

JUVENILE JUSTICE AND WELFARE COUNCIL

Department of Justice
DOJ Building, Padre Faura St., Ermita, Manila

COUNCIL RESOLUTION NO. 4

Series of 2006

SUBJECT: RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9344, OR THE “JUVENILE JUSTICE AND WELFARE ACT OF 2006”

The Juvenile Justice and Welfare Council, pursuant to Section 69 of Republic Act No. 9344, An Act Establishing A Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council Under The Department of Justice, Appropriating Funds Therefor And For Other Purposes (the “Act”), issues the following implementing rules and regulations:

PART I OVERALL PROVISIONS

RULE 1. Title and purpose

These Rules shall be known and cited as the “Rules and Regulations Implementing Republic Act No. 9344” (the “Rules”). These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the Act.

RULE 2. Declaration of State Policy

The following State policies shall be observed at all times:

- (a) The State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.
- (b) The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party. Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participation of children in the program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency.
- (c) The State likewise recognizes the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty and exploitation, and other conditions prejudicial to their development.
- (d) Pursuant to Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child alleged as, accused of, adjudged, or recognized as, having infringed the penal law to be treated in

a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and desirability of promoting his/her reintegration. Whenever appropriate and desirable, the State shall adopt measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. It shall ensure that children are dealt with in a manner appropriate to their well-being by providing for, among others, a variety of disposition measures such as care, guidance and supervision orders, counseling, probation, foster care, education and vocational training programs and other alternatives to institutional care.

- (e) The administration of the juvenile justice and welfare system shall take into consideration the cultural and religious perspectives of the Filipino people, particularly the indigenous peoples and the Muslims, consistent with the protection of the rights of children belonging to these communities.
- (f) The State shall apply the principles of restorative justice in all its laws, policies and programs applicable to children in conflict with the law.

RULE 3. Construction

In case of doubt, the interpretation of any of the provisions of the Rules shall be construed liberally in favor of the child in conflict with the law, i.e., consistent with the best interest of the child, the declared state policy, the rights of the child in conflict with the law, and the principle of restorative justice.

RULE 4. Definition of terms

As used in these Rules, the term/s:

- (a) "Bail" refers to the security given for the release of the person in custody of the law, furnished by him/her or a bondsman, to guarantee his/her appearance before any court.
- (b) "Best interest of the child" refers to the totality of the circumstances and conditions most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.
- (c) "Child" refers to a person under the age of eighteen (18) years.
- (d) "Children at risk" refers to children who are vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances, such as, but not limited to, the following:
 - (1) being abused by any person through sexual, physical, psychological, mental, economic or any other means and the parents or guardian refuse, are unwilling, or unable to provide protection for the child;
 - (2) being exploited including sexually or economically;
 - (3) being abandoned or neglected, and after diligent search and inquiry the parent or guardian cannot be found;
 - (4) coming from a dysfunctional or broken family or without a parent or guardian;

- (5) being out of school;
 - (6) being a street child;
 - (7) being a member of a gang;
 - (8) living in a community with a high level of criminality or drug abuse;
and
 - (9) living in situations of armed conflict.
- (e) “Child in conflict with the law” refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws.
- (f) “Community-based programs” refers to the programs provided in a community setting developed for purposes of intervention and diversion, as well as rehabilitation of the child in conflict with the law, for reintegration into his/her family and/or community.
- (g) “Court” refers to a family court or, in places where there are no family courts, any regional trial court.
- (h) “Deprivation of liberty” refers to any form of detention or imprisonment, or to the placement of a child in conflict with the law in a public or private custodial setting, from which the child in conflict with the law is not permitted to leave at will by order of any judicial or administrative authority.
- (i) “Diversion” refers to an alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings.
- (j) “Diversion Program” refers to the program that the child in conflict with the law is required to undergo after he/she is found responsible for an offense without resorting to formal court proceedings.
- (k) “Initial contact with the child” refers to the apprehension or taking into custody of a child in conflict with the law by law enforcement officers or private citizens. It includes the time when the child alleged to be in conflict with the law receives a subpoena under Section 3(b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in cases that do not require preliminary investigation or where there is no necessity to place the child alleged to be in conflict with the law under immediate custody.
- (l) “Intervention” refers to a series of activities designed to address issues that caused the child to commit an offense. It may take the form of an individualized treatment program, which may include counseling, skills training, education, and other activities that will enhance his/her psychological, emotional and psycho-social well-being.
- (m) “Juvenile justice and welfare system” refers to a system dealing with children at risk and children in conflict with the law, which provides child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, reintegration and aftercare to ensure their normal growth and development.
- (n) “Law enforcement officer” refer to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including a barangay tanod.

- (o) "Offense" refers to any act or omission whether punishable under special laws or the Revised Penal Code, as amended. It includes violations of traffic laws, rules and regulations, and ordinances of local government units.
- (p) "Recognizance" refers to an undertaking in lieu of a bond assumed by a parent or custodian who shall be responsible for the appearance in court of the child in conflict with the law, when required.
- (q) "Status Offenses" refers to offenses which discriminate only against a child, while an adult does not suffer any penalty for committing similar acts. These shall include curfew violations, truancy, parental disobedience and the like.
- (r) "Victimless Crimes" refers to offenses where there is no private offended party.
- (s) "Youth Detention Home" refers to a 24-hour child-caring institution managed by accredited LGUs and licensed and/or accredited NGOs providing short-term residential care for children in conflict with the law who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction; also referred in these Rules as "Youth Home."
- (t) "Youth Rehabilitation Center" refers to a 24-hour residential care facility that provides children in conflict with the law with care, treatment and rehabilitation services under the guidance of trained staff where children in conflict with the law on suspended sentence, or "residents," are cared for under a structured therapeutic environment with the end view of reintegrating them in their families and communities as socially functioning individuals; also referred in these Rules as "Youth Center."

RULE 5. Rights of the child in conflict with the law

Every child in conflict with the law shall have the following rights, including but not limited to:

- (a) The right to be treated with humanity and respect for the inherent dignity of the person, and in a manner which takes into account the needs of a person of his/her age;
- (b) The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- (c) The right not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;
- (d) The right not to be unlawfully or arbitrarily deprived of his/her liberty; That detention or imprisonment being a disposition of last resort, shall be for the shortest appropriate period of time;
- (e) The right to be separated from adult offenders at all times. In particular, the child shall:
 - (1) Not be detained together with adult offenders.
 - (2) Be conveyed separately to or from the court.
 - (3) Await hearing of his/her own case in a separate holding area.

- (f) The right to maintain contact with his/her family through correspondence and visits save in exceptional circumstances;
- (g) The right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his/her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on such action;
- (h) The right to bail and recognizance, in appropriate cases;
- (i) The right to testify as a witness in his/her own behalf under the rule on examination of a child witness;
- (j) The right to have his/her privacy respected fully at all stages of the proceedings;
- (k) The right to diversion if he/she is qualified and voluntarily avails of the same;
- (l) The right to be imposed a judgment in proportion to the gravity of the offense where his/her best interest, the rights of the victim and the needs of society are all taken into consideration by the court, under the principle of restorative justice;
- (m) The right to have restrictions on his/her personal liberty limited to the minimum, and where discretion is given by law to the judge to determine whether to impose fine or imprisonment, the imposition of fine being preferred as the more appropriate penalty;
- (n) In criminal prosecutions, the rights:
 - (1) Not to be held to answer for a criminal offense without due process of law;
 - (2) To be presumed innocent until the contrary is proved beyond reasonable doubt;
 - (3) To be heard by him/herself and counsel;
 - (4) To be informed promptly and directly of the nature and cause of the accusation against him/her, and if appropriate, through his/her parents or legal guardian;
 - (5) To be present at every stage of the proceedings, from arraignment to promulgation of judgment;
 - (6) To have legal and other appropriate assistance in the preparation and presentation of his/her defense;
 - (7) To testify as a witness in his/her own behalf and subject to cross-examination only on matters covered by direct examination, provided that the Rule on the Examination of a Child Witness shall be observed whenever convenient and practicable.
 - (8) Not to be compelled to be a witness against him/herself and his/her silence shall not in any manner prejudice him/her;
 - (9) To confront and cross-examine the witnesses against him/her;
 - (10) To have compulsory process to secure the attendance of witnesses and production of other evidence in his/her behalf;
 - (11) To have a speedy, impartial and public trial, with legal or other appropriate assistance and preferably in the presence of his/her parents or legal guardian, unless such presence is considered not to

- be in the best interests of the juvenile taking into account his/her age and other peculiar circumstances;
- (12) To appeal in all cases allowed and in the manner prescribed by law; and
 - (13) To be accorded all the rights under the Rule on Examination of a Child Witness.
- (o) In general, the right to automatic suspension of sentence;
 - (p) The right to probation as an alternative to imprisonment, if qualified under the probation law;
 - (q) The right to be free from liability for perjury, concealment or misrepresentation; and
 - (r) Other rights as provided for under existing laws, rules and regulations.

These rights of children in conflict with the law shall serve as guiding principles in the administration of the Juvenile Justice and Welfare System.

RULE 6. Principle of Restorative Justice

Restorative justice refers to a principle that requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to achieve the following:

- (a) Reparation for the victim;
- (b) Reconciliation of the offender, the offended and the community;
- (c) Reassurance to the offender that he/she can be reintegrated into society; and
- (d) Enhancement of public safety by activating the offender, the victim and the community in prevention strategies.

RULE 7. Children of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs)

Consistent with Section 15 of Republic Act No. 8371 or "The Indigenous Peoples Rights Act of 1997," ICCs/IPs shall, in dealing with children in conflict with the law, have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.

PART II JUVENILE JUSTICE AND WELFARE COUNCIL

RULE 8. Mandate

The Juvenile Justice and Welfare Council (JJWC), created under Section 8 of the Act, shall ensure the effective implementation of the Act, including these Rules. In fulfillment of this mandate, the JJWC shall ensure the effective coordination among the following agencies, the duties and responsibilities of which are found in Part XVII of these Rules:

- (a) Council for the Welfare of Children;
- (b) Department of Education;
- (c) Department of the Interior and Local Government;
- (d) Public Attorney's Office;
- (e) Bureau of Corrections;
- (f) Parole and Probation Administration;
- (g) National Bureau of Investigation;
- (h) Philippine National Police;
- (i) Bureau of Jail Management and Penology;
- (j) Commission on Human Rights;
- (k) Technical Education and Skills Development Authority;
- (l) National Youth Commission; and
- (m) Other institutions focused on juvenile justice and intervention programs, as may be determined by the JJWC.

RULE 9. Composition

As provided in Section 8 of the Act, the JJWC shall be composed of representatives of the following departments or agencies:

- (a) Department of Justice (DOJ);
- (b) Department of Social Welfare and Development (DSWD);
- (c) Department of Education (DepEd);
- (d) Department of the Interior and Local Government (DILG);
- (e) Council for the Welfare of Children (CWC);
- (f) Commission on Human Rights (CHR);
- (g) National Youth Commission (NYC); and
- (h) Two (2) representatives from non-government organizations (NGOs), one to be designated by the Secretary of Justice and the other to be designated by the Secretary of Social Welfare and Development.

RULE 10. Administration and organization of the JJWC

Rule 10.a. Attachment and administrative supervision

The JJWC is attached to the DOJ and placed under its administrative supervision. As such, the DOJ has the authority to:

- (1) Generally oversee the operation of JJWC and ensure that it is managed effectively, efficiently and economically;

- (2) Manage the secretariat of the JJWC;
- (3) Require the JJWC to submit periodic reports, such as those reflecting the progress of its programs and projects;
- (4) Cause the conduct of management audit, performance evaluation and inspection of the JJWC to determine its compliance with policies, standards and guidelines of the Department;
- (5) Take such action as may be necessary for the performance of official functions, including rectifications, abuses and other forms of misadministration by its personnel;
- (6) Review and pass upon the budget of the JJWC; and
- (7) Call all regular and special meetings of the JJWC.

Rule 10.b. Chairperson of the JJWC

As provided by Section 8 of the Act, the JJWC shall be chaired by the DSWD through an Undersecretary appointed by the Secretary of Social Welfare and Development. As the JJWC chair, the DSWD shall:

- (1) Preside over all regular and special meetings of the JJWC;
- (2) Closely monitor the programs of the JJWC;
- (3) Represent the JJWC in conferences, meetings and other programs; and
- (4) Sign communications for the JJWC.

In the absence of the chairperson, the JJWC shall be chaired by the DOJ.

Rule 10.c. Organizational structure and staffing pattern

As provided in Section 8 of the Act, the Secretary of Justice and the Secretary of Social Welfare and Development shall determine the organizational structure and staffing pattern of the JJWC, which include the JJWC secretariat. The secretariat shall among other functions to be determined by the JJWC:

- (1) Prepare the periodic reports for the JJWC;
- (2) Prepare the budget of the JJWC; and
- (3) Invite resource persons in the meetings and programs of the JJWC.

The Secretary of Justice shall appoint the officers and staff of the JJWC secretariat upon a favorable recommendation of the JJWC.

Rule 10.d. Designation of representatives to the JJWC

The concerned department or agency heads shall designate their representatives to the JJWC, whose ranks shall not be lower than director, except in the case of the NYC, whose representative must have the rank of at least commissioner.

The heads of the concerned departments or agencies shall name a permanent and an alternate representative, respectively with ranks of at least Undersecretary and Director, who shall regularly attend meetings and programs of the JJWC.

RULE 11. Duties and functions of the JJWC

Rule 11.a. Implementation of the Act

The JJWC has the duty to oversee the implementation of the Act and all Rules issued in relation thereto. Pursuant to this duty, it shall:

- (1) Coordinate the implementation of the juvenile intervention programs and activities by national government agencies and other activities which may have an important bearing on the success of the entire national juvenile intervention program. All programs relating to juvenile justice and welfare shall be adopted in consultation with the JJWC.
- (2) Call the attention of the departments and agencies concerned to perform their respective duties and responsibilities under the Act and these Rules and assist them if necessary to ensure the effective implementation of the Act.
- (3) Mobilize resources and call upon government agencies as well as private organizations to provide resource assistance to support the implementation of the Act.

The JJWC shall regularly conduct meetings and submit an annual report to the President on the implementation of the Act. The annual report shall include, among others:

- (1) Identification of the strengths and weaknesses in the implementation of the Act;
- (2) Appraisal of the performance of the government agencies in relation to their duties and responsibilities under the Act; and
- (3) Recommendations on how to improve the implementation of the Act and the administration of the juvenile justice and welfare system.

The JJWC shall prescribe a common reporting form for all the agencies under Rule 8 to facilitate the preparation of the Annual Report.

The JJWC shall also perform such other functions as may be necessary to implement the provisions of the Act.

Rule 11.b. Advisory function

The JJWC shall advise the President on all matters and policies relating to juvenile justice and welfare. It shall bring to the attention of the President the gaps in existing policies and recommend appropriate remedial legislation or other policy measures that address these gaps.

Rule 11.c. Policy formulation and program development

The JJWC shall periodically develop a Comprehensive National Juvenile Intervention Program, as provided in Rule 17 herein.

It shall formulate and recommend policies and strategies in consultation with children for the prevention of juvenile delinquency and the administration of justice, as well as for the treatment and rehabilitation of the children in conflict with the law.

The JJWC shall also set the criteria that LGUs must meet in establishing their respective community-based programs for the rehabilitation and reintegration of children in conflict with the law.

Rule 11.d. Research and evaluation

The JJWC shall collect relevant information and conduct continuing research support evaluations and studies on all matters relating to juvenile justice and welfare, such as, but not limited to the:

- (1) Performance and results achieved by juvenile intervention programs and by activities of the local government units and other government agencies;
- (2) Periodic trends, problems and causes of juvenile delinquency and crimes; and
- (3) Particular needs of children in conflict with the law in custody.

A data banking system for all data needed in the evaluation and improvement of the administration of juvenile justice and welfare system shall be developed and maintained by the JJWC.

The JJWC shall set up a mechanism to ensure that children are involved in research and policy development.

The JJWC shall also receive and evaluate the assessments submitted by provincial and city governments on the implementation of the comprehensive juvenile intervention program as provided in Section 18 of the Act and Rule 18 herein.

Rule 11.e. Inspection

The JJWC, through duly designated persons and with the assistance of the agencies under Section 8 of the Act (Rule 9) shall conduct regular inspections in detention and rehabilitation facilities and to undertake spot inspections on their own initiative in order to check compliance with the standards provided in the Act and the Rules and to make the necessary recommendations to appropriate agencies.

