

Policing of  
Children  
and Young  
People:  
A Case for  
"Child-Friendly  
Police"

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## Abstract

Children and young people come into contact with the police for a variety of reasons such as when they commit offences, witness crimes or as victims of crimes. This paper aims to highlight the challenges that arise during and following police contact with children. Children's developing emotional and psychological maturity makes them vulnerable to risks of exploitation during such police contact and possibly within the justice system. This paper considers the relationship between the police and children, on a global basis and analyses the international frameworks that govern this relationship. The purpose of this paper is to identify and explore common themes and promising practices in relation to child-friendly policing. This policy brief, results from a working group formed during the 2018 World Congress on Justice with Children. It is supported by the Global Initiative on Justice with Children, authored by Terres des hommes with pro-bono support from Baker McKenzie and endorsed by members of the Child Justice Advocacy group.



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## Introduction

The concept of "child-friendly" policing denotes a practice that ensures when children come into contact with the police and the justice system, they are treated in a manner which is fair, appropriate and not harmful.

Children and young people may become involved with the police for a variety of reasons, including when they are accused or suspected of committing an offence, they witness crimes, they are the victims of crimes or in situations where care and protection issues (e.g. neglect) arise.

Child-friendly policing in this paper will focus on children in conflict with the law, as child victims and witnesses in contact with the law may benefit from more specific safeguards which will be the subject of a future paper.

One fundamental reason why policing practices with children should be given further attention relative to adults is that children, as human beings whose brains are in the process of development, are less emotionally and psychologically mature than adults, hence they are less responsible for the consequences of their actions. A developing emotional and psychological maturity presents vulnerabilities within children, putting them at risk of exploitation and abuse by police officers and other members of the justice system. These vulnerabilities may also make a child behave in a manner that is different to what is expected of adults in response to an interaction with the police. In addition, negative interactions with the police can lead to stigmatization, have a lasting impact on the development of children as well as prevent supportive work with the child at future stages of the justice process.

As such, it is of paramount importance that police engage with children in a child-friendly manner adapted to reflect the child's mental capacity, stage of development, specific protection needs and which respects children's rights.

This paper considers the relationship between the police and children, on a global basis.<sup>1</sup> The purpose of this paper is to identify and explore common themes and promising practices in relation to child-friendly policing. This paper is supported by the Global Initiative on Justice with Children and endorsed by the members of the Child Justice Advocacy group.<sup>2</sup>

### Police and Law Enforcement

For the purpose of this paper, we adopt the Cambridge English Dictionary definition of "police", being the official, national organisation responsible for protecting people and property, making people obey the law, finding out about and solving crime, and catching people who have committed a crime.

### Security Forces<sup>3</sup>

For the purposes of these guidelines, the term "security forces" will be used for law enforcement in any particular jurisdiction, as various terms may be applicable (e.g., police, gendarmeries, national guards and/or State security services). Security forces should be understood to mean personnel in public agencies whose principal functions are the prevention, detection and investigation of crime and the apprehension of alleged offenders. Security forces are defined herein by i) basic responsibilities, which include: maintenance of public order and security; prevention and detection of crime; and provision of help and assistance to those in need of it; and ii) basic powers, which include: arrest; detention; search and seizure; and use of force and firearms. The definition of "security forces" does not include "defence forces," i.e., armed forces, militia and volunteer corps. Private agencies may have in some context similar roles to security forces and should therefore be inspired by these guidelines.

<sup>1</sup> Although some jurisdictions consider young people under the child justice systems, this paper will focus mainly on children (under 18) as they enjoy specific rights.

<sup>2</sup> This policy brief, is authored by Cédric Foussard-Terre des hommes, Lucy Opoka - Leiden University, with the pro bono support of Baker McKenzie, and the expert input of Leo Ratledge - CRIN, Marta Gil - Terre des Hommes, Laura Jacques - Terre des Hommes, Ha Ryong Michael Jung - Child Rights Lawyer. This paper results from a working group formed during the 2018 World Congress on Justice with Children with Chris Graveson International Advisor Children in contact or conflict with the law - New Zealand, Els Dumortier, Vrije Universiteit Brussel Faculty of Law & Criminology

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<sup>3</sup> Operational Guidelines for Security Forces Access to Justice for Children and Youth in Times of COVID-19 Diverting Children from Judicial Proceedings and Facilitating Reintegration:

[https://justicewithchildren.org/wp-content/uploads/2020/06/Operational\\_Guidelines\\_for\\_Security\\_Forces\\_Covid19\\_Global-Initiative-on-Justice-with-Children.pdf](https://justicewithchildren.org/wp-content/uploads/2020/06/Operational_Guidelines_for_Security_Forces_Covid19_Global-Initiative-on-Justice-with-Children.pdf)

## The Global Political Context of Child-Friendly Policing

Whilst there may be numerous instances of constructive encounters<sup>4</sup> across jurisdictions, children who are, or are suspected by the police to be, in conflict with the law often report negative experiences throughout their interactions. Issues emerge for children from "stop and search" measures and continue through to arrest, police interviews, questioning and police custody. Issues of pre-trial custody and detention fall within the scope of this paper because they involve the harmful consequences that negative police interaction and arrest can lead to.

Police are usually the first point of contact for children who come into conflict with the law. This makes the interaction critical because incidents of police violence and misconduct are harmful to individual children, but also create long-standing tensions and mistrust between the police and communities.

### *Stop and Search*

One common way in which children come into contact with the police is through stop and search procedures, which can vary widely depending on the environment. For example, a UNICEF report on the experiences of the criminal justice system by children in street situations found that harassment, threats, insults, exploitation and physical and sexual abuse may be carried out directly by the police in these interactions.<sup>5</sup>

A UK inquiry into "Children and Police" (launched in 2013) found that there was a lack of trust in the police among many children. In particular, the inquiry identified that some children fear the police and that encounters between the two groups are often characterised by poor and unconstructive communication. It is worse still for children in care, defined generally as children living with foster parents, in a residential home or in residential

settings such as schools or secure units; all of whom may be over-represented in the child justice system.<sup>6</sup> Children in care frequently have negative early experiences of the police and do not always receive the support and protection they require. Children in care may also come into contact with police for behaviour that would otherwise not attract police attention.<sup>7</sup>

Children in need of care may also demonstrate problematic behaviour, which the police may erroneously treat as "delinquent" behaviour, whether due to laws or policing practices that are not child friendly. Police also often overlook or exacerbate the additional vulnerabilities of children with special educational needs, language or communication difficulties, or mental health needs.<sup>8</sup> It is through these interactions between the police and various groups of children that much public opinion and community perspectives on police practices with children have been shaped.

