

Standard Operating Procedures (SOPs) for Child Welfare Committee (CWC)

Under the Juvenile Justice (Care and Protection of Children) Act 2000,
as amended by Juvenile Justice (Care and Protection of Children) Act, 2006

Department of Women and Child Development

Government of Maharashtra 2009



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Foreword



Govt. of Maharashtra

Rajesh Kumar

Commissioner, Department of Women and Child Development

The Standard Operating Procedures to help the Child Welfare Committee were prepared by the Department of Women and Child Development, UNICEF, NGOs and experts in the field of child development. This SOP has been issued by G R OP – 2009/CR 341/ D- 3.

The State has constituted Child Welfare Committees in all 35 districts in May 2008. Previously CWCs were not constituted for each district. Considering the preliminary evaluation of the functioning of the CWC, the Department felt it necessary to develop SOPs so that the CWCs would have the necessary information to be able to play their effectively.

CWC is empowered to deal with cases of children in need of care and protection as per the provisions laid down in the Juvenile Justice Act. They have powers of Judicial Magistrate First Class to pass orders in the best interest of the child as a bench. The powers of the Judicial magistrate are available to them when they are functioning as a committee while making decisions in relation to the child in need of care and protection. The CWCs are not equipped with information about how to handle the different nature of cases that come before them, the procedures of age verification, transfer a child from one district to another. These were some of the finding of the study conducted by UNICEF and DWCD during 2008-2010.

A procedure manual plays an important role in institutional management. Accordingly, an SOP is also required for the CWC. The use of SOPs will bring uniformity and improve the quality of work of the CWCs. The CWC could deal with the cases

Rajesh Kumar

Foreword



Tejinder Singh Sandhu
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UNICEF is privileged to have had the opportunity to contribute to the development of the Standard Operating Procedures for the Child Welfare Committee, the Competent Authority appointed under the Juvenile Justice (Care and Protection of Children) Act 2000 for children in need of care and protection.

The Standard Operating Procedures were developed through a collaborative partnership with the Department of Women and Child Development, Government of Maharashtra, representatives of NGOs, legal experts, child welfare committee members and UNICEF. They have evolved out of intensive groundwork carried out by social and legal experts, people from within the Government system and outside it and are enriched by the examples of good practices from the field that have worked in the interest of children. These efforts spanned over an entire year before the SOPs were finalized and issued as a Government Resolution. The Document was subsequently reviewed by a group of national experts on Juvenile Justice and is now available in English and Marathi.

The Juvenile Justice (Care and Protection of Children) Act 2000 is a powerful legal instrument for the care, protection, rehabilitation and social re-integration of children who come within its ambit. The provisions of this legislation are in keeping with the international standards for children's rights defined by the United Nations Convention on the Rights of the Child (CRC) and other international agreements. And yet, significant gaps still exist between the law, the standards set therein and what children experience in their everyday lives. Issues of trafficking, abuse, abandonment and forms of exploitation such as child labour, render many children vulnerable to harm and deny them their rights to schooling, to good health and to the development of their full potential. This calls for state and civil society to step up efforts to reduce children's vulnerability and protect them from the negative experiences of abuse, harm and exploitation.

One of the most powerful and unique features of Juvenile Justice Act is that it empowers members of civil society to serve on the Child Welfare Committee for care and protection of children. The need for SOPs was expressed by members of the CWC during their initial training and reiterated by the findings of a Study on the Role and Functioning of the CWC conducted by the Department of Women and Child Development and UNICEF.

The Standard Operating Procedures are an endeavor in knowledge building. We hope the child friendly procedures; methods and tools detailed in it will help the Child Welfare Committees and other duty bearers to understand and play their role effectively and implement the provisions of the Act for the care, protection and rehabilitation of children.

UNICEF looks forward to partnering with the Department of Women and Child Development and the Government of Maharashtra in furthering a protective environment for all children and for the fulfilment of their rights.

Tejinder Singh Sandhu

Preface



Govt. of Maharashtra

C. B. Turkar
State Coordinator (UNICEF)
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United Nations Children Fund (Unicef) is in agreement with Government of India to assist government to work in interest of children. After introduction of Juvenile Justice Act 2000, Unicef is helping Maharashtra Government in training of CWC members, JJB members, Police, NGO, Government Officials etc. in framing JJ rules, creating documents etc.

During the first training programme conducted by DWCD for the first batch of CWC's in 2004, we felt a need of having Standard Operating Procedure(SOP) for the members, so that there should be uniformity in implementing & understanding the Act.

While telling the second batch of CWC members in 2008, we circulated a small document on SOP & invited suggestion of the members. Unicef had also conducted research study on CWC's functioning. Considering all aspects & aspirations, we came out with the present document on SOP.

While dealing with the children, it is necessary to abide with many rules & regulations alongwith the provisions of JJ Act & other Act. (e.g. CWC cannot order the child for HIV testing. This provision is not mentioned in the JJ Act but it is the requirement of HIV/AIDS guidelines.)

I hope, the guidelines in this booklet will help CWC members, Superintendents, Probation officers, Government facilitators & NGOs in implementing the JJ Act in its true spirit, will not invite any controversies & will not put any agency in embarrassing situation.

Any suggestions are welcome & can be addressed to the commissioner, Dwcd, Pune-411001. Let us come together & fight for the children in need of care & protection.

C. B. Turkar



बाल कल्याण समितीसाठी सर्व साधारण कार्यनियमावली

Standard Operating Procedure

महाराष्ट्र शासन
महिला व बाल विकास विभाग
शासन निर्णय क्र. एसओपी - २००९ / प्र.क्र-३४१/का-३
नवीन प्रशासन भवन, ३ रा मजला
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प्रस्तावना: बाल न्याय अधिनियमांतर्गत महाराष्ट्र शासनाने बाल कल्याण समित्यांची सर्व जिल्हयांमध्ये नियुक्ती केलेली आहे. बाल कल्याण समित्यांच्या नियुक्ती संबंधी व कर्तव्य आणि जबाबदाऱ्यांबाबत बाल न्याय अधिनियम २००० तसेच बाल न्याय अधिनियमाखाली तयार करण्यात आलेल्या नियमात उल्लेख करण्यात आला आहे.

बाल कल्याण समितीचे तज्ञ सदस्यांसाठी कोणतीही स्वतंत्र कार्यनियमावली अस्तित्वात नसल्यामुळे त्यांना मार्गदर्शक ठरेल अशी सोपी कार्यनियमावली तयार करण्याचे शासनाच्या विचाराधीन होते. म्हणून Unicef व तज्ञांच्या मदतीने अभ्यासपूर्वक ही कार्यनियमावली तयार करण्यात आली आहे. या कार्यनियमावली (SOP) मध्ये कोणत्याही नवीन तरतुदी करण्यात आलेल्या नाहीत किंवा कोणताही अधिनियम प्रदान करण्यात आलेला नाही. या कार्यनियमावलीचा उद्देश केवळ विविध अधिनियमाखाली अस्तित्वात असलेल्या कायदांचा वापर करून बाल कल्याण समितीने त्यांचे दैनंदिन काम कशा पध्दतीने पार पाडावे असा आहे. या कार्यनियमावलीचा उपयोग ज्याप्रमाणे बाल कल्याण समितीच्या सदस्यांना मार्गदर्शनासाठी होणार आहे, त्याचप्रमाणे शासकीय यंत्रणेस व स्वायत्त संस्थांना बाल कल्याण समित्यांबरोबर काम करण्यासही होणार आहे. या कार्यनियमावलीचे मराठीत भाषांतर यथावकाश करण्यात येत आहे.

शासन निर्णय: महाराष्ट्र शासनातर्फे बाल न्याय अधिनियमांतर्गत नियुक्त करण्यात आलेल्या बाल कल्याण समितीच्या सदस्यांसाठी मार्गदर्शक कार्यनियमावली (SOP) या शासन निर्णयाद्वारे निर्गमित करण्यात येत आहे. राज्यातील सर्व बाल कल्याण समितीचे कार्य या मार्गदर्शक कार्यनियमावलीनुरूप चालवण्यात यावे. मात्र कार्यनियमावलीतील सर्व तरतुदी बाल न्याय अधिनियम २००६ आणि सुधारित अधिनियम २००६ यावर आधारित असून बाल न्याय अधिनियमातील तरतुदी या अंतिम असतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(श.पा.वारे)

उपसचिव

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CHAPTER 1

Introduction to the Standard Operating Procedures for Child Welfare Committees



Juvenile Justice (Care and Protection of Children) Act, 2000

The Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act) aims at providing care, protection and treatment to juveniles in conflict with law and children in need of care and protection through a child friendly approach in adjudication and disposition of matters concerning them. It emphasizes on the rehabilitation and reintegration of children by making their best interest the primary consideration and guaranteeing the fulfillment of their needs and rights.

This Act draws inspiration from the Constitution of India, the U.N. Convention on the Rights of Child and the standards prescribed in United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (“Beijing Rules”) and other relevant international instruments.

The JJ Act is the only progressive, centrally passed, child related legislation that brings children who are socially deprived, exploited or in vulnerable circumstances within its protective jurisdiction. The Act separates children in conflict with law from those who are in need of care and protection and prescribes different competent authorities to take decisions on their matters and plan their rehabilitation and reintegration. The Juvenile Justice Board is the competent authority for Juveniles in Conflict with Law (CCL) and the Child Welfare Committee (CWC) for Children in Need of Care and Protection (CNCP). The JJ Act covers all children up to the age of 18 years.

The JJ Act has expanded the scope for rehabilitation of the child in need of care and protection to include family and community based alternative care options of counseling, placing the child in foster care, adoptive home and when appropriate in the child's own home. This is a new approach to institutionalization that was formerly seen as the only approach for children coming to the state for care and protection.

Child Welfare Committee and Standard Operating Procedures (SOPs)

The JJ Act has recognized the participation of civil society as members of the Child Welfare Committee (CWC). Section 31 of JJ Act empowers CWC to be the final authority in disposing cases of children in need of care and protection such as missing children, orphaned children, abused children and others (refer Section 2 (d) of the Act). The CWC use their discretion to address the unique situation and circumstances of the child brought before them so that the child receives care, protection and full rehabilitation.

Since the CWC members come from diverse backgrounds and may not have any exposure to the Juvenile Justice System, these Standard Operating Procedures help to simplify and operationalise the different sections of the Act and Rules and point out the procedures that need to be followed by the CWCs to play their role as a Competent Authority for children in need of care and protection.

The SOPs will address the current variations that exist in the way the CWCs exercise their power. The attempt is to standardize procedures so that decisions made by the CWC are aligned with the principles of the JJ Act and CRC – that the best interests of the child is protected at all times.

CWCs as role holders for the protection of children's right are confronted with a very challenging task. Every child comes in with her/his unique problem and a context which is also unique. While coming to a decision in relation to the child the CWC has to take into consideration several factors:

- The family background, that is, the socio-economic status of the child.
- The specific reason for the child to be produced before CWC.
- The overall health of the child that is, the child's physical, emotional, psychological and mental status.
- The community or a culture that the child belongs to.

- Assess if any intervention has taken place before the child was produced before CWC.

The SOPs identify and provide the CWCs with a better understanding of the Act and its effective implementation to address the specific and individualized needs of children. When the child comes into the JJ System, it is the role of the CWC to ensure effective and fair 'gatekeeping' that will prevent unnecessary entry of the child into the care system, particularly institutionalization and ensure access to services for those children who are vulnerable and in urgent need of protection especially where the family fails the child. The SOPs therefore act as guidelines for the CWCs while making their decisions, as it provides for systematic assessment of the child's situation and makes sure that all considerations and procedures are adhered to before arriving at a decision.

The SOPs have been developed from existing best practices of the CWCs across Maharashtra and a positive interpretation of the JJ Act.

The decisions of the CWC are informed by the **general principles** laid down in the JJ Act and CRC, which is the moral, ethical and value framework that upholds the approach to be taken for children who need the care and protection of the state. These principles convey the essence of the Act which is to ensure that:

- The child remains within the family and institutionalization is the last resort;

- Every decision is made on a case to case basis, looking at the unique circumstances of the child;

- Decisions are informed by a thorough assessment of the child and his/her situation;

- Confidentiality is ensured in all processes pertaining to the child and her/his family;

- Informed consent of the child is sought in all processes including for interviewing the child, medical testing etc and the child's views are taken into account in the process of decision making;

- Protection of the child is ensured at all stages of rehabilitation and social integration;

- The child's progress is reviewed on a periodic basis.

The SOPs have been informed by the rich and varied experience of the Resource Centre on Child Rights, NGOs from the field of child rights and child protection including BALPRAFULTA, SAATHI, PRATHAM, MELJOL, law students and legal experts and UNICEF together with the Department of Women and Child Development. With the DWCD, State of Maharashtra and UNICEF taking the initiative of conducting periodic trainings for all CWCs it was felt that the SOPs will have an important role in offering clarity for the functioning of the CWCs.

CHAPTER 2

Functions, Powers and Responsibilities of the Child Welfare Committee



Introduction

The Government of Maharashtra has established one Child Welfare Committee for each of the thirty five districts of the State. This Chapter deals with the powers, roles and functions of the Child Welfare Committee.

The CWC is a statutory body with judicial powers appointed as a competent authority for all children in need of care and protection by the JJ Act. The CWC consists of a chairperson and four other members of whom at least one is a woman and another, an expert on matters concerning children.

The functions of the CWC are laid down in the JJ Act and have been explicitly elaborated under R.25 of the Model Rules of the Juvenile Justice (Care and Protection of Children) Act 2000 (56 of 2000) (as amended by the Amendment Act 33 of 2006). These functions are elaborated hereunder:

Functions of the CWCs

The CWC shall perform the following functions to achieve the objectives of the JJ Act, namely:-

- Take cognizance of and receive children produced before the Committee;
- Decide on the matters brought before the Committee;
- Reach out to such children in need of care and protection who are not in a position to be produced before the Committee, being in difficult circumstances. The CWC is empowered to suo-moto take action on behalf of such children;
- Conduct necessary inquiry on all issues relating to and affecting the safety and well being of the child; (Rule 8(15)) through PO, VPO, recognised agencies);
- Direct the Child Welfare Officers or Probation Officers or non-governmental organisations to conduct social inquiry and submit a report to the Committee;
- Ensure necessary care and protection, including

immediate shelter;

- The CWC must call for a medical examination for all children who come before it and also determine the age of the child as per prescribed procedure (see Chapter 5).

- Ensure appropriate rehabilitation and restoration, including passing necessary directions to parents or guardians or fit persons or fit institutions in this regard, in addition to follow-up and coordination with District Child Protection Unit or State Adoption Resource Agency and other agencies;

- Maintain a periodic review and follow up on the progress of every child;

- Direct the Officer-in-charge of children's homes to receive children requiring shelter and care;

- Document and maintain detailed case record along with a case summary of every case dealt by the Committee;

- Provide a child-friendly environment for children. Section 2 (d) of the Model Rules state that 'Child friendly' means any process and interpretation, attitude, environment and treatment, that is humane, considerate and in the interest of the child. This would mean setting up a work culture which would help the child to feel at ease. This would include display of colourful charts and toys or games. It would also include having appropriate seating arrangements so that the sitting room does not look like a court. Availability of a cubicle or partitioned space that would allow for meeting between CWC member and child or parent or other stakeholder where privacy is important. Also the CWC members should ensure that they speak in a befitting manner to the child and avoid harsh language or tone.

- Recommend 'fit institutions' to the State Government for the care and protection of children;

- Declare 'fit person' for an individual child; when it is other than the biological parent.

- Declare a child legally free for adoption.

- Keep information about and take necessary follow-up action in respect of missing children in their jurisdiction; and try to liaison with the missing children's bureau.

- Maintain liaison with the JJ Board in respect of cases needing care and protection from among juveniles who are in conflict with law;

- Visit institution where children are sent for care and protection or adoption on a periodic basis to review the condition of children in institutions, with support of the State Government and suggest necessary action;

- Monitor associations and agencies within their jurisdiction that deal with children in order to check on the exploitation and abuse of children;

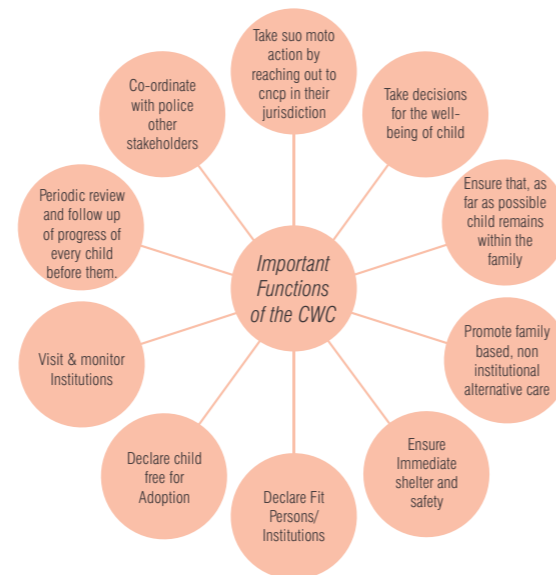
- Co-ordinate with the Police, Labour Department, Department of Social Welfare, Education Department and other government departments and NGOs involved in the care and protection of children with the support of District and State DWCD machinery;

- Liaison and network with the corporate sector and non-governmental organisations for any of the above, including for social inquiry, restoration and rehabilitation, as and when required; For eg in cases of children with multiple disability, the CWC could play a proactive role in ensuring the child's rehabilitation, restoration through various organizations mentioned above.

