

Editorial Board

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Duties and functions of Special Juvenile Police Unit (SJPU) and Police

(Maharashtra Juvenile Justice Rules-2002)

- 1) The Police, shall refer the child to the Juvenile/Child Welfare Officer (CWO) for investigation, who will then arrange to produce the juvenile/child before the Competent Authority .
- 2) The child shall be treated with decency and dignity during investigation, enquiry, search etc.
- 3) A girl child shall be subjected to search by a female staff.
- 4) The Juvenile/child welfare officer or the head of the SJPU shall arrange for the escorting of the child to be produce before the competent authority through police in plain clothes or by volunteers from NGO's.
- 5) Police shall not take charge of a JCL between sunset and sunrise. The JCL will not be kept in the police station or lockup, but in a place of safety or observation home or in a fit institution or under the care of a fit person.
- 6) A juvenile/child shall be produced before the competent authority within a period of 24 hours of taking charge excluding the journey time.
- 7) The police shall strictly adhere to the guidelines of the Supreme Court of India and High Courts while dealing with a juvenile/child and ensure that the provision of Convention on the Rights of the Child have been strictly adhered to. All actions are initiated in the best interest of the child.
- 8) As soon as a juvenile is taken charge by the police intimation shall be sent to the Probation Officer (PO) and his/her parent/guardian.
- 9) Police to furnish the following details to the Board,-
Date and time of taking charge , address of the child, offence alleged to be committed, the place where the child was kept till it was produced before the court, copy of the intimation letter sent to the Probation Officer/ parent/ guardian of the child, details of the property or articles recovered from the juvenile.
- 10) In the case of an abandoned infant, a report of 'missing complaint' should be launched in the police station. The police with the assistance of approved NGO's or social worker take charge of the infant, arrange for medical assistance and places the child in an foundling home or in the care of a fit person or fit institution and send a report to the CWC.
- 11) The police shall maintain a list of approved NGOs , monitor activities to prevent child trafficking, illegal adoption, and send a monthly report to the Board about the children who are kept unauthorized.

Special Juvenile Police and Juvenile or the Child Welfare Officer

(Maharashtra Juvenile Justice Rules-2002)

- 1) The State Government shall appoint Special Juvenile Police Unit at the district and a Juvenile or a Child Welfare Officer (CWO) shall be designated in term of section 63 of the Act, at the level of police station.
- 2) The district level Special Juvenile Police Unit shall be headed by an officer not below the rank of an Assistant Commissioner of Police who shall coordinate the activities of the Juvenile/Child Welfare Officer.
- 3) Every designated Probation Officer as CWO shall be the member of a District Special Juvenile Police Unit to facilitate the coordination and networking among the Police, Probation Officer, Non-Governmental Organisations, Judiciary, etc.,
- 4) The Special Juvenile Police Units shall be assisted by recognised voluntary organisations, who will help them in identifying juveniles and helping the juveniles or children under the Act.

The Juvenile Justice System in India, conceptualised under the Juvenile Justice Act has mandated the Juvenile Justice Board (JJB) and the Child Welfare Committee (CWC) as competent authorities to take decisions with regards to Juveniles in conflict with law(JCL) and children in need of care and protection (CNCP) respectively. The prime objective of constituting these bodies is to interweave a social perspective with the process of law. It has been seen that most referrals of the CNCP to the CWC and the JCL to the JJB is usually through the police. The child's entry into the JJ system must be seen as an opportunity for making a positive contribution in the child's life and protecting the child from the precipitating circumstances of his/her life that may have compelled him/her into "wrong or inappropriate" behavior or offences. It is a positive and welcome step that the state of Maharashtra has designated Special Juvenile Police Unit (SJPU) for the protection of children.

We devote this newsletter to build a better understanding of their role in the protection of children who have either committed offences or have been exploited, abused, or find themselves in vulnerable positions.

-Editorial Board

Working experience with police

-Ms. Ruchi Sinha(TISS)
-Ms. Madhu Madhavan(RCJJ)

The police personnel has shared on how the role of being a CWO or being a part of SJPU is an added responsibility to their already existing role of policing and maintaining law and order. Thus they face the dichotomous expectation of being 'tough' while handling adults and being 'soft'-a complete change in his entire stance if he has to handle a child. Additionally, with a diverse range of children coming to police stations such as abandoned infants, children separated from parents, children with addictions, migrated children (both from within and from neighbouring countries) besides the reality that children are getting involved or being involved in a range of criminal activities from petty thefts to heinous ones like murder and rape the police as of today accept they are ill equipped to handle children, the responsibilities get more complicated.

Police stations on the other hand are grappling with ill-equipped police stations, inadequate funds and being stationed for more than eight hours on regular duty due to man-power shortage. They feel that an appropriate legislation with adequate budget needs to be put in place to give police the authority to divert children away from the formal criminal justice system. Formal legislation and properly developed policy will give the police the necessary mandate to help children in conflict with the law. They believe that ad hoc measures and communications are responsible for the lack of a child friendly approach in the state. They also share that they are often not clear of their role and responsibilities in dealing with children and that sustained training needs to be provided to ensure that police are familiar with the UNCRC, international standards, national legislation, police policy and the divergence between policy and actual practice on the ground, so that they are properly equipped with the knowledge and understanding to deal appropriately with children in conflict with the law.

