

NATIONAL LEGAL SERVICES AUTHORITY'S STANDARD OPERATING PROCEDURE ON REPRESENTATION OF PERSONS IN CUSTODY

(The content of NALSA's SOP on Representation of Persons in Custody has been segmented stakeholder-wise but reproduced verbatim)

THE NEED

- For uniformity in the system for providing representation to those in custody under the legal services act across the country
- To strengthen system of interaction of the jail visiting lawyers with the inmates in jail and their representation in courts



Ensuring Legal Aid to Persons in Custody



State Legal Services Authority

- The Member Secretary should review the working of the legal service clinic in the jails on a regular basis.
- To fix the honorarium for taking the services of retired judicial officers as jail visiting lawyers.



District Legal Services Authority

Appointment

- Depute panel lawyers as remand advocates in each of the magisterial courts, and also in Sessions Court where required.
- Earmark some of the lawyers from the panel lawyers as jail visiting lawyers.
- Identify sufficient number of paralegal volunteers from amongst long term convicts and train them suitably.
- To explore the possibility of taking the services of retired judicial officers as jail visiting lawyers.

Legal Aid Clinic

- Clearly demarkate space inside jails for working of the legal aid clinics and make available requisite infrastructure as per regulation for the effective functioning of the clinics.
- Where possible use video conferencing to facilitate communications with inmates.
- Issue appropriate directions for a lawyer to be appointed, where it is found that an undertrial is without a lawyer.
- Take up cases needing immediate attention with District Judge or Jail Inspecting Judge.
- Take up cases brought to the DLSA's notice by jail superintendent in his fortnightly report with appropriate authority.
- Place cases of prisoners eligible u/s 436A Cr.P.C. before the Undertrial Review Committee of the district promptly.

Legal Awareness

- Organise legal awareness camps in jails to create awareness on legal issues especially on rights of persons in custody.

Suggestion/ Complaint Box

- Make suggestion/complaint box available in jail to be opened up once every week in presence of panel lawyer and superintendent.
- Act on suggestions/complaints brought to their notice through complaint box of legal aid clinic.

Reporting & Documentation

- Ensure that the status of cases shall be recorded in registers to be maintained by the clinics in jail and be communicated to inmate and jail superintendent.



Panel Lawyers Jail Visiting Lawyers

- Visit prisons at least twice every week.
- Regularly interact with inmates, especially new inmates to find whether they are represented or not. If not, then inform inmates about their right to legal aid and subsequently, if it comes to their notice that an undertrial is not being represented by a lawyer inform the DLSA so that a legal aid lawyer can be appointed.
- Interact with the inmate to get a better understanding of the case and prepare a brief summary of each interaction and send the same to the Secretary, DLSA along with contact details of family of accused, if available, so that the legal aid lawyer appointed in that case can coordinate with them.
- Communicate to the Secretary, DLSA cases where bail application has to be filed on behalf of inmate or where bail orders have been issued but bail bonds could not be furnished due to various reasons.
- Inform, within 3 days of date of hearing, the Secretary, DLSA about the next date of hearing and purpose.
- Record the status of cases in registers to be maintained by the clinics in jail and communicate the same to inmate and jail superintendent.



Paralegal Volunteer

- Interact with inmates, especially new entrants and bring to the notice of the jail visiting lawyers or Secretary, DLSA the cases requiring attention.
- Maintain record mentioning the date a person was brought into jail, the offence alleged, if represented, stage of case, next date of hearing and name of court.
- Record the status of cases in registers to be maintained by the clinics in jail and communicate the same to inmate and jail superintendent.



Prison Officers

- Jail Superintendent should send list of inmates in jail every fortnight for review by Secretary, DLSA.
- Open the complaint/suggestion box once every week in presence of panel lawyer and bring to the notice of Secretary, DLSA cases in need of attention.
- Ensure that the status of cases shall be recorded in registers to be maintained by the clinics in jail and be communicated to inmate and jail superintendent.



Ensuring Production of Accused Persons



State Legal Services Authority

- To get an inspection done of all the jails in their State to identify cases of persons who have not been produced in courts for several dates and thereafter direct the Secretaries, District Legal Services Authorities to get applications moved in that regard in the concerned courts.
- To take up the matter of making available requisite armoured vehicles and personnel for taking the persons in custody to the courts for production, with the appropriate government.



District Legal Services Authority

- Bring to the notice of CJM/CMM cases where persons in custody are not produced before court on a particular day.



Chief Judicial/Metropolitan Magistrate

- (Based on the above) may take appropriate action and for the time being may designate a magistrate to go to jails for doing remand work for the day.



Lawyer & Paralegal

- Keep track of non-production of inmates in the court as per date given or where no next date is available and inform the Secretary, DLSA.



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