



# **PRI Toolkit for Multi-Agency Monitoring of Places of Detention of Children in Tanzania**

**London, January 2013**



## Introduction:

This material is produced with the financial assistance of UNICEF Tanzania and in consultation with the Commission for Human Rights and Good Governance, Tanzania. The tools have been developed in light of international laws, principles and standards in the area of good management of children in detention. This document contains nine individual observational and interview based questionnaires/tools which have been designed for use by bodies with a mandate to inspect all places of detention of children in Tanzania. An Excel based collation and analysis tool has been designed to accompany these tools as well as a separate PRI Briefing Document on Independent Monitoring Mechanisms in Tanzania.

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## 1. Tool for General Observation of detention facilities

### **Purpose of the Tool:**

The purpose of this tool for general observation of detention facilities is to provide a general overview of the environment and conditions which an inspector should observe during regular visits to a retention home, approved school or adult prison where children are detained. This tool of General Observation outlines the different aspects of detention to be observed during an inspection. International standards and guidelines provide the framework for these tools.

It is important to record your findings accurately on the questionnaire sheet provided. Systematic recording of findings will help observers to assess positive or negative changes in a facility and build a record card for that facility. It is important to remain as objective as possible in assessing aspects of the institutional environment.

### **International standards**

The main international standards guiding a monitor in observation of facilities are: The UN Convention on the Rights of the Child, in particular Art 37,<sup>1</sup> the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLs;<sup>2</sup> UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>3</sup> and the United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (1988), referred to as the Body of Principles<sup>4</sup> Copies of all these standards can be found on the web links below.

### **Using this tool**

This tool is designed as a set of questions to be used by an inspector when visiting a prison, retention home or approved school in which children are detained. It is designed to be as objective as possible and as such the answer to each question is yes/no or don't know.

- Yes answers will generate a score of 1
- No/don't know will generate a score of 0.

Each section is worth a total of 5 or 10 points. Please score each question according to your observation when visiting a prison/remand home or approved school in which children are detained. Each question is drawn from international standards and best practice. Each yes answer indicates that the facility is reaching that international standard and is doing well in this regard. Please answer no or don't know if you are not certain of a positive answer.

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<sup>1</sup> Available at <http://www2.ohchr.org/english/law/crc.htm#art37> (last accessed 040412). Art 37 detention of children shall be used as a measure of last resort; the unlawful or arbitrary detention of children is prohibited and states are obligated to treat children deprived of their liberty humanely, provide access to legal aid and ensure separation from adult detainees at all times.

<sup>2</sup> Available at [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 170312)

<sup>3</sup> Available at <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 170312)

<sup>4</sup> Available at <http://www.un.org/documents/ga/res/43/a43r173.htm> (last accessed 190312)



Please submit your completed tools to CHRAGG. There is no need to total your scores. This will be automatically done using the Excel collation system which accompanies these tools. The collation system will calculate the score for each section of the tool and allocate a percentage for this. The collation system will allow an inspection body to assess changes in scores across 8 broad categories in a particular facility or in comparing a facility with another over time.

As an objective tool, this observation of facilities tool is intended to generate quantifiable data based on standardized objective questions. . It is important to remain as objective as possible in assessing different aspects of the environment and to answer all of the questions asked in the observational tool.

For this, *Tool 1 Observation Tool for General Observation of detention facilities tool and the others tools ( 2-9) in this series* to be most effective it is important for the inspector to answer all the questions on the each tool. Findings should be recorded accurately on the questionnaire sheet provided. An Excel Collation tool has been designed to accompany this package. Systematic recording of findings in the excel tool will help observers to assess positive or negative changes in a facility and build a record card for that facility over time

## **What to monitor for during observation:**

*Tool 1 Observation Tool for General Observation of detention facilities* is divided into 8 sections and covers the following:

### **1. Intake Procedure**

On admission to detention facilities, children are likely to be confused and particularly vulnerable. The visiting team should examine the extent to which children are given information about their rights whilst in detention on arrival, whether they are helped to understand the routines of the detention facility and the complaints procedures and whether they are given a medical and psycho-social examination. Furthermore, are their details recorded in a register? Are convicted and remand children separated from each other and from adults during the day and during the night? (JDL, 24, 27, 28, 29)

### **2. Physical Environment**

Good living conditions are an essential aspect of a child's rehabilitation and reintegration. Monitors should observe the realities of living conditions as closely as possible taking into account Section D of the Havana Rules. This provides that sleeping accommodation should consist of small dormitories or individual rooms and should be unobtrusively supervised. There should be sufficient, clean bedding and adequate sanitary facilities should be installed. To the greatest extent possible, children should be allowed to wear their own clothes, and should be provided with storage facilities for their own personal items. Adequate food and clean drinking water should be made available.

Using this set of questions, observers will assess issues relating to the physical environment in which children are detained including access to clean and separate bedding; access to light and



ventilation; ; good quality and quantity of food and drinking water; and clothing provision. (JDL 31, 32, 33, 36 and 37).

### **3. Education Vocational and rehabilitation Programmes**

Learning and skills should be central to the regime of detention facilities and children should have access to education and training which enables them to achieve their full potential. This is vital to enable a child's rehabilitation and reintegration. Article 28 of the CRC enshrines the right to education for all children and children in detention should receive the same standard education as that provided to their contemporaries living in the community.

This section assesses the extent to which children have access to good quality education and/or vocational training (Art 28 CRC, JDL 18, 38, 40); whether they are prepared for release and reintegration into society (JDL 79). Equal educational opportunities for girls are addressed in section 9 of the tool.(Bangkok Rule 37)

International standards promote a holistic approach to rehabilitation and reintegration which addresses both the practical and emotional needs of the child. The Beijing Rules state that children in detention shall receive "care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality." In order to benefit from rehabilitation, children in detention need to be in a safe environment with access to medical care, involvement in educational, cultural and recreational activities, contact with family and the outside world and adequate living conditions. The adverse effects of detention on children needs to be minimised and maximum support provided to ensure that a child will eventually reintegrate into society and assume a constructive role in society on release.

Successful reintegration back into the community on release should be seen as the main objective of the rehabilitation process. An emphasis should be placed on children maintaining strong relationships with their families to smooth the transition back into the community since contact with families is an integral component of rehabilitation and reintegration as well as a fundamental right, (SMR Rule 80). Rule 80 JDL states that the administration should provide services that should ensure "to the extent possible, that the juvenile is provided with suitable residence, employment, clothing and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration". The Riyadh Guidelines state in Rule 79 that: "All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education, or employment after release. Procedures, including early release, and special courses should be devised to this end". Post-release programmes such as the granting of licence, allows the child to reside with a guardian or parent who is willing to take responsibility for him or her.

### **4. Recreational Facilities**

Providing adequate recreational facilities helps children with their rehabilitation and reintegration into society upon release. The JDLs set out the requirements for exercise and recreational activities and provide that every child has the right to a suitable amount of time for daily free exercise. This should take place in the open air whenever weather permits. During this time, appropriate recreational and physical training should be provided. Rule 21(1) of the Standard Minimum Rules for the Treatment of Prisoners specifies that every prisoner shall have at least one hour of suitable exercise in the open air daily if the weather permits. Monitors should



consider this as an absolute minimum for children. The questions in this section address the space and time dedicated to recreation within the facility; Are recreational facilities and equipment provided? How much time does a child spend within their cell? Is there sheltered outside space for children? Can children take part in sports and cultural activities? (JDL 47, 48)

## **5. Hygiene**

This section addresses the overall hygiene within the facility, including access to toilets and showers, levels of privacy and the general cleanliness in the facility (JDL 34, 35, 36)

## **6. Medical Care**

Article 24 CRC provides that children have the right to enjoy the highest attainable standards of health and to facilities for the treatment of illness and rehabilitation. The basic principle for monitors to consider is that the standard of health care provided to children in detention should be equivalent to that which a child could expect to receive in the community. These questions will provide the inspector with a general overview of the medical care provided to all children in detention. More detailed questions can be found in the Interview with Medical Staff, Tool 7 of this pack. The questions in this tool will assess if children receive medical care upon admission, if they have access to medical treatment within the facility or can be treated in local hospitals, and if they are regularly screened for infectious diseases. This section also includes questions which address the medical treatment for girls in detention (JDL 49-55 and see also the Bangkok Rules, 5,10 and Beijing Rule 26.4)

## **7. Contact with the Wider Community**

Communication with the outside world is “an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society.” (79 JDL). Observers should assess how frequently children are able to receive visits. The JDL states that they should occur “in principle once a week and not less than once a month.”

This section looks at whether children have access to appropriate facilities to maintain contact with relatives and significant others such as comfortable private space to conduct visits; whether children are placed in a facility that is as close as possible to the place of residence of his or her family? Are children provided with help in communicating with their families and is their right to privacy respected. In addition to being able to communicate with their families, are children allowed to communicate with other persons or representatives of reputable outside organisations who can help to expand the range of activities and support that the child can access while detained, supporting their development and encouraging their reintegration into society.

## **8. Use of Force and Disciplinary Measures**

This section will assess if the use of disciplinary measures are in-line with international standards. Article 37 of the CRC and Rule 67 of the JDL Rules prohibit “all disciplinary measures constituting cruel, inhuman or degrading treatment”. These include the following measures: “corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned”. Rule 67 does not allow labour to be used as a disciplinary sanction --this must



always be viewed “as an educational tool and a means of promoting the self respect of the juvenile in preparing him or her for return to the Community.” Rule 67 also prohibits “the reduction of diet and the restriction or denial of contact with family members”. Collective sanctions are not allowed. A child must not be punished twice for the same infraction. The use of instruments of restraint and any force is generally prohibited by Rule 63, but is allowed in exceptional cases to prevent children from “inflicting self-injury, injuries to others or serious destruction of property”. When these cases arise, the director of the facility must immediately consult medical and other relevant personnel and “report to the higher administrative authority.”

Rule 68 of the JDL Rules encourages the adoption of legislation or regulations concerning: what kind of behaviour constitutes a disciplinary offence; the length of time for which punishment can be inflicted; who should impose the punishment; and who considers appeals against any punishment inflicted. Rule 69 of the JDL Rules states that children should only be disciplinarily sanctioned in accordance with “the law and regulations in force”.

This section considers whether there are regulations in place governing when restraint may be used and the use of different disciplinary measures; whether there is a child protection policy in place and whether children have unrestricted access to a complaints mechanism. (JDL 78)

## **9. Situation of Detained Girls**

Women and girls deprived of their liberty differ from men and boys in many regards including the fact they are often primary carers for children themselves; they have different health, hygiene and sanitary needs; they are at a higher risk of substance abuse, self-harm, mental health issues, HIV and other STDs, and may have experienced past physical, emotional or sexual abuse. Prisons have traditionally been designed for men and the specific needs of female detainees, including girls, may not be adequately addressed in a detention facility. The Bangkok Rules include specific measures to protect girl children in detention such as equal access to education and vocational training, education on health care, counselling for sexual abuse or violence and added protections for children living with their mothers in prison.

This section will encourage the monitor to observe the situation for any girls detained in the facility. Are they safely separated from all male detainees? Are they separated from adult female detainees? Do they have access to education and recreation facilities? Are their hygiene and medical needs addressed? Do they have access to female medical practitioners? (Beijing Rule 26.4, Bangkok Rules 5,10). In mixed facilities where there are both men and women’s wings please complete separate tools for each wing. The men and women’s prisons have been allocated separate codes for the purposes of the collation tool. If there are no girls in the facility inspected please mark NO to each question in this section. Please make a note that the facility does not detain any girls. This will be recorded on the collation tool maintained by CHRAGG.

## **10. Personnel**

Only appropriately qualified and trained staff should work with children in detention. In particular, the Director/Head of a facility should be adequately qualified for his or her task, with administrative ability and suitable training and experience, and should carry out his or her duties on a full-time basis. In addition centres should have specialists such as teachers, vocational instructors, counsellors, social workers, psychiatrists and psychologists. Staff should be trained



in order for them to carry out their responsibilities effectively; in particular, staff should receive training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the Havana Rules. Staff also need to be trained in behaviour management techniques.

This section includes questions relating to the facility personnel. Personnel should be qualified and include a sufficient number of specialists, such as educators, vocational instructors, counselors and social workers who should receive sufficient training to carry out their responsibilities fully. (Beijing Rules 12) International standards require that the department responsible for prisons provides on-going training of staff. Is training provided? (JDL 81-87, Beijing Rule 22).

### **Additional Questions**

This section covers a series of questions on the preparation of food in the facility, including quality, quantity and cleanliness of the facility kitchen and cooking stoves. These questions have been added in an additional section as they are culturally relevant to the situation in Tanzania and important information to obtain. These questions provide interesting additional data on a facility. However as there are no international standards to guide requirements they are not to be scored, and will not be recorded on the excel collation tool.

### **Further Reading**

Havana Rules

ICRC (2005) Water, Sanitation, Hygiene and Habitat in Prisons

APT (2004) Monitoring Places of Detention: A Practical Guide

AMIMB (2010) A Practical Guide to Monitoring Prisons

HMIP (2009) Expectations: Criteria for Assessing the Treatment and Conditions for Children and Young People held in Custody



## Facility Cover Sheet

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Facility Staff</b>			
<b>Medial Staff</b>			
<b>Pre Trial Children</b>			
<b>Convicted Children</b>			



<b>Tool 1</b>				
<b>Observation of Prisons, Retention Homes and Approved Schools</b>				
<b>OBSERVATION CHECKLIST TO BE CARRIED OUT IN RETENTION HOMES, APPROVED SCHOOLS AND PRISONS</b>				
		<b>Yes (1)</b>	<b>No (0)</b>	<b>Don't Know (0)</b>
<b>GENERAL QUESTIONS FOR A MONITOR TO ANSWER IN OBSERVATION OF A FACILITY</b>				
<b>1. INTAKE PROCEDURES</b>				
1.1	Is there an admission register?			
1.2	Are children provided with the following information on entering the facility			
1.2.1	The rules of the facility?			
1.2.2	Their rights?			
1.2.3	The routine of the facility?			
1.2.4	Procedures, for example, making a complaint/requesting medical attention?			
1.3	Are un-convicted and convicted children held separately?			
1.4	Are children separated from adults during the day?			
1.5	Are children separated from adults during the night?			
<b>Total for Intake Procedures</b>				
<b>2. PHYSICAL ENVIRONMENT</b>				
2.1	Do cells have adequate natural light and ventilation? ( i.e. a window that can be opened?)			
2.2	Does each child have their own:			
2.2.1	Assigned bed?			
2.2.2	Bedding?			
2.3	Is the provided bedding changed often enough to ensure cleanliness?			
2.4	Are convicted children provided with clean clothing on a regular basis?			
2.5	Are pre- trial children allowed to wear their own clothes?			
2.6	Are children provided with facilities and detergent to wash their clothes?			
2.7	Is the environment suitable for children with physical disability? ( e.g. ramps, accessible toilets and showers)			
2.8	Is the food the children receive of sufficient quality?			

2.9	Is the food the children receive of sufficient quantity?			
2.10	Do children have free access to clean and safe drinking water at all times?			
<b>Total for Physical Environment</b>				
<b>3 EDUCATIONAL, VOCATIONAL AND REHABILITATION PROGRAMMES</b>				
3.1	Are all convicted and/or remanded children ( as appropriate for this institution) of compulsory school age offered education programmes?			
3.2	Is vocational training for children offered in the detention facility?			
3.3	Is there a programme of special education for children who are illiterate or have learning difficulties?			
3.4	Are there any rehabilitation programmes for children in the facility?			
3.5	Is there a written procedure to prepare children for release? (for further details please refer to the interview with personnel toolkit)			
<b>Total for Educational, Vocational and Rehabilitation Programmes</b>				
<b>4 RECREATION</b>				
4.1	Is the size of the area allocated for exercise and recreation adequate to facilitate the number of children detained?			
4.2	Is there exercise/recreational equipment they can use in this area?			
4.3	Does the area offer a sheltered part?			
4.4	Do children spend a reasonable period of time each day out of their cell? (at least 1 hour is stated by international standards)			
4.5	Are there religious services or meetings available for children to attend?			
<b>Total for Recreation</b>				
<b>5 HYGIENE</b>				
5.1	Are there a good sanitation system with suitable and clean toilets facilities for the number of children?			
5.2	Do children have access to toilets at all times during the day and night?			
5.3	Are all cells cleaned on a regular basis?			
5.4	Are children supplied with access to washing facilities at least twice per week?			
5.5	Are children supplied with toothpaste and brushes?			
<b>Total for Hygiene</b>				
<b>6 MEDICAL CARE</b>				
6.1	Are children seen by a medical physician immediately upon admission to the facility?			

