

CASE NO.7095/30/4/2013



INSPECTION REPORT

ON

OBSERVATION HOME FOR
BOYS-II, SEWA KUTIR
KINGSWAY CAMP
NEW DELHI

CONDUCTED ON
24, 26 & 30 DECEMBER, 2013

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Abbreviations

OHB-II	Observation Home for Boys, Mukherjee Nagar, Delhi
Delhi JJR	The Delhi Juvenile Justice (Protection and Care of Children) Rules, 2009
JJA	The Juvenile Justice (Care and Protection of Children) Act, 2000
UN Rules/ Havana Rules	UN Rule for protection of juveniles deprived of their liberty
DWCD	Department of Women and Child Development, Govt. of NCT of Delhi
JCL	Juvenile in conflicts with law
JJB	Juvenile Justice Board
PO	Probationer Officer

NATIONAL HUMAN RIGHTS COMMISSION

MANAV ADHIKAR BHAVAN

INVESTIGATION DIVISION

ENQUIRY REPORT

1. BRIEF FACTS OF THE CASE

The Hon'ble Commission took *suo-motu* cognizance of a press report captioned "**Freed minor talks of drugs and abuse, hopes to study**" that appeared in the 'Times of India' dated 18/12/2013 (Page 1-3/C file no. 7095/30/4/2013). As per press report, one of the juveniles released on 17.12.2013 from Sewa Kutir Juvenile Home, Mukherjee Nagar, New Delhi, after the court acquitted him of charges, has alleged that it is quite dangerous to be inside the Juvenile Home. Every day, there are brawls and boys are thrashed. Most of the boys inside are drug addicts. They get aggressive when their demand for drugs is turned down. He further alleged incidents of sexual assault inside the Home. Boys, who have been in the Home for long tend to exploit new boys. It has been alleged that the boys, who come from Tihar, are hardened with their experiences in jail and are often very brutal.

2. DIRECTIONS OF HON'BLE COMMISSION

Taking cognizance of the matter, on 19/12/2013, the Commission directed for a surprise inspection of the institution by a team of the Investigation Division headed by SSP along with an officer from the Law Division.

3. TEAM

To conduct an inspection of the Observation Home for Boys (OHB), Mukherjee Nagar, (*thereinafter referred is as OHB-II*), a team of following officers was constituted.

- 1) Sh. S. K. Jain, IPS, SSP/Investigation Division
- 2) Sh. Indrajeet Kumar, Assistant Registrar/ Law Division

3) Sh. Arun Tyagi, Inspector/Investigation Division

4. ISSUES INVOLVED

- a. Whether there is any exploitation/physical assault of new juveniles by the juveniles in conflict with law (**JCL**) who have been in the Home for long?
- b. Whether some of the JCL are drug dependent and there is problem of drug supply/consumption at OHB-II?
- c. Whether the juveniles, who are allegedly drug addict, behaved aggressively when their demand for drugs is turned down?
- d. Whether there are incidents of sexual assault/ abuse inside the Home?
- e. Whether the conduct of JCLs who were shifted from Central Prison, Tihar, had vitiated the atmosphere of Observation Home (OHB-II) and led to problems in OHB-II?
- f. Whether proper living conditions, including infrastructure and recreational facilities are provided to the juveniles at the OHB-II?

5. MODALITIES OF ENQUIRY

The NHRC team conducted the inspection of OHB-II on 24/12/2013, 26/12/2013 and 30/12/2013. During inspection, NHRC team:

- a. Visited the Sewa Kutir, Observation Home for Boys-II, Mukherjee Nagar (Kingsway camp), New Delhi and met the Superintendent, Welfare officers, House-Fathers, Caretakers and other staff working in the OHB-II.
- b. Met the Director, Department of Women and Child Development, GNCT, Delhi and other officials including Dy. Director.
- c. Interacted with delinquent juveniles staying in the Sewa Kutir, Observation Home for Boys-II. Held interaction with some of the juveniles who were recently released, to get first-hand information about the state of affairs of OHB-II.

- d. Interacted with Ms. Suchi, counselor of NGO 'Manas' to get her point of view.
- e. Collected records pertaining to major incidents occurred in the recent past and details of matter under consideration at Hon'ble High Court, Delhi.
- f. The names & details of the juveniles are not mentioned in the report. Further, their formal statements have also not been recorded. This is done for dual purposes. Firstly, to protect their identity as per mandate of Juvenile Justice Act and secondly, to ensure due safety to them on account of their disclosure.

6. Background of Observation Home

- a. The Government has a statutory responsibility and non-delegable duty of care to inmates in custody, as well as responsibility for the safe operation of juvenile justice custodial facilities.
- b. Observation Home is an institution established for the temporary reception of juveniles in conflict with law during pendency of their inquiry before Juvenile Justice Board (JJB). (Sec. 8 of JJA, 2000)
- c. The group catered for in custodial facilities in the OHB-II is meant for temporary detention of male juvenile in conflict with law (JCL), aged from 16 to 18 years, who are on remand by the Juvenile Justice Board during their under-trial period under the jurisdiction of the *Juvenile Justice (Protection and Care of Children) Act, 2000*. The detailed Rules for administration and maintenance of the OBH-II are prescribed under the Delhi Juvenile Justice (Care and Protection of Children) Rules, 2009.
- d. These Rules provide a framework for the delivery of services to ensure that each juvenile delinquent who comes into contact with the juvenile justice custodial system is provided with a minimum

standard of service, and that their successful return to the community is the primary goal.

7. PREVIOUS MAJOR INCIDENTS OF VANDALISM AND ARSONING BY JUVENILES AT OBSERVATION HOMES RUN BY THE DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT, GOVT. OF NCT OF DELHI.

- a. On 08/08/2013, the juveniles, lodged in Observation Home located at *Majnu Ka Tila* Complex, Delhi, had created ruckus and vandalized the Home.
- b. On 05/10/2013, some of the juveniles lodged in Observation Home for Boys-II, Sewa Kutir, Mukherjee Nagar (Kingsway Camp), indulged in arson and vandalism when their alleged demand for '*Ganja and Bidies*' was denied by the Home administration. The copy of the incident report is placed at Pg- A1-A3-/Annexure.
- c. Again on 17/12/2013, few juveniles created ruckus, arson and vandalized the Observation Home, Sewa Kutir, Kingsway Camp, New Delhi. According to the report submitted to the Director, Department of Women and Child Development (DWCD), among others, prime trouble-creator were those juveniles who had spent about 4 years in the Rohini jail and later shifted to Observation Home on account of their juvenility. They assaulted a juvenile on 17/12/2013. The copy of preliminary report regarding the incident, submitted to the Director, Department of Women and Child Development is placed at page 1-3/Annexure. The photographs of the Home depicting the condition of the Home and damages thereof as a result of arsoning and vandalism are as under.



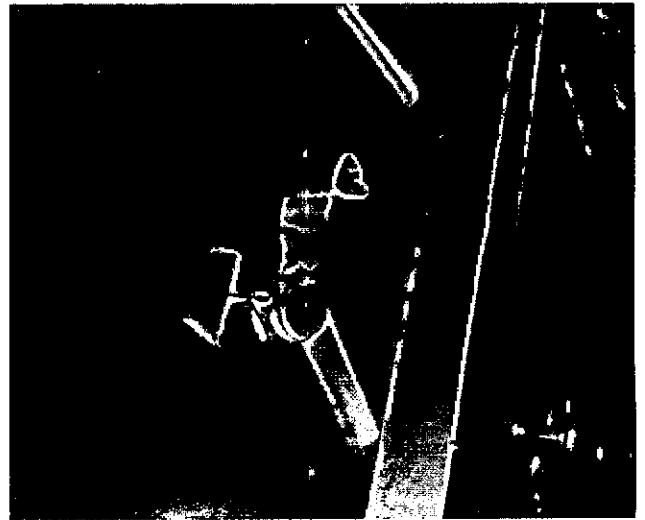
Condition of the Medical Room after
vandalism and rioting on 17.12.13



Condition of the dormitory after
vandalism and rioting on 17.12.13



Condition of the medical room after
vandalism and rioting on 17.12.13



Condition of the dormitory after
vandalism and rioting on 17.12.13

8. Visit to the Observation Home, Sewa Kutir, Mukherjee Nagar, Delhi

A. Interaction with delinquent juveniles:

The NHRC team met with juveniles staying in the OHB-II and interacted with 6 juveniles on random basis. Besides this, 4 juveniles, who have recently been released from the Observation Home, were contacted over telephone to have first-hand information about the state of affairs in the Observation Home. From the interaction with the juvenile delinquents, it has been transpired that:

- a. The juveniles during interaction confirmed that there were frequent incidents of brawls, physical assault and exploitation of new juvenile by the juveniles who have been in the Home for long. Due to fear many such incidents are not reported to the Home staff by the victim juveniles. The old and habitual JCL tried to dominate the new comer and even forcibly took away their clothes, personal belongings and direct them to do their personal work like washing of clothes, utensils etc.
- b. There were also JCLs who used to take drugs and do manage to infiltrate some psychotropic tablets/chewing tobacco inside the Home. The JCLs who managed to run away after creating ruckus and violence on 17/12/2013, were drug users and problem-creators. They managed to arrange/infiltrate drugs (commonly known "10 number ki goli" in layman parlance) and chewing tobacco inside the Home.
- c. The JCLs who created ruckus on 17/12/2013 were under influence of drugs on that day and were also having surgical blades.
- d. The JCLs who were transferred from Central Prison, Tihar/ district jails had no respect or fear of the institution or the employees working there. The Home staff is unable to discipline them. They even extend threats to the Home staff and used to bully other inmates of the Home and make them wash their clothes and utensils and physically assault them on refusal.

- e. There have been some odd instances of sexual abuse of juveniles by the other juveniles. However, no one come forward to share any detail of incident.
- f. The JCLs who had been to Tihar or other district Jails were the primary tormenters and used to bully other juveniles. Most of the juveniles of that group managed to escape from the Home on 17/12/2013.
- g. The recidivist threatened other juveniles to cause injury to them with surgical blades and improvised sharp edged tools like broken window pane, grills of coolers, sharpened plates/spoons etc. and made them do their day to day personal work.

B. Interaction with Dr. Rajiv Kale, Director, Department of Women and Child Development and Sh. Anil Kumar, Superintendent of OHB-II and other staff of Sewa Kutir, Mukharjee Nagar, New Delhi.

- a. The juvenile in conflict with law (JCL) of the age group 16-18 years are kept in this Observation Home.
- b. Observation Home is being managed by 34 personnel that include Superintendent, Welfare Officers, House-Fathers, Caretakers, Cooks, PTI, Basic Teacher, Craft Instructor, Staff Nurse, LDC, Peon and a part time doctor. However, Out of 6 Welfare Officers, only 01 is permanent employee and rests are on contract basis. Similarly, out of 06 House-Fathers, only 01 is permanent. Out of 34 employees of the Home, 18 are on contractual basis. (Pg-71-72/Annexure)
- c. Salary of contractual staff is not paid on time. Even extension is delayed.
- d. No training is imparted to the contractual staff working as Caretakers and House Fathers.
- e. The average duration of stay of juveniles in the observation Home is 20-25 days. Of the total strength, around 25-30% is repeat delinquents (recidivists).

- f. It has been informed that in pursuance of the directions of Hon'ble High Court, Delhi in WP (C) 8889/2011, passed on 21/03/2012 (pg 4-12/Annexure) the juveniles who were wrongly lodged in Tihar /Rohini Jail, were later shifted to Sewa Kutir, OHB-II on account of their juvenile status.
- g. The staff of the Sewa Kutir, OHB-II observed that the delinquents who were shifted from jail were most problematic and even used to threaten the staff.
- h. Standard Operating Procedures to deal with different contingencies/ emergent situations are being prepared as directed by the Hon'ble Delhi High Court.

C. Interaction with staff of Observation Home, Kingsway Camp.

The team met some of the staff members of the Observation Home and recorded their statement. The gist of their statements is as under:

1. Statement of Sh. Manish Kumar Rana, House-Father (contractual employee), OHB-II, Seva Kutir, Kingsway Camp, New Delhi (pg 13/Annexure).

Stated that he has been working as House-Father in the Observation Home, Kingsway Camp since last one year. The duties of House Father includes maintenance of discipline among the juveniles, escorting juveniles to hospitals, de-addiction centers and issuance of clothes and personal use articles to juveniles. They also supervise the work of Caretakers. House-Fathers perform duties in three shifts round the clock. According to him, the main problem creators are juveniles who are recidivist or who come from Tihar/Rohini Jail. **They used to harass first timer delinquents. Some of the habitual delinquents at times are found in the influence of drugs but they are unable to find out how do the juveniles manage to procure the drugs inside the Home.** First time delinquents usually remain peaceful. **There should be a**

system to segregate habitual delinquents/problem creators. Fights between the juveniles are common. The juveniles are separated and with the help of counselling or psychological intervention through NGO Manas, the matters are sorted out. Parents of the juvenile are permitted to meet them on Fridays and they oversee these meetings. The juveniles share their problem with them. The same are then conveyed to Welfare Officers. There is a shortage of staff and the staff finds it difficult to control the situation when the juveniles become violent. **More permanent staff should be posted.** He informed that though one year has been completed but extension order has not yet been received

2. Statement of Sh. Pawan Kumar, Supervisor, Kore Securities, Anand Parvat, working at OHB-II, Seva Kutir, Kingsway Camp, New Delhi (Pg- 14/Annexure)

Stated that he has been working as Supervisor in the above mentioned company. The security guards of this company are deployed on all the gates of the Observation Home. All persons coming to the Home are searched by the guards of their company. Gate entry register, Court register, Release register and Meeting register are maintained at the gate. Juveniles are thoroughly searched on their arrival from outside. The parents who come to meet their wards are also searched and entry in respective register is made. Some of the parents also try to take money and other things inside the Home which is prevented while checking. Some of the juveniles abuse and threaten the guards of dire consequences. In case of any major fight between the juveniles, the guards are also called inside on the orders of Superintendent/Observation Home to separate the fighting juveniles. **The guards remain in fear due to threats of the juveniles.**

3. Statement of Sh. Jai Prakash, Welfare Officer (contractual employee), OHB-II, Seva Kutir, Kingsway Camp, New Delhi. (pg-15-16 /Annexure)

Stated that he has been working as a Welfare Officer at OHB-II since May, 2010. The juveniles are forwarded to them for interaction and preparation of case files which has details of his family history, social history, drug de-addiction, educational and employment history. An assessment is done as to why the juvenile was involved in commission of crime so that a line of action could be ascertained to reform the juvenile and to bring him back in social mainstream. A short term care plan for the juvenile is prepared which includes medical needs, psychological and emotional needs, educational and vocational training needs. During day to day activities, welfare officer is involved in each activity and ensures that the juvenile participate in every activity. Certain issues which are affecting the working of observation Home are also cited. The period of stay of juvenile in the observation Home is very short (20-25 days average). It is difficult to provide long term vocational or educational classes and the same are discontinued after their release from the observation Home. Welfare officers are only for institutional care of juveniles, there is no follow-up process. No proper infrastructure to conduct vocational training and educational classes. There is no proper plan of segregation of repeat offenders and also for problematic juveniles. There are instances of brawl between the juveniles on petty issues and also on bullying of one juvenile by the other. Sexual abuse incidents have not been reported in recent past. However, about six months back one such incident was reported by the juvenile and a case was registered at Mukharjee Nagar, Police Station. Considering the sensitivity of the institution, permanent staff needs to be deployed sufficiently. The physical search mechanism should be strengthened to prevent infiltration of drugs/blades inside the

Home. The main tormentors and drug users are the juveniles who are coming from Tihar/Rohini Jail. They should be kept at separate place so that their intermingling with first time offenders could be avoided and first timers could be saved from their bad influence.

4. **Statement of Sh. Mahender Prasad, Caretaker (Permanent Employee), OHB-II, Seva Kutir, Kingsway Camp, New Delhi. (pg-17 /Annexure)**

Stated that he has been working as Caretaker since 1997. Caretakers are working in three shifts and are available round the clock. They look after the juveniles in all activities during the day. They ensure timely distribution of food, recreational activities, to prepare juveniles for the court. **They face problems from repeat offenders or from those who have been shifted from Tihar/Rohini Jail. Those JCL do not listen to them and also extend threats to them.** Such juveniles should be kept at some other place because segregation at OHB-II is not effective as JCL intermingle again during dining or while playing. There is shortage of caretaker staff as at times the strength of juveniles in the Home goes up to 100-125 nos. **Fights between the juveniles on petty issues do take place and sometimes, it transforms into major brawl** like that happened on 17/12/2013. **Security should be strengthened so that drugs/blade could not infiltrate inside the Home. The juveniles should be kept busy in vocational training so that their mind is not diverted to destructive activities.** Some complaints of sexual abuses had come to notice and the same were communicated to the Superintendent.

9. **Cognizance by Delhi High Court on the condition of Observation Homes for juveniles in conflict with law and various enquiries in the matter.**

- i. On 08/08/2013, the Juveniles at *Majnu Ka Tila* Home had created ruckus and vandalized the Home. The Juvenile Justice Committee of Hon'ble High Court met on 12/08/2013 and on its report, *suo-motu* cognizance was taken in the matter vide WP (C) No. 5137/2013 (copy of order dated 14/08/13 enclosed at Pg-18-19/Annexure).
- ii. On 11/12/2013, the Department of Women & Child Development, GNCT of Delhi had informed the Hon'ble High Court in WP (C) No. 5137/2013 that an internal enquiry in the matter of incident dated 5/10/2013 at Seva Kutir, OHB-II, Mukherjee Nagar was also ordered by the Department of Women and Child Development. The enquiry report is still awaited. (pg-20-22/Annexure)
- iii. Hon'ble High Court on 20/12/2013, during proceedings in WP (C) No. 5137/2013, observed that between August 2013 and 20/12/2013, there have been four incidents of rioting, fire and escapes at Observation Homes for juveniles in conflict with law, run by the Dept. of Women and Child Development, GNCT, Delhi. Keeping in view the emergent situation, the Director, Dept. of Women and Child Development, GNCT, Delhi and one DCP (nominated by the Commissioner of Police, Delhi) were made personally responsible for maintenance of the peace as well as law and order in all the Observation Homes. They were also given liberty to devise SOPs for dealing with rioting, fires, escapes etc. at Observation Homes. They were also given authority to deploy more staff and force in all the Observation Homes. Furthermore, they were also given option to segregate the juveniles according to their discretion (copy of order is placed at pg-23-25/Annexure).
- iv. An Enquiry Committee of Session's Court (Sh. A.K. Chawla, Addl. District & Sessions Judge, Tis Hazari Court) had also undertaken an enquiry regarding the incident of 5/10/2013 at Seva Kutir,

OHB-II, Mukharjee Nagar, but the copy of report has not been made available to the Department of Women and Child Development, GNCT, Delhi.

