

**STUDY ON ILL-TREATMENT  
AND TORTURE OF  
JUVENILES IN THE REPUBLIC  
OF ARMENIA**

**IN THE CONTEXT OF JUVENILE JUSTICE**



This report has been prepared within EU funded project “Reaching critical Mass: Consolidation of juvenile justice system reforms against torture and other forms of ill-treatment in European Neighbouring Countries”.

This report was prepared by Civil Society Institute NGO and Human Rights Defender’s Staff.

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Effective protection of children's rights should be one of the human rights' priorities for every legal state and for every democratic society.

The struggle for the comprehensive protection of children's rights is more important and urgent, especially for the newly independent states, established after the collapse of the Soviet Union, including Armenia.

The UN Convention on the Rights of the Child envisages development and implementation of a comprehensive policy on juvenile justice, whereas today the protection of juvenile delinquents in Armenia is not undertaken with efficiency. Unfortunately problems in this area are not new to our society, they are the negative phenomena "inherited" from the soviet penitentiary system. Juvenile court proceedings are not conducted in a child friendly language, children's best interests, their age are not often considered. During the research a lot of faults have been identified, for which a number of complex activities need to be undertaken. Within the frame of these activities lawmaking and the introduction of methodological legal norms and their application mechanisms are of particular importance.

The research undertaken by the Human Rights Defender office staff, Civil Society Institute, UNICEF and Penal Reform International, once again proves that there is a great need to establish legal and court proceedings that will be oriented towards the constructive integration of juveniles into the society, rather than the identification of crimes and their penalisation. Special attention should be given towards the prevention of juvenile offenses and the introduction of alternative means that will enable to efficiently respond to them.



**Karen Andriasyan**  
Human Rights Defender  
of the Republic of Armenia

The dimension of the problems affecting children in contact with the law in Armenia, and in particular of torture and ill-treatment, are limited. However, there is documented evidence of cases of physical abuse of juvenile suspects by the police,<sup>1</sup> and juveniles reported that they had been beaten at police stations<sup>2</sup>. Since the perpetrators of the torture and ill-treatment are also the officials investigating the cases, it makes the reporting difficult for victims. Therefore, the independent investigations of torture and ill-treatment are crucial for securing the rights of the victims. Every child victim of torture and ill-treatment is one too many.

UNICEF Armenia is addressing the protection and promotion of the rights of children in contact with the law in cooperation with Penal Reform International, Civil Society Institute NGO and Human Rights Defender's Office; the financial support of the EU has allowed for the implement of the project "Reaching critical Mass: Consolidation of juvenile justice system reforms against torture and other forms of ill-treatment in European Neighbouring Countries".

This report sheds a bright light on torture and other cruel, inhuman or degrading treatment or punishment committed against juveniles in Armenia in the context of juvenile justice. It describes and analyses the legislative framework existing in the country and examines state practice based on specific cases and substantial number of interviews conducted with stakeholders.

The evidence provided by this report calls for action. First step would be related to the alignment of the legal and policy framework of the country to international principles focused on eliminating child torture and ill-treatment. Armenia has ratified international documents prohibiting such cruel behaviours. Torture is criminalized in the legislation, although not complying with the definition of the UN Convention against Torture<sup>3</sup>. Furthermore, according to the Articles 37 and 40 of the Convention on the Rights of the Child, State parties should develop comprehensive policies of juvenile justice and the development of alternatives to institutional care. Armenia is far from complying with these requirements.

Policy and legislation are not the only sectors where actions are required to ensure the protection of children exposed to ill-treatment. Effective intervention in support to the victims, and prevention initiatives, require the set up of cooperating mechanism between various professionals, from the Policy and justice representatives to social workers (case managers) and psychologists. The Community Centers already existing in Armenia have a crucial function in the direct work with children and their families, but also in facilitating the identification and reporting of torture and the ill-treatment episodes, and contribute to the decreasing of such of cases.

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1 UNICEF & Organization for Security and Co-operation in Europe (2010). Assessment of Juvenile Justice Reform Achievements in Armenia.

2 Advanced Social Technologies NGO & Organization for Security and Co-operation in Europe (2009). Juvenile Justice in Armenia: Perspective of Children in Conflict with the law (AST/OSCE). In UNICEF & Organization for Security and Co-operation in Europe (2010). Assessment of Juvenile Justice Reform Achievements in Armenia (pp. 52- 64).

