

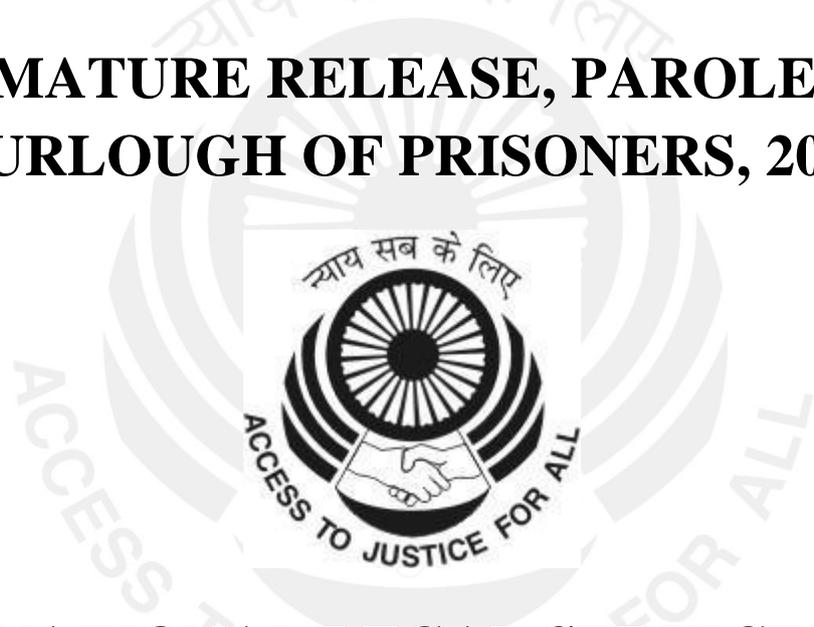


NALSA

STANDARD OPERATING PROCEDURES

ON THE PROCESS OF

**PREMATURE RELEASE, PAROLE AND
FURLOUGH OF PRISONERS, 2022**

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**NATIONAL LEGAL SERVICES
AUTHORITY**

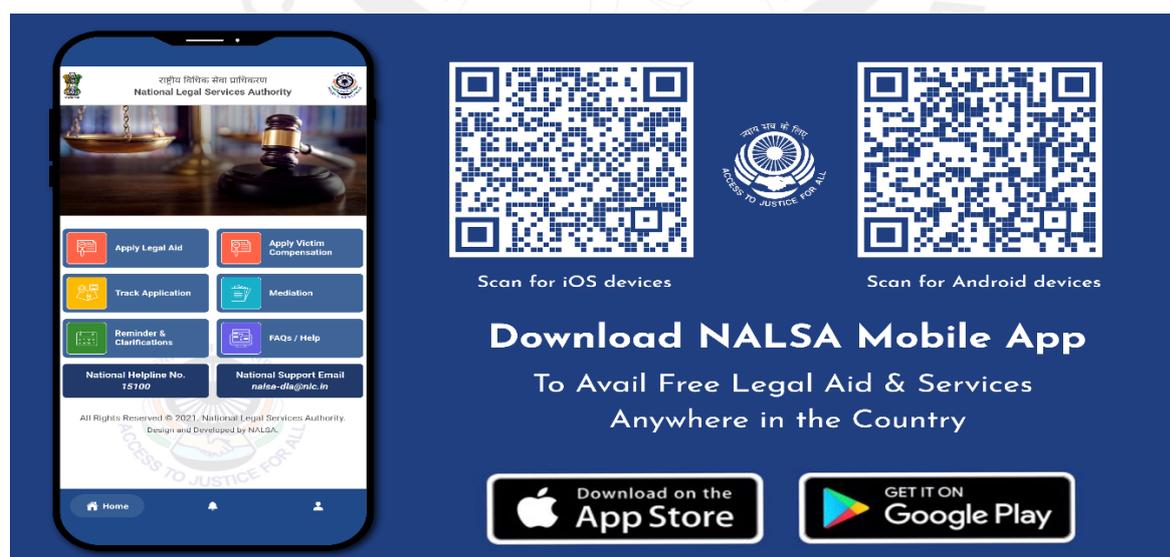
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Background

Premature release of a convicted prisoner is based on the concept of reformation, rehabilitation and reintegration of the prisoner back into the society on the basis of their conduct in prison. The decision to release such a person after completion of a portion of the sentence is a case-to-case basis consideration which also takes into account the safety of the victim, society and the convicted person. Pre-mature release process involves assessment of the impact of correctional programmes on the convict prisoners and allows them to resume normal life in the society.

