



Manual for Trainers



Training on **Juvenile Justice System** for Police Officials



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Trainers

**Training on
Juvenile Justice System for Police Officials**

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HAQ: Centre for Child Rights

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Department of Women and Child Development

Government of NCT of Delhi

1, Canning Lane, K G Marg, New Delhi - 110 001

Ph.: 23392052, 23070379, 23387816

Fax : 23070378

Email : secy@wcddel.in

director@wcddel.in

dirwcd.delhi@nic.in

Delhi Police Juvenile Justice Unit

State Nodal Unit

Nanakpura

Ph.: 26882691, 26883769, 24105214

Fax : 26110313, 24101643, 24105214

Email : jtcp@dpjju.in

dcp@dpjju.in

acp@dpjju.in

inspector@dpjju.com

AJIT PRAKASH SHAH
CHIEF JUSTICE



9, Akbar Road
New Delhi-110011

FOREWORD

It gives me immense pleasure to know that the Juvenile Justice Committee of this Court is bringing out a Manual for Trainers - Training on Juvenile Justice System for Police Officials.

The Juvenile Justice Committee from its inception has focused its energies to bring about a qualitative change in the administration of juvenile justice in Delhi and to all issues relating to children in conflict with law and children in need of care and protection including improving the living conditions in children's homes and smooth repatriation of children to their families and their rehabilitation. The Committee has advised the Department of Social Welfare of Delhi Government to create a data base of missing children as also those found. This is an important step in the direction of maintenance of proper records.

The publication of the manual for trainers is yet another step which will go a long way in improving the juvenile justice system in Delhi. It will sensitize the police personnel to the issues pertaining to children and result in greater understanding of the needs of juveniles.

I convey my best wishes for the venture.

A handwritten signature in black ink, appearing to read "Ajit Prakash Shah".

(Ajit Prakash Shah)

PREFACE

The Juvenile Justice Committee set up by the Hon'ble Chief Justice was given the mandate of improving the functioning of the administration of juvenile justice in Delhi, with special reference to child rights and the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. In keeping with its terms of reference, the Committee has concentrated its energies on issues pertaining to children, both those in need of care and protection and children in conflict with the law.

Regarding children in need of care and protection, a lot needs to be done, but the efforts made so far have resulted in significant improvements in the living conditions in the children's homes. Repatriation of children has also been taken up with vigour and many of them have been re-united and successfully rehabilitated with their families, quite a few outside Delhi. The registration of children's homes is under way and a computerized database of all missing and found children is under preparation. Their details will, hopefully, be on the internet before the end of this year.

As far as children in conflict with the law are concerned, the Committee has endeavoured to speed up disposal of pending cases before the Juvenile Justice Board. When it began its efforts, the Committee was given to understand that more than 4500 cases were pending in the one Board established for all of Delhi. A few years later, the number of pending cases has come down to a manageable figure of less than 2000 with an additional Board having been set up.

Management of the justice delivery system has had positive collateral effects. Legal aid is now easily available to children in conflict with the law, giving a major breakthrough in access to justice. The police personnel have been sensitized to issues pertaining to children and this has led to a greater understanding of their concerns. The observation homes have undergone huge infrastructure improvements and have been converted from overcrowded detention centres to possible reformatories.

The task has not been easy or trouble-free. But, the Committee has been fortunate in having the benefit of advice from several well-intentioned NGOs and individuals, all of whom have contributed greatly to the results achieved so far.

One of the more important outcomes of all these efforts has been to bring about some method in the functioning of the police vis-à-vis children. Constant efforts at

educating and training police personnel especially by HAQ: Centre for Child Rights and National Institute of Public Cooperation and Development (NIPCCD) have brought about a change in their mindset. The Committee felt that the experience gained should be shared and the results disseminated to a larger audience. This has resulted in the preparation of this Manual which, it is hoped, will benefit police personnel and children all over the country. This is the first such effort anywhere and the credit for this Manual must go primarily to the sub-committee consisting of Dr. Ashok Kumar, Jt. Director, NIPCCD, Ms. Suman Nalwa, ACP/Special Police Unit for Women and Children, Delhi Polices Mr. M.M. Vidyarthi, Member, Delhi Commission for Protection of Child Rights, Ms. Bharti Ali, Co-Director, HAQ: Centre for Child Rights and Mr. Raaj Mangal Prasad, Chairperson, CWC, Lajpat Nagar and Vice President (Programme), Pratidhi. All of them have contributed generously in terms of time and effort and selflessly spent many hours in bringing out this Manual. They do not claim this Manual to be perfect, and they are the first to acknowledge that if any changes are necessary, these should be brought to the notice of the Committee and will be incorporated, wherever necessary.

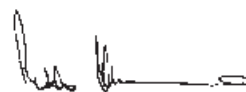
The officials of the Department of Women and Child Development, GNCTD, particularly the Secretary, Mrs. Debashree Muherjee, the Director, Mr. Rajiv Kale and the Joint Directors, Mr. R.N. Mangla and Mr. P.P. Dhal have been extremely helpful in providing all support to the sub-committee and have encouraged and fully supported the venture. They too are entitled to share the credit for this Manual.



Madan B. Lokur
Judge,
Delhi High Court



Anil Kumar
Judge,
Delhi High Court



Rekha Sharma
Judge,
Delhi High Court

New Delhi
23rd September 2009

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About the Manual

Training Manual on Juvenile Justice System for Police Officials

I. Background

Children constitute 44% of India's population. Unfortunately, many of them survive in some of the most difficult circumstances, both while they live with their families and when they are out of a family set up living as orphans and destitutes. Studies have shown how the difficult situations in which children find themselves put them to an even greater risk of getting exposed to anti-social influences. In order to deal with such a situation and also to provide an effective alternative system, Government has enacted the Juvenile Justice (Care and Protection of Children) Act 2000 and Amendment Act 2006 and introduced schemes and programmes to take care of the needs of children deprived of care, protection, family support and basic services, as well as children who come in conflict with law.

Care and Protection of children is recognised as basic to their survival and growth. For children found in the most vulnerable situations, a rights-based and professional approach to their protection, rehabilitation and restoration is mandatory. This expectation not only stems from India's international commitments by way of the UN Convention on the Rights of the Child and its Optional Protocols, but also as a Constitutional guarantee. It is the way forward for the Indian society, determined, as it is, to hand over the baton to children as they grow into adulthood.

The Juvenile Justice System in India can be briefly traced to initial Children's Acts of some States in the pre-independence era. The Central Legislation on Children – The Children's Act was enacted in 1960 which governed the administration of care and protection of children till 1986, when the ambit and nomenclature was changed to widen it to juveniles as well. The Juvenile Justice Act 1986 also addressed the need for a mechanism of handling children and juveniles in institutional care.

The Beijing Rules on Standard Minimum Rules for Administration of Juvenile Justice 1985 set the tone for addressing the problem of juvenile delinquency as an independent issue, with a need to revisit social policy ramifications. The idea of addressing this vexing problem, through a separate and distinct adjudicatory mechanism following the principles of rights based approach, meant rethinking the welfare measures as well as preparing the administration to handle juveniles differently. The ideal ethos and hope is well exemplified in the numerous perspective documents of both UN Agencies and Government of India (A World Fit for Children – UNICEF, India; National Plan of Action 2005 etc.).

Even as the law exists in India, implementation remains weak and invisible, which is reflected in the situation of the children. One of the biggest problems in the implementation of the Juvenile Justice Act lies in the narrow understanding of different stakeholders regarding use or jurisdiction of the law.

Police has to play a very important role in the implementation of the Juvenile Justice Act. With the law having changed recently and new areas of implementation emerging through intervention of social activists and the courts, the police constantly feel challenged. This results in a need to upgrade skills and knowledge and enhance the capacities of the police in dealing with children.

The High Court of Delhi, through its Monitoring Committee on Juvenile Justice, has been interacting with police, judicial officers, concerned Government Departments and NGOs on this subject to improve administration of juvenile justice in the NCT of Delhi. As part of these interactions, it recognized the importance of training and capacity building of the police personnel, who may be the first persons a child could possibly come in contact with when in distress or in conflict with law. The Committee comprising of Hon'ble Justice Madan B. Lokur, Justice Anil Kumar and Justice Rekha Sharma, constituted a sub-committee for preparing a Manual for Trainers for conducting Training on Juvenile Justice for the Police. This will enable creation of a set of trained persons to carry out capacity building programmes with police. It will also result in a set of trained police force to deal with children.

Members of the Sub-Committee are:

Dr. Ashok Kumar, Jt. Director, National Institute of Public Cooperation and Child Development (NIPCCD)

Ms. Suman Nalwa, ACP/Special Police Unit for Women and Children, Delhi Police

Mr. M.M. Vidyarthi, Member, Delhi Commission for Protection of Child Rights

Ms. Bharti Ali, Co-Director, HAQ: Centre for Child Rights

Mr. Raaj Mangal Prasad, Chairperson, Child Welfare Committee, Lajpat Nagar and Vice-President (Programme), Pratidhi

Inputs were also provided by Mr. Divya Lahad (NIPCCD, New Delhi), Mr. Sanjay Gupta (Chetna), Mr. Vipin Bhatt (HAQ: Centre for Child Rights) and Mr. Yogesh Kumar (Pratidhi) in the preparation of this manual.

This Manual is a Trainers' Guide and it aims to address a comprehensive need of trainers as well as provide an all encompassing approach, using a theoretical and practical framework. It draws upon various training techniques and knowledge-based curriculum and is divided into following six chapters.

1. Introduction to the Manual
2. Understanding Self Attitude
3. Introduction to Child Rights and Principles of Juvenile Justice
4. Child and the Juvenile Justice Law in India
5. Children In Need Of Care and Protection
6. Children In Conflict With Law

The objective of the Manual is to impart knowledge and skills and to encourage a rights-based attitude and understanding among the police officials dealing with children. It focuses on a practical, hands-on approach, rather than a mere theoretical in-depth training. It however seeks to establish systematic guidelines and guide trainers to undertake police training in a skilled manner, through all its various stages. An attempt has also been made to make it comprehensive and highly interactive. In the beginning of the Manual, programme schedules are given to guide the trainer/facilitator to follow a logical section in training in order to achieve best outcomes. There is ample scope for individual trainer and resource persons conducting specific sessions to achieve the desired results and add to the richness of the training sessions using their own experiences and developing newer methods.

This manual will be followed up with a compendium of relevant judgements in matters involving children, both as child victims of crime as well as children in conflict with law. The compendium, although a separate book, is meant to act as a useful resource and reference book for the police, lawyers and other practitioners engaging with children and the juvenile justice system.

II. How to use the Manual

This Manual is based on interaction between trainers and participants and extensive use of participatory and interactive exercises to help participants learn and also enjoy the learning process.

It is designed in the form of a complete training programme, with tips for trainers

and facilitators where necessary, games and exercises that can help facilitate the sessions and content specific information which will help the trainers/facilitators/resource persons conduct a successful training programme.

Each chapter is designed to guide the trainer/facilitator through every session.

There are several Annexures at the end of the manual that are for reference. Trainers/facilitators in different states will have to look for state-specific information to assist the participants with tools that will help them perform their role suitably. These include state-specific court orders, judgements, circulars, notifications, standing orders, and standard operating procedures. These should form part of the resource kit that may be distributed to all participants at the beginning or end of a training programme.

III. Intended Users

Although developed as an initiative of the High Court appointed Monitoring Committee on Juvenile Justice, this manual is designed to be used across the country and is hence adaptable to change.

The maximum number of participants in a training conducted with the help of this manual should be 25-30. This will help facilitate maximum sharing, interaction and open discussion.

The manual will ensure that the trainer has requisite subject knowledge on the Juvenile Justice Act.

Even the police can use it for developing its own cadre of trainers as well as for drawing information and knowledge on legal procedures that may not have been mentioned in the law very clearly, or matters that have been a subject of debate and discussion.

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CHAPTER 1

I

Introduction to the Manual

Duration: 1 hour 15 minutes

ROLE OF THE FACILITATOR / RESOURCE PERSON / TRAINER

Most people associate the word "facilitator" with the training environment. Often, the person at the front of the room leading a training session is referred to as the course facilitator/resource person/trainer.

A facilitator is an individual whose job is to help a group of people understand and achieve their common objectives by managing a process of information exchange, and assists them without taking a particular position. While a trainer or a resource person is an expert whose role is to collaborate and achieve synergy, particularly about the content of a discussion, the facilitator's role is to help the organizations to work more effectively with HOW the discussion is proceeding.

In short, the facilitator's responsibility is to address the journey, rather than the destination.

For some training programmes, the facilitator is also required to be the resource person. If a person is able to perform both these roles, it is ideal for carrying out a training programme.

Therefore, in such situations, while a Resource Person is the subject expert, he/she will also have to have the qualities essential for being a facilitator also.

The facilitator ensures a productive group process may it be brainstorming a new

idea or discussing the latest amendments to acts. The facilitator's role within the group comes down to the following three headings. The role of the facilitator is to ensure that the group works as a constructive and cohesive unit.

This task has three parts:

Leadership

FOCUS To provide a focus for group work and help the group leader to fulfill their role when required.

STIMULATE To encourage full participation and constructive debate among group members.

To extract information from passive group members using observation and skilful intervention to allow everyone to do their best thinking.

GROUP BUILDING To form a cohesive, interactive and productive group by mutual understanding and cultivate shared responsibility in its individuals in light of group dynamics.

SUPPORT When the group is interacting poorly or in the wrong direction, the facilitator must skillfully intervene in a way that adds to the group's creativity rather than taking away from it and promotes discussion on each point raised, by all members of the group and add new ideas.

CONDUCTIVE ENVIRONMENT Build a conducive and enabling environment and set the ground rules in consultation with the participants.

Referee

REGULATION To maintain order of the group work and set rules for it in consultation with the participants e.g. discourage participants from talking at the same time or dominating the floor.

PROTECT MEMBERS To ensure that all contributions to the discussion are treated equally and that no one is rebuffed for their input.

DEAL WITH PROBLEMS To control non-cooperative participants within the group, allowing everyone to participate freely to search for inclusive solutions and build sustainable agreements.

TIMEKEEPER To adhere to achieve the session goals in the time allotted, following completion of an agreed-upon agenda and maintaining the time schedule.

Neutral

PRAGMATIC To maintain objectivity during discussions and take a neutral look at the discussion, viewing each point on its merits.

TENET To make it easier for the group to arrive at its own answer, decision, or deliverable and not lead the group towards the answer that he/she thinks is best even if they possess an opinion on the subject matter.

ENCOURAGE FEEDBACK To promote discussion on each point raised, by all members of the group and new ideas to be submitted

THE FACILITATOR must be neutral to the discussion, taking a pragmatic view of all points raised. This frees the facilitator to concentrate on the group rather than the content of the discussion and hence they can ask pertinent and stimulating questions.

Managerial Skills and Qualities

To be effective in the role of a facilitator, the person needs to be effective as a manager, requiring several skills and qualities to be able to guide the training smoothly.

Communication

The ability to put across points using all the techniques available, both verbal and non verbal, receptive listening is also an important tool.

Planning

To coordinate the venue and other logistics, including materials and equipments, resource persons, time schedule etc. for the session. To arrange in such a way that all barriers are removed between facilitator and participants. The time allocation to the sessions should also include time for discussions and feedback sessions.

Leadership

To form a team from a group of individuals through motivation and empowerment and delegate essential tasks as a good leader.

To know when to hold back, allowing the group to decide and take initiative, and when to intervene to lead the discussion.

Training

To understand the training needs of the group. This may be achieved through pre-training assessment of the expectations of participants and their strengths and weaknesses.

Problem Identification

In facilitating a training programme, there may arise several problems both before and during the programme. Knowing that there is a problem is not enough. You have to be able to get to its root cause, be it human or mechanical and also address it to the best of your ability.

For example,

- Protocols may have to be followed in organizing a training programme
- Time Schedule should be such that meets the needs of the training programme and suits all
- Pre-visit to the training venue may be required
- Resource persons must be confirmed
- Absence of a resource person due to unexpected reasons will have to be filled in

Consulting

The facilitator should not just stand up and give a formal lecture to the participants. It is important to involve the participants and share the programme schedule. A facilitator must act as a catalyst, keep in mind the needs of the participants and bring in necessary changes based on participant feed back.

Personal skills and qualities

Flexibility

The ability to fulfill different group roles, as leader, supporter, inquisitor etc. and adapt in order to keep the group process fluid, maximize potential and achieve the objectives of the training.

Confidence

To instill confidence in the group by appearing purposeful and in control, therefore subduing group insecurities.

Authenticity

To have relevant knowledge and information for ready reference. To be truthful when information is not available and be trustworthy to the group.

Consistency

To be consistent in approach to the task, not moving away from the objectives and goals.

Patience/Perseverance

To appreciate the difficulties of group work and have the determination to accomplish the task.

Leadership

To have respect for the group, ability and presence of mind to intervene at the appropriate situation.

Integrity

To be an example to the group of how to conduct oneself at work.

Initiating

To be able to start the group working on the task or, when a problem is discovered/developed, to find an alternative solution and maintain the working of the schedule.

Respectable

To have acceptance of the group as being a person whom they can trust and respect.

Perceptive

To be sensitive and perceptive to the needs of the participants and dynamics of the group. To have foresight to use positive behaviour and responses to the group's advantage and encounter the negative ones.

Probable Problems & Possible Solutions

Quiet/Shy Participant - a group member is not participating as the facilitator thinks they should. This may be because the participant is:

- shy, timid or insecure

- indifferent to the topics being discussed
- bored
- feeling superior
- has already participated in similar programmes
- unable to concentrate due to pre-occupations and other reasons
- having difficulty adjusting to any difference of opinion
- unable to understand and comprehend what is being discussed
- distanced due to age/rank differences within the group

Possible Solutions:

- use small games and group exercises for building rapport within the group
- make eye contact with the participant and ask a simple question
- involve the participant in a small subgroup discussion and ask them to recap the points of discussion
- recognise and encourage his/her contribution immediately and sincerely
- if required, informally ask during a break or in private about why the participant is so quiet
- suggest that everyone takes a turn in sharing their opinion

Overly Talkative Participant - a group member talks too much, rambles on repeatedly and is generally dominant. This may be caused by:

- a natural need for attention
- being overly prepared/unprepared for the meeting
- wanting to flaunt a large vocabulary or extensive knowledge
- having the most authority

Possible Solutions:

- glance at your watch whilst the participant is speaking
- during a pause for breath, thank the participant for their comments, and restate the agenda
- emphasize upon the relevant points and time limits from time to time
- ask the participant to explain how their comments add value to the topic at hand
- reflect their comments back to the group
- remind everyone of the time limit
- if the point being made is not relevant to the discussion, inform the concerned participant that it can be taken up later on

Side Conversation - a group member is disrupting the meeting by being involved in too many side conversations. This may be because the participant:

- feels the need to introduce an item not on the agenda
- is bored with the meeting
- has a point to raise that they feel makes other items on the agenda less important
- is discussing a related topic but not being heard
- wants to be the centre of attention
- is seeking more information
- is seeking confirmation on his/her thoughts/understanding from peers

Possible Solutions:

- ask the participant to share their idea with the group
- get up and casually walk around near the participants having the side conversation
- call the participant by name and ask if they want to add the topic of their discussion to the agenda
- restate a recently made point and ask for the participants opinion
- remind the participants about the ground rules

Overly Disagreeable Participant - a group member is highly argumentative or generally antagonistic. This may be because they:

- have a combative personality
- are upset by others' opinions on a specific issue
- are a show-off by nature
- are unable to make suggestions constructively
- feel that they are being ignored

Possible Solutions:

- paraphrase the participant's comments, and after their response, recap his/her position in objective terms
- find merit in the participant's suggestions, express agreement, then move on
- respond to the participant's comments, not the attack
- open the discussion of the participant's comments to the group
- mention that due to time constraints, the comments can be put on the agenda for the next programme

Introduction of participants and facilitators/resource persons (Ice Breaking)

Participants may be asked to introduce themselves using games and exercises. Here are some such exercises that may be used.

Activity 1: First Name Introduction

Objectives:

- ◆ To start proceedings on an informal note
- ◆ To introduce each participant and the facilitator
- ◆ To help participants understand themselves better

Material Required: None

Duration: 15 minutes

Instructions:

- ◆ Introducing self by adding an adjective before his or her name that describes a quality of the person. For example:
 - ☞ I am Happy Raman
 - ☞ I am Beautiful Seema

Tips for facilitators/resource persons:

- ◆ The facilitator/resource person may initiate the activity with his/her own introduction as per the instructions given above.
- ◆ There is no need to debrief after this exercise. This activity helps in creating an atmosphere of informality.
- ◆ Ensure that participants only respond with positive adjectives, not negative. For example responses such as 'Aggressive Anita' or 'Irresponsible Indu' should be discouraged.
- ◆ Some times participants may find it difficult to think of positive adjectives for themselves. In such cases, enable participants to see that they lack understanding about themselves.
- ◆ It is also possible that participants may not be able to think of an adjective with the first alphabet of their name. In this case, the facilitator/resource person could ask the participants to help each other with adjectives.

Activity 2: Paired Interviewing

Objectives:

- ◆ To help participants introduce themselves
- ◆ To help participants relax by facilitating interaction and sharing in pairs

Material Required: Paper and pens

Duration: 30 - 45 minutes

Instructions:

- ◆ Divide participants in pairs.
- ◆ Ask each participant to interview their partner using questions such as:
 - ☞ What is your name?
 - ☞ What is your background and experience?
 - ☞ Have you ever attended any training on juvenile justice system?
 - ☞ What are two good things that have happened to you in the past year?

Give participants 10 minutes for sharing in pairs

- ◆ Ask the pairs to return to the larger group and to report on what they learnt about their partners (including the partner's name).

Tips for the Facilitator/Resource Person:

- ◆ The facilitator/resource person should also form a pair and be part of the activity as per the instructions given above.
- ◆ The key to the activity is that the participants do not report on themselves. They have to report on their partner. This helps the participants in opening up by dropping their inhibitions and facilitates active listening.
- ◆ The participants can be asked to add to the information provided by their partners in case they felt that any aspect/relevant point has been missed out while reporting about them.

Setting Ground Rules

Duration: 10 minutes

What are Ground Rules?

Ground rules are the minimum necessary conditions for smooth sailing of a training programme and these rules are set through consensus before the technical sessions actually begin. To be effective, ground rules must be clear, consistent, agreed-to, and followed.

Ground rules are sometimes referred to as protocol.

Where articulated ground rules are missing, natural behavior patterns often emerge spontaneously. These are referred to as norms.

To be effective, ground rules must be -

- clear,
- consistent,
- agreed-to, and
- followed.

Ground rules are formed to bring home a normative behavioral pattern of the trainees to define as to how individual participants should treat and support each other, communicate, participate, cooperate, and coordinate joint activities. These rules may be used to define and standardize team procedure, use of time, work assignments, meeting logistics, discussion, creativity, reporting, respect and so on.

A team should create and adopt written ground rules before the technical sessions start. The rules should be consulted and enforced through reminders and team process checks. These should be added to and revised as needed.

Why are ground rules important?

- ◆ Ground rules are essential in order to evolve a consistent acceptable behavioral pattern that applies to each and every participant.
This helps maintain a positive learning environment throughout the training programme.
It also helps trainees feel comfortable, safe and supported and encourages positive communication within the group.
- ◆ They further facilitate the participants to relate to each other in a positive way and to respect the ability and potential of fellow trainees.
- ◆ When broken, ground rules provide the facilitator/resource person, and others in the group, implied consent to intervene.

How do we establish ground rules?

- ◆ It's important to spend necessary time to come to **consensus** (an essential pre-condition) on the specific rules for an ongoing group.
- ◆ Each trainee should be encouraged to make his/her own suggestions, so as to what all should comprise the ground rules.
Let the trainees come up with their own protocol/set of rules at

Working within accepted ground rules is important for the trainer, particularly in conducting learning activities that may require sharing of a range of ideas and views which call for positive values and attitudes among the participants.

the start of the training session. Do not dictate the rules to them. This process will help the participants to have a clear understanding of acceptable behaviour.

- ◆ The facilitator/resource person must engage all the trainees in the development of these ground rules to build up required trust and confidence in them. If trainees have difficulty in developing these rules, the facilitator/resource person may like to guide the process of rule setting with some suggestions as given below-
 - ◆ Session will start promptly on time as scheduled. All trainees are expected to be on time. If, for extenuating circumstances, a trainee is late, he/she must catch up on his/her own
 - ◆ Switch off mobile phones – this could be addressed by asking, “Does anyone need to keep mobile on for family or 'on-call' reasons? OK, then could you put your mobile on silent mode please?” and “when you get a call, take the call after going out of the room”
 - ◆ Respect health and safety regulations
 - ◆ Never refer to someone by name when giving an example
 - ◆ What other people share is confidential
 - ◆ Do not interrupt while someone is talking
 - ◆ Listen to different ideas without put-downs
 - ◆ Everyone has the right to speak and therefore everyone must respect each other's right to participate and share thoughts
 - ◆ Each person is responsible for his or her own behaviour
 - ◆ Respect other's cultural and religious traditions, beliefs, values and languages
 - ◆ Respect other people's contributions
 - ◆ Only have one conversation at a time in the class

Expectations (with an Exercise)

Make sure you know what the participants expect.

Understanding the participants' expectations from the training programme is key to the success of the programme.

Objectives:

- ◆ To enable participants to express what they hope to achieve from the training
- ◆ To allow participants to share their feelings and apprehensions/anxiety associated with the training that may hinder their open participation

- ◆ To help the facilitators/resource persons to clarify the aims and goals of the program clearly to ensure that the participants do not have any unrealistic expectations.

LISTING EXPECTATIONS

There are several kinds of exercises that the facilitators/resource persons can use

Material Required: Cards or pieces of paper (at least two for each participant), 2 flipcharts, markers, pens for participants

Duration: 20 minutes

Instructions:

- ◆ On a flipchart or whiteboard write the following questions:
 - Expectations: What do you hope to learn or achieve in this training?
What do you hope will happen in the training?
 - Apprehensions: What concerns or reservations do you have about the training?
Is there anything you are uncomfortable with – if so, what?
- ◆ Distribute at least two cards/pieces of paper to each participant
- ◆ Ask participants to write their “expectations” on one and their “apprehensions” on the second piece of paper.
- ◆ Give the participants 10 minutes to write down their expectations and apprehensions on the cards/sheets and ask them to come forward to stick them on the appropriate flipchart, once they are ready.
- ◆ Address the concerns raised by the participants and inform them about the outline of the training, relating it to the expectations expressed by them.

Tips for the facilitator/resource person:

- ◆ While the papers/cards are being put up, select the ones that need to be addressed immediately and discuss those.
- ◆ If there are any concerns that you feel would be relevant to the respective training sessions, such concerns can be addressed during the relevant sessions in the training. Mention that such apprehensions and concerns (if any) expressed by participants will be addressed later during the training.
- ◆ Clarify the goals of the training if any unrealistic expectations come up that do not fit in the agenda/design of the training.

Pre and Post Training Assessment Questionnaire (Optional, depending upon time availability)

Pre and Post Training Assessment - What did the participants already know and what more did they gain from the programme?

Objective: To obtain information to assess the level of knowledge, attitude and skills of participants and to provide means for final assessment of training.

Various methods of collecting information may be used. One such method is administration of a schedule with multiple choice questionnaires.

Duration:

Pre Training Assessment – 15 minutes

Post Training Assessment – 15 minutes

Materials:

Pre training assessment Questionnaires – Resource Sheet 1

Post training assessment Questionnaires – Resource Sheet 2

Note for the Facilitator/Resource Person: Distribute the questionnaire to be completed individually by all participants within fifteen minutes. The questions must be multiple choice questions.

It should be emphasized that these questionnaires are not for testing and marking an individual's performance/ability. Rather it helps in evaluating the trainer at the end of the programme and in identification of areas of improvement.

Resource Sheet 1**Police Officers Training on Juvenile Justice
Pre training Assessment Questionnaire**

Name:

Date:

Rank:

Identification Number:

Police Station:

All you have to do is tick ✓ the correct option!

