

INTEGRATED CARE MANAGEMENT PROTOCOL

for Handling of CICL (Children in Conflict with the Law)
and for CAR (Children at Risk)



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TABLE OF CONTENTS

Content	Page
Introduction	
USING THIS PROTOCOL	4
Chapter One	
INITIAL CONTACT WITH THE CHILD	6
Chapter Two	
INTERVENTION PROGRAM & CUSTODY OF CICL WITHOUT DISCERNMENT	34
Chapter Three	
DIVERSION PROCEEDINGS, DIVERSION CONTRACT & DIVERSION PROGRAM	46
Chapter Four	
CHILD WHO VIOLATES ORDINANCES, LIGHT OFFENSES AND MISDEMEANORS	63
Chapter Five	
GENERAL CONDUCT OF DUTY BEARERS WHEN HANDLING CICL OR CAR	77

KEY TERMS USED

BCPC	Barangay Council for the Protection of Children
CAR	Children at Risk (or Child at Risk)
CICL	Children in conflict with the law (or Child in conflict with the law)
IRR	Implementing Rules and Regulations of RA 9344 as amended
LEO	Law enforcement officer (who may be from the barangay or the police)
LSWDO	Local social welfare and development officer
PAO	Public Attorney's Officer
PNP	Philippine National Police
PROTOCOL (or ICMP)	Integrated Care Management Protocol
RA 9344 as amended	Republic Act No. 9344 as amended by Republic Act No. 10630
WCPD	Women and Children Protection Desk

WHO will use this Integrated Care Management Protocol (the “Protocol”)?

This Integrated Care Management Protocol (the “Protocol”) will be used by the following duty bearers handling [1] children in conflict with the law (CICL) and [2] children at risk (CAR) for having violated ordinances or committed light offenses and misdemeanors:

- LEO (law enforcement officer) from the barangay
- LEO from the PNP
- LSWDO (local social welfare and development officer) or social worker
- Representatives of BCPC (Barangay Council for the Protection of Children)
- Health officers
- Lawyers from the PAO (Public Attorney’s Office)
- School representatives

WHAT is this Protocol?

This Protocol is a guide material to help all duty bearers understand the “big picture” when handling CICL (or children in conflict with the law) or CAR (or children at risk for having violated ordinances or committed light offenses and misdemeanors). It is primarily designed to support each duty bearer’s usage of flowcharts in handling CICL and CAR and to help them know what happens before, during and after handling a particular child.

This Protocol is not a substitute for the individual manuals of duty bearers and for the specific guidelines issued to them by their pertinent head departments. When performing the details of their specific functions, the following must also refer to the Manuals:

FOR THE...		REFER TO THE...
LEO from the police	→	PNP Manual
LEO from the barangay	→	Barangay Manual
LSWDO	→	Social Workers Manual

WHEN to use this Protocol?

This Protocol will be most useful when the duty bearer:

- is first learning how to implement Republic Act No. 9344 as amended and wants to understand in greater detail what the law says;
- needs further clarification in the usage of flowcharts for duty bearers;
- wants to better understand the interaction or points of coordination between and among duty bearers under the law;
- encounters peculiar circumstances that may not be clearly understood under the law and its implementing rules and regulations.

HOW to use this Protocol?

This Protocol must be used together with the Flowcharts for duty bearers (See Annexes A to D of this Protocol). Certain duty bearers must also refer to their individual manuals [created for the Barangay, the Police and the Social Workers when handling CICL and CAR].

Most chapters are designed in a sequence that follows the flowcharts for duty bearers. Key features of each flowchart are visually captured in each chapter for easier cross reference.

Marginal notes and tabs are found at the right side of each page to highlight points of coordination and interaction between or among duty bearers.

WHY is this Integrated Care Management Protocol (the “Protocol”) created?

When handling a CICL or a CAR, two things are found to be important: (1) a common understanding among all duty bearers of how the entire process of handling the child happens; and (2) efficient coordination among duty bearers.

This Protocol was created to give all duty bearers have a common reference when understanding the flowcharts for handling CICL and CAR. Since all duty bearers have different mandates when performing their functions, a Protocol will help each duty bearer also understand the roles of all other duty bearers in the entire process of handling CICL and CAR from initial contact up to intervention or diversion. The Protocol will also enable each duty bearer to know when they need to play a role in assisting other duty bearers in performing their respective roles.

Chapter One INITIAL CONTACT WITH CHILD

Guide to taking a CICL into custody

This chapter will be used when dealing with children in conflict with the law (CICL) or children who are alleged as, accused of, or adjudged as, having committed an offense under Philippine laws.

If the child's violation involves a local ordinance concerning juvenile status offenses and light offenses and misdemeanors against public order or safety,¹ do not use this chapter. Instead, use Chapter Four covering children at risk.

REMEMBER:

A Child at Risk (CAR) who violated an ordinance or committed a light offense or misdemeanor is not a CICL. Chapter One (and Chapters Two to Three) will only be used when handling CICL.

Who are the duty bearers mainly using this ICMP chapter?

This chapter will be principally used by **law enforcement officers (LEO) from either the barangay or the police** who may have initial contact with a CICL. These law enforcement officers² may include:



Punong barangay and other elected barangay officials
Barangay tanod
BCPC members

The following must also be familiar with this chapter as the LEO shall notify them and seek their cooperation/assistance when dealing with the CICL soon after the initial contact with the child:



LSWDO



Local health officer



PAO



School personnel

Most particularly, the **LSWDO** must be familiar with the points of the process where his/her participation or assistance will be required after initial contact with the child.

¹ local ordinances concerning juvenile status offenses; light offenses and misdemeanors against public order or safety; or offenses not applicable to children and exempt them from prosecution.

² Under Republic Act No. 9344, a "Law Enforcement Officer" refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including a barangay tanod. Under Article 152 of the Revised Penal Code, a 'person in authority' includes 'any person directly vested with jurisdiction' such as the barangay captain while a person 'who, by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property' (such the police, barangay leader and any person who comes to the aid of persons in authority) shall be deemed an agent of a person in authority.

What flowchart must be used by the LEO after taking custody of the CICL?

Once a CICL is taken into custody for violating an offense, the LEO must use the steps visually detailed in **Flowchart A**. This chapter will be used with Flowchart A (Annex A of this Protocol).

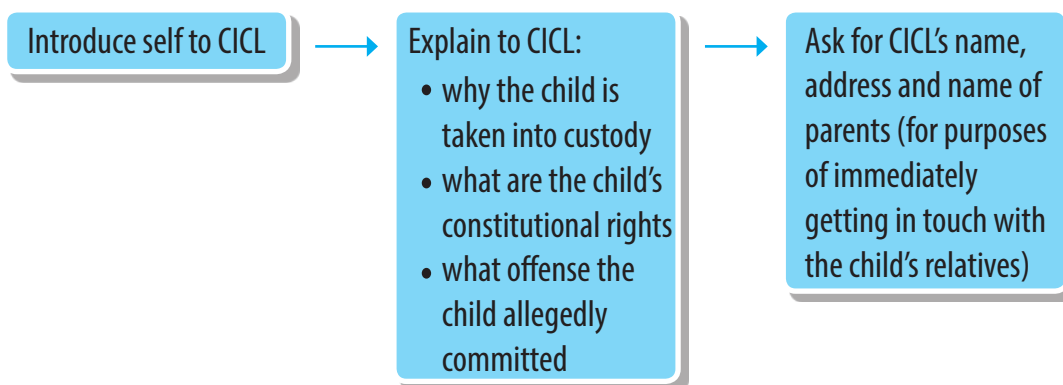
1

Initial contact: when child is taken into custody

The person who may have initial contact with the child is the LEO or a private person. If a private person has initial contact, the child will likely be brought to the barangay or police station in which case the LEO (from either barangay or police) who will receive the CICL will have to still follow the procedures as outlined below.

What must the LEO do when taking custody of (having initial contact with) a CICL?

The LEO taking custody of the CICL shall immediately:



For a detailed procedure in handling a CICL upon taking custody, refer to the PNP Manual or the Barangay Manual.

What if the CICL was referred by a private person to the LEO?

The LEO must ask the private person to fill out a complaint form that will explain the details of the alleged offense committed by the CICL. The LEO may also interview the private person who brought the child to custody for purposes of making the investigation report on the case of the child. However, the interview of the private person must be done separately from the child.



What if the CICL is apprehended in school?

Schools follow guidelines issued by the Department of Education (DepEd) when handling cases involving CICL. The appropriate school personnel will also report the matter to the LEO (either barangay or WCPD) for the proper handling of the case of the child. The LEO must obtain the information already available from the school to minimize the need to again interview the child.

How does the LEO identify him/herself to the CICL after initial contact?

The LEO, when introducing him/herself to the CICL, must:



Use a child-friendly approach (e.g. introduce self as “kuya” or “ate”)



Show proper identification such as an identification card, name plate or name badge to the child

Is there any difference in how to treat the CICL if custody is taken by a LEO from the barangay or by a LEO from the police?

Whether initial contact is by the LEO from the barangay or from the police, there should be no difference in how to treat or handle the child. The LEO from either barangay or police must follow all the procedures as mentioned in this chapter and as detailed in their respective manuals.

Explaining to the child: why custody is taken, what offense, CICL rights —

The LEO shall explain in simple and understandable language why the child is being taken into custody and for what offense. Also, the LEO must inform the child that:

The LEO must inform the child that:

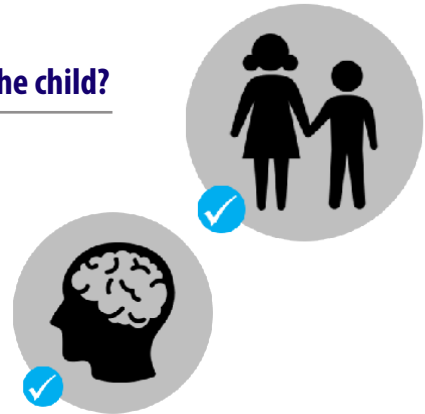
- ▶ The CICL has the right to remain silent
- ▶ The CICL has a right to have independent and competent counsel of choice
- ▶ The CICL can have a lawyer provided by the government if he/she cannot afford the services of a lawyer
- ▶ Whatever the CICL says may be used against him/her in any future proceedings before the court

What acts are strictly prohibited upon taking custody of child?

1. use of instruments of force or restraint
2. unnecessary violence and force
3. vulgar language
4. sexual advances on child
5. torture

Are there other factors to be considered upon taking custody of the child?

The LEO and the other personnel from the barangay or police station taking custody of the child must also consider the physical and psychosocial needs of said child (e.g., Is the child hungry?; Is the child afraid?) for proper handling.



What if the LEO needs to conduct a search on the child?

When circumstances dictate the conduct of a search (e.g., when violence and weapons were used), the LEO must conduct the search of the child in a friendly, non-degrading and gender-sensitive manner. A female child may only be searched by a female LEO.

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:
Rules 25 and 26

Where to bring the child immediately after apprehension?

IF THE PERSON WHO APPREHENDED THE CICAL IS A...	Barangay official, tanod, or BCPC member	...BRING THE CICAL TO	Barangay station for initial intake (SEE: Barangay Manual for additional details)
	Police Officer		Nearest police station for intake and initial investigation (SEE: PNP Manual for additional details)

However, if at the point of initial contact the LEO from the barangay determines that the offense allegedly committed by the CICL is serious or that circumstances require urgent assistance of the police (e.g., extreme violence), the LEO can bring the child directly to the police station.

2

People to immediately contact or inform upon taking of custody

After taking custody of the CICL, what must the LEO do first before formally conducting an intake interview on the child?

- a. Register child as a CICL in the CICL logbook
- b. Inform relevant persons and duty bearers as listed under the law

A. REGISTER



What key data or information must be first obtained from the CICL for purposes of registration in the CICL Logbook?

- Name of child
- Address of child
- Date and time of intake
- Offense allegedly committed
- Name of parents/guardians and contact details

■ Upon getting the name of the CICL's parents/guardians...

...the LEO must immediately contact them to be informed of the incident and to be advised to go to the place of incident or the barangay station. Ensure that the parents/guardian are contacted immediately after the child is taken custody and no later than eight hours after the custody is taken.

■ What if the child is unable to communicate or refuses to give his/her name?

Gather the information needed for registration from other people who may be present and immediately contact the social worker to obtain assistance in communicating with the child.

REMEMBER:

Contact the parents/guardians of the CICL immediately after the child's apprehension, and no later than eight hours after taking the child into custody.

NOTE:

The CICL Logbook is different from the logbook for children at risk (CAR). Separate logbooks for CICL and for CAR must be maintained by the barangay.

Do not register CICL information in other logbooks covering other cases involving children.

■ **Who can access the information inside the CICAL Logbook?**

The CICAL Logbook is confidential and only the following can access information in it:

- LEO who took custody of the child
- Punong Barangay and duly designated barangay officials under the BCPC (for CICAL logbook in barangay)
- Authorized members of the WCPD (for CICAL logbook at the WCPD)
- LSWDO
- Juvenile Justice and Welfare Council

■ **Can the CICAL Logbook be the same as the logbook for other children taken into custody (e.g., children at risk)?**

No. Separate logbooks for CICAL and children-at-risk must be maintained by the barangay and the police.

