; (f) holding closed sessions; (g) if the child refuses to give testimony in the presence of the accused or if circumstances show that the child may be inhibited from speaking the truth in that person's presence, the court shall give orders to temporarily remove the accused from the courtroom to an adjacent room with a video link or a one way mirror visibility into the court room. In such cases, the defence lawyer shall remain in the courtroom and question the child, and the accused's right of confrontation shall thus be guaranteed; (h) taking any other measure that the court may deem necessary, including, where applicable, anonymity, taking into account the best interests of the child and the rights of the accused. (2) Any information including name, parentage, age, address, etc. revealed by the child victim or witness which enables identification of the person of the child, shall be kept in a sealed cover on the record and shall not be made available for inspection to any party or person. Certified copies thereof shall also not be issued. The reference to the child victim or witness shall be only by the pseudonym assigned in the case.</p>



Guideline 28	<p>(i) Vulnerable witnesses shall receive high priority and shall be handled as expeditiously as possible, minimizing unnecessary delays and continuances. (Whenever necessary and possible, the court schedule will be altered to ensure that the testimony of the child victim or witness is recorded on sequential days, without delays.) (ii) judges and court administrators should ensure that the developmental needs of vulnerable witnesses are recognized and accommodated in the arrangement of the courtroom. (iii) separate and safe waiting areas and passage thereto should be provided for vulnerable witnesses. (iv) judges should ensure that the developmental stages and needs of vulnerable witnesses are identified recognized and addressed throughout the court process by requiring usage of appropriate language, by timing hearings and testimony to meet the attention span and physical needs of such vulnerable witnesses by allowing the use of testimonial aids as well as interpreters, translators, when necessary. (v) judges should be flexible in allowing the vulnerable witnesses to have a support person present while testifying and should guard against unnecessary sequestration of support persons. (vi) hearings involving a vulnerable witness may be scheduled on days/time when the witness is not inconvenienced or is not disruptive to routine/ regular schedule of child.</p>
Guideline 29	<p>(i) When a vulnerable witness testifies, the court may order the exclusion from the courtroom of all persons, who do not have a direct interest in the case including members of the press. Such an order may be made to protect the right to privacy of the vulnerable witness or if the court determines on the record that requiring the vulnerable witness to testify in open court would cause psychological harm to him, hinder the ascertainment of truth, or result in his inability to effectively communicate due to embarrassment, fear, or timidity. (ii) In making its order, the court shall consider the developmental level of the vulnerable witness, the nature of the crime, the nature of his testimony regarding the crime, his relationship to the accused and to persons attending the trial, his desires, and the interests of his parents or legal guardian. (iii) The court may, motu proprio, exclude the public from the courtroom if the evidence to be produced during trial is of such character as to be distressing, personal, offensive to decency or public morals.</p>
Guideline 30	<p>(a) The prosecutor, counsel or the guardian ad litem may apply for an order that the testimony of the child be taken in a room outside the courtroom and be televised to the courtroom by live-link television (b) In order to take a decision of usage of a live-link the judge may question the child in chambers, or in some comfortable place other than the courtroom, in the presence of the support person, guardian ad litem, prosecutor, and counsel for the parties. The questions of the judge shall not be related to the issues at trial but to the feelings of the child about testifying in the courtroom. (c) The court on its own motion, if deemed appropriate, may pass orders in terms of (a) or any other suitable directions for recording the evidence of a vulnerable witness.</p>