Thus, the system if approached appropriately can be geared to take on child friendly roles as delineated in Column 3 under "Need for an exclusive children's cell".

Expectations of a child friendly police

- While handling a child be in casual clothes than in uniform to be approachable.



- Should be gentle and polite while



communicating and use the language comfortable to the child.

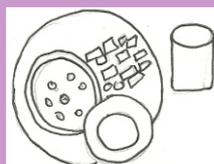
- Do not handcuff the child but hold him/her by hands.

- Find out whether the child has had something to eat or not. At least offer them clean water to drink.



- Allow the child to communicate and listen to the child's point of view.

- In case of child being brought alone try to locate parents and guardians.



- In case of inability to locate parents/guardians, transfer the child to a fit institution and not keep the child in the police station.



- All police stations should have a list of fit institutions, non

government organizations, Child welfare members, JJB members and approved hospitals.

- In case of child apprehended for crime along with adult, the child should be handled independently from the adult.
- A female child should be attended by a woman police.
- While framing charges against a JCL the mind set should be towards the 'why' of the crime committed rather than 'what' of the crime.

- The police stations should be made bright and cheerful so that the child does not get intimidated



Need for an exclusive children's cell

-Ms. Ruchi Sinha(TISS)

A cell which may be attached to the police stations but would be independent of the police duties and responsibilities. As per the police- 'the cell should be handled by social workers who have the expertise and knowledge to work with children- both in conflict with law and in need of care and protection. The role of the police would be to assist the cell workers. This will ensure that the children are handled by people who have the training and knowledge to handle children of varying age groups'. The police also agree for a proper architectural planning of police stations which should make adequate provisions for amenities for both genders of police personnel as well bright and well ventilated rooms for children which in the long run will have toys, educational material, and brightly coloured furniture. The police pointed towards the provision of a separate fund to ensure that children can be provided with basic clothing, food and medical treatment when they are got to the cell.

Procedures to be followed by the police prior to production before JJB

-Produced from Training & Resource Manual for the SJPU by Govt. Of Karnataka and unicef

- It is the responsibility of the CWO in the police station to ensure that the rights of the juvenile / child is safe guarded.
- Police hands over the child to CWO of the police station.
- Inform the parent / guardian of the child about taking the child into custody and reasons for the same.
- CWO to ensure the presence of parent/ guardian during questioning of the juvenile and further enquiries.
- Inform the Probation Officer about apprehension of the child so that the PO can prepare the Social Investigation Report (SIR).
- Explain to the child/ juvenile the charges against him/her in simple language and a manner that he she understands clearly.
- The right to confidentiality and privacy of the juvenile must be upheld at all times.

Differential procedures to be followed by JJB depending on the nature of the case

(As per- Model Rules given by Central Government and Training and Resource Manual for the SJPU by Govt. Of Karnataka and Unicef)

□ In the event of **non serious offence**

- Make an entry in the police diary.
- Make an entry in the non-cognizable register (NCR).
- Make a report of the details of the child and alleged offence in the first referral report(FRR)
- If the offence is petty then explore whether the child can be sent back on admonition or whether a bail can be issued at the police station.
- The CWO may also refer the case to CWC if the child requires counselling care and protection.

However if the child is not a first time offender then the procedure follows the same as that in the event of serious offence.

□ In the event of **serious offence-**

- At the time of taking charge of the child, inform the child the reason for taking charge, his/her right to bail, right to lawyer, build the confidence of the juvenile for disclosure.
- Entry in police diary .
- Filing of First Investigation Report (FIR). The FIR should not contain any self incriminating language which will be held against the juvenile.
- Make a report of the details of the juvenile and alleged offence in the first referral report.
- In the event of group offence involving more than one child, separate FRR's to be filed for each child but one FIR to be recorded.
- Produce the child before the JJB on the given sitting day along with the copy of FRR, FIR, Property found report, copy of intimation letter to PO and copy of short term placement order wherever applicable.
- On a non-sitting day produce the child before any one of the JJB members and place the child in short time custodial care at the observation home

further to the order of the JJB.

- Copy of the order for short term placement to be submitted to the Probation Officer.
- In the event of JJB members not available the child is placed in the custody of the superintendent of the observation home with a request letter from the police station.
- Send the child for immediate medical care when necessary.

There are organizations and individuals who hold the view that the procedures with the police of all JCL's should be common and standardized. Since in the JJ system, the offence is of no consequence and so the JJB should focus on an individualized care, protection and rehabilitation plan for every child that comes before it.

Rehabilitation and reintegration plan should take into account the age, the development stage at which the child is and the circumstances of the child. These aspects were debated by the Editorial Board and we invite readers to contribute their views too.

