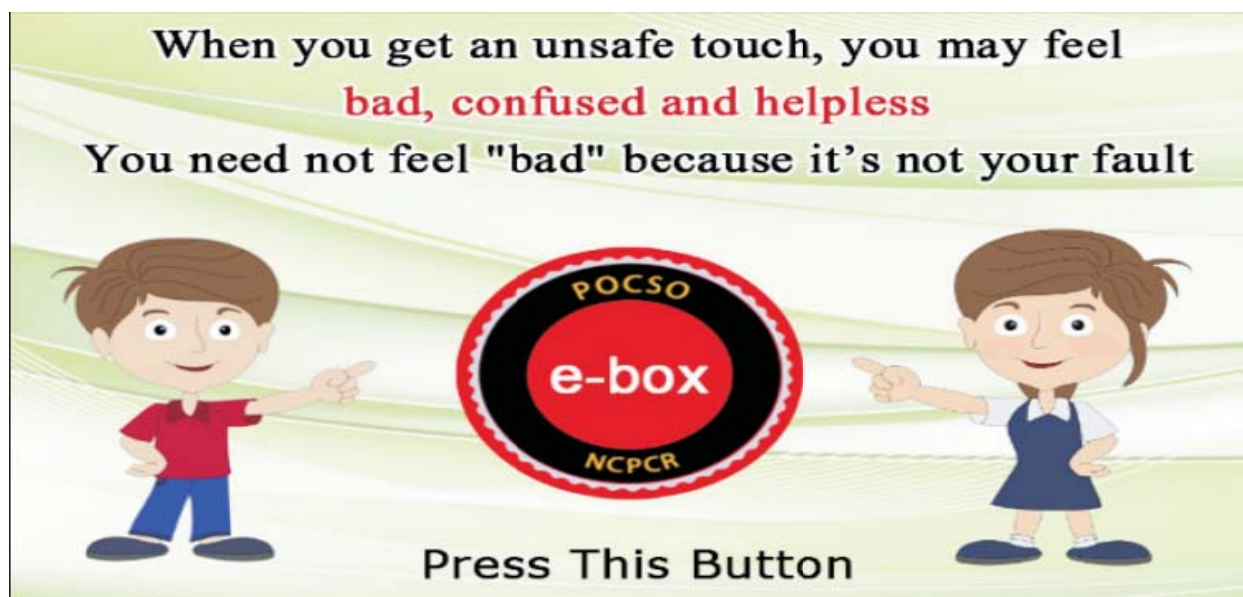




Standard Operating Procedure (SOP) on Escape/Runaway/Sexual Abuse/Death of Children in Child Care Institutions



Complaints can also be sent in person, by post, through messenger or any other means to the following address:

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1. INTRODUCTION :

In the event of death of a child in a Child Care Institution Rule 75 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 provides for inquiry. However, the Rule does not specify any strict timeline that the person-in-charge along with other stakeholders need to comply with. Furthermore, the Juvenile Justice (Care and Protection of Children) Act, 2015 and Rules are silent about the duty of Child Care Institution to address issues such as escape, runaway or sexual abuse of children in Child Care Institution. In order to address the above gaps and to bring the uniformity, NCPCR has formulated this Standard Operating Procedure (SOP).

2. DEFINITION

- 2.1 In this SOP, words and expressions used herein shall have the meanings respectively assigned to them in Indian Penal Code, 1860, Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offences Act, 2012 or any other laws related to children.

3. PROCEDURE OF INVESTIGATING CASES OF ESCAPE, RUN-AWAY OR MISSING CHILDREN IN CHILD CARE INSTITUTIONS (CCIs):

The Ministry of Women and Child Development, Government of India SOP for cases of **missing children** will be followed. However, in cases of **escape or run away** of child from the Child Care Institution, the Superintendent/Person-in-charge, or immediate Superior Officer (in case of Superintendent/Person-in-charge is absent) or any other person concerned with safety and well being of the child, will take following action immediately:

- 3.1 Such person/authority of Child Care Institution, shall lodge a complaint with the Police about a missing child. Conduct an enquiry about the incident and send a report to the Board or Committee or Children's Court as the case may be and other concerned authorities within 24 hours of the incident. The report shall be sent either by a mail, electronic mail, post, fax, special messenger or in person etc., as the case may be.
- 3.2 Recommend and/or initiate suitable action against the staff, if lapses found on their part while discharging their duties are established.