Rule 11.g. Assistance to agencies

The JJWC shall, pursuant to Section 10 of the Act, assist the concerned government agencies in:

- (1) Reviewing and enhancing existing policies/regulations or in the formulation of new ones in line with the provisions of this Act and the Rules; and
- (2) Formulating their respective policies and procedures consistent with the standards set in the law and in modifying the same upon the completion of the national juvenile intervention program as provided in Rule 14.

The JJWC shall also initiate and coordinate the conduct of trainings for the personnel of agencies involved in the administration of the juvenile justice and welfare system.

The JJWC shall be informed by the DSWD in cases where licensed and accredited private and non-government organizations establish Youth Detention Homes as provided under Section 49 of the Act and Rule 76 herein.

RULE 12. Coordination with the Court

To ensure the realization of its mandate and the proper discharge of its duties and functions, the JJWC shall coordinate with the Office of the Court Administrator and the Philippine Judicial Academy by inviting resource persons from these offices during consultation meetings.

RULE 13. Non-government organizations

Rule 13.a. Designation of representatives

Two (2) representatives from non-government organizations (NGOs) shall serve as members of the JJWC, one representative to be designated by the Secretary of Justice and the other to be designated by the Secretary of Social Welfare and Development.

Rule 13.b. Qualifications

An NGO, to be designated as a member of the JJWC, must be involved in child-related advocacy or work of at least two (2) years prior and up to the time of designation. The additional qualifications of the NGOs shall be respectively determined by the Secretaries of Justice and of Social Welfare and Development.

Rule 13.c. Term

Each NGO representative designated under Rule 13.a shall have a term of two (2) years. In the event a representative is not able to complete the prescribed term, the Secretary designating such representative shall designate another NGO to serve the unexpired portion of the term.

An NGO representative, even one that is not able to complete the term of two years, cannot be appointed to the JJWC for two consecutive terms.

RULE 14. Policies and procedures on juvenile justice

All government agencies enumerated in Section 8 of the Act (Rule 8) shall, with the assistance of the JJWC and within one (1) year from the effectivity of this Act, draft policies and procedures consistent with the standards set in the Act.

The policies and procedures of all government agencies shall promote a common and conscious understanding of issues concerning juvenile justice and welfare, be consistent and avoid duplicating or contradicting policies that result to confusion. As such, the following shall be observed in the drafting, formulation or development of such policies and procedures:

- (a) Policies and procedures on juvenile justice and welfare of all government agencies enumerated in Section 8 of the Act shall not only be consistent with the standards set in the law but also with the National Juvenile Intervention Program. Policies and procedures shall be modified accordingly in consultation with the JJWC upon the completion of the National Juvenile Intervention Program as provided under Rule 17 below and Section 9(d) of the Act.

- (b) Each government agency shall see to it that its policies and procedures are consistent with that of other government agencies.
- (c) If the standards set in the Act require the involvement of several government agencies enumerated in Section 8 of the Act, only a single policy and/or procedure pertaining to those standards shall be issued. The lead agency shall be identified by the JJWC.
- (d) In the event that policies and procedures of a government agency not enumerated in Section 8 of the Act affect the juvenile justice and welfare system, the concerned government agency shall seek the assistance of the JJWC.

The participation of children in the program and policy formulation and implementation relating to juvenile justice and welfare shall be ensured by each government agency.

PART III
LOCAL COUNCILS FOR THE PROTECTION OF CHILDREN

RULE 15. Local Councils for the Protection of Children

Rule 15.a. Establishment

All levels of local government shall have Local Councils for the Protection of Children (LCPCs) as provided in Section 15 of the Act. The LCPC in each level of local government unit (LGU) is:

- (1) Province – Provincial Council for the Protection of Children (PCPC);
- (2) City – City Council for the Protection of Children (CCPC);
- (3) Municipality – Municipal Council for the Protection of Children (MCPC);
and
- (4) Barangay – Barangay Council for the Protection of Children (BCPC).

In LGUs where LCPCs are not yet established, the concerned LGU shall immediately establish an LCPC upon the effectivity of the Act and ensure that it is performing its duties and responsibilities as provided in these Rules.

Where they have been established, the LCPCs shall be strengthened by their respective LGUs.

Rule 15.b. Funding for LCPCs

Each barangay, municipality and city shall appropriate in its annual budget one percent (1%) of its annual internal revenue allotment (IRA) for the strengthening and implementation of the programs of the LCPC, as provided in Section 15 of the Act.

The LGU concerned shall be responsible for the disbursement of the fund as provided by existing laws.

Funds disbursed by LGUs on current programs of the LCPC shall be deemed as appropriate disbursement under Section 15 of the Act. However, the one percent (1%) IRA allocation under in this Rule is different from the budget disbursed by the LGUs for social services.

Rule 15.c. Membership

As provided in Section 15 of the Act, membership in the LCPC shall be chosen from among the responsible members of the community, including a representative from the youth sector, as well as representatives from government and private agencies concerned with the welfare of children. Pursuant to DILG Memorandum Circular No. 2002-121, the LCPC in each level of LGU shall be composed of:

- (1) PCPC

Chairperson	-	Provincial Governor
Members	-	Sangguniang Panlalawigan Member (Chairperson, Committee on Women and Family) DILG Provincial Director

Provincial Social Welfare and Development Officer
 Provincial Labor and Employment Officer
 Division Superintendent of DepEd
 Provincial Planning & Development Officer
 Provincial Budget Officer
 Provincial Health Officer
 Provincial Nutrition Officer
 Provincial PNP Director
 Provincial Commander, AFP
 Provincial Treasurer
 President, League of Municipalities
 Provincial SK Federation President
 Child Representative
 At least three (3) representatives of NGOs

(2) CCPC and MCPC

Chairperson - City / Municipal Mayor

Members - Sangguniang Panlungsod / Pambayan Member
 (Chairperson, Committee on Women and Family)
 DILG City / Municipal Field Officer
 City / Municipal Social Welfare and Development Officer
 Division Superintendent / District Supervisor of DepEd
 Local Labor and Employment Officer
 City / Municipal Planning & Development Officer
 City / Municipal Budget Officer
 City / Municipal Health Officer
 City / Municipal Nutrition Officer
 City / Municipal PNP Director
 City / Municipal Treasurer
 City / Municipal LIGA ng mga Barangay President
 City / Municipal SK Federation President
 Parent – Teachers Association (PTA) President
 Child Representative
 At least three (3) representatives of NGOs

(3) BCPC

Chairperson - Punong Barangay

Members - Barangay Kagawad (Chairperson on Women and Family)
 Barangay Nutrition Scholar
 Barangay Day Care Worker
 Barangay Health Nurse / Midwife
 Barangay Health Worker
 DepEd Principal / Teacher-in-charge
 Chief Tanod
 SK Chairperson
 Child Representative
 PTA President or his/her representative

NGO Representative

Membership in the LCPC shall be subject to the review and amendment of the DILG through appropriate issuances.

Rule 15.d. Duties and responsibilities of the LCPC

All LCPCs shall:

- (1) Serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of the Comprehensive Juvenile Intervention Program as provided in Rule 18 below, and to oversee its proper implementation;
- (2) Coordinate with and assist the LGUs in calling on all sectors concerned, particularly the child-focused institutions, NGOs, people's organizations, educational institutions and government agencies involved in delinquency prevention to participate in the planning process and implementation of juvenile intervention programs;
- (3) Coordinate with LGUs in the annual review and assessment of the comprehensive juvenile intervention programs;
- (4) Coordinate with and assist the SK in the formulation and implementation of juvenile intervention and diversion programs in the community;
- (5) Provide coordinative linkages with other agencies and institutions in the planning, monitoring and evaluation of juvenile intervention and diversion programs in the community;
- (6) Assist the Punong Barangay in conducting diversion proceedings in cases provided under Section 23(a) of the Act and Rule 43.b below;
- (7) Assist the Local Social Welfare and Development Officer (LSWDO) in the development of the appropriate diversion program as provided under Section 23(b) of the Act;
- (8) Institute together with schools, youth organizations and other concerned agencies the community-based programs on juvenile justice and welfare initiated by LGUs;
- (9) Conduct capability building programs to enhance knowledge and skills in handling children's programs;
- (10) Establish and maintain a database on children in the local government. Specifically, for the purpose of this Act, the LCPCs shall maintain a database of children in conflict with the law, which shall include the children who undergo intervention, diversion and rehabilitation programs and after-care support services;
- (11) Document best practices on juvenile intervention and prevention;
- (12) Advocate and recommend local legislations promoting child survival, protection, participation and development, especially on the quality of

television shows and media prints and coverage, which are detrimental to children, and with appropriate funding support;

- (13) Conduct an inventory of all NGOs serving children in conflict with the law and mobilize them as resources for the effective implementation of the Act;
- (14) Review existing policies of units providing services to children in conflict with the law, determine the barriers to access to these services, and take the necessary action to improve access to these services.

In addition to its functions under Presidential Decree No. 603, or the “The Child and Youth Welfare Code” [“P.D. 603”] and Republic Act No. 8980, or the “ECCD Act,” each BCPC shall perform the following functions consistent with the objectives of the Act on juvenile intervention and delinquency prevention:

- (1) Encourage the proper performance of the duties of parents, and provide learning opportunities on the adequate rearing of children and on positive parent-child relationship;
- (2) Assist parents, whenever necessary in securing expert guidance counseling from the proper governmental or private welfare agency;
- (3) In addition, it shall hold classes and seminars on the proper rearing of children. It shall distribute to parents available literature and other information on child guidance. The Council shall assist parents, with behavioral problems whenever necessary, in securing expert guidance counseling from the proper governmental or private welfare agency;
- (4) Coordinate the activities of organizations devoted to the welfare of children in coordination with the Sangguniang Kabataan and secure their cooperation;
- (5) Protect and assist children at risk; and
- (6) Take steps to prevent juvenile delinquency and assist parents of children with behavioral problems so that they can get expert advise.

Rule 15.e. Responsibility of BCPC members

Members of the BCPC shall have the following additional responsibilities:

- (1) To take custody of the child in conflict with the law who is found to be fifteen (15) years of age or below if the parents, guardians or nearest relatives of the child cannot be located, or if they refuse to take custody as provided in Section 20 of the Act and Rule 31.b below.
- (2) To be present in the initial investigation of the child in conflict with the law in the absence of the child’s parents, guardian, or nearest relative, and the LSWDO as provided in Section 22 of the Act and Rule 23.b below. The presence of the member of the BCPC, or in the alternative, the representative of an NGO or a faith-based group, may be required in the initial investigation to ensure that the rights of the child are protected during that stage.

**PART IV
PROGRAMS FOR JUVENILE INTERVENTION
AND DELINQUENCY PREVENTION**

RULE 16. Concept/Principles in Intervention

Intervention refers to a series of activities designed to address issues that caused the child to commit an offense. It may take the form of an individualized treatment program, which may include counseling, skills training, education, and other activities that will enhance his/her psychological, emotional and psycho-social well-being.

All programs for juvenile intervention and delinquency prevention shall be formulated in consideration of the following:

- (a) Emphasis on intervention or prevention policies facilitating the successful socialization and integration of all children with the family, through the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations;
- (b) Due respect should be given to the proper personal development of children, and they should be accepted as full and equal partners in socialization and integration processes.

RULE 17. National Juvenile Intervention Program

Rule 17.a. Development; Term

The JJWC shall, in accordance with Section 18 of the Act, develop a three (3) to five (5)-year Comprehensive National Juvenile Intervention Program (the "National Intervention Program") embodying the detailed strategy to realize the objectives of the Act on juvenile intervention and delinquency prevention.

The National Intervention Program shall serve as a guide to all government agencies, LGUs and NGOs in the formulation of their respective juvenile intervention programs and their policies and programs relating to juvenile justice and welfare. Particularly, the National Intervention Program shall serve as the basis for the:

- (1) Formulation or modification of policies and procedures of all government agencies involved in the Juvenile Justice and Welfare System; and
- (2) Comprehensive Juvenile Intervention Programs to be developed and instituted by the LGUs as provided in Rule 18.

The National Intervention Program shall be developed by the JJWC, within six (6) months from the effectivity of the Act, with the participation of:

- (1) Government agencies concerned, including but not limited those enumerated in Rule 8;
- (2) Non-government organizations;
- (3) Child and youth organizations; and
- (4) The Leagues of provinces, cities, municipalities and barangays.

Rule 17.b. Components of the program

The National Intervention Program shall be formulated and designed to include, among others, the following:

- (a) In-depth analyses of the problem and inventories of programs, services, facilities and resources available;
- (b) Well-defined responsibilities for the government agencies, both member and coordinating, institutions and personnel as well as non-government agencies involved in intervention and prevention efforts;
- (c) Mechanisms for the appropriate coordination of intervention and prevention efforts between governmental and non-governmental agencies;
- (d) Policies, programs and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;
- (e) Methods for effectively reducing the opportunity for children to commit offenses;
- (f) Community involvement through a wide range of services and programs;
- (g) Close interdisciplinary cooperation between the national government and the local governments, with the involvement of the private sector representative citizens of the community to be served, and concerned government agencies as well as the judiciary in taking concerted action to prevent commission of offenses by children;
- (h) Participation of children in intervention and prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programs; and
- (i) Specialized personnel at all levels (e.g., social workers, prosecutors) and their respective roles in the juvenile justice and welfare system.

RULE 18. Comprehensive Juvenile Intervention Program

Rule 18.a. Development; term

Each LGU shall formulate a Comprehensive Juvenile Intervention Program (“Local Intervention Program”) to be instituted from the barangay to the provincial level. Each Local Intervention Program shall cover a period of at least three (3) years.

The LGUs, in coordination with the LCPCs, shall call on all sectors concerned, particularly the child-focused institutions, NGOs, people’s organizations, educational institutions and government agencies involved in delinquency prevention to participate in the planning process and implementation of the Local Intervention Programs.

Existing programs of LGUs dealing with children shall be deemed part of LCPC program.

Rule 18.b. Components

Each Local Intervention Program shall be formulated and designed to include the components prescribed in Rule 17.b, when appropriate.

All Local Intervention Programs shall be consistent with the National Intervention Program formulated and designed by the JJWC.

Rule 18.c. Implementation

The LCPC shall serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of Local Intervention Program, and to oversee its proper implementation.

As provided by Section 18 of the Act, the LGUs shall set aside an amount necessary to implement their respective juvenile intervention programs in their annual budget.

Rule 18.d. Assessment

The implementation of the Local Intervention Programs shall be reviewed and assessed annually by the LGUs in coordination with their respective LCPCs. Results of the assessment shall be submitted by the LGUs to the JJWC, through the DILG, not later than March 30 of every year.

RULE 19. Community-based programs as intervention**Rule 19.a. Objectives of community-based programs as intervention**

As provided in Section 19 of the Act, the community-based programs for juvenile intervention and delinquency prevention shall respond to the special needs, problems, interests and concerns of children and offer appropriate counseling and guidance to them and their families.

All community-based programs to be designed by LGUs shall consist of three levels:

- (1) Primary intervention includes general measures to promote social justice and equal opportunity, which tackle perceived root causes of offending. These shall include programs on advocacy, socio-economic service, health and nutrition, training and education.
- (2) Secondary intervention includes measures to assist children at risk, i.e., protective services for children; and
- (3) Tertiary intervention includes measures to avoid unnecessary contact with the formal justice system and other measures to prevent re-offending, i.e., diversion programs, rehabilitation, reintegration and after care services, which shall be further defined in Parts VII, VIII and XI of these Rules.

These programs intend to minimize the commission of offenses by children who are potentially and actually in conflict with the law and their eventual apprehension by law enforcement officers.

Rule 19.b. Formulation and implementation

The community-based programs on juvenile intervention and delinquency prevention shall be instituted by the LGUs through the LCPCs, schools, youth organizations and other concerned agencies consistent with the Local Intervention Programs.

The Sangguniang Kabataan, as prescribed by Section 17 of the Act, shall coordinate with the LCPC in the formulation and implementation of juvenile intervention programs in the community.

LGUs, in coordination with the LCPCs, shall be responsible making an annual assessment and evaluation of the community-based programs for intervention in the comprehensive juvenile intervention programs. Results of the assessment shall be submitted by the provincial and city governments to the JJWC not later than March 30 of every year. Municipal governments shall submit their reports to the provincial government for consolidation.