B. INFORM



Who are the people who must be informed of the fact that the CICAL is taken into custody?

Within eight hours from the time of initial contact, the LEO must inform the following persons of the fact that a CICAL was taken into custody:

1. The parents/guardian
2. LSWDO
3. PAO (or counsel for the child)
4. Local health officer or any other medical professional available



INFORMING THE PARENTS/GUARDIAN

■ **What is the purpose of contacting the parents/guardian within eight hours from initial contact?**

The law requires that the LEO immediately informs the parents/guardian to:

- ensure that the CICAL is assisted properly when the initial interview is conducted;
- ensure that physical custody may be immediately given to the parents in case the LEO finds during the interview that there are no conditions requiring custody to be temporarily given to the LSWDO;

- give the parents/guardian an opportunity to contact a legal counsel who may represent the CICL.

■ What will the LEO tell the parents/guardian of the child?



The LEO must inform the parents/guardian (or any known relative of the child) of the fact that the child is taken into custody for an offense and request them to come over to the place (barangay or police station) where the child is held in custody.



The LEO must also advise the parents to bring a copy of the child's birth certificate or any official document showing the CICL's age.



The LEO can also advise the parents/guardian to inform their counsel of choice to represent the child and said lawyer may also go to the barangay or police station to assist the child.

■ What if the child is unable to communicate who is his/her parent or guardian?

The LEO can ask other persons who may have the needed information such as neighbors, friends, personnel from the school where the child is/was enrolled as well as officials and volunteers from the barangay where the child resides.

The LEO can also ask the assistance of the LSWDO or any interpreter or medical health professional to communicate with the child and obtain the needed details regarding his/her parents or guardian.

■ What if the LEO finds out that the child does not have any parent or guardian?

LEO must note in the intake form that the child may be "neglected" or "abandoned" and immediately inform the LSWDO of the fact that the CICL does not have any parent or guardian taking care of him/her.



INFORMING THE LSWDO

■ What is the purpose of contacting the LSWDO within eight hours?

The law requires that the LSWDO is immediately informed of the fact that a CICL is in custody in order to:

- have a professional (the LSWDO) who can competently assist the child when the initial interview is conducted;
- give the LSWDO sufficient time to make arrangements about the possibly temporary physical custody of the child soon after initial interview of the LEO is completed;
- prepare the LSWDO for the use of needed tools in assessing if the child acted with discernment at the time the offense was committed the child is at least 15 years and one day old; and
- notify the LSWDO that he/she has to prepare a social case study on the child.

■ What must the LEO tell the LSWDO?

Once able to contact the LSWDO, the LEO must advise said social worker that:

1. a CICL is in custody and the time when the child was taken into custody
2. the LSWDO is requested to come over to the barangay or police station to assist the child when intake and initial interview is done
3. the LSWDO is asked to come to the barangay or police station within eight hours from the time custody of the child was taken.

Also, the LEO must inform the LSWDO of any special circumstances concerning the child such as when:

- the parents/guardian of the child cannot be contacted or are not available
- the child has no known parents or guardian;
- the child is unable to talk or communicate properly, or to understand the language or dialect used by the LEO;
- there are indications that the CICL is neglected, abandoned or abused.

■ What if the LEO cannot contact the LSWDO within 8 hours?

If the LEO cannot contact the LSWDO within eight hours from initial contact, the LEO can get in touch with the following as an alternative:

- DSWD social worker (from the Regional Office or the National Office)
- Any available social worker who is connected with a private organization or any other national or local government unit



- Are there circumstances when the physical presence of the LSWDO is necessary while the LEO has custody of and interviewing the child?

The LEO may proceed in conducting the intake/interview of the CICL even if LSWDO is not yet around. However, the presence of the LSWDO is mandatory in the following cases:

- if at any time immediately after the CICL is taken into custody the child makes any statement referring to the crime/offense committed;
- if the CICL speaks a different language/dialect and cannot understand the language used by the LEO who is conducting the intake and no interpreter is available to assist in the conduct of intake;
- if the CICL refuses to talk or the LEO is unable to properly communicate with the child; or
- if the CICL has a disability that prevents proper communication and the appropriate professional (e.g. mental health professional) is not yet available.



INFORMING THE PAO

- What is the purpose of contacting the PAO within eight hours?

The law requires that the PAO is informed in order to have a legal professional who can:

- ensure that the child is adequately protected from making any incriminatory statement while being interviewed by the LEO;
- properly advise the CICL (and the parents) of the child's rights as a child in conflict of the law;
- also advise the LEO in properly determining the alleged offense of the child and the imposable penalty corresponding to that offense

- What must the LEO tell the PAO?



a CICL is in custody and the time when the child was taken into custody;



the alleged offense committed by the child; and



the PAO is requested to be available (either to receive calls or go to the barangay or police station) while the intake interview is being done

■ What if the LEO cannot contact the PAO?

If the LEO cannot contact the PAO within eight hours from initial contact, the LEO must note in the intake form that he/she:

- called the PAO but was not able to talk personally with a PAO lawyer and
- a message was left in the PAO lawyer's office.

As an alternative, if the child has no counsel of choice and the LEO believes that the presence of a lawyer is necessary, the LEO may opt to get in touch with any lawyer who may be able to give legal assistance (e.g., lawyer from a non-profit organization) while the child is in custody.

■ What if the PAO lawyer cannot be present during the initial interview? Are there circumstances when the physical presence of the PAO is necessary while the LEO has custody of and interviewing the child?

The LEO may proceed in conducting the intake/interview of the child even if the PAO is not around. However, the presence of the PAO (or any legal counsel) is mandatory if at any time immediately after the CICL is taken into custody the child makes any statement referring to the crime/offense committed.



BRINGING THE CHILD TO A MEDICAL/HEALTH OFFICER

After the child is taken into custody, the law requires that the child is immediately brought to the proper medical or health officer for a thorough physical and mental evaluation. Whenever medical treatment is required, steps shall be immediately undertaken to provide the same.

■ Who is the 'medical or health officer' contemplated by the law?

For the conduct of the physical and mental examination on the CICL, the LEO may bring the child to:

- any government clinic, health center or hospital where a medical or health officer may be available; or
- any private hospital or clinic where a duly-certified medical profession may be available

- Should the child still be subjected to a medical examination even if there are no visible physical injuries?
-

Yes, the submission of the CICL to a physical and mental examination within eight hours is required by law.

- What is the purpose of bringing the CICL to a medical/health officer?
-

The law requires that the CICL is taken to a medical or health officer for physical and mental examination for the purpose of:

- having an initial assessment if the alleged commission of the offense or if the fact of taking custody had any impact on the child's physical and mental condition;
- ensuring that the child gets adequate medical assistance or attention after having allegedly committed an offense and after being apprehended by the LEO; and
- protecting the LEO who took custody of the child of any future accusations of abuse or violence used against the child.

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:

Rule 26

REMEMBER:

Within eight hours from initial contact with the child, contact:

1. the CICL's parents/guardian
2. LSWDO
3. PAO (or counsel for the child)
4. local health officer or any other medical professional available.

Indicate in the Intake Form the reason for failing to contact any of the above persons within eight hours and the efforts taken to attempt contact.

When does the initial interview commence?

The initial interview starts from the time a LEO elicits from the child any information such as the child's name and personal circumstances.

Who may conduct the initial interview?

The initial interview may be conducted by the LEO who took custody of the child or the LEO who is designated in the barangay (e.g., BCPC member) or at the police station (e.g., WCPD officer) to interview the child.

What is the purpose of the initial interview?

Talking to the CICT during the intake process is primarily done only for the purpose of obtaining basic data and background details on the child such as the:

- a. CICT's name
- b. name of CICT's parents
- c. child's date of birth
- d. child's home address

Questions to the child must be limited to those that are necessary to fill out the Intake Form of the LEO.



What form should be used or filled out after taking custody of the child?

Barangay officials conducting the initial interview will use BCPC Form No. 1 (attached to the Barangay Manual). For the members of the WCPD conducting the initial interview, use Annex B of the PNP Manual.

What questions may be asked the CICT during the intake?



Only questions needed to fill out the intake forms must be asked. If there are pieces of information required in intake forms that may be provided by other persons (e.g., parents, teachers), the LEO may obtain these pieces of information from them

and not from the child anymore.

The LEO shall not compel the CICL to make any statement or provide any information that might incriminate the child.

Who may be present while the intake interview is being conducted on the CICL?

- LEO who took the child into custody or the LEO designated to interview the child
- Parents/guardians of the child
- LSWDO
- PAO or legal counsel chosen by the CICL or parents/guardian of the CICL
- Interpreter or mental health professional if his/her presence is necessary to assist the child in understanding what the LEO is saying and in communicating properly to the LEO.

The conduct of intake is confidential. All others not listed above may not be present unless permitted by the CICL and/or the child's parents/guardian.

How should the LEO conduct him/herself while conducting the intake of the CICL?

The person conducting the intake must:

- when talking to the CICL, use simple language or dialect that can be understood by the child
- not display or use instruments of force or restrain on the child
- not use violence, force or torture on the child
- not use vulgar language
- not make sexual advances on the child
- not harass or abuse the child



What if the child speaks a different language/dialect and cannot understand the language used by the LEO conducting the intake?

In this case, the LEO must get an interpreter who can assist in conducting the intake. The LEO may also seek the assistance of the social worker to ensure that communication with the child is done properly.

What if the child refuses to talk?

The LEO must seek the assistance of the social worker to ensure that communication with the child

is done properly. If the child has a disability, the assistance of the appropriate medical professional must be obtained in conducting the intake.

How does the LEO properly determine the age and date of birth of the child?

See item 5 below. (Page 22)

Other than basic personal circumstances of the child, is there anything else that the LEO must note?

The LEO, as part of the interview, must take note if there are indications that the child is

NEGLECTED ABANDONED ORPHANED or ABUSED

One clear indication that the child is such is if the parents or guardian of the child cannot be found.

4

Determining the Offense and Imposable Penalty

At the point of initial contact, the LEO takes a child into custody because the CICL allegedly committed a crime or offense. The LEO must take note in the Intake Form:

- A. The offense that became the basis for taking the child into custody; and
- B. The corresponding imposable penalty to that offense.

A. THE OFFENSE COMMITTED BY CICL



When conducting the intake of the CICL and recording information of the alleged offense of the CICL, the LEO has to indicate in the Intake Form:

- the offense committed;
- the date, time and place of the alleged offense committed;
- the LEO who took custody (name, office and contact number of the apprehending officer); and
- the record of previous offense/s or violation/s (whether pending or not) committed by the CICL if there is any.

■ What are some of the common offenses that cause a child to be a CICL?



Physical
Injuries



Rape



Robbery



Acts of
Lasciviousness



Violation of the
Dangerous Drugs Act



Theft



Malicious
Mischief

■ What must the LEO do to identify the crime/offense allegedly committed by the CICL?
Can the LEO ask the child some questions in order to determine the offense?

The LEO must conduct an initial investigation to properly identify the offense committed by the CICL. When possible, the LEO shall endeavor to obtain the needed information from persons who have information on the commission of the alleged offense (e.g., witnesses; the person who reported the offense) and preferably not from the child. The LEO can use as basis the Complaint Form filled out by the person who reported the CICL.

■ What must be done if a statement is made by the child with reference to the crime allegedly committed?

If at any time immediately after the CICL is taken into custody the child makes any statement referring to the crime/offense committed, the LEO must ensure that such statement is made in the presence of the:

- the PAO (or a legal counsel)
- the LSWDO, and
- a parent, guardian, relative or NGO representative.

All of the above persons must also sign any written statement that may be made by the CICL.



- If the LEO who had initial contact with the child is a barangay official, when must the LEO immediately refer the CICL's case to the Police?

The LEO (from the barangay) who took custody of the child is highly advised to immediately refer the CICL's case to the WCPD upon learning that the child is:

- being exploited by adults when the offense was committed
- a repeat offender
- above 15 years old and the penalty to the offense committed is more than six years; or
- committed a serious offense as listed below

The barangay must refer the CICL to the WCPD if the serious offense committed by the child is any of the following:

- | | |
|---|--|
| • Parricide; | • Rape; |
| • Murder; | • Carnapping where the driver or occupant is killed or raped; or |
| • Infanticide; | • Offenses under Republic Act No. 9165 (Comprehensive Dangerous Drugs Act) punishable by more than twelve (12) years of imprisonment |
| • Kidnapping and serious illegal detention where the victim is killed or raped; | |
| • Robbery with homicide or rape; | |
| • Destructive arson; | |

- Based on statistics, what offenses are often handled by the barangay without needing involvement from the police?

- Light Physical Injuries
- Malicious mischief
- Theft

- What must the LEO from the barangay do if he/she is having difficulty in identifying the correct offense allegedly committed by the child?

To properly determine what is the exact name of the offense allegedly committed by the child, the LEO from the barangay may seek advice or assistance from either the PAO, police, or the office of the prosecutor.

B. CORRESPONDING IMPOSABLE PENALTY



What is the purpose of determining not only the offense but also the impossible penalty for the offense?

The severity of the offense committed is often indicated by the degree of penalty imposed by law. By knowing the impossible penalty, the LEO and other duty bearers

will know how to treat the CICL moving forward.