- 3.3 No punitive action against the child in conflict with law or against child in need of care and protection who is found/recovered and brought back to the Child Care Institution is to be taken.
- 3.4 Police shall register a First Information Report (FIR) with descriptions of the child, identification marks, photograph, the details of parent's address, offence for which he was placed in the institution etc.;
- 3.5 Police shall inform the Child Welfare Police Officer and forward the FIR to Special Juvenile Police Unit for immediate action to trace the missing child.
- 3.6 Police shall follow the procedure with respect to run away child in conflict with law as laid down under Section 26 of the Juvenile Justice (Care and Protection of Children) Act, 2015. With respect to missing child in need of care and protection procedure laid down under Rule 92 of Juvenile Justice (Care and Protection of Children) Model Rules, 2016 shall be followed.
- 3.7 In case of escape, run away or missing child, once recovered, the children so taken to the Juvenile Home should be given psychological counseling from time to time. District Child Protection Unit shall arrange individual or group counseling for children. Further, the reasons behind the episode should be inquired and remedial steps taken to improve the situation to prevent repetition.
- 3.8 The Person-in-charge of the Child Care Institution shall record in writing the circumstances of the escape, run-away or missing children in child-care institute in **Form A**, and send a report to the:
- (a) District Magistrate,
 - (b) Police
 - (c) Board or the Committee or the Children's Court as the case may be.
- 3.9 All provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, and Code of Criminal Procedure, 1973, regarding tracing of missing child will be complied with.

4. PROCEDURE TO INVESTIGATE SEXUAL ABUSE IN CHILD CARE INSTITUTION:

- 4.1 In the event of any physical, sexual or emotional abuse, including neglect of children in a CCI, action will be taken as per Sections 75, 82 of the JJ Act, 2015 and Rule 76 of the Juvenile Justice (Care and Protection of Children) Model Rule, 2016.
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- 4.2 The Person-in-charge of the Child Care Institution shall record in writing the circumstances of the sexual abuse of children in child-care institute in **Form A**, and send a report to the:
- (a) District Magistrate,
 - (b) Police,
 - (c) Board or the Committee or the Children's Court as the case may be,
- 4.3 Official (s) of CCIs must inform District Legal Services Authority (DLSA) in order to provide counseling and support services to the child {Sections 39, 40 and Rule 4 (7) of POCSO Act, 2012}. Psychological counseling by experts should also be provided to the child victims of sexual abuse. The duration of the counseling may be decided depending upon case to case.
- 4.4 Any person (including the child), who has apprehension that an offence under the Protection of Children from Sexual Offences (POCSO) Act, 2012, is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to the Special Juvenile Police Unit (SJPU) or the local police as is laid down under Sections 19, 20 and 23 of the POCSO Act.
- 4.5 The SJPU or the police shall record the report in writing and read over to the informant as per procedure laid under Section 19 of the POCSO Act, 2012.
- 4.6 The Magistrate shall record the statement of the child victim of sexual abuse under Section 164 of Code of Criminal Procedure, 1973, as per Section 25 of the POCSO Act, 2012. The Magistrate or the police officer, as the case may be, shall record the statement as spoken by the child in the presence of the child or any other trusted person under Section 26 of the POCSO Act.
- 4.7 Medical examination of the child will be conducted as per Section 27 of Protection of Children from Sexual Offences Act, 2012.
- 4.8 Trial will be conducted as per Chapter VIII of Protection of Children from Sexual Offences Act, 2012.
- 4.9 All other provisions of Protection of Children from Sexual Offences Act, 2012; Protection of Children from Sexual Offences Rules, 2012; Code of Criminal Procedure, 1973 and any other law applicable for the time being in force, for investigation of sexual abuse cases will be followed.
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5. PROCEDURE TO INVESTIGATE DEATH IN CHILD CARE INSTITUTION UNDER RULE 75 OF JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) MODEL RULES, 2016:

