

**[ DSWD ADMINISTRATIVE ORDER NO. 10, S.  
2007, June 28, 2007 ]**

**GUIDELINES FOR SOCIAL WORKERS IN THE HANDLING AND  
TREATMENT OF CHILDREN IN CONFLICT WITH THE LAW**

**I. Rationale:**

Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006 is a milestone in addressing the issues on children in conflict with the law (CICL) in the Philippines. It provides a paradigm shift from retributive to restorative justice which gives emphasis on making the CICL accountable for the act committed and rehabilitating the CICL rather than punishing him/her.

Section 16 of the law provides that all local government units shall appoint a duly licensed social worker to assist the CICL. With their critical role in the assessment of the presence or absence of discernment in the commission of a crime as well as the development and implementation of intervention and diversion programs, social workers are hereby provided with guidelines on how to effectively carry out their mandate. This guidelines shall also provide them with direction to actively engage the family and community in the rehabilitation and reintegration of the CICL.

**II. Coverage:**

This guidelines is intended for social workers of the following:

1. Department of Social Welfare and Development (DSWD);
2. City/Municipal Social Welfare and Development Office (C/MSWDO)
3. Provincial Social Welfare and Development Office (PSWDO)
4. DSWD licensed and accredited non-government organizations (NGOs)

**III. Objectives:**

This shall guide social workers in:

1. Handling and managing cases of the following:
  - a. CICL who is 15 years old and below
  - b. CICL who is above 15 but below 18 years of age but found to have committed a crime without discernment
  - c. CICL who is above 15 but below 18 years old who committed a crime

with discernment where the imposable penalty is confinement/imprisonment of not more than six years.

2. Conducting diversion proceedings and implementing diversion programs.

3. Assisting in the conduct of diversion proceedings and the implementation of diversion programs for cases handled by the Katarungang Pambarangay, law enforcement officers and prosecutors.

#### **IV. Definition of Terms**

The following terms used in this guidelines shall be defined as follows on Section 4 of R.A. 9344:

Child - refers to a person below eighteen (18) years old.

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.

Court - refers to a family court, or in places where there are no family courts, any regional trial court

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

Diversion proceeding - refers to a meeting or series of meetings facilitated by either a social worker, Punong Barangay, law enforcement officer, prosecutor or a judge, depending on the level of diversion conducted, with a view to having the parties involved in the offense agree on the appropriate diversion program for the CICL. The modes used conciliation, mediation and family conferencing.

Diversion program - refers to the program that the CICL is required to undergo after she/he is found responsible for an offense without resorting to formal court proceedings

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

Law enforcement officer - refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including a barangay tanod.

Offense - refers to any act or omission whether punishable under special laws or the Revised Penal Code, as amended.

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 CICL, when required.

Victimless crime - refers to an offense where there is no private offended party.

## **V. Procedures**

The following are the steps to be undertaken by a social worker immediately after having been notified by a law enforcement officer, to include the police, National Bureau of Investigation agents, barangay officials and tanods, of the apprehension of a child:

### **A. For CICL 15 years old and below**

1. The C/MSWDO shall conduct an assessment on the circumstances and needs of the child as basis in determining immediate actions to be done.

The social worker handling the CICL should not be the same social worker handling the victim if the latter is minor. If there is no available social worker in the city or municipal LGU who could handle the case of the victim, the case shall be referred to the PWSDO or a DSWD licensed and accredited NGO social worker. The case may also be referred to DSWD but this course of action should be the last resort.

The C/MSWDO handling the CICL whose residence is outside the jurisdiction of the LGU where the offense is committed shall facilitate the turn-over of the case to the LGU where the CICL resides. The following documents shall be forwarded to the receiving LGU.

- a. C/MSWDO's initial assessment report
- b. CICL's medical certificate
- c. Other documents related to the apprehension of the CICL like police report
- d. Documents which prove that the CICL is 15 years old or below

If any of the following is present, the C/MSWDO shall immediately file in court a petition for involuntary commitment (Annex A<sup>\*</sup>) of the CICL:

- a. The CICL is abandoned, neglected or abused by parents or guardians.
- b. There is threat to the CICL's safety but parents refuse to allow his/her referral for temporary custody to LGU/DSWD institution or NGOs catering to CICL.
- c. Parents refuse to comply with intervention programs deemed necessary and appropriate for the CICL.

