

Sensitization of Child Rights & Key issues related to Juvenile Justice Act 2015

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Sub Points

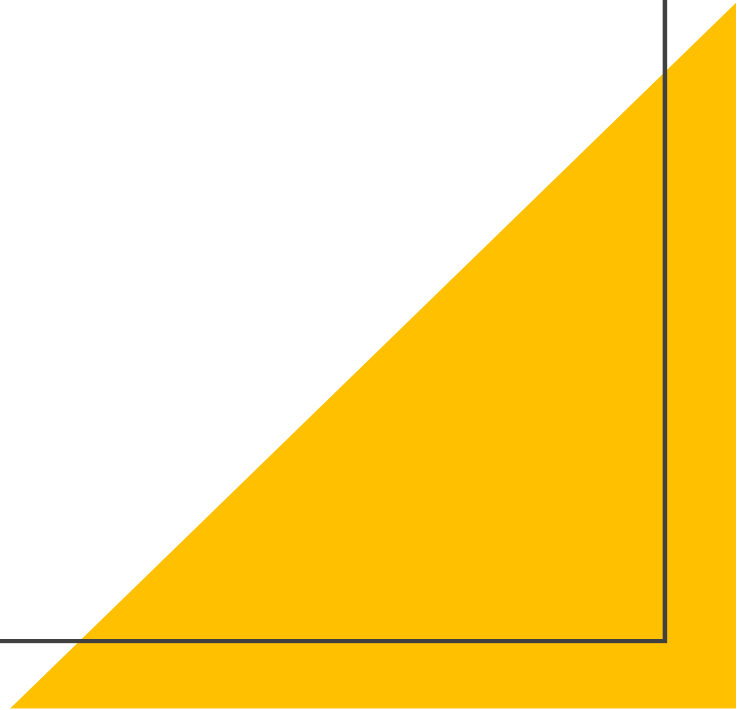
Types of Children provided
in Juvenile Justice Act 2015

General Principles
of Juvenile Justice Act 2015

Brief Introduction to JJ
stakeholders

QUOTE

- "There can be no more intense discovery of a society's spirit than how it treats its youngsters"
 - Nelson Mandela



Chief Justices' Conference 2015

- Resolution dated 03rd & 4th Apr 2015
- Minutes dated 05th & 06th Apr 2015

[12] STRENGTHENING OF JUVENILE JUSTICE SYSTEM

Resolved that the High Courts shall continue to take all steps necessary, including evolving ways to ensure greater sensitivity, to effectively deal with cases in the field of Juvenile Justice in their respective States. **The High Courts should ensure that constitution of Juvenile Justice Boards and Child Welfare Committees are in place, that visits are regularly made to the Juvenile Homes, Special Homes, Observation Homes, Shelter Homes and Rescue Centres etc. and that such homes are set up wherever they have not already been set up. It shall also be ensured that the requisite facilities are provided as per the standards, Rules, Policies and Guidelines in all such Homes/Centres.** The assistance of State Legal Services Authorities and District Legal Services Authorities shall also be **ensured** in this regard.

14. Strengthening of Juvenile Justice System.

The following Resolution adopted in the Chief Justices' Conference, 2009, is reiterated:

"a] The Resolution passed to the following effect in the Chief Justices' Conference, 2006, is reiterated:

"That High Courts will impress upon the State Governments to set up Juvenile Justice Boards, wherever not set-up. **The Chief Justices may nominate a High Court Judge to oversee the condition and functioning of the remand/observation homes established under the Juvenile Justice (Care and Protection of Children) Act, 2000.**

b] **The Chief Justices of the High Courts will expedite the matter with the respective State Governments for setting up of Juvenile Justice Boards, wherever they have not yet been set up."**

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Annexure-1

Suggestive points for Training and Sensitization of Addl. District & Sessions Judges (nominated as Visitor Judges).

Types of CCLs and their purpose (Children Home, Open

Madan B. Lokur
Judge
Supreme Court of India



11, Tagore Road
New Delhi-110011
Phone : 23014102
Fax : 23014107
E-mail : madanlokur@nic.in

November 25, 2013

Dear Justice Jha

As a first step towards effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 it is necessary to collect information about the existing state of affairs.