The impossible penalty is most important to note if the LEO discovers that the child is above fifteen years old at the time the offense is committed. The penalty will determine who will handle the diversion for a CICL who is above 15 years old and is found to have acted with discernment.

■ **What if the LEO is unaware of the impossible penalty corresponding to the alleged offense committed?**

If the LEO is unaware or unsure of the impossible penalty corresponding to the alleged offense committed, the LEO may consult any of the following people to make a proper determination in filling out the intake form:

- PAO
- Prosecutor
- Any legal professional
- Police (in case the LEO is from the barangay)

■ **What if the child denies the commission of the offense?**

Even if the child refuses to admit any involvement in the alleged offense committed, the LEO must still indicate in the Intake Form the supposed crime or offense attributed to the CICL for purposes of completing the case record.

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:
Rules 26 and 27

5

Determining Age of the CICL

Who makes the determination of age of the CICL?

The age of the CICL shall be determined by the:

- LEO who took initial custody of the child; or
- barangay or police personnel who receives the CICL from the person who took initial custody of the child (also referred in this Protocol as LEO)

When must the LEO make the age determination?

The LEO must be able to make a determination of age within eight hours from the time the custody of the child is taken. Determining the age within eight hours (based on whatever evidence or basis is available) is necessary to be able to refer the case to the proper authority.

What are the important ages to note?

First, confirm if the person taken into custody is indeed a “child” or a person who is under the age of 18 years old.

Second, a careful determination of the exact age if the child says he/she is “15 years old”. The law gives different treatments to a child who at the time of the commission of the offense is “fifteen (15) years old or below” and is “above fifteen (15) years”.

Therefore a careful distinction must be made between a child who is 15 years old or below **AND** a child who is above 15 years old.

When is a child considered “fifteen (15) years old” and “above fifteen (15) years”?

The CICL may only be considered “fifteen (15) years old” if the day of the commission of the offense is the fifteenth anniversary of the child’s date of birth (or the CICL’s birthday).

If the child is at least fifteen (15) years and one (1) day old on the day of commission of offense, the CICL is already considered “above fifteen (15) years” old.

In determining the age of the CICL, if the child generally says he/she is “15 years old” it is best to determine the birthday of the CICL.

What can be made the basis for determining the age of the child?

The age of the CICL must be based first on the documents showing proof of the child’s age such as:

- child’s birth certificate
- child’s baptismal certificate
- school records
- medical or dental records

- travel papers
- other pertinent documents that may show age

What if the above documents are not available within eight hours from the time custody of the CICAL is taken?

If any of the above documents cannot be obtained or pending receipt of such documents, the LEO can use other measures to determine the age such as:

- (1) interviewing the child and obtaining information that indicate age (e.g., date of birth, grade level in school);
- (2) interviewing persons who may have knowledge of the age of the child (e.g., relatives, neighbors, teachers, classmates);
- (3) evaluating the physical appearance (e.g., height, built) of the child; and
- (4) obtaining other relevant evidence of age.

What if age cannot be determined with certainty within eight hours from initial contact?

There are situations when the LEO is unable to determine with certainty within eight hours from initial contact the age of the person taken into custody.

If documents indicating age are not yet available and the only way to (temporarily) determine age is by interviewing the child taken into custody, the LEO must give weight to what the child says is his/her age (even if the LEO has doubts based on the child's appearance). **In case of doubt as to the age of the child, the doubt shall be resolved in favor of the child's minority.**

Based on the child's representation, the LEO can make a provisional age determination for the purpose of knowing where to refer the CICAL's case within eight hours from initial contact. The LEO may still continue to look for additional evidence of age after the eight hours and inform subsequent duty bearers of any change in age determination once documents are obtained.

NOTE:

Write in the Intake Form the basis of age determination. In case of doubt as to the age of the child, the doubt shall be resolved in favor of the child's minority.

What must the LEO do after determining the age of the child to be 15 years old or below?

See Item 5.1 below. (Page 25)

What must the LEO do after determining the age of the child to be above 15 years old but below 18 years old?

See Item 5.2 below. (Page 27)

What if the victim or offended party contests the LEO's determination of the CICL's age?

If the offended party (or any person) believes that the alleged CICL is not a minor (or that the child is not 15 years or below), the LEO may advise the offended party to file before the Family Court a case in a summary proceeding for the determination of the child's age.³

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:
Rule 35

5.1

If the child is 15 years old or below

Again, the CICL is "fifteen (15) years old or below" if:

- the day of the commission of offense is the CICL's birthday (fifteenth anniversary of the child's date of birth) or
- if on the day of the commission of offense, the child is below 15 years of age.

³ But if a case has already been filed against the CICL and is pending in the Court, a person may file a motion to determine the age of the child in the same Court where the case is pending. Pending the hearing on the said motion, the proceedings on the main case shall be suspended. (Rule 35.d, IRR)

What must the LEO do after determining the age of the child to be 15 years old or below?

At this point, the LEO (and the LSWD0) must get **Flowchart B-1** and follow all steps and decision points detailed in said flowchart to be able to know:

- if the child will be released to the parents/guardian or another person
- if the child has to be submitted to voluntary or involuntary commitment
- what kind of intervention program the child will undergo

Use Flowchart B-1 (Annex B-1 of this Protocol) and refer to Chapter Two to better understand the protocol when dealing with a CICL who is 15 years old or below.

Should the LEO immediately release the child to the parents upon learning that the child is 15 years old or below at the time of commission of offense?

No. Before the LEO turns over physical custody to the parents/guardian, the LEO and the LSWD0 must first check if there are certain conditions or circumstances that should not allow release of the child's physical custody to the parents/guardian.

Who gets custody of the child who is found to be 15 years old or below?

See Item 7 below and also, refer to **Flowchart B-1** and **Chapter Two** (page 34) for guidance.

What if the victim or offended party contests the LEO's determination that the CICL is 15 years old or below?

If the offended party (or any person) believes that the child is not 15 years or below, the LEO may advise the offended party to file before the Family Court a case in a summary proceeding for the determination of the child's age. Meanwhile, the custody of the child will continue to be determined based on Flowchart B-1 and Chapter Two.

REMEMBER:

The custody of CICL who is 15 years old or below is not automatically given to the parents/guardians. Refer to Flowchart B-1 and Chapter Two to answer key questions first to determine if CICL will be released to the parents/guardians.

5.2

If the child is above 15 years old (Physical custody of child and Assessment of Discernment)

What must the LEO do after determining CICL age to be above 15 years old?

If the LEO finds that the CICL was above 15 years old at the time of the commission of the offense, the LEO:

- must immediately turn over the physical custody of the child to the LSWDO (for an assessment by the LSWDO if the child had discernment at the time of the commission of the offense); and
- wait for the LSWDO's initial assessment of presence or absence of the CICL's discernment at the time of the commission of the offense.

The initial investigation for a child who is above 15 years old is not yet complete without the LSWDO assessment if the CICL acted with or without discernment.

While waiting for the assessment of the LSWDO, what must the LEO do?

The LEO continues to handle the case file of the child and therefore may still continue with other aspects of the investigation (i.e., interviewing witnesses, gathering documents and evidence) if needed. This means that the LEO must still transfer the physical custody of the CICL (who is above 15 years old) to the LSWDO before the eight-hour period expires even if the investigation on the offense committed is not yet completed.

What is being determined by the LSWDO when assessing discernment?

The LSWDO assesses if the CICL had, at the time of the commission of the offense, the capacity to understand the difference between right and wrong, and its consequences.



How should the LSWDO assess discernment?

LSWDO must refer to the Social Workers Manual for the tools to be used in assessing discernment.



NOTE:

The person who will make an initial assessment if the child acted with or without discernment is the **LSWDO, not the LEO.**

**What is the period within which the LSWDO must complete his/her assessment of discernment?
And assessment will be given to?**

The LSWDO has seven working days to complete and submit the report bearing the initial assessment of whether the child acted with or without discernment. The LSWDO has to submit the report to the LEO (either barangay or police) handling the case of the child.

There are instances when the case of the child may be forwarded by the LEO to the prosecutor. Despite such development, the LSWDO must still submit to the LEO the discernment assessment report and may choose to also give a copy of the report to the prosecutor.

Why is it necessary to make an assessment if the CICL had discernment?

The initial assessment of discernment will determine if the CICL who is above 15 years old will either be:

- given an intervention program (if no discernment); OR
- undergoing diversion (if with discernment).

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:
Rules 37 and 38

What must the LEO do after receiving the LSWDO Report that the child above 15 years old acted with discernment at the time of the commission of the offense?

After receiving this LSWDO Report, the LEO completes the Initial Investigation and prepares to refer the CICL for diversion.

To know where to refer the case, the LEO must again look at the offense allegedly committed by the CICL and the corresponding imposable penalty to determine who is the authority who will handle diversion proceedings of the CICL (who is above 15 years old and acted with discernment at the time the offense was committed). **Go to Chapter Three of this Protocol.** (Page 46)

If the child committed:	LEO refers the CICL case to the following diversion authority	Flowchart to be used by diversion authority
an offense with a penalty of 6 yrs and below	Punong Barangay (diversion at the Katarungang Pambarangay level) OR	Flowchart C-1
	Police (diversion at the law enforcement level)	Flowchart C-2
a victimless offense	LSWDO / Social Worker (diversion at the LSWDO level)	Flowchart C-3

What will the LEO do after receiving the LSWDO Report that the child above 15 years old acted without discernment at the time of the commission of the offense?

At this point, the LEO (and the LSWDO) must get Flowchart B-2 (Annex B-2 of the Protocol) and follow all steps and decision points detailed in said flowchart to be able to know:

- if the child will be released to the parents/guardian or another person;
- if the child has to be submitted to voluntary or involuntary commitment; and
- what kind of intervention program the child will undergo

NOTE:

To know where to refer the case of a CICL who is above 15 years old and acted with discernment at the time the offense was committed, go to **Chapter Three** of this Protocol.

Should the LEO immediately release the child to the parents upon getting the LSWDO Report that the CICL who is above 15 years old acted without discernment at the time of offense?

No. Before the LEO turns over physical custody to the parents/guardian, the LEO and the LSWDO must first check if there are certain conditions or circumstances that should not allow release of the CICL's physical custody to the parents/guardian.

Get **Flowchart B-2** and review **Chapter Two** for guidance on what questions to answer before releasing the child to the parents or guardian.

Who gets custody of child who is above 15 years old acted without discernment at the time of offense?

NOTE:

To further understand the protocol when dealing with a CICL who is above 15 years old and acted without discernment at the time of the commission of offense (and who gets custody of the child), use [Flowchart B-2](#) and refer to [Chapter Two](#).

See Item 7 below and also, refer to **Flowchart B-2** and **Chapter Two** for guidance.

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:

Rule 38

7

Physical custody of child after initial contact with LEO

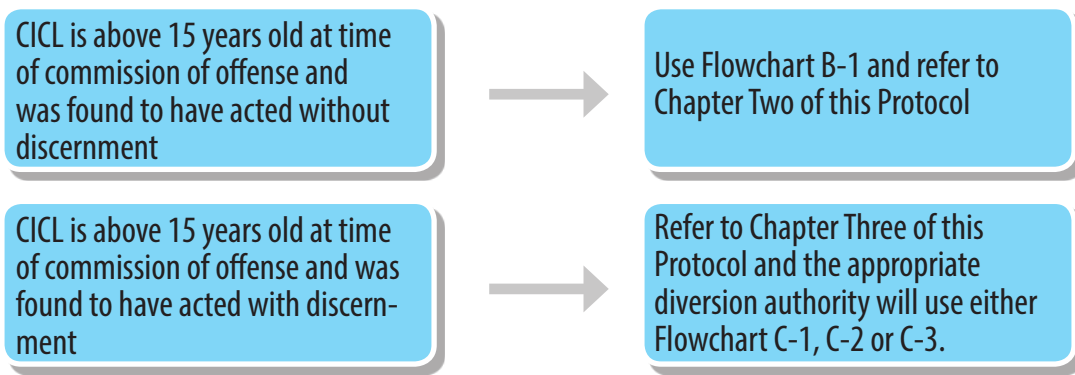
Within eight hours from initial contact with the CICL, where should the LEO turn over the physical custody of the child?

To determine where to turn over the physical custody, refer to the following flowcharts and chapters of this Protocol.

CICL is 15 years old or below at time of commission of offense



Use Flowchart B-1 and refer to Chapter Two of this Protocol



The above-listed flowcharts and corresponding chapters show the steps to be taken and considerations to be made before making the proper determination where to turn over the physical custody of the child.

NOTE:

Only after the above flowcharts and corresponding chapters are followed that the LEO may complete his/her report on the intake and initial investigation of the child.

Until when can the LEO keep physical custody of the child?

Whether or not the Initial Investigation is complete, the LEO must turn over the physical custody to the appropriate person (as found in the above listed Flowchart and Chapter) within eight hours from the time the custody of the child is taken.

8

Final notes in completing the LEO Report (intake and investigation) on the CICL

The LEO's Report on the intake of the child and on the initial investigation of the offense allegedly committed by the CICL may only be completed after following these flowcharts and corresponding chapters of this Protocol.

