

Module 3: Special Juvenile Police Unit

Session 2: Role of Police in dealing with CNCP

Duration: 10:43 min

Medical examination/Medico Legal Case (MLC):

You must know that JJ Act, 2015 provides procedures for Medical examination and Police have a key role in such situations.

Hence Police should have adequate understanding that

- Medical examination/MLC is scientific evidence and it plays an important role in the conviction of the accused, especially in cases of sexual abuse, physical abuse, bonded labour, child labour and mentally challenged children.
- But it should not be done for all children as all children may not require such an examination.
- It should not become a routine procedure to subject children to medical examination, particularly gynaecological examination, unless the case so demands.
- Judgments of various High Courts have reflected on the trauma of a child when a medical examination is conducted insensitively and have laid out guidelines to be followed by police as well as doctors/hospitals. POCSO model guidelines also detail out procedures for medical examination available on the following link

(v) In the case of a sexually abused child

You may remember that POCSO Act, 2012 is a comprehensive law for protecting children from the offences of sexual assault, sexual harassment and pornography. It safeguards the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts.

The POCSO (Amendment) Act, 2019 provides stringent punishment for sexual offences on children. Let's now understand what is the role of police personnel while dealing with a case under POCSO Act?

- The police personnel receiving a report of sexual abuse of a child are given the responsibility of making urgent arrangements for the care and protection of the child, such as obtaining emergency medical treatment for the child and placing the child in a shelter home, as per the need
- It should inform the CWC within 24 hours of receiving the report, so the CWC may proceed to make further arrangements for the safety and security of the child. The investigation officer shall ensure that the child victim is medically examined at the earliest, preferably within 24 hours (in accordance with Section 164-A of the Code of Criminal Procedure) but with the support system of the child.
- In case of a girl child victim, the medical examination shall be conducted preferably by a female doctor.
- Consent of the child/parent/guardian is important for medical examination.

- A copy of the medical report should be provided to the parents/guardian of the child victim
- The parent/guardian/person whom the child trusts should be allowed to be present during the medical examination. Emergency medical treatment should be provided to the child victim wherever necessary.
- Ensure that only female staff talks to the female victim, maintaining confidentiality.
- Discussion of the case with the complainant's family member(s) should be in complete privacy to avoid stigma to the child.
- Ensure no photography/questioning by media.
- Statement of the child should be taken only after considerable time and in the presence of a family member.
- Child victim shall not be kept in the police station overnight at any cost.
- The child should be hospitalised as per recommendation of doctors and CWC should be informed with a copy of DD Entry and Medical Report.

Production before CWC

In case of a sexually abused child who is found to be in need of care and protection, it is a legal duty of the police to produce the child before the CWC within 24 hours, along with a circumstances report under Section 31 of the JJ Act, 2015.

However here it is important to remember that

- Every child who is sexually abused or disabled or sick must not be produced before the CWC as a CNCP nor must they all be put into an institution for protection and care.
- It is only when such children are unsafe in families or the families are incapacitated to look after them that the CWC takes over.
- A child may have a family who can take care of him/her perfectly well and provide all the support needed
- In such situations of POCSO where family can provide support, police need to inform CWC of the cases, but such children need not be produced before the CWC.
- CWC is the final authority to dispose of cases involving a question of care, protection, development and rehabilitation of children as well as to ensure fulfilment of their basic needs and protection of their human rights.
- In case of surrender, parent/parents can directly produce a child before the CWC.

No Claimant Report or Untraced Report

Let's now learn the steps to be taken in case of No Claimant Report or Untraced Report.

- Many young CNCP can be given in adoption after the CWC declares such a child legally free for adoption.
- For this, the adoption agency will approach the police to seek a no claimant report and accordingly conclude whether there is indeed nobody to claim the child.
- In case of infants aged less than two years, the adoption agency will approach the police for a no claimant report after waiting for two months from the date of publishing an advertisement in newspapers and television.
- A no claimant report will state that no one has approached them to claim the child for whom the report is being sought.
- Untraced report is required in the case of abandoned children, which states that the parents/guardians of the child cannot be traced.
- Only the Assistant Commissioner of Police (ACP)/Deputy Superintendent (DSP) has the authority to give the untraced report

Restoration:

Let's now understand the role of police in restoring the CNCP to their families.

- Third battalion of the police has the responsibility of escorting children to their home state/residence for restoration or transfer of a child as per the orders of the CWC.
- As per the **Statement under 164 CrPC**, the Police should follow the legal requirement of getting the statement of a child recorded before a first class judicial magistrate under Section 164 of the Code of Criminal Procedure.
- The child's evidence is, in any case, recorded when the case comes up for trial.
- Where a child placed in an institution has to be taken for getting the statement recorded before the Magistrate, the police should seek appropriate permission from the CWC and the Officer in-charge of the institution
- Ensure that a Welfare Officer/Social Worker/Counsellor accompanies the child to the court

Practicing Non-Discrimination

We already know discrimination based on various identities exist especially among children from vulnerable background. It is therefore imperative to sensitise Police on non-discrimination.

Police cannot discriminate against a child on the basis of social status or gender. Non-discriminatory practices should always be followed by the police while dealing with any person, particularly the most vulnerable including CNCP

Establishing working relationship with different stakeholders:

You might have seen that police force work with various service providers. Networking always makes their action easier.

Therefore, in the best interest of children, police should establish contacts with different stakeholders such as the CWC, the Social Welfare Department, the Women and Child Development Department, the Labour Department, Childline and NGOs, hospitals, doctors, paramedics, special educators, counsellors as these may be needed as a first call in many cases.

Let's now look at examples of Child-Friendly Police Stations.

- Child-friendly police stations have been established in several states for creating an inclusive and trustful atmosphere for children and sensitizing police.
- There are many wonderful examples of good practices from various states. Considering the time limit we are only going to understand a best practice from Uttar Pradesh.

Standard Operating Procedures (SOPs)/circulars regarding specific categories of Children:

- You know that various departments have been issuing SOPs and circulars regarding specific categories of Children.
- Police should be updated on such circulars and orders from different departments relating to children, particularly those falling within the category of CNCP.
- These can help the police in deciding their course of action.
- Some examples of such SOPs/circulars are given on the screen for your reference