3 UN Committee against Torture (2012) State report, 3rd.

Promoting policy regulations and enforcing a change in practices are key steps to ensure that officials are treating children with humanity and respect, and that children are encouraged complain and entitled to receive fair and adequate compensation, while perpetrators bear the criminal responsibility for their violations.

We hope that this report will increase the knowledge and awareness of decision makers and duty bearers, contributing to the end of cruel and degrading behaviours of adults towards children in Armenia. Every step done in this direction, is a step towards a better society.



**Henriette Ahrens**

UNICEF Armenia Representative

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## KEY FINDINGS

### Encounter with the Police

- Out of **86** juveniles interviewed, **77%** had previously encountered with the police.
- Nearly half **45%** of juveniles contacted with the police could not identify who arrested or apprehended them.
- About a quarter **21%** of juveniles who had encountered with the police were not informed about the reasons for their arrest/apprehension.
- Overall, nearly half **42%** of juveniles did not read the arrest protocol before signing it because of confusion, inability to think, feeling bad, etc.
- While in about half of the cases **43%** the arrestees and detainees were informed about their rights, **31%** noted that they were not informed at all, and another **23%** was not attentive enough and answered “*I don't know*”.

### Treatment by Police and Investigators

- Interviews reveal that the most common forms of ill-treatment are beating and physical pressure committed by the police for the purposes of obtaining confession.
- 8 children (5 of which were detained in Abovyan PI at the moment of the study), mentioned that they were subjected to physical violence in the Police stations. In addition, 2 children mentioned that they were treated rudely in police.
- 51% of interviewed juveniles heard about ill-treatment and torture of other children, including beating, sexual violence, cursing, and intimidation.
- 6% of juveniles mentioned that while being kept at PHAPs (Places for Holding Arrested Persons) they were humiliated.
- In commenting on the treatment by investigators, **71%** found it normal, **23%** said that they were very polite and **6%** qualified it as rude.

### Treatment at “Abovyan” Penitentiary Institution

- In assessing the treatment by the PI staff, **37%** qualified it as very polite, **59%** as normal and **3.1 % (1 person)** indicated that they were humiliated.

### Treatment at Community Justice Centers (CJCs) and Special School No 13

- While assessing the treatment by the staff of these institutions, up to **76%** qualified it as normal and up to **78%** as very polite.

### Access to Lawyer

- Usually, advocates are not present during the first interrogation of a juvenile. Additionally, while **56%** of interviewed juveniles were able to speak with an advocate before interrogation, **37%** were not.
- In overall, juveniles enjoy legal representation by a public defender (**35%**), a private defense counsel (**28%**) or both of them (**12%**).
- **75%** of juveniles were satisfied with the services of attorneys, while **25%** were not.

### Medical Aid and Examination

- Every second juvenile is in need of medical aid.
- While in **69%** cases confidentiality of medical examination was preserved, **21%** of juveniles were both seen and heard by inspectors, policeman, deputy head of the institution, etc.

### Satisfaction with judiciary

- When answering the question regarding the treatment by the judge, **no** juvenile qualified it as rude or humiliating. **43%** found it “very polite” and **57%** as “normal”.
- According to **50%** of juveniles both the judge and the punishment were fair, **18%** had difficulty in answering the question, while **32% (9 persons)** thought that neither the judge nor the punishment were fair, invoking their previous conviction experience.

## LIST OF ABBREVIATIONS

CSI	Civil Society Institute
CCC	Council of Courts' Chairmen
CPC	Criminal Procedure Code
FAR	Fund for Armenian Relief
MAS	Medical aid station
NGO	Non-governmental organization
PI	Penitentiary institution
PHAP	Place of holding arrested persons
SSC	State Security Committee
SGB	Self-governing body

## STUDY METHODOLOGY

“Civil Society Institute” NGO together with the Human Rights’ Defender’s office with the support of the United Nations Children’s Fund and Penal Reform International has conducted a study from March–June 2012, the aim of which is to:

- reveal the treatment of juveniles in the police stations;
- reveal the treatment of juveniles in the Places for holding arrested people;
- reveal the treatment of juveniles in Penitentiary Institutions;
- reveal the treatment of juveniles in special schools;
- reveal the treatment of juveniles in community justice centers;
- reveal the medical examination procedure of juveniles in different institutions as an opportunity to identify ill-treatment and torture;
- reveal the competence of the specialists involved in the field of juvenile justice for working with juveniles;
- reveal the cases of torture and/or ill-treatment of juveniles;
- reveal the occurrence and frequency of torture and ill-treatment;
- identify the legislative and procedural gaps which may become a precondition of ill-treatment;
- study the practice of prosecution of ill-treatment and torture;
- develop recommendations on elimination and prevention of torture and ill-treatment in the context of juvenile justice.