If the CICL is:	Flowchart to be used by diversion authority
CICL is 15 years old or below at time of commission of offense	Flowcharts A and B-1 and Chapter Two of this Protocol
CICL is above 15 years old at time of commission of offense and was found to have acted without discernment	Flowcharts A and B-2 and Chapter Two of this Protocol

CICL is above 15 years old at time of commission of offense and was found to have acted with discernment

Flowchart A and
Chapter Two of this Protocol

By way of review, what are the most important pieces of information that must be found in the LEO Report? And who will be using the LEO Report after completion of the intake and investigation?

The LEO Report must clearly indicate the information below as they are needed by the duty bearers who will next handle the CICL:

If CICL is:	LEO Report must include and clearly indicate:	LEO Report will be used by:
CICL is 15 years old or below at time of commission of offense	<p>Duly accomplished Intake Form / investigation report which must clearly state:</p> <ul style="list-style-type: none"> the age of the CICL basis for age determination the offense committed (with a notation if the offense is serious) if the child is a repeat offender who has previously undergone an intervention program <p>Attached Complaint Form filled out by a private person, if there is one</p>	LEO and LSWDO for purposes of determining the appropriate custody and intervention for the child
CICL is above 15 years old at time of commission of offense and was found to have acted without discernment	<p>Duly accomplished Intake Form / investigation report which must clearly state:</p> <ul style="list-style-type: none"> the age of the CICL basis for age determination the offense committed (with a notation if the offense is serious) if the child is a repeat offender who has previously undergone an intervention program <p>Attached Complaint Form filled out by a private person, if there is one</p> <p>Attached LSWDO-prepared report showing assessment that the CICL acted without discernment on the date of commission of offense</p>	LEO and LSWDO for purposes of determining the appropriate custody and intervention for the child
CICL is above 15 years old at time of commission of offense and was found to have acted with discernment	<p>Duly accomplished Intake Form / investigation report which must clearly state:</p> <ul style="list-style-type: none"> the age of the CICL basis for age determination the offense committed (with a notation if the 	The appropriate diversion authority (LEO from barangay, LEO from police or LSWDO) for purposes of determining if diversion is desirable for the child

	<p>offense is serious)</p> <ul style="list-style-type: none">• the imposable penalty corresponding to the alleged offense committed <p>Attached Complaint Form filled out by a private person, if there is one</p> <p>Attached LSWDO-prepared report showing assessment that the CICL acted with discernment on the date of commission of offense</p>	<p>OR the Prosecutor for purposes of proceeding with the case (in the event the imposable penalty for the child's alleged offense is above six years)</p>
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Chapter Two **INTERVENTION PROGRAM & CUSTODY OF CICL WITHOUT DISCERNMENT**

Guide for CICL who is 15 years old and below or who is above 15 years old but acted without discernment

This Chapter will be used only when the CICL qualifies for an intervention program. Read Chapter One first before using this Chapter.

A CICL qualifies for intervention in two instances with the following flowcharts to be used. (Also note where to start using this chapter.)

CICL who is:	Use Flowchart:	Start use of Chapter from:
A. 15 years old or below at the time of commission of offense	Flowchart B-1	Start from Item 1 of this Chapter (Page 35)
B. Above 15 years old but acted without discernment at the time of the commission of offense	Flowchart B-2	Start from Item 3 of this Chapter (Page 41)

Who will be using this chapter and the above flowcharts?

The LEO and the LSWDO.

What is the purpose of using Flowcharts B-1 or B-2 and this chapter?

To determine:

- what type of intervention program a child will undergo; and
- to whom will physical custody of the CICL be turned over.

1

Starting the use of Flowchart B

A. CICL IS 15 YEARS OLD OR BELOW AT THE TIME OF COMMISSION OF OFFENSE

- What conditions must be present before the LEO can use Flowchart B-1?

Before using Flowchart B-1, the LEO must double check the records to ensure that the CICL is 15 years old or below at the time of the commission of the offense.

- What are the key questions to ask after the CICL is determined to be 15 years old or below?

- “Is the child above 12 years old?” (Item 2 below)
- “Did the child commit a serious crime?” (Item 2.1 below)
- “Is the child a repeat offender and was previously subjected to an intervention program?” (See Item 2.2 below)
- “Is the child dependent, abandoned, neglected or abused?” (See Item 3 below)
- “Is the safety of the child in danger?” (See Item 4)

NOTE:

Answer all five questions to determine CUSTODY and appropriate INTERVENTION PROGRAM for the child.

- When must the above key questions be answered?

Ideally, answers to these key questions must be determined before the expiration of the eight-hour period from the time custody was taken by the LEO.

- Pending determination if the above conditions are existing and the eight-hour period of LEO custody has expired, who keeps physical custody of the child?

After the eight-hour period, the LSWDO will keep custody of the child pending determination of the presence or absence of the above conditions.

2

First key question: Is the child above 12 years old at the time of commission of offense?

If the CICL is above 12 years old (and 15 years old and below) at the time of commission of offense, the law enumerates certain conditions that prevent release of the child to the parents.

What will be the LEO's basis when determining if the CICL is above 12 years old?

The same documents or basis for age determination as indicated in Chapter One will be used.

What will the LEO do after determining if CICL is above 12 years old or not?

if CICL is above 12 years old	<p>LEO must further determine if:</p> <ul style="list-style-type: none">• CICL committed a serious offense (Key Question 2; go to Item 2.1)• CICL is a repeat offender who previously underwent an intervention program (Key Question 3; go to Item 2.1)• CICL is dependent, abandoned, neglected or abused (Key Question 4; go to Item 3)• Safety of CICL is in danger (Key Question 4; go to Item 3)
If CICL is 12 years old or below	<p>LEO must further determine if:</p> <ul style="list-style-type: none">• CICL is dependent, abandoned, neglected or abused (Key Question 4; go to Item 3)• Safety of CICL is in danger (Key Question 4; go to Item 3) <p>Skip Key Question 2 (Item 2.1) and Key Question 3 (Item 2.2)</p>

Can the CICL's custody be released to the parents after finding out that the child is 12 years old or below?

Not yet. The LEO must still determine if the CICL is dependent, abandoned, neglected or abused and if the safety of the child is in danger.

2.1

Second key question: Did the child (who is above 12 years old) commit a serious crime?

What are considered "serious crimes"?

- Parricide;
- Murder;
- Infanticide;
- Kidnapping;
- Serious illegal detention where the victim is killed or raped;
- Robbery with homicide or rape;
- Rape;
- Carnapping where the driver/occupant is killed or raped; or
- Offenses under the Comprehensive Dangerous Drugs Act of 2002 punishable by more than 12 years imprisonment

Who determines if the crime committed by the child is a serious crime?

This LEO, being the one who investigates what is the offense allegedly committed by the CICL and the corresponding imposable penalty, will be the one to determine if the CICL committed a serious crime as listed above.



If the LEO handling the case is a barangay official and he/she learns that the child committed a serious crime, should the barangay official continue to handle the case of said child?

Upon finding that the crime allegedly committed is serious, the LEO from the barangay must immediately refer the child to the WCPD.

NOTE:

The LEO from barangay must not handle the case of a CICL who allegedly committed a serious crime. The WCPD will handle this case.

What should the LEO do after determining the child who is above 12 years old (but is not above 15 years old) committed a serious crime?

The LEO must advise the LSWDO of this fact so the LSWDO can proceed in filing a petition for involuntary commitment of the CICL and can start taking steps toward the formulation of a center-based intervention program for the child.

The CICL who is above 12 years old (but not above 15 years old) committed a serious crime cannot be released to his/her parents or guardian.

Should the child be released to the parents/guardian after determining the CICL who is above 12 years old (but is not above 15 years old) did not commit a serious offense?

Not yet. The LEO together with LSWDO must still answer the third key question (if the child is a repeat offender and has previously undergone an intervention program). Proceed to Item 2.2 below.

Who determines if the crime committed by the child is a serious crime?

The CICL who is above 12 years old (and 15 years old and below) will be:

- placed in the Bahay Pag-Asa; and
- given a Center-Based Intervention Program



The child will be under the care and supervision of a special unit under the Bahay Pag-Asa called the Intensive Juvenile Intervention and Support Center (IJISC).

Who will formulate the Center-Based Intervention Program?

This intervention program for the CICL will be created within the IJISC pursuant to the guidelines used in the operation of a Bahay Pag-Asa.



Will stakeholders from the community still be involved in a Center-Based Intervention Program?

Yes. The IJISC of the Bahay Pag-Asa that is in charge of the CICL will still get the participation of the representatives from the BCPC, the schools and the health department in putting together, monitoring and implementing the intervention program for the CICL above 12 years old who committed a serious crime.

2.2

Third key question: Is the child (who is above 12 years old) a repeat offender and was previously subjected to an intervention program?

Who determines if the child who is above 12 years old (but not above 15 years old) at the time of offense is a repeat offender and was previously subjected to an intervention program?

This time, the LEO and LSWDO will jointly determine if the CICL is a repeat offender and was previously subjected to an intervention program. The LEO based on the records (of either the barangay or the WCPD) will know if the child is a repeat offender, while the LSWDO will be able to know if the child was previously subjected to an intervention program.

If the child who is above 12 years old is not a repeat offender and was not previously subjected to an intervention program, can the child be immediately released to the parents?

Not yet. The LSWDO must still determine if the child is dependent, abandoned, neglected or abused. (Key Question No. 4, See Item No. 3)

If the LEO handling the case is a barangay official and he/she learns that the child committed a repeat offense, should the barangay official continue to handle the case of said child?

If at any time after initial contact the LEO from the barangay and the LSWDO find that the child is a repeat offender who previously underwent an intervention program, the case of the CICL must be referred to the WCPD.

What happens after a finding that the child who is above 12 years old (but is not above 15 years old) is a repeat offender and was previously subjected to an intervention program?

The LSWDO will immediately convene an intervention conference where it will be further determined if it is in the best interest of the child to be placed in a youth care facility or to be released to the child's parents/guardian.

NOTE:

The LEO from barangay must not handle the case of a CICL who is a repeat offender and who previously underwent an intervention program. The WCPD will handle this case.

What will be the basis of the LSWDO in determining if it is in the child's best interest to be either placed in a youth care facility or to be released to the parents?

The LSWDO must refer to the Social Workers Manual to be guided accordingly of what are the indicators showing that it is in the best interest of the child to be placed in a youth care facility or to be released to the parents.

During the intervention conference, the LSWDO is encouraged to consider the input of other stakeholders (e.g., BCPC, school personnel) and concerned persons (e.g., offended party) in determining the best interest of the child.

Upon finding that it is in the child's best interest to be placed in a youth facility, what must the LSWDO do next?

The LSWDO must encourage the parents to have the CICL voluntarily committed to a youth facility. (Refer to Social Workers Manual to understand how to proceed in having the child voluntarily committed.)

If the parents do not agree to a voluntary commitment, the LSWDO must initiate the filing of a petition for involuntary commitment with the family court. The steps to be taken when filing a Petition for Involuntary Commitment are found in the Social Workers Manual.



Once the child is placed in a youth facility (either after a voluntary or involuntary commitment), what kind of intervention will be given to the CICL?

The CICL who is brought to a youth care facility will undergo a center-based intervention program.

Who will prepare and monitor the implementation of this center-based intervention program for the CICL?

The LSWDO who is handling the case of the child will convene an intervention conference where the activities to constitute the intervention program for the CICL will be defined. The cooperation of the community stakeholders (BCPC, school, health officers) will be solicited in the preparation of such program.

The monitoring of the center-based intervention program will be done by the youth facility where the child is placed.

If the LSWDO finds that it is in the best interest of the CICL who is a repeat offender to be released to the parents, what kind of intervention program will be given the child?

Upon a finding that it is in the best interest of the child not to be placed in a youth facility and must instead be released to the parents, the child will undergo an intensive community-based intervention program.

What is an intensive community-based intervention program?

Refer to the Social Workers Manual for a complete description and possible components of an intensive community-based intervention program.

Who will formulate the intensive community-based intervention program?

Participants in the intervention conference initiated at the community level will formulate the intensive community-based intervention program. Guidelines for its formulation are to be provided in the Social Workers Manual.

The LSWDO will determine who are the appropriate participants in an intervention conference where the intervention program for the child will be formulated. Among the possible participants are the BCPC representatives, school representatives, and representatives from existing youth and community organizations.

Who will implement and monitor the intensive community-based intervention program?

The LSWDO is in charge of implementing and monitoring the intervention program of the child in coordination with the BCPC, the school, SK or youth organizations and other existing support organizations and community volunteers.

3

Fourth key question: Is the child dependent, abandoned, neglected or abused?

When must the LSWDO make an assessment if a CICL is dependent, abandoned, neglected or abused?

The LSWDO will further assess if the CICL is dependent, abandoned, neglected or abused when:

1. The CICL is above 15 years old and found to have acted with discernment at the time of commission of the offense, or
2. The CICL is above 12 years old (and 15 years old and below) at the time of the commission of the offense but did not commit a serious crime or is not a repeat offender who underwent an intervention program.

Why is it essential to determine if the CICL is dependent, abandoned, neglected or abused?

A CICL who is dependent, abandoned, neglected or abused cannot be subjected to an ordinary intervention program based in a community. Such child must be subjected to either a center-based intervention program or a community-based intervention program.