As discussed in the UK National Police Chief's Council report on policing children, stop and search can be highly emotive and, if misused, can harm children's trust and confidence in the police. Although the number of stop and searches has fallen significantly in the UK in recent years,<sup>9</sup> there is still a disproportionate number of stops and searches of Black and ethnic minority children. Young people have reported that they believe that police are working to reach particular targets for the numbers of people stopped and searched and that those officers who make the most arrests subsequently are more likely to be promoted.<sup>10</sup> When law enforcement fails to provide clear reasons for the stop and search, this can further harm children's trust in the police generally.

Other countries across the globe encounter experiences similar to those in the UK.<sup>11</sup> In particular,

<sup>4</sup> Constructive encounters are those interactions that are useful and are intended/have a beneficial purpose. (Oxford dictionary definition of "constructive" and "encounter").

<sup>5</sup> Street Children's Experiences In The Injustice System: [https://sites.unicef.org/tdad/PART202\(2\).pdf](https://sites.unicef.org/tdad/PART202(2).pdf)

<sup>6</sup> For example, see the following reports regarding the UK <https://www.nacro.org.uk/wp-content/uploads/2012/05/reducing-reoffending-by-looked-after-children.pdf>; Sweden <https://www.sciencedirect.com/science/article/pii/S0190740905000800>; and data from various countries <https://www.unicef.org/tdad/4williemccarney.pdf>

<sup>7</sup> Criminal Care: Children's homes are criminalising children: <https://howardleague.org/news/criminalcare/>.

<sup>8</sup> All Party Parliamentary Group for Children inquiry into 'Children and the Police': <http://www.crae.org.uk/media/69070/APPGC-Police-Data-Report-July-2014.pdf>

<sup>9</sup> In the UK in 2008/9, the police stopped and searched 239,198 children below the age of 18; this lowered to 78,449 in 2013/14: [https://www.basw.co.uk/system/files/resources/basw\\_25850-10\\_0.pdf](https://www.basw.co.uk/system/files/resources/basw_25850-10_0.pdf).

<sup>10</sup> Let's talk about stop and search: Bringing together students, the police and communities in Tottenham: <https://youngfoundation.org/wp-content/uploads/2013/03/Lets-Talk-about-Stop-and-Search-Final-Report.pdf>.

<sup>11</sup> Leanne Weber and Ben Bowling, *Stop and Search: Police Powers in Global Context* (2013) Routledge.



over the past two decades, many policing strategies have shifted toward a "proactive" model, whereby officers actively engage citizens in investigative stops in an effort to detect imminent criminal activity.

In the US<sup>12</sup> Between 2004 and 2012, the New York City Police Department recorded over 200,000 police-initiated stops of children between the ages of 13 and 15.<sup>13</sup> Furthermore, the "school to prison pipeline" in the US increases the probability of children's contact with the justice system, due to the lower standard for stop and search at schools (reasonable suspicion as opposed to probable cause).<sup>14</sup> Historical inequities, such as segregated education, concentrated poverty, and racial disparities in law enforcement, all feed the pipeline.<sup>15</sup> As a result, the Black Lives Matter (BLM) at school movement has an initiative demanding justice for black and ethnic minority children who are more likely to be targeted by the harsh disciplinary policies that push them out of schools and into the prison system at disproportionate rates.<sup>16</sup>

In many countries, including western countries such as Belgium, there are no statistics available on stop and search, making it difficult to establish how many children are actually coming into contact with the police in this way. The lack of data may also increase the risk of police impunity for excessive or improper use of stop and search on children.

## Arrest

The use and manner of arrest may also violate human rights standards, including through the use of force, unnecessary use of handcuffs or restraints, or degrading treatment. In Nicaragua, for example, one investigation found that nearly half of children being detained reported being beaten by the police at the moment of arrest, usually with a combination of fists, truncheons and the threat of guns.<sup>17</sup> In Egypt,

Human Rights Watch has reported the use of electric shocks and tasing on detained children by police.<sup>18</sup>

US national data indicate that between 15% and 26% of the American population have been arrested by the age of 18. The burden of police contact has historically fallen predominantly on Black and Hispanic youth. By analogy, recent high-profile incidents of police violence, most notably against unarmed citizens of colour, have increased the salience of the police as a potential threat to community wellbeing and race relations in the US, UK and elsewhere.<sup>19</sup>

## Police Interviews and Questioning

Children face numerous challenges during interviewing and questioning conducted by police and are at risk of significant rights violations during this process. Children may not be sufficiently informed about their rights before police interviews, they may be questioned in the absence of a parent or guardian and may not have access to legal counsel before, during and after questioning.

Recent research shows that severe interrogation techniques, force, coercion or threats are still widely used during questioning, resulting in coerced confessions from children. For instance in Iraq, children suspected of ISIS affiliation have been subjected to "severe torture" to extract confessions.<sup>20</sup>

The lack of training to carry out questioning in a child-friendly manner, further contributes to the negative encounters between children and police.

The presence and involvement of a parent, guardian, appropriate adult<sup>21</sup> or lawyer, in many cases could act as a deterrent for police abuse of powers and reduce the risks of confrontation that may exacerbate a child's negative encounter with the police. Children, due to their level of cognitive and emotional

<sup>12</sup> Policing America's Children: Police Contact And Consequences Among Teens In Fragile Families: <https://fragilefamilies.princeton.edu/sites/fragilefamilies/files/wp18-02-ff.pdf>.

<sup>13</sup> Police Contact and Mental Health: [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3079&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3079&context=faculty_scholarship)

<sup>14</sup> Kate R. Ehlenberger, *The Right to Search Students* (2001): <http://www.ascd.org/publications/educational-leadership/dec01/vol59/num04/The-Right-to-Search-Students.aspx>

<sup>15</sup> Dismantling the School-to-Prison Pipeline [https://www.naacpldf.org/wp-content/uploads/Dismantling\\_the\\_School\\_to\\_Prison\\_Pipeline-3.pdf](https://www.naacpldf.org/wp-content/uploads/Dismantling_the_School_to_Prison_Pipeline-3.pdf)

<sup>16</sup> BLM at School - The Demands: <https://www.blacklivesmatteratschool.com/the-demands.html>

<sup>17</sup> Street Children's Experiences in the Justice System: [https://www.unicef.org/tdad/PART202\(1\).pdf](https://www.unicef.org/tdad/PART202(1).pdf).