Within the framework of this study, quantitative and qualitative research methods were used in parallel. Expert interviews were held with the judges, advocates, investigators, staff of the places of holding juveniles, representatives of the NGOs concerned, and were subjected to qualitative analysis (hereinafter referred to as “experts”). Semi-standardized interviews were held with the juveniles, which were both subjected to qualitative and quantitative analysis. The chosen approach ensured triangulation of methods and data sources and thus high level of reliability and validity of the results.

During the in-depth interviews **35 persons** were questioned, including **5 judges, 7 advocates, 1**

**prosecutor, 1 investigator, 4 employees of the PI, 2 employees of the PHAP, 2 staff members of special public school No1, 11 representatives of NGOs dealing with juvenile issues**, including the specialists of Yerevan and Abovyan Children’s Day Care Rehabilitation Centers established by “Children’s Support Center” of Armenian Relief Fund (FAR), Manager of World Vision Child Protection Project, Chairman of “TRTU” NGO, as well as specialists of community justice centers established by Project Harmony Project (Armenian Center for Health and Education, “Bnakanon” NGO, “Arevamanuk” NGO) in Yerevan, Vanadzor and Gyumri.

Semi-standardized interviews were conducted with **86 juveniles**<sup>1</sup>, including

- **32 juveniles** held in Abovyan PI; “Abovyan” PI is the only institution in Armenia where juveniles are held. At the time of the study there were in total 32 juvenile remand prisoners and convicts, all of whom were interviewed<sup>2</sup>.
- **29 students** of special public school No 1<sup>3</sup> in Vardashen;
- **18 juvenile beneficiaries** of community justice centers established by Project Harmony in Yerevan, Gyumri and Vanadzor (Armenian Center for Health and Education, “Bnakanon” NGO, “Arevamanuk” NGO)
- **7 juvenile beneficiaries** of the day care rehabilitation centers of FAR in Yerevan and Abovyan.

As a result, 11 remand prisoners, 21 convicts, 29 students of special school and 25 beneficiaries of the community justice centers and day care rehabilitation centers were interviewed.

Among the interviewed children, 71 are male and 15 are female. 80 of the interviewed children are of Armenian origin, 3- Russian, 1- Yezidi, 1- mother is of Armenian origin, father – Ossetian and 1 person-mother is Armenian, father – Russian. The average duration of interviews was 35 minutes.

1 Pool of the respondents comprised of all such children who were in the institutions during the study and who agreed to respond the questions.

2 Juvenile remand prisoners and convicts are kept separately.

3 During the study, there were 82 children in Special School No1 in Vardashen, including 56 male, 26 female. According to the curriculum approved by the Ministry of Education and Science, the admission to special school is possible from the 4th grade. The children inclined to committing crimes are referred to special school by the mediation of the police or the Children Rights’ Protection departments (Yerevan City Hall or marzpetarans/marz (regional authorities)). Here the majority of children are children involved in vagrancy, according to the Director of the school “20–25 children are inclined to committing crimes”. The children in the educational institution remain temporary, until returning to their families.



## LEGISLATIVE AND REGULATORY FRAMEWORK REGARDING TORTURE AND ILL-TREATMENT

### General legal framework

Armenia is a party to a number of international documents prohibiting torture and ill-treatment. It ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Optional Protocol to the Convention in 1993 and 2006 respectively,

International Covenant on Civil and Political Rights, Convention on the Rights of the Child in 1993, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols in 2002, European Convention on Human Rights in 2002.

International treaties are an integral part of the legal system of the Republic of Armenia. If ratified international treaties define norms other than those provided for by laws, such norms shall apply<sup>4</sup>.

