

HAND BOOK FOR ACTIVISTS ON JUVENILE JUSTICE

HRLN

Human Rights Law Network

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Note: This book is designed to equip the reader with a basic knowledge of the juvenile Justice (Care and Protection of Children) Act, 2000, which would enable her/him to deal with practical encountered while dealing with the Juvenile Justice system. However, it does not have all the answers. Please note that there is no substitute for good legal advice and representation. If you have a complex legal problem, or are uncertain about how to handle a certain legal situation, kindly seek advice from a lawyer.

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THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2000

Preface

The Juvenile Justice (Care and Protection of Children) Act, 2000, is a welcome development within the legal system of India because it has adopted the international definition for "child" given in the Convention on the Rights of the Child, 1989. Under this Act, a child or juvenile has been defined as any person under the age of 18 years.

The Act creates mechanisms for dealing with two types of children

- a) Children who come into contact with the criminal justice system i.e. children who allegedly commit offences and
- b) Children who are victims of neglect and abuse, orphans, abandoned children etc.

A child-friendly mechanism has been created for children who are accused of committing offences. It is based on the philosophy that children are capable of being reformed, rehabilitated and reintegrated into mainstream society in an effective manner. Therefore, it has certain provisions which are very different from the provisions applied to adults within the criminal justice system.

Furthermore, under this Act, the State takes active responsibility in looking into the welfare of child victims of abuse and neglect by creating avenues for care, protection and rehabilitation of such children.

The Act incorporates the principle of "best interests of the child" and follows the paradigms of child development. It has brought about a great change in the way the law treats children.

This Handbook is aimed at providing a comprehensive understanding of the functioning of the juvenile justice system and the care-protection system created for children in India. Since the Juvenile Justice Act 2000 is a recent Act, lack of perspective, awareness and indifference has been a constant hurdle in the implementation of its provisions. This Handbook is an effort towards changing the ground reality and to meeting the minimum standards prescribed in the Act, by spreading awareness.

Things you need to know about the JJA

- It deals with two types of children - Juveniles in conflict with law and children in need of care and protection.
- It provides for mechanisms for care, protection and rehabilitation of such children.
- It adopts a child-friendly approach in dealing with matters involving children as victims or offenders.
- The principle of best interests of children should be adhered to in making decisions concerning children.
- The philosophy underlying the Act is that of rehabilitation of children.
- The Juvenile Justice Act, 1986 is replaced by this Act.
- Under this Act, State Governments have the power to make detailed rules for its implementation.

Abbreviations

1. JCL - Juvenile in conflict with law
2. CNCP - Child / Children in need of care and protection
3. CWC - Child Welfare Committee
4. CrPC - Code of Criminal Procedure, 1973
5. JJB - Juvenile Justice Board
6. SJPU - Special Juvenile Police Unit
7. PO- Probation Officer

Learning Some Legal Terms

Roznama - A Proceeding sheet in a concise form to reflect the proceeding taken in each case with the date of each proceeding. It should be a faithful history of case, have description of exhibits. and must be an original document.

Chargesheet - Also called the police report. It contains the F.I.R, statements of prosecution witnesses, confessions and statements recorded under S.16G and any other relevant documents. The CCL has a right to get a copy of the chargesheet before his enquiry commissions.

Warrant - Must be in writing. Must bear the name and designation of the person who is to execute it. Must give full name and description of the person to be arrested. Must state the offence charged. Must be signed by the presiding officers. It must be sealed.

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CHAPTER I

INSTITUTIONAL SET-UP

The Act has created the following institutions and structures for children:

A) Place of safety, B) Fit institution, C) Fit person, D) Child Care Homes E) Special Juvenile Police Unit F) Juvenile Justice Board G) Child Welfare Committee H) Child Protection Unit

A) Child Care Homes

The Act has different types of homes for JCL and CNCP, which are as follows:

Observation Homes

What is an Observation Home?

Homes established or certified by the State Government for temporary reception of JCL during pendency of inquiry by the JJB.

How are JCL placed in the Observation Homes?

JCL are classified according to their (a) age (i.e. 7-12 , 12-16, 16-18 etc), (b) physical and mental ability, (c) degree or seriousness of the offence and kept in separate dormitories.

Special Homes

What is a Special Home?

Homes established or certified by the State Government for reception and rehabilitation of juveniles who have been convicted of committing offences.

A JCL can be sent to the Special Home for a maximum period of three years.

Children's Homes

What is a Children's Home?

Homes established by the State Government for (a) reception of CNCP during pendency of inquiry by the CWC, and (b) their care, treatment, education, training, development and rehabilitation.

After-Care Organizations

What is an After-Care Organization?

In addition to Observation Homes, Special Homes and Children Homes, the State Governments have the option of setting up after-care organisations for rehabilitation of children after they have left the Children's Home / Special Home.

B) Place of safety

What is a place of safety

Any place or institution, which is not a police lock-up or jail, that can serve as a temporary shelter for a child.



Who identifies a place safety?

Place of safety for (a) JCL is identified by the JJB;

(b) CNCP is identified by CWC.

C) Fit institution

What is a 'fit institution'?

A governmental/non-governmental organization, which is prepared to own responsibility of a child and found fit to do so by the competent authority.

Who declares an institution as 'fit'?

'Fit institutions' for (a) JCL are identified by the JJB

(b) CNCP are identified by the CWC.

D) Fit persons

Who is a 'fit person'?

Any person being a social worker or other person prepared to own responsibility of a child and found fit to do so by the competent authority.

Who can declare persons as 'fit'?

Fit persons for JCL are identified by JJB.

Fit persons for CNCP are identified by CWC.

Procedure when YOU want to be appointed as 'fit person'/ 'fit institution'

- Make an application to the concerned authority, specifying the following:
- Background and credentials of person/ organization and provide brochure etc.
- In what capacity the Applicant has interacted with the child or how the child's case was referred to the Applicant
- Whether the child is agreeable to being in the custody of the Applicant
- Why the Applicant wants to be appointed as a fit person / institution and how it benefits the child
- For how long the Applicant wants to act as fit person/ institution

See Sample Applications for JCL and CNCP children

Transparency in functioning of child-care homes

- a) Inspection Committees are appointed by State Government to visit Children's Homes. Inspection Committees include representatives of the State Government, local authority, CWC, voluntary organisations, medical experts and social workers.
- b) Social Audits are conducted through persons and Institutions specified by Central or State Governments to monitor and evaluate the functioning of Children's Homes.
- c) Central and State Advisory Boards are to be constituted by respective Governments to advise Governments on matters relating to establishment of Homes, providing facilities for education, training and rehabilitation of JCL/ CNCP. Eminent social workers, representatives of voluntary organisations, professionals, etc. to be included in the Advisory Board.

E) Special Juvenile Police Unit [SJPU] and Role of the Police

- There should be a SJPU in every district/city for children.
- Every member of the SJPU should be specially instructed and trained.
- Every police station to have a ' Child Welfare Officer' who is trained and oriented to handle juveniles. The 'Child Welfare Officer' will be a part of SJPU.
- SJPU to produce a CNCP before CWC, and submit a report before CWC.
- SJPU to inform parent / guardian as soon as possible that juvenile has been arrested for alleged commission of an offence.
- SJPU to inform PO about arrest of JCL to enable Probation Officer to collect information to assist JJB.SJPU to produce JCL before JJB.
- The SJPU should also inform the parents/guardian of the JCL and direct them to remain present before the JJB.