Therefore, this is to request you to arrange to have the following information obtained :-

- (1) Members of the Child Welfare Committees in the State (along with the location of the office of the Committees and the telephone numbers of the Members);
- (2) Members of the Juvenile Justice Boards in the State (along with the location of the office of the Boards and the telephone numbers of the Members);
- (3) Whether a Selection Committee headed by a retired High Court Judge is in place as required by Rule 91 of the Model Rules.
- (4) The possibility of appointing a Visitor in each District in the State of the rank of Addl. District Judge to visit the Observation Home and the Children's Home in the District once a month.

A circular issued by the Gauhati High Court may be circulated to the Principal Magistrates of the Juvenile Justice Board for information and for filling up the attached forms with up-to-date information as on 30th November, 2013 and thereafter as on 31st December, 2013. The circular and forms can be suitably modified a little later after discussions. The circular and the attached forms are available on the Gauhati High Court website at ghconline.nic.in/Document/CircularJJB.pdf.

I am planning to have a meeting of the Committee Members of all the States in Delhi sometime in January 2014 and the necessary first step as suggested may be taken in the meanwhile.

With best wishes,

Yours sincerely,
Madan Lokur
(Madan B. Lokur)

Hon'ble Mr. Justice R.S. Jha
Juvenile Justice Committee,
High Court of Madhya Pradesh.

Letter by:-

Justice Shri Madan B. Lokur

Dated 25 Nov 2013

The possibility of appointing a visitor in each district in the state of the rank of ADJ to visit the observation home and the children's home in the district once in a month

Madan B. Lokur
Judge
Supreme Court of India



11, Tagore,
New Delhi
Phone : 230
Fax : 230141
E-mail : mada

January 25, 2014

Dear Judge,

This is with reference to my letter dated November 25, 2013.

In that letter I had suggested the possibility of appointing a Visitor in each District in the State of the rank of Addl. District Judge to visit the Observation Home and the Children's Home in the District once a month.

Unfortunately, I have been informed that some of the High Courts have not yet appointed such a Visitor.

This is to request you to discuss the matter with the Chief Justice of your High Court for the appointment of a Visitor (if not appointed) at the earliest otherwise, I am afraid, the condition of children in the Observation Homes and the Children's Homes will not improve.

No doubt you appreciate the need for making the life of children somewhat more comfortable than it is today. Kindly therefore take up the matter with the Chief Justice and also direct the Visitor so appointed to submit a monthly report to the Juvenile Justice Committee so that necessary improvements in the living conditions of the children can be made.

With best wishes,

Yours sincerely,

(Madan B. Lokur)

Letter by:- Justice Shri Madan B. Lokur

Dated 25 Jan 2014

- In that letter (25 Nov 2013) I had suggested the possibility of appointing a visitor in each District in the state of the rank of ADJ to visit the observation home and the children home in the district once in a month
- This is to request you to discuss the matter with the chief Justice of your High Court for the appointment of a visitor judge at the earliest otherwise I am afraid the condition of children in the observation home and the children's home will not improve

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IT Department

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Subject: Appointment of Visitors of ADJ rank to visit Observation and Children Home

From: giribala.singh@mphc.in

Date: Fri, January 31, 2014 11:03 am

To: dcourtaltjpr@indianjudiciary.gov.in (more)

Priority: Normal

Options: View Full Header | View Printable Version | Download this as a file | Add to Address Book

Hon'ble the Members of the Committee for Monitoring the implementation of Juvenile Justice Act 2000 and Rules 2007 have approved the following proposals:-

1. District and Sessions Judge of each District of the State to appoint one 'Visitor' of the rank of Additional District Judge to visit Observation Homes and Children Homes fortnightly and submit a report in accordance with letter of Hon'ble Shri Justice Madan B. Lokur, Judge Supreme Court of India sent previously on 25.11.2013, within 3 days of receipt of this communication.

2. District Judges to send the name, contact numbers and such Visitor appointed for the said purpose and in case of change the same to the Registry so that the reports can be received in softcopy and placed before Hon'ble the Members of the Committee for Monitoring Implementation of the JJ Act.

3. District Judges to direct the Visitors so appointed to conduct first visit within a week and transmit the desired report to be placed before the Hon'ble Committee.