In case of death of a child in Child Care Institution following procedure is to be followed:

- 5.1 In case of natural death or death due to illness of a child, Person-in-charge of the child care institute shall obtain report of the Medical Officer stating the cause of death within 15 days and shall send a written intimation about the death within 24 hours of receipt of the report to:
- (a) Nearest Police Station;
 - (b) Board or Committee or Children's Court as the case may be, and
 - (c) Parents or guardians or relatives of the child,
 - (d) District Magistrate/Superintendent of Police,
 - (e) National Human Rights Commission, and
 - (f) National Commission for Protection of Child Rights.
- 5.2 Every death of the child irrespective of the cause and circumstance of death, in child care institution shall be investigated by Police.
- 5.3 The Child Care Institution must ensure that an inquest and post-mortem examination of the child is held within 24 hours in the presence of parents/guardian/judicial magistrate of first class.
- 5.4 In cases of death of child in Child Care Institution, while conducting post mortem, signs of sexual abuse, if any, should invariably be noted/recorded in the PMR.
- 5.5 The Person-in-charge and the Medical Officer of the Child Care Institution shall record in writing the circumstances of the death of the child in **Form A**, and send a report to the
- (a) District Magistrate,
 - (b) Police,
 - (c) Board or the Committee or the Children's Court as the case may be,
 - (d) District Medical Officer or the nearest Government hospital where the dead body of the child is sent for examination and determination of the cause of death.
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- 5.6 As soon as the District Magistrate/ Superintendent of Police receives information related to the death of a child in a child care institute, report shall be sent to State/National Commission for Protection of Child Rights, National Human Rights Commission within 24 hours, via telephone, post, e-mail, fax, online portal.
- 5.7 Entries related to the death of the child in-conflict with law including his/her photograph shall be made in the concerned registers, in the hospital records and uploaded on the designated website of the Govt. of India for missing children/persons in-case the child is an orphan or parents whereabouts are not known.
- 5.8 In case of an unnatural death or suicide of a child in a Child Care Institution photography or videography of it should be recorded for future records.

6 INQUIRY:

- 6.1 In case of escape, run-away or missing child, and in case of death in Child Care Institution,
- 6.1.1 Magistrate, not below the rank of Judicial Magistrate First Class will have jurisdiction to inquire into escape, sexual abuse, and death in Child Care Institution.
- 6.1.2 The inquiry should be completed within four weeks from date of information received by the Magistrate.
- 6.1.3 Magistrate shall follow the “Guidelines regarding conducting of Magisterial Enquiry in cases of death in custody or in the course of police action” as laid down by National Human Rights Commission.
- 6.2 In case of escape runaway or missing child, sexual abuse of child, or death of a child in Child Care Institution, inquiry will be done as under:

Case Category	Escape, Runaway or Missing	Sexual Abuse	Death
Headings			
Jurisdiction	Judicial Magistrate, not below the rank of First Class	As per provisions of JJ Act, 2015 and POCSO Act, 2012	Judicial Magistrate, not below the rank of First Class
Time limit	4 weeks	As per POCSO Act	4 weeks

- 7 **NODAL OFFICER:** The District Magistrate/ Superintendent of Police with jurisdiction of the place of location of residential facility will be the nodal officer.