F) Juvenile Justice Boards [JJB]

Constitution of the JJB

- JJBs are constituted by the State Government to deal with matters relating to JCL.
- One JJB shall be constituted for every district.
- A JJB comprises of a panel of Metropolitan Magistrate / Judicial Magistrate of First Class and two social workers. At least one of the social workers should be a woman.
- Appointment of member of JJB may be terminated on grounds of -



1. misuse of power,
 2. conviction for offence involving moral turpitude,
 3. failure to attend Board proceedings for 3 consecutive months / for less than three-fourths of the annual sittings of the Board.
- The Magistrate should have special knowledge/ training in child psychology/ child welfare.
 - The social workers should have been actively involved in health, education and welfare activities pertaining to children for 7 years or more.

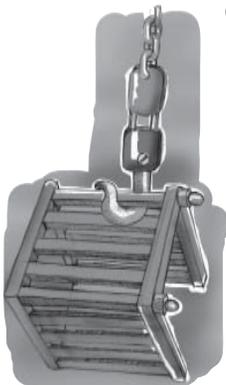
Functioning of the JJB

- The JJB should sit within the premises of the Observation Home.
- Proceedings of the JJB should be child friendly:
- The Principal Magistrate of the JJB should not be in uniform.
- The lawyers appearing before the JJB should not wear gowns, blazers or bands.
- There is no witness box or accused box.
- If there is a difference of opinion among the members of the JJB at the time of any interim decision, the opinion of the majority shall prevail.

- If there is no such majority, then the opinion of the Principal Magistrate shall prevail.

- The JJB may act in the absence of any member of the JJB.

- No order made by the JJB shall be invalid by reason only of the absence of any member during any stage of the proceeding.



- At the stage of final disposal of the case i.e. when the judgment is being passed, atleast two members including the Principal Magistrate should be present.

G) Child Welfare Committee [CWC]

- It is appointed by State Government to deal with matters relating to CNCP.
- It consists of 5 members including a Chairperson, one of whom should be a woman, & another an expert on issues pertaining to children.
- Appointment of Members to be terminated on grounds of
 1. misuse of power
 2. conviction for offence involving moral turpitude
 3. failure to attend Committee proceedings for 3 consecutive months/for less than three-fourth of the annual sittings of the Committee.

Functioning of the CWC

- As far as possible, the CWC shall hold its sitting in the premises of the Children's Home.
- When the CWC is not in session, a CNCP may be produced before an individual CWC member at his/her residence.
- If there is a difference of opinion among the members of the CWC at the time of any interim decision, the opinion of the majority shall prevail.
- If there is no such majority, then the opinion of the Chairperson shall prevail.
- The CWC may act even in the absence of any member of the CWC.
- No order made by the CWC shall be invalid by reason only of the absence of any member during any



stage of the proceeding.

- All members of the CWC are to be provided with an identity card by the State government.
- The CWC shall function as a Bench of Magistrates and shall have the powers conferred by the CrPC on a Metropolitan Magistrate or a Judicial Magistrate of the First Class.
- The CWC is vested with the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children.
- The CWC has to provide for the basic needs of children and the protection of their human rights.



H) Child Protection Unit (CPU)

State Government shall constitute a child protection unit in every district for children in need of care and protection and children in conflict with the law and also for the establishment and maintenance of homes.



CHAPTER 2



CHAPTER 2

JUVENILES IN CONFLICT WITH LAW

Frequently used short-forms:

- JCL - Juvenile in conflict with law
- JJB - Juvenile Justice Board
- PO - Probation Officer
- SJPU - Special Juvenile Police Unit
- CrPC - Criminal Procedure Code

Narrative: I was arrested by the police. They took me to some place with a lot of other children and before some Judge. Where have I come? Why do they call me "JCL"?

Who is a 'juvenile in conflict with law' [JCL]?

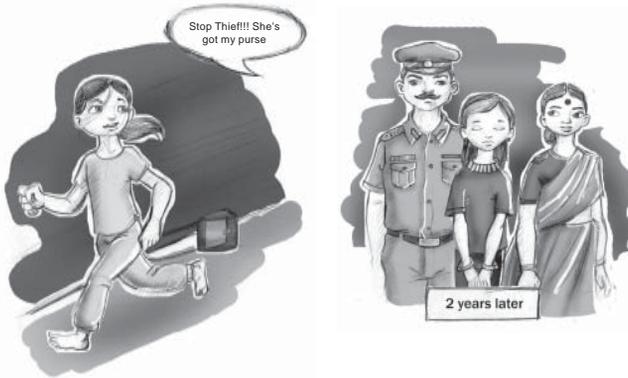
A JCL is a person who is alleged to have committed an offence when she was below the age of 18 years at the time of the commission of the offence. The term "accused" or "delinquent juvenile" is not used for juvenile in conflict with the law.



Examples

Sheela was arrested in 2005, when she was 19 years old, in relation to a theft committed in 2003. Sheela's age when she allegedly committed the offence was 17 years. Therefore, she is a JCL under the Act because she was below the age of 18 at the time of the commission of the alleged offence.

Vikram was arrested in November 2005, when he was 17 years old. He turned 18 in December 2005, when the inquiry against him was still pending. He continues to remain a JCL under the Act.



Procedure In Relation To Juveniles In Conflict With The Law [JCL]

Narrative: Are there any "minimum standards" that the police should adhere to, when dealing with juveniles like me, who are in conflict with law?

What you should know about arrest and production of JCL:

- Where the arrested person appears to be below 18, then she should be dealt with as a JCL. She cannot be dealt with as an adult.
- When ever a claim of juvenility is raised before any court, the court should inquire as to the age of the person.

- A plea of juvenility can be raised at any stage.
- The JCL is placed under the charge of the Special Juvenile Police Unit, or the designated Police Officer.
- No girl juvenile can be taken into custody by the police between sunset and sunrise, unless circumstances require it.
- A girl juvenile can be searched only by female staff.
- A JCL should not be handcuffed, or tied with ropes or chains.
- A JCL cannot be kept in the police lock-up under any circumstances.
- A JCL has the right to tell someone of her choice that she has been arrested. The police should inform the JCL that she has this right and ensure that the facilities for communication are provided.
- A JCL should be brought by the concerned Police Officer, to the Juvenile Justice Board [JJB] within a period of twenty-four hours of taking charge of such juvenile. When calculating the 24 hours, the period required for journey will be excluded.
- The police should also inform the parents/guardian of the JCL and tell them to be present before the JJB when the JCL is being produced.
- When produced before the JJB, the JJB will send the JCL to the Observation Home .
- Where the JJB is not sitting, the JCL



JCL should be placed under SJPU



A female juvenile cannot be taken into custody between sunset and sunrise



A female juvenile can only be searched by female staff



A juvenile should not be handcuffed or tied with ropes or chains.



A juvenile can call up any person or their choice.



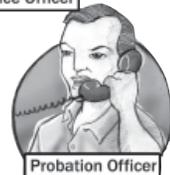
A juvenile shall be produced by the concerned police office to the JJB within 24 hours



The SJPU shall inform the parents/guardians of the juvenile

should be admitted into the Observation Home immediately. The JCL cannot be detained in police lock up or jail.

- In the Observation Home, a Probation Officer [PO] or representative from a recognized voluntary organization is assigned to the JCL.



- The PO/representative from the recognized voluntary organization will interact with the JCL in a child-friendly manner to obtain information about the history and family background of the JCL.
- The JCL, who is sent to the Observation Home, should be produced before the JJB at least once in every fifteen days (holidays are also included).

For example, if the JCL is produced before the JJB on 1.12.2008, she/he should mandatorily be produced before the JJB, on or before 16.12.2008.

- The JCL will continue to stay in the Observation Home until the case is completed. She may be released from the Observation Home on bail.

Have you received information that your child has been arrested? Remember to carry the following documents with you (if you have them).