Guideline 31	The court may suo motu or on an application made even by the prosecutor or the guardian ad litem may order that the chair of the vulnerable witness or that a screen or other device be placed in the courtroom in such a manner that the child cannot see the accused while testifying. The court shall issue an order stating the reasons and describing the approved courtroom arrangement.
Guideline 33	To facilitate the ascertainment of the truth the court shall exercise control over the questioning of vulnerable witness. (i) ensure that questions are stated in a form appropriate to the developmental level of the vulnerable witness; (ii) protect vulnerable witness from harassment or undue embarrassment; and (iii) avoid waste of time by declining questions which the court considers unacceptable due to their being improper, unfair, misleading, needless, repetitive or expressed in language that is too complicated for the witness to understand. (iv) the court may allow the child witness to testify in a narrative form. (v) questions shall be put to the witness only through the court.
Guideline 39	At any stage in the justice process where the safety of a child victim or witness is deemed to be at risk, the court shall arrange to have protective measures put in place for the child. Those measures may include the following: (a) avoiding direct or indirect contact between a child victim or witness and the accused at any point in the justice process; (b) restraint orders; (c) a pre-trial detention order for the accused or with restraint or no contact bail conditions which may be continued during trial; (d) protection for a child victim or witness by the police or other relevant agencies and safeguarding the whereabouts of the child from disclosure; (e) any other protective measures that may be deemed appropriate.

MODEL LAW ON JUSTICE IN MATTERS INVOLVING CHILD VICTIMS AND WITNESSES OF CRIME
United Nations Office on Drugs and Crime and United Nations Children's Fund

Article 9	A child victim or witness, his or her parents or guardian, his or her lawyer, the support person, if designated, or other appropriate person designated to provide assistance shall, from their first contact with the justice process and throughout that process, be promptly informed by [name of competent authority] about the stage of the process and, to the extent feasible and appropriate, about the following: (a) Procedures of the adult and juvenile criminal justice process, including the role of child victims or witnesses, the importance, timing and manner of testimony, and the ways in which interviews will be conducted during the investigation and trial; (b) Existing support mechanisms for a child victim or witness when making a complaint and participating in investigations and court proceedings, including making available a victim's lawyer or other appropriate person designated to provide assistance; (c) Specific places and times of hearings and other relevant events; (d) Availability of protective measures; (e) Existing mechanisms for the review of decisions affecting the child victim or witness; (f) Relevant rights of child victims and witnesses pursuant to applicable national legislation, the Convention on the Rights of the Child and
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other international legal instruments, including the Guidelines and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985; (g) Existing opportunities to obtain reparation from the offender or from the State through the justice process, through alternative civil proceedings or through other processes; (h) Availability and functioning of restorative justice schemes; (i) Availability of health, psychological, social and other relevant services and the means of accessing such services, as well as the availability of legal or other advice or representation and emergency financial support, where applicable; (j) The progress and disposition of the specific case, including the apprehension, arrest and custodial status of the accused and any pending changes to that status, the prosecutorial decision and relevant post-trial developments and the outcome of the case.

Article 28

At the request of a child victim or witness, his or her parents or guardian, his or her lawyer, the support person, other appropriate person designated to provide assistance or on its own motion, the court, taking into account the best interests of the child, may order one or more of the following measures to protect the privacy and physical and mental well-being of the child and to prevent undue distress and secondary victimization: (a) Expunging from the public record any names, addresses, workplaces, professions or any other information that could be used to identify the child; (b) Forbidding the defence lawyer from revealing the identity of the child or disclosing any material or information that would tend to identify the child; (c) Ordering the non-disclosure of any records that identify the child, until such time as the court may find appropriate; (d) Assigning a pseudonym or a number to a child, in which case the full name and date of birth of the child shall be revealed to the accused within a reasonable period for the preparation of his or her defence; (e) Efforts to conceal the features or physical description of the child giving testimony or to prevent distress or harm to the child, including testifying: (i) Behind an opaque shield; (ii) Using image- or voice-altering devices; (iii) Through examination in another place, transmitted simultaneously to the courtroom by means of closed-circuit television; (iv) By way of videotaped examination of the child witness prior to the hearing, in which case the counsel for the accused shall attend the examination and be given the opportunity to examine the child witness or victim; (v) Through a qualified and suitable intermediary, such as, but not limited to, an interpreter for children with hearing, sight, speech or other disabilities; (f) Holding closed sessions; (g) Giving orders to temporarily remove the accused from the courtroom if the child refuses to give testimony in the presence of the accused or if circumstances show that the child may be inhibited from speaking the truth in that person's presence. In such cases, the defence lawyer shall remain in the courtroom and question the child, and the accused's right of confrontation shall thus be guaranteed; (h) Allowing recesses during the child's testimony; (i) Scheduling hearings at times of day appropriate to the age and maturity of the child; (j) Taking any other measure that the court may deem necessary, including, where applicable, anonymity, taking into account the best interests of the child and the rights of the accused.