6.2	Do all detained children have immediate access to medical care if required?			
6.3	Is there screening for infectious diseases such as TB?			
6.4	Is there screening for infectious disease such as HIV/AIDS?			
6.5	Is there specific medical care for children with mental and psychological needs?			
6.6	Is there specific medical care for children with a physical disability?			
6.7	Is there a medical complaints mechanism in the prison?			
6.8	Are there mosquito window guards?			
6.9	Are mosquito nets provided for all children?			
6.10	If necessary can children be treated at a local hospital?			
<b>Total for Medical Care</b>				
<b>7 CONTACT WITH THE WIDER COMMUNITY</b>				
7.1	Are visits from friends/family/guardian of the children allowed?			
7.1.1	If yes, are visits allowed at least once per month?			
7.2	Is there an allocated visiting area that allows for privacy?			
7.3	Do children have free access to telephones or pens/paper to write letters at least twice per week, if they wish?			
7.4	Are children allowed to have visits with their legal representative?			
7.5	Do children from other countries have contact with their national consulate?			
<b>Total for Contact with the Wider Community</b>				
<b>8 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
8.1	Are there regulations governing when restraint may be used?			
8.2	Are there regulations governing the use of different disciplinary measures?			
8.3	Is there:			
8.3.1	a child protection procedure in place for dealing with cases of alleged sexual and physical abuse?			
8.3.2	are children and staff made aware of this procedure?			
8.4	Is there a complaints mechanism for the children?			
	<b>Discursive question:</b> If yes, how many complaints were made in the last 6 months? How many have been dealt with?			
8.5	Is the carrying of weapons by staff prohibited?			
<b>Total for Use of Force and Disciplinary Measures</b>				

<b>9 GIRLS (To be asked in facilities where girls are being detained)</b>				
9.1	Are girls separated from boys at all times whilst in the facility?			
9.2	Do girls have the same opportunities for education and vocational training as boys?			
9.3	Are girls provided with female sanitary products free of charge?			
9.4	Are girls able to request medical examination by a female physician?			
9.5	Does the facility have female members of staff for the wing in which girls are accommodated?			
<b>Total for Girls</b>				
<b>10 PERSONNEL</b>				
10.1	Are the number of staff sufficient to adequately supervise the number of children in the facility?			
10.2	Do staff receive adequate training in working with children?			
10.3	Have all staff in contact with children been given specialised training?			
10.4	Have staff in contact with female children been given specialised training in gender issues?			
10.5	Are facilities and conditions for staff in the institutions satisfactory?			
<b>Total for Personnel</b>				
<b>Additional Discursive questions ( These questions are relevant to the situation in Tanzania but are beyond the requirements of international standards. Answers to these questions will provide helpful information if writing a narrative report on the situation of children in detention in Tanzania.)</b>				
1	Is the kitchen/area for food preparation clean and hygienic?			
2	Are considerations made for religious dietary requirements and for children with specific health needs?			
3	Are there enough stoves for cooking meals?			
4	Is there an appropriate place for food storage?			
5	Is there sufficient quantity of food stored?			



## 2. Tool for the Observation of Police Detention Facilities

### Purpose

The purpose of this tool is to provide a general overview of the environment and conditions of a police detention facility and this guide outlines the different aspects of police detention to be inspected.

It is important to record your findings accurately on the questionnaire sheet provided. Systematic recording of findings will help observers to assess positive or negative changes in a facility and build a record card for that facility. It is important to remain as objective as possible in assessing aspects of the police environment.

A qualified inspector, not part of the administration of the police service, should inspect police stations regularly. The inspector should have unrestricted access to files and to all children and members of staff.<sup>5</sup> A qualified medical officer should form part of the inspecting authority or the state health services should form part of the inspection team.

### International standards and what to monitor for during observation

The main international standards guiding a monitor in the observation of police stations are: the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLs<sup>6</sup>; UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>7</sup>; UN Code of Conduct for Law Enforcement Officials (1979)<sup>8</sup> and the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (1988)<sup>9</sup>. All inspectors should be familiar with these standards.

### Using this tool

This tool is designed as a set of questions for a monitor when visiting a police station in which children are detained. This tool is designed to be as objective as possible and as such the answer to each question is yes/no or don't know.

- Yes answers will generate a score of 1
- No/don't know will generate a score of 0.

Each section is worth a total of 5 or 10 points. Please score each question according to your observation when visiting a police station in which children are detained. Each question is drawn from international standards and best practice. Each yes answer indicates that the facility is reaching that international standard and is doing well in this regard.

Please submit your completed tools to CHRAGG. There is no need to total your scores. This will be automatically done using the Excel collation system which accompanies these tools. The

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<sup>5</sup> United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment of 1988, Principle 29.

<sup>6</sup> Available at [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 170312)

<sup>7</sup> Available at <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 170312)

<sup>8</sup> Available at <http://www2.ohchr.org/english/law/codeofconduct.htm> (last accessed 030412)

<sup>9</sup> Available at <http://www.un.org/documents/ga/res/43/a43r173.htm> (last accessed 190312)

collation system will calculate the score for each section of the tool and allocate a percentage for this. The collation system will allow an inspection body to assess changes in scores across 7 broad categories in a particular facility or in comparing a facility with another over time.

As an objective tool, this observation of facilities questionnaire is intended to generate quantifiable data based on standardized objective questions.

## What to monitor for during observation

This observation questionnaire is divided into 7 sections and covers the following:

### 1. Intake Procedures

2. On admission to police stations, children are likely to be confused and particularly vulnerable following their arrest. This set of questions will assess the administrative procedures when a child is detained at a police station. Are children informed of the reason for their arrest? (Body of Principles 10) Are their details and reason for arrest recorded in a register? (Body of Principles 12) Are they provided with information on the rules and routines in the facility? (Body of Principles 13) Are children separated from adults at all times? (JDL, 24, 27, 28, 29; Beijing Rules) Are they able to contact a parent or guardian to inform them that they have been arrested? (10.1 Beijing Rules)

### Physical Environment

It is vital that children are held in a safe and comfortable physical environment. Using this set of questions, inspectors will assess issues including the sleeping accommodation; quality and quantity of food and drinking water; and clothing provision (JDL 31, 32, 33).

### 3. Hygiene

This section address the hygiene within the facility, including access to toilets, showers and cleanliness in the facility (JDL 34, 35, 36)

### 4. Medical Care

These questions will provide the monitor with a general overview of the medical care provided to all children in police detention. The questions in this tool will assess if an on call doctor can provide medical treatment for children if required and if they are regularly screened for infectious diseases. (Art 6, UN Code of Conduct for law enforcement officials) Can girls request treatment by a female doctor if possible? (JDL 49-55, Bangkok Rules 5, 10, Beijing Rule 26.4)

### 5. Contact with the wider community

This section addresses the detained child's access to those outside the facility, including access to legal or consular services and notice to parents or guardians following arrest (Body of Principles, Principles 17, 20).

### 6. Use of force and disciplinary measures

This section will assess if the use of disciplinary measures are in-line with international standards. Restraint should only be used in exceptional circumstances (JDL 64); disciplinary measures should not constitute cruel inhuman or degrading treatment (JDL 67); and every child has the right to make a complaint to appropriate channel or request assistance from family members, legal representatives, humanitarian groups or others where possible, in order to make a complaint. Is there an effective complaints mechanism to which every child has



unrestricted access? Do they feel safe to make a complaint? Are their complaints addressed? (JDL 78, Body of Principles, Principle 33).

## **7. Personnel**

This section will assess if police officers are trained to deal with children? Are female police officers present to interview detained girls? The management of facilities should provide on-going training for police officers (JDL 81 to 87, Beijing Rule 22).

## **Further Reading**

UNOCHR (1997) Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police available at <http://www.ohchr.org/Documents/Publications/training5en.pdf>



**Facility Cover Sheet**

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the Police station</b>			
<b>Total number of people detained in the station</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Police officers</b>			
<b>Detained children</b>			

<b>Tool 2</b>				
<b><u>Observation of Police Facilities</u></b>				
		Yes (1)	No (0)	Don't Know (0)
<b>1 INTAKE PROCEDURES</b>				
1.1	Is there:			
1.1.1	an up-to-date admissions register?			
1.1.2	Are children's details and reasons for arrest recorded in the register?			
1.2	Are children provided with the following information on entering the facility:			
1.2.1	The rules of the facility?			
1.2.2	Their rights?			
1.2.3	The routine of the facility?			
1.2.4	Procedures, for example, making a complaint/requesting medical attention?			
1.3	Are children able to contact a parent/guardian to inform them of their arrest?			
1.4	Are there written regulations for interviewing children?			
1.5	Are children separated from adults at all times whilst in the facility?			
<b>Total for Intake Procedures</b>				
<b>2 PHYSICAL ENVIRONMENT</b>				
2.1	Are girls separated from boys at all times whilst in the facility?			
2.2	Do cells have adequate natural light and ventilation? (i.e. windows that can be opened)			
2.3	Do the cells have adequate equipment for rest (beds/mattresses/blankets) for each child?			
2.4	Do children receive one full nourishing meal each day free of charge?			
2.5	Do children have access to clean and safe drinking water at all times?			
<b>Total for Physical Environment</b>				

<b>3 HYGIENE</b>				
3.1	Are cells cleaned on a regular basis?			
3.2	Do children have access to clean toilets at all times of the day and night?			
3.3	Do children have access to showering facilities?			
3.4	Are children who are detained overnight provided with hygienic needs including soap, toothpaste etc.?			
3.5	Do girls have access to female sanitary products free of charge?			
	<b>Total for Hygiene</b>			
<b>4 MEDICAL CARE</b>				
4.1	Are children seen by a medical physician immediately upon admission to the facility?			
4.2	Do children have immediate access to medical care if requested?			
4.3	Is there a designated, private space for medical examinations to take place?			
4.4	Are girls able to request medical examination by a female physician?			
4.5	If necessary, can children be taken to a local hospital?			
	<b>Total for Medical Care</b>			
<b>5 CONTACT WITH THE WIDER COMMUNITY</b>				
5.1	Does the police station arrange and pay to transport children to court or retention home?			
5.2	Can a child notify their parents or guardian immediately of their arrest?			
5.3	Is there an allocated visiting area that allows for privacy?			
5.4	Are children allowed to meet with their legal representatives in private?			
5.5	Are children from other countries allowed to contact their national consulate?			
	<b>Total for Contact with the Wider Community</b>			
<b>6 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
6.1	Is there a written police policy to prohibit use of force against children?			
6.2	Is there a regulation governing when restraint (including use of handcuffs) may be used?			
6.3	Are all cases of restraint recorded?			
6.4	Is there an accessible mechanism for children to lodge complaints?			



6.5	Is a written record kept of complaints made by children?			
<b>Total for Use of Force and Disciplinary Measures</b>				
<b>7 PERSONNEL</b>				
7.1	Are there specialised police officers to deal with children's cases?			
7.2	Is there a Gender and Children's Desk?			
7.3	Does the facility have female members of staff?			
7.4	Are there any specialist staff (i.e. psychiatrist/psychologist/social worker) employed in the institution?			
7.5	Are facilities and conditions for staff in the institution satisfactory?			
<b>Total for Personnel</b>				

## 3. Tools for assessing files for children in detention

### Purpose

Adequate file management protects and promotes international human rights standards and helps to prevent torture and ill treatment. It can also support the effective management of detention facilities, efficient use of resources and improves access to justice.<sup>10</sup>

The purpose of this tool is to provide a general overview of the management of files of children in a detention facility. This guide outlines the different aspects of file management to inspect. The inspector should have unrestricted access to children's files.<sup>11</sup>

### International standards and what to monitor for during assessment of files

The main international standards guiding an inspector in observation of juveniles files in a detention setting are: the UN Convention on the Rights of the Child, in particular Art 37,<sup>12</sup> the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLs<sup>13</sup>; UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>14</sup>; and the UN Basic Principles for the Treatment of Prisoners (1990), referred to as the Basic Principles.

### Using this tool

The systematic recording of findings will help observers to assess positive or negative changes in a facility and build a record card for that facility. An inspector should ask the director of the facility to give him/her access to files which the facility maintains for each detained child.

This tool is designed as a set of questions which an inspector will ask him/herself when visiting a prison, retention home or approved school in which children are detained. This tool is designed to be as objective as possible and as such the answer to each question is yes/no or don't know.

- Yes answers will generate a score of 1
- No/don't know will generate a score of 0.

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<sup>10</sup> Principle 5 *Basic Principles for the Treatment of Prisoners*, adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990

<sup>11</sup> JDL's Rule 72

<sup>12</sup> Art 37 CRC detention of children shall be used as a measure of last resort; the unlawful or arbitrary detention of children is prohibited and states are obligated to treat children deprived of their liberty humanely, provide access to legal aid and ensure separation from adult detainees at all times. States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

<sup>13</sup> A copy of the rules can be downloaded here: [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 030412)

<sup>14</sup> <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 030412)



Each section is worth a total of 5 or 10 points. Please score each question according to your assessment of the files when visiting a police station, adult prison, remand home or approved school in which children are detained. Each question is drawn from international standards and best practice. Each yes answer indicates that the facility is reaching that international standard and is doing well in this regard.

As an objective tool, this assessment of files questionnaire is intended to generate quantifiable data based on standardized objective questions.

## **How to collate the information obtained**

When you have completed this questionnaire please give a copy to the research team at the Commission for Human Rights and Good Governance. The answers will be imputed into an Excel based collation system. There is no need to total your scores. The collation system will calculate the score for each section of the tool and allocate a percentage for this. The collation system will allow an inspection body to assess changes in scores across 5 broad categories in a particular facility or in comparing a facility with another over time. A report card can be generated by this Excel system to measure changes and improvements in the method and way files are managed over a finite period of time. The tool will also allow for inter-facility comparisons.

## **What to monitor for during observation**

This observation questionnaire is divided into 5 sections plus an additional short checklist. It covers the following main areas:

### **1. Intake and admission procedures**

Accurate file management is evidence of children's adequate protection in custody.<sup>15</sup> The child's identification; reason for detention; day and hour of admission; transfer and release; and physical and mental health including drug and alcohol abuse must be recorded in an individual file.<sup>16</sup> Files must be kept securely and accessed only by authorised persons. (Beijing Rules 22) Children must be separated from adults and have the right to maintain contact with family and this must be recorded in the custody record. (ICCPR Article 10.2b, JDL 20, 21)

### **2. Grounds for detention**

A commitment order detailing the legal grounds for detention must be filed before a child is detained. The file should also contain information such as the crime (if sentenced) or charge (if remanded) (JDL 19 and 20). A procedure for transfer of records between facilities should also be in place (JDL 22).

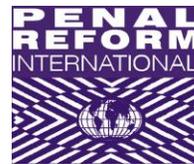
### **3. Educational, vocational and rehabilitation programmes**

The State is obligated to provide educational and vocational training to children in detention (Beijing Rules 13(5)). Records of the programmes that the child has participated in are essential to allow decisions as to conditional release, which should be used as often and as widely as possible (Beijing Rules 28).

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<sup>15</sup> The Beijing Rules 7 and 8

<sup>16</sup> JDL Rule 21



#### **4. Medical care**

Does the file include a psychological, social or medical report which should be completed to assist in design of a care plan (JDL 27, 49-55)? The State is obligated to ensure the care of a detained child and to provide psychological, medical and physical support and care in view of the child's age, sex and personality (Beijing Rules 13(5)). Details of admission, transfer, release, illness or death of a child must be provided to his parent or next of kin (JDL 21 and 22; Beijing Rules 10.1, 11.3, 26.5). As there are no direct medical services provided in Retention Homes and the Approved school, children should have access to medical care provided outside the facility or by a visiting physician. Their file should make note of dates of medical examinations and treatment and follow up for medical treatment outside the facility.

#### **5. Use of force and disciplinary measures**

Upon admission all children must be given copy of the rules in a language that he or she understands, told how they can lodge complaints or grievances and how to access legal advice (JDL 24). Disciplinary measures must only be conducted in accordance with the rules of the establishment. A complete record of disciplinary measures imposed must be kept to ensure the state is fulfilling its obligation to protect children in its care and in the best interest of the child. (JDL 70)

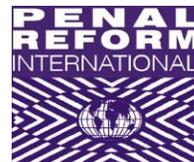
#### **Additional discursive questions**

Please check if records of former detainees are archived correctly and are not mixed in with details of current detainees. Are there records for disciplinary measures used and for transferred detainees? This will further indicate accurate file management within the facility.



