



Standard Operating Procedure on Rehabilitation Of Children In Conflict With Law

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Abstracts

The Standard Operating Procedures for the rehabilitation of children in conflict with law streamline and operationalize the various provisions of the Juvenile Justice Act and Rules, and highlight the protocols that must be adhered to by the Juvenile Justice Board, non-governmental organizations (NGOs), and different establishments such as Special Home, Rehabilitative centre, Special Juvenile police unit, etc.

SOPs enable a methodical evaluation of the child's circumstances and guarantee that all protocols are followed before reaching a decision. Since children are our country's greatest asset, their best interests must come first.

The JJ Board and a favourable reading of the JJ Act served as the basis for the development of the SOPs. The SOPs have been influenced by the extensive and diverse expertise of UNICEF in conjunction with the Department of Women and Child Development, NGOs working in the child rights and child protection fields, law students, legal professionals, and the Resource Centre on Child Rights.¹

KEYWORDS: Standard Operating Procedures, Rehabilitation, Children in conflict with the law.

Introduction

The world's greatest child population lives in India. According to the National Crime Records Bureau, "Crime in India" 2019, Ministry of Home Affairs, Government of India (2020) at 258, there were over 33,000 Children in conflict with the law" in India. Everybody wants to be well and have a better future, especially for their children. It is well known that youth and young adults represent a significant human resource for development and are important change agents in society as a whole. However, their meaningful participation in matters that most affect them can only occur when they are actively participating.²

SOPs are written guidelines that serve as a set of rules for reacting to the rehabilitation of specific children who are in legal trouble. They also guarantee that guiding principles, approaches, ways, means, and best practices are respected. Actors offering both direct and indirect child rehabilitation services within a specific geographic area create and agree upon SOPs. Along with fostering accountability, efficiency, and improved resource management, they also aid in ensuring process transparency.³

Thus, the creation of these standard operating procedures (SOPS) shows the dedication to guaranteeing child-friendly law enforcement in the state and nation. These protocols align with global and local norms and optimal

approaches both domestically and globally. These include the United Nations Convention on the Rights of the Child (1990), the Riyadh Guidelines for delinquency prevention, the Havana Rules for protecting minors deprived of their liberty, and the Standard Minimum Rules for the administration of juvenile justice (Beijing Rules). Above all, these protocols comply with domestic regulations and child protection laws. With freedom, justice, and peace of mind, these Sops are necessary for children to understand their intrinsic worth and their equal and unalienable rights within the family.⁴

OBJECTIVES OF THE STUDY

1. Gain knowledge about Differential Standard Operating Procedures.
2. Giving instructions on how to deal with and manage children in conflict with the law.
3. Establish the benchmark for providing Children in conflict with the law with the right upbringing, family time, and other legal services.
4. To research the importance of the numerous agreements, tenets, laws, and regulations that aid in restricting and minimizing offenses.
5. To improve the coordination and cooperation between key stakeholders, special homes, Special Juvenil Police Units, Designated Police Officers, and Probation officers etc. that support providing a nurturing family environment and turning it into a valuable resource for the community, state, nation, etc.

Method of research

The report and materials gathered from the Ministry of Women and Child Development, the Government of India, the Times of India newspaper, The National Policy for Children 2013, various ACTS, and sections of Other published papers and books form the basis of the current study. This article outlines several SOPs in depth that aid in the rehabilitation of children who are in legal trouble. All article contents are based on secondary data collected from various sources.⁵

Definitions

Significant definitions that help to make this topic clear.

A juvenile, or child, is, in general, a person who cannot support themselves on their own. The only thing that determines a child's status as a child is their age.

Some definitions of the term "juvenile" include "young," "immature," "childish," and so on.⁶

International law defines a "Child" as any person under the age of eighteen. The United Nations Convention on the Rights of the Child (UNCRC) defines a child that is currently widely recognized.

As per the Juvenile Justice (Care and Protection of Children) Act, 2000, Section 2 (k) of the Indian Laws defines a "juvenile" or "Child" as an individual who has not reached the age of eighteen. The phrase "juvenile in conflict with law" has replaced the term "delinquent juvenile" from the previous Juvenile Justice Act 1986 in the Juvenile Justice (Care and Protection of Children) Act,2000.

