

**The JJ Act 2000  
Manual**

## **About CHILDLINE:**

CHILDLINE is the nation's first 24-hour emergency outreach help line for children in need of care and protection. Any child or concerned individual can dial 1098 and access help any time of the day or night.

CHILDLINE was initiated in 1996 as an experiment of the Tata Institute of Social Sciences (TISS). Since then it has grown into a partnership between the Ministry of Social Justice and Empowerment, Government of India, voluntary agencies, children and youth, academia, and the corporate sector. To date CHILDLINE is accessible in 71 cities/districts across 22 states and has responded to 9.5 million calls.

CHILDLINE is a response to India's ratification of the United Nations Convention on the Rights of the Child in 1996. Its intervention is rooted in its belief that every child has a right to a safe and secure childhood and that the State and society have a collective responsibility, which is to care for its children.

CHILDLINE grew from the need expressed from children who are key partners in the functioning of the service. CHILDLINE India Foundation (CIF) plays the role of a catalyst for child protection. It is essentially a facilitating and an enabling body that works towards building partnerships for child protection. Its years of experience has enabled its growth into a repository of knowledge, skill and resource in the area of child protection.

CHILDLINE works with the most marginalized groups of children largely without traditional family support. In addition to emotional support and counseling, CHILDLINE provides emergency intervention and links children to long term resources. It provides a single window for children creating access to child protection services.

Children are key partners in CHILDLINE. Grassroots awareness is institutionalized into the structure of CHILDLINE service. Older street and community youth form the crisis team that works the helpline. Over 5000 street volunteers form a formidable volunteer base for CHILDLINE for creating awareness amongst their peers and calling CHILDLINE in emergencies. Open House an open forum for children to share their concerns, needs and issues relating to their lives and CHILDLINE is characteristic to CHILDLINE. It is the forum for children to speak out and be heard. It charts the course of CHILDLINE.

## **About CHILDLINE India Foundation:**

CHILDLINE India Foundation (CIF) is the back bone of the CHILDLINE network. It provides pivotal behind the scenes support to the CHILDLINE across the country. It is the central nodal agency responsible for replication of CHILDLINE, ensuring quality standards are met, analysis of calls received by the helpline, research, documentation, identification of emerging trends in relation of children in need of care and protection, awareness,

resource mobilization, developing a national data base of children protection services, training and capacity building of government and voluntary agencies, initiation of specializes need based services for high risk groups of children, and advocacy and lobbying with the Government for child friendly legislation and services for children in the context of child rights and children's participation. Additionally, CIF acts as a consultant to the Government of India for facilitation of its programs, training, research and documentation in the voluntary sector on issues related to child protection.

The national CHILDLINE network comprises 150 partner organizations supported by over 600 resource organizations. The CHILDLINE crisis team across the country comprises 1000 members supported by a network of over 5000 child/youth volunteers. At the centre coordinating the whole operation is the CIF team comprising 32 members.

CHILDLINE introduced its own model of partnership-the brand add-on model. It has enabled its growth from an experimental project to a large scale national operation. This model draws from the corporate franchise model (in which the organizations develop a prototype and clearly delineated standards as set by the franchiser) and the catalytic model (in which the organization mobilizes/engages others to address the problem).

It provides a basic frame work with preset standards to be adhered to while it gives partners flexibility to add and adapt to local needs. It facilitates high multiple-ownership of partners to the brand at the local level and increases cost efficiency. Its thrust is on cooption, building partnerships and collective responsibility. CHILDLINE has thus evolved into a partnership between civil society, non-governmental organizations, academia, multi-lateral and bilateral agencies, corporate sector with a prime role being played by the Government of India.

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**From Welfare to Right...**

**A shift in Approach**

**Juvenile Justice Act 2000**

**Implementation Manual**

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**Printing** :

**Copyrights** :

**Invitation Prize** :

## **Acknowledgement:**

The exercise of development of a manual on the implementing structures of JJ Act, 2000 has been one of the crucial projects of CHILDLINE, primarily for two reasons... Firstly The JJ Act system is the most important allied system in most of the CHILDLINE interventions, where our team members face many problems and they need an assistance on on-going basis. Secondly, the vast scope of the new act that has embraced every facet of 'Right to Protection' was challenging to capture in the form of manual. However with support of experts, friends and team of professionals we have made a sincere effort.

We would like to acknowledge the efforts made by Ms. Nilima Mehta and moreover the patience that she has shown in the process. We would also like to thank NISD for providing valuable information on the status of the act. The insights given by Dr. Armita Desai, Prof. Jaydev Mazumdar, and Prof. John Menachery added the value in entire exercise.

We would also like to thank design Bar for their design and Mr. Bhada for printing books...