Article 3 of the RA Constitution provides that “The human being, his or her dignity, fundamental rights and freedoms are the highest values. The State shall ensure the protection of fundamental human and citizen’s rights and freedoms, in conformity with the principles and norms of international law. The State shall be bound by fundamental human and citizen’s rights and freedoms as directly applicable law”.

<sup>4</sup> RA Constitution, Article 6

Torture and ill-treatment is prohibited by the Constitution of the Republic of Armenia, Article 17 of thereof prescribes that “No one shall be subjected to torture, or to inhuman or degrading treatment or punishment. Arrested, detained persons and those deprived of liberty shall have the right to humane treatment and respect for dignity<sup>5</sup>”.

The Criminal Procedure Code of the Republic of Armenia<sup>6</sup> (CPC) and the Penitentiary Code<sup>7</sup> include the prohibition of torture and other forms of ill-treatment as one of their key principles. Part 7 of Article 11 of CPC is an expanded provision that, in addition to mentioning of torture and cruel treatment, contains an illustrative catalogue of such acts. It lists an unlawful physical violence and mental pressure, use of drugs, deprivation of food, hypnosis, deprivation of medical aid and so on. It also forbids use of force, threats, deceit, violation of rights, and other unlawful methods of obtaining a testimony from a suspect, accused, defendant, injured party, witness, and other participants of criminal proceedings.

Torture is criminalized and defined in Article 119 of the RA Criminal Code. Under this Article torture – any action through which a severe pain or physical or mental suffering is intentionally caused to a person, where it has not resulted in consequences provided for in Article 112 and 113 of the Criminal Code (harm of utmost or medium gravity intentionally caused to person’s health). Such act is punishable by imprisonment for up to 3 years, and in case of aggravated circumstances, which, *inter alia*, includes those committed in relation to minor, by imprisonment for a term of three to seven years.

The definition provided by the law does not comply with Article 1 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment<sup>8</sup>.

It does not include harm of medium or upmost gravity intentionally caused to person’s health, thereby making torture look a lesser public threat, as it qualifies torture as a crime of medium gravity<sup>9</sup>. Corpus delicti (definition) of torture as prescribed by Article 119 of RA Criminal Code does

5 The term “ill-treatment” is not directly used in the RA legislation. It incorporates the meanings of torture, inhuman and degrading treatment in the context of combating torture and impunity. In the international legislation ill-treatment incorporates the meanings of cruel, inhuman and degrading treatment, which is distinguished from torture based on two main criteria; the intensity of the suffering, and the purpose.

6 Criminal Procedure Code, Article 9 (part 3) “In the course of criminal proceedings, nobody shall be subjected to degrading treatment, and kept in conditions humiliating human dignity”.

7 Penitentiary Code, Article 6 (part 2) “A person deprived of his liberty based on the court decision shall not be subjected to torture or other cruel, inhuman and degrading treatment or punishment. No circumstance can justify torture or other cruel, inhumane or degrading treatment or punishment”.

8 UN Convention against torture, Article 1 “the term torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.

9 Deliberate infliction of heavy injury (Art.112) is punishable by imprisonment for 3 to 7 years, or 5 to 10 years if there are aggravating circumstances, and deliberate infliction of damage to health of medium gravity is punishable by a prison sentence of up to 3 years, or up

not include elements of specific purpose and specific actor. Article 119 does not restrict torture to acts undertaken by state agents, and it is generally applied in the context of horizontal relations between two citizens, without any involvement of state agents.

The regime of opening a criminal case in private prosecution to the *corpus delicti* of “torture” is applied<sup>10</sup>; in which case the victim’s complaint is required for instituting a criminal case and in the event of reconciliation between the victim and the perpetrator (suspect, the accused or the defendant) of the crime, the criminal case is closed.

According to statistics provided by the RA Judicial Department for the period of 2010–2011 nobody was convicted under Article 119 for the torture and/or ill-treatment towards a juvenile. In particular, in 2010 there was no conviction at all. In 2011 there were 3 convictions, and none of them involved ill-treatment towards juvenile. RA legislation does not restrict application of amnesty to the perpetrators of torture and ill-treatment, so 2 people out of 3 convicted in 2011 were released based on amnesty.