- 8 **MANDATORY REPORTING:** All cases of escape or sexual abuse or death of child in Child Care Institution must be reported within the time frame mentioned above to the concerned authorities. In any case, mandatory reporting is required under the following provisions of the Juvenile Justice Act, 2015 and the POCSO Act, 2012:

Category	Escape, Runaway or Missing	Sexual Abuse
Non Reporting	Sections 32, 33, 34 of J. J. Act, 2015	(i) Sections 75 and 82 of JJ Act, 2015 and Rule 76 of J. J. Model Rule, 2016; and (ii) Sections 19, 21 and 23 of POCSO Act, 2012

9. **PREVENTIVE STEPS:**

- 8.1 Person-in charge will be in charge of safety and security of Child Care Institution and will ensure that all measures as laid down under Rules 26, 61 to 67 and other provisions of Juvenile Justice (Care and Protection of Children) Model Rules, 2016.
- 8.2 Child Care Institutions should organize awareness for children staying there, of the vulnerabilities such as sexual abuse, kidnapping, etc. through publications and group discussions to promote awareness, safeguards against such abuses.
- 8.3 The procedure laid down in Manual on “Living Conditions in Institutions for Children in Conflict with Law” published by the Ministry of Women and Child Development, Government of India in March, 2017 should be complied with, and shall be applicable for both child in conflict with law (CCL) and child in need of care and protection (CNCP).
- 9 **Annexure** - containing list of important penal provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Protection of Children from Sexual Offences Act, 2012.
- 9.1 Form A

FORM-A
Information Sought about the Incident

1. Basic Information			
a) Date of Incident			
b) Time of Incident			
c) District			
d) State			
2. Information of Child Care Institute (CCI)			
a) Name of CCI			
b) Address of CCI			
c) Name of Person In Charge			
d) Phone No. of CCI			
3. Detail of Victim			
a) Name of Victim			
b) Age & Gender of Victim			
c) Parents/Guardian			
d) Address of Victim			
4. Details of Accused or Abuser (If Any)			
a) Name			
b) Gender			
c) Age			
d) Designation in CCI			
5. Details of Incident			
Nature of Incident			
	1- Death	2- Sexual Abuse	3- Runaway
Cause			
Time			
P.S			
FIR No.			
FIR Date			
I.O			
No. of I.O			
SHO			
No. of SHO			
Hospital			
Address Of Hospital			
Name & No. of Doctor			

6. Timeline of Reporting			
		Date	Time
	Incident		
	FIR		
	Post-mortem (in death)		
	Reporting to DM/SSP		
	Reporting to NHRC		
	Reporting to NCPCR		
	Reporting to CWC/JJB		
	Information to Parents		

Date :

Signature

Place :

Head of CCI/Institution



Important Penal provisions under the Juvenile Justice (Care and Protection of Children) Act, 2015

Section 32: Mandatory reporting when a child found separated from guardian

(1) Any individual or a police officer or any functionary of any organisation or a nursing home or hospital or maternity home, who or which finds and takes charge, or is handed over a child who appears or claims to be abandoned or lost, or a child who appears or claims to be an orphan without family support, shall within twenty-four hours (excluding the time necessary for the journey), give information to the Childline Services or the nearest police station or to a Child Welfare Committee or to the District Child Protection Unit, or hand over the child to a child care institution registered under this Act, as the case may be.

(2) The information regarding a child referred to in sub-section (1) shall be mandatorily uploaded on a portal as may be specified by the Central Government or the Committee or the District Child Protection Unit or the child care institution, as the case may be.

33. If information regarding a child as required under section 32 is not given within the period specified in the said section, then, such act shall be regarded as an offence.

34. Any person who has committed an offence under section 33 shall be liable to imprisonment up to six months or fine of ten thousand rupees or both.

Section 42: Penalty for non-registration of Child Care Institution.

Any person, or persons, in-charge of an institution housing children in need of care and protection and children in conflict with law, who fails to comply with the provisions of sub-section (1) of section 41, shall be punished with imprisonment which may extend to one year or a fine of not less than one lakh rupees or both: Provided that every thirty days delay in applying for registration shall be considered as a separate offence.

Section 74: Prohibition of disclosure of identity of children

(1) No report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure, shall disclose the name, address or school or any other particular, which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published: Provided that for reasons to be recorded in writing, the Board or Committee, as the case may be, holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the best interest of the child.

(2) The Police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of.