- a) Birth certificate
- b) School or college certificate
- c) Any other document showing age of your child
- d) Any recent photograph with you and your child
- e) Ration card

Extract from NHRC Guidelines regarding Arrest, 1999:

- Where juveniles are sought to be arrested, no force or beatings should be administered under any circumstances. Police Officers, may for this purpose, associate respectable citizens so that the juveniles are not terrorised and minimal coercion is used.
- Where the arrest is without a warrant, the person arrested has to be immediately informed of the grounds of arrest in a language which she understands. Again, for this purpose, the police, if necessary may take the help of respectable citizens. These grounds must have already been recorded in writing in police records. The person arrested should be shown the written reasons as well and also given a copy on demand.
- The arrested person can, on a request made by her, demand that a friend, relative or other person known to him be informed of the fact of his arrest and the place of his detention. The police should record in a register the name of the person so informed.

What should you do if a JCL is produced before a Court other than the JJB?

- If the JCL is produced before a Magistrate/ Sessions Court instead of the JJB, she should immediately mention that she was under the age of 18 on the date of offence.
- The Judge will order for an inquiry into the age of such



person.

- If documentary evidence of age such as a birth certificate or school leaving certificate is produced by the person (i.e. through her parents or guardians), the Judge can decide whether she is a juvenile on the basis of such documents.
- Where no documents are produced to prove the age of



person who has been arrested, the Judge will order the age verification test/ ossification test of the person in order to determine his age.

- Based on the report of the age verification test, if the Judge decides that the person is a juvenile, then she will order that:
 - ◆ The JCL be produced before the JJB and
 - ◆ The JCL be kept in the Observation Home and not in jail.
- When an ossification test is conducted, the Judge should construe the results in favour of the child and a technical approach should not be used.¹ For example, if the ossification test results indicate that the child is within the 17-19 age group, the Judge should construe it liberally and order that the person apprehended is a juvenile.

1. *Rajinder Chandra vs. State of Chattisgarh AIR2002SC748*

Are you an activist working with prisoners? If you suspect that a prisoner is a JCL, this is what you can do:

- c) Inquire with the person/family/authorities about her age.
- d) If there are documents that prove the age of the person, then make an application under section 7 read with section 49 of the Juvenile Justice (Care and Protection) Act, 2000 asking that the case be transferred to the Juvenile Justice Board and that the juvenile be kept in the Observation Home. This application should be presented to the Magistrate Judge before whom the juvenile is produced.
- e) If there are no documents to prove the age of the person, then make an application under section 7 read with section 49 of the Juvenile Justice (Care and Protection) Act, 2000, claiming that the arrested person is a juvenile and asking for an age verification test to be conducted. This application should be presented to the Magistrate Judge before whom the person is produced.

See sample application for Transfer

If the age verification test result shows 18-19 years, can the Judge order that the arrested person is an adult?

No. The benefit of doubt should be given to the child. You can make an application to the Judge citing Rajinder Chandra's Case and ask that the person be declared as a JCL.

What can you do if a child has been tortured or ill-treated in police custody or in the Observation Home?

- When the child is produced before the Magistrate or JJB, clearly mention that she has been ill-treated or tortured.
- Also, give a written application stating that there has been ill-treatment/torture and ask for:
 - ◆ A medical examination to be conducted immediately.
 - ◆ An FIR to be registered against the perpetrators.
- If the application before the JJB does not yield any results, produce the child before the CWC* as a "child in

need of care and protection^{***} and make an application stating that the child has been ill-treated or tortured and ask for:

- ◆ A medical examination to be conducted immediately
- ◆ The child's statement to be recorded and
- ◆ An FIR to be registered against the perpetrators.
- File a writ petition in the concerned High Court for compensation from the State Government.
- Also send a written complaint to the State Human Rights Commission (if constituted) or the National Human Rights Commission.

Narrative: Can I go out of the Observation Home and stay with my family when the case is still pending?



Bail

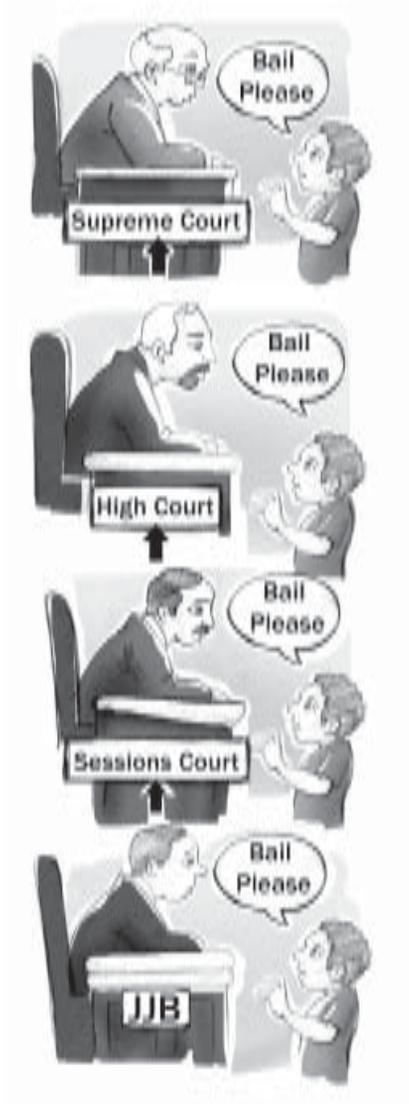
- Bail is the guarantee given for the regular appearance of the JCL before the JJB if released.
- Every JCL has a right to bail irrespective of the nature of the offence.
- The parent/guardian or relative of the JCL may apply for bail on behalf of the JCL. **See sample application for Bail**
- A JCL may be released on bail:
 - ◆ On personal recognizance bond- the guardian of the JCL has to sign a bond that she will produce the JCL before the JJB as and when required. and/or
 - ◆ Cash bail - where the parent/guardian has to pay the

amount ordered by the JJB. The amount paid will be returned after the case is over. and/or

- ◆ Surety - where any person known to the guardian of the JCL can stand as guarantee for the presence of the JCL as and when required by the JJB. The person has to sign a bond for an amount specified by the JJB. This amount will have to be paid to the court only if the JCL absconds.
- A JCL can be refused bail only when there are "reasonable grounds for believing" that the release is likely to
 - a. bring her into association with any known criminal. For example, if the JCL has been involved in gangs and there is a possibility of being involved in such gangs after her release.
 - b. expose her to moral, physical or psychological danger. For example, if the JCL is a drug addict and there is a possibility that the JCL will get into drugs again after her release.
 - c. defeat the ends of justice. For example, threatening of witnesses or tampering with evidence.
- Bail cannot be refused on any other ground other than the grounds mentioned above. For example, bail cannot be refused based on the gravity of the offence like murder, rape etc.
- Conditions may be imposed when bail is granted. For example, that the JCL should report to the PO every Tuesday for two months from the date of release.
- If bail is refused by the JJB, the JCL may approach the Sessions Court for bail by filing an appeal.
- If bail is refused by the Sessions Court, the JCL may approach the High Court by filing a revision application against the Sessions Court order.
- If bail is refused by the High Court, the JCL may approach the Supreme Court for bail by filing a Special Leave Petition against the High Court order.

- If the JCL does not get bail, she must remain in the Observation Home, and will be produced before the JJB, atleast once every fifteen days until the case is over.

Information for the parent/guardian of JCL:



- In practice, the JJB usually refers to the PO's report before granting bail. Therefore, the PO's report is very important.
- It is advisable for the parent/guardian of the JCL to meet the Probation Officer assigned to the JCL and show her the following documents (whichever are available) in order to get a positive report from the Probation Officer - ration card, birth certificate of the JCL / school certificate of the JCL, family photograph of parent/guardian and JCL.