**Facility Cover Sheet**

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Prison Staff</b>			
<b>Medical Staff</b>			
<b>Pre Trial Children</b>			
<b>Convicted Children</b>			



<b>Tool 3</b>				
<b>Assessing File Management of Children's Records</b>				
<b>OBSERVATION CHECKLIST TO BE CARRIED OUT IN RETENTION HOMES, APPROVED SCHOOLS AND PRISONS</b>				
		Yes (1)	No (0)	Don't know ( 0)
<b>1 INTAKE AND ADMISSION PROCEDURES</b>				
1.1.1	Is there a central institutional register for convicted children?			
1.1.2	Is there a central institutional register for children on remand?			
1.2	Is there a secure system for storing files?			
1.3	Do children's files appear to be clearly labeled?			
1.4	Is the date of the child's admission recorded?			
1.5	Is the sex of the child recorded?			
1.6	Is the age of the child recorded?			
1.7	Is there an inventory of clothing provided to the child?			
1.8	Are a child's personal belonging placed in safe custody and recorded in the file?			
1.9	Is there a record of the child's cell and block allocation?			
1.10	Is there a procedure for transfer of files between institutions?			
<b>Total for Intake and Admission Procedures</b>				
<b>2. GROUNDS FOR DETENTION</b>				
2.1	Is there a record of the crime (if sentenced) or the charge (if remanded)?			
2.2	Does the file contain detail of the legal grounds for detention i.e. a commitment order of a judicial, administrative or public authority?			
2.3	Is there a record of the child's defence and/or appeal?			
2.4	Is there a record of the period of sentence			
2.5	If on remand is there a record of court dates?			
<b>Total for Grounds for Detention</b>				
<b>3 EDUCATIONAL VOCATIONAL AND REHABILITATION PROGRAMMES</b>				



3.1	Is there a record kept of each child's individual needs assessment?			
3.2	Is an assessment of the child's educational level recorded?			
3.3	Is there a record of educational courses or vocational training undertaken by the child?			
3.4	Is there a rehabilitation programme in place for this child?			
3.5	Is there a report on a child's progress through the educational/vocational/rehabilitation programmes?			
<b>Total for Educational, Vocational and Rehabilitation Programmes</b>				
<b>4 MEDICAL CARE</b>				
4.1	Is there a medical file for each child?			
4.2	Are medical files kept separately and securely?			
4.3	Are medical files completed and maintained by the medical team?			
4.4	Does the file record:			
4.4.1	all medical treatment given to the child?			
4.4.2	any medical dietary requirements of the child?			
4.5	Is there a record of transfer to a medical wing or external medical facility (where applicable)?			
<b>Total for Medical Care</b>				
<b>5 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
5.1	Is there a record of all cases where restraint is used?			
5.2	Is there a record of all cases where disciplinary measures were imposed?			
5.3	Is there a written record of:			
5.3.1	any complaints made by the child?			
5.3.2	any action taken in response to a complaint?			
5.4	Are findings of inquiries into escapes in custody recorded?			
5.5	Are findings of inquiries into deaths in custody recorded?			
<b>Total for Use of Force and Disciplinary Measures</b>				
<b>ADDITIONAL DISCURSIVE QUESTIONS ON ACCESS TO FILES ( TO ASSIST MONITORS IN GATHERING INFORMATION FOR REPORT WRITING)</b>				

# Penal Reform International



1	Discursive: Were you, as a monitor given access to files freely in accordance with a confidential and secure procedure?			
2	Is there an archiving system for files of ex-detainees?			
3	If appropriate are there separate registers for:			
3.1	Released children?			
3.2	Deceased children?			
3.3	Disciplinary measures?			
3.4	Transferred children?			
3.5	Child on remand?			



## 4. Tool for interviewing children in retention homes, the approved school or adult prisons: Questionnaires, Case Studies and Focus Groups

### Purpose

Undertaking interviews with children is an essential part of monitoring institutions and allows inspectors to find out about the children's living conditions, their treatment and their day-to-day life.

Inputs from children can be obtained through either one-to-one interviews using the questionnaire tool (Section A below) or through a more lengthy interview called a case study (for one or two children where time allows), or through small focus groups (Section B below). Inspectors should be aware of child protection issues when interviewing children (individually or in groups) and should be trained in the best techniques to obtain accurate information. The information obtained will help to corroborate findings made during interviews with personnel, general observation of the facility and file management assessment.

The majority of interviews you will carry out will involve using the **interview questionnaire** (Section A). This is the most time-efficient method to obtain children's views on their conditions and treatment in detention and ensures that all children answer the same questions. In this way, quantitative data can be obtained and comparisons can be made across institutions as all children, in all institutions, will be asked the same questions.

Please note that where questions in the tool are in relation to girl children, these questions should only be asked to girls. In the tool, a few discursive questions are also asked in order to gain some additional follow-up information to some questions. However, it is important to note that as this is not qualitative data it will not be added to the Excel collation tool and is therefore, only asked to help write a narrative report and give additional insight.

In order to gain additional, qualitative details around certain topics or areas of concern, it may be beneficial to undertake a **focus group** with a small selection of children or to do a detailed one-to-one interview to present as a **case study** as part of your inspection report. Guidance on the use of focus group and case study tools is provided in Section B below. This will provide qualitative data which can be used if writing a more detailed narrative report. However, such tools cannot be used to gather data to be used in the Excel collation system maintained by CHRAGG.



## International standards

The main international standards guiding questions to ask children are: the UN Convention on the Rights of the Child, in particular Art 37,<sup>17</sup> the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLS<sup>18</sup>; the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>19</sup>; and the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (1988), referred to as Body of Principles.<sup>20</sup>

## Child protection policy

It is good practice for monitoring bodies to have their own child protection policy to create a safe environment for children involved in an inspection visit. This will provide guidance on: proper screening in the recruitment and supervision of inspectors having contact with children in detention; appropriate training provided to inspectors on how to work with and interview different age groups of children so they are safe; and safe storage of children's personal information including records of allegations of abuse. All inspectors should be required to sign a child protection policy.<sup>21</sup>

## Guidance for Interviewing Children

Remember that children may perceive the interview task differently from you and as a result may try to tell you what they believe you want them to say. Additionally, recounting their experiences may be upsetting or traumatic and so interviewing should be done in a sensitive and child-friendly manner. Below are some general rules that should be followed for *all* the interviewing tasks: questionnaires, case studies and focus groups.

### Preparation

- Choose a location where there is as much privacy as possible, few distractions and where the child feels safe and comfortable.
- Explain to the child that he/she may withdraw from the interview at any point without giving a reason and without consequence.
- Choose how the interview will be recorded and how these records will be kept confidential – i.e. two interviewers (one note taking), one interviewer taking notes, or using recording device.
- Gain informed consent from the child you wish to interview. If they refuse, their choice must be respected.

### Making the child feel safe

<sup>17</sup> Available at <http://www2.ohchr.org/english/law/crc.htm#art37> (last accessed 040412). Art 37 detention of children shall be used as a measure of last resort; the unlawful or arbitrary detention of children is prohibited and states are obligated to treat children deprived of their liberty humanely, provide access to legal aid and ensure separation from adult detainees at all times.

<sup>18</sup> Available at [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 170312)

<sup>19</sup> Available at <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 170312)

<sup>20</sup> Available at <http://www.un.org/documents/ga/res/43/a43r173.htm> (last accessed 190312)

<sup>21</sup> Child Protection Toolkit, ChildHope (2005)



- Introduce yourself and the inspection body properly before the interview.
- Explain the purpose of the interview, what the information they give will be used for and importantly, your role, and the limits of what you can do to change their situation.
- Explain why you are taking notes/using a recorder during the interview and how what they tell you will be kept confidential.
- Start with conversational or non-controversial questions and work towards more sensitive issues.
- Use an informal and relaxed approach to help the child feel at ease. Understand that it may take some time for the child to become comfortable talking, especially if the events they are recalling are traumatic ones.

## Be aware of common problems

- Children answering questions to which they don't know the answer.
- Children telling you what they believe you want to hear.
- Fear that any information they disclose will result in reprisals once the inspection team has gone.

## Getting unbiased information

- Explain that it is acceptable to tell you if they do not know the answer to a question.
- Explain that they should correct you if you are mistaken or incorrect.
- Avoid leading questions or comments that may make the child feel coerced or pressured into giving a certain answer.
- Avoid repeated questions as it may lead the child to believe their previous answer was 'wrong'.
- Use simple, age-appropriate language and ensure that the child understands the correct meaning of the question.
- To get more detail use follow-up questions, e.g. "And then what happened?"
- Ensure that the timing of the interview allows for a child's short attention span. Where the interview is lengthy, plan one or two short breaks at appropriate points.

## Finishing the interview

- Ask the child if they have any questions for you or anything else they'd like to tell you.
- Explain again the limitations of your work and avoid raising false hopes.
- Complete your notes immediately after the interview has finished to ensure the most accurate representation of the meeting as possible.

It is important to be aware of the risks of reprisals for children who participate in inspection interviews and to try and minimise these risks. It may be necessary for the inspection team to decide not to interview children if they feel that there is an uncontrollable level of risk. A responsible monitoring team may be obliged to take a decision *not* to interview under circumstances suggestive of unacceptable and uncontrollable risk.

## **Guidelines for what to do if a child becomes distressed or discloses abuse**



- Look out for signs of distress in and child. If they disclose instances of abuse or are distressed do not pressurize them to finish the interview.
- Their distress should not be ignored, and they must be supported and comforted in a way that is appropriate. What is appropriate will depend on the child and the circumstances, and again you should take a lead from the child.
- Other children can be enlisted to comfort a child in distress. If you know that your interviewee has a friend, ask him or her to talk to the child. Above all, children should be given time, give them a break, time to play games or have a drink.<sup>22</sup>
- Inspectors should be sympathetic, but should keep in mind that they are not trained psychiatrists and that their job is not to provide treatment to children who have suffered abuse.
- General recommendations are that sexual abuse of any child should be reported to law enforcement, but that the information should not be disseminated within the facility without the detainee's consent.
- Mandated bodies may have an obligation to report under national child protection legislation. Please refer to national standards as to responsibilities to report abuse.<sup>23</sup>

## **Section A**

### **Interview Questionnaire**

A range of children should be selected to interview and they should be a representative sample of the children who are detained in the facility. You should not just interview children who come forward to you, or those proposed by the prison authorities.

It is important to ensure that a child freely gives their consent to be interviewed by the inspection team. Remember they may be fearful that speaking to you could result in reprisals once the inspection team has gone. The interviews should take place in a private space, out of earshot of prison guards or authorities. It should be explained at the outset to the interview that a child may withdraw from it at any point without giving a reason and without consequence. In addition, the interview should be stopped if a child appears upset, traumatized or uncomfortable with continuing the interview.

### **Using this tool**

This tool is designed as a set of questions when interviewing a child in detention. The questionnaire is designed to be as objective as possible and as such the answer to each question is yes/no or don't know. It contains a general section of 6 sets of questions to be asked of a child interviewed in any facilities, plus separate additional sets of questions to be asked of a child detained in a Retention Home/Approved School OR an adult prison. (if interviewing children in police custody, please use tool 8: Interviewing children in police custody) Please tick the appropriate answer given as you move through the questionnaire. Each question is drawn from international standards and best practice.

### **How to collate the information obtained**

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<sup>22</sup> OHCHR (2001) Training Manual for HR Monitoring paragraph 91, 92)

<sup>23</sup> See also Child Protection Toolkit, ChildHope (2005)



When you have completed this questionnaire please give a copy to the research team at the Commission for Human Rights and Good Governance. The answers will be imputed into an Excel based collation system. There is no need to total your scores. This will be automatically done using the Excel collation system which accompanies these tools. The collation system will allow an inspection body to assess changes in scores across 6 broad categories in a particular facility or in comparing a facility with another over time. The tool will also allow for inter-facility comparisons on a question by question basis.

## **1. Arrest and Intake Procedures**

This section will address how the child came to be detained. Did the child spend more than 24 hours in police custody? Are their details and reason for arrest recorded in a register? (Body of Principles, Principle 12) Were they provided information on the rules and routines in the facility upon admission? (Body of Principles, Principle 13) Was the child informed of the reason for his/her arrest? (Body of Principles, Principle 10) Are convicted and remand children separated from each other and from adults at all times? (JDL, 24, 27, 28, 29, Beijing Rules 21) Did the child suffer any ill-treatment or abuse in police custody? Were they provided information on their rights upon arrest and had access to medical treatment?

## **2. Physical Environment**

Good living conditions are an essential aspect of a child's rehabilitation and reintegration. Monitors should observe the realities of living conditions as closely as possible taking into account Section D of the Havana Rules. This provides that sleeping accommodation should consist of small dormitories or individual rooms and should be unobtrusively supervised. There should be sufficient, clean bedding and adequate sanitary facilities should be installed. To the greatest extent possible, children should be allowed to wear their own clothes, and should be provided with storage facilities for their own personal items. Adequate food and clean drinking water should be made available.

This section addresses the child's experience in their current facility, including the sleeping accommodation; quality and quantity of food and drinking water; and clothing provision (JDL 31, 32, 33).

## **3. Health and Hygiene**

This section addresses the child's view of the level of hygiene within the facility, including access to toilets, showers and cleanliness in the facility (JDL 34, 35, 36). This should be cross referenced with the results of interviews with personnel ( tool 5 and 6) and observation of the facility ( Tool 1) to get a consistent picture on the level of hygiene in the facility. Details of medical care within the facility can be elicited through interview with medical staff using Tool 7 of this toolkit.



## 4. Recreation

Providing adequate recreational facilities is an important element in the rehabilitation of children and their reintegration into society after their detention. The questions in this section address the space and time dedicated to recreation within the facility. Are recreational facilities and equipment provided? How much time does a child spend within their cell? Is there sheltered outside space for children?. Can children take part in sports, cultural or religious activities? (JDL 47 and 48, Body of Principles, Principle 28)

## 5. Use of Force and use of disciplinary measures

This section will assess if the use of disciplinary measures are in-line with international standards. For example, restraint should only be used in exceptional circumstances (JDL 64); disciplinary measures should not constitute cruel, inhuman or degrading treatment ( JDL 67); Every child has the right to make a complaint to appropriate channel or request assistance from family members, legal counselors, humanitarian groups or others where possible, in order to make a complaint. The interview questions, drawn from international standards will ask if the child has access to an effective complaints mechanism, if he/she feels they can make a complaint safely and if the complaint is addressed. JDL78)

This section considers whether there are regulations in place governing when restraint may be used and the use of different disciplinary measures; whether there is a child protection policy in place and whether children have unrestricted access to a complaints mechanism. Do they feel safe to make a complaint? Are their complaints addressed? (JDL 78)

## 6. Girls

Prisons have traditionally been designed for men and the specific needs of female detainees, including girls, may not be adequately addressed in a detention facility. This section will highlight the situation for girls detained in the facility. Are they safely separated from all male detainees? Are they separated from adult female detainees? Do they have access to education and recreation facilities? Are their hygiene and medical needs addressed? Do they have access to female medical practitioners? (Beijing Rule 26.4, Bangkok Rules 5,10) In mixed facilities where there are both men and women's wings please complete separate tools for each wing. The men and women's prisons have been allocated separate codes for the purposes of the collation tool. If there are no girls in the facility inspected please mark NO to each question in this section. Please make a note that the facility does not detain any girls. This will be recorded on the collation tool maintained by CHRAGG.

## 7. Communication with the outside world

This section looks at whether children have access to appropriate facilities to maintain contact with relatives and significant others such as comfortable private space to conduct visits:

are children placed in a facility that is as close as possible to the place of residence of his or her family? Are children provided with help in communicating with their families and is their right to privacy respected. In addition to being able to communicate with their families, are children allowed to communicate with other persons or representatives of reputable outside



organisations who can help to expand the range of activities and support that the child can access while detained, supporting their development and encouraging their reintegration into society

***For more information on interviewing during monitoring visits to places of detention please see:***

APT (2004) *Monitoring Places of Detention: A Practical Guide*

APT (2009) *Briefing No.2: The Selection of Persons to Interview in the Context of Preventive Detention Monitoring*

OHCHR (2001) *Training Manual on Human Rights Monitoring*

PRI (2011) *Toolkit for Interviewing Children, their Guardians, and Staff of Juvenile Detention Facilities*

PRI (2011) *Training Manual for Independent Monitors of Juvenile Detention Facilities*

**Facility Cover Sheet**

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
<b>Age of Child interviewed</b>			
<b>Remand or sentenced</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Staff</b>			
<b>Medial Staff</b>			
<b>Pre Trial Children</b>			
<b>Convicted Children</b>			



Tool 4				
Interview with Children				
		Yes (1)	No (0)	Don't Know (0)
<b>GENERAL QUESTIONS TO BE ASKED TO CHILDREN IN ALL INSTITUTIONS</b>				
<b>1 ARREST AND INTAKE PROCEDURES</b>				
1.1	After arrest, did you spend/have you spent less than 24 hours in police custody?			
1.1.1	If more than 24 hours, do you know why?			
1.2	Were you told the reason for your arrest, ( i.e what crime you were arrested for) ?			
1.2.1	<b>Discursive questions:</b> How did you come into custody ?			
1.3	Were you able to contact a parent/guardian about your arrest?			
1.4	Were you offered legal assistance while in police custody?			
1.5	Did you feel safe while held in police custody and not threatened with any violence, ill-treatment or abuse?* (see explanatory notes for guidance on what to do if a child becomes distressed or discloses abuse)			
	<b>Discursive question:</b> If yes, what kind of ill-treatment/abuse?			
1.6	Did you feel safe during the interrogation?			
1.7	Was a parent, relative or other adult (not police officer) present when you were interviewed?			
1.8	Were you separated from adults whilst in police custody?			
1.9	On entering police custody were you provided information on:			
1.9.1	The rules of the facility?			
1.9.2	Your rights?			
1.9.3	Contacting a relative?			