In addition to Article 119, Article 341(2) of the Criminal Code also criminalizes certain instances of torture. Thus it stipulates that a judge, prosecutor, investigator or person carrying out an inquest, who uses torture or other violence to compel a witness, suspect, accused, person on trial or victim to testify, or to compel an expert to issue a false opinion, or a translator to provide an incorrect translation, is punishable with three to eight years imprisonment.

This article criminalizes as torture instances of coercion to give testimony or bear false witness *only in the context of legal proceedings*. It does not therefore criminalize torture in the sense of that word under the Convention, where it is perpetrated by or at the instigation of a public official in numerous other spheres, such as in penitentiary institutions, in the armed forces, etc.<sup>11</sup>

In addition, severe pain or suffering inflicted by an investigator or policeman with the purpose of extracting a testimony from a person who does not have any legal status or to obtain an explanation, information or confession are not covered by the definition.

According to the statistics provided by the RA Judicial Department there was no conviction under Article 341 (2) for the period of 2010–2012 May at all.

The absence of the proper *corpus delicti* of torture results in prosecution of the perpetrator of the acts, which fall under the definition of torture given by the Convention, under other Articles of Criminal Code, e.g. for abuse or exceeding of powers.

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to five years with aggravating circumstances.

10 RA Criminal Procedure Code, Article 183

11 UNDP, Research on the implementation by Armenian Courts of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 2009, Yerevan, p. 10, available at

[http://www.undp.am/docs/publications/CAT\\_report\\_2009\\_eng.pdf](http://www.undp.am/docs/publications/CAT_report_2009_eng.pdf).

According to the statistics provided by the RA Judicial department no conviction was made under Article 308 (abuse of powers) and Article 309 (exceeding powers) with relation to ill-treatment or torture towards a juvenile for the period of 2010–2012 May.

Armenian legislation does not contain functioning laws or procedures specializing in juvenile justice as a comprehensive approach to administering justice with regard to juveniles. Instead, the CPC<sup>12</sup> and Criminal Code<sup>13</sup> include separate chapters on the peculiarities of prosecution and sentencing of juvenile defendants and a number of other provisions scattered throughout the codes.

### Recommendation

- *Amend the Criminal Code and relevant legislation to define torture and ill-treatment according to the provisions of the UN Convention against Torture, and Other Cruel, Inhuman and Degrading Treatment or Punishment.*

### Reparations

Harm caused to a citizen or legal person as a result of illegal activity of agencies of inquiry, preliminary investigation, or prosecution bodies are compensated on the basis and by the procedure that are provided by Article 1063<sup>14</sup>, and Article 1064<sup>15</sup> of the RA Civil Code.

The rules of compensation are defined by Article 17 of the RA Civil Code. A person whose right has been violated may demand full compensation for the losses, which means the expenses that the person whose right was violated made or must make to reinstate the right that was violated, the loss of or injury to his property (actual damage), and also income not received that this person would have received under the usual conditions of civil commerce if his right had not been violated (forgone benefit). So compensation only for pecuniary damages is envisaged by RA legislation.

Article 1081 of the RA Civil Code provides for the compensation for harm to persons borne damage as the result of the death of the victim, if he is a breadwinner. The law lists the people who have a right to compensation, which include also persons not capable of work that were dependent upon

<sup>12</sup> RA Criminal Procedure Code, Chapter 50

<sup>13</sup> RA Criminal Code, Chapter 14

<sup>14</sup> RA Civil Code, Article 1063 “Harm caused to a citizen or legal person as the result of illegal actions (or inactions) of state bodies, bodies of local self-government or officials of these bodies, including as the result of the issuance of an act of a state body or an act of a body of local self-government not corresponding to a statute or other legal act, is subject to compensation by the Republic of Armenia or the respective commune”.

<sup>15</sup> RA Civil Code Article 1064.1 “1.Harm caused to a citizen as the result of illegal conviction, illegal bringing to criminal liability, illegal application as a measure of restraint of confinement under guard or signed commitment not to depart, or illegal imposition of an administrative penalty, shall be compensated by the Republic of Armenia in full regardless of the fault of the officials of the agencies of inquiry, preliminary investigation, prosecution bodies, and the court, by the procedure established by a statute”.

support by the decedent, one of the parents, spouse, or other member of the family regardless of ability to work who does not work and engages in care of children of the decedent who were dependent upon support by the decedent.

The persons liable for the harm caused by the death of the victim are also obligated to compensate for the necessary funeral expenses to the person who has borne these expenses<sup>16</sup>.