Kajol Menon  
Executive Director  
CIF

## **About this manual:**

The Juvenile Justice Act, 1986 went through major amendment in the year 2000 and new act came into existence. The new act is not a mere paradigm shift in approach but has evolved a group of implementing bodies with certain empowering tools. Since many professionals/ practitioners of the development initiatives are not aware of these tools they face greater difficulty in availing the complete advantage of the provisions made in the act. We have gathered the feedback from various personnel involved in protecting rights of children on JJ Act 2000 and its implementation. Most of the professionals asked for a book that would give them not only the theoretical understanding on the act but also examples and specific steps that they can take on in different categories of cases. It was also a demand that the manual should be in a simple language that can be easily understandable for the people working in the grass root level.

This manual is an attempt to fulfil these demands. The manual narrates the synopsis of act, difference between the old act and the new act and role of various structures within. The relevant examples and illustrations simplifies it so that the book becomes an interesting tool:

## **How to use this manual:**

**After Designing...**

## **Introduction:**

The Juvenile Justice (Care and Protection of Children) Act 2000 came into effect in December 2000. This Act, which subsequently repealed the Juvenile Justice Act of 1986, is in many ways. This act is considered as the key legal framework that ensures the right to protection of children in India.

Historical Perspective & Salient Features of the act:

The Juvenile Justice system in India is based on the principle of promoting, protecting and safeguarding the rights of children. Recognising the vulnerability of children and the need for special and different treatment, it was in 1986 that for the first time, that a uniform Juvenile Justice Act (JJA) was enacted for the whole of India, when Parliament decided to replace the Children's Acts in various states and union territories. This Act incorporated the UN Standard Minimum Rules for administration of Juvenile Justice ('Beijing Rules') of 1985. It was enacted for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters related to and disposition of delinquent juveniles.

However, the history of the implementation of the JJA, 1986, is a history of hopes not realised and

promises not fulfilled. A review of the Act was undertaken to look into the lacunae as well as its non implementation. This process together with India's ratification of the UN Convention on the Rights of the Child (CRC) in 1992, the changing social attitudes towards criminality by children and the need for a more child- friendly juvenile justice system were some of the factors that led to the passing of the Juvenile Justice (Care and Protection of Children) Act 2000 (JJA 2000). This Act replaced the earlier Act of 1986.

The JJA, 2000 conforms to the UN Convention on the Rights of the Child, the 'Beijing Rules', and the United Rules for the Protection of Juveniles Deprived of their Liberty and all other relevant national and international instruments clearly defining a child as persons up to the age of 18 years. The Act is based on the provisions of the Indian Constitution and the UN CRC:

## Salient Features of the Act

- Enacted on 30th December 2000
- Notified on 22nd April 2001
- Central Rules Notified on 30th June 2001
- This Act repealed the Juvenile Justice Act ,1989

## Preamble – Key Areas of Reference

- Child friendly approach
- Best interest of children
- Proper care, protection, treatment and rehabilitation, reintegration.
- Constitution / Human Rights / CRC / Beijing Rules/ UN Rules for Protection of Juveniles

## An Overview of the Act

- Chapter I : Definitions – Articles 1 – 3
- Chapter II : Juvenile in Conflict with Law – Articles 4 – 28
- Chapter III : Child in Need of Care and Protection – Articles 29 – 39
- Chapter IV : Rehabilitation and Social Integration – Articles 40 – 45
- Chapter V : Miscellaneous – Articles 46 – 70

## A Comparative Overview of the Old and New Act

| The Juvenile Justice Act 1986<br>(Old)  | The Juvenile Justice (Care & Protection of Children) Act<br>2000 (New)  |
|---|---|
| <ul style="list-style-type: none"> <li>• Juvenile – Boy below 16 / Girl below 18</li> <li>• Juvenile Delinquents</li> <li>• Neglected children</li> <li>• Juvenile Court (JC)</li> <li>• Juvenile Welfare Board (JWB)</li> <li>• Juvenile Home</li> <li>• Observation Home (Reception of all children)</li> <li>• Special Home (JCL)</li> <li>• Place of safety (any place or institution)</li> <li>• After care organisations</li> <li>• Fit institution</li> <li>• Fit person</li> <li>• Juvenile Aid Police Unit (JAPU)</li> <li>• Advisory Board</li> </ul> | <ul style="list-style-type: none"> <li>• Juvenile / child – Below 18</li> <li>• Juveniles in conflict with law (JCL)</li> <li>• Children in need of care and protection (CNCP)</li> <li>• Juvenile Justice Board (JJB)</li> <li>• Child Welfare Committee (CWC)</li> <li>• Children’s Homes (For CNCP)</li> <li>• Observation Home (JCL)</li> <li>• Special Home (JCL)</li> <li>• Place of safety, shelter home / drop in shelter (any place or institution)</li> <li>• After care organisations</li> <li>• Fit institution</li> <li>• Fit person</li> <li>• Special Juvenile Police Unit (SJPU)</li> <li>• Advisory Board</li> </ul> |

