



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 138-2010

**TO : ALL JUDGES OF FAMILY COURTS
and SINGLE SALA SECOND LEVEL
COURTS.**

**SUBJECT : DETENTION IN JAILS OF THE CHILDREN
IN CONFLICT WITH THE LAW**

The Commission on Human Rights (CHR) has invited the attention of this Office relative to its Independent Report on the Convention of Rights of the Child concerning detention in jails and police precincts of the Children in Conflict with the Law (CICL), reporting that, during its official visits conducted from January 2008 to March 2009, there have been 80 children found in 13 jails and the national penitentiary pending trial or hearing of their cases, and that there are some trial courts who exhibited reluctance in ordering the release of the Children in Conflict with the Law from jails. For this purpose, judges must be mindful that at present the problems of congestion and inadequate facilities have continued to beleaguer many of the detention centers and jails nationwide.

Please be REMINDED that, to promote the best interest of the child, the Court passed a Resolution dated November 24, 2009 in A.M. No. 02-1-18-SC effective December 1, 2009, approving the Revised Rule on Children in Conflict with the Law, explicitly prohibiting detention of Children in Conflict with the Law in jails pending trial or hearing of their cases and directing their mandatory release from detention, to wit:

“Section 25. Release of Children on Recognizance to the Parents, Guardian, Custodian or Nearest Relative. – The release of a child from custody during the pendency of the case involving a non-serious offense as defined in Sec. 4 (u) of this Rule may be ordered by the court only after a hearing for that purpose, and upon favorable recommendation of the social worker assigned to the child, with the conformity of the public prosecutor and the private complainant. The child shall be released to the custody of a willing and responsible mother or father, or appropriate guardian or custodian or in their absence, the nearest relative, who shall be responsible for the child's good behavior and appearance in court whenever required.

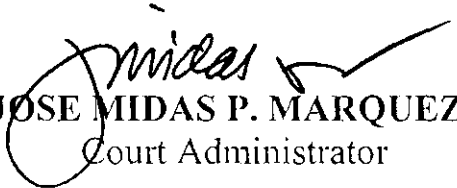
No child shall be ordered detained in jail pending trial of hearing of the child's case, subject to the provisions of this Rule.

Section 26. Commitment and Transfer to a Youth Rehabilitation Center. A child charged with a non-serious offense as defined in Section 4 (u) of this Rule, unless released on bail or recognizance, may be transferred to a youth detention home or rehabilitation center or other appropriate facility such as the Department of Social Welfare and Development which shall ensure the appearance of the child in court.

In the absence of a youth detention home established by the local government pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides or, a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the court, or the Department of Social Welfare and Development or other appropriate local rehabilitation center, the youth shall be placed under the care of a provincial, city or municipal jail which shall ensure the appearance of the child in court when so required." (Emphasis underlined)

For strict compliance.

October 5, 2010.


JOSE MIDAS P. MARQUEZ
Court Administrator