10. Previous inspection conducted by Sh. A.K. Mendiratta, ASJ, Delhi /Inspecting Judge of Observation Home for Boys-II, Sewa Kutir,

Copy of Inspection Report of Sh. A.K. Mendiratta, ASJ, Delhi /Inspecting Judge of Observation Home for Boys-II, Sewa Kutir, Kingsway Camp, Delhi, dated 30/07/2013, have been provided by the Supdt./OHB-II, in which Hon'ble Addl. Sessions Judge highlighted the following shortcomings noticed during his inspection (pg-26-42/Annexure).

- a. CCTVs were found non-functional. It was impressed that the security and monitoring by way of CCTV cameras is crucial to the functioning of OHB-II. The Superintendent was directed to get the non-functional CCTV cameras rectified immediately.
- b. The toilets being used by the juveniles were found partially clean on the day of inspection. Foul smell was emanating from some of the toilets as such disinfectants /odonil etc. is required to be used on regular basis.
- c. Acute smell was there in the complex which was stated to be due to blockage of sewer. Steps need to be immediately taken for cleaning of sewage and blocked pipes.
- d. The washing machine was found to be non-functional.
- e. LCD TV was found out of order on the day of the inspection and it was informed by the inmates that same was non-functional for about a week. The Superintendent was direct to ensure that the same to be made functional, being the only source of entertainment and information.

- f. Latest issues of some of the magazines were found but some others were stated to be discontinued. A requirement for subscribing more magazines for the inmates was felt.
- g. Water cooler was found disconnected due to renovation. It was informed by the Supdt. /OHB-II that inmates are provided water from another water cooler installed outside the dormitories.
- h. The Supdt./OHB-II informed that request to PWD for cleaning of overhead tanks was not been attended to by the authorities.
- i. There appears to be a need for placing more coolers in the dormitories to ensure livable condition during extreme summer season. The Supdt. /OHB-II Informed that two coolers had to be removed as they had been damaged by the inmates. He also stated that placing of coolers with help of ducts may be more effective as the inmates may not be able to damage the plates of the cooler fan. Directions were given to take appropriate steps for the same ensuring that the security and safety is not compromised.
- j. Dr. Shubro Saniyal, psychologist who was counselling the inmates suggested that more productive programmes need to be evolved to keep the inmates busy in some engagement and to ensure that their energies are channelized in positive manner. The Supdt./OHB-II was directed to explore the possibility of induction of new such programmes for developing vocational skills of the juveniles at OHB-II.

11. Apprehensions expressed by Juvenile Home Authorities

In interaction with the officials of the Juvenile Home (OHB-II), following apprehensions were expressed by them:

- i. Lack of any disciplinary power to control the undesirable activities of the JCL
- ii. Fear of criminal action under Sec. 23 of the Juvenile Justice (Care & Protection of Children) Act, 2000 if any action is initiated against the violent, in-disciplined and trouble-creator juvenile.

- iii. No power of segregation
- iv. Lack of any Standing Operating Procedure with respect to deal with any emergency situation
- v. Erosion of authority of Juvenile Home due to interference from multiple outside authorities. There is need to delineate the role and responsibilities of various stakeholders.
- vi. Design of existing building is not appropriate for proper custody of the juveniles. This building was originally not meant to keep custody of the juveniles
- vii. No geographical separation of training area and residential area meant for the juveniles
- viii. Contractual staff, delays in getting extension and salary act as demotivator for the working staff. Less than 50% staff is permanent (16 out 34 staff is permanent) while more than 50% staff is working on contractual basis (18 out of 34 staff is on contractual basis). (Details of staff employed at OHB-II are placed at pg-71-72/Annexure).
- ix. There is lack of clarity about the job profile and job roles for the various post and role and feedback mechanism between NGOs and Home authorities.
- x. Grave apprehension is expressed with regard to the juveniles who have been shifted from Central Prison, Tihar and other district jails of Delhi. Since they had spent good amount of time in Tihar and other district jails, their shifting to OHB-II is major cause of indiscipline and vitiating the overall atmosphere of the Home. Behind the current arsoning and violent agitation, the inmates shifted from the Tihar were solely responsible. OHB-II authorities are fearing around 250 such inmates from Tihar/district jail would be shifted in days to come.

12. International Standards and Best Practices for Custodial Detention of Juvenile in conflict with law

- a. In 1985, the **United Nations Standard Minimum Rules for the Administration of Juvenile Justice** (Beijing Rules) were adopted by the UN General Assembly. The general principles and perspectives of the Beijing Rules aim to promote juvenile welfare to the greatest extent possible and to minimise the necessity of intervention by the justice system and therefore reduce the harm caused by such intervention. The copy of the UN Standards is placed at pg- 43-59 /Annexure.
- b. In 1990, the **United Nations Rules for the Protection of Juveniles Deprived of their Liberty** (Havana Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) were adopted. The Havana Rules seek to counteract the detrimental effects of deprivation of liberty by ensuring respect for the human rights of juvenile in conflict with the law. Accordingly, this report will refer to provisions of the Havana Rules throughout. The copy of the UN Rules is placed at pg- 60-70/Annexure.
- c. Outline of the UN Rules are as under:
- I. Fundamental Perspectives**
 - II. Scope and Application of the Rules**
 - III. Juveniles under Arrest or Awaiting Trial**
 - IV. The Management of Juvenile Facilities**
 - a. Records**
 - b. Admission, registration, movement and transfer**
 - c. Classification and placement**
 - d. Physical environment and accommodation**
 - e. Education, vocational training and work**
 - f. Recreation**
 - g. Medical care**

- h. Notification of illness, injury and death**
- i. Limitations of physical restraint and the use of force**
- j. Disciplinary procedures**
- k. Inspection and complaints**
- l. Return to the community**

V. Personnel

- d. In brief, the Havana Rules recognise the rights of children in detention and outline the most appropriate treatment of children in detention. Reintegration and rehabilitation are recognised by the Havana Rules as central to the administration of juvenile justice and the manner in which children in custody are treated. While in detention, juvenile in conflict with law (**JCL**) have the right to a wide range of stimulating activities including education and vocational training, recreation and contact with the outside world. The Havana Rules also point out that ongoing training for those working with JCL and a comprehensive record keeping system are crucial. Furthermore, the Havana Rules note that a complaints mechanism must be put in place in all institutions involved in detaining children.
- e. The UN Rules are based on a general principle that JCL subject to sanctions or measures within the criminal justice system shall be treated with respect for their human rights; the Rules also state in the section on basic principles that imposition and implementation of sanctions or measures should be based on the best interests of juvenile/children in conflict with the law, limited by the gravity of the offences committed (principle of proportionality) and take account of their age, physical and mental well-being, development, capacities and personal circumstances (principle of individualization) as ascertained when necessary by psychological, psychiatric or social inquiry reports.

13. Observation of the NHRC Team over apprehension expressed by the officials of OHB-II

A. Disciplinary Measures

- a. During interaction with the authorities of the Juvenile Home, it emerges out that authorities are of the opinion and under deep impression that they don't have any disciplinary power/authority. In case, if they initiate any disciplinary action against delinquent JCL, then they will have to face either criminal proceedings u/s 23 of the JJA¹ or inquires.
- b. Maintenance of discipline is inherent in an institutional setting. If the JJA, 2000 and Rules made thereunder are read carefully, the impression of not having any disciplinary or controlling power is mere an illusion and myth. There are ample provisions under the JJA and Delhi Juvenile Justice Rules, 2009 that empower the juvenile Home authorities to initiate disciplinary action to check the undesirable activities in the best interest of the JCL in question and other juveniles as well.
- c. For instance, Section 23 of JJA will be applicable only when the cruelty or assault causes unnecessary mental or physical suffering whereas in case of disciplinary matters, it cannot be termed as unnecessary or deliberate action on the part of juvenile Home officials. Moreover, Section 67² of JJA read with Rule 18 (3) of Delhi JJR³ provide due safeguards against frivolous and vexatious litigation.

¹ **Section 23-** Punishment for cruelty to juvenile or child - Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or **wilfully neglects** the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child **unnecessary mental or physical suffering** shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.

² **Section 67-** Protection of action taken in good faith.- No suit or legal proceedings shall lie against the State Government or voluntary organisation running the home or any officer and the staff appointed in pursuance of this Act in respect of anything which is in good

- d. Further, Rules 50, 60 and 86 of the Delhi Juvenile Justice Rules, 2009, specifically provide for disciplinary power to the officer-in-charge of the juvenile Home and envisage for institutional discipline and standard of behaviour.
- e. The extracts of the empowering Rules are as under:

“Rule 50- Institutional Management of juveniles or children

(3) Every newly admitted juvenile shall be familiarized with the institution and its functioning and shall receive orientation in the following areas:

(a) personal health, hygiene and sanitation;

(b) institutional discipline and standards of behaviour, respect for elders and teachers;

(c) daily routine, peer interaction, optimum use of developmental opportunities; and

(d) rights, responsibilities and obligations within the institution.

Rule 60- Abuse and exploitation of the juvenile or child.

(1) Every institution shall have systems of ensuring that there is no abuse, neglect and maltreatment and this shall include the staff being aware of what constitutes abuse, neglect and maltreatment as well as early indicators of abuse, neglect and maltreatment and how to respond to these.

faith done or intended to be done in pursuance of this Act or of any rules or order made thereunder.

³ **Rule 18 (3)-** The offence against a juvenile in conflict with law or a child specified in section 23 shall be cognizable and bailable. When an Officer-in-Charge of an institution owned and run by the State Government is accused of an offence under section 23 alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence nor shall the Officer-in-Charge be arrested, except with the previous sanction of the State Government.

(2) In the event of any physical, sexual or emotional abuse, including neglect of juveniles and children in an institution by those responsible for care and protection, the following action shall be taken:

(i) the incidence of abuse and exploitation must be reported by any staff member of the institution immediately to the Officer-in-Charge on receiving such information;

(ii) when an allegation of physical, sexual or emotional abuse comes to the knowledge of the Officer-in-Charge, a report shall be placed before the Board or Committee, which in turn, may transfer such a juvenile or child to another institution or place of safety or fit person and shall order for special investigation;

86. Duties of the Officer-in-Charge of an institution

(2) The general duties and functions of the Officer-in-charge shall include:

(g) supervision and monitoring of juveniles' or children's discipline and well being;

(u) prompt, firm and considerate handling of all disciplinary matters;

f. International Standards and Best Practice with respect to disciplinary power

- i. International standards stress that the need for a disciplinary regime must strike the appropriate balance between respecting the rights of children and securing the safety of others, including staff. In particular, disciplinary measures should be "consistent with the upholding of the inherent dignity of the child and the fundamental objective of institutional care, namely the instilling of a sense of

justice, self-respect and respect for the basic rights of every person".⁴
(Rule 66, Havana Rules)

- ii. Standards further stipulate that no juvenile should be sanctioned for disciplinary reasons except in strict accordance with the terms of law and regulations in force.
- iii. Instruments of force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation⁵. (Rule 64, Havana Rules)
- iv. Rules provide a more detailed set of principles and require that:
 - a) No force should be used against a child in detention except, as a last resort, in self-defence or in cases of attempted escape, physical resistance to a lawful order, direct risk of self-harm, harm to others or serious damage to property;
 - b) The amount of force used should be the minimum necessary and applied for the shortest necessary time;
 - c) Staff who deal directly with children should be trained in techniques that enable the minimal use of force in the restraint of aggressive behaviour;
 - d) Detailed procedures should be in place in any place of detention and should include rules⁶ on:
 - The various types of force that may be used;

⁴ **Rule 66-** Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

⁵ **Rule 64-** Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

⁶ **Rule 90.1, 90.2, 90.3 and 90.4 of European Rules**

- The circumstances in which each type of force may be used;
 - The members of staff who are entitled to use different types of force;
 - The level of authority required before the force is used;
 - The reports that must be completed following any use of force; and
 - The process of reviewing such reports.
- v. Laying out the principles governing the use of separation for security and safety reasons, the European Rules state that if in very exceptional circumstances, a particular juvenile needs to be separated on those grounds, the decision to separate him should be taken by a competent authority on the basis of procedure laid down in notified Rules and Regulations, specifying the nature of the separation, its maximum duration and the grounds on which it may be imposed⁷. Any separation for security or safety reasons has to be subject to regular review, and may be subject to challenge by the child who is entitled to complain about an aspect of such separation in accordance with complaints procedures⁸.
- vi. Such measures need to be stringently monitored and greater efforts made to resolve conflict and reduce violence through restorative principles and practices.
- vii. The issue of discipline in a Juvenile Home is dependent on many factors and not only on the incident that required disciplinary action. If Juvenile Homes are smaller, there are less people to manage; if staffs are given more training in child welfare, they will find it easier to resolve incidents without having to resort to force; and if juveniles are given more opportunities in the line of education, training and

⁷ Rule 93.1, European Rules

⁸ Rule 93.2, European Rules

recreation, for example, they might not resort to violence out of sheer frustration.

- viii. Therefore, to alleviate this impression of helplessness, there is need to codify SOP delineating the situation and circumstances where disciplinary action could be initiated, manner of reporting and further follow up.

B. Issue pertaining to educational/vocational programmes and recreational activities

- i. The Hon'ble Supreme Court in *Sheela Barse Vs. Secy., Children's Aid Society* (1987) 3 SCC 50; AIR 1987 SC 656) observed that

*“Children in Observation Home should not be made to stay long and **as long as they are there, they should be kept occupied and occupation should be congenial and intended to bring about adaptability in life aimed at bringing about a self-confidence and picking of human virtues.**”*

(Emphasis added)

- ii. Thus, in order to channelize the energy and give them proper outlet, it is essential to engage the juveniles in physical and mental activities. Rule 43 of the Delhi JJR provides for scheduling of the daily activities of the juvenile at the Home. This daily routine shall provide, *inter alia*, for a regulated and disciplined life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for Sundays and holidays.

iii. International Best Practices

- I. The European Rules⁹ state that regime activities in such institutions/Observation Home should aim at education, personal and social development, vocational training, rehabilitation and preparation for release. As such, activities in detention facilities for JCL may include:
- a) Education;
 - b) vocational training;
 - c) work and occupational therapy;
 - d) Social skills and competence training
 - e) Anger and Aggression management;
 - f) Drug de-addictions therapy;
 - g) Individual and group therapy;
 - h) Physical education and sport;
 - i) Tertiary or further education;
 - j) Creative leisure time activities and hobbies;
 - k) Activities outside the institution in the community, day leave and other forms of leave; and
 - l) Preparation for release and aftercare¹⁰. (Rule 77, European Rules.)
- II. The majority of JCL in detention are from a poor educational background, have low basic skills and have been out of the school system as a result of behavioural difficulties or other problems.
- III. However, in the OHB-II, it is observed that primarily three activities are being carried out for the juveniles:
- a) Educational activities- imparting informal/formal education through an NGO named '*Subhakshika*' from 1400- 1600 hours.
 - b) Vocational training in the traits of cooking and tailoring- in the time period from 0930- 1230 hours

⁹ European Rules for juvenile offenders subject to sanctions and measures

¹⁰ Rule 77 of European Rules

- c) Sport activities- in the time period from 1600- 1730 hours
- d) Alternatively, juvenile can go to library and read magazine/books of their interest.
- e) Indoor games in the form of carom board/ludo etc are provided in the dormitories.

IV. However, all above-said programmes are optional and depending upon the voluntarily choice of the juvenile. Furthermore, there is not much option in the vocational traits. No such programmes such as morning PT, yoga, meditation, music, moral education, group activities, life-skill training etc are being conducted. The overall number of activities and options are quite limited and restricted to cater the interest and aptitude of the juveniles. Moreover, after the 5th October, 2013 incident, at present, no vocational training is being imparted and library is also closed. Only indoor and outdoor sport activities are being carried out.

C. Suitable and Qualified Personnel

International standards

- i. The staff caring and looking after children in detention should be carefully selected in accordance with their professional qualifications and skills. Furthermore, all staff should receive professional training, both during induction and on an on-going basis, in particular training in child psychology, child welfare and the international standards and norms of human rights and the rights of the child¹¹. (Rule 85, Havana Rules)

¹¹ **UN Rule 85** -The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

- ii. To meet international standards, personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other staff should normally be employed on a permanent basis but this does not preclude part-time or volunteer workers when the level of training they can provide is appropriate and beneficial¹². (Rule 81, Havana Rules)

14. FINDINGS

Upon analysis of the interaction with the staff and juvenile delinquents of Observation Home, Sewa Kutir, Mukharjee Nagar, following points has been observed:

- i. There is substance in the allegations of drug abuse inside the Observation Home. Some juveniles used to take drugs and do manage to infiltrate some psychotropic tablets/chewing tobacco inside the Home. This indicates that there is lapse in screening of the visitors or the juveniles. The officials of the Home also admitted this factum. The passage of contrabands inside the Observation Home is in violation of Rule 51 of the Delhi JJR which prohibits the entry of contrabands inside the Home.
- ii. The allegations of physical harassment/intimidation by some bully juveniles are also found to be true. Such tormentors are primarily recidivists and the one who were transferred from Tihar/Rohini Jail on account of their juvenility.