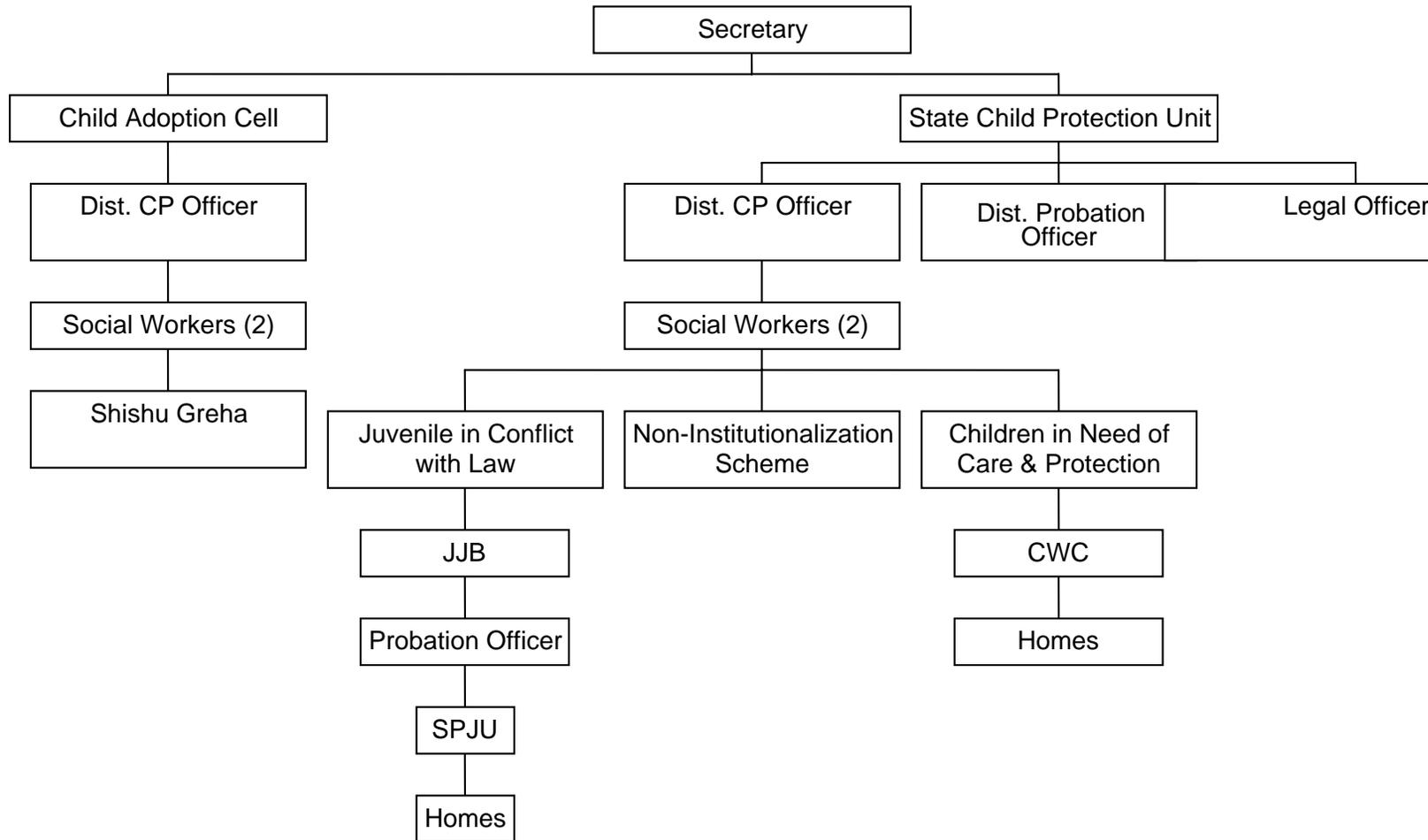
## For whom this Act is?