<sup>18</sup> "No One Cared He Was a Child" - Egyptian Security Forces' Abuse of Children in Detention: <https://www.hrw.org/report/2020/03/23/no-one-cared-he-was-child/egyptian-security-forces-abuse-children-detention>.

<sup>19</sup> Terre des Hommes has partnered with Baker McKenzie to carry out a Project on "Real Rights: A City-By-City Legal Guide Interacting with Police In A Time of Racial Injustice".

<sup>20</sup> Human Rights Watch, "Everyone Must Confess" - Abuses against Children Suspected of ISIS Affiliation in Iraq: [https://reliefweb.int/sites/reliefweb.int/files/resources/iraq0319\\_w eb\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/iraq0319_w eb_0.pdf)

<sup>21</sup> Children and Young People: <https://www.appropriateadult.org.uk/policy/children-young-people>



development, are more likely than adults to react to arrest and questioning with fear or confusion that may manifest in confrontation.

## *Custody and Detention*

The experience of child custody and detention varies markedly around the world. Some police forces exercise their powers to detain children where no trial or prosecution is authorised under the law. For example, in South Asia, most children in detention – around 59% – have not been tried and sentenced.<sup>22</sup> Only a minority of these children eventually receive a custodial sentence, suggesting that pre-trial detention is used regularly as a sanction, in violation of the right to be free from unlawful or arbitrary deprivation of liberty (to be used only as a measure of last resort and for the shortest appropriate period of time) and the right to be presumed innocent until proven guilty.<sup>23</sup> In the US, bail/bond has been used punitively and keeps children from lower economic backgrounds in custody prior to trial.<sup>24</sup> This practice belies the purpose of a criminal justice system and violates the standard that custody should be for the shortest period of time.

Child victims of trafficking and sexual exploitation are in many cases treated as offenders rather than victims and are often detained together with those who have allegedly committed an offence.<sup>25</sup> These approaches including preventive detention and detention for non-violent statutory offences are detrimental to children. For example, in Bangladesh, Nepal, Pakistan and Sri Lanka, the police use their powers to arrest and detain children who live and work on the streets pursuant to broadly drafted laws that prohibit vagrancy, indecent behaviour, prostitution, public nuisance or "moral danger".<sup>26</sup> In Lebanon, 92% of street-connected children who experienced court proceedings received a prison sentence, ranging from a few days to more than six months.<sup>27</sup> Such use of detention puts children at a higher risk of reoffending or absconding, due to their

exposure to others in custody who might recruit them into a criminal environment or gang. Additionally, any underlying social, emotional, developmental or psychological issues the child might have are unlikely to be adequately addressed while they are in custody.

Detention conditions are often substandard, overcrowded and deny children access to the health and education services to which they are entitled. Children are often detained with adults, increasing the risk of violence, abuse, and exploitation. As a result, detention rarely results in the child's rehabilitation and reintegration into society, which is the mandatory objective of any justice intervention under the United Nations Convention on the Rights of the Child. A UK review of children's wellbeing in detention centres in 2017 found that the use of force by staff against children in detention appeared to be commonplace and can be a highly distressing and confusing experience for children. Girls, in particular, spoke of feeling "violated", and re-traumatised by being "twisted up", "bent up" and "jumped on" by adult male members of staff, particularly when they had past histories of being subject to sexual violence. In 2021, all children were removed from Rains brook Secure Training Centre in response to serious ongoing concerns about their safety in the facility.<sup>28</sup>

Internationally, there is evidently a lack of "active case management" when children are remanded in police custody, meaning they often spend much longer time in detention than is warranted or legally authorised.

<sup>22</sup>Justice for Children:

<https://www.unicef.org/rosa/what-we-do/child-protection/justice-children>

<sup>23</sup> Justice for Children:

<https://www.unicef.org/rosa/what-we-do/child-protection/justice-children>.

<sup>24</sup> Ensuring Young People Are Not Criminalized for Poverty: Bail, Fees, Fines, Costs, and Restitution in Juvenile Court: [https://njdc.info/wp-content/uploads/2018/04/Bail-Fines-and-Fees-Bench-Card\\_Final.pdf](https://njdc.info/wp-content/uploads/2018/04/Bail-Fines-and-Fees-Bench-Card_Final.pdf)

<sup>25</sup> Jonathan Todres and Shani M. King, *The Oxford Handbook of Children's Rights Law* (2020) Oxford University Press.

<sup>26</sup> Juvenile Justice South Asia: Improving Protection for Children in Conflict with the Law:

<https://www.unicef.org/tdad/unicefjssouthasia06.pdf>;

for specific states see the Legal Atlas for Street Children maintained by the Consortium for Street Children, <https://www.streetchildren.org/legal-atlas/>

<sup>27</sup> Consortium for Street Children, "Can children be detained after being rounded up by the police?" (Lebanon report): <https://www.streetchildren.org/legal-atlas/map/lebanon/police-roundups/can-children-be-detained-after-being-rounded-up-by-the-police/>

<sup>28</sup> The Guardian, "All children to be taken from privately run Rainsbrook youth jail", 16 June 2021. Available at: <https://www.theguardian.com/society/2021/jun/16/moj-orders-all-children-removed-from-privately-run-rainsbrook-youth-jail>.



## International Framework

### International Standards

The UN Convention on the Rights of the Child 1989 ("**UNCRC**") is the only legally binding international treaty that comprehensively covers children's rights. Four core principles underpin the UNCRC: non-discrimination (article 2); the best interests of the child (article 3); the right to life, survival and development (article 6); and respect for the views of the child (article 12). It is through these general principles that an extensive catalogue of children's rights are recognised.<sup>29</sup>

The UNCRC is supplemented by other international instruments that provide rules and guidance to states in order to establish a child justice system in compliance with the UNCRC. These instruments cover a spectrum of children's rights that promote child-friendly protection measures.