¹² **UN Rule 81-** Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

- iii. The staff at the Observation Home is terrified for their own safety as some of them were attacked by the juveniles in the incidents of October and December, 2013.
- iv. The average duration of stay of juveniles in observation Home is 20-25 days. During this period, the scope of imparting educational instructions and its usage thereof is limited. Therefore, they should be kept busy in creative and recreational activities so that their energy could be channelized in a positive manner.
- v. The majority of staff posted (18 out of 34) at the Observation Home, Sewa Kutir, Mukharjee Nagar is on contractual basis (pg-71-72/Annexure). Non disbursement of pay on time and their non-permanent status are demotivating factors under the given circumstances.
- vi. The security of the Home is managed by private security agency. The security arrangements failed to stop infiltration of drugs, surgical blades etc. inside the Home.
- vii. In respect of allegation of sexual abuse, the officials admitted occurrence of some odd incidents (3-4 incidents) during last 6 months.

In nutshell, from the statements of the staffs of the Observation Home, it has revealed that there were known instances of drug abuse, exploitation of juveniles by recidivist juveniles, and odd incidents of sexual abuse inside the Home. The chief culprits in such cases are the repeaters or the JCL who had come from the Tihar/ Rohini Jail being juvenile.

15. RECOMMENDATIONS

- I. Standing Operating Procedure (SOP) to deal with different situations e.g. procedures for search, meeting of juveniles with parents /guardians, maintenance of discipline, segregation of juveniles,

intervention of police in the event of vandalism/violence etc. should be prepared.

II. Admission

- i. On admission, the child should be assessed in terms of their specific health, education and behavioural needs and a medical (including psychological) and social report be prepared identifying factors relevant to the ***specific type and level of care and programme required by the child while in detention.***
- ii. A trained member of staff should ***prepare a written, individualised care plan,*** specifying treatment objectives and the timeframe within which this should be achieved.
- iii. To secure an effective assessment and monitoring process, a modern, comprehensive system of recording, storing and communicating information is necessary. A report on each individual should include information on identity, the fact and reasons for custody, details regarding admission, transfer and release, and family contacts. These reports should be kept in a confidential individual file.

III. Suggestion to **improve the social and behavioural conduct** of the JCL

- i. Having a daily activity schedule for juveniles- there is need for more mental and physical engagement and involvement. Rule 43 of the Delhi JJR, provides for the daily routine. According to Rule 43, *“the daily routine shall provide, inter alia, for a regulated and disciplined life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for sundays and holidays”.*
- ii. Introducing more physical, recreational, vocational and engaging activities for the juveniles.

- iii. Efforts should be made to provide a choice of vocational training in areas that are likely to interest juveniles and prepare them for future employment.
- iv. Preparing individual specific engagement/ activity plan/chart to cater the interest/aptitude of that particular juvenile. Rule 2(h) read with Rule 50 (12) and 54 (o) calls for preparation of **'individual care plan'**
- v. Introducing the system of positive reinforcement through incentive scheme to recognise their positive contribution and action. Rule 57 of the Delhi JJR provides for the use of positive reinforcement of behaviour through rewards as an encouragement to steady work and good behaviour.
- vi. Involving more NGOs for broadening the canvass of vocational traits, recreation and creative activities, music, dance, drama and moral and spiritual preaching.
- vii. Involving juvenile in administration of the Home and assign them some responsibilities to make them accountable and responsible
- viii. Identify the individual talent, explore and promote it through different activities and training.

IV. Treatment for substance abuse

- i. A dedicated drugs programme should be put in place. These programmes, carried out by trained personnel, should take a preventative approach, incorporating an awareness raising programme as well as a strong rehabilitative element.
- ii. Incorporating drug and alcohol abuse, a health education policy should be put in place in all detention facilities. Residential and medical staff, together with outside agencies should be involved in raising awareness among juveniles about the dangers of alcohol and drug addiction, smoking and the importance of maintaining good health and fitness.

V. Discipline

- i. The disciplinary regime must strike an appropriate balance between respecting the rights of juveniles and securing the safety of others. On admission, juveniles should be made aware of policies and procedures in the area of discipline and control. This material should be presented in an accessible form.
- ii. A code of conduct for staff should be developed and established in each centre. Consideration should be given to consultation with staff and juveniles to develop a suitable code of conduct. Again, this material should be made available to all juveniles in a format that they can understand.
- iii. Physical restraint and separation should be used as a measure of last resort.
- iv. Management of all detention facilities should ensure that staff receives regular training on the latest ways of preventing the escalation of disputes to the point where restraint is necessary.
- v. One certified physical intervention technique that is safe for all juveniles should be developed and introduced.
- vi. After each incident involving physical restraint there should be a dispute resolution conference where all participants, including the juvenile accompanied by an appropriate advocate, can discuss the incident.
- vii. Where separation is used, it should be governed by clear guidance. In particular, there should be a strict time limit on separation.
- viii. During separation, the juvenile should be monitored at all times.
- ix. In all forms of disciplinary procedures, it is crucial that a comprehensive record keeping and monitoring system is in place.
- x. Management of all Juvenile Home should ensure that the imposition of punishment should not infringe the juvenile's right to contact with his family; right to education; outdoor exercise; and the juvenile's entitlement to personalise his bedroom.

VI. At present, there is no programme or scheme of '**After care**' or '**follow up**' after the release of the juvenile from the Observation Home. To ensure that juvenile doesn't relapse into delinquency again and get reintegrated with the community through some vocation /occupation /education, there should be scheme of 'after care' or 'follow up' of the released juvenile with the help of some NGO. This will also help in reducing the incidents of recidivism as well. Objectives of the 'After care' are to enable such JCL to reintegrate and contribute to the society through his productive skills. After care is the means and the rehabilitation is the end. There is need to have systemic 'After Care programme' with the help of NGOs to check the recidivism besides facilitating rehabilitation and social integration without any stigma.

In nutshell, to check the recidivism, efforts should be made to collaborate with NGOs to rehabilitate the released JCL by providing gainful occupation. This will help in social re-integration of the JCL. Chapter IV of the JJA, 2000 provides for 'after care organisation' as part of rehabilitation and social reintegration (Relevant sections- Section 40, 43, 44 and 45 of JJA). Furthermore, Rule 38 of Delhi JJR provides for the provision of 'after-care programme and after-care organisation'. Rule 50(12) read with Rule 54(o), (r) and (u) mandates for post release follow up and after care plan. Even a detailed form (form XXI) is prescribed under the Delhi JJR for post release follow up plan and reports.

VII. Training and HR Development- Capacity Building of Staff

There should be regular pre-induction and in-service/ refresher courses to imbibe appropriate aptitude, outlook to understand child psychology and to augment handling capacity of the staff. Rule 90 of Delhi JJR has provided for training of personnel of each category of staff, in keeping with their statutory responsibilities and specific jobs requirements. All staff should also be provided with regular training to

ensure that they are able to express their concerns, as well as notify their training needs, to the management of the Juvenile Home.

VIII. Speedy Trial and prompt disposal of cases/bail petition

It is learnt from the Superintendent of the Home that due to delay in deciding the bail petition, a feeling of frustration and aggression is witnessed among the JCL. In several cases, the bail petition couldn't be heard due to non submission of Social Investigation Report from the Probationer Officer. Only 3 Probationer officers are working for JJB-I to deal with all cases. There is need to increase the strength of PO for timely preparation of reports.

IX. Short Term Vocational Training Programmes

To rehabilitate the JCL and break the vicious cycle of bad idleness & delinquency, there is hardly any need to emphasis the significance of vocational training programmes for juveniles. However, only 2-3 training courses (for instance, courses of 'Cooking' and 'Tailoring') are run by the Home. However, after 5 October, 2013, at present, no such vocational courses are being run by the Home. But not many juveniles are attracted to these vocational courses. Therefore, to tap the interest of the juveniles, new traits and options such as short terms courses in mobile repairing, AC repairing, repairing of electrical gadgets etc. could be explored. For this collaboration could be made through ITI, Deptt. Of Technical Education and some credible NGOs.


X. Provision of Separation


It is learnt that the trouble and indiscipline is spread by the recidivist juveniles. They are habitual delinquent, having no regards for the authorities and discipline. They use to dominate the first time delinquents and bully them. Therefore, on the pattern of prison rules, there should be segregation of recidivist JCL from first time JCL. They should not be mixed together. Separation is essential to curtail bullying of the younger juveniles at the hands of older ones and to


prevent the young juveniles from the undesirable influence of the older juvenile offenders, who may have committed violent offences or has been consistently engaged in criminal activities. Similarly, excessively violent, bullies and problem creators should be provided due counselling/ intervention of psychologist as per requirement.

- XI. Creation of smaller units of observational Homes** for 40-50 inmates should be made so that they could be handled effectively. It has been noticed that on both the occasions of violence at the Home, the strength of the Observation Home was more than hundred.
- XII.** The security and screening process including screening of visitors, juvenile delinquents should be strengthened and any gaps which lead to the access of drugs/tobaccos/surgical blades inside the Home should be plugged.
- XIII.** Copy of the enquiry report of the enquiry conducted by Sh. A.K. Chawla, ASJ, Tis Hazari and an internal enquiry ordered by Department of Women & Child Development, GNCT of Delhi in the incident dtd. 5/10/2013 should be carefully gone through and appropriate action should be taken to implement their recommendations.

Submitted for kind perusal please


(Arun Tyagi)
Inspector (Investigation Division)


(Indrajeet Kumar)
Assistant Registrar (Law)


(S. K. Jain, IPS)
Sr. Superintendent of Police (Investigation Division)

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DEPARTMENT OF WOMEN & CHILD DEVELOPMENT
 GOVERNMENT OF N.C.T. OF DELHI
 1, Canning Lane, Kasturba Gandhi Marg, New Delhi-110001
 =====

REPORT ON THE INCIDENT OF ARSON, VANDALISM AND ESCAPE FROM OBSERVATION HOME FOR BOYS-II, SEWA KUTIR, KINGSWAY CAMP, NEW DELHI.


- The undersigned was telephonically informed by the Supdt. of the OHB-II at around 9.00 p.m. on 05.10.2013 that some of the juveniles lodged in the home were indulging in arson and vandalism. The immediate cause for the same was reported to be the demand made by some of the juveniles for Ganja and Bidies which was denied by the home administration.
- At around 11.00 p.m. the Supdt. again called the undersigned informing that his attempts to control the juveniles had not met with any success. The juveniles were throwing bricks and burning blankets and mattresses etc. on the roof top. That they have also taken some gas cylinders to the roof. The Supdt. further conveyed the request of the police for grant of written permission to enter the Observation Home and use tear gas and force, if so required. This request was conveyed to the Secretary (WCD).
- The Secretary (WCD) informed the undersigned that action may be taken as per law.
- The undersigned then spoke with the Supdt., OHB-II at around 11.45 p.m. informing him that in the absence of any protocol for granting permission to the police to use force could lead to serious consequences. The Supdt. was also asked to request the police to use the public address system and request the juveniles to stop resorting to arson and vandalism and disburse peacefully to their dormitories. This process should also be recorded by the police. The Supdt. informed that the SHO did not have public address facility in his vehicle.
- At around 11.50 p.m. the undersigned informed the Secretary (WCD) that the Supdt. had been advised to wait and watch and that an SMS has also been sent by the undersigned to the Hon'ble Justice Mukta Gupta on a number available with the undersigned.
- At around 2.00 a.m. the Supdt. again called the undersigned to inform that the juveniles had put fire to two gas cylinders. That they have breached the iron gate on the periphery and were also putting fire to the office of the

Supdt. The Supdt. again conveyed to the undersigned the request of the police to use force. The undersigned informed the Supdt. that as per the duties delegated to the Delhi Police they are required to take action as deemed fit outside the periphery wall of the home. Since some of the juveniles have already breached the periphery wall then why should police be seeking any written permission for the action that they require to take. It may also be added that no request in writing at any stage was received by the Home authorities or the undersigned (via SMS) from the Delhi Police for use of force etc.

Some Observations:

- Recent incidents reveal that 4-5 Juveniles can take the home administration to ransom at any stage. They are able to impose their will on almost any matter. They have understood that there has been a huge erosion in the authority of the Supdt. and other officers of the Home who are unable to take any preventive measures to ensure discipline.
- As per the JJ Act and Rules, a juvenile indulges in an un-lawful act which attracts punishment of less than 7 years to an adult can be granted bail by the SHO. Moreover, such juveniles are essentially to be treated as children in need of care and protection rather than as juveniles in conflict with law. It is, therefore, felt that any juvenile who is apprehended in minor un-lawful act and is not a recidivist should be placed in the children homes rather than the observation homes.
- The JJ Board consists of three members, a Principal Magistrate and two social worker members. As per the JJ Act and Rules a majority decision in the board would prevail. This necessary entails that on any occasion the views of two social worker members if the same is not in agreement with the view of the Principal Magistrate would prevail. Hence it is felt that in all matters the views of the social worker members need to be recorded and taken in consideration while passing any direction. Moreover the Probation Officers need to be involved in the process from the stage of initiation of the matter and the reports of the Probation Officers should also be considered while deciding further orders.

- In view of the multiple stakeholders now involved, also in the management of the home, it is now essential to have protocols delineating clearly the roles and responsibilities of each stakeholder. Similarly protocols for crisis management also need to be developed, different for each category of institutions.
- Similarly safe guard for the officers and officials managing such homes also now require to be evolved so that there is clarity with respect to the extent of action that each officer can initiate without leading to any harm either from the juveniles or any adverse administrative action.
- Recent interactions with the juveniles at the Observation Home and at the Place of Safety reveal their dissatisfaction with only one JJ Board.
- The JJ Act provides for 7 dispositional orders by JJBs under section 15. In the matter of ascertaining the age of juveniles, the board follows the chronological order as contained in sub-section 3(a) of Rule 12. However this procedure is not followed with regard to dispositional alternative where institutionalization is the last (seventh) option.
- All recommendations received from all concerned committees/organizations would be duly consider for implementation.


(RAJIV KALE)
Director (W&CD)

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PRELIMINARY REPORT ON RUCKUS & VIOLENCE CREATED BY JUVENILES IN
CONFLICT WITH LAW IN OBSERVATION HOME FOR BOYS-II AT SEWA KUTIR
COMPLEX, KINGSWAY CAMP, DELHI

On 17th December 2013, at around 01.30pm few juveniles including two others who were recently shifted from Rohini Jail after having spent almost four years in jail attempted to physically assault a juvenile admitted recently. This juvenile had a background of habitual indulgence into unlawful heinous offences and was previously placed in Observation Home at Delhi Gate as well as at Majnu Ka Tilla. Immediately, the Welfare Officers along-with other officials rushed to stop the scuffle between them while a juvenile got hold of Sh. Rakesh Yadav Welfare Officer tightly to cause hurt and other juveniles holding sharp blades and rods in their hands scared others threatening to assault whoever comes to intervene.

After much struggle, somehow Welfare Officers managed to separate three juveniles but suddenly the one who was first assaulted attacked on a juvenile shifted from Rohini Jail inflicting deep injury on his face with blade. This aggravated a mob of juveniles to catch hold of attacker juvenile who was rescued by Welfare Officers and then Superintendent took him to Guards' room so that he is not harmed. Sh. Jaya Prakash Welfare Officer informed PCR '100' but was noticed by few juveniles who got angered and one of them put kitchen knife to his neck abusing & threatening to kill for having informed the Police. Principal Magistrate of JJB-I was also called but despite her intervention juveniles did not stop but resorted to vandalize the facilities and arson by creating ruckus and damaging institution's properties such as furniture, fans, doors, window pan/ frames, breaking locks and iron rods, pipelines, defusing & damaging electrical points, equipments etc.

They further overpowered all three Welfare Officers namely Mr. R.K. Yadav, Mr Jaya Prakash, Pradeep and a House father Mr. Manish Rana. They threatened Sh. Pradeep also and did not allow anyone to use mobile phones. Juveniles demanded that the juvenile who had first assaulted with blade to be handed over to them and created rampage all around and set all clothing-bedding materials on fire in the dormitories. Then they came out towards Welfare officers Office, Medical and Counseling Rooms and damaged all facilities and records/ documents torching all and took to rioting.

Meanwhile, information had already been conveyed to the Principle Magistrates, local Police/ PCR and Director and all reached to the spot. When the Police Personnel were entering the institution, few juveniles brought mattresses, blankets to put on fire and they also brought one LPG cylinder from kitchen threatening to explode if anyone intervened. They also started pelting stones, thrashing hooting and assaulted others to create commotion and fear among all. Taking advantage of the situation about 20-25 juveniles had managed to escape from the institution scaling the boundary wall.

However, the Police personnel were allowed to enter and control the situation. Some juveniles were taken out to play ground safely and those who were inflicted with injuries were sent to nearby Government Hospitals for emergency medical care. Director who had gone to attend a meeting with the Lieutenant Governor arrived immediate after being informed and intervened to control the situation and instructed Superintendent to call for Police assistance if violence erupts again. He was also asked to segregate juveniles and make arrangement of clothing-bedding and meals. Principle Magistrates also asked him to arrange food from outside as juveniles demanded for the same.

As the juveniles brought back from hospitals some of the juveniles who were found more roguish were shifted to dormitory on the first floor. Blankets and clothing were arranged for all of them. Though for almost 2-3 hours situation appeared under control, officers had been alerted and asked to be vigilant.

At around 8pm, juveniles on the first floor who were segregated so that other juveniles are not put at risk started vandalizing the dormitory facility again. They attempted to self inflict injury and also injured each other and then broke the iron grilled door and came out to the open area. They forced upon others, threatened juveniles in the ground floor, slashing some with blades to create fearful situation that they get scope to run away. Local Police with force were called again and entered along with staffs to prevent arson and control violent juveniles. Some juveniles were safely taken out and protected at Security Guard room while few were hiding wherever they found place to save themselves.