|  |                    |
|--|--------------------|
| <b>Title of the act</b>  |                    |
| 1. This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2000.  |                    |
| <b>Coverage of the act</b>   |                    |
| 2. It extends to the Whole of India except the State of Jammu and Kashmir  | Illustration/ Icon |
| <b>Enforcement of the act</b>  |                    |
| 3. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint   |                    |
| <b>Children for whom the act is meant for...</b>   |                    |
| "Juvenile" or "child" means a person who has not completed eighteenth year of age;   |                    |
| <b>Child in need of care and protection" means a child -</b>   |                    |
| a. Who is found without any home or settled place or abode and without any ostensible means of subsistence   | Illustration/ Icon |
| b. Who resides with a person (whether a guardian of the child or not and such persona. has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or 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 | Illustration/ Icon |
| c. Who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases having no one to support or look after  | Illustration/ Icon |
| d. Who has a parent or guardian and such parent or guardian is unfit incapacitated to exercise control over the child  | Illustration/ Icon |

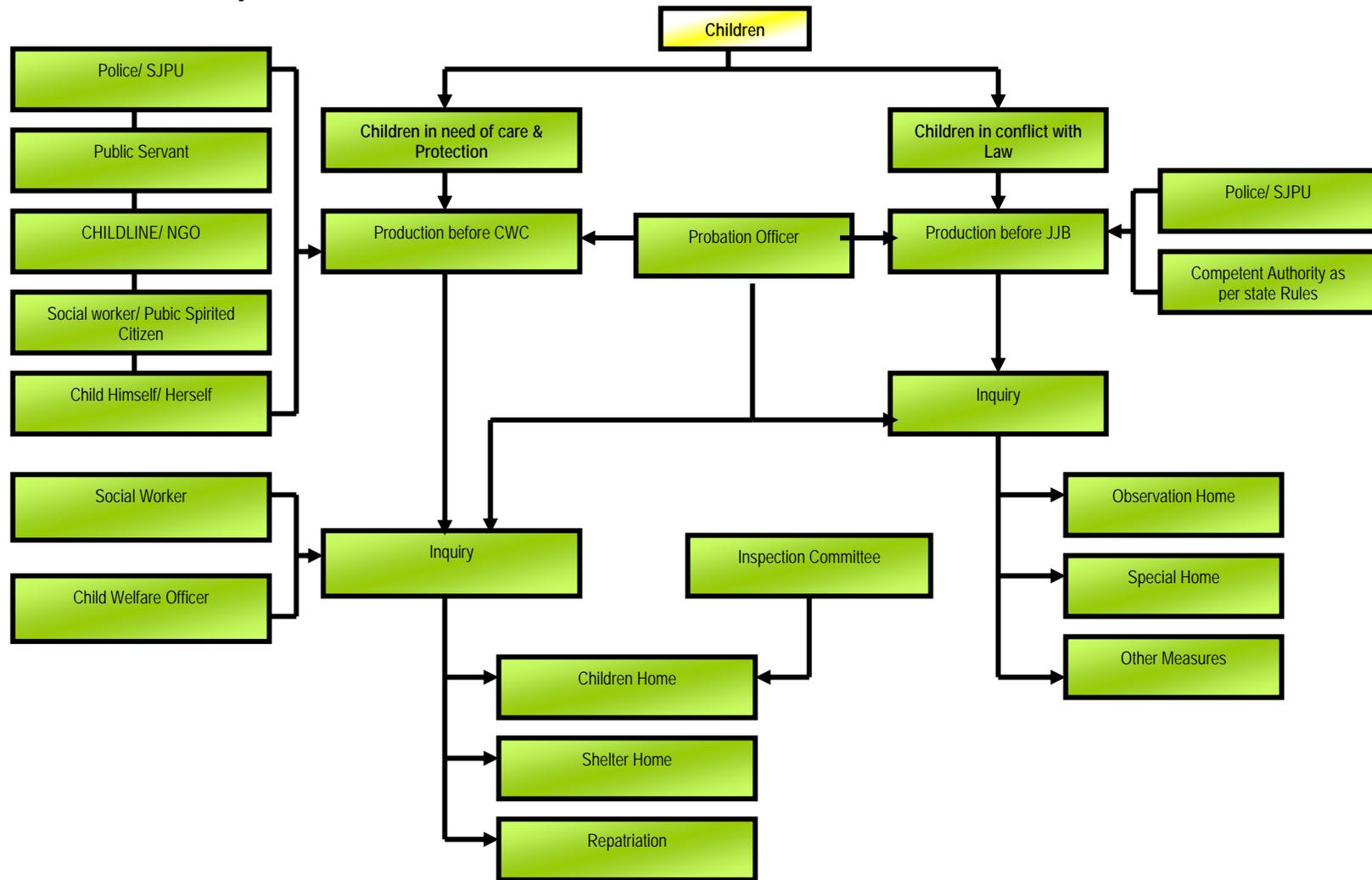
|   |                    |
|---|--------------------|
| e. Who does not have parent and no one is willing to take care of or whose parents have abandoned him or who is missing and run away child and whose parents cannot be found after reasonable inquiry | Illustration/ Icon |
| f. Who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts  | Illustration/ Icon |
| g. Who is found vulnerable and is likely to be inducted into drug abuse or trafficking  | Illustration/ Icon |
| h. Who is being or is likely to be abused for unconscionable gains  | Illustration/ Icon |
| i. Who is victim of any armed conflict, civil commotion or natural calamity   | Illustration/ Icon |
| <b>Juvenile in conflict with law</b>  |                    |
| "Juvenile in conflict with law" means a juvenile who is alleged to have committed an offence  | Illustration/ Icon |

