



Administrative Order No. 10
Series of 2007

SUBJECT: **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 based 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 are 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) 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) 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 NGO 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 CICL 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 to 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-civic 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.
3. The C/MSWDO shall submit the assessment report on the presence or absence of discernment to the referring law enforcement officer.
4. If the CICL has acted without discernment, the C/MSWDO shall manage the case of the child similar to that of the case of a 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 47.b.3))
 - d. Influence of the family and environment on the growth of the Child (Rule 47.b.4)
 - e. Weight of the evidence against the child (Rule 47.b.6)
 - f. Safety of the community (Rule 47.b.7)
 - g. Best interest of the child (Rule 47.b.8)

(Note: Please refer to Annex C- list of victimless crimes with imposable penalty of not more than six years of imprisonment)

However, if the CICL resides outside the jurisdiction of the LGU where the offense is committed, the case shall be turned-over to the LGU where the CICL resides. The said LGU shall take the responsibility of determining the appropriateness of a diversion.

The following documents shall be forwarded to the receiving LGU:

- a. Assessment report on discernment
 - b. Medical certificate
 - c. Other documents related to the apprehension of the C/MSWDO like police report
 - d. Documents which prove that the C/MSWDO is above 15 but below 18 years old.
6. If diversion is inappropriate and undesirable, the C/MSWDO shall issue a certification (Annex D) to this effect and refer the case to a prosecutor. (Rule 47.a)
7. If diversion is appropriate and desirable, the C/MSWDO shall meet with the child and his/her parents or guardians to develop an appropriate diversion program, in coordination with the BCPC, the Sangguniang Kabataan Council, teachers if the C/MSWDO is enrolled, faith-based groups and non-government organizations, if available.

The following are examples of diversion programs:

- a. Counseling of the C/MSWDO and his/her family
- b. Attendance to trainings, seminars and lectures on anger management, problem solving or conflict resolution and values formation, among other life skills trainings.
- c. Participation in community-based programs, including community service
- d. Participation in education, vocational and life skills programs

However, if the C/MSWDO cannot obtain the consent of the C/MSWDO and his/her parents or guardians to a diversion contract, he/she shall refer the case to the prosecutor (Rule 47.a)

8. When agreements have been reached, the child and his/her parents together with the social worker handling the case shall sign a diversion contract (Annex E) containing actions to be undertaken by all parties involved.
9. The C/MSWDO shall implement a diversion program with the assistance of the community. The suggested length of the implementation of the diversion program is six months to one year except for cases in which the social worker believes that a longer period or thorough rehabilitation is needed.

10. The C/MSWDO shall monitor the compliance of C/CL and his/her parents to the diversion contract by way of:

- a) Visit to the C/CL and his/her family at least once a month and more frequently as needed.
- b) Visit to the school if the C/CL is enrolled or to his/her place of work if employed.
- c) C/CL and his/her parents reporting (physically) to the social worker at least once a month.

11. If the C/CL fails to comply with the diversion contract, the C/MSWDO shall certify (Annex D) that there is failure to the contract and refer the case to the prosecutor. (Rule 51.c)

C. For C/CL who Committed Crimes with Victims

The role of the C/MSWDO in crimes where there are victims is to supervise the implementation of the diversion program. As such, she/he shall devise a monitoring and follow-up mechanism to ensure compliance of the child and his/her parents or guardian with the contract of diversion. Likewise, she/he shall determine the progress of the rehabilitation and reintegration of the C/CL to the community. (Rule 51.b)

If the C/CL failed to comply with the diversion contract, the C/MSWDO shall certify (Annex D) that there is failure to the contract.

VI. Conduct of Diversion Proceedings:

Whether conducting a diversion proceeding or assisting in the conduct of such, the C/MSWDO shall ensure the following:

- a) The C/CL 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. (Rule 47.a5)
- b) The C/CL is asked of the circumstances of the offense, the motives or purpose of the offense and the factors that led him/her to commit the offense. Likewise, he/she is asked about his/her personal circumstances including his/her parents and family, his/her peers and educational status (Rule 47.a2 and a3)
- c) Diversion proceedings shall be conducted in a place where the identities of the child and the parties concerned are kept confidential. (Rule 47.c)