- Maintain a suggestion box to encourage inputs from children and adults alike and take necessary action.

- Maintain a resource directory which is a ready list of NGOs, shelter homes, hospitals, rehabilitation centres, counselling centres or counsellors, interpreters whose services could be accessed or to which children could be referred to by the members.

Functions of the CWC



Powers of the CWCs

The J. J. Act states that the CWC shall function as a Bench of Magistrates and shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class. (Section 29 (5) of the JJ Act).

1. Section 31 of the JJ Act clearly states that the Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights. Thus we see that the CWC will not have the specific powers conferred upon the JMFC or an MM under Section 29(2) of the CrPC however it does confer certain powers such as:

- Power to direct a police officer to investigate a non-cognisable¹ case or a cognisable² offence of which he has taken cognizance. All such orders issued should be signed by two members of the CWC;

¹Non-Cognisable offence- a police officer cannot arrest without a warrant and cannot investigate without the order of a Magistrate.

²Cognisable offence- a police officer can arrest without a warrant or investigate without the order of a Magistrate.

- To hold investigation or preliminary inquiry on receipt of the report by persons bringing the child before the CWC including a police officer;

- The Committee shall also have the power to compel the production of child in need of care and protection suo moto ie on its own accord.

- It is important to note that even though the CWC members function as a bench of magistrates they usually exercise executive functions. Therefore they have very few powers with respect to criminal aspects. The powers with respect to criminal aspects are:

- Taking evidence of the child, that is the child's statements.

- Issuing of summons or warrants (Elaborated in Chapter 5 of this document).

- Execution of various bonds.

2. The CWC constituted for a district will have the power to deal exclusively with all proceedings under the Act relating to children in need of care and protection found in their jurisdiction. (Section 31 JJ Act).

3. Further the CWC can prohibit the publication in print or visual media of the name, address or school or any other particulars calculated to lead to the identification of the child or publish a picture of any such child except when in its opinion such disclosure would be in the interest of the child. The CWC in such a case must make a note of the reasons for such disclosure. (Section 21 amendment 15 of 2006).

Rights of the CWCs

No suit or legal proceedings shall lie against any officer and the staff appointed in pursuance of this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or order made there under. (Section 67 JJ Act).

Responsibilities of the CWCs

1. Follow up: The CWC should ensure that there is follow up for every child brought before it after the

case has been finally heard and disposed of.

- For the first three months, follow up of the child should be done once every month.

- From 3 months to a year, the follow up should be undertaken at least once in 3 months.

- Further follow up should be done depending upon the situation of the child.

- For those children who are institutionalised, the CWC should continue to monitor the progress of the child's health, education and psycho-social well being at least once in three months (quarterly).

- For those children who are discharged from institutions or are placed in non institutional alternative care, the follow up of the child should be conducted annually for at least 2 years, or depending on the need.

Note 1: The child should be monitored until he/she is in the care programme.

Note 2: If there is any change in the rehabilitation plan of the child it has to be reported to the CWC and review procedure has to follow accordingly.

2. Institutionalisation only as a last resort: The CWC should ensure that there is no order passed for long term institutionalisation such as till the child turns 12 years or 18 years. If the CWC feels that the child needs to be separated from the family for a short duration for the child's care, safety and protection, it may give such an order for the shortest duration which may extend to 1 year. Such an order should be reviewed each year. Before giving such an order, the CWC has to give reasons why the child is being institutionalised and why family based non institutional services were not considered against institutionalisation.

3. Complaints against improper care in Homes: The CWCs are expected to monitor the standards of care and protection in institutions within their jurisdiction. If the CWC find malpractices in relation to the care of children in institutions, such matters should be reported to the Commissioner, Department of Women and Child Development (DWCD) to take immediate action.

4. Facility of a translator: Make sure that an interpreter/translator is present, when child does not speak the same language as the CWC members.

5. Filing FIR: Where required the CWC should ensure that the FIR is filed on behalf of the child properly and on time.

The CWC must direct the police to collect all forms of evidence that can be used in the legal proceedings like documents of employment, attendance musters, photographs of the workplace/ brothel/ place from where child was rescued, statements of children, family members, NGOs and others and any other important evidence. This would help in the process of prosecution.

6. To be present during investigation by the police: When the police is making an inquiry i.e talking to the child either the CWC member should be present or

CWC should ensure that the NGO member or PO is present.

7. Compensation: when a case is filed in the court the CWC may instruct the Public Prosecutor to ask for compensation under Section 357, 357-A of CrPC or applicable Acts for the victim child.

8. Rehabilitation and Reintegration: Preparation of a rehabilitation and reintegration plan for every child. The rehabilitation plan should commence while the child is awaiting a decision and should take into account the child's all round physical, psycho-social and educational rehabilitation.

These and other responsibilities have been detailed in the subsequent sections of this document. Given below are some guidelines for administrative procedures that pertain to the CWC.

The Do's and Dont's for CWCs on some Administrative Procedures

Do's for CWC	Dont's for CWC
The CWC functions as a Bench. The CWC should function out of the assigned sitting place and not from their home or other locations. At least two members should sign the order. Final order should be signed by at least three members. All members present should sign the order passed at that particular sitting.	Avoid keeping seal of the CWC at home. However, as a member you can keep the stamp of "Member, CWC of the District".
Display the days, time and place of sitting of the CWC. The names and telephone numbers of the CWC members should be available in the CWC office.	Avoid calling people at home to collect orders etc.
Roznama to be maintained of every sitting or interaction with the child.	Do not sign the attendance register or muster without attending the CWC.
Confidentiality to be maintained at all times.	For the purpose of final restoration, avoid giving child's custody between sunset and sunrise.

³An FIR: First Information Report filed by the Police should contain the following

- What exactly happened- the facts of the offence
- Sequence of events
- Name and description of offender (if possible)
- Date and time of offence
- Place of offence
- Description of injuries sustained
- Names of witnesses (if any)
- Appropriate section from the IPC and other Acts
- Name and address of the complainant

Do's for CWC	Dont's for CWC
Conduct internal monthly meetings and maintain minutes of all the meetings.	Do not issue verbal orders, they are not valid.
Ask PO or District DWCD Officer to maintain list of professionals like counselors, psychiatrists / residential institution, Home for HIV/ Special children and other non institutional services in the district.	
Ensure that PO or the district officer maintains list of Government departments and the schemes available with them to support the child or her/his family.	Avoid neglecting the order of other CWCs
CWC may seek legal assistance when needed. For a child: A public prosecutor etc For itself: An advocate	Avoid discussing or disclosing the details of the cases to people who are not concerned with the case.
In cases where courts' (Session and High Court) order for release of a child, the CWC after completing the proceedings and mentioning in the case file regarding the release should discharge the child as per the orders of the court.	Avoid encroaching or intervening in the roles of other stakeholders.
Child's photograph can be published only for tracing of his family and should not be misused for media publicity.	Committee cannot order for HIV test of the child without the child's consent and only on the advice of the medical Doctor.
If there is a long holiday, the CWC must make arrangements for operating like a vacation bench, to avoid pendency of matters and unnecessary delays.	
A case summary is to be made which would include interim orders, discussions with the child or any other facts relevant to the case. This would ensure continuity and would save time.	

The Next Chapter describes the General Procedures that have to be followed for any child coming before the CWC.

CHAPTER 3

Checklist of Standard Procedures for all children entering the Juvenile Justice System



1. Production before CWC (S 32 JJ Act, 2000)

The child may be produced by the Superintendent/PO of the Children's Home. This is when the child is already in the reception unit/children's home as the child's first production before the JJ System took place at a time when the CWC was not in sitting.

The child in need of care and protection may be produced by the Police (S32/i), Public Servant (S 32/ii), by voluntary organization (S32/iii), Social workers or concerned citizens (S 32/iv)/or children themselves (S32/v).

Note: It is to be determined by the CWC when the child is brought before it, if the child is a 'child in need of care and protection' and whether the case falls within their jurisdiction. Also, the age of the child is an important factor which would determine the jurisdiction of the CWC.

At the time when the child is brought into the JJ System:

- i. If the CWC is in session, the child will be produced directly before the CWC.
- ii. If the CWC is not in session, then the child:
 - a) will be taken to a place of safety within 24hrs (excluding journey time);
 - b) this child must be produced before the CWC as early as possible (within 24 hours of the child being brought into the system.). No child can be placed in a police station or jail.

The place of safety for a child could be

- Reception center
- Shelter Home, Special Adoption Agency (SAA), Shishugriha or other 'fit' institution;
- Children's home in that district (S.32 (2) Act)

A child cannot be made to stay in a police station or a jail for a temporary period as these are not places of safety for a child.

Application for admission into such a home, needs to be submitted by the accompanying adult/producer of the child to the Superintendent of the Home.

An application for CWC's intervention should state the reasons for which the child is being produced before the CWC, as given under Section 2(d) of the JJ Act or any reason that makes the child vulnerable and in need of care and protection of the state.

This application to the CWC should be either submitted by the PO/Superintendent if the child is being subsequently produced before the CWC after the child had been brought by any of the producers (police, citizen, public servant, parent) to the children's home/place of safety.

If it is the child's first production before the CWC directly by the police or parents or citizen or public the application should be made by the producer to the CWC (Annexure 1).

If the producer of the child is a person other than the parent, the report submitted by the producer of the child must contain the following information:

- The circumstances under which the child came to the producer;
- That the child was not kept in the police lock up or jail, but was in a place of safety; (particularly when the police is the producer).
- Whether the child faced any ill-treatment in the place of safety;
- Whether the child was placed in a place of safety within 24 hours and produced before the CWC at its immediate next sitting.

This information should be verified by the CWC members either by talking to the child or by other means.

In case the child is below 2 yrs; he/she need not be produced before the CWC for the first hearing if the child is ill, hospitalized or not in a position to travel a long distance. The producer is expected to furnish the

medical certificate for the above reason. The producer, is expected to carry the application with the photograph of the child to the CWC. A child below 2 years need not be present every time his/her case comes up for hearing. However, the child must be brought before the CWC as soon as the child is well (at least once) and at the time of the final decision. (Also see Section 4, Unit 1 of this document for detailed procedure for child below 2 years). If the child is not brought before the CWC, then the CWC should make the arrangements to go see the child at the place where he/she is present.

2. Review of application and its purpose by CWC

Steps to be followed:

i. CWC will talk to the child and accompanying adult to ascertain basic facts/information about the child to establish the purpose stated in the application. If the child cannot express himself or herself for several reasons such as being abused or afraid of his/her employer then the members of the CWC should talk to the child in private.

ii. As per the need, the CWC can pass the necessary order for immediate medical or other help. The CWC at this stage need to be observant and tuned into the body language of the child or signs of scars, bruises.

iii. CWC will also speak to the child to ascertain the wishes of the child – for instance, whether the child wants to go back to the family; in keeping the best interest of the child in mind.

iv. This procedure of the first meeting of the CWC with the child will be complete when the CWC gives the initial order.

The next date of review of the case will be noted on the Roznama (which shall ideally be within 15 days of the child being brought before the CWC which will be filed in the Child's File (docket). This record is part of the centralized record of the CWC and the file of the child should be available to CWC when it meets the child for follow up. The date, time and proceedings of the meeting will be recorded.

CWC to issue an initial order

The order could cover the following aspects which are given here as example. Please note, it is not necessary that decisions mentioned below would be required in the case of every child and /or would necessarily happen in the first meeting:

- Admission into Children's Home/ Shelter Home (Section 32 of JJ Act) (Annexure 9)
- Must pass an order to Superintendent / Shelter home for medical examination.⁴
- Must order SJPU/ Police for AVM (Age Verification Medical). (Refer detailed procedure for AVM in Chapter 5. Of this document and refer annexure 7 for the format for AVM).
- If necessary, CWC may Issue Tracing Memo to SJPU and where not available to the Police in case of a missing child (Annexure 8)
- If necessary, the CWC may Issue Summons to Investigation Officer (police) for evidence including FIR in matters of victim children such as child labour, exploitation (physical, sexual).
- If police is recording the evidence, it should be done in the presence of the CWC (noted as 'before me in' the evidence document) and certified by the CWC after signature of the investigation officer. If investigation officer is unable to attend, the CWC can issue another date. (Refer, chapter 5 the section on Summons of this document).

Order to Probation Officer/ Voluntary Probation Officer (Section 33 of the JJ Act) to submit a Home Inquiry Report⁵. Nature of information to be sought for children with different needs – such as abused child, working child, rescued child etc is provided separately under the checklist of each category of children.

⁴The CWC should immediately ensure a medical examination of the child by directing the authorities of the Children's Home to carry out a medical examination through competent medical personnel. In case of rescue operation where there are larger groups of children being produced to the CWC, the CWC can also pass an order for a Medical team to go to the Children's Home to carry out the medical examination. It is important to note however that admission of any child to the Children's home shall not be dependent on medical examination. The CWC should direct the Medical Officer to conduct a detailed physical examination and specifically look for signs of physical and/ or sexual abuse. It is important that the findings of the medical examination are recorded in writing. If needed, the Medical Officer may recommend that the child be kept for further observation or sent for counseling/ gynecological examination.

⁵Home Inquiry Report: The report should include information on whether the address of the child's home and family were traced and verified. It should contain the details of the family's socio-economic situation, the physical condition of the house, the neighborhood environment and the assessment of the psychological climate of the family.

- CWC member will record the meeting with the child and the decision of the CWC in the Roznama, sign it and file it in the child's case. All details must be recorded in the Roznama. (Refer chapter 6 on how to maintain a Roznama).
- CWC to give the 'Next Date', the date on which the CWC will review the case.

3. Inquiry Period/Case Review

S 33 of the JJ Act lays down that the inquiry about the circumstances of the child shall be completed within four months and CWC shall take a decision at the end of this period. In cases where it is possible for the CWC to reach a decision before the completion of four months, the CWC need not wait for the completion of 4 months.

Every child's case must be reviewed individually. This is particularly important in matters of group rescue operations of trafficked children, working children. The CWC will meet the children individually to determine the rehabilitation plan for every child. During the pendency of the case, the case should come up before the CWC for a review at least once in every 15 days in the four months period.

Tasks to be undertaken by Probation Officer (PO) in the inquiry period

Between the first production of the child before the CWC and the first review of the case by the CWC, the following has to be actively initiated and completed by the PO wherever possible, especially if the child is a local resident. (If the child is from another district of the state or from another state or country it is likely to take more time). The CWC needs to be aware of the role played by the PO in the case of the child which includes:

- Establishing a rapport with the child.

⁶The child's case study is the responsibility of the PO and should include the information given by the child about her/his situation and circumstances that had put her/him into vulnerability or exploitation and the history and duration of the vulnerability and exploitation. The child's own views about what She/ he wants protection from, her/his views about the family and other adults in her/his life and what the child wants in the present and future. The case study report should contain the periodic progress of the child on all fronts – physical in terms of health, emotional/psychological and social in terms of how the child has settled, the relationship with other children and peers.

- Family tracing to be initiated.
- Medical examination and AVM where ordered by CWC.
- Case study⁶ of child to be prepared.
- Home visit in situations where the child's family lives in the jurisdiction of the CWC or nearby districts.
- Ascertaining vacancies in other institutions for addressing special needs of the child, by referring to the list of agencies maintained by the District Women and Child Development Officer.

CWC will track the follow up done by the PO and make notings on the case file accordingly.

In circumstances where the Probation Officer is unable to undertake Home Inquiry visits due to other demands on his/her time, to expedite the home inquiry, the CWC can appoint a Voluntary Probation Officer (VPO). When the PO/VPO is absent at the time of hearing of the case the CWC shall record the absence of the PO in the Roznama and give a suitable next date.

CWC shall direct the PO or the person appointed to do the inquiry about the details to be inquired into for the rehabilitation of the child. The inquiry shall be completed within four months or earlier. **If the CWC feels that the inquiry is not complete and is not satisfied with it, the CWC can extend the time of the inquiry process even after the stipulated four month period by giving its reasons in writing.**

Preparation of an individual care plan: The CWC must direct the Probation Officer (PO) or Voluntary Probation Officer (VPO) to prepare an individual care plan, for the immediate, short term and long term rehabilitation of the child. Immediate rehabilitation can begin through education, recreation activities, counseling and medical services. This care plan should be a team effort involving the parents as far as possible.