1. Have you ever heard about Juvenile Justice (Care and Protection of Children) Act 2000?
 - Yes
 - No

2. Up to what age is a person considered to be a child/juvenile?
 - 12 years
 - 14 years
 - 16 years
 - Below 18 years
 - 18 years and above
 - Do not know
 - Any other (Specify)

3. What kinds of children are dealt with under this act? (You may tick more than one option for this question)
 - Children who go to school
 - Children who play cricket
 - Children who stay at home
 - Child labour
 - Child prostitutes
 - Child beggars
 - Trafficked children
 - Street children

- Orphan children
 - Victims of rape
 - HIV/AIDS affected children
 - Children who commit crimes
 - SC/ST children
 - Children belonging to other ethnic and religious minorities
 - Do not know
 - Any other (Specify)
4. What are the situations where children and police come in contact with each other? (You may tick more than one option for this question)
- When children need care and protection
 - When children are vulnerable to exploitation
 - When children are alleged to have committed a crime
 - As witnesses in a case
 - As victims of crime
 - All of the above
 - Any other (Specify)
5. What do you call children who are alleged to be involved in crime?
- Accused
 - Repeater
 - Offender
 - Child in conflict with law
 - Juvenile
 - Do not know
 - Any other (Specify)
6. Where do you produce children who are alleged to be involved in crime?
- District Court
 - Beggars' Court
 - Juvenile Court
 - Juvenile Justice Board
 - Child Welfare Committee
 - SDM's Court
 - Do not know

- Any other (Specify)
7. Where do you keep a child who is alleged to be involved in crime before producing in front of the appropriate authority?
- In Jail
 - In lock up
 - Nari Niketan
 - Children's home
 - Observation Home
 - Special Home
 - Any NGO Shelter/Home
 - Place of Safety
 - At your home
 - Do not know
 - Any other (Specify)
8. Who is supposed to inform the parent and guardian of a child apprehended by the police?
- Probation officer
 - Police
 - Doctor/CMO
 - NGO
 - Media
 - Do not know
 - Any other (Specify)
9. Is the police required to inform the Probation Officer about apprehension of a child?
- Yes
 - No
 - Do not know
 - Any other (Specify)
10. The police should produce a child before the Competent Authority within:
- 48 Hours of apprehension
 - 24 Hours of apprehension

- 72 Hours of apprehension
 - 36 Hours of apprehension
 - Soon after filing FIR
 - Soon after DD entry
 - As soon as all necessary interaction with the child is completed
 - Within 24 hours of medical examination of the child
 - Do not know
 - Any other (Specify)
11. If few adults and a child were involved in breach of peace (small fight/quarrel with others) or there is apprehension of breach of peace by a child, under which section of the Act would the police book such a child?
- Sections 107/151/Cr. P. C.
 - Delhi Police Act
 - You leave them after giving warning
 - Produce before the CWC
 - Do not know
 - Any other (Specify)
12. How would you ascertain the age of the child?
- By putting pressure on him
 - By looking at affidavits
 - By looking at the child's astrological chart
 - By conducting ossification test
 - By seeking documentary proof. Example- birth registration, school leaving or admission certificate etc.
 - Do not know
 - Any other (Specify)
13. If a child commits murder at the age of 12 years and runs away and is then found at the age of 45 years, where should the police produce him/her?
- District Court
 - SDM's Court
 - Juvenile Court
 - Juvenile Justice Board
 - Child Welfare Committee

- Beggars' Court
 - Do not know
 - Any other (Specify)
14. Where should the police produce a vulnerable child after a DD entry?
- Juvenile Court
 - Juvenile Justice Board
 - Child Welfare Committee
 - District Court
 - SDM's Court
 - Do not know
 - Any other (Specify)
15. Where should a 15-year-old girl who is a victim of Child Sexual Abuse and does not know her home be kept?
- Nari Niketan
 - Children's Home for girls
 - Observation Home for Girls
 - Special Home
 - Remand Home
 - Police station
 - At your home
 - Do not know
 - Any other (Specify)
16. A girl child picked up under Section 8 of Immoral Trafficking (Prevention) Act, 1986 or a child beggar should be treated as -
- a child in need of care and protection
 - a child in conflict with law
 - Do not know
 - Any other (Specify)
17. How do you catch a child accused of committing crime? (You can tick more than one option)
- Arrest him/her
 - Apprehended him/her

- Handcuff and put him/her in lock-up
- Apprehend him/her and keep him/her in a room in the police station other than the lock-up till such time that he/she can be produced before the competent authority
- In case of petty offences, reprimand the child, inform the parents and leave the child
- Do not know
- Any other (Specify)

18. What is the role of SJPU?

- It is a body of the RPF/GRP to provide protection to government property
- It is a body of the Police Department headed by the Police Commissioner to investigate important cases
- It is a body of civilians recognised to perform certain law and order functions
- It is a body of the police department headed by the SP/DCP to upgrade the treatment of children/juveniles and take action against adults using or abusing children/juveniles
- It is a Special Judiciary Protection Unit for dealing with children's issues
- Do not know
- Any other (Specify)

19. Who is a Juvenile Welfare Officer?

- The SHO of every Police Station
- The ACP
- The investigating officer in a case concerning a child alleged to have committed an offence
- A designated police officer not below the rank of sub – Inspector especially trained to handle cases of children/juveniles
- Do not know
- Any other (Specify)

20. At what level do you have Juvenile Welfare Officers?

- District level
- Police station Level
- Commissioner's Office
- Do not know

- Any other (Specify)
21. Which one of these is the correct terminology to be used in cases of juvenile justice? Tick the right option.
1. Arrest/Apprehension
 2. Juvenile in conflict with law
Accused
Criminal
Child in conflict with law
 3. History sheeteer
Bad Character (BC)
Repeater
 4. Juvenile Court
Juvenile Justice Board
Beggars' Court
District Court
Family Court
 5. Special Home
Remand Home
 6. Child Prostitute
Child in Flesh trade
Child in conflict with law
Juvenile
Child in need of care and protection
 7. Child Beggar
Child in need of care and protection
Child Offender
Juvenile
Child in conflict with law

8. Interrogation
 - Interview
 - Questioning
 - Interaction with the child
9. Confession
 - Statement of the Child
 - Child's version
10. Police Investigation
 - Police Inquiry
11. Trial
 - Inquiry
12. Charge sheet
 - Police Investigation Report
 - Police Inquiry Report
 - Final Report
22. In the case of a Child in Need of Care and Protection, how would you proceed:
(Please number the steps in order. Please feel free to add any step that you find missing in this list and give it a number. If you think any of the steps listed here is not required, please do not give it any number)
 - DD Entry
 - Production before Child Welfare Committee
 - Placement of Child in a shelter/drop in Centre /children's home/ adoption agency
 - Medical Examination
 - Age Verification
 - Meet the immediate needs of the child such as food, clothing etc.
 - Wireless message to all the police stations
 - Do nothing

23. What would be the procedure in case of a Child in Conflict with law who has committed an offence with punishment of less than 7 years (Please number the relevant boxes in order. Feel free to add any step that you find missing in this list and give it a number. If you think any of the steps listed here is not required, kindly do not give it any number):

- ☐ Apprehend the juvenile (only where needed)
- ☐ Inform the Juvenile Welfare Officer
- ☐ Send the child to an Observation home (where required)
- ☐ Age verification (where required)
- ☐ Inform parents
- ☐ Prepare Social Background Report
- ☐ Inform Probation officer
- ☐ Produce him/her before the Juvenile Justice Board
- ☐ Make a DD entry
- ☐ Take him/her for a medical examination
- ☐ Send him/her to prison
- ☐ Keep him/her in police lock-up
- ☐ Register an FIR
- ☐ File Charge sheet
- ☐ File Final Report

24. Tick the appropriate column

Statement	TRUE	FALSE	DON'T KNOW
Most children who commit crimes are poor			
A child begging should be arrested			
Most crimes by children involve violence			
All children who commit crimes should be punished			

Punishment stops children from committing offences			
Physical punishment is an effective way to stop a child from committing crime			
There is more crime by children today than five years ago			
It is only necessary to contact parents in the event of a serious crime			
If a child has no parent or guardian, it is not necessary to contact anyone			
It is useful to collaborate with social welfare organisations			
Children can be referred to social welfare organisations by police			
Every child who is found committing an offence should be arrested by the police			
When apprehending a child, the only choice is to place him/her in police custody			
When nothing is possible, a child in conflict with law should be released even if there is no one to take charge of the child			
Most people commit crimes when they are teenagers			
Most crimes committed by young people are not serious			
Most crime is reported			
Children are victims of violence more than adults			
Adolescents should face same sanctions as adults			
Some police actions can increase crime and anti-social behaviour			
My own child could become involved in crime			
Most criminals start at an early age			
There is no harm in disclosing the name and identity of children in conflict with law in media and other public forums			

25. Tick the appropriate column

Statement	AGREE	DISAGREE	CAN'T SAY
Street children never speak the truth and cannot be trusted			
Children enjoy begging as it requires no hard work and brings a lot of money			
Poor children should be allowed to work in order to survive			
Girls get raped because of their own fault			
It is important that the name and identity of children in need of care and protection is not disclosed in media and other public forums			

Resource Sheet 2

Police Officers Training on Juvenile Justice Post Training Evaluation

Name:

Date:

Rank:

Identification Number:

Police Station:

	Not Satisfied	Average	Good	Very Good	Excellent
Training design					
Relevance of Training					
Mode of Presentation					
Was the trainer well prepared					
Communication ability of the trainer					

All you have to do is tick ✓ the correct option(s)!

1. Have you ever heard about Juvenile Justice (Care and Protection of Children) Act 2000?
 - Yes
 - No

2. Up to what age is a person considered to be a child/juvenile?
 - 12 years
 - 14 years
 - 16 years
 - Below 18 years
 - 18 years and above
 - Do not know
 - Any other (Specify)

3. What kinds of children are dealt with under this act? (You may tick more than one option for this question)
 - Children who go to school
 - Children who play cricket
 - Children who stay at home
 - Child labour
 - Child prostitutes
 - Child beggars
 - Trafficked children
 - Street children
 - Orphan children
 - Victims of rape
 - HIV/AIDS affected children
 - Children who commit crimes
 - SC/ST children
 - Children belonging to other ethnic and religious minorities
 - Do not know
 - Any other (Specify)

4. What are the situations where children and police come in contact with each other?
 - When children need care and protection
 - When children are vulnerable to exploitation
 - When children are alleged to have committed a crime
 - As witnesses in a case
 - As victims of crime
 - All of the above
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5. What do you call children who are alleged to be involved in crime?
 - Accused
 - Repeater
 - Offender
 - Child in conflict with law
 - Juvenile
 - Do not know
 - Any other (Specify)
6. Where do you produce children who are alleged to be involved in crime?
 - District Court
 - Beggars' Court
 - Juvenile Court
 - Juvenile Justice Board
 - Child Welfare Committee
 - SDM's Court
 - Do not know
 - Any other (Specify)
7. Where do you keep a child who is alleged to be involved in crime before producing in front of the appropriate authority?
 - In Jail
 - In lock up
 - Nari Niketan
 - Children's home
 - Observation Home

- Special Home
 - Any NGO Shelter/Home
 - Place of Safety
 - At your home
 - Do not know
 - Any other (Specify)
8. Who is supposed to inform the parent and guardian of a child apprehended by the police?
- Probation officer
 - Police
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 - NGO
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- Criminal
Child in conflict with law
- History sheeteer
Bad Character (BC)
Repeater
- Juvenile Court
Juvenile Justice Board
Beggars' Court
District Court
Family Court
- Special Home
Remand Home
- Child Prostitute
Child in Flesh trade
Child in conflict with law
Juvenile
Child in need of care and protection
- Child Beggar
Child in need of care and protection
Child Offender
Juvenile
Child in conflict with law
- Interrogation
Interview
Questioning
Interaction with the child
- Confession
Statement of the Child
Child's version

- Police Investigation
Police Inquiry
- Trial
Inquiry
- Charge sheet
Police Investigation Report
Police Inquiry Report
Final Report

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- ☐ DD Entry
- ☐ Production before Child Welfare Committee
- ☐ Placement of Child in a shelter/drop in centre /children's home/ adoption agency
- ☐ Medical Examination
- ☐ Age Verification
- ☐ Meet the immediate needs of the child such as food, clothing etc.
- ☐ Wireless message to all the police stations
- ☐ Do nothing

23. What would be the procedure in case of a Child in Conflict with law who has committed an offence with punishment of less than 7 years (Please number the relevant boxes in order. Feel free to add any step that you find missing in this list and give it a number. If you think any of the steps listed here is not required, kindly do not give it any number):

- ☐ Apprehend the juvenile (only where needed)

- ☐ Inform the Juvenile Welfare Officer
- ☐ Send the child to an Observation home (where required)
- ☐ Age verification (where required)
- ☐ Inform parents
- ☐ Prepare Social Background Report
- ☐ Inform Probation officer
- ☐ Produce him/her before the Juvenile Justice Board
- ☐ Make a DD entry
- ☐ Take him/her for a medical examination
- ☐ Send him/her to prison
- ☐ Keep him/her in police lock-up
- ☐ Register an FIR
- ☐ File charge sheet
- ☐ File Final Report

24. Tick the appropriate column

Statement	TRUE	FALSE	DON'T KNOW
Most children who commit crimes are poor			
A child begging should be arrested			
Most crimes by children involve violence			
All children who commit crimes should be punished			
Punishment stops children from committing offences			
Physical punishment is an effective way to stop a child from committing crime			
There is more crime by children today than five years ago			

It is only necessary to contact parents in the event of a serious crime			
If a child has no parent or guardian, it is not necessary to contact anyone			
It is useful to collaborate with social welfare organisations			
Children can be referred to social welfare organisations by police			
Every child who is found committing an offence should be arrested by the police			
When apprehending a child, the only choice is to place him/her in police custody			
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Most crime is reported			
Children are victims of violence more than adults			
Adolescents should face same sanctions as adults			
Some police actions can increase crime and anti-social behavior			
My own child could become involved in crime			
Most criminals start at an early age			
There is no harm in disclosing the name and identity of children in conflict with law in media and other public forums			

25. Tick the appropriate column

Statement	AGREE	DISAGREE	CAN'T SAY
Street children never speak the truth and cannot be trusted			
Children enjoy begging as it requires no hard work and brings a lot of money			
Poor children should be allowed to work in order to survive			
Girls get raped because of their own fault			
It is important that the name and identity of children in need of care and protection is not disclosed in media and other public forums			

CHAPTER 2

U

Understanding Self Attitude

Duration: 40 minutes

UNDERSTANDING SELF ATTITUDE

Attitude is the reflection of one's personality. Simply put, attitude is all about one's feeling or mood towards people, things or circumstances. A number of factors have been identified that play a role in shaping one's attitude –socialization, socio-cultural values, school, education, age, exposure, parenting, to name a few.

Processes shaping our attitude are imperceptible to us for they go on in the sub-conscious part of the mind. The way you act, the way you approach a problem and the way you respond to the environmental circumstances, could explain the kind of attitude you have. Being an important aspect of one's personality, possession of a right attitude can play an important role in scripting the action worthy of praise and recognition by the society as a whole.

Though it is important in every action you take, its role becomes crucial when your actions, being guided by the kind of attitude you have, have an important bearing on the life of others. It is even more crucial when that “other” is none other than the society's most vulnerable section – children.

It has been identified that there is an alarming level of fear of police in the minds of children, which is a reaction to both the attitude of police towards children and also the kind of social upbringing our children are given. Besides the

irresponsible actions of police that rob children of their fundamental rights, parents too contribute in raising the same to an alarming level through wrong ways of socialization. Parents, exploiting the scary image of police, often terrify their own children in order to discipline them.

Therefore, we need to make an effort at two different levels: Firstly, our own understanding of the attitude of police; Secondly, the society's perception of police. A child's personality develops in the society. Therefore it is the society's perception of police that determine the kind of image of police a child would live with.

This chapter would extend help police identifying their own attitude, understanding their own biases and in capturing the society's and children's perception of police. As a facilitator it is our responsibility to help them identify their own biases. Extending help to streamline their biases and diverting the same into right direction can go a long way in securing the rights of children.

It is important to help police personnel analyze their own attitude and bias towards children.

Methodology – Activities based session. Any of the following illustrative activities may be used by the facilitators/resource persons. There may be other such exercises available with the facilitators/resource persons, which can also be brought to use.

Activity 1: Getting individual perception around an abstract picture (Here is an example)

Objectives:

- ◆ To help participants understand the individual's attitude that may work while assessing a particular case or situation.
- ◆ To help participants understand that their first step can decide the future of the case.
- ◆ To help participants understand themselves better.



Materials Required: LCD projector, an abstract picture, chart, markers, paper, and tape

Duration: 25-30 Minutes

Instructions:

- ◆ Firstly, share with participants that they need to participate in the exercise ensuring two way communication.
- ◆ Show them the abstract picture and ask them to reflect upon the first expression that comes to their mind after they see the picture.
- ◆ Try to get at least 10 different perceptions from the participants
- ◆ Write down different perceptions on a piece of chart pasted on a wall or white board.
- ◆ Ask the participants:
 - Why have people shared different perceptions on the same picture?
 - What are the factors that play an important role in building perceptions?
 - What are the threats if perceptions becomes hurdles in assessing the situations?
 - Why is it important for police personnel to be non-biased while handling a case of a child?

Tips for facilitators/resource persons:

- ◆ Try to build an environment that will help in getting the perceptions of the participants
- ◆ Generally, the police personnel are not ready for interactive sessions like this, hence quality time should be spent on ice breaking before the exercise
- ◆ The best way is to keep on reminding them that you need a total of 10 perceptions from the participants to reach to some conclusion
- ◆ It is also good to ask questions from participants sitting in different parts of the room.
- ◆ Keep repeating the different perceptions jotted on the chart
- ◆ Keep on asking questions like why people have different attitudes, how attitudes are made, what factors are responsible for forming an attitude, how perceptions are deep rooted in subconscious mindset, how a biased perception can change

the future course of action in particular case. The facilitator/resource person may share some experiences reflecting police biases and its impact in a particular situation involving children.

- ◆ Try to envisage how perceptions define the attitude of the person
- ◆ Emphasize that, in most of the cases, police is the first person on behalf of state that comes in contact with CNCP and CICL, hence their first step towards the children may be crucial in deciding the future of the child.

It has been experienced in many police trainings that initially participants are little hesitant about sharing their own perception of the picture. But with friendly facilitation, participants do open up to share their perceptions.

Experience has shown that some possible responses to the picture given above are as follows:

- It is about women's empowerment
- A girl/woman is trying to break out of violence
- It is a circus advertisement
- It is about a rape victim
- It reflects freedom

Using these varied responses, the facilitators will have to guide the discussion on the reasons for such different perceptions about the same picture.

The factors that affect the perception are childhood experiences (good or bad), education, upbringing, environment, company of peers (good or bad), religion, gender, caste, sub-culture of the department/work place, etc.

It is important to remind the participants that a police person should be above all these biases while on duty. A person on duty cannot ignore/avoid/mistreat a child on the basis of the child's social status or economic condition.

Crime Statistics published by the National Crime Records Bureau, 2006 clearly show that most children in conflict with law live with their families, dispelling the myth that it is usually the homeless street children who come in conflict with law. Such biases often decide the course of action, defeating the very purpose of justice.

Activity 2: Twenty words exercise

Objectives:

- ◆ To help participants analyze self attitude and sensitivity towards children
- ◆ To help participants analyze how easy it is to build a perception about others and how difficult it is to analyze self attitude

Materials Required: White and blue colour cards 6"X4" (double the number of participants), pens, white chart paper

Duration: 30-35 minutes

Instructions:

- ◆ Firstly, share with participants that they need to participate in the exercise ensuring two way communication.
- ◆ Paste the pre-written list of 20 adjectives (honest, poor, selfish, time keeper, helpful, cunning, dependent, illiterate, ignorant, disciplined, criminal, sensitive, experienced, arrogant, host, hard working, unreliable, visionary, thief, bad mannered) written vertically, in the centre, on a piece of paper.

Police

Children

ईमानदार

गरीब

स्वार्थी

समयपालक

धूर्त

सहयोगी

वि वसनीय

मददगार

ज्ञानी

अनपढ़

अक्रामक

अनुशासित

कर्मठ

देखभाल करने वाला

अज्ञानीविश्लेशक

अनुभवी

अपराधी

मेहमान बाज

संवेदनशील

- ◆ Distribute the white colour cards among participants and ask them to choose and write down on these cards 5 adjectives that in their perception define Children in need of care and protection (CNCP) or, Children in Conflict with Law (CICL).
- ◆ Take the white cards back, telling the participants that this has helped in collecting the group's views about children (CNCP/CICL), which will be looked at later on.
- ◆ Then distribute the blue cards among participants and ask them to again choose and write down 5 words about themselves on the blue cards.
- ◆ Take the blue cards back.
- ◆ Now using the word list on the chart start analyzing the trend of participants' perceptions about children by ticking on the left side against words that are mentioned in the white cards. Randomly select 20 white cards at least for this exercise.
- ◆ Similarly repeat the exercise by ticking on the right side against the words listed in the blue cards, randomly selecting at least 20 such cards.
- ◆ Then underline the 'skewed' or 'almost similar' trends
- ◆ Some questions that can be raised are
 - Which task took more time: first or second? Why?
 - What are the reasons for similarity or dissimilarity in the different perceptions of 'self' and 'children'
 - How do you analyse yourself based on the difference in opinion expressed for 'self' and 'children'?

Tips for facilitators/resource persons

- ◆ Ensure that participants are ready to get into the exercise
- ◆ The word chart is prepared in advance and is visible from at least 10 metres
- ◆ The words are written top to bottom, in the centre of the chart, with equal space available on its left and right.
- ◆ Participants should be encouraged to share their honest perception to get the final outcome

Activity 3: Screening of Film

Objectives:

- ◆ To help participants analyze the situation of children, its reasons and perception of children
- ◆ To help participants get a feel of the role that children, citizens expect from Police Personnel

Materials Required: Any film not more than 20 minutes (e.g. Childhood Lost - Human Rights Law Network, New Delhi, Patri Par Bachpan – Chetna and Action Aid, New Delhi, portions of commercial mainstream cinema like Slumdog Millionaire and Oye Lucky Lucky Oye) that can portray life of CNCP and CICL, LCD Projector, Laptop or CD player, sound system, white screen, and electricity extension board

Duration: 30-35 minutes

Instructions:

- ◆ Firstly, share with participants that they need to participate in the exercise ensuring two way communication.
- ◆ Then ask them to share the situation of CNCP and CICL, its causes and reasons.
- ◆ Tell them that they will be shown a film on the situation of children and hence they need to be attentive as some questions may be asked at the end of the film
- ◆ Also, share with them that they may find some of the content related to police hence they need to be receptive.
- ◆ After the film is over, following questions can be asked from the participants-
 - What is your reaction to the content of the film? Is this close to reality?
 - If yes, why? If no, why not?
 - Where do you think police can have role to improve the situation of children?
 - Why, inspite of best intention, police is not able to ensure rights to CNCP and CICL?
 - Then discuss the possible role that police should play to ensure rights of CNCP and CICL.

Tips for facilitators/resource persons

- ◆ Ensure that participants are ready to get into the exercise
- ◆ The LCD projector, CD of film, Laptop or CD player working in good condition
- ◆ The volume during the screening of film is perfectly audible at the back
- ◆ Participants should be encouraged to share their honest perception to get the final outcome

CHAPTER 3

I Introduction to Child Rights and Principles of Juvenile Justice

Duration: 1 and 1/2 hours

Objectives of this Session:

Understanding Child Rights and Principles of Juvenile Justice
Information about relevant National and International Legal Instruments

Methodology

This session will have to be divided into two parts. These are:

Part - I: Understanding Child Rights – Power point + Wants, Needs and Rights Exercise

Part - II: Principles of Juvenile Justice – Power point presentation and discussion

Part I – Understanding Child Rights

Why do children need rights?

Duration: 40 minutes

Materials and Equipment required: Flip Chart and marker pens + LCD projector, screen and computer

Instructions for the facilitator/resource person:

Ask the participants to share their views on whether children need rights at all and why? (3 minutes)

Also ask them what they understand by the term 'rights'. (3 minutes)

Write down all the views on the flip chart.

Now display the box item on the screen and read it through. (3 minutes)

Why do children need rights?

Children's Rights are Human rights.

Children are more vulnerable than adults to the conditions in which they live. Hence, they are more affected than any other age group by the actions and inaction of governments and society.

In many societies, views persist that children are their parents' property, or are adults in the making, or are not yet ready to contribute to society.

Children have no votes or political influence and little economic power.

Too often, their voices are not heard.

Children are particularly vulnerable to exploitation and abuse.

Source: HAQ: Centre for Child Rights
www.haqcrc.org

This should be followed by the 'Wants, Needs and Rights' exercise to help the participants understand the concept of 'rights' as well as what are children's rights.

ACTIVITY

Explaining Child Rights through the Wants, Needs and Rights Exercise


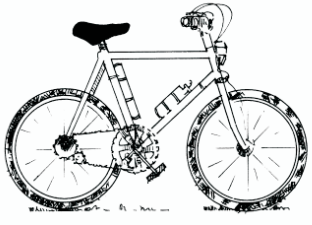
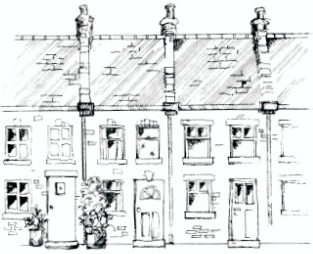

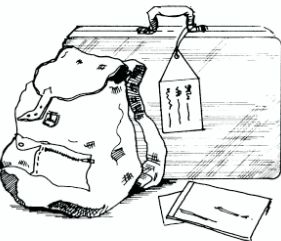



Aim

To make participants aware of the difference between rights, wants and needs

Materials Required

Wants and needs cards, flipchart and marker pens, 4 to 6 sets of card sheets with children's 20 wants and needs drawn on them and four empty boxes for addition if any, as given below:

Wants, Needs and Rights Card Sheets¹

 <p>Health care</p>	 <p>A bicycle</p>
 <p>Decent shelter</p>	 <p>Clothes in the latest style</p>
 <p>Holiday trips</p>	 <p>Nutritious food</p>
 <p>Protection from abuse and neglect</p>	 <p>Education</p>

¹ Source: Education for Development Program of UNICEF Canada, TEACHING FOR CHILDREN'S RIGHTS, Rights, Wants & Needs, For: Classrooms and Youth Groups, www.unicef.ca



Clean air



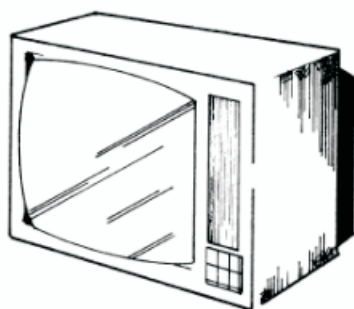
A personal stereo



Fast food



Playgrounds and recreation



A television set



Opportunities to practise your own culture,
language and religion



Opportunities to share opinions



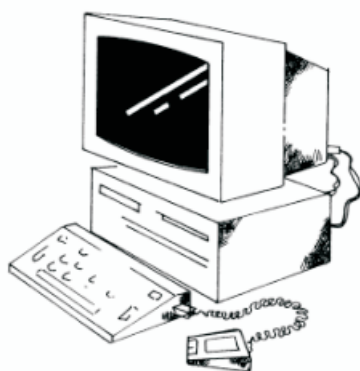
Money to spend as you like



Clean water



Your own bedroom



A personal computer



Fair treatment and non-discrimination

Method:

1. Divide all participants into four groups (maximum six groups) and ask them to assume that they have gone younger and have once again become children. (3 minutes)
2. Give each group a set of card sheets with various wants and needs, as shown above. These sheets contain 20 wants and needs. In addition, there are four blank boxes. Explain this to all participants and ensure that they have understood the card sheets given to each group. (3 minutes)
3. Ask the groups to add four more wants and needs that they can think of as children. They may wish to draw or write them out in the four blank boxes. This will expand the list to 24. (3-4 minutes)
4. Now tell them to pick out 16 most important wants and needs of all children out of these 24. It is not easy to do this. The groups will perhaps have to be put in a tight

situation and then think on their toes. So tell them that the country is going through an economic crisis and the government can only fulfill 16 wants and needs. (5 minutes)

5. Now ask them to reduce the wants and needs to 12 as there is a civil war and once again the government has to make several cuts in its expenses and promises. (3 minutes)
6. You will once again have to ask the groups to reduce the wants and needs to 8 as floods, civil war and economic crisis all together have worsened the country's position, resulting in an emergency situation. (2 minutes)
7. Now ask one person from each group to come forward and explain to everyone what they chose in the end and why. The facilitator/resource person can use a flip chart with each of the wants and needs listed therein. As the groups present their list of 8 wants and needs, the facilitator/resource person can mark against the ones listed on the flip chart to assess which of the wants/needs have received maximum attention.
8. Help the group understand that what they eliminated in the first round were things that were perhaps not so important (least important) and in the second round they may have eliminated some important things, but perhaps some of them were not as important for all children of the country. Finally what they got was the list of most important wants and needs, by and large common to all children, which they felt were non-negotiable even in an emergency situation. The pattern that emerges from group presentations usually shows that, at the end of the group work, participants choose wants and needs that are most important and also common to all children.
9. The facilitator/resource person should now introduce the difference between wants, needs and rights as follows:

- Different people have different wants and needs, but rights are the basic needs that are common to all.
- Every child has rights. No matter which region/state they are from, which community or religion they belong to, how old they are, whether they are a boy or a girl, disabled or not - all have same rights.
- All wants are not needs. But some certainly are e.g., essentials for survival, such as food, health care, shelter.
- Things that are WANTS but not NEEDS are the ones that are desirable but not necessary for survival, such as toys, education, or voting rights.
- Rights are non-negotiable in any situation whatsoever.
- Rights are legal entitlements recognized by the Governments.
- The Governments are the duty bearers of rights of children. They have an obligation to fulfill them.
- Where families are unable to meet their obligations towards their children, Governments have to ultimately step in to protect and ensure children their basic human rights.

10. The facilitator/resource person should now ask all participants if the 8 most important and non-negotiable wants and needs (rather rights) can be clubbed together under four main groups on the basis of the purpose they meet e.g. nutritious food, health care and decent shelter is necessary for survival. Similarly, playground and education are necessary for development. Help the participants categorize the 8 rights under the following heads:

- Survival
- Development
- Protection
- Participation

Such categorization will explain that sometimes it is difficult to club a particular right under any one category as it may fulfill more than one purpose. For example,

decent shelter may be clubbed under survival as well as protection, because homeless children are very vulnerable to exploitation and abuse; inadequate housing not only exposes children to disease, but also to exploitation and abuse. This discussion may be carried out for 5 minutes to conclude that rights are inter-linked and interdependent and that most of them can be clubbed under four main categories i.e. right to survival, right to development, right to protection and right to participation.

Note for the Facilitator/Resource Person:

The Facilitator/Resource Person must know that children's rights can be broadly divided into two categories for the purposes of implementation.

All Civil and Political Rights, including Right to Protection are Immediate Rights, while Economic, Social and Cultural Rights are progressive Rights. The box that follows explains the difference between the two.

Immediate Rights (Civil and Political Rights)

They include right against discrimination, corporal punishment, right to a fair Hearing in criminal cases and a separate system of juvenile justice, right to life, Right to nationality, right to re-unification with the family and some of the other Protection rights.

Progressive Rights (Economic, Social and Cultural Rights)

They include health and education and the rights which are not covered by the first category.

They are recognised in the United Nations' Convention on the Rights of the Child (UNCRC) under Article 4 which states: "With regard to Economic, social and cultural rights, State Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation."

NOTE:

While all rights must be ensured, Immediate Rights cannot wait. Limited resources cannot be an excuse for non-fulfillment of rights.

The Facilitator/Resource Person may share this information with the participants also.

Summing up:

11. The facilitator/resource person may once again use the power point presentation to sum up.

The whole exercise by now should be used to explain that

1. Rights are indivisible
2. They are so basic that they cannot be foregone in any circumstance
3. They are so inter-connected that if children have to survive, develop, be protected and encouraged to participate in matters that concern them, then these rights must all be met together.
4. Leaving one and focusing on the other will hamper one or the other basic sets of rights, leading to a violation of children's human rights.

Once the above box is displayed and read out, the facilitator/resource person may move to the next slide as follows -

While all children have equal rights, their situations are not uniform.

At the same time, childhood and the range of children's needs and rights are one whole, and must be addressed holistically. A life-cycle approach must be maintained.

Recognising that children are a special group and deserve special attention

The countries of the world got together and formulated a set of standards for the protection and harmonious development of children across the world.

These standards are enshrined in the United Nations Convention on the Rights of the Child (UNCRC), 1989, which was ratified by India in 1992

Part II – Principles of Juvenile Justice

Method: Power point presentation

Duration: 45-50 minutes

Slide 1 – Importance of Child Protection

A world fit for children is one in which all rights for all children are protected.

Every child is a bonafide citizen with full rights.

Even if a child is not a citizen of a particular country, he/she has a right to be protected against harm in any form whatsoever.

Slide 2 A – Children's Right to Protection and the Constitution of India

Constitutional Guarantees that are meant specifically for children include:

- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A)
- Right to be protected from any hazardous employment till the age of 14 years (Article 24)
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e))
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f))
- Right to early childhood care and education to all children until they complete the age of six years (Article 45)

Slide 2 B – Constitutional Guarantees (Contd.)

Children also have rights as equal citizens of India, just as any other adult male or female. These rights are enshrined in the following Constitutional provisions:

- Right to equality (Article 14)
- Right against discrimination (Article 15)
- Right to personal liberty and due process of law (Article 21)
- Right against illegal arrest and detention - right against detention in police custody beyond twenty-four hours and therefore mandatory production of a person so arrested before the competent authority within twenty-four hours of arrest (Article 22)
- Right against trafficking in human beings and beggary and other forms of forced labour (Article 23)
- Institutionalization of child care by seeking to entrust programmes of Women and Child Development to Panchayat (Item 25 of Schedule 11), apart from education (item 17), family welfare (item 25), health and sanitation (item 23) and other items with a bearing on the welfare of children (Article 243G read with Schedule 11)

Slide 3 - Administration of Juvenile Justice – the Basic Principles set out under International instruments

The basis of juvenile justice is to promote use of alternative measures of law enforcement, justice, care and protection in matters involving children.

Internationally, the two main recognised principles guiding administration of juvenile justice are:

- ◆ The Principle of Diversion
- ◆ The Principle of Restorative Justice

In addition to these, the UN Convention on the Rights of the Child (UNCRC) binds the Governments ratifying this Convention by an obligation to follow its principles in all actions/matters concerning children, including juvenile justice. These are the principles of:

- ◆ Best Interest of the child
- ◆ Non-Discrimination
- ◆ Minimum Standards of care and protection - Right to life and liberty
- ◆ Children's Right to express themselves and be heard

India ratified the UNCRC in 1992. All these principles are recognised in our national laws as contained in the Constitution of India, the Juvenile Justice (Care and Protection of Children) Act, 2000, as amended in 2006, and the Juvenile Justice (Care and Protection of Children) Rules, 2007.

Slide 4 – International Guidelines on Administration of Juvenile Justice

The International Law on Administration of Juvenile Justice is laid down in the following Instruments -

- ◆ UN Convention on the Rights of the Child, 1989
- ◆ UN Minimum Rules for the Administration of Juvenile Justice: the 'Beijing Rules' (1985)
- ◆ UN Guidelines for the Prevention of Juvenile Delinquency: the 'Riyadh Guidelines' (1990)
- ◆ UN Rules for the Protection of Juveniles Deprived of their Liberty: "JDL" (1990)
- ◆ Standard Minimum Rules for the Treatment of Prisoners (1955)
- ◆ UN Minimum Rules for Non-Custodial Measures: the 'Tokyo Rules' (1990)
- ◆ UN Resolution 1997/30 - Administration of juvenile justice: the Vienna Guidelines
- ◆ International Covenant on Civil and Political Rights (1966)
- ◆ The Riyadh Guidelines (1985), the Beijing Rules (1990) and the JDL Rules (1990) provide the internationally recognized approach to juvenile justice.

Slide 5 - A Brief on International Instruments

The Beijing Rules were the first international legal instrument to comprehensively detail norms for the administration of juvenile justice with a child rights and child development approach.

They establish a progressive justice system for young people in conflict with the law. \

These Rules are based on the fundamental perspective that the Governments must develop conditions that will ensure, for the juvenile, a meaningful life in the community; which will foster a process of personal development and education that is free from crime and delinquency.