(3) Any person contravening the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to two lakh rupees or both.

Section 75: Punishment for cruelty to child.

Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be

punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both:

Provided that in case it is found that such abandonment of the child by the biological parents is due to circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the penal provisions of this section shall not apply in such cases:

Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees:

Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees.

Section 76: Employment of child for begging

(1) Whoever employs or uses any child for the purpose of begging or causes any child to beg shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees: Provided that, if for the purpose of begging, the person amputates or maims the child, he shall be punishable with rigorous imprisonment for a term not less than seven years which may extend up to ten years, and shall also be liable to fine of five lakh rupees.

(2) Whoever, having the actual charge of, or control over the child, abets the commission of an offence under sub-section (1), shall be punishable with the same punishment as provided for in sub-section (1) and such person shall be considered to be unfit under sub-clause (v) of clause (14) of section 2:

Provided that the said child, shall not be considered a child in conflict with law under any circumstances, and shall be removed from the charge or control of such guardian or custodian and produced before the Committee for appropriate rehabilitation.

Section 77: Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child.

Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees.

Section 78: Using a child for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance.

Whoever uses a child, for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine up to one lakh rupees.

Section 79: Exploitation of a child employee.

Notwithstanding anything contained in any law for the time being in force, whoever ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees. Explanation.— For the purposes of this section, the term “employment” shall also include selling goods and services, and entertainment in public places for economic gain.

Section 80: Punitive measures for adoption without following prescribed procedures.

If any person or organisation offers or gives or receives, any orphan, abandoned or surrendered child, for the purpose of adoption without following the provisions or procedures as provided in this Act, such person or organisation shall be punishable with imprisonment of either description for a term which may extend upto three years, or with fine of one lakh rupees, or with both: Provided in case where the offence is committed by a recognised adoption agency, in addition to the above punishment awarded to the persons in-charge of, and responsible for the conduct of the day-to-day affairs of the adoption agency, the registration of such agency under section 41 and its recognition under section 65 shall also be withdrawn for a minimum period of one year.

Section 81: Sale and procurement of children for any purpose.

Any person who sells or buys a child for any purpose shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees: Provided that where such offence is committed by a person having actual charge of the child, including employees of a hospital or nursing home or maternity home, the term of imprisonment shall not be less than three years and may extend up to seven years.

Section 82: Corporal punishment

(1) Any person in-charge of or employed in a child care institution, who subjects a child to corporal punishment with the aim of disciplining the child, shall be liable, on the first conviction, to a fine of ten thousand rupees and for every subsequent offence, shall be liable for imprisonment which may extend to three months or fine or with both. (2) If a person employed in an institution referred to in sub-section (1), is convicted of an offence under that sub-section, such person shall also be liable for dismissal from service, and shall also be debarred from working directly with children thereafter. (3) In case, where any corporal punishment is reported in an institution referred to in sub-section (1) and the management of such institution does not cooperate with any inquiry or comply with the orders of the Committee or the Board or court or State Government, the person in-charge of the management of the institution shall be liable for punishment with imprisonment for a term not less than three years and shall also be liable to fine which may extend to one lakh rupees.

Section 83: Use of child by militant groups or other adults

(1) Any non-State, self-styled militant group or outfit declared as such by the Central Government, if recruits or uses any child for any purpose, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine of five lakh rupees. (2) Any adult or an adult group uses children for illegal activities either individually or as a gang shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine of five lakh rupees.

Section 84: Kidnapping and abduction of child.

For the purposes of this Act, the provisions of sections 359 to 369 of the Indian Penal Code, shall mutatis mutandis apply to a child or a minor who is under the age of eighteen years and all the provisions shall be construed accordingly.

Section 85: Offences committed on disabled children.

Whoever commits any of the offences referred to in this Chapter on any child who is disabled as so certified by a medical practitioner, then, such person shall be liable to twice the penalty provided for such offence.

Explanation.— For the purposes of this Act, the term “disability” shall have the same meaning as assigned to it under clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.



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