Category specific/ age specific/ child specific intervention by the PO/Superintendent begins after first 15 days. The specific rehabilitation needs for particular categories of children are addressed in Chapter 4. The CWC must also ensure that the PO/VPO takes into account the wishes of the child that are in the best interest of the child while determining the rehabilitation plan. The CWC would need to follow up with the PO/VPO to ensure that timely action by PO/VPO is taken as per plan.

Short term care plans and long term care plans should be formulated for the development of the child as per the child's needs, and with the child's parents if they are present.

4. Decision related procedures

Considerations that will inform the decision making of the CWC: The final decision is based on the detailed home inquiry report that makes an assessment of the specific circumstances of the child and his/her family. CWC must make sure that children are released to parents or caregivers after ascertaining the capacities of the parents. Some parents may have been exploiters of the child, eg. they may have abused the child or sold the child to traffickers.

Dealing with the cases that come before the CWC can be emotionally challenging for the CWC member as it often brings out the horrifying and traumatic events or violations that the child has suffered, the child's early exposure to abuse/ exploitation and sometimes circumstances such as imminent death faced by the child due to a terminal illness. In these circumstances the CWC member is expected to be deeply sensitive and empathetic to the child's situation and take a decision that is rational and in the child's interest both in the immediate and long term future.

Repatriation and Reintegration: In terms of the Care Plan, after necessary investigation, the CWC would first need to determine whether the child can be reintegrated with his/her biological family or not. This would depend on whether the child is willing to go back to his/her family and the circumstances within the family that determine whether the family is a safe

place for the child.

The process of integration of the child with the family would differ based on whether the child is from within the district of jurisdiction of CWC, or from another district of the state or another state or another country. The procedures of transfer of a child for reintegration are explained in Chapter 5 of this document. If the child cannot be repatriated, the CWC must initiate short and long term rehabilitation in its jurisdiction. A case summary with a clear time line needs to be prepared.

The decision for rehabilitation of a child could range from non-institutional alternate care services and other referral services such as counseling, adoption, foster care, sponsorship, legal aid to the family. Institutional care will be selected as a last resort. **The decision for institutionalization must be for the shortest period. The CWC must not pass any order that commits the child to long term institutional life up to 12 years or 18 years.** The CWC will take a periodic review and follow especially for those children who are placed in institutional care but also children placed in non-institutional alternatives/ interim care to review the progress and development of the child. (For details on Follow up see Section 2 of this document.)

5. Different records to be maintained by CWC and Home

CWC must maintain a separate case file for each child containing the original application and all original papers, Roznamas, decision/order related papers etc. This case file will remain in the centralized records of the CWC as a confidential document. Once admitted into a Home, a new case file will be opened for the child which will belong to the Home and will remain in the filing system of the Home under the Superintendent. The information to be noted in the Roznama and various registers of the CWC are explained in Chapter 6.

6. Admission related procedures to be followed by Children's Home

CWC's role is to oversee that the following procedures are followed by the Children's Homes.

- Admittance of a child to Children's Home is mandatory (24x7) even when CWC is not in session.
- Medical examination of the child is not a prerequisite to admission. In situations where child has faced a medical emergency such as accidents, injury, illness, the medical examination must precede the admission of the child. In any case, the CWC must order for every child's medical examination.
- Essential information about the child- name, age, sex, address, details about parents, etc should be entered by the Superintendent in the admission register. The superintendent of the home must record the belongings of the child and keep them in safe custody. The record/list of belongings of the child must be presented to the CWC during the production of the child. The child should be given a new personal kit containing new clothes, undergarments, bedding and things for personal use including tooth paste, brush, soap, hair oil comb, sanitary towels etc as prescribed in the Rules at the time of admission into a Reception Unit / Home.
- CWC to direct and ensure that the staff of the home or in homes where children's reception committee have been set up; provide an orientation to the child about the nature of the home, the services available at the home, her/his rights, complaint redressal mechanisms and the procedures the child will go through with the CWC. The Superintendent must keep a directory of services and resources available in the district so that the child receives these services as directed by the CWC, if they are not available in the home.

7. Convergence and networking with other stakeholders

In the process of rescue, interim care, rehabilitation and reintegration the child needs to have the support of many other stakeholders that are outside the JJ System. The CWC can call upon these stakeholders to play a role in fulfillment of the needs of the child and for the child's protection and ask the District WCD Officer to facilitate the coordination and convergence with other State Department and civil society bodies in the interest of children. Coordination is necessary with the police, health department, law and judiciary, labour department, media and NGOs.

Coordination with the Police, particularly SJPU is required for

- FIR/filing complaint
- Rescue of a child
- Evidence recording, verification of documents
- Property recovery/ recovery of child / sibling
- Tracing of family
- Escorting child (to hospital for AVM, tracing of family, telecasting of photograph, intra -state, inter-state and cross border repatriation)
- Co-ordination with police on matters in Sessions Court, High Court, and other courts where the child's matter is in progress.

Coordination with Non Governmental/ Voluntary Organizations for

- For filing complaint
- Assistance with tracing of family
- Social investigation
- Placement of the child

- For professional services (psycho-social counseling and services, education counseling, legal counseling and legal aid, education/ vocational training.)
- Pre placement visit to institutions, training/ education/vocational centres.
- Assist police with inter-intra state training
- Follow up of the cases for strengthening family and promoting child care.

Coordination with Health Department for Medical Examination, Age verification, hospitalization and special treatment where required.

Coordination with legal experts and the Judiciary in understanding of the case from legal point of view, legal assistance with cases in courts.

Coordination with the Media to sensitize civil society, share good practices and help in telecasting of photographs for tracing child/ family and giving adverse publicity to those exploiting children or violating their rights.



This Section deals with the specific procedures and steps to be followed by the CWC members while making a decision in relation to the following categories of children. The details of the procedures are put in separate units as under:

- Unit 1 : Surrendered child
- Unit 2 : Abandoned child and missing child
- Unit 3 : Procedure to be followed for declaring a child free for adoption
- Unit 4 : Child of parents considered unfit for their care
- Unit 5 : Child marriage
- Unit 6 : Working child
- Unit 7 : Child beggar
- Unit 8 : Street child
- Unit 9 : Child trafficked for sexual exploitation
- Unit 10 : Child who is victim of abuse
- Unit 11 : Child who is mentally or physically challenged
- Unit 12 : Child affected by HIV/AIDS.

It is important to remember that the above categories may overlap. For example: A working child would most likely have faced abuse. This child labourer, who

has also faced abuse may have been trafficked and also rescued by the police or labour department and brought before the CWC. Therefore, the CWC will have to examine the complexities and multiple dimensions of each case presented before it. When the child's situation cuts across different categories, the CWC has to examine and apply the procedures that are applicable to the different categories the child falls into.

The CWCs role is to ensure full protection of the child and for this reason it should work in convergence with other Systems (Police, Labour Department etc) and call upon them to make use of the provisions under other specific legislations (CLPRA, ITPC, CrPc, IPC) to offer greater protection to children. It is for this reason that other relevant specific laws have been mentioned under the different units covering the different categories of children in need of care and protection.

This Chapter provides a checklist of special points to be considered and procedures to be followed while deciding upon the case of a child who is a victim of certain circumstances that makes her/him a child in need of care and protection. However, the decision in relation to each child will differ, depending on the unique situation of the child.



Unit 1

Standard Operating Procedures for
Surrendered Child

A surrendered child is a child, who in the opinion of the Committee, is “given up or given away” on account of physical, emotional and social factors beyond the control of the biological parent or guardian⁷

A surrendered child, is a child who has been found to be so after due process of inquiry by the CWC and in order to be declared free for adoption, a surrendered child shall be any of the following:

- born as a consequence of non-consensual relationship;
- born of an unwed mother or out of wedlock;
- a child in whose case one of the biological parents is dead and the living parent is incapacitated to take care;
- a child where the parents or guardians are compelled to relinquish him due to physical, emotional and social factors beyond their control⁸

In case the child to be surrendered is a child of an adult / adult couple, the following procedure shall apply:

If the biological mother / biological parents wants to surrender her/their child, the mother/ parents comes directly to the CWC or through any agency.

The CWC will interview the biological mother/ parents and assess the reasons why the mother/parents want to give away the child. If the reason for wanting to surrender the child is due to a crisis that can be overcome through other forms of non institutional support such as foster care, sponsorship or short term institutional care, or other schemes of the government, the CWC should provide this information. If it is required, the CWC may refer her / them to an agency for professional counseling to strengthen their coping capacities to deal with the crisis that they are facing. It may also be that parents are simply not willing to take responsibility of the child. Here too counseling will prove useful. The CWC should not rush into a decision, but use counseling to support the child to remain within the biological

⁷ JJ Model Rules 2(q)

⁸ (The Model Rules Chapter V 4(a))

family. The detailed assessment report by the counselor should be taken on record and considered before final decision.

The CWC should make all efforts to keep the child in the family and record the same if the CWC is convinced that the parent/couple is not in a position to take care for the child, CWC can discuss with her/them the decision of surrendering the child and placing the child for adoption, foster care or other alternate care. The entire procedure of declaring the child free for adoption is also explained to them. (As detailed in Unit 3).

In case a married couple is surrendering the child, the marriage certificate of the biological parents and birth certificates of other children have to be submitted. These are collected to verify the exact status of the family. The document of surrender must be signed by the father and mother of the child. In the absence of signature of one parent, the document will be considered invalid.

If it is a widow/widower who wants to surrender the child then he/she should get the death certificate proving the demise of the spouse. In the absence of the death certificate the applicant or a declaration from the Panchayat about the death of the spouse.

Procedure of signing the Document of Surrender (DoS)

A prior appointment of the CWC should be taken, so that one member is present to attend the procedure of deed of surrender. The interim order passed by the member present, must be ratified in the next sitting.

In case the child to be surrendered is a child of a minor biological mother (below 18 years), the following procedure shall apply:

If the child who is to be surrendered is a child of a minor, then the parents/guardian of the minor are to be involved in the process of surrender. The surrender deed is jointly executed by the parent and the minor mother. If there is a dispute about surrendering the child between the parents and the minor mother, the decision of the minor mother will prevail. If however, the CWC feels that the child is in danger for e.g the minor mother would abandon the child etc, then the CWC can deny the custody of the child to the minor

mother. The CWC will order the child to be placed in Specialised Adoption Agency until such time that the CWC is convinced that the mother is in a position to take care of the child. In this matter, the DoS cannot be executed under any circumstances.

Since institutionalization is to be the last resort, options must be given to the mother so that she would be able to keep the child. For e.g. the minor mother maybe told of places that she could stay and funds that could be made available by which she could take care of the child and herself.

CWC interviews the minor who is going to surrender the child to understand the social circumstances in which the minor became pregnant, verify the sex of the child to be surrendered and explore if the minor will talk about whose child it is. This inquiry will help CWC assess the situation and take steps if there were other violations against the minor, who has come to surrender her child. All the details revealed by the minor are to be kept confidential, even from her parents.

The minor child should be given full information about the process of surrender including that her child would be placed in a Licensed Adoption and Adoption Agency (LAPA)/Specialised Adoption Agency (SAA). That she is free to claim her child within a period of 60 days, which is a period of reconciliation. That after 60 days she would have no rights over her child and the process of surrender would be complete and final.

After speaking to the minor, her parents and guardians and verifying the circumstances the CWC proceeds with the process of surrender by giving an order on the surrender deed. The surrender deed is prepared on a Rs. 100.00 Stamp Paper.

The Document of Surrender is signed by the parents/guardians. The minor biological mother should sign the Document of Surrender stating that the document has been explained to her and that she is giving her consent to the surrender. The NGO/ social activist who has brought the case to the CWC is also required to sign as witness.

If for any reason the procedure towards the surrender

deed cannot be completed as detailed above, the procedure for abandoned child should be initiated.

Final Order

The order for surrender by CWC is noted at the end of the surrender deed document. It must contain the following facts and documents:

1. Original surrender document
2. Interview record of the parent by CWC
3. Statement of the biological parent/s for surrendering the child.
4. Affidavit of the witness (parent/s NGO/ guardian).
5. Assessment report.
6. Probation Officer's Report where available.

Details of when the child was produced before the CWC, that the biological mother was interviewed and explained the implications of surrendering her child, the documents were verified (such as hospital card/birth certificate of the child, age proof of the minor mother, proof of residence of the mother –ration card, electricity bill, election card and other documents to be listed and attached) and that the vacancy letter of the adoption placement agency was received.

The order must state that due to completion of all these processes, the child was given an admission order to the RIPA / SAA and the NGO (adoption agency) is asked to commence the process for the child to be declared free for adoption.

The LAPA / RIPA and SAA shall wait for completion of 60 days reconsideration time given to the biological parent or parents after surrender.

If within 60 days, the mother comes back to claim the child, the CWC must carefully examine the reasons why the minor mother has changed her mind and whether there are vested interests that are at play, compelling her to take back the child. (It could be persons involved in illegal sale of children etc). The CWC should order the PO to enquire into all facts of the case especially verifying if the parent/s is capable

of providing for the adequate care of the child. The child can then be handed over, after signing a bond by all parties (minor mother, her parent/guardians and NGO involved at the time of surrender of the child). The bond serves as a guarantee that the child will be cared for.

In such cases, the CWC should maintain a **follow up** with the minor mother, and child and the family of the biological mother, initially once in a month for three months and then once every three months for a year, then once a year for two years.

If the mother / parents do not reconsider the decision to surrender the child, the CWC shall declare the surrendered child legally free for adoption in Form XIII (See procedures for declaring a child legally free for adoption, under Unit 3 of this Chapter and see Annexure 2 for Order). The LAPA and SAA produces the child. The CWC examines the child and reviews the progress of the child and declares the child legally free for adoption.

The CWC is not involved in the actual process of adoption. Till further process of adoption the child will remain in the adoption placement agency in safe custody. When the child is adopted, the adoption placement agency will inform the CWC the details of the adoption. If the child is not adopted within a year of declaring the child legally fit for adoption, the CWC can transfer the child to another placement agency or to the LAPA in the nearest district. **Regular reports of the child are to be provided until the child is adopted.**

If after declaring child free for adoption, the parent claims custody of the child, the CWC shall assess its decision, in the best interest of the child.



Unit 2

Standard Operating Procedures for
Abandoned Child and Missing Child

Abandoned Child

An abandoned child is a child found without any adult accompanying him/her, most of the times at places like railway stations, in or around dustbins, roadside etc. which could indicate the fact that parent(s)/guardians have deliberately abandoned the child.

Missing Child

A child found without any adult accompanying him/her or a child unable to express verbally or non-verbally that he/she is missing. A missing child is one where the child cannot explain where she/he stays and the parents cannot be located. Such a child should be given immediate admission into a Children's Home that caters to children of her/his age.

Producer of abandoned or missing children

The abandoned child is usually produced in front of the CWC by the police. It is often that the abandoned child is found by a concerned citizen, brought by a hospital authority, or a representative of a home/NGO. In all such cases, the police must be informed. The CWC must insist that such children come through the police. This is because the child may be a missing child or a lost child and family tracing can be facilitated through the police.

Procedure to be followed when an abandoned child or a missing child is produced before the Child Welfare Committee: In addition to the standard procedures to be followed as laid out in Chapter 3, the following Special Procedures have to be followed whenever a missing or abandoned child is produced before the CWC.

Verify if FIR is filed and order for family tracing is given to police

The child should be produced before CWC within 24 hours (JJ Act 32-1), unless child is unwell or hospitalised, in which case the CWC should be duly informed. The CWC needs to first verify if an FIR or missing complaint exists for the child and that the Complaint/ Noting in Police diary has been completed with the local police station (within 24 hrs.) along with

a photograph of the child. If this has not been done, the CWC shall order the police to do so.

To help trace the family of the child, wireless messages should be sent to all the police stations, missing children's bureau etc. Photo must be published in at least one leading local and national newspaper. It must be published in the home state of the child. The CWC also should order a TVM – Television Order Memo for police to advertise the found child over the TV mass media (in local language). Announcements should immediately be made at the place where child has been located e.g. at railway stations as well as in religious places like temples, mosques etc. This should be done urgently, within a week, as the family is likely to be looking for the child, especially if the child is missing.

The CWC gives the next date within 15 days of the child being produced before it during which period the PO is to execute the above instructions and show proof of TVM and photo publication in the newspaper. In the meanwhile, the child should be placed in a place of safety.