4. District Judges of each district to place the report submitted by Visitor in the Monitoring Cell Meeting and coordinate with the stakeholders in the district with a view to taking measures for improvement of the condition of the children in the Homes.

Therefore, in accordance with the resolution you are requested to take immediate action within stipulated time and submit report so that it can be placed before Hon'ble the Committee.

Letter by Hon'ble High Court of Madhya Pradesh

Dated 31 Jan 2014

- D & S Judge of each District of the state to appoint one visitor of the rank of ADJ to visit observation home and children home fortnightly and submit a report in accordance with letter of hon'ble Justice Madan B. Lokur Judge Supreme Court of India sent previously, within 3 days of receipt of this communication



Sub Point No 1

Types
of Children
provided
in Juvenile Justice
Act 2015

Section 2(12) of Juvenile Justice Act 2015
-defines “Child” – means a person who
has not completed eighteen years of
age;

Section 2(13) “child in conflict with law”
means a child who is alleged or found to
have committed an offence and who has
not completed eighteen years of age on
the date of commission of such offence

Categories of child

Section 2(1) “abandoned child” means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;

Section 2 (42) “orphan” means a child— (i) who is without biological or adoptive parents or legal guardian; or (ii) whose legal guardian is not willing to take, or capable of taking care of the child;

Section 2(60) “surrendered child” means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;

Section 2(14) “child in need of care and protection” means a child—

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or
- (iii) who resides with a person (whether a guardian of the child or not) and such person—
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or



Section 2(14) “child in need of care and protection ” means a child—

- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or
- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or
- (x) who is being or is likely to be abused for unconscionable gains; or
- (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage



Sub Point No 3

Brief Introduction to Juvenile Justice Stakeholders

Juvenile Justice Board (JJB)

Children Court (CC)

Child welfare Committee (CWC)

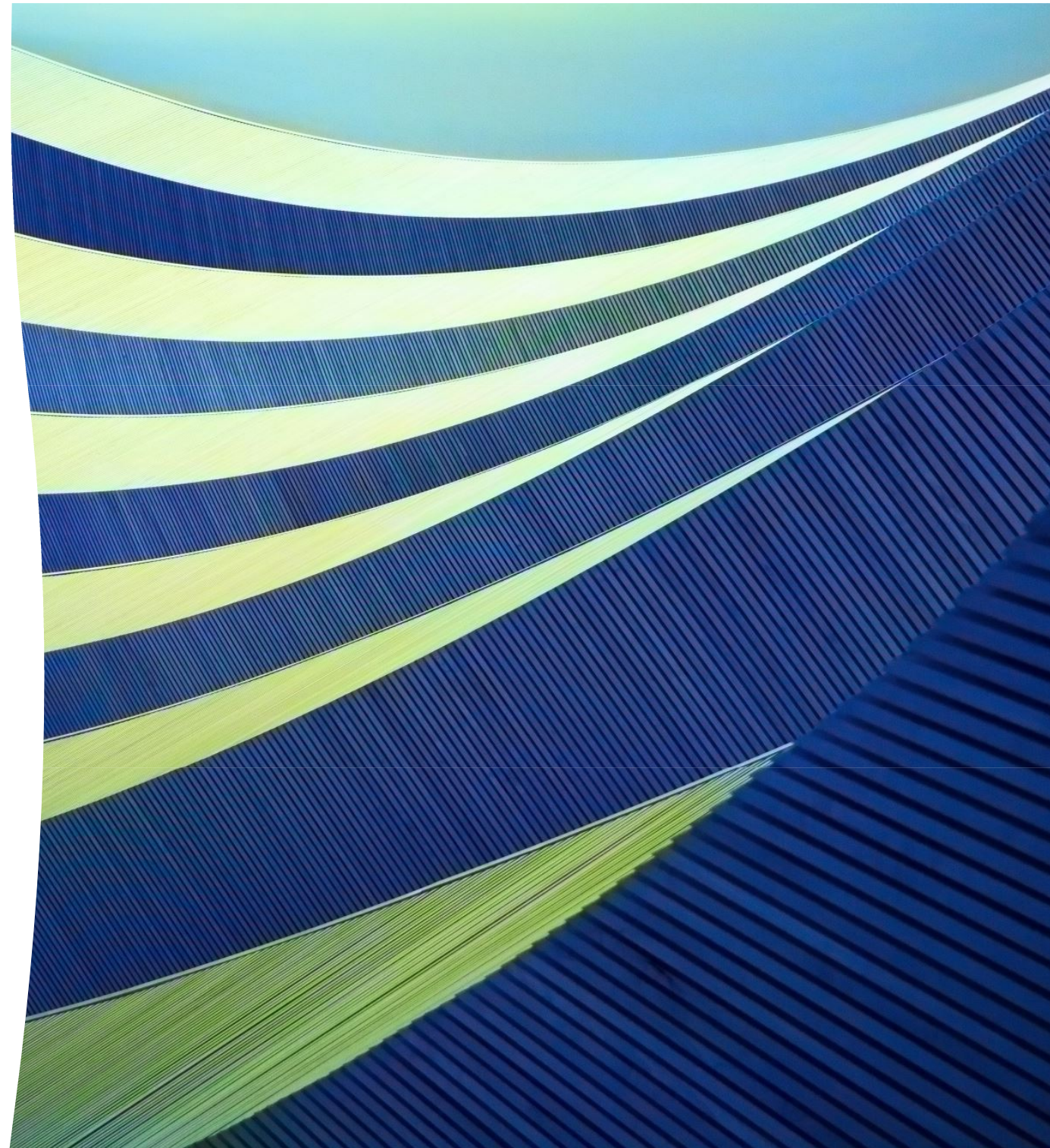
Civil Society Organization / Non Government Organization (NGO)