They emphasize on developing separate and specialised systems of juvenile justice.

Slide 6 - A Brief on International Instruments (Contd.)

The **Beijing Rules** provide guidance to States on protecting children's rights and respecting their needs when developing such separate and specialised systems, thus dealing with minimum standards of care and protection in all actions towards justice, rehabilitation and social re-integration of juveniles.

They also stress on management of police actions towards respecting the legal status of the juvenile, promoting the well-being of the juvenile, avoiding harm to her or him and call for training of the police as well as setting up of special police units for the same.

The Beijing Rules come out very strong against illegal detention of children, deprivation of right to life and liberty while in custodial care.

Slide 7 - A Brief on International Instruments (Contd.)

The **Riyadh Guidelines** are about preventing and protecting young people from offending.

Prevention is seen as not merely a matter of tackling negative situations, but rather a means of promoting welfare and well-being.

More particularly, countries are recommended to develop community-based interventions and programmes to -

- assist in the prevention of children coming into conflict with the law; and,
- recognise that depriving children of their liberty should be utilised only as a means of last resort.

Slide 8 - A Brief on International Instruments (Contd.)

The **Riyadh Guidelines** recommend that prevention programmes should give priority to children who are at risk of being abandoned, neglected, exploited and abused.

They advocate a multidisciplinary and inter-sectoral approach to the prevention of children coming into conflict with the law and recognise children to be full participants in society.

The Riyadh guidelines represent a comprehensive and proactive approach to prevention and social reintegration.

Slide 9 - A Brief on International Instruments (Contd.)

The JDLs serve as an internationally accepted framework for safeguarding fundamental rights and establishing measures for ensuring the dignity and welfare of children and young people deprived of their liberty, in any institution.

They set out standards applicable when a juvenile (any person under the age of 18) is confined to any institution/facility (whether this be penal, correctional, educational or protective and whether the detention be on the grounds of conviction of, or suspicion of, having committed an offence, or simply because the juvenile is deemed 'at risk') by order of any judicial, administrative or other public authority.

These rules include principles that universally define the specific circumstances under which children can be deprived of their liberty.

They emphasize that deprivation of liberty must be a means of last resort, for the shortest possible period of time, and limited to exceptional cases.

Slide 10 - A Brief on International Instruments (Contd.)

Standard Minimum Rules for the Treatment of Prisoners (1955), first established the principle of separation of young people from adults in custodial facilities.

UN Minimum Rules for Non-Custodial Measures: the 'Tokyo Rules' (1990), are intended to promote '**greater community involvement in the management of criminal justice**, specifically in the treatment of offenders' and to 'promote among offenders a sense of responsibility towards society'. The rules cover pre-trial, diversion, sentencing and post-trial issues.

Slide 11 - A Brief on International Instruments (Contd.)

UN Resolution 1997/30 - Administration of juvenile justice (also known as the Vienna Guidelines) provides an overview of information received from governments about how juvenile justice is administered in their countries and in particular about their involvement in drawing up national programmes of action to promote the effective application of international rules and standards in juvenile justice.

The document contains as an annex a draft programme of action on children in the criminal justice system, as elaborated by a meeting of experts held in Vienna in February 1997.

This draft programme of action provides a comprehensive set of measures that need to be implemented in order to establish a properly functioning system of juvenile justice administration.

Slide 12 - A Brief on International Instruments – UNCRC (Contd.)**UNCRC**

In the administration of juvenile justice, States Parties have to systematically apply the general principles contained in articles 2, 3, 6 and 12 CRC, as well as the fundamental principles of juvenile justice enshrined in articles 37 and 40 CRC.

Slide 13 - A Brief on International Instruments – UNCRC (Contd.)**Article 2 - Principle of Non-Discrimination**

Government/State has to take all necessary measures to ensure that all children in conflict with the law are treated equally.

Many children in conflict with the law are further victims of discrimination, e.g. they may face denial of equal opportunities to education as well as opportunities to reintegrate in society. It is necessary that measures are taken to prevent such discrimination, inter alia by providing (former) child offenders with appropriate support and assistance in their efforts to reintegrate in society.

(COMMITTEE ON THE RIGHTS OF THE CHILD, Forty-fourth session,
Geneva, CRC/C/GC/10,
2 February 2007, General Comment No. 10, Children's rights in Juvenile Justice)

Slide 14 - A Brief on International Instruments (Contd.)

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(COMMITTEE ON THE RIGHTS OF THE CHILD, Forty-fourth session,
Geneva, CRC/C/GC/10,
2 February 2007, General Comment No. 10, Children's rights in Juvenile Justice)

Slide 15 - A Brief on International Instruments (Contd.)

Article 6 - Right to Life, Survival and Development

All children have a right to life, survival and development. This includes children in need of care and protection as well as children in conflict with law. The use of deprivation of liberty by keeping children in detention or other forms of institutional care for instance, has (very) negative consequences for the child's harmonious development and seriously hampers his/her reintegration in society.

(COMMITTEE ON THE RIGHTS OF THE CHILD, Forty-fourth session,
Geneva, CRC/C/GC/10,
2 February 2007, General Comment No. 10, Children's rights in Juvenile Justice)

Slide 16 - A Brief on International Instruments (Contd.)

Article 12 - Right to be Heard

The right of the child to express his/her views freely in all matters affecting the child should be fully respected and implemented throughout every stage of the process of juvenile justice.

Slide 17 - A Brief on International Instruments (Contd.)**Article 37 - Right against Torture and Deprivation of Personal Liberty**

Clearly states that - 'No child shall be deprived of his or her liberty unlawfully or arbitrarily'.

Emphasises the use of arrest, detention and imprisonment as a measure of last resort and for the shortest appropriate period of time, in conformity with law.

Provides for treatment of every child deprived of personal liberty with humanity and respect for his/her dignity.

Calls for separation of every child deprived of liberty from adults, unless it is not in the child's best interest.

Ascertains that every child shall have the right to maintain contact with his/her family through correspondence and visits, unless the circumstances demand otherwise.

Slide 18 - A Brief on International Instruments (Contd.)**Article 40 - Rights of all children alleged as, accused of, or recognized as having infringed the penal law**

Requires Government/State to set a minimum age of criminal responsibility.

Promotes a distinctive system of juvenile justice with specific positive rather than punitive aims.

Insists on the Government/State to adopt such measures for dealing with children who may have infringed the penal law that do not always resort to judicial proceedings and offer a variety of alternative dispositions to institutional care.

Slide 19 - A Brief on International Instruments (Contd.)**Article 40 - Contd.**

It covers treatment of the child from the moment an allegation is made, through investigation, arrest, charge, any pre-trial period, trial and sentence and details a list of minimum guarantees for the child all through these stages as follows:

- Treat such children in a manner consistent with their sense of dignity and worth, in accordance with their age and in a manner that promotes the child's reintegration.
- Presume innocence until proven guilty.
- Promptly and directly inform the child of the charges against him/her.
- Provide legal or other assistance in the preparation and presentation of his/her defence.
- Deal with the matter without delay in a fair hearing according to law

Slide 20 - A Brief on International Instruments (Contd.)

Article 40 (Contd.) - Minimum guarantees for the child all through investigation, arrest, charge, any pre-trial period, trial and sentence

- Not compel the child to give testimony or confess guilt
- Guarantee the right of appeal if he/she is found to have infringed the law
- Provide access to an interpreter
- Have his or her privacy fully respected at all stages...
- Provide a variety of alternate dispositions to institutional care and ensure that children are dealt with appropriately, keeping in mind their well-being, circumstances and the alleged offence.

Slide 21 - A Brief on International Instruments (Contd.)

Article 9 - Separation from family is the last resort.

Article 19 - Protection from abuse, neglect, exploitation by those in charge of the child.

Article 20 - Special protection and assistance when family environment is not in the best interest of the child.

Articles 32-39 - Protection from all forms of abuse, exploitation and neglect, with measures for recovery and reintegration ensuring dignity and self-respect of the child.

Slide 22 – Understanding the Principle of Diversion and Restorative Justice**Principle of Diversion**

Diversion implies diverting from the usual criminal procedures of law enforcement and justice that apply in a criminal case to alternative measures.

Principle of Restorative Justice

The principle of restorative justice is about restoring the balance of a situation disturbed by crime or conflict rather than simply meting out punishment for an offence committed.

Mainstream criminal justice systems are based on the idea of retribution: that is, punishment for an offence committed.

Restorative justice, on the other hand, emphasizes the importance of restoring the balance of a situation disturbed by crime or conflict and making good the harm caused to the individuals concerned.

Source: JUVENILE JUSTICE - MODERN CONCEPTS IN WORKING WITH
CHILDREN IN CONFLICT WITH THE LAW, Save the Children UK

Slide 23 - Benefits of Diversionary Measures

Benefits of Diversionary Measures

For the Child

Diversion ensures that the child does not obtain a criminal record, thereby granting him or her the opportunity to forge a path in life, unburdened by the stigma of a criminal conviction.

For Society

Diversion leads to considerably fewer children being held in pre-trial detention and therefore to improved conditions for those who are nonetheless detained.

Reduces the number of children receiving custodial sentences.

Reduces the workload of the courts, thereby allowing judges to spend more time examining the needs of children appearing before them.

Allows the participation of the community, restoring a sense of community.

Source: UNODC

Slide 24 - Benefits of Diversionary Measures (Contd.)

Benefits of Diversionary Measures

For the National Economy

Many non-formal justice options are cheaper than court procedures and detention.

Imprisonment prevents people from contributing to their local economies and their families. Imprisonment is also very costly.

Source: UNODC

Slide 25 – Diversion and Restorative Justice in India

Internationally, Diversion and Restorative Justice are principles that are applied only when there is convincing evidence that the child committed the alleged offence and he/she freely voluntarily acknowledges responsibility for such offence or harm caused by their action.

The Juvenile Justice system in India has adopted the principles of diversion and restorative justice comprehensively, and in many respects, is less punitive towards juveniles than justice systems in other jurisdictions.

Slide - 26 – Diversion and Restorative Justice in India (Contd.)

The law and the rules framed there under are in themselves diversionary measures.

Ever since the juvenile justice law came into existence in India, it established a **separate adjudicating mechanism** for dealing with children in conflict with law.

Investigation of crimes involving minors is to be undertaken by police officers designated as Juvenile Welfare Officers and police units called the Special Juvenile Police Units.

Cases involving minors are to be heard and disposed off by the Juvenile Justice Boards regardless of the offence they are accused of.

By contrast, in England & Wales, while most minors are dealt with in youth courts, a juvenile's trial may take place in an adult court in matters where the juvenile is charged with homicide, where the juvenile is charged with certain specified offences with maximum sentences of over 14 years, and where the juvenile is charged alongside an adult (Blackstone's Criminal Practice 2007, Section D-22).

Slide 27 – Diversion and Restorative Justice in India (Contd.)

There is **no plea-bargaining for juveniles** in the Indian system, and diversion is not contingent upon admitting the offence with which the juvenile is charged.

The accused child's **right to a fair trial and due process** is followed both in principle and practice. This reduces the risk of children being unduly influenced into accepting responsibility for an offence.

Slide 28 – Diversion and Restorative Justice in India (Contd.)**Some arguments against plea bargaining for juveniles:**

Giving the child an opportunity to voluntarily admit his/her crime so that he can be put through an alternative and diversionary process instead of the criminal justice system amounts to allowing the child to plead guilty.

Persons below the age of 18 years cannot be asked to decide on whether or not they wish to plead guilty given that they cannot vote, cannot own a driving license, cannot enter into any legal contract, and hence cannot even sign the papers to appoint a lawyer for themselves (i.e. the child's parent/guardian is required to sign the 'vakalatnama').

Slide 29 – Diversion and Restorative Justice in India (Contd.)

A recent Delhi High Court judgement (WP(C) No. 8801/2008, Court on its own motion v. Govt. of NCT of Delhi) makes it clear that no child can be asked to sign his/her statement given to the police and the police or the Board cannot use any signed statement of crime, or so called confession by a child, in the judicial proceedings as evidence against him/her. Clearly, if the consent of a child has no meaning, the child cannot be put through plea bargaining or diversion based on admittance of guilt.

In a system where the juvenile justice law does not treat persons below 18 years as criminals, the process of plea bargaining cannot be followed.

No child can be allowed to plead guilty in order to achieve a result which otherwise cannot be obtained for want of sufficient evidence to prosecute a matter.

Slide 30 – Diversion and Restorative Justice in India (Contd.)**Other ways in which the Indian system takes these principles seriously are as follows:**

The Central Model Rules of Juvenile Justice, 2007 provide that no FIR be registered against a juvenile for offences that carry a maximum sentence of less than seven years in the case of an adult.

Stress on measures like leaving the child on advice or admonition, directing him/her to perform community service, putting him/her through counseling, releasing him/her under probation are important diversionary provisions in Section 15 of the Juvenile Justice Act.

Slide 31 – Diversion and Restorative Justice in India (Contd.)

The maximum sentence that can be given to a juvenile is three years, regardless of the offence in question. In no circumstances can a juvenile be given a death sentence or imprisonment which may extend to imprisonment for life. On this issue, Indian law is in consonance with the law in some European Union countries, such as Italy, where imposing life imprisonment on a juvenile is considered "cruel and unusual punishment".

(http://www.howardleague.org/fileadmin/howard_league/user/online_publications/Punishing_Children.pdf)

In some states in the US, juveniles can be sentenced to life imprisonment with no parole.

In South Africa, the Constitutional Court only recently overturned a law that allowed 16 and 17 year olds to be given mandatory minimum sentences without taking their individual circumstances into account.

While the maximum period of detention that a youth court in England & Wales can impose is 1 year, as part of a two year detention and training order, for certain very serious offences, adult courts can sentence a juvenile as if he or she were an adult.

Children cannot be detained in the same facilities as adults. Many other jurisdictions also impose a strict separation between adult and juvenile detention facilities.

Slide 32 – Diversion and Restorative Justice in India (Contd.)

The juvenile justice regime in India mandates non-stigmatising terminology.

Earlier, the children alleged to have committed an offence used to be called juvenile delinquents. Now, they are called children in conflict with law or juveniles in conflict with law. This emphasis on use of appropriate terminology sends a clear message that children who come in conflict with law are not meant to be treated as criminals.

Children cannot be arrested, they can only be apprehended. There can be no trial against a juvenile. If at all, it has to be an inquiry, which should not last more than six months at the latest.

Some of the other measures built into the main law itself are - there can be no joint proceedings of a juvenile and adult, all records have to be destroyed, no juvenile can be disqualified for employment on the basis of any previous record of conviction, confidentiality and privacy of the juvenile must be maintained.

Slide 33 – Diversion and Restorative Justice in India (Contd.)

India believes that child-centered processes alone can help restore social order.

The focus of the juvenile justice law is therefore on restoration of the child.

The principle of positive measures guides rehabilitation, restoration and social reintegration of a child in conflict with law.

Slide 34 – Diversion and Restorative Justice in India – Reality Bytes

Despite such progressive legal provisions, the law in India is often not implemented properly.

For example -

Parents of the juvenile, particularly older juveniles, are not informed promptly or directed to appear before the Juvenile Justice Board (JJB).

Children are kept in police custody for interrogation even before a case is registered against them.

The police in many parts of the country continue to follow the archaic and rigorous procedures laid down in India's Criminal Procedure Code.

Children in conflict with the law often do not have access to legal aid. Even if they do get free legal aid, the quality of such assistance is poor.

Even the JJBs are not in place in many States as per the requirement laid down in the law.

There is a dearth of Probation Officers and Social Workers to assist such children.

In practice, counseling and rehabilitation of every child in conflict with law is still a distant dream.

CONCLUDING REMARKS FROM THE FACILITATOR/RESOURCE PERSON - THIS COULD BE A FINAL SLIDE PRESENTATION

THINGS TO REMEMBER-

Being poor, idle and disorderly cannot be a crime.

These are behaviour problems of children, which are often a result of socio-economic or psychological problems.

It is often easy to catch hold of poor, young, idle and disorderly children and band them as criminals. We must not forget that many of us as adults too all fall in this category. While adults may find their way out, for children it is not easy to be heard and defended. Children therefore must not be charged on such biases.

Behavioral problems of children, such as vagrancy, truancy, runaways and other such acts must therefore be decriminalized.

Children in conflict with law are not criminals

They are victims of their own socio-economic conditions, who more often than not have been denied their right to education, health, shelter, care and protection.

Many of them have had little or no access to education; many are working children. Some children have left their homes and taken to the streets to escape from violence and abuse at the hands of their families. Some are forced to make a living on the streets, in order to survive. Others have been abandoned by their families and left to fend for themselves and sometimes for younger siblings.

These children, who are abandoned and destitute, are also at high risk of sexual exploitation, trafficking and becoming involved in substance abuse and the drug trade through peer influence or the influence of adult criminals. It is in these circumstances that they are exposed to crime and initiated into it.

(Source: JUVENILE JUSTICE - MODERN CONCEPTS IN WORKING WITH
CHILDREN IN CONFLICT WITH THE LAW, Save the Children UK)

In other words they are also children in need of care and protection.

They are alleged as /accused of/ recognised as having infringed the penal law

Like adults, they too have the right to defend themselves in the court of law.

They cannot be said to have committed a crime until proven guilty.

Even if the guilt is proven, they cannot be incarcerated i.e. sent to prison.

This is because -

For children in conflict with the law, the processes of arrest, trial and custody destroy their childhood as a result of being denied their right to, for example, family life, education, care, protection and play.

Discrimination against children who have been in conflict with the law, together with deprivation and poverty, limit their opportunities for developing into active and contributing adult citizens.

It is important to deter them from re-offending and to promote their rehabilitation and reintegration back into society. The first step in this direction would be to keep them away from the company of alleged adult criminals.

Source: JUVENILE JUSTICE - MODERN CONCEPTS IN WORKING WITH
CHILDREN IN CONFLICT WITH THE LAW, Save the Children UK

Final Instructions for the Facilitator/Resource Person

The facilitator/resource person should end with a very small energizer as by now the participants will have got tired sitting through an intense power point presentation.

The facilitator/resource person may in between also engage the participants in energizers if needed.

CHAPTER 4



Child and the Juvenile Justice Law in India

Duration: 1 hour 15 minutes

Objectives:

- To help the participants understand why there is a need for a legal definition of a child and how a child is defined or understood under various Indian laws
- To provide a brief historical overview of the Juvenile Justice Law in India
- An introduction of Juvenile Justice Act 2000, as amended in 2006 and the difference between the present law and earlier law of 1986.

Methodology:

This session may be divided into two parts.

Part I will deal with definition of a child in the Indian Context.

Part II will present an introduction to juvenile justice law, including a historical overview of the law and the categories of children covered by the law as it exists in India today.

Methods:

Questions & Answers

Power Point Presentation

Duration: 1 hour 15 minutes

Part 1 – 45 minutes

Part II – 30 minutes

A Note for the Facilitator/Resource Person

Part I needs to be conducted largely through questions and answers. A power point presentation may follow by way of summing up Part I.

In Part II, the Facilitator/Resource Person will have to first make a power point presentation on the historical overview of the juvenile justice law in India followed by questions and answers that would help introduce the Juvenile Justice Law as it exists today as well as provide an understanding on the difference between the Juvenile Justice Act of 1986 and the present law.

Part I - Who is a Child?

Instructions for the Facilitator/Resource Person

While using the question-answer method, let the participants provide their views freely. Put up the questions to different individual participants one by one. This will generate different responses and help the facilitator/resource person carry the discussion forward.

To moderate the session, the facilitator/resource person will have to follow certain guidelines and information given below.

The discussion around this question will have to be taken up by breaking the question into several parts:

I. The first set of questions to the participants should be –

- ***How do we as a society define a child?***
- ***Who according to you is a child or should be treated as a child?***

The discussion with participants must lead to the following points:

In society, children get defined differently in different contexts. For example,

- For parents, their children always remain children till they die. Even when their children get married and have children of their own, parents continue to see them as their offspring and their property. They continue to treat their children as less experienced and therefore always in the need for guidance, advise and support.
- For police, only the very young, i.e. children below 10 years, get seen as children,

while the older children, especially adolescents are seen as young persons with a mind of an adult and capable of planning their own life, including planning crime.

- When it comes to marriage, suddenly children look like they have grown up and are ready to get married. Incidence of child marriages in India is very high. Clearly for the Indian society in general, after a certain age, usually during adolescence, the perception of a child changes and both girls and boys seem capable of assuming the responsibility of running a family. Many people argue that children may be married off at young age, but the young brides remain with their biological family till they attain puberty and are seen as capable of taking on the responsibility of being a wife and a mother. In some parts of northern India, the custom of finally sending a married daughter to her marital family is called 'gauna', which happens some years after the marriage. Somehow, there is a clear understanding in most communities on when a child is ready to take on the responsibility of marriage. This is when, in the community's perception, a person ceases to be a child.

According to the Oxford Dictionary, a 'child' is defined as 'a young human being below the age of full physical development'.

At this point the facilitator/resource person will have to direct the group to the whole question of the need for a legal definition of a child, which is based on the perceptions of the society at large as well as the basic principles of governance and human rights.

II. The next question to be put to the group therefore will be –

- ***Societies follow their own norms. So is there a need to define a child legally?***

The discussion around this question must lead to the following points:

In every civilized society, there is a system of governance and rule of law governing its people and the rights of its people.

In every system of governance therefore, all people have a legal identity.

Children are as much a part of society and its system of governance as any adult and they too have rights. How do these rights get determined if children are not treated as legal persons and defined legally?

Law is a system of rules, usually enforced through a set of institutions. It shapes politics, economics and society in numerous ways and serves as the foremost social mediator in relations between people. Writing in 350 BC, the Greek philosopher Aristotle declared, "The rule of law is better than the rule of any individual." Law makes available tools, resources, symbols and languages useful in the construction of social order.

Source: <http://en.wikipedia.org/wiki/Law>

Moreover, if children are not defined legally and treated as legal persons, social relations governing them and matters concerning their rights will be left to varied subjective interpretations, thus keeping them out of the ambit of justice. Societal norms on childhood/maturity may and often do go against the best interests of the child, and a legal definition helps to curb and change such norms over time.

How can a civilised society function and govern itself with such varied perceptions and understanding of 'who is a child'?

It is thus important to arrive at some common legal understanding.

III. The group now needs to discuss -

- ***What is the Legal definition of a Child in India?***

The participants may be asked to provide a list of child related laws/legal provisions and how these look at a 'child'.

The discussion should lead to the following points:

There is no one uniform definition of a child in India. The legal conception of a child tends to vary depending upon the purpose of the law which defines it.

The norms followed in a society must inform the law that governs it and the relations between its people. In India, the different situations in which children live and the customs, values and norms of the society have led to different legal perceptions of a child.

While the Indian Majority Act of 1875 does list the age of majority as 18, it makes certain exceptions to this rule. These are – where the personal laws of any Indian community follow a different age of majority; and, where the property of a minor is under the superintendence of the Court of Wards.

According to 'The Constitution of India':

Art. 21 A: “State shall provide free and compulsory education to all children of the age of six to fourteen years”.

Art. 24: “No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.”

Art. 45: "The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years."

Art. 326: " every person who is a citizen of India and who is not less than eighteen years of age shall be entitled to be registered as a voter "

The Indian Penal Code, 1860:

Sec. 82: "Nothing is an offence which is done by a child under seven years of age."

Sec. 83: "Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion."

Age of Criminal responsibility (ACR)

There is no clear international standard regarding the age at which criminal responsibility can be reasonably imputed to a juvenile, and there is a wide variation in minimum ACR levels around the world which shows the range to be from 8 to 18 years.

The UN Committee on the Rights of the Child constantly emphasizes the desirability of setting the minimum age as high as possible. It has, in particular, criticized countries where the age is set at 10 or below.

International guidelines on the minimum age of criminal responsibility

The Guidelines for Periodic Reports of the Committee on the Rights of the Child ask, in Article 1 (definition of a child), for information on the minimum legal age of criminal responsibility that is defined in legislation (Para. 24).

In Article 40, the Guidelines request information on 'the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law'.

The Beijing Rules state, in Rule 4: 'In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low a level, bearing in mind the facts of emotional, mental and intellectual maturity.'

The commentary to Rule 4 states: 'The minimum ACR differs widely, owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially anti-social behaviour. If the age of criminal responsibility is fixed too low or if there is no lower age limit at all, the notion of responsibility would become meaningless. In general, there is a close relationship between the notion of responsibility for delinquent or criminal behaviour and other social rights and responsibilities (such as marital status, civil age of attaining majority under the law of a country, etc). Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally.'

The Prohibition of Child Marriage Act, 2006:

"Child means a person who, if a male has not completed 21 years of age and, if a female, has not completed 18 years of age."

The Factories Act, 1948:

"A child below 14 years of age is not allowed to work in any factory. An adolescent between 15 and 18 years can be employed in a factory only if he obtains a certificate of fitness from an authorized medical doctor. A child between 14 to 18 years cannot be employed for more than four and a half hours."

The Mines Act, 1952:

"No person below 18 years of age shall be allowed to work in any mine or part thereof."

The Apprentices Act, 1961:

"A person is qualified to be engaged as an apprentice only if he is not less than 14 years of age, and satisfies such standards of education and physical fitness as may be prescribed."

The Child Labour (Prohibition and Regulation) Act, 1966:

"Child means a person who has not completed 14 years of age."

The Indian Contract Act, 1872:

"A person below 18 years has no capacity to enter into a legal contract."

The Indian Majority Act, 1875:

“Every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before.”

The Motor Vehicles Act, 1988:

“No person under the age of eighteen years shall drive a motor vehicle in any public place.”

The Juvenile Justice (Care and Protection of Children) Act, 2000, as amended in 2006:

Sec. 2(k) defines a child as a person who has not completed eighteenth year of age i.e. a person below the age of 18 years.

A careful observation of the above definitions indicates that there is no universal definition of a child.

IV. Moving ahead, the group must know the international position on the definition of a child. The next set of questions therefore should be:

- **What is the globally accepted understanding of 'who is a child?'**
- **Do any of the child specific legislations in India conform to the international standard?**

Note for the Facilitator/Resource Person

The response to the above questions may be known to the participants. The facilitator/resource person may simply acknowledge and appreciate the participants knowledge and reiterate the answer to conclude the discussion. Even if the participants do not know the exact answer, the facilitator/resource person should appreciate their efforts at trying to respond and conclude with the following points:

Internationally accepted definition of a 'child':

According to 'The United Nations Convention on the Rights of the Child, 1989 (UNCRC)':

Art. 1: "A child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier."

The UNCRC is ratified by 192 countries of the world. India is one among them. This Convention was ratified by India on 2 December 1992. India is now under the international obligation to bring its laws relating to children in conformity with the UNCRC, so that the rights of all children can be fully ensured.

Child specific legislations in India that conform to the UNCRC definition of a child:

- Clearly, the only child specific law in India that conforms to the UN definition of a child as a person below 18 years is the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006.

What led to the change in the definition of a child under the juvenile justice law?

The definition of a child under the juvenile justice law of 1986 was different for males and females. In the case of males, only a person below 16 years got the benefits of the juvenile justice law, whereas in the case of females the age of juvenility was below 18 years. Since the juvenile justice law involves children in conflict with law, this differential treatment of boys and girls created a serious judicial anomaly.

Firstly, under the Indian Contract Act, all persons below the age of 18 years are minors and cannot enter into a legal contract. They cannot even sign on a 'vakalatnama' to defend themselves in a court of law. And this is true for both girls and boys. Technically, a 'vakalatnama' is a contract between a person and his lawyer for taking up his case and fighting for him in the court.

By keeping boys of 16 years and above out of the juvenile justice law, the 1986 law created a serious anomaly on the question of a minor's capacity to sign his 'vakalatnama'.

Moreover, the Indian Constitution guarantees equality before law. Therefore, a law which attributes to a 17 year old boy the capacity to sign his 'vakalatnama', but denies the same right to a girl ought to be declared invalid.

Secondly, persons below 18 years of age cannot exercise adult franchise i.e. they cannot vote. Neither can they acquire a driving license. This is also true for both girls and boys. They are also not 'major' according to the Indian Majority Act, except in matters governed by personal laws such as marriage, divorce etc.

Finally, having ratified the UNCRC, India's obligations and commitment to its children also demanded a change in the legal definition of a child.

Note: Participants may suggest that the child marriage law is also in conformity with the UNCRC. This is not fully correct. The child marriage law treats girls and boys differently. It keeps a higher age of marriage for males, thus making a departure from the UNCRC and its basic principle of equal rights for all children. Both girls and boys below the age of 18 years have a right to equal protection and if marriage below the age of 18 years is harmful for girls and amounts to exploitation, the same holds true for boys as well.

Part II - Introduction to the Juvenile Justice Law in India

Note: This part is to be shared with the participants through a power point presentation

Slide 1

The Juvenile Justice Law in India - A Historical Overview

International developments that led to special emphasis on the need for a specific law on juvenile justice amongst many countries, including India were:

- The Declaration on the Rights of Children adopted by the Erstwhile league of Nations in 1924 and then the United Nations in 1959;
- Setting up of a Special Working Group in the 70's within the UN Commission of Human Rights for drafting a Convention on Child Rights;
- The United Nations Standard Minimum Rules for Administration of Juvenile Justice, 1985, also known as the Beijing rules;
- The United Nations Convention on the Rights of the Child, adopted by the General Assembly in 1989.

Slide 2

In India, different States formulated their own Children's Act for protection of children. The National Children's Act came into existence in 1960. After independence, greater emphasis was given to protection of children and the National Children's Act was revised in 1986 to be called the Juvenile Justice Act, 1986.

This was the first specific law on juvenile justice in India.

Unlike other countries, this law covered both children who are alleged to have committed an offence as well as those who are neglected or exploited and need care and protection.

Slide 3

The Juvenile Justice Act, 1986 was repealed and a new law was formulated in 2000, which is called the Juvenile Justice (Care and Protection of Children) Act, 2000. This new law marked the beginning of a shift away from custodial measures and detention or institutional care to alternative non-institutional forms of care such as adoption, quality care and rehabilitation through a child-centered juvenile justice system and special protection from persons in whose care/control/charge they are.

Slide 4**Reasons for change in the 1986 law**

- The 1986 law was based on the welfare model, had focus on custodial measures and institutionalisation of children.
- It was unable to fulfil its objective of protecting and promoting the rights of children on many counts.
- Legal anomalies in the 1986 law had been ignored for too long.
- Administration of juvenile justice too required streamlining and strengthening.
- India ratified the United Nations Convention on the Rights of the Child (UNCRC), 1989 on December 11, 1992. This demanded that child-related laws be brought in conformity with the UNCRC. It also demanded a child-friendly system of justice delivery, with a clear focus on alternative measures of care and rehabilitation rather than detention.

Slide 5

In 2006, there was an amendment to the 2000 law to remove some ambiguities and incorporate various judgements of the Supreme Court on critical issues.

Important elements of the amended law include -

- determination of juvenility on the basis of the date on which the offence was allegedly committed,
- prescription of a maximum sentence of three years,
- prescription of penalty on the media for disclosure of identity of a child,
- inclusion of definition of adoption to ensure life long protection of rights of adopted children,
- periodic review of pending cases,
- speedy justice

Slide 6

Since juvenile justice is a State subject also, the States have always been required to frame their own rules, based on a set of Model Rules framed by the Centre.