Premature release is a discretionary power vested in the appropriate government, the Governor and the President under Section 432 of the Code of Criminal procedure, 1973 and Articles 161 and 72 of the Constitution of India, respectively. Since 'Prisons' is a state subject under Entry 4 of List II of the Seventh Schedule to the Constitution, the rules governing the process of premature release are framed by the States. According to the Model Prison Manual 2016 there are four different types of premature release:

- i) By way of commutation of sentence of life convict and other convict under Section 433 of the Code of Criminal Procedure, 1973 (Cr PC) by the State Government.
- ii) By way of remitting term sentence of a prisoner under Section 432 of the CrPC by the State Government.
- iii) By order of the Head of the State passed exercising power under Article 72 or Article 161 of the Constitution of India, as the case may be.
- iv) Premature release under any special law enacted by the State providing for release on probation of good conduct prisoners after they have served a part of the sentence.

The Mulla Committee on Jail Reforms (1980-83) observed that the process of premature release takes from 3 months to 12 months from the date of eligibility for premature release to final release of the prisoner, across different States.

The National Human Rights Commission (NHRC) issued guidelines titled '*Premature Release of the Prisoners Undergoing Sentence of Life Imprisonment-Eligibility Criteria for, Constitution of Sentence Review Boards and Procedure to be followed*' dated 20th October, 1999 recognizing the lack of uniformity among the States in the premature release process. It also recommended the setting-up a Sentence Review Board at the State level to consider and decide the cases of premature release requests.

According to the Prison Statistics India report published by the National Crime Records Bureau (NCRB) during the calendar year 2020, a total of 1,09,516 convicts were released out of which 49,386 convicts were released after completion of conviction

period and 43,033 were released on bail. 2,321 convicts were released prematurely and 6,389 prisoners were acquitted by higher courts on appeal. A total of 156 convicts were released under pardon during 2020, maximum such released were reported in Uttar Pradesh (119) followed by Jammu & Kashmir (18), Punjab (8), Uttarakhand (5), Rajasthan (4), Haryana and Chandigarh (1 each). A total of 713 convicts were transferred from one State to another State during 2020. Telangana (215) and Haryana (133) and Assam (83) have reported the highest number of such transfer of convicts to other States. Approximately 2% of the total convicts released in a year are released under the pre-mature release process. Standardization of the premature release process will make the process more efficient and may lead to higher number of prisoners being released under the pre-mature release process, reflecting the efficacy of Indian prison system in reforming and rehabilitating convicted prisoners.

Hon'ble Supreme Court while dealing with the challenge of having a uniform policy for premature release in SLP (Criminal) No. 514 of 2021 observed that there are four vital aspects of the premature release process:

- (i) Timely identification of the eligible convicts;
- (ii) Making applications by the eligible convicts with the help of District Legal Services Authority;
- (iii) Timelines for the application procedure and decision on the premature release applications;
- (iv) If the premature release applications are rejected by the State Government, then legal aid will be provided to the said convict to decide whether the said rejection should be challenged in a Court or not.

In SLP (Criminal) No. 4358-4359 of 2021, Hon'ble Supreme Court further directed NALSA to consider to issue Standard Operating Procedures on premature release. Further, in Criminal Appeal No. 1343/2012 directed the Secretary, NALSA to prepare a module regarding dissemination information of remission, premature release or parole etc. In furtherance of this, NALSA has the prepared the following Standard Operating Procedure on legal assistance, operationalization and coordination in improving the process of premature release, parole and furlough of prisoners.

