

Module 3: Special Juvenile Police Unit

Session 3: Procedure in Relation to CCL

Duration: 30:53 min

Lessons learnt from Activity

Let's now recap the lessons learnt from various case stories in Activity 1.

In all the case stories the focus is on treating children as per the provisions of the JJ Act which emphasises sensitively dealing with CNCP and CCL in a child-friendly manner.

We noted that juvenile justice legislation has aimed to bring in change of outlook in the very term used for children who are alleged to have committed an offence and why children who commit crimes are not to be treated as criminals but as CCL.

It also reminds us the principle of diversion and natural justice as built into the Indian law.

We saw that a CCL may indeed be a CNCP for instance Manjari in Case Story 1 and children rescued from prostitution in Case Story 2 were in dire need of care and protection. Also children like those in prostitution and begging are not CCL despite our laws declaring prostitution and begging illegal

In such cases police officers/CWPOs/SJPU should play a critical role in ensuring safe custody of minors, their medical examination, production before the competent authority, recording the statement of victim and the accused, trial in a regular adult court etc.

Lessons learnt from Activity

The authorities declared competent for dealing with children are CWC and JJB. They play a key role in inquiry, rehabilitation and restoration of CNCP and CCL, respectively.

We also got clarity on the need and requirements for age verification through documentary evidence or ossification test/other latest medical age determination test.

We also got to know about procedures laid down under the JJ Act and the Central Rules for petty offences and specific situations such as petty offences by street children who do not live with their families or do not have a family and petty offences committed jointly by a minor and an adult, serious offences, offences where the child is caught after he/she turns major

Let us understand in detail if **CCL can also be treated as CNCP?**

Treating CCL as CNCP would depend on their specific situation, the nature of alleged offence committed by them, and the possibility of placing them together with CNCP, without a likelihood of causing any harm to others etc. Such children could include:

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

- Further minors found in prostitution and begging are no longer to be treated as CCL

Section 76 Section 2(14)(viii) of JJ Act, 2015 clearly brought them under the definition of a CNCP, recognising that these children were vulnerable to various kinds of exploitation and harm and that there was a need to decriminalize them.

Duties upon Apprehension

Let's now look at the duties of police upon apprehension with help of a flow chart.

- The child shall not be-Hand cuff or jailed
- The child shall not be sent to lock up or jail
- Hand over Charge of the child to nearest Child Welfare Police Officer (CWPO) without delay.
- Inform Parents about apprehension, Date, place & time of producing before the JJB, about the need of surety and bail bond
- give copy of police report to the parents
- ask parents to bring proof of juvenility
- Inform Probation Officer also and obtain Social Investigation Report.
- Responsibility for safety, food and other amenities.
- Production before Board within 24 hours.
- Submit report containing Social and economic background of the child.

Procedure in relation to CCL

Let us now look in detail the process of dealing with CCL we saw in the flow chart.

Apprehension of child alleged to be in conflict with law under Section 10, JJ Act, 2015.

- As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the SJPU or the designated Child Welfare Police Officer (CWPO), who shall produce the child before the JJB within a period of 24 hours of apprehension excluding the time necessary for the journey, from the place of apprehension.
- In no case a child alleged to be in conflict with law shall be placed in a police lock-up or lodged in a jail, handcuffed or kept with any adult offenders for even a temporary period.

Bail to a child alleged to be a child in conflict with law as per Section 12, JJ Act, 2015

Let's now learn the bail related procedures.

- When a child alleged to have committed aailable or non-bailable offence, is apprehended or detained by the police or appears or is brought before a Board, such a child shall be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit person

- If an apprehended child is not released on bail by the officer-in-charge of the police station, such officer shall ensure that the child is kept only in an Observation Home until the child can be brought before a Board.

Information to Parents, Guardian or Probation Officer as per (Section 13, JJ Act, 2015)

Let's now learn the procedures for informing Parents, Guardian or Probation Officer.

- When a child alleged to be in conflict with law is apprehended by the police, the CWPO of the police station, or the SJPU to which such child is brought, shall, as soon as possible after apprehending the child, inform the parent or guardian of such child, if they can be found.
- Direct them to be present at the Board before which the child is produced
- Inform the Probation Officer (PO), or if no PO is available, a CWO, for preparation and submission within two weeks to the Board, a Social Investigation Report (SIR)
- The SIR will contain information regarding the antecedents and family background of the child and other material information helpful to the Board for making the inquiry.