Principal Magistrates of JJB-I and II along-with MM Sh. Lokesh Sharma arrived at around 10.30pm and by that time injured juveniles were already put inside the PCR

ns and Ambulances. The Welfare Officers and other Officials were asked to accompany the two groups of injured juveniles were sent to Bara Hindu Rao Hospital and Aruna Asaf Ali Hospital. It was reported that juveniles barged into an eatery shop near the hospital and created ruckus all around. They also threatened Medical Officers in the Emergency and forced all medical staffs to come out. After the additional Police were deployed by the intervention of Principal Magistrate, juveniles were attended to by the Doctors.

Thereafter juveniles remaining in the institutions or hiding here & there were counselled and brought back to the dormitories, provided all the clothing-bedding & blankets and food arranged from outside was distributed. They were very frightened and requested that none of those who led the violence, arson and assaulted upon them should be brought back. Instructions were accordingly given to the Superintendent and Officers that juveniles once brought back from Hospital should be kept in Waiting Hall (Kharja). SHO Mukherjee Nagar was also directed to deploy sufficient number of police personnel at Waiting Hall and also in the institution inside and at the main Gate. However, it was reported that few more juveniles had escaped out of fear.

Accordingly, when juveniles were brought back from the hospital early morning at around 5am, all 12 were put in the Waiting Hall and food and blankets were provided to them. However, later they damaged all the wireless system and facilities including toilet/bath equipments and electrical fitments as well as furniture. Later they broke the iron door and set on fire whatever they found inside demanding to be sent back to the OHB institution so that they could take their revenge on the boy who had assaulted them. Police personnel and officers however managed to restrain them from going out towards the institution and were forced back inside Waiting Hall.

There were 114 juveniles present on 17.12.2013 out of which 12 are kept in Waiting Hall, 7 had been shifted to Place of Safety at Majnu Ka Tilla, 1 at OHB-I Delhi Gate and 4 were released same day by the Boards and 36 juveniles had escaped from the institutions. Till late evening the total number of juveniles in the institutions was 54.

(PREMODAY KHAKHA)
Assistant Director (ICPS)

Director

4

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21st March, 2012

+

W.P.(C) 8889/2011

COURT ON ITS OWN MOTION

..... Petitioner

Through: Mr. Rohan J. Alva for Mr. Anant K. Asthana, Adv.
Ms. Anu Narula, Adv. in person as Intervener.
Mr. Ajay Verma in person with Mr. Gaurav Bhattacharya, Adv. for Intervener.

versus

**DEPARTMENT OF WOMEN AND
CHILD DEVELOPMENT**

..... Respondent

Through: Ms. Monika Garg, Adv. with Mr. B.K. Sahu, Registrar, NCPCR.
Ms. Asha Menon, Member Secretary, DSLSA with Mr. Harish Dudani, OSD & Mr. Digvinay Singh, Project Officer, DSLSA.
Ms. Shobhana Takiar, Adv. for Tihar Jail & Delhi Police.

CORAM :-

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

J U D G M E N T

A.K.SIKRI, ACTING CHIEF JUSTICE

1. We are informed. that the teams comprising of the members of National Commission for Protection of Child Rights (NCPCR) & Delhi Legal Services Authority (DLSA) along with certain volunteers had visited

Jail No.6 & 7 in Tihar Jail Complex; that adolescent under trials/prisoners are kept mostly in Jail No.7 though some are housed in Jail No.6 also where women prisoners are also lodged; these teams interacted and made enquiries in respect of 278 prisoners/under trials; after verification, these teams *prime facie* found more than 100 of the aforesaid 278 prisoners to be juveniles i.e. who were less than 18 years of age at the time of commission of offence. Ages of some of such prisoners were as low as 15-16 years.

2. This startling revelation clearly demonstrates that neither proper inquiry is being conducted by the Police at the time of arresting or by the Magistrates when such prisoners are produced before these Magistrates. Once it is found that such prisoners were juveniles, sending them to jail even for a day amounts to denial of their fundamental right and right to liberty.

3. We have also been shown the order dated 16th March, 2012 titled *State v. Rahul* in FIR No.269/2011 passed by the Juvenile Justice Board-1, Sewa Kutir Complex, Kingsway Camp, Delhi-110009 presided over by Ms. Anuradha Shukla Bhardwaj, Principal Magistrate. This order pertains to a child who was in the year 2009 declared a juvenile, 15 years of age by JJB itself. However when he was again arrested in the year 2011, inspite of aforesaid declaration/proof that he was a juvenile even in the year 2011, he was produced before the Magistrate and was sent to jail. Even though at the time of his arrest the police officer who arrested had suspicion about

his age and therefore he was taken to a hospital for examination of his age, but he could not get the report from the hospital about his age and in these circumstances the police officer produced that juvenile before the ordinary criminal court presided over by the Metropolitan Magistrate. This is inspite of the clear mandate of law that even in case of a suspicion the arrested prisoner is to be produced before the JJB. By the time his age was ascertained and the Magistrate ordered him to be sent to JJB, the said juvenile named Rahul had spent 1 month and 17 days in jail which could have been avoided with little precaution.

4. We intend to lay down comprehensive guidelines and policy and would like to issue directions to the various authorities as to how to deal with such cases. For this purpose the petitioner Mr. Asthana as well as the interveners namely International Bridges of Justice (India) Trust as well as Ms. Anu Narula, Advocate have already stated that they would be working on this aspect and would submit draft guidelines which should be followed while dealing with such matters. While that exercise is going on, certain immediate directions are required to be passed in this matter. We accordingly direct:-

- (i) Those inmates in jail about whom investigations were made by the teams of NCPCR /DLSA etc. and who are suspected to be juvenile as per initial investigations, shall be kept by the Supdt., Tihar Jail separately, insulated and segregated from all

other prisoners. They shall be produced in batches before the JJB. Further enquiry into the matter to conclusively determine their age shall be conducted by the JJB. Those who are ultimately found to be juvenile shall be shifted from the jail to observation home by the JJB.

- (ii) Ms. Anu Narula, Advocate has also annexed, with her application, list of 19 such prisoners who according to her may be juveniles though their ages are shown as above 18; some of those may be in the list of the prisoners investigated by NCPCR /DLSA. Enquiry into their ages shall also be conducted in a similar manner.
- (iii) Teams of NCPCR /DLSA in a similar manner as aforesaid, shall visit Tihar Jail. Those who appear to be juvenile, procedure for ascertainment of their ages shall also be followed in a similar manner as aforesaid by producing them before the JJB. These teams, shall document the cases and forward the list to jail authorities as well as JJB
- (iv) The investigating officers, while making arrest shall reflect the age of the prisoner arrested in the Arrest Memo. It would be the duty of the Police Officer to ascertain the said age by making inquiry from the prisoner arrested if such prisoner is in possession of any age proof etc. In other cases if prisoner,

from appearance, appears to be juvenile and the police officer has belief that the prisoner is a juvenile, he shall be produced before the JJB instead of criminal court.

- (v) The police authorities shall introduce "Age Memo" on the line of "Arrest Memo" which was evolved by the Supreme Court in the case of *D.K. Basu v. State of West Bengal* 1996(9) SCALE 298. A concrete and well thought scheme in this behalf needs to be evolved by Special Juvenile Police Unit to address the concern. We direct Special Juvenile Police Unit to evolve such a scheme and place before us on the next date of hearing.
- (vi) As and when a young person is apprehended/arrested and he is produced before the Magistrate, it will be the duty of the Magistrate also to order ascertainment of age of such a person. The Magistrate shall, in all such cases, undertake this exercise wherefrom the young person from his/her looks appears to be below 18 years of age and also in all those cases where in the arrest memo age is stated to be 18-21 years. A preliminary enquiry in this behalf shall be undertaken of all these young persons whose age is stated to be up to 21 years on the lines of judgment of the Supreme Court in *Gopinath v. State of West Bengal* AIR 1984 SC 237.

5. In order dated 16th March, 2012 passed by the JJB in Rahul's case the JJB has made certain suggestions though at the same time it is stated that it is not competent to give any directions. After going through these suggestions, we are of the opinion that these suggestions are necessary to be followed and therefore we give hereunder following directions based on those suggestions.

In conducting the inquiry the:-

- I.O. shall ask the person if he has been a part of formal schooling at any point of time and if the child answers in affirmative the I.O. should verify the record of such school at the earliest.
- If the parents of the person are available, this inquiry should be made from them. The I.O. should ask the parents if they have got the date of birth of the child registered with the MCD or gram pradhan etc. as provided under law and taken the answers/documents on record.
- Where no such document is found immediately and the I.O. has reasonable grounds to believe that such document might be existing he shall produce such person before Board and should seek time for obtaining these documents.

- A preliminary inquiry can be made from the parents of such person about the time of their marriage and the details of how many children do the parents have and after how long of the marriage were these children born.
- In addition to above an inquiry of previous criminal involvement of the juvenile shall necessarily be made with the effort to find if there is any past declaration of juvenility. For this the police should also maintain data of declaration of juvenility.

The inquiry conducted in each case shall be recorded in writing and shall form a part on investigation report in each case where a child claims his age up to 21 years irrespective of whether he is found a juvenile or an adult.

- Special Juvenile Police Unit shall set up a mechanism in place for necessary coordination and assistance to police officer who may require such information.
- An advisory/circular/Standing Order, as may be appropriate, be prepared by the Special Juvenile Police Unit for the assistance of police officer/IOs/JWOs for the purpose of assistance on matters related to age inquiry. Such advisory/Circular/Standing Order shall also include

the procedure which needs to be followed by the IOs in cases of transfer of cases from adult courts to JJB and vice versa.

- In each case, where a public officer arrests a person as adult and later on such person turns out to be a juvenile, DCP concerned shall undertake an inquiry to satisfy him/her that a deliberate lapse was not committed.

6. In so far as Magistrates are concerned, in order to undertake their job properly in the manner suggested above, we are of the opinion that there should be a special course/training programme conducted by the Delhi Judicial Academy for these Magistrates. The programme shall be devised by the Delhi Judicial Academy in consultation with DLSA and the Delhi Judicial Academy shall start orientation programme on these lines within one month from today in batches.

7. In our order dated 8th February, 2012 we had taken note of the submission of learned counsel appearing for International Bridges of Justice (India) Trust to the fact that it had discovered that about 17 of the prisoners were stated to be below 18 years of age. The learned counsel for the Jail Authorities had taken time to verify those cases. The learned counsel for the Jail Authorities today submits that three prisoners were found to be juvenile who have since been sent to observation room; six

have already been released on bail and in respect of 8 remaining prisoners, report is awaited. She shall submit the report before the next date.

8. List for further proceedings on 2nd May, 2012.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

MARCH 21 , 2012

pp

Statement of Sh. Manish Kumar Rana, House Father (Contractual) OMB-II, Seva kuti, Kingsway Camp, New Delhi Ph. 9811642222

ध्यान किया की मैं Seva kuti, Kingsway Camp में बतौर House Father शक लाल से कार्यरत हूँ। मेरी Responsibility Home में बच्चों के दरमियान Discipline Maintain कराने की है। बच्चों को अगर Home से बाहर कहीं जाना हो उसे Hospital, गशा मुक्ती केंद्र इत्यादी लो इन इनके लाय जाते है। Caretakers के काम की Supervision व बच्चों को किसी प्रकार कि परेशानी न हो यह भी हम Ensure करते हैं। नये बच्चों को कपडे व अन्य सामान Issue करते हैं व हर 15 दिन में पररत की चीजों की Supply बच्चों को करते हैं। अगर दो बच्चों को आपस में लडाई हो जाती है तो दोनों को अलग करके ~~बड़े~~ समझाते हैं व अलग-2 Barracks में रखते हैं। सबसे ज्यादा दिक्कत अधिक उम्र के बच्चों व Repeaters के साथ होती है। इसके साथ जो बच्चे Tihar/Rohini Jail से आते हैं वे अपने आपको बड़ा दावा समझते हैं व First Timers को परेशान करते हैं। कभी-कभी कुछ बच्चे जो Repeaters होते हैं Drugs के Influence में भी मिलते हैं उन तक Drugs केले पहुचता है या वह कैसे बाहर से लाते हैं पता नहीं चलता। First time offender झामलोट पर शान्त रहते हैं Repeater / Problem Creators को अलग रखने का System देना चाहिए। आपस में Boys के बीच झगड होते रहते हैं जिन्हें हम अपने तौर बच्चों को समझा कर या NGO मानस से ~~करके~~ Psychological Intervention दिलाता कर शान्त करते हैं। रात को 10 बजे सोने को कहा जाता है व House father व Care-taker भी Home में 24 घंटे (3 shifts) रहते हैं। Weekly 10AM-5PM Meeting Friday को होती है। Meeting के दौरान हम भी दूर से देखते रहते हैं। बच्चों को कोई परेशानी होती है तो वह हमले Share करता है जिले हम welfare officers को बताते हैं। Staff की Shortage है जो थोडा सा Staff इतने बच्चों को लेंजाल नहीं पाता बालकर जब वह violent हो जाते हैं। Contractual की वजाय अधिक Permanent staff नियुक्त किया जाये। मेरा शक लाल पूरा हो गया है व मेरे contract को Extension अभी तक नहीं माया है।

Manish

Statement of Sh. Pawan Kr., Supervisor, Kore Securities
Anand parvat, new Delhi. Ph. 8745996528

ध्यान किया कि मैं उपरोक्त कंपनी में वतौर Supervisor कार्य करता हूँ पिछले 3 साल से मैं OMB-II Seva kutir Kingsway camp में तैनात हूँ व हमारी Security co. के गार्ड यहाँ की Security के लिए Depute किए जाते हैं/ सभी Gates पर हमारी security है व बाहर गेट पर Delhi Police की security है यहाँ जाने वाले प्रत्येक व्यक्ति की तलाशी हमारे security guards लेते हैं, Gates पर Registers maintained है (Gate Entry Register, Court Register Release register & Meeting register) वच्चों कि बाहर ले जाने समय पूरी तलाशी की जाती है व जो Parents वच्चों से मिलने आते हैं उनकी भी तलाशी की जाती है व संबंधित Register में Entry की जाती है वच्चों हमारे गेटों पर जांच करते हैं हाथपाई तक कर देते हैं। देरव लेने की धमकी देते हैं जब कोई बच्चा ज्यादा बड़ जाता है तो Shri साहब के कदम पर हम भी Staff के साथ भीतर जाते हैं व बच्चा रहे वच्चों को अलग-अलग कर देते हैं/ कुछ वच्चों के माँ बाप भीतर पूरे इत्यादी ले जाने की कोशिश करते हैं जो तलाशी के दौरान रोक लिए जाते हैं वच्चा की जांच ले मारने तक की धमकी ले Guard डेर डेर रहते हैं व अपनी Duty करते समय बहुत दिक्कत महसूस करते हैं।

व्यक्त पड़ोसिया ठीका है।

Pawan Kr.
(Pawan Kr.)
Supervisor,
Kore, Securities

15
(on contract)

Statement of Sh. Tai Prakash, welfare officer, OHB-II
Seva kuti, Kingsway Camp, New Delhi. 9560278424.

Stated that I have been working as welfare officer at OHB-II since May, 2010. After entry into the home, the juvenile are forwarded to us for interaction and preparation of case file which have details of his family history, social history, drug addiction details, educational and employment history. An assessment is ^{done} as to why the juvenile was involved in commission of crime so that a line of action can be ascertained to reform the juvenile and to bring him back in social mainstream. Furthermore, a short term care plan for the juvenile is prepared which includes medical needs, psychological & emotional needs, educational & vocational long. needs. During day to day activities welfare officer is involved in each activity and ensure that the juvenile participate in every activity.

There are certain issues which are affecting the proper working and reformation of juveniles at observation home. The period of juvenile staying in OHB is very short (20-25 days average). It is very difficult to provide long term vocational or educational classes and the same are discontinued after the release of juvenile from the observation home. Welfare officer are only for institutional care of the juveniles, there is no follow up process after release of juvenile. After release the juvenile is back to the same environment and same peer group which result in repetition of crime. There is no proper infrastructure to conduct vocational training & educational classes. There is no proper plan for segregation of repeated offenders and also for problematic juveniles. There are instances of brawl between the juveniles on petty issues and also on bullying of one juvenile by the another.

Sexual abuse incidents have not been reported in recent past. However, about six months back one such incident was reported by the juvenile and a case was registered at Mukharjee Nagar police station.

A big number of contractee staff is deployed in this institution but considering the sensitivity of the institution permanent staff needs to be deployed sufficiently. The physical search mechanism should be strengthened to prevent infiltration of drugs/blades inside the home. The main tormentors ^{drug users} are the juveniles who are coming from Tihar/Rehru jail. They should be kept at separate place so that their intermingling with first-time offenders ~~and~~ could be avoided and first timers could be saved from their bad influence.

~~Sharma~~
30/12/13

Statement of Sh. Mahender Prasad, Caretaker (Permanent)
OHB-II, Seva Kutir, Kingsway Camp, N. Delhi -
Ph. 9868100097.