CHAPTER-I DEFINITIONS

- A. “Appropriate government” shall be the State government in all cases where the offender is sentenced or the sentence order is passed within the territorial jurisdiction of the concerned state, barring those falling under Section 432(7)(a) of the Code of Criminal Procedure (CrPC).
- B. “Date of eligibility” is the date on which the particular life convict becomes eligible to be considered for premature release as per the State’s premature release policy.
- C. “Eligible convicts” means the convict prisoners who are entitled to be considered for premature release in the next four months.
- D. “Furlough” means short release of prisoner after completing a stipulated part of the sentence as may be prescribed in the State rules.
- E. “Prison Legal Aid Clinic” means a legal services clinic setup by the legal services institutions inside the prisons.
- F. “Legal services” means the rendering of any service in the conduct any case or other legal proceeding before any court or other Authority or tribunal and the giving of advice on any legal matter, free of cost by the legal aid authority.
- G. “Life convicts” are such convicted prisoners who have been sentenced to life imprisonment.
- H. “Paralegals” means para legal volunteers appointed by the legal services institutions who are assigned to the Prison Legal Aid Clinics
- I. “Parole” means temporary release of a prisoner for a short period of time for the purpose of maintaining societal and family relations, subject to State rules on release of prisoners on parole.
- J. “Premature release policy” includes all rules, regulations, acts, directions passed by the courts of record and any other law of the land that includes the aspects of premature release of prisoners in the respective States or Union Territories.
- K. “Prison superintendent” includes any officer who is in-charge of the particular prison.

- L. “Prisons” include all prisons in the State including central jails, district jails, sub jails and any other place of detention which houses convict prisoners.
- M. “Recommending authority” includes anybody or board or committee or authority formed by the State government which is mandated to consider applications for premature release of convict prisoners.

CHAPTER-II GENERAL PROVISIONS

- i. The DLSA, in collaboration with the Prison Superintendent, shall periodically organise legal awareness camps in all prisons in the district to educate prisoners about the State’s premature release policy.
- ii. The State prison department shall depute an officer as Nodal Officer, preferably a senior DIG/SSP rank official at the prison head office to receive all the premature release files from the prison superintendents in the State, collect the remaining documents/ information as per the State’s premature release policy which are not yet included in the respective files and forward all such files after collecting the remaining documents/information to the ‘Recommending Authority’ for making its recommendations in the individual cases.
- iii. Training of stakeholders: State Legal Service Authorities, State Prison Department and the judicial academies in the State should ensure that all concerned prison and police officers, paralegals and legal aid lawyers involved in the process of handling premature release applications are trained in recording and processing the information of eligible convicts via digital tools. They should also be trained on the process of premature release in respective States.
- iv. Documentation: The respective SLSAs should issue uniform formats to be used in recording and processing of information as per the State’s premature release policy.
- v. Rehabilitation programmes in prisons: All endeavors may be made by the State for implementing range of reformatory and rehabilitative programmes

- aiming at raising the educational and vocational skill levels of convict prisoners. The skills imparted should improve the employability of the prisoner to prepare them for employment or self-employment after release;
- vi. Post release assistance: The State governments may create After Care and Support mechanism within the framework of the Government subject to the existing schemes and policy or by co-opting private bodies/NGOs with a view to secure rehabilitation of released prisoners
- vii. Expanding the eligibility for premature release: State government may from time to time review its premature release policy to include more categories, to enable more prisoners to seek premature release.

CHAPTER-III PRE-MATURE RELEASE PROCESS

STAGE 1 - IDENTIFICATION OF ELIGIBLE CONVICTS

1.1 Recording of data of life convicts & other convicts

- 1.1.1 The Prison Superintendent of all the prisons in the State shall prepare the list of all life convicts and other convicts, who would be entitled to be considered for premature release in the next four months as per the eligibility given under the State's premature release policy.
- 1.1.2 The following details shall be included in the list prepared by the prison superintendent:
- 1) Name of the Convict
 - 2) Father's name
 - 3) Gender
 - 4) Age as on the date of eligibility
 - 5) Particulars of offence(s) for which the convict is serving the sentence
 - 6) Police Station in whose jurisdiction the crime was committed
 - 7) Name of the trial court which passed the sentence
 - 8) Duration and nature of the sentence
 - 9) Duration of sentence served as on date of eligibility
 - 10) Total remission earned as on date of eligibility

11) Remarks by the prison superintendent

- 1.1.3 The prison superintendent shall prepare the list of eligible life convicts and other convicts with a gap of four months, in January, May and September. This list should be preferably prepared within the first ten days of these months.
- 1.1.4 The prison superintendent shall prepare this list in soft/digital form (in Microsoft Word or Excel or any other similar platform), where the prison has adequate digital infrastructure and adequate human resource for it. In rest of the prisons, manual lists shall be prepared until the requisite infrastructure and human resource is made available.
- 1.1.5 Based on the list of prisoners so created, the prison superintendent shall prepare individual case files for each prisoner eligible for pre mature release, as per prescribed formats by the state government. Where no format is available, a format may be prepared by the state prison department.
- 1.1.6 The prison superintendent may also depute paralegals appointed by the District Legal Services Authority (DLSA) in the Prison Legal Aid Clinic (PLAC) to assist in the process of preparation of the individual case files of eligible convicts.
- 1.1.7 The access to the details of life convicts included in this list and individual case files shall be strictly limited only to the prison superintendent, concerned DLSA and paralegals involved in the process of premature release.