Rule 19.c. Programs and services for juvenile intervention

In developing community-based programs for juvenile intervention and delinquency prevention, LGUs shall be guided by the following:

- (1) Services and programs that respond to the special needs, problems, interests and concerns of children and offer appropriate counseling and guidance to children and their families shall be developed, or strengthened where they exist.
- (2) A wide-range of community-based support measures for children, including but not limited to community development centers, recreational facilities and services that respond to the special problems of children at risk, shall be provided, or strengthened where they exist.
- (3) Special facilities shall be set up to provide adequate shelter for children who are no longer able to live at home or who do not have homes to live in.
- (4) A range of services and helping measures shall be provided to deal with the difficulties experienced by children in the transition to adulthood. Such services shall include special programs for young drug abusers which emphasize care, counseling, assistance and therapy-oriented interventions.
- (5) LGUs shall share resources with and support the programs of private and non-government organizations providing services for children.
- (6) Youth organizations shall be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations shall encourage the youth to organize collective and voluntary projects, particularly projects aimed at helping children in need of assistance.
- (7) The LGUs shall take special responsibility and provide necessary services for homeless or street children. Information about local

facilities, accommodation, employment and other forms and sources of help shall be made readily available to children.

- (8) A wide range of recreational facilities and services of particular interest to children shall be established and made easily accessible to them.

RULE 20. Role of different sectors in juvenile intervention and prevention

Rule 20.a. Family

As provided in Section 12 of the Act, the family shall be responsible for the primary nurturing and rearing of children, which are critical in delinquency prevention. As far as practicable and in accordance with the procedures of the Act, a child in conflict with the law shall be maintained in his/her family.

Rule 20.b. Educational system

By way of contributing to juvenile intervention and delinquency prevention, educational institutions shall, consistent with Section 13 of the Act:

- (1) Work together with families, community organizations and agencies in the prevention of juvenile delinquency and in the rehabilitation and reintegration of child in conflict with the law.
- (2) Provide adequate, necessary and individualized educational schemes for children manifesting difficult behavior and children in conflict with the law.
- (3) In cases where children in conflict with the law are taken into custody or detained in youth rehabilitation centers, provide the opportunity to continue learning under an alternative learning system with basic literacy program or non-formal education accreditation equivalency system.

In addition to their academic and vocational training activities, educational institutions shall devote particular attention to the following:

- (1) Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;
- (2) Promotion and development of the personality, talents and mental and physical abilities of children to their fullest potential;
- (3) Involvement of children as active and effective participants in, rather than mere objects of, the educational process;
- (4) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;
- (5) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;
- (6) Provision of information and guidance regarding vocational training, employment opportunities and career development;
- (7) Provision of positive emotional support to children and the avoidance of psychological maltreatment;
- (8) Prohibition of harsh disciplinary measures, particularly corporal punishment;

- (9) Seek to work together with parents, community organizations and agencies concerned with the activities of children;
- (10) Extend particular care and attention to children at risk. Specialized prevention programs and educational materials, curricula, approaches and tools should be developed and fully utilized;
- (11) Give special attention to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by children. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body;
- (12) Serve as resource and referral centers for the provision of medical, counseling and other services to children, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation;
- (13) Attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers;
- (14) Plan, develop and implement extracurricular activities of interest to children, in cooperation with community groups;
- (15) Give special assistance to children who find it difficult to comply with attendance rules, and to “drop-outs;”
- (16) Promote policies and rules that are fair and just.

Rule 20.c. Mass media

As provided in Section 14 of the Act, the mass media shall play an active role in the promotion of child rights, and delinquency prevention by relaying consistent messages through a balanced approach. Media practitioners shall, therefore, have the duty to maintain the highest critical and professional standards in reporting and covering cases of children in conflict with the law consistent with the Guidelines for Media Practitioners on the Reporting and Coverage of Cases Involving Children issued by the Special Committee for the Protection of Children.

In all publicity concerning children, the best interest of the child should be the primordial and paramount concern. Any undue, inappropriate and sensationalized publicity of any case involving a child in conflict with the law is hereby declared a violation of the child’s rights.

The right of the child in conflict with the law to have his/her privacy shall be respected. Any material information obtained by media practitioners on the child in conflict with the law must not be used in violation of this right or in any manner that may lead to the child’s identity. Media practitioners shall not disclose the identities of the relatives of the child to maintain confidentiality and privacy.

The mass media shall also be encouraged:

- (1) To ensure that children have access to information and material from a diversity of national and international sources;
- (2) To portray the positive contribution of children to society; and
- (3) To disseminate information on the existence of services, facilities and opportunities for children in society.

PART V INITIAL CONTACT WITH THE CHILD

RULE 21. Initial contact with the child

Rule 21.a. What constitutes initial contact

Initial contact refers to the apprehension or taking into custody of a child in conflict with the law by law enforcement officers or private citizens.

It includes the time when the child alleged to be in conflict with the law receives a subpoena under Section 3(b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in cases that do not require preliminary investigation or where there is no necessity to place the child alleged to be in conflict with the law under immediate custody.

Rule 21.b. If initial contact by private citizens or non-law enforcement officers

In the event a child in conflict with the law is apprehended or taken into custody by private citizens, the child shall be immediately referred to the appropriate law enforcement officer for the child to undergo the proper investigation as provided in the succeeding Rules.

RULE 22. Procedure for taking child into custody

From the moment the child is taken into custody, the law enforcement officer shall faithfully observe the following procedure as provided in Section 21 of the Act:

- (a) Properly identify him/herself and present proper identification to the child.
- (b) Immediately notify the child's parents/guardians, the local social welfare and development officer (LSWDO), and the Public Attorney's Office of the child's apprehension. The notification shall be made not later than eight (8) hours after apprehension.
- (c) Explain to the child in simple language and in a language or dialect that he/she can understand:
 - (1) The reason for placing the child under custody;
 - (2) The offense that he/she allegedly committed; and
 - (3) His/her constitutional rights.
- (d) Immediately start the determination of the age of the child in accordance with the guidelines provided in Rule 30 below.
- (e) Take the child immediately to the proper medical and health officer for a thorough physical and mental examination. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same.
- (f) Turn over the custody of the child to the LSWDO or other accredited non-government organizations immediately but not later than eight (8) hours

after apprehension. The turn over of custody shall be done within the same eight (8) hours referred in item (b) under this Rule. However, in cases where the child is found to be below the age of criminal responsibility as defined in Section 20 of the Act, the law enforcement officer shall immediately release the child to his/parents in accordance with Rule 31 below. **The turnover of children below the age of criminal responsibility to parents notwithstanding, the law enforcement officer shall proceed with the initial investigation, where appropriate.**

The above procedure must be conducted in strict observance of the prohibitions provided in Section 21 of the Act and in Rule 28 below while the law enforcement officer is in custody of the child.

A child in conflict with the law shall only be searched by a law enforcement officer of the same gender as prescribed in Section 21 of the Act.

RULE 23. Initial investigation

Rule 23.a. Nature and objective of the investigation

The initial investigation is the stage after initial contact when the law enforcement officer takes the statement of the child in conflict with the law.

The law enforcement officer shall, in the conduct of the initial investigation, determine where the case involving the child in conflict with the law should be referred.

Rule 23.b. Who conducts; who are present

As provided in Section 22 of the Act, the law enforcement officer, specifically from the Women and Children Protection Desk where present, shall take the statement of the child during the initial investigation, which shall be conducted in the presence of the following:

- (1) Child's counsel of choice or in the absence thereof, a lawyer from the Public Attorney's Office;
- (2) Child's parents, guardian, or nearest relative, as the case may be; and
- (3) LSWDO.

In the absence of the child's parents, guardian, or nearest relative, and of the LSWDO, the investigation shall be conducted in the presence of a representative of an NGO or faith-based group, or a member of the BCPC.

Rule 23.c. How the statement of the child is taken

In taking the statement of the child, the law enforcement officer shall observe the following guidelines:

- (1) The investigation shall be child friendly and be conducted in a non-intimidating manner.
- (2) The interview of the child shall be conducted in a separate interview room to make the child feel comfortable and free to express him/herself.

- (3) The law enforcement officer shall use simple and understandable language in taking the statement of the child during the initial investigation.
- (4) The law enforcement officer shall allow the LSWDO, or the persons taking his/her place as above enumerated, to actively assist in conducting the initial investigation.
- (5) There should be enough privacy to avoid unnecessary interruptions, distractions and/or participation from non-parties that could humiliate or make the child uncomfortable.
- (6) The written statement to be prepared shall reflect the language used by the child and not the language used by the law enforcement officer.

The initial investigation shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express him/herself freely.

Rule 23.d. Signing statements

As provided in Section 21(m), the law enforcement officer conducting the initial investigation shall ensure that all statements signed or thumbmarked by the child during investigation shall be witnessed by the child's parents or guardian, the LSWDO, or if not present, any other social worker, or counsel in attendance, who shall affix his/her signature to the said statement.

Rule 23.e. After taking the statement of the child above fifteen years of age

After taking the statement of the child who is above fifteen (15) years of age but below eighteen (18) years of age, the law enforcement officer shall refer the records of the child to the LSWDO for an assessment if the child acted with discernment as provided in Rule 34. The law enforcement officer shall transmit the following records of the child to the LSWDO:

- (1) Written statement of the child;
- (2) Other pertinent records such as the documents showing the basis for the determination of the age of the child;
- (3) Medical report if available; and
- (4) All other records that may assist the LSWDO in making an assessment if the child acted with discernment.

The LSWDO shall, as part of the initial investigation, assess if the child acted with discernment in accordance with Rule 34 and make the necessary recommendation to the law enforcement officer on the basis of said assessment.

The law enforcement officer shall consider the assessment made by the LSWDO in preparing the report of the initial investigation and in deciding where to refer the case of the child.

Rule 23.f. Report on initial investigation; what to record

After the initial investigation, the law enforcement officer conducting the same shall prepare a report, which contains the following information:

- (1) Whether handcuffs or other instruments of restraint were used, and if so, the reason for such;
- (2) That the parents or guardian of a child, the DSWD or the LSWDO, and the PAO have been duly informed of the apprehension and the details thereof;
- (3) The exhaustion of measures to determine the age of a child;
- (4) The basis for the determination of the age of the child;
- (5) The precise details of the physical and medical examination or the failure to submit a child to such examination;
- (6) To whom the child was released and the basis for the release; and
- (7) Where the case shall be referred as provided in the next Rule and the basis for such disposition, i.e., the nature of the offense allegedly committed by the child, the corresponding imposable penalty for the commission of the alleged offense, and the assessment of discernment as provided in Rule 34.

RULE 24. Where the case shall be referred

After the initial investigation, the law enforcement officer shall determine if the case of the child shall be referred to:

- (1) The LSWDO for intervention in accordance with Section 20 of the Act and Part VII of these Rules if the child is:
 - (a) Fifteen (15) years old or below; or
 - (b) Above 15 but below 18 years of age and acted without discernment.
- (2) Diversion, in accordance with Section 23 of the Act and Part VIII of these Rules, under the:
 - (a) Law enforcement officer if the child is above 15 but below 18 years of age, acted with discernment and allegedly committed an offense with an imposable penalty of not more than six (6) years of imprisonment; or
 - (b) LSWDO if the child is above 15 but below 18 years of age, acted with discernment and allegedly committed an offense that is a victimless crime with an imposable penalty of not more than six (6) years of imprisonment.
- (3) The prosecutor or judge if the child is above fifteen (15) but below 18 years of age, acted with discernment and allegedly committed an offense with an imposable penalty of more than six (6) years of imprisonment.

The report on the initial investigation as required under Rule 23.f. shall state where the case shall be referred and the basis for such disposition, which include the following information:

- (1) The nature of the offense allegedly committed by the child;

- (2) The corresponding imposable penalty for the commission of the offense; and
- (3) Where the case of the child shall be referred in the event of an assessment that the child acted with discernment as provided in Rule 34.

RULE 25. Turnover of custody

In all cases, the law enforcement officer shall turn over the physical custody of the child to the LSWDO within eight (8) hours from apprehension, as required under Section 21(i) of the Act. The physical custody of the child shall be transferred to the LSWDO even if the law enforcement officer has not yet exhausted all measures to determine the age of the child under Rule 30 and even if the initial investigation under Rule 23 has not yet been terminated.

After the physical custody of the child is turned over, the LSWDO shall then explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate, as required by Sec. 21(i) of the Act.

In the event a child whose custody is turned over by the law enforcement officer is fifteen (15) years old or below, the LSWDO shall take all measures to release the child to the parents or guardians, or to any of the persons or organizations provided in Rule 31.b, and proceed with the development of appropriate programs as provided under Part VII of these Rules.

RULE 26. Pending turnover of custody

Pending the turn over of the custody of the child to the parents, guardians or the LSWDO, as in cases when the child is apprehended at night time or during weekends, the law enforcement officers shall ensure that the child shall be temporarily secured in an area separate from that of the opposite sex and adult offenders and not put in the detention cell or jail. The temporary physical custody of child in such cases may also be given to a duly registered NGO, i.e., licensed and accredited by the DSWD, a faith-based organization, a barangay official, or a member of the BCPC.

RULE 27. Duty to maintain confidentiality and privacy

From the time he/she takes custody of the child in conflict with the law, the law enforcement officer shall handle the case of the child with utmost confidentiality. Particularly, the law enforcement officer shall:

- (a) Use a system of coding that provides aliases for children taken into custody;
- (b) Maintain a separate logbook for children in conflict with the law;
- (c) Exclude the public, particularly the media, from the area where the child is being held in custody pursuant to Section 43 of the Act;
- (d) Not provide any detail or information to the public, particularly the media, that shall lead to the identity of the child;
- (e) Keep the results of the medical examination confidential; and
- (f) Mark the records of the child and the report on the initial investigation as confidential.

The law enforcement officer shall direct the media to observe the Guidelines for Media Practitioners on the Reporting and Coverage of Cases Involving Children issued by the Special Committee for the Protection of Children.

RULE 28. Prohibited acts when in custody of child**Rule 28.a.** Detention

A child in conflict with the law shall not be locked up in a detention cell.

The child shall not be detained in the provincial, city or municipal jail, even if there are quarters separate from adult detainees.

Rule 28.b. Search by an officer of the opposite sex

A child in conflict with the law shall not be searched by a law enforcement officer of the opposite sex.

Rule 28.c. Contact with adult offenders and offenders of opposite sex

Should the detention of the child in conflict with the law be necessary pending turnover to the LSWDO or the other persons who may take custody of the child under Section 21(i) of the Act [Rule 31.b], the child shall be secured in quarters separate from that of the opposite sex and adult offenders.

Rule 28.d. Vulgar language

As required under Section 21(d) of the Act, the law enforcement officer having custody of the child shall refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law.

Rule 28.e. Harassment and abuse

The law enforcement officer shall refrain from sexually harassing or abusing, or making sexual advances on the child in conflict with the law.

Rule 28.f. Display and use of instruments of force or restraint

The law enforcement officer shall refrain from subjecting the child in conflict with the law to greater restraint than is necessary for apprehension.

If handcuffs or other instruments of restraint are used on the child, the law enforcement officer shall record such fact in the report on the initial investigation as required under Section 21(l) of the Act and Rule 23.f, and the reason for the use of such instruments of restraint.

As required under Section 21(e) of the Act, the law enforcement officer from the time of initial contact with the child shall also avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed.

Rule 28.g. Violence or unnecessary force

As prescribed by Section 21(g) of the Act, the law enforcement officer shall avoid the use of violence or unnecessary force on the child in conflict with the law.

Rule 28.h. Prohibitions also applicable to non-law enforcement officers

Other authorities including but not limited to persons to whom custody of the child is turned over under Section 21(i) of the Act [Rule 31.b] and all persons having contact with the child in conflict with the law shall also strictly observe the prohibitions under this Rule.

**PART VI
CRIMINAL RESPONSIBILITY**

RULE 29. Exemption from criminal liability

Rule 29.a. Who are exempt

As provided in Section 6 of the Act, the following shall be exempt from criminal liability:

- (1) A child fifteen (15) years of age or under at the time of the commission of the offense;
- (2) A child above fifteen (15) years but below eighteen (18) years of age who acted without discernment at the time of the commission of the offense.

Rule 29.b. Treatment of children exempt from criminal responsibility

Children exempt from criminal liability as referred in this Rule shall be subjected to an intervention program pursuant to Section 20 of the Act and Part VII of these Rules.

Rule 29.c. Non-exemption from civil liability

As provided in Section 6 of the Act, the exemption from criminal liability of children under this Rule does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

RULE 30. Age

Rule 30.a. Who determines the age; when and how

As provided in Rule 22, the law enforcement officer having initial contact with the child, after taking the child into custody, shall immediately determine the age of the child. In making such determination, the law enforcement officer shall, consistent with Section 7 of the Act, take any or all of the following measures to ascertain the age of the child:

- (1) Obtain documents that show proof of the child's age, such as:
 - (a) Child's birth certificate;
 - (b) Child's baptismal certificate; or
 - (c) Any other pertinent documents such as but not limited to the child's school records, dental records or travel papers.