Special Juvenile Police Unit (SJPU)

Integrated Child Protection Scheme (ICPS)

Probation officer (PO)

Residential Institution (RI)



Juvenile Justice Board (JJB)

- Ensure that the environment and functioning of the Board is in a child friendly manner and not as regular court.
- Ensure the participation of CCLs and parents at every step of process
- Protection of individual and legal rights of the accused and victim.
- Ensure availability of legal aid for the child through legal service authority.
- Obtain the social investigation report and individual care plan of child by taking assistance of PO and Social workers of NGO's.
- Pay visits to child care institutions(institution for CCLs) and recommend the improvement needed in services to DCPU or State Govt.
- Pay visits to jails to check if any child lodged in such jail and take immediate measures for transfer of such child in Observation Home.
- Inquiry of child about ill-treatment by Police, Lawyer, Probation Officer inside the institution and outside the institution.
- Take cognizance of crime against children and direct police for necessary action.
- Contact and build network with other stakeholders of juvenile justice system including vocational training institutions, psychiatrist or psychologist, counselors, NGO's etc. 4

Children Court (CC)

- Conduct trial of CCL as an adult as per provision of CrPC, 1973 considering special needs of child and tenets of fair trial and maintaining a child friendly atmosphere.
- Ensure that the final order about CCL shall include Individual Care Plan for rehabilitation including follow up by the PO/DCPU/Social Worker.
- Send CCL to place of safety with providing education, skill development, alternative therapies, psychiatric support till he attend the age of 21 years, thereafter, the shall be transferred to a jail.
- Ensure there is periodic follow up by PO/DCPU/Social Worker and its report to evaluate the progress of CCL to a place of safety and ensure there is no ill-treatment.

Child welfare Committee (CWC)

- Conducting inquiry on all issues relating to and affecting children in need of care and protection and try and give a logical plan for the child within four month.
- Take suo motu cognizance of children who are in difficult situations and order for their rescue.
- Taking appropriate decisions regarding the rehabilitation of child giving due consideration to social investigation reports, care plans, interaction with children, etc.
- Visits Child Care Institutions to check its functioning, services provided, health status of children, activities for their developments and suggest/recommend areas for improvement.
- Obtain social investigation report from the probation officer, member of DCPU or social workers from NGO"s & prepare comprehensive plan for children rehabilitation.
- Declare a person / institution as a fit person or fit facility.
- Declare children legally free for adoption.
- Co-ordinate with various government department like the Home (Police), women and child development, labour, education, social welfare and other such related departments for the convergence of rehabilitative services.
- Decide on appropriate institutional services for children.
- Direction to person/Institutions/facilities to arrange immediate shelter, medical help, psychiatric & psychological support, occupational therapy, behaviour modification therapy, skill training, legal aid, education, developmental activities.