The DSWD social worker shall provide the C/MSWDO with technical assistance in filing a petition for involuntary commitment when indicated. (Rule 32 of the Implementing Rules and Regulations (IRR))

While the court is deciding on the petition, the CICL has to be referred for foster care or to an institution of the DSWD or to a DSWD licensed and accredited NGO, whichever is appropriate. The same shall apply to a CICL who has been involuntary committed.

2. The C/MSWDO shall prepare a social case study report (SCSR) (Annex B<sup>\*</sup>) not later than two weeks from the date the CICL was turned over to his/her office. The

SCSR shall be the basis for implementing appropriate interventions.

In coming up with intervention programs, the social worker should always consider the needs and situations of the CICL and his/her family.

Below are examples of intervention programs:

- a. Counseling
- b. Life-skills trainings
- c. Support services to parents or guardians like parent effectiveness service, livelihood programs, livelihood skills trainings.
- d. Referral of the CICL to other agencies for services like scholarship, psychiatric sessions, spiritual sessions, etc.
- e. Involvement of the CICL in youth organizations e.g. Pag-asa Youth Association in the Philippines
- f. Psychosocial and therapeutic programs

Aside from these identified interventions, the social worker should explore other activities appropriate to the needs of the child.

Likewise, for a CICL placed in a DSWD institution or DSWD licensed/accredited institution, the center social worker shall develop, together with the CICL, an appropriate intervention program.

3. The C/MSWDO shall implement an intervention program with the child in coordination with the Barangay Council for the Protection of Children (BCPC), school, Sangguniang Kabataan Council, existing support organizations and community volunteers.

Suggested time frame for the provision of intervention program is six months to one year.

4 The C/MSWDO shall monitor the child's compliance and response to the intervention Program. He/she may mobilize support structures to:

- a. Visit the C!CL and his/her family at their residence;
- b. Interview neighbors, teachers, classmates and significant others about the status of the CICL's behavioral progress;

As part of monitoring, the C/MSWDO shall also require the CICL and his/her parents report to his/her office at least once a month.

5. The C/MSWDO shall assess whether or not the rehabilitation goal has been achieved He/she must consider the readiness of the family and community to accept the CICL Likewise, he/she should consider the following:

- a. CICL's behavior in school which includes his/her compliance to school regulations, the way he/she interacts with teachers and classmates and his/her performance but not limited to such.
- b. Conscious effort of the CICL to be involved in productive activities like attendance to spiritual sessions, sports and socio-economic activities.

c. She/he has not committed any other offense during the period of the intervention program.

d. She/he has established good relationship with the family and community or with the staff and co-residents in the center. Thus, neighbors/co-residents and center staff speak well of him/her.

6. The C/MSWDO shall terminate the provision of interventions once the rehabilitation goal of the child has been achieved. However, if the CICL and his/her parents, guardian or persons having custody of him/her failed to comply with the intervention program despite exhausting all efforts to assist them, the C/MSWDO may file a petition for involuntary commitment of the child pursuant to Presidential Decree 603. (Rule 39)

7. The C/MSWDO shall submit a quarterly report to the local council for the protection of children on number of cases served and implementation of intervention program.

#### **B. For CICL above 15 but below 18 years of age**

1. The C/MSWDO shall immediately turn over the child to his/her parents. However, if the social worker believes, based on his/her assessment that the child's immediate turn over to parents, guardians or relatives is not appropriate and possible, he/she shall turn over the child to a DSWD accredited LGU facility, a DSWD licensed and accredited non-government organization or to a DSWD facility.

2. Not exceeding one week, the C/MSWDO shall prepare an assessment report on the absence or presence of discernment in the commitment of a crime. This shall be based on the following:

- a. Facts and circumstances surrounding the case; (Rule 34.c1)
- b. Educational level and performance of the child in the school; (rule 34.c2)
- c. Appearance, attitude and the child's demeanor before, during and after the commission of the offense. (Rule 34.c3)
- d. Assessment of a psychologist or psychiatrist which the social worker may request.

The C/MSWDO shall submit the assessment report on the presence or absence of discernment to the referring law enforcement officer.

If the CICL has acted without discernment, the C/MSWDO shall manage the case of the child similar to that of the case of CICL who is 15 years old or below (Please refer to item "A").

5. If the C/MSWDO has found the CICL to have acted with discernment and the crime committed is victimless with an imposable penalty of not more than six years of confinement/imprisonment, he/she shall determine whether or not a diversion is appropriate and desirable by considering the following:

- a. Nature and circumstances of the offense (Rule 47.b.1);
- b. Frequency and severity of the act (Rule 47.b.2);
- c. Circumstances of the child (e.g. maturity, intelligence, etc. (Rule