MODEL GUIDELINES UNDER SECTION 39 OF THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 –

Issued by the Ministry of Woman and Child Development, dated September 2013

Article 9

1.1 Interview setting

The more comfortable a child is, the more information he is likely to share. Also, children may be too embarrassed to share intimate details when they believe that others can overhear what they are saying. As far as possible, interviews should be conducted in a safe, neutral and child-friendly environment.

The interviewer can incorporate elements to make a room appear child-friendly, such as toys, art material or other props. Distractions like ringing phones, other people's voices and elaborate play material should be removed as far as possible.

1.2 Things to be kept in mind while interviewing a child

- i) All children should be approached with extreme sensitivity and their vulnerability recognized and understood.
- ii) Try to establish a neutral environment and rapport with the child before beginning the interview. For example, if the interview must be conducted in the child's home, select a private location away from parents or siblings that appears to be the most neutral spot.
- iii) Try to select locations that are away from traffic, noise, or other disruptions. Items such as telephones, cell phones, televisions, and other potential distractions should be temporarily turned off.
- iv) The interview location should be as simple and uncluttered as possible, containing a table and chairs. Avoid playrooms or other locations with visible toys and books that will distract children.
- v) Always identify yourself as a helping person and try to build a rapport with the child.
- vi) Make the child comfortable with the interview setting. Gather preliminary information about the child's verbal skills and cognitive maturity. Convey that the goal of the interview is for the child to talk and ask questions that invite the child to talk (e.g., "tell me about your family").
- vii) Ask the child if he/she knows why they have come to see you. Children are often confused about the purpose of the interview or worried that they are in trouble.
- viii) Convey and maintain a relaxed, friendly atmosphere. Do not express surprise, disgust, disbelief, or other emotional reactions to descriptions of the abuse.
- ix) Avoid touching the child and respect the child's personal space. Do not stare at the child or sit uncomfortably close.
- x) Do not suggest feelings or responses to the child. For example, do not say, "I know how difficult this must be for you."



- xi) Do not make false promises. For example, do not say, "Everything will be okay" or "You will never have to talk about this again."
- xii) Establish ground rules for the interview, including permission for the child to say he/she doesn't know and permission to correct the interviewer.
- xiii) Ask the child to describe what happened, or is happening, to them in their own words. The interviewer should, as far as possible, follow the child's lead; however, he may have to delicately introduce the topics of the abuse.
- xiv) Always begin with open-ended questions. Avoid asking the child a direct question, such as "Did somebody touch your privates last week?". Instead, try "I understand something has been bothering you. Tell me about it."
- xv) After initially starting like this, move on to allow the child to use free narrative. For example, you can say, "I want to understand everything about [refer back to child's statement]. Start with the first thing that happened and tell me everything you can, even things you don't think are very important."
- xvi) Avoid the use of leading questions that imply an answer or assume facts that might be in dispute and use direct questioning only when open-ended questioning/free narrative has been exhausted. xvii) The interviewer should clarify the following: a) Descriptions of events. b) The identity of the perpetrator(s). c) Whether allegations involve a single event or multiple events. d) The presence and identities of other witnesses. e) Whether similar events have happened to other children. f) Whether the child told anyone about the event(s). g) The time frame and location/venue. h) Alternative explanations for the allegations.
- xviii) However, interviewers should avoid probing for unnecessary details. For example, it may not be essential to get a detailed description of an alleged perpetrator if he/she is someone who is familiar to the child (e.g., a relative or teacher). Although it is useful if the child can recall when and where each event occurred, children may have difficulty specifying this information if they are young, if the event happened a long time ago, or if there has been ongoing abuse over a period of time
- xix) The child may get exhausted frequently and easily; in such an event, it is advisable not to prolong the inquiry, but rather to divert the child's mind and come back to the sexual abuse when the child is refreshed.
- xx) Regularly check if the child is hungry or thirsty, tired or sleepy, and address these needs immediately.
- xxi) Let the child do the talking and answer any questions the child may have in a direct manner.