### Deprivation of Liberty

International standards demand that the deprivation of the liberty of a child including being held in police custody should be a measure of last resort, for the minimum necessary period and should be limited to exceptional cases only.<sup>30</sup> These exceptional cases for the use of police custody may arise when a child: (i) has allegedly committed a serious offence; (ii) has persistently committed criminal offences; or (iii) poses a danger to themselves or others<sup>31</sup>. In case 11.491 – *Detained Minors vs. Honduras*, it was held that the detention of children in Honduras for non-criminal acts, such as being in a situation of social abandonment, risk, orphan hood, or vagrancy, violated children's right to personal liberty.<sup>32</sup> In South Africa, courts have also strictly applied the requirement that arrest must be a last resort, requiring police to consider all alternatives before

relying on deprivation of liberty as a last resort and finding arrests unlawful where they do not meet this standard.<sup>33</sup> In the context of pre-trial detention, rule 17.1(c) of the Beijing Rules provides that pre-trial detention should apply only where there is "a serious act involving violence against another person". Until recently, international standards established no clear maximum allowable length of pre-trial detention. In 2019, however, the Committee in General Comment No. 24 stated that the pre-trial detention of a child should not exceed 30 days. After that period, the child must be released in order to safeguard their rights and wellbeing.<sup>34</sup>

Children should not be held in transportation or in police cells, except as a measure of last resort and for the shortest period of time, and should not be held with adults, except where that is in their best interests. Mechanisms for swift release to parents or appropriate adults should be prioritised.

### Restraint

The use of force and instruments of restraint against children should be used only in exceptional circumstances, and only when all other means of control have been exhausted and have failed.<sup>35</sup> In General Comment No. 24 (2019) on children's rights in the child justice system ("**General Comment No. 24**"), the Committee on the Rights of the Child (the "**Committee**") noted that "*Restraint or force can be used only when the child poses an imminent threat of injury to himself or herself or others, and only when all other means of control have been exhausted.*"<sup>36</sup> Rule 64 of the Havana Rules asserts that such methods should not cause humiliation or

<sup>29</sup> The Convention on the Rights of the Child: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>; John Tobin, *The UN Convention on the Rights of the Child: A Commentary* (2019) Oxford University Press.

<sup>30</sup> Article 37 (b) Convention on the Rights of the Child: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>31</sup> Justice in Matters Involving Children in Conflict with the Law: Model Law on Juvenile Justice, and Related Commentary [https://www.unodc.org/documents/justice-and-prison-reform/Justice\\_Matters\\_Involving-Web\\_version.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Justice_Matters_Involving-Web_version.pdf).

<sup>32</sup> IACHR, Report N° 41/99 Case 11.491, *Minors in Detention Honduras*, March 10, 1999, para. 109.

<sup>33</sup> See *Raduvha v. Minister of Safety and Security and another* [2016] ZAC 24.

<sup>34</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"): <https://www.ohchr.org/documents/professionalinterest/beijingrules.pdf>

<sup>35</sup> Rule 63 and 64, United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules): [https://www.ohchr.org/Documents/ProfessionalInterest/res45\\_113.pdf](https://www.ohchr.org/Documents/ProfessionalInterest/res45_113.pdf)

<sup>36</sup> Para. 95f; Committee on the Rights of the Child, General Comment No. 24 on Children's Rights in the Child Justice System, 18 September 2019 (CRC/C/GC/24): [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/24&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/24&Lang=en).





degradation, and should only be imposed for the shortest possible period of time.<sup>37</sup>

### *Police interviews and questioning*

The Committee on the Rights of the Child has set out guidance for the questioning of children by police, recommending that children must have access to legal or other appropriate assistance, and should be supported by a parent, legal guardian or other appropriate adult during questioning.<sup>38</sup> Police officers and other investigating authorities should be well trained to avoid questioning techniques and practices that result in coerced or unreliable confessions or testimonies, and audio-visual techniques should be used where possible.<sup>39</sup> With regards to the prohibition on compelled testimony and confessions, the Committee on the Rights of the Child has recommended that the term "compelled" should be interpreted broadly and not be limited to physical force. The risk of false confession is increased by the child's age and development, lack of understanding, and fear of unknown consequences, including a suggested possibility of imprisonment, as well as by the length and circumstances of the questioning.<sup>40</sup>

### *Violence*

The Convention on the Rights of the Child categorically prohibits all forms of violence against children, requiring States to take protective measures for prevention, identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment.<sup>41</sup> This general standard is bolstered by a specific prohibition on torture and other cruel, inhuman or degrading treatment or punishment of children that is reflected across other international and regional law and

standards.<sup>42</sup> In all situations of deprivation of liberty, independent and qualified inspectors should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative; they should place special emphasis on holding conversations with children in the facilities, in a confidential setting.<sup>43</sup>

### *Status Offences*

International standards recommend the complete abolition of status offences for children - that is offences that criminalise behaviour that would be lawful for adults when committed by children.<sup>44</sup> The Committee on the Rights of the Child recommends that a systemic approach to preventing children committing offences includes closing pathways into the criminal justice system through the decriminalisation of minor offences such as school absence, running away, begging or trespassing, which are the result of poverty, homelessness or family violence.<sup>45</sup>

### *Diversion*

States have affirmed their commitments to "*endeavour to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behaviour, will foster a process of personal development and education that is as free from crime and delinquency as possible.*"<sup>46</sup> Rule 11 of the "**Beijing Rules**" highlights the consideration that should be given to handling cases involving children in conflict with the law without resorting to formal trial by the competent authority, and instead diverting them to community support services. Such provisions serve to hinder the

<sup>37</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty ("Havana Rules"): <https://www.ohchr.org/EN/ProfessionalInterest/Pages/JuvenilesDeprivedOfLiberty.aspx>.

<sup>38</sup> Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019, para. 60.

<sup>39</sup> Ibid.

<sup>40</sup> Idem. at para. 59.

<sup>41</sup> Convention on the Rights of the Child, Article 19.

<sup>42</sup> Convention on the Rights of the Child, Article 37(a); International Covenant on Civil and Political Rights, Article 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; African Charter on the Rights and Welfare of the Child, Article 16; American Convention on Human Rights, Article 5(2).

<sup>43</sup> Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019, para. 95(j).

<sup>44</sup> Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019, para. 12; UN Guidelines for the Prevention of Juvenile Delinquency ("the Riyadh Guidelines"), para. 56; Human Rights Council Resolutions A/HRC/18/12, para. 14; A/HRC/24/12, para. 24.

<sup>45</sup> Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019, para. 12.