"Child in conflict with law" refers to a young person who has been charged with or proven to have committed an offense and It is extremely evident from the proviso to section 10 of the Juvenile Justice (Care and Protection of Children) Act, 2015 that children who are suspected of breaking the law will never be put in a prison or a police lockup. If adolescents between the ages of 16 and 18 commit heinous crimes, the new measure will permit them to be prosecuted as adults. The Juvenile Justice Board will review the case to determine if the offense was committed by a "child" or an "adult."⁷

Norms to follow while drafting laws and policies pertaining to children

A Standard Operating Procedure (SOP) for the rehabilitation of children in conflict with the law under the Juvenile Justice System has been prepared by the State government, the Ministry of Women and Child Development, and JJB.

The aforementioned SOP seeks to highlight the importance of rehabilitation and social reintegration by offering these children a range of institutional care options, after-care programs, foster homes, adoption, and sponsorship.⁸

The SOP will be designed to ensure that the rights of any child in conflict with the law or those who are apprehended for committing crimes are effectively safeguarded, including:

- The entitlement to constant safety.
- Before a trial, the presumption of innocence.
- The entitlement to be shown dignity in every encounter.
- The privilege of receiving treatment in conformity with the legal guidelines and protocols.
- The right to take part, with the child's ideas and views being given the weight that is appropriate for their development.
- The legal protection of a child's personal information and the right to secrecy.
- The Juvenile Justice Act, 2015 (Act 653, Sec. 3&22) and the Indian penal code provide juveniles with procedural safeguards during arrest, investigation, and trial.
- These rights include the following: being informed of the charges and section against which the children are in conflict with the law and reading and explaining the charges in a language that children can understand.
- Right to the finest advocate for his cause; right to legal help.
- The freedom to take part and voice one's opinion throughout the entire process⁹

The Special Home, JJBoard NGO, Rehabilitative Center, and other locations host events, seminars, conclaves, and other programs aimed at rehabilitating children who have conflicts with the law.

The following are everyday activities that are included in the rehabilitation centre's schedule.

1. Discipline.
Social service agencies, rehabilitation centres, and institutions for children in conflict with the law collaborate to offer solutions that can help the juvenile get back on track and maintain discipline in his or her daily life. The children's internal development of discipline is aided by the well-planned and rigorous schedule.¹⁰
2. Yoga
Children who practice yoga can improve both mentally and physically. Yoga poses such as thriconasana, pranayama, Soorya namaskar, padmasana, vakrasana, shavasana, and bhujangasana etc. are introduced to the children. It keeps them in good shape all day long and aids them in their daily lives.
3. Mediation
Numerous advantages exist for children's personality development through meditation. Juvenile meditation participants can benefit from less stress, enhanced attention span, increased metabolism, enhanced brain function, improved emotional stability, and more. Cycling and soft music should also be a huge benefit for the young person to help them stay in shape. The children became peaceful and joyful all day long as a result of all this.
4. Personality development
The youngster has to have confidence in his or her ability to make positive changes in their life, and every attempt should be made to inspire them to gather their dreams and take action. Through a variety

of programs, events, and classes covering many subjects, they receive hands-on instruction in calculating moral values and valuable life lessons. All of these become barriers as their personalities are enhanced by peer pressure.

5. Counselling

Assist children who are in conflict with the law psychological first assistance as soon as they are taken into custody. JJB/counsellor will answer any questions the parents and child may have regarding the juvenile justice system. The counsellor is responsible for teaching the parent and child legal literacy. The counsellor provides reports on the mental health of child who are in conflict with law on a frequent basis at short intervals. It does, in fact, aid in their confidence building, progress, and removal of negative mental influences.

6. Skill and Vocational Development.

A child in conflict with the law might have their latent skills discovered by JJB/counsellors via daily observation and monitoring of each child. In many cases, children need additional instruction and experience in order to excel in a particular subject. Hidden talent provides them with instruction that enables them to increase their income with the assistance of an expert in identifying their expertise. The most effective method of rehabilitating and reintegrating the children into society is through vocational training. Over the course of their lives, all of these trainings become beneficial.

7. Computer Education.

In the current scenario, new software and technology are being developed to enable the rapid expansion of individuals, businesses, industries, and organizations on a national and worldwide scale. Thus, we might conclude that computers are essential to every aspect of the workplace. Through computer education, children may learn new skills and expand their technical knowledge. Computer training in typewriting, hardware, desktop publishing, MS Office, Tally, and Excel help individuals become more productive members of society by increasing their income.