Provision with respect of runaway CCL (Section 26, JJ Act, 2015)

We often hear about run away Child in Conflict with Law. Let's now learn the provision with respect to runaway CCL.

- Any police officer may take charge of a CCL who has run away from a Special Home or an Observation Home or a Place of Safety or from the care of a person or institution under whom the child was placed under this Act.
- The child shall be produced, within 24 hours, preferably before the Board which passed the original order in respect of that child, if possible, or to the nearest Board where the child is found

Procedures in relation to CCL as per JJ Model Rules, 2016

Let's now learn the procedure given under JJ Model Rules, 2016. First of all let's understand:

Pre-production action of Police and other Agencies as per Rules 8 under JJ Model Rule, 2016.

- No FIR shall be registered except where a heinous offence is alleged to have been committed by the child, or when such offence is alleged to have been committed jointly with adults
- In all other matters, the SJPU or the CWPO shall record the information regarding the offence alleged to have been committed by the child in the general daily diary followed by a social background report of the child and circumstances under which the child was apprehended, wherever applicable, and forward it to the Board before the first hearing.
- The power to apprehend shall only be exercised with regard to heinous offences, unless it is in the best interest of the child.

- For all cases involving petty and serious offences and cases where apprehending the child is not necessary in the interest of the child, the police or SJPU or CWPO shall forward the information regarding the nature of offence alleged to be committed by the child along with his\her social background report to the Board
- They also shall intimate the parents or guardian of the child as to when the child is to be produced for hearing before the Board.
- Address of the Board where the child will be produced and the date and time when the parents or guardian need to be present before the Board will also be provided.
- A CWPO or a Case Worker, shall accompany the child while producing the child before the Board within 24 hours of his/her apprehension

Before continuing, let's just remember the full form SJPU and CWPO since we are talking a lot about these terms. SJPU stands for Special Juvenile Police Unit and CWPO stands for Child Welfare Police Officer.

Okay, let's continue now.

Other important procedures to be followed by the police officer apprehending a child.

- i. The police officer apprehending a child alleged to be in conflict with law shall not delay the child being transferred to the CWPO from the nearest police station.
- ii. not handcuff, chain or otherwise fetter a child and shall not use any coercion or force on the child
- iii. The police officer shall inform the child promptly and directly of the charges levelled against him\her through parent or guardian. If an FIR is registered, copy of the same shall be made available to the child or copy of the police report shall be given to the parent or guardian
- iv. Another important procedure is to provide appropriate medical assistance, assistance of interpreter or a special educator, or any other assistance which the child may require.
- v. Never compel the child to confess his\her guilt. The child shall be interviewed only at the SJPU or at child-friendly premises or at a child-friendly corner in the police station. You know that the child friendly atmosphere does not give the feel of a police station or of being under custodial interrogation. The parent or guardian may be present during the interview of the child by the police
- vi. The police officers shall not ask the child to sign any statement
- vii. The final step of the pre-production action is that the police officer shall inform the District Legal Services Authority (DLSA) for providing free legal aid to the child.

Production of the child alleged to be in conflict with law before JJB (Rule 9, JJ Model Rules, 2016)

Now we know that there is a long procedure for pre-production action of police and other agencies under JJ Model Rules, 2016. Let's now learn the procedures regarding the production of the child alleged to be in

Conflict with law before Juvenile Justice Board as per JJ Model Rule 9.

- When the child alleged to be in conflict with law is apprehended, he\she shall be produced before JJB within 24 hours of apprehension, along with a report explaining the reasons for apprehension by the police.
- A social background report of the CCL containing the background of the child prepared by the Child Welfare Police Officer is also to be shared with JJB.
- Sometimes the child alleged to be in conflict with law will be apprehended during odd hours or in distant places. In such cases it will be difficult to produce the child before the Board or even a single member of the Board. In such cases, the child shall be kept by the CWPO in the Observation Home, or in a Fit facility.
- Then the child shall be produced before the Board thereafter, within 24 hours of apprehending the child.
- SJPU shall inform the DLSA for providing free legal aid to the child.