The law enforcement officer may obtain the above documents from any of the following:

- (a) Parents, guardian or relatives of the child (for copies of any of the above documents);
- (b) Local civil registrar or the National Statistics Office (for a copy of the birth certificate);

- (c) School the child attends (for school records, dental records, birth certificate or baptismal certificate, when required by the school);
 - (d) Local health officer (for medical records); and
 - (e) Church (for baptismal records).
- (2) When the above documents cannot be obtained or pending receipt of such documents, the law enforcement officer shall exhaust other measures to determine age by:
- (a) Interviewing the child and obtaining information that indicate age (e.g., date of birthday, grade level in school);
 - (b) Interviewing persons who may have knowledge of the age of the child (e.g., relatives, neighbors, teachers, classmates);
 - (c) Evaluating the physical appearance (e.g., height, built) of the child; and
 - (d) Obtaining other relevant evidence of age.

The law enforcement officer may obtain the assistance of the LSWDO and the BCPC in gathering documents and other relevant information in ascertaining the age of the child.

Rule 30.b. In case of doubt; presumption of minority

In case of doubt as to the age of the child, after all measures are exhausted to determine it, the age shall be resolved in his/her favor.

As provided in Section 7 of the Act, the child in conflict with the law shall enjoy the presumption of minority. He/She shall enjoy all the rights of a child in conflict with the law until he/she is proven to be eighteen (18) years old or older.

Rule 30.c. If age is contested

As provided in Section 7 of the Act, any person contesting the age of the child in conflict with the law prior to the filing of the information in any appropriate court may file a case in a summary proceeding for the determination of age before the Family Court which shall decide the case within twenty four (24) hours from receipt of the appropriate pleadings of all interested parties.

If a case has been filed against the child in conflict with the law and is pending in the appropriate court, the person shall file a motion to determine the age of the child in the same court where the case is pending. Pending hearing on the said motion, proceedings on the main case shall be suspended.

In all proceedings, law enforcement officers, prosecutors, judges and other government officials concerned shall exert all efforts at determining the age of the child in conflict with the law.

RULE 31. Below the age of criminal responsibility

Rule 31.a. Immediate release of child; notify LSWDO

As provided in Section 20 of the Act, if it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have initial contact with the child has the duty to:

- (1) Immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative; and
- (2) Notify the LSWDO for the determination of appropriate intervention and prevention programs for the child.

Rule 31.b. Custody of child below age of criminal responsibility

If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody of the child, the child may be released by the authority having initial contact with the child to any of the following:

- (1) A duly registered non-governmental organization, i.e., duly licensed and accredited by the DSWD;
- (2) A faith-based organization;
- (3) A barangay official;
- (4) A member of the BCPC;
- (5) An LSWDO; or
- (6) The DSWD when and where appropriate.

If parents, guardians or relatives are unable to take custody of the child due to mental or physical incapacity or incarceration, the child shall be referred to alternative placement such as foster homes, in addition to what has been provided in the Act.

Rule 31.c. Duty of the local social worker

Immediately after being notified of the apprehension of the child fifteen (15) years old or below, the LSWDO shall:

- (1) Prepare a case study report on the child; and
- (2) Determine the appropriate intervention and prevention programs in consultation with the child and the person having custody over the child.

The LSWDO shall also determine if the child is abandoned, neglected or abused by his/her parents for purposes of filing a petition for involuntary commitment if necessary.

If the safety of the child is in danger in view of the alleged commission of the offense, the LSWDO shall encourage the parent or guardian of the child to request for temporary custody of the child to the DSWD or licensed and accredited NGOs.

In the event the parent or guardian does not agree to the request for temporary custody of the child, the LSWDO shall carefully review the case of the child and file a petition for involuntary commitment when sanctioned by law, in accordance with P.D. 603 and the SC Rule on Commitment of Children.

RULE 32. Petition for involuntary commitment

A petition for involuntary commitment may be filed by the LSWDO with the technical assistance of DSWD, or by the DSWD if:

- (a) The child in conflict with the law is found by the LSWDO to be abandoned, neglected or abused by his/her parents; or
- (b) The parents do not comply with the intervention and prevention programs as determined under Part VII of these Rules.

A child in conflict with the law is considered:

- (a) "Abandoned" when the child has no proper parental care or guardianship or when the child's parents or guardians have deserted him/her for a period of at least six (6) continuous months, as provided in Art. 141(2), Title VIII of P.D. 603;
- (b) "Neglected" when his/her basic needs have been deliberately unattended or inadequately attended as provided in Art. 141(3) of P.D. 603; or
- (c) "Abused" when upon the evaluation of the LSWDO, the child is found to be maltreated, whether habitual or not, as defined in Section 3(b) of Republic Act No. 7610, or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act" ["R.A. 7610"].

The filing of the petition for involuntary commitment shall be done in accordance with the provisions of Title VIII, Chapter 1 of P.D. 603 and the SC Rule on Commitment of Children.

RULE 33. Above the age of criminal responsibility

Rule 33.a. Still exempt

The child in conflict with the law who is above fifteen (15) but below eighteen (18) years of age shall be exempt from criminal responsibility, unless he/she acted with discernment. Being exempt, the child shall be dealt with in the same manner as a child who is below the age of criminal responsibility as provided in Rule 30 and Part VII of these Rules.

Rule 33.b. Unless acted with discernment

If the child in conflict with the law is above fifteen (15) years old but below eighteen (18) years of age acted with discernment, the child shall proceed to diversion under Chapter 2 of the Act and Part VIII of these Rules.

RULE 34. Discernment

Rule 34.a. Definition

Discernment is the mental capacity to understand the difference between right and wrong and its consequences.

Rule 34.b. Initial assessment of discernment

The LSWDO, after the law enforcement officer refers the records of a child who is fifteen (15) years old or above but below eighteen (18) years old as provided in Rule

25.f, shall prepare a report indicating an assessment if the child acted with discernment for the purpose of determining whether to proceed with intervention under Sec. 20 of the Act (Part VII of these Rules) or with diversion under Chapter 2 of the Act (Part VIII of these Rules).

Rule 34.c. Basis for assessment of discernment

In making an assessment if the child who is above fifteen (15) years but below eighteen (18) years of age acted with discernment, the LSWDO shall take into consideration:

- (1) All the facts and circumstances of the case;
- (2) The educational level and performance of the child in conflict with the law;
- (3) The appearance, attitude, comportment and behavior of the child in conflict with the law, before, during and after the commission of the offense.

The LSWDO shall consider only factors that indicate if the child acted with discernment and not indicators of premeditation or intention to commit the alleged offense. The LSWDO shall be further guided by procedures to be prescribed by the DSWD in making an assessment of the presence or absence of discernment.

The LSWDO shall endeavor continuously be updated with latest trends in conducting psychosocial analyses of children and research on factors affecting the behavior of children in conflict with the law.

Rule 34.d. After the assessment

After making an assessment, the LSWDO shall prepare a report showing the basis for the assessment if the child acted with or without discernment. This report shall be submitted to the law enforcement officer handling the case of the child. After receipt of the report by the LSWDO, the law enforcement officer shall conclude the initial investigation and refer the case of the child in accordance with Rule 26.

Rule 34.e. Upon initial assessment of no discernment

If after consideration of the initial assessment that the child who is above fifteen (15) but below eighteen (18) years of age acted without discernment, the law enforcement officer refers the case of the child to the LSWDO for intervention pursuant to Rule 26(1), the LSWDO has the duty to:

- (1) Immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative or to those listed in Rule 31 when appropriate; and
- (2) Determine the appropriate intervention and prevention programs for the child as provided in Part VII of these Rules.

Rule 34.f. Contesting the assessment of acting without discernment

The offended party, in the event he/she contests the assessment of absence of discernment, may file the appropriate case before the prosecutor.

PART VII
INTERVENTION FOR CHILDREN EXEMPT FROM CRIMINAL LIABILITY

RULE 35. Children in conflict with the law given intervention programs

The following children exempt from criminal liability shall be given the appropriate intervention programs:

- (a) Those taken into custody who are fifteen (15) years old or below; and
- (b) Those above fifteen (15) but below eighteen (18) years old and found to have acted without discernment.

RULE 36. Factors in determining appropriate intervention programs

In determining the appropriate intervention and prevention programs for children exempt from criminal liability, the LSWDO shall take into account the best interest of the child, which considers, among others, the following:

- (a) Circumstances of the child (e.g., age, level of development, educational background);
- (b) Needs of the child if specially disadvantaged, i.e., street child, or child with mental or physical difficulties;
- (c) Family and social background of the child;
- (d) Influence of the family and environment on the growth of the child;
- (e) Ability and willingness of the parents or guardians to guide and supervise the child;
- (f) Nature and circumstances of the offense charged;
- (g) Availability of community-based programs for intervention and prevention; and
- (h) Safety and security of the child.

The LSWDO shall further be guided by the principles of intervention as provided in Rule 15.

The LSWDO shall engage the active participation of the child, in accordance with his/her evolving capacity, and his/her parents or guardians in the formulation and the implementation of the intervention programs.

RULE 37. Kinds of intervention programs

The intervention programs for the child exempt from criminal liability may include any or a combination of the following:

- (a) Counseling;
- (b) Peer counseling and life skills training and education;
- (c) Provision of support services to the family, e.g., parent effectiveness service, livelihood programs, skills trainings, etc.;
- (d) Referral to other agencies for appropriate services, e.g., education, health, skills training, etc.; and
- (e) Access to child and youth organizations in the community, such as but not limited to the Sangguniang Kabataan.

The intervention programs determined by the LSWDO also include programs for the

parents and family of the child.

The time frame of the intervention programs and the outcome desired shall be specified.

RULE 38. Monitoring compliance

The child and the parents, guardian or persons having custody of the child shall regularly report to the LSWDO who determined the intervention program for evaluation of the:

- (a) Effectiveness of the program; and
- (b) Compliance by the child and the parents with the terms and conditions of the prevention program.

The frequency of reporting shall be determined by the LSWDO in the intervention program.

To determine compliance with the program, the LSWDO shall also:

- (a) Conduct periodic visits at the home of the child or at the place where the custody of the child is given; and
- (b) Conduct case conference with local officials and authorities of the school where the child attends.

RULE 39. Failure to comply with intervention programs

If the child and the parents, guardian or persons having custody of the child fail to comply with the intervention program, despite exhausting all efforts to assist them, the LSWDO may file the proper petition for involuntary commitment of the child pursuant to P.D. 603.

PART VIII
DIVERSION FOR CHILDREN WHO ACTED WITH DISCERNMENT

RULE 40. Concept/principles of diversion

Diversion refers to an alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings.

In implementing diversion, the following principles shall be considered:

- (a) Use of positive measures;
- (b) Full mobilization of all possible resources, which include the family, volunteers, schools and other community institutions;
- (c) Effective, fair and humane dealing with the child; and
- (d) Promotion of the well-being of the child.

RULE 41. Who shall undergo; venue of diversion

Pursuant to Section 23 of the Act, the child in conflict with the law shall undergo diversion proceedings if he/she:

- (a) Is above fifteen (15) years but below eighteen (18) years of age;
- (b) Acted with discernment; and
- (c) Allegedly committed an offense with an imposable penalty of not more than six (6) years of imprisonment if diversion is conducted at the barangay, police or prosecutor's level, and not more than twelve (12) years of imprisonment, if diversion is resorted to by the court.

RULE 42. Where diversion may be conducted

As provided under Section 24 of the Act, if the imposable penalty for the offense committed is not more than six (6) years of imprisonment, diversion may be conducted at the:

- (a) Katarungang Pambarangay level under the Punong Barangay as provided in Rule 43;
- (b) Police investigation stage under the law enforcement officer as provided in Rule 44; or
- (c) Inquest or preliminary investigation stage under the prosecutor as provided in Rule 55.

If the offense with the imposable penalty of not more than six (6) years imprisonment is a victimless crime, the diversion proceedings shall be conducted by the LSWDO in coordination with the BCPC.

If the imposable penalty for the offense committed exceeds six (6) years of imprisonment but not more than twelve (12) years of imprisonment, diversion may resorted to only by the court.

RULE 43. At the Katarungang Pambarangay level**Rule 43.a.** Diversion prior to entry to the criminal justice system

A child in conflict with law may undergo diversion proceedings outside the criminal justice system when his/her case is referred to the barangay through the Lupon Tagapamayapa.

Rule 43.b. Who conducts and assists

Diversion at the Katarungang Pambarangay level shall be conducted by the Lupon Tagapamayapa, chaired by the Punong Barangay, with the assistance of the members of the BCPC, as provided in Section 23 (a) of the Act.

Rule 43.c. Nature of proceedings; participants

The Punong Barangay shall conduct mediation, family conferencing and conciliation and, where appropriate, adopt indigenous modes of conflict resolution with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program.

The child and his/her family shall be present in the conduct of these diversion proceedings. The offended party may participate in the diversion proceedings. The absence of the offended party in the diversion proceedings or his/her disagreement in its conduct shall not prevent the proceedings from being conducted. The Punong Barangay shall, however, endeavor to obtain the participation and the consent of the offended party in the formulation of the diversion program.

Rule 43.d. Formulation and supervision of diversion program at the Barangay level

The diversion program at the Katarungang Pambarangay level shall be formulated by the Punong Barangay with the assistance of the BCPC members in accordance with Rule 49. The supervision of the diversion program at this level shall likewise be done by the Punong Barangay, with the assistance of the BCPC.

As a form of monitoring, the members of the BCPC and the community volunteers to be designated by the BCPC may conduct house visits with the child and his/parents or guardian to track the child's compliance with the contract of diversion and the child's performance of the diversion program. This may be done in consultation with the LSWDO.

Rule 43.d. Duty of Punong Barangay when there is no diversion

Pursuant to Section 27 of the Act, the Punong Barangay handling the case shall, within three (3) days from determination of absence of jurisdiction or termination of the diversion proceedings as provided below, forward the records of the case to the:

- (1) Law enforcement officer or prosecutor – when the child or the child's parents/guardian does not consent to a diversion. Upon the issuance of the corresponding document, certifying to the fact that no agreement has been reached by the parties, the case shall be filed according to the regular process.

- (2) Prosecutor or the court – when the case involves an offense with an imposable penalty of more than six (6) years imprisonment.

RULE 44. At the law enforcement level

Rule 44.a. When conducted at the law enforcement level

Diversion shall be conducted at the law enforcement level when:

- (1) After the conduct of diversion proceedings at the Katarungang Pambarangay level, the child or the child's parents/guardian does not consent to a diversion and the Punong Barangay forwards the case of the child as provided under Rule 43.d (i);
- (2) After the conduct of the initial investigation, the law enforcement officer determines that the child is above 15 but below 18 years of age, acted with discernment and allegedly committed an offense, that is not a victimless crime, with an imposable penalty of not more than six (6) years of imprisonment, as provided under Rule 26(2)(a).

Rule 44.b. Who conducts and assists

Diversion at the police investigation stage shall be conducted by the law enforcement officer with the assistance of the LSWDO, as provided in Section 23(a) of the Act.

Rule 44.c. Nature of proceedings; participants

The nature of diversion proceedings to be conducted by the law enforcement officer and the participants therein shall be the same as that under Rule 43.c.

Rule 44.d. Duty of the law enforcement officer when there is no diversion

Pursuant to Section 23 of the Act, the law enforcement officer handling the case shall forward the records of the case to the prosecutor or judge when the case involves an offense with an imposable penalty of more than six (6) years imprisonment; or the child or the child's parents/guardian does not consent to a diversion. The case records shall be forwarded within three (3) days from determination of absence of jurisdiction or termination of the diversion proceedings as above stated.

The prosecutor or judge to whom the records are referred shall conduct the preliminary investigation and determine whether or not the child should remain under custody and correspondingly charged in court.

RULE 45. At the level of the LSWDO in case of victimless crimes

Rule 45.a. When diversion is conducted at the LSWDO level

Diversion shall be conducted at the level of the LSWDO when after the conduct of initial investigation, the law enforcement officer determines that the child is above 15

but below 18 years of age, acted with discernment and allegedly committed a victimless crime where the imposable penalty is not more than six (6) years of imprisonment, as provided under Rule 26(2)(b).

Rule 45.b. Nature of proceedings

The LSWDO shall meet with the child and his/her parents or guardians for the development of the appropriate diversion and rehabilitation program, in coordination with the BCPC.