Admit child in place of safety The child should be admitted to the nearest children's home. In case the child is able to indicate his/her place of residence/some clue about the place of residence or parents then:

- CWC can issue an order to SJPU / POs / NGOs /to verify the information.
- CWC can issue order to SJPU/PO/NGO to escort the child up to his place of residence and to verify the information.

If the child has a claimant/s

1. During the process of inquiry by PO and police, if the parents are traced, the CWC shall give summons to them to appear before the CWC within a week of the delivery of summons. The CWC will try and understand if the child was missing or if the child had been abandoned. If a Missing Complaint had been made by the parents with the police, the child should be handed over to the parent without delay.

2. If the child was abandoned, the CWC will try and understand the causes for which the child was abandoned and assess whether the parents are fit to take responsibility of the child and if so, the parents/extended family will be counseled to assume responsibility of the child.

3. If they wish to surrender the child, they will have to execute a proper surrender document consenting for the child's adoption/guardianship /suitable rehabilitation. (Follow procedures outlined in Unit 1 – Surrendered Child).

If the child below 12 years has been willfully abandoned by his/her parents, an FIR may be registered against the parents for offence u/s 317 of the IPC.

Documents required from the claimants of child:

Whoever comes to claim the custody of the child should have following documents:

- Documentary evidence such as birth certificate of the child, his/her school leaving certificate stating the claimants as parents/guardians and family photograph if available.
- If the missing complaint has been reported at the local police station, missing complaint number and the letter from police station stating the complaint should be received. This cannot be replaced by an NOC from the police.
- Police report verifying, that the claimant is of the parent/guardian of the child and Police have no objection to the handover of the child to the claimants.
- CWC to cross question the parents and verify using different means to establish the veracity of the parents such as a telephonic call to the sarpanch of the village etc.

Restoring of the child to parent/ guardians and discharge from the institution

Based on the documents produced by the claimants,

the report of the police or report of the PO recommending restoration of the child to the claimants, the CWC should make its own assessment of whether the parents/guardians are fit to look after the child and then pass an order that they find the parents/guardian fit and then handover the child to the parents/guardians (JJ Act 39-3(a)). CWC can handover the child to the parents/ relatives/guardians after signing a bond that clarifies responsibility of the parent (See Chapter 5 of this document for details on Bond).

Refusing custody to parents/claimants

If through questioning, the CWC establishes that there is substantial evidence indicating that the parents/claimants are not fit individuals (as per the definition of the unfit parents stated in Unit 4 of this Chapter) then, in the best interest of the child, the CWC can admit the child in the Children's Home for not more than 1 year. The CWC should clearly indicate the reasons for the decision. The CWC should recommend counseling or other support services for the parents so that their capacities are enhanced to take care of the child and the child can be reintegrated with the family in the shortest possible time.

The CWC should review the decision of institutionalization of the child at least once in 6 months, if required the CWC may extend the period of institutionalization. The CWC should allow frequent interactions with the child's family which might lead to the integration of the child into the family in future. The CWC should also explore options of scholarship/kinship that could be made available for the child thus making institutionalization the last resort.

If there is no claimant (abandoned child)

If parent/parents fail to respond to the notice issued in the regional and national newspaper and the TV announcements or are not located through the police or NGO missing person links, the CWC may come to the conclusion that the child was abandoned by the parents.

Declaration of the child legally free for Adoption

After due process of inquiry, and once the CWC is satisfied that all possible efforts have been made to locate the parents/guardians, the CWC can declare that the child is legally free for adoption, and place child in a Childrens Home/fit institution which is licensed for Adoption LAPA, or SAA. (Refer procedures for adoption Unit 3 of this Chapter and see Annexure 3 for Order).

Repatriation for a missing child from another State or Country

If the child's residence is in a different state/country then, after verification of the information given by the child, the Commissioner's Office will be informed of the details given by the child. CWC can send the child to the CWC of the district nearest to the child's home in the other state, with the permission of the Commissionerate's Office DWCD. The procedures related to transfer will have to be followed. (See Transfer in Chapter 5 of this document).

Procedure to be followed for a child missing/ runaway from an institution

If a child is missing or has runaway from an institution, the institution shall report to the CWC and the CWC shall institute an inquiry into the matter and as part of the inquiry take the statements of the institution staff and other children to understand the circumstances, reasons and manner of the child's escape from the institution and immediately report the matter to the Police/ District Officer/Commissioner, DWCD and hold an enquiry/ investigation. The CWC will also ensure that the matter has been reported to the police. In case the child has escaped from an institution and the child is found or returns back, the CWC shall be informed and the Superintendent shall send a report of the return of the child to the Commissioner, DWCD.



Unit 3

Standard Operating Procedures for Declaring a Child Legally Free for Adoption

The best interest of the child without a family is served by providing the child an opportunity to be placed with a family within the child's own socio-cultural milieu. Due consideration is to be given to the child's upbringing and to his/her ethnic, religious, cultural and linguistic background while doing placement for his/her adoption. Inter-country adoption is therefore, to be seen as an option to be considered only when in-country adoption is not possible.

Definition

Orphan: According to Rule 2(k) of the Model Rules under the Juvenile Justice Act, 2000 amended in 2006 "Orphan" means a child who is "without parents or willing and capable legal or natural guardian"

Adoption: The JJ Act Sec 2(aa) defines adoption as the process through which the adopted child is permanently separated from his/ her biological parents and becomes the legitimate child of his/her adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.

Special procedures for declaring a child legally free for adoption

Any producer as per section 32 of the JJ Act, shall produce all orphaned, abandoned and children whose parents wish to surrender them before the Committee. The children are brought before the CWC to undertake and complete the inquiry procedures for the child to be declared legally free for adoption.

Specialized Adoption Agencies (SAA) /Licensed Adoption Placement Agencies (LAPAs) are recognized and licensed by the government for adoption. Children below 2 years need not be produced before the CWC immediately; instead the Licensed Adoption Placement Agency/SAA/Children's Home can present the relevant documents (written report with photograph) to the CWC within 24 hours excluding travel time. However, it is important that the child be produced before the Committee during the period of inquiry and definitely at the time of declaring the child legally free for adoption. A child becomes eligible for adoption, when the committee has completed its inquiry and declares the child legally

free for adoption. (Please read Unit 1 on Surrendered Child and Unit 2 on Abandoned Child for detailed procedure).

Procedure to be followed by CWC

For any child who is legally free to be adopted and is below 18 years, CWC to ensure that such children are immediately placed in children's home with a license to undertake adoption, SAA.

No surrendered child shall be offered for adoption

1. Till the two months period for reconsideration by the parent is over in the case of surrendered children, and
2. Without her/his consent in the case of a child who can understand and express her/his consent.

No abandoned child shall be offered for adoption till all efforts to find the family of the child and the reconciliation with the family has failed.

Issues relating to transfer

An orphan, abandoned or surrendered child shall be placed as far as possible with the nearest LAPA/SAA by an order of the CWC. All transfers shall be carried out as per S. 57 of the JJ Act 2006.

SAA/LAPA may transfer a child to another of its branch within the State provided the branch to which the child is being transferred has an independent license and the CWC has declared the child free for adoption and issued a transfer order. It is the role of the CWC to review whether adequate efforts have been made for adoption of the child by that branch, or to find a suitable adoption agency within the district, prior to issuing such a transfer order.

If there are older children who have not been adopted – (particularly when the child declared legally free for adoption by the CWC is above 6 years and the agency where the child is placed has a license to keep children for adoption up to 6 years of age only), the CWC should take stock of the efforts made by that agency, and transfer such a child to another home with a license for adoption for older children so as to address the age specific rehabilitation needs of the

child. Likewise for older children and special needs children, if Indian adoptive parents have not been found, it is necessary that such children are placed in Recognised International Placement Agency (RIPA) that is licensed for inter-country adoption.

Transfer of the child from one institution to another, should be accompanied by available documents pertaining to his or her admission, preliminary case history, documentary evidence to prove that the child is legally free for adoption, and a permission letter for transfer of the child. The SAA/LAPA/RIPA/Children's Home with license for adoption shall verify all the

facts before accepting the child, as it is legally responsible for the placement of the child. If the child's parents are deceased, and the child has been placed by the child's guardian or family member in the JJ System for care and protection through the CWC, it must be noted that such a child is not an orphan (see definition above). He/she cannot be declared legally free for adoption, until the relative or guardian surrenders the child or gives their consent to declare the child legally free for adoption.



Unit 4

Standard Operating Procedures for
Children of Parents Considered Unfit
for their Care

While the family is considered the best place for a child to grow up in, there may be certain conditions which make the family an unsuitable place. In such situations, the child may require alternative care arrangements.

Who Is An Unfit Parent?

Either the CWC can rule the parents unfit or the parents themselves may express their inability to look after the child.

The family cannot be termed as permanently unfit. They are “currently” unfit, which means at the time that they approach the CWC for support to care and protect their child, they are in a phase of life that is crisis ridden and where internal or external circumstances has lowered their capacity to take care of their child. This aspect needs to be ascertained and reviewed by the CWC through their interviews with the parents and the home inquiry report of the PO. The JJ Act upholds, that if parents are given some support by way of counseling or an opportunity to earn a livelihood if they are unemployed or linked with an appropriate scheme of the government that helps fulfill a financial need, or medical treatment they could become fit and in a position to once again care for their child.

The attempt of the CWC should therefore be to refer them to all services necessary, so that the parents are rendered fit in the shortest possible period. The access to services such legal aid, rehabilitation services for parents, medical treatment, counseling, sponsorship etc will have to be facilitated by the District Women and Child Development Officer. The reasons why the parents are found as unfit needs to be clearly documented by the CWC. It is to be noted that mental illness automatically would not make the parent unfit. The parent if rendered incapacitated due to the illness could be declared unfit until the period of incapacitation.

CWC finding the parents to be unfit

A parent / parents may be found to be unfit by the CWC on the following grounds such as:

1. Physical or sexual abuse of the child by the parent i.e. if a parent neglects or abuses or inflicts violence on the child or exploits his or her child.
2. Parents found to be drug users.
3. Parents who are terminally ill and are unable to take care of the child.
4. Parents suffering from severe mental illness. When parents are mentally challenged – they have to be declared so. But the CWC cannot do this. It is only the district court which can declare a person mentally unfit.
5. Parents accused of child abuse or rape.
6. Parents serving prison term (could be for short term or life imprisonment. CWC to review this.)

In the above circumstances, where the family situation is dangerous or harmful for the child or where the family, because of their situation, is not in a position to take care of the child, the CWC can declare the family unfit for the care and protection of the child. The CWC will reach this decision only after the detailed inquiry process by the PO.

If there is a situation where one of the parents is unfit then the CWC should endeavor to entrust the child with the other parent/kin and keep the child in the family if it is feasible to do so. For e.g. if the father physically abuses the child, then the mother of the child is to be approached first and asked if she can keep the child and yet safeguard him/her against the abuse. If the mother cannot and if the grand parents are willing to keep the child the CWC could pass an order giving the child to the grand parents. This is to ensure the institutionalization is looked upon as the last resort.

Note: In an unfit family of the child, if there are other siblings as well, the CWC should take a note of the same, and if all of them have to be institutionalized, the CWC should ensure that all the siblings live together. Also in some circumstances the child could be restored back to the family if the unfit parents could be kept under supervision to ensure that no harm of any kind is cause to the child.

Parents expressing inability to care for the child

Parents on their own initiative may express their inability to look after their child and request the CWC to admit the child in the Children's Home. A few examples of circumstances which may lead to such a situation are when the single mother is a domestic help staying with the employers or the single mother has odd duty hours, or due to trauma caused by a serious crisis such as death or desertion the mother feels incapable of taking responsibility of the child. In such cases the parent/s may feel the need to hand over their child, but the CWC can convince the parents that the crisis is a passing phase in their life and they need not consider themselves unfit to care for their child. Through non institutional, family based alternatives like day care, counseling, placement of child in the care of a close relative the child can be prevented from being institutionalized. Please note the above examples are not exhaustive.

If parents come with reasons of child being uncontrollable that results in them not being able to take care of the child, lack of education facilities in the neighborhood, etc, the CWC should not entertain such cases and should refer the parents for counseling/ alternative care so that they take responsibility for the care of their children and the child can continue to stay in the family environment. CWC may ask the child for his/her opinion in the matter and take a decision accordingly.

Specific procedure to be followed in case the parents are considered unfit

In case a child is produced to the CWC by the parent themselves: The parents should first make an application to the CWC expressing the reasons why they are not able to care for the child, thus requesting admission for their child to the Children's Home. When the CWC receives such an application, it should fix a meeting with the parents to explain to them the importance of a family and home in a child's life and that institutionalization should be the last resort. The option of placing the child with a relative may be explored by the CWC where appropriate.

In case of a child produced by anybody other than the parent himself: The CWC shall at first try to evaluate the situation and ask for reasons from the producer (relatives, NGO, concerned citizen, police etc.) that brought the child whether it thinks that the parents are unfit and the child needs to be institutionalized. The CWC should meet the parents in order to get to the root of the matter.

Ordering a Home Enquiry Report

The CWC should direct the PO to conduct a home enquiry based on the application by the parent or the report submitted by the NGO or the reason given by the relative or concerned citizen. The CWC shall also speak to the child in order to consider the wishes of the child.

Passing the Order

Based on the above, the CWC shall pass the necessary orders keeping in mind the principle of family responsibility and the fact that institutionalization of the child should be the last resort. For this reason the CWC can refer the case of such a child for Bal Sangopan Yojana / any other scheme (national level) or other non institutional services that will address the needs of the child as well as strengthen the family's capacity to take care of the child. If the CWC feels that the child is in need of protection and care and that there is no alternative (other support system, foster care etc.) than to keep him or her in an institution, then the CWC can pass an order for admitting the child into the Children's Home. The child should not be admitted in the Children's Home for more than a year during which period the family is strengthened with the help of other Government schemes or NGO programmes, to once again become fit for the care of their child. The CWC can pass an order to insist that parents visit the child in the institution at least once a month, so as to maintain a close relationship with the child. The PO/NGO/ has to be directed to bring to the CWC's notice if parents violate this order.

Follow up

The CWC must review the case every year by asking the PO to undertake home visit and prepare a Home Enquiry Report. The CWC can change the decision of institutionalization and send the child back to the family depending on the family circumstances, or withdraw the child from the non institutional alternative care services if the family is once again empowered to take care of the child.



Unit 5

Standard Operating Procedures on
Child Marriage

Introduction

Child marriage represents one of the worst forms of violence against any child, depriving her/ him of a childhood, and pushing her/ him into a phase of life for which they are not ready. It also deprives the child of all avenues for her/his own development such as education, health, choice in life decisions etc. Such a child is a child in need of care and protection. Even though Section 2d of the J.J. Act does not list child marriage as a specific category of child in need of care and protection, since child marriage results in abuse and exploitation as described above, victims of child marriage are also considered as children in need of care and protection by many CWCs.

Definition

Sec 2 of the Prohibition of Child Marriage Act 2006, defines child marriage as a marriage “where either of the contracting parties is a child.” It is to be noted that for boys the age of marriage is 21 years and for girls it is 18 years.

Specific legislation pertaining to child marriage

Prohibition of Child Marriage Act 2006: All offences under this Act are cognizable and non- bailable. The Act allows for injunctions or orders to stop a marriage. To prohibit child marriages, the Act allows for Child Marriage Prohibition Officers to be appointed by the State Governments whose duty it is to prevent and prosecute solemnization of child marriages. The Act also gives the District Magistrate powers to stop and prevent solemnization of mass child marriages by employing appropriate measures and minimum police force apart from giving him all the powers of the Child Marriage Prohibition Officer.

Under the Act, a marriage is 'void' that is invalid if the child has been forced, compelled, enticed or kidnapped and the marriage has been carried out against her/his consent. Even if these circumstances were not prevalent in the case of a child's marriage, but the child wishes to annul the marriage, she can do so by approaching the appropriate court and the marriage is termed as a voidable marriage. As elaborated in the subsequent paragraphs, the CWC

can use provisions of this Act for the protection of the child.

Specific Procedure to be adopted by CWC when a case of child marriage is brought before the CWC: In addition to the Standard procedures to be followed as laid out in Chapter 3 the following Special Procedures have to be followed whenever a case of child marriage is produced before the CWC.

The CWC will pursue all cases of child marriage from the standpoint of the care and protection issues facing the child, keeping in mind the best interests of the child and her protection within and outside the marriage (matters of maintenance and custody of her child).

The rehabilitation of a child rescued from this offence also falls into the domain of the JJ System. If the child does not have anyone to file a case in the Family Court (that addresses matters under the Prohibition of Child Marriage Act) on her behalf, the CWC can call for a legal counsel to be arranged for her.