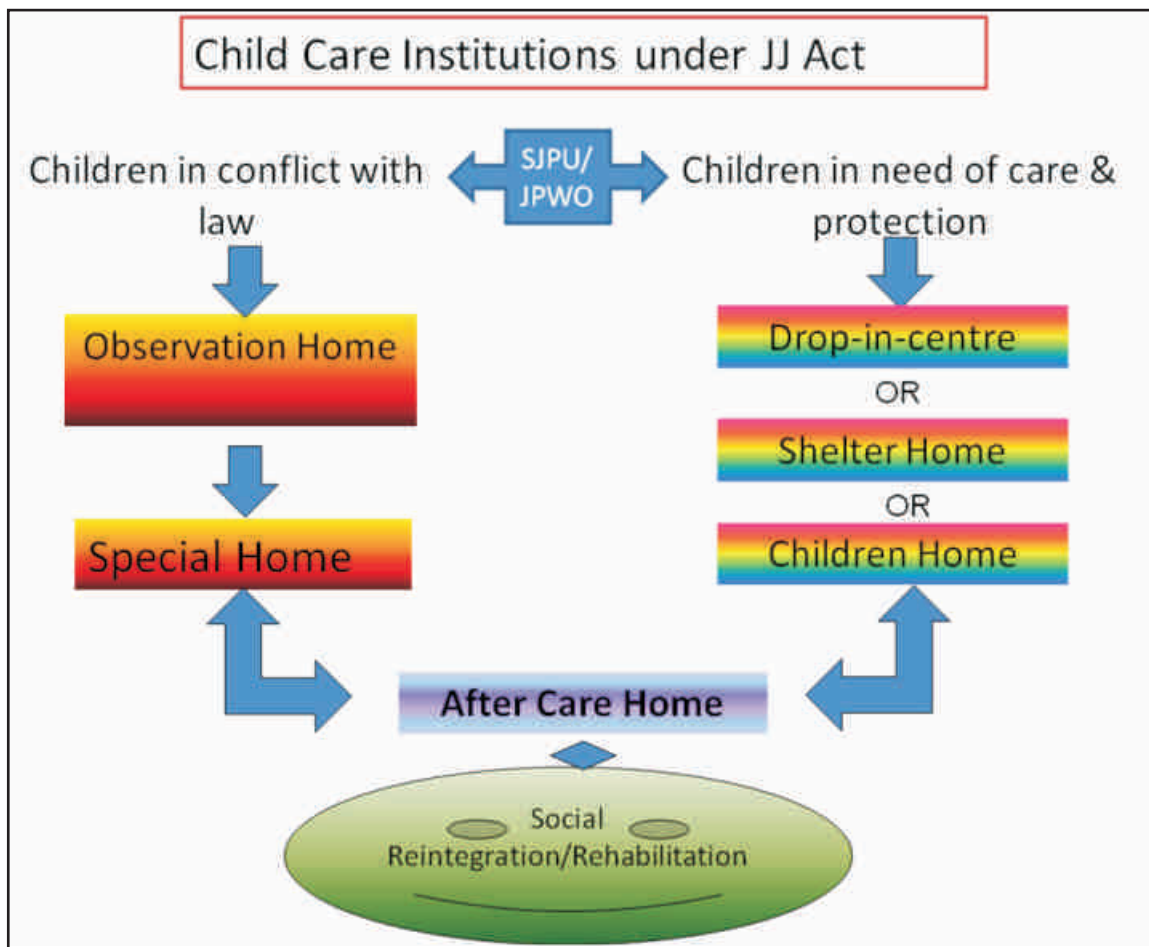
Subsequent to the 2006 amendment in the law, the Central Model Rules on Juvenile Justice dated 2001 were repealed and replaced by the Juvenile Justice (Care and Protection of Children) Rules, 2007.

Slide 7**Children covered under the Justice (Care and Protection of Children) Act, 2000 as amended in 2006**

The juvenile justice system that exists in various countries of the world, deals only with a child who is alleged to have committed an offence.

The Juvenile Justice (Care and Protection of Children) Act, 2000 and its amendment in 2006 deals with two categories of children -

1. Children in Need of Care and Protection
2. Children in Conflict with Law (also referred to as juveniles)



Slide 8

Special Offences under the Juvenile Justice Act of 2000

Apart from setting out the legal and administrative processes in matters involving children in conflict with law as well as those in need of care and protection, the Juvenile Justice Act of 2000 recognizes certain special offences committed against children by those having the charge of the child or in whose custody/control a child has been placed. This can include parents, school, institutions where children live (including adoption agencies, drop-in-centres, short stay homes or shelter homes etc.)

Slide 9

The 'Special Offences' are listed under Sections 23 to 26 of the Juvenile Justice Act of 2000. They relate to the following:

Section 23 deals with cruelty against children

Section 24 penalizes use and abuse of children for begging

Section 25 deals with using children for drugs and substance abuse

Section 26 penalizes employment of child labour

Offences covered under Section 24, 25 and 26 are cognizable.

The juvenile justice law is silent on whether they are bailable or non-bailable. Schedule I, Part II of Cr.PC deals with classification of offences against laws other than IPC. It very clearly states those offences punishable with imprisonment of 3 years or more but less than 7 years are cognizable and non-bailable and triable by a Magistrate of First Class. Therefore, going by Schedule I Part II of the Cr.PC, with the exception of the offence of cruelty (Section 23 of JJ Act), all other special offences u/s 24, 25 and 26 of JJ Act are to be treated as non-bailable.

Slide 10**Principle of Privacy and Confidentiality**

Under Section 21, the law also provides penalty for disclosure of identity of a child in need of care and protection and a child in conflict with law by media.

In addition, the law clearly prohibits maintenance of records of children in conflict with law and disqualification of a person from employment on grounds of any record of crime committed by such person as a juvenile.

CHAPTER 5**Children in Need of Care and Protection**

Duration: 2 hours

Note for the Facilitator/Resource Person:

This Session is divided into two parts. Part I concentrates on developing an understanding on Children in Need of Care and Protection (CNCP) while Part II focuses on Role of Police in dealing with such children.

Part 1: - Who is a Child in Need of Care and Protection?**Objective:**

To help participants develop an understanding on children that fall within the purview of the category of Children in Need of Care and Protection (CNCP) as defined under the juvenile justice law

Methodology:

Interaction

Power Point Presentation

Listing of CNCP

Duration: 1 hour

Note for the Facilitator/Resource Person:

This part of the session is based on knowledge and information. The facilitator/resource person may use interactive techniques such as simple question and answer technique interspersed with power point presentation to help the participants understand the following:

1. CHILD IN NEED OF CARE AND PROTECTION means a child who,

- ? Is found without any home or settled place
- ? Is without any ostensible means of subsistence, who is found begging, or who is either a street child or a working child.
- ? Has been threatened, abused or neglected or, is likely to face threat to be killed, injured, abused or neglected by a person who has the charge of or control over the child.
- ? Lives with a person who has killed, abused or neglected some other child or children
- ? Is Mentally Challenged (Mentally Retarded), physically challenged (Handicapped), ill children and children suffering from terminal diseases or incurable diseases that have no one to support and look after.
- ? Has a parent or guardian who is unfit or incapacitated to exercise control over the child
- ? Is an orphan or has no one willing to take care of him/her (abandoned or surrendered)
- ? Is missing or run away child and whose parent cannot be traced after reasonable inquiry
- ? Is abused, tortured or exploited for the purpose of sexual abuse or illegal act
- ? Is vulnerable and likely to be induced into drug abuse or trafficking
- ? Has been or is likely to be abused for unconscionable gains
- ? Is victim of any armed conflict, civil disturbance or natural calamity

2. IDENTIFICATION OF CNCP:

STREET CHILDREN: - The term “street children” is actually a rubric that covers many children in differing circumstances. The child who has been abandoned by parents is different from the child who has run away from home. In presenting these definitions we seek to differentiate between these groups of children, all of whom have different

needs and for whom different and appropriate interventions need to be determined. It must also be understood that these categories are not comprehensive, nor are they final.

A child on the street may become a *child of the street* over a period of time. An abandoned child may be the street child as well. Thus no single intervention should be seen as appropriate but each one must be tailored to individual child's needs.

General Definition: Children (under 18 years) who spend most of their time on the streets. There are between 10 to 100 million street children worldwide, depending on the exact definition used.

The target group is homeless and vulnerable street children and adolescents, including their families, who are at high risk of exploitation and physical and emotional abuse, especially through economic exploitation, forced commercial sex and violence in the streets. The different groups of children living on the street are:

MISSING CHILDREN: - A child is to be considered "missing" if

- ? he/she is absent from his/her place of residence
- ? where the absence causes concern for safety of the child
- ? absences which cause concern are those where care givers have no indication that a child is likely to return within a short span of time and there is concern for the child's safety.

We can say that these groups of children have run away from home or are the victims of circumstances that have separated them from their families.

THE ABANDONED CHILD: - Abandoned child is one in whose case the guardian(s)/parent(s) forsakes their child with the intention to sever all ties and relationship with the child.

Such children are entirely on their own, not just for material but also for psychological and emotional needs and survival.

BONDED LABOUR: - Bonded labour is slavery. There are many people who employ labour for farm work or other work by making people work for very little money (below minimum wages). Sometimes they do not even pay anything to the persons who work for them. They may or may not even give them enough food for their survival and make them work all their life.

WHAT IS BONDED LABOUR?

- Form of Slavery
- Underpaid/Not paid
- Debt Factor
- Caste or Community Based Work
- Forced Labour

Bonded labour is a cognizable offence under “The Bonded Labour System (Abolition) Act, 1976”.

Main legal provisions are:

- Section 22- Cognizable Offence/Bailable
- Section 16- Penalties
 - o Upto 3 years
 - o Fine up to Rs. 2000.00
- Section 10 - Power of Judicial Magistrate conferred on Executive Magistrate i.e. SDM/DM/DC

PUDR vs. Union of India & Others (AIR 1982 SC 1473) defines 'forced labour' as labour

- under conditions of physical or legal force or
- due to economic compulsion and
- where work is taken on payment of wages below the minimum wages notified by the state

Bandhua Mukti Morcha v. Union of India & Others (AIR 1984 SC 802)

SURRENDERED CHILDREN: - Voluntary termination of parental rights is termed “surrender/relinquishment” of a child.

The parent voluntarily consents to relinquish his/her child and, by this, all rights and duties of the natural/biological parent towards the child stand extinguished.

In Indian context voluntary surrender may also imply under duress by single mothers, unmarried mothers and couples or under the wide range of oppressive situations like destitution or poverty.

CHILD TRAFFICKING: - United Nations Office of Drug and Crime has defined human trafficking in the perspective of child rights which is as follows:

Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines Trafficking in Persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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

- According to an estimate some 1.2 million people have been trafficked worldwide annually and the child trafficking accounts for half of it. (UN reports calls South Asia hot-bed of Child Trafficking)

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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs

- In India, the nature and scope of trafficking ranges from industrial and domestic labour, to forced early marriages and commercial sexual exploitation. Existing studies show that over 40 per cent of women sex workers enter into prostitution before the age of 18 years. (UNICEF)

Other laws in India which define human trafficking, including child trafficking, are:

1. Section 5 ITA – **Procuring, including or taking person for the sake of prostitution -**

(1) Any person who -

- procures or attempts to procure a '[person]', whether with or without his consent, for the purpose of prostitution; or
- includes a '[person]' to go from any place, with the intent that he may, for the purpose of prostitution, become the inmate of or frequent, a brothel; or
- takes or attempts to take a '[person]', or causes a '[person]' to be taken, from one place to another with a view to his carrying on or being brought up to carry on prostitution; or
- causes or induces a '[person]' to carry on prostitution;

The Goa Children's Act, 2003 – Child trafficking means the procurement, recruitment, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other form of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments and benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.

The following forms and purposes of child trafficking have been identified by CACT (Campaign against Child Trafficking):

Sexual Exploitation

- Forced prostitution
- Socially and religiously sanctified form of prostitution

- Sex tourism
- Pornography

Illegal Activities

- Begging
- Organ trade
- Drug Peddling and
- Smuggling

Labour

- Bonded labour
- Domestic work
- Agricultural work
- Construction work
- Carpet industries, garment industries, fish/shrimp exports as well as other sites of work in the formal and informal economy.

Entertainment and Sports

- Circus, dance troupes etc
- Camel jockey

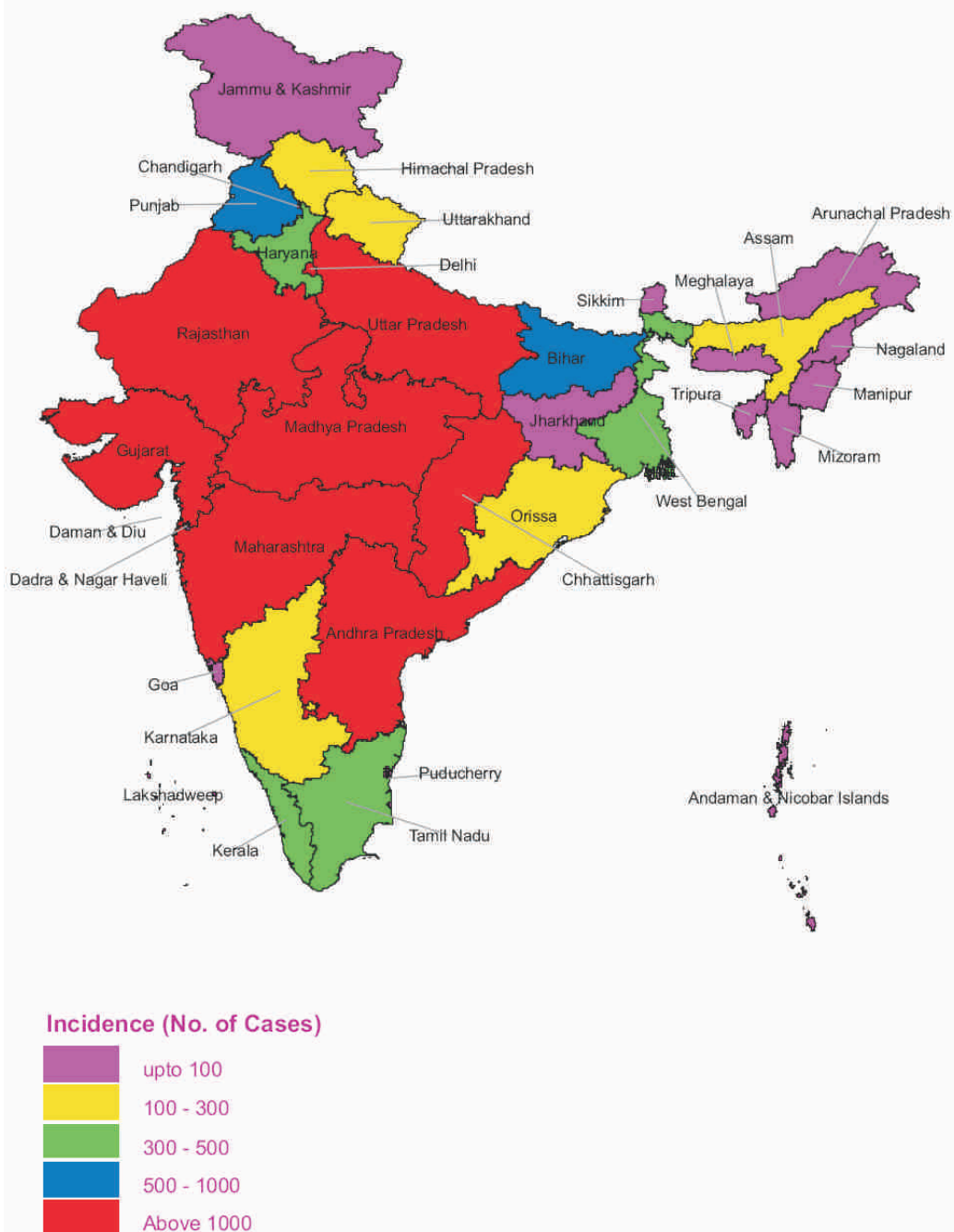
ABUSED CHILDREN: - Defining child abuse is difficult because there is no uniformly accepted definition. “A general definition of child abuse incorporates any mistreatment or violation of the rights of children by societal institutions or individual caretakers”.

Child abuse can be broadly classified into physical, emotional and sexual abuse.

Child abuse refers to the intended, unintended and perceived maltreatment, whether habitual or not, of the child, including any of the following:

- Psychological and physical abuse, neglect, cruelty, sexual and emotional maltreatment.
- Any act, deed or word which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.
- Unreasonable deprivation of his/her basic needs for survival such as food and shelter; or failure to give timely medical treatment to an injured child resulting in serious impairment of his/her growth and development or in his/her permanent incapacity or death.

INCIDENCE OF CRIME AGAINST CHILDREN DURING 2007



Source: NCRB, Crime in India 2007

Indicators of Child Abuse

Indicators of selected forms of abuse, as outlined above, were identified for verifying its different forms

Physical Abuse	Sexual Abuse	Emotional Abuse	Girl Child Neglect
Slapping/ kicking Beating with stave/stick Pushing Shaking	Severe forms: Sexual assault Making the child fondle private parts Making the child exhibit private body parts Exhibiting private body parts to a child Photographing a child in the nude Other forms: Forcible kissing Sexual advances during travel situations Sexual advances during marriage situations Exposure- children forced to view private body parts Exposure- Children forced to view pornographic materials	Humiliation is the lowering of the self esteem of child by harsh treatment, ignoring, shouting or speaking rudely, name calling and use of abusive language Comparison between siblings and with other children	Lack of the attention to girls as compared to brothers Less share of food in the family Sibling care by the girl child Gender discrimination.

Impact of Child Abuse –

The possible consequences of child abuse. The effects vary depending on the circumstances of the abuse, personal characteristics of the child, and the child's environment. Consequences may be mild or severe; disappear after a short period or last a lifetime; and affect the child physically, psychologically, behaviorally, or in some combination of all three ways. Ultimately, due to related costs to public entities such as health care, human services, and educational systems, abuse impacts not just the child and family, but society as a whole.

CHILD LABOUR:- According to the Child Labour (Prohibition and Regulation) Act, 1986, to take work from a child who is below 14 years of age in hazardous occupations and process is an offence. (Sections 3 and 14)

In 2000, the ILO estimates, "246 million child workers aged 5 and 17 were involved in child labour, of which 171 million were involved in work that by its nature is hazardous to their safety, physical or mental health, and moral development. Moreover, some 8.4 million children were engaged in so-called 'unconditional' worst forms of child labor, which include forced and bonded labour, the use of children in armed conflict, trafficking in children and commercial sexual exploitation.

However, with amendments in the juvenile justice law, employment of 14 to 18 year old children is also an offence. This is reiterated through a recent judgement of the Delhi High Court in Court on its Own Motion v. State of NCT of Delhi (W.P. (C) 4161/2008), which clearly establishes that the Juvenile Justice (Care and Protection of Children) Act, 2000 will apply to child labour in the 14 to 18 year age

category as also to children below 14 years of age employed in non-scheduled (non-hazardous) occupations and processes.

"Child labour" is, generally speaking, work done by children that harms them or exploits them in some way (physically, mentally, morally or by blocking access to education).

DISABLED CHILDREN:- Disability means a disadvantage or deficiency, especially a physical or mental impairment, that prevents or restricts normal achievement.

A disability refers to limitations that are of substantial disadvantage to the individual when attempting to function in society. A disability should be considered within the context of the individual's environmental and personal factors, and the need for individualized support.

Disability Statistics of India

- Out of 90 million physically challenged children worldwide, 36 million are in India.
- Only 2% of disabled children have access to education.
- 90% of India's estimated 40% children aged 4 to 16 years with physical and mental disabilities are out of school.
- One of every ten children is disabled in India.
- 3% of India's children are mentally or physically challenged.
- 20 out of every 1000 rural children are mentally/physically challenged, compared to 16 out of every 1000 urban children.

Disability can be broadly classified into physical or mental.

Physical Disability: - Physical disability is a condition that substantially limits one or more basic physical activities, such as walking, climbing stairs, reaching, lifting, or carrying.

Mental Disability: A term used when a person has certain limitations in mental functioning, social skills and in skills such as communication or taking care of him or herself.

These limitations will cause a child to learn and develop more slowly than other children. Children with mental disabilities may take longer to learn to speak, walk, and take care of their personal needs such as dressing or eating. They are likely to have trouble learning in school. They will learn, but it will take them longer. There may be some things they cannot learn.

Mental retardation is a condition diagnosed before age 18 that includes below-average general intellectual function, and a lack of the skills necessary for daily living. (Medical Encyclopedia)

Mental Health professionals classify children with mental disability into five groups on the basis of levels of IQ.

Class	IQ
Profound mental retardation	Below 20
Severe mental retardation	20-34
Moderate mental retardation	35-49
Mild mental retardation	50-69
Borderline mental retardation	70-79

Different institutions cater to different categories of children in need of care and protection, including children with physical and mental disabilities. It is important for the police to know this classification as it will help the police place a child in an appropriate institution.

Facilitators/Resource Persons should share a list of all such institutions as far as possible. SOPs on trafficking, labour, begging child, abused child, corporal punishment etc. if available may also be shared.

Part II - Role of Police in dealing with CNCP

Objective: To understand the role of police in dealing with "Child in Need of Care and Protection" at different stages.

Methodology:

- Group work
- Exercise - e.g. Administration of Simple Questionnaires/True-False Exercise etc.

Duration: 1 hour

- Group work - 45 minutes
- Exercise - e.g. Administration of Simple Questionnaires/True-False Exercise etc. - 10 minutes

Group Work

Objectives: To help participants understand and assess the individual's role and responsibilities.

- To help participants understand that their first step can decide the future of the case.
- To help participants understand steps in dealing with a child in a specific difficult situation and circumstance.

Materials Required: Plain papers/Chart, markers, tape.

Duration: 45 minutes

Note for the Facilitator/Resource Person -

The facilitators/resource persons should understand that this session is about the role of Police in dealing with CNCP, therefore participation of all is important.

Facilitators/Resource Persons should inform participants that their role can vary in dealing with CNCP, depending on the category of the child or the situation and circumstances in a case.

Facilitators/Resource Persons should also help the participants identify and understand the importance of other services that enable a police personnel perform his/her role appropriately. This would require a clear understanding of the role of other departments and agencies as well such as the Labour Department, Child Welfare Committee (CWC), Women and Child Development Department, Missing Persons Squad, Child Line, Institutions for Children, NGOs etc. and how and when should the police link up with them.

It is important to help police personnel analyze their role and responsibilities in dealing with CNCP.

Instructions for Group Work -

Group work will be based on case studies. The facilitators/resource persons should facilitate division of participants into two, three or four groups, depending on the number of total participants.

In the formation of groups, it must be ensured that basic principles of group work are followed as listed in Chapter 1.

The Facilitator/Resource Person must -

- Try to build an environment that will help in sharing of opinions by the participants
- Ensure that participants are ready to get into the exercise
- Generally the police personnel are not ready for interactive sessions like this, hence quality time should be spent on ice breaking before the exercise
- It is also good to ask questions from participants sitting in different parts of the room.
- Try to envisage how perceptions make the attitude of the person
- Emphasize that in most of the cases police is the first person on behalf of the State that comes in contact with CNCP, hence their first step towards the children may be crucial in deciding the future of the child.

Each group should be given case studies to work upon.

The case studies may be based on actual cases or hypothetical situations related to CNCP, such as: -

Rape victims

Child trafficking

Abused within family - physical, emotional, sexual

Child beggar

Child Labour - domestic and industrial

Production of child before CWC

Adoption etc

One case study should be given to each group and the groups should be asked to write down the steps they will follow in the context of the case given to them on a chart

Time frame for discussion must be clearly specified and informed to all participants

After the group has finished discussing their case, the charts will have to be collected and the facilitator/resource will be required to call a representative from each group to present their chart.

Each chart presentation should be opened up for a discussion amongst all participants

The facilitator/resource person should ask the participants the following basic questions in order to generate a discussion on the group work presentations:

- What are the missing steps in this case?
- Any change and addition to the given steps from participants' side?

Case Studies for Group Work**Question for discussion in the groups -**

What will be the role of Police in dealing with various kinds of cases? Give details of all steps taken by Police?

Some illustrative Cases -

Case 1- Two girls Rani (14 year old) and Sunita (16 year old) who were involved in prostitution were found by Police during a raid at red light area at 5 O'clock in the evening. During the raid, police also found Sundri (30 year old) with two children (2 year and 8 years old), meena (21 years old) and deepa (45 year).

Case 2- A beat officer found a new born baby in a dustbin during a visit to his beat area early in the morning

Case 3- A common man calls up Police station and gives specific complaints about a domestic child labour of 12 years of age being mercilessly beaten up at a particular address. But he does not want to disclose his identity.

Case 4- 14-year-old Kumari from Orissa is married off by her father to a 40 year old man from Jhansi. The father received Rs. 20,000 for giving away the daughter in marriage. Lala, a friend of the father helps facilitate the transportation and receives money from the bridegroom for this service. After marriage, Kumari never gets to visit her parents and all ties are cut off. She continues to live in Jhansi with her husband.

Case 5- 2-month-old Yamuna was the 7th child born to an impoverished family in Guntur, Karnataka. A childless couple Kishan and Annapurna from Mumbai wanted to adopt a healthy baby and approached Hari a native from the same village. Hari used to run an orphanage and facilitated the adoption of orphans to interested family. Hari paid Yamuna's family a sum of rupees two thousand and then sold her to Kishan and Annapurna for a sum of rupees twenty thousand.

Case 6- Sarita, 15 years of age, is working as a full time domestic worker in Delhi. She hails from a village in Jharkhand. She was offered this job by a placement/recruitment agency in Delhi, which has its branches in Jharkhand as well. She has not been paid any salary since she joined work and whenever she asks for the money due to her, she is severely beaten up by her employer. Moreover, her employers don't allow her to leave the house nor write to her family. Though she wants to return home, she is forced to stay back.

Concluding Group Work

The discussion after group work may be summed up as follows:

ROLE OF POLICE vis-à-vis CNCP

Facilitators/Resource Persons shall open up this topic for enlisting the views of the participants on how they can get information about a child in need of care and protection

Identification of Children in Need of Care and Protection: - The Beat Officers should be able to identify a Child in Need of Care and Protection in their concerned area, as discussed in Session I. Police may also get information about such children from NGOs and other civil society actors or such a child may directly approach the police for assistance.

Rescue/ Receiving: - Police should be sensitive in dealing with CNCP on the spot and while rescuing them from an exploitative situation. All interaction with a child should be in a friendly, non-threatening manner.

Procedures to be followed by Police on identification/receipt/rescue of a child in need of care and protection

The Juvenile Justice (Care and Protection of Children) Act, 2000 and its amendment in 2006 and the rules made there under by the Central Government and the State Government clearly lay down the procedures to be followed by the police when they receive or find a child in need of care and protection.

This includes:

Identification and Fulfillment of Basic Needs: - Police should be aware of a child's immediate basic needs like food, clothes, footwear etc. and arrange it as soon as possible on receiving a child either brought by someone or rescued by police. Child's basic needs may be different, depending on the circumstances in which the child is found, his/her age, gender, ability and physical as well as mental health.

In case of an abused child, the police should facilitate an NGO worker to interact with the victim/child to ease his/her mental agony. It is an immediate need.

DD Entry/FIR: - Police should be aware that DD Entry must be done in every case of Child in Need of Care and Protection.

Important Points to Remember

In a case of child labour,

Police can also take action u/s 34, 331, 367, 370, 371 and 374 of IPC

u/s 14, 15 of the Child Labour (Prohibition and Regulation) Act 1986

u/s 23, 26 of Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006

FIR must be registered u/s 10, 16, 22 as per provision of the Bonded Labour System (Abolition) Act, 1976 if the child was working as forced labour. Forced labour has been defined by the Supreme Court of India in PUDR vs. Union of India as labour for which minimum wages are denied.

According to the Delhi High Court, the responsibility of lodging a police complaint against an employer employing child labour lies with the Police and not the Labour Department [Judgement of the Delhi High Court in Court on its Own Motion v. State of NCT of Delhi (W.P. (C) 4161/2008)].

In a case of child beggary,

Police can take action u/s 24 of Juvenile Justice (Care and Protection of Children) Act, 2000.

In a case of cruelty against a child

Where children are subjected to abuse or exploitation by people under whose care or charge they are, the police should use section 23 of Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006 to file a case of cruelty to child against the perpetrators.

In a case of a street child and missing/found child, details should be sent to: -

Child line/NGOs,

CWC and

Missing Person Squad (MPS)

Ensure Publication of photograph of the child in a newspaper

Particulars of missing children should be telecast in electronic media also

Medical examination/MLC: - Police should understand that Medical examination/MLC is scientific evidence and it plays an important role in the conviction of the accused, especially in cases of sexual abuse, physical abuse, bonded labour, child labour and mentally challenged children. But it should not be done for all children as all children may not require such an examination. It should not become a routine procedure to subject children to medical examination, particularly gynecological examination, unless the case so demands.

Judgements of various High Courts have reflected on the trauma of a child when a medical examination is conducted insensitively and have laid out guidelines to be followed by police as well as doctors/hospitals.

Note for the Trainer:

The Trainer could ask the participants to refer to some such guidelines listed out by the Delhi High Court in its judgements in the following cases:

- Court on its Own Motion v. State & Anr. (W.P. (Crl.) No 930/2007, Order dated 14.08.07)
- Delhi Commission for Women v. Delhi Police (W.P. (Crl.) No. 696/2009, Order dated 23.04.09)

In the case of a sexually abused child

- The investigation officer shall insure that the child victim is medically examined at the earliest, preferably within 24 hours (in accordance with section 164-A Cr P.C.) but with the support system of the child.
- In case of a girl child victim, the medical examination shall be conducted preferably by a female doctor.
- Consent of the child/parent/guardian is important for medical examination.
- A copy of the medical report should be provided to the parents/guardian of the child victim.
- The parent/guardian/person whom the child trusts should be allowed to be present during the medical examination.
- Emergency medical treatment should be provided to the child victim wherever necessary.
- Ensure that only female staff talks to the female victim, maintaining confidentiality.
- Discussion of the case with the complainant's family member(s) should be in complete privacy to avoid stigma to the child.
- Ensure no photography/questioning by media.
- Statement of the child should be taken only after considerable time and in presence of a family member.
- Child victim shall not be kept in the police station overnight on any pretext.

The child should be hospitalized as per recommendation of doctors and CWC, should be informed with a copy of DD Entry and Medical Report.

Production before CWC: - It is a legal duty of the police to produce the child before the CWC within 24 hours, along with a circumstances report as per the provision of the Juvenile Justice Act, 2000.

CWC is the final authority to dispose off cases involving a question of care, protection, development and rehabilitation of children as well as to ensure fulfillment of their basic needs and protection of their human rights.

In case of surrender, parent/parents can directly produce a child before the CWC.

No Claimant Report or Untraced Report: Many young children in need of care and protection can be given in adoption after the CWC declares such a child legally free for adoption. For this, the adoption agency will approach the police to seek a no claimant

report and accordingly conclude whether there is indeed nobody to claim the child.

In case of infants aged less than 2 years, the adoption agency will approach the police for a no claimant report after waiting for two months from the date of publishing an advertisement in newspapers and television.

A no claimant report will state that no one has approached them to claim the child for whom the report is being sought.

Untraced report is required in the case of abandoned children, which states that the parents/guardians of the child cannot be traced. Only the ACP/Dy.SP has the authority to give the untraced report.

Restoration: - Third battalion of the police has the responsibility of escorting children to their home state/residence for restoration or transfer of a child as per the orders of the Child Welfare Committee.

Statement under 164 Cr.PC: - Police should follow the legal requirement of getting the statement of a child recorded before a first class judicial magistrate u/s 164 Cr.PC.

However, it is not compulsory to get the statement of the child recorded under Section 164 Cr.PC in every case. That can be decided on a case-to-case basis. Where it appears that the child might resile from his initial statement under pressure e.g. custodial rape, incest, child prostitution, child trafficking etc. The child's evidence is, in any case, recorded when the case comes up for trial.

Where a child placed in an institution has to be taken for getting the statement recorded before the Magistrate, the Police should seek appropriate permission from the CWC and the Officer in-charge of the institution and ensure that a Welfare Officer/Social worker/Counselor accompanies the child to the court.

Practicing Non-Discrimination:- Police have to sensitize to deal with a child; Police can not discriminate against a child on the basis of social status or gender. Non-discriminatory practices should always be followed by the police while dealing with any person, particularly the most vulnerable, like children.

Establishing working relationship with different stakeholders: - In the best interest of children, Police should establish contacts with different stakeholders such as the Child Welfare Committee, the Social Welfare Department, the Women and Child Development Department, the Labour Department, Childline and NGOs.

Standard Operating Procedures (SOPs)/Circulars regarding specific categories of children: Police should be updated on circulars and orders from the different departments relating to children, particularly those falling within the category of Children in Need of Care and Protection.

These can help the police in deciding their course of action.

Some such SOPs/circulars are annexed for reference in Annexure VI.

Activity : True or False Exercise (Optional)

Objectives:

- To help participants analyze self-knowledge regarding Juvenile Justice Act, 2000.
- To sensitize participants regarding Juvenile Justice Act, system and children's issues.