Procedures to be followed by the police prior to production before JJB

- Timely issue of summons and warrants to speed up the enquiry process.
- Mandatory submission of chargesheet to the JJB for speedy disposal of case.
- SJPU to review and ensure that all police stations submit chargesheet within the shortest period of time as stated by the JJB.
- Based on the orders of the JJB to escort children to children homes and fit institutions and other places.
- It is the intension of the JJ Act that the child remains in the JJ system for the shortest possible time so that her or his life is not disrupted. For this reason, the police must complete all possible investigations at the earliest and file the charge sheet in the shortest possible time.

Diversion

Some countries have used the option of Diversion which is to be considered as an option only in the case of petty/ non-serious offences. It provides that after assessment of a case, the police can release the child back to its parent/ gaurdian with a caution or a written undertaking of supervision. However, some child rights organizations feel that the police is not equipped with the human resources or the time for undertaking assessment of the family or of the child or facilitating the support systems for the child so that diversion can be effective. They believe that since the JJ system is there for the JCL, they should be brought into the system before the competent authority, namely the JJB. Diversion could be carried out effectively by the JJB using the support mechanisms of the Probation officers and finalized on the basis of overall assessment by the Social Workers of the JJB. They also feel in the current circumstances, it may well be, that children whose parents have the ability to pay the police may be given the advantage of diversion. This may actually go against the best interest of children coming from lower socio-economic backgrounds. The Karnataka state rule provides for diversion however Maharashtra Juvenile Justice Act 2002 does not provide for diversion. Maharashtra Police has the provision of releasing the child on bail.



Procedures to be followed by the police prior to production before CWC

- ❑ Send the child for immediate medical care if necessary.
- ❑ The CWO shall conduct preliminary inquiry and make report of the details of the child and circumstances in the first referral report.
- ❑ In the event of child being abused/ employed/ trafficked/forced into early marriage or begging, etc., file an FIR against the adult perpetrator under relevant IPC section and other special and local laws.
- ❑ Arrange to present the child before the CWC under intimation to the SJPU within 24 hrs with all relevant documents like age proof where available, FRR, FIR against adult perpetrators.

Procedures to be followed in case of missing children

- ❑ CWO to ensure mandatory filling of FIR for every case of missing child brought to the police station.
- ❑ Give intimate details immediately to SJPU and district children's missing bureau.
- ❑ Ensure all efforts to trace the family of the child.
- ❑ Send monthly updates of missing children data to State Crime Record Bureau/ District Crime Record Bureau.
- ❑ In case of abandoned / child produce the child before CWC for further action.

Procedures post production before CWC

- ❑ Timely issue of summons and warrants to speed up the enquiry process.
- ❑ SJPU to review and ensure that all police stations submit all relevant documents to CWC.
- ❑ Based on the orders of the CWC to escort children to Children Homes and Fit institutions and other places.

Procedures to be followed at the time of raids and rescue

- ❑ The important functions of the police/ SJPU are:
- ❑ Prompt response to calls for rescue or raid from Childline, Govt. Departments, NGO's and public.
- ❑ Cooperate with the concerned agency in organising the raid or rescue.
- ❑ Inform the child about the rescue/ raid and further course of action.
- ❑ Register FIR's under appropriate sections of the IPC and Special laws as the case may be against adult perpetrators of crimes against children.
- ❑ Ensure that the children are victims of the crime and not offenders, more so in cases of raids/ rescues conducted in brothels.
- ❑ The rescue process should not further traumatise the child and sufficient time should be given to collect his /her belongings.

Procedures when dealing with Child Sexual Abuse (CSA)

- ❑ Prompt response to all cases of CSA.
- ❑ Cases of CSA should be treated with utmost sensitivity and care.
- ❑ Provide immediate medical care and referral for counselling
- ❑ Ensure that the child is immediately produced before a member of the CWC on a non-sitting day and the statement of the child and case details are recorded.
- ❑ Presence of a female social worker/ women police is a must in case of girl child.
- ❑ Register FIR's under appropriate sections of the IPC and special laws as the case may be against the adult perpetrators including parents/ family members of crimes against children.



आपण कसं सहभागी होऊ शकता ?

- ❶ आपल्या सर्वांकडून पुढील अंकांसाठी आपली मतं, आपले अनुभव तसंच लेख आपण आम्हाला संपर्कासाठी असणाऱ्या पत्त्यावर पाठवावेत. निश्चितच आपल्या मतांना/ लेखांना संपादक मंडळ पुढील अंकांमध्ये प्रसिद्ध करेल. यासाठी शब्दमर्यादा १०० ते १५० शब्दांची असावी.
- ❷ सोबतच 'उज्वल' च्या अंकांमध्ये प्रसिद्ध होणाऱ्या लेखांवर, माहितीवर, मुद्द्यांवर वाचकपत्र लिहून आपण आमच्यापर्यंत आपले विचार पोहोचवण्याचा जरूर प्रयत्न करावा.

आगामि अंक...

20th August : हरबलेली मुलं

या संगणकीय माहितीपत्रात प्रकाशित झालेल्या लेखातील मतांशी संपादक मंडळ सहमत असेलच असं नाही.



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