Source of information to CWC on a child marriage

The CWC could be intimated about a child whose marriage is about to happen through the Child Marriage Prohibition Officer / Gram Sevak who is declared as a Child Marriage Prohibition Officer and who has stopped a ceremony of marriage of a child. The CWC on its own can come to know of such a marriage through a police officer or Special Juvenile Police Unit or a designated police officer, Voluntary organization, a public spirited citizen, through media reports or by the child himself / herself.

If the child marriage is about to take place

If the marriage of a child is about to happen, the first duty of the CWC is to initiate the action to stop the marriage. The CWC could direct the CMPO/Gram Sevak who has the powers of a police officer or the District Magistrate to stop the marriage. CWC also needs to ensure through an order to the appropriate authorities under the Prohibition of Child Marriage Act 2006, that the perpetrators get punished and the applicable penalties are collected from them.

For a boy who is above 18 years but below 21 years, the CWC should inform the police. An application with Judicial Magistrate of First Class or Metropolitan Magistrate may also be filed to stop the marriage.

In cases where the marriage is taking place outside the CWC's jurisdiction, the CWC should take assistance of the CWC which has jurisdiction over the place to stop the marriage. Example: CWC Thane was informed about a marriage of minor who is a resident of Thane, taking place in Beed district. CWC Thane informed the local police about the marriage and through them contacted CWC Beed and stopped the marriage.

If the marriage has already taken place

In case the marriage has already taken place, then the first step of the CWC is to determine whether the person who is a party to marriage, is a child as defined under S.2 (k) of JJ Act. CWC can order for verification of age as per Sec. 49 of the JJ Act.

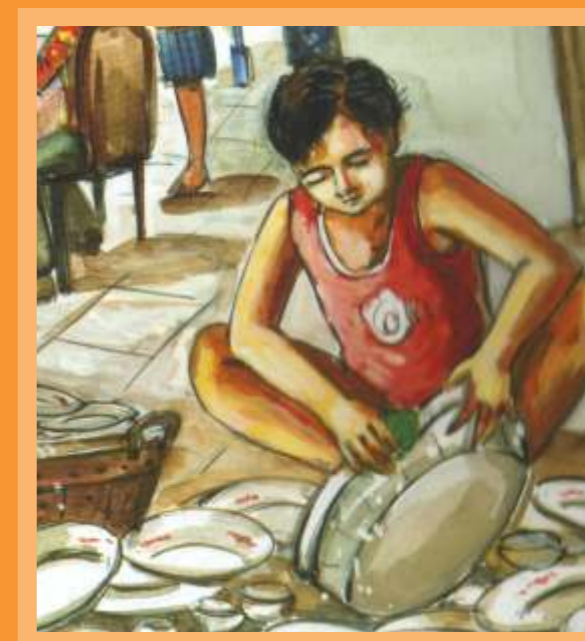
The CWC then needs to determine whether the marriage in question took place or not. For determining both of the above, the CWC should rely on the findings of the police, report of Child Marriage Prohibition Officer and discussions with the child. The CWC can check with the child if she was compelled into the marriage and give her information about her rights under the Prohibition of Child Marriage Act to call for the marriage to be voidable and her right to maintenance and action against the party that was involved.

Custody of the child

After determining that the person in the marriage is a child i.e below 18 years and in need of care and protection, the CWC should take custody of the child, especially where the marriage is void. In a voidable marriage, especially where the child may be almost 18 years, the CWC through the PO may call the parents who should be counseled and through community processes with the involvement of the NGOs and panchayat, and through the signing of a bond, the families can be brought to agree that the child will stay with her family till she completes the age of 18 years.

Procedures in Family Court

While the other legal procedures in relation to a case of child marriage or custody of children born out of such marriages will take place simultaneously in the Family Court or the sessions court/High Court, the CWC will focus on the rehabilitation plan of the child rescued from marriage or the child out of such a marriage. Please note that the CWC cannot interfere with the proceedings/processes of any court.



Unit 6

Standard Operating Procedures for
Working Child

The Juvenile Justice Act, 2000 talks of the working child in its definition of a child needing care and protection (Sec 2d).

Specific Legislation relating to child labour

The Child Labour (Prohibition and Regulation) Act, 1986 (CLPRA) is the central legislation governing child labour in India. The Department of Labour is concerned with the enforcement of this Act. The Act bans the employment of children below 14 years in specified 'hazardous' occupations or processes and regulates the working conditions of children in other areas of employment.

How can Child Labour (Prohibition and Regulation) Act be used by the CWC

The CWC members can give directives to the relevant enforcement agencies (in most cases the police and the Labour Departments of the State Government) to use provisions of CLPRA for children below 14 years who are found working in occupations and processes that are prohibited under the Act. The CWC can direct the Labour Department and police to pursue the prosecutions and convictions against employers, to collect fines (police) and furnish the rescue certificate (labour) for the child so that the child can benefit from rehabilitation schemes and programmes like NCLP, enrolment in school, economic rehabilitation programmes for their families for the rehabilitation of the child and family.

Procedure to be followed when a working child/child labourer is produced before the Child Welfare Committee In addition to the Standard procedures to be followed as laid out in Chapter 3 following Special Procedures have to be followed whenever a working child is produced before the CWC.

The working child may be rescued by the police, the Labour department officials and NGOs and produced before the CWC.

Ensure age verification

The CWC should use the powers given to it by Sec. 49 of the JJA to determine the age of the child. This

becomes important in cases of child labour since the definition of age as per the JJA (18 years) differs from the CLPRA (14 years). This would ensure that the FIR and subsequently the charge sheet filed, uses the appropriate legal provisions.

Ensure medical examination

The procedures for medical examination (detailed out in Chapter 3 General Procedures of this document) are to be followed.

Ensure comprehensive police investigation

The CWC must direct the police to collect all forms of evidence that shall be used in the legal proceedings like documents of employment, attendance musters, photographs of the workplace, statements of children, family members, NGOs who participated in the rescue and others and any other important evidence. This would help in the process of prosecution.

The CWC may also aid and advice the investigating authority (police) in matters relating to drawing up of the charge sheet and gathering of evidence.

Ensure Individual Care Plan for the child is prepared

Based on the processes of home inquiry and discussions with the child, the PO prepares the rehabilitation plan for the child. Immediate rehabilitation can begin through education, recreation activities. Counseling facilities will be important for children who have faced abuse, exploitation, separation from family.

Repatriation and Reintegration

In terms of the Plan, after necessary investigation, the CWC would first need to determine whether the child can be reintegrated with his/her biological family or not. This would depend on whether the child is willing to go back to his/her family, the circumstances within the family that determine whether the family is a safe place for the child. The process of integration of the child with the family would differ based on whether the child is from within the district of jurisdiction of CWC or from another district or state or country. If the

child cannot be repatriated, the CWC must initiate short and long term rehabilitation in its jurisdiction.

If child is from within the district of jurisdiction of CWC

The CWC should see whether parents are fit to care for the child, so that the child can be sent back home. This should be the first option to be exercised. If they are found fit, the parents should be counseled and made to sign a bond in which they agree that they will not send the child back to work, but to school. To make this agreement binding, the CWC can ask the parents to sign a bond (See chapter 5 of this Document). If the family is not found fit, the CWC can explore a range of options while making its decision for the child. Family based alternative care approaches like counseling, sponsorship, foster care could help keep the child within the biological family; where this is not appropriate, the CWC should explore appropriate institutional care options, or education hostels run by different departments of the state, so that the full rehabilitation of the child from the world of labour is completed through education.

Repatriation and Reintegration

If the child's residence is not within the jurisdiction of the CWC, an order for an inter-district, inter-State or inter-country transfer, as may be the case, needs to be passed. The child must be transferred as per the provisions of Sec 38 of the JJA with the relevant sections of the Rules. (Refer Chapter 5 of this document on Transfer). The CWC must secure the Rescue Certificate from the Labour Department that should be taken with the child along with the other documents (See Chapter 3) at the time of repatriation.

Follow up

After the order is given, particularly for children from within the same district, for the first three months, follow up should be done by the CWC once every month to see that the child is in school and has not started working again. For the period of the next one year, follow up needs to be done every three months. After completion of a year, follow up can be decided on a case by case basis.



Unit 7

Standard Operating Procedures for
Child Begging

Children may be found begging to support themselves or their families. They may also be forced to beg by gangs that thrive on their exploitation. The difference in circumstances between these two categories would need to be kept in mind by the CWC while deciding the case.

Definition

As per the Indian Penal Code, 1860, begging refers to 'the practice of soliciting or receiving alms in a public or private place by any means'. Using a minor as an exhibit for the purpose of soliciting or receiving alms is considered as begging and is punishable under Section 363 A.

Specific legislation for begging

Section 2 (i), of the Bombay Prevention of Begging Act, 1959 defines begging as:

- soliciting or receiving alms, in a public place whether or not under any pretence such as singing, dancing, fortunetelling, performing or offering any article for sale;
- entering on any private premises for the purpose of soliciting or receiving alms.
- exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or diseases, whether of a human being or animal.
- having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner as makes it likely that the person doing so exists on soliciting or receiving alms.

Section 2(iv) child has the meaning assigned to it in the Children's Act, which has been replaced by the JJ Act 2000

Section 9(2) of the Bombay Prevention of Begging Act states that the Court may order detention of persons wholly dependent on beggar. Where the dependent person is a child, the Court shall forward him to a CWC constituted under the JJ Act and if the child is under 5 years of age, the child can be kept with the mother in the Beggars Home.

Section 11 **Penalty for employing or causing persons to beg or using them for purposes of begging** whoever employs or causes, any person to solicit or receive alms, or whoever having the custody, charge or care of a child, connives at or encourages the employment or the causing of a child to solicit, or receive alms or whoever uses another person as an exhibit shall be imprisoned for a term which may extend to three years but which shall not be less than one year. In this context, the CWC may ensure that the provisions of this Act are enforced along with **Section 24 of the JJA** by the concerned authority and the Police to bring justice to the child, who was compelled to beg.

Producing the child before the CWC

On noticing a child begging, a concerned citizen, NGO, police can inform the CWC or bring the child before the CWC. The producer should submit a report on the circumstances under which the child came to their notice. They will also have to report on the efforts made by them to inform the police.

Ensure age verification to establish the age of the child under Sec. 49 of the JJA.

Ensure medical examination as per the procedures explained in Chapter 3 of this Document.

Ensure comprehensive inquiry into the case through the PO or VPO as explained in Chapter 3 of this document. The report of the inquiry must provide an assessment of the family situation of the child in detail, and an explanation of whether it will be in the best interest of the child to restore him/ her to his/ her family. Ensure that verification of the parents is conducted and if there is any history of harassment of the child by the parent.

Filing charges

In the case of children being exploited for begging by family or others, the CWC should direct the police to undertake necessary legal action by filing an FIR.

In the case the parent /family of the child cannot be located after due inquiry, the child shall be considered

a missing child and the procedures pertaining to missing children will be carried out to trace the family.

In the case of a child begging for his/her own survival, the CWC should investigate and find out if the child is a street child or an abandoned child. The CWC should then follow the specific procedures as listed under these sections in this SOP.

Ensure Individual care plan for child is prepared

Pending inquiry, the CWC shall send the child to a designated place of safety, such as a Children's Home, with age and gender appropriate facilities.

The CWC must direct the Probation Officer (PO) or Voluntary Probation Officer (VPO) to prepare an individual care plan for the immediate and long term rehabilitation of the child. An individual care plan is necessary in both contexts when child is being institutionalized and when child is handed over to family. This would include rehabilitation of child through education, linking the child to services of counseling or sponsorship as required.

Child from within the CWCs Jurisdiction: In terms of the Plan, after necessary investigation, if the child can be reintegrated with the family, the CWC should see

whether parents are fit to care for the child in the child's best interest. This should be the first option to be exercised. The child should be **handed over to the family after proper counseling of the parents and signing a bond**. The CWC may decide that it is in the best interest of the child to be kept in a fit institution (NGO's etc). The child shall be placed in an institution closest to where his/her parents or guardians belong as far as possible, unless the child has been subjected to abuse or exploitation by parents or guardians.

Repatriation to family: If the child's residence is not within the jurisdiction of the CWC and if the child can be repatriated the steps listed under Transfer (chapter 5 of this Document) will be followed. If the child cannot be repatriated, the CWC must initiate short and long term rehabilitation in its jurisdiction.

Follow up

After the order is given, for the first three months, follow up should be done by the CWC once every month to ascertain that the child is not being used for begging, but is in school. If the child is to continue in the Children's Home, the Committee shall direct the Officer-in-charge of the home to submit quarterly



Unit 8

Standard Operating Procedures for
Street Child

Street children are children who live and work on the streets with little or no family support. Some of them may be abandoned; some may have a family but may not want to be reunited with the family. Some may be runaway children, living alone on the street.

Procedure to be followed when a street child is produced before the Child Welfare Committee: In addition to the standard procedures to be followed as laid out in Chapter 3, the following special procedures have to be followed whenever a street child is produced before the CWC.

Order a Medical checkup

Keeping in mind that children who have lived on the streets for long, may be suffering from various infections, cuts and bruises, attending to their physical health should be a priority. The CWC must order a medical check up within 24 hours.

Street children coming may also be addicted to substances such as chewing gutka, inhaling glue as well as, in some cases, to hard core drugs such as brown sugar. An appropriate order to provide treatment has to be given that will help the child recover from such an addiction faster. A close coordination with NGOs and other agencies working on drug rehabilitation program will be useful in such cases. Where required the CWC should order for an age verification.

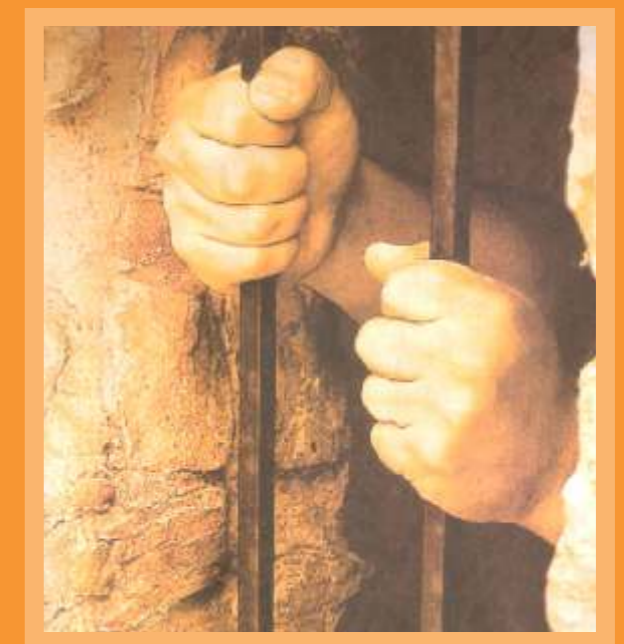
Initiate family tracing

Family tracing should be initiated at the earliest. Keeping in mind that in a large number of cases, children leave their homes for very trivial reasons, an early intervention would help the child and his/her family in reunification. The CWC should send the information of the child to the police/ missing persons Bureau/ Home-link to help trace the child's family.

Ensure the PO develops a plan of action

The CWC must enable the PO to draw an age-appropriate plan for the child while inquiry is pending. An appropriate educational and vocational program should be initiated. Where ever possible, mainstreaming the children into formal schools needs to be initiated. The CWC should ask for reports from the PO whether the child placed in the children's Home or Shelter Home are enrolled for such classes and a periodic monitoring is done. NGOs should be invited to develop such programs within Children's Home. If the option of repatriation and reintegration of the child with the family is not possible, then the CWC can also explore the possibility of keeping the child / referring the child to a Shelter Home run by an NGO that caters to the special needs of street children. Street children are usually averse to closed institutions and very structured settings. Older street boys could settle well in group homes.

The views and opinions of the child need to be taken into consideration before making a final decision. The child should not be forced to go back to his or her family if s/he does not want to. Options of sponsorship etc should be placed before the child. The final decision of the child is to be recorded by the CWC members. CWC should make linkages with other stake holders (like street children's federation etc) to help street children.



Unit 9

Standard Operating Procedures for Child Trafficked for Commercial Sexual Exploitation

Introduction

Trafficking is associated with various forms of exploitation, including for labour, slavery, organ trade, adoption, other illegal activities and for the purpose of commercial sexual exploitation. This section is looking at children trafficked for sexual exploitation.

Definition

According to Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the UN Convention against Transnational Organized Crimes, 2000, "Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation". **Consent is considered immaterial in the case of children.**

Specific Legislation to Prevent Child Trafficking Immoral Traffic (Prevention) Act 1956: Offences under the Act include:

- i. punishment for keeping a brothel or allowing premises to be used as a brothel (S.3)
- ii. punishment for living on the earnings of prostitution (S. 4)
- iii. procuring, inducing or taking persons for the sake of prostitution (S. 5)
- iv. detaining a person in premises where prostitution is carried on (S. 6)
- v. prostitution in or the vicinity of public places (S. 7)
- vi. seduction of a person in custody (S. 9).