ध्यान किया कि मैं सेवा कुटीर में बतौर Caretaker
 जन 1997 से कार्यरत हूँ। मेरी जिम्मेदारी Home के बच्चों को
 देखरेख तथा बच्चों को समस्याओं को इनसे पूछ कर या स्वयं
 देख कर कल्याण साधिका को रिपोर्ट करते हैं। Caretaker
 तीन Shift में कार्य करते हैं व 24 घंटे बच्चों के साथ रहते हैं।
 सुबह उठने से लौने तक सभी कार्यक्रमों में बच्चों को
 देखभाल करते हैं। बच्चों को समय पर खाना, खेलना, व court
 में जाने के लिये तैयार करने की जिम्मेदारी भी Caretaker
 की होती है। सबसे ज्यादा परेशानी Repeaters से होती है। यों
 जो Tihar/Rehimi जेल से आते हैं इनसे होती है। बड़ कहना नहीं
 मानते व हमें भी समझा देते हैं। उनका अलग रखने का
 System होना चाहिए यहाँ तो उन्हें अलग रख भी देते हैं तो
 खाना खत समय, खेलते समय फिर मिल जाते हैं। Caretaker
 Staff कम है जो सभी बच्चों 100-125 तक हो जाते हैं
 एक या दो Caretaker को संभालना प्रशिक्षण हो जाते हैं। डापल
 में खोटी-खोटी बातों में झगडे हो जाते हैं जो कई बार ज्यादा
 बढ़ जाते हैं जैसा 17/12/2013 को हुआ था। Security tight
 होने पर जिससे Drugs/Blade इत्यादी Home के भीतर जा
 का लके/दिन में बच्चों को Badminton, Cricket व Football
 खिलाते जाते हैं बच्चों से बेगिया लेपक बना कर रखवा जाता
 है जिससे उन्हें कोई परेशानी हो तो बड़ हमें बता देते हैं।
 जो बच्चा बीमार हो जाता है तो उसे तुरंत Hospital पहुंचाया जाता
 है Dr. साहब रोज दिन में आते हैं व खोटी-खोटी तकलीफ को
 दवाइयों बच्चों को यहाँ उपलब्ध करवा दी जाती है। बच्चों को
 Vocational work में ज्यादा Busy रखा जाता चाहिए जिससे
 उनका ध्यान लैड फुड की तरफ ना जाये। - Sexual abuse की कुछ शिकायतें
 पहले लागते गाँव थी जो Supt. साहब को बतला दी गई थी।

Mahender Prasad

Dt. 14/08/13

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 5137/2013

COURT ON ITS OWN MOTION Petitioner

Through: Court on its own motion

versus

GOVT. OF NCT OF DELHI AND ORS Respondents

Through: Ms Zubeda Begum, Advocate for respondent No. 1

Mr Pawan Shrma, Advocate for respondent No. 2

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

14.08.2013

The Juvenile Justice Committee of this court met on 12.08.2013 on emergency basis in the light of the visit by certain Members of the Juvenile Justice Committee to the Majnu Ka Tila Complex on 10.08.2013. The Committee was of the view that the matter be placed before the Acting Chief Justice for appropriate suo moto action towards suitably inquiring into the matter and also suggesting effective remedial measures. The relevant copies of press clippings and photographs taken during the site inspection were also considered. This matter was, thereafter, placed before one of us, the Acting Chief Justice, who has directed the same to be treated as PIL and be taken up by this court. Consequently, we are hearing this matter. In the first instance, the Government of NCT of Delhi (through Secretary Home) is to be treated as respondent No. 1 and the Commissioner of Police as respondent No. 2. Notice of this matter is issued to both the said respondents. Notice is accepted on behalf of respondent No. 1 by Ms Zubeda Begum and notice is accepted on behalf of respondent No. 2 by Mr Pawan Sharma. We appoint Mr Anoop Bhambani as an Amicus Curiae in this matter. A copy of the papers be supplied to him so that he can assist this court. The learned counsel for the respondents are also permitted to take copies of the papers.

Renotify on 21.08.2013.

BADAR DURREZ AHMED, ACJ

14.08.2013

Dt. 11/13/2013

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) NO. 5137/2013

IN THE MATTER OF :

Court on its own Motion

Vs.

Department of Women & Child Development & Ors.

Respondents

(STATUS REPORT on behalf of the Department of Women & Child Development, Government of National Capital Territory of Delhi)

1. The deptt has constituted a inquiry Committee to carry out an inquiry in the matter of incident dated 05.10.2013 of arson, vandalism, loot, destruction of govt. property & wherein some of the juveniles managed to escape from OHB-II, Sewa Kutir Complex, Kingsway Camp, Delhi(copy of orders enclosed at annexure-I). Committee shall look into the following aspects:-

- Factors that led to the incident.
- Status & reason for destruction of Govt. property.
- Identification of the persons responsible or instrumenta for this incident.
- Role played by the staff/ security staff in handling the situation.
- Recommendations.

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Shree

The report and recommendation of the committee is still awaited.

2. The Hon'ble District & Sessions Judges from Tis Hazari Court is also conducting an inquiry and has taken depositions of the officers and officials present on the day of incident. The report is awaited.

3. The Superintendent has informed that out of 33 escaped, 23 juveniles have been apprehended by the police till date. One juvenile was send to Tihar Jail as he was found to be overage by the Juvenile Justice Board.

4. It is also informed that the staff of the institution handled the incident carefully taking all precautions. It is due to the alert & judicious handling by the staff that no loss of life or serious injury occurred in incident otherwise so violent. The Deptt. is concerned about the safety & security of the inmates as well as of the staff.

5. It is also informed that the after the recent incident and meeting with the Hon'ble LG, Delhi dt 08.10.2013, a need has been felt to develop protocol/procedure for handling of such emergency/ crises situations. This is would include procedures for Police, fire brigade, staff, security, etc. The deptt. has initiated the process of developing Standard Operating Procedures for Institutions Housing Juveniles In Conflict With Law.

Sharma

22

6. The major damage happened in the office of the supdt., the deptt has provided him with the alternate sitting arrangement. With regards to the renovation work in

the institution, the supdt has informed that the electric work has been completed; iron grills have been fixed on the ground floor. The estimate from O/o PWD for the following work is awaited.

- White wash and change of Tiles.
- Repair of Supdt. and medical room .
- Fixing of iron gates on the 1st floor.

Shuchi

(SHUCHI SEHGAL)
Deputy Director(CPU)

11th December, 2013.

Dt. 20/12/2013

~~VIBHU BAKSHI~~~~AUGUST 24, 2013~~**IN THE HIGH COURT OF DELHI AT NEW DELHI****W.P.(C) 5137/2013****COURT ON ITS OWN MOTION Petitioner****Through Mr. Apurv Chandola, Advocate for
Mr. A.J. Bhambhani, Amicus Curiae****versus****GOVT. OF NCT OF DELHI and ORS Respondents****Through Ms. Zubeda Begum, Standing Counsel
with Ms. Sana Ansari,****Advocate for Govt. of NCT of Delhi with Mr. Rajiv Kale, Director, Dept.
of Women and Children Development.****Mr. Anil Kumar, Superintendent.****CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE MANMOHAN**

ORDER

20.12.2013

Between August, 2013 to now there have been four incidents of rioting, fires and escapes at Observation Homes for juveniles, in conflict of law, run by the Department of Women and Child Development Department, Government of NCT of Delhi.

Mr. Rajeev Kale, Director, Department of Women and Child Development, Government of NCT of Delhi, who is personally present in Court, states that due to lack of Standard Operating Procedures as well as

W.P.(C) 5137/2013 Page 1 of 3

multiplicity of authorities, such as NCPCR, DCPCR, Supervision Committee, Juvenile Justice Board Committee, NGOs, and social activists, the Department has not been able to control the incidents of violence. Mr. Kale submits that these multiple authorities have undermined the status as well as the power of the officer-in-charge of the Observation Homes as they have frequently interfered in the administration of Observation Homes.

Mr. Kale further states that certain hardened juvenile accused, who had been convicted under Section 302 IPC, have recently been moved to the Observation Homes.

We are of the opinion that a ?hands-off attitude? of the officers is not going to serve any purpose. The power and responsibility has to be clearly defined.

Keeping in view the emergent situation, we make Mr. Rajeev Kale, Director, Department of Women and Child Development, Government of NCT of

Delhi as well as a senior officer of Delhi Police, not less than the rank of Deputy Commissioner of Police, to be nominated by the Commissioner of Police within twenty-four hours, personally responsible for maintenance of the peace as well as law and order in all the Observation Homes.

The aforesaid two officers are given liberty to devise Standard Operating Procedures forthwith as to how to deal with cases of rioting, fires, escapes etc. at Observation Homes. They are also given authority to deploy more staff and force in all the Observation Homes. They are also given the option to segregate the juveniles according to their discretion.

W.P.(C) 5137/2013 Page 2 of 3

The aforesaid measures are emergent in nature and shall be reviewed by this Court on the next date of hearing.

List on 5th February, 2014.

Order dasti under signature of Court Master.

CHIEF JUSTICE

MANMOHAN, J

DECEMBER 20, 2013

Dairy No. 1227/B
Date 22/8/13
Department of Women & Child Development
Government of N.C.T. of Delhi
1-Canning Lane, K.G. Marg N. Delhi-01

180

MOST URGENT

OFFICE OF THE DISTRICT & SESSIONS JUDGE (HQs), DELHI

No. 25997-2 /Genl.II/2013 Dated, Delhi the 21 AUG 2013

To

- (1) The Principal Secretary (Home),
Govt. of N.C.T. of Delhi,
New Delhi.
- (2) The Director, Department of Women &
Child Development, I -Canning Lane,
K.G. Marg, New Delhi.

Sub: Inspection Report of Sh. A. K. Mendiratta, ASJ, Delhi / Inspecting Judge of Observation Home for Boys-II, Sewa Kutir, Kingsway Camp, Delhi

Sir,

I am to forward herewith a copy of inspection report submitted by Sh. A.K. Mendiratta, ASI, Delhi / Inspecting Judge of Observation Home for Boys-II, Sewa Kutir, Kingsway Camp, Delhi for your information and necessary action.

Yours faithfully,

(B.R. KEDIA)
OFFICER INCHARGE (GENERAL BRANCH)
ADDL.DISTRICT & SESSIONS JUDGE
DELHI

DWCD on leave.
[Signature]
22/8/13

DD(CPU) Encl: As above

Copy forwarded for information and compliance to:-

No. _____ /Genl.II/2013 Dated, Delhi the _____

1. The Superintendent, OHB-II, Sewa Kutir, Kingsway Camp, Delhi.

OFFICER INCHARGE (GENERAL BRANCH)
ADDL.DISTRICT & SESSIONS JUDGE
DELHI

Encl: As above

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03 Aug 2013

July 30, 2013

To
The District & Sessions Judge (HQs),
Tis Hazari Courts, Delhi.

Sub.: Submission of Inspection Report in respect of OBH-II, Sewa Kutir,
Kingsway Camp, Delhi.

Sir,
In compliance to order No.3589-1/Gen.II/2013 dated 04.02.2013, I
undertook a surprise visit to the Observation Home for Boys-II, Sewa Kutir, Kingsway
Camp, Delhi on 30.07.2013 in the post lunch session at about 2.30 PM.
Shri Anil Kumar, Superintendent was available. The inspection was
conducted with his assistance along with Shri Pradeep, Welfare Officer.

The total strength of juveniles as on 30.07.2013 was informed to be 83.
Substantive staff at the Observation Home was stated to have been engaged on
contractual basis.

Some of the juveniles at OHB-II were found to be busy in attending the
classes being undertaken with the help of NGO. The juveniles were informed to have
been classified on the basis of their background education. The light condition in the
room was poor and additional bulbs need to be provided. Superintendent informed that
the same would be further worked upon in consultation with PWD since the bulbs were
damaged by the inmates despite best efforts to check the same.

Staircase for access to First Floor was in shabby condition and needs
whitewash. Some water logging was also observed beneath staircase. It was informed
by the Superintendent that steps have been taken but work is yet to be initiated by PWD.
The 'Reception Unit' which was earlier functional was closed and was stated to have been
temporarily shifted within same complex.

[Signature]

Superintendent also informed that building was proposed for construction in complex for relocating 'Place of Safety' and 'Special Home for Boys'. He requested that in the upcoming complex, a provision for medical unit for inmates is desirable. The aforesaid suggestion may be brought to the notice of Secretary (Health) and Secretary (PWD) for consideration through Administrative Department.

4 Another area of immediate concern is the non-functioning of CCTV Cameras. None of the 8 CCTV cameras were found to be functional. It was informed by Supdt. that pursuant to the earlier report, action had been taken for restoring the non-functional cameras but the same have again been damaged by the juveniles. It may be impressed that the security and monitoring by way of CCTV cameras is crucial to the functioning of OHB-II and as such the Superintendent was directed to get the non-functional CCTV cameras immediately rectified. Any lapse in this regard cannot be excused and Superintendent, OHB-II along with the concerned competent authority need to ensure that necessary action is immediately taken in this regard. Non-compliance of the same should invite serious view as it is a crucial security lapse. It appears that authorities themselves are not interested in ensuring the functional CCTV to cover up the lapses.

5 Superintendent also informed that the Legal Aid counsels have since been visiting the OHB-II on weekly basis but the visit by the counsels is at late hours. A request may be accordingly forwarded to DLSA to explore the possibility, if the Legal Aid Counsels could visit OHB-2 by 4 PM. To ensure the regularity of the visits of counsels from DLSA, Superintendent was earlier directed to maintain a register wherein the visiting counsels may mark their presence but the same was not readily available.

The kitchen and dining area was under substantive renovation and it was informed by the Superintendent that the inmates were being served food and tea in the dormitories as a make shift arrangement. It was also informed by him that the renovation

work is likely to be completed within a month which shall ensure better hygiene facilities in the kitchen and dining area.

Superintendent further informed that the Washing Machine is non-functional and steps are contemplated for replacement.

There was acute smell in the complex which was stated to be due to blockage of sewer. Communication needs to be immediately made to PWD and concerned authorities to ensure cleaning of sewer and repair of blocked pipes.

LCD TV was also found out of order on the day of the inspection and it was informed by the inmates that same was non-functional for about a week. Necessary steps need to be taken in this regard immediately and Superintendent is required to ensure that the same remains functional, being the only source of entertainment and information.

At the time of inspection latest issues of magazines of Nandan, Champak and India Today were found. Remaining magazines were stated to be discontinued. There appears to be a requirement for subscribing more magazines for the inmates.

Water cooler was currently disconnected due to renovation. It was informed by Superintendent that the inmates are provided water from another water cooler installed outside the dormitories. The same needs to be immediately looked into to ensure proper water availability to inmates.

Superintendent also informed that inmates were enrolled for Adhar Cards in the complex.

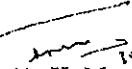
Superintendent informed that request to PWD for cleaning of overhead tanks had not been attended to by the authorities and proposal needs to be further taken up with PWD to ensure that the overhead tanks are immediately cleaned to ensure hygienic water supply.

There also appears to be a need for placing more coolers in the dormitories to ensure livable condition during extreme summer season. Superintendent informed that

two coolers had to be removed as they had been damaged by the inmates. He also stated that placing of coolers with help of ducts may be more effective as the inmates may not be able to damage the plates of the cooler fans. Appropriate steps are required to be taken for the same ensuring that the security and safety is not compromised.

Dr. Shubro Saniya, Psychologist who was counseling the inmates suggested that more productive programmes need to be evolved to keep the inmates busy in some engagement and to ensure that their energies are channelised in positive manner. Superintendent, OHB-2 may be accordingly directed to explore the possibility of induction of new such programmes in OHB-2 for developing vocational skills.

My detailed report (in 12 pages) is annexed in the prescribed proforma for your kind perusal and necessary action. Superintendent OHB-II may be forwarded a copy of report for compliance.


(A. K. Mendiratta)

Special Judge, (PC Act),
CBI-08 (Central), Tis Hazari Courts, Delhi

	Comments
Garbage Collection	Garbage collection is done by the PWD on day to day basis as informed by Shri Anil Kumar, Superintendent.
Garbage Segregation	It was informed that garbage segregation is done by the PWD itself.
Barracks generally	For the strength of 83 juveniles reported on the date of inspection, 5-6 dormitories were found operational. It was also informed by the Superintendent that about 12 caretakers had been appointed. Out of same, 4 were permanent and remaining were on contractual basis. The dormitories were large enough to accommodate the juveniles.
Mulagaat room	It was informed by the Caretaker that the Shed constructed by the PWD at the entry gate is proposed to be made permanent.
Mulahija wards	There is no such ward in the children home.
<u>Cleanliness</u>	
Leaking taps	No Leakage from the taps was observed in the toilet of dormitories. Some toilets were under renovation.
Kitchen and cooking area	The kitchen and dining area was under substantive renovation and it was informed by the Superintendent that the inmates were being served food and tea in the dormitories as a make shift arrangement. It was informed by him that the renovation work is likely to be completed within a month which shall ensure better hygiene facilities in the kitchen and dining area. Food was being prepared for dinner (i.e. aloo-baigan and urad dal were under preparation). Besides above, nimboo pani was being prepared for evening. The quality of food to be given to the juveniles and the condition of the raw material store was also inspected and found reasonable. Raw material was stored in steel drums.
Canteens	There is no canteen in the Children Home.
Corridors	The corridors and open areas were generally clean.
Open areas	However, there was logging of water on ground floor due to renovation beneath staircase.

<u>Hygiene</u>	Insecticide spray	No Mosquito repellents such as All Outs etc. were found in any dormitory. However, it was informed that <u>mortein coil is ignited during the evening hours for repelling the mosquitoes.</u> Spraying and fogging was also stated to be done on monthly basis by MCD. Superintendent was asked to maintain a register <u>specifying dates for fogging.</u>
	Toilets and bathrooms	The toilets being used by the juveniles were found partially clean on the day of inspection. However, foul smell was emanating from some of the toilets and as such <u>disinfectants/phenyl/odonil etc. is required to be used on regular basis.</u>
	Sewage condition	There was acute smell which was stated to be due to <u>blockage of sewer.</u> Steps need to be immediately taken for cleaning of sewage and blocked pipes.
	Drains choking or clear drains	
	Foul Smell	On the day of inspection, foul smell was found in many areas such as toilets and bathrooms which was stated to be due to <u>blockage of sewer pipes.</u>
	Toiletries, soap, paste etc.	The appearance of most of the children was clean. It was informed that the toiletries viz., <u>soap, paste and pouches of shampoo are being provided to the juveniles.</u>
	Overflow	There was water logging seen beneath the staircase at ground floor.