What will be the basis of the LSWDO in determining if the CICL is dependent, abandoned, neglected or abused?

The LSWDO must consult the Social Workers Manual to know the necessary tools needed to make this determination.

If the LEO during the intake of the child identifies possible indicators that the child may be dependent, abandoned, neglected or abused, he/she must note such indicators or red flags in the intake form that will be included in the CICL's file.



NOTE:

Only the LSWDO can make the determination if a CICL is dependent, abandoned, neglected or abused.

What happens next if the LSWDO finds that the child is dependent, abandoned, neglected or abused?

The LSWDO will immediately convene an intervention conference where it will be further determined if it is in the best interest of the child to be placed in a youth care facility or to be released to the child's parents/guardian.

What will be the basis of the LSWDO in determining if in the best interest of the child to be either placed in a youth care facility or to be released to the parents?

The LSWDO must refer to the Social Workers Manual to be guided accordingly what are the indicators showing that it is in the best interest of the child to be placed in a youth care facility or to be released to the parents.



Upon finding that it is in the child's best interest to be placed in a facility, what must the LSWDO do next?

The LSWDO must encourage the parents to have the CICL be voluntarily committed to a youth facility. Reference to the Social Workers Manual will be made to understand how to proceed in having the child voluntarily committed.

If the parents do not agree to a voluntary commitment, the LSWDO must initiate the filing of a petition for involuntary commitment. The steps to be taken when filing a Petition for Involuntary Commitment are found in the Social Workers Manual.

Once the child is placed in a youth facility (either after a voluntary or involuntary commitment), what kind of intervention will be given to the CICL?

The CICL who is brought to a youth care facility will undergo a center-based intervention program.

Who will prepare and monitor the implementation of this center-based intervention program for the CICL?

The LSWDO who is handling the case of the child will convene an intervention conference where the activities to constitute the intervention program for the CICL will be defined. The cooperation of the community stakeholders (BCPC, school, health officers) will be solicited in the preparation of such program.

The monitoring of the center-based intervention program will be done by the youth facility where the child is placed.

What if the LSWDO finds that it is in the best interest of the CICL who is dependent, abandoned, neglected or abused to be released to the parents/guardians/relatives, what kind of intervention program will the child undergo?

Upon a finding that it is in the best interest of the child not to be placed in a youth facility and must instead be released to the parents, guardians or relatives, the child will undergo an intensive community-based intervention program.

What is an intensive community-based intervention program?

Refer to the Social Workers Manual for a complete description and possible components of an intensive community-based intervention program.

Who will formulate the intensive community-based intervention program?

Participants in the intervention conference initiated at the community level will formulate the intensive community-based intervention program. Guidelines for its formulation are to be provided in the Social Workers Manual.

The LSWDO will determine who are the appropriate participants in the intervention conference where the intervention program for the child will be formulated. Among the possible participants are the BCPC representatives, school representatives, and representatives from existing youth and community organizations.

Who will implement and monitor the intensive community-based intervention program?

The LSWDO is in charge of implementing and monitoring the intervention program of the child in coordination with the BCPC, the school, SK or youth organizations and other existing support organizations and community volunteers.



If the LSWDO finds that the CICL is not dependent, abandoned, neglected or abused, can the child already be released to the parents?

Not yet. The LSWDO, after consultation with the LEO, must also determine if the safety of the child is in danger if the CICL is returned to the community.

4

Fifth key question: Is the safety of the child in danger?

If the CICL's safety is in danger when returned immediately to the community, what must the LSWDO do?



The LSWDO must encourage the parents or guardian of the CICL to allow temporary custody of the child either with the DSWD or any NGO willing to take custody of the child. If the parents refuse to surrender temporary custody, the LSWDO must initiate the filing of a petition for involuntary commitment of the child.

The Social Workers Manual will guide the LSWDO on how to initiate the petition for involuntary commitment.

When may the custody of a CICL who is 15 years old or below or who is above 15 years old but without discernment be released to the parents?

It is only when none of the following conditions exists that the CICL may be released to his/her parents or guardian:

- the CICL is above 12 years old and committed a serious crime



REMEMBER:

The custody of CICL who is 15 years old or below or who is above 15 years old but acted without discernment is not automatically given to the parents or guardians. Answer the five key questions first to determine if CICL will be released to the parents/guardians.

- the CICL is above 12 years old and is a repeat offender who has previously undergone an intervention program
- the CICL is dependent, abandoned, neglected or abused
- the CICL's safety is in danger if released to the community

If none of the above circumstances are present, then the child may be released to the parents or guardian and the child will undergo a community intervention program.

In certain cases parents/guardians cannot get physical custody of the CICL who is 15 years old or who is above 15 years old, where will the custody of the CICL be given?

 CICL is...	 Physical custody after LEO
CICL is above 12 years old and committed a serious crime	LSWDO and later, at the Intensive Juvenile Intervention and Support Center (IJISC) of the 'Bahay Pag-Asa' where CICL will undergo a center-based intervention program
CICL is above 12 years old and is a repeat offender who has previously undergone an intervention program	LSWDO and later, a youth care facility where CICL will undergo a center-based intervention program. (Except: When LSWDO determines that it is in the best interest of the child that the CICL be released to the parents/guardians and be given a community-based intervention program.)
CICL is dependent, abandoned, neglected or abused	LSWDO and later, a youth care facility where CICL will undergo a center-based intervention program. (Except: When LSWDO determines that it is in the best interest of the child that the CICL be released to the parents/guardians and be given a community-based intervention program.)
Safety of CICL is in danger if released to the community	LSWDO and later, the DSWD or any NGO willing to take temporary custody of child.

REMEMBER:

Only the LSWDO or the social workers of the youth care facilities may conduct the Intervention Conference for a CICL who is 15 years old and below or who is above 15 years old but acted without discernment.

Chapter Three **DIVERSION PROCEEDINGS, DIVERSION CONTRACT & DIVERSION PROGRAM**

Guide in handling CICL above 15 years old with discernment

This Chapter will only be used when the CICL is referred to diversion because the child is above 15 years old and was assessed to have acted with discernment at the time the offense was committed.

There are four sections under this Chapter:

- A. Determining appropriateness of diversion
- B. Handling of Diversion Proceedings
- C. Formulation of a Diversion Contract
- D. Implementation of a Diversion Program

Use either Flowchart C-1, C-2 or C-3 (depending on who is the designated diversion authority) together with this Chapter.

Who are the duty bearers who will primarily use this Chapter and what corresponding flowchart?

This Chapter will be primarily used by duty bearers tasked under the law to handle diversion proceedings for CICL who are above 15 years old and acted with discernment at the time the offense was committed and:

Authority handling the diversion proceedings:		The child committed an offense that:		Flowchart used
Punong Barangay (diversion at the Katarungang Pambarangay level)	→	an offense with a penalty of 6 yrs and below	→	Flowchart C-1
Police (diversion at the law enforcement level)	→	an offense with a penalty of 6 yrs and below	→	Flowchart C-2
LSWDO / Social Worker (diversion at the LSWDO level)	→	a victimless offense	→	Flowchart C-3

A. DETERMINING APPROPRIATENESS OF DIVERSION

Before one starts the diversion proceedings, the duty bearer must:

a. have a copy of the file on the CICL containing:

1. the report of the LEO who conducted the intake and investigation of the CICL. This report indicates among others the:



personal circumstances of the child, particularly the CICL's age at the time the offense was committed;



offense committed by the CICL;



corresponding imposable penalty; and



attached documents such as the Complaint Form filled out by the private person who reported the child or who is the offended party.

2. AND the document bearing the LSWDO's assessment that the child acted with discernment.

b. AND determine if diversion is appropriate for the child after reviewing the above documents and consulting the LSWDO

The duty bearer⁴ must ensure that he/she is the diversion authority who is legally mandated to handle the diversion proceedings. Check the case file (the LEO Report) particularly the imposable penalty for the offense and see the table in the previous page to know who is the appropriate diversion authority.

■ Decision point: Is diversion appropriate and desirable?

What are the factors to consider?

When determining if diversion is appropriate and desirable, consider the following factors:

- a. Nature and circumstances of the offense charged;
- b. Frequency and severity of the act;

⁴The Prosecutor handling diversion proceedings will directly refer to the Prosecutors' Manual in handling CICL cases and all other pertinent guidelines issued by the Department of Justice. The Prosecutor handles the diversion proceedings when the diversion at the Katarungang Pambarangay / Police / Social Worker level did not succeed.

- c. Personal circumstances of the child (e.g. age, maturity, intelligence, educational attainment, etc.);
- d. Influence of the family and environment on the growth of the child;
- e. Reparation for the injury to the victim;
- f. Weight of the evidence against the child;
- g. Safety of the community; and
- h. Best interest and welfare of the child.

- If the LEO who had initial contact with the child is a barangay official, when must the LEO immediately refer the CICL's case to the Police?
-



If the authority tasked to handle diversion proceedings is the barangay or the police: Consult the LSWDO and determine the appropriateness of diversion for the child.

The recommendation of the LSWDO shall be considered in the determination of appropriateness and desirability of diversion particularly in considering the following factors:

- Personal circumstances of the child (e.g. age, maturity, intelligence, educational attainment, etc.);
- Influence of the family and environment on the growth of the child;
- Best interest and welfare of the child.



If the authority tasked to handle diversion proceedings is the LSWDO: Check the report prepared by the LEO and if deemed necessary, consult the LEO. The LEO report and his/her advice will help in better understanding the following factors:

- Nature and circumstances of the offense charged;
- Frequency and the severity of the act;
- Reparation for the injury to the victim;
- Weight of the evidence against the child;
- Safety of the community

- Does the diversion authority think that diversion is appropriate or desirable for the child?
-

NO

Diversion proceedings are deemed terminated and the diversion authority will issue the corresponding document certifying to such fact and forward the case records to the prosecutor for the latter to either attempt diversion or to proceed in filing the case against the child. (But if the diversion authority is the Punong Barangay, the case records must be forwarded to the WCPD for the latter to again attempt diversion) [Proceed to Item D below]

YES

The diversion authority must form the diversion committee and start conducting the diversion proceedings. [Proceed to Item B below]

B. HANDLING OF DIVERSION PROCEEDINGS

Once there is a determination that diversion is appropriate for the CICL, the diversion authority must constitute the diversion committee.

- What is the composition of the diversion committee?
-

The proposed members of the diversion committee are listed below.



Diversion authority (the diversion committee chairperson):

Punong Barangay

- LSWDO
- Barangay Kagawad
- Lupon Tagapamayapa member
- BCPC member
- Chief Tanod
- Member of Task Force on Child & Youth Development
- NGO Representative
- PTA President
- Representative of faith-based organization



Diversion authority (the diversion committee chairperson):

Police

- LSWDO
- BCPC member
- Member of Task Force on Child & Youth Development
- NGO Representative
- PTA President
- Representative of faith-based organization
- Lawyer from PAO



Diversion authority (the diversion committee chairperson):

Social Worker

The law does not propose the formation of a diversion committee. However, the social worker has the option to put together a diversion committee if he/she feels that will be in the best interest of the child once the diversion program is implemented.

Please note that the list above is not exclusive and the diversion authority has the option to propose additional members in the committee if necessary for the proper creation and implementation of a diversion program for the CICL.

For example, if the child is enrolled in a particular school (whether public or private), the diversion authority may invite the principal or guidance counselor of the school who may help achieve the objectives of the diversion proceedings or ensure the diversion program is effectively implemented. If the diversion authority finds the need to invite an additional member of the diversion committee, said authority must first ask permission from the CICL and the parents/guardian of the CICL to allow the participation of the additional member.

NOTE:

When formulating the diversion program, the diversion authority must ensure the full mobilization of all possible resources, which include the family, volunteers, schools and other community institutions.

■ What are the duties of the diversion committee?

The diversion committee shall:

- be responsible in convening the dialogue between the CICL, the child's parents/guardians, and the victim/s (and the victim's parents or guardians); and
- assist the diversion authority in identifying the appropriate programs for the CICL and the family and in implementing the diversion program. (Rule 46, IRR)

- Other than the proposed members of the diversion committee as listed above, who else may be present during diversion proceedings?

In addition to the selected members of the diversion committee, the



CICL;



the parents/guardian of the CICL; and



the victim/offended party

may be present in the diversion proceedings. If the victim/offended party is a minor, the parents of the latter may participate in the proceedings.

- What are the duties of the diversion authority?

The diversion authority has the responsibility to ensure that diversion proceedings are conducted in accordance with the goals and processes required under the law.

- Is it necessary for the diversion authority to be the facilitator of diversion proceedings?

The diversion authority is tasked to be the chairperson of the diversion proceedings. However, the task of facilitating the discussion / conference / mediation may be delegated to another member of the diversion committee provided the diversion authority remains responsible for anything that happens in the proceedings.

Examples:

- The BCPC may assist the Punong Barangay and any of the BCPC members may be designated to facilitate the conduct of diversion proceedings. (Rule 18.a(3), IRR)
- The diversion authority from the WCPD may ask the assistance of another diversion committee member (e.g., LSWDO) to facilitate discussions.

- What if the victim or offended party refuses to participate or cooperate in the diversion proceedings?