<sup>46</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"): <https://www.ohchr.org/documents/professionalinterest/beijingrules.pdf>



negative effects of justice administration on children (for example the stigma of conviction and sentence).

A focus on prevention allows us to tackle and work towards reducing crime, with emphasis on how communal responsibility, services and programmes should be developed for children's well-being from the earliest ages onwards. (the United Nations Guidelines for the Prevention of Juvenile Delinquency; the "**Riyadh Guidelines**").<sup>47</sup> Additionally, Rule 44 of the Guidelines for Action on Children in the Criminal Justice System (the "**Vienna Guidelines**") states that police, lawyers, the judiciary and other court personnel should receive training in dealing with cases where children are victims.

### **Specialised Police Units**

International standards are clear that police and law enforcement authorities should include well trained staff to meet the needs of children and young people. The Beijing Rules call for the specialised training of police officers who frequently or exclusively work with children, including through the development of special police units in larger cities.<sup>48</sup> According to the UN Study on Children Deprived of Liberty (2019), "*States should invest in human resources, awareness-raising and systematic education and training of all professionals who work with and for children in decisions leading to their deprivation of liberty, and those who are responsible for their well-being while in detention*".<sup>49</sup> The Riyadh Guidelines call for law enforcement personnel to be trained to respond to the special needs of young persons and be familiar with and use to the maximum extent possible programmes and referral possibilities for the diversion of young persons from the justice system.<sup>50</sup>

The Vienna Guidelines complement these standards, providing that police, lawyers, the judiciary and other court personnel should receive training in dealing with cases where children are victims.<sup>51</sup> States should consider establishing, if they have not yet done so, specialised offices and units to address cases involving offences against children. Where appropriate, states should also establish a

code of practice for proper management of cases involving child victims.<sup>52</sup>

The frontier between child victims and children who have committed an offence is quite permeable as, on many occasions children who have committed a crime have somehow been victims before. A comprehensive answer for children in contact and conflict with the law should not elide this context.

Where the safety of a child victim or witness may be at risk, appropriate measures should be taken to require the reporting of those safety risks to appropriate authorities and to protect the child before, during and after the justice process. For example, such measures include giving child victims or witnesses protection by the police or other relevant agencies and safeguarding their whereabouts from disclosure (the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime).<sup>53</sup>

### **Regional Legal Framework**

State parties, therefore, have a positive obligation to protect the rights and interests of children in accordance with the UNCRC. The UNCRC is a comprehensive international legal framework that has been integrated at the international, regional and domestic levels in the development of explicit rules on children's rights and including rules on the treatment of children in contact with the law.

Consistent with international standards, regional instruments such as the African Charter on the Rights and Welfare of Children (the "**ACRWC**"), the American Convention on Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Arab Charter on Human Rights and the Covenant on the Rights of the Child in Islam (the "**CRCI**") constitute an important body of law relevant to the international framework of youth justice.

The ACRWC under Article 17 provides that state parties should "ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading

<sup>47</sup> The United Nations Guidelines for the Prevention of Juvenile Delinquency; the "**Riyadh Guidelines**": <https://www.ohchr.org/en/ProfessionalInterest/Pages/PreventionOfJuvenileDelinquency.aspx>

<sup>48</sup> UN Standard Minimum Rules for the Administration of Juvenile Justice ("the Beijing Rules"), Rule 12.

<sup>49</sup> UN Global Study on Children Deprived of Liberty (2019): <https://omnibook.com/global-study-2019/liberty/244b6f.xcml>

<sup>50</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency ("the Riyadh Guidelines"), Para. 58.

<sup>51</sup> Guidelines for Action on Children in the Criminal Justice System ("Vienna Guidelines"), Rule 44.

<sup>52</sup> Guidelines for Action on Children in the Criminal Justice System ("Vienna Guidelines"), Rule 44.

<sup>53</sup> Rule XII of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime: <https://www.un.org/ruleoflaw/blog/document/guidelines-on-justice-in-matters-involving-child-victims-and-witnesses-of-crime/>



treatment or punishment. Article 19 of the CRCI provides that states should ensure that rights of children deprived of liberty are upheld. It states that children deprived of liberty should be treated with dignity and respect for their human rights, while observing their needs based on their age.<sup>54</sup>

The domestication of such international human rights standards promotes and protects the rights of children through practices that ensure a child specific criminal justice regime.

At the European Union (EU) level, the Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings ("**Directive 2016/800**") establishes procedural safeguards for children in conflict with the law. In addition, the Council of Europe's European Rules for Juvenile Offenders subject to Sanctions or Measures and the Guidelines on Child Friendly Justice support and promote the rights of children throughout their contact with the criminal justice system.<sup>55</sup> The EU principle of direct effect binds the courts of the EU member states to recognise and enforce these procedural safeguards.

## Child and Young Person

For the purpose of this paper, we adopt the United Nations' definition of "child" as an individual below the age of 18 years<sup>58</sup>.

We adopt the World Health Organisation definition of a "young person" which covers the range of 10 - 24 years.<sup>59</sup>

## Brain Development and Children in Contact with the Law

Article 40 of the UNCRC provides that children in conflict with the law should be treated in a manner that is consistent with the child's developmental, emotional and chronological age. This is critical to assure respect for the child's inherent dignity and to avoid resorting to judicial proceedings. All of these conditions comprise an approach that is consistent with contemporary scientific research on brain development.<sup>56</sup>

Many high-quality studies show that major disruptions in psychological development draw children into the criminal justice system and that many children within the justice system have experienced traumatic social and psychological disruptions, referred to as adverse childhood experiences.<sup>57</sup>

<sup>54</sup> Covenant on the Rights of the Child in Islam, Article 19: [https://www.google.com/url?q=https://www.refworld.org/pdfid/44eaf0e4a.pdf&sa=D&source=editors&ust=1627462477274000&usg=AOvVaw02sLNv\\_cOVeAimFTTrNaEb](https://www.google.com/url?q=https://www.refworld.org/pdfid/44eaf0e4a.pdf&sa=D&source=editors&ust=1627462477274000&usg=AOvVaw02sLNv_cOVeAimFTTrNaEb)

<sup>55</sup> Leanne Weber, Elaine Fishwick, Marinella Marmo, *The Routledge International Handbook of Criminology and Human Rights* (2017) Routledge; <https://rm.coe.int/16804b2cf3>.

