

***REFRESHER COURSE TO EVALUATE AND REVIEW PERFORMANCE OF JJBS
December 3-6, 20 15 (P-959)***

PROGRAMME REPORT

**Programme Coordinator - Ms. Shruti Jane Eusebius, Law Associate, National
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Day I

Session I & II

Theme - Can Juveniles be Rehabilitated? What the Scientific Studies Reveal

Speaker - Dr. Aruna Broota

The Programme commenced with a round of self introduction by the participants. Dr. Geeta Oberoi Director (Incharge) National Judicial Academy welcomed the participants and set out the objectives and agenda for the conference. Dr. Broota discussed the medical and genetic studies and findings linking delinquency to genetic factors. Dr. Broota discussed the various types of personalities, the personality disorders and the manifestation of the disorders in a person's behavior, speech, thought and action. Dr. Broota stressed that the opposite of normal personality is not abnormal personality as there are varying degrees of disorders. Dr. Broota dwelt on the difference between a normal individual, delinquent and psychopathic personalities. Dr. Broota highlighted the differences between these 3 categories of personalities by giving examples of cases Dr. Broota had dealt with. Dr. Broota also referred to the juvenile involved in the Nirbhaya case and stressed on the need for psychological evaluation of the juvenile to understand his mental makeup in view of the indication of mental illness in his family. Dr. Broota stated that certain personalities are not rehabilitable due to the genetic endowment as well as environmental factors and modelling that result in greater inclinations of the individual to involve in criminal activities. Dr Broota discussed the psychological theories and understanding of the developmental stages in a personality and stressed on the indicators of personality

disorders in persons. Dr. Broota discussed the interventions that have been found to have successful impact on delinquents and urged the participants to include these interventions in their orders.

Session III & IV

Visit to SOS Village

The participants were taken to the SOS Village in Bhopal with the objective of providing an experience and understanding of successful child rehabilitation measures and the methods that can be adopted to provide a conducive environment for children to bring them into main stream society. The participants were given a brief background of the institution, its establishment and the approach adopted by the institution to rehabilitate children. The participants visited the homes of the children in the SOS village and interacted with the children.

Day II

Session V

Theme - JJB Status in India

Speaker- Mr. Asheem Srivastava

Mr. Asheem Srivastava discussed the findings of the conference undertaken in the month of May 2015. The broad issues that were discussed in the conference were the bottlenecks in the effective functioning of the juvenile justice boards in India, the factors that determine the orders under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2000, the efficacy of the functionaries under the Act and the management of the institutions under the Act. Mr. Srivastava discussed the following findings from the conference -

- Feedback from the participants regarding the composition of the Juvenile Justice Board and suggestions to improve the composition
- Suggestions from the participants to improve functioning of the Board
- Feedback from the participants regarding the effectiveness of the functionaries and stakeholders under the Juvenile Justice Act, 2000.

Session VI

Theme - Age Determination under the JJ Act (Simulation Exercises)

Prof. S P Srivastava and Programme Coordinator

In this session the participants were engaged in discussion on the major issues in determination of age of juveniles in conflict with law. The participants were divided into groups and given a hypothetical case to decide. After the discussion within their groups the participants presented the decision of the group. The hypothetical cases involved a discussion of Rule 12 of the Juvenile Justice Rules, 2007 and the documents that the JJBs rely on to determine the age of the juvenile. Thereafter, Prof. Srivastava with the aid of a power point presentation traced the development of the standards of documentary proof for determination of age in order to understand the reasoning behind Rule 12 of the Juvenile Justice Rules, 2007.

Session VII

Theme - Grant of Bail under Section 12 of the JJ Act (Simulation Exercises)

Prof. S P Srivastava and Programme Coordinator

In this session the participants were given a simulation exercise on the theme. The participants were divided into 5 groups and were given a hypothetical case to discuss in the group and to come to a collective decision on the facts of the hypothetical case. Then the groups briefly presented the facts of the case given to them and the decision.

The exercises which were based on reported cases were used to highlight certain issues in the grant of bail by the juvenile justice boards. The discussion served to bring out the trends and practices adopted by the JJBs and the understanding of Section 12 of the JJ Act by the Magistrates. In the discussion the major issue that came to the fore front was the varied interpretations of the phrase “defeat the ends of justice” in Section 12 of the JJ Act. The discussion also served to point out the need for uniformity in the standards for grant of bail to juveniles in conflict with law and the factors that are relevant in the determination of bail.

Session VIII

Visit to Observation Home

The participants were taken to the observation home in Bhopal to provide an experience of the situation in observation homes in other jurisdictions. The participants were also given an opportunity to see the condition of the institutions under the JJ act as impetus to assess and evaluate the efficiency of the juvenile justice institutions. This was also an opportunity to interact with the inmates of the observation home to understand the difficulties they face.