1.2 Sharing the list of eligible convicts with the DLSA

- 1.2.1 The prison superintendent shall send a copy of the list of eligible convicts to the DLSA as soon as the list is prepared, and within the 10th day of the respective months (January, May and September) in which the list is to be prepared.
- 1.2.2 DLSA shall appoint jail visiting lawyers and paralegals assigned to the PLAC to assist the convict prisoners in preparation of their applications. The concerned DLSA shall issue a roster as soon as possible after receiving the list of eligible convicts in the following format:

Title: Case wise roster of assigned jail visiting lawyers and paralegals assigned for assisting the eligible convicts in preparation of their premature release application and individual case files.

Date of issuing the roster: _____

S. No.	Name of the eligible convict	Name(s) of the JVL or Paralegal assigned	Days of their visit to the PLAC
1.			
2.			
3.			

Signature of DLSA Secretary

- 1.2.3 The DLSA shall send the issued roster to the Prison Superintendent within 4 days from the date of receiving the list of eligible prisoners from the prison superintendent.
- 1.2.4 The prison superintendent shall intimate the prisoners individually about the assigned person for assisting them in the preparation of their premature release application.

STAGE 2- PREPARATION AND SUBMISSION OF THE APPLICATIONS TO THE 'RECOMMENDING AUTHORITY'.

2.1 Collection of documents

- 2.1.1 The prison superintendent shall collect all the documents required for considering an application of premature release as per the State's premature release policy.
- 2.1.2 The prison superintendent shall send letters to the concerned authorities for seeking required documents which are not available with the prison administration by 1st February (for the list prepared in January), 1st June (for the list prepared in May) and 1st October (for the list prepared in September).

2.1.3 The prison superintendent shall send reminder letters to the authorities which fail to send the required information/document within 30 days.

2.1.4 The process of compiling documents/information for the individual case files and preparation of the premature release applications shall be completed in maximum 2 months i.e., by 31st March (for the list prepared in January), by 31st July (for the list prepared in May) and by 31st November (for the list prepared in September).

2.2 Sending premature release files to the State Prison Department

2.2.1 The prison superintendent shall send the list of eligible prisoners and individual case files with all the documents/information complied as on the following dates along with the convict's application by 1st April (for the list prepared in January), by 1st August (for the list prepared in May) and by 1st December (for the list prepared in September) to the State prison department. Even in cases where the collection of documents/information is incomplete, the files shall be sent to the State prison department with the documents collected so far without any delay.

2.2.2 The Nodal Officer so deputed at the head office of the State prison department shall collect the remaining documents/information in cases where it is incomplete and shall forward the complete file to the 'Recommending Authority' within one month.

2.2.3 The Nodal Officer may take the assistance of the concerned DLSAs or SLSA for collecting the remaining documents/information in cases where the prison superintendents could not collect all the documents as required under the State's premature release policy.

2.2.4 No file of premature release of convicts shall be returned or held back for the reasons of incomplete documents/information at the prison level or State Prison Department.

STAGE 3 - RECOMMENDATION BY THE RECOMMENDING AUTHORITY

3.1 Meeting

3.1.1 The recommending authority shall meet once in every four months, preferably in the months of April, August and December with full quorum as per the State's premature release policy. The frequency of meetings of the recommending authority shall be subject to the mandate given in the State's premature release policy.

3.2 Making recommendations

3.2.1 The recommending authority shall review all cases forwarded to it by the State prison department in its meeting.

3.2.2 The recommending authority shall ask for the documents/information in cases where it is incomplete.

3.2.3 Incomplete documents or lack of information on any criteria shall not be considered as an adverse circumstance. No premature release application should be recommended against or put in abeyance only on the ground of incomplete documents or information.