<sup>56</sup> The Convention on the Rights of the Child: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>57</sup> Cedric Foussard, Avril Calder, Leo Ratledge, Nikhil Roy, Kristen Hope Burchill, *Brain Science and How It Affects Children Accused of Crimes* (2021):

[https://www.tdh.ch/sites/default/files/20210607\\_policy\\_paper\\_bra\\_in\\_science\\_and\\_how\\_it\\_affects\\_children\\_accused\\_of\\_crimes.pdf](https://www.tdh.ch/sites/default/files/20210607_policy_paper_bra_in_science_and_how_it_affects_children_accused_of_crimes.pdf)

<sup>58</sup> The United Nations Convention on the Rights of the Child: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>59</sup> Adolescent health in the South-East Asia Region: <https://www.who.int/southeastasia/health-topics/adolescent-health>



## Promising Practices<sup>60</sup>

### *Initial Police Interaction and Arrest*

Although 196 countries have ratified or acceded to the UNCRC, the arrest of children contrary to the provisions of Article 37, is still a common practice in many states, and few have distinct, publicly available child arrest policies. There are significant variations in the approach taken by police when engaging with children. Good practices can make a significant difference in the experience, mental health, and wellbeing of the child. This section summarises some promising practices identified in a number of jurisdictions from the perspective of child-friendly policing.

In **New Zealand**, children cannot be arrested unless certain, specific conditions are met. Police can arrest a child only where it is: (i) necessary for the child to appear in court; (ii) to prevent further offending; or (iii) to prevent the loss/destruction of evidence or interference with witnesses. In any case, the arresting officer must have a warrant, unless: (i) they believe the arrest to be necessary to ensure the child attends court, to prevent further offending, to prevent evidence being lost/destroyed or interfering with witnesses; (ii) the offence is of a very serious nature; (iii) the police believe it is in the public interest; or (iv) it is a drunk-driving or immigration offence. Every police officer arresting a child without warrant must write a report within three days of the arrest and explain the basis for making the arrest. The parent or caregiver has the right to be involved as soon as their child has come into contact with the police. Parents or caregivers must be informed as soon as practicable when the police bring a child into a police station, whether this is for questioning or detention. The involvement of a parent or caregiver provides the police with more options for addressing the matter, such as release on bail or diversion measures, which provide a further, positive incentive for the police to do so. Additional rights designed to reflect the vulnerabilities of a child must be explained by the police when arresting, detaining or charging a

child, in addition to the usual statement of rights that is typically presented to adults on arrest. These rights must be explained in a way that is appropriate to the child's level of understanding.

In **Malawi**, the law does not allow the use of handcuffs, except where the child is handcuffed to the arresting police officer or person effecting the arrest.<sup>61</sup>

In the US, the proposed George Floyd Act<sup>62</sup> contains provisions to regulate law enforcement officers' interaction and communication with children including taking into account adolescent development and disability, timely notification of a parent or legal guardian of any law enforcement interaction, eliminating school-based arrests and referrals to law enforcement, using evidence-based preventative measures and alternatives to school-based arrests and referrals to law enforcement, such as restorative justice and healing practices and prohibiting the excessive use of force against children.

While not adopted uniformly nationwide, many police stations have coordinated with NGOs and international organisations to implement schemes to reduce the negative consequences of child arrest in particularly affected neighbourhoods and regions. For example, in the **Philippines**, a local NGO based in Cebu, FREELAVA, and Save the Children UK together created a diversion project for less serious offences, which statistics indicate are by far the most common. Children's Justice Committees have since been established in numerous local government areas, with the aim to resolve less serious offences using mediation as an alternative to the child's formal arrest and police detention.<sup>63</sup>

### *Police Custody and Detention*

In the early 2000s, a number of countries implemented legislation to improve police diversion measures and the conditions of child detention.

<sup>60</sup>The examples identified below intend to draw on a wide geographic spread, despite the prevalence of literature and commentary in the English language in these jurisdictions. Further, it intends to highlight examples of practices that are in some way unique or innovative, to demonstrate the breadth and variety of measures taken by governments around the world. This paper does not purport to represent a comprehensive overview of all practices but is intended to provide some examples to illuminate potential issues and solutions.

<sup>61</sup> Law and Practice Relating to the Arrest of Children for Nuisance Related Offences [https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/08\\_SALC-NoJustice-Report\\_Law-and-Practice-Relating-to-the-Arrest-of-Children.pdf](https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/08_SALC-NoJustice-Report_Law-and-Practice-Relating-to-the-Arrest-of-Children.pdf)

<sup>62</sup> The George Floyd Justice in Policing Act of 2021 H.R.7120 — 116th Congress (2019-2020) <https://www.congress.gov/bill/116th-congress/house-bill/7120/text>

<sup>63</sup> Guidelines for a Community-Based Diversion and Prevention Programme for Children in Conflict with the Law: <https://www.unicef.org/tdad/philippinesguidelinesdiversion.pdf>



Since the implementation of the Children Act 2000 in **Uganda**, Child and Family Protection Units have been established at numerous major police stations to provide counselling to children after arrest or caution, and to promote diversion and, where possible, parental involvement.<sup>64</sup>

In **Malawi**, under the Child Care, Protection and Justice Act 2010, any police officer arresting a child must, among other things: not detain that child with adults; provide the child with nutritious food; and provide the child with counselling services, where possible. All Malawian police stations have dedicated Victim Support Units with trained children's counsellors. It is important to note however, that data on the effectiveness of such legislation is limited, and a 2017 report found that in Malawi there was little coordination between the child counsellors and police officers arresting children.<sup>65</sup>

The **UK** has an established "Appropriate Adult" system where the police cannot question a child in custody without the presence of an adult. This does not have to be a parent or guardian but may be a social worker or another adult who is not employed by the police. The role of the appropriate adult is to protect the interests of the child.<sup>66</sup> The 2011 revision of Criminal Procedure Law in **China** introduced a similar "Appropriate Adult" system, providing significantly improved protection for children suspected of committing a criminal offence.<sup>67</sup> This provides some level of independent, adult support to a child in custody.

In **Belgium**, children in conflict with the law receive a written document that informs them of their rights including the right to a confidential consultation with a lawyer of their choice and the right to be assisted by the lawyer during police questioning and interrogation.<sup>68</sup>

In the **Netherlands**, children have a mandatory right to free legal representation. This right cannot be waived and police interviews can only be carried out following a child's consultation with a specialized youth lawyer who must be present during the first police interview.<sup>69</sup>

The Barnahus model, founded in **Iceland** and since implemented in a number of European countries, is a multi-disciplinary, interagency service model designed to support children in contact with the law.