# The Macro Level Operational Structure

## Under 'Integrated Child Protection Scheme'



# The Micro Level Operational Structure



## Important Notes before you act...

|   |             |
|---|-------------|
| <p>1. Understand the act, all the provisions made under it, and sections that are relevant to your case before taking any drastic action. If you do not have time consult someone who knows it.</p> | <p>Icon</p> |
| <p>2. What comes first is the 'Protection of the rights of child/children' involved in the case, after all we as citizens and state are responsible for this. (CRC)</p>                             | <p>Icon</p> |
| <p>3. Recognise the role of different stakeholders and facilitate them to play their role. Do not interfere or overrule the roles specified to other stakeholder</p>                                | <p>Icon</p> |
| <p>4. Review the operational structure in your area and do local level advocacy to ensure that the operational structure is set up and functional.</p>  | <p>Icon</p> |
| <p>5. Do consistent sanity checks on the understanding of different individuals involved in the JJ Act Operational Structure about CRC and JJ Act, 2000. Organise special programmes for this.</p>  | <p>Icon</p> |
| <p>6. Although this is an exclusive legal provision for children, it is not isolated from other legal provisions. Thus in some cases we may have to consult the legal experts</p>                   | <p>Icon</p> |
| <p>7. Apart from this manual you must be aware of special provisions made in the state rules of your respective state.</p>  | <p>Icon</p> |
| <p>8. This manual explains some of the bottlenecks with regard to implementation of the act. Take an appropriate action on suggested lines in your state.</p>                                       | <p>Icon</p> |

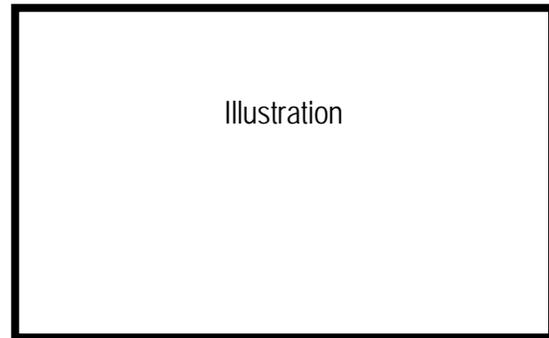


## State Juvenile Police Unit

### What law states?

#### Section 63

1. In order to enable the police officers who frequently or exclusively deal with juveniles or are primarily engaged in the prevention of juvenile crime or handling of the juveniles or children under this Act to perform their functions more effectively, they shall be specially instructed and trained.
2. In every police station at least one officer with aptitude and appropriate training and orientation may be designated as the 'juvenile or the child welfare officer' who will handle the juvenile or the child in co-ordination with the police.
3. Special juvenile police unit, of which all police officers designated as above, to handle juveniles or children will be members, may be created in every district and city to co-ordinate and to upgrade the police treatment of the juveniles and the children.



#### **The role of SJPU**

The Special Juvenile police Unit have a critical role to play in the cases of both categories of children, CNCP and JCL.

### **Role in the case of CNCP**

- When a child in need of care and protection is either referred by concern adult or the child has been located by police themselves, they may conduct the first level inquiry
- If the seating of CWC members is not possible immediately then send the child in children's home for interim stay.
- Develop the case report for CWC
- After initial inquiry child is to be produced before CWC

Case I: CNCP

### **Role in the case of JCL**

- Verify the age of Juvenile when it is difficult to judge from the physical appearance through medical test in the government hospital.
- Make preliminary investigation based on the virtual facts.
- Call parents/ guardians if they are living and known to child and readily available.
- Send the child in observation home for interim stay.
- Develop the case report and FIR for JJB
- Produce the child before JJB

### **You must:...**

- The state rules are formed and they contain the provision of formation of SJPU in every district with special officer at every police station.
- Verify that the SJPU is formed in every district with special officer at every police station.
- Get the list of all these police officers with their personal and official telephone numbers and keep the track of transfers and new entries.
- Understand and develop the record of trainings that these officers have attended on the JJ Act, 2000

Case I: JCL

### **Bottlenecks...**

- Non-appointment of SJPU.
- Transfers of Juvenile police officers.
- In-adequate training or no training on the provisions under new act.
- No provision of such unit in the sectoral polices forces such as Railway, Arm Force Police, Central Reserve Police and State Reserve Police.
- Non appointment of probation officers
- Inadequate resources for salaries and other expenses on travel, conveyance etc.