Under this Act, wide powers are conferred on the concerned authorities in matters of rescue and rehabilitation of victims and survivors. The Act also

provides for stringent action against exploiters and aggravated punishment when the offences are committed on children.

Special Procedures to be followed when a victim of child trafficking is produced before the Child Welfare Committee: *In addition to the Standard procedures to be followed as laid out in Chapter 3 the following Special Procedures have to be followed whenever a victim of child trafficking is produced before the CWC.*

The child may be rescued by the police or NGOs and produced before the CWC. CWC shall coordinate and liaison with the police, NGOs and other stakeholders. In case of mass rescue operations, the victims will generally be produced before the magistrate of a Sessions Court; unless there is a clear indication that the rescued victim is a minor. In this case, the child will be produced before the CWC; in cases where the victim is found to be a minor after the age verification is undertaken on the orders of the Sessions court, the court will issue an order for the child to be produced before the CWC.

Care should be taken that the child at no time is in touch with the family members, pimps, and brothel keepers as they could be the traffickers or their agents or representatives. It is important that the child meets her family only under competent supervision of the Superintendent or PO so that the child is not pressurised by the family to turn hostile and return home.

Ensure age verification

For procedures on age verification refer to Chapter 5, page of this document. After Age verification, if it is established that the child is a major, then she has to be produced before the appropriate criminal court as per ITPA.

If the child is 17 years and few months, and during the pendency of the cases, the child completes 18 years, the case will still continue under the JJ Act, as at the time of offence the person was a child. Therefore the case cannot be transferred to another body.

Where the parents have been the exploiters, and as soon as the girl completes 18 years, parents start demanding the custody of the child. In such a situation, the child should not be handed back to the parents and in fact the child can continue to receive the care and protection from the JJ system.

The Maharashtra Rules allow for the child to be placed in a place of safety, and CWC can exercise its powers of interpretation and allow the child to continue in the same home or place the child in fit institutions for continuation of care beyond 18 years in a place of safety with a fit person or fit institution. This will not be considered as illegal detention and the girl can be kept until 20 years. However if the girl turns 18 years and wishes to leave the protective custody, she has the right to do so and the exit procedures have to be initiated.

Ensure medical examination

The CWC should direct the Medical Officer to conduct a detailed physical examination and gynecological examination specifically look for signs of physical and/or sexual abuse and whether any organ is missing. The process of medical examination has to commence within 24 hours, especially for the collection of evidence in matters of rape. HIV testing with consent, and when advised by the medical officer, will also be conducted. Consent includes counseling of the child by the professional counselors at Voluntary Counseling Testing Center. It is important that the findings are recorded in writing.

Ensure comprehensive police investigation

The CWC must direct the police to collect all forms of evidence that shall be used in the legal proceedings like photographs, statements of the children and NGOs present during rescue and any other important evidence. The interview at the police station must be carried out by the woman police constable or conducted in the presence of a female representative of an NGO, as mandated u/s 15(6A) of the ITPA 1956. The statement should be recorded before the CWC. CWC should verify the forwarding report, injury report, FIR copy along with statement of the woman

police officer, Case Diary, belongings of the victims against the list provided by the police. CWC should also avoid giving repeated permissions for interviews by the police that could increase the trauma and distress faced by the child.

Ensure an FIR is duly prepared

CWC to ensure that a proper FIR is prepared by using relevant sections of IPC⁹ read with ITPA. CWC to insist that Section 23 and 27 of JJ Act is also included in the FIR.

Documentation of CWC of the entire case should be detailed, so that it can be used as evidence in the court. Section 164 of the IPC accepts child's statement before CWC as evidence. The CWC must insist upon receiving a copy of the FIR and all the supporting documents that have been attached to the same. CWC must ask for a copy of the Charge Sheet.

Ensure Individual Rehabilitation Plan prepared

The CWC must direct the Probation Officer (PO) or Voluntary Probation Officer (VPO) to prepare an individual care plan, for the immediate and long term rehabilitation of the child. Under no circumstances should the child be sent back, if there is a likelihood of the parents, members of the extended families been involved in trafficking or if the child is not willing to go back. The CWC must also ensure that the PO/VPO takes into account the wishes of the child while determining rehabilitation plan. It must be borne in mind that marriage of the child is not always the best rehabilitation. Other options like education, vocational training etc should be considered by CWC as viable options.

⁹Sections from IPC that apply for trafficking girls for commercial sexual exploitation need to be included.

Section 366A- Procuring of minor girl.

Section 366B- Importation of girl from foreign country.

Section 367- Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.

Section 372- Selling minor for purposes of prostitution etc.

Section 373- Buying minor for purposes of prostitution.

Release of the Child

The parents should be made to sign a bond which details their responsibility for the care and protection of the child.

Transfer of child

If the child's residence is not within the jurisdiction of the CWC, an order for an Inter-district, Inter-State , as

may be the case, needs to be passed. The child must be transferred as per the provisions of Sec 38 of the JJA read with the relevant sections of the Maharashtra Rules. **(Refer to Chapter 5 of this document)**. In cases that are of inter-country nature, the procedure set out in the Protocol for Bangladeshi Girls issued by DWCD, Maharashtra, should be followed. **(GR No. REP 2008/CR-31/Desk-03, 3/3/2009, DWCD, GoM).**



Unit 10

Standard Operating Procedures for
Child who is Victim of Abuse

The World Health Organization defines child abuse as “all forms of physical and or emotional ill treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival development or dignity in the context of a relationship of responsibility, trust or power.”

Relevant Sections Of Indian Law

1. Section 375 of the Indian Penal Code- Rape.¹⁰
2. Section 376 of the Indian Penal Code- Punishment for rape.
3. Section 377 of the Indian Penal Code- Unnatural offences.
4. Section 354 of the Indian Penal Code- Assault or criminal force to woman with intent to outrage her modesty.
5. Section 509 of the Indian Penal Code: words, gesture or act intended to insult the modesty of a woman.
6. Section 511 of the Indian Penal Code- Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.
7. Section 23 of the Juvenile Justice (Care and Protection of Children) Act 2000.

1. Procedure to be followed when a child who has been sexually abused¹¹ or raped is produced before the Child Welfare Committee: In addition to the Standard procedures to be followed as laid out in Chapter 3, the following Special Procedures have to be followed whenever a child who has been sexually abused or raped is produced before the CWC.

Special care to be taken in case of children who have been abused

10. A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under six different descriptions. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

11. What constitutes Child Sexual Abuse: There is no definition of child sexual abuse in Indian law, therefore the forms of abuse give below have been sourced from the Goa Children’s Act, 2003 and Supreme Court judgments in cases of rape and child sexual abuse: Exposing the genital area to a child for sexual gratification Ridiculing the child’s sexual development or organs Forcing the child to engage in intercourse, oral sex, masturbation, fondling genitals of an adult etc Making the child see others being abused Peeping on child while he/she is dressing, showering or using the bathroom. Photographing the child for sexual purposes /pornography Sexual talk with the child Showing pornography to the child Touching the child inappropriately. Verbal and emotional abuse of a sexual nature Any other sexual gestures

A child may be sexually abused/ raped by either a stranger, a family member or care giver when in institutional care.

It is important that the issue is dealt with sensitivity. The child should be placed in a comfortable and friendly environment when being interviewed. The child should not be pressurized to answer any questioning s/he is not willing to.

During the interview, a representative from the NGO associated with the CWC or the child should be present. In the case of a female child, a female member must be present. If the family member is not the abuser, a member of the family whom the child is comfortable with may be present. In the process of the interview utmost care should be taken so that there are no biases or moral judgements that would make the child feel guilty or responsible for the abuse. The role of the CWC is to inspire confidence of the child and secure and maintain the child’s trust. If the medical report of the child seems to be tampered with or suffers from gross discrepancies, the CWC can order a second medical check up to be done in the absence of the police.

Determine who has abused the child and nature of abuse

The CWC must first verify who has abused the child – whether it is an immediate family member, member of the extended family, neighbours, teachers or a stranger. Whether abuse took place when the child was in institutional care also needs to be ascertained

If abuser from family: If abuser is from the immediate or extended family, it is important that the child should be separated and protected from the abuser and the CWC should immediately initiate criminal proceedings against the perpetrator.

When one parent is found to be the abuser, this alone is not reason enough to remove the child from the

family. Instead the efforts should be to remove the parent who is abuser. For there is a need to consider the rights of the other parent over the child.

If child is abused in institutional care: The CWC should immediately inform the Commissionerate regarding the person who has allegedly committed a sexual offence against the minor in the custody of the home.

1. In the event of physical, sexual or emotional abuse in the institution, the CWC should immediately report the incident to the officer-in-charge under the Commissioner, DWCD.
2. The CWC must order a special investigation of the abuse.
3. The CWC should instruct the local police station to file an FIR and conduct necessary investigations.
4. The CWC may seek assistance from relevant voluntary organizations, legal experts, child rights experts, mental health experts or crisis intervention centres for the care and protection of the child and prosecution of the perpetrator.

5. The child should be transferred to another institution or a place of safety or to a fit person, if required.

6. The CWC should ensure that every institution in its jurisdiction has systems of making certain that there is no abuse, neglect and maltreatment and this shall include the staff being aware of what constitutes abuse, neglect and maltreatment and how to respond to the same. All other procedures pertaining to medical examination, age verification, police investigation charge sheet as well as rehabilitation will be the same as described in Unit 9 for Trafficking of Children for Commercial Sexual Exploitation.

Note1: If the abuse occurred in a private institution then an FIR is to be filed and all the children who are exposed to the risk are to be removed. CWC can recommend the de-recognition of that institution.

Note 2: A restraint petition can be filed to prohibit the abuser from entering the premises of the home; CWC can get a restraint order that the abuser will not be around the vicinity of the institution Section 33. The CWC should encourage supervision to prevent further abuse. In case the abuse continues, the CWC can pass an order to seal the premises.



Unit 11

Standard Operating Procedures for
Child with Mental and Physical
Disabilities

Children with mental and physical disabilities have unique needs that have to be responded to by the care system. Children with disabilities have a right to all the facilities and entitlements of all children, while needing unique support.

Definition

Persons with the following conditions are considered to be persons with disability as per the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995: blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation and mental illness. In addition, the following disabilities are also covered as per the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 including Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.

Procedure to be followed when a child with a disability is produced before the Child Welfare Committee: *In addition to the Standard procedures to be followed as laid out in Chapter 3, the following Special Procedures have to be followed whenever a child with a disability is produced before the CWC.*

Admission of the child with a disability to the Children's Home

It is mandatory to give admission to each and every child round the clock by an authority responsible for the management of Children's Home.

Appointment of a Probation Officer for an inquiry

The CWC must pass an order appointing a Probation Officer or a Voluntary Probation Officer for the inquiry. Children with certain disabilities such as autism may not be able to communicate very well with the authorities. The CWC may order that a specialist – a special educator – to help the PO in handling the case.

The Inquiry of the PO should look into the circumstances under which the child came to the CWC. If the child has been abandoned or is a missing

child, procedures for the same have to be followed. The Inquiry should also look at whether the child has been abused or used for begging and the specific procedures in such cases be followed. Whether the family is in a position to take care of the child, the socio-economic circumstances, willingness to meet the unique needs of the child etc. are to be ascertained.

Interim care arrangements and procedures

Pending the report of the PO/VPO, the CWC must ensure that interim care arrangements that look into the following aspects are followed:

Order a medical check up and assessment

An assessment of the disability of the child and its degree needs to be immediately ordered by the CWC. The assessments can be done by specific hospitals and institutions registered with the government for this purpose, that will enable the child to get a disability certificate, that will make the child eligible for certain entitlements. The CWC should keep a list of such institutions and refer children to them. The professionals doing the assessment should also recommend the future course of action that would be needed for the child. This could include, but not be limited to, provision of aids and appliances such as crutches, hearing aids, wheelchairs etc.

Recommendations on the educational and therapeutic needs of the child i.e whether s/he requires special education, Occupational therapy, physiotherapy, speech and language therapy, communication therapy, counseling etc. – need to be made.

Ensure age verification: The CWC should determine the age of the child. This should be done as early as possible.

Ensure the PO develops a plan of action: The CWC must enable the PO to draw an age- and ability - appropriate plan for the child with the help of a special educator or rehabilitation professional experienced in working with children with

disabilities. A disability friendly environment is to be provided for the child's development.

Education and rehabilitation

An appropriate educational and rehabilitation programme needs to be initiated, in consultation with specialists in the area. Services of specialists such as special educators, occupational therapists, physiotherapists, speech and language therapists, communication therapists, counselors etc. should be drawn in. Required aids and appliances should be provided for the child. The CWC should ask for reports from the PO whether all children with disabilities in the Home are enrolled for the programme and a periodic monitoring done. NGOs should be invited to develop such comprehensive programmes within Children's Home. There is a disability pension available for children with disability. It ranges from Rs. 400 - Rs. 1000. This could be used to help the child.

Sensitisation of staff and children

Staff and children of the Children's Home must be sensitised by the specialists on the needs of the child. Every effort must be made to treat the children on par with other children in the Home. The child must not be discriminated against on account of her/his ability. Practices such as addressing the child by his/ her disability eg. langda, paagal etc should be stopped.

Protection of children

Special effort needs to be taken by the staff to ensure the child is not sexually abused.

Referral: The CWC can also explore the possibility of referring the child to a specialised institution serving the unique needs of the child, run by an NGO, especially when the strength of children in a State run / State aided home is large and the facilities inadequate.

Repatriation: The views and opinions of the child need to be taken into consideration, if the child is capable of communicating. If the family is traced, the parents need to be counselled on the unique needs of the child and what needs to be done to ensure optimal development of the child. The CWC may suggest referral services for rehabilitation.

Final Order

Depending on the report of the PO and efforts at tracing the family, the CWC must give its final decision in writing. If the family is in a position to take care of the child, and the child is willing, the child may be handed over after proper counselling of the parents. In case the family is not traced or the child does not want to go back to the family, a long term plan for rehabilitation either through transfer to a fit institution that offers long-term care and is able to meet the developmental needs of the child. Arrangements for care such as sponsorship, foster care, adoption could also be made. If there is no organization for the rehabilitation of children with disabilities within the jurisdiction of the CWC, the CWC can recommend that the state government set up such an institution.



Unit 12

Standard Operating Procedures for
Child Affected by HIV/AIDS

Who is a child affected by HIV/AIDS

Children affected by HIV/AIDS include those who are HIV positive, those who have been orphaned by AIDS, those who are living in a household which is affected by HIV/AIDS – usually because their parent is HIV positive. (SAARC Regional Framework for programming for children affected by HIV/AIDS, 2007).

Children affected by HIV/AIDS has emerged as an issue demanding urgent attention in recent years and for this reason the policy framework is still evolving. The vision of the Government of India for preventing and mitigating the effect of HIV/AIDS is defined in the National AIDS Control Programme 2007-2012 (NACP III).

For this category of children, the guiding principle is of non-stigmatization that will enable children to access all services and rights enjoyed by other children. The goal of the CWC member would be to ensure that HIV affected children are not excluded from or treated differentially in the public or private sector and receive all services of care and protection that are enjoyed by other children and where necessary certain specialized services to address their special needs.

Procedures to be followed by the CWC If the child's parents are alive

If the child's parents are alive, then the CWC must have a meeting with the parents to determine their own HIV status, the support systems available, capacity for undertaking care including medical care of the child etc. The CWC can ask for a medical report of the surviving parent to ascertain his/her sero-positive status. In this situation, it is advisable to obtain a medical report of the child being presented before the CWC. However, this can be ordered for by the Medical Officer, and not by the CWC. The purpose of this report will be to ensure access to paediatric ART and treatment for opportunistic illnesses. Under no circumstances should the HIV+ve status of the child result in violation of his/her right to protection and development.

If the child's parents are not alive

If the child's parents are dead, the procedures to be followed for orphaned children should be followed. CWC should ensure that social protection measures are in place for these children to protect their rights and entitlements. The CWC can help protect rights and entitlements by linking the child to legal aid services to deal with legal issues, transfer of property. In addition, the medical and other procedures for HIV children as detailed below should also be followed.

Medical procedures

If the child is in urgent need of medical attention, the CWC should order for a medical examination within twenty-four hours and in special cases or in case of medical emergencies, the examination should be conducted immediately. If needed, the CWC can order that the child be admitted to a civil hospital or any other, place certified by the medical officer, for as long as necessary for his/her proper treatment.