3.2.4 The following considerations shall be determined on a case-to-case basis in making recommendation subject to the State's premature release policy:

- A. Whether the offence was an individual act of crime without affecting the society at large;
- B. Whether there was any chance of future recurrence of committing a crime;
- C. Whether the convict had lost his potentiality in committing the crime;
- D. Whether there was any fruitful purpose of confining the convict anymore; and
- E. The socio-economic condition of the convict's family and other similar circumstances.

3.2.5 The recommending authority shall forward its recommendation to the appropriate government in all cases forwarded to it by the State prison department within 10 days from the day on which the meeting is conducted.

3.2.6 The recommendations so made by the authority shall be in a format, as prescribed by the state prison department and should include the reasons for recommending/rejecting each application.

STAGE 4 - ORDERS BY THE STATE GOVERNMENT / APPROPRIATE GOVERNMENT

4.1. Deciding on the recommendation of the recommending authority

- 4.1.1 The appropriate government shall make its decision on all cases recommended by the recommending authority within one month of receiving the recommendation.
- 4.1.2 The appropriate government shall immediately send a copy of the order to the State prison department and the concerned SLSA.
- 4.1.3 The state prison department shall ensure that all orders granting premature release or rejection thereof, along with the reasons behind its order, are uploaded on the state prison department's website as soon as possible.

4.2 Communicating the orders to the convicts

- 4.2.1 The concerned State prison department shall forward the orders of the appropriate government to the concerned prison superintendents, with a copy marked to the DLSA secretaries, respectively as soon as the orders are received by them from the appropriate government.
- 4.2.2 The prison superintendents shall communicate the decision of the appropriate government on the premature release application to the concerned convicts as soon as the orders are received by them.

4.3 Legal assistance to the convicts in cases of rejection of premature release application

- 4.3.1 The DLSA shall provide the required assistance to a convict in case of rejection of application for premature release. The DLSA shall appoint a lawyer for interaction with the convict for assessing his legal need. The lawyer shall interact with the concern convict and make him aware of future legal remedies. He shall assist in collection of copies of relevant orders and other required documents, if convict desired to avail remedies through legal services authorities.

- 4.3.2 In case convict desires to avail legal aid for filing petition before the High Court, the DLSA concerned shall forward application with all relevant documents of such convict to the Secretary, HCLSC.
- 4.3.3 The HCLSC, if grounds for legal remedies available, shall assign the case to a Panel lawyer for filing petition within a period of one week. The Panel Lawyer, after receipt of the case shall interact (Virtual or Physical) within one week with the convict before filing the petition. The HCLSC in coordination with DLSA shall facilitate such interaction.
- 4.3.4 The Petition shall be prepared and filed within a period of fifteen days positively. In case of delay, it shall be duty of the Panel lawyer concerned to update HCLSC in writing.
- 4.3.5 Similarly, if legal assistance is required in the SCLSC, the application of the convict along with paper-book be sent by HCLSC to SCLSC. Such exercise be done by HCLSC in coordination with DLSA concerned. The assigned lawyer by SCLSC will interact (virtual) within two weeks with the convict before filing the petition. The SCLSC in coordination with HCLSC/DLSA shall facilitate such interaction.
- 4.3.6 The Petition shall be prepared and filed within a period of thirty days positively. In case of delay, it shall be duty of the Panel lawyer concerned to update SCLSC in writing, who will intimate the same to HCLSC.
- 4.3.7 The convict shall be updated about the status of his legal aid application, appointment of lawyer, filing of application, status of case on periodic interval by SCLSC or HCLSC, as the case may be, in coordination with DLSA.
- 4.3.8 In cases where the convict prisoner has a private lawyer and does not require legal aid lawyer, the Prison Legal Aid clinic will take care further course of action and at least one meeting will be conducted by the Jail Visiting Lawyer with such convict prisoner. In case of non-filing of petition by private lawyer or otherwise, if such convict prisoner expresses his desire to engage a legal aid lawyer, then immediately such assistance will be provided.

4.4 Rehabilitation and post release assistance to the convicts who are granted premature release

- 4.4.1 Subject to the provisions of the State's premature release policy, welfare schemes and any other policy on rehabilitation of prisoners all convict prisoners to be released prematurely shall be engaged in an individual welfare programme designed on case-to-case basis which shall include provisions for economic and social rehabilitation of the released convict under the existing social welfare schemes of the concerned State government. Such a rehabilitation programme shall include periodic review of the rehabilitation of the released convict to a limited extent of time as may be defined by the State government. The State government and the State prison department may utilize the services of the probation officers for this purpose.
- 4.4.2 Probation officers so appointed for rehabilitation of the released prisoners shall send periodic report to the appropriate government, SLISA and prison department on the rehabilitation of the released person till the time as may be decided by the State government.
- 4.4.3 The SLISA may issue a format for such reports on rehabilitation status of the released person.