Duration: 10-15 minutes

Instructions for the Facilitator/Resource Person:

- Firstly, share with participants that they need to participate in the exercise ensuring two-way communication.
- Distribute the Quiz Questionnaire among participants and ask them to choose true or false in the given statement.
- Discuss each Question with participants and also tell the participants the right answer .
- Ensure that participants are ready to get into the exercise.
- The Quiz Questionnaire should be prepared in advance, easy to understand and should use comfortable language for participants.
- Participants should be encouraged to share their opinion.

Quiz Questions

- 14 years is the age of child as per the Child Labour Act. True/ False
- It is mandatory to produce a Child in Need of Care and Production before the Child Welfare Committee. True /False
- 14 years is the age of child as per Juvenile Justice Act, 2000 . True/ False
- After rescue of the child labour, child is supposed to be produced before Juvenile Justice Board. True/ False
- 1098 is the toll free no. of child line. True/False
- Bonded labour and child labour have the same meaning. True/ False
- Bonded Labour is a cognizable offence. True/ False
- It is mandatory to produce every child before the Child Welfare Committee. True/False
- Children home and Observation Home both are meant for Child in Need of Care and Protection. True/ False
- If police finds a new born child in a dustbin, he can give the child to any good family which is willing to bring up the child. True/False
- Police has no role in dealing with the issue of child labour. True/False
- Police cannot make any complaint against those employing child labour. True/False

CHAPTER 6



Children in Conflict with Law

Duration: 2½ to 3 hours

Objectives of the Session:

To build an understanding on the following:

- Evolution of Juvenile Justice (Care and Protection of Children) Act 2000, as amended in 2006
- The two different categories of children it deals with – Children in Conflict with law (CICL) and Children in Need of Care and Protection (CNCP)
- Why do we have a separate law to deal with these two categories of children
- Who is a child in conflict with law
- When do children in conflict with law become children in need of care and protection
- Age of criminal responsibility
- Use of terminology according to the law
- Role of police in dealing with a child in conflict with law
- Procedures to be followed in matters concerning children in conflict with law
- Competent authority, its role, its configuration and location
- Appropriate institutions for children in conflict with law and their location\

Methodology:

Group Work based on Case Studies

Discussion

Power point presentation

Exercises and Games

Note for the Facilitator/Resource Person:

This session relies heavily on knowledge of the law and its principles. The facilitator/resource person must therefore be well equipped with knowledge, information and skills to deal with questions and issues that may arise in the course of discussions.

Various exercises and games may be used as energizers or to help police internalize the need for a separate law to deal with children and their role.

Role play enacting post-apprehension procedures and exercises making the participants list post-apprehension rights of the child or looking at a sample police investigation report or sample SBR with flaws, followed by discussions on how to improve it could also be used between the sessions in order to make the participants understand the concept of diversion and restorative justice. This will also help break the monotony.

The session requires a strong presence of mind to respond satisfactorily and convincingly.

Case-studies used are merely illustrative. Facilitators/resource persons can create and use other case studies on the same lines or adapt those given in this manual to situations in rural areas.

It is important to assert once again at the very beginning of the session that the participants can attend their phone calls during the session but their mobiles should be kept on silent mode, so that the calls are not a source of disturbance for others.

Other Ground Rules may be reiterated at the very outset once again.

The facilitator/resource person must believe in participation of all participants and importance of group work as a method that would help understand and clarify the issues and procedures of the law better.

The facilitator/resource person must understand and share with the participants the need for building capacities of police personnel on juvenile justice.

INTERACTING WITH POLICE ON JUVENILE JUSTICE - THE NEED FOR IT**International guidelines**

The Beijing Rules explicitly deal with contact between children and the police:

Rule 10.3 - 'contacts between law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case'

Rule 12 - 'in order to best fulfill their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose'.

The session should be divided into three parts:

- 1) Part I - Group Work based on Case Studies
- 2) Part 2 - Presentation of Group Work followed by open house discussion
- 3) Part 3 - Power point presentation to sum up the main points and the FAQs

Duration: 2½ to 3 hours

Materials Required:

Four sets of Case-Studies, with Guiding Questions for Group Work

LCD Projector and Laptop for Power Point Presentation

Flip Chart / White Board with appropriate Marker Pens

Material for an illustrative exercise: Two bowls, a sponge and two water colours (red and green)

Part 1 – Group Work

Duration: 30 minutes

Materials required: Four sets of case-studies, with guiding questions for group work. Each group may be given one or more than one copy of their respective case-study, depending on the number of participants in each group.

Instructions for the Facilitator/Resource Person:

Divide the participants into three or four groups of equal numbers as far as possible, depending on the number of participants.

If the number of participants is 20 or less, the facilitator/resource person should divide the group into three and use Case Studies 2, 3 and 4. In this case the objectives of Case Study 1 will have to be merged with the objectives of Case Study 2 as the cases are designed in such a way that they can meet the two sets of objectives if used interchangeably i.e. one can be used as a substitute for the other.

Let the group discuss the case for twenty minutes and prepare a presentation on their discussion, including their doubts, their conclusions if any in the next ten minutes.

Ensure that different ranks of police officials participating in the training mix up well in each group.

Explain to the participants the purpose of group exercise as a method that would help understand the issues and procedures of the law better and clarify doubts through participation of all.

It is imperative to state at the very beginning that different people will have different levels of knowledge, information and skills and the idea of group work is to share these.

The facilitator/resource person must also ensure that those who know more than others participate equally and feel motivated enough to be part of the group instead of getting bored, finding the exercise meaningless or feeling dissatisfied with the whole process in any way.

Case Studies for group work –**Case Study 1:**

Manjari is a six year old girl, living in a resettlement colony in a Metro City like Delhi. She works as a rag-picker and helps her family with that money. Manjari's father is alcoholic. One day, her father beat her up and threw her out of the house demanding money for alcohol.

Fearful, Manjari could only think of stealing as a source of managing some quick money. Unfortunately she was caught by the guard outside the house that she entered to steal. The police was called and she was handed over to them.

Questions to guide the Group Discussion:

Is there any specific law in India for children like Manjari?

How does this law treat a child like Manjari?

Is Manjari a child offender/juvenile?

Which are the two categories of children that the Juvenile Justice law deals with?

Who is the responsible authority in this case, what is its role and where is it located?

Case Study 2:

Rani (age 14 years), Sunita (16 years), Sundari (30 years) her two kids (2 years and 8 years), Meena (21 years) and Deepa (45 Years) were found by the police during a raid in the red-light area at 10:00 pm, when prostitution was being carried out.

Questions to guide the Group Discussion:

What should the police do in such a case?

Are the persons found supposed to be rescued or should they be caught by the police?

Under which law(s) can the police take action in this case?

Where should the police take them after the raid?

Can they be kept in a police station?

Is there a need for a medical examination of the persons found/rescued/ caught during the raid?

What kind of judicial proceedings will be required for the persons involved in a case like this and where should such persons be produced for initiating judicial proceedings?

Case Study 3:

Raju (10-12 Years) and Mangal (18-19 years) are caught by the police in a case of theft at 4.00 pm. While Mangal is a street child and his family lives in some other state, Raju lives with his family in a very low middle-class locality in the same area.

Questions to guide the Group Discussion:

Are Raju and Mangal criminals?

How does the Juvenile Justice Act of 2000 define a child who is alleged to have committed an offence and why?

Why was there a need for a separate law instead of the Cr.PC to deal with children alleged to have committed an offence?

What is the age of criminal responsibility in India?

On what basis should the police ascertain the age of the person brought before them or caught by them for allegedly committing an offence?

Is theft a petty offence or a serious offence according to the Juvenile Justice Rules?

What procedures are spelt out in the law and its rules on dealing with petty offences?

How will the case proceed if Mangal turns out to be an adult?

What should the police do if Mangal, who is caught for a petty offence, turns out to be a minor, but does not live with his family or has no family? (Discussion should refer to matters such as information to parents, questioning the child for recovery of stolen property, apprehension, custody of the child, production before the Board, etc.)

Case Study 4:

Shyam Singh, 17 or 18 year old boy working at a saree store absconds after committing robbery at the store and murder of his employer. He is later caught after five years.

Questions to guide the Group Discussion:

Is Shyam Singh a child in conflict with law even though he is caught at the age of 22 or 23 years?

Will the police arrest Shyam Singh or apprehend him?

Where will Shyam Singh be produced for initiating judicial proceedings?

Will the police take a confession from Shyam Singh under section 161 and 162 Cr.PC?

Can the police seek detention of Shyam Singh in police custody for interrogation?

What will be the other police procedures followed in this case e.g. personal search memo, confiscation of stolen property and recovery document, filing of chargesheet etc.

Part 2 – Presentation of Group Work & Open House Discussion

Duration: 90 minutes (1 and 1/2 hours)

Materials required: Flip Chart/White Board with appropriate marker pens

Instructions for the Facilitator/Resource Person:

The Facilitator/Resource Person must ask the participants whether they would like the open house discussion to follow each presentation or do they prefer open house discussion after all the group work presentations are completed and accordingly proceed with the session.

The Facilitators/Resource Persons should be well aware of the expected outcomes from each group work and should be able to fill in the gaps in information, knowledge, skills and the overall presentation of the group in a non-threatening, simple and understandable manner.

As stated earlier, the Facilitator/Resource Person must have adequate knowledge of law and skills to make interventions during the open house discussion and facilitate a proper understanding of the legal issues involved in handling cases of children in conflict with law

A list of Expected Outcomes from each group work is presented here for the benefit of the facilitator/resource person as well as others who may be interested in using this manual for conducting police trainings.

This is followed by information about the law and the legal procedures, which must be internalized by every facilitator or resource person conducting juvenile justice trainings in India.

Expected Outcomes from Group Work – A Note for the Facilitator/Resource Person

Expected outcomes - Case Study 1:

To arrive at an understanding of who a child is - how do our different laws define a child; what is the international understanding?

To provide an overall introduction to the Juvenile Justice law in India; what is it called; how did it evolve; why does the Juvenile Justice law define child as a person below the age of 18 years; and, what are the two different categories of children it deals with?

To introduce the difference between a child in conflict with law and a child in need of care and protection.

To arrive at a clear understanding on the authorities responsible and declared competent for dealing with them; what are they called i.e. Child Welfare Committee and Juvenile Justice Board; who do they consist of; and, where are they located?

To stress on the distinct roles of the different kinds of judicial bodies that may come into the picture while dealing with a child – JJB, CWC, Any Regular Court of a Judicial Magistrate of First Class.

To introduce the section on special offences in the juvenile justice law and action that may be taken by the police against certain caregivers or persons in whose control a child is, if such a person exploits or causes harm to a child in any way.

Expected outcomes - Case Study 2:

To help the participants understand the change in the outlook of law vis-à-vis children found in prostitution.

To further develop their understanding on the difference between children in conflict with law and children in need of care and protection as laid down under the juvenile justice law e.g. why children like those in prostitution and begging are not children in conflict with law despite our laws declaring prostitution and begging illegal.

To get them to understand where all children can be kept; the difference between the various types of institutions in the country for the different categories of children; and the location of these institutions.

To address all procedural aspects relating to what a police officer should do in such a case – custody of minors, medical examination, production before the competent authority, recording of statement of the victim and the accused, trial in a regular adult court etc.

To reiterate the different roles a regular court or a JJB or a CWC will and can play in a case like this.

To send a clear message that the rehabilitation and restoration of a “child in conflict with law” as well a “child in need of care and protection” lies with the judicial bodies set up under the juvenile justice law i.e. JJB or CWC, as the case may be.

Expected outcomes - Case Study 3:

To make the participants recall the principle of doli incapax - the age of criminal responsibility.

To discuss the change in the outlook of the juvenile justice legislation in the very term used for children who are alleged to have committed an offence and help the participants understand why children who commit crimes are not to be treated as criminals but as “children in conflict with law” – This would require reiteration of the principle of diversion and restorative justice as built into the Indian law.

To clarify the need and requirements for age verification through documentary evidence and through bone age verification tests.

To build a clear understanding of the procedures laid down under the Juvenile Justice Act and the Central Rules for petty offences and specific situations such as petty offences by street children who do not live with their families or do not have a family and petty offences committed jointly by a minor and an adult.

To drive the group towards arriving at a consensus on child-friendly procedures that may not be clearly laid out in the Juvenile Justice Act.

To help the participants understand the role of Juvenile Welfare Officers (JWO) and Special Juvenile Police Units (SJPU).

Expected outcomes - Case Study 4:

To build a clear understanding of the procedures laid down under the Juvenile Justice Act and the Central Rules for:

- serious offences
- offences where the child is caught after he turns major

To reiterate the need for child-friendly procedures even in matters involving a serious offence.

To evolve an understanding on how to build child-friendly procedures into the police functioning e.g. what should be done in matters involving personal search, confiscation of stolen property and recovery document, questioning a child (known as interrogation in criminal parlance), summoning a child/family as a witness (Section 160 Cr.PC), recording of child's statement by the police (Section 161 and 162 Cr.PC), keeping records of children in conflict with law etc.

To recall the Role of JWOs and SJPU's,

To sum up the purpose of the juvenile justice law.

Dealing with a Child in Conflict with Law – The Law and Procedures

Note for the Facilitator:

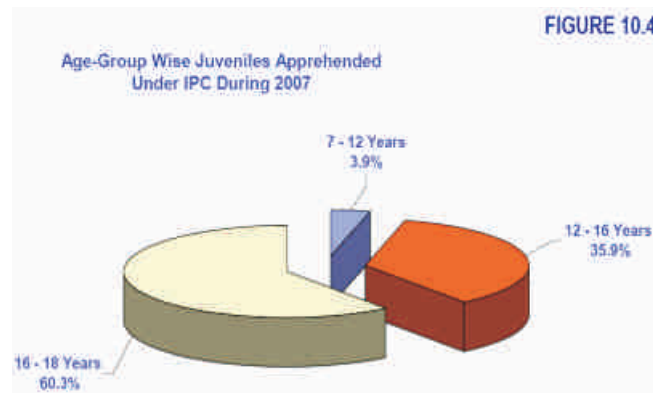
The Facilitator may choose parts of the content given below for making a power point presentation while summing up the session.

In any case the Facilitator should know the law, its basis, history and content thoroughly.

Who is a 'Child in Conflict with Law (CICL)'?

- **A Child in Conflict with Law** is a person:
 - who is alleged to have committed an offence; and,
 - who is below the age of 18 years on the date of commission of such offence.

Under the 1986 law, children alleged to have committed an offence were treated as 'juvenile delinquents'. The 2000 act changed the terminology to 'child in conflict with law' (commonly also referred to as "juveniles").



Source: NCRB, Crime in India 2007, Chapter 10

Note: The participants may suggest that the earlier law was better in terms of keeping the age at 16 years for boys as most crimes these days are committed by children in the 16-18 year age group who have come to know the law and take advantage of it. The above diagram also shows this.

The Facilitator must counter the said argument as there is another side to such statistics which we often fail to see. Children in the 16-18 year age category were committing crimes earlier also. It is just that they did not figure as part of statistics on children in conflict with law/juvenile delinquency because they were lodged in adult prisons and were fighting their cases through the courts meant for adults.

Can Children in Conflict with Law also be treated as Children in Need of Care and Protection

This would depend on their specific situation, the nature of alleged offence committed by them, and the possibility of placing them together with children in need of care and protection, without a likelihood of causing any harm to others etc. Such children could include:

- Orphaned children alleged to have committed an offence
- Street children alleged to have committed a petty offence
- Children who break the law for the first time

Minors found in prostitution are no longer to be treated as children in conflict with law. Under the 1986 Juvenile Justice Act, such children, as well as children found in begging, were seen as those engaged in illegal acts and were therefore treated as 'juvenile delinquents'.

The 2000 law clearly brought them under the purview of the definition of a child in need of care and protection, recognizing that these children were vulnerable to various kinds of exploitation and harm and that there was need to decriminalize them.

What purpose is served by the juvenile justice law?

The juvenile justice law is designed to serve the following purposes:

- (a) It overrides all other existing legislations in matters involving detention, prosecution, penalty or sentence to be imposed on children alleged to have committed an offence.
- (b) It defines a child or a juvenile as a person who has not completed eighteenth year of age i.e. a person below 18 years of age.
- (c) It recognises the vulnerability of children to harm of all kinds, including their induction into crime.
- (d) It provides separate adjudicating machinery, distinct from that of adults, for handling matters concerning children.
- (e) It identifies and establishes the need for rehabilitation of children who come in contact with law either as children in conflict with law or as children in need of care and protection.
- (f) It lays down the minimum standards of protection to be followed for care, protection, detention and rehabilitation of children.
- (g) It stresses on the need for child-friendly legal procedures and seeks to lay them down as far as possible.

Use of Child-Friendly Terminology

The law seeks to promote a child-friendly juvenile justice system in India. The first example of this lies in the use of different and child-sensitive terminology.

- A child alleged to have committed an offence is known as **"a child in conflict with law"** not a criminal/alleged criminal, or juvenile delinquent.
- A juvenile can be **'apprehended'** not arrested.
- When a child in conflict with law is apprehended by police, such child is supposed to be produced before the **'Juvenile Justice Board'** not Court.
- A child in conflict with law or a juvenile is subjected to an **"inquiry"** not a trial.

Who is the competent authority to deal with these two categories of children?

The competent authorities to deal with these two categories of children are -

1. **Child Welfare Committee (CWC)** in the case of children in need of care and protection.
2. **Juvenile Justice Board (JJB)** in matters concerning children in conflict with law.

In Delhi

There are two JJBs in Delhi. The oldest one is located at Sewa Kutir, Kingsway Camp and a new one was established in 2007 at Delhi Gate.

Who are members of the Juvenile Justice Board?

The Juvenile Justice Board must include the following members:

- A Metropolitan Magistrate or a Judicial Magistrate of the first class who has special knowledge or training in child psychology. The Magistrate is regarded as the Principal Magistrate;
- Two social workers who have been actively involved in health, education, or welfare activities relating to children for a minimum period of seven years.

At least one of these social workers must be a woman.

What are the Rights of Juveniles in conflict with law?

Children who have been accused of committing an offence need to be treated differently because of their age and level of understanding. It is important to ensure that:

- they understand what they are accused of
- they are not illegally detained
- their detention, if required, is for a minimum period of time
- they have help in defending themselves
- their case is treated with privacy and confidentiality
- they receive state protection and other services that would help in behaviour modification, acquiring life skills and seeking suitable and gainful employment in future

- they are not subjected to any harm or abuse at the hands of the police, or other state authorities, or his/her co-accused who may be adults
- they are not subjected to measures of criminal justice used for dealing with adults

What the police cannot do

While the rights of a juvenile are clearly specified in the principles, objectives and the content of the JJ Act, even in the Cr.PC certain rights of children are recognised vis-à-vis police. These are:

Section 160 of the **Criminal Procedure Code** prohibits the detention of males under the age of 15 years or females of any age for the purpose of investigation or questioning by the police.

Arbitrary detention is illegal. **Section 50, 56 and 57** of the **Code of Criminal Procedure Code** mandate that **no person can be detained in custody without knowing the grounds of arrest** and that a detainee must be presented before the magistrate within **twenty four hours** of his arrest.

There can be no application under Section 167 Cr.PC for detention in police custody.

No confessions can be taken from a juvenile in the form of a statement signed by a child in front of the police under **Section 161 of Cr.PC** and such statements cannot be used in evidence against the juvenile.

Some points to remember while dealing with street childrenJustice and street children

Street-living and street-working children face two particular threats in relation to children's justice: they are more likely than most children to come into (actual or perceived) conflict with the law in the first place and at the same time, once within the system, they are less able to defend themselves against violation of their rights. Street children usually come from the poorest sectors of society and often from indigenous minority and/or low-caste groups, and these factors add up to a pattern of multiple labels that have serious implications for their access to justice and their treatment in the courts and in prison.

Justice and the drug-crime cycle

In many communities, the majority of juveniles currently entering the justice system are drug users. Other research indicates that juvenile drug use leads to recurring and violent delinquency that continues well into adulthood. Juvenile drug use is also strongly related to poor health, deteriorating family relationships, worsening school performance, and other social and psychological problems. The drug-crime link does not mean that drug use necessarily leads to criminal activity (or vice versa).

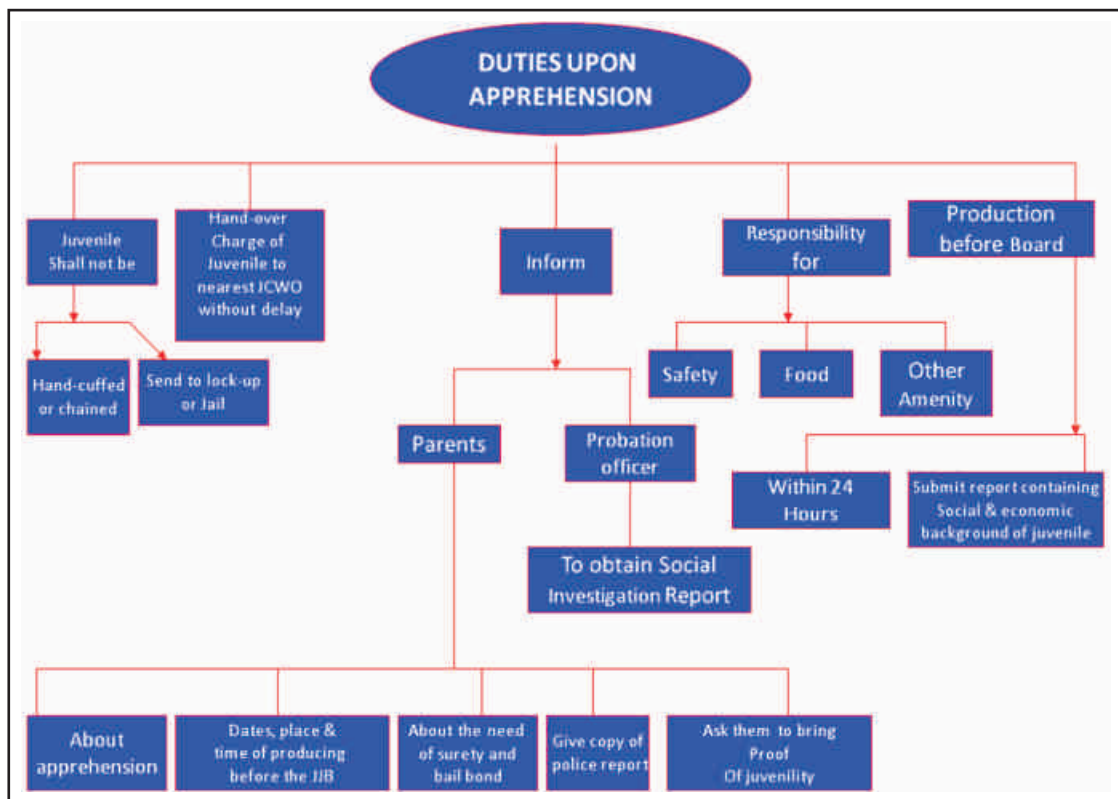
In some countries younger children are often coerced into becoming involved in drug use, particularly impoverished or destitute street-living children. These children become street peddlers or commit petty crimes, working for adult criminals, who keep them drug-dependent to ensure their continued compliance. The drug dependence often begins with the use of inhalants and can lead to other forms of substance abuse. If these children are apprehended by police they are likely to be entering a justice system that is unable to meet even their basic needs, let alone address their drug dependency problems.

What should happen once a child is apprehended by the Police?

The basic steps to be followed are:

- 1) Any child apprehended by the police should be handed over to the Special Juvenile Police Unit (SJPU) or the Designated Police Officer (known as the Juvenile Welfare Officer) as soon as possible.

- 2) Immediate information must be given to the following:
 - Parents or guardian of the juvenile about the facts leading to the juvenile's apprehension
 - Concerned tice Board
- 4) Record the child's version of the incident.
- 5) Investigate the child's version. If it comes to notice that the child has come into the conflict situation due to an adult, action has to be initiated against such adult person.
- 6) If found appropriate and necessary, the child may be apprehended and in that case an Apprehension Memo will have to be duly filled (See Format in Annexure I)
- 7) If apprehension does not seem to be necessary, the child may be released on an undertaking signed by his/her parent/guardian (See Format in Annexure II)
- 8) Get the child medically examined. Use the Format as suggested in Annexure III for seeking medical examination of the child.
- 9) Personal search of the child may be conducted using the Format given in Annexure IV
- 10) Produce the child before the Juvenile Justice Board. If the Board is not sitting, the child should be produced before any individual member of the Board.
- 11) In no case should the child be kept in police station after the codal formalities have been completed.
- 12) Prepare and submit a Social Background Report (See Format for SBR in Annexure V).
- 13) Prepare and submit a Final Report/Police Investigation Report to the Board.



Source: Legal Aid Forum, Delhi

What is SJPU?

SJPU or the Special Juvenile Police Unit is a unit of the police at the district level for handling matters concerning juveniles and also children in need of care and protection.

The SJPUs are headed by the SP/DCP with Dy.SP/ACP as Nodal Officer and consists of:

- A Designated Inspector Rank Police Officer
- Two Social Workers, of whom at least one should be a woman
- The designated Juvenile Welfare Officers of the District
- NGOs invited and recognized by the police for providing assistance in cases involving children

Note: Where social workers are not provided by the concerned State Department, the Police can seek support of local NGOs working in this area.

Should the police file an FIR in all cases involving juveniles?

No. In matters involving juveniles, the police is required to file an FIR only when the offence alleged to have been committed by the juvenile is punishable with a sentence of seven or more years.

However, if there is an adult co-accused, the FIR shall be registered irrespective of quantum of punishment.

Who shall produce a juvenile before the Juvenile Justice Board and by when?

A designated police officer known as the Juvenile Welfare Officer should produce a juvenile before the Juvenile Justice Board within 24 hours. This excludes the time taken for the journey to the Board.

Production before the Board should be immediate and in no case later than 24 hours. [You may also look at the recent Delhi High Court judgement dated 04.03.09 in Court on its Own Motion v. State, GNCTD and Others (W.P (C) No. 8801/2008].

If the full Board is not sitting, a juvenile can be produced before an individual member of the Board.

Is the police supposed to produce all juveniles before the Juvenile Justice Board?

In all cases where a juvenile is apprehended, production before the Board is mandatory.

What are the specific circumstances where the police may or may not apprehend a juvenile?

- In serious offences involving punishment of more than seven years, the juvenile will have to be necessarily apprehended.
- In cases where the punishment is less than seven years but it appears that the apprehension is in the interest of the juvenile and/or the juvenile is in the dual category of CNCP and CICL, the juvenile may be apprehended.
- In petty offences, the cases can be disposed off at the police station level itself e.g. by way of advise or admonition. No apprehension is required in such cases, except where the child has no parent/guardian or the parent/guardian are not fit to take care of the child and the child can be treated as CNCP.

Following are a few circumstances exemplifying what the police is required to do in such cases:

- Where the juvenile's parents/guardians are available, the police should hand over the juvenile to his/her parents/guardians on an undertaking (see Format in Annexure II), requiring the parents/guardians to produce the juvenile before the Juvenile Justice Board as and when the Board may require, on a later date. The concerned police officer will have to inform the parents/guardians about the date on which the juvenile may be called for production before the Board.
- In some cases, such as cases involving petty offences, where the juvenile has come in conflict with law for the first time, the police may just leave the juvenile on advice and need not produce the juvenile before the Board. The matter can be disposed off at the police station itself.
- If there is a doubt on the question of age of the person alleged to have committed an offence of less than seven years i.e. the person appears to be a juvenile but could be a borderline case or an adult, the police should treat the person as a juvenile.
- " Where the juvenile has no one to claim guardianship, he/she may be produced before the Board within 24 hours. The police will then have to take appropriate orders from the Board regarding the custody of the juvenile.

What should the police do if a child is apprehended for a crime that is punishable by a sentence of less than seven years?

In such cases the police should not file an FIR. These are cases where only a DD entry is supposed to be made by the police.

However, if an adult is the co-accused, the FIR has to be registered. There can be no joint proceedings. The file of juvenile has to be produced before the JJB and not the regular court.

After making the DD entry, the police is required to prepare a social background report of the juvenile, a report stating the circumstances of the alleged offence, a report about recovery of any stolen articles from the juvenile, age proof and such other relevant documents.

The DD entry should be submitted to the Juvenile Justice Board at the earliest, preferably within 24 hours.

The Social Background Report, and Report of the circumstances of the alleged offence as well as apprehension (if any), will have to be produced before the Board before the first hearing.

What is a Social Background Report (SBR)?

A social background report (SBR) is a report prepared by the designated police officer about the social and economic condition of the juvenile apprehended by the police, and his family.

An SBR has to be prepared by the police for every juvenile, irrespective of whether the alleged offence committed by the juvenile is punishable with a sentence of less than seven years or more.

It shall include information about the following:

- Number of Family Members,
- Occupation,
- Monthly Income,
- Literacy levels,
- Status of child's education,
- Any information about the child's day-to-day activities that may be collected from the child or his/her family.

The list is not exhaustive. However, great care needs to be taken in the preparation of a social background report.

Do's and Don'ts for preparation of an SBR

The police should not be in uniform while making any visits to the juvenile's home/family/neighbourhood.

As far as possible, all information for the SBR should be collected from the juvenile and his/her family members only.

While talking to neighbours, there should be no specific mention about the case in which the juvenile is alleged to have been involved.

Note: The SBR meant to be prepared by the police is not the same as the SIR (Social Investigation Report) that the Probation Officers are required to prepare. (Format for SBR is annexed in Annexure V).

Where should the police keep the apprehended juveniles before being produced in front of the Juvenile Justice Board?

Apprehended juveniles cannot be kept in a police lock-up or jails.

Till such time that a juvenile can be produced before the Board, the police shall hand over the juvenile to the SJPU or the designated police officer (JWO).

As far as possible, no juvenile should be kept in a police station once his/her medical examination is conducted.

Whatever time a juvenile has to spend in a police station, must be in the presence of his/her parents/guardians or the social worker members of the SJPU. In case of a girl, a female police officer must be present.

Even if a written order is not possible, the police should take a verbal order of a member of the Board to keep the juvenile in an observation home till such time that he/she can be produced before the Board.

How can the police show recovery of stolen goods from a juvenile?

The Central Model JJ Rules are silent on procedures to be followed when the police recovers stolen property from a juvenile. However, the juvenile's version of the incident can be recorded and investigated and the recovery can thus be made. The Cr.PC is followed thereafter on recording the fact of recovery. However, the signature of the child should not be taken. As far as possible, recovery should be recorded in the presence of the Juvenile Welfare Officer and the parent/guardian of the child or a registered NGO member of the Special Juvenile Police Unit. The parent/guardian of the juvenile may be asked to sign on the recovery document along with the Juvenile Welfare Officer. This will ensure presence of a third non police person in the process. The stolen goods recovered will be kept in the 'malkhana' as is the police procedure in other cases of theft recovery.

Who is supposed to determine the age of the person allegedly accused of committing an offence and on what basis?

The law is very clear on this. It is for the Board to determine the age of a person produced before it.

If a person alleged to have committed an offence 'appears' to be below the age of 18 years, the police should produce such a person before the Juvenile Justice Board and let the Board determine the age of such person.

When a person who seems to be a juvenile is brought before the Board, it is obligatory for the Board to hold an inquiry and determine the age of the person. The Board must proceed carefully in determining the age so that the benefits of the JJ Act are not denied to a juvenile.

The age of an offender must be determined with reference to the date on which the offence was committed and not the date on which he/she is produced before the competent authority. (Pratap Singh vs. State of Jharkhand, JT 2005(2) SC 271).

What evidence does the Board rely upon for age determination?

In order to determine whether the person brought before the Board is indeed a juvenile, the Board will rely upon the following evidence:

- The person's birth certificate
- Entry in the school register at the time of admission
- High school mark sheets
- The Board can ask medical experts to give their opinion as to the age of the accused
- An X-ray bone-ossification test

However, while examining evidence such as an entry in the school register at the time of admission, the Board will see whether there were any irregularities in maintaining the register, and will check how reliable a source it is.

The Supreme Court has also said that too much reliance cannot be placed on medical jurisprudence and toxicology while determining the age of an individual. This is because in a country as vast as ours with varied latitude, height, environment, vegetation, and nutrition, there cannot be uniformity in height and weight of people everywhere [Ram Deo Chauhan vs. State of Assam AIR 2001 SC 2331].

What if the accused person's exact age cannot be determined?

The Board has the authority to grant the benefit of doubt to the accused and declare him/her a juvenile in cases where the age margin is too close to determine whether the person is a juvenile or an adult.