In this case, the diversion authority shall:

- ask the offended party what are the reasons for refusal to participate;
- ensure that the offended party understands the nature of case and the reason for the conduct of diversion and not of a court proceeding;

- specifically explain to the offended party the benefits of forgiveness and diversion, and the need to reform the CICL within the auspices of the community (instead of detention homes or rehabilitation centers) once the CICL expresses remorse and willingness to ask for forgiveness from the offended party;
- assure the offended party that the LSWDO, together with the local government and the community, will be responsible for reforming and monitoring the CICL through various diversion programs;
- explain to the offended party the possible consequences of non-participation in the proceedings.

If the offended party still decides not to participate in the diversion proceedings, the diversion authority will:

- refer the offended party to the appropriate WCPD officer who will explain how to file a civil case against the CICL for the payment of the civil liability; and
- then continue conducting the diversion proceedings.

■ Pending conduct of diversion proceedings, who will keep custody of the child?

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



However, if there are circumstances that permit the involuntary commitment of the child is necessitated, the child will be placed in the custody of the person or the facility sanctioned by the court.



■ What are aimed to be achieved when conducting diversion proceedings?

Diversion proceedings are conducted to primarily determine the:

- responsibility of the CICL; and
- the treatment of the CICL on the basis of the child's social, cultural, economic, psychological or educational background.

- To achieve the above aims, what must the diversion authority do?
-

The authority handling the diversion proceedings has the following duties:

- 1** Ensure the child understands the diversion proceedings where he/she is involved by first explaining to the CICA and his/her family the:
 - objective of the diversion proceedings (as described above);
 - value of diversion; and
 - consequence of not undergoing diversion
- 2** With respect to the offense, ask the CICA about the:
 - circumstances of the offense;
 - motives or purpose behind the offense; and
 - factors that led the child to commit the offense
- 3** Ask the CICA about some personal circumstances, including details of the child's:
 - parents and family;
 - peers; and
 - educational status
- 4** Make the CICA understand the:
 - consequences of his/her actions and
 - responsibilities corresponding to the child's actions
- 5** Ensure that the CICA:
 - understands and realizes his or her accountability;
 - feels remorse for his/her actions
 - is guided to take responsibility for repairing the harm done, in lieu of the filing a formal case in the Court

■ How will diversion proceedings be conducted?

Diversion proceedings may be conducted in any manner or method that uses the restorative justice approach. Some possible processes that may be used are:

- a. victim-offender mediation
- b. community and family group conferencing
- c. circle sentencing
- d. peacemaking circles
- e. reparative probation and community boards and panels
- f. any community accepted justice practices that embody restorative justice

The suggested specific procedures for handling diversion proceedings at each level may be found in the following:



• • •
Barangay Manual in Handling CICL
(for diversion at Katarungang Pambarangay Level)

PNP Manual in Handling CICL
(for diversion at Law Enforcement Level)

Social Workers Manual for the Handling of a CICL
(for diversion at LSWDO level)

The DSWD shall also issue rules / guidelines to be followed during the conduct of the Diversion Proceedings in order to protect the child from coercion, intimidation, harm, abuse, or other actions detrimental to the child's normal development.



■ Whatever mode/process is used by the diversion authority, are there minimum requirements of the law when handling diversion proceedings?

Yes, the authority conducting the diversion proceedings must ensure that:

- the proceedings are child-friendly and sensitive to the needs, welfare and the protection of the rights of CICL;
- the authority shall use language that is simple and understandable to the child in conflict with the law;

■ For how long may diversion proceedings run?

The diversion proceedings must be completed within 45 days from the date it started.



■ When are the diversion proceedings deemed terminated?

Diversion proceedings are deemed terminated when:

- a. Contract of Diversion is entered into
- b. the 45-day period expires without any agreement reached
- c. the CICL or the parents/guardian of the child do not consent to a diversion
- d. the diversion authority finds that diversion is not applicable or desirable (based on the factors earlier enumerated)

■ What if the parents/guardian of the CICL refuse to participate or cooperate in the diversion proceedings?

The diversion authority shall:

- ensure that the CICL and the parents/guardian understand the objective of the diversion proceedings, the value of diversion, and the consequence of not undergoing diversion
- ask the CICL and the parents/guardian what are the reasons for the refusal to cooperate or participate
- explain to the CICL and the parents/guardian the possible consequences of nonparticipation in the proceedings

If the parents/guardian of the CICL still decide not to participate in the diversion proceedings, the diversion is deemed terminated and the diversion authority:

- shall issue a corresponding document certifying to the fact that no agreement is reached because the CICL or his/her parents/guardian refuse to participate in the diversion proceedings;
- and then forward the CICL's case (together with the certification of failure of diversion) to the following:

If the parents/guardian does not cooperate or participate in the diversion proceedings at the:

The diversion authority will terminate the diversion proceedings and forward the case to:

Katarungang Pambarangay level
(under the Punong Barangay as diversion authority)



To the Police or the Prosecutor

Law enforcement level
(under the WCPD officer as diversion authority)



To the Prosecutor

LSWDO level
(under the social worker as diversion authority)



To the Prosecutor

C. FORMULATION OF A DIVERSION CONTRACT

The diversion contract will be formulated in the course of conduct of the diversion proceedings.

■ What is a necessary prerequisite before entering a contract of diversion?

A contract of diversion may be entered into only when the CICL voluntarily admits the commission of the offense.

■ What if the CICL or the parents/guardian of the child refuses to make a voluntary admission?

The diversion authority will endeavor to explain that the voluntary admission of the child during diversion proceedings:

- is only deemed a consent to undergo the Diversion Program and is not be considered an admission of guilt; and
- may not be used against the CICL in any way (such as in any future judicial, quasijudicial or administrative proceedings).⁵

⁵ Rule 52.b. Admission May Not be Used Against the Child. Any admission of the child shall not be used against the child in any subsequent judicial, quasi-judicial or administrative proceedings. Neither shall the admission be used against the child through denial of privileges and opportunities, discrimination in treatment, or imposition of any form of liability or punishment by reason of such admission.

■ What must a diversion contract contain?

A contract of diversion must contain the following:

- a. the individualized diversion program for the CICL
- b. stipulation of rights, responsibilities or accountabilities of the
 - CICL
 - parents/guardian of the CICL
 - offended party (when applicable)
- c. the voluntary admission of the CICL

■ What is a diversion program?



A Diversion Program refers to the program that the CICL is required to undergo after being found responsible for an offense, without resorting to formal court proceedings.

The Diversion Program, which must be individualized for each CICL, shall include adequate socio-cultural and psychological interventions and services for the child.

■ What factors must be particularly considered when formulating an individualized diversion program? [Rule 53.a]

The following factors are to be considered when formulating the Diversion Program during the diversion proceedings:

- the individual characteristics and peculiar circumstances of the CICL (including but not limited to the cultural, social, economic and religious circumstances of the child)
- the child's feelings of remorse for the offense committed
- the parents' or guardian's ability to guide and supervise the child
- the victim's view about the propriety of the measures to be imposed;
- the availability of community-based programs for the rehabilitation and reintegration of the child; and
- the CICL's record of prior offenses (if there is any)

■ **What are some of the obligations or responsibilities that must be specified in the diversion contract?**

The Diversion Contract shall include a stipulation of rights, responsibilities or accountabilities of parties concerned, some of which are:

- the reporting obligations of the CICL and the parents/guardian — They have the obligation to present themselves to the competent authorities that imposed the diversion program (e.g., the WCPD officer) at least once a month for reporting and evaluation of the effectiveness of the program
- the monitoring and/or supervisory obligations of certain duty bearers and other responsible stakeholders (e.g., the principal to monitor and report the school attendance of the CICL)

■ **When is a diversion contract effective and binding?**

A diversion contract is effective and binding only if:

1. the contract is in writing and signed by the persons required under the law to sign it;
2. the diversion program and all other terms and conditions in the contract are accepted by the CICL and the parents/guardian of said child; and
3. the CICL voluntarily admits the commission of the offense. [Rules 52.b and 52.c, IRR]

The offended party's acceptance of the diversion contract is not required for the contract to be valid. However the diversion authority will endeavor to obtain the agreement of the offended party.

■ **Who must sign the diversion contract?**

**Diversion Contract at the
Katarungang Pambarangay
Level**

Child

Parents/guardian of the child

Punong Barangay (as diversion authority)

BCPC member assisting the Punong Barangay

LSWDO

**Diversion Contract at the
Law Enforcement Level**

Child

Parents/guardian of the child

WCPD officer
(who acted as diversion authority)

LSWDO

**Diversion Contract at the
LSWDO Level**

Child

Parents/guardian of the child

LSWDO (who acted as diversion authority)

If the offended party agreed to the diversion contract, he/she may be asked to also sign the contract. If the offended party is a minor, the parents/guardian of said child will sign.

■ **What if the victim or offended party does not agree to any item in the diversion contract?**

The diversion authority shall still endeavor to obtain the agreement of the offended party to the individualized diversion program contained in the Diversion Contract by:

- explaining to the offended party the benefits of forgiveness and diversion, and the need to reform the CICL within the auspices of the community (instead of detention homes or rehabilitation centers) once the CICL expresses remorse and willingness to ask for forgiveness from the offended party; and
- assuring the offended party that the LSWDO, together with the local government and the community, will be responsible for reforming and monitoring the CICL through various diversion programs.

If the offended party still does not express agreement to the diversion contract and the diversion program in it, the diversion authority shall:

- refer the offended party to the appropriate WCPD officer who will explain how to file a civil case against the CICL for the payment of the civil liability; and
- then continue with the formulation of the diversion program and of the signing of the diversion contract if the CICL and the CICL's parents/guardian consent to it.

- What must be included in the diversion contract?

The diversion contract must contain the:

1. Diversion Program to be followed by the CICL
2. method of monitoring compliance of CICL
3. name the parties who will monitor the activities
4. period of implementation of diversion program

- What are the important factors to be considered in the formulation of a diversion program?

When formulating (and implementing) a diversion program, the diversion authority and committee must ensure that said program:



is created with the application of restorative justice principles;



uses positive measures;



fully mobilizes all possible resources (which include the family, volunteers, schools and other community institutions);



involves activities that involve effective, fair and humane dealing with the child; and



promotes the well-being of the child.

- What are some activities or courses of action that may be included in a diversion program for the CICL?

Among the activities or courses of action that may be included in an individualized diversion program are:

- a. Restitution of property
- b. Reparation of the damage caused;

- c. Confiscation and forfeiture of the proceeds or instruments of the crime (if diversion program is formulated at the law enforcement level)
- d. Indemnification for consequential damages;
- e. Written or oral apology;
- f. Care, guidance and supervision orders;
- g. Counseling for the child in conflict with the law and the child's family;
- h. Attendance in trainings, seminars and lectures on:
 - anger management skills;
 - problem solving and/or conflict resolution skills;
 - values formation; and
 - other skills which will aid the child in dealing with situations which can lead to the repetition of the offense;
- i. Participation in available community-based programs, including community service; or
- j. Participation in education, vocation and life skills programs.

D. IMPLEMENTATION OF THE DIVERSION PROGRAM

- **When does the implementation of a diversion program under the contract of diversion start?**
-

The diversion program is implemented soon after the signing of the contract of diversion. The diversion program may be implemented no longer than two years from the time it started.

- **Who bears the responsibility of supervising and monitoring the progress and compliance of the CICL with the diversion program?**
-

The progress of a CICL's compliance with the diversion program will be supervised and monitored by:

Diversion contract formulated at this diversion level:	...and the CICL fails to comply with the diversion contract, the diversion authority will terminate the diversion and forward the case to:
Katarungang Pambarangay level (under the Punong Barangay as diversion authority)	To the Police or the Prosecutor
Law enforcement level (under the WCPD officer as diversion authority)	To the Prosecutor
LSWDO level (under the social worker as diversion authority)	To the Prosecutor

- Is it possible to give the CICL a second chance to comply with the diversion program under the diversion contract?
-

Yes, provided that:

- the LSWDO and other members of the diversion committee find that the continuation of the diversion is still appropriate and desirable
- the two-year period from the commencement of the diversion contract has not yet expired; and
- all parties (including the offended party) agree to give the CICL another chance to successfully comply with the diversion program

Chapter Four **CHILD WHO VIOLATES ORDINANCES, LIGHT OFFENSES AND MISDEMEANORS**

Guide to handling a Child at Risk (CAR)

This chapter will **only** be used **when** dealing with a child found to have allegedly violated:

1. a local ordinance concerning juvenile status offenses;
2. a light offense and misdemeanor against public order or safety; or
3. an offense not applicable to children and is therefore exempt from prosecution.

A child found to have made such violation is a **child at risk** (CAR).

If the offense allegedly committed does not fall under any of those listed below, the child taken into custody may be a child in conflict with the law (CICL). For CICL, use Chapters One to Three of this Protocol and not this Chapter.

When does an ordinance cover a “juvenile status offense”?

If an ordinance covers conduct of minors that is not considered an offense or not penalized when committed by an adult, this ordinance is considered to cover juvenile “status offenses”. The conduct covered by such ordinance shall not be considered an offense, and shall not be punished, if committed by a child.

What are some local ordinances concerning juvenile status offenses?