The CWC can call for a Confidential Report from the Medical Officer on the HIV status of the child (affected or infected by HIV) so as to take an appropriate decision. There are dilemmas involved in dealing with the issue of testing especially for children whose parents have been found to be positive. Parents seldom infect their own children with HIV. However, children of positive parents are subjected to same mistreatment, as everyone assumes that they are also positive. In such a situation, it will be appropriate for the CWC to seek medical opinion from an established medical officer about the need for verifying the status of the child.

If recommended by the medical officer, the CWC can issue an order for testing of the child, with the consent of the parents/guardian/child. Where none of these is possible, the CWC being the guardian of the child should take the decision. However, it is important to ensure that the testing or the results are kept confidential and does not lead to discrimination and exclusion of the child from services.

In instances where there are reports of ostracisation, discrimination and denial of services to children, example discrimination by local school or medical facilities, the CWC can intervene to protect of the rights of such children by issuing summons to the

concerned authority and calling for legal action by police for the redressal of the child. A report of the same should be sent to the concerned authorities. CWC should also visit organizations that claim to care for HIV+ve children even if they are unregistered.

The CWC shall not order any kind of surgeries on any child without the previous consent of his parent or guardian. If the parent of the child cannot be found and the condition of the child is such that in case of any delay, in the opinion of the medical officer, it will cause unnecessary suffering or injury to the health of the child, the surgery may be done with the written consent of the officer-in-charge.

Home enquiry report

The CWC should order the PO to submit a Home Enquiry report that will look, in addition to the aspects to be covered for surrendered children, aspects such as attitudes and relationships of the family with neighbours, village/community where the family resides. The PO should also assess the assets of the family and the rights of the child in relation to property or assets. The PO should make a special note of vulnerabilities of the child arising from being HIV affected/infected, and if there are extended members of the family who could look after the child. The report must contain the school attended by the child, food intake (nutrition), friends of the child etc. Sensitization should also be undertaken.

Order of the CWC

The following alternatives may be considered by CWC while issuing an order for an HIV affected child.

a) In keeping with the spirit of the JJ Act, the option of placing the child within his/her family should be the first priority and consideration. In order that parents can play their role of care givers, CWC can direct the PO to link the family to high quality treatment to prolong the life and improve the quality

of life of parents; so that they are able to play the role of parents effectively;

b) To link the family with alternative care services if required such as Bal Sangopan Yojana, foster care, sponsorship, counseling, legal aid and enhancing their access to other relevant social protection schemes.

c) CWC can also explore linking the family with other NGO services for the care and protection of the child and his/her family.

Depending on the PO's report, if the CWC feels that the family is not in a position to care for the child due to ill health, poverty, stigma, lack of community support etc. the CWC can pass an order for institutionalising the child as a last resort. But institutionalization is to be done only after options of sponsorship etc are placed before the family. Similar procedure can be followed for children with no family at all who require institutional care.

If the child is infected, s/he should be placed in an institution that has facilities for the care of HIV children. If the child is affected, the child can be placed in any Children's Home. The CWC can follow procedures for declaring the child free adoption for an infected or affected child, if the child has been surrendered by the parents or the child is an AIDS orphan.

If the committee finds that the parents of the child are fit to take care of the child, he shall be sent back to his home. The wishes of the child, whether he wants to go back or wants to stay in the home, will be considered and s/he shall not be forced to go back against his/her wishes.

CHAPTER 5

Procedures in relation to important Sections of the Juvenile Justice Act



Introduction

This Chapter covers the procedures in relation to the some important Sections of the Act. These include:

1. Presumption and determination of age
2. Appeals and revisions
3. Amendment to orders
4. Transfer of children
5. Offences against children
6. Procedures in case of a death of a child in an institution
7. Bonds and execution of bonds
8. Summons and warrants

1. Presumption and Determination of Age

The CWC would have jurisdiction over a person if the person is a child and in need of care and protection as contemplated under the Act. Therefore the CWC must in every case determine the age of the child.

Section 49 of the JJ Act states, that the CWC is the only competent authority to determine the age of the child. The CWC shall make due enquiry about the age of the child and take such evidence as is necessary in order to determine the age of the child. The evidence taken above should not be an affidavit. The CWC shall record its finding by stating the age of the person as nearly as possible.

Guidelines for age verification

A child may be brought before the Committee by the following categories of persons:

1. Police – Railway or City Police
2. Public servant
3. Any NGO or institution
4. Public spirited citizen or social worker
5. Child herself or himself.

The same procedure is to be followed for age determination when the child is brought by either of the afore mentioned entities.

In order to determine the age of the child the CWC will require the following documents:

- i. Matriculation or equivalent certificates stating the date of birth of the child, if available, and in the absence whereof;
- ii. A date of birth certificate from the school records (other than a play school) first attended and in the absence whereof;
- iii. The birth certificate given by a corporation or a municipal authority or a panchayat (issuing authority of the local self government body).

In case of doubt of the authenticity or veracity of the document the CWC can order the police official to verify the document.

a) When the verification done is accepted by the CWC then it duly records its finding as to the age.

b) When the verification is not accepted, the CWC may:

i. Declare the document false and give its reasons for considering it false or its objections to it.

ii. Pass an order to the SJPU for an AVM, that is, an Age Verification Memo.

Please note: that the verification needs to be done within 30 days of the order given or the next hearing of the child before the CWC whichever is earlier.

An AVM is only ordered if the child does not have any of the three above mentioned documents (birth certificate, matriculation certificate stating the age of the child or bonafide school leaving certificate from school stating the date of birth of the child)) that are accepted under the JJ Act as proof of age.

Age Verification Memo (AVM) calls for the SJPU to get the child to undergo a series of tests, also known as bone age verification test. This test is conducted at a civil hospital (and where absent, a private hospital

certified by the Medical Board) and is recorded as the medical opinion of the duly constituted and notified medical board. The documents or the medical opinion so taken could be taken as the proof of the age of the child.

The CWC after examining the documentary evidence and/ or the medical opinion would record its finding with respect to the age of the child.

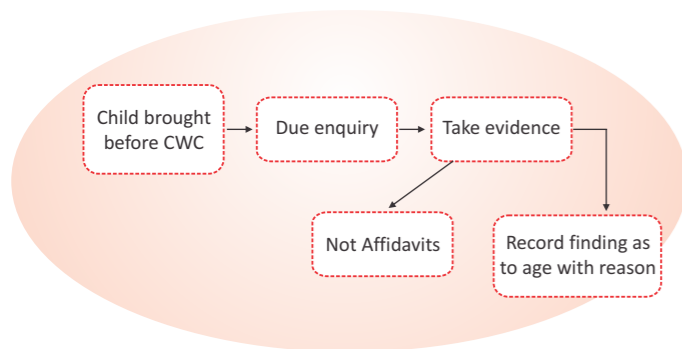
Note 1: When there is an age bracket given in the medical report for Eg 16-18 years then it is the lower age that is to be taken as the age of the child.

Note 2: Age determination is to be done in all circumstances; If the police fails to do so then SJPU should do the same.

Please note that if the CWC is not satisfied with the AVM then it can ask for the AVM to be done again, that is order for the tests to be performed again, through a reasoned order for a re test.

The finding of the age: This is the final order of the CWC which conclusively states the age of the child. Please note: the Age Verification Test presents age as a range (14 – 16 years or 16 – 18 years). The lower age should be accepted in the best interest of the child and CWC should record its reason for presuming that as the age.

Diagram depicting process of Age Verification.



2. Appeals and Revisions- its significance for the CWC

It must be recognised that the CWC decisions could be challenged. Parents or the employer or institutions may go into an appeal on the decision of the CWC. It is therefore important that the CWCs records their orders and the reasons for giving the order in a systematic and detailed manner in the Rojnama. These orders should be signed by all members present at that particular sitting, but definitely by at least two members if others were not present at the sitting. CWC should ensure that all the other records and documents are maintained by the Data Entry Operator with the case file of the child in the centralised records of the CWC.

The details in an order would include information on facts such as, who was present at the hearing, the age of the child, if an AVM test was performed, and decision taken about the age of the child; if the parents had put an application before the CWC what was decided on the application, details of the inquiry conducted by the PO etc. All these records are important, especially when the case goes into appeal.

When the Court seeks clarification from CWC on its decisions, the documents and records can be shown to the Court or submitted to the Court to take on record. Joint meetings with the public prosecutor may also be useful for discussing the case of the child. Wherever required the CWC should seek legal representation in matters where their decisions are challenged in any higher courts.

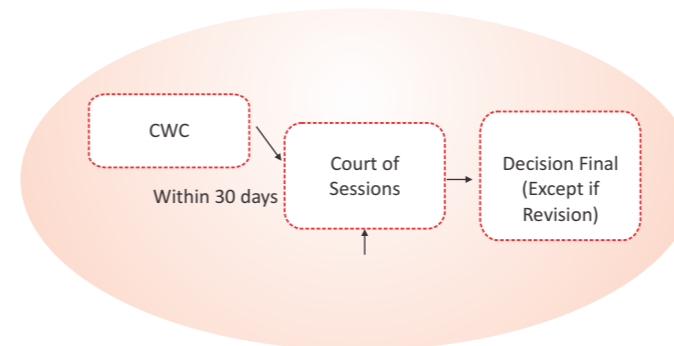
Every decision passed by the CWC must be recorded and the reasons behind the decision should be clearly stated.

If the child is institutionalized then certain documents are sent to the institution with the child such as the original certificate proving the date of birth. The CWC should ensure that it has at least the photocopy of the documents that is sent to the institutions.

Appeals

Appeal is dealt with in Section 52 of the JJ Act.

1. Any person aggrieved by an order of the CWC can appeal to the Sessions Court.
2. The appeal must be filed within 30 days.
3. The Sessions Court can entertain an appeal filed after the 30 days period if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal on time.
4. No appeal can be filed if the CWC does not find the child to be a neglected child.
5. No second appeal can be filed from any order of the Sessions Court to the High Court, only a revision can be filed for.



Revision

The provisions of reviewing the decision of the lower court are essential for the protection of life and liberty. Section 53 of the JJ Act states that High Court may at any time either on its own motion or on an application received in this behalf, call for the record of any proceeding in which any Child Welfare Committee has passed an order for the purpose of satisfying as to the legality or propriety of any such order and may pass such order as it thinks fit.

If the appeal is rejected by the Sessions Court, the person can file a revision application against that order in the High Court. The revision application must be filed within 90 days.

The CWC members can seek the help of state legal services authority/ director of prosecution for any legal process required.

3. Power to Amend Orders

Section 55 of the JJ Act gives CWCs the power to amend its orders for two reasons:

1. In Sub clause 1 (Section 55), a Child Welfare Committee, may on an application received (by NGO/Parent/s/ Guardian), amend any order as to the institution to which the child is to be sent or as to the person under whose care or supervision a child is placed under the Act. But this application to amend an order shall not take away the right to apply for either an appeal or revision. Sub clause 1 further states that such an amendment shall be valid only if 2 members of the Committee are present. It further states that the parties concerned should be present or their defense should be present to see to it that no order that is prejudicial is passed.
2. In Sub clause 2 it states that clerical mistakes in orders passed by Child Welfare Committee or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Child Welfare Committee either on its own motion or on an application received in this behalf.

4. Transfers (Section 56 and 57 JJ Act)

There are three kinds of transfers that are examined in this Section:

- I. Transfer of a child to another district within the state (inter-district transfer)
- II. Transfer of a child to another state (inter-state transfer)
- III. Transfer of a child who is from another country. (inter-country transfer).

I. Inter district transfer (transfer of a child to another district within the state).

Steps to be followed:

- i. If any child is to be transferred from one district to another district of the State, it is preferred that the child is handed over to the CWC of the child's home district. This will ensure that every child in need of care and protection remains under the protective net

of the CWC and that an appropriate decision will be taken in the best interest of the child, when the child arrives in her/his home district.

ii. Send the case details of the child to the CWC in the other district.

iii. The CWC of the child's home district shall make inquiries about the willingness and fitness of the parents, relatives to receive the child at the place of residence, and whether such person can exercise proper care and control over the child.

iv. In case there is no parent or the parent is not able to take back the child or there is no member of the extended family available to take care of the child despite other supportive family based alternative care service measures such as sponsorship or other state schemes or government programmes for family empowerment, the home district CWC will find out if there is vacancy in a children's home in the home district. The CWC should request the Home district CWC to reply within 15 days, so that there is no unnecessary delay for the child. (The telephone numbers of CWCs of other districts are to be made available by the District Women and Child Development Officer and should be available with the Superintendent.).

v. The CWC of the Home district shall make preparations to receive the child.

vi. The final report of the PO is to be approved by the CWC in whose custody the child presently is, on the basis of which a final order is passed which directs the SJPU to take the child back to her/his home district. Where SJPU is not available as a last resort the CWC may direct the Staff of the DWCD/ Home to accompany the child to her/his home district (Annexure 5).

vii. After the final order, CWC will prepare a detailed transfer order. A detailed transfer order is to be passed by the CWC to its staff Superintendent of the home in the prescribed format and duly signed by two members. The Case sheet should be attached along with the final order. The final report of the PO should also be attached.

viii. When the child is transferred or repatriated certain documents have to be sent along with the child.

- Age documents
- Belongings of the child
- Medical report
- Educational records
- Case Summary: This along with other facts must also contain the social history of the child i.e contact with the family (if it could be established)
- Copy of the case file and any other documents. The concept of Jeevan Peti (as per the GR issued by DWCD, GOM) should be promoted. The CWC can also ensure that the homes take initiatives in the long term interest of the child, to give them certificates of participation in different trainings, competitions, technical courses or help child establish her/his identity proof through opening of bank accounts, PAN card etc.

ix. The CWC gives escort order to SJPU to undertake the escort within 15 days with copy of the order to the CWC (Form 22).

x. If it is a girl child, she will be accompanied by a woman officer.

xi. Until the escort is made available, the child will remain in the Children's Home in safe custody.

xii. If for any reason the child is directly sent to an institution or handed over to the parent, a CC of the order should be marked to the CWC of the home district for information and follow up.

xiii. The CWC can transfer the child from one children's home to another within the district if it is in the best interest of the child and brings her/him closer to her/his natural place of stay or other siblings. The child will not be transferred on the ground that the child has created problems or has become difficult to manage in the existing institution, is suffering from chronic or terminal illness or has become handicapped.

II. Inter State transfer

In case of inter-state transfer, the transfer of the child should be to the CWC of the home district of that state, after getting permission or approval from the Commissioner, DWCD. (Until the actual repatriation the follow up will be the responsibility of the Superintendent). An empaneled NGOs assistance could be taken for transferring the child.

For this purpose, the case file of the child, with an application for the child's transfer to the Home District of the child's State has to be made by CWC through the Superintendent/in-charge of the Home, who will submit it to the Department for scrutiny. The process of transfer is initiated, once the Department gives its clearance. The process for inter district transfer detailed out above, is to be followed except change the word district to state. If there is no CWC in the home district of the child then contact should be made with the CWC closest to the home district of the child.

III. Inter Country transfer (MJJA Chapter IV, Rule 9 (v))

A child, who is not a citizen of India, or is a foreign national and who has lost contact with his family shall also be protected. In such cases the child should be treated as a victim and not as a criminal. The procedure followed should be in the best interest of the child.

Steps to be followed

- i. The nationality of the child has to be established.
- ii. The child should be given special care and shall be accommodated in the Children's home till the process of repatriation is complete.

The information about the child who is a foreign national and his possible nationality will be informed by CWC to the Commissioner, DWCD through the Probation Officer / Superintendent who will in turn inform the District Women and Child Development Officer (JIMOB) who is responsible for providing the information to the Commissioner DWCD. The DWCD will initiate the processes required with the Embassy

of the country to which the child belongs informing them about the existence of such a child. All the documents and case records need to be given with the application of the child to the Commissioner.

In the interim the DWCD will pursue the following:

Identify Country Representative i.e. High Commission or embassy to help confirm /establish the identity of the child.

The Embassy will contact the relevant department dealing with such cases in its country. They may take help of the NGOs.

The DWCD will keep the Ministry Of External Affairs informed about the repatriation process of every child.

The home country of the child will have to send a clearance certificate for accepting the child.

IV. After the clearance certificate is obtained from the Home Country, CWC will prepare a detailed transfer order. A detailed transfer order is to be passed by the CWC to its staff in the prescribed format and duly signed by two members. The Case sheet should be attached along with the final order. The final report of the PO should also be attached.

V. Until the escort arrangements are made by the Department, the child will remain in the Children's Home in safe custody.

Steps to be followed (See GR No REP 2008/GR-31/Desk -03, 3/03/09, DWCD, GoM) Rescue Z Identification of Child Z Placement in shelter home Z Production before Magistrate / CWC Z Ascertaining Nationality of the Child Z Home Investigation Z Issuance of Repatriation Order Z Permission of Ministry of External Affairs Z Issuance of travel permit Z For Clearance Z Actual repatriation Z Handing over of Victims to Childs Home Country Government Z Integration of Victims in Home Country.