RULE 46. At the court level

Where the imposable penalty for the crime committed exceeds six (6) years imprisonment, diversion measures may be resorted to only by the court and will proceed in accordance with the SC Rules on Juveniles in Conflict with the Law.

RULE 47. Diversion proceedings

Rule 47.a. Duties of the authority conducting diversion proceedings

The authority conducting the diversion proceedings shall:

- (1) Explain to the child and his/her family the objective of the diversion proceedings, the value of diversion and the consequence of not undergoing diversion.
- (2) Ask the child of the circumstances of the offense, the motives or purpose of the offense and the factors that led the child to commit the offense.
- (3) Ask the child of his/her personal circumstance including his/her parents and family, his/her peers and educational status.
- (4) Make the child in conflict with the law understand the consequences of his/her actions and the corresponding responsibilities.
- (5) Ensure that the child understands and realizes his/her accountability, be remorseful of his/her actions and takes on the responsibility in repairing the harm done in lieu of filing a formal case in the court.

The authority conducting the diversion proceedings shall also determine if diversion is appropriate and desirable based on the factors provided in the next Rule. Upon a finding that diversion is not applicable or desirable, the authority handling the diversion proceedings shall issue the corresponding document certifying to such fact and shall file the case according to the regular process.

Rule 47.b. Factors in determining if diversion is appropriate

In determining whether diversion is appropriate and desirable, the following factors shall be taken into consideration by the authority conducting the diversion proceedings:

- (1) Nature and circumstances of the offense charged;
- (2) Frequency and the severity of the act;
- (3) Circumstances of the child (e.g. age, maturity, intelligence, etc.);
- (4) Influence of the family and environment on the growth of the child;
- (5) Reparation of injury to the victim;

- (6) Weight of the evidence against the child;
- (7) Safety of the community; and
- (8) Best interest of the child.

The determination of appropriateness and desirability of diversion shall consider the recommendation of the LSWDO, when applicable.

Rule 47.c. Conduct of diversion proceedings

The authority conducting the diversion proceedings shall ensure that the proceedings are child-friendly and sensitive to the needs, welfare and the protection of the rights of the child in conflict with the law. The authority shall use language that is simple and understandable to the child in conflict with the law.

Diversion proceedings shall be conducted in a place where the identities of the child and the parties concerned are kept confidential. There should be enough privacy to avoid unnecessary interruptions, distractions and/or participation from non-parties that could humiliate or make the child uncomfortable.

The DSWD, in consultation with the LGUs particularly LCPCs, shall formulate rules and guidelines that should be followed during the diversion proceedings to protect the child from coercion, intimidation, harm, abuse, or other actions detrimental to the child. Such guidelines shall ensure that the child understands the diversion proceedings in which he/she is involved.

Rule 47.d. Custody pending diversion proceedings

Pending the conduct of the diversion proceedings, the custody of the child shall be given to the parents, guardians, relatives or any other responsible person in the community, taking into consideration the best interest of the child in conflict with the law.

Rule 47.e. Whose consent required; if not obtained

The consent of the child and of the parents or guardian of the child shall be obtained in arriving at a contract of diversion. When the consent of either is not obtained, the diversion proceedings shall be terminated and the case of the child referred in accordance with Rule 51.

Rule 47.f. Length of proceedings; when terminated

The diversion proceedings shall be completed within forty-five (45) days.

Diversion proceedings are deemed terminated when:

- (1) A contract of diversion has been entered;
- (2) The forty-five day period expires without any agreement reached;
- (3) The child or his/her parents or guardian do not consent to a diversion;
- (4) The authority conducting the diversion finds that diversion is not applicable based on the factors enumerated in the immediately preceding Rule.

RULE 48. Contract of diversion**Rule 48.a.** When entered; voluntary admission

A contract of diversion may be entered during the diversion proceedings when the child voluntarily admits the commission of the act as provided in Section 26 of the Act. The voluntary admission of the child during the diversion proceedings shall be only deemed as consent to undergo the diversion program and shall not be considered a plea of guilt.

Rule 48.b. Admission not to be taken against the child

Any admission of the child shall not be used against the child in any subsequent judicial, quasi-judicial or administrative proceedings. Neither shall the admission be used against the child through denial of privileges and opportunities, discrimination in treatment, or imposition of any form of liability or punishment by reason of such admission.

Rule 48.c. Acceptance of contract; form and content

The contract of diversion containing the diversion program shall be effective and binding if accepted by the child and the parents or guardian of the child. The contract shall be in writing and signed by the:

- (1) Child;
- (2) Parents or guardian of the child;
- (3) Authority that conducted the diversion proceedings (the Punong Barangay, the law enforcement officer or the prosecutor);
- (4) Member of the BCPC assisting the Punong Barangay, in cases of diversion proceedings at the Katarungang Pambarangay level; and
- (5) LSWDO in cases of diversion proceedings by the law enforcement officer or by the prosecutor.

The contract of diversion shall contain the individualized diversion program and shall stipulate the rights, responsibilities or accountabilities of the child, the parents or guardian and the offended party, when applicable.

The contract of diversion considers as the responsibility or accountability of the child to restore the harm done in view of the offense committed. As such, the authority conducting the diversion proceedings shall endeavor to obtain the agreement of the offended party in the formulation of the individualized diversion program contained in the contract of diversion by:

- (1) Explaining to the offended party the benefits of forgiveness and diversion, and the need to reform the child within the auspices of the community instead of detention homes or rehabilitation centers once the child expresses remorse and a willingness to ask for forgiveness from the offended party; and
- (2) Assuring the offended party that the LSWDO, together with the local government and the community, will take care of the responsibility of reforming and monitoring the child through various diversion programs.

However, the acceptance of the offended party is not required for a contract of diversion to be valid.

RULE 49. Formulation of the diversion program

Rule 49.a. Factors considered in formulation

The diversion program shall be formulated during the diversion proceedings. In the formulation of the diversion program, the individual characteristics and the peculiar circumstances of the child in conflict with the law, including but not limited to the cultural, social, economic and religious circumstances of the child, shall be used to formulate an individualized treatment.

Consistent with Section 30 of the Act, the following factors shall be considered in formulating a diversion program for the child:

- (1) The child's feelings of remorse for the offense he/she committed;
- (2) The parents' or legal guardians' ability to guide and supervise the child;
- (3) The victim's view about the propriety of the measures to be imposed;
- (4) The availability of community-based programs for rehabilitation and reintegration of the child; and
- (5) Record of prior offenses, if any.

The diversion program shall include adequate socio-cultural and psychological responses and services for the child.

Rule 49.b. Kinds of diversion program

As provided in Section 31 of the Act, at the different stages where diversion may be resorted to, the diversion programs may be agreed upon, such as, but not limited to:

(1) At the level of the Punong Barangay:

- (a) Restitution of property;
- (b) Reparation of the damage caused;
- (c) Indemnification for consequential damages;
- (d) Written or oral apology;
- (e) Care, guidance and supervision orders;
- (f) Counseling for the child in conflict with the law and the child's family;
- (g) Attendance in trainings, seminars and lectures on:
 - (i) anger management skills;
 - (ii) problem solving and/or conflict resolution skills;
 - (iii) values formation; and
 - (iv) other skills which will aid the child in dealing with situations which can lead to repetition of the offense;
- (h) Participation in available community-based programs, including community service; or
- (i) Participation in education, vocation and life skills programs.

(2) At the level of the law enforcement officer and the prosecutor:

- (a) Diversion programs specified under paragraphs (1)(a) to (1)(i) herein; and

- (b) Confiscation and forfeiture of the proceeds or instruments of the crime;

(3) At the level of the appropriate court:

- (a) Diversion programs specified under paragraphs (a) and (b) above;
- (b) Written or oral reprimand or citation;
- (c) Fine;
- (d) Payment of the cost of the proceedings; or
- (e) Institutional care and custody.

RULE 50. Community-based programs as diversion

Rule 50.a. Objectives of community-based diversion

The community-based programs for diversion, as distinguished from the programs for intervention under Rule 18, shall respond to the special needs, problems, interests and concerns of children in conflict with the law through the establishment of community-based mechanisms and programs to prevent them from offending and re-offending.

Rule 50.b. Development of diversion; Assessment

The community-based programs for diversion shall be developed by the LGUs through the LSWDOs and the LCPCs, in coordination with the schools, youth organizations and other concerned agencies. These programs shall be consistent with the standards prescribed in the Act and guidelines issued by the DSWD.

The Sangguniang Kabataan, as prescribed by Section 17 of the Act, shall coordinate with the LCPC in the formulation and implementation of diversion programs in the community.

LGUs shall be responsible making the assessment and evaluation of the community-based programs for diversion in their annual report on the comprehensive juvenile intervention programs.

Rule 50.c. Family participation

The family of the child in conflict with the law shall endeavor to actively participate in the community-based diversion program.

RULE 51. Compliance with diversion

Rule 51.a. Reporting obligations

The child together with the parents or guardians shall present themselves to the competent authorities that imposed the diversion program at least once a month for reporting and evaluation of the effectiveness of the program.

Rule 51.b. Supervision and monitoring

The conduct of the diversion program at the law enforcement or prosecutor level shall be supervised by the LSWDO. The LSWDO, shall devise a monitoring and follow-up mechanism to ensure compliance with the contract of diversion particularly of the child and his/her parents or guardian, and to determine the progress of the rehabilitation, reintegration and the entire diversion program.

Rule 51.c. Failure to comply

Failure to comply with the terms and conditions of the contract of diversion, as certified by the LSWDO, shall give the offended party the option to institute the appropriate legal action.

In cases where there is failure of diversion at the Barangay level, the Punong Barangay that conducted the diversion proceedings, upon a finding of failure to comply, may refer the case of the child to the law enforcement officer or prosecutor as if there is no consent to the diversion or that diversion is not appropriate and desirable for the child as provided in Section 29 of the Act.

In cases where the offense committed is a victimless crime, the LSWDO that conducted the diversion proceedings, upon a finding of failure to comply, may refer the case of the child to the prosecutor as if there is no consent to the diversion or that diversion is not appropriate and desirable for the child as provided in Section 29 of the Act.

RULE 52. Suspension of prescription

Rule 52.a. During diversion proceedings

The period of prescription of the offense shall be suspended until the completion of the diversion proceedings but not to exceed forty-five (45) days.

Rule 52.b. During diversion program

The period of prescription of the offense shall be suspended during the effectivity of the diversion program, but not exceeding a period of two (2) years.

PART IX PROSECUTION

RULE 53. When to proceed to preliminary investigation

A child in conflict with the law shall proceed to appropriate preliminary investigation in the following cases:

- (a) The offense committed by the child in conflict with the law has an imposable penalty of more than six (6) years;
- (b) Offended party opts to file an action with failure to comply with the terms of diversion;
- (c) No consent or agreement to a diversion; and
- (d) When considering the assessment and recommendation of the LSWDO, the prosecutor determines that diversion is not appropriate for the child in conflict with the law.

RULE 54. Effort to divert

In cases where no consent or agreement to a diversion was reached at the level of the law enforcement officer or LSWDO conducting the diversion proceedings, the prosecutor shall still endeavor to arrive at an agreement to a diversion program.

RULE 55. Allegation of torture or ill-treatment

If there is an allegation of torture or ill-treatment of a child in conflict with the law during arrest or detention, it shall be the duty of the prosecutor to investigate the same and initiate the corresponding legal action when necessary.

RULE 56. Notice to the PAO

As provided in Section 33 of the Act, upon serving the subpoena and the affidavit of complaint, the prosecutor shall notify the Public Attorney's Office of such service, as well as the personal information, and place of detention of the child in conflict with the law.

RULE 57. Upon determination of probable cause

Upon determination of probable cause by the prosecutor, the information against the child shall be filed before the Family Court within forty-five (45) days from the start of the preliminary investigation.

RULE 58. If the child is deprived of liberty

If the child in conflict with the law is deprived of liberty at the time the prosecutor assumes jurisdiction of the case, the PAO has the duty to manifest to the court such fact with the objective of obtaining an immediate order of release from the Court.

RULE 59. Special training of the prosecutor

There shall be a specially trained prosecutor to conduct inquest, preliminary investigation and prosecution of cases involving a child in conflict with the law.

Prosecutors assigned to handle cases of children in conflict with the law shall be given child-sensitivity and gender-sensitivity trainings and other appropriate trainings by the DOJ, with the assistance of the DSWD.

PART X COURT PROCEEDINGS

RULE 60. Diversion measures

Where the maximum penalty imposed by law for the offense with which the child in conflict with the law is charged is imprisonment of not more than twelve (12) years, regardless of the fine or fine alone regardless of the amount, and before arraignment of the child in conflict with the law, the court shall, pursuant to the SC Rules on Juveniles in Conflict with the Law, determine whether or not diversion is appropriate.

RULE 61. Treatment of children pending trial

Rule 61.a. Alternatives to detention pending trial

Children detained pending trial may be released on bail or recognizance as provided for under Sections 34 and 35 of the Act.

In all other cases and whenever possible, detention pending trial may be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.

Rule 61.b. Detention as measure of last resort

Institutionalization or detention of the child pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

RULE 62. Bail

Bail refers to the security given for the release of the person in custody of the law, furnished by him/her or a bondsman, to guarantee his/her appearance before any court. Bail may be given in the form of corporate security, property bond, cash deposit, or recognizance.

For purposes of recommending the amount of bail, the privileged mitigating circumstance of minority shall be considered.

RULE 63. Release on Recognizance

Recognizance refers to an undertaking in lieu of a bond assumed by a parent or custodian who shall be responsible for the appearance in court of the child in conflict with the law, when required.

Where a child is detained, the court shall order the:

- (a) release of the minor on recognizance to his parents and other suitable persons;
- (b) release of the child in conflict with the law on bail; or
- (c) transfer of the minor to a youth detention home/youth rehabilitation center.

RULE 64. No jail detention

The court shall not order the detention of a child in a jail pending trial or hearing of his/her case.

Whenever detention is necessary, a child will always be detained in youth detention homes established by local governments, pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides.

In the absence of a youth detention home, the child in conflict with the law may be committed to the care of the DSWD or a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the court. The center or agency concerned shall be responsible for the child's appearance in court whenever required.

RULE 65. Automatic suspension of sentence

Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: *Provided, however,* That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

RULE 66. Disposition measures

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

RULE 67. Discharge of the Child in Conflict with the Law

Upon the recommendation of the social worker who has custody of the child, the court shall dismiss the case against the child whose sentence has been suspended and against whom disposition measures have been issued, and shall order the final discharge of the child if it finds that the objective of the disposition measures have been fulfilled.

The discharge of the child in conflict with the law shall not affect the civil liability resulting from the commission of the offense, which shall be enforced in accordance with law.

RULE 68. Return of the Child in Conflict with the Law to Court

If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

RULE 69. Credit in Service of Sentence

The child in conflict with the law shall be credited in the services of his/her sentence with the full time spent in actual commitment and detention under this Act.

RULE 70. Probation as an Alternative to Imprisonment

The court may, after it shall have convicted and sentenced a child in conflict with the law, and upon application at any time, place the child on probation in lieu of service of his/her sentence taking into account the best interest of the child. For this purpose, Sec. 4 of Presidential Decree No. 968, otherwise known as the "Probation Law of 1976", is hereby amended accordingly.

PART XI REHABILITATION AND REINTEGRATION

RULE 71. Objective of rehabilitation and reintegration

Rehabilitation is the process of rectifying or modifying a child's negative attitude and behavior. It enables the child to change his/her negative behavior into something positive and acceptable to the community.

Reintegration is the process, which promotes or facilitates the acceptance of the child back to the community. It is the healing of the victim's and the community's wounds that was inflicted on them by the offense.

Rehabilitation is integral to the process of reintegration.

As provided in Section 44 of the Act, the objective of rehabilitation and reintegration of children in conflict with the law is to provide them with interventions, approaches and strategies that will enable them to improve their social functioning with the end goal of reintegration to their families and as productive members of their communities. Specifically, the objectives of the rehabilitation and reintegration of children in conflict with the law are the:

- (a) Provision of protection that substitutes parental care to the children in conflict with the law;
- (b) Assistance to the children in gaining insight into their behavior and attitudes and redirection of counter productive behavior patterns and anti-social attitudes into more positive and constructive ones;
- (c) Enhancement of the children's coping capabilities and trust on others;
- (d) Provision of opportunities for the children to acquire social and occupational skills and improved self-image;
- (e) Facilitation of the disposition of the case in court and the child's reintegration with family and community; and
- (f) Assistance to CICLs through educational intervention in the alternative learning system.