1.9.4	The police procedure/what would be happening next? * ( monitors should make themselves aware of police procedures)			
<b>2 PHYSICAL ENVIRONMENT</b>				
2.1	Are you separated from girls/boys at all times whilst in this facility?			
2.2	In your opinion, does the cell/dormitory have enough space for the number of children sleeping there?			
2.3	Do your cells have adequate natural light and ventilation? (i.e. windows that can be opened?)			
<b>3 HEALTH AND HYGIENE</b>				
3.1	Do you have access to clean and safe water at all times?			
3.2	Do you have access to clean toilets at all times, day and night?			
3.3	Do you have access to medical services when required?			
3.4	Are you provided with hygienic needs including soap, toothpaste etc?			
	<i>Detailed medical information should be obtained from the Medical Observation Checklist</i>			
<b>4 RECREATION</b>				
4.1	Do you have time for exercise each day?			
4.2	Do you have sufficient space to exercise in?			
<b>5 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
5.1	Do you feel safe in this facility?			
5.1.1	<b>Discussion:</b> If no, have you been threatened with violence?			
5.2	Is it forbidden for staff to carry weapons? ( i.e you never see staff with weapons)			
5.3	Are you aware of any complaints mechanisms available to you?			
5.4	Is it prohibited for guards to use disciplinary sanctions if children break the institution's rules?			
	Discursive: If no, and they do use disciplinary sanctions, can you name any used? (prompt child if necessary eg. Solitary confinement, reduction of food ration; suspension of visits/contact with family; hard labour)			
<b>6 GIRLS</b>				
6.1	Are you provided with female sanitary products free of charge?			
6.2	Are you able to request medical examination by a			



	female physician?			
6.3	If not, can you request to have a female member of staff present during examination?			



ADDITIONAL QUESTIONS FOR INTERVIEWING CHILDREN DETAINED IN RETENTION HOMES/APPROVED SCHOOLS				
1	On entering the retention home/approved school were you provided information on:			
1.1	The rules of the facility?			
1.2	Your rights?			
1.3	The routine of the facility?			
1.4	Procedures, for example, making a complaint/requesting medical attention?			
2	Were you seen by a medical physician immediately upon admission to this facility?			
3	Do you feel safe in this facility and not threatened/hurt by:			
3.1	members of staff?			
3.2	other children?			
<b>Discursive question:</b> If yes, what kind of ill-treatment/abuse?				
4	Do you have your own assigned bed and bedding?			
5	Do you think the food you receive is of sufficient quality?			
6	Do you think the food you receive is of sufficient quantity?			
7	Do you have access to showers on a regular basis?			
8	Are you provided with adequate clothing?			
9	Do you receive education in this facility?			
<b>Discursive question:</b> If yes, what kind of education? (primary, secondary)				
10	Are you provided with learning/training materials?			
11	Is there a library in the institution to which you have access?			
12	Do you have access to vocational training in this facility?			
13	Are there any special courses or training to prepare you for release in to the community?			
13.1	If yes, do you think these courses will help prevent you from reoffending?			
<b>Discursive Question:</b> If you don't think so, why not?				



14	<b>GIRLS:</b> Are you provided with the same access to education and vocational training as boys?			
15	Do you have sufficient time for exercise each day?			
16	Are you provided with any recreational materials (games, balls etc) in the facility?			
17	Are you able to attend religious services in this facility?			
18	Are visits from friends/family/guardians allowed?			
19	Are visits allowed at least once per month?			
20	Do you have free access to telephones or pens/paper to write letters at least twice a week, if you wish?			
21	Do you have access to news via newspapers/radio/TV?			
22	Are any staff responsible for providing you with psychosocial support?			
23	Do you feel you have a positive relationship with the staff at this facility?			
24	Is there a system by which you are able to make requests and complaints to the director of the institution or an officer in charge of your care?			
25	Are you able to receive assistance in making a request or complaint?			
		Yes	No	Don't know
<b>ADDITIONAL QUESTIONS FOR INTERVIEWING CHILDREN DETAINED IN ADULT PRISONS</b>				
1	On entering the retention home/approved school were you provided information on:			
1.1	The rules of the facility?			
1.2	Your rights?			
1.3	The routine of the facility?			
1.4	Procedures, for example, making a complaint/requesting medical attention?			
2	Were you seen by a medical physician immediately upon admission to this facility?			
3	Is your cell in a separate building/block to adult detainees' cells?			
4	Are you separated from adults at all times whilst in the facility?			
5	Do you feel safe in this facility and not threatened by:			
5.1	members of staff?			
5.2	adult prisoner?			

5.3	other children?			
<b>Discursive question:</b> If the child says he does feel unsafe. What type of ill-treatment or violence have they encountered/suffered?				
6	Do you have your own assigned bed and bedding?			
7	Do you think the food you receive is of sufficient quality?			
8	Do you think the food you receive is of sufficient quantity?			
9	Are you supplied with access to showers on a regular basis?			
10	Are you provided with adequate clothing?			
11	Do you receive education in this facility?			
<b>Discursive question:</b> If yes, what kind of education? (primary, secondary)				
12	Are you provided with learning/training materials?			
13	Is there a library in the institution to which you have access?			
14	Do you have access to vocational training in this facility?			
15	Are there any special courses or training to prepare you for release in to the community?			
15.1	If yes, do you think these courses will help prevent you from reoffending?			
<b>Discursive Question:</b> If you don't think so, why not?				
16	<b>GIRLS:</b> Are you provided with the same access to education and vocational training as boys?			
17	Do you have sufficient time for exercise each day?			
18	Are you provided with any recreational materials (games, balls etc) in the facility?			
19	Are you able to attend religious services in this facility?			
20	Are visits from friends/family/guardians allowed?			
21	Are visits allowed at least once per month?			
22	Do you have free access to telephones or pens/paper to write letters at least twice a week, if you wish?			
23	Do you have access to news via newspapers/radio/TV?			
24	Are there any staff responsible for providing you with psychosocial support?			



25	Do you feel you have a positive relationship with the staff at this facility?			
26	Is there a system by which you are able to make requests and complaints to the director of the institution or an officer in charge of your care?			
27	Are you able to receive assistance in making a request or complaint?			

## Section B

### 1. Case Studies

Case studies are a useful qualitative tool to give a full picture of life in custody for a child. It can add a 'human face' to your report that readers, either at policy level or members of the public, may be able to relate to more easily. Remember, case studies are subjective and intended to give a voice to a few children living in detention to enhance your inspection report. It is not a methodology from which to draw objective analysis or conclusions.

Selecting the right children for case studies is important. It may be that whilst undertaking a questionnaire interview with a child you find a child willing to have a longer interview with you and give more details of conditions in the institution. Remember, that the additional case study interview will be lengthier and more detailed than the questionnaire interview and the child will be freely speaking about their experiences. Therefore, additional informed consent should be obtained for this part of the interview. You must ensure that the case studies will protect the identity of the child and you must assure the child that this will be the case.

While the rules above apply to all the interviews you may undertake with children, there are additional skills required for when you are interviewing a child for the purposes of writing a qualitative case study. You will be asking *open-ended* questions, as opposed to the closed-questionnaire, and will need to identify the right questions to ask a child that allows them to feel comfortable and tell their story in their own words.

Particular issues to be aware of when undertaking open-ended questioning:

- You will need to take more detailed notes than the checklist for the questionnaire so explain why you are taking notes/using a recorder and how it will be kept confidential.
- Start with conversational or non-controversial questions and work towards more sensitive issues.
- Avoid leading questions – these are questions that naturally lead a child into answering a certain way.
- To get more details from a child use follow-up questions, such as “And then what happened?”
- Ensure that the timing of the interview allows for a child’s short attention span. Where the interview is lengthy, plan one or two short breaks at appropriate points.

At the end, ask the child if they have any questions for you or anything else they would like to tell you.



## Case Study Tool

A case study should try and obtain the following information through free recall with the child to get an overall view of their experiences in the criminal justice system:

- Basic information: age, sex, ethnicity, area of origin/residence, remand/convicted
- Background information: family structure, family employment, schooling
- Contact with the juvenile justice system: when they first came in to contact with the system, what they are/were accused of, how they were arrested
- Their process through the justice system: place of arrest, time spent in police station, ill-treatment at the police station, pre-trial detention, trial etc
- Conditions and routine in detention and how this affects them
- Any other information the inspectors consider relevant

## 2. Focus Groups

Focus groups allow a small group of children to discuss a range of topics around life and conditions of detention. When conducted well they can provide good, qualitative data. However, they are not appropriate for collecting quantitative data and therefore, the data cannot be collated in the Excel tool.

Focus groups are beneficial because some children may be more willing to speak in a group setting and be less worried about reprisals and hence, it may be possible to get some better data. The questions should cover similar topics to that of the one-to-one interviews although adapted to allow for more discussion around specific, identified issues.

Focus groups should contain children of broadly similar circumstance, who experience the same conditions and routine of the institution. Focus groups should be conducted out of earshot of detention authorities. A sample of questions to ask at focus groups is attached below.

Focus groups should contain around 5 – 7 children to allow for proper, directed discussion with each child able to speak and get their view across and to allow the inspection team to accurately record and collect the data. Focus group discussions should focus either around areas that have been found by the one-to-one interviews to be of concern, or around areas where little information was able to be gathered in one-to-one interviews. Discussions should avoid sensitive or private questions.

The amount of direction given by the interviewer leading the discussion will affect the kind of data retrieved and a good balance should be struck between ensuring the children continue to discuss relevant topics but that they are also allowed time to have a free and open discussion with their peers.



## **Focus Group Tool**

### **Sample Questions for Focus Group Discussions**

Date and time of focus group .....

Prison/Facility.....

Details of the discussion group .....

### **Introduction and aim of visit**

#### **Issues to be discussed**

1. Children's experience during arrest
2. Experience in police stations
3. Separation from adults and relationship between older and younger children
4. Available mechanism to protect vulnerable groups
5. Kinds of disciplinary action and mechanisms for appealing in the facility
6. Condition of accommodation facilities
7. Access to food and safe water
8. Availability of enough and appropriate clothing
9. Contact with the external community
10. Communication with legal counsel and fair trial
11. Education programmes offered
12. Availability of sports and exercise programmes and facilities
13. Access to religious services
14. Preparation for release and reintegration to the community



## 5. Tool for Interviewing Personnel

Valuable information can be gathered by interviewing staff from detention facilities, including about the conditions they work in, which may impact how they treat the children in their care. Such interviews can corroborate information given by the children or gained from observations made during the inspection. It also allows an inspector to obtain additional insights from staff on the management of the institution and staff interaction with the children.

A qualified inspector not part of the administration of the institution should inspect regularly. The inspector should hold a mandate to inspect places of detention of children and be unrestricted in interviewing personnel.<sup>24</sup> Interviews should be conducted on a one-to-one basis, with key members of staff who have consented to be interviewed. As with interviewing children, it is important to ensure that the member of staff gives their informed consent to be interviewed and the interviews take place in a private space.

The interviews you will carry out will involve using a questionnaire, see the tool below. Before you begin your interview, explain to the member of staff the purpose of interviewing them, what the information they give will be used for and how it will be kept confidential.

### International standards

The main international standards guiding questions to ask personnel are: the UN Convention on the Rights of the Child, in particular Art 37,<sup>25</sup> the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLs<sup>26</sup>; and the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to below as the Beijing Rules<sup>27</sup>.

### Using this tool

This tool is designed as a set of questions which an inspector will ask personnel in a prison, retention home or approved school in which children are detained. This tool is designed to be as objective as possible and as such the answer to each question is yes/no or don't know. Please tick the appropriate answer given as you move through the questionnaire. Each question is drawn from international standards and best practice. It is important to ask all questions in the questionnaire and record accurately. There are some discursive questions included in this tool. These questions will generate qualitative information which could be used for in-depth reporting but cannot be captured on the Excel based collation system.

### How to collate the information obtained

When you have completed this questionnaire please give a copy to the research team at the Commission for Human Rights and Good Governance. The answers will be imputed into an Excel based collation system. There is no need to total your scores. This will be automatically done using the Excel collation system which accompanies these tools. The collation system will allow an inspection body to assess changes in scores across 9 broad categories in a particular

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<sup>24</sup> JDLs Rule 72

<sup>25</sup> Available at <http://www2.ohchr.org/english/law/crc.htm#art37> (last accessed 040412). Art 37 detention of children shall be used as a measure of last resort; the unlawful or arbitrary detention of children is prohibited and states are obligated to treat children deprived of their liberty humanely, provide access to legal aid and ensure separation from adult detainees at all times.

<sup>26</sup> Available here [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 180312)

<sup>27</sup> available here: <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 180312)



facility or in comparing a facility with another over time. The tool will also allow for inter-facility comparisons.

## What to monitor for during observation

This Interview is divided into 9 sections and covers the following:

### 1. Intake Procedures

This set of questions will assess the administrative procedures when a child is detained in this facility: Are their details recorded in a register? Are they provided information on the rules and routines in the facility? (JDL 24, 27, 28)

### 2. Physical Environment

Good living conditions are an essential aspect of a child's rehabilitation and reintegration. Monitors should observe the realities of living conditions as closely as possible taking into account Section D of the Havana Rules. This provides that sleeping accommodation should consist of small dormitories or individual rooms and should be unobtrusively supervised. There should be sufficient, clean bedding and adequate sanitary facilities should be installed. To the greatest extent possible, children should be allowed to wear their own clothes, and should be provided with storage facilities for their own personal items. Adequate food and clean drinking water should be made available.

Using this set of questions, visitors will ask personnel about the physical environment in which children are detained including access to clean and separate bedding; access to light and ventilation; good quality and quantity of food and drinking water; and clothing provision. (JDL 31, 32, 33, 36 and 37)

### 3. Educational, Vocational and Rehabilitation Programmes

Learning and skills should be central to the regime of detention facilities and children should have access to education and training which enables them to achieve their full potential. This is vital to enable a child's rehabilitation and reintegration. Article 28 of the CRC enshrines the right to education for all children and children in detention should receive the same standard education as that provided to their contemporaries living in the community.

This section assesses the extent to which children have access to good quality education and/or vocational training (Art 28 CRC, JDL 18, 38, 40); whether they are prepared for release and reintegration into society (JDL 79). Equal educational opportunities for girls are addressed in section 9 of the tool.(Bangkok Rule 37)

International standards promote a holistic approach to rehabilitation and reintegration which addresses both the practical and emotional needs of the child. The Beijing Rules state that children in detention shall receive "care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality." In order to benefit from rehabilitation, children in detention need to be in a safe environment with access to medical care, involvement in



educational, cultural and recreational activities, contact with family and the outside world and adequate living conditions. The adverse effects of detention on children needs to be minimised and maximum support provided to ensure that a child will eventually reintegrate into society and assume a constructive role in society on release.

Successful reintegration back into the community on release should be seen as the main objective of the rehabilitation process. An emphasis should be placed on children maintaining strong relationships with their families to smooth the transition back into the community since contact with families is an integral component of rehabilitation and reintegration as well as a fundamental right, (SMR Rule 80). Rule 80 JDL states that the administration should provide services that should ensure “to the extent possible, that the juvenile is provided with suitable residence, employment, clothing and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration”. The Riyadh Guidelines state in Rule 79 that: “All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education, or employment after release. Procedures, including early release, and special courses should be devised to this end”. Post-release programmes such as the granting of licence, allows the child to reside with a guardian or parent who is willing to take responsibility for him or her.

## **Rehabilitation and reintegration**

International standards promote a holistic approach to rehabilitation and reintegration which addresses both the practical and emotional needs of the child. The Beijing Rules state that children in detention shall receive “care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality.” In order to benefit from rehabilitation, children in detention need to be in a safe environment with access to medical care, involvement in educational, cultural and recreational activities, contact with family and the outside world and adequate living conditions. The adverse effects of detention on children needs to be minimised and maximum support provided to ensure that a child will eventually reintegrate into society and assume a constructive role in society on release.

Successful reintegration back into the community on release should be seen as the main objective of the rehabilitation process so for example, an emphasis should be placed on children maintaining strong relationships with their families to smooth the transition back into the community since contact with families is an integral component of rehabilitation and reintegration as well as a fundamental right.