Day III

Session IX

Theme - Effectiveness of Institutions and Probation Officer in the Juvenile Justice System

Speaker - Justice Manju Goel

Justice Manju Goel engaged the participants in a discussion on the role and responsibilities of the Probation Officers. Justice Goel dwelt on who a probation officer is and sought the participants view on the functions that a probation officer performs. The participants shared the situation in their jurisdictions as to the qualifications of the

probation officer and the work that is assigned to the probation officer. The discussion also focused on the nature of work that is required to be taken from the probation officer and the reports that the probation officer is required to give under the JJ Act. The participants shared their views on the effectiveness of the probation officer and whether the reports submitted are a result of proper inquiry and whether they are useful to the JJB. Justice Goel stressed on the need for JJBs to assert and to get the requisite work from the probation officers in the form of well researched reports on the juveniles in conflict with law. Justice Goel discussed the format of the reports and the information that is mandated under the JJ Act to be included in the report

Justice Goel also discussed the individual care plan as an essential document that must be prepared in every case and the linkage with the probation officer's report. Justice Goel stressed on the actions that JJBs can take to ensure that adequate attempts are made to rehabilitate the juvenile in conflict with law including measures like enrollment in school, vocational training etc so that the time spent under the supervision of the JJBs is used effectively.

Session X

Theme - Appropriate Orders under the JJ Act

Speaker - Prof. Ved Kumari

Prof. Ved Kumari engaged the participants in group discussions on 2 hypothetical cases. In the 2 hypothetical exercises, the participants were given a set of facts and were asked to pass an order based on the information. In the discussion, Prof. Ved Kumari raised the issue of whether the information given in the facts is sufficient or whether further information is required. Prof. Ved Kumari stressed that the JJB should be in possession of all the facts while passing an order. The major information that the JJB needs to stress upon are age, gender, education, background of the juveniles, background to the offence. Prof. Ved Kumari also referred to the Convention on the

Rights of the Child and the Beijing Rules as guidance to the JJBs in determining the order. Prof. Ved Kumari discussed the following points –

- The method in which group counselling is to be conducted and the persons who are to be included in the group for counselling.
- The use of community service
- Use of the order of fine
- There is a need to abandon the approach that the order passed by the JJB should be in proportion to the nature of the crime. It is the juvenile who needs to be considered.
- The JJB must ask relevant questions as to the background of the juvenile and seek information about all facets of his/ her life while passing the order.
- The JJB needs to take on the role of *parens patriae* while dealing with a juvenile in conflict with law and pass an order which is best suited to rehabilitate the juvenile.

Session XI

Preliminary Discussions among the Participants on the Play

In this session the participants divided themselves into 3 groups and were involved in discussions to determine the theme and the content of the plays they would present the next day.

Day IV

Session XII & XIII

Enactment of Play by the Participants and Discussion on the Issues Emerging from the Play

Panel –Justice Manju Goel & Prof. Ved Kumari

In this session, the participants enacted 3 plays which were conceived by them. The plays were based on their experiences in dealing with the juvenile justice system. After the enactment of each play the issues emerging from the play were discussed

The issues that were discussed after the first play were –

- Measures used in different states to secure the presence of the juvenile before the JJB
- Lawyers role in the juvenile justice cases and potential for delay in case due to the lawyer.
- Victim's rights in the juvenile justice case; the right of the victim to be heard in the JJB proceedings
- Bail should be granted as soon as possible to juveniles.
- Contribution of the social member to the JJB proceedings
- Court room procedures

The issues discussed after the second play were –

- Practice adopted by JJBs of getting the juvenile to confess is in violation of the juvenile's right against self incrimination under the constitution of india. There is need to factor in the constitutional rights of the juvenile in the JJB proceedings. His/ her guilt must be proved and he must get a fair trial.

- Need for training of magistrates who preside over JJBs and to have a dedicated cadre of judges to man the JJBs
- The approach to recording of the evidence of the child who is a victim of sexual assault and the need for clarity in the statements recorded which may be based on the local understanding of the term and would be unclear when read by others.
- Approach of judges to deal with minors in court and the need for positive encouraging practices to make the child less afraid.
- Impressions of the participants regarding the observation home they visited in Bhopal and the situation in the observation homes in their jurisdictions.

The issues that were discussed after the third play were -

- Approach of the police in dealing with juveniles apprehended and the need for the JJBs to be vigilant of the indications of custodial beating of juveniles appearing before them. The need for medical examination of juveniles who are apprehended as a means to check custodial torture.
- Probation officer's role in the JJB proceedings and the effectiveness of the probation officer
- Methods to include victim rehabilitation in the orders of the JJB.
- Use of mediation as a means to achieve restorative justice and to bring the victim and the juvenile in conflict with law together.
- Importance of the presence of the guardian ad litem in the JJB proceedings to protect the interests of the juvenile.
- Effective legal representation of the juvenile

- Compensation of victim under Section 357 CrPC, the POCSO Act and the other state specific measures for compensation
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