

## Notes on POCSO cases

### Age determination of child: (JJ Act 2015 – Sec 94)

- In case of discrepancy over the age of the child,
  - a. First priority should be given to date of birth certificate from school or matriculation or equivalent certificate from the examination board
  - b. In case the certificates mentioned in the first point are not available, then second priority should be given to the birth certificate given by Panchayat or Municipality or Municipal corporation
  - c. In the absence of all certificates mentioned above, age of the child may be determined by ossification test or any medical age determination test.

### Mandatory forms to be filled: (POCSO Rules 2020 – Rule 4(14))

- **'Form A'** mentions the entitlements and rights available to the child victim. It shall be filled by the Police Officer who is registering the FIR and given to the victim/parent/guardian after registration of FIR. Form in English and Tamil are enclosed.
- **'Form B'** - Preliminary assessment report shall be filled by the Investigation Officer after a detailed study and submitted to the CWC within 24 hrs of registration of FIR. Form in English and Tamil are enclosed.
- A copy of both the forms shall be maintained in the CD file.
- Contact numbers of the Investigation Officer or concerned station's Sub-Inspector and Headquarters Special Branch Sub-Inspector shall be provided to the victim/parent/guardian. Similarly, the contact number of the parent/guardian shall also be kept in the station.

### Support person: (POCSO Rules 2020 – Rule 4(14))

- Support person is a person who is assigned by the CWC to render assistance to the child through the process of investigation and trial.
- Investigation Officer shall inform the victim/parent/guardian about the availability of support persons and it can be availed by making a request to CWC.

### Recording of statement of child: (POCSO Act 2012 – Sec 24, 26)

- POCSO Act does not prohibit a male Police Officer from investigating the case. However, the statement of the child shall be recorded as far as practicable **by a woman police officer not below the rank of sub-inspector.**
- Such statement may be recorded at the residence of the child or at a place where the child usually resides or at the place of his/her choice.
- The police officer while recording the statement of the child shall not be in uniform.

- The police officer making the investigation, shall, while examining the child, ensure that at no point of time the child comes in the contact in any way with the accused.
- No child shall be detained in the police station in the night for any reason.
- The police officer shall ensure that the identity of the child is protected from the public media, unless otherwise directed by the Special Court in the interest of the child.
- The police officer, shall record the statement as spoken by the child in the presence of the parents of the child or any other person in whom the child has trust or confidence.
- Wherever possible, the police officer shall ensure that the 161 CrPC statement of the child is also recorded by audio-video electronic means. Under no circumstances, except IO, videographer and parents/guardian of the victim, none should be present during such recording. Such recording shall not be shared with anyone except Court.
- However, 161 CrPC statement of the child having mental or physical disability **shall** be videographed by the Investigation Officer, as per Sec 154(1)(b) CrPC. The IO may also seek the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience to record the statement of such a child.
- Wherever necessary, the police officer, may take the assistance of a translator or an interpreter, having such qualifications, experience while recording the statement of the child.
- In each district, the DCPU shall maintain a register with names, addresses and other details of interpreters, translators, experts, special educators and support persons. (POCSO Rules 2020 Rule 4(5)). A copy of this register shall be made available with ADSP-CWC, SB office and ASP/DSP office.
- Record the statement of the victim child under 164 CrPC.

**Medical aid and care:** (POCSO Rules 2020 – Rule 6)

- Whenever the Investigation Officer is **satisfied** that the child needs urgent medical care and protection, such officer shall arrange the child to be taken to the nearest hospital within 24 hours of registration of FIR.
- However, in cases when offences under sections 3,5,7 or 9 of POCSO Act 2012 has been committed, the child **shall** be referred to emergency medical care within 24 hours. There is no discretion at the hands of the IO.
- If the child is pregnant, the medical practitioner shall counsel the child and her parents/guardian regarding the lawful options under Medical Termination of Pregnancy Act 1971 and JJ Act 2015.

**Special Relief:** (POCSO Rules 2020 – Rule 8)

- Special Relief is for emergency needs like food, clothes, transport and other essentials.
- IO must take due care while filling 'Form B' so that CWC can take an informed opinion about granting of special relief.
- The Investigation Officer may request CWC to issue such orders in necessary cases.

