

Juvenile Justice Exercise

Presented by-

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A girl aged 13 years is produced before the JJB with an offence under Section 379 IPC, as she was found to be committing the theft with her elder major brother. JJB is of opinion that she needs counselling and is actually in need of care and protection. What course is open to the JJB?

Section 8(g)

Transfer the matter to the CWC, thereby recognizing that a CCL can also be a child in need of care simultaneously and there is a need for the CWC and JJB to be involved.

- It was transpired after enquiry with CCL that he was subjected to third degree methods by Police.
- How JJB is supposed to deal with it?

Section 8(k)

Order the Police for registration of FIR under this Act or any other law for the time being in force, on a complaint made in this regard.

“A” aged 22 years is arrested for the offence u/s. 324 of IPC, which he is alleged to have committed when he was 14 years of age.

Which Court will try the offence?

Section 6

Any person who has completed 18 years of age and is apprehended for committing an offence when he was below the age of 18 years, then such person shall be treated as a child during the process of the inquiry.

When the inquiry started and CCL was arrested, he was 16 years of age. Before the inquiry concluded, he became 19 years of age. Whether JJB can continue inquiry or transfer it to regular Court?

Section 5

When an inquiry has been initiated in respect of any child under JJ Act and during the course of such inquiry, the child completes the age of 18 years, then notwithstanding anything contained in this Act or any other law for the time being in force, the inquiry may be conducted by the Board and orders may be passed in respect of such person as if such person had continued to be a child.

**Recite various rights with
CCL has under the JJ Act in
the course of proceedings?**

Rule 8

- Not to be arrested but apprehended by Child Welfare Police Officer in plain clothes and not in uniform;
- Not to be handcuffed;
- Not to be coerced, forced to give any statement;
- To have his parents promptly and directly informed about the apprehension;
- To get appropriate medical assistance, and legal assistance.

Rule 8

- To get assistance of Interpreter or Special Educator or any other assistance, which he may require;
- Not to be compelled to sign any statement;
- Not to be sent to police lock-up or police custody or jail custody;
- Probation Officer to be informed immediately;
- To be produced immediately before the JJB.

Section 8

All procedures to be conducted in child friendly manner [Section 7(1)].

Rule 6(4) – JJB shall hold its sittings in a child friendly premises which shall not look like a Court room in any manner and the sitting arrangement should be such to enable the Board to interact with the child face-to-face.

Rule 6(5) – While communicating with child, the Board shall use child friendly techniques through its conduct and shall adopt a child friendly attitude with regard to body language, facial expression, eye contact, intonation and volume of voice while addressing the child.

What is Child Friendly?

Section 2(15) – Child Friendly means any behavior, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child.

Rule 10(8)

While examining a child and recording his statement during inquiry, the Board shall address the child in a child friendly manner in order to put the child at ease and to encourage him to state the facts and circumstances without any fear, not only in respect of the offence but also in respect of the home and social surroundings and the influence or the offences to which the child might have been subjected to.

Rule 6(6) – The Board shall not sit on a raised platform and there shall be no barriers such as witness boxes or bars between the Board and the child.

The venue to be not intimidating to the child and does not resemble as regular Court.

Rule 6(1) – JJB shall hold its sittings in the premises of an Observation Home or at a place in proximity to Observation Home or at a suitable premises in any Child Care Institution, but in no circumstances JJB shall operate within any Court or Jail premises ness boxes or bars between the Board and the child.

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Rights of the CCL

Section 8(3)(a) – Informed participation in every step of the process.

- His rights are protected throughout the process of apprehension, enquiry, after care and rehabilitation.
- Inquiry to be completed within time bound manner.
- To have its individual care plan drawn by JJB.
- Follow-up by the Probation Officer.

Rights of the CCL

- Right to confidentiality (Section 99)
- Right to privacy – no other third person to remain present at the time of Inquiry.
- Inquiry to be conducted in simple manner [Section 14(5)]. JJB shall take every step to ensure fair and speedy inquiry.
- In case of petty offences, the case to be disposed of in summary manner [Section 14(5)(d)].

INQUIRY

- In case of petty offences, the case to be disposed of in summary manner (Section 14(5)(d)).
- In case of serious offences, procedure for trial in summons case.

If the child fails to comply with the probation conditions, what is the procedure?

Rule 10(11)

The child may be ordered to be produced before the JJB and may be sent to a Special Home or place of safety for the remaining period of supervision.

In case of difference of opinion among members of the JJB, whose opinion will prevail if there is no majority?

Section 7(4)

The opinion of Principal
Magistrate shall prevail.

If the child fails to appear
before the JJB, what steps to
be taken?

Rule 10(3) and 10(4)

- JJB shall issue direction to Child Welfare Police Officer for production of the child.
- If child is still not produced, then pass appropriate orders under Section 26 of JJ Act.

Section 94

Presumption and Determination of Age

- Based on the appearance, child shall be presumed to be below 18 years of age.
- In case of reasonable grounds for doubt, the evidence relating to his date of Birth Certificate from school, matriculation or equivalent certificate.
- In absence thereof, the Birth Certificate by Corporation or Municipal Authority or a Panchayat.
- In absence thereof, medical age determination test.

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