CHAPTER-IV PROCESS FOR RELEASE ON PAROLE AND FURLOUGH

STAGE 1 - IDENTIFICATION OF ELIGIBLE CONVICTS

1.1 Recording of data of convicts

1.1.1 The PLAC shall record and update the following information for all convict prisoners in the prison once in every quarter, preferably in January, April, July and October:

- 1) Name of the Convict
- 2) Father's name
- 3) Gender
- 4) Contact details of private or legal aid lawyer
- 5) Date of Birth and Age as on date
- 6) Particulars of offence(s) for which the convict is serving the sentence

- 7) Police Station in whose jurisdiction the crime was committed
- 8) Name of the trial court which passed the sentence
- 9) Duration and nature of the sentence
- 10) Duration of sentence served as on date
- 11) Total remission earned as on date
- 12) Details of previous parole/furlough:
 - i. Date of release
 - ii. Duration approved
 - iii. Date of re-admission/surrender to prison (mark delay if any, separately)
 - iv. Remarks by Superintendent
- 13) Whether any conditions of parole/furlough release flouted? If yes, mention details.
- 14) Whether eligible to apply for parole as per the State rules? Yes/No. If no, mention the ineligibility as per the State rules.
- 15) Whether eligible to apply for furlough? Yes/No. If no, mention the ineligibility as per the State rules.
- 16) Remarks and signature by the prison superintendent

1.2.5 Jail Visiting Lawyers where applicable shall record and update the abovementioned information register from the records of convict prisoners available in office. This information shall be recorded in soft/digital form (in Excel or any other similar platform), where the PLAC has adequate digital infrastructure and adequate human resource for it. In rest of the prisons, manual lists shall be prepared until the requisite infrastructure and human resource is made available.

1.1.2 The DLSA Secretary and District and Sessions Judge shall review the said register/excel file during their prison visits.

1.2 Sharing Information with Family and Lawyer

1.2.1 The Jail Visiting Lawyer/PLV shall send intimation letters to the family and lawyers of all such convicts who are eligible to apply for parole or furlough.

STAGE 2 - PREPARATION AND SUBMISSION OF APPLICATION FOR PAROLE/FURLOUGH

- 2.1 The concerned Jail Visiting Lawyer or PLV appointed at the PLAC shall prepare the application for release on parole or furlough on request of the eligible convict prisoners who wish to apply for parole/furlough.
- 2.2 All required documents and information as per the State rules shall be compiled by the PLAC with the coordination of the Prison Superintendent as soon as possible.
- 2.3 The application for parole or furlough shall then be submitted to the concerned authority for deciding on the applications of parole and furlough.

STAGE 3 – PROCESS POST REJECTION OR APPROVAL OF PAROLE/FURLOUGH APPLICATION OR WHERE THERE IS UNDUE DELAY IN DECIDING ON THE APPLICATION

- 3.1 PLAC shall coordinate with the prison superintendent and other such concerned authorities as may be required on the status of the parole/furlough application and shall convey the decision on the application to the convict prisoner.
- 3.2 Upon approval of the parole/furlough application, the PLAC shall interact with the prisoner for ensuring their release.
- 3.3 Upon rejection of the parole/furlough application, the PLAC shall provide free legal assistance and advice to the convict prisoner. If the convict prisoner wishes to appeal against the decision, the PLAC shall send an application for requesting legal aid lawyer to the DLSA on behalf of the convict prisoner.
- 3.4 The DLSA shall transmit the application to the HCLSC within a day of receiving the application from the PLAC.