### **Compensation:**

- **Relevant provisions**

- POCSO Act 2012 – Sec 33(8)
- POCSO Rules 2020 – Rule 9
- Social Welfare & Women Empowerment Department GO(Ms) No: 33, Dt 03.10.2020
- Social Welfare & Women Empowerment Department GO(Ms) No: 32, Dt 10.07.2021

- **Interim compensation**

- Special Court can issue compensation based on application filed by the victim or on behalf of the victim at any stage after FIR
- As soon as the FIR is registered, a copy of the FIR along with a forwarding letter, summarizing the contents of the FIR should be sent to DCPU through a special messenger within 24 hours. A copy of the forwarding letter should be kept in the CD file.
- The child/guardian may file an application seeking interim compensation preferably within 48 hours.

- **Final compensation**

- The Special Court can also order final compensation irrespective of whether the case ends in conviction, acquittal, discharge, or even if the accused remains untraced or unidentified

### **Production before CWC :** (POCSO Rules 2020 Rule 4(4))

- There is no need to produce the child before CWC in all cases.
- Only in the following cases, the child has to be produced before CWC within 24 hours of registration of FIR
  - When the accused and the victim are in same household or
  - When the child is living in a child care institution without parental support.
  - When the child is without any home and parental support.

FORM - A

**Entitlement of children who have suffered sexual abuse to receive information and services**

1. To receive a copy of the FIR.
2. To receive adequate security and protection by Police.
3. To receive immediate and free medical examination by civil hospital / PHC etc.
4. To receive Counseling and consultation for mental and psychological well being
5. For Recording of statement of child by woman police officer at child's home or any other place convenient to child
6. To be moved to a Child Care Institution where offence was at home or in a shared household, to the custody of a person whom child reposes faith.
7. For Immediate aid and assistance on the recommendation of CWC.
8. For being kept away from accused at all times, during trial and otherwise.
9. To have an interpreter or translator, where needed.
10. To have special educator for the child or other specialized person where child is disabled.
11. For Free Legal Aid.
12. For Support Person to be appointed by Child Welfare Committee.
13. To continue with education.
14. To privacy and confidentiality.
15. For list of Important Contact No.'s including that of the District Magistrate and the Superintendent of Police.

Signature of informant

I have received a copy of Form A

Signature of Police officer

registering FIR

பாலியல் குற்றத்தால் பாதிக்கப்பட்ட குழந்தைகளுக்கான சேவைகள் மற்றும் உரிமைகள்.

1. முதல் தகவல் அறிக்கை நகலை இலவசமாக பெறுதல்.
2. காவல்துறையினரால் போதுமான பாதுகாப்பைப் பெறுதல்.
3. அரசு மருத்துவமனையில் உடனடி மருத்துவ உதவி மற்றும் சோதனையை இலவசமாக பெறுதல்.
4. மனம் மற்றும் உளவியல் நலனுக்கான ஆலோசனைகளைப் பெறுதல்
5. பாதிக்கப்பட்ட குழந்தையின் வாக்குமூலத்தை அக்குழந்தையின் இல்லத்திலோ அல்லது அக்குழந்தைக்கு வசதியான வேறு இடத்திலோ பெண் காவல் அதிகாரி மூலம் பதிவு செய்தல்.
6. குற்றமானது பாதிக்கப்பட்ட குழந்தை வசிக்கும் வீட்டில் நடைபெற்று இருந்தால், பாதிக்கப்பட்ட குழந்தையை குழந்தைகள் காப்பகத்தில் நம்பிக்கையான நபரின் பாதுகாப்பில் ஒப்படைத்தல்.
7. CWC (குழந்தைகள் நலக்குழுமம்) இன் பரிந்துரையின் பேரில் உடனடி உதவி மற்றும் நிவாரணம் பெறுதல்.
8. விசாரணையின் போது பாதிக்கப்பட்ட குழந்தை குற்றவாளியை நேராக சந்திக்காதவண்ணம் ஏற்பாடு செய்தல்..
9. தேவைப்படும் போது மொழிபெயர்ப்பாளரின் உதவியை பெறுதல்..
10. பாதிக்கப்பட்ட குழந்தை ஊனமுற்று இருப்பின் சிறப்பு கல்வியாளரின் உதவியை பெறுதல்.
11. இலவச சட்ட உதவி வழங்குதல்.
12. குழந்தைகள் நலக் குழுவால் நியமிக்கப்படும் ஆதரவு நபரை பற்றி கூறுதல்..
13. கல்வியைத் தொடர.
14. பாதிக்கப்பட்ட குழந்தையின் பெயர் மற்றும் இதர தகவல்களின் ரகசியத்தை பாதுகாத்தல்.
15. மாவட்ட ஆட்சியர் மற்றும் மாவட்ட காவல் கண்காணிப்பாளர் உட்பட ஆகியோர்களின் தொடர்பு எண்களை பெறுதல்..