Documents required for cash bail:

- Proof of identity of parent/guardian and permanent residence of parent / guardian - ration card, PAN card/tax receipts, voter's identity card.
- Where the child's name is not mentioned in the ration card, proof of relationship with child i.e. birth certificate, school certificate. Where birth certificate and school certificate is not available, a family photo of the child and parent may be submitted along with an affidavit.

Documents required for bail on surety:

- Proof of identity and permanent residence of guardian as mentioned above is required.
- Documents to be produced by person providing surety:
 - ◆ Proof of permanent residence i.e. documents relating to residence - ration card, electricity bills, property tax receipts etc.
 - ◆ Proof of income i.e. pay slip, bank balance statement. The bank balance statement should be greater than the surety amount.

Procedure where parent/guardian has no documentary proof of permanent residence and no proof of relation to the child:

- An affidavit to be submitted by the parent/guardian regarding the relation between the guardian and child and

confirming permanent residence of the guardian/parent.

See sample Affidavit for proof of relation to JCL

What happens after the JCL is released on bail?

- Even after being released on bail, the JCL will have to appear before the JJB regularly, on the dates specified for this purpose. The dates will be specified in Court, when the JCL is produced.
- Where bail is granted before chargesheet is filed, no date for appearance will be given. After the chargesheet is filed, summons will be issued to the JCL, asking her to appear before the JJB on a specified date.
- Where bail is granted after the chargesheet is filed, a date will be given for the next appearance before the JJB. The JCL along with guardian or surety will have to appear on that date.
- If the JCL is not feeling well or has gone to her/his village or native place, and cannot appear before the JJB on the said date, then she should file an application before the JJB on that date, asking permission of the JJB to be exempted from appearing on that date. This is called an "exemption application". This application can be given by the parent/guardian or advocate of the JCL.

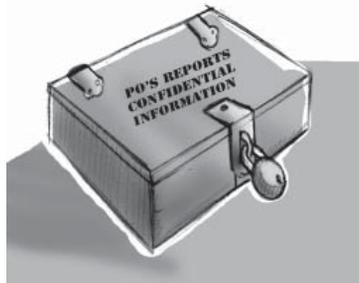
For example, if the JCL was released on bail on 20.1.08 and the next date for appearance is 23.2.2008. From 22.2.2008, the JCL has high fever and cannot appear before the JJB. Then on 23.2.2008, the parent/guardian/advocate of the JCL should submit an application before the saying that the JCL has fever and is unable to attend the day's proceedings. **See sample application for Exemption.**

- Where no exemption application is filed and the JCL does not present herself before the JJB on the said date, a bailable warrant of arrest will be issued against her.
- If the JCL still does not present herself before the JJB, then a non-bailable warrant will be issued against her.
- In order to ensure that the JCL is not arrested and taken

into custody again, the JCL should ensure that she appears before the JJB and immediately cancels the warrant. An application has to be filed for cancellation of warrant before the JJB.

See sample application for cancellation of Warrant

Narrative: My Probation Officer interviewed me at length today. She said it was for a report. What report is this? Can everyone read it?



The PO's Social Investigation Report

- During the course of the case, the JJB will order the PO to find out about the character and social background of the JCL.
- The PO will speak to the JCL and JCL's parents/guardians if any. The PO can take the opinion of professionals or experts. The PO will then prepare a report, which is called the "Social Investigation Report." This report is submitted to the JJB.
- The report of the PO about the JCL is confidential and only the JJB can read it.
- The JJB may also call for the report of professionals/experts, or ask the parents to provide documents like birth certificates, school-leaving certificate etc.
- In some cases, instead of the PO, the JJB may assign a voluntary organization to the child to carry out the tasks of the PO.

Narrative: I was given some papers today. I heard the police say that it was my chargesheet? What is it? How long will this case continue?

Inquiry by the JJB

- The inquiry before the JJB will start when the chargesheet is filed. Till the chargesheet is filed, the case is said to be in the "remand stage." During the remand stage, the JCL will be kept in the Observation Home if she is not released on bail. The term trial is not used with respect to JCLs and the term 'inquiry' is used. But an inquiry is similar to a trial.



- The chargesheet should be filed by the concerned Police within a period of 60 days or 90 days from the date of arrest, depending on the type of offence.
- JCL should receive a copy of the chargesheet filed in the matter against her. If the JCL is not given a copy of the chargesheet, this should be mentioned to the JJB.
- A JCL can be tried for an offence only by the JJB.
- A JCL cannot be tried for an offence along with a person who is not a JCL.
- The inquiry must be completed within four months from the date the chargesheet is filed. This period may be extended by the JJB for certain reasons. In such cases, the JJB must record reasons in writing for such extension.²

2. Section 14, JJ Act 2000

- The JJB must follow the procedure prescribed for the trial of summons cases in the Code of Criminal Procedure.³
- The plea of the JCL is recorded by the JJB.
 - ◆ If the JCL pleads not guilty, then the witnesses will be called and evidence will be recorded, and the case will proceed accordingly.
 - ◆ If the JCL pleads guilty, then the JJB will pass an order to ensure that she is rehabilitated in the appropriate manner.
- Where a JCL pleads not guilty, and the chargesheet shows that there is absolutely no evidence against the JCL, then an application for discharge may be made under section 258 of the CrPC before the inquiry commences against the JCL. If the application is accepted, then the Judge will discharge the JCL and the JCL will be released.

Can any action be initiated if the inquiry is not completed within the four month period?

- Examine whether four months from the date of filing of chargesheet have elapsed
- Examine whether any reasons have been recorded in writing for extending the period of inquiry.
- If no reasons have been recorded and the four month period has been exceeded, then:
 - ◆ Make an application to obtain a certified copy of the roznama in the case.
 - ◆ Make an application before the High Court under section 482 of the CrPC to quash the proceedings before the JJB.

When the JJB finds that the JCL has committed an offence, the following orders may be passed by the JJB

- JCL and her parents/guardian to be counseled, and JCL to be advised; warned and released;

3. Section 54, JJ Act 2000

- JCL to participate in group counseling and similar activities;
- JCL to perform community service;
- Parent of JCL/JCL himself to pay fine, if JCL is above 14 years of age and earns money;
- JCL to be released on probation of good conduct, and placed under care of parent/guardian or other fit person or fit institution;
- JCL can be sent to a special Home for a maximum period of 3 years until she ceases to be a juvenile.
- The JCL will be kept in protective custody at the place of safety.
- JJB to remove records of conviction after expiry of period of appeal/ a reasonable period.

Orders that cannot be passed by JJB

- JCL cannot be sentenced to death / life imprisonment / committed to prison.
- JCL cannot be charged with / tried for offence with a person who is not a JCL.
- No disqualification to be suffered by a JCL who has committed an offence and has been dealt with under this Act.
- No proceedings to be instituted against a JCL under Chapter VIII of Cr.P.C., i.e. proceedings with regards to security for good behaviour, etc.

Confidentiality/Privacy

- The report of the Probation Officer about the JCL should be kept confidential.
- A newspaper, magazine or any other form of media cannot print the name, address, name of the school, or any other information about the JCL that would disclose his identity.
- Pictures of the JCL cannot be printed.

- The JJB can allow the printing of such information, if it is of the opinion that such disclosure is in the interest of the JCL.
- Punishment: If the information is printed without permission, a fine of upto Rs. 25,000 may be levied.

What action can be initiated when confidential information is published?

Make an application before the JJB under section 21, JJA asking that the said offender be made to pay a fine upto Rs. 25,000.

Appeals

- Any person aggrieved by any Order of the JJB can appeal to the Sessions Court.
- No appeal can be filed by the State where the JCL has been acquitted.
- If a JCL pleads guilty then an appeal can be filed only on the term of sentence imposed by the JJB.
- No appeal can be filed from any Order of the Sessions Court to the High Court.