Curfew Violations



Truancy



Parental
Disobedience



Anti-Smoking
Ordinances



Anti-Drinking
Ordinances






other ordinances enacted by
local governments
concerning juvenile status
offenses

What are considered light offenses and misdemeanors against public order or safety?

- disorderly conduct
- public scandal
- harassment
- drunkenness
- public intoxication
- criminal nuisance
- vandalism
- gambling
- mendicancy
- littering
- public urination
- trespassing

Any child who commits any of the above offenses will be treated a CAR, not a CICL.

What offenses are not applicable to children?

Prostitution	Mendicancy	Sniffing of Rugby
		
Section 202 of the Revised Penal Code	Presidential Decree No. 1563	Presidential Decree No. 1619

The child who commits any of these offenses is exempt from prosecution. Instead, the child is treated a CAR.

REMEMBER:

A Child at Risk (CAR) who violated an ordinance or committed a light offense or misdemeanor as listed above is not a CICL.

What are the applicable provisions of the law for further reference?



IMPLEMENTING RULES AND REGULATIONS:

Child at risk - Rule 2(8)
Exemption from Punishment from Local Ordinances - Rule 85
Offenses Not Applicable to Children (Exemption from Prosecution)

Who may take custody of the CAR for violating local ordinances, or for committing light offenses/misdemeanors?

Any law enforcement officer (LEO) from the barangay (barangay official, tanod or BCPC member) or from the police may take custody of a child who violates any ordinance, or who commits a light offense or misdemeanor as listed above.

If a CAR is taken into custody, what flowchart to use?

When a CAR is taken into custody for violating an ordinance, or for committing a light offense or misdemeanor, use **Flowchart D**.

1 Violation of local ordinance and taking custody of the CAR

What must be done while taking custody of the CAR?

The LEO taking custody of the CAR shall immediately:

1. introduce self to child and show proper identification
2. explain to child the reason for taking his/her custody
3. ask for child's name, address and name of parents

For the detailed procedure in handling a CAR upon taking custody, refer to the PNP Manual or the Barangay Manual.

Upon getting the name of the child's parents/guardians...

...the LEO must immediately contact them to inform them of the incident and to come over to the place of incident or the barangay station.

Where to bring the child after finding a violation of ordinance, light offense or misdemeanor?

IF PERSON TAKING CUSTODY OF CAR IS A...	Barangay official, tanod, or BCPC member	...BRING CAR TO	Barangay station for registration and initial intake
	Police Officer		Nearest barangay station or local social worker (SEE: PNP Manual for additional details on internal protocol of PNP)

REMEMBER:

If a LEO from the police takes custody of a CAR, the LEO (after following internal protocol in PNP Manual) must transfer custody of child to nearest barangay station or the local social worker.

The LEO from police does not handle intervention processes for CAR.

What acts are strictly prohibited upon taking custody of the CAR?

1. use of instruments of force or restrain
2. unnecessary violence and force
3. body search of the child
4. vulgar language
5. sexual advances on child
6. torture

2

Registration and Intake of CAR

After taking custody of the CAR, what must the barangay official do?

- a. Register child as a Child At Risk (CAR) in the CAR Logbook; and
- b. Conduct an intake of the child

A. REGISTRATION IN CAR LOGBOOK



What data or information will be obtained from the CAR for purposes of registration in the CAR Logbook?

- Name of child
- Address of child
- Date of intake
- Ordinance / light offense / misdemeanor committed
- Name of parents/guardians and contact details

The CAR logbook must be kept by the barangay in a secure place to ensure confidentiality of records of the child. Failure to protect confidentiality may subject the duty bearer to penalties.

■ What if the child is unable to communicate or refuses to give his/her name?

Gather the needed information from other people who may be present and immediately contact the social worker to obtain assistance in communicating with the child.

■ If the child is not a resident of the barangay where custody is taken, what must be done?

The LEO must still continue conducting the intake (complete the intake form) and afterwards refer the child's case either to:

- the barangay where the child resides; or
- the LSWDO

Read further Item 3 below. (Page 69)

■ Who can access the information inside the CAR Logbook?

The CAR Logbook is confidential and only the following can access information in it:

- Punong Barangay
- Duly designated barangay officials under the BCPC
- LSWDO
- Juvenile Justice and Welfare Council

B. CONDUCT INTAKE OF CHILD



Purpose of the intake?

Intake of the CAR is done to obtain basic data and background details on the child that may serve as barangay record in case the child commits future violations. The data may also serve as base information for the LSWDO if tasked to conduct an assessment of the child and to formulate future intervention programs for the CAR. The information may also be used to guide the barangay when monitoring the well-being of the child.

■ Who may conduct the intake?

- Punong Barangay
- Duly designated members of the BCPC

■ What must be included in the diversion contract?

- LEO who took the child into custody
- BCPC representatives
- Parents/guardians of the child
- Social worker
- If needed: interpreter or mental health professional

The conduct of intake is confidential. All others not listed above cannot be present during the intake.

■ What form to use in doing the intake of CAR?

Refer to the Barangay Manual and its attachment to see the form to be used in conducting the intake of CAR. [See BCPC Form No. 1 - Intake Form for Barangay Council for the Protection of Children].



■ What questions may be asked the CAR when doing the intake?

Only questions needed to fill out the BCPC Intake Form must be asked.

If there are pieces of information required in BCPC Intake Form that may be provided by other persons (e.g., parents, teachers), the BCPC can obtain these from them and not from the child anymore.

■ How should the BCPC conduct him/herself while conducting the intake of the CAR?

The person conducting the intake must:

- when talking to the CAR, use simple language/dialect that can be understood by the child
- not display or use instruments of force or restrain on the child
- not use violence, force or torture on the child
- not use vulgar language
- not make sexual advances on the child
- not harass or abuse the child



- What if the child speaks a different language or dialect and cannot understand the language used by the BCPC conducting the intake?
-

In this case, the BCPC must get an interpreter who can assist in conducting the intake. The BCPC may also seek the assistance of the social worker to ensure that communication with the child is done properly.

- What if the child refuses to talk?
-

The BCPC must seek the assistance of the social worker to ensure that communication with the child is done properly. If the child has a disability, the assistance of the appropriate medical professional must be obtained in conducting the intake.

At all times, the BCPC must be courteous, child friendly and not appear to be intimidating toward the child.

3

Where is the CAR residing?

The barangay official or BCPC member who did the logbook registration and intake of the CAR must determine if the child is residing within the barangay where he/she was taken into custody.

If the child is a resident of the barangay, immediately proceed to Item 4 below.

If the CAR is not a resident of the barangay where the child's custody is taken, what must be done?

After completing the BCPC Intake Form and the appropriate referral form [See Barangay Manual], the BCPC must refer the child's case either to:

- the barangay where the child resides (then go to Item 4 below); or
- the LSWDO (then go to Item 5 below)

Even if the BCPC (of the barangay where the child does not reside) knows who is the family of the CAR, the custody to the child must still be turned over to either the barangay-of-residence or to the LSWDO.

REMEMBER:

The BCPC does not handle the intervention processes for a CAR who is not a resident of their barangay. Refer the CAR to the barangay where the child resides.

Once the custody of the CAR is with the barangay where the child resides, the BCPC member in charge must proceed in:

- conducting the intake of the child (as described in Item 2 above);
- notify parents/guardian of the child; and
- turn over the physical custody of the child to the appropriate person.

A. CONDUCTING THE INTAKE OF THE CHILD

See Item 2 above on how to conduct the intake of the child.

- What if the barangay where the child is not a resident already did an intake of the CAR, should the BCPC of the barangay where the CAR resides still conduct another intake?

Yes. The BCPC of the barangay where the child resides must still conduct an intake but taking into consideration the information provided by the Intake Form and Referral Form (BCPC Forms No. 1 and 3) received from the referring barangay. This will ensure a shorter intake of the child and only questions that will needed clarification from the child will be asked.

- Must the CAR still be submitted to a medical examination after custody is taken or after intake is completed?

If the child was taken into custody for violating an ordinance involving a juvenile status offense or for committing a light offense / misdemeanor as listed above, submitting the CAR to a medical examination may not be necessary.

However, the child may have to be submitted to a medical examination if:

- there are indicators that the physical condition of the child (e.g., having visible bruises) requires attention or evaluation of a medical professional; or
- the CAR was taken into custody for allegedly violating laws on prostitution, mendicancy or sniffing of rugby.



B. NOTIFY PARENTS/GUARDIAN OF THE CHILD

Even before completing the intake, once the needed names and contact details are obtained, the BCPC must immediately notify the CAR's parents/guardians to inform them:

- that their child was taken into custody for violating an ordinance involving a juvenile status offense, committing a light offense/misdemeanor or committing acts that amount to prostitution, mendicancy or sniffing of rugby;
- where the child is held in custody; and
- to immediately proceed to the barangay.

■ What if the CAR is unable to communicate who is his/her parent or guardian?

To obtain needed information to be able to notify the child's parents/guardian, the BCPC can:

- seek the assistance of the LSWDO in talking to the child;
- contact other persons (e.g., school personnel where the child is enrolled) who may have information about the child's family
- check pertinent government or barangay records if available



■ What if the BCPC cannot reach the parents/guardians of the child or if no information is obtained on who are the parents/guardians?

If the BCPC cannot notify or find the parents/guardians of the CAR, the physical custody of the child must be turned over to the LSWDO.



■ Should the BCPC still inform the PAO or a lawyer if a CAR is taken into custody?

The barangay need not inform the PAO or any other lawyer that a CAR is taken into custody for violating an ordinance involving a juvenile status offense or a light offense / misdemeanor as listed above or for allegedly violating laws on prostitution, mendicancy or sniffing of rugby.

■ When must the BCPC turn over the physical custody of the CAR to the parents / guardians?

The BCPC may turn over the physical custody of the CAR to the parents/guardians after:

- completing the intake of the child (i.e., completed BCPC No. 1);
- determining that the CAR is not 'high risk';
- giving appropriate advice/guidance to the CAR to avoid future violations; and
- giving the parents/guardians the appropriate advice/reprimand/warning of their obligations to closely look after the child

If there are indicators that the CAR is 'high risk', the BCPC must turn over the child to the social worker and not to the parents.

■ What then are some indicators that a CAR is "high risk"?

The following are some indicators that a CAR is "high risk":

- If CAR violated an ordinance or committed a light offense/misdemeanor for the second or third time
- If the CAR's violation involves either prostitution, mendicancy or sniffing of rugby
- If there are other circumstances showing that the child is at risk for other reasons and is deemed to be extremely vulnerable and at risk of being pushed and exploited to come in conflict with the law

■ These are some other circumstances showing that the CAR is deemed to be extremely vulnerable and at risk of being pushed and exploited to come in conflict with the law:

If the child, other than violating a mere ordinance involving a juvenile status offense, is also found to be:

- abused by any person through sexual, physical, psychological, mental, economic or any other means, and the parents or guardians refuse, are unwilling, or unable to provide protection for the child
- exploited sexually or economically
- abandoned or neglected, and after diligent search and inquiry, the parents or guardians cannot be found;

- coming from a dysfunctional or broken family or being without a parent or guardian;
 - out of school;
 - a street child;
 - a member of a gang;
 - living in a community with a high level of criminality or drug abuse;
 - living in situations of armed conflict
- What if the BCPC is not sure if the CAR should be considered ‘high risk’?

Then the BCPC must consult the LSWDO to make the proper determination.

- What if the parents/guardians want to get the physical custody of the child but the BCPC considers the child to be “high risk”?

The BCPC, after consulting the LSWDO, must assess if it is in the child’s best interest to turn over physical custody to the parents/guardian. Even if physical custody is released to the parents/guardian, the case of the CAR will still be referred to the LSWDO for further assessment of the child and formulation of the appropriate intervention program. (See Item 5 below)

- What if the BCPC cannot locate or access the LSWDO?

In this case, the physical custody of the CAR may be turned over to other social workers connected or affiliated with the DSWD.

REMEMBER:

The physical custody of a CAR (found to have violated an ordinance, light offense or misdemeanor) need not be transferred to the social worker at all times. There are only specific circumstances when the social worker will get custody of said child.

What are some instances when physical custody of a CAR may be given to the social worker?

- When the LEO who took custody and initial intake of the CAR learns that the child is not a resident of the barangay where the LEO belongs;
- When the LEO who had initial contact with the CAR is a police officer;
- When the LEO cannot locate the parents or guardians of the child;
- When the CAR is considered “high risk”.

What documents are expected to be received by the social worker from the BCPC with the transfer of physical custody?

The social worker must receive a copy of the following:

The LEO giving custody of CAR to social worker is:	Documents to be received by social worker from the LEO:
Barangay official / tanod / BCPC	<ul style="list-style-type: none"> • Intake Form for Barangay Council for the Protection of Children • BCPC Referral Letter / Form • Documents attached to BCPC Forms (Complaint Form; Feedback Form) <p>Refer to Barangay Manual for details</p>
Police	<ul style="list-style-type: none"> • Intake Form of PNP • PNP Referral Letter / Form • Documents attached to the PNP Intake Form and PNP Referral Letter/ Form <p>Refer to PNP Manual for details</p>

What must the social worker do after getting physical custody of CAR?

The LSWDO proceeds to:

- a. conduct an intake and assessment of the CAR; and
- b. conduct an intervention conferencing and design an intervention program.