முதல் தகவல் அறிக்கை பதிவு செய்த

காவல் அலுவலரின் கையொப்பம்.

புகார்தாரரின் கையொப்பம்

நான் நகல் ஒன்றை பெற்றுக்கொண்டேன்..

**FORM - B**

**PRELIMINARY ASSESSMENT REPORT**

<b>S.No.</b>	<b>PARAMETERS</b>	<b>COMMENT</b>
1.	Age of the victim.	
2.	Relationship of child to the offender.	
3.	Type of abuse and gravity of the offence.	
4.	Available details and severity of mental and physical harm/injury suffered by the child.	
5.	Whether the child is disabled (Physical, mental or intellectual)	
6.	Details regarding economic status of victim's parents, total number of child's family members, occupation of child's parents and monthly family income.	
7.	Whether the victim has undergone or is undergoing any medical treatment due to incident of the present case or needs medical treatment of account of offence.	
8.	Whether there has been loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trail or other reason?	
9.	Whether the abuse was a single isolated incident or whether the abuse took place over a period of time?	
10.	Whether the parents of victim are undergoing any treatment or have any health issues?	
11.	Aadhar No. of the child, if available.	

Signature of Investigation Officer

Note:-

Form – B shall be sent to CWC within 24 hours of registration of FIR.

ஆரம்ப மதிப்பீடு அறிக்கை

வ.எண்	அளவுருக்கள்	கருத்து
1.	பாதிக்கப்பட்ட குழந்தையின் வயது.	
2.	குற்றவாளிக்கும் குழந்தைக்கும் உள்ள உறவு.	
3.	குற்றத்தின் தன்மை மற்றும் பாதிப்பு	
4.	உடல் மற்றும் மன ரீதியான காயங்கள் மற்றும் பாதிப்பு	
5.	பாதிக்கப்பட்ட குழந்தை ஊனமுற்றவரா (உடல் அல்லது மனம்)	
6.	குழந்தையின் இதர விபரங்கள்- பெற்றோரின் பொருளதார நிலைமை பெற்றோரின் மாத வருமானம் பெற்றோரின் தொழில் உடன் பிறந்தோர் பற்றிய தகவல்கள்	
7.	பாதிக்கப்பட்ட குழந்தை மருத்துவ சிகிச்சையில் உள்ளாரா அல்லது தேவை உள்ளதா.	
8.	குழந்தையின் கல்வி பாதிக்கப்பட்டுள்ளதா	
9.	குழந்தைக்கு பாலியல் குற்றம் ஒருமுறை நிகழ்ந்துள்ளதாக அல்லது மீண்டும் மீண்டும் நிகழ்ந்துள்ளதா	
10.	பாதிக்கப்பட்ட குழந்தையின் பெற்றோருக்கு ஏதேனும் உடல்நலப் பிரச்சினைகள் உள்ளதா?	
11.	குழந்தையின் ஆதார் எண். இருந்தால்.	

விசாரணை அதிகாரியின் கையொப்பம்

குறிப்பு:-

குழந்தைகள் நலக் குழுமம் (CWC) முதல் தகவல் அறிக்கை பதிவு செய்த 24 மணி நேரத்திற்குள் Form – B ஐ அனுப்பி வைக்க வேண்டும்.