Post-production of a CCL (Rule 10, JJ Model Rules, 2016)

Now we know the procedures for Pre-production action of Police and other Agencies under Rule 8 and Production of the child alleged to be in conflict with law before JJB under Rule 9.

Let's now learn the **Post-production of a CCL under Rule 10 of the JJ Model Rules, 2016.**

- In cases of heinous offences alleged to have been committed by a child, who has completed the age of 16 years, the CWPO shall produce the statement of witnesses recorded by him and other documents prepared during the course of investigation within a period of one month from the date of first production of the child before the Board. In addition, a copy of which shall also be given to the child or parent or guardian of the child.
- In cases of petty or serious offences, the final report shall be filed before the Board at the earliest and in any case not beyond the period of two months from the date of information to the police.

Procedure in cases of offences against children (Rule 54, JJ Model Rules, 2016)

Let's move in to step.4. You know that although JJ Act provides special protection for CNCP and CCL, they are most vulnerable to exploitation and violence. Therefore, there are specific procedures in case of offences against children.

Let's now learn the procedures laid down in the JJ Model Rule with regards to the offences against CCL children.

First of all:

- A complaint of an offence against a child may be made by child, family, guardian, friend or teacher of the child, CHILDLINE services or any other individual or institution or organisation concerned.

- Then, on receipt of information in respect of a cognizable offence against a child, the police shall register an FIR.
- Further, on receipt of information of a non-cognizable offence against a child, the police shall make an entry in the DD, which shall be transmitted to the Magistrate concerned.
- In all cases of offences against children, the investigation shall be conducted by the CWPO

The Protection of Children from Sexual Offences Act, 2012 and POCSO Rules 2020

Let's now learn about the provisions under POCSO Act, 2012 and POCSO Rules 2020 with regards to sexual offences against Children in Need of Care and Protection.

- In case of reports of any sexual offence against CNCP, SJPU shall record the reasons and within 24 hours and shall
- Make immediate care and protection arrangements (including admitting the child into Shelter Home or to the nearest hospital).
- Specialised services for children with special needs such as counsellors, paramedics, doctors, also need to be addressed.
- Report the matter to the CWC, and Special Court within 24 hours.

Child-friendly procedures and the overriding principles that must govern any action concerning children

In the previous session we have learnt about child friendly atmosphere and its significance. Let's now learn the Child-friendly procedures and the overriding principles that must govern any action concerning children.

First of all,

- Respect of the child's dignity and privacy should be maintained.
- Every child, whether a CCL or a CNCP, should be treated in a manner harmonious to the promotion of the child's sense of dignity and worth, taking into account the child's age and desirability of promoting the child's reintegration and encouraging his or her productive role in the society.
- Children who come in contact with police would already be in trauma and under severe stress. Hence high level of sensitivity is critical to ensure that children's interest can be maintained.
- The children can only be apprehended, not arrested. Therefore, no child should ever be handcuffed or put on fetters.

- In case the CCL is apprehended at a time when JJB is not holding its sitting, then the child should be produced before the Principal Magistrate and/or any other Member of the JJB at the earliest as per Section 13 of the JJ Act, 2015

No child shall be placed in police lock-up or police custody as per the Section 10(1) of JJ Act, and Model Rules 2016. A child can only be placed in a Fit Facility/Child Care Institution recognised and registered under the JJ Act, 2015.

Safety of the child shall be at the core of every action.