3/7/19

1/17

171

171

<u>Health</u>	Washing of clothes	One washing machine was stated to be under non-repairable condition. It was informed that steps are being taken for procurement of a new washing machine.
	Washing of blankets	
	Washing of sheets	
	Safe drinking water	Water cooler was currently not available because of renovation. It was informed that the inmates are provided water from another water cooler installed outside the dormitories. The same needs to be immediately installed for convenience of inmates. Any delay in this regard should be viewed seriously.
	Size of cells and barracks	Size of the dormitories was found to be satisfactory.
	Ventilation	Proper ventilation was observed in most of the dormitories. However, foul smell was observed in some of the dormitories.
	Lighting, natural and artificial	Natural light was found sufficient. Artificial light was not found to be satisfactory. In some of the dormitories, only few bulbs /tube lights were functional. It was informed by Superintendent that the same would be further worked upon in consultation with PWD since the bulbs were damaged by the inmates despite best efforts to check the same.
	Vipasna	As informed by Superintendent, Meditation classes were being conducted from time to time in association with NGO.
Art of Living		

35/1/13

<u>Food</u>	Nutrition	<p>The juveniles were reported to be given meals as per the schedule given below:-</p> <p>Breakfast (9 AM) – Puri, Subzi, Milk, Bread etc.</p> <p>Lunch (12:30 PM) – Dal, Subzi and Chawal;</p> <p>Tea Break (4 PM) – Tea & Biscuits or nimbu pani with snacks.</p> <p>Dinner (7:30 PM) – Dal, Subzi, chapatti & rice</p> <p>Besides the above, seasonal fruits were also stated to be provided to the juveniles. At the time of inspection, Dal/Subzi for the dinner were being prepared for the juveniles.</p> <p>It was also informed by Superintendent that 19 inmates were observing rojas during month of Ranjan and special food was served to them from 3 AM to 4 AM.</p>
	Quality	
	Quantity	
	Fresh and hot	
	Canteen rates	There is no canteen in the children home.
	Variety	A day-to-day menu is prepared and food is supplied in accordance with the same so as to fulfill the requirements of the juveniles.
	Dietary requirements	It was informed by Superintendent that Ms. Priyanka Sharma, Dietician, had been associated and requested to look into dietary requirements of the inmates. However, <u>requirement of regular Dietician in the children home was solicited.</u>
	Quality & Cleanliness of utensils	The quality of the utensils used for cooking was found in better condition.
Quality of food for children of women inmates as per their requirements	Not applicable	

Subzi

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7

Common Room	A room was stated to be used for recreational facilities of the juveniles.
Library	At the time of inspection, Smt. Pushpa Saxena, Librarian was found available. The latest issues of magazines of Nandan, Champak and India Today were found along with old editions. Remaining magazines were stated to have been discontinued. Besides above, daily newspapers were found. There appears to be a requirement for subscribing more magazines for the inmates.
Showers and taps	It was informed that facility of Taps are sufficient to meet the requirements of the juveniles.
Washbasins	Washbasins were found reasonably clean.
PWD	Overheads tanks cleanliness
	Superintendent informed that request to PWD for cleaning of overhead tanks had not been attended to by the authorities and matter was being further taken up with PWD to ensure that the overhead tanks are immediately cleaned for supply and storage of clean water.
Rain water harvesting Emergency bell	There is no such provision
RO System	RO System was currently not available because of renovation. It was informed that the inmates are provided with water from other water cooler installed outside the dormitories. The same needs to be immediately installed for convenience of inmates.
Seepages	It was told that repair works have to be done by the PWD authorities but the same is time consuming process.
Renovations	Renovation work was being carried out in kitchen/ dining area and bathrooms.
General sanitation	General Sanitation was found satisfactory.
Ceiling and exhaust fans	Ceiling fans were found in sufficient number. However, there was no exhaust fan.
TV	LCD TV was found out of order on the day of the inspection and it was informed by the inmates that same was non functional for about a week. Necessary steps need to be taken in this regard immediately.

3/17/15

<u>PWD</u>	Wall Clocks	No wall clock was seen in any of the dormitories. It was told that wall clocks were provided in the dormitories but same were broken by the inmates.
	Provision for water coolers/heaters (if use permitted by the jail authorities)	It was informed by Superintendent that in order to avoid any mis-happening within the complex, the heaters were not being provided in the dormitories to the juveniles and the same were not required during summer season.
<u>Culture</u>	Meditation	It was informed that <u>Meditation Classes</u> were being taken from <u>time to time</u> by an NGO.
	Yoga	It was informed that yoga programmes are also conducted from <u>time to time</u> at the complex with the aid of NGO.
	Festivals	It was informed that all the festivals are celebrated in the children Home from time to time. Further a temple with Holy scriptures and photographs was also maintained in one of the dormitories for benefit of juveniles.
	Plays and drama	Plays and Dramas were stated to be organized in the Observation Home regularly.
	Spiritual up-liftment	<u>No Spiritual up-liftment</u> is being conducted in the complex.
	Counseling	Dr. Shubro Saniya, Psychologist was found available counseling inmates and she informed that she visits OHB-2 <u>twice in a week</u> for counseling. She suggested that more programmes need to be evolved to keep the inmates busy in some productive engagements so that their energies may be channelised in positive manner for their development. Dr. Shuchi, Child Adolescent Psychologist was also available and informed that she remains available from 10.30 AM to 5.30 PM from Monday to Friday and is attached with NGO.
	Drug de-addiction	It was informed that <u>drug addict juveniles</u> are being treated at <u>SPYM, Centre for Drug De-addiction</u> .

2/7/13

<u>Vocational Training</u>	Basic Education	It was informed by Superintendent that 'Subhiksha Programme' is being run by the officials of the NGO from 2PM to 4 PM on daily basis. There were three teachers found teaching juveniles in batches at the time of inspection.
	Tailoring	It was informed by Superintendent that classes for music, cooking, painting and stitching were taken in a separate room. It was also informed that plumbing and electrical courses had been transferred to Alipur branch.
	Plumbing	
	Painting	
	Handicrafts	
	Carpentry	No such course was stated to be available.
	Distance Education	As informed by the Superintendent, there is no provision of distance education to the inmates.
	Indoor games	Chess, Ludo and Carrom were stated to be provided to the inmates.
	Outdoor games and activities	It was informed by Superintendent that the juveniles were taken out regularly for playing games such as football, badminton and cricket in the complex ground.
	Paper making	It was informed that no such training is being provided to the inmates as of now.
Composting		
Beauty Parlour		
Creche		
Embroidery		
Jan Shikshan Abhiyan		
Schooling and other training facilities for children of women inmates	- Not Applicable -	

35/13

<u>Medical</u>	Availability of doctor	It was informed by the Superintendent that a doctor on contractual duty was visiting the premises.
	Availability of medicines/expiry date	The medicines which were generally used are made available in the medical room with valid expiry dates.
	Special patients - HIV, TB	Welfare Officer informed that special patients are being referred to the Aruna Asaf Ali Hospital or other specialized Government hospital for further treatment of the inmates, as per the advise of the doctor on duty.
	Nurse	Ms. Paramjeet Kaur, Staff Nurse and Mr. Satendra Semal, male Staff Nurse were found available at the time of inspection. They were reported to be working in shift duties.
	Medical Record on computer also	Medical record pertaining to the juveniles is not maintained on the computer.
	Regular visits of specialists, ENT, dental, eye etc.	Except the general physician, no other regular specialist viz. ENT, Dental, eye etc. is available at the Observation Home. However, it was informed that the cases requiring specialized treatment were being referred to the Hospital as advised.
	Ambulance, stretchers	No ambulance is available at the Observation Home. It was informed by the Welfare Officer that in case of emergency the patient/juvenile is taken to the hospital in a private vehicle.
	Mental health issues	It was informed by the Superintendent that an official of MANAS foundation, Okhla visits the complex at regular intervals to ascertain whether the inmates are facing any psychiatric problems and such inmates are treated accordingly.
	Physically handicapped	No such separate cell was seen at the complex for the physically handicapped juveniles. It was informed by Superintendent that necessary care and treatment is provided in case of any handicapped child as required.
	Dispensary for minor problems (headache etc.)	On the day of inspection Nurse was available at the Medical Room in the Observation Home for minor problems.

25/10

<u>Environment</u>	Greenery – upkeep and additions	There is a big lawn outside the dormitories within the boundaries of the complex maintained by the PWD which is used by the juveniles for activities/ games.
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<u>Panchayat</u>	Community affairs	No provision.
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<u>Legal Aid</u>	Record of jail visiting advocates	<p>It was informed that the Legal Aid Counsels generally visit the Observation Home and are assisted by the Supdt. and supplied the documents and the case file of the respective juvenile. However, it was also stated by the Superintendent that of late, some problems were being faced since the Legal Aid counsels had been visiting at late hours and it would be more convenient if they visit in post lunch session and latest by 4.00 PM.</p> <p>As such, request needs to be forwarded to the DLSA to look into the issue.</p> <p>Superintendent also informed that petition, if any, could be preferred by juveniles through Legal Aid counsel.</p>
	Other legal advice	
	Information about cases	
	Supply of documents and case file	
	Segregation of possible juveniles	
	Communication with the outside world	
	Jail petitions being attended	
	Review of persons unable to furnish bonds etc. in compliance with orders of Delhi High Court in Crl.Rev.No. 01/2007	
	Condition of legal aid room and facilities	
Legal awareness	No facility for Legal Awareness except visit by Legal Aid Counsel.	
Evidence should be available	Evidence not made available.	

15/7/13

Complaints	Availability of complaint box	A complaint box has been fixed at the entrance of the corridor.
	Bills for purchases	Superintendent informed that entries of bills in respect of purchase of vegetables / food items were made in the relevant registers.

GENERAL OBSERVATION & SUGGESTIONS:

Shri Anil Kumar, Superintendent was available. The inspection was conducted with his assistance along with Shri Pradeep, Welfare Officer.

The total strength of juveniles as on 30.07.2013 was informed to be 83. Substantive staff at the Observation Home was stated to have been engaged on contractual basis.

Some of the juveniles at OHB-II were found to be busy in attending the classes being undertaken with the help of NGO. The juveniles were informed to have been classified on the basis of their background education. The light condition in the room was poor and additional bulbs need to be provided. Superintendent informed that the same would be further worked upon in consultation with PWD since the bulbs were damaged by the inmates despite best efforts to check the same.

Staircase for access to First Floor was in shabby condition and needs whitewash. Some water logging was also observed beneath staircase. It was informed by the Superintendent that steps have been taken but work is yet to be initiated by PWD. The 'Reception Unit' which was earlier functional was closed and was stated to have been temporarily shifted within same complex.

Superintendent also informed that building was proposed for construction in complex for relocating 'Place of Safety' and 'Special Home for Boys'. He requested that in the upcoming complex, a provision for medical unit for inmates is desirable. The aforesaid suggestion may be brought to the notice of Secretary (Health) and Secretary (PWD) for consideration through Administrative Department.

Another area of immediate concern is the non-functioning of CCTV Cameras. None of the 8 CCTV cameras were found to be functional. It was informed by

[Handwritten signature]
30/7/13

Supdt. that pursuant to the earlier report, action had been taken for restoring the non-functional cameras but the same have again been damaged by the juveniles. It may be impressed that the security and monitoring by way of CCTV cameras is crucial to the functioning of OHB-II and as such the Superintendent was directed to get the non-functional CCTV cameras immediately rectified. Any lapse in this regard cannot be excused and Superintendent, OHB-II along with the concerned competent authority need to ensure that necessary action is immediately taken in this regard. Non-compliance of the same should invite serious view as it is a crucial security lapse. It appears that authorities themselves are not interested in ensuring the functional CCTV to cover up the lapses.

Superintendent also informed that the Legal Aid counsels have since been visiting the OHB-II on weekly basis but the visit by the counsels is at late hours. A request may be accordingly forwarded to DLSA to explore the possibility, if the Legal Aid Counsels could visit OHB-2 by 4 PM. To ensure the regularity of the visits of counsels from DLSA, Superintendent was earlier directed to maintain a register wherein the visiting counsels may mark their presence but the same was not readily available.

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20/11/20

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Superintendent informed that request to PWD for cleaning of overhead tanks had not been attended to by the authorities and proposal needs to be further taken up with PWD to ensure that the overhead tanks are immediately cleaned to ensure hygienic water supply.

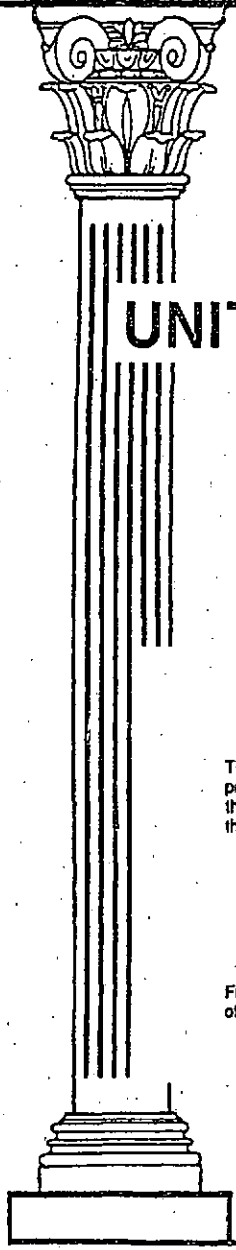
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(A. K. Mendiratta)

Special Judge, (PC Act),
CBI-08 (Central), Tis Hazari Courts, Delhi

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UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE

145271

U.S. Department of Justice
National Institute of Justice

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UNITED NATIONS

Department of Public Information

New York, 1986.

Introduction

In 1980, the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, meeting in Caracas, Venezuela, set out several basic principles that it felt should be reflected in a set of rules to be developed for the administration of juvenile justice in order to protect the fundamental human rights of juveniles in trouble with the law. The rules could then serve as a model for United Nations Member States in the treatment of juvenile offenders. The Congress recommended that the Committee on Crime Prevention and Control, a standing committee of the Economic and Social Council, be requested to develop such rules.

During the years that followed, the Committee formulated the draft rules in collaboration with the United Nations Social Defence Research Institute, the United Nations regional institutes and the United Nations Secretariat. They were endorsed, in principle, by regional preparatory meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and amended and agreed upon at an Interregional Preparatory Meeting held at Beijing, China, from 14 to 18 May 1984.

Presented by the Economic and Social Council to the Seventh Congress, held at Milan, Italy, in August and September 1985, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (known as "the Beijing Rules") were approved on 6 September 1985 by the Seventh Congress, which recommended them to the General Assembly for adoption. The Assembly adopted the Rules on 29 November, annexing them to its resolution 40/33.

The Rules, adapted to the aims and spirit of juvenile justice systems in all parts of the world—i.e. systems within diverse national settings and legal structures—set out what was accepted to be good general principle and practice in the administration of justice for juveniles. They represent the minimum conditions which are accepted as suitable by the United Nations for the handling of juvenile offenders under any system of dealing with such persons. Commentaries accompanying the text were intended to be read as an essential part of the document.

The Rules and commentaries are reproduced in this pamphlet.

General Assembly resolution 40/33

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as other international human rights instruments pertaining to the rights of young persons,

Also bearing in mind that 1985 was designated the International Youth Year: Participation, Development, Peace and that the international community has placed importance on the protection and promotion of the rights of the young, as witnessed by the significance attached to the Declaration of the Rights of the Child,

Recalling resolution 4 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which called for the development of standard minimum rules for the administration of juvenile justice and the care of juveniles, which could serve as a model for Member States,

Recalling also Economic and Social Council decision 1984/153 of 25 May 1984, by which the draft rules were forwarded to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, through the Interregional Preparatory Meeting, held at Beijing from 14 to 18 May 1984,

Recognizing that the young, owing to their early stage of human development, require particular care and assistance with regard to physical, mental and social development, and require legal protection in conditions of peace, freedom, dignity and security,

Considering that existing national legislation, policies and practices may well require review and amendment in view of the standards contained in the rules,

Considering further that, although such standards may seem difficult to achieve at present in view of existing social, economic, cultural, political and legal conditions, they are nevertheless intended to be attainable as a policy minimum,

1. *Notes with appreciation* the work carried out by the Committee on Crime Prevention and Control, the Secretary-General, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders and other United Nations institutes in the development of the Standard Minimum Rules for the Administration of Juvenile Justice;

2. *Takes note with appreciation* of the report of the Secretary-General on the draft Standard Minimum Rules for the Administration of Juvenile Justice;

3. *Commends* the Interregional Preparatory Meeting held at Beijing for having finalized the text of the rules submitted to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders for consideration and final action;

4. *Adopts* the United Nations Standard Minimum Rules for the Administration of Juvenile Justice

recommended by the Seventh Congress, contained in the annex to the present resolution, and approves the recommendation of the Seventh Congress that the Rules should be known as "the Beijing Rules";

5. *Invites* Member States to adapt, wherever this is necessary, their national legislation, policies and practices, particularly in training juvenile justice personnel, to the Beijing Rules and to bring the Rules to the attention of relevant authorities and the public in general;

6. *Calls upon* the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Beijing Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders;

7. *Invites* Member States to inform the Secretary-General on the implementation of the Beijing Rules and to report regularly to the Committee on Crime Prevention and Control on the results achieved;

8. *Requests* Member States and the Secretary-General to undertake research and to develop a data base with respect to effective policies and practices in the administration of juvenile justice;

9. *Requests* the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Beijing Rules in all of the official languages of the United Nations, including the intensification of information activities in the field of juvenile justice;

10. *Requests* the Secretary-General to develop pilot projects on the implementation of the Beijing Rules;

11. *Requests* the Secretary-General and Member States to provide the necessary resources to ensure the successful implementation of the Beijing Rules, in particular in the areas of recruitment, training and exchange of personnel, research and evaluation, and the development of new alternatives to institutionalization;

12. *Requests* the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to review the progress made in the implementation of the Beijing Rules and of the recommendations contained in the present resolution, under a separate agenda item on juvenile justice;

13. *Urges* all relevant organs of the United Nations system, in particular the regional commissions and specialized agencies, the United Nations institutes for the prevention of crime and the treatment of offenders, other intergovernmental organizations and non-governmental organizations to collaborate with the Secretariat and to take the necessary measures to ensure a concerted and sustained effort, within their respective fields of technical competence, to implement the principles contained in the Beijing Rules.

Adopted by the General Assembly on 29 November 1985

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

PART ONE.