Revisions

Where an appeal is rejected by the Sessions Court, the appellant can file a revision application against the Order passed by the Sessions Court in the High Court.

Some Myths and Facts about the JJB and its Procedures

1. **Myth:** The JJB is not a Court.

Fact: The JJB is a Court, which is presided over by a Metropolitan Magistrate [MM] or a Judicial Magistrate of First Class [JMFC]. It is different from regular criminal courts for adults because two social workers are also part of the JJB, and the Court is child-friendly.

2. **Myth:** Advocates have no role to play before the JJB.

Fact: The procedure followed by the JJB is that of a summons case trial under the CrPC, even though the term used is inquiry. An Assistant Public Prosecutor conducts

the case on behalf of the State. The JCL has a right to legal representation just as any other adult accused in a regular Court.

Note: Lawyers appearing on behalf of the JCL should be enrolled as advocates.

3. **Myth:** No vakalatnama needs to be filed by the Advocate to represent the JCL.

Fact: The Advocate appearing for the JCL before the JJB can do so only when a vakalatnama is filed. The parent/guardian of the child should sign the vakalatnama. Where a parent/guardian of the JCL cannot be traced, an application for legal aid can be made.

4. **Myth:** A JMFC or MM can discharge the functions of a JJB from the regular Court meant for adults.

Fact: A JCL can be tried only by the JJB. As per the JJA, the JJB should sit within the premises of an Observation Home. Two social workers are also required to sit along with the MM or JMFC. The entire atmosphere should be child-friendly where the Judge, police constables and advocates are dressed in civilian clothes and not in their respective gowns or uniforms.

5. **Myth:** The procedure followed by the JJB is ad hoc and no specific procedure is prescribed.

Fact: The proceedings of the JJB are governed by the procedures prescribed for summons cases under the CrPC. Since the procedure is that of a regular criminal trial, the Indian Evidence Act also applies.

6. **Myth:** Juveniles in conflict with law can be imprisoned / given the death penalty.

Fact: Juveniles in conflict with law cannot be imprisoned in jail or given the death penalty. The only orders that may be passed are listed under the section "Orders that may be passed by the JJB". Please refer to that section for more information on the same.

1. How to keep track of the case/ inquiry against the CCL?

- To keep track of the case, you will need the details mentioned below. These details will be available with the police escort who accompanies the JCL.
- Name of the police station under which the case falls
- The remand application number [RA number] or chargesheet number
- From the date of arrest, till the date the chargesheet is filed, the case is said to be in the "remand stage". During this stage, the case will be given a "remand application number" i.e. after the JCL is produced before the JJB for the first time, a "remand application number" known as R.A. Number will be given to the case. This will be done by the Court office. For example, 35/RA/08. This RA number will be valid only till the chargesheet is filed. After the chargesheet is filed, a separate chargesheet number will be given. For example, 76/JW/08. During the remand stage, the R.A. Number should be given for reference and after the chargesheet is filed, the chargesheet number should be given for reference.
- The date on which the JCL was first produced before the JJB.

2. How to find out the next date on which the JCL will be produced/ should appear before the JJB?

- i. Contact the concerned police escort from the concerned police station
- ii. Contact the probation officer of the JCL
- iii. Go to the court office and give them the following details of the case, they will help you find out the next date.
 - a. RA number (if chargesheet has not been filed) or chargesheet number
 - b. Name of the police station

c. Previous date on which the JCL was produced / was supposed to appear before the JJB.

3. After release on bail, if you don't know the date assigned to the JCL for her next appearance before the JJB, whom should you ask?

a) Where the chargesheet has not been filed.

In this case, after the chargesheet is filed, the police will send the JCL a notice informing her when she should appear before the JJB. This will be only after the chargesheet is filed.

If you are anxious to know when you have to appear, you can keep in touch with the police from the concerned police station and ask them whether the chargesheet has been filed and whether the next date has been notified.

b) Where the chargesheet has been filed.

The date would have been given when the JCL was last produced before the JJB.

4. How will you know whether the chargesheet has been filed?

Ask the police escort who accompanies the JCL to the JJB whether the chargesheet has been filed. If the chargesheet has been filed, a chargesheet number will be given. For example, 65/JW/08.

5. How long will it take for the chargesheet to be filed?

It will take about 60 to 90 days from the date of filing of the complaint (depending upon the nature of the offence) for the chargesheet to be filed.

6. If the chargesheet has not been filed even after 60 or 90 days, then what can you do?

If the JCL is still in the custody of the Observation Home, then you can make an application for bail. Bail is mandatory in such cases. You can also make a complaint before the JJB.

7. If the chargesheet is not filed even six months after the JCL has been arrested, then what can you do?

Make an application under section 167(5) of the CrPC asking that the investigation be stopped. In such cases, if the police can show that there are special reasons why the investigation could not be completed within six months, then the period for investigation may be extended by the JJB.

8. What should be done if the parent/guardian is not able to pay the bail amount?

Where the parent/guardian is unable to afford the amount, she may request for the reduction of bail amount. An application for reduction of bail can be given to the Sessions Court. In practice, however, an application for reduction of bail can be given to the JJB itself. If the parent/guardian still cannot avail of the bail, they can ask for the inquiry against the JCL to be expedited.

9. After the JCL goes out on bail, should she appear before the JJB?

Going out on bail does not imply that the case against the JCL is closed. Even after the JCL goes out on bail, she should appear in Court on every date that is assigned to her.

10. Will the JJB take action against the JCL if she does not appear before the JJB on a particular date?

Where the JCL does not appear before the JJB, and the parent/guardian does not appear and no exemption application is filed, a warrant of arrest will be issued against the JCL.

11. Can the warrant be cancelled?

Yes, the warrant of arrest can be cancelled by means of an application to the JJB.





CHAPTER 3

CHILDREN IN NEED OF CARE AND PROTECTION

- *Who is a 'child in need of care and protection' [CNCP]?*
 - ◆ who is found without any home and means of subsistence.



- ◆ who resides with a person (need not necessarily be the guardian) and such person
- has threatened to kill or injure the child.
- has killed, abused or neglected some other child.



- ◆ who is mentally or physically ill or suffering from incurable disease and has no one for support.

- ◆ whose parent / guardian is unfit to control the child.
- ◆ who does not have a parent and no one is willing to care for child.
- ◆ whose parents have abandoned the child or a runaway child whose parents cannot be traced.
- ◆ who is or is likely to be abused / tortured / exploited for sexual abuse or illegal acts.
- ◆ who is vulnerable and is likely to be inducted into drug abuse or trafficking,



- ◆ who is a victim of armed conflict/civil commotion/ natural calamity.

Procedure in relation to children in need of care and protection

- A child in need of care and protection may be produced before the CWC by any of the following persons;
 - ◆ any police officer or SJPU
 - ◆ any public servant
 - ◆ CHILDLINE, a registered voluntary organization or by such other voluntary organization as may be recognized by the State Government
 - ◆ by the child itself

- When any person or organization receives a CNCP, she should produce the child before the CWC with the report of the circumstances under which the child came to her notice.
- A child above the age of two years, should be produced before the CWC, within twenty four hours of such admission, excluding the journey time taken by the person or organization.
- For children under two years of age, the person or organization shall send a written report along with the photograph, within forty-eight hours of admission, excluding the journey time.
- A child may be produced before an individual member of the CWC at her residence or any other place when the CWC is not in session.
- Any decision taken by an individual member when the CWC is not in session, shall require ratification by the CWC in its next session.
- The final disposal of cases relating to children in need of care and protection shall take place from the office of the CWC, by the order of at least two members.
- A child shall not be kept in the police station and shall be taken to a place of safety till she is produced before the CWC, such as a recognized drop-in center or a shelter home or to a children's home in that jurisdiction.
- Every possible effort shall be made to trace and associate the child with its family. Assistance of recognized voluntary organizations or CHILDLINE may be taken.
- The child shall be escorted by the police officer or representative of the voluntary organization or by any other arrangement as considered appropriate by the CWC.