- xxii) Avoid questioning the child as to why he behaved in a particular way (e.g., "Why didn't you tell your mother that night?"). Young children have difficulty answering such questions and may feel that you are blaming them for the situation.
- xxiii) Avoid correcting the child's behaviour unnecessarily during the interview. It can be helpful to direct the child's attention with meaningful explanations (e.g., "I have a little trouble hearing, so it helps me a lot if you look at me when you are talking so that I can hear you") but avoid correcting nervous behaviour that may be slowing the pace of the interview or even preventing it from proceeding.
- xxiv) When two professionals will be present, it is best to appoint one as the primary interviewer, with the second professional taking notes or suggesting additional questions when the interview is drawing to a close.
- xxv) Interviewers should not discuss the case in front of the child.
- xxvi) Individuals who might be accused of influencing children to discuss abuse, such as parents involved in custody disputes or therapists, should not be allowed to sit with children during interviews.
- xxvii) In some cases, the interviewer may consider it appropriate to allow a support person to sit in on the interview; but in these situations, such a person be instructed that only the child is allowed to talk unless a question is directed to the support person. Also, the support person should be seated out of the child's line of vision to avoid allegations that the child was reacting to nonverbal signals from a trusted adult.
- xxviii) When planning investigative strategies, consider other children (boys as well as girls) that may have had contact with the alleged perpetrator. For example, there may be an indication to examine the child's siblings. Also consider interviewing the parent or guardian or other family member of the child, without the child present.
- xxix) The interviewer should convey to all parties that no assumptions have been made about whether abuse has occurred.
- xxx) The interviewer should take the time necessary to perform a complete evaluation and should avoid any coercive quality to the interview.
- xxxi) Interview procedures may be modified in cases involving very young, minimally verbal children or children with special needs (e.g., developmentally delayed, electively mute, non-native speakers).
- xxxii) Try to establish the child's developmental level in order to understand any limitations as well as appropriate interactions. It is important to realize that young children have little or no concept of numbers or time, and that they have limited vocabulary and may use terminology differently to adults, making interpretation of questions and answers a sensitive matter.



- xxxiii) A variety of non-verbal tools may be used to assist young children in communication, including drawings, toys, dollhouses, dolls, puppets, etc. Since such materials have the potential to be distracting or misleading they should be used with care. They are discretionary for older children.
- xxxiv) Storybooks, colouring books or videos that contain explicit descriptions of abuse situations are potentially suggestive and are primary teaching tools. They are typically not appropriate for information-gathering purposes. In certain situations, the interviewer may consider it appropriate to interview the child victim together with his/her parent or guardian or other person in whom the child has trust and confidence. In such cases, the following guidance may be useful:
- i) When possible, interviewing the primary caregiver and reviewing other collateral data first to gather background information may facilitate the evaluation process.
 - ii) The child should be seen individually, except when the child refuses to separate from a parent/guardian. Discussion of possible abuse with the child in the presence of the caregiver during evaluation interviews should be avoided except when necessary to elicit information from the child. In such cases, the interview setting should be structured to reduce the possibility of improper influence by the caregiver on the child's behaviour or statements.
 - iii) In some cases, joint sessions with the child and the non-accused caregiver or accused or suspected individual might be helpful to obtain information regarding the overall quality of the relationships. Such joint sessions should not be conducted for the purpose of determining whether abuse occurred based on the child's reactions to the participating adult. Joint sessions should not be conducted if they will cause significant distress for the child.

