

Note:

The booklet's aim and objective is to equip the reader with basic knowledge of juvenile justice (Care and Protection of Children) Act, 2013 which would aid her/him to deal with real-world problems encountered while dealing with the juvenile justice system. Nevertheless, it doesn't have all the answers and there is no substitute for good legal advice and representation. If you encounter a complex legal problem it is kindly advised to consult a practicing lawyer.

AN INFORMATIONAL BOOKLET FOR

**AWARENESS
ON
JUVENILE JUSTICE**

JAMMU AND KASHMIR

PREPARED BY:

**Sahar Gul
Heeba Din**



BOOKLET FOR AWARENESS ON JUVENILE JUSTICE

Child Rights Initiative

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A division of Socio Legal Information Centre

576, Masjid Road,

Jangpura, New Delhi-110014

Ph: +91-11-24379855/56

E-mail: contact@hrln.org, publications@hrln.org

Website: www.hrln.org

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JUVENILES OF THE KASHMIR VALLEY

CURRENT SCENARIO

- 1) **Shocking Statistics:** More Than 700 Minors In Kashmir Have Been Booked Under The Public Safety Act Of 1978, Which Is In The Clear Contradiction With The Amended Public Safety Act Which Says That A Person Under The Age Of 18 Shall Not Be Detained Under The Said Act.
- 2) **Lack Of Measures:** There Are No Juvenile Justice Boards And Child Welfare Committees In Kashmir, Which Is A Clear Violation Of The Juvenile Justice Act.
- 3) **Brazen Overrule Of Law:** In A Blatant Violation Of The Juvenile Justice Act, The Apprehended Juveniles Are Put In Jail Instead Of Handling Them In A Child Friendly Manner.
- 4) **Tried As Adults:** The Juveniles Are Treated And Tried As Adults, Beaten, And Put Into Jails Which Is Contrary To The Numerous Decisions Of The Court.

5) **No Home For Girls:** The Lone Operating Juvenile Home In Kashmir Administers Only Boys. Not Only There Is No Existing Juvenile Home For Girls Nor Is The Said Home Equipped To Handle The Cases Of Girl Juveniles.

WHAT DOES THE ACT DO?



THINGS WE NEED TO KNOW

Q) **When was the Act enacted?**

- ENACTED in the state of Jammu & Kashmir in 1997
- AMENDED on 28th March 2013, bringing into effect the Jammu & Kashmir (Care and Protection of Children) Act 2013.

Q) **Who is a Juvenile?**

A) A child who has not attained the age of 18 years.

Q) **Who is a Juvenile in conflict with law?**

A) A juvenile who is assumed to have committed an offence when he was below the age of 18 years. The term "accused" or "delinquent" is not used for juvenile in conflict with law.

Q) **Who is a neglected Juvenile?**

A) A Neglected Juvenile Is A Juvenile Who Is Found:

- Begging
- Without any home or settled place.
- Has a parent or guardian who is unfit to take care
- Lives in brothel or with a prostitute
- Is likely to be exploited or abused for immoral or illegal gain.

Q) **Who is a child in need of care and protection?**

A) A Child In Need Of Care and Protection Is:

- Without any home and means of survival
- Begging or a working child
- Living with a person who:
 - o Has threatened to kill or injure the child
 - o Killed, abused or neglected some other child
- Mentally or physically ill or no one to support.
- Whose parent or guardian in unfit to control the child.
- Whose parent has abandoned the child
- One who is likely to be abused/ tortured/ exploited for sexual abuse or illegal acts.
- One who is found vulnerable and is likely to be inducted in drug abuse or trafficking.
- One who is a victim of an armed conflict/ civil commotion/ natural calamity.