- A list of the names and addresses of all recognized children's homes along with its capacity and appropriate facilities shall be listed with the CWC.
- If a child is placed under the care of a parent or guardian or fit person, the parent or guardian or fit person must enter into a bond with or without sureties.
- The child shall be lodged in a home closest to where she belongs.
- The CWC shall conduct the proceedings in an informal way.
- The CWC can refuse temporary custody of the child to parents for reasons to be recorded in writing, if the release is likely to be against the best interest of the child.



Inquiry by the CWC

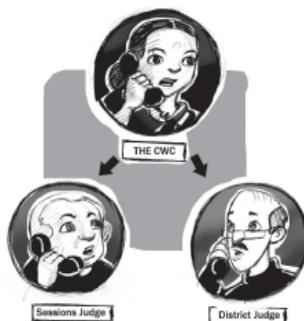
- When a child is brought before the CWC, it shall assign the case to a social worker, case worker, child welfare officer, officer-in-charge or a Probation Officer of the home or any recognized agency.



- The CWC shall direct the concerned person or organization about the details or particulars to be enquired into for suitable rehabilitation of the child.
- In absence of any proof of age or any dispute with regard to the age of the child, the CWC may order for a medical

examination to ascertain the age of the child.

- The police officer or social worker has to submit a written statement to the CWC regarding the following;
 - ◆ that the child was not kept in a police lock up or jail and was placed in a place of safety.
 - ◆ that the child has been produced before the CWC within a period of 24 hours.
 - ◆ that the child was not ill treated or harassed in the place of custody.
 - ◆ any other details if known.
- Inquiry should be completed within four months unless special circumstances warrant an extension in which case the inquiring officer must submit a written request for extension.
- The CWC shall make arrangements to send the child to the designated place of safety during the pendency of inquiry.
- The CWC must carry out an annual review of the progress of the child sent to another home by the CWC.
- If the CWC on the basis of the report of the Medical Officer or Probation Officer concludes that the child has been abused, then the CWC shall issue summons to the concerned persons to be present on the dates specified in that behalf.
- If the CWC on an inquiry arrives at a conclusion or if they find prima facie evidence which confirms that the child was abused physically or sexually, then they should communicate the same to the District and Sessions Judge for further proceedings.
- In cases of abuse, the child must be sent for trauma counseling.





- If a child voluntarily admits herself, the CWC must obtain a written declaration from the child.

Transfer of Children

- If during the inquiry it is found that the child comes from a place outside the jurisdiction of the CWC, the CWC shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child.⁴
- The child shall be escorted by the staff of the home in which she is lodged originally.
- No female child shall be escorted by a male staff alone.
- The expenditure for maintenance or transportation of the children will be fixed by the government from time to time.
- A child who is a foreign national must be repatriated.
- In the case of a child who is to be sent back to her ordinary place of residence, the CWC must inform the parent or guardian of the child and ask them to come before the CWC on a specified date.
- If the parent/guardian fails to come on the specified date, the child will be taken to her ordinary place of residence



4. Section 57 of the JJ Act 2000

by the escort of the concerned home.

Transfer of Child to Other Institutions

- The juvenile or child in an institution may be transferred to another institution by the competent authority.
- The Superintendent should make the proposal of transfer with a proper justification.
- The child can also make the request for transfer directly.
- The transfer must be in the interest of the child for e.g. for further education, special training, change of environment on health grounds, to bring the child nearer to her family or any other reason in the interest of the child.
- The transfer of children will be given effect by a travel document issued by the Officer-in-charge of the institution.

Common Procedures Before Jjb And Cwc

- The competent authority before which a child is produced can ask the parent or guardian of the child to be present at any proceeding regarding the child.
- During any stage of the proceedings, if the competent authority feels that it is not essential for the child to attend the proceedings, they can dispense with the attendance of the child.
- If a child is suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the child may be sent to an approved place recognized by this Act.
- If a child is suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis or is of unsound mind, the child may be dealt with through specialized referral services.
- If a child is suffering from leprosy or is of unsound mind or is addicted to a narcotic drug, the child may be sent to a leper asylum or mental hospital or treatment center or to a place of safety and may be kept there for a period not exceeding the period for which she is required to be kept

as certified by a medical officer.

- Leave of absence may be granted to a child for a period of seven days for special occasions like examination, marriage of relatives, death of kin, accident or serious illness of parents. The seven days will exclude the time taken in journey.
- If the child does not return after the seven days or runs away, she can be taken charge of and brought back to the home.

Rehabilitation And Social Integration

The rehabilitation and social integration of a child shall begin during the stay of the child in a children's home or special home. There are three methods of carrying out the same, which are as follows:

Adoption

Foster Care

After-care organizations

A) Adoption

1. Adoption is the preferred method of rehabilitation for children who are orphaned, abandoned, neglected and abused through institutional or non-institutional methods.
2. The CWC can declare a child fit for adoption investigations, in accordance with the guidelines issued by the State Government and the Central Adoption Resource Agency (CARA).

The State Government shall recognize Children's Homes or State run Government Homes for orphans, as adoption agencies both for scrutiny and placement of such children for adoption.

3. In case of inter-country adoption, the procedure laid down by CARA shall apply.

The scrutiny for adoption shall be done independently by Children's Homes or State run Government Homes for orphans since these are recognized as scrutinizing agencies.

The scrutinizing agency shall examine all available information before recommending adoption of a child to the CWC.

Any child eligible for adoption and living in an unrecognized home shall be transferred to a recognized home.

Who can be adopted?

- A child born in or out of wedlock, whose parents/ guardians have relinquished their rights over the child. A document of surrender (on Rs.20 stamp paper giving details of the child) is executed between the parents/ guardians and the agency to establish to the court that the child is free for adoption.
- A child found abandoned in a public place. The CWC has to first ensure that there are no claimants for the child and can then declare the child free for adoption.
- A court committed child.

Role of CWC with respect to adoption

1. No abandoned child shall be offered for adoption by the CWC until two members of the CWC declare the child legally free for placement.
2. Where a parent surrenders a child to the CWC for adoption, two months period for reconsideration to be given to the parent in the case of surrendered children.
3. No child to be given in adoption without her consent in the case of a child who can understand and is able to express her consent.
4. An inquiry shall be conducted by the CWC before declaring the child as abandoned and certifying her free for adoption, which shall include-
 - (i) A thorough enquiry conducted by the PO/Case Workers/Police and a report containing findings shall be submitted within a period of one month.
 - (ii) Declaration by the placement agency, stating that

there has been no claimant for the child after making notification in newspaper, radio and television and a one-month waiting period, running simultaneously to the enquiry and the subsequent report.

- (iii) The CWC shall release an order declaring the child legally free for adoption within a period of six weeks in the case of children below the age of two years, and three months in the case of children above that age.

1. The role of licensed and recognized Government and Non Government Agencies in adoption:

- In case of an abandoned child the recognized agency shall report the matter to the CWC along with a copy of the report filed at the Police Station within 48 hours.
- The Adoption Agency may initiate the process of adoption within a period of two months and place an application before the CWC to state the child free for adoption.
- The adoption agencies shall wait for a period of two months as the period for reconsideration for the biological parents.
- Serious efforts shall be made to counsel the parents to retain the child, failing which the child shall be kept in foster care and arrangements for his sponsorship will be made.



Who to approach if YOU want to adopt a child?

You need to approach a government recognized adoption placement agency where counseling will be provided.

