

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

GOVERNMENT OF KARNATAKA
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸಮಗ್ರ ಮಕ್ಕಳ ರಕ್ಷಣಾ ಸೊಸೈಟಿ

KARNATAKA STATE INTEGRATED CHILD PROTECTION SOCIETY

C/o , ನಿರ್ದೇಶನಾಲಯ, ಮಹಿಳಾ ಮತ್ತು ಮಕ್ಕಳ ಅಭಿವೃದ್ಧಿ ಇಲಾಖೆ, ಒಂದನೇ ಮಹಡಿ,
ಬಹು ಮಹಡಿಗಳ ಕಟ್ಟಡ, ಡಾ: ಅಂಬೇಡ್ಕರ್ ವೀದಿ, ಬೆಂಗಳೂರು-01.

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No. ICPS/JCL/Court Information/2016-17

Date:28.05.2020

To,

The Registrar General
High Court of Karnataka
Bangalore.

Respected Sir,

Sub: Request for SOP for Juvenile Justice Boards and
Children's Courts under the Juvenile Justice (Care and
Protection of Children) Act, 2015 and Special Courts
under the POCSO Act, 2012.

With regard to the above subject it is submitted that the Juvenile Justice Boards have a duty to ensure that "the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation". The Hon'ble Supreme Court of India passed the following directions in its order dated 03.04.2020 in Suo Motu Writ Petition (Civil) No.4 of 2020, with regard to Contagion of COVID 19 Virus in Child Protection Homes. The relevant portion to Juvenile Justice Boards and Children's Courts is reproduced as below:

"MEASURES TO BE TAKEN BY JUVENILE JUSTICE BOARDS AND CHILDREN COURTS

Juvenile Justice Boards (JJB) and Children's Courts are directed to proactively consider steps that are to be taken in the light of COVID-19, while conducting their inquiries/inspections. Online or video sessions can be organized.

* The Juvenile Justice Boards/Children's Courts may consider measures to prevent children residing in Observation Homes, Special Homes and Places of Safety from risk of harm arising out of COVID-19.

* In this regard, JJBs and Children's Courts are directed to proactively consider whether a child or children should be kept in the CCI considering the best interest, health and safety concerns. These may include:

- Children alleged to be in conflict with law, residing in Observation Homes, JJB shall consider taking steps to release all children on bail, unless there are clear and valid reasons for the application of the proviso to Section 12, JJ Act, 2015.21
- Video conferencing or online sittings can be held to prevent contact for speedy disposal of cases.
- Ensure that counselling services are provided for all children in Observation homes.

It is important to consider that violence, including sexual violence may be exacerbated in contexts of anxiety and stress produced by lockdown and fear of the disease. JJBs would need to monitor the situation in the Observation Homes on a regular basis”.

In its order, the Hon'ble Supreme Court also requested “the JJC of all the High Courts to not only ensure due compliance of this order but they shall also regularly monitor the implementation of the directions issued herein above as frequently as possible and at least once a week.”

We hereby urge the Hon'ble High Court of Karnataka to kindly consider issuing the following in the context of COVID-19 situation:

- 1) **It is requested to give Standard Operating Procedures for Juvenile Justice Boards and Children's Courts,** on the lines similar to the Standard Operating Procedures for the District Judiciary issued by the High Court of Karnataka on 26 May 2020. We have also received suggestions from Enfold Proactive Health Trust, Bangalore for Guidelines that can be issued to JJBs and Children's Courts to ensure compliance with the Supreme Court's 03.04.2020 orders, as well as the obligations under the JJ Act, 2015. This is enclosed herewith for your kind consideration in **Annexure A.**
- 2) **It is also requested to issue “Practice directions” for Magistrates on recording statements of child victims, including child victims and witnesses with disability** while ensuring safety, accessibility to persons with disabilities under Section 12, Rights of Persons with Disabilities Act, 2016, and a child-friendly atmosphere. Depending on the case load, the Magistrates may be directed to designate a specific day/days on a weekly basis for the audio-visual recording of statements of child victims under the POCSO Act, 2012. A select number of Magistrates could be assigned, especially in larger Metros, to record Sec.164

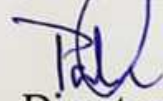
statements of witnesses under the POCSO Act, 2012. Privacy and confidentiality should be maintained at all times, and protocols should specify the process for recording, storing, sharing, and custody of statements of children recorded via video-conference.

- 3) **It is also requested to issue “Practice directions” for Special Courts under the POCSO Act, 2012 for the conduct of trials** bearing in mind lockdown restrictions, social distancing requirements, and children’s protection needs, and the timely award of interim and final compensation. Suggestions from Enfold Proactive Health Trust, Bangalore in this regard are submitted at **Annexure-B** for kind consideration.
- 4) **It is also requested to give instructions to the district judiciary, particularly the Special Courts under the POCSO Act, 2012, to prioritize the cases of serious and heinous crimes against children.** According to Crime in India, 2018, 85.4% of the trials of crime against children were pending in Karnataka. With the ongoing lockdown and the uncertainty of the situation, the further delays will severely impact child victims, and discourage victims and their families from coming forward to report, resulting in impunity for those responsible for violence against children.

The Juvenile Justice Boards should also be directed to adhere to child-friendly procedures while dealing with victims under the POCSO Act, 2012.

Children’s access to justice during COVID-19 needs to be equally ensured. We therefore urge you to kindly consider the above and issue SOPs and Guidance for the benefit of children in conflict with the law and child victims.

Yours faithfully ,

 28.05.2020
Director

Integrated Child Protection Scheme
Bangalore

Annexure A: Model Guidelines for Juvenile Justice Boards and Children’s Courts under The Juvenile Justice (Care and Protection of Children) Act, 2015, in the context of COVID-19.

Annexure B: Suggestions for Practice Directions for Special Courts under the POCSO Act, 2012