General principles

1. *Fundamental perspectives*

- 1.1 Member States shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family.
- 1.2 Member States shall endeavour to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behaviour, will foster a process of personal development and education that is as free from crime and delinquency as possible.
- 1.3 Sufficient attention shall be given to positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law.
- 1.4 Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society.
- 1.5 These Rules shall be implemented in the context of economic, social and cultural conditions prevailing in each Member State.
- 1.6 Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.

Commentary

These broad fundamental perspectives refer to comprehensive social policy in general and aim at promoting juvenile welfare to the greatest possible extent, which will minimize the necessity of intervention by the juvenile justice system, and in turn, will reduce the harm that may be caused by any intervention. Such care measures for the young, before the onset of delinquency, are basic policy requisites designed to obviate the need for the application of the Rules.

Rules 1.1 to 1.3 point to the important role that a constructive social policy for juveniles will play, *inter alia*, in the prevention of juvenile crime and delinquency. Rule 1.4 defines juvenile justice as an integral part of social justice for juveniles, while rule 1.6 refers to the necessity of constantly improving juvenile justice, without falling behind the development of progressive social policy for juveniles in general and bearing in mind the need for consistent improvement of staff services.

Rule 1.5 seeks to take account of existing conditions in Member States which would cause the manner of implementation of particular rules necessarily to be different from the manner adopted in other States.

2. *Scope of the Rules and definitions used*

- 2.1 The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.
- 2.2 For purposes of these Rules, the following definitions shall be applied by Member States in a manner which is compatible with their respective legal systems and concepts:
 - (a) A *juvenile* is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult;

- (b) An *offence* is any behaviour (act or omission) that is punishable by law under the respective legal systems;
- (c) A *juvenile offender* is a child or young person who is alleged to have committed or who has been found to have committed an offence.

2.3 Efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed:

- (a) To meet the varying needs of juvenile offenders, while protecting their basic rights;
- (b) To meet the needs of society;
- (c) To implement the following rules thoroughly and fairly.

Commentary

The Standard Minimum Rules are deliberately formulated so as to be applicable within different legal systems and, at the same time, to set some minimum standards for the handling of juvenile offenders under any definition of a juvenile and under any system of dealing with juvenile offenders. The Rules are always to be applied impartially and without distinction of any kind.

Rule 2.1 therefore stresses the importance of the Rules always being applied impartially and without distinction of any kind. The rule follows the formulation of principle 2 of the Declaration of the Rights of the Child.

Rule 2.2 defines "juvenile" and "offence" as the components of the notion of the "juvenile offender", who is the main subject of these Standard Minimum Rules (see, however, also rules 3 and 4). It should be noted that age limits will depend on, and are explicitly made dependent on, each respective legal system, thus fully respecting the economic, social, political, cultural and legal systems of Member States. This makes for a wide variety of ages coming under the definition of "juvenile", ranging from 7 years to 18 years or above. Such a variety seems inevitable in view of the different national legal systems and does not diminish the impact of these Standard Minimum Rules.

Rule 2.3 is addressed to the necessity of specific national legislation for the optimal implementation of these Standard Minimum Rules, both legally and practically.

3. Extension of the Rules

- 3.1 The relevant provisions of the Rules shall be applied not only to juvenile offenders but also to juveniles who may be proceeded against for any specific behaviour that would not be punishable if committed by an adult.
- 3.2 Efforts shall be made to extend the principles embodied in the Rules to all juveniles who are dealt with in welfare and care proceedings.
- 3.3 Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders.

Commentary

Rule 3 extends the protection afforded by the Standard Minimum Rules for the Administration of Juvenile Justice to cover:

- (a) The so-called "status offences" prescribed in various national legal systems where the range of behaviour considered to be an offence is wider for juveniles than it is for adults (for example, truancy, school and family disobedience, public drunkenness, etc.) (rule 3.1);
- (b) Juvenile welfare and care proceedings (rule 3.2);
- (c) Proceedings dealing with young adult offenders, depending of course on each given age limit (rule 3.3).

The extension of the Rules to cover these three areas seems to be justified. Rule 3.1 provides minimum guarantees in those fields, and rule 3.2 is considered a desirable step in the direction of more fair, equitable and humane justice for all juveniles in conflict with the law.

4. Age of criminal responsibility

- 4.1 In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity.

Commentary

The minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understand-

ing, can be held responsible for essentially anti-social behaviour. If the age of criminal responsibility is fixed too low or if there is no lower age limit at all, the notion of responsibility would become meaningless. In general, there is a close relationship between the notion of responsibility for delinquent or criminal behaviour and other social rights and responsibilities (such as marital status, civil majority, etc.).

Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally.

5. Aims of juvenile justice

- 5.1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.

Commentary

Rule 5 refers to two of the most important objectives of juvenile justice. The first objective is the promotion of the well-being of the juvenile. This is the main focus of those legal systems in which juvenile offenders are dealt with by family courts or administrative authorities, but the well-being of the juvenile should also be emphasized in legal systems that follow the criminal court model, thus contributing to the avoidance of merely punitive sanctions. (See also rule 14.)

The second objective is "the principle of proportionality". This principle is well-known as an instrument for curbing punitive sanctions, mostly expressed in terms of just desert in relation to the gravity of the offence. The response to young offenders should be based on the consideration not only of the gravity of the offence but also of personal circumstances. The individual circumstances of the offender (for example social status, family situation, the harm caused by the offence or other factors affecting personal circumstances) should influence the proportionality of the reaction (for example by having regard to the offender's endeavour to indemnify the victim or to her or his willingness to turn to a wholesome and useful life).

By the same token, reactions aiming to ensure the welfare of the young offender may go beyond necessity and therefore infringe upon the fundamental rights of the young individual, as has been observed in some juvenile justice systems. Here, too, the proportionality of the reaction to

the circumstances of both the offender and the offence, including the victim, should be safeguarded.

In essence, rule 5 calls for no less and no more than a fair reaction in any given case of juvenile delinquency and crime. The issues combined in the rule may help to stimulate development in both regards: new and innovative types of reactions are as desirable as precautions against any undue widening of the net of formal social control over juveniles.

6. Scope of discretion

- 6.1 In view of the varying special needs of juveniles as well as the variety of measures available, appropriate scope for discretion shall be allowed at all stages of proceedings and at the different levels of juvenile justice administration, including investigation, prosecution, adjudication and the follow-up of dispositions.
- 6.2 Efforts shall be made, however, to ensure sufficient accountability at all stages and levels in the exercise of any such discretion.
- 6.3 Those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates.

Commentary

Rules 6.1, 6.2 and 6.3 combine several important features of effective, fair and humane juvenile justice administration: the need to permit the exercise of discretionary power at all significant levels of processing so that those who make determinations can take the actions deemed to be most appropriate in each individual case; and the need to provide checks and balances in order to curb any abuses of discretionary power and to safeguard the rights of the young offender. Accountability and professionalism are instruments best apt to curb broad discretion. Thus, professional qualifications and expert training are emphasized here as a valuable means of ensuring the judicious exercise of discretion in matters of juvenile offenders. (See also rules 1.6 and 2.2.) The formulation of specific guidelines on the exercise of discretion and the provision of systems of review, appeal and the like in order to permit scrutiny of decisions and accountability are emphasized in this context. Such mechanisms are not specified here, as they do not easily lend themselves to incorporation into international standard minimum rules, which cannot possibly cover all differences in justice systems.

7. *Rights of juveniles*

7.1 Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

Commentary

Rule 7.1 emphasizes some important points that represent essential elements for a fair and just trial and that are internationally recognized in existing human rights instruments. (See also rule 14.) The presumption of innocence, for instance, is also to be found in article 11 of the Universal Declaration of Human Rights and in article 14, paragraph 2, of the International Covenant on Civil and Political Rights.

Rules 14 *seq.* of these Standard Minimum Rules specify issues that are important for proceedings in juvenile cases, in particular, while rule 7.1 affirms the most basic procedural safeguards in a general way.

8. *Protection of privacy*

8.1 The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.

8.2 In principle, no information that may lead to the identification of a juvenile offender shall be published.

Commentary

Rule 8 stresses the importance of the protection of the juvenile's right to privacy. Young persons are particularly susceptible to stigmatization. Criminological research into labelling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of young persons as "delinquent" or "criminal".

Rule 8 also stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example the names of young offenders, alleged or convicted). The interest of the individual should be protected and upheld, at least in principle. (The general contents of rule 8 are further specified in rule 21.)

9. *Saving clause*

9.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations and other human rights instruments and standards recognized by the international community that relate to the care and protection of the young.

Commentary

Rule 9 is meant to avoid any misunderstanding in interpreting and implementing the present Rules in conformity with principles contained in relevant existing or emerging international human rights instruments and standards—such as the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights; and the Declaration of the Rights of the Child and the draft convention on the rights of the child. It should be understood that the application of the present Rules is without prejudice to any such international instruments which may contain provisions of wider application. (See also rule 27.)

PART TWO.

Investigation and prosecution

10. Initial contact

10.1 Upon the apprehension of a juvenile, her or his parents or guardian shall be immediately notified of such apprehension, and, where such immediate notification is not possible, the parents or guardian shall be notified within the shortest possible time thereafter.

10.2 A judge or other competent official or body shall, without delay, consider the issue of release.

10.3 Contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case.

Commentary

Rule 10.1 is in principle contained in rule 92 of the Standard Minimum Rules for the Treatment of Prisoners.

The question of release (rule 10.2) shall be considered without delay by a judge or other competent official. The latter refers to any person or institution in the broadest sense of the term, including community boards or police authorities having power to release an arrested person. (See also the International Covenant on Civil and Political Rights, article 9, paragraph 3.)

Rule 10.3 deals with some fundamental aspects of the procedures and behaviour on the part of the police and other law enforcement officials in cases of juvenile crime. To "avoid harm" admittedly is flexible wording and covers many features of possible interaction (for example the use of harsh language, physical violence or exposure to the environment). Involvement in juvenile justice processes in itself can be "harmful" to juveniles; the term "avoid harm" should be broadly interpreted, therefore, as doing the least harm possible to the juvenile in the first instance, as well as any additional or undue harm. This is especially important in the initial contact with law enforcement agencies, which might profoundly influence the juvenile's attitude towards the State and society. Moreover, the success of any further intervention is largely dependent on such initial contacts. Compassion and kind firmness are important in these situations.

11. Diversion

- 11.1 Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority, referred to in rule 14.1 below.
- 11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the respective legal system and also in accordance with the principles contained in these Rules.
- 11.3 Any diversion involving referral to appropriate community or other services shall require the consent of the juvenile, or her or his parents or guardian, provided that such decision to refer a case shall be subject to review by a competent authority, upon application.

- 11.4 In order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims.

Commentary

Diversion, involving removal from criminal justice processing and, frequently, redirection to community support services, is commonly practised on a formal and informal basis in many legal systems. This practice serves to hinder the negative effects of subsequent proceedings in juvenile justice administration (for example the stigma of conviction and sentence). In many cases, non-intervention would be the best response. Thus, diversion at the outset and without referral to alternative (social) services may be the optimal response. This is especially the case where the offence is of a non-serious nature and where the family, the school or other informal social control institutions have already reacted, or are likely to react, in an appropriate and constructive manner.

As stated in rule 11.2, diversion may be used at any point of decision-making—by the police, the prosecution or other agencies such as the courts, tribunals, boards or councils. It may be exercised by one authority or several or all authorities, according to the rules and policies of the respective systems and in line with the present Rules. It need not necessarily be limited to petty cases, thus rendering diversion an important instrument.

Rule 11.3 stresses the important requirement of securing the consent of the young offender (or the parent or guardian) to the recommended diversionary measure(s). (Diversion to community service without such consent would contradict the Abolition of Forced Labour Convention.) However, this consent should not be left unchallengeable, since it might sometimes be given out of sheer desperation on the part of the juvenile. The rule underlines that care should be taken to minimize the potential for coercion and intimidation at all levels in the diversion process. Juveniles should not feel pressured (for example in order to avoid court appearance) or be pressured into consenting to diversion programmes. Thus, it is advocated that provision should be made for an objective appraisal of the appropriateness of dispositions involving young offenders by a "competent authority upon application". (The "competent authority" may be different from that referred to in rule 14.)

Rule 11.4 recommends the provision of viable alternatives to juvenile justice processing in the form of community-based diversion. Programmes that involve settlement by victim restitution and those that seek to avoid future conflict with the law through temporary supervision and guidance are especially commended. The merits of individual cases would make diversion appropriate, even when more serious offences have been committed (for example first offence, the act having been committed under peer pressure, etc.).

12. Specialization within the police

- 12.1 In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

Commentary

Rule 12 draws attention to the need for specialized training for all law enforcement officials who are involved in the administration of juvenile justice. As police are the first point of contact with the juvenile justice system, it is most important that they act in an informed and appropriate manner.

While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable, not only in the interest of implementing specific principles contained in the present instrument (such as rule 1.6) but more generally for improving the prevention and control of juvenile crime and the handling of juvenile offenders.

13. Detention pending trial

- 13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.
- 13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.
- 13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of

Prisoners adopted by the United Nations.

- 13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- 13.5 While in custody, juveniles shall receive care, protection and all necessary individual assistance—social, educational, vocational, psychological, medical and physical—that they may require in view of their age, sex and personality.

Commentary

The danger to juveniles of "criminal contamination" while in detention pending trial must not be underestimated. It is therefore important to stress the need for alternative measures. By doing so, rule 13.1 encourages the devising of new and innovative measures to avoid such detention in the interest of the well-being of the juvenile.

Juveniles under detention pending trial are entitled to all the rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners as well as the International Covenant on Civil and Political Rights, especially article 9 and article 10, paragraphs 2 (b) and 3.

Rule 13.4 does not prevent States from taking other measures against the negative influences of adult offenders which are at least as effective as the measures mentioned in the rule.

Different forms of assistance that may become necessary have been enumerated to draw attention to the broad range of particular needs of young detainees to be addressed (for example females or males, drug addicts, alcoholics, mentally ill juveniles, young persons suffering from the trauma, for example, of arrest, etc.).

Varying physical and psychological characteristics of young detainees may warrant classification measures by which some are kept separate while in detention pending trial, thus contributing to the avoidance of victimization and rendering more appropriate assistance.

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 4 on juvenile justice standards, specified that the Rules, *inter alia*, should reflect the basic principle that pre-trial detention should be used only as a last resort, that no minors should be held in a facility where they are vulnerable to the negative influences of adult detainees and that account should always be taken of the needs particular to their stage of development.

PART THREE.

Adjudication and disposition

14. *Competent authority to adjudicate*

- 14.1 Where the case of a juvenile offender has not been diverted (under rule 11), she or he shall be dealt with by the competent authority (court, tribunal, board, council, etc.) according to the principles of a fair and just trial.
- 14.2 The proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.

Commentary

It is difficult to formulate a definition of the competent body or person that would universally describe an adjudicating authority. "Competent authority" is meant to include those who preside over courts or tribunals (composed of a single judge or of several members), including professional and lay magistrates as well as administrative boards (for example the Scottish and Scandinavian systems) or other more informal community and conflict resolution agencies of an adjudicatory nature.

The procedure for dealing with juvenile offenders shall in any case follow the minimum standards that are applied almost universally for any criminal defendant under the procedure known as "due process of law". In accordance with due process, a "fair and just trial" includes such basic safeguards as the presumption of innocence, the presentation and examination of witnesses, the common legal defences, the right to remain silent, the right to have the last word in a hearing, the right to appeal, etc. (See also rule 7.1.)

15. *Legal counsel, parents and guardians*

- 15.1 Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.
- 15.2 The parents or the guardian shall be entitled to participate in the

proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

Commentary

Rule 15.1 uses terminology similar to that found in rule 93 of the Standard Minimum Rules for the Treatment of Prisoners. Whereas legal counsel and free legal aid are needed to assure the juvenile legal assistance, the right of the parents or guardian to participate as stated in rule 15.2 should be viewed as general psychological and emotional assistance to the juvenile—a function extending throughout the procedure.

The competent authority's search for an adequate disposition of the case may profit, in particular, from the co-operation of the legal representatives of the juvenile (or, for that matter, some other personal assistant who the juvenile can and does really trust). Such concern can be thwarted if the presence of parents or guardians at the hearings plays a negative role, for instance, if they display a hostile attitude towards the juvenile; hence, the possibility of their exclusion must be provided for.

16. *Social inquiry reports*

- 16.1 In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

Commentary

Social inquiry reports (social reports or pre-sentence reports) are an indispensable aid in most legal proceedings involving juveniles. The competent authority should be informed of relevant facts about the juvenile, such as social and family background, school career, educational experiences, etc. For this purpose, some jurisdictions use special social services or personnel attached to the court or board. Other personnel, including probation officers, may serve the same function. The rule therefore requires that adequate social

services should be available to deliver social inquiry reports of a qualified nature.

17. Guiding principles in adjudication and disposition

- 17.1 The disposition of the competent authority shall be guided by the following principles:
- (a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;
 - (b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;
 - (c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response;
 - (d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.
- 17.2 Capital punishment shall not be imposed for any crime committed by juveniles.
- 17.3 Juveniles shall not be subject to corporal punishment.
- 17.4 The competent authority shall have the power to discontinue the proceedings at any time.

Commentary

The main difficulty in formulating guidelines for the adjudication of young persons stems from the fact that there are unresolved conflicts of a philosophical nature, such as the following:

- (a) Rehabilitation versus just desert;
- (b) Assistance versus repression and punishment;
- (c) Reaction according to the singular merits of an individual case versus reaction according to the protection of society in general;
- (d) General deterrence versus individual incapacitation.

The conflict between these approaches is more pronounced in juvenile cases than in adult cases. With the variety of causes and reactions characterizing juvenile cases, these alternatives become intricately interwoven.

It is not the function of Standard Minimum Rules for the Administration of Juvenile Justice to prescribe which approach is to be followed but rather to identify one that is most closely in consonance with internationally accepted principles. Therefore the essential elements as laid down in rule 17.1, in particular in subparagraphs (a) and (c), are mainly to be understood as practical guidelines that should ensure a common starting-point; if heeded by the concerned authorities (see also rule 5), they could contribute considerably to ensuring that the fundamental rights of juvenile offenders are protected, especially the fundamental rights of personal development and education.