## **4. Recreation**

Providing adequate recreational facilities helps children with their rehabilitation and reintegration into society upon release. The JDLs set out the requirements for exercise and recreational activities and provide that every child has the right to a suitable amount of time for daily free exercise. This should take place in the open air whenever weather permits. During this time, appropriate recreational and physical training should be provided. Rule 21(1) of the Standard Minimum Rules for the Treatment of Prisoners specifies that every prisoner shall have at least one hour of suitable exercise in the open air daily if the weather permits. Visitors should



consider this as an absolute minimum for children. The questions in this section address the space and time dedicated to recreation within the facility; Are recreational facilities and equipment provided? How much time does a child spend within their cell? Is there sheltered outside space for children? Can children take part in sports and cultural activities? (JDL 47, 48)

## **5. Hygiene and Medical Care**

This set of questions will provide the inspector with a general overview of the medical care provided to all children in detention. More detailed questions can be found in the Interview with Medical Staff, Tool 7 of this pack. This section addresses the overall hygiene within the facility, including access to toilets and showers, levels of privacy and general cleanliness in the facility (JDL 34, 35, 36); Article 24 CRC provides that children have the right to enjoy the highest attainable standards of health and to facilities for the treatment of illness and rehabilitation. The basic principle for visitors to consider is that the standard of health care provided to children in detention should be equivalent to that a child could expect to receive in the community. These questions will provide the inspector with a general overview of the medical care provided to all children in detention. More detailed questions can be found in the Interview with Medical Staff, Tool 7 of this pack. The questions in this tool will assess if children receive medical care upon admission, if they have access to medical treatment within the facility or can be treated in local hospitals, and if they are regularly screened for infectious diseases. This section also includes questions which address the medical treatment for girls in detention (JDL 49-55 and see also the Bangkok Rules, 5,10 and Beijing Rule 26.4) the provision of medical care upon admission; access to medical treatment within the facility; screening for infectious diseases; and notification to parents in cases of illness (JDL 21,22).



## **6. Contact with the wider community**

Communication with the outside world is “an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society.” (79 JDL). This section addresses the detained child's access to those outside the facility. Are personnel interviewed aware of children's right to correspond with friends and family by letter or telephone? Are visits from a lawyer, consular services and family permitted? (JDL 60) The JDL states that visits should be allowed to occur “in principle once a week and not less than once a month.” It is not within the power of facility personnel to guarantee a child's friends and family will visit, but the facility must strive to make such visits possible.

This section looks at whether children have access to appropriate facilities to maintain contact with relatives and significant others such as comfortable private space to conduct visits; whether children are placed in a facility that is as close as possible to the place of residence of his or her family? Are children provided with help in communicating with their families and is their right to privacy respected. In addition to being able to communicate with their families, are children allowed to communicate with other persons or representatives of reputable outside organisations who can help to expand the range of activities and support that the child can access while detained, supporting their development and encouraging their reintegration into society.

Are children provided with help in communicating with their families and is their right to privacy respected. In addition to being able to communicate with their families, are children allowed to communicate with other persons or representatives of reputable outside organisations who can help to expand the range of activities and support that the child can access while detained, supporting their development and encouraging their reintegration into society.

## **7. Use of force and disciplinary measures**

This section will assess if the use of disciplinary measures are in-line with international standards. For example, restraint should only be used in exceptional circumstances (JDL 64); disciplinary measures should not constitute cruel, inhuman or degrading treatment. (JDL 67) Every child has the right to make a complaint through appropriate channels or request assistance from family members, legal counselors, humanitarian groups or others where possible, in order to make a complaint. The interview questions, drawn from international standards will ask if the child has access to an effective complaints mechanism, if he/she feels they can make a complaint safely and if the complaint is addressed. (JDL 78)

## **8. Situation of girls (to be asked in institutions where girls are held)**

Prisons have traditionally been designed for men and the specific needs of female detainees, including girls, may not be adequately addressed in a detention facility. The questions in this section will assist in establishing how personnel and the establishment address these needs. Are girls separated from all male detainees? Are they separated from adult female detainees? Do they have access to education and recreation facilities? (Bangkok Rules, 37) Are their hygiene and medical needs addressed? Do personnel have policies in place to provide gender sensitive medical treatment for girls in detention? (JDL 49-55, Bangkok Rules 5,10, Beijing Rule 26.4) In mixed facilities where there are both men and women's wings please complete



separate tools for each wing. The men and women's prisons have been allocated separate codes for the purposes of the collation tool. If there are no girls in the facility inspected please mark NO to each question in this section. Please make a note that the facility does not detain any girls. This will be recorded on the collation tool maintained by CHRAGG.

## **9. Personnel**

In the interviewee's opinion, do personnel receive adequate training to work with children? (JDL 1,2) Are there a sufficient number of specialists, such as educators, vocational instructors, counselors, and social workers to support the facility personnel in their day to day work? Do they receive appropriate on-going training? (JDL 81-87). How do they rate the conditions of employment for facility staff? Are conditions sufficient to support the staff to do their job well?



**Facility Cover Sheet**

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
<b>Job Title of Interviewee</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Prison Staff</b>			
<b>Medial Staff</b>			
<b>Pre Trial Children</b>			
<b>Convicted Children</b>			



Tool 5				
Interview with Personnel				
QUESTIONS TO BE ASKED TO PERSONNEL CARING FOR CHILDREN IN RETENTION HOMES, APPROVED SCHOOLS AND ADULT PRISONS				
		Yes (1)	No (0)	Don't know (0)
<b>1 INTAKE PROCEDURES</b>				
Do you provide children with the following information on entering the facility:				
1.1.1	The rules of the facility?			
1.1.2	Their rights?			
1.1.3	The routine of the facility?			
1.1.4	Procedures, for making a complaint?			
1.1.5	Procedures for requesting medical attention?			
1.2	Is this provided in written and verbal form?			
1.3	Is each child registered on admission to the facility?			
<b>Discursive question:</b> Have you ever received a child with poor health/signs of injury due to ill-treatment or abuse from a previous facility?				
<b>2 PHYSICAL ENVIRONMENT</b>				
2.1	Are children separated from adults at all times whilst in the facility?			
2.2	Is the sleeping area supervised at night time?			
2.3	Do the children have access to clean and safe water at all times?			
2.4	Do you think the food provided to children is of sufficient quality?			
2.5	Do you think the food provided to children is of sufficient quantity?			
2.6	Does the facility provide special support to children with disabilities?			
<b>3 EDUCATIONAL, VOCATIONAL AND REHABILITATION PROGRAMMES</b>				



3.1	Does the facility offer adequate education programmes to the children equal to that available in the community?			
<b>Discursive question:</b> If yes, what kind of education does the facility provide? (primary, secondary?)				
3.2	In your opinion, do all the children have equal access to the education on offer?			
3.3	Is there a programme of special education for children who are illiterate or have learning difficulties?			
3.4	Does the facility offer adequate vocational programmes to the children?			
3.5	Are there any rehabilitation programmes for children in the facility?			
3.5.1	If yes, do you think these courses will help prevent the children from reoffending?			
<b>Discursive Question:</b> If you don't think so, why not?				
3.6	Are any restrictions imposed upon children on their release back to the community? (i.e. supervision)			
3.7	Are children prepared for reintegration and exit procedure applied?			
3.8	Are any schooling/employment arrangements made for the child on their release?			
3.9	Is it ensured that a child has adequate housing on release?			
3.10	Is it ensured that a child has sufficient means to maintain themselves on release?			
<b>4 RECREATION</b>				
4.1	Do the children have sufficient time for exercise each day?			
4.2	Do the children have sufficient space to exercise in?			
4.3	Do children with disabilities have an opportunity to exercise each day?			
4.4	Are religious services provided in the facility?			
<b>5 Hygiene and Medical Care</b>				
5.1	Are all children given a medical examination on admittance to this facility?			
5.2	Do children have access to medical services when required?			
5.3	Is any specific care given to children living with			

	HIV/AIDS?			
5.4	Is treatment provided to all children suffering from malaria?			
5.5	Are there any specific health services provided to children with disabilities?			
5.6	Are the children provided with hygienic needs including soap, toothpaste etc. ?			
5.7	Are a child's parent/guardian notified in the case of serious illness/accident?			
5.8	Are a child's parent/guardian notified in cases of transfer to an external medical facility?			
<i>Detailed medical information should be obtained from the Medical Personnel Questionnaire</i>				
<b>6 CONTACT WITH THE WIDER COMMUNITY</b>				
6.1	Are visits from friends/family/guardians of the children allowed?			
6.2	Are visits allowed at least once per month?			
6.3	Do children have free access to telephones or pens/paper to write letters at least twice per week, if they wish?			
6.4	Do children have access to news via newspapers/radio/tv?			
6.5	Are children from other countries, if any, allowed to contact their national consulates? <b>Note to inspector – if there are no children from other countries please mark DN for do not know</b>			
<b>7 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
In your opinion are children safe in this facility and never at risk of violence/ill treatment by:				
7.1.1	other children?			
7.1.2	adult prisoners?			
7.1.3	staff?			
<b>Discursive question:</b> If no, what kinds of ill-treatment/violence have you witnessed/are aware of?				
<b>Discursive question:</b> If abuse takes place are you aware, of any disciplinary action which can be taken against the perpetrator?				
7.2	Is there a child protection policy/procedure in operation at this facility to handle cases of abuse?			

7.3	Is it prohibited for staff to use of physical violence (including stroking/caning) as a disciplinary sanction against the children?			
7.3	Is it prohibited for staff to order solitary confinement as a disciplinary sanction against the children?			
7.4	Is it prohibited for staff to order the reduction of food to be used as a disciplinary sanction against a child?			
7.5	Is it prohibited for staff to order the reduction or suspension of family visits or other contact with family as a disciplinary sanction against a child?			
7.6	Is it prohibited for staff to order hard labour as a disciplinary sanction against a child?			
7.7	Are staff prohibited from carrying a weapon while working at this facility?			
7.8	Is there a system by which children are able to make requests and complaints to the director of the institution or an officer in charge of his/her care?			
7.9	Are illiterate children able to receive assistance in making a request or complaint?			
7.10	Are families or legal representatives allowed to make a complaint on behalf of a child?			
<b>8 GIRLS (To be asked in institutions where girls are held)</b>				
8.1	Are girls provided with materials required to meet their specific hygiene needs?			
8.2	Can a girl request to be examined by a female nurse/doctor?			
8.3	If no female nurse/doctor is available, is a female member of staff present during examinations?			
8.4	Are girls provided with the same access to education and vocational training as boys?			
8.5	Are the special needs of pregnant girls addressed properly?			
<b>9 PERSONNEL</b>				
9.1	Have you had any specific training for working with children?			
9.2	Is there any specialist staff (i.e. psychiatrist/psychologist/social worker) employed in the institution?			
9.3	Are facilities and conditions for staff in the institution satisfactory?			
9.4	Do medical staff working with female children receive any specialised training in gender issues?			

## 6. Tool for interviewing Police Personnel

### Purpose

Valuable information can be gathered by interviewing police personnel including on the conditions in which they work, which may impact how they treat the children in their care. It is also a beneficial exercise for corroborating information given by the children or gained from observations you have made during the inspection. It also allows you to obtain additional insights from staff on the management of the police station and police interaction with the children.

A qualified monitor not part of administration of the police facility should inspect regularly. The inspector should hold a mandate to inspect places of detention of children and be unrestricted in interviewing police personnel<sup>28</sup>. Interviews should be conducted on a one-to-one basis with key personnel. As with interviewing children, make sure that the police personnel give their informed consent to be interviewed.

The interviews you will carry out will involve using a questionnaire, see the tool below. Before you begin your interview, explain to the police officer the purpose of interviewing them, what the information they give will be used for and how it will be kept confidential.

This guide outlines the different aspects of police custody to inspect when interviewing police personnel and the international standards which protect children detained in police custody.

### International standards

The main international standards guiding questions to ask police officers are: the UN Convention on the Rights of the Child, in particular Art 37,<sup>29</sup> the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLs<sup>30</sup>; the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>31</sup>; and the UN Code of Conduct for Law Enforcement Officials (1979).

### Using this tool

This tool is designed as a set of questions which an inspector will ask a police officer when inspecting a police station where children are detained. This tool is designed to be as objective as possible and as such the answer to each question is yes/no or don't know. Please tick the appropriate answer given as you move through the questionnaire. Each question is drawn from international standards and best practice.

### How to collate the information obtained

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<sup>28</sup> JDLs Rule 72

<sup>29</sup> Available at <http://www2.ohchr.org/english/law/crc.htm#art37> (last accessed 040412). Art 37 detention of children shall be used as a measure of last resort; the unlawful or arbitrary detention of children is prohibited and states are obligated to treat children deprived of their liberty humanely, provide access to legal aid and ensure separation from adult detainees at all times.

<sup>30</sup> Available at [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 170312)

<sup>31</sup> Available at <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 170312)



When you have completed this questionnaire please give a copy to the research team at the Commission for Human Rights and Good Governance. The answers will be imputed into an Excel based collation system. There is no need to total your scores. This will be automatically done using the Excel collation system which accompanies these tools. The collation system will allow an inspection body to assess changes in scores across 8 broad categories in a particular facility or in comparing a facility with another over time. The tool will also allow for inter-facility comparisons.

## **Why children may be at risk in police custody**

The power imbalance that exists between police and detainees and the obvious inability for detainees to alter their physical environment creates the conditions in which rights abuses can and have historically occurred. Children are especially vulnerable in this environment. Monitoring police custody will help to maintain ethical and professional standards and help to detect police misconduct

Article 2 of the UN Code of Conduct for Law Enforcement Officials states that “...[i]n the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons”.<sup>32</sup> International standards set basic standards expected in police custody.

## **Interviewing Police Personnel**

This interview is divided into 7 sections and covers the following:

### **1 Arrest and Intake procedures**

On admission, police must take steps to ensure the health, safety and welfare of detained children. At all times, custodial officers should act professionally and with integrity to maintain and uphold the human rights of detainees<sup>33</sup>. While access to ventilation and exercise space may require capital investment and be outside the control of individual station managers some conditions may vary due to the attitude of the custody sergeant. It is important in monitoring to establish if the standard operating procedure is being followed in each station. Children should have access to a lawyer, one nutritious meal per day and the place they are detained in should be clean.

### **2. Physical environment**

Detainees should be provided with an adequate standard of accommodation that ensures their safety and welfare, and balances individual rights with the rights of others<sup>34</sup>. Detainees should be provided with quality food that takes into account individual religious or dietary needs and is of good nutritional value.<sup>35</sup>

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<sup>32</sup> Adopted by General Assembly resolution 34/169 of 17 December 1979

<sup>33</sup> ICCPR Article 10; Article 2 Code of Conduct for Law Enforcement Officials; SMR Article 48

<sup>34</sup> Article 10 International Covenant on Civil and Political Rights, 1966, ( Hereafter ICCPR); Article 17 UN Standard Minimum Rules for the Treatment of Prisoners, 1957 ( hereafter SMR) Coyle, Andrew “A human rights approach to prison management: Handbook for prison staff” (London: International Centre for Prison Studies, 2002) p.42.

<sup>35</sup> Article 25 The Universal Declaration of Human Rights ( hereafter UDHR) 1948; Article 11 International Covenant on Economic, Social and Cultural Rights, 1966, (hereafter ICESCR) article 11; article 20 SMR



### **3. Hygiene**

Children must be held in a clean environment and have access to clean toilets. (Art 12 ICESCR)

### **4. Medical care**

Police officers shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required (Article 6 UN Code of Conduct for Law Enforcement Officials). Detainees with health needs should be provided with services equivalent to those available to the community as a whole (UDHR article 25; ICESCR article 12; UN Code of Conduct for Law Enforcement Officials)

### **5. Contact with the wider community**

Parents or guardians should be notified of a child's arrest and the planned course of action; children should be made aware of their entitlement to legal aid and to access a representative of their embassy if they are not Tanzanian. (JDL 21, 22)

### **6. Use of force and disciplinary measures**

Detainees must be protected from torture and cruel, inhuman or degrading treatment (Article 37 CRC, Article 5 UN Code of Conduct for Law Enforcement Officials). Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty (Article 3 UN Code of Conduct for Law Enforcement Officials).

### **7. Preparation for release from police detention**

Is there a bail system for children? Is there a probation service? The Beijing Rules (Rule 28) require that "Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time. If a child is released on police bail then they must be released into the care of an appropriate adult such as a parent or guardian.