Whilst the child has a safe place to stay, the police, child protective services, and medical and mental health experts work together to assess the child's situation and together decide how to proceed with the interview, investigation and where relevant, testimony.

### *Arrest Avoidance Practices*

In **Palestine**, the police force is developing a community-oriented approach ("community policing") which aims to enhance trust between the police and citizens, including children and youth, particularly those at risk of becoming involved in criminal behaviour but also in case an incident happens. They deliver more citizen-oriented and child friendly services.<sup>70</sup>

The Twente region in the **Netherlands** has been experimenting with alternatives to deprivation of liberty for children who come into conflict with the law for the first time in relation to a minor offence. Under the programme, children are not held in a police cell or police custody, but are reprimanded by an agent, with a parent or guardian present.<sup>71</sup> The policy is named "No police custody, unless" and has been implemented nationwide since November 2020.<sup>72</sup> According to the police, the approach is proving successful. Of the approximately 120 children who were arrested and received reprimands under the

<sup>64</sup> Guidelines for a Community-Based Diversion and Prevention Programme for Children in Conflict with the Law: <https://www.unicef.org/tdad/ugandapoliceroleindiversion.pdf>

<sup>65</sup> Law and Practice Relating to the Arrest of Children for Nuisance Related Offences: [https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/08\\_SALC-NoJustice-Report\\_Law-and-Practice-Relating-to-the-Arrest-of-Children.pdf](https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/08_SALC-NoJustice-Report_Law-and-Practice-Relating-to-the-Arrest-of-Children.pdf).

<sup>66</sup> Appropriate adults: guide for youth justice professionals: <https://www.gov.uk/guidance/appropriate-adults-guide-for-youth-justice-professionals>. Note, in 2013 the right to an appropriate adult was extended to all children under the age of 18, following legal action. See, R (on the app. of HC by his litigation friend CC) v. the Secretary of State for the Home Department and another [2013] EWHC 982 (Admin).

<sup>67</sup> China Talks Juvenile Justice Reform: A Constructivist Case Study: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2394747](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2394747)

<sup>68</sup> Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Belgium: <https://data.europa.eu/euodp/repository/ec/dg-justi/criminal-justice/contextual-overviews/Belgium.pdf>.

<sup>69</sup> Designation legal aid police interrogation (translated title): <https://zoek.officielebekendmakingen.nl/stcrt-2010-4003.html>.

<sup>70</sup> Strengthening of Police Structures: <https://www.giz.de/en/worldwide/18101.html>

<sup>71</sup> No cell but solid conversation at a small first offense (translated title): <https://www.nji.nl/nl/Actueel/Nieuws-uit-het-jeugdveld/2019/Geen-cel-maar-stevig-gesprek-bij-klein-eerste-delict>.

<sup>72</sup> No cell but solid conversation at a small first offense (translated title): <https://www.nji.nl/nl/Actueel/Nieuws-uit-het-jeugdveld/2019/Geen-cel-maar-stevig-gesprek-bij-klein-eerste-delict>.



pilot of 2018, none have been arrested again for an offence. Diversion measures that guide children in conflict with the law away from judicial proceedings at the earliest stage, have been encouraged globally and implemented in many regions over the past two decades.<sup>73</sup>

In **Sweden**, police officers have broad discretion in the way that they address children who commit criminal offences. In most cases, the police will only issue a cease-and-desist order and monitor the behaviour of the child. Such offences will not be reported formally, where the child complies with the police officer's instruction. If a police officer believes that arrest is necessary, they must first assign a prosecutor to investigate the case, and this prosecutor will have the power to decide whether the child should be arrested or whether an application should be made to a court for a detention order. In practice, arrests and detention orders are not common.<sup>74</sup> In **Ghana**, police are required to caution rather than arrest children if it is in the best interests of the child.<sup>75</sup>

### *Child-Friendly Procedures Manual, Facilities, and Capacity-Building*

In **Cambodia**, the Child-Friendly Police Procedures (CFPP) manual was developed by the police, civil society organisations, and UNICEF to ensure the use of child-friendly practices by the police when engaging with children, including for children in conflict with the law during arrest, custody, and questioning. The CFPP has been adopted by and integrated into the curriculum of the national Police Academy of Cambodia, and trainings and coaching have been conducted for police officers and trainers at the national and subnational levels. In addition, child-friendly interview rooms have been established in some police stations around the country, with guidelines and capacity-building instituted to ensure common standards and proper protective practices.

In **Palestine**, police officers have undergone training enabling them to adopt a more professional approach to victims of violence and crime, as well as to children and youth alleged to have committed an offense. Government security forces are now viewed more positively.<sup>76</sup> In the Gaza strip Terre des

Hommes has developed Child-Friendly Police Standard Operating Procedures for Children in Contact and in Conflict with the Law in the Gaza Strip.<sup>77</sup>

<sup>73</sup> Guidelines for a Community-Based Diversion and Prevention Programme for Children in Conflict with the Law: [https://www.unicef.org/tdad/index\\_55653.html](https://www.unicef.org/tdad/index_55653.html).

<sup>74</sup> Alternatives to Custody for Young Offenders [http://eigep.eu/wp-content/uploads/2018/01/2014\\_comparative\\_report\\_alternatives\\_to\\_custody\\_for\\_young\\_offenders.pdf](http://eigep.eu/wp-content/uploads/2018/01/2014_comparative_report_alternatives_to_custody_for_young_offenders.pdf).

<sup>75</sup> Juvenile Justice Act, Section 12(1). See Alternatives to Custody for Young Offenders: [http://eigep.eu/wp-](http://eigep.eu/wp-content/uploads/2018/01/2014_comparative_report_alternatives_to_custody_for_young_offenders.pdf)

[content/uploads/2018/01/2014\\_comparative\\_report\\_alternatives\\_to\\_custody\\_for\\_young\\_offenders.pdf](http://eigep.eu/wp-content/uploads/2018/01/2014_comparative_report_alternatives_to_custody_for_young_offenders.pdf)

<sup>76</sup> Strengthening of Police Structures: <https://www.giz.de/en/worldwide/18101.html>

<sup>77</sup> Child-Friendly Police Standard Operating Procedures for Children in Contact and in Conflict with the Law in the Gaza Strip.