8. Creation of e-learning programs

Numerous studies, periodicals, and articles have demonstrated that a number of factors, including parental divorce, malnutrition, poverty, lack of employment opportunities, peer pressure, and separation from their parents, can cause youngsters to run afoul of the law. All of these may be eliminated by providing them with the right supervision, creating short-term courses, and providing resources like IGNOU that can assist them in honing their skills and talents and finding acceptable jobs.

9. The use of crafts and art therapy.

Children who engage in art and craft projects can decompress, develop new skills and talents, earn some money, and develop a feeling of responsibility that will help them grow up to be contributing members of society. Children benefit from these art and craft projects for their personal development by learning to be proud and self-assured of themselves. As a result, it strengthens their capacity for creativity and helps them turn their lives around. Different kinds of art, such painting, dancing, hanging pista shells decorations on the wall, music, etc., should be included into the household and other safe spaces.

10. Animal husbandry, farming, and gardening.

Juveniles who engage in farming, gardening, and animal husbandry are able to improve their entrepreneurial skills and become self-sufficient when they are released from foster care and live independently. The government offers several agricultural projects that enable farmers to make a living and develop their independence and self-confidence.

11. Personal care strategy

A juvenile's needs and interests that were discovered during the assessment process must be included in an individual care plan that is created in accordance with the J.J act for their rehabilitation and social integration. Regular reviews of the individual care plan are necessary to ensure that it remains flexible and adaptable to the changing requirements of the child.

12. Follow-up after release

Every discharged youngster in legal trouble should have a frequent follow-up program run by the institution to ensure they are not involved in any illegal activity or in touch with hardened criminals. The rate of recidivism can be lowered by regular follow-up efforts. Half-yearly gate-to-gathers with parents, relatives, and friends of the children should be held by institutions, homes, and safe places to gain input from the juveniles on their current situation and determine what further interventions are needed for their effective rehabilitation.¹⁰

SOP for State Government

Reference: Sub-rule (14), as follows, shall be substituted for it: "(14) The Central Government shall issue Model Guidelines for non-institutional care including Foster Care and Group Foster Care, on the basis of which the State Government shall notify the process for selection of Foster Care and Group Foster Care setting."

Reference: Section 23 of the JJ Rules: The JJ Rules call for the organization of awareness campaigns to persuade members of the public and unrelated families who are acquainted with the children to consider foster care for children who are in legal trouble, particularly those who are not implicated in severe or heinous offenses. It is necessary to take into account the children's perspectives and opinions. Only families deemed suitable to care for the children will be granted foster care.

Within the primary guidelines, rule 24 will now read as follows: "(iii) community or organization sponsorship;" (ii) in sub-rule (1), the following clause will be added after clause (v): "(vi) sponsorship through institutions, companies or corporations either public or private; For the purposes of this clause, sponsorship shall be prioritised for providing support to families for the purpose of restoring the child to the family or relative or guardian." The State Government will specify the process for obtaining sponsorship through institutions, organizations, businesses, or corporations—whether they are public or private."

Following paragraph (v), the following language should be introduced in the major rules' rule 34, (i) sub-rule (3): "(v a) periodic medical health screening of each child to be conducted with the assistance of the nearest Government healthcare facilities with qualified persons." When there are insufficient facilities in a district, one can contact the state government, and in each situation, the state government in question will make the required preparations.

Rule 35 of the main regulations states that children should be provided with mental health services using the resources provided by the relevant mental health program at the State or District Level under the Ministry or Department of Health.

The State Government may designate a de-addiction organization as a nodal agency for the rehabilitation of law-abiding children who are addicted to drugs or alcohol in each district. Each district should have a sufficient number of drug treatment facilities. Such groups can be granted permission to visit child care centres, special homes, etc. on a regular basis in order to identify situations that require encouragement and support.

Sub-rule 83(6) shall be replaced with the following sub-rule: The District Magistrate may propose to the State Government that funds be obtained from the State Juvenile Justice Fund to carry out projects and programs for children in the district that pertain to any of the activities listed under the Juvenile Justice Rules, 2022.

SOP FOR LAW ENFORCEMENT DEPARTMENT

Juvenile judges, magistrates, social workers, police, and law enforcement personnel from JJB as well as District child protection units, should receive periodic training on contemporary issues that enable them to prevent the formal arrest and detention of CCLs by gaining expertise in the field of juvenile justice.