Rule 17.1 (b) implies that strictly punitive approaches are not appropriate. Whereas in adult cases, and possibly also in cases of severe offences by juveniles, just desert and retributive sanctions might be considered to have some merit, in juvenile cases such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person.

In line with resolution 8 of the Sixth United Nations Congress, rule 17.1 (b) encourages the use of alternatives to institutionalization to the maximum extent possible, bearing in mind the need to respond to the specific requirements of the young. Thus, full use should be made of the range of existing alternative sanctions and new alternative sanctions should be developed, bearing the public safety in mind. Probation should be granted to the greatest possible extent via suspended sentences, conditional sentences, board orders and other dispositions.

Rule 17.1 (c) corresponds to one of the guiding principles in resolution 4 of the Sixth Congress which aims at avoiding incarceration in the case of juveniles unless there is no other appropriate response that will protect the public safety.

The provision prohibiting capital punishment in rule 17.2 is in accordance with article 6, paragraph 5, of the International Covenant on Civil and Political Rights.

The provision against corporal punishment is in line with article 7 of the International Covenant on Civil and Political Rights and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the draft convention on the rights of the child.

The power to discontinue the proceedings at any time (rule 17.4) is a characteristic inherent in the handling of juvenile

offenders as opposed to adults. At any time, circumstances may become known to the competent authority which would make a complete cessation of the intervention appear to be the best disposition of the case.

18. Various disposition measures

- 18.1 A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:
- (a) Care, guidance and supervision orders;
 - (b) Probation;
 - (c) Community service orders;
 - (d) Financial penalties, compensation and restitution;
 - (e) Intermediate treatment and other treatment orders;
 - (f) Orders to participate in group counselling and similar activities;
 - (g) Orders concerning foster care, living communities or other educational settings;
 - (h) Other relevant orders.
- 18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.

Commentary

Rule 18.1 attempts to enumerate some of the important reactions and sanctions that have been practised and proved successful thus far, in different legal systems. On the whole they represent promising options that deserve replication and further development. The rule does not enumerate staffing requirements because of possible shortages of adequate staff in some regions; in those regions measures requiring less staff may be tried or developed.

The examples given in rule 18.1 have in common, above all, a reliance on and an appeal to the community for the effective implementation of alternative dispositions. Community-based correction is a traditional measure that has taken on many aspects. On that basis, relevant authorities should be encouraged to offer community-based services.

Rule 18.2 points to the importance of the family which, according to article 10, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, is "the natural and fundamental group unit of society". Within the family, the parents have not only the right but also the responsibility to care for and supervise their chil-

dren. Rule 18.2, therefore, requires that the separation of children from their parents is a measure of last resort. It may be resorted to only when the facts of the case clearly warrant this grave step (for example child abuse).

19. Least possible use of institutionalization

- 19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

Commentary

Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalization as compared to non-institutionalization. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case for juveniles, who are vulnerable to negative influences. Moreover, the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development.

Rule 19 aims at restricting institutionalization in two regards: in quantity ("last resort") and in time ("minimum necessary period"). Rule 19 reflects one of the basic guiding principles of resolution 4 of the Sixth United Nations Congress: a juvenile offender should not be incarcerated unless there is no other appropriate response. The rule, therefore, makes the appeal that if a juvenile must be institutionalized, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements for confinement and bearing in mind the differences in kinds of offenders, offences and institutions. In fact, priority should be given to "open" over "closed" institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.

20. Avoidance of unnecessary delay

- 20.1 Each case shall from the outset be handled expeditiously, without any unnecessary delay.

Commentary

The speedy conduct of formal procedures in juvenile cases is a paramount concern.

Otherwise whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically.

21. Records

- 21.1 Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.
- 21.2 Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

Commentary

The rule attempts to achieve a balance between conflicting interests connected with records or files: those of the police, prosecution and other authorities in improving control versus the interests of the juvenile offender. (See also rule 8.) "Other duly authorized persons" would generally include, among others, researchers.

22. Need for professionalism and training

- 22.1 Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.
- 22.2 Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.

Commentary

The authorities competent for disposition may be persons with very different backgrounds (magistrates in the United Kingdom of Great Britain and Northern Ireland and in regions influenced by the common law system; legally trained judges in countries using Roman law and in regions influenced by them; and elsewhere elected or appointed laymen or jurists, members of community-based boards, etc.). For all these authorities, a minimum train-

ing in law, sociology, psychology, criminology and behavioural sciences would be required. This is considered as important as the organizational specialization and independence of the competent authority.

For social workers and probation officers, it might not be feasible to require professional specialization as a prerequisite for taking over any function dealing with juvenile offenders. Thus, professional on-the-job instruction would be minimum qualifications.

Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice. Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfil their functions.

All political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment and advancement of juvenile justice personnel should be avoided in order to achieve impartiality in the administration of juvenile justice. This was recommended by the Sixth Congress. Furthermore, the Sixth Congress called on Member States to ensure the fair and equal treatment of women as criminal justice personnel and recommended that special measures should be taken to recruit, train and facilitate the advancement of female personnel in juvenile justice administration.

PART FOUR.

Non-institutional treatment

23. Effective implementation of disposition

- 23.1 Appropriate provisions shall be made for the implementation of orders of the competent authority, as referred to in rule 14.1 above, by that authority itself or by some other authority as circumstances may require.
- 23.2 Such provisions shall include the power to modify the orders as the competent authority may deem necessary from time to time, provided that such modification shall be determined in accordance with the principles contained in these Rules.

Commentary

Disposition in juvenile cases, more so than in adult cases, tends to influence the offender's life for a long period of time.

Thus, it is important that the competent authority or an independent body (parole board, probation office, youth welfare institutions or others) with qualifications equal to those of the competent authority that originally disposed of the case should monitor the implementation of the disposition. In some countries, a *juge de l'exécution des peines* has been installed for this purpose.

The composition, powers and functions of the authority must be flexible; they are described in general terms in rule 23 in order to ensure wide acceptability.

24. Provision of needed assistance

24.1 Efforts shall be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process.

Commentary

The promotion of the well-being of the juvenile is of paramount consideration. Thus, rule 24 emphasizes the importance of providing requisite facilities, services and other necessary assistance as may further the best interests of the juvenile throughout the rehabilitative process.

25. Mobilization of volunteers and other community services

25.1 Volunteers, voluntary organizations, local institutions and other community resources shall be called upon to contribute effectively to the rehabilitation of the juvenile in a community setting and, as far as possible, within the family unit.

Commentary

This rule reflects the need for a rehabilitative orientation of all work with juvenile offenders. Co-operation with the community is indispensable if the directives of the competent authority are to be carried out effectively. Volunteers and voluntary services, in particular, have proved to be valuable resources but are at present underutilized. In some instances, the co-operation of ex-offenders (including ex-addicts) can be of considerable assistance.

Rule 25 emanates from the principles laid down in rules 1.1 to 1.6 and follows the relevant provisions of the International Covenant on Civil and Political Rights.

PART FIVE.

Institutional treatment

26. Objectives of institutional treatment

26.1 The objective of training and treatment of juveniles placed 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.

26.2 Juveniles 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.

26.3 Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

26.4 Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.

26.5 In the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.

26.6 Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

Commentary

The objectives of institutional treatment as stipulated in rules 26.1 and 26.2 would be acceptable to any system and culture. However, they have not yet been attained everywhere, and much more has to be done in this respect.

Medical and psychological assistance, in particular, are extremely important for institutionalized drug addicts, violent and mentally ill young persons.

The avoidance of negative influences through adult offenders and the safeguarding of the well-being of juveniles in an institutional setting, as stipulated in rule 26.3, are in line with one of the basic guiding principles of the Rules, as set out by the Sixth Congress in its resolution 4. The rule does not prevent States from taking other measures against the negative influences of adult offenders, which are at least as effective as the measures mentioned in the rule. (See also rule 13.4.)

Rule 26.4 addresses the fact that female offenders normally receive less attention than their male counterparts, as pointed out by the Sixth Congress. In particular, resolution 9 of the Sixth Congress calls for the fair treatment of female offenders at every stage of criminal justice processes and for special attention to their particular problems and needs while in custody. Moreover, this rule should also be considered in the light of the Caracas Declaration of the Sixth Congress, which, *inter alia*, calls for equal treatment in criminal justice administration, and against the background of the Declaration on the Elimination of Discrimination against Women and the Convention on the Elimination of All Forms of Discrimination against Women.

The right of access (rule 26.5) follows from the provisions of rules 7.1, 10.1, 15.2 and 18.2. Inter-ministerial and inter-departmental co-operation (rule 26.6) are of particular importance in the interest of generally enhancing the quality of institutional treatment and training.

27. *Application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations*

- 27.1 The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.
- 27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

Commentary

The Standard Minimum Rules for the Treatment of Prisoners were among the first instruments of this kind to be promul-

gated by the United Nations. It is generally agreed that they have had a world-wide impact. Although there are still countries where implementation is more an aspiration than a fact, those Standard Minimum Rules continue to be an important influence in the humane and equitable administration of correctional institutions.

Some essential protections covering juvenile offenders in institutions are contained in the Standard Minimum Rules for the Treatment of Prisoners (accommodation, architecture, bedding, clothing, complaints and requests, contact with the outside world, food, medical care, religious service, separation of ages, staffing, work, etc.) as are provisions concerning punishment and discipline, and restraint for dangerous offenders. It would not be appropriate to modify those Standard Minimum Rules according to the particular characteristics of institutions for juvenile offenders within the scope of the Standard Minimum Rules for the Administration of Juvenile Justice.

Rule 27 focuses on the necessary requirements for juveniles in institutions (rule 27.1) as well as on the varying needs specific to their age, sex and personality (rule 27.2). Thus, the objectives and content of the rule interrelates to the relevant provisions of the Standard Minimum Rules for the Treatment of Prisoners.

28. *Frequent and early recourse to conditional release*

- 28.1 Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.
- 28.2 Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support by the community.

Commentary

The power to order conditional release may rest with the competent authority, as mentioned in rule 14.1, or with some other authority. In view of this, it is adequate to refer here to the "appropriate" rather than to the "competent" authority.

Circumstances permitting, conditional release shall be preferred to serving a full sentence. Upon evidence of satisfactory progress towards rehabilitation, even offenders who had been deemed dangerous at the time of their institutionalization can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment

of the requirements specified by the relevant authorities for a period of time established in the decision, for example relating to "good behaviour" of the offender, attendance in community programmes, residence in half-way houses, etc.

In the case of offenders conditionally released from an institution, assistance and supervision by a probation or other officer (particularly where probation has not yet been adopted) should be provided and community support should be encouraged.

29. *Semi-institutional arrangements*

- 29.1 Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

Commentary

The importance of care following a period of institutionalization should not be underestimated. This rule emphasizes the necessity of forming a net of semi-institutional arrangements.

This rule also emphasizes the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering the community and to provide guidance and structural support as an important step towards successful reintegration into society.

PART SIX.

Research, planning, policy formulation and evaluation

30. *Research as a basis for planning, policy formulation and evaluation*

- 30.1 Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.
- 30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.
- 30.3 Efforts shall be made to establish a regular evaluative research mecha-

nism built into the system of juvenile justice administration and to collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the administration.

- 30.4 The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

Commentary

The utilization of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is especially important in juvenile justice. With rapid and often drastic changes in the life-styles of the young and in the forms and dimensions of juvenile crime, the societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.

Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The rule draws particular attention to the need for regular review and evaluation of existing programmes and measures and for planning within the broader context of overall development objectives.

A constant appraisal of the needs of juveniles, as well as the trends and problems of delinquency, is a prerequisite for improving the methods of formulating appropriate policies and establishing adequate interventions, at both formal and informal levels. In this context, research by independent persons and bodies should be facilitated by responsible agencies, and it may be valuable to obtain and to take into account the views of juveniles themselves, not only those who come into contact with the system.

The process of planning must particularly emphasize a more effective and equitable system for the delivery of necessary services. Towards that end, there should be a comprehensive and regular assessment of the wide-ranging, particular needs and problems of juveniles and an identification of clear-cut priorities. In that connection, there should also be a co-ordination in the use of existing resources, including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programmes.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty
Adopted by General Assembly resolution 45/113 of 14 December 1990

I. Fundamental Perspectives

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.

2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.

3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

4. The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.

6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right

to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.

8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community.

9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that are more conducive to ensuring the rights, care and protection of juveniles, children and all young persons.

10. In the event that the practical application of particular Rules contained in sections II to V, inclusive, presents any conflict with the Rules contained in the present section, compliance with the latter shall be regarded as the predominant requirement.

II. Scope and Application of the Rules

11. For the purposes of the Rules, the following definitions should apply:

(a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

12. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

14. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

15. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Sections I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and section III applies specifically to juveniles under arrest or awaiting trial.

16. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. Juveniles under Arrest or Awaiting Trial

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;

(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;

(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

IV. The Management of Juvenile Facilities

A. Records

19. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20. No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

B. Admission, registration, movement and transfer

21. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

(a) Information on the identity of the juvenile;

(b) The fact of and reasons for commitment and the authority therefor;

(c) The day and hour of admission, transfer and release;

(d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;

(e) Details of known physical and mental health problems, including drug and alcohol abuse.

22. The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

C. Classification and placement

27. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

30. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

D. Physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

32. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

36. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

40. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

43. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

44. All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facility.

F. Recreation

47. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

48. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

H. Medical care

49. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

51. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

54. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testers in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

I. Notification of illness, injury and death

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

58. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative. J. Contacts with the wider community

59. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

60. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

61. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

62. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

K. Limitations of physical restraint and the use of force

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64 below.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

L. Disciplinary procedures

66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

68. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

- (a) Conduct constituting a disciplinary offence;
- (b) Type and duration of disciplinary sanctions that may be inflicted;
- (c) The authority competent to impose such sanctions;
- (d) The authority competent to consider appeals.

69. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

70. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defence, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

71. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

M. Inspection and complaints

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

N. Return to the community

79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

V. Personnel

81. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance cooperation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

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**OFFICE OF THE SUPERINTENDENT
OBSERVATION HOME FOR BOYS-II
SEWA KUTIR COMPLEX, KINGSWAY CAMP, DELHI- 110009**

<i>SL.No.</i>	<i>Name of the staff</i>	<i>Designation</i>	<i>Contract/ Permanent</i>	<i>Timing</i>
1	Mr. Rakesh Kumar Yadav	Welfare Officer	Permanent	9:30 A.M. to 5:00 P.M.
2	Mr. Pradeep Kumar	Welfare Officer	Contract	11Am to 7:00 P.M.
3	Mr. Nishi Kant Dubey	Welfare Officer	Contract	8:00 A.M. to 4:00 P.M.
4	Mr. Vineet Kumar Singh	Welfare Officer	Contract	8:00 A.M. to 4:00 P.M.
5	Mr. Adeash Kumar	Welfare Officer	Contract	12:00 P.M. to 8:00 P.M.
6	Mr. Jai Prakesh	Welfare Officer	Contract	10. Am to 6.00 P.M.
7	Mr. Manish Rana	House Father	Contract	6:00 A.M. to 2:00 P.M.
8	Mr. Sachin Kumar Thakur	House Father	Contract	6:00 P.M. to 2:00 A.M.
9	Mr. Manoj Panday	House Father	Contract	2:00 P.M. to 10:00 P.M.
10	Mr. Vineet Kumar	House Father	Contract	2:00 P.M. to 10:00 P.M.
11	Mr. Shivraj	House Father	Contract	10.Pm to 6.00Am
12	Ms. Vimlesh	House Mother	Permanent	9.30 Am to 5.00Pm
13	Mr. Mahender Prasad	Care Taker	Permanent	6.00 A.M. to 2:00 P.M.
14	Mr. Khushal	Care Taker	Permanent	6.00 A.M. to 2:00 P.M.
15	Mr. Suresh Goyal	Care Taker	Permanent	2.00Pm. to 10 P.M.
16	Mr. Rakesh Kumar	Care Taker	Contract	2.00 P.M. to 10 P.M.
17	Mr. Pradeep Kumar	Care Taker	Contract	2.00 P.M. to 10 P.M.
18	Mr. Rajender Kumar	Care Taker	Permanent	10.00P.M. to 6:00 A.M.
19	Mr. Hari Shanker	Care Taker	Permanent	10.00P.M. to 6:00 A.M.
20	Mr. Jaspal	Cook	Permanent	6 A.M. to 2:00 P.M.

21	Ms.Mohini	Cook	Permanent	12.00P.M. to 8:00 P.M.
22	Ms.Sumitra	Cook	Contract	12.00 A.M. to 8:00 P.M.
23	Mr.Bilochan	Cook	Permanent	12.00 A.M. to 8:00 P.M.
24	Mr.Roopash	Cook	Contract	2.00Pm to 10.00Pm
25	Mr.Rudra Prasad	Cook	Contract	10.00Pm to 6.00Am
26	Ms.Pushpa Saxsana	PTI	Permanent	9:30 A.M. to 5:30 P.M.
27	Mr.Vedi Ram	Basic Teacher	Permanent	9:30 A.M. to 5:00 P.M.
28	Mr.Kavar Singh	Craft Instructor	Permanent	9:30 A.M. to 5:30 P.M.
29	Mr.Dileep Kumar	Care Taker	Permanent	9:30 A.M. to 5:30 P.M.
30	Mr.Pankaj Kumar	LDC	Permanent	9:30 A.M. to 5:30 P.M.
31	Mr.Balender Kumar	Peon	Permanent	9:30 A.M. to 5:00 P.M.
32	Mr.Satyender	Staff Nurse	Contract	12.00P.M. to 8.00 P.M.
33	Mr.Kishnan Lal	Part time Doctor	Contract.	Part Time
34	Ms.Paramjeet	Staff Nurse	Contract	8.00 A.M. to 4.00 P.M.