### **Other things that you can do...**

- Do local level advocacy on appointment of SJPU and probation officers
- Keep the track record of SJP who have been transferred, they can bring their knowledge of JJ in the scope of new responsibilities
- Be part of National Advocacy processes to introduce SJPU in other police forces
- Work out the state budget and recommend the resource pool from where the fund can be flown.
- Generate ideas on the theme of 'Child Friendly Police Stations', where children feel protected and not offended.

#### **Salient features:**

##### **1. Bail of Juvenile:**

A Juvenile:

- Must be released on bail irrespective of the offence
- May be released on bail with or without surety.
- May not be release on bail only if
  - \* release bring him into an association with a criminal
  - \* exposes juvenile to moral, physical or psychological danger
  - \* defeats the end of justice
- Not released on bail must be kept in the observation home/place of safety pending inquiry

##### **2. Inquiry:**

- The probation officer enables the officer-in-charge to obtain the preliminary information.

##### **3. The age:**

- The age at the time of offence is committed is considered for the trial. Which means if a child at the age of 17 commits a crime and his/ her trial begin at the age of 18, still the proceedings will follow under JJ Act, as the perpetrator was minor at the time of committing crime.

#### **Point for the debate**

- The act is silent on the procedures to be followed with juveniles who have been actively involved in the serious offences like terrorist or anti-national activity or rape.

## Probation officer

### What Law States?

#### Section 13:

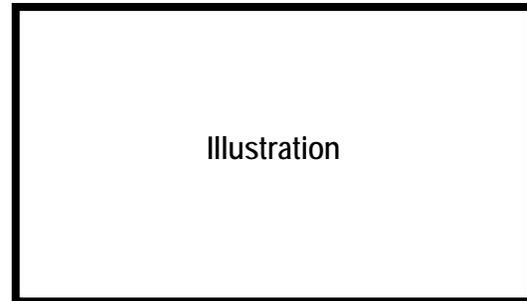
Information to parent, guardian or probation officer:-

Where a juvenile is arrested, the officer in charge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after the arrest, inform:-

- a. The parent or guardian of the juvenile, if he can be found, of such arrest and direct him to be present at the Board before which the juvenile will appear; and
- b. The **probation officer** of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.

#### Role of the probation officer

1. On receipt of information from officer-in-charge, the Special Juvenile Police Unit, the probation officer shall inquire into the antecedents and family history of child and such other material circumstances, as may be necessary and submit a



social investigation report (Form xi) as early as possible to board.

2. Every Probation officer shall carry out all directions given by a board / Committee or concerned authority and shall perform following duties
  - a. To make inquiries regarding the home and school conditions, conduct, character and health of juvenile/ child under their supervision
  - b. To attend regularly the proceedings of Juvenile Justice Board (JJB) or The Child Welfare Committee (CWC) and submits reports;
  - c. To maintain diary case file and such register as may be prescribed from time to time
  - d. To visit regularly the residence of juvenile / child under their supervision and also places of employment or school attended by such

children and to submit regularly reports (Form XII)

- e. To accompany children wherever possible; from the office of the board, to observation home, special home, children's home or fit person as the case may be.
  - f. To bring before the board/ committee, immediately children who have not been of good behaviour during the period of supervision
  - g. Follow up of children after their release from the organisation and extending help and guidance to them.
  - h. Establishing linkages with voluntary workers and organisations to facilitate the rehabilitation and social reintegration of children and to ensure the necessary follow up
  - i. Enquiring from each child under his/ her care as to whether his / her need of food and clothing are met as per standard
  - j. Enquiring from each child under his/ her care as to whether the cleanliness in the premises and maintenance of physical infrastructure including provisions of water and electricity have been complied with
  - k. Doing a social investigation of the child through personal interview and from the family, social agencies and other sources
  - l. Ensuring that the rights of child are protected and all procedures laid down in the rules are complied with
  - m. Facilitating the orientation, monitoring, education, vocational and rehabilitative programmes
  - n. Facilitating the pre-release programme and helping child to establish contacts, which can provide emotional and social support to the child after their release
  - o. To prepare follow up reports (Form XXI) about the juvenile who is released on licence
3. The probation officer shall not employ children under their supervision for their own purpose or take any private service from them.
  4. To augment the existing probation service, Probation Officers may be appointed from the voluntary organisation and social workers found fit for the purpose by the Competent

Authority. Similarly honorary and voluntary probation services may also be co-opted into implementation machinery by the orders of competent authority.