### **8. Personnel**

This section is designed to determine the level of training received by police officials in working with children, including girls and if children have access to specialists such as psychiatrists, psychologists and social workers



**Facility Cover Sheet**

<b>Facility:</b>			
<b>Date of Inspection:</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
<b>Job title of the interviewee</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Police Staff</b>			
<b>Medial Staff</b>			
<b>Detained children</b>			



<b>Tool 6</b>				
<b>Interviews with Police Personnel</b>				
		<b>Yes (1)</b>	<b>No (0)</b>	<b>Don' t Know (0)</b>
<b>1 ARREST AND INITIAL PROCEDURES</b>				
1.1	If you arrest a child do you have the option to:			
1.1.1	give a verbal informal warning and release the child?			
1.1.2	give a verbal formal warning and release the child?			
1.1.3	conduct a conference with the child, the parent(s), teachers, or other people?			
1.1.4	conduct a conference with the child, his/her parents, and the victim(s)			
<b>Discursive Question:</b> If yes, what do these meetings involve? How often are they used?				
1.1.5	refer the child to a social welfare officer?			
1.1.6	make a custodial arrest and release using a child summons?			
1.1.7	make a custodial arrest and subsequent transfer to a retention home?			
1.2	Are children provided with information on their rights when arrested?			
1.3	Is information provided in written and verbal form?			
1.4	Do children spend more than 24 hours in a police cell before being moved to a retention home, adult prison, or coming before an authorised court?			
<b>Discursive Question:</b> On average, how long does a child spend in police cells before a second action takes place?				
1.5	Do you notify parents/guardians about their child's arrest?			
1.6	Is the social worker informed of an arrest of a child?			
1.7	Are children able to contact their parent/guardian			



	after arrest?			
1.8	Is a social worker, parent or guardian always present when interviews with children are conducted?			
1.9	Are children provided with legal representation during their interviews?			
1.10	Does the police station arrange and pay to transport children to court or the retention home?			
1.11	Is there a system of police bail for children?			
<b>Discursive question:</b> If yes, and children receive bail, are there any restrictions imposed upon release of the children back to their parents/guardians?				
<b>2 PHYSICAL ENVIRONMENT</b>				
2.1	Are children separated from adults at all times in the police station?			
2.2	Are girls and boys separated at all times in the police station?			
2.3	In your opinion, do the cells have enough space for the number of children placed in them?			
2.4	Do cells have adequate equipment for rest (beds/mattresses/blankets) for each child?			
2.5	Do children have access to clean and safe drinking water at all times?			
2.6	Are children given at least 1 meal per day free of charge?			
2.7	Are children held in police custody regularly checked on for their safety and protection?			
<b>3 HYGIENE</b>				
3.1	Are cells cleaned and disinfected on a regular basis?			
3.2	Are children detained overnight provided with hygienic needs including soap, tooth paste?			
<b>4 MEDICAL CARE</b>				
4.1	Do children have immediate access to medical care if requested?			
4.2	Is there any specific care for children identified as having mental health needs at the police station?			
4.3	Are girls able to request medical examination by a female physician?			
4.4	If no female nurse/doctor is available is a female member of staff present during examinations?			
4.5	If necessary, can children be taken to a local hospital?			



<b>5 CONTACT WITH THE WIDER COMMUNITY</b>				
5.1	Are children allowed to be visited by friends/family/guardians?			
5.2	Are children allowed to meet with their legal representatives in private?			
5.3	Are children from other countries allowed to contact their national consulate?			
<b>6 Use of Force and Disciplinary Measures</b>				
6.1	In your opinion, are children safe from violence in this facility?			
In your opinion are children safe from any risk of ill treatment or abuse by:				
6.1.1	another police officer?			
6.1.2	a detained child?			
6.1.3	a detained adult?			
<b>Discursive question:</b> If children are at risk of any violence, what kind of ill-treatment/abuse do they suffer?				
6.1.4	Is any disciplinary action taken against the perpetrators of ill treatment of a child?			
6.2	Are staff prohibited from using stroking/caning as a disciplinary sanction against the children?			
6.3	Is there a written regulations governing when restraint (including use of handcuffs) may be used against children?			
6.4	Are all instances of restraint recorded?			
6.5	Is there a system by which children are able to make requests and complaints to an officer in charge of his/her care?			
6.6	Are families or legal representatives allowed to make a complaint on behalf of a child?			
6.7	Are illiterate children able to receive assistance in making a request or complaint?			
<b>7 PERSONNEL</b>				
7.1	Do you receive adequate continuous training?			
7.2	Have you had any specific training for working with children?			
7.3	Are facilities and conditions for staff in the police station satisfactory?			

## 7. Tools for Interviewing Medical Personnel

Valuable information can be gathered by interviewing medical personnel including on the conditions in which they work, which may impact how they treat the children in their care. It is a beneficial exercise for corroborating information given by the children or gained from observations made during the inspection. It also allows an inspector to obtain additional insights from staff on the medical care and treatment available in the institution.

A qualified inspector, not part of administration of the facility should inspect regularly<sup>36</sup>. Interviews should be conducted on a one-to-one basis with medical personnel. As with interviewing children, make sure that the medical officer gives his/her informed consent to be interviewed.

The interviews will involve using a questionnaire, see the tool below. Before beginning the interview, explain to the member of staff the purpose of interviewing them, what the information they give will be used for and how it will be kept confidential.

This guide outlines the different aspects of medical services to inspect and the international standards which protect children detained in adult prison, retention homes or approved schools (as appropriate).

### International standards

The right to health of juvenile detainees is protected by a number of international standards. Rules 1 and 2 of the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990), hereafter referred to as JDL,<sup>37</sup> states that “*facilities must promote health and allow access to family and appropriate training be given to adults dealing with juveniles*”. Article 14 of the African Charter on the Rights and Welfare of the Child states that, “Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.”

Other relevant standards include: the UN Standard Minimum Rules for the Treatment of Prisoners (1955), referred to as SMR; UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>38</sup>; UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; UN Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (1982)<sup>39</sup>; and the Kampala Declaration on Prison Health in Africa (1996), which recommends measures to be taken by non-governmental organizations, donors, government and

<sup>36</sup> JDL's Rule 72 ;United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment of 1988, Principle 29.

<sup>37</sup> Available here: [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 180312)

<sup>38</sup> Available here: <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf>. (last accessed 180312)

<sup>39</sup> Available here: <http://www.un.org/documents/ga/res/37/a37r194.htm> (last accessed 180312)



inter-governmental organizations to reform and improve prison health in Africa<sup>40</sup>. Inspectors should be familiar with these standards.

## Using this tool

This tool is designed as a set of questions which an inspector will ask him/herself when visiting a prison, retention home or approved school in which children are detained. This tool is designed to be as objective as possible and as such the answer to each question is yes/no or don't know.

- Yes answers will generate a score of 1
- No/don't know will generate a score of 0.

## How to collate the information obtained

When you have completed this questionnaire please give a copy to the research team at the Commission for Human Rights and Good Governance. The answers will be imputed into an Excel based collation system. The collation system will allow an inspection body to assess changes in scores across 10 broad categories in a particular facility or in comparing a facility with another over time.

## Interviewing Medical Personnel

This interview questionnaire is divided into 10 sections and covers the following:

### 1. Administration of healthcare

This section of questions will ask the medical officer if there a healthcare strategy in place including testing for infectious diseases? Is there a medical complaints mechanism in place? Medical services in places of detention should be organised in close relationship to the general health administration of the country. Does this happen? (SMR Art 22.1) Children in detention should not be discriminated in their access to healthcare independent of their legal status. These questions will ask the medical personnel if this is the case in the facility. (Body of Principles, Principle 9, UN Medical Ethics, Principle 1)

### 2. Admissions

Do children receive medical care upon admission and screening for infectious diseases? (SMR, Rule 24, ACPR A-4, Body of Principles, Principle 24, JDL 49 – 55) Children should have access to medical staff when necessary ( SMR 25) Are parents notified in case of serious illness? (JDL 56)

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<sup>40</sup> Available here <http://www.penalreform.org/files/rep-1996-kampala-declaration-en.pdf> ( last accessed 180312)



### 3. Drugs/Alcohol/Self Harm

While instances of drug and alcohol dependence are deemed relatively low amongst children detained in Tanzania, this section of questions addresses the issue to ensure that medical teams are aware of the issues and self-harm and suicide prevention policies are in place to address them. (JDL 51, 54)

### 4. HIV/AIDS

Children living with HIV/AIDS are particularly vulnerable to infectious diseases and require a carefully managed health and drug treatment programme to manage their illness.<sup>41</sup> It is essential that children are screened for HIV/AIDS upon admission and receive adequate treatment and nutrition while detained in a prison, retention home or the approved school. This set of questions is designed to assess the medical care provided by the facility to children living with HIV and AIDS. WHO, UNODC and UNAIDS recommended in 2006 that states ensure that proper diet, nutrition, and access to clean drinking water is provided to all prisoners, and that prisoners' diets take into account the specificity of their health conditions.<sup>42</sup> See Annex 1 below for further details.

### 5. Mentally ill children

Are there specific care provisions made for children with mental and psychological needs? (JDL 53) Do medical staff caring for children receive on-going training? (Beijing Rules, 22) Is mental healthcare provided in accordance with internationally recognised standards including UN Principles of Medical Ethics in protection of prisoners? (The protection of persons with mental illness, Principle 9). The Bangkok Rules require that gender-sensitive, trauma-informed and comprehensive mental health care be provided to female prisoners. Does this apply in the facility in which the interviewee works?

### 6. Children with disability or impairment

Is the facility accessible for children with disabilities? Is there a policy to support children with disability? States shall ensure that in actions concerning children with disability, the best interest of the child is of primary consideration (UN Convention on the Rights of persons with disabilities, Article 7<sup>43</sup>). Staff working with disabled children should receive appropriate training (UN Convention on Rights of Persons with Disabilities, Article 13)

### 7. Situations of girls in detention

Women and girls deprived of their liberty differ from men and boys in many regards including the fact they are often primary carers for children themselves; they have different health, hygiene and sanitary needs; they are at a higher risk of substance abuse, self-harm, mental health issues, HIV and other STDs, and may have experienced past physical, emotional or sexual abuse. Prisons have traditionally been designed for men and the specific needs of female detainees, including girls, may not be adequately addressed in a detention facility. The Bangkok Rules include specific measures to protect girl children in detention such as equal access to education and vocational training, education on health care and counselling for sexual abuse or violence

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<sup>41</sup> It is beyond the scope of this explanatory document to provide full guidance on the issues of children living with HIV/Aids and prison management. A number of guidance documents are listed in the "Further Reading" section.

<sup>42</sup> WHO, UNODC and UNAIDS (2006): HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response.

<sup>43</sup> <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> ( last accessed 180312)

Gender-specific healthcare services at least equivalent to those available in the community should be provided to female prisoners, including girls. Girls should have access to female physician upon request (Beijing Rules 26.4, Bangkok Rules 10). Are girls provided with counseling for sexual abuse and violence? (Bangkok Rule 38) Are pregnant girls provided adequate medical care? (Bangkok Rule 39)

## **8. Death in custody**

Is there a policy to deal with deaths of children in custody? Are parents informed promptly following a death? (JDL 57)

## **9. Use of force and disciplinary measures**

In the medical officers experience is restraint used in exceptional circumstances at this facility?(JDL 64). Do disciplinary measures amount to cruel, inhuman or degrading treatment? (JDL 67) Every child has the right to make a complaint through appropriate channels or request assistance from family members, legal counselors, humanitarian groups or others where possible, in order to make a complaint. Is there an effective medical complaints mechanism to which every child has unrestricted access? Do they feel safe to make a complaint? Are their complaints addressed? (JDL 78)

## **10. Preparation for release**

Is there a health awareness programme in the facility? Are aftercare plans in place? (JDL 8) Are children entitled to access their medical records upon release from the facility? (JDL 21)

## **Annex 1: Background information on questions concerning nutrition and children living with HIV/AIDS.**

With support of the World Health Organisation and based on International best practice in 2004 Tanzania developed a programme of National Guidelines for the management of HIV and AIDS which includes guidelines on nutritional requirements for people living with HIV/AIDS.<sup>44</sup> Under nourishment is common among people living with HIV/AIDS and impacts on ability to fight infection and effectiveness of other medical treatments including anti-retroviral drug therapies.<sup>45</sup> Institution authorities should ensure the child receives the adequate amount of energy, protein and micronutrients to meet increased demand. Intake should be based on locally available foods. Children should also receive universal vitamin supplementation and targeted multiple micronutrient supplements including iron.

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<sup>44</sup> *Nutrition in HIV and AIDS* in "Tanzanian National Guidelines for the Management of HIV and AIDS: National AIDS Control Programme (NACP)" third edition (revised February 2009) available at [http://www.who.int/hiv/pub/guidelines/tanzania\\_art.pdf](http://www.who.int/hiv/pub/guidelines/tanzania_art.pdf) pp 281- 293

<sup>45</sup> See for example Rapid advice: antiretroviral therapy for HIV infection in adults and adolescents available at <http://www.who.int/hiv/pub/arv/advice/en/index.html>

Based on the WHO 2003 guidelines on nutrient requirement for HIV positive individuals, the Kenya National Guidelines on Nutritional Care and Support of HIV-Infected Children requires diet include:

Energy: Asymptomatic children will require 10% more energy (calorie intake from food) to maintain growth than healthy children. Symptomatic with no weight loss: Require 20 - 30% more energy than healthy children. Symptomatic with weight loss: Require about 50 - 100% more energy than healthy children.

Protein: requirements are the same as those for an uninfected child. They should be based on an individual's symptoms and needs.

Micronutrients: requirements are the same as those for an uninfected child. They should consider possible deficiencies.

The following should be considered in the nutritional care and support of HIV-infected children:

1. Periodic nutritional assessment and growth monitoring.

Growth is a very sensitive indicator of HIV progression in children: Poor growth normally precedes CD4 decline and the development of infections (especially TB). Weighing, charting on a health card and interpretation should be done by a trained staff member monthly in year one and quarterly in subsequent years.

2. Assess feeding practices and dietary related problems e.g. poor appetite, chewing, swallowing, intolerance, food taboos etc.

3. If the growth of a child is faltering:

A clinician should carry out a physical examination to rule out thrush or oral ulcers, gastrointestinal bleeding, and signs of systemic infections.

If the child is losing or has lost LBM, it is possible he/she is having symptoms of AIDS.

Take the following actions:

- Provide oral nutritional supplementation. If this is not possible, enteral and parenteral alimentation feeding option should be considered.
- Refer the child for ARV assessment and recruitment to the treatment program, if they meet the national criteria.

## **Prevention of mother to child infection**

For pregnant girls, or those breastfeeding babies in detention facilities, the usual additional nutritional requirements for pregnant lactating women apply including iron and folic acid supplements. The risk of the transmission of HIV from an HIV-positive mother to her child during pregnancy, labour, delivery or breastfeeding is called mother-to-child transmission. In the absence of any interventions, transmission rates range from 15-45%. This rate can be reduced to levels below 5% with effective interventions. The WHO has provided extensive guidance on the issue of prevention of mother to child infection during pregnancy, labour<sup>46</sup> and breastfeeding.<sup>47</sup>

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<sup>46</sup> Programmatic update: Use of antiretroviral drugs for treating pregnant women and preventing HIV infection in infants Executive summary 2012 [http://www.who.int/hiv/pub/mtct/programmatic\\_update2012/en/index.html](http://www.who.int/hiv/pub/mtct/programmatic_update2012/en/index.html) and UNICEF guidelines available here [http://www.unicef.org/nutrition/index\\_HIV.html](http://www.unicef.org/nutrition/index_HIV.html)

<sup>47</sup> Guidelines on HIV and infant feeding 2010 [http://www.who.int/maternal\\_child\\_adolescent/documents/9789241599535/en/index.html](http://www.who.int/maternal_child_adolescent/documents/9789241599535/en/index.html)



## Further Reading

- WHO and ICRC (2000): *Tuberculosis Control in Prisons. A Manual for Programme Managers*
- WHO UNODC, UNAIDS (2008): *HIV and AIDS in places of Detention, A Toolkit for policy makers, programme managers, prison officers and health care providers in prison setting*
- WHO, UNODC and UNAIDS (2006): *HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response.*
- QUNO (2007) *Pre- Trial Detention of Women and its impact on their children, QUNO*
- WHO Europe (2010) *The Madrid Recommendation: Health protection in prisons as an essential part of public health, Copenhagen*
- Committee on the Rights of the Child (CRC) *General Comment no 4 (2003) on Adolescent Health and Development focuses on disability, mental health, HIV/AIDS*



**Facility Cover Sheet**

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
<b>Job title of the interviewee</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Facility Staff</b>			
<b>Medial Staff</b>			
<b>Pre Trial Children</b>			
<b>Convicted Children</b>			

Tool 7				
Interview with Medical personnel				
QUESTIONS TO BE ASKED TO MEDICAL PERSONNEL CARING FOR CHILDREN IN ALL INSTITUTIONS				
		Yes (1)	No (0)	Don't Know (0)
<b>1. ADMINISTRATION OF FACILITY HEALTH CARE</b>				
1.1	Do medical teams report to the Ministry for Health and Social Welfare?			
1.2	Is there a healthcare strategy/policy in this facility?			
<b>Discursive question:</b> If yes, what kind of challenges are there in implementing the medical strategy/policy in this facility? If No please explain how healthcare is administered in the facility				
1.3	Does the policy include testing for infectious disease such as TB and HIV /AIDS? (e.g. does the prison follow international standards such as STOP TB system)			
1.4	Does the medical officer have control of the budget or receive funding from the prison director?			
1.5	During a medical examination of a child is it prohibited for facility staff ( other than medical) to be present?			
1.6	Is there a policy of medical confidentiality?			
1.7	Is there a medical complaints mechanism in the prison?			
1.8	Does the medical team respond to these complaints?			
<b>2. ADMISSIONS and PROVISION OF SERVICIES</b>				
2.1	Does the facility provide medical services for convicted children?			
2.2	Does the facility provide medical services for children on remand?			