INSTITUTIONS FOR JUVENILE IN CONFLICT WITH LAW UNDER JUVENILE JUSTICE ACT 2013

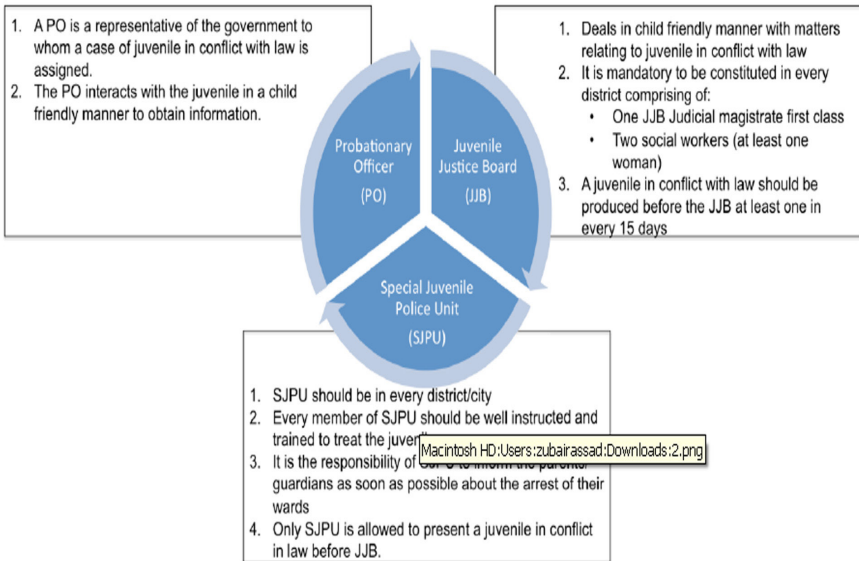
Observation Home	Special Home
Institution for the temporary reception of juvenile in conflict with law.	Institution for the reception of juvenile in conflict with law who has been convicted of the committing offence.

INSTITUTION FOR CHILD IN NEED OF CARE & PROTECTION UNDER JUVENILE JUSTICE ACT 2013

Children Home	Shelter Home
Institution for the reception of child in need of care and protection during the pendency of any enquiry by the child welfare committee and subsequently for their care, rehabilitation.	Institutions/Drop-In Centers for Children In Need of Urgent Support.

JUVENILE IN CONFLICT WITH LAW

Authorities for Handling of Juvenile in Conflict with Law



- 1) Deals in child friendly manner with matters relating to juvenile in conflict with law
- 2) It is mandatory to be constituted in every district comprising of:
 - One JJB Judicial magistrate first class
 - Two social workers (at least one woman)
- 3) A juvenile in conflict with law should be produced before the JJB at least one in every 15 days



B. SPECIAL JUVENILE POLICE UNIT (SJPU):

SJPU is a specially created police unit to deal with juvenile in conflict with law in a child friendly manner.

- 1) SJPU should be in every district/city
- 2) Every member of SJPU should be well instructed and trained to treat the juveniles
- 3) It is the responsibility of SJPU to inform the parents/guardians as soon as possible about the arrest of their wards.
- 4) Only SJPU is allowed to present a juvenile in conflict in law before JJB.

C. PROBATIONARY OFFICER (PO):

A PO is representative of government whom a case of juvenile in conflict with law is assigned and he interacts with the juvenile in a child friendly manner to obtain information.



Procedure For Handling The Juvenile In Conflict With Law

- As soon as the police apprehend the juvenile in conflict with law, he should be placed under the charge of the SJPU unit. They shall produce the juvenile before the juvenile justice board within a period of 24 hours.
- In no case shall the juvenile in conflict with law shall be placed in a police lock-up or lodged in a jail.
- A juvenile in conflict with law has the right to inform or tell someone of his/ her choice about the arrest. And the police should inform the juvenile in conflict with law about his rights and facilities of communications are provided.
- The parents should be informed by the police regarding the child and tell them to present themselves before JJB when the juvenile in conflict with law is produced before the court.
- After being produced before the JJB, the JJB will send the juvenile in conflict with law to the observation home.
- In the observation home, a probation officer (PO) shall be assigned to the juvenile in conflict with law,
- The juvenile in conflict with law will remain in the observation home till the enquiry is completed.
- The JJB shall review the case of every juvenile in conflict with law after every six months



In Case Of Claim Of Juvenility:

- The court shall make necessary inquiry, so as to determine the age of the Juvenile in Conflict with Law.