- No accused or suspected accused shall be brought in contact with the child
 - Where the victim and the person in conflict with law are both children, they shall not be brought in contact with each other.
 - Every child has right to family protection. As soon as a child comes in contact with the police, earnest efforts should be made to contact the parent/guardian/family of such a child at the earliest.
 - Police officers dealing with a child, whether a CCL or a CNCP, should strictly follow the provisions of JJ Act, 2015 including the basic principles contained therein. The principle of best interest of the child should be the prime consideration in all acts concerning children.
 - It should be ensured that no action leads to further or multiple victimisation of the child, physically, psychologically or emotionally.
 - It must be remembered that in any given circumstance, a child should not be kept at the police station once all formalities are completed, including the medical examination of the child.
 - The police should produce the child before appropriate authorities as per the JJ Act, 2015 and the rules
 - Send the child to appropriate institutions meant for them without delay. Every child must be given the opportunity to express her/his opinion and concerns in determining any action for detention or rescue, rehabilitation and restoration.
 - Appropriate assistance like medical aid, assistance of interpreter/translator (where a child speaks a different language or is unable to understand the language of the police officer interacting with the child), legal aid and any other such assistance which a CCL or a CNCP may require should be provided to him/ her immediately.
 - For children with special needs, appropriate steps must be taken to enlist support of special educators and practitioners to ensure they can communicate adequately and get the attention needed.
 - It is important to make sure that the police are, to the extent possible, in plain clothes and not in uniform when dealing with children. This is a way to ensure that children are not intimidated and are able to trust the police. The police should not become a source of fear for the children.
 - Ensure that a lady police officer is dealing with the female child along with a female social worker or an adult trusted by the child.
 - A female child should only be kept in charge of a Female Child Welfare Police Officer.
 - The police officer/CWPO interacting with a child must talk to the child in a sensitive and friendly manner and should not use derogatory, incriminating and abusive language or gestures.
 - He/she shall maintain dignity and self-esteem of the child.

- Where questions that may lead to discomfort of the child are to be asked, such questions shall be asked in tactful manner.

Let us discuss how Indicators for making police stations child-friendly through a case study.

An Initiative by Jharkhand Police (CID) in joint collaboration with UNICEF Jharkhand was taken to make police stations child-friendly.

In the previous session we have learnt about Child-Friendly Police Stations (CFPS) in UP. We have discussed that there are CFPS in many other states also. Jharkhand is one among them.

In Jharkhand, CFPS program started in December 2013. A total of 21 indicators have been formulated in the state based on JJ Act, for certification of the police station as CFPS.

Now let's learn these 21 indicators under 6 domains as shown on the screen.

1. Structure
2. Procedure
3. Attitude
4. Resources
5. Community Connection
6. Coordination

Structure [JJ Act Sec 63(2)(3)]

1. Police Station has a designated police officer as Child Welfare officer as per Rule 84(3).
2. A separate space/room to talk with children as per Rule 11 (13)
3. Sitting, toilet and safe drinking water arrangement for children as per Rule 11(13).
4. Child Welfare officer/other trained police officer to be present in the separate room or space designated in the police station for addressing children issues.
5. Child related informative posters related to acts or other provisions displayed in the police station
6. Name of CWO prominently displayed in the police station as per Rule 11(14).
7. Officers in police stations are aware about the right procedure to be followed in case of child in need of care and protection and child in conflict with law.
CWO in the police station has right knowledge about the provisions under special acts for protection of children and they use it in best interest of the child.

Attitude [JJ Act Sec 63(2)]:

1. Officers in police station believe that violence, abuse, exploitation against children is unacceptable.
2. Officers in the police station understands that for a victim, be a child or a women, coming to police station for registering a complaint is the last resort. (Thus more sensitivity and prompt action from police is expected to provide relief and protection to the victim)
3. While dealing with children in conflict with law, emphasis is on “why” (under which circumstances and why did the child commit the offence) rather than “what” (nature/gravity of offence)

Resources [JJ Act Sec 63(2)]:

4. Police officer/CWO has received training on child protection and related issues and shares the knowledge/ information gained with other officers in the police station.
5. Resource material related to various special acts for protection of children and women from violence and exploitation is available in the police station and is being used.

Community Connection [JJ Rule 84(7)]:

6. Community outreach program are organised by the police station on issues related to children
7. Media is not allowed to publish photograph/reveal the identity of children covered under JJ Act Sec (21).

Coordination [JJ Rule 84(5)]:

8. CWO coordinates with Child Welfare Committee (CWC), Juvenile Justice Board (JJB), and CWOs of other police station. Probation Officer, Superintendents of Homes, District Legal Services Authority. List and contact details of ChildLine, NGOs, CWC, JJB, Para Legal Volunteers hospital other related agencies is displayed in the police station
9. CWO participates/organises coordination meetings and takes necessary action. If the police station maintains 21 criteria for one year, awarded by DGP