RULE 72. Rehabilitation of children in conflict with the law

Children in conflict with the law, whose sentences are suspended, may upon order of the court, undergo any or a combination of disposition measures, which are already in place, best suited to the rehabilitation and welfare of the child as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

RULE 73. Community-based programs for rehabilitation

Rule 73.a. Nature and objectives of community-based rehabilitation

In addition to the objectives of rehabilitation and reintegration in Rule 71, community-based programs for rehabilitation shall:

- (1) Prevent disruption in the education or means of livelihood of the child in conflict with the law in case he/she is studying, working or attending vocational learning institutions;

- (2) Prevent separation of the child in conflict with the law from his/her parents/guardians to maintain the support system fostered by their relationship and to create greater awareness of their mutual and reciprocal responsibilities;
- (3) Facilitate the rehabilitation and mainstreaming of the child in conflict with the law and encourage community support and involvement; and
- (4) Minimize the stigma that attaches to the child in conflict with the law by preventing jail detention.

Rule 73.b. Criteria in the development of programs for community-based rehabilitation

Every LGU shall establish community-based programs that will focus on the rehabilitation and reintegration of the child. All programs shall meet the criteria to be established by JJWC which shall take into account the following:

- (1) The purpose of the program, which is to promote the rights and welfare of the child in conflict with the law;
- (2) The need for the consent of the child and his/her parents or legal guardians to ensure the effectiveness of the program and the involvement of the family; and
- (3) The maximum participation of the DSWD accredited child-centered agencies in the community where the child in conflict with the law is in, whether public or private.

The community-based programs that will specifically focus on the reintegration of children in conflict with the law may include but should not be limited to the existing/retained package of community-based programs being implemented by the LGU.

Rule 73.c. Implementation of community-based rehabilitation programs

Under the supervision and guidance of the LSWDO, and in coordination with his/her parents or guardian, the child in conflict with the law shall participate in community-based programs, which shall include, but are not limited to:

- (a) Competency and life skills development;
- (b) Socio-cultural and recreational activities;
- (c) Community volunteer projects;
- (d) Leadership training;
- (e) Social services;
- (f) Homelife services;
- (g) Health services;
- (h) Spiritual enrichment;
- (i) Community and family welfare services; and
- (j) Continuing education programs.

Based on the progress of the youth in the community, a final report will be forwarded by the local social welfare and development officer to the court for final disposition of the case.

Rule 73.d. Family participation

The family of the child in conflict with the law shall endeavor to actively participate in the community-based rehabilitation.

Rule 73.e. Release of the child

If the community-based rehabilitation is availed by a child in conflict with the law, he/she shall be released to parents, guardians, relatives or any other responsible person in the community.

RULE 74. Institutional rehabilitation

Rule 74.a. Objectives of institutional rehabilitation

The objective of rehabilitation of children in conflict with the law in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

Children in conflict with the law who are placed in institutions shall receive care, protection and all necessary assistance – social, educational, vocational, psychological, medical and physical – that they may require because of their age, sex, and personality and in the interest of their wholesome development.

Rule 74.b. Where a child may be admitted for rehabilitation

In the event the court finds that community-based rehabilitation is inappropriate and deprivation of liberty through institutional rehabilitation is required, the child in conflict with the law may be committed to one of the following:

- (1) Youth Detention Home;
- (2) Youth Rehabilitation Center;
- (3) Agricultural camps; and
- (4) Other training facilities

Rule 74.c. When a child may be placed in institutional rehabilitation

As provided in Section 45 of the Act, no child shall be admitted in any rehabilitation or training facility without a valid order issued by the court after a hearing for the purpose.

Rule 74.d. Register of children admitted

The details of the court order referred in Rule 74.c shall be immediately entered in a register exclusively for children in conflict with the law. As required by Section 45 of the Act, no child shall be admitted in any facility where there is no such register.

Rule 74.e. Social Case Study Report and other documents

The LSWDO shall prepare a Social Case Study Report on the child in conflict with the law and forward this Report to the rehabilitation facility that shall admit the child. This Report shall include the psychological evaluation, medical records, birth certificate,

school records and other documents necessary for planning the rehabilitation of the child.

RULE 75. Treatment of children in institutional rehabilitation

Rule 75.a. Provision of a home environment

As provided in Section 46 of the Act, the rehabilitation, training or confinement area of children in conflict with the law shall provide a home environment where children in conflict with the law can be provided with quality counseling and treatment.

In the interest and well-being of the child in conflict with the law admitted in any facility, his/her parents or guardians shall have a right of access.

Rule 75.b. Separate facilities from adults

In all rehabilitation or training facilities, it shall be mandatory that children shall be separated from adults, unless they are immediate members of the same family, as provided in Section 46 of the Act. Under no other circumstance shall a child in conflict with the law be placed in the same confinement as adults.

Rule 75.c. Treatment of female children in conflict with the law

As provided in Section 47 of the Act, female children in conflict with the law placed in an institution shall be given special attention as to their personal needs and problems. In consideration of their gender needs, female children in conflict with the law shall be handled only by female doctors, correction officers and social workers. They shall be accommodated separately from male children in conflict with the law.

They shall by no means receive less care, protection, assistance, treatment and training than the male children in conflict with the law. The fair treatment of female children in conflict with the law shall be ensured.

In areas where there are few female children in conflict with the law, temporary homes or shelters shall be set up, subsidized and managed by the DSWD, LGUs or NGOs.

Rule 75.d. Gender-sensitivity training

No personnel of rehabilitation and training facilities shall handle children in conflict with the law without having undergone gender sensitivity training.

The LGU in coordination the DSWD shall provide gender sensitivity training and other appropriate trainings relative to treatment and rehabilitation of children in conflict with the law.

RULE 76. Youth detention homes

Rule 76.a. Nature

A Youth Detention Home (or “Youth Home”) is a 24-hour child-caring institution managed by accredited LGUs and licensed and/or accredited NGOs providing short-term residential care for children in conflict with the law who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.

Rule 76.b. Objectives of Youth Homes

Youth Homes shall have different programs that meet the various needs of children in conflict with the law.

Children whose liberty is restricted pending trial shall undergo programs different from those programs given children whose sentences are suspended.

Rule 76.c. When placed in the custody of Youth Homes

Only children in conflict with the law who are detained pending trial or are detained with adults at the time of the effectivity of the Act may be placed in the custody of Youth Homes.

Institutionalization in Youth Homes shall only be done through a court order after a determination that the continued deprivation of liberty is necessary and that there are no appropriate alternatives for detention.

Rule 76.d. Establishment of Youth Homes

All LGUs shall exert efforts for the establishment of Youth Homes for children in conflict with the law within five (5) years from the effectivity of the Act. LGUs shall set aside an amount to build Youth Homes.

Youth Homes may also be established by private and non-government organizations licensed and accredited by the DSWD, in consultation with the JJWC.

All Youth Homes to be established shall be separate and located in a compound far from jails and other detention centers for adults.

The DILG shall monitor the establishment and maintenance of Youth Homes in the LGUs.

Rule 76.e. Operation and Standards

The DSWD through its Standards Bureau shall, in consultation with concerned agencies, develop, review and enhance the standards for Youth Homes to ensure efficiency, effectiveness and accountability in the delivery of quality programs and services for children in conflict with the law who are detained pending trial.

All Youth Homes shall operate in a secure manner that ensures the safety and protection of children in conflict with the law, staff and the community where it is located. It shall engage them in a helping relationship with a team of various disciplines in a home-like environment. It shall likewise comply with the standards set forth by the DSWD Standards Bureau.

Rule 76.f. Registration, Licensing and Accreditation of Youth Homes

No Youth Home shall operate without a valid registration, license and accreditation certificate from DSWD, except for Youth Homes managed by LGUs, which shall be exempt from registration and licensing.

The DSWD shall undertake the accreditation and licensing of the operation of Youth Homes.

Failure to comply with the registration, licensing and accreditation requirements shall be dealt with in accordance with Section 62 of the Act and Part XIV of these Rules. Other DSWD rules and regulations for registration, licensing and accreditation shall also be applied unless otherwise specified in these Rules.

Rule 76.g. When and where to apply for accreditation

LGU, private and NGO-managed Youth Homes established and operating without registration and/or license certificates prior to the effectivity of the Act shall apply for such within three (3) months upon effectivity of the IRR. Those that will be established after the application for registration shall be done prior its operation, for a license to operate within two years from date of registration. Application for accreditation shall be done within one (1) year from issuance of license.

LGU-managed Youth Homes established prior to the effectivity of the Act shall apply for accreditation within three (3) months from date of effectivity of this IRR and those that will be established thereafter shall apply within one (1) year after its establishment.

Applications for registration and license shall be filed with the DSWD Field Office where the Youth Home is located, except those managed by private and non-government organizations operating in more than one region, in which case, applications shall be filed with the DSWD Standards Bureau, Central Office. All applications for accreditation shall likewise be filed with the DSWD Standards Bureau.

RULE 77. Youth Rehabilitation Center

Rule 77.a. Youth rehabilitation center and its services

A Youth Rehabilitation Center (or “Youth Center”) refers to a 24-hour residential care facility that provides children in conflict with the law with care, treatment and rehabilitation services under the guidance of a trained staff where children in conflict with the law on suspended sentence, or “residents,” are cared for under a structured therapeutic environment with the end view of reintegrating them in their families and communities as socially functioning individuals.

A Youth Center is managed by the DSWD, LGUs, or licensed and/or accredited NGOs monitored by the DSWD, and the preceding rules on registration, licensing and accreditation shall apply.

Rule 77.b. Limitations in mobility of residents

Physical mobility of residents of Youth Centers may be restricted pending court disposition of the charges against them.

Rule 77.c. Progress of the child in the center

A quarterly report shall be submitted by the Youth Center to the proper court on the progress of the children in conflict with the law. Based on the progress of the children in the center, a final report will be forwarded to the court for final disposition of the case.

Rule 77.d. Establishment of Youth Centers

The DSWD shall establish Youth Centers in each region of the country. The local government and other private and non-government entities and organizations shall collaborate and contribute their support for the establishment and maintenance of these facilities.

In regions where Youth Centers are not yet established, the DSWD shall immediately establish a Youth Center within one (1) year from the effectivity of the Act.

Rule 77.e. Registration, Licensing and Accreditation of LGU and NGO-Managed Centers

In case of Youth Centers managed by LGUs and NGOs, the Rules on registration, licensing and accreditation of Youth Detention Homes (Rules 76.e, 76.f and 76.g) shall apply.

RULE 78. Expenses for care and maintenance of the child**Rule 78.a.** Who assumes expenses

The expenses for the care and maintenance of a child in conflict with the law under institutional care, either in Youth Homes or Youth Centers, shall be borne by his/her parents or those persons liable to support him/her.

In case the parents of the child in conflict with the law or those persons liable to support him/her cannot pay all or part of said expenses, the government shall shoulder said expenses in accordance with Rule 100.a. below.

Rule 78.b. Determination of Standard Cost of Care and Maintenance

The costs and maintenance of a child under institutional care shall be in accordance with the guidelines set forth by the DSWD in consultation with LGUs, private and licensed and/or accredited NGOs. These guidelines shall be updated at least every five (5) years in consideration of the prevailing price of commodities and cost of living in the locality where the facility operates.

Rule 78.c. Notification and Payment of Cost of Care and Maintenance

The DSWD, LGUs or NGOs having custody of the child either in Youth Homes or Youth Centers, shall notify the parents and the concerned LGUs where the offense was committed or where the child resides, as the case may be, within two (2) weeks after admission, indicating the corresponding amount needed for the care and

maintenance of the child for the duration of his/her stay in the Home or Center. Specific instruction on the payment modes shall also be given to facilitate this.

If no payment is made to the receiving institutions after three (3) notices, Rules 100.a and 100.b shall apply.

RULE 79. Agricultural camps and other training facilities

A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the Bureau of Corrections, in coordination with the DSWD.

RULE 80. After-care support services

Rule 80.a. When given; period

After care support services are services given to children in conflict with the law whose cases have been dismissed by the proper court because of good behavior per recommendation of the DSWD social worker, the LGU, and/or any accredited NGO youth rehabilitation center.

After-care support services for children in conflict with the law shall be given for a period of at least six (6) months.

Rule 80.b. Nature and objectives

After care support services include counseling and other community-based services designed to facilitate social reintegration, prevent re-offending and make the children productive members of the community.

These services may include but should not be limited to seminar/workshops, life skills development, sports clinics activities, skill and livelihood programs for future employment and membership to existing youth organizations that enhance and teach life skills and positive lifestyle and other preventive programs.

Rule 80.c. Who develops and provides the services

The after-care support services under this Rule shall be provided by the LSWDO. The development of these services shall comply with the criteria set by the JJWC as provided in the Act and these Rules.

The after-care support services shall engage the active participation of the child and his/her parents or guardians.

Licensed and accredited NGOs may be mobilized by the LSWDO in the provision of after-care support services.

PART XII CONFIDENTIALITY AND PRIVACY

RULE 81. Right to confidentiality and privacy

As provided in Section 5(h) of the Act, a child in conflict with the law has the right to have his/her privacy respected fully at all stages of the proceedings, from initial contact to the final disposition of the case, including stages when child undergoes intervention, diversion, rehabilitation or aftercare programs. As such, all records and proceedings involving children in conflict with the law from initial contact until final disposition of the case shall be considered privileged and confidential.

The identity of the child shall not be divulged unless necessary and with authority of a judge. No information that may lead to the identification of a child in conflict with the law and members of his/her family shall be published or broadcast in any mass media.

In case the offended party is a child, the right to confidentiality and privacy of said child shall be governed by Republic Act No. 7610 (the "Special Protection Against Child Abuse, Exploitation and Discrimination Act"), Republic Act No. 8505 (the "Rape Victim Assistance and Protection Act"), and their Implementing Rules and Regulations.

RULE 82. Records and proceedings

As provided in Section 5(h) of the Act, the public shall be excluded during the proceedings, from initial contact to the final disposition of the case, and all records from these proceedings shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings for any purpose whatsoever, except:

- (a) To determine if the child in conflict with the law may have his/her sentence suspended;
- (b) If the child in conflict with the law may be granted probation under the probation law; or
- (c) To enforce the civil liability imposed in the criminal action.

RULE 83. Medical examination results

The results of the medical examination of the child in conflict with the law taken prior or during the trial shall be kept confidential, unless otherwise ordered by the Family Court.

RULE 84. When records may be disclosed and to whom

The disclosure of confidential records may only be done upon order of the Court. The records of the child in conflict of the law may only be disclosed to persons specifically enumerated in the order of the Court permitting such disclosure.

RULE 85. Use of records in subsequent proceedings

As provided in Section 43 of the Act, the records of a child in conflict with the law shall not be used in subsequent proceedings, whether criminal, civil or administrative, for cases involving the same offender as an adult, except when beneficial for the offender and upon his/her written consent.

RULE 86. Duty to uphold confidentiality

As required under Section 43 of the Act, all authorities having contact with the child in conflict with the law or having access to the records of the child in conflict with the law shall undertake all measures to protect this confidentiality of proceedings, including the:

- (g) Use of a system of coding that provides aliases for children taken into custody;
- (h) Maintenance of a separate logbook and a separate police blotter for children in conflict with the law;
- (i) Exclusion of the public, particularly the media, from the area where the child is being held in custody pursuant to Section 43 of the Act;
- (j) Non-disclosure of any detail or information to the public, particularly the media, that shall lead to the identity of the child;
- (k) Keeping the results of the medical examination confidential; and
- (l) Marking of the records of the child and the report on the initial investigation as confidential.

Failure to undertake measures to maintain confidentiality is punishable under Sec. 62 of the Act.

RULE 87. Exemption from perjury and liability for concealment or misrepresentation

A person who has been in conflict with the law as a child shall not be held under any provision of law, to be guilty of perjury or of concealment or misrepresentation by reason of his/her failure to acknowledge the case or recite any fact related thereto in response to any inquiry made to him/her for any purpose, pursuant to Section 43 of the Act.

No person shall also be denied privileges and opportunities, discriminated against, punished or in any manner held liable or responsible for non-disclosure of any fact relating to his/her conflict with the law as a child.

PART XIII EXEMPTING PROVISIONS

RULE 88. Status Offenses, not punishable

As provided in Section 57 of the Act, status offenses or offenses which discriminate only against a child, while an adult does not suffer any penalty for committing similar acts, shall not be punished. Any conduct not considered an offense or not penalized if committed by an adult, including but not limited to curfew violations, truancy, parental disobedience and the like, shall not be considered an offense and shall not be punished if committed by a child.

In the event a child is apprehended for or accused of committing status offenses, law enforcement officers have the obligation to immediately release the child and that the provisions of this Act on prevention, diversion or rehabilitation shall not apply.