Documents For Proof Of Juvenile

The following documents shall be produced for proving the child as a juvenile in case of an arrest



RIGHT TO BAIL

Every Juvenile In Conflict With Law Has A Right To Bail Irrespective Of The Nature Of Offence

CONDITION FOR BAIL	CONDITIONS FOR REFUSAL OF BAIL
<ol style="list-style-type: none">1. Under the surety signed by a parent or guarantee for a fixed amount as set by the JJB.2. Under the supervision of the Probationary Officer3. Under the supervision of any responsible person or a competent authority	<ol style="list-style-type: none">1. Believing to likely bring the juvenile in conflict with law in association with any known criminal2. Expose the juvenile in conflict with law to any physical or psychological danger



Appeals

Provisions for appeal available to a child convicted by a competent authority:



Exceptions for appeal available to a child convicted by a competent authority:

- Acquittal
- In case the person is not a neglected child





CHILD IN NEED OF CARE AND PROTECTION

Authorities For Handling Child In Need Of Care And Protection

A. Child Welfare Committee (CWC):

1. Deals with the matter relating to child in need of care and protection
2. Every district to have Its own CWC
3. Shall consist of 5 members:
 - a. Chairperson
 - b. One child expert
 - c. At least one woman

B. Procedure in Relation to Child in need of Care and Protection (CNPC)

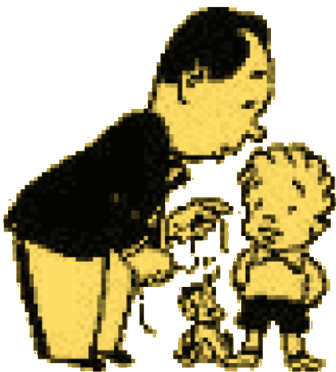
- 1) When any person or an organization receives a CNCP they should produce the child before CWC within 24 hours

- 2) A child shall be taken to a place of safety instead of police station before producing in front of CWC
- 3) The inquiry under CWC shall be completed within 4 months.
- 4) After inquiry suitable rehabilitation within children's home or shelter homes shall take place as seen fit by CWC

C. Process Of Rehabilitation Social Integration

It shall be carried out by:

- A. **Sponsorship** – which provides support to families' children homes to meet medical nutritional educational and other needs of children.
- B. **After-care organization** – for the purpose of taking care of children after they leave special home children's home and the purpose of enabling them to lead an honest and useful life.



RIGHTS AND RESPONSIBILITIES

Responsibilities Of Officer In Charge

Security measures

- Periodical inspection
- Proper maintenance of premises
- Prompt firm and considerate handling of all disciplinary matters
- Accident preventive measures
- Fire preventive measure
- Segregation of juvenile suffering from infectious diseases
- Proper storage and inspection of food
- Arrangement for water storage, power plans and emergency lighting
- Monitoring and evaluation of juveniles



Rights of Juveniles In Homes

- Well regulated daily routine
- Issue of clothing bedding and other articles
- Sanitation and hygiene
- Proper diet scale
- Medical care
- Educational classes
- Vocational training
- Moral education
- Group activities
- Organized recreation and games

Points To Remember

- The confidentiality of a Juvenile In Conflict and child in need of care and protection with law needs to be maintained in all circumstances.
- During the course of inquiry, the juvenile who ceases to be a juvenile shall still be treated as a juvenile.



Human Rights Law Network

3rd Floor Hotel Remano
Near Old Zero Bridge
Rajbagh Srinagar
Srinagar-190001
Jammu & Kashmir
Ph: 0194-2473235/2450843
Email: srinagar@hrln.org