Arnit Das vs. State of Bihar (2000 (5) SSC 488: AIR 2000 SS 2264

In this case, despite many documents like school and birth certificates produced before the Board, it was difficult to establish the exact age of the juvenile. The Court reiterated that in borderline cases such as this, if two views are possible, the accused should be given the benefit of doubt.

What will happen if a juvenile is brought before a Magistrate other than the Principal Magistrate of a Juvenile Justice Board?

If a juvenile is brought before a Magistrate who does not have the authority to exercise the powers of the Juvenile Justice Board under the JJ Act, the Magistrate will have to:

- Record his/her opinion that the person brought before him/her is a juvenile and,
- Forward the juvenile and the record of the proceedings to the Juvenile Justice Board, which has the authority to deal with the matter. The Board will then proceed to hold an inquiry as if the juvenile was originally brought before it.
- If such a Magistrate has doubts regarding the age of the person brought before him/her, the benefit of doubt would be in favour of that person.
- In such a situation where the Board is not sitting, a juvenile can be produced before an individual member of the Board.

Bail is a right, not a prerogative

Every juvenile in conflict with law is entitled to be released on bail, irrespective of whether the alleged offence committed by such juvenile is bailable or non-bailable.

Release should not depend on the nature of alleged offence committed

The JJ Act says that a person who appears to be a juvenile must be released on bail even if the offence is a non-bailable one. This is a departure from the normal criminal procedure to make sure that offenders of tender age are not locked up with adult offenders and subjected to harm and abuse.

by the juvenile or whether the juvenile pleads guilty for having committed an offence.

Considering their tender age, children below 18 are released on bail as a general rule. Even when the inquiry about the age is pending, a person who appears to be a juvenile must be released on bail.

The bail may be given with or without a surety. To re-emphasise, a person below the age of 18 years cannot be kept in police lock-up or a jail.

Who can release a child on bail?

In bailable matters, the police can release a child on bail. But in all non-bailable matters involving juveniles, the Juvenile Justice Board is authorised to release a child on bail.

When can the Board deny bail?

Bail can only be denied if there is substantial reason to believe that after release -

- the juvenile is likely to get associated with a known criminal; or
- there is moral, physical and psychological danger to the juvenile; or
- the ends of justice stand defeated.

Every juvenile has a right to know the precise reason(s) for being denied bail. The order made on a bail application must therefore clearly mention the reason for denial of bail in detail. If there is any danger to the child, the order must not only state so, but also state why and from whom and what has led to this conclusion/opinion. This is a basic principle of fair hearing and justice.

The SBR prepared by the police plays an important role at this point. The Board may rely on it along with other documents produced by the police and the Social Investigation Report (SIR) prepared by the Probation Officer for denying bail.

Where should a juvenile be kept when he/she is not released on bail?

Juveniles who have not been granted bail due to special circumstances must be kept in places where they will remain safe.

Any place or institution, where the person in charge, is willing to receive and take care of the concerned juvenile for the specified period, can be considered to be a place of safety. This can be a home for juveniles run by an NGO, or a charitable organisation.

A police lock up or a jail is not considered a place of safety according to the Act.

Therefore, if a juvenile has not been released on bail by the Board, then he/she can only be kept in an observation home or a place of safety while the inquiry is pending, and not in a jail.

What is an Observation Home?

The JJ Act empowers the State Government to establish and maintain observation homes in every district. These homes are used for the temporary reception of juveniles against whom inquiries are pending under the JJ Act.

A juvenile who has been sent to an observation home must initially be kept in a reception unit of such home. Once the inquiry has been made as to his/her age, his/her physical and mental status, and the nature of the offence committed, the juvenile can then be admitted into the observation home.

In Delhi there are two Observation Homes for boys. One is located in the Sewa Kutir Complex, Kingsway Camp and the other is located at Delhi Gate. For girls, the Observation Home is located in the Nirmal Chhaya Complex, Jail Road.

Can the police file a charge sheet in cases involving juveniles?

Going by the principles of juvenile justice across the world, terms like charge sheet should not be used by the police or the Juvenile Justice Boards while dealing with matters involving juveniles.

A "charge" is an accusation. In a criminal proceeding, the "charge" is an important step as it separates the inquiry from the trial. However, in juvenile justice matters there can be no "charge" against a juvenile since the proceeding is not against a 'criminal' but against a 'child alleged to be in conflict with law' and it is not meant to be a criminal proceeding. There is no trial. All inquiries have to be completed within four months.

However, the police can file a Final Report (This is the Police Investigation Report, which would amount to framing the charges on completion of police investigation if it were a case of an adult). Ideally, the term Police Investigation Report should have been used in the Act also. Unfortunately, the juvenile justice law has always been amended in a great hurry and therefore even while stressing in principle on the need to change semantics, many of the terms used in the Criminal Procedure Code continue to be used for children too.

Note:

- For every distinct offence a separate charge must be framed.
- In any case involving a juvenile and an adult offender, the charges and subsequent proceedings must be separate and the juvenile has to be sent to the Juvenile Justice Board. Joint charges and joint proceedings cannot take place in such cases. (Sec. 18)

By when should the police file the 'Final Report/Police Investigation Report'?

The Police Investigation report should be filed within sixty days (60 days) in cases where the alleged offence is liable for a punishment of less than seven years, and within ninety days (90 days) in cases involving a punishment of seven or more years.

1. In case of petty offences, there is no question of police investigation report as the juvenile is not apprehended.
2. In case of non-serious offences with punishment of less than seven years, where the child is not apprehended, the period for filing a police investigation report is 90 days from the date of apprehension. But where the juvenile is apprehended and not released, the police investigation report has to be filed within 60 days from the date of apprehension. If the report is not submitted within this period, the case shall be treated as closed.
3. In serious offences, the period is 60 days from the date of apprehension if the child is apprehended and not released, and 90 days from the date of apprehension, where the child is apprehended but released. (see calendar)

Where should a child be kept once the commission of the offence is proved?

Children found guilty of commission of an offence through due process of law are placed in a 'Special Home' or a 'Place of safety', by an order of the Board.

Note: The period of detention in a 'Special Home' or a 'Place of Safety' cannot be more than three years, irrespective of the punishment otherwise listed for the offence that is proven against a juvenile through an inquiry of the Board.

What is a Special Home?

A juvenile whose guilt for committing an offence is proved beyond reasonable doubt cannot be sent to a prison. The JJ Act thus provides for a Special Home where such juveniles are sent for rehabilitation.

Special homes may be managed by a voluntary organisation on an agreement with the concerned State Department.

A Special home is an institution established by the concerned State Department in every district or a group of districts to receive, house and rehabilitate juveniles whose guilt for committing an offence is proved beyond reasonable doubt.

In Delhi the Special Home for Boys is situated in a place called Majnu ka Tila and for Girls it is in the Nirmal Chhaya Complex, Jail Road.

What is a "Place of safety"?

A juvenile whose guilt for committing an offence is proved beyond reasonable doubt can also be placed in a 'place of safety'.

A 'place of safety' is also a facility established and maintained by the concerned State Department for receiving and rehabilitating juveniles held guilty for commission of offence by an inquiry of the Board.

In Delhi, a 'Place of Safety' has been established in Majnu ka Tila for boys but for girls there is no 'place of safety'.

When can the Board order a juvenile to be kept in a "place of safety"?

The Board has been given the power to order that a juvenile who has committed an offence be kept in a place of safety (and not a special home) if the following conditions are fulfilled:

- The juvenile is at least 16 years old; and
- The offence committed is so serious, or the juvenile's conduct and behaviour have been such that it would not be in his/her interest or in the interest of other juveniles in the special home to send him to the special home; and
- None of the other courses of action laid down by the Act are appropriate or adequate.

In such cases:

- The Board must report the case to the State Government for its order.
- The State Government can then make such arrangements for the juvenile, as it thinks proper.
- It can order the juvenile to be kept under protective custody at a certain place, and on conditions that it thinks suitable.

How can the police maintain records of juveniles held guilty for commission of an offence?

According to the law, all relevant records of a juvenile held guilty by the Board are supposed to be removed after:

- The period prescribed for an appeal has lapsed; or
- The period prescribed by the rules framed under the JJ Act has lapsed (the JJ Rules of 2007 prescribe a maximum period of seven years).

One argument can be that the police need not worry about maintaining records of juveniles held guilty of committing an offence, as it is the Board that has to look into this aspect.

The other argument is that since the Board can also order the police to maintain records, the police may keep the records of a juvenile held guilty by the Board till such time, as given above, provided that such records are kept in a safe place and are not maintained with the records of adult criminals.

At all stages of the proceeding, the juvenile's right to privacy and confidentiality must be protected.

Can the police share any previous record of commission of an offence by a juvenile or information about any ongoing case against a juvenile for public consumption e.g. police verification of passport or police verification of domestic servants?

There may be some situations, where the police will be required to share information about any previous or ongoing involvement of a child in criminal activities with public authorities, e.g. in matters of passport verification or servant verification.

Situations where information about involvement of a child in any crime is sought by those wanting to employ them as servants are tricky situations. They create a conflict

between the human rights of one set of persons (juveniles' right to privacy and confidentiality) against the rights of another set of persons (employers' right to have proper verification particularly when they are employing domestic servants or drivers, who are meant to provide service to the entire family, including their children). There are no straight forward answers. Although the police can use its discretion, the deciding factor must be the best interest of the child/ juvenile.

In any case, employment of children under 14 years of age is banned under the Child Labour law. However, if a person above 14 years and below 18 is employed as a domestic servant, the Format in Annexure VI should be used by the police for servant verification.

Those who use such information to disqualify a person from employment or from seeking employment will be liable under the juvenile justice law.

What happens to cases pending prior to the enforcement of the Juvenile Justice Act of 2000?

The provisions of Juvenile Justice Act of 2000 as amended in 2006 have retrospective effect.

Therefore, in cases involving juveniles, which are pending in any court on the date of enforcement of this Act i.e. on 1.4.2001, including trials and subsequent proceedings by way of revision or appeal, the matter shall proceed on the basis of the JJ Act, 2000, its amendment in 2006 and the Juvenile Justice Rules of 2007/State Rules made in this regard.

Even if the juvenile whose case was pending as on 1.4.2001 ceases to be below 18 years of age on this date, his/her case will be treated and dealt with as if he/she is a child in conflict with law.

In fact, the law now even empowers the Juvenile Justice Boards to review on their own or on a complaint, those cases which have been disposed off by any court, and determine the age of juvenility and pass an order in accordance with the provisions of the JJ Act of 2000 as amended in 2006 and the Central/State Rules made thereunder.

The Juvenile Justice Act of 1986 was amended in the year 2000 and the new law came into force on 1 April 2001. This law too was later amended in 2006 to further clarify some positions, particularly the question of how should cases pending prior to the enforcement of the 2000 Act be dealt with.

Recently, the Supreme Court's judgement in Hari Ram Vs. State of Rajasthan & Another (CRIMINAL APPEAL NO. 907_OF 2009) has also clarified the legal position as established above.

Ending Note for Part 2

The facilitator/resource person may end with an example from other cities or countries. Here is an illustration:

Working with the police in Ethiopia - An Example

Ten child protection units (CPUs) have been set up in Addis Ababa, staffed with police officers and social workers trained in child rights and child protection. This has partly come out of discussions with Save the Children Sweden's partner organisation, Forum on Street Children Ethiopia (FSCE).

A coordinating office has also been established, headed by a police officer. FSCE has assigned a legal adviser, psychologist social worker and other support staff to this office. The coordinating office also keeps a database of all children reported to police stations.

It is important to make the following observation and end with it:

Although women police officers are often assigned to cases where women and children are victims of violence, they are not specifically chosen to deal with children in conflict with law, who are generally seen as criminals, and not as children.

Part 3 - Summing Up

Summing Up through an exercise and a short Power Point Presentation

Duration: 40 minutes

EXERCISE**WHAT YOU PUT IN WILL COME OUT**

Aim: To understand that children's behaviour is shaped by how they are treated by, and what they learn from, their family, community and society; to recognise that all children have great potential to contribute positively to society if provided positive inputs and influences.

Duration: 10 minutes

Materials needed: Bowl of water and a large sponge

Task:

1. Put a bowl of water on a table in front of the room and have a (large) sponge available. Ask the participants what will happen when the sponge is put into the water.
2. Now ask the participants what will happen if the sponge is put into a bowl of beer and a bowl of blood. The essential part of this exercise is for the participants to understand that the sponge will completely soak up the water, beer or blood.
3. Explain that if the sponge is squeezed, then water, beer or blood (or whatever has been soaked up) will come out.
4. Take the (still dry) sponge and hold it in plain view of the participants. Tell them that:

The sponge symbolises a child. When a child is born he or she is like a clean and empty sponge, needing everything from the adults around him or her such as food, love, warmth and teaching. In order to develop, the child needs input from all those around him or her [put the sponge into the water, take it out and squeeze it in front of the group].

This means that if we give the child healthy food, clean water, love, protection, warmth and good education and guidance, the child will become a healthy, strong and loving person.

5. However, if we fill the child with beer (which represents drunkenness and bad family circumstances) then beer (or bad habits and aggression) will come out. [Fill and squeeze of the sponge to demonstrate]. And if we fill the child with blood

(which represents violence, anger, abuse, war and death) then blood (hatred, violence and death) will come out. [Fill and squeeze of the sponge to demonstrate].

6. This exercise demonstrates that children are dependent on adults and their external environment for their development. The way people treat them, the surrounding area and the society in which they live will determine their behaviour significantly. Police officers should always bear this in mind in their encounters with children. The police have a duty to protect children from violence and harm ('beer' and 'blood') and the opportunity to be a positive influence in their lives (refreshing and nourishing 'water').

You can achieve this by being a good role model and giving children the chance to: expand the choices available to them at a difficult time; make the best of their difficult circumstances; and, in the case of children in conflict with the law, learn from their mistakes and take responsibility for their actions.

Power Point Presentation**Duration:** 30 minutes**Fundamental Rights Guaranteed by the Constitution of India and
The Juvenile Justice Law**

Art. 15 (1)

(3) - Nothing in this article shall prevent the State from making any special provision for women and children.

This is the basis for a separate law to deal with children.

Juvenile Justice Act is a separate adjudicatory mechanism to deal with matters concerning children in conflict with law.

Art. 21 - No person shall be deprived of his life or personal liberty except according to procedure established by law.

This is the basis for everything that is contained in the Juvenile Justice law on rights of a child in conflict with law. No child shall be deprived of personal liberty, except as established under this law. The provisions against detention of a child in a police station or an observation home or special homes or a place of safety meant for children in conflict with law are based on the basic principle and fundamental right against deprivation of personal liberty.

Handcuffing is not allowed as it infringes a person's right to personal liberty and offends the dignity of a person. Since every person is innocent in the eyes of law unless proven guilty through due process of law, handcuffing would amount to treating a person as a criminal even before he/she is found guilty. Only where the police are dealing with persons known to be dangerous criminals and who are likely to escape from the police can handcuffs be used. However, in case of children this too is not allowed because children are not meant to be treated as criminals, but as persons in conflict with law, who need to be restored back to normal childhood.

No person can be beaten-up or ill-treated by the police even during questioning. This is a violation of the Fundamental Right to Personal Liberty.

Medical Examination cannot be forced. No person can be forced to undergo medical examination of any kind. This is a serious violation of the Fundamental Right of personal liberty.

Bail is a right. The argument that many people want to take the benefit of the lenient approach in the Juvenile Justice Act and therefore lower their age at the time of apprehension has no meaning because in any case no person can be denied the right to personal liberty and kept in detention endlessly without their offence being proved. Bail is, after all, allowing a person to go out of police custody or judicial custody on an assurance that he/she will be available for trial whenever required. If that requirement is met, there can be no reason for denying bail unless there are some other very serious concerns such as possibility of such person's life coming into danger or the possibility of tampering of evidence by such person if released on bail, which would defeat the ends of justice.

Art. 22 (1) - Protection against arrest and detention - No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, **nor shall he/she be denied the right to consult, and to be defended by, a legal practitioner of his/her choice.**

This right begins from the very time a child in conflict with law is apprehended by the police. Therefore it is important that a child is provided legal assistance soon after apprehension and is also informed of the reasons for his/her apprehension.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of 24 hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

The Juvenile Justice law clearly states that every child apprehended by the police should be produced before the Juvenile Justice Board immediately after apprehension, but not later than 24 hours, excluding the time taken in the journey to the Board.

A short Power Point may be prepared highlighting the main points of law and legal procedures, essential features of the Constitution of India and some Do's and Don'ts for the Police.

Annexures

ANNEXURE -I

APPREHENSION MEMO

FIR No./D.D. No	. U/S Date
Police Station	.. District
1.	Name of the child with alias (if any)	..
2.	Present address of the child	. ..
		...
3.	Permanent address of the child	...
	
4.	FIR/DD No. & Section (s) of Law	...
		.
5.	Place of apprehension	.
6.	Date & time of apprehension
7.	Name, address & telephone number of the person informed about apprehension	
8.	Relation of the person with juvenile
9.	Name, Rank and No. of the officer, making the apprehension
10.	Name, Rank and No. of the, Juvenile Welfare Officer
	

Witnesses with Address

1. ..
2. . .

3.

Signature by Parent/guardian/
Probation Officer/Social Worker

Signature of Juvenile Welfare Officer

PS .Delhi/New Delhi

....

Note: One copy to be delivered to the member of Child's family.

ANNEXURE -II

**Undertaking to be given by parent/guardian/fit person in whose custody
Juvenile/Child in Conflict with Law (JCL)/Child in Need of Care and Protection
(CNCP) is released by a police officer**

Case No of 20

WHEREAS (name of the child) has
been found to
be in conflict with law/in need of care and protection, and has been placed under the
care and supervision of
(Name)
(Address)
.....

subject to following conditions, that:-

1. The child shall be produced before the Juvenile Justice Board (JJB) / Child Welfare Committee (CWC) as and when required by me.
2. The child shall remain under my supervision.
3. The child shall reside at
and address of child shall not be changed without information to the JWO/JJB/CWC.
4. The child shall go to school regularly.
5. I shall arrange for the proper care, education and welfare of the child.
6. The child shall not be allowed to associate with undesirable characters and shall be prevented from coming in conflict with law again.

7. The child shall be prevented from taking Narcotic Drugs or Psychotropic Substances or any other intoxicants.

This ..day of , ..200

Signature of parent/guardian/fit person

Counter signed by JWO

PS.....

Delhi/New Delhi

ANNEXURE -III

Format for Medical Examination

Case FIR/D.D.

No

..Date

.U/s

.....

P.S.

...Distt.

..

Delhi.

To,

The Chief Medical Officer

.

..Delhi

Subject: Request for Medical Examination

Sir,

With due respect I am sending Master/Ms.

.

S/o. D/o, W/o Sh

....

.

R/o

.....

.....

.Age

. ...

in the custody / protection of 1. Const

No.

.....

2. W/Const.

..

..

No. ...

..

It is therefore, requested that the child/patient may kindly be medically examined and opinion regarding his/her injuries/ailment may be furnished.

Thanking you,

Name of JWO .

P.S .. .

DisttDelhi/New Delhi

Date

ANNEXURE -IV

PERSONAL SEARCH MEMO

Case FIR/D.D. NoDateU/s

P.SDistt. Delhi.

In the presence of the following witnesses the personal search of

Master/MsS/o

Address

Telephone No.

was conducted as per law under the provisions of Sec.51 of Cr.PC and following articles have been recovered from his/her possession and the same have been taken into the police possession, through this memo.

1.
2.
3.
4.
5.
6.

Witness (with name & address) :-

- 1)
- .

...

.
- ..
- 2)
-
- ..

Sd Juvenile or Child Welfare Officer

P.S. ..

Date

ANNEXURE -V

SOCIAL BACKGROUND REPORT**Under Juvenile Justice (Care and Protection of Children) Rules, 2007**
For Under Rule 11 (6)

PERSONAL HISTORY

1. Name of the child
2. Age (attach proof/documents)..... 3. Sex ..
4. Religion . 5. Caste
6. Educational Qualification (child studying in school):

Name of the school

Name of the school last attended (in case child is a school drop-out)

7. Whether child is working (if yes, mention details): .Yes/No
- Nature of work
- Place of work
- Address of work place
- Name of the Employer/Firm/Company
- Telephone No.
8. Residential address/contact number (with landmark):
- Present Address
-
- Telephone No.
- Permanent Address
-
- Telephone No. (Landmark)

9. Does the child have any history of addiction to Drugs/Alcohol/Tobacco items.

If yes, Specify the same

FAMILY BACKGROUND

Members of the family	Name/Age	Health (Disability, if any)	Education	Occupation	Monthly income	Any habit of Drugs, Alcohol, Tobacco and criminal history if any
Father						
Mother						
Siblings (if married, please specify)						
Any other legal guardian						

10. Date, time and place of apprehension along with circumstances of the apprehension and criminogenic factors
11. Date, time and place of sharing information with the parents/guardian/fit person:

PS Reference

.. . DD No.

.

12. Where was the child kept during custody of police/JWO:

Name of Juvenile Welfare Officer /Police officer in whose custody the child was kept:

CASE BACKGROUND

DD Entry No. . FIR No Police Station

Section of law

Any adult involved in this case: (if yes, give details)

..

Name of Investigation/Handling officer with contact number:

.

PIS No.

Telephone No.

Name of Juvenile Officer with contact number:

.....

PIS No.

Telephone No.

..

Name & Signature of JWO

Date

..

Annexure VI

DOMESTIC SERVANT/EMPLOYEE VERIFICATION FORM**PART I**

SL. No. _____ POLICE STATION _____ DISTRICT _____

DETAILS OF SERVANT/EMPLOYEE1. Name of the Servant/Employee (with alias, if any)
_____2. Father's Name
_____3. Mother's Name
_____4. Place & Date of Birth
_____5. Language spoken

6. Permanent Address _____ Vill. _____

PO _____ PS _____ District _____

State _____ Country _____ Tel. _____

Photograph of
Servant/Employee

7. Details of identification proof like Ration Card/Driving License/I.Card, if any

8. Name & Address of the Sarpanch

9. Local Address

10. Name & address of previous employer in Delhi

Tel. No. _____

11. Date since employed

12. A specialization obtained in which area of domestic help like :-

(i) Cooking

(ii) Dusting & Utensil cleaning

(iii) Outdoor works

(iv) Attending guest/visitors

(v) Attending phone calls

(vi) Any other (Please specify)

13. DESCRIPTION OF EMPLOYEE

(i) Height _____ (ii) Built _____

(iii) Eyes _____ (iv) Hairs _____ (v) Complexion _____

(vi) Tattoo Marks _____

(vii) Other identification Marks _____

(viii) Deformity or peculiarity, if any _____

(ix) Pet words of speech _____ (x) Physical Built _____

(xi) Handwriting specimen _____

(xii) Signature of the employee/servant _____

14. Name & Local Address of Relatives & Friends in Delhi

15. INTRODUCED BY:-

Name, Address & Telephone No.

16. DETAILS OF EMPLOYER

Name, Address & Telephone No.

Signature of the Employer

**FOR POLICE USE ONLY
PART – III**

1. Form Prepared by

Name : _____ Rank _____

Range No. _____ PIS No. _____

Police Station _____ District _____

2. Result of verification from CRO

3. Result of verification from Finger Print
Bureau _____

4. Result of verification from previous employers _____

5. Result of verification from the concerned Police station _____
(of Delhi to be done local PS)

6. Details of verification form sent to DCP office for enquiry from SHO Home
Town

PS _____ District _____
State _____

Dispatch No. _____ Date _____

S.H.O _____

7. Result of verification from home town /Date & details of verification received from home town

S.H.O _____

---X---X---X---X---X---X---X---X---X---X---X---X---X---X---X---X---X---X---X---

ACKNOWLEDGEMENT

Received Servant/Employee verification form Sh./Smt. _____
in favour of Sh./Smt. _____ on _____.

Signature of Duty officer

PS _____

PART – II - A
FINGER PRINT IMPRESSION OF EMPLOYEE/SERVANT
(voluntarily given to the employer)
(To be filled up by Employer only)

1. Full name, with aliases

2. Father's or husband's Name

3. Address

4. Police Station Sl. No.

FINGER PRINT IMPRESSION OF SERVANT/EMPLOYEE

RIGHT HAND				
Right Thumb	Right Index	Right Middle	Right Ring	Right Little

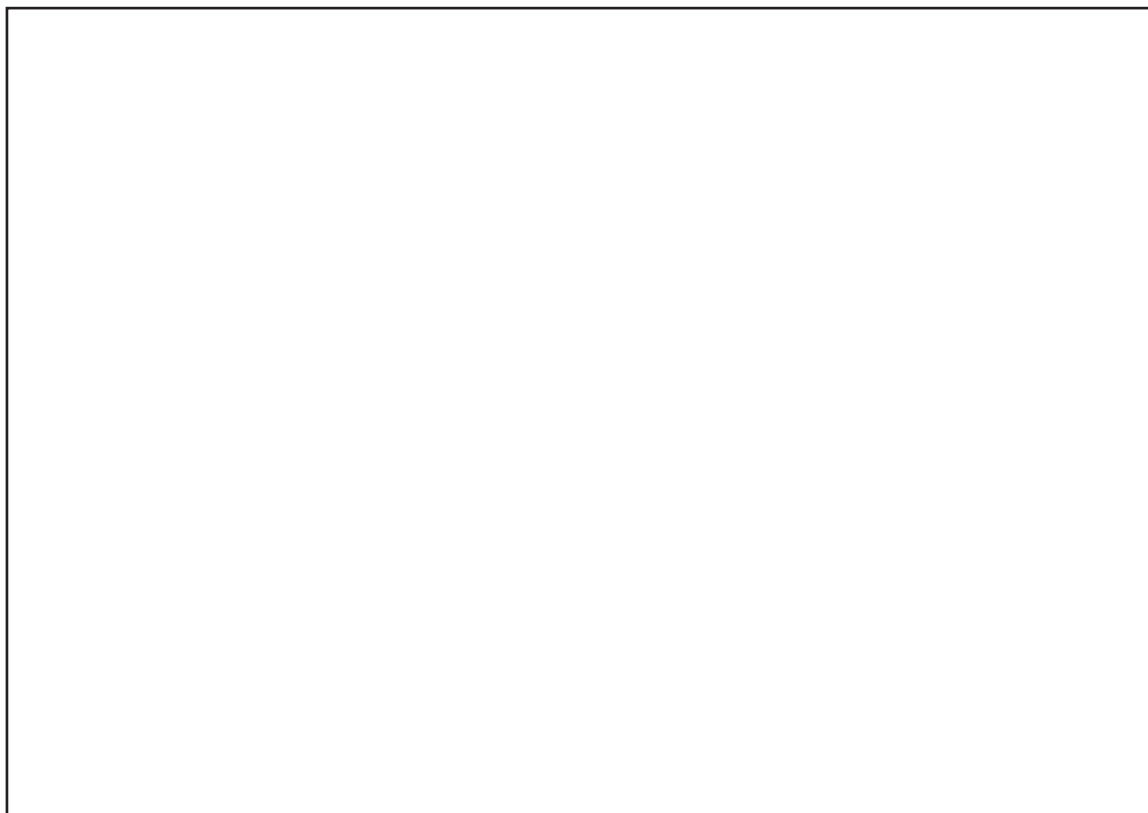
LEFT HAND				
Left Little	Left Ring	Left Middle	Left Index	Left Thumb

Signature of employee

Signature of employer

RIGHT HAND IMPRESSION OF THE SERVANT/EMPLOYEE

Plain prints of four fingers & thumbs taken simultaneously



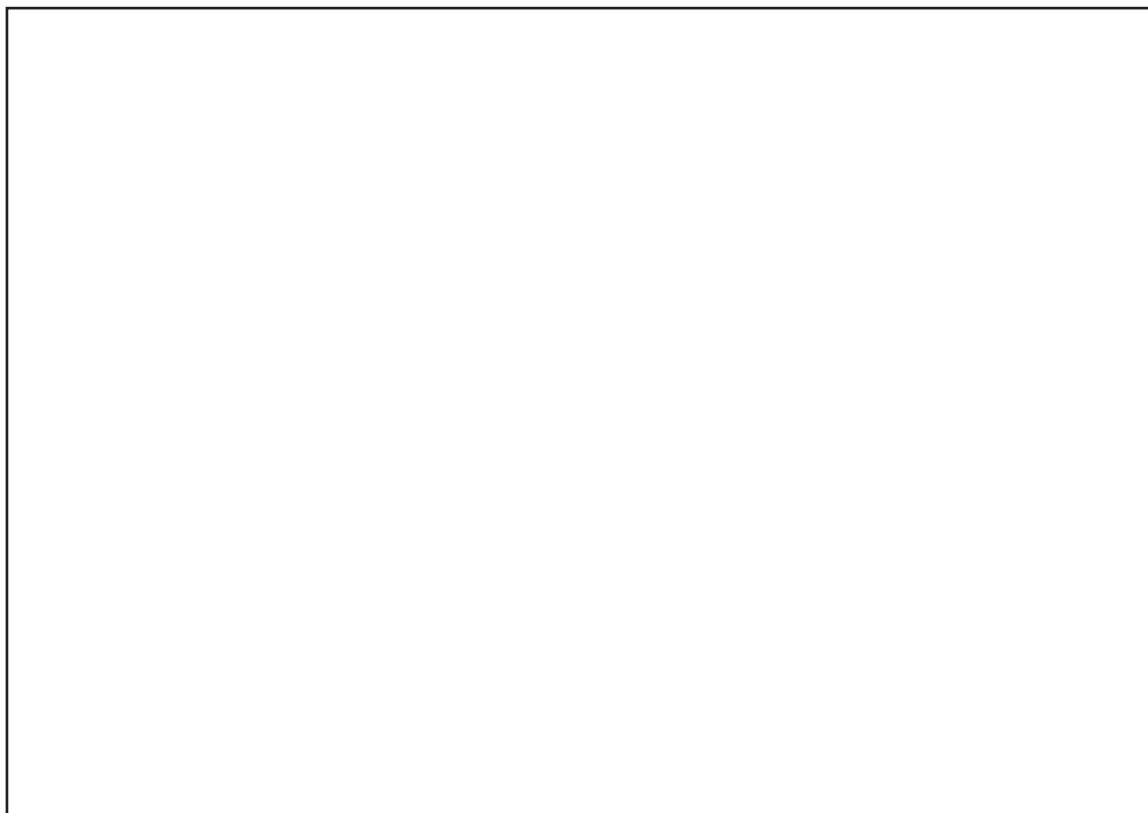
**(Voluntarily given to the employer)
(To be filled up by Employer only)**

Signature of employee

Signature of employer

LEFT HAND IMPRESSION OF THE SERVANT/EMPLOYEE

Plain prints of four fingers & thumbs taken simultaneously



**(Voluntarily given to the employer)
(To be filled up by Employer only)**

Signature of employee

Signature of employer

SERVANT VERIFICATION REGISTER

1.	Sl. No.		PHOTO
2.	Name & Address of employee		
3.	Name, address & telephone no. of employer		
Description of employee			
4.	Height		
5.	Eyes		
6.	Hairs		
7.	Complexion		
8.	Physical Built		
9.	Identification mark		
10.	Introduced by whom (Name, address & telephone numbers)		
11.	Details of Relatives & Friends in Delhi if any		
12.	Details of identity proof himself or family members		
13.	Name and address of previous employer, if any		
14.	Name of State/District where form sent for verification		

15.	Verification result of local enquiry by Police Station staff	
16.	Dispatch detail/Date of sending for out station verification	
17.	Date of reply received	
18.	Address verified or not	
19.	Verification detail	
20.	Details of criminal record, if any	
21.	Photograph	
22.	Finger Print taken or not	
23.	Remarks, if any	

Annexure VII-A

**Delhi Police Circular Regarding Rescue operations of the girls/women
confined/trafficked to prostitution**

No 73/2003/AC-V

**Subject: - Regarding Rescue operations of the girls/women
confined/trafficked to prostitution**

In a Civil Write Petition/(PIL) No.532/1992, in the Hon'ble High Court, Delhi between Court on its own motion Vs. Union of India, the advocate for the petitioner requested that for the purpose of preventing the trafficking of women, rescue operations by the police should continue with the help of the NGOs.