It is imperative that the Ministry of Women and Child Development Department precisely designate the person in charge of linking the assessment of the operation of the board, committee, State Child Protection Society, or District Child Protection Unit, among other entities. In addition, certain factors including infrastructures, paperwork, basic amenities, educational facilities, vocational training facilities, etc., must be identified by the organization and committee that conducts the inspection, inquiry, assessment, and report. Committees should be established at the district and state levels to assess the effectiveness of the aftercare and personalized care plans for child who are in legal trouble.

The State Government may designate an organization that addresses de-addiction in each district as a point of contact for the rehabilitation of children who are addicted to drugs and are in legal conflict.

The following sub-rule is to be added to rule 39 of the main rules, after sub-rule (6): (6A) The District Child Protection Unit is responsible for gathering, on a monthly basis, the proposals made by the children and the Management Committees, as well as any action done in response to the ideas from all of the district's child care facilities, and submitting a comprehensive report.

The following provision, which is to be replaced for clause (viii) of sub-rule (1), is as follows: "(viii) review the Children's Suggestion or Complaint Book during each visit to the child care facility. Additionally, in the event that staff members or the person in charge are not present, conduct sporadic one-on-one and group interactions with the children in the facility to ascertain the children's well-being, gain insight into their concerns, and offer suggestions and inputs to the child care facility in accordance with that assessment."¹¹

Institutionalization should only be used as a last resort. One of the SOPs states that no order is given for long-term institutionalization, such as when the kid reaches the age of 16 or 18. The JJB must issue an order for a maximum of one year if it determines that the kid has to be temporarily removed from the family for reasons related to the child's care, safety, and protection. A yearly review of such an order is warranted. The JJB must provide explanations for the institutionalization of the child and the exclusion of family-based, non-institutional care before issuing such an order.

Subsequent Care plan

For the benefit of the children, there should be appropriate procedures for expediting the operation of the juvenile justice delivery system and various departments, non-governmental organizations, agencies, society, special homes, places of safety, etc. Every state should have location tracking established, with all CCL data kept up to date and follow-up procedures carried out to guarantee their recovery and social reintegration as part of an aftercare program.

After being released from the special home, youngsters should be allowed some space. Children who are no longer in foster care should have access to helpline numbers so that they may call for support and receive guidance and counselling when they need it. 1098 Child Helpline might also be upgraded further. The State Government will also develop an online grievance redressal mechanism that the Board may utilize in order to receive suggestions or grievances.

Case laws related to rehabilitation of children in conflict with law

Sheela Barse Vs. State of Maharashtra (1983) 2 SCC96.

The Supreme Court emphasized the need for a humanistic and rehabilitative approach towards juvenile justice, recognizing the importance of social reintegration and the potential for reform and rehabilitation of juvenile offenders.

In the case of Salil Bali vs. Union of India (2013) 7 SCC 705.

The Delhi High Court held that the rehabilitation of "children in conflict with Law" should be individualized and child-centred, taking in to account the specific needs and circumstances of the child.¹²

CONCLUSION

Every child who conflicts with law is a child in challenging circumstances who has at some point slipped between the cracks and been denied the chance to grow up in safety and security. No child is a criminal by birth. It is a mirror of society and the family environment.

The application and monitoring of the juvenile justice system are crucial components. There is a significant disparity between juvenile justice theory and reality in India, according to a summary of several research, reports, and documents. Although the studies focus only on certain areas and specific facets of the juvenile justice system, they provide sufficient evidence to show that the children covered by the system are not receiving the promised treatment. Among the factors contributing to the inadequate execution have been identified as non-implementation, insufficient funding, unsuitable staff, poor services, overcrowded juvenile homes, and other issues.

In order to prevent undoing the gains accomplished in the area of child justice as a result of emergency measures, as those brought on by COVID-19, it is imperative that we likewise build resilience in the face of crises and pandemics. For children to have sustained access to justice in both emergency and non-emergency situations, we must, in particular, provide a legislative and policy foundation for non-custodial alternatives and other creative and resilient justice procedures. The Juvenile Justice Act is therefore considered to be a reformative conceptual method that replaces the punitive approach.

To sum up, one may argue that children are the nation's greatest resource. The future standard of living in India will be largely determined by the education received by the youth of today. Abraham Lincoln once observed, quite well, "A child is a person who is going to carry on what you have started." This was more than a century ago. While you are away, he will take care of the things you deem significant and sit where you are now. You are free to enact any policies you choose, but it is up to him how they are implemented. He is going to step in and seize control of your companies, colleges, schools, and places of worship. In his hands lies the destiny of humanity.

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