Civil Society Organization
/ Non
Government Organization
(NGO)

- 1) Function as fit person and fit facility
- 2) Create awareness about the working of the system.
- 3) Assist JJB/CWC to preparing Social Investigation Report & Individual Care of Children.
- 4) Conduct and facilitate groups sessions with children as a means to enhance self esteem, develop personality, work towards anger management, stress management, create awareness on issues related to addiction, gender discrimination etc.
- 5) Find appropriate resources for rehabilitation and develop linkages on an individual need based basis.
- 6) Conduct training programs for different stake holders on various themes and topics related to capacity building and working with children.
- 7) Assist in home tracing and repatriation.
- 8) Counselling
- 9) Run residential homes for children
- 10) Policy and advocacy related work.

Special Juvenile Police Unit (SJPU)

- 1) If child apprehended, to be placed under charge of SJPU of CWPO and produced before JJB within 24 hours.
- 2) If CNCP rescued or found, then to be produced before CWC with 24 hours.
- 3) Deal with them in a child friendly manner to make them feel secure.
- 4) Inform them of further process.
- 5) The SJPU or CWPO must inform parents / guardian of child, probation officer or social worker of any apprehension.
- 6) SJPU to ensure that child is not kept in a police lock up or jail or hand cuffed or tied with any material.
- 7) Conduct investigation and file an enquiry report/ final report before the Board. This report is better known as charge-sheet.
- 8) Provide escort to CNCP and CCL for the purpose of transfer or any other purpose mentioned by the competent authority.
- 9) Keep details of JJB & CWC, Ngo's working on child protection and their representatives, child friendly persons working with children.
- 10) Escort children for tracing and repatriation.

Integrated Child Protection Scheme (ICPS)

- Conduct inquiry in accordance with the order of JJB & CWC into the antecedents and family history of any child accused of an offences or CNCP.
- Assist JJB /CWC to reach to Correction and Rehabilitation of children.
- Prepare Social Investigation Report and Individual Care Plan of Child.
- Ensure; Monitor the implementation, Follow up of child for his rehabilitation stated under Individual care plan.
- Taking action on recommendation given by JJB or CWC for improvement of Child Care Institutions after inception visits.
- Submit follow up report of child who placed at place of safety to children's court about child progress on order of Children Court.
- Provide Secretary and other staff to CWC for Secretariat support and its effective functioning.
- Contribute to effective implementation of Law and to achieve goals of JJA.
- Identify families at risk and CNCP and protection through effective networking and linkages with the other stakeholder in JJS.
- Ensure effective implementation of the Juvenile Justice Act, Support for adequate infrastructure for JJB"s. CWC"s, SJPU"s in District/City.
- Support implementation of family based non-institutional services including sponsorship, foster care, adoption and after care.
- Create a resource directory by mapping all child related service provider and services of district and submit it to the Juvenile Justice Board & Child Welfare Committee to help them for planning comprehensive rehabilitation plan with help of other stakeholders

Probation officer (PO)

- 1) After being informed by the police about apprehension of child, the Probation officer is expected to begin the process of preparing the social investigation report which provides information regarding the family background of child and other social information.
- 2) Assist, guide and help JJB /CWC in the process of correction and rehabilitation of children.
- 3) Supervise children and submit the report for the same as per the orders of the JJB/ CWC.
- 4) First point of contact in an institutional setting. The PO has to orient the child on the case related procedures and future course of action by JJB / CWC.
- 5) Prepare Social Investigation Report (SIR) and comprehensive Individual care plan of CCL and CNCP child by keeping child best interest in the mind.
- 6) Submit follow up report of child who placed at place of safety to children's court about child progress on order of Children Court.
- 7) Co-ordinate transfer of children to different institutions in same district or different district, state or country. For this purpose network with the concerned agencies like other JJBs, POs CWCs, NGO's.
- 8) Friend, guide and confidant of the child.

- Ask JJC

Thanka
YOU