During the above mentioned case, the Hon'ble High Court of Delhi has issued many directions. In this regard, the Commissioner of Police, Delhi has already appointed Jt. CP/Crime as Chief Nodal Officer and each ACP/CAW Cell/Districts as the Nodal Officer in his/her respective District thereby covering the whole area of Delhi in terms of jurisdiction. The Chief Nodal Officer is responsible for sensitizing all the Nodal Officers about the above problems. All the Nodal Officers are, henceforth, required to regularly visit the red light area and other affected areas to ensure that young girls are not brought for the purpose of prostitution. After the rescue, they should be educated about the evil of trafficking. The rescued girls should then be produced before the Child Welfare Committee, who will immediately ascertain their age. The statement of the girls u/s 164 CR.P.C. should also be obtained as soon as possible. Till then the girls who are minor will be kept in Children's Home. In case of major girls, they will be sent to Nirmal Chhaya or Observation Home. During their stay in these homes, the Social Welfare Department of India should be approached by the police for providing vocational training to these girls. After necessary verification of their addresses, the concerned police officer should, with the help of the NGO, make arrangements for reunion with their families after obtaining orders from the Child Welfare Committee and under the supervision of the concerned District Magistrate.

It may be ensured that these instructions are complied with meticulously.

(V.RENGANATHAN)
DY. COMMISSIONER OF POLICE,
HDQRS, DELHI

No. 58893-993/C&T,(AC-V), dated, DELHI, the 23/12/2003

Copy forwarded for information and necessary action to the:-

1. All Special CPs/New Delhi
2. All Joint CPs/New Delhi
3. All Addl. CPs/New Delhi
4. DCPs all Distts./Units, Delhi/New Delhi
5. SO to CP/Delhi
6. L.C. to C.P./Delhi
7. HAR/PHQ
8. AC-II/C&T Branch

Annexure VI-B

**Delhi Police Circular on Handling of Street Children in Delhi,
especially young girls on the streets**

OFFICE OF THE COMMISSIONER OF POLICE DELHI

No. 44/C&T/AC-II, 2003

**Subject: Handling of Street Children in Delhi, especially young girls
on the streets**

Serious concern has been expressed over a very sensitive and humanitarian issue concerning street children in Delhi especially young girls on the streets. It has been observed that a group of such victimized girls while trying to fend for themselves on the streets and crossings and other public places, are being subjected to harsh & inhuman treatment by undesirable elements at times by filled level police staff also. They have also complained of sexual abuse and molestation by such elements.

While there is an urgent need for launching a specific programme for street children, especially girls, to provide them training for skill up gradation and protection by the Social Welfare Department, there is also a need for sensitizing police personnel for treating the children with a human face and better understanding. These children should feel protected and properly guided.

All Districts/Unit DCPs should brief their staff including beat and division officers to handle the street children with care. The sensitization course for the local beat and division staff should also be held and feed back there of should be sent to concerned Joint CPs.

Joint CP Training may also devise a course for sensitizing police personnel on the plight of street children and to avoid unnecessary harassment.

(V. RENGANATHAN)

DCP/HQ

for COMMISSIONER OF POLICE
DELHI

No.32359-439/C&T/AG-II/PHQ dated Delhi the

23/7/2003

Copy forwarded for information & necessary action to the

1. All Special CPs/New Delhi
2. All Joint CPs/Addl. CPs, Delhi/New Delhi
3. All Distts./Units DCPs including P.PTC, FRRO and IGIA Delhi, New Delhi
4. SO to CP/Delhi
5. All ACPs PHQ & PRO, Delhi
6. LA to CP/Delhi
7. HAR/PHQ with 5 spare Copies.

Annexure VI-C

**Delhi Police Circular on Filing of Final Report/Police Investigation Report
in a case of Juvenile/Child in Conflict with Law**

OFFICE OF THE COMMISSIONER OF POLICE DELHI

CIRCULAR

NO. 29/2007/C&T

In the case of "Sheela Barse Vs UOI 1986 SC 1773", involving a juvenile, the Hon'ble Supreme Court has observed at Para 12 that "We would also direct that where a complaint is filed or first information report is lodged against a child below the age of 16 years (now it is 18 years under new Act) for an offence punishable with imprisonment of not more than 7 years, the investigation shall be completed within a period of three months from the date of filing of the complaint or lodging of the First Information Report and if the investigation is not completed within this time, the case against the child must be treated as closed".

In view of the orders of Hon'ble Supreme Court and Juvenile Justice Board, the investigation of all such cases should be completed within the period of **3 months from the date of filing of the complaint or lodging of First Information Report and if the investigation is not completed within this time, the case against the child must be treated as closed.**

Since the new Act Juvenile Justice (Care and Protection of Children) Act, 2000 has replaced old Act of 1986 and as per Sec. 2 (K) age of Juvenile or child is defined as "a person who has not completed eighteenth year of age".

Recently in one case Juvenile Justice Board made an important observation which has also to be followed:-

"As far as the juveniles are concerned, an exclusive and separate legislation i.e. Juvenile Justice (Care and Protection of Children) has been enacted which provides for care protection and treatment of juveniles in conflict with law and children in need of care protection by catering to their developmental needs by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their re-habilitation. The age of reckoning, which is 18 years as per provisions of Section 2 (K) of the Juvenile Justice (Care and Protection of Children) Act 2000, which has replaced Juvenile Justice Act 1986".

The above instructions should be followed strictly.

Circular No. 25/2007 issued vide PHQ's No. 64052-151/C&T(AC-II)/PHQ dated 21.9.2007 is hereby withdrawn.

(RANVIR SINGH)

Dy. Commissioner of Police,
Hdqs: Delhi

No.68014-113/C&T(AC-II), PHQ, dated, Delhi the 11/10/07

1. All Special CPs/ Delhi
2. All Joint CPs/Addl. CPs, Delhi/New Delhi
3. All Districts/Units DCPs including FRRO & P/PTC/Jharoda Kalan, Delhi/New Delhi
4. SO to CP
5. All ACPs/PHQ, LA to CP, FA to CP, Delhi & PRO
6. All Insprs./PHQ
7. SO to DCP/Hdqs., Delhi
8. All ACPs C&T Br./PHQ
9. HAR/PHQ with 10 spare copies.

Annexure VI-D

**Direction of Jt. Commissioner, Crime Regarding Role of Police
in Handling Child Labour Cases**

OFFICE OF THE JT. COMMISSIONER OF POLICE, CRIME: DELHI

No. 8280/95/C&T/ACII/ Dated New Delhi, 6/2/07

It has come to notice that children who are below the age of 14 have been employed in various hazardous occupations. As mandated in Article 29 and Article 34 of the Indian Constitution, there are several laws existing, which prevent children from being so employed including the Child Labour (Prohibition and Regulation) Act, 1986. As per Section 3 of this Act, the child is defined as a person who has not completed 14 years of age. It prohibits the employment of children below the age of 14 years in specific occupations and process. Section 14 of the Act lays down that whoever employs any child or permits any child to work in the identified hazardous occupations and process shall be punishable with an imprisonment for a term no less than three months but which may extend to one year or with fine of not less than Rs.10,000/- but which may extend to Rs.20,000/- to be recovered from the employer of the child labour for rehabilitation. Section 16 of the Act states "(I) Any persons, police officer or Inspector may file a complaint of the commission of an offence under this Act in any Court of complete jurisdiction". Police officers thus, have been given a specific role under the Act.

Police can also take action u/s 34, 331, 370, 370 and 374 of the IPC. In case of 'Zari' embroidery factories, it is suggested that the landlord also be prosecuted if he has not informed the police about renting his premises to the factory owner. The police department should also inform the Labour Deptt. of the action taken in matters relating to child labour.

The Distt. DCPs, during one of their meetings with the SHOs could call representatives of the labour Department so that the situation prevailing on this subject could be made known. Whenever we contemplate rescue operation, the Child Labour officials of the local Dy. Labour Commissioner's office could be included in the team. This would be of immense use.

There should be widespread information regarding child labour distributed in the district so that people are sensitised on the subject. Posters could also be displayed in Police Stations, Inter-State Bus-Stops and other public places, as this would sensitise the general public in a big way.

All DCPs should ask their respective SHOs to develop information on the subject so that raids can be conducted. Full assistance to the Officials of the Labour Department conducting raids, should also invariably be given. This rescue operation should not end with the rescue of such children because it is seen that rescued children are often recycled into child labour. The perpetrators of child labour, employment and middlemen should also be penalized. Only this would result in long-term impact of these raids. NGOs too would have information on this subject and could be associated for this purpose.

(Ranjit Narayan)
Joint Commissioner of Police,
Crime Delhi

All DCPs/Distts. & DCP/Crime, JGI & PCR

Annexure VI-E
* (To be revised)

Delhi Police Standing Order No. 68 on Duties of Police under JJ Act

Delhi Police
Standing Order No. 68

**Duties of the Police under the Juvenile Justice (Care and Protection of Children) Act,
2000 and Juvenile Justice (Care & Protection of Children Rule – 2007)**

Introduction

The purpose of this Standing Order is to clearly spell out the responsibilities of the police station staff and other investigating units under the Juvenile Justice Act, 2000 and Juvenile Justice (Care and Protection of Children) Rules, 2007.

The Juvenile Justice (Care and Protection of Children) Act, 2000 has been enacted to consolidate and amend the law relating to delinquent juveniles and neglected children by providing care, protection, treatment, development and rehabilitation. This is to be done by adopting a child-friendly approach in the adjudication and disposal of matters relating to juveniles in the best interest of the children for their ultimate rehabilitation through various institutions established under the enactment.

The criminal justice system, as applicable to adults, is not considered suitable for juveniles. The Juvenile Justice (Care and Protection of Children) Act 2000 has been enacted, keeping in view the standards prescribed in the Convention of the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (The Beijing Rules). The involvement of juveniles in various crimes in Delhi has been increasing in the recent past. Keeping this in view, various institutions such as Children's Homes, Observation Homes, Special Homes and After-Care Organisations have been constituted to give proper protection to delinquent juveniles.

The Juvenile Justice (Care and Protection of Children) Rules, 2007 have been framed and published in the Gazette of India, extra., Pt. II, Sec. 3 (i), dated 26th October, 2007 as provided under sub-section (1) of Section 68 of Juvenile Justice (Care and Protection of Children), Act 2000.

1. Salient features of the Act

The Juvenile Justice (Care and Protection of Children) Act, 2000 lays down a uniform legal framework for juvenile justice in the country so as to ensure that **no child, under any circumstances, is lodged in a jail or in a police lock-up**. This is being ensured by establishing Juvenile Justice Boards and Advisory Boards. This Act provides for trial of delinquent juveniles and for the adjudication of certain matters relating to and disposition of juveniles in conflict with law.

“Juvenile or Child” as defined under sub-clause (k) of Section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2000, means **a person who has not attained the age of eighteen years**.

Juvenile offenders have to be treated differently from hardened criminals. The way a juvenile criminal is handled by the police can sometimes determine whether the juvenile would grow up as a normal citizen or turn into a hardened criminal. The police officer handling a juvenile in conflict with law must give to juvenile the impression of a sincere friend and should try to reform him rather than as an officer imposing punishment on him. The delinquent juvenile shall be handed over to Juvenile Welfare Officer as early as possible. Even when a juvenile is to be taken into custody, it should be ensured that no unnecessary humiliation or restraint is caused. No such child should be handcuffed or fettered. The officers/men while handling/escorting a juvenile shall not wear police uniform.

2. Juvenile in conflict with law

The term "juvenile in conflict with law" has been defined under sub-clause (1) of section 2 of the aforesaid Act as a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence.

3. Juvenile Justice Board

There are two Juvenile Justice Boards. Juvenile Justice Board-I is functioning at Kingsway Camp, New Delhi, Telephone No. 27651439/37 and dealing with the cases of North-East, North West, North, Outer, West and Crime & Rlys. and complaint cases of all District. Juvenile Justice Board-II is functioning at Prayas Complex near Ferozshah Kotla Maidan, Delhi Gate, Telephone No. 23724052 and dealing with the cases of East, Central, New Delhi, South and South West District.

In case the Board is not sitting, the juvenile in conflict with law shall be produced before the single member of the Board as per the provision laid down under sub-section (2) of Section 5 of the Act.

When a juvenile is produced before an individual member of the Board and an order is obtained, such order shall need ratification by the Board in its next meeting.

4. Juvenile Welfare Officer

Every Police Station shall designate at least two upper subordinates as Juvenile Welfare Officers and only such officers shall be designated who have aptitude to act as Juvenile Welfare officers. They shall be imparted appropriate training to deal with juveniles and should be well versed with the law and procedure under Juvenile Justice (Care & Protection of Children) Act 2000. The list of Juvenile Welfare Officers will be sent to concerned Juvenile Justice Board by District DCPs. Juvenile Welfare Officers will be posted for a period of one year.

It will be the sole responsibility of the SHO/Inspector/Incharge of the unit to ensure that the complete staff is briefed and is aware of the procedure to be followed on apprehension of a juvenile in conflict with law.

5. Special Juvenile Police Unit

The District Crime against Women Cell shall act as the District Special Juvenile Police Unit and Crime Women Cell, Nanakpura will function as State Special Juvenile Police Unit. ACP/CAW in all District will co-ordinate, monitor and closely supervise the working of Juvenile Welfare Officers of the Districts. ACP/HQ of the Unit dealing with investigation shall be the Nodal Officer of the Unit for juvenile related matters. Joint CP/Addl. CP-CAW shall hold a meeting once in two months of ACP/CAW of the districts and ACP/HQ of investigation units to review and monitor implementation of provisions and instructions of Act/Rule/SO etc. Joint CP/Addl. CP-CAW Cell shall also collect fortnightly report from DCsP of the District/concerned units on the proforma enclosed **at Annexure 'A'** besides any other information as deemed fit. District DCsP shall hold a monthly meeting to review the cases related to the juvenile/children. The function of nodal ACPs in districts/units shall be to co-ordinate and upgrade the police treatment of juvenile and children. They shall ensure trained juvenile welfare officers posted in the concerned Police Stations function as a pool for juvenile welfare officers. Principal PTC shall organize training programmes for the Juvenile Welfare Officers posted in Police Stations and staff posted in Special Juvenile Police Unit on regular intervals. DCsP of the District shall ensure that adequate number of trained officers are available in districts and posted in each Police Station.

6. Apprehension of Juveniles in conflict with law

As per rule 11 (2) The Juvenile Justice (Care and Protection of Children) 2007 when a juvenile in conflict with law is apprehended by the police, the juvenile shall be placed under the charge of the Juvenile or Child Welfare Officer of the police station, who shall produce the juvenile before the Board within twenty-four hours, as per sub section (1) of section 10 of the Act. Where such juvenile or Child Welfare Officer has not been designated, as per provisions laid down under sub-section (2) of Section 63 of the Act, or is not available for some official reasons, the police officer who apprehended the juvenile shall produce him before the Board. The juvenile once apprehended shall not be let off by police officer.

7. While handling juveniles in conflict with law, the following points should be kept in mind:

- a) Extra care should be taken to create an impression in the mind of juvenile that he is not under interrogation as a thief or as a liar but that an effort is being made to find out the truth in order to help him.
- b) The officer should not lose temper and make false promises.
- c) No bullying should be done during questioning.
- d) Display of sympathy and understanding so as to give the impression that the police officer is mainly interested in the welfare or good of the juvenile.
- e) Enquiries from the juvenile should be in privacy and in a comfortable environment.
- f) It should be ensured that there is no distraction when the juvenile is being questioned.
- g) The parents and guardians may be allowed to be present during the questioning of juvenile.

- h) As far as possible, the juvenile should not be called to the police station but should be questioned either at his own home or some other premises which does not give the impression of a Police Station.
- i) Care should be taken not to embarrass the juvenile. Girl juvenile should be handled by Women Officers only.
- j) Statement made by a juvenile should be verified from independent sources as there is a possibility of exaggeration and distortion of facts.
- k) Physical needs of the juvenile, like hunger or thirst or the need to go to toilet should be properly attended to.

8. Determination of age

Age is the most important factor to register a FIR. The following guidelines have to be kept in mind while dealing with cases involving a juvenile:

- a) No FIR can be registered if the juvenile is involved in an offence where imprisonment is upto seven years.
- b) If a FIR has already been registered before it is known that a juvenile is involved, the same can be investigated.
- c) FIR can be registered where juvenile is involved along with adult persons can be investigated.
- d) FIR can be registered where there is no age proof but it seems to be a borderline case.
- e) The proof of age can not be based on ration card, Janampatri etc.
- f) Age mentioned in the certificate of Open School cannot be depended upon in heinous cases.

In case the age of the child in conflict with law is not known or not clear, efforts should be made to ascertain the age of the child before proceeding legally. In case of doubt, the benefit of doubt shall be in favour of the child in conflict with law for treating him/her as a juvenile. In order to collect the age proof of juvenile in conflict with law, efforts should be made to collect his school certificate, municipal certificate, etc. In case of non-availability of any document, age should be confirmed by Medical Board constituted at Govt. Hospital and not by ossification report.

In every case, the age of the juvenile shall be determined within a period of 30 days from the date of making of the application before the Committee and the age determination inquiry shall be conducted by the Court of the Board by seeking evidence by obtaining:

- (a) (i) The matriculation or equivalent certificates, if available.
- (ii) The date of birth certificate from the school (other than a play/open school).
- (iii) The birth certificate given by a corporation or a municipal authority or a panchayat.
- (b) In the absence of (a), the age of juvenile is to be determined from a duly constituted medical board at Govt. Hospital.

- (c) In cases where, after determining the age, the accused is found to be adult, immediately an FIR is to be registered and investigation is to be taken up.

9. Custody of juvenile

When any Juvenile is placed in the charge of a person, the person shall have control over the juvenile as the person would have been a parent, and shall be responsible for the maintenance of juvenile.

10. Bail of juvenile

When a juvenile in conflict with law for a bailable or a non-bailable offence is apprehended, or detained, or appears, or is brought before a Board, such juvenile shall be released on bail with or without surety but he shall not be so released if there appears reasonable grounds for believing that the release is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. While replying to bail application, it should not be mentioned that he is hardened or notorious but specific grounds should be mentioned. Similarly, extension of judicial custody remand can not be based on the ground of pending investigation of the case but on the ground that there exists reasonable ground for exposing him to moral, physical or psychological danger in accordance with Rule No. 12.

When such a delinquent having been arrested is not released on bail, the officer causing the arrest shall cause him to be kept only in an Observation Home for such period during the pendency of the inquiry against him, as may be specified in the order.

11. Information to parent, guardian or probation officer

When any juvenile in conflict with law is apprehended, the officer in-charge of the Police Station or Juvenile Welfare Officer or special juvenile police unit to which the juvenile is brought, shall inform as soon as possible the parent or guardian of the juvenile about his apprehension and direct him to be present at the Board before which the juvenile will be produced. He shall also inform the Probation Officer of such juvenile in conflict with law to enable him to obtain information regarding the antecedents and family background of the juvenile. A daily diary entry shall be lodged mentioning the details of the person to whom the information was given.

12. No joint proceeding of a juvenile and other criminal

No juvenile shall be charged with, or tried for any offence, together with a person who is not a juvenile and who is accused of an offence under Section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force. The Board taking cognizance of that offence shall direct separate trials of the juvenile and the other persons.

13. Prohibition of publication of name etc., of juvenile involved in any proceeding under the Act.

No report in any newspaper, magazine or visual media on any inquiry against a juvenile in conflict with law under this act shall be made disclosing the name, address or school or other particulars calculated to lead the identification of the juvenile nor shall any picture of any such juvenile be published. As per Section 21 of the Juvenile Justice (Care & Protection of Children) Act 2000, any person who contravenes this provision shall be liable to a penalty which may extend to twenty five thousand rupees.

14. Process in case of Cognizable Offences

According to Rule 11 (Juvenile Justice Care & Protection of Children Rules – 2007) in dealing with cases of juveniles in conflict with law, matters involving simple offences, the police or the Juvenile Welfare Officer or the Child Welfare Officer from the nearest Police Station shall record information regarding the offence alleged to have been committed by the juvenile in the Daily Diary followed by a report containing social back ground of the juvenile and circumstances of apprehension and the alleged offence and forward it to the Board before the first hearing.

In case a FIR has already been registered for the punishment of an offence prescribed below seven years and after investigation it came to notice that offence was committed by a juvenile then police has to file a final report, social report, DD entry etc. before the Juvenile Justice Board.

The social report of juveniles in conflict with law shall be prepared on the basis of background, source of income, education, social status etc. of their parents/guardians. Peer group background of the juvenile in conflict with law should be mentioned in the social report. The proforma for preparing Social Report is at (Annexure 'B'). This report shall be attached with the Kalandra containing details of circumstances of apprehension and the alleged offence.

15. Period for completion of Investigation of Cases

Where a complaint is filed or First Information Report is lodged against a child below the age of 18 years for an offence punishable with imprisonment of 7 years and more, the investigation shall be completed within a period of 3 months from the date of filing of the complaint or lodging of the First Information Report and if the investigation is not completed within this time, the case against the child shall be treated as closed. Investigation is completed only when the charge sheet/final report is filed in the court concerned. Procedure for completing the investigation has been discussed in Section-167 of the Cr.P.C., which is as follows:

- (i) 90 days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term or not less than 10 years;
- (ii) 60 days, where the investigation relates to any other offence.

The charge sheet with respect to a juvenile should be filed within 90 days where the juvenile is on bail and as per provision of Section-167 of Cr.P.C. where the juvenile is remanded to Observation Home.

16. "Child in need of care and protection" means a child:

- (i) Who is found without any home or settled place or abode and without any ostensible means of subsistence -
 - (a) who is found begging, or who is either a street child or a working child.
- (ii) Who resides with a person (whether a guardian of the child or not) and such person-
 - (a) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or
 - (b) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person.
- (iii) Who is mentally or physically challenged or an ill child suffering from terminal diseases or incurable diseases having no one to support or look after him/her.
- (iv) Who has a parent or guardian unfit or incapacitated to exercise control over the child.
- (v) Who does not have parents and no one is willing to take care of or whose parents have abandoned him/her or who is missing or a run away child, and whose parents cannot be found after reasonable inquiry.
- (vi) Who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts.
- (vii) Who is found vulnerable and is likely to be inducted into drug abuse or trafficking.
- (viii) Who is being or is likely to be abused for unconscionable gains.
- (ix) Who is a victim of any armed conflict, civil commotion or natural calamity.

2. Whenever a child in need of care and protection is found in the jurisdiction of any police station, the police should produce the child before the Child Welfare Committee and send him to a children's home as ordered by the Child Welfare Committee. A list of Child Welfare Committees is placed at Annexure - C. A list of children home is placed at Annexure – D.

17. Juveniles in Need of Care and Protection

Whenever a juvenile in need of care and protection is found in the jurisdiction of any police station, the following action should be taken:

- a) The juvenile should be produced before PS Juvenile Welfare Officer/SHO.
- b) An entry in the Daily Diary should be made giving particulars of the juvenile, and the reasons for suspecting that he is such a juvenile.
- c) The Police Control Room must be informed at once.
- d) A report on the prescribed proforma must be sent to the Missing Persons Squad through District Missing Persons Unit.
- e) If the parent is known, an inquiry should be initiated to know the social background of such a juvenile.
- f) If the parent is not known or is not in a position to exercise any control over the juvenile,

the juvenile should be produced before the JJB and as per the order of the JJB to be sent to the Observation Home. A list of observation Home/Special home is placed at Annexure – E. Under no circumstances the juvenile shall be kept in the police station. The juvenile shall continue to be in his charge for the period stated by the Child Welfare Committee constituted vide notification No. F-61(2)/DCA/DSW/200, 245-79 dated 07.2.2008. The same is placed at Annexure –F. A list of Child Welfare Committee with their addresses is placed at Annexure –C.

- g) While dealing with a juvenile girl, special care needs to be taken. Such girls accompanied by women police should be produced before the Child Welfare Committee after medical check-up with the request for sending her to Children's Home.
- h) In case a juvenile is mentally challenged, he or she should be medically examined from a Govt. Hospital and produced before JJB. He or she should be sent to Institutions for mentally retarded as per the order of the JJB, after confirming if a missing report has already been lodged at the District Missing Persons Units (DMPU/Missing Persons Squad (MPS). A list of institutions for mentally retarded is placed at Annexure – G.
- i) A child in need of care and protection shall be produced before the committee within 24 hours, excluding journey time.

18. Offences against juveniles in need of care and protection

- a) Whoever having actual charge of or control over the juvenile, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in any manner likely to cause such juvenile unnecessary mental or physical suffering (Sec. 23 of Juvenile Justice (Care and Protection of Children) Act, 2000).
- b) Whoever employs or uses any juvenile or child for the purpose of causes any juvenile to beg (Section 24 of the Act).
- c) Gives or causes to be given to any juvenile, intoxicating liquor in public place or any narcotic drug or psychotropic substance, except upon the order of a duly qualified medical practitioner or in case of sickness (Sec. 25 of the Act).
- d) Ostensibly procures a juvenile for the purpose of any employment and withholds the earnings of the juvenile or uses such earnings for his own purposes (Section 26 of the Act).

19. Action in case of offences against juveniles in need of care and protection

In case an offence against juvenile in need of care and protection comes to the notice of the police, the Juvenile Welfare Officer/SO shall handle the case and the following action would be taken:

- a) A detailed entry shall be made in the Daily Diary Register.
- b) Any child in need of care and protection may be produced before the Child Welfare Committee by Juvenile Welfare Officer or Special Juvenile Police Unit or a designated Police Officer for being placed in safe custody or otherwise. A child in need of Care and

Protection may be produced before an individual member when the committee is not in session.

- c) Expeditious enquiry of the case as required u/s 33 of the Juvenile Justice (Care and Protection of Children) Act, 2000 shall be conducted and the same shall be completed within a period of four months from the date of its commencement, unless for some special reasons which shall be recorded in writing and forwarded to the Child Welfare Committee.

20. Provision with respect to escaped juvenile

Any police officer may take charge, without warrant, of a juvenile in conflict with law who has escaped from a special home or an observation home or from the care of a person under whom he was placed under this Act, and such juvenile shall be sent back to the special home or to the observation home or to that person, as the case may be, and no proceeding shall be instituted in respect of the juvenile by reason of such escape but the special home or the observation home or the person may, after giving the information to the Board which passed the order in respect of the juvenile, take such measures as may be deemed necessary under the provision of this Act. Juvenile Welfare officer will be available in the Juvenile Justice Court whenever any Juvenile is produced in the court.

21. Punishment for cruelty to juvenile or child

If any person having the actual charge of, or control over, a juvenile or a child, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in any manner likely to cause such juvenile or the child unnecessary mental or physical suffering, he shall be punishable with imprisonment up to 6 months, or fine, or both.

22. Employment of juveniles for begging

Whenever it comes to the notice of a police officer that a person employs or uses a juvenile for the purpose of begging or causes any juvenile to beg, he shall register a case u/s 24 of the Juvenile Justice (Care and Protection of Children) Act, 2000 which is a **cognizable offence**.

To effectively enforce the provisions of Section 24 of the Juvenile Justice (Care and Protection of Children) Act, 2000, the divisional staff and the beat patrolling staff should carefully question all juveniles found begging and trace out the persons who are using these juveniles for the aforesaid purposes.

23. Association with NGOs/RWAs

NGOs/Resident Welfare Associations and Civil Societies shall be associated in the investigation of Juveniles in conflict with law to know the social background details of the juvenile. Similarly, help of a psychologist shall be taken in every case of juvenile in conflict with law before producing final report to the Juvenile Justice Board.

24. Miscellaneous

All Police Stations shall have 2 or 3 officers designated as Juvenile Welfare Officer who should have undergone a training course in handling juvenile in conflict with law. All cases in which neglected or juveniles in conflict with law are involved should be handled by them. District DCPs would ensure that details of such officers appointed in each police station are informed to the Juvenile Justice Board and Jt. CP/CAW within 15 days of the issue of this S.O. Any change shall also be informed to the Juvenile Justice Board and Jt. CP/CAW immediately.

- a) All Police Stations should have at least 2 copies of the “Juvenile Justice (Care and Protection of Children) Act 2000”, one for the SHO and the other for the Juvenile Welfare Officer.
- b) The names, addresses and telephone numbers of the following should be available with Duty Officers of all the Police Stations;
 - 1) Members of the Child Welfare Committee
 - 2) Observation Home
 - 3) Juvenile Justice Board
 - 4) Probation Officer
- c) A list of all designated juvenile or Child Welfare Officers in a district and members of special juvenile Police unit with contact details shall be prominently displayed in every Police Station.
- d) In no case a juvenile is to be kept in a Police Station lock-up or sent to jail. The juvenile shall be produced before the Juvenile Justice Board and not before the regular criminal court.
- e) The Police or the Juvenile or Child Welfare Officer from the Special Juvenile Police Unit, shall be responsible for the safety and provision of food and basic amenities for the juveniles apprehended or kept under their charge during the period such juveniles are with them.
- f) No entry in the record of criminals being maintained in the Police Station shall be made about the juveniles in conflict with law. Neither should an Information Sheet be issued nor should a Search Slip be prepared.
- g) No Personal Dossier of the juvenile in conflict with law shall be prepared and neither photograph nor finger prints shall be taken.
- h) A separate year-wise non-PPR register shall be maintained in each Police Station containing the following details for compilation of data and other administrative purpose.
 - (i) Sl. NO.
 - (ii) Daily Diary No.
 - (iii) Date
 - (iv) Time
 - (v) Details of receipt of complaint whether in person/telephone/through PCR
 - (vi) Complainant details
 - (vii) Crime Head of offence
 - (viii) Gist of complaint

- (ix) Details of Juvenile Welfare Officer handling complaint
 - (x) Details of juvenile in conflict with law
 - (xi) Details of Age proof
 - (xii) Social Report
 - (xiii) Education Standard
 - (xiv) Details (including telephone no.) of parents/guardian to whom the information given about the juvenile
 - (xv) Details (including telephone no.) of probation officers to whom the information given about the juvenile
 - (xvi) Date and time of producing juvenile before the Board and gist of order of Board
 - (xvii) Details of FIR if registered, with reason
 - (xviii) Final disposal of FIR/Complaint
- i) A Separate **pink colour file** cover for each incident involving juvenile in conflict with law shall be prepared with following columns as check list on the top:
- (i) Sl. No./Year (as in the register/2008)
 - (ii) Daily Diary No.
 - (iii) Date
 - (iv) Time
 - (v) Details of receipt of complaint whether in person/telephone/through PCR
 - (vi) Complainant details
 - (vii) Crime head of offence
 - (viii) Name of Juvenile Welfare Officer handling complaint
 - (ix) Name of juvenile in conflict with law
 - (x) Details of Age proof
 - (xi) Social report
 - (xii) Education Standard
 - (xiii) Details (including telephone no.) of parents/guardian to whom the information given about the juvenile
 - (xiv) Details (including telephone no.) of Probation Officers to whom the information given about the juvenile
 - (xv) Date and time of producing juvenile before the board and gist of order of board
 - (xvi) Whether Juvenile Welfare Officer accompanied juvenile in conflict with law for producing before the Board
 - (xvii) Conveyance used
 - (xviii) Next date of hearing, if any.
 - (xix) FIR No., Date and Under Section
- (j) DCP, ACP and SHO shall personally ensure compliance of this S.O. The juvenile shall not be taken to Juvenile Justice Board or Juvenile Welfare Board in police marked vehicles.
- (k) There is an urgent need to sensitize the policemen to abstain from inflicting corporal punishment on the children on streets. The common practice of policemen beating/slapping street children/rag-pickers should be discontinued forthwith.

- (l) All expenses incurred for handling juvenile in conflict with law or neglected child for their care, food and transport etc. shall be claimed under the head "Investigation Expenses" as per prescribed procedures and Head of office shall reimburse the same as per instructions on the subject.
- (m) DCPs shall ensure that all the Juvenile Welfare Officers are periodically trained and well versed with the provisions of act, rules and instructions.
- (n) DCPs shall ensure to nominate sufficient number of Juvenile Welfare Officers and will ensure officers handling juveniles are well versed with the provisions of the act, rules and instructions and also ensure that only such officers are deputed to attend the proceedings at Juvenile Justice Board or Juvenile Welfare Board.
- (o) DCPs shall ensure that in case the officer attending the proceedings at Juvenile Justice Board or Juvenile Welfare Board is not the nominated officer, then the officer shall carry necessary certificates issued by ACP/SHO concerned that the officer is well versed with the provisions of the Act and rules on the subject.
- (p) DCPs and ACPs during their visits to Police Station will check the files relating to juveniles to ensure the Act, Rules and instructions on the subject are being meticulously complied with.