The details on how to conduct intake and assessment as well as intervention conferencing for a CAR are found in the Social Workers Manual.

A. CONDUCTING THE INTAKE OF THE CHILD

- If the BCPC already did an intake of the child, why should the LSWDO also conduct an intake?
-

The “intake and assessment” to be conducted by the LSWDO is different from the “intake” done by the BCPC.

The intake done by the BCPC is intended to obtain basic data and background details on the child that may guide the barangay in monitoring the well-being of the child and serve as barangay record in case the child commits future violations. The data may also serve as base information for the LSWDO when conducting an assessment of the child and in formulating future intervention programs for the child.

The intake and assessment to be done by the LSWDO are intended to obtain information needed to properly conduct an intervention conference and design/implement an intervention program for the CAR.

- How does the LSWDO conduct the intake and assessment of the CAR?
-

The LSWDO must refer to the Social Workers Manual on CICL and CAR and use available tools for assessment of a child at risk.

B. NOTIFY PARENTS/GUARDIAN OF THE CHILD

Immediately after the conduct of the intake and assessment of the CAR, the LSWDO will:

- determine if an intervention program for the CAR has to be implemented; and
- convene the participants in the intervention conferencing for the child.

- Who must participate in the conduct of the Intervention Conferencing?
-

The following must participate in the Intervention Conference for the CAR:



LSWDO (to facilitate the conduct of the Intervention Conference);



the child;



parents/guardian of the child;



BCPC; and



other stakeholders (e.g., teachers, church representative) who can help in designing and implementing the intervention program for the child.

- How is an Intervention Conference conducted?

The LSWDO who serves as the chairperson / facilitator of the intervention conference will use the same relevant principles in conducting an intervention conference for CICL. Refer to the Social Workers Manual on CICL and CAR to know details in conducting an intervention conference for CAR.

- Who will implement and monitor the Intervention Programs for the CAR?

The implementation of the Intervention Program will require the participation of the child and the child's parents/guardian and family in cooperation with the various stakeholders identified during the Intervention Conference. The LSWDO will monitor the implementation of the intervention program with the assistance of the BCPC and the other stakeholders.

- Who determines the success of the intervention program?

With due consideration of the input of all stakeholders who helped implement the intervention program for the child, the LSWDO will determine if the intervention program is successful.

Chapter Five **GENERAL CONDUCT OF DUTY BEARERS WHEN HANDLING CICL OR CAR**

All duty bearers must be familiar with the general conduct required when dealing with children in conflict with the law (CICL) or children at risk (CAR), particularly the:

- A. Required behavior when with the child;
- B. Acts prohibited; and
- C. Obligations to maintain privacy and confidentiality.

All the DO's and DON'T's under this Chapter must be strictly followed **at any stage** from initial contact with the child until the implementation of intervention or diversion programs.

A. REQUIRED BEHAVIOR

1 When talking to the child, every duty bearer must always use simple language and a language or dialect understandable to the child.

The use of simple and understandable language is most especially needed at the time when custody is taken and the following are to be explained to the child:

- reason for placing the child under custody;
- offense allegedly committed; and
- child's constitutional rights and the child's rights under Republic Act No. 7438.

- What if the CICL or CAR cannot understand the language/dialect used by the duty bearer?

The duty bearer must look for an interpreter who can assist in talking to the child. The interpreter can be anyone who has the ability to communicate effectively with the child such as the social worker, a school teacher, a member of the community, or a distant relative.

- What if the CICL or CAR suffers from a disability in communicating?

If the CICL or CAR suffers from a disability in communicating, the duty bearer must also get an interpreter or if needed, a mental health professional, who can assist in facilitating the communication with the child. Some examples of disability in communicating may arise from being a deaf-mute or having a psychological condition that prevents effective communication.

2 The child must always be allowed to maintain contact with his/her family unless exceptional circumstances permit restriction of contact.

When the child is still in the custody of any duty bearer, the child must not be prevented from having contact or maintaining communication with his/her family.

■ What form of contact or communication may allowed?

All forms of contact or communication such as correspondence and visits must be allowed.

■ What are the 'exceptional circumstances' when communication with the family may be regulated or restricted?

Contact of the child with his/her family may initially be regulated or restricted upon determination by the social worker if the best interest of the child requires such restriction or regulation in communication.

One example of 'exceptional circumstance' is when there are indications that the parents played a role in encouraging or instigating the child's commission of offense. In such case, the social worker may regulate the family's communication with the child and then soon after make the appropriate manifestation to the court (e.g., in filing an involuntary commitment petition) that the best interest of the child is compromised by allowing continued communication.

3 Ensure that the child is at all times separated from adult offenders.

From the time of initial contact with a CICL or CAR, the child cannot be exposed at any time with adult offenders.

■ What are some circumstances when the child is likely to be exposed to adult offenders?

- when the child is brought to the police station after custody is taken;
- when the child taken into custody is awaiting transfer or referral to the social worker;
- when the child (as a last resort) is deprived of liberty (e.g., involuntary commitment of the child);
- when the child is under suspended sentence and is placed in a rehabilitation facility.

4 Always note or record the medical condition of the CICL or CAR at the time physical custody is obtained by or transferred to a particular duty bearer.

The purpose of this requirement is to:

- ensure that the child's medical needs are appropriately attended to when circumstances require; and
 - protect the duty bearer (whether the one transferring or the one receiving the child) from any accusation that violence was inflicted by him/her on the child.
- The duty of noting the medical condition depends on who is duty bearer having physical custody of the child.
-

A duty bearer may either be (a) the person who had initial contact with the child; or (b) the person to whom physical custody of the CICL or CAR is transferred.

A. For the duty bearer who has initial contact with the child (e.g., LEO)

- 1** Bring the CICL to a medical professional within eight hours from initial contact.
- 2** Note the finding of the medical professional in (or attach the medical certificate to) the case file of the child.
- 3** If the LEO is unable to bring the child to a medical professional within eight hours — note in the case file why the child was not brought to a medical professional and what is the physical condition of the child as generally observed.

B. For the duty bearer who received physical custody of the child from another duty bearer

- 1** If the duty bearer who previously had physical custody of the child was unable to bring the child to a medical examination — Bring the CICL to a medical professional.
- 2** If the child has been previously subjected to a medical examination — Note the physical condition of the child and compare with the physical condition indicated in the received case file of the child.
- 3** If the physical condition of the child appears inconsistent with the medical findings indicated in the received case file — Note the fact of inconsistency in the case file and bring the CICL to a medical professional.

■ What are the instances when the duty bearer is considered to have initial contact with the child?

- when the LEO gets physical custody of the child after a finding that the child is either a CICL or a CAR;
- when a private person refers a child to the LEO who is alleged to be either a CICL or a CAR

■ What are some instances when a duty bearer receives physical custody from another duty bearer?

- when the LEO transfers the physical custody of the child to a social worker before the expiration of eight hours from initial contact;
- when officials of one barangay transfer the custody of a CAR to another barangay where the child resides;
- when the LEO from a barangay transfers the physical custody of the CICL to the police as required by the circumstances, e.g., when the child is found to have committed a serious offense

■ What should a receiving duty bearer do if there is a discrepancy between the referral form (or case file of child) and the actual physical condition of the child?

The receiving duty bearer must immediately note such fact in his/her record and have the child subjected to another medical exam to ascertain the actual medical condition of the child.

In case the child (or the child's parent) refuses to be submitted to another medical exam, then the receiving duty bearer must note in his/her record the fact of refusal and that there is such discrepancy in the physical condition of the child and the written record.

5 Take note / immediately report any knowledge or information obtained that another person is abusing or taking advantage of the child.

There are many cases where a child commits a crime because another person (usually an adult) told them to commit a crime. This fact must be reported to the proper authorities.

■ A duty bearer must immediately report to the police any knowledge or information obtained that another person:

- takes advantage of, or profits from the use of the child;
- abuses authority over the child; or
- with abuse of confidence, takes advantage of the vulnerabilities of the child and

induces, threatens or instigates the child to commit a crime.

6

Ensure that the child's right to privacy shall be respected at all stages and the child's identity and records are kept confidential at all times. (See section C below for details)

B. PROHIBITED ACTS

- When is a duty bearer discouraged from interviewing or directly handling the case of the child?

The duty bearer must not be the one interviewing the child or handling the child's case if:

1. the duty bearer is the victim / offended party
2. the duty bearer is a relative or is closely connected with the victim / offended party
3. the duty bearer feels that he/she has a conflict of interest in handling the child's case.

- What are the prohibited acts that all duty bearers must remember?

The following are strictly PROHIBITED at any stage from initial contact with the CICL or CAR. At all times the child is in custody, the duty bearers must not do the following:

When handling the child especially during taking custody...

1. Do not display and use of instruments of force or restrain on the child. Handcuffing the child must only be done when circumstances require (such as when the child is violent).
2. Do not use unnecessary violence and force.
3. Do not conduct a body search of the child if you are a law enforcement officer of the opposite sex.
4. Do not use torture.
5. Do not force the children to lie about their age (i.e., to say they are at least 18 years old)
6. Do not interview the CICL or CAR if the duty bearer is the victim or the relative of the victim.

7. Do not interview the child when in a condition where he/she cannot properly cooperate (such when the child is suffering from untreated physical injuries or is hungry).

On behavior toward or around the child

1. Do not use vulgar language.
2. Do not make sexual advances on child.
3. Do not harass or abuse of child.
4. Do not appear to be intimidating to or biased against the child. adopt antagonistic or unfriendly behavior such as giving the child stern looks.

On the physical custody of the child

1. Do not place the child in any form of detention cell (e.g., jails, barangay lock-up, police station lock-up)
2. Do not allow the children to be in contact with adult offenders and offenders of the opposite sex

C. PRIVACY AND CONFIDENTIALITY

To ensure that the child's right to privacy is respected at all stages, all duty bearers must:

- keep confidential all records and proceedings involving CICL and CAR (starting from initial contact with the child);
- ensure that during proceedings involving the CICL or CAR, only the persons permitted by law can be present; and
- protect the identity of the CICL or CAR.

■ Who are permitted to be present during the following stages involving CICL?

Stage	Who are allowed to be present
Intake interview after initial contact with the child	<ul style="list-style-type: none"> • LEO • CICL • Parents/guardian of the CICL • Social worker • PAO or any lawyer chosen by the child • Interpreter or mental health professional if needed
Initial investigation	<ul style="list-style-type: none"> • LEO • CICL • Parents/guardian of the child • Social worker • PAO or any lawyer chosen by the child • Interpreter or mental health professional if needed
Interview of child for purpose of determining discernment	<ul style="list-style-type: none"> • Social worker • CICL
Interview of child for purpose of preparing a social case study	<ul style="list-style-type: none"> • Social worker • CICL
Intervention conferencing	<ul style="list-style-type: none"> • Social worker • CICL • Parents/guardian of the child • Offended party • Family of offended party (if the latter is a child) • BCPC where the child resides • School representative (if child is enrolled)
Diversion proceedings	<ul style="list-style-type: none"> • Duty bearer tasked to handle the diversion proceedings (Punong barangay or his/her representative; WCPD; Social Worker; or Prosecutor) • CICL • Parents/guardian of the child • Offended party • Family of offended party (if the latter is a child) • PAO, if deemed necessary by the diversion authority • Other proposed members of the diversion committee as suggested by the law (See Chapter on Diversion)
Inquest proceeding	<ul style="list-style-type: none"> • Prosecutor • CICL • Parents/guardian of the child • LEO who obtained custody of the child • Social worker • PAO or any lawyer chosen by the child

The general public is not allowed to participate in or witness any of the above processes as well as any other proceeding involving the CICL.

■ **Who are permitted to be present during the following stages involving CICL?**

Stage	Who are allowed to be present
Intake interview after initial contact with the child	<ul style="list-style-type: none"> • Punong Barangay or duly designated member/s of BCPC • Child at risk • Parents/guardian of the child • Social worker • BCPC Representatives • Interpreter or mental health professional if needed
Intake and assessment by the LSWDO	<ul style="list-style-type: none"> • Social worker • Child at risk
Intervention conferencing	<ul style="list-style-type: none"> • Social worker • Child at risk • Parents/guardian of the child • Offended party • Family of offended party (if the latter is a child) • BCPC Representatives of the barangay where the child resides • Other stakeholders (e.g., teachers if child is enrolled) who can help in designing and implementing the intervention program for the child

The general public is not allowed to participate in or witness any of the above processes as well as any other proceeding involving the CAR.

■ **Who can access the records generated in all of the above proceedings?**

Records involving CICL or CAR that are generated as a result of the above proceedings must also be kept confidential. These records can only be accessed by duty bearers who participated in the proceedings and later, their successors if required by their duty.

Example: The LSWDO can access previous records involving a CAR if the child involved later becomes a CICL.

Duty bearers who did not participate in the proceedings may not directly or indirectly access these records.

■ **Is there an exception to the confidentiality of the records?**

Any record involving the CICL or the CAR is confidential and may not be disclosed to anyone for whatever purpose except (upon instruction of the court) for the purpose of:

- determining the application of a suspended sentence;
- determining if probation may granted under the Probation Law
- enforcing the civil liability imposed in the criminal action