5. Special Offences (Section 27 JJ Act)

Section 27 covers offences punishable under Sections 23 (punishment for cruelty to a child), 24

(employment of a child for begging), 25 (penalty for giving intoxicating, narcotic or psychotropic substances to a child) and 26 (exploitation of a child employee) of the JJ Act and makes them cognizable. When CWC is reviewing a case of a child and on the basis of discussions with the child realises that the child has been a victim to any of the above offences against him/her, the CWCs role is to:

1. Summon and order the police to record the statement of the child as a complaint.
2. The CWC shall ensure that legal action is initiated against the adult offender/s by filing of FIR and verifying that the police has applied the relevant sections of the JJ Act (23 – 27) along with sections of the IPC and other statutes.
3. In matter of an offence outside the jurisdiction of the local police station where CWC holds its sittings, the CWC shall order the police to file the 0 number FIR, which means that if the crime or offence against the child has occurred outside CWCs jurisdiction, the CWC can ask the local police station to take the statement of the child and send it to the police station of the place where the crime has occurred.
4. If police requires additional evidence, the CWC should provide this information, if a written request is made by the police.
5. It is recommended that the CWC must make a periodic follow up with the police to track if action has been taken against the perpetrators and that they have been prosecuted after investigation under the criminal court.
6. CWC to ensure that the PO prepares the child for the trial, with relevant information, when the child is asked to appear before the court as a victim witness for the offences listed under Section 23 -26 of JJ Act or under other sections of IPC or other Laws.

6. Procedure to be followed in case of death of a child in an institution

On the occurrence of any case of death or suicide in an institution, the following procedure should be

followed by the Superintendent of the Home

1. In the event of an **unnatural death or suicide**, an inquest and post mortem examination should be conducted at the earliest.
2. In a case of natural death or illness, the Officer in charge shall obtain a report of the Medical Officer stating the cause of death and a written intimation about the death shall be given immediately to the nearest police station, CWC, the National or State Human Rights Commission, District and State Child Protection Unit and the parents or guardians of the child.
3. Whenever a sudden death or violent death or death from suicide or accident takes place, immediate information should be given to the Officer in charge and the Medical Officer who in turn shall inform the nearest police station and the parents of the child.
4. If the child dies within 24 hours of his admission to the institution, immediate information should be given to the Officer in charge and the Medical Officer who should then inform the nearest police stations and the parents of the child. The officer in charge should also give immediate intimation to the CWC.
5. The officer in charge and the medical officer should record the circumstances of the death of the child and send a report to all the above mentioned authorities and to the nearest government hospital where the dead body has been sent for examination, inspection and determination of the cause of death and they should also record in writing their views on the cause of death, if any, and submit it to the concerned CWC and nearest police station.
6. The officer in charge and the medical officer should make themselves available for any inquiry concerning the cause of death and any other details before the CWC.
7. As soon as the inquest is held, the body should be handed over to the guardian or in the absence of any claimant, the last ritual should be performed under the supervision of the officer in charge in accordance

with the known religion of the child. Please note that if the body is to be handed over to the guardian, then investigation about whether the person is truly the guardian of the child must be done.

7. Procedure for Execution of Bond

The CWC has no powers to punish an adult offender or violator of child rights for example sending the person into lock up or taking a surety. However the CWC has the power to get the parent, relative or fit person, to sign a bond that sets the terms by which the child will be cared for, protected and rehabilitated. The relative or fit person has to give an undertaking to the CWC through Form X and by the Child Form XI, if the child is above 14 yrs. The CWC can decide upon payment of certain sums of money if the relative/fit person violates the bond. The money so collected will be deposited by the parent/fit person in the Treasury by Demand Draft or Challan. If the money is not deposited, the CWC, through PO, may file an FIR (Annexure 4).

A child may be restored in the following ways:

1. Simple process of reconciliation/restoration in cases of missing children etc.
2. With a bond signed by the parent/s as mentioned above.
3. With a bond and an order of supervision on the parent/s

8. Summons and warrants

The CWC can ask relevant persons connected with the child's life and circumstances to come before the CWC. These could include a parent, teacher, doctor, neighbour, social worker/NGO staff, employer and any significant adult related to that particular case.

Summons

CWC issues summons through the SJPU/police. The summons are to be prepared in duplicate, (Annexure 10) the original is to be given to the party that is being summoned and the second remains as a copy. The summons is sent to the address of the person being asked to come before the CWC. The summons can be received by any adult member at the address of the person being summoned. When the summons are served, the police is expected to take the signature and date of the adult receiving the summons. If the party is unable to attend the date given by the CWC, he /she is expected to write the reason for not being able to come on that date on the copy of the summons. If the party is not available at home, the police is expected to paste the copy of the summons on the door. If the person summoned has not appeared before CWC even after he has been issued summons, the CWC can issue a Notice to the person (See annexure for Copy of Summons and Notice)

If the summons is served to the police for evidence or any other matter and the police is unable to attend on that date, the police will give its reasons in writing for not being able to appear before the CWC. This application has to be approved by her/his senior officer

Warrant

If the Summons or the Notice is not responded to, CWC issues a bailable warrant asking the person to come and see the CWC. If the person fails to come and also fails to give reason and proof for not being able to come and meet the CWC, the second time a non bailable warrant is issued and the police can arrest the person.



The content of different registers to be maintained in the record keeping systems of the CWC are detailed in this chapter.

1. General Register: This register is for every child brought before the CWC. It should contain the following information:

- I. Date
 - II. Case Number
 - III. Name of the Child
 - IV. Age
 - V. Sex
 - VI. Education
 - VII. Name of parent(s)
 1. Father
 2. Mother
 - VIII. Address of Parent(s)
 - IX. Child Admitted to children's home
 - i. Yes/No
 - ii. If not where is the child, Address
 - X. Date of admission to children's home
 - XI. Name of children's home
 - XII. Produced by
 - XIII. Reason for admission (as per section 2d)
 - XIV. Order issued by
 - XV. Name of the PO
 - XVI. Closing date
 - XVII. Remark
- 2. Register for Execution of Bonds**
- I. Case No
 - II. Name of the Child

- III. Name of the PO
- IV. Child Handed over to
- V. Bond Amount
- VI. Mode of payment: DD or Challan No
- VII. Bond signed by
- VIII. Order By

3. Register for Children to be placed for Adoption (Placement of children to adoption agencies to be assigned by rotation).

- I. Case No
- II. Produced by
- III. Police station
- IV. Agency referred to
- V. Date of free for adoption order
- VI. Order by
- VII. Date of completion of adoption process
- VIII. Closing date

4. Register for CWCs Visit to Institutions

- I. Date
- II. Sr. No
- III. Date of visit
- IV. Name of Institution visited
- V. Visited by
- VI. Findings
- VII. Remarks for follow up
- VIII. Signature of visiting member

5. CWC Chairperson and Member's Attendance Register

- I. Date
- II. Name
- III. Time in
- IV. Time Out
- V. Signature

6. Minutes register: A Minutes register will be maintained for all special meetings of the CWC. These special meetings may be held by the CWC to discuss different cases and the approach that should be taken, discussion on the procedures of work and setting systems of work, distribution of case load, participation at trainings, for sharing, reviewing and monitoring the process of work of the CWC. The Minutes book is not to be used to record the regular sittings of the CWC.

7. Inward and Outward Register and File for correspondence received and sent by email and ordinary post or courier.

8. Roznama: Every meeting of the CWC with the Child will be documented in a Roznama. The Roznama will have the details of everything that happens during the meeting of the CWC with the child. It will contain information like for example-

- Time when the child was produced
- Girl Child (GC) /Boy Child (BC) produced before the CWC by (name of the producer)
- Name of the child (as given by the child)
- Details of the discussion or interaction with the child
- Admission in Children's home for safe custody
- Issue AVM
- Issue Summons to police/GLO/parent/NGO/ employer etc for evidence, visits, etc
- Next date.....

(sign)

If order, it must be signed by 2 persons.

**ANNEXURE 1****Application for Admission to Children's Home for Victim Child**

Name of the Police Station/
Name of the NGO (on letterhead)/
Name and address of the person applying.

Date

Serial No

Name of Boy(s)/Girl(s)

To
Chairperson/Member
Child Welfare Committee

Subject: Admission for (name of the child)

Dear Sir/ Madam

(Para 1 to contain the time, date and details of the incident).
(Para 2 to contain the actions/ steps taken by the person bringing the child).
(Para 3 to state the request for admission of the child).

Thanking you,

(Signature)
Officers Name and Designation

ANNEXURE 2

Order for Declaring Child Legally Free for Adoption in Case of Surrendered Child

CHILD WELFARE COMMITTEE
DISTRICT
GOVERNMENT OF MAHARASHTRA



ORDER FOR DECLARING CHILD LEGALLY FREE FOR ADOPTION.

1. In the exercise of the powers vested in the Child Welfare Committee constituted under sub-section (1) of section 29 of the Juvenile Justice (Care and Protection of Children) Act 2000. Minorborn onplaced in custody of specialized adoption agency (name and address) vide orderdated.....of The Child Welfare Committee (district). The child has been declared **“legally free for adoption”** on the basis of details furnished through.

- (a) Intake case sheet of the biological mother submitted by the Social Worker of the Specialized Adoption Agency.
- (b) Document of Surrender executed by the parent (s) and surrender deed signed in the presence of the Committee under sub-Rulesof Rule.....of these Rules.
- (c) Declaration submitted by the Specialized Adoption Agency that shall fulfill all conditions specified in Juvenile Justice (Care and Protection of Children) Act 2000 and the Rules relating thereto and furnish a copy of the adoption decree /guardianship order in respect of the minor as may be required by the Committee and concerned Department of the State Government of Maharashtra

Chairperson/Member
Child Welfare Committee
District.

Date.....
Place.....

For completion by the Specialized Adoption Agency

- (i) I have read and understood Chapters III and IV of the Juvenile Justice (Care and protection of Children) Act 2000 and the Rules there under and agree to abide/be bound by the same while placing the said minor in adoption.
- (ii) I further (name of be child declare that the particulars stated in the Declaration submitted by me onare true and correct. In case they are found to be false or incorrect the Committee has the right to suspend this Release Order for (name of the child) and ask for production of the minor before the Committee.

Date:
Place.

Social Worker

ANNEXURE 3

Order for Declaring Child Free for Adoption in Case of Abandoned Child

CHILD WELFARE COMMITTEE
GOVERNMENT OF MAHARASHTRA



ORDER FOR DECLARING CHILD LEGALLY FREE FOR ADOPTION.

1. In the exercise of the powers vested in the Child Welfare Committee constituted under sub-section (1) of section 29 of the Juvenile Justice (Care and Protection of Children) Act 2000. Minor _____(Name of G/C or B/C) _____ born on (date where available) _____ placed in custody of Specialized Adoption agency _____(name and address) _____vide order dated_____ of The Child Welfare Committee (district). The child has been declared **“legally free for adoption”** on the basis of details furnished hereunder.

- (a) Inquiry report conducted by the Social Worker of the Specialized Adoption Agency.
- (b) Evidence of the police recorded on (Date) _____, final report dated_____by the police submitted on (Date) _____, final report dated_____ by SJPU submitted on (Date) _____, AVM done at the police hospital on (date) showing the age as _____days/months/ years.
- (c) Declaration submitted by the Specialized Adoption Agency shall fulfill all conditions specified in Juvenile Justice (Care and Protection of Children)Act 2000 and the Rules relating thereto and furnish a copy of the adoption decree /guardianship order in respect of the minor as may be required the Committee and concerned Department of the State Government of Maharashtra

.....
Chairperson/Member
Child Welfare Committee
District.

Date.....
Place.....

Undertaking For completion by the Specialized Adoption Agency

- (i) I have read and understood Chapters III and IV of the Juvenile Justice (Care and protection of Children) Act 2000 and the rules there under and agree to abide/be bound by the same while placing the said minor in adoption.
- (ii) I further declare that the particulars stated in the Declaration submitted by me onare true and correct. In case they are found to be false or incorrect the Committee has the right to suspend this Release Order forand ask for production of the minor before the Committee.

Date:
Place.

.....
Social Worker.

ANNEURE 4
FORMAT FOR BOND

Case No:
Probation Officer:
Date Of Admission:

Whereas B/c; G/c _____ was produced by the
_____ Police Station, (District) Under Section 32(II) Juvenile Act.

(Name of person and address,*

so hereby take charge of the Boy /Girl child who is handed over to me on an interim custody under my care and I undertake to observe the condition here in below mentioned and in case of my making the default therein, I do hereby bind myself to the state of Maharashtra the sum of Rs. _____

CONDITIONS:

1. I Undertake to take proper care of and exercise proper control (physical /mental) of the said Boy /Girl child.
2. I undertake to produce the attendance of the said Boy/Girl child before Child Welfare Committee, whenever called for.
3. I undertake not to remove or send away the Boy/ Girl child out of (name of district) or change any residence without the permission of the Child Welfare Committee.
4. I undertake to see that the Boy/Girl child shall not come in contact with the accused or any bad association/ influence.

(District), Date _____ day of _____ Year.

BEFORE ME:

Chairperson / Member
Child Welfare Committee.
(District)
Identified by me

APPLICANT

*Attach proof of residence

ANNEXURE 5

ESCORT ORDER

CHILD WELFARE COMMITTEE, (DISTRICT)

Case No.

In the matter of Boy/Girl Child

Date of Admin.

Aged about _____ year's taken Charge for custody under section 32 of Juvenile Justice Act 2000

ESCORT ORDER U/SEC.38 .J.J.Act

The parents/Guardians of the child are reported to be residing at:

He /She therefore is sent under proper police escort to the:

The Boy/Girl child be kept in the custody of the Superintendent, Observation Home /children's Home _____ and the said Boy/Girl child be Produced before the concerned Child Welfare Committee for further orders.

Pending Escort, the said Boy/Girl child shall remain in Children's Home, (Name of home and district). The Sr. Inspector of Police _____ police Station, (district) shall make immediate escort arrangements within 15 days from the date of receipt of this order by him and send the said Boy/Girl child to the aforesaid place.

(District), Date this _____ Day of

Chairperson/Member,
Child Welfare Committee,
(District)

C.C.TO:

1. The Superintendent, Name of home and district
2. Assistant Commissioner of Police SJPU, district
Senior Inspectors of Police, _____ Railway Police Station.

ANNEXURE 6
RELEASE ORDER

CHILD WELFARE COMMITTEE, DISTRICT
DATE: ADMN:
P.O.: Police. Stn:
Case No:

The Superintendent,
Name of Home
District

B/c : G/c

U/S:

The above mentioned B/c: G/c has been ordered to be released /discharged and handed over to his/her father/and mother (name and address)

Chairperson/Member
Child Welfare Committee,
District

ANNEXURE 7
AGE VERIFICATION MEMO

CHILD WELFARE COMMITTEE, DISTRICT
DATE: ADMN:
P.O.: Police Stn
Case.No:

The Medical Officer,
Name of Hospital,

B/c : G/c

U/s

I am sending herewith the above mentioned B/c: G/c with a Woman Police Constable for age verification after X-ray/Ossification Test.
Pending Report Case adjourned to (date)

(DISTRICT)

Chairperson/Member,
Child Welfare Committee,

ANNEXURE 8
FAMILY TRACING MEMO

CHILD WELFARE COMMITTEE, DISTRICT
DATE: ADMN:
P.O.: Police Stn:
C .NO:

The Superintendent
Name of home, District

B/c: G/c
U/s

The above mentioned B/c; G/c; has been ordered to be sent with Women Police Constable No: _____
attached to SJPU/Police Station and Social worker for tracing his/ her Parents. B/c; G/c to be brought back into
the Home before 5.00 p.m.

The next date of the case is (date)

Chairperson /Member,
Child Welfare Committee,

District

ANNEXURE 9
SAFE CUSTODY ORDER

CHILD WELFARE COMMITTEE, District
DATE: ADMN:
P.O.: Police Stn
C .NO.:

The Superintendent
Name of home, district

B/c: G/c
U/s

The above mentioned B/c; G/c has been ordered to be taken into safe custody in
(name of the Children's Home - and address of Home). _____
The next date for the Case is (date)

Chairperson /Member,
Child Welfare Committee,

District

ANNEXURE 10
SUMMONS TO A WITNESS

C. No.
P.O.
POLICE STN.

To,

Name of the B/c:G/c

U/s

You are hereby summoned to appear before the Child Welfare Committee, (District) on the day of (date) at (time) to testify that what you know in the matter of the child in need of care and protection and to appear at the said time and place.

Given under the hand and seal of
the Child Welfare Committee,
District.

Chairperson/Member
Child Welfare Committee,
District