2.3	Does the facility provide a general healthcare screening on a child's admission to the facility?			
2.3.1	Are children screened on admission for TB?			
2.3.2	Are children screened on admission for HIV/AIDS?			
2.4	Do they have to give consent for this testing?			
2.5	Is treatment provided to all children suffering from malaria?			
2.6	Is medication only accessible by an authorised medical team or authorised personnel where no full time medical staff operates?			
2.7	Are all children able to access healthcare equally? (including children on remand, convicted children, children in solitary confinement, girls etc)			
2.8	Are a child's parent/guardian notified in the case of serious illness/accident?			
2.9	Are a child's parent/guardian notified in the case of transfer to an external medical facility?			
<b>3 DRUGS/ALCOHOL/ SELF HARM</b>				
3.1	Are measures taken to prevent children accessing and becoming dependent on alcohol in this facility?			
3.2	Are measures taken to prevent children accessing and becoming addicted to drugs in this facility?			
3.2.1	If yes, do children who have these problems receive any help through a detox programme?			
3.4	Is there a suicide prevention policy in this facility?			
3.5	Is it policy that incidents of self -harm are recorded in a child's medical file?			
3.6	Are children regularly assessed for risk of self - harm by a medical physician?			
3.7	Are there a safer custody cells for children deemed to be at risk?			
<b>4 HIV and AIDS</b>				
4.1	Are HIV positive children given the correct medication?			
4.2	In your opinion is the rate of infection lower in this institution than in the general population?			

4.3	Are those on ARV/ARTs given further medical evaluation? e.g. CD4 counts			
4.4	Are HIV positive children given nutrition in line with best practice?			
4.5	Is any counselling provided to children living with HIV/AIDS?			
<b>5 MENTAL ILLNESS</b>				
5.1	Is there specific care for children with mental and psychological needs?			
5.2	Are healthcare staff trained to care for children diagnosed with a mental illness?			
5.3	If necessary can children be transferred to a secure mental health facility?			
<b>6 CHILDREN WITH DISABILITES AND IMPAIRMENTS</b>				
6.1	Does the facility have a policy to support children with disabilities?			
6.2	Does the facility maintain up to date and readily accessible information about the numbers of its prisoners with particular disabilities?			
<b>7 GIRLS ( To be asked in institutions where girls are held)</b>				
7.1	Are girls provided with female sanitary products free of charge?			
7.2	Can girls asks to be seen by a female health care professional?			
7.3	Are girls who have suffered physical or sexual abuse before entering the facility given medical support ?			
7.4	Are pregnant girls given anti-natal care?			
7.5	Are there facilities for pregnant girls to deliver their babies in the local hospital?			
<b>Discursive question:</b> If not, why not? How long do they spend it community hospitals/delivery units?				
<b>8 DEATH in CUSTODY</b>				
8.1	Does the facility have a contingency plan setting out the actions which need to be taken following a death in custody and by whom?			
8.2	Are bereaved families informed of any follow-up action taken after the death?			
<b>9 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
9.1	In your opinion, are children safe from violence in this facility?			
9.2	Is it prohibited for staff to use physical violence as a disciplinary sanction against the children?			



<b>10 PREPARATION FOR POST RELEASE</b>				
10.1	If the child has a medical condition, are aftercare plans designed for the child's treatment in the community after their release?			
10.2	Are children allowed access to their medical records in accordance with national legislation?			



## 8. Tool for Interviewing Children in Police Custody: Questionnaires, Case Studies and Focus Groups

### Purpose

Undertaking interviews with children in police custody is an essential part of monitoring institutions and allows inspectors to properly find out about the children's conditions, their treatment and their day-to-day life.

Inputs from children can be obtained through either one-to-one interviews using the questionnaire tool (Section A below) or through a more lengthy interview called a case study (for one or two children where time allows), or through small focus groups (Section B below). Inspectors should be aware of child protection issues when interviewing children (individually or in groups) and should be trained in the best techniques to obtain accurate information. The information obtained will help to corroborate findings made during interviews with personnel, general observation of the facility and file assessment.

The majority of interviews you will carry out will involve using the **interview questionnaire** (Section A). This is the most time-efficient method to obtain children's views on their conditions and treatment in detention and ensures that all children answer the same questions. In this way, quantitative data can be obtained and comparisons can be made across institutions as all children, in all institutions, will be asked the same questions.

Please note, that where questions in the tool are in relation to girl children, these questions should only be asked to girls. In institutions where no girls are detained please answer "don't know" to the questions in this section. This will not unfairly affect the score for institutions as they will only be compared with like facilities i.e facilities for boys v facilities for boys; women's prison containing girls with another similar institution etc. In the tool, a few discursive questions are also asked in order to gain some additional follow-up information to some questions. However, it is important to note that as this is not qualitative data it will not be added to the Excel collation tool and is therefore, only asked to help write a narrative report and give additional insight.

In order to gain additional, qualitative details around certain topics or areas of concern, it may be beneficial to undertake a **focus group** with a small selection of children or to do a detailed one-to-one interview to present as a **case study** as part of your inspection report. Guidance on these tools have been provided in Section B below. This will provide qualitative data which can be used if writing a more detailed narrative report. However, such tools cannot be used to gather data to be used in the Excel collation tool which accompanies this tool. (This system will be maintained by the Commission for Human Rights and Good Governance).



## International standards

The main international standards guiding questions to ask children are: the UN Rules for the Protection of Juveniles Deprived of their liberty (1990), referred to below as JDLS<sup>48</sup>; the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010), referred to as the Bangkok Rules; the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), referred to as the Beijing Rules<sup>49</sup>; and the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (1988), referred to as Body of Principles.<sup>50</sup>

## Section A Interview Questionnaire

A range of children should be selected to interview and they should be a representative sample of the children who are detained in the facility. You should not just interview children who come forward to you, or those proposed by the prison authorities.

It is important to ensure that a child freely gives their consent to be interviewed by the inspection team. Remember they may be fearful that speaking to you could result in reprisals once the inspection team has gone. The interviews should take place in a private space, out of earshot of prison guards or authorities. It should be explained at the outset to the interview that a child may withdraw from it at any point without giving a reason and without consequence. In addition, the interview should be stopped if a child appears upset, traumatized or uncomfortable with continuing the interview.

### Using this tool

This tool is designed as a set of questions when interviewing a child in a police station. The questionnaire is designed to be as objective as possible and as such the answer to each question is yes/no or don't know. The tool contains a general section of 6 sets of questions to be asked of a child interviewed in police station.

### How to collate the information obtained

When you have completed this questionnaire please give a copy to the research team at the Commission for Human Rights and Good Governance. The answers will be imputed into an Excel based collation system. The collation system will allow an inspection body to assess changes in scores for each individual question across 6 broad categories in a particular facility and will also allow for inter-facility comparisons.

## 1. Arrest and Intake Procedures

This section will address how the child came to be arrested. Has the child spent more than 24 hours in police custody? Are their details and reason for arrest recorded in a

<sup>48</sup> Available at [http://www2.ohchr.org/english/law/pdf/res45\\_113.pdf](http://www2.ohchr.org/english/law/pdf/res45_113.pdf) (last accessed 170312)

<sup>49</sup> Available at <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf> (last accessed 170312)

<sup>50</sup> Available at <http://www.un.org/documents/ga/res/43/a43r173.htm> (last accessed 190312)



register? (Body of Principles, Principle 12) Are children informed of the reason for their arrest? (Body of Principles, Principle 10) Do children feel safe in the facility from ill treatment by another child, adult or police officer? Were they provided information on their rights upon arrest and had access to medical treatment?

## **2. Physical Environment**

This section addresses the child's experience in their current facility, including the sleeping accommodation; quality and quantity of food and drinking water; (JDL 31, 32, 33).

## **3. Health and Hygiene**

This section addresses the child's access to toilets, showers and general cleanliness in the police station. (JDL 34, 35, 36).

## **4. Recreation**

Were the children allowed any time to exercise outdoors during their time in police custody? (JDL 47 and 48, Body of Principles, Principle 28)

## **5. Use of Force and use of disciplinary measures**

This section will assess if the use of disciplinary measures are in-line with international standards. For example, restraint should only be used in exceptional circumstances (JDL 64); disciplinary measures should not constitute cruel, inhuman or degrading treatment ( JDL 67)

## **6. Girls**

This section will encourage the inspector to observe the situation for girls detained in the police station. Are they safely separated from all male detainees? Are they separated from adult female detainees? Are their hygiene and medical needs addressed? (Beijing Rule 26.4, Bangkok Rules 5,10)

### **Child protection policy**

It is good practice for monitoring bodies to have their own child protection policy to create a safe environment for children involved in an inspection visit. This will provide guidance on: proper screening in the recruitment and supervision of inspectors having contact with children in detention; appropriate training provided to inspectors on how to work with and interview different age groups of children so they are safe; and safe storage of children's personal information including records of allegations of abuse. All inspectors should be required to sign a child protection policy.<sup>51</sup>

## **Guidance for Interviewing Children**

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<sup>51</sup> Child Protection Toolkit, ChildHope (2005)



Remember that children may perceive the interview task differently from you and as a result may try to tell you what they believe you want them to say. Additionally, recounting their experiences may be upsetting or traumatic and so interviewing should be done in a sensitive and child-friendly manner. Below are some general rules that should be followed for *all* the interviewing tasks: questionnaires, case studies and focus groups.

## Preparation

- Choose a location where there is as much privacy as possible, few distractions and where the child feels safe and comfortable.
- Explain to the child that he/she may withdraw from the interview at any point without giving a reason and without consequence.
- Choose how the interview will be recorded and how these records will be kept confidential – i.e. two interviewers (one note taking), one interviewer taking notes, or using recording device.
- Gain informed consent from the child you wish to interview. If they refuse, their choice must be respected.

## Making the child feel safe

- Introduce yourself and the inspection body properly before the interview.
- Explain the purpose of the interview, what the information they give will be used for and importantly, your role, and the limits of what you can do to change their situation.
- Explain why you are taking notes/using a recorder during the interview and how what they tell you will be kept confidential.
- Start with conversational or non-controversial questions and work towards more sensitive issues.
- Use an informal and relaxed approach to help the child feel at ease. Understand that it may take some time for the child to become comfortable talking, especially if the events they are recalling are traumatic ones.

## Be aware of common problems

- Children answering questions to which they don't know the answer.
- Children telling you what they believe you want to hear.
- Fear that any information they disclose will result in reprisals once the inspection team has gone.

## Getting unbiased information

- Explain that it is acceptable to tell you if they do not know the answer to a question.
- Explain that they should correct you if you are mistaken or incorrect.
- Avoid leading questions or comments that may make the child feel coerced or pressured into giving a certain answer.
- Avoid repeated questions as it may lead the child to believe their previous answer was 'wrong'.
- Use simple, age-appropriate language and ensure that the child understands the correct meaning of the question.
- To get more detail use follow-up questions, e.g. "And then what happened?".



- Ensure that the timing of the interview allows for a child's short attention span. Where the interview is lengthy, plan one or two short breaks at appropriate points.

## Finishing the interview

- Ask the child if they have any questions for you or anything else they'd like to tell you.
- Explain again the limitations of your work and avoid raising false hopes.
- Complete your notes immediately after the interview has finished to ensure the most accurate representation of the meeting as possible.

It is important to be aware of the risks of reprisals for children who participate in inspection interviews and to try and minimise these risks. It may be necessary for the inspection team to decide not to interview children if they feel that there is an uncontrollable level of risk. A responsible monitoring team may be obliged to take a decision *not* to interview under circumstances suggestive of unacceptable and uncontrollable risk.

## **What should you do if a child becomes distressed or discloses abuse?**

- Look out for signs of distress in a child. If they disclose instances of abuse or are distressed do not pressurize them to finish the interview.
- Their distress should not be ignored, and they must be supported and comforted in a way that is appropriate. What is appropriate will depend on the child and the circumstances, and again you should take a lead from the child.
- Other children can be enlisted to comfort a child in distress. If you know that your interviewee has a friend, ask him or her to talk to the child. Above all, children should be given time, give them a break, time to play games or have a drink.<sup>52</sup>
- Inspectors should be sympathetic, but should keep in mind that they are not trained psychiatrists and that their job is not to provide treatment to children who have suffered abuse.
- General recommendations are that sexual abuse of any child should be reported to law enforcement, but that the information should not be disseminated within the facility without the detainee's consent.
- Mandated bodies may have an obligation to report under national child protection legislation. Please refer to national standards as to responsibilities to report abuse.<sup>53</sup>

### ***For more information on interviewing during monitoring visits to places of detention please see:***

APT (2004) *Monitoring Places of Detention: A Practical Guide*

APT (2009) *Briefing No.2: The Selection of Persons to Interview in the Context of Preventive Detention Monitoring*

OHCHR (2001) *Training Manual on Human Rights Monitoring*

<sup>52</sup> OHCHR (2001) Training Manual for HR Monitoring paragraph 91, 92)

<sup>53</sup> See also Child Protection Toolkit, ChildHope (2005)



PRI (2011) *Toolkit for Interviewing Children, their Guardians, and Staff of Juvenile Detention Facilities*

PRI (2011) *Training Manual for Independent Monitors of Juvenile Detention Facilities*



**Facility Cover Sheet**

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Police Staff</b>			
<b>Medial Staff</b>			
<b>Pre Trial Children</b>			
<b>Convicted Children</b>			



Tool 8				
Interview with Children in police custody				
		Yes (1)	No (0)	Don't Know (0)
<b>GENERAL QUESTIONS TO BE ASKED TO CHILDREN IN ALL INSTITUTIONS</b>				
<b>1 ARREST AND INTAKE PROCEDURES</b>				
1.1	Since your arrest have you spent <i>less</i> than 24 hours in police custody?			
<b>Discursive:</b> If no, do you know why you have spent more than 24 hours in police custody?				
1.2	Were you told the reason for your arrest (i.e the crime you were accused of)?			
<b>Discursive:</b> How did you come to be arrested?				
1.3	Were you able to contact a parent/guardian about your arrest?			
1.4	Have you been offered legal assistance in police custody?			
1.5	Do you feel safe in police custody?			
<b>Discursive question:</b> If no, did you suffer any violence or ill treatment abuse?				
1.6	Did you feel safe from violence or ill treatment during interrogation with a police officer?			
1.7	Was a parent, relative or other adult (not police officer) present when you were interviewed?			
1.8	Are you separated from adults at all times whilst in police custody?			
1.9	On entering police custody were you provided information on:			
1.9.1	The rules of the facility?			
1.9.2	Your rights?			
1.9.3	Contacting a relative?			
1.9.4	The police procedure/what would be happening next?			
1.10	Were you seen by a medical physician immediately upon admission to the police station?			
<b>2 PHYSICAL ENVIRONMENT</b>				

2.1	Are you separated from girls/boys at all times whilst in this facility?			
2.2	In your opinion, does the cell have enough space for the number of children detained there?			
2.3	Does the cell have adequate natural light and ventilation? (i.e. windows that can be opened?)			
2.4	Do you receive one full meal each day free of charge?			
<b>3 HEALTH AND HYGIENE</b>				
3.1	Do you have access to clean and safe water at all times?			
3.2	Do you have access to clean toilets at all times?			
3.3	Do you have access to medical services when required?			
3.4	Are you provided with hygienic needs including soap, toothpaste etc?			
	<i>Detailed medical information should be obtained from the Medical Observation Checklist</i>			
3.5	Do you have access to washing facilities?			
<b>4 RECREATION</b>				
4.1	Do you have time for exercise each day?			
4.2	Do you have sufficient space to exercise in?			
<b>5 USE OF FORCE AND DISCIPLINARY MEASURES</b>				
5.1	Have you felt safe in this police station?			
<b>Discursive question :</b> If no, have you been threatened with violence?				
5.2	Is it forbidden for staff to carry any weapons in the police station?			
5.3	Are you aware of any complaints mechanisms available to you?			
5.4	Is it forbidden for staff to use handcuffs whilst in police custody?			
<b>Discursive question: However</b> If you were handcuffed how long for?				
<b>6 GIRLS</b>				
6.1	Are you provided with female sanitary products free of charge?			
6.2	Are you able to request medical examination by a female physician?			
6.3	If not, can you request to have a female member of staff present during examination?			
<b>7. Contact with the Wider Community</b>				
7.1	Are you allowed to be visited by friends/family/guardians?			