- 3.5 The HCLSC shall appoint a lawyer within a week of receiving the application from the DLSA.
- 3.6 The lawyer appointed by the HCLSC shall interact with the convict prisoner within a week of receiving the appointment letter and shall provide required free legal assistance and representation.
- 3.7 Similarly, SCLSC shall provide the required legal assistance, in case required for filing petition in the Supreme Court, by appointing a Panel Lawyer within a period of one week, if found fit.
- 3.8 HCLSC/SCLSC, as the case may be, shall facilitate interaction, in coordination with concerned DLSA between the Panel Lawyer and convict. The timeline of interaction and filing of petition shall be fixed and informed through appointment letter.
- 3.9 The convict shall be updated about the status of his legal aid application, appointment of lawyer, filing of petition, status of case from time to time by SCLSC or HCLSC, as the case may be, in coordination with DLSA.
- 3.10 Where there has been undue delay in deciding on parole/furlough application, the prisoner can file appropriate petition before the competent courts. The PLAC shall provide legal advice to the prisoner, and write to the competent legal services institution for appointment of legal aid lawyer to represent the case.

CHAPTER-V COORDINATION AND MONITORING

REPORTING

1. The DLSA shall send quarterly report to the SLSA mentioning the following details:
 - a. Number of convict prisoners assisted in premature release applications and the status of applications.
 - b. Number of convict prisoners assisted in parole applications and the status thereof.

- c. Number of convict prisoners assisted in furlough applications and the status thereof.
2. The SLSA shall compile district wise reports and send a state wise annual report to NALSA under the above-mentioned heads.

COORDINATION MEETINGS

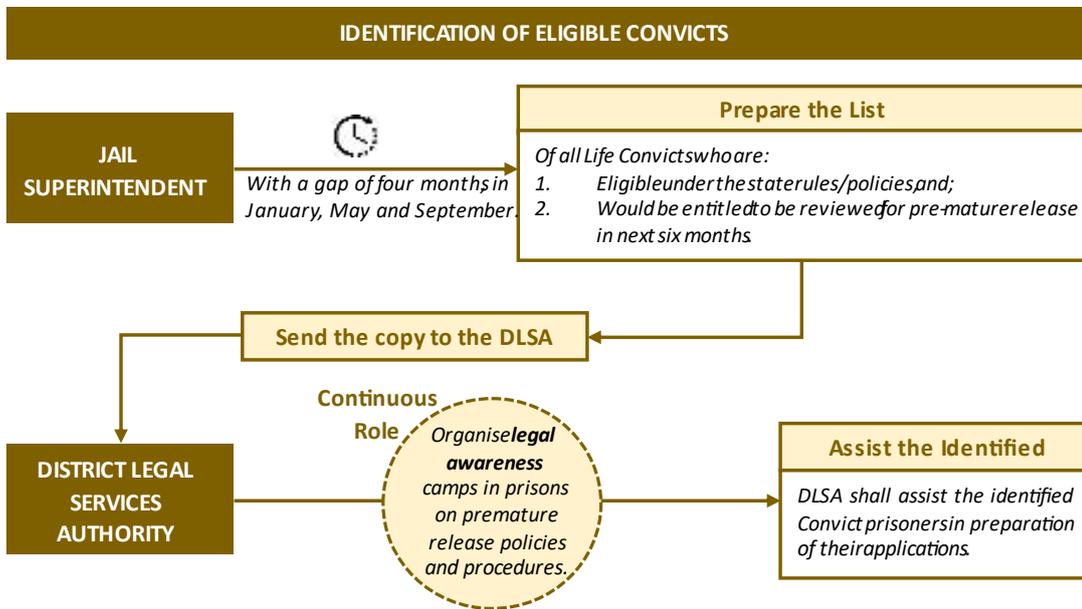
1. The coordination committees at the district level shall meet once in three months to discuss the issues in working of this SOP and monitor it's working.
2. The DLSA Secretary shall present a report to the members on the working of this SOP.
3. The following member shall form part of the coordination committee for ensuring a smooth and effective implementation of this SOP:
 - a. The District and Sessions Judge,
 - b. DLSA Secretary,
 - c. Prison superintendents of all prisons in the district,
 - d. Other persons that DLSA deem necessary to be present to discuss the working of the SOP,
4. The Minutes of the Meeting of all coordination committee meetings shall be sent to the SLSA within 15 days of the conduct of the meeting.