What is the procedure for adoption?

- The counselor from the agency will talk to you and your spouse both individually and jointly. This is to judge your emotional, mental, physical and financial preparedness to adopt.
- The counselor will also visit your home to assess the home environment and assess the attitude of significant others. She then prepares a report and this entire process is known as the Home Study.
- Most agencies organize orientation meetings where they will expose you to other adoptive parents. This will help you understand the entire experience of adopting a child better.
- Once the counselor believes that you have met the requirements to adopt a child she, will share information about a particular child which will include birth history, physical report and other relevant details. However details regarding the biological parents will not be shared.
- If you are then satisfied the child will be shown to you. It is important to remember that there is no selection process and that it is the agency that matches the child and your family.
- If the approved child is an older child then a weaning period is required.
- The duration of the adoption process depends on various factors such as time taken to submit documents, to complete the home study and to find the suitable child. It takes approximately 3-6 months after the submission of the documents to process an application and legally place a child in your family.

In case of inter country adoptions:

- CARA has to recognize the adoption agency in the following country and a seal of their external affairs ministry is required. Within two years the adopted child needs to be adopted under the law of that country as also naturalization needs to take place.
- Priority will be given to domestic couples, followed by NRI couples, followed by where one parent is an Indian and lastly to non Indian couples.
- In case of adoptions by non Indian couples permission needs to be sought by the ACA.

List of Documents that are required:

- Birth Certificates
- Marriage Certificates or Marriage Affidavit
- Medical Fitness
- Cause and treatment for infertility if infertility is applicable
- Photographs
- Recommendations
- Employment and Income Certificates.
- Property Statement
- Bank Reference
- Statements regarding child care arrangements
- Undertaking from a younger relative.

B) Foster Care

Foster care is the temporary placement of infants who are ultimately to be given for adoption.

The child may be placed with another family for a short or extended period of time depending upon the circumstances where the child's own parent usually visits regularly and where eventually after rehabilitation, the child returns to her/his own home.

C) After-care Organization

The Probation Officer must submit a report in respect of each child regarding the necessity and nature of after-care, period of such care, supervision thereof and progress of the child.

A child cannot remain in an after-care home for more than three years.

A child in conflict with the law who is above seventeen years of age and below eighteen years of age can stay in the after-care home only till he attains twenty years of age.

Linkages and Coordination

The State government must ensure effective linkages between various governmental, non-governmental corporate and other

community agencies for facilitating rehabilitation and social reintegration of the child.





CHAPTER 4

MISCELLANEOUS

Funds

- The State Government or local authority can create a fund for the welfare and rehabilitation of children in need of care and protection.
- Voluntary donations, contributions or subscriptions may be made by any individual or organization to the Fund.
- The Fund will be administered by the State Advisory Board.

Role of Social Workers And NGO'S

- JJB to include 2 social workers, at least 1 of whom should be a woman.
- Voluntary organisations to establish and maintain child-care homes after obtaining recognition from State Governments.
- Social worker / voluntary organisation may be appointed as place of safety / fit person / fit institution.
- Representatives of voluntary organisations / social workers to be appointed on Inspection Committees and to conduct social audits of Children's Homes
- Social workers / representatives of voluntary organisations to be appointed on Central and State Advisory Boards.

Offences committed against children

- (3) Offences committed against a child are cognizable offences
- (4) An offence committed against a child and punishable under this Act and any other Act, is punishable under the Act which provides for greater punishment.



| Offence | Punishment |
|--|--|
| Whoever having actual charge of or control over a child, assaults, abandons, exposes or willfully neglects a child so as to cause the child mental or physical suffering | Imprisonment for a term upto six months or fine or both. |
| Employing a child for the purpose of begging | Imprisonment for a term upto 3 years and fine |
| Abetting the commission of this offence | Imprisonment for a term upto 1 year and fine |
| Giving to any child any intoxicating liquor/narcotic drug/psychotropic substance except under medical advice | Imprisonment for a term upto 1 year and fine. |
| Procuring of a child for hazardous employment and withholding earnings for own purpose | Imprisonment for a term upto 3 years and fine |

How to help children who are abused?

Call ChildLine, which is a helpline for children. The number is 1098.
 File an FIR in the police station.
 Produce the child before the concerned CWC.

Sample Application for fit person for CWC

BEFORE THE CHILD WELFARE COMMITTEE, UMERKHADI

In the matter of an application under section 2 (h) of the Juvenile Justice (Care and Protection of Children) Act 2000.

And

In the matter of an application under Section 34 (1) of the Juvenile Justice (Care and Protection of Children) Act 2000.

And

In the matter of

Name of the Child ... Child in need of care & protection

And

Name of the Institution ... Applicant

This humble application on behalf of the Applicant abovenamed:

Most respectfully sheweth:

1. The Applicant is a registered non profit organization having its address at _____ and has been working towards the welfare and rehabilitation of children in need of care and protection for ___ years.
2. The abovementioned child in need of care and protection was produced before the Child Welfare Committee on _____.
3. As per information given by the child, the child has no parents or other relatives to look after her/him pending inquiry before the Child Welfare Committee.
4. The Applicant is a registered organization with shelter

home facilities to take care of the welfare, education and rehabilitation of the abovementioned child and shall make proper and adequate provisions for her/his maintenance.

5. The Applicant is a fit institution as per section 2 (h) which is prepared to own the responsibility of the abovementioned child.
6. The Applicant undertakes to produce the abovementioned child before the Child Welfare Committee as and when required.
7. As per Section 34 (1) of the Juvenile Justice Act 2000, a child in need of care and protection may be kept with a voluntary organization during the pendency of any inquiry and subsequently for the care, treatment, education, training and development of the said child in need of care and protection.
8. The abovementioned child in need of care and protection is willing to stay with the Applicant pending inquiry.
9. Under these circumstances, it is prayed that the Applicant may be allowed to volunteer their services for the reception and rehabilitation of the abovementioned child pending inquiry of his case.

AND FOR THIS ACT OF KINDNESS, THE APPLICANT AS IS DUTY BOUND SHALL EVER PRAY.

Signature of the Applicant
Designation

Sample Application for fit person for JJB

BEFORE THE JUVENILE JUSTICE BOARD AT BOMBAY

C.C. No. _____

In the matter of an application to take responsibility of a child as fit institution under section 2(h) of the Juvenile Justice (Care and Protection of Children) Act, 2000

The State of Maharashtra
(_____ Police Station)

... Complainant

Vs.

1. Name of the GJ/BJ
and

... Girl/Boy Juvenile

2. Name of the Insitution
(a non-profit organization)

...Applicant

THIS HUMBLE APPLICATION ON BEHALF OF THE APPLICANT
ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. The Applicant is a registered non-profit organization with its Head Office in Mumbai, and has been working with children in conflict with the law for the last _____ years. The said Applicant provides residential support and rehabilitation facilities for the said children.
2. The GJ/BJ was arrested by _____ Police Station under sections _____ of the _____.
3. The Applicant is willing to take custody of the GJ/BJ and is also willing to provide residential and other support to her. The Applicant is also submitting a rehabilitation plan for the social reintegration of the GJ/BJ.
4. As per section 2 (h) of the Juvenile Justice (Care and

Protection of Children) Act 2000, a "'fit institution' means a governmental or a registered non-governmental organization or a voluntary organization prepared to own responsibility of a child and such organization is found fit by the competent authority."

5. The Applicant is a registered non-governmental organization that is prepared to own responsibility of the GJ/BJ.
6. This application is made bonafide and in the interest of justice.

Under these circumstances, it is prayed that Your Honour may be pleased to release the GJ/BJ into the custody of the Applicant and pass such other orders as Your Honour may deem fit and proper.