- d) The record of proceedings shall be labeled "CONFIDENTIAL" and shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings. (Rule 86.F)
- e) CICL shall be encouraged to express himself/herself especially when deciding on the appropriate diversion program.
- f) Authorities conducting the proceedings shall use language and expressions that can be easily understood by the CICL. Expressions or words that insult or intimidate the CICL shall be avoided.
- g) Before asking the CICL to sign a diversion contract, the authorities conducting the diversion proceedings shall allow the CICL to read the contract. If the CICL cannot read, the content of the contract shall be interpreted and explained to him/her clearly.
- h) Schedule of the conduct of diversion proceedings shall not interfere with the CICL's attendance to school.
- i) The diversion proceedings shall be completed within 45 days upon submission of the case for diversion. When no agreements are reached after 45 days, the proceedings shall be terminated. The case shall then be filed according to regular judicial procedure. (Rule 47.f)

VII. Formulation of Diversion Program:

The C/MSWDO shall bear in mind that a diversion program is a package of interventions for CICL and their families which may include already existing programs in the community. Likewise, the delivery of the diversion program is not the social worker's sole responsibility. It is a community effort. The C/MSWDO shall mobilize community structures specially the BCPC and resources like volunteers in the implementation of the diversion program.

The following shall be considered when formulating a diversion program:

1. The child's feelings of remorse for the offense he/she committed (Rule 49.a1);
2. The parents' or legal guardians' ability to guide and supervise the child (Rule 49. a.2);
3. The victim's view about the propriety of the measures to be imposed (Rule 49.a.3);
4. The availability of community-based programs for the rehabilitation and reintegration of the child(Rule 49.a4);
5. Record of prior offense, if any; (Rule 49.a5)
6. The CICL's individual circumstances including but not limited to his/her cultural, social, economic and religious circumstances.

VIII. Case Management:

In all CICL cases, the social worker shall make use of the case management as a framework utilizing the SCSR as a tool. Thus, he/she shall be guided by the following:

A. Identification of the problem

Identifying the problem shall be the first task that a social worker should do once she/he starts with the management of the CICL's case. The social worker's main sources of information are the CICL and their parents or guardians.

In identifying the problem, the social worker must indicate the offense committed, the circumstances leading to the commitment of the crime and the immediate result of the crime to the CICL, his/her family and the community.

B. Data Gathering

The social worker shall gather relevant data which will help him/her understand fully the child's needs. These data should include the child's historical background, his/her strengths and weaknesses, values, plans, relationship with family and other individuals significant to him/her, ability to cope with problems or stressful conditions and his/her behavior in the community or in the school.

The social worker must also identify the socio-economic condition of the CICL's family, their values, relationship between and among family members, and the family relationship with the community.

It is also necessary that the social worker should take into consideration the community where the CICL and his/her family belong. Among the information that she/he should gather are the culture of the community which influences the child and his/her family's decision making and values in life, availability of basic social services, existence of support structures and the community's reaction to the offense committed as well as its readiness to accept the CICL.

C. Diagnostic Assessment

Based on the data gathered, the social worker shall define the problem, its causes and effects, why a certain type of intervention is required, the CICL and his/her family's motivation and capacity to utilize the help that will be provided.

D. Treatment Plan

Based on the assessment, the social worker shall formulate a treatment plan in agreement with the CICL and his/her family or guardians, indicating treatment goals, objectives, activities, strategies, persons responsible, time frame and expected output.

The treatment plan may be modified in the course of implementation when necessary.

E. Implementation of the Treatment Plan

The social worker shall implement the treatment plan together with the child and his/her family, guardian or relative in coordination with BCPC members, other disciplines or the center staff if the C/MSWDO is in an institution.

F. Monitoring and Evaluation

The progress of the C/MSWDO shall be monitored by the social worker using the treatment plan as reference. The social worker shall also evaluate whether or not the services provided respond to the needs of the child.

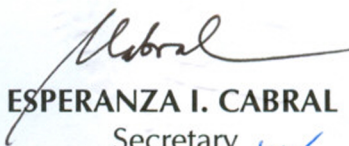
G. Termination

If the evaluation points out that the desired behavior or changes in the C/MSWDO have been achieved and his/her parents have become fully capable of taking care of the child, the C/MSWDO shall now terminate the helping relationship.

For C/MSWDO placed in an institution, she/he shall be referred to the C/MSWDO for aftercare services.

This guidelines shall take effect immediately and revokes all other guidelines contrary to it.

Issued in Quezon City this day 28th of June, 2007.


ESPERANZA I. CABRAL
Secretary *fee*