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7.3	Are you allowed to meet/contact your legal representative in private?			
7.3.1	If you are not Tanzanian, are you allowed to meet your embassy representative?			



## Section B

### 1. Case Studies

Case studies are a useful qualitative tool to give a full picture of life in custody for a child. It can add a 'human face' to your report that readers, either at policy level or members of the public, may be able to relate to more easily. Remember, case studies are subjective and intended to give a voice to a few children living in detention to enhance your inspection report. It is not a methodology from which to draw objective analysis or conclusions.

Selecting the right children for case studies is important. It may be that whilst undertaking a questionnaire interview with a child you find a child willing to have a longer interview with you and give more details of conditions in the institution. Remember, that the additional case study interview will be lengthier and more detailed than the questionnaire interview and the child will be freely speaking about their experiences. Therefore, additional informed consent should be obtained for this part of the interview. You must ensure that the case studies will protect the identity of the child and you must assure them that this will be the case.

While the rules above apply to all the interviews you may undertake with children, there are additional skills required for when you are interviewing a child for the purposes of writing a qualitative case study. You will be asking *open-ended* questions, as opposed to the closed-question questionnaire, and will need to identify the right questions to ask a child that allows them to feel comfortable and tell their story in their own words.

Particular issues to be aware of when undertaking open-ended questioning:

- You will need to take more detailed notes than the checklist for the questionnaire so explain why you are taking notes/using a recorder and how it will be kept confidential.
- Start with conversational or non-controversial questions and work towards more sensitive issues.
- Avoid leading questions – these are questions that naturally lead a child into answering a certain way.
- To get more details from a child use follow-up questions, such as “And then what happened?”
- Ensure that the timing of the interview allows for a child’s short attention span. Where the interview is lengthy, plan one or two short breaks at appropriate points.
- At the end, ask the child if they have any questions for you or anything else they would like to tell you.

A case study should try and obtain the following information through free recall with the child to get an overall view of their experiences in the criminal justice system



## Case Study Tool

- Basic information: age, sex, ethnicity, area of origin/residence, remand/convicted
- Background information: family structure, family employment, schooling
- Contact with the juvenile justice system: when they first came in to contact with the system, what they are/were accused of, how they were arrested
- Their process through the justice system: place of arrest, time spent in police station, ill-treatment at the police station, pre-trial detention, trial etc
- Conditions and routine in detention and how this affects them
- Any other information the inspectors consider relevant

## 2. Focus Groups

Focus groups allow a small group of children to discuss a range of topics around life and conditions of detention. When conducted well they can provide good, qualitative data. However, they are not appropriate for collecting quantitative data and therefore, the data cannot be collated in an excel format.

Focus groups are beneficial because some children may be more willing to speak in a group setting and be less worried about reprisals and hence, it may be possible to get some better data. The questions should cover similar topics to that of the one-to-one interviews although adapted to allow for more discussion around specific, identified issues.

Focus groups should contain children of broadly similar circumstance, who experience the same conditions and routine of the institution. Focus groups should be conducted out of earshot of detention authorities. A sample of questions to ask at focus groups is attached below.

Focus groups should contain around 5 – 7 children to allow for proper, directed discussion with each child able to speak and get their view across and to allow the inspection team to accurately record and collect the data. Focus group discussions should focus either around areas that have been found by the one-to-one interviews to be of concern, or around areas where little information was able to be gathered in one-to-one interviews. Discussions should avoid sensitive or private questions.

The amount of direction given by the interviewer leading the discussion will affect the kind of data retrieved and a good balance should be struck between ensuring the children continue to discuss relevant topics but that they are also allowed time to have a free and open discussion with their peers.



## **Focus Group Tool**

### **Sample Questions for Focus Group Discussions**

Date and time of focus group .....

Prison/Facility.....

Details of the discussion group .....

### **Introduction and aim of visit**

#### **Issues to be discussed**

1. Children's experience during arrest
2. Experience in police stations
3. Separation from adults and relationship between older and younger children
4. Available mechanism to protect vulnerable groups
5. Kinds of disciplinary action and mechanisms for appealing in the facility
6. Condition of accommodation facilities
7. Access to food and safe water
8. Availability of enough and appropriate clothing
9. Contact with the external community
10. Communication with legal counsel and fair trial
11. Education programmes offered
12. Availability of sports and exercise programmes and facilities
13. Access to religious services
14. Preparation for release and reintegration to the community

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## 9. Tool for observation of situation of children detained with their mothers.

Whilst facilities and conditions vary around the world, it is generally accepted that babies and young children born, living and/or growing up inside prisons must not be treated as offenders. Specific guidelines aimed at addressing the issue of children of prisoners, however, have been largely absent, other than in the African Charter on the Rights and Welfare of the Child.<sup>54</sup>

The UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (known as the '*Bangkok Rules*'), adopted by the UN General Assembly in December 2010, have introduced a set of instructions for policymakers and practitioners dealing with this issue in the context of women prisoners. These act as a basic international framework within which to assess, amongst other issues, whether the penitentiary system is equipped to comply with dependent children's needs when imprisoned with their parent.

Growing up in a prison can be traumatic, but it is often seen as the only option if children cannot live with extended family, for example because of the risk of harm or stigma attached to the crime of which their parent is accused. Separation from a parent is also traumatic, which is why many authorities try to make basic provisions, at least in allowing babies and young children to stay with their mother until a certain age limit and providing for separate accommodation for mother and child. Often the lack of dedicated resources puts children's wellbeing at risk<sup>55</sup>. Not enough is done to promote alternatives to custody for mothers with young children, for example education and rehabilitation programmes or early conditional release.

### International standards

The Bangkok Rules stipulate that decisions as to when a child is to be separated from its mother (or father<sup>56</sup>) must be based on individual assessments and the best interests of the child (*Rule 52*) and that children in prison with their mother (or father) should never be treated as prisoners (*Rule 49*).

They also make it clear that children must be taken into account at all stages of a parent's contact with the criminal justice system, specifying that women must be allowed as many opportunities as possible to see the children who are imprisoned with them (*Rule 50*) and that the child's experience must be as close as possible to life for a child

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<sup>54</sup> Article 30: '[...]ensure that a non-custodial sentence will always be first considered when sentencing such mothers' ([http://www.achpr.org/english/info/child\\_en.html](http://www.achpr.org/english/info/child_en.html))

<sup>55</sup> Penal Reform International Briefing on the Bangkok Rules, February 2011, p2 ([http://www.penalreform.org/files/PRI-QUNO\\_English\\_1.pdf](http://www.penalreform.org/files/PRI-QUNO_English_1.pdf))

<sup>56</sup> Bangkok Rules, para. 12 of the preliminary observations: 'Some of these rules address (...) both men and women, including (...) parental responsibilities (...)' ([http://www.penalreform.org/files/United\\_Nations\\_Rules\\_for\\_the\\_Treatment\\_of\\_Women\\_Prisoners\\_and\\_Non-custodial\\_Measures\\_for\\_Women\\_Offenders\\_the\\_Bangkok\\_Rules.pdf](http://www.penalreform.org/files/United_Nations_Rules_for_the_Treatment_of_Women_Prisoners_and_Non-custodial_Measures_for_Women_Offenders_the_Bangkok_Rules.pdf))

outside (*Rule 51.2*). See Annex 2 for details of Bangkok Rules relating to children in prison with their parent and applicable Tanzanian legislation.

## **Issue of HIV cross infection between mothers and babies**

For pregnant girls, or those breastfeeding babies in detention facilities, the usual additional nutritional requirements for pregnant lactating women apply including iron and folic acid supplements. The risk of the transmission of HIV from an HIV-positive mother to her child during pregnancy, labour, delivery or breastfeeding is called mother-to-child transmission. In the absence of any interventions, transmission rates range from 15% to 45%. This rate can be reduced to levels below 5% with effective interventions. The WHO has provided extensive guidance on the issue of prevention of mother to child infection during pregnancy, labour<sup>57</sup> and breastfeeding.<sup>58</sup>

## **Recommendations for effective protection of Children of Prisoners**

1. Alternatives to custody should be applied wherever possible, if someone facing imprisonment has sole caring responsibilities. This might include remand on bail, community service, a suspended sentence – perhaps until the child is older, or mediation / restorative justice.
2. Children should be allowed to stay in adequate joint accommodation with their parent, preferably separate from the prison, if s/he has to be imprisoned at all. If living with their parent is not considered suitable, appropriate carers, for example their wider family, or foster families, should be explored. NGO involvement should be considered as a path to a solution.
3. Children's best interests must be taken into account at all stages of the criminal justice process where a parent is facing imprisonment, particularly if s/he is their sole carer or where a newborn baby is concerned. To that end, strict age limits for a child to remain in prison with its parent should be replaced by individual assessments on a case-by-case basis, to be reviewed on a regular basis. Such a decision should rest with competent authorities who have the capacity to enforce, follow up and review decisions, and should apply the principle of the best interest of the child equally for children of detained mothers as well as fathers.

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<sup>57</sup> Programmatic update: Use of antiretroviral drugs for treating pregnant women and preventing HIV infection in infants Executive summary 2012 [http://www.who.int/hiv/pub/mtct/programmatic\\_update2012/en/index.html](http://www.who.int/hiv/pub/mtct/programmatic_update2012/en/index.html) and UNICEF guidelines available here [http://www.unicef.org/nutrition/index\\_HIV.html](http://www.unicef.org/nutrition/index_HIV.html)

<sup>58</sup> Guidelines on HIV and infant feeding 2010 [http://www.who.int/maternal\\_child\\_adolescent/documents/9789241599535/en/index.html](http://www.who.int/maternal_child_adolescent/documents/9789241599535/en/index.html) and UNICEF 2010 Guidelines on HIV and infant feeding. [http://www.unicef.org/nutrition/files/HIV\\_and\\_IF\\_guidelines\\_and\\_summary\\_of\\_evidence\\_2010.pdf](http://www.unicef.org/nutrition/files/HIV_and_IF_guidelines_and_summary_of_evidence_2010.pdf) WHO recommends: "When replacement feeding is acceptable, feasible, affordable, sustainable and safe (AFASS), it is best that HIV-infected mothers avoid breastfeeding. When replacement feeding is not AFASS, HIV-infected mothers should practice exclusive breastfeeding the first months of the baby's life and discontinue as soon as AFASS replacement feeding becomes practical [http://www.fantaproject.org/downloads/pdfs/Kenya\\_e\\_GL\\_2006.pdf](http://www.fantaproject.org/downloads/pdfs/Kenya_e_GL_2006.pdf)



4. Maximum efforts must be made to enable family members to visit the parent and child easily, so that relationships with the wider family can be maintained and children do not risk losing their care network. To that end, flexibility in frequency and timing of visits should be shown to visitors to make family unions as frequent as possible. Facilities for visits should allow for a suitable environment to make for greater sociability. Factors such as distance from the prison and frequency of visiting should be taken into account when determining the length of visit allowed, and visits by the extended family unit should be specifically facilitated to make for sustained relationships for the future of the children.

5. Children of incarcerated parents should not be stigmatized by a society's prevailing attitudes towards prisoners. They should, as far as possible, have safe contact with the outside world and the opportunity to access education and play activities, spend time with their wider family and meet other children. To that end, governments should engage in public awareness-raising, involving civil society organisations.



## Facility Cover Sheet

<b>Facility</b>			
<b>Date of Inspection</b>			
<b>Capacity of the institution</b>			
<b>Total number of detainees</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Police Staff</b>			
<b>Medial Staff</b>			
<b>Number of babies (0-12 months) detained with their mothers?</b>			
<b>Number of children ( +12 months) detained with their mothers?</b>			

## Tool 9: Observation of Children accompanying their Mothers

<b>Tool 9</b>				
<b>Observation of the situation of Children incarcerated with their Mothers</b>				
		Yes (1)	No (0)	Don't Know (0)
1	Can babies and children live in prison with their mothers in Tanzania?			
2	Are there children living with their mothers who are no longer breast feeding (see Part VIII of the Prisons Act no 34 of 1967 Annex II below)?			
3	Do mothers and children have separate facilities from the rest of the population?			
4	Do children living in prison have contact with the outside world and other family members?			
5	Are facilities for family visits sufficient to allow sociability between women prisons and their children and other visitors?			
6	Does the medical team in the facility assess the needs of these children?			
7	Do prison personnel work with the department of social welfare to prepare and implement a separation plan?(This determines when it is in the best interests of the child to be placed with other family members/in preparation of the child reaching the legal age limit for being detained with their mother)			
8	Is any practical support and guidance offered to mothers in caring for their babies i.e. parenting courses?			
9	Are appropriate foods provided for babies and young children?			
10	Is appropriate clothing provided for babies and young children living with their mothers in prison?			
11	Is health care provided for babies and young children living with their mothers in prison?			
12	Do nursing mother receive sufficient nutritious foods?			
<b>Discursive questions:</b> Does the medical team at this facility have a strategy to prevent mother to child transmission of HIV (PMTCT) during pregnancy, labour and breast feeding? ( see guidance note above)				
<b>Discursive question:</b> If babies and young children				

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can stay in prison in what circumstances is this granted?	
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## ANNEX 2. Tanzanian national legislation and UN Bangkok Rules (2010) relating to children of incarcerated parents<sup>59</sup>

**Rule 2.2** Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.

**Rule 22** Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison. &

**Rule 23** Disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children.

**Rule 33.3** Where children are allowed to stay with their mothers in prison, awareness-raising on child development and basic training on the health care of children shall also be provided to prison staff, in order for them to respond appropriately in times of need and emergencies.

**Rule 42.2** The regime of the prison shall be flexible enough to respond to the needs of pregnant women, nursing mothers and women with children. Childcare facilities or arrangements shall be provided in prisons in order to enable women prisoners to participate in prison activities. & **42.3** Particular efforts shall be made to provide appropriate programmes for pregnant women, nursing mothers and women with children in prison.

**Rule 48.1** Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a programme to be drawn up and monitored by a qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers. & **48.2** Women prisoners shall not be discouraged from breastfeeding their children, unless there are specific health reasons to do so.

**Rule 49** Decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.

**Rule 50** Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children.

**Rule 51.1** Children living with their mothers in prison shall be provided with ongoing health-care services and their development shall be monitored by specialists, in collaboration with community health services. & **51.2** The environment provided for such children's upbringing shall be as close as possible to that of a child outside prison.

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<sup>59</sup> For the full Bangkok Rules document, see [http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/United\\_Nations\\_Rules\\_for\\_the\\_Treatment\\_of\\_Women\\_Prisoners\\_and\\_Non-custodial\\_Measures\\_for\\_Women\\_Offenders\\_the\\_Bangkok\\_Rules.pdf](http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/United_Nations_Rules_for_the_Treatment_of_Women_Prisoners_and_Non-custodial_Measures_for_Women_Offenders_the_Bangkok_Rules.pdf)

**Rule 52.1** Decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws. **& 52.2** The removal of the child from prison shall be undertaken with sensitivity, only when alternative care arrangements for the child have been identified and, in the case of foreign-national prisoners, in consultation with consular officials. **& 52.3** After children are separated from their mothers and placed with family or relatives or in other alternative care, women prisoners shall be given the maximum possible opportunity and facilities to meet with their children, when it is in the best interests of the children and when public safety is not compromised.

**Rule 57** The provisions of the Tokyo Rules shall guide the development and implementation of appropriate responses to women offenders. Gender-specific options for diversionary measures and pre-trial and sentencing alternatives shall be developed within Member States' legal systems, taking account of the history of victimization of many women offenders and their caretaking responsibilities.

**Rule 60** Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.

**Rule 63** Decisions regarding early conditional release (parole) shall favourably take into account women prisoners' caretaking responsibilities, as well as their specific social reintegration needs.

## Tanzanian National legislation o

Para 25(2) Part VIII of the Prisons Act no 34 of 1967 sets out that

***"...[a]n infant child of a female prisoner may be received into prison with its mother.***

The Prisons Standing Orders, 2003 framed by the Commissioner General of Prisons provides as follows:

### ***728. Women Prisoners with a child:***

***A woman prisoner may bring her child with her into prison provided that the Medical Officer certifies that her normal period of lactation has not yet expired and the child is dependent of the mother for nourishment. No authority from a Magistrate is required. Any child so detained shall not be taken from its mother until the Medical Officer of the prison certifies that it in a fit condition to be removed. The child will be supplied with clothing, food and health facilities at prison expense.***

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*Before the removal of such child, the officer in charge shall ascertain through the District Administrative Secretary of the district of the prisoner whether the relatives of the parent are willing and in a position to receive the child if it is to be removed before the mother's sentence terminates. Prisons or other professional social workers where available, should be used to assist in such issues.*