AND FOR THIS ACT OF KINDNESS, THE APPLICANT AS IS DUTY BOUND SHALL EVER PRAY

Mumbai,

Date:

Advocate for Applicant

Sample Application for Transfer

**IN THE COURT OF THE LEARNED METROPOLITAN
MAGISTRATE AT _____ MUMBAI**

COURT NO. 17

(C.R No. _____ of _____ Police Station)

RA. No. _____

In the matter of an application
under Section 7 of the Juvenile
Justice (Care and Protection of
Children) Act 2000

And

In the matter of

Name of the Accused ...Applicant/Accused

Versus

State of Maharashtra ...Respondent

(At the instance of _____ Police Station)

**APPLICATION FOR TRANSFER OF THE APPLICANT TO THE
OBSERVATION HOME AND FOR TRANSFER OF HIS CASE
TO THE JUVENILE JUSTICE BOARD**

THIS HUMBLE APPLICATION
ON BEHALF OF THE
APPLICANT ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. The Applicant was arrested on _____ under sections _____ of the _____.
2. The Applicant submits that he is under 18 years of age.
3. As per section 2(l) of the Juvenile Justice (Care and Protection of Children) Act 2000, the Applicant is a "juvenile in conflict with the law".
4. Section 7(1) of the Juvenile Justice (Care and Protection

of Children) Act 2000 reads as follows:

"When any Magistrate not empowered to exercise the powers of a Board under this Act is of the opinion that a person brought before him under any of the provisions of this Act (other than for the purpose of giving evidence), is a juvenile or child, he shall without any delay record such opinion and forward the juvenile or the child and the record of the proceeding to the competent authority having authority over the proceeding."

5. In these circumstances it is prayed that Your Lordship may be pleased to order
 - a. that the Applicant be transferred to the Observation Home at Umerkhadi, Dongri, and
 - b. that his case be transferred for hearing before the Juvenile Justice Board at Umerkhadi, Dongri, and
 - c. that Your Lordship may pass any such orders as Your Lordship may deem fit and proper.
6. This application is made bonafide and in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IS DUTY BOUND SHALL EVER PRAY

Mumbai, dated this ___ day of _____.

Advocate for the Applicant

Sample Application for Bail.

BEFORE THE JUVENILE JUSTICE BOARD AT BOMBAY

Case.No.

In the matter of an application under section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

State of Maharashtra ...Complainant
(_____ Police Station)

Versus

Name of the GJ/BJ ...GJ/Applicant

**THIS HUMBLE APPLICATION ON BEHALF OF THE
APPLICANT ABOVE NAMED MOST RESPECTFULLY
SHEWETH:**

1. The Applicant was arrested on _____ by the _____ Police Station under sections _____ of the _____.
2. The Applicant has allegedly committed _____
3. The Applicant has been in the custody of the Observation Home for one month. Adequate time has been given for custodial interrogation and therefore, further custody of the Applicant is not required.
4. The Applicant is a permanent resident of Mumbai and is currently studying in the ____ standard or working in _____.
5. The Applicant's mother and sister are willing to take custody of her/him.
6. The Applicant undertakes not to abscond, tamper with evidence, threaten witnesses or obstruct the investigation in any way. S/He undertakes to attend the proceedings of this Hon'ble Board and the police station as and when required by this Hon'ble Board.

7. If the Applicant is not released on bail, S/He will suffer irreparable losses and will not be able to make out his defense properly in his case.
8. As per section 12 of the Juvenile Justice (Care and Protection of Children Act), 2000, there appear no reasonable grounds for believing that the release of the Applicant on bail is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.
9. Therefore, it is prayed that the Applicant may be released into the custody of her/his mother under section 12 of the Juvenile Justice (Care and Protection of Children Act), 2000.
10. This application is made bonafide and in the interests of justice.

Under these circumstances it is prayed that Your Honour may be pleased to release the Applicant on the personal recognizance bond of his guardian, on bail of money within the means of the guardian, or a surety of a nominal amount and pass any such orders as Your Honour may deem fit and proper.

AND FOR THIS ACT OF KINDNESS, THE APPLICANT AS IS DUTY BOUND, SHALL EVER PRAY.

Dated this ____ day of _____.

Advocate for Applicant

Sample Affidavit for proof of relation to JCL

AFFIDAVIT

I, _____, ___ years of age, _____ Adult Indian Inhabitant, residing at _____do hereby solemnly affirm and state as follows:-

1. I say that I am a permanent resident of _____.
2. I say that I am the parent/relative/guardian of _____.
3. I say that _____ was arrested under section _____ of the _____ on _____ by _____ police station under C.C. No. _____.
4. I say that _____ is under the age of 18 and therefore a juvenile in conflict with the law.
5. I say that the chargesheet in the abovementioned matter has been filed by CST Railway police station.
6. I say that _____ has been in the Observation Home, Umerkhadi for over ten months.
7. I say that I am willing to stand as surety for _____ and take care of him for as long as his inquiry is pending before the Juvenile Justice Board.
8. I say that I am willing to provide proper care to _____ and I therefore pray that I may be allowed to stand as surety on her/his behalf.
9. I say that I undertake to produce _____ as and when required by this Hon'ble Court.
10. Under these circumstances, I pray that _____ may be released on bail of surety of a nominal amount in the abovementioned matter and that thereafter he may be put in my custody under section 12 of the Juvenile Justice (Care and Protection of Children) Act 2000.
11. The abovementioned declaration is true and no portion is

false and I have concealed nothing relevant to the matter at hand.

Identified by me
BEFORE ME;

Solemnly affirmed at _____ Name of the Guardian
this ____ day of _____.

Sample Application for Exemption

BEFORE THE JUVENILE JUSTICE BOARD AT MUMBAI

CC No. _____

In the matter of an
application for
exemption

Name of the GJ

... Applicant

Versus

The State (_____ Police Station)

...Complainant

May Please Your Honor

The afore-mentioned Applicant is unable to attend the proceedings of the Hon'ble Board today as she is attending her examinations in school/college. The Applicant's examinations get over on _____ therefore the Applicant prays that the Hon'ble Board grant her any date of attendance after that. The Applicant undertakes to attend the Hon'ble Board as and when required on the next date.

Be PLEASED to exempt the Applicant from personal appearance for the day and pass any other such order as this Hon'ble Board may deem fit and necessary in the interest of justice.

And for this act of kindness the Applicant, as is duty bound shall ever pray.

Dated this ____ day of _____.

Advocate for the Applicant

Sample Application for cancellation of Warrant
BEFORE THE JUVENILE JUSTICE BOARD AT BOMBAY

C.C. NO. _____

In the matter of an application
for cancellation of warrant.

The State
(_____ Police Station)

...Complainant

Versus

Name of the GJ

...Applicant

**THIS HUMBLE APPLICATION ON BEHALF OF THE APPLICANT
ABOVENAMED**

MOST RESPECTFULLY SHEWETH:

The abovementioned Applicant was unable to attend the proceedings of this Hon'ble Board on the last date as she was not keeping well and needed medical attention. A bailable warrant has therefore been issued in the name of the Applicant.

This is not a case where the Applicant has avoided the proceedings before the Hon'ble Board or absconded. She has merely been constrained by circumstances from attending this Board. The Applicant undertakes to attend all hearings in the aforementioned case in the future, not to violate bail and not to in any way defeat the ends of justice.

In the circumstances the Applicant prays that:

- a. The Hon'ble Court may be pleased to cancel the warrant issued against the Applicant in the aforementioned case; and,
- b. Pass any other orders that the Hon'ble Board may deem fit and necessary in the interests of justice.

And for this act of kindness the Applicant as in duty bound most humbly prays.

MUMBAI,

Date:

Advocate for the Applicant