CHAPTER-VI MISCELLANEOUS

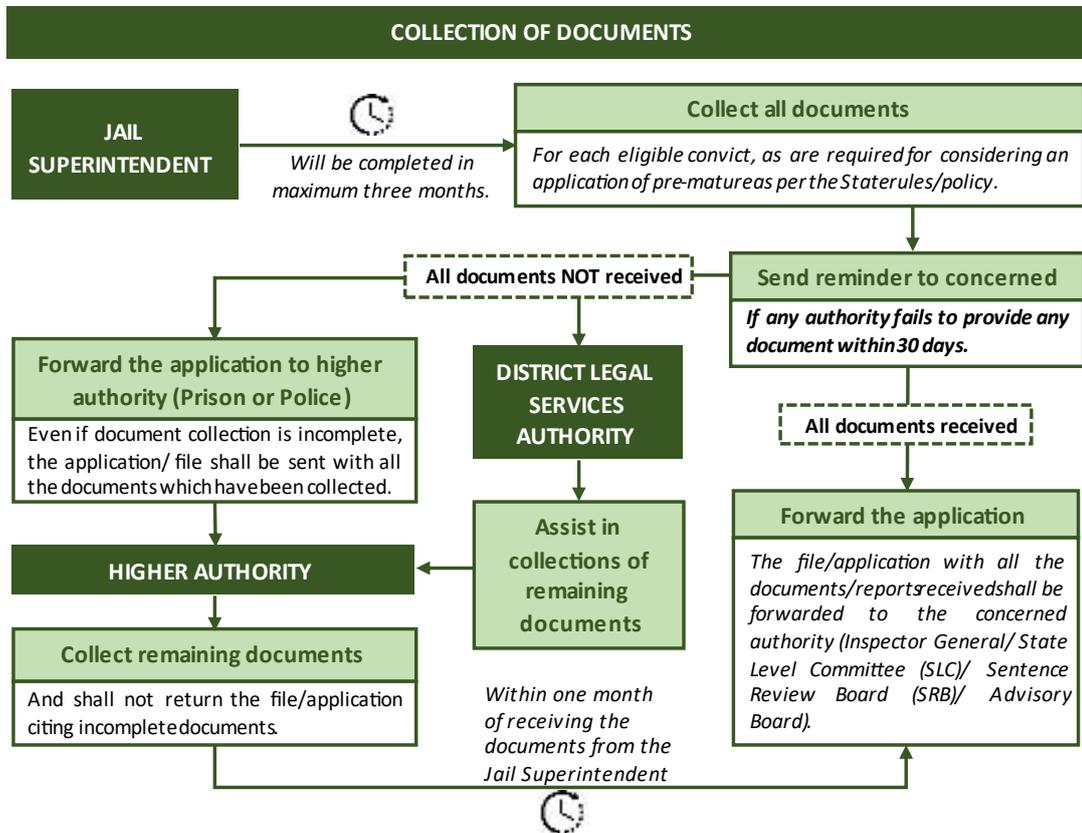
Review of the SOP: The 'Recommending Authority' and the State government shall periodically review the implementation of this SOP along with the SLSA and State Prison Department and ensure that there is no delay in the deciding the cases. State level consultations with all the stakeholders should be organized periodically to address the issues that arise in the functioning of the 'Recommending Authority'.

Flowchart of Procedure For Handling Applications Of Premature Release/ Remission

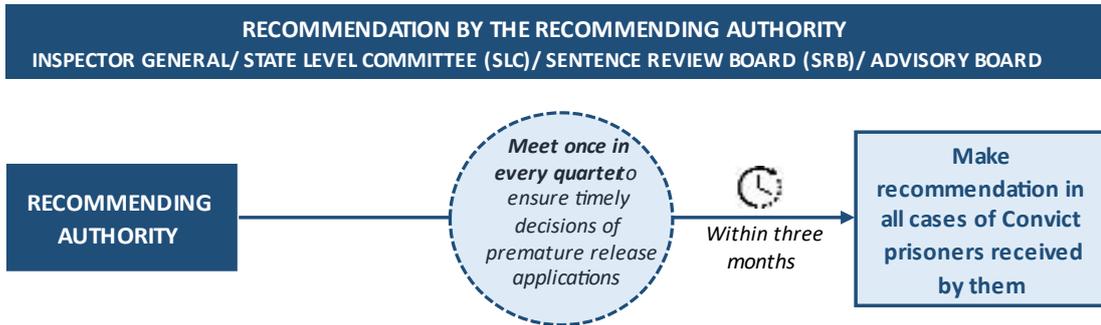
STEP 1



STEP 2



STEP 3



STEP 4