This standing order supersedes Standing Order No. 68 issued Vice No. 29401-600/C&T, AC-III dated 4.5.1989 & Standing Order No. 252 issued vide No. 18239-88/Cr., dated 1.12.1977 and all previous instructions on this subject

(YUDHBIR SINGH DADWAL)
COMMISSIONER OF POLICE: DELHI

No.48375-474/C&T/AC-(PHQ) dated Delhi the 25/08/2008

Copy to:

1. All Special Commissioners of Police, Delhi for Information.
2. All Joint/Additional Commissioners of Police, Delhi including P/PTC, Jharoda Kalan, New Delhi for information.
3. All Deputy Commissioners of Police, District/Units in Delhi, including FRRO, New Delhi.
4. SO to C.P., Delhi.
5. LA/FA to C.P., Delhi.
6. All ACPs/PHQ including ACP/IT Centre.
7. I/C Central Library, PHQ, Delhi with 10 spare copies.
8. HAR with 10 spare copies
9. Guard File.

ANNEXURE – A

PROFILE OF JUVENILE IN CONFLICT WITH LAW

S.No.		FN	UP TO DATE
1.	No. of cases registered		
2.	Only DD entry made		
3.	No. of juvenile involved Male Female		
4.	Age proof collected		
	a. Ration Card		
	b. MCD Certificate		
	c. School Certificate		
	d. Bone X Ray		
	e. Any other		
5.	No. of juvenile involved		

Heads	No. of	AGE GROUP					EDUCATION STANDARD					
		FN		UP TO DATE			FN			UP TO DATE		
		Up to 12 yrs.	13 to 16 yrs.	17 to 18 yrs.	Up to 12 yrs.	13 to 16 yrs.	17 to 18 yrs.	Illiterate	Up to 10 th	Up to 12 th	Graduate	
Dacoity												
Robbery												
Murder												
Att. to murder												
Riot												
Rape												
Extortion												
Snatchin g												
Hurt												
M.O. Women												
Burglary												
NV Theft												
Other Theft												
Other PC												
Total IPC												
Total Act												
Grand Total												

ANNEXURE – B

Social report of juveniles in conflict with law

1. DD No. and Date :
2. Name :
3. Parentage/guardian & occupation :
4. Sex :
5. Age :
 - a) As per appearance :
 - b) As per any documents :
 - i. Birth certificate :
 - ii. Educational Certificate :
 - iii. parent's version :
 - iv. Sarpanch's statement :
 - v. Any other documents/statement :
 - vi. Ossification test report :
 - c) Details of efforts made to collect :
6. Present address :
7. Permanent address :
8. Details of place of birth and religion :
9. Personal particulars

ID marks	Mother tongue	Tattoo marks If any	Educational qualification, if any

Occupation, if any	Income source, if any	Addiction/if any

10. How the juvenile started committing crime and how he got into bad company and details of associates/friends and their criminal activities?

11. Family composition of the juvenile.

Relation	Name	Age	Remarks
Father	_____	_____	_____
Mother	_____	_____	_____

Sister _____
Brother _____

12. Social economic status of the family

13. Neighbour and other known people's attitude towards the juvenile

14. Family attitude towards the juvenile

15. Future plan of the juvenile

16. Analysis and evaluation of the social background of the juvenile

Signature & Name of SHO

**Signature &
Name of JWO**

Annexure-F

Revised Standing Order No. 252
DUTIES OF POLICE REGARDING MISSING PERSONS
AND UNIDENTIFIED DEAD-BODIES

INTRODUCTIONS:

A large number of missing reports are lodged in police stations of the National capital every day. Also, a large number of dead bodies are recovered in the city with no identification card/mark/proof found on them. It is of paramount important to make sincere and systematic efforts to trace out the missing persons and identify the unidentified dead bodies. The following instruction must be strictly complied with and kept in mind while handling cases of missing person and recovery of unidentified dead bodies.

MISSING PERSONS DESK AT P.S. Level

All the ACPs/SHOs will ensure that to handle complaints of Missing Person, a Missing Persons Desk is constituted in the police station. The Inspector/Investigation will be the Registering Officer of this Desk and the nominated Juvenile Welfare Officers will be the members of this desk. The Inspector /Investigation will ensure that immediate action is initiated as per the Standing Order on receipt of a complaint, and complete records are maintained of efforts made by them and IOs to trace the missing person. The functioning of this desk should be regularly monitored/reviewed by SHOs and ACPs and timely instructions and assistance will be provided to the concerned officers.

STEPS TO BE TAKEN BY THE INVESTIGATION OFFICER ON RECEIPT OF INFORMATION REGARDING MISSING PERSONS

The following steps will be taken immediately on receipt of information regarding a missing person. It will be important to keep in mind that initial efforts within 15 days of the complaint will be of critical importance , and hence will be closely co-ordinated and monitored by all concerned:-

1. A Missing Report should be lodged in the Daily Diary at once, clearly mentioning the date and probable time when he/she was noticed to be missing. In this Report, all the details of the missing person including name, parentage, age, height, complexion, sex, clothes worn and any special mark of identification etc should be incorporated. The photograph of the missing person and the contact number of the complainant/relative should be obtained and placed on file.
2. The Police Control Room, State Crime Record Bureau (SCRB), National Crime Record Bureau (NCRB) and ZIP NET should be informed immediately.
3. A W.T. Message will be flashed on all India Level with the detailed description of the victim.
4. Information will also be shared with the CBI, where a Cell relating to missing children/persons has been set up in CBI as per the directions of the Hon'ble High Court.
5. A copy of the DD entry should be sent to the District Missing Persons Unit (DMPU) and Missing Person Squad (MPS), PS Kotwali, Delhi.
6. Hue and Cry notices should be prepared and issued.

7. The I.O. should immediately begin enquiries from persons present at the scene or last seen, collect the details of possible suspects and question them without loss of time.
8. Cell phone details, if any, of the missing person should also be immediately obtained for further investigation as to his/her whereabouts.
9. Photographs of the missing person should be given wide publicity at all the prominent outlets of the city/town/village concerned—that is, at the railway stations, inter-state Bus Stands, Airport, Regional Passport Office and through law enforcement personnel at Border Check Posts. This should be done promptly and in any case not later than one week of the receipt of the complaint. But in case the missing person is a girl/woman, prior written permission of parents/guardian/husband shall be taken before the photographs is published/broadcast.
10. Border Check Posts should be alerted immediately. In case of a missing minor, Check Post staff should also be sensitized to question unaccompanied minors/children or adults carrying children and behaving with them abnormally, during checking of vehicles/public transport.
11. Publicity should be given in surrounding areas using loud-hailers, if necessary.
12. All necessary publicity should be given in News Papers/Electronic Media. Publicity should also be given through local cable TV Network.
13. The parents/family members/friends and relatives should be examined to find out the probable cause of disappearance of the person.
14. It will be important to scrutinize the missing person's computer, diaries etc. if any, and his personal belongings for any clue. This exercise, of course, should be done with the concurrence of the family members/complainant.
15. In case of missing minors, areas/spots of interest such as Malls, Amusement Parks, and Games Parlours etc. should also be searched.
16. If available, surveillance/security cameras (CCTVs) in the vicinity of the scene last seen should also be scanned.
17. Any person having inimical terms with the missing person should be examined.
18. The Police Officer handling the Missing Report should remain in touch with the complainant/family members to ascertain if any demand for ransom has been received.
19. Whenever foul play is suspected, a case shall be registered under relevant sections of law and investigated.
20. Enquiries should be made from the neighbouring police stations about any unidentified dead body found and information about missing persons admitted in the hospitals.
21. Enquiries should also be made from the hospitals about unidentified injured persons admitted in the hospitals.
22. Poor House, Children Home, Rain Baseras, Nari Niketan, Mortuaries in hospitals. NGOs record, etc. should be checked for the missing person.
23. In appropriate cases, a declaration of reward for furnishing a clue about the missing person should be announced within a month of her/his disappearance.
24. The investigating Officer of the Missing complaint should periodically keep in touch with the complainant to update him on the efforts made, ascertain further clues, if any, and also to find out if the missing person has since returned on his/her own.

25. In case the missing person is traced, the Police Control Room, District Missing Persons Unit (DMPU) and Missing Persons squad (MPS) should be informed immediately for updating the record and for discontinuing the search.

MISSING PERSONS HELP LINE

A help line of Eight Digit Number (23241410) has been started at Missing Persons Squad, Crime Branch, and Delhi for reporting missing persons in the National Capital Territory of Delhi. Another Four Digit Help Line Number will be added in due course. Any one can lodge a complaint on this Help Line Number regarding Missing Persons without running to Police Stations or Police Posts. It will be a 24 hours Telephone Help Line Service.

On receipt of any call regarding a missing person on this helpline, the following action will be taken:-

a) Duties of the Police Staff at the Helpline:-

1. Obtain the full description of missing person with complainant contact number and address.
2. Advise the caller to give the full detail of missing person along with photographs to the police officer who will contact them.
3. Inform the :
 - ? PCR.
 - ? District Missing Person Unit.
 - ? Concerned Police Station through their District Control Room
4. A register will be maintained of all the calls received with victim details and complainant contact number and address.
5. Update the progress of the action taken by the police on the complaint including feedback from the Police Station.
6. Guide the complainant suitably when he/she calls up subsequently about progress of the case.

b) Duties of Police Station Staff:-

1. Quickly depute our emergency officer to contact the complainant and collect all the details about the victim including photographs
2. Lodge a missing report in the Daily Dairy.
3. Register the case at the earliest, if the complaint is:
 - ? About any minor girl.
 - ? Minor boys of 12 years of age or below
 - ? If any suspicion is reported
4. Conduct a thorough enquiry.
5. Initiate all other steps required to be taken on a missing report as per the Standing Order.
6. Guide the complainant suitably when he/she calls up subsequently about progress of the case.

REGISTRATION OF A CRIMINAL CASE

As regards further action on the complaint regarding a missing person, registration of a case will be mandatory in case of all missing children on the age of 12 years and below, and in case of all missing cases of minor girls irrespective of age. Further, in case of male children above 12 years, a case will be registered when a suspicion is voiced by the complainant or arises otherwise. A lady officer should preferably be entrusted with the investigation of a case related to a minor girl.

DURATION OF ENQUIRY INTO MISSING REPORTS

- a) The local police will keep the search continued till the missing person is located.
- b) Missing report with respect to any person, once recorded in the relevant register maintained in the Missing Persons Squad (MPS), and the DMPU, will be kept open till he or she is located.
- c) If a criminal case is registered into the missing of a person, it will be kept open till the investigation into all known aspects of that case is complete, and the case registered will be treated as a Special Report Case and its investigation is closely monitored by supervisory levels including the concerned District DCPs.
- d) The progress of enquiry will be periodically reviewed.

MISSING PERSONS REGISTER

A separate register of Missing Persons shall be maintained at each Police Station for record. This register should be maintained uniformly in all police stations of Delhi as per the columns specified at Annexure-“A”. There should be adequate space left under the column “Action Taken” for detailed entries to be made in this regard. The SHO and ACP /Sub-Division should scrutinize this register at frequent intervals and guide the officers dealing with the missing reports. They shall also evaluate the circumstances accompanying each case and order registration of criminal case whenever appropriate.

MISSING PERSONS FILES

With respect to each missing person, a separate file will be maintained. In this file, all the efforts made to trace the missing person will be recorded, and copies of all related documents will be kept for record. There will be an Index of the contents of the file for ready reference. The proforma for the index is given at Annexure-B. SHO and Inspector/Investigation of the Police Station will ensure that this file is maintained and is up –to –date.

COMPUTERISED RECORD OF MISSING PERSONS

The record of missing persons at each police station will be computerized. The data available in each Missing Persons File will be up-loaded to the computer maintained at the police station for this purpose. It will be the responsibility of each I.O. to ensure that efforts made towards tracing the missing persons, besides maintaining it in the Missing Persons File, is also up-loaded on the computer. The SHO and Inspector/Investigation of the police station will ensure that the computerized record of missing persons is maintained up-to-date and available for scrutiny by supervisory officers as and when felt necessary.

SUPERVISION BY SHOs AND ACPs

- a) All ACPs and SHOs will supervise the efforts made in such cases on a day-to-day basis. This will be ensured particularly during the first 15 days of receipt of the complaint. They will give necessary directions/instructions in writing to the IO's in their supervisory notes. They will also attach the copies of such supervisory note in the concerned Missing Persons' File.
- b) All ACPs and SHOs will ensure that the copies of all the DD entries of departure and arrival in such cases are attached with the concerned missing file.
- c) All SHOs will also ensure that the record of missing persons as well as forms of traced out missing persons are filled up and sent to the DMPU immediately.
- d) All ACPs and SHOs will ensure that notice boards are appropriately displayed in the Reporting Room of all the Police Stations with the details of missing person neatly and prominently written thereon.

DISTRICT MISSING PERSONS UNITS

District Missing Persons Units (DMPU) have been created in all the Police Districts of Delhi. These DMPUs will be closely supervised by the ACP/Operations, under the overall supervision of the concerned District DCP. Further, the DMPUs have been provided with a web based computer programme and broadband connection for uploading the information of missing person and unidentified dead bodies. This information can also be accessed by public on ZIPNET (Zonal Integrated Police Network) through normal internet. A new module of FOUND CHILDREN has been incorporated on ZIPNET.

MISSING PERSONS SQUAD

For centrally handling all information all over Delhi related to missing persons, the "Missing Persons Squad" will function under the Crime Branch under the overall supervision of DCP /Crime. The ACP /Anti-Kidnapping Section of the Crime Branch will supervise the MPS on a day-to-day basis.

- a) The Missing Persons Squad (MPS) shall monitor the uploading of data regarding persons reported missing and unidentified persons found on the ZIPNET and will prepare fortnightly and monthly reports in this regard.
- b) It will maintain close links with District Missing Persons Unit (DMPU) and ensure that uploading of data and matching of missing persons with UIDBs/persons found is carried out effectively.
- c) The in-charge MPS will match the information regarding missing persons with the data available with the MPS and if matched it should be communicated to the concerned police station. A weekly diary about matched/traced persons should be sent to ACP/Anti-Kidnapping Section.
- d) The MPS will also prepare data relating to Delhi and share it with other agencies like CBI, NCRB etc.
- e) It will also analyze the data to locate any pattern/trend that may exist with regard to the number/age/sex/profile of persons reported missing from a particular area as well as for entire Delhi.

- f) It will maintain liaison with Child Welfare Committees to reconcile/match information about children rescued/traced.
- g) All Districts Missing Person Units (DMPUs) shall prepare a fortnightly report and sent to the in-charge of the Missing Persons Squad through the ACP /Operations of the District. In charge MPS shall prepare a consolidated report of all the Districts and put up the same to DCP /Crime & Railways on a fortnightly basis.

DUTIES OF ACP/OPERATORS

- a) The DMPU of the district will function under ACP/Operations, under the overall supervision of the District DCP.
- b) ACP/Operations will be responsible for the monitoring of uploading of information on ZIPNET regarding cases of Kidnapped and missing children. He will ensure that details of all the children missing, kidnapped and abducted are available on ZIPNET in the approved format & deleted when the child is found or returns on his own.
- c) He will match the missing persons record with the data of unidentified dead-bodies found.
- d) ACP/Operations will study the pattern of disappearance of children, particularly girls in the district. If anything points towards an organized operation in the disappearance of children, it will immediately alert all officers of the concerned area and launch operations to collect intelligence & apprehend the persons involved.
- e) ACP/Operations will interact with the Anti-Kidnapping section of the Crime Branch to study and discuss the pattern of disappearance of children in the city and exchange intelligence about gangs, if any.

ANTI –KIDNAPPING SECTION OF CRIME BRANCH

At a central level in the Delhi police, the Anti-Kidnapping Section under the Crime Branch will have similar functions relating to the entire National Capital Territory. This Section in the Crime Branch will analyze patterns, gather intelligence which will have all ramifications in Delhi, ascertain angles of trafficking and organized crime and maintain liaison with other central agencies dealing with the matter.

COORDINATION WITH POLICE OF OTHER STATES

The area/jurisdiction of many police stations in Delhi touches with U.P. and Haryana. All concerned ACPs /SHO will ensure that the details of missing persons and victims are sent through special messengers to neighbouring District Crime Record Bureaus and also to SOs of Police Stations of neighbouring states (including I /Cs of all the Police Posts of these Police Stations). In case of any Information or clue to be followed up, the I.O. will be immediately dispatched to tie up with the concerned police station – neighbouring State /District. In appropriate cases where involvement of any organized gang is suspected, the Anti-Kidnapping Section of the Crime Branch will maintain necessary liaison with the people of other States and the CBI.

CHILDREN IN NEED OF CARE

In the efforts by police in respect of missing minors, it will also be important to identify “Run-away Children”, “Abandoned Children”, “Neglected Children” and such “Vulnerable Children” who are often found roaming around places where they are particularly exposed to abuse and exploitation such as railway stations, traffic junction etc. Their vulnerability increases due to a lack of support structures – family or otherwise. Proper identification, provision of care and support, and a 'safe place' is vital for them. Child Welfare Committees, constituted by the Delhi Government, maintain the record of all rescued children (Children in need of care and protection). These children are, under the JJ Act, the children in need of care and attention, which should be given to them, and necessary action should be taken by all concerned as per the guidelines issued in S.O. No. 68. For coordinating the issue of “Children in need of care” at the Police Station level, the Inspector/Investigation & the Juvenile Protection Officer of the Police Station shall act as the Nodal Officers. They will coordinate & supervise all issues/cases pertaining to such children & study the pattern emerging out of these cases at the Police Station level, and report the same to the SHO and ACP/Sub –Division as well as to the DMPU and ACP/Operations. Appropriate cases will also be brought to the notice of the SJPU. The Nodal Officers at the Police Station will talk to the returning or recovered children in detail to ascertain any angle of crime or offence or gang, and report the same to the SHO and ACP/Sub-Division as well as to ACP/Operations.

CO-OPERATION FROM NGO'S AND OTHER ORGANISATIONS:

- a) NGOs should be intimated in cases where girl is minor and an allegation of sexual assault comes to notice.
- b) In places where vulnerable groups of children are found in large numbers, a mechanism could be evolved in partnership with non-governmental organizations and social workers, whereby apart from rendering counseling to them, awareness-raising activities are also carried out. This would not only instill confidence in them but also strengthen them and given them special protection so that they are in no way lured by external agencies/factors.
- c) In order to make the investigative procedures concerning missing children more transparent and user-friendly, it would be preferable for the police investigating team to involve the community at large, such as representatives of Panchayati Raj Institutions/Municipal Committees/Neighbourhood Committees/Resident Welfare Associations, etc. in addition to existing help-lines. This will enable the community to get fully involved along with the police in tracing missing children.
- d) Periodic interface will also be maintained with Principals, teachers and students of the area by ACPs and SHOs to sensitize them about Do's and Don'ts for children.

STEPS TO BE TAKEN BY THE INVESTIGATING OFFICER IN CASE OF RECOVERY OF AN UNIDENTIFIED DEAD BODY.

In the event of recovery of an unidentified dead body, the following steps will be taken by the Investigating Officer:

1. A D.D. entry should be lodged at the Police Station or Police Post as soon as the information is received and the SHO/ACP be informed immediately.
2. The scene of crime shall be visited by the SHO/ACP.

3. The dead body will be photographed from different angles. Care should be taken with ensure that the face and indentifying marks are captured clearly in the photographs. Photographs must be of high-quality taken with a superior quality digital camera. Where possible, services of a private photographer be engaged so that high-quality photographs are taken which are lucid and clear when transmitted by computer etc.
4. The dead body will be sent for autopsy to ascertain the cause of death, duration since death, age etc. and if needed, Doctor/Medico Expert report be requested to preserve limb of the deceased for DNA purposes.
5. The search slip of the deceased will be prepared and sent to the Finger Print Bureau to ascertain the identity of the deceased from records of FPB. Even if the skin is contracted or wrinkled due to decomposition, the search slip should be prepared and the doctor be requested to remove the skin. All the 10 digits should be sent to the Finger Print Bureau.
6. The unidentified dead body shall be preserved for at least 72 hours in the mortuary and all efforts will be made to get it indentified.
7. Wireless Messages shall be flashed to all SHOs, ACPs and DCPs in Delhi and to all district SSPs in India
8. Enquiries will be made at the place of recovery of the unidentified dead body regarding the circumstances under which the body was recovered.
9. Hue & Cry notices with the photograph of the deceased will be distributed.
10. Wide publicity should be given through the Electronic and Print Media. SCRB and NCRB shall also be informed about the recovery of UIDB
11. The clothes, ornaments and other articles found on the deceased shall be preserved. Any birth mark, scar, tattoo mark, Dhobi/Tailor Mark on clothing, deformity on the body etc. shall be clearly recorded.
12. All the articles found on the body and around shall be taken into possession as pieces of evidence.
13. In cases of hanging, the mode and the height of point of suspension shall be clearly recorded. Opinion of autopsy doctor on the load bearing capacity of rope/cloth etc. use for hanging be sought. Also the autopsy surgeon be asked to opine on the correspondence between the ligature mark and the ligature used.
14. In cases of drowning, the depth of water and presence of any foreign matter sticking to the body shall be mentioned. Autopsy surgeon's opinion be sought whether the drowning is forced, accidental or suicidal.
15. In cases of poisoning, search for the container shall be made. Vomited material stool, nails, hair etc. shall also be preserved and sent for foreign analysis.
16. The District Missing Persons (DMPU) /Missing Persons Squad (MPS) shall be informed to check if any person of similar description is missing from any other police station. If so, his/her relatives/acquaintances should be informed.
17. If the body bears injuries, the autopsy surgeon will be requested to opine on the following:-
 - a) The nature of injuries i.e. ante-mortem or post-mortem and whether sufficient to cause death.
 - b) Whether the injuries are homicidal, suicidal or accidental

- c) Whether the injuries are self-inflicted or otherwise.
 - d) Other queries can be added as per requirement in the investigation of the case.
18. Keeping in view the autopsy report and the circumstances of the case, the ACP, SHO and I.O. should examine whether it is a case of homicidal, suicidal, accidental or natural death.
 19. If it is a case of cognizable crime, a case should be registered forthwith under the appropriate sections of law and taken up for investigation.
 20. If the deceased is identified, his/her relatives and acquaintances shall be contacted to find out the possible reasons for the death.

REGISTER OF UNIDENTIFIED DEAD BODIES

A separate register of unidentified dead bodies shall be maintained at each Police-Station as per Annexure-C . The SHOs and ACPs shall scrutinize this register frequently and ensure that all requisite steps to indentify the body have been taken. Whenever required, they shall initiate further legal action as per circumstances of the case.

CO-OPERATION FROM PUBLIC

Help of members of Eyes & Ears Scheme should be sought in indentifying the deceased. Co-operation of members of Residents Welfare Associations, active NGOs and other public spirited person in the area should also be enlisted in these efforts.

This Standing Order supersedes previous Standing Order No. 252 issued vide Headquarters No. 31800-32050/C&T (ACII)/PHQ dated 01.11.1988 on the subject.

No. 4301-450/Record Br. /PHQ/(ACII), dated Delhi, the 18/3/2009

Copy forwarded for information and necessary action to:

1. All Spl. CPs/Delhi
2. All Joint CPs/Delhi
3. All Addl.CPs/Delhi
4. All DCPs/Districts, PCR& IGIA, Delhi
5. SO/CP, Delhi
6. LA/CP, Delhi
7. ACP/IT Centre, PHQ
8. HAR/PHQ with 05 spare copies
9. I/C Library/PHQ

ANNEXURES – "A"

s. No.	DD No. Date & Time	Duty Officer	I.O.	Informed by	Missing Place	Missing Date	Last Seen where, and with whom	Personal Descriptive Details	Male/Female Major/Minor	Action taken	Missing Persons File Details	Whether computerized record uploaded or not	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14

ANNEXURES – "B"

INDEX OF MISSING PERSONS FILE

S. No.		Details	Page NO.
1.	S. No. of File		
2.	DD No. & Date		
3.	Name & Percentage of missing person		
4.	Address & Telephone NO. (including permanent address)		
5.	Name, percentage, address & Telephone No. of complainant		
6.	Date & Place from where missing		
	Physical Description		
7.	Sex	D.O.B/Age	Height
	Religion	Built	Complexion
	Face	Hair	Beard
	Moustache	Eyes	Wearing
	Marital Status	Physical deformity	
	Mark of identification		
8.	W.T. Message	Diary NO.	Dated
9.	Information to DMPU		
10.	Information to SCRB		
11.	Information to NCRB		
12.	Information to CRO		
13.	Hue and Cry notices circulated		
14.	Information to CBI website sent		
15.	Information to MPS, Delhi sent		
16.	Request sent for publication in Newspapers		
17.	Request sent to Doordarshan		
18.	Application for declaration of reward sent		

19.	Any other agency informed (details)		
20.	Date of publication in Newspapers (with details of Newspapers)		
21.	Date of telecast on Doordarshan		
22.	ZIP NET No.		
23.	Computerized Record Reference No.		
24.	Date on which traced		
25.	Place from where traced		
26.	Traced out form sent to DMPU vide Diary NO.	Dated	
27.	Information of traced out sent to other agencies vide Diary NO.	Dated	
28.	Any other information		

ANNEXURES – "C"

S. No.	DD No. Date	I.O.	Under Section	Sex & Age	Place of occurrence	Brief facts	Action taken for Identification	If linked to Missing Report, details thereof	Cause of death	Filed by SHO	Filed by ACP	Filed by SDM
1	2	3	4	5	6	7	8	9	10	11	12	13

LIST OF ABBREVIATIONS

1. ACP – Assistant Commissioner of Police
2. ACR – Age of Criminal Responsibility
3. AIDS – Acquired Immuno Deficiency Syndrome
4. AIR – All India Reporter
5. BC – Bad Character
6. CACT – Campaign Against Child Trafficking
7. CAW – Crime Against Women
8. CBI – Central Bureau of Investigation
9. CCTV – Closed Circuit Television
10. CD – Compact Disc
11. CICL – Child in Conflict with Law
12. CMO – Chief Medical Officer
13. CNCP – Child in Need of Care and Protection
14. CPUs – Child Protection Units
15. Cr. P.C./Cr.PC – Code of Criminal Procedure, 1973
16. CP – Commissioner of Police
17. CWC – Child Welfare Committee
18. DCP/DCsP/DCPs – Deputy Commissioner(s) of Police
19. DC - District Commissioner
20. DD Entry – Daily Diary Entry
21. Distt – District
22. DM - District Magistrate
23. DMPU – District Missing Persons Unit
24. DNA - Deoxyribonucleic acid
25. D/o – Daughter of
26. Dy. SP – Deputy Superintendent of Police
27. FIR – First Information Report
28. FSCE – Forum on Street Children Ethiopia
29. GRP – Government Railway Police
30. HIV – Human Immunodeficiency Virus
31. ID – Identity
32. IO – Investigation Officer
33. ILO – International Labour Organisation
34. ITPA – Immoral Traffic (Prevention) Act, 1986
35. JDL – Juveniles Deprived of their Liberties
36. JJ Act – Juvenile Justice Act, 2000
37. JJB – Juvenile Justice Board
38. Jt. CP – Joint Commissioner of Police
39. JWO/JPWO – Juvenile Welfare Officer
40. LCD – Liquid Crystal Display
41. MCD – Municipal Corporation of Delhi
42. MPS - Missing Persons Squad

43. NCRB – National Crime Record Bureau
44. NCT – National Capital Territory
45. NGO – Non- Governmental Organisation
46. NIPCCD – National Institute of Public Cooperation and Child Development
47. No. – Number
48. PCR – Police Control Room
49. PHQ – Police Head Quarters
50. PIL – Public Interest Litigation
51. PO – Post Office
52. P.S./PS – Police Station
53. PTC – Police Training College
54. PUDR – People's Union for Democratic Rights
55. R/o – Resident of
56. RPF – Railway Protection Force
57. SBR – Social Background Report
58. SC – Scheduled Castes, Supreme Court
59. SCRB – State Crime Record Bureau
60. SDM – Sub-Divisional Magistrate
61. SHO – Station House Officer
62. SIR – Social Investigation Report
63. SJPU – Special Juvenile Police Unit
64. Sl. No./ SL. NO. – Serial Number
65. SO – Standing Order
66. S/o – Son of
67. SOPs – Standard Operating Procedures
68. SP – Superintendent of Police
69. SSP – Senior Superintendent of Police
70. ST – Scheduled Tribes
71. UIDBs – Unidentified Dead Bodies
72. UK – United Kingdom
73. UN – United Nations
74. UNCRC – United Nations Convention on the Rights of a Child
75. UNICEF – United Nations Children's Emergency Fund
76. UNODC – United Nations Office on Drugs and Crime
77. U/S – Under Section
78. v. – Versus
79. Vill. - Village
80. W/o – Wife of
81. W/Const. – Woman Constable
82. WP (C) – Writ Petition (Civil)
83. WT Message – Wireless Transfer Message

Training Agenda: Two Days

DAY ONE

09.00 a.m. - 09.15 a.m.	Registration
09.15 a.m. - 09.45 a.m.	Opening Session: Welcome Address and goals of the programme by Organisers
09.45 a.m. - 11.00 a.m.	Session I – Introduction & Icebreaking Activity 1: First Name Introductions (15 minutes) Activity 2: Paired Interviewing (30 minutes) Activity 3: Setting Ground Rules (10 minutes) Activity 4: Listing expectations and apprehensions of the participants (15 minutes) Activity 5: Pre-assessment Questionnaires (Optional depending upon time availability)
11.00 a.m. - 11.15 a.m.	Tea/Coffee break
11.15 a.m. - 12.45 p.m.	Session II – Understanding Self Attitude Activity 1 : Getting individual perception around an abstract picture (30 minutes) Activity 2 : Twenty words exercise (35 minutes) Activity 3 : Screening of Film (35 minutes)
12.45 p.m. - 1.45 p.m.	Lunch Break
1.45 p.m. - 3.15 p.m.	Session III – Introduction to Child Rights & Principles of Juvenile Justice Part I : Understanding Child Rights - Power point presentation + Wants, Needs and Rights Exercise (45 minutes) Part II : Principles of Juvenile Justice - Power point presentation and discussion (45 minutes)
3.15 p.m. - 3.40 p.m.	Tea/Coffee Break
3.40 p.m. - 5.00 p.m.	Session IV – Child and the Juvenile Justice Law in India Part I : Who is a Child? (45 minutes) Part II : Introduction to Juvenile Justice Law in India (30 minutes)

DAY TWO

09.30 a.m. - 09.45 a.m.	Recap of Day 1
09.45 a.m. - 11.45 a.m.	Session V - Children in Need of Care & Protection (CNCP) Part I : Who is a Child in Need of Care and Protection (60 minutes) Part II : Role of Police in dealing with CNCP (60 minutes)
11.45 a.m. - 12.00 noon	Tea/Coffee Break
12.00 noon - 1.00 p.m.	Session VI - Children in Conflict with Law Part I : Group Work based on Case Studies (30 minutes) Part II : Presentation of Group Work followed by Open House Discussion (90 minutes)
1.00 p.m. - 2.00 p.m.	Lunch Break
2.00 p.m. - 4.00 p.m.	Session Continued Part II : Continued: Presentation of Group Work followed by Open House Discussion (90 minutes) Part III : Power Point Presentation to sum up the main points and the FAQ (40 minutes)
4.00 p.m. - 4.15 p.m.	Tea/Coffee Break
4.15 p.m. - 5.00 p.m.	Session VII - Programme Evaluation Activity 1 : Post Assessment Questionnaire Activity 2 : Course Evaluation
5.00 p.m. - 5.30 p.m.	Session VIII - Concluding Session

Department of Women and Child Development

Government of NCT of Delhi

1, Canning Lane, K G Marg, New Delhi - 110 001

Ph.: 23392052, 23070379, 23387816

Fax : 23070378

Email : secy@wcddel.in

director@wcddel.in

dirwcd.delhi@nic.in

Delhi Police Juvenile Justice Unit

State Nodal Unit

NanaKpura

Ph.: 26882691, 26883769, 24105214

Fax : 26110313, 24101643, 24105214

Email : jtcp@dpjuu.in

dcp@dpjuu.in

acp@dpjuu.in

inspector@dpjuu.com