**You must:**

- Verify the status of deployment of Probation Officers.
- Develop the details record of their contact address and phone numbers
- Understand their knowledge about the act and their role
- Understand their background and number of trainings on JJ Act, they have attended

**Bottlenecks**

- Non deployment of probation officers
- Incompetent persons on charge as probation officers
- Inadequate resources
- Inadequate infrastructure
- Intensive work load

**Other things that you can do**

- Volunteer for the post of probation officer in your location in case of no person is holding the position
- Analyse the required resource allocation and the actual allocation for the state/ city
- Training of probation officers

Case: JCL

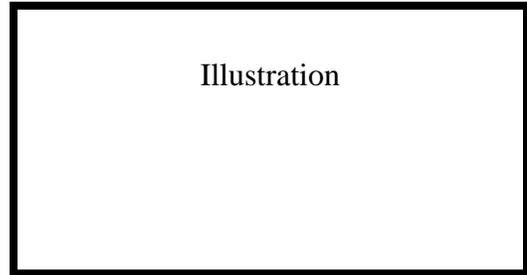
Case: CNCP (Follow up)

## Juvenile Justice Board (JJB)

### What law states?

#### Section 4

1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, by notification in the Official Gazette, constitute for a district or a group of districts specified in the notification, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this act.
2. A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974), on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class and the Magistrate on the Board shall be designated as the principal Magistrate.
3. No Magistrate shall be appointed as a member of the Board unless he has special knowledge or training in child psychology or child welfare and



- no social worker shall be appointed as a member of the Board unless he has been actively involved in health, education, or welfare activities pertaining to children for at least seven years.
4. The term of office of the members of the Board and the manner in which such member may resign shall be such as may be prescribed.
  5. The appointment of any member of the Board may be terminated after holding inquiry, by the State Government, if –
    - a. he has been found guilty of misuse of power vested under this act,
    - b. he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence, he fails to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

## **Role of JJB**

### **Section 14:- Inquiry by Board regarding juvenile**

When a juvenile is produced before the Board, it shall hold an inquiry, which has to be completed in within four months from the date it was started unless an extension is required in special circumstances which have to be recorded in writing.

### **Section 15 – Order that may be passed regarding juvenile**

The Board shall have to obtain the social investigation report on the juvenile either through a probation officer or a recognized voluntary organization and, after taking into account the findings, pass an order. When a Board is satisfied that a juvenile has committed an offence, it can pass the following orders:

Allow the juvenile to go home after advice or a warning and counselling.

Instruct the juvenile to participate in group counselling and similar activities.

Order the juvenile to perform community service.

Order the parent of the juvenile or the juvenile himself to pay a fine if he is above fourteen years of age and is earning money. In addition, if it is in the interest of the juvenile and the public, the Board may order that the juvenile remain under the supervision of a

probation officer for not more than three years.

Direct the release of the juvenile on probation of good behaviour and placed under the care of a parent, guardian, or other fit person after executing a bond with or without surety for any period not exceeding three years. If it is in the interest of the juvenile and the public, the Board may order that the juvenile remain under the supervision of a probation officer for not more than three years.

Direct the juvenile to be released on probation of good conduct to the care of a fit institution [Section 2 (h)] for any period not exceeding three years. If it is in the interest of the juvenile and the public, the Board may order that the juvenile remain under the supervision of a probation officer for not more than three years.

If at any time, the Probation Officer or other fit person report to the Board that the juvenile under their supervision has not been of good behaviour, or the fit institution is no longer able or willing to ensure good behaviour and well being of the juvenile placed in its care, the Board can order the juvenile to be sent to a special home.

Order the juvenile to be sent to a special home till he completes his eighteenth year of age. In case the juvenile is over seventeen years but less than eighteen,

he should be kept in the special home for at least two years.

### **Section 16 – Order that may not be passed against juvenile**

No juvenile in conflict with law shall be sentenced to death or life imprisonment, or imprisoned for not paying a fine or surety.

If a juvenile is sixteen years or older and the Board is of the opinion that the offence committed is of so serious a nature or that his behaviour is such that he cannot be sent to special home and none of the provisions in section 15 are suitable or sufficient, the Board may order such a juvenile to be kept in a place of safety and report this to the State Government who may provide for protective custody.

#### **You must:**

- Verify whether JJB is formed/ constituted in your location. If yes, gather information about members.
- Try to understand the experience of members related to JJ Act and the trainings that have been through
- Do local level advocacy on building capacity of JJ B members on the perspective CR and JJ Act, 2000
- If the JJB is not constituted follow up with the government and facilitate to constitute the board.