RULE 89. Offenses Not Applicable to Children**Rule 89.a.** Exemption from prosecution

As provided in Section 58 of the Act, all children shall be exempt from prosecution for the following offenses, being inconsistent with the United Nations Convention of the Rights of the Child:

- (1) Vagrancy and prostitution under Article 202 of the Revised Penal Code;
- (2) Mendicancy under Presidential Decree No. 1563; and
- (3) Sniffing of rugby under Presidential Decree No. 1619.

Rule 89.b. Treatment of children exempt from prosecution

Upon initial contact with the child found to have committed any of the offenses enumerated in Rule 89.a, the law enforcement officer shall immediately turn over the custody of the child to the LSWDO. The child shall undergo appropriate counseling and treatment program to be determined by the LSWDO as provided in Section 58 of the Act.

RULE 90. Exemption from the Application of Death Penalty

As provided in Section 59 of the Act, the provisions of the Revised Penal Code, as amended, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and other special laws notwithstanding, no death penalty shall be imposed upon children in conflict with the law.

PART XIV PROHIBITED ACTS AND PENAL PROVISION

RULE 91. Labeling and Shaming

As mandated by Section 60 of the Act, in the conduct of the proceedings beginning from the initial contact with the child, the competent authorities must refrain from branding or labeling children as young criminals, juvenile delinquents, deviants, prostitutes, vagrants or other similar derogatory and attaching to them in any manner any other derogatory names.

“Competent authorities” under this Rule refers to persons having contact with the child in conflict with the law including but not limited to:

- (a) Law enforcement officers;
- (b) Barangay officials and employees, including members of the LCPCs;
- (c) LSWDOs;
- (d) Prosecutors;
- (e) PAO lawyers;
- (f) Judges;
- (g) Court social workers;
- (h) Personnel of youth detention homes and youth rehabilitation centers;
- (i) Personnel of agricultural camps and other training facilities maintained, supervised and controlled by the BUCOR; and
- (j) All persons having authority to implement community-based programs for intervention, diversion and rehabilitation.

RULE 92. Acts of discrimination

As provided in Section 60 of the Act, no discriminatory remarks and practices shall be allowed particularly with respect to the child’s class, including but not limited to gender, economic or social status, and physical condition, or ethnic origin.

RULE 93. Acts prejudicial and detrimental to the child

As provided in Section 61 of the Act, the following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law and therefore, prohibited:

- (a) Employment of threats of whatever kind and nature;
- (b) Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement;
- (c) Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity; and

- (d) Compelling the child to perform involuntary servitude in any and all forms under any and all instances.

RULE 94. Other prohibited acts in the law

Also prohibited under the Act are the following:

- (1) Violation of the confidentiality of proceedings involving a child in conflict with the law, as provided in Section 43 of the Act and Part XIII of these Rules, due to acts and omissions such as but not limited to the following:
 - (a) Disclosure to the media of records, including photographs, of children in conflict with the law;
 - (b) Failure to maintain a separate police blotter for cases involving children in conflict with the law; and
 - (c) Failure to adopt a system of coding to conceal material information which will lead to the child's identity.
- (2) Commission of prohibited acts under Section 21 of the Act and Rule 28 on Prohibited Acts when in custody of child.
- (3) Failure to comply with the registration, licensing and accreditation requirements under Rules 76 and 77.

RULE 95. Violation of the Provisions of the Act or these Rules or Regulations in General

Any person who violates any provision of the Act, these Rules or any rule or regulation promulgated in accordance with the Act shall, upon conviction for each act or omission, be punished by a fine of not less than Twenty thousand pesos (P20,000.00) but not more than Fifty thousand pesos (P50,000.00) or suffer imprisonment of not less than eight (8) years but not more than ten (10) years, or both such fine and imprisonment at the discretion of the court, unless a higher penalty is provided for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he/she shall, in addition to such fine and/or imprisonment, be held administratively liable and shall suffer the penalty of perpetual absolute disqualification.

PART XV BUDGET AND IMPLEMENTATION

RULE 96. Initial funding

As provided in Section 63 of the Act, the amount necessary to carry out the initial implementation of the Act shall be charged to the Office of the President. An initial amount of Fifty Million Pesos (P50,000,000.00) for the purpose of setting up the JJWC shall be taken from the proceeds of the Philippine Charity Sweepstakes Office.

RULE 97. Continued implementation

The sums as may be necessary for the continued implementation of this Act shall be included in the succeeding General Appropriations Act.

RULE 98. Funding for LCPC programs

As provided in Section 15 of the Act, one percent (1%) of the internal revenue allotment (IRA) of barangays, municipalities and cities shall be allocated for the strengthening and implementation of the programs of the LCPC. The disbursement of this fund shall be made by the LGU concerned.

RULE 99. Juvenile intervention programs

All LGUs shall set aside in their annual budget an amount necessary to implement their respective comprehensive juvenile intervention programs under Section 18 of the Act and Rule 17. This amount shall be distinct from the one percent (1%) IRA provided in Section 15 of the Act.

RULE 100. Expenses for the Care and Maintenance of the Child in Conflict with the Law

Rule 100.a. LGU responsibility to fund the child's care and maintenance

In case the child's parents or those persons liable to support him/her cannot pay all or part of expenses for the care and maintenance of the child under institutional care, said expenses as prescribed by Section 50 of the Act shall be paid as follows:

(1) If the offense is committed in a municipality:

- (a) One-third (1/3) of the expenses – to be paid by the municipality where the offense was committed;
- (b) One-third (1/3) – to be paid by the province to which the municipality belongs; and
- (c) The remaining one-third (1/3) – to be borne by the national government.

(2) If the offense is committed in a chartered city:

- (a) Two-thirds (2/3) of the expenses – to be paid by the chartered

- cities; and
- (b) The remaining one-third (1/3) – to be borne by the national government.

In case a chartered city cannot pay said expenses, part of the internal revenue allotments applicable to the unpaid portion shall be withheld and applied to the settlement of said obligations.

Rule 100.b. If the child is not a resident of the LGU where the offense was committed

In the event that the child in conflict with the law is not a resident of the municipality/city where the offense was committed, the court, upon its determination, may require the city/municipality where the child in conflict with the law is a resident to shoulder the cost of his/her care and maintenance.

Rule 100.c. Determination of capacity to pay

In all cases, capacity of the child's parents or those persons liable to support him/her to pay all or part of the expenses for his/her care and maintenance shall be determined by the LSWDO of the city or municipality where said child resides.

RULE 101. Youth detention homes

The LGUs shall set aside an amount to build Youth Detention Homes. Youth detention homes may also be established by private and non-government organizations licensed and accredited by the DSWD, in consultation with the JJWC.

Existing Youth Detention Homes of LGUs shall be deemed compliance with this Rule and Section 49 of the Act.

RULE 102. Youth rehabilitation centers

The DSWD shall include in its budget plan the appropriation for the establishment and maintenance of Youth Rehabilitation Centers in each region of the country.

PART XVI
DUTIES AND RESPONSIBILITIES OF DEPARTMENTS AND AGENCIES

RULE 103. Department of Justice

In addition to its duties and responsibilities arising from its administrative supervision over of the JJWC under Rule 10.a, the DOJ also has the following duties and responsibilities under the Act and these Rules:

- (a) Appoint the officers and staff of the JJWC upon a favorable recommendation from the DSWD;
- (b) Determine the qualifications of and designate one representative from NGO to the JJWC;
- (c) Conduct regular seminars and trainings to its prosecutors on the proper handling of cases involving children in conflict with the law;
- (d) Train the prosecutors with the assistance of the DSWD on child-sensitivity and gender-sensitivity;
- (e) Monitor the compliance by the following agencies and bureaus of their respective duties and responsibilities under the Act and these Rules:
 - (1) Public Attorney's Office;
 - (2) Bureau of Corrections;
 - (3) Parole and Probation Administration; and
 - (4) National Bureau of Investigation;
- (f) Exercise its administrative powers over the above-enumerated agencies to ensure compliance with their duties and responsibilities.

RULE 104. Department of Social Welfare and Development

In addition to its duties as the chair of the JJWC under Rule 10.b, the DSWD shall perform the following duties and responsibilities:

- (a) Establish in all regions mechanisms and systems of receiving custody of children below age of criminal responsibility in cases where parents, guardians or relatives of these children cannot be located. Particularly, the DSWD shall establish and strengthen alternative placements in all regions of the country;
- (b) Develop and conduct training programs for social workers and other service providers for the effective performance of their duties and responsibilities under the Act and these Rules;
- (c) Determine the qualifications of and designate one representative from NGO to the JJWC;
- (d) Submit reports to the JJWC of relevant data and information regarding the juvenile justice and welfare system, including but not limited to:

- (1) the number of cases handled involving children in conflict with law;
 - (2) disposition of cases;
 - (3) number of children undergoing intervention, diversion and rehabilitation programs; and
 - (4) evaluation of the intervention, diversion and rehabilitation programs implemented in their respective areas of jurisdiction;
- (e) In consultation with the LGUs, particularly LCPCs, and NGOs formulate rules and guidelines that should be followed during the diversion proceedings to protect the child from coercion, intimidation, harm, abuse, or other actions detrimental to the child;
 - (f) Provide technical assistance to LGUs and NGOs in the development of community-based programs for intervention, diversion and rehabilitation;
 - (g) Establish and maintain Regional Rehabilitation Centers for Youth (RRCYs). The DSWD shall include in its budget plan the appropriation for the establishment of RRCYs in each region of the country;
 - (h) Assist LGUs in providing gender sensitivity training and other appropriate trainings relative to treatment and rehabilitation of children in conflict with the law to persons at the local government level handling these children;
 - (i) In consultation with concerned agencies, develop, review and enhance the standards for Youth Homes to ensure efficiency, effectiveness and accountability in the delivery of quality programs and services for children in conflict with the law who are detained pending trial;
 - (j) Issue rules and regulations for registration, licensing and accreditation of Youth Homes. The DSWD shall also receive and evaluate applications for registration, license and accreditation of Youth Homes managed by LGUs or NGOs and issue the appropriate certificate when qualified;
 - (k) Inform the JJWC of the establishment of Youth Homes by accredited private and non-government organizations as provided under Section 49 of the Act and Rule 75 herein; and
 - (l) Develop new social technologies and enhance existing programs and strategies in handling children in conflict with the law.

RULE 105. Department of Education

The Department of Education shall:

- (a) Issue the necessary policies and procedures through department orders and circulars to ensure that public and private schools perform their role in juvenile intervention and prevention as identified in Rule 20.b.
- (b) Provide specialized education in Youth Homes, Regional Rehabilitation Centers for Youth and other facilities where children in conflict with the law are placed under custody pending trial and whose sentences are suspended.
- (c) Integrate in the curriculum programs and activities that serve as intervention to prevent children from being in conflict with the law in

consideration of the social, cultural, economic and religious circumstances of the children.

- (d) Develop intervention programs for implementation by public and private schools consistent with the National Program as provided in Rule 17.
- (e) Develop policies and programs to ensure that children in conflict with the law by virtue of that fact are not subjected to discrimination in schools, both private and public.
- (f) Coordinate with TESDA in the formulation of special educational programs and curricula for diversion and rehabilitation of children in conflict with the law.

RULE 106. Department of the Interior and Local Government

The Department of the Interior and Local Government (DILG) shall:

- (a) Coordinate with the LGUs, through the Leagues of LGUs, in implementing policies and programs for juvenile intervention, diversion and rehabilitation;
- (b) Monitor the compliance of all LGUs as well as the PNP and the Bureau of Jail Management and Penology in the performance of their duties and responsibilities under the Act and report the results of its monitoring and evaluation to the JJWC;
- (c) Create a system of assisting LGUs in the establishment and strengthening of LCPCs;
- (d) Oversee the organization and functionality of the LCPCs;
- (e) Report to and update the JJWC the following information:
 - (1) LGUs with existing LCPCs, no LCPCs and LCPCs under organization;
 - (2) Budget provided by LGUs for their LCPCs, particularly the percentage of the IRA allocated by each LGU for the strengthening and implementation of the programs of the LCPC; and
 - (3) LGUs with and without Youth Detention Homes;
 - (4) Allocation of the budgetary requirements under the Act for the development of LCPCs; and
 - (5) The appointment of the LSWDOs handling children in conflict with the law.

Where there are LGUs with no LCPCs or with non-functional LCPCs, where LGUs do not disburse the proper percentage of IRA for the LCPCs or where there are LGUs without Youth Detention Homes, the DILG shall report to the JJWC the steps it has taken and what additional recommendations it proposes to address these cases.

- (f) Establish a system of uniform reporting to the National Government, through the JJWC, by LGUs of:

- (1) The results of the assessments of the Local Intervention Programs as required under Section 18 of the Act (Rule 18);
 - (2) Children in conflict with law who are taken into the custody of law enforcement officers; and
 - (3) Other relevant data, including the information enumerated in the preceding paragraph, for the monitoring of the enforcement of the Act at the local level;
- (g) Relay to all LGUs the problems identified by the JJWC in the implementation of the Act at the local government level and to recommend to LGUs proposed measures to address the problems.

RULE 107. Council for the Welfare of Children

Consistent with its mandate under Executive Order No. 233 (1987) [E.O. 233], the Council for the Welfare of Children shall:

- (1) Exercise its powers and responsibilities under E.O. 233 consistent with the Act and to further the proper administration of the Juvenile Justice and Welfare System and the effective implementation of the National Juvenile Intervention Program;
- (2) Integrate the objectives of the Act in the formulation of its integrated national policy and long-range programs under Section 4 of E.O. 233 and in the preparation of its policies and programs for the development of children;
- (3) Assist the JJWC in the:
 - (a) Coordination of efforts of both government and non-government organizations in juvenile intervention and delinquency prevention;
 - (b) Advocacy of greater efforts to support child welfare and development; and
 - (c) Monitor the implementation of the Act in relation to other laws related to children.

RULE 108. Commission on Human Rights

The Commission on Human Rights shall, consistent with its powers and responsibilities under Article XIII of the 1987 Constitution:

- (a) Strengthen the monitoring of government compliance of all treaty obligations, including the timely and regular submission of reports before the treaty bodies, as well as the implementation and dissemination of recommendations and conclusions by government agencies as well as NGOs and civil society;
- (b) Monitor the Philippine government's compliance to the Convention on the Rights of the Child and ensure that government actions and policies, and the domestic laws are consistent with the Convention on the Rights of the Child;
- (c) Guide and advise the JJWC in the implementation of the Act using the rights-based approach, particularly in:

- (1) Collecting relevant information and conducting research and studies on matters relating to juvenile justice and welfare; and
 - (2) The conduct of trainings to personnel involved in the administration of the juvenile justice and welfare system;
- (d) Conduct independent investigations to monitor violations of children's rights in accordance with the Act, which include public hearings on the alleged human rights violations committed against children in conflict with the law; and
 - (e) Exercise visitorial powers over jails, prisons, detention facilities and other facilities that have custody over children who are deprived of liberty; and
 - (f) Recommend effective measures to the JJWC to promote and protect the rights of the child in conflict with the law.

RULE 109. National Youth Commission

Consistent with its mandate under RA 8044, the National Youth Commission shall:

- (a) Include in the formulation and initiation of national policies on youth the prevention of juvenile delinquency and the concerns of children in conflict with the law;
- (b) Utilize its established consultative mechanism under Section 10(c) of RA 8044 in creating a continuing dialogue between the government and the youth sector on the proper planning and evaluation of policies, programs and projects affecting the children, particularly those at risk and in conflict with the law;
- (c) Assist and coordinate with government and non-government organizations or institutions in the implementation of the Act, these Rules and all other programs and projects on juvenile intervention and delinquency prevention;
- (d) Assist the JJWC in collecting relevant information and conducting continuing research and support evaluations and studies on matters relating to juvenile justice and welfare, as provided in Section 9(g) of the Act in relation to Sec. 10(f) of RA 8044, and report the information and results gathered to the JJWC;
- (e) Develop youth programs and projects as well as promotion and fund-raising campaigns, as provided in Section 10(j) and (k) of RA 8044 consistent with and in furtherance of the National Juvenile Intervention Program;
- (f) Monitor and report acts of discrimination on children in conflict with the law and other violations of the rights of these children;
- (g) Ensure that the Sangguniang Kabataan performs its functions prescribed in the Act and in these Rules; and
- (h) Include in its annual report to the President and to Congress under Section 10(p) of RA 8044 an appraisal of the performance of the Sangguniang Kabataan of their duties under the Act.