## Recommendations

Having analysed the challenges associated with police interactions with children, the legal standards and framework applicable, and various examples of promising practices identified in countries across various regions, we set out fifteen key recommendations to make the policing more child friendly.<sup>78</sup>

1. **Develop and prioritise alternatives to arrest and questioning by the police.** A more child-friendly approach should be developed specifically for children, crucially, avoiding police custody, with an exception only for the most serious crimes. States should aim to limit those engaging with children in contact with the law to individuals trained in trauma, social work, psychology, child development and other relevant sciences, with engagements to be conducted at community-based centres rather than police stations.
2. **Maximise diversionary practices as an alternative to judicial processes.** Implement community interventions at the earliest stage of a child coming into contact with the police, and focus on alternatives to penal or disciplinary measures, including unconditional police warnings.
3. **Improve the environments where children stay in police custody.** For those cases where police custody cannot be avoided, it is important to ensure that the time spent in police custody is short and child sensitive. It should be a safe place for children to stay, in line with the dynamics and structures of a community centre where the police, child protective services, and other relevant experts work together to assess the child's situation, provide support and, together, decide how to proceed with the process. The Barnabus model provides a useful example. Such a centre should aim to assure an expeditious and efficient procedure and use a tailored approach that takes into consideration each child's situation. Once the police custody ends, the child should ideally be sent home or, when all alternatives fail, sent to a small-scaled youth justice institution.
4. **Implement circumstantial training and establish specialist child-friendly police units.** All police officers who interact with children in the first instance should be trained in trauma-informed engagement methodologies and should learn to engage with children at a level appropriate to their cognitive, emotional, social and behavioural development. Consider establishing and training specialised members of the police to engage with children including those from ethnic and racial minority groups.
5. **Record data for Stop and Search, Arrests and Detention.** Implement systems of data collection in order to inform monitoring and evaluation to identify effective and positive outcome techniques. Heavy-handed stop and search procedures can generate mistrust and fear amongst children towards the police - particularly where such powers are used disproportionately in relation to specific ethnic groups that are more likely to be approached by the police. Data collection also allows for an evaluation of disproportionate and discriminatory actions and outcomes for children from minority groups.
6. **Ensure physical restraint is strictly limited to situations where it is necessary.** Restraint should be limited to situations where a child poses an imminent and serious threat of injury to themselves or others. States should abolish all forms of restraint that deliberately impose pain on children.
7. **Adopt measures to prevent psychological harm of children who are arrested.** Ensure that police who engage with children are trained to do so in a child-friendly manner. Avoid arrests at night as this can create trauma for the child and family members in the house including their siblings, avoid arrests at school, use as few police cars and persons as possible, and consider the impact

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<sup>78</sup> See also Operational Guidelines for Security Forces: [https://justicewithchildren.org/wp-](https://justicewithchildren.org/wp-content/uploads/2020/06/Operational_Guidelines_for_Security_Forces_Covid19_Global-Initiative-on-Justice-with-Children.pdf)

of onlookers and witnesses to any arrest. Weapons should not be used when arresting children. Child friendly interview rooms should be established in which child friendly questioning techniques are applied.

8. **Explain to the child their rights and the legal process in a language and manner they can truly comprehend.** Ensure all children are informed of and understand the reasons for their arrest and the procedures they are experiencing, including taking account of any special developmental needs of the child. A written record should be made immediately following any arrest and kept confidentially, accessible only when necessary by lawyers, social workers, independent monitoring bodies and other relevant persons or agencies acting in support of children's rights.
9. **Inform parents and guardians as soon as the child comes in contact with the police or have an appropriate adult present where the former is not identifiable or contactable or when this is in the best interests of the child.** Best practice guidance recognises that parents and guardians play an important role in ensuring the best interests of children. Having an appropriate adult (e.g., social worker, child advocate, and/or lawyer) present is particularly critical where parents are absent or not identifiable or contactable, given that in many jurisdictions, children in care or in street situations are overrepresented amongst child offenders. The police or social worker should also conduct a best interest determination to assess whether there may be reasons to have an independent appropriate adult present in lieu of or in addition to the child's parent or legal guardian.
10. **Promote the use of restorative justice in all cases involving children.** Restorative justice offers an alternative approach to finding a resolution that focuses on meeting the needs of those who have been most impacted by an incident or crime. Restorative justice, including mediation, can be offered before, during, and after police custody as well as part of the criminal procedure. Many communities that have introduced restorative justice as an alternative to criminal prosecution of children and young people have obtained positive results. States should aim to increase the incorporation of

restorative approaches into policy and practice.

11. **Ensure free legal representation for every child regardless of the severity of the offence.** Children should be provided with sufficient support including legal aid and representation from adults specialised and experienced in child justice matters and informed of the legal framework to enable them to understand both the substance and process associated with criminal proceedings. This should include legal representation and an attorney-client privileged relationship.
12. **Pursue pre-trial assessment by relevant experts.** Statistics generated by NGOs indicate that the offences committed by children are typically those that are less serious. Cases brought against children should be evaluated carefully by non-police entities such as judicial officers, social workers and psychologists with relevant expertise before being brought to trial.
13. **Develop and institute a national child-friendly police policy or procedures document/manual** that comprehensively integrates all of the above recommendations and complemented by the capacity-building efforts indicated under recommendation number 4.
14. **Extend the application of child friendly policing to young people.** As young people transition into adulthood, it may be appropriate to deal with them within a specialized justice system tailored to their developmental needs. Alternatively, the above recommendations on child-friendly policing can be applied to young people in conflict with the law.
15. **Develop a specialised section of the police force to exclusively deal with children who come in contact with the law.** They should be trained in other relevant fields such as social work, pedagogy, psychology and sociology relevant to address the needs and sensitivities of children who come in contact with the law. The development of a checklist of the actions that police should take should be encouraged to ensure child-friendly policing. It is recommended to gradually shift towards minimal police contact with children and this can be achieved by training professionals that work with children daily



such as teachers, social workers and psychologists among others, and equip them with conflict resolution skills so they are able to address situations where children commit minor offences without having to resort to police contact.

16. Ensure that effective health, mental health, educational and social work services are available to prevent children coming in contact with the criminal justice system unnecessarily.
17. Ensure that police are empowered to refer children to appropriate health, mental health educational and social work services where referral can provide better protection and support to the child.



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