- Juvenile in conflict with law to be produced before JJB/a member of JJB when JJB not sitting
- JJB may act and pass orders in the absence of any member. At least two members including Magistrate to be present at time of final disposal of case
- Opinion of majority will prevail. In absence of majority, opinion of magistrate will prevail.

#### **Constitution of JJB**

- Appointed by the State Government to deal with matters relating to juveniles in conflict with law.
- Panel of Metropolitan Magistrate or Judicial Magistrate of the first class and two social workers of whom at least one shall be a woman.
- Magistrate to have special knowledge or training in child psychology or child welfare.

- Accompany, police/ probation officer while presenting a child before the board

#### **Bottlenecks:**

- Proper training is not given to the members of JJB
- Government authorities are confused about the authority that passes orders for forming the JJB, whether it is Secretary of WCD or High Court Judge?
- JJB is not aware of the functions of CWC

Things that you can do:

- Training of JJB members
- Working as a social worker in the JJB

## **Child Welfare Committee (CWC)**

### **What law states?**

#### Section 29

1. The State Government may, by notification in Official Gazette, constitute for every district or group of districts, specified in the notification, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.
2. The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.
3. The qualifications of the Chairperson and the members, and the tenure for which they may be appointed shall be such as may be prescribed.
4. The appointment of any member of the Committee may be terminated, after holding inquiry, by the State Government, if-
  - i. he has been found guilty of misuse of power vested under this Act;
  - ii. he has been convicted of an offence involving moral turpitude, and such conviction has not been

reversed or he has not been granted full pardon in respect of such offence;

- iii. He fails to attend the proceedings of the Committee for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.
5. The Committee shall function as a Bench of Magistrates and shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.

### **Role of CWC:**

#### Section 30

Procedure, etc., in relation to Committee:-

1. The Committee shall meet at such times and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.
2. A child in need of care and protection may be produced before an individual member for being placed in safe custody or otherwise when the Committee is not in session.
3. In the event of any difference of opinion among the members of the

Committee at the time of any interim decision, the opinion of the majority shall prevail but where there is no such majority the opinion of the Chairperson shall prevail.

4. Subject to the provisions of subsection (1), the Committee may act, notwithstanding the absence of any member of the Committee, and no order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding.

#### Section 31

##### Powers of Committee:-

1. The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.
2. Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings

under this Act relating to children in need of care and protection.

#### Section 32

##### Production before Committee:-

1. Any child in need of care and protection may be produced before the Committee by one of the following persons :-
  - i. any police officer or special juvenile police unit or a designated police officer;
  - ii. any public servant;
  - iii. CHILDLINE, a registered voluntary organisation or by such other voluntary organisation or an agency as may be recognised by the State Government;
  - iv. any social worker or a public spirited citizen authorised by the State Government; or
  - v. by the child himself.
2. The State Government may make rules consistent with this Act to provide for the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry.

### Section 33

#### **Inquiry:-**

1. On receipt of a report under section 32, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32, may pass an order to send the child to the children's home for speedy inquiry by a social worker or child welfare officer.
2. The inquiry under this section shall be completed within four months of the receipt of the order or within such shorter period as may be fixed by the Committee: Provided that the time for the submission of the inquiry report may be extended by such period as the Committee may, having regard to the circumstances and for the reasons recorded in writing, determine.
3. After the completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home

or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.

### Section 38

#### **Transfer:-**

1. If during the inquiry it is found that the child hails from the place outside the jurisdiction of the Committee, the Committee shall order the transfer of the Child to the competent authority having jurisdiction over the place of residence of the child.
2. Such juvenile or the child shall be escorted by the staff of the home in which he is lodged originally.
3. The State Government may make rules to provide for the travelling allowance to be paid to the child.

### Section 39

#### **Restoration:-**

1. Restoration of and protection to a child shall be the prime objective of any children's home or the shelter home.
2. The children's home or a shelter home, as the case may be, shall take such steps as are considered necessary for the restoration of and protection to a child deprived of his

family environment temporarily or permanently where such child is under the care and protection of a children's home or a shelter home, as the case may be.

3. The Committee shall have the powers to restore any child in need of care and protection to his parent, guardian, fit person or fit institution, as the case may be, and give them suitable directions. Explanation:- For the purposes of this section "restoration of child" means restoration to-
  - a. parents;
  - b. adopted parents;
  - c. Foster parents.

**You must:**

- Verify whether CWC is formed/ constituted in your location. If yes, gather information about members.
- Try to understand the experience of members related to JJ Act and the trainings that have been through
- Do local level advocacy on building capacity of CWC members on the perspective CR and JJ Act, 2000
- If the CWC is not constituted follow up with the government and facilitate to constitute the committee