RULE 110. Coordinating Agencies**Rule 110.a.** Bureau of Corrections

The Bureau of Corrections shall:

- (1) Establish, maintain, supervise and manage agricultural camps and other training facilities in coordination with the DSWD where children in conflict in the law may be committed to serve sentence as provided in Section 51 of the Act; and
- (2) Submit to the JJWC within ninety (90) days from the effectivity of the Act an inventory of all children in conflict with the law under its custody.

Rule 110.b. Bureau of Jail Management and Penology

To ensure the effective implementation of the Act, the Bureau of Jail Management and Penology shall perform the following functions:

- (1) Ensure that no children are admitted or detained in municipal/district or city/district jails under its management;
- (2) Immediately refer to the DSWD or the LSWDO children who are found to be in the custody of municipal/district or city/district jails; and
- (3) Submit to the JJWC within ninety (90) days from the effectivity of the Act an inventory of all children in conflict with the law under its custody.

Rule 110.c. National Bureau of Investigation

To assist in the effective implementation of the Juvenile Justice and Welfare System, the National Bureau of Investigation shall:

- (1) When in the course of undertaking an investigation finds that a child is involved in the commission of an offense, ensure that the child shall be treated in accordance with the provisions of the Act and these Rules even if the crime or offense was committed with adult offenders;
- (2) Ensure that its agents shall observe the proper procedure prescribed by the Act and these Rules upon contact with a child in conflict with the law; and
- (3) As the national clearing house of criminal data and other information for the benefit and use of all prosecution and law enforcement entities in the Philippines, ensure that no criminal conviction or record is entered in its database if such conviction or record refers to the commission of an offense of person as a child in conflict with the law.

Rule 110.d. Parole and Probation Administration

The Parole and Probation Administration shall develop individualized probation programs appropriate for the correction and rehabilitation of children in conflict with the law consistent with the objective of rehabilitation and reintegration provided in the Act.

Rule 110.e. Philippine National Police

The Philippine National Police (PNP) shall:

- (1) Develop a manual for the efficient administration of the Juvenile Justice and Welfare System by law enforcement officers;
- (2) Conduct special training to its personnel in the management of children in conflict with the law and the proper observance of procedures prescribed by the Act;
- (3) Ensure that all police stations in the country have:
 - (a) An area where the children taken into custody are kept separate from adult offenders;
 - (b) A separate logbook of all children taken into custody;
 - (c) Personnel who are trained to specially deal with children in conflict with the law; and
 - (d) Have a list of all the persons/agencies that may take custody of the child in conflict with the law in the event the child has no parent/guardian/relative to assume such custody;
- (4) Establish a uniform system of:
 - (a) Reporting of children in conflict with law who are taken into the custody of law enforcement officers; and
 - (b) Maintaining the confidentiality of the records of children in conflict with the law and protecting the identity of these children;
- (5) Compile statistical data for the accurate assessment of the situation involving children in conflict with the law and report the same to the JJWC through the DILG;
- (6) Establish a system of evaluating the efficiency and effectiveness of all police units in the country in handling children in conflict with the law;
- (7) Ensure that all police units in the country establish and maintain close coordination and cooperation with the LCPCs and the LSWDOs in their areas of jurisdiction; and
- (8) Submit to the JJWC through the DILG within ninety (90) days from the effectivity of the Act an inventory of all children in conflict with the law under its custody.

Rule 110.f. Public Attorney's Office

The Public Attorney's Office shall:

- (1) Provide legal assistance to children in conflict with the law;

- (2) Give special training to its lawyers in:
 - (a) The management of cases involving children in conflict with the law; and
 - (b) Using child-sensitive approaches in handling children in conflict with the law; and
- (3) Establish a monitoring system on statistics involving children in conflict with the law consistent with the National Juvenile Intervention Program.

Rule 110.g. Technical Education and Skills Development Authority

The Technical Education and Skills Development Authority, consistent with its mandate under Republic Act No. 7796, shall:

- (1) Integrate in the formulation of the National Technical Education and Skills Development Plan the development of programs for children in conflict with the law;
- (2) Fund programs and projects for technical education and skills development of children; and
- (3) Assist LGUs in the conduct of skills development programs for children in conflict with the law.

RULE 111. Local Government Units

The duties and responsibilities of each LGU in the juvenile justice and welfare system include the following:

- (a) Develop and implement a Local Intervention Program in accordance with Section 18 of the Act and Rule 17;
- (b) Encourage the participation of all sectors concerned, particularly the child-focused institutions, NGOs, people's organizations, educational institutions and government agencies involved in delinquency prevention to participate in the planning process and implementation of juvenile intervention programs;
- (c) Set aside from its annual budget the amount necessary to implement the Local Intervention Program;
- (d) Review and assess annually, in coordination with the LCPC, the implementation of the Local Intervention Program. Each LGU shall then submit its assessment to the JJWC through the DILG;
- (e) Ensure that no children are admitted or detained in provincial jails;
- (f) Establish and strengthen LCPCs in accordance with Part III of these Rules;
- (g) Set aside and disburse one percent (1%) of the IRA of cities, municipalities and barangays for LCPCs;

- (h) Pay a portion of the expenses for the care and maintenance of the child in conflict with the law in accordance with Rule 100.a., in case the parents of the child or those persons liable to support the child cannot pay all or part of said expenses;
- (i) Institute community-based programs for intervention, diversion and rehabilitation;
- (j) Appoint a duly licensed social worker as its LSWDO, who shall be tasked to assist children in conflict with the law. In provinces, cities or municipalities where there are no LSWDOs, the local chief executive shall immediately appoint a duly licensed social worker as its local social welfare development officer who shall perform the above-mentioned responsibilities. Should the appointment of an LSWDO result in the excess in the budget ceiling for Personal Services, the same shall be justified in accordance with Civil Service policies;
- (k) Conduct an inventory and mapping of local resources for children in conflict with the law; and
- (l) Establish local Youth Homes for children in conflict with the law within five (5) years from the effectivity of the Act.

RULE 112. Sangguniang Kabataan

As provided by Section 17 of the Act, the Sangguniang Kabataan (SK) shall coordinate with the LCPC in the formulation and implementation of juvenile intervention and diversion programs in the community.

In addition, the SK shall, consistent with its mandate under the Local Government Code:

- (a) Promulgate resolutions necessary to carry out the objectives of the Act in the barangay;
- (b) Initiate programs that complement the intervention and diversion programs initiated by the LGUs through the LCPCs as well as those implemented by national agencies;
- (c) Create such bodies and committees as it may deem necessary to effectively carry out its programs and activities for juvenile intervention and diversion;
- (d) Include in its annual and end-of-term reports to the Sangguniang Barangay on their projects and activities that achieve the objectives of the Act and these Rules; and
- (e) Consult and coordinate with all youth organizations in the barangay for the formulation of policies and implementation of programs on juvenile intervention and diversion.

RULE 113. Child Rights Center of the Commission on Human Rights

As provided in Section 11 of the Act, the existing Child Rights Center (CRC) of the CHR shall ensure that the status, rights and interests of children are upheld in accordance with the Constitution and international instruments on human rights. In particular, the CRC shall:

- (a) Investigate human rights violations against children;
- (b) Initiate legal action for and in their behalf;
- (c) Conduct jail and institution visitation;
- (d) Conduct advocacy activities;
- (e) Implement core programs on children prescribed by the CHR;
- (f) Conduct capacity-building activities to ensure the recognition and exercise of children's rights; and
- (g) Participate in the practice of inter-agency cooperation that will widen the system and enhance the resources available to the child promotion and protection network at the regional level.

PART XVII
LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER

RULE 114. Appointment of Local Social Welfare and Development Officer

In accordance Section 16 of the Act, all LGUs, particularly at the provincial, city and municipal level, shall appoint a duly licensed social worker as its local social welfare and development officer (LSWDO), who shall be tasked to assist children in conflict with the law.

RULE 115. Duties and responsibilities

Among the duties and responsibilities of the LSWDO under the Act and these Rules are:

- (a) Determine the appropriate intervention and prevention programs for the child who is exempt from criminal liability, as provided in Part VII of these Rules.
- (b) Develop, with the assistance of the LCPC, the appropriate diversion programs as provided under Section 23(b) of the Act;
- (c) Immediately proceed to and be present in the initial investigation of the child in conflict with the law, after receiving notification from the law enforcement officer of the initial contact with the child, as provided in Section 22 of the Act and Rule 23.
- (d) Actively assist in conducting the initial investigation, as provided in Rule 23.
- (e) Witness the signing of statement by the child and affix signature to the said statement, as provided in Rule 23.d.
- (f) Receive physical custody of the child not later than eight (8) hours after apprehension except in cases where the child is found to be below the age of criminal responsibility, as provided under Rules 22 and 25.
- (g) Encourage the parent or guardian of the child to request for temporary custody of the child to the DSWD or licensed and accredited NGOs in cases where the child is fifteen (15) years old and below and the safety of the child is in danger in view of the alleged commission of the offense. In the event the parent or guardian does not agree to the request for temporary custody of the child, the LSWDO shall carefully review the case of the child and file a petition for involuntary commitment when sanctioned by law, in accordance with P.D. 603 and the SC Rule on Commitment of Children.
- (h) In the event a child whose custody is turned over by the law enforcement officer is fifteen (15) years old or below, the LSWDO shall take all measures to release the child to the parents or guardians, or to any of the persons or organizations provided in Rule 31.b, and proceed with the development of appropriate programs as provided under Part VII of these Rules.
- (i) Explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the

criminal justice system, and reparation, if appropriate as required by Section 21(i) of the Act and Rule 25.

- (j) In cases where the child is above fifteen (15) but below eighteen (18) years of age, after the statement of the child is taken, conduct an assessment if the child acted with discernment as part of the initial investigation, as provided in Rule 23.e. in accordance with Rule 34. After conducting an assessment, the LSWDO shall make the necessary recommendation to the law enforcement officer on the basis of said assessment.
- (k) Conduct diversion proceedings if the child is above 15 but below 18 years of age, acted with discernment and allegedly committed an offense that is a victimless crime with an imposable penalty of not more than six (6) years of imprisonment, as provided in Rule 24.2 and in accordance with the procedures under Rules 45, 47, 48 and 49.
- (l) Assist the law enforcement officer in determining the age of the child, when such assistance is requested.
- (m) As provided in Rule 32, file a petition for involuntary commitment if the child in conflict with the law is found by the LSWDO to be abandoned, neglected or abused by his/her parents; or the parents do not comply with the intervention and prevention programs as determined under Part VII of these Rules.
- (n) Endeavor to be continuously updated with latest trends in conducting psychosocial analyses of children and research on factors affecting the behavior of children in conflict with the law.
- (o) As provided in Rule 38, monitor the compliance of the child and the parents, guardian or persons having custody of the child, who are undergoing the intervention and prevention programs. To determine compliance with the program, the LSWDO shall also conduct periodic visits at the home of the child or at the place where the custody of the child is given; and meet with the authorities of the school that the child attends.
- (p) Assist the law enforcement officer when the diversion is conducted at the law enforcement level, as provided in Section 23(a) of the Act and Rule 44.b.
- (q) Develop with the LCPCs community-based programs for diversion as provided under Rule 50.b.
- (r) Supervise the conduct of the diversion program of the child as provided under Rule 51. In the event there is failure to comply with the terms and conditions of the contract of diversion, the LSWDO shall certify such fact.
- (s) As provided in Rule 51.c., in cases where the offense committed is a victimless crime, the LSWDO that conducted the diversion proceedings, upon a finding of failure to comply, may refer the case of the child to the prosecutor as if there is no consent to the diversion or that diversion is not appropriate and desirable for the child as provided in Section 29 of the Act.
- (t) Supervise and guide the child in conflict with the law who is participating in community-based rehabilitation programs, in coordination with the child's parents or guardian, as provided in Rule 73.c. Based on the progress of the youth in the community, a final report will be forwarded by the local social welfare and development officer to the court for final disposition of the case.

- (u) Prepare the Social Case Study Report of the child for submission to the rehabilitation or training facility, as provided in Rule 74.c.
- (v) Develop and provide after-care support services in accordance with the criteria set by the JJWC as provided under Rule 80.
- (w) Provide appropriate counseling and treatment programs for children exempt from prosecution under Rule 89.

PART XVIII
FINAL PROVISIONS

RULE 116. Transitory Provisions

The implementation of the Transitory Provisions of the Act shall be governed by the Guidelines To Implement the Transitory Provisions of RA 9344 dated 11 July 2006 issued by the JJWC.

RULE 117. Repealing clause

All other rules and regulations or parts thereof, inconsistent with the Act and the foregoing rules and regulations are repealed, amended or modified accordingly.

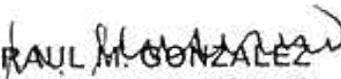
RULE 118. Separability clause

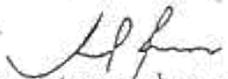
If any of the provisions of these Rules is declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

RULE 119. Effectivity

These Rules shall take effect fifteen (15) days from the date of its complete publication in a national newspaper of general circulation.

Manila, Philippines, 15 August 2006.

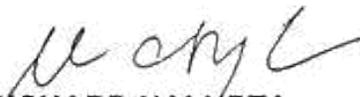

HON. RAUL M. GONZALEZ
Secretary, Department of Justice

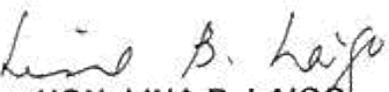

HON. RONALDO PUNO
Secretary, Department of the Interior and
Local Government


HON. ESPERANZA CABRAL
Secretary, Department of Social
Welfare and Development *PCS*

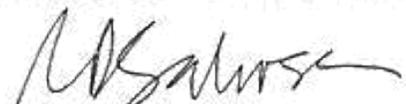

HON. PURIFICACION C. VALERA
QUISUMBING
Chairperson 
Commission on Human Rights


HON. JESLI LAPUS
Secretary
Department of Education *JLS*

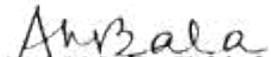

HON. RICHARD NALUPTA
Chairperson
National Youth Commission


HON. LINA B. LAIGO
Executive Director
Council for the Welfare of Children

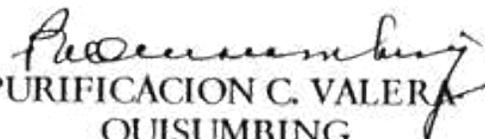

HON. DOLORA CARDENO
ERDA Foundation
NGO Representative


HON. RAY DEAN SALVOSA
Consuelo Foundation
NGO Representative

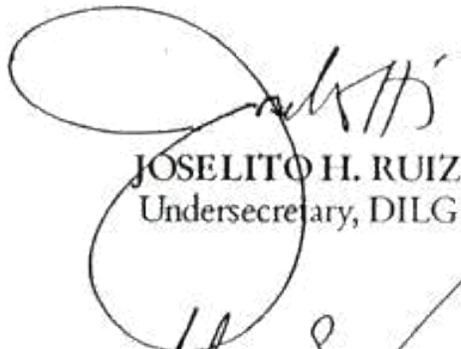
JUVENILE JUSTICE AND WELFARE COUNCIL MEMBERS

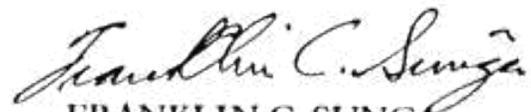

HON. ALICIA R. BALA
Undersecretary/Chair

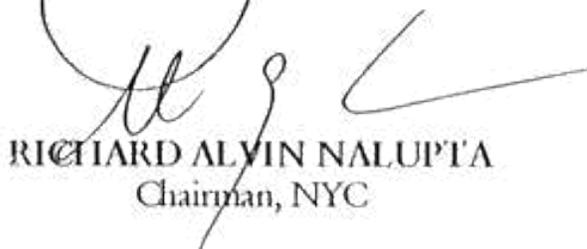
Department of Social Welfare and Development


PURIFICACION C. VALERA
QUISUMBING
Chairperson, CIIR

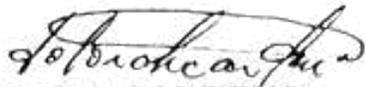

HON. TERESITA R. DOMINGO
Assistant Secretary
Department of Justice

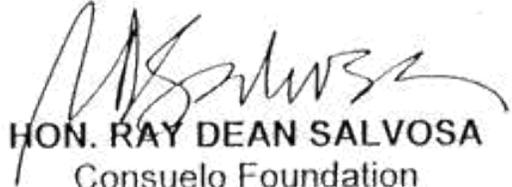

JOSELITO H. RUIZ
Undersecretary, DILG


FRANKLIN C. SUNGA
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RICHARD ALVIN NALUPTA
Chairman, NYC


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