No other instances of compensation to families of the victims of torture, or ill-treatment who are deceased is provided by the law.

The law does not provide means of reparation for victims of torture other than financial compensation.

### Recommendation

- *Amendments should be made to the legislation including provisions on rehabilitation for damages caused by torture in accordance with Article 14 of the UN Convention against torture<sup>17</sup>. Rehabilitation services, including medical and psychosocial rehabilitation programs should be developed and provided to the victims.*

## Standards regarding the use of force

The Law on Police encloses the explicit prohibition of torture and ill-treatment. Article 5 combines both the clause referring to torture, inhuman and degrading treatment and the detailed provisions on the fundamental safeguards against them.

In addition, Articles 29–32 of the same law set specific grounds, conditions and limits on use of physical force, special means and firearms.<sup>18</sup> These provisions explicitly state that a violation of the prohibition of ill-treatment or the rules on use of force, special means and firearms will entail a liability as provided by the legislation<sup>19</sup>. Article 31 and Article 32 of the law prohibit use of special means (which include among other things, handcuffs) and firearms with regard to juveniles, except for the cases of armed attack by them, armed resistance, group attacks threatening human life and health. Article 29 obliges the policeman to report of any instances of use of firearms, of any injuries or death resulting from the use of physical force, special means, and firearms to his superior.

<sup>16</sup> RA Civil Code, Article 1087

<sup>17</sup> UN Convention against Torture, Article 14 “1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation”.

<sup>18</sup> It should be mentioned that the clauses underwent several amendments within last years.

<sup>19</sup> See below

The use of force, special means and firearms by the staff of the penitentiary institutions<sup>20</sup> is regulated by Articles 47–51 of the Law on Penitentiary Service. Article 49 and Article 50 of the law prohibits usage of arms or special means with regard to juveniles, except for the cases of armed resistance by them and actions which threaten the life and health of the penitentiary servant.

Physical force can be used by the penitentiary servant in the instances of disobedience to lawful demands of the penitentiary servant or challenging the implementation of the responsibilities of the penitentiary servant<sup>21</sup>. Exceeding the limits of usage of physical force, special means and arms will entail a liability as provided by the legislation<sup>22</sup>.

According to part 3 of Article 51 of the law in case of usage of physical force, special means and arms the penitentiary servant shall report to his supervisor, and in all instances of usage of arms he will report also to the prosecutor. Any instances of injuries or death shall be reported to the relevant bodies of health protection and prosecutor's office by the head of the Penitentiary Department or an official substituting him.

## Disciplinary sanction of solitary confinement

The legislation on the custody of remand prisoners and convicted prisoners contains some provisions that are incompatible with international standards, such as those authorizing solitary confinement of juveniles as a penalty for five or ten days<sup>23</sup>.

Penalties are applied by a decision of the head of the place of detention. When applying the penalties, the circumstances of the violation, the detainee's personality and behavior before the violation shall be taken into consideration. The penalty applied must correspond to the gravity and nature of the violation<sup>24</sup>. Prior to choosing the penalty, the remand prisoners should provide written explanation; if he/she refuses to provide one, an appropriate protocol shall be drawn to this effect. Every day, the relevant medical employee and the on-duty servant shall visit remand prisoners or convicts held in the punishment cell and record such visits in the appropriate journal.

Internal Regulation<sup>25</sup> specifies instances when remand prisoners or convicts may be transferred to a punishment cell, which are;

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20 Penitentiary institution includes the places where both remand prisoners, and convicted people are kept.

21 Law on Penitentiary Service, Article 48

22 Law on Penitentiary Service, Article 51, 4

23 Law on Treatment of Arrestees and Remand prisoners, Article 35 (up to five days for juvenile remand prisoners); Criminal Executive Code, Article 95 (ten days for convicted juvenile prisoners).

24 Law on Treatment of Arrestees and Detainees, Article 35

25 Internal regulation of Places of Holding Remand Prisoners and Correctional Institutions of the Penitentiary Service under the Ministry of Justice, para 223

1. Exerting pressure on or insulting other detainees or convicts, or attacking a representative of the administration of the place of holding detainees or the correctional institution, or attacking other persons;
2. Failing to obey the lawful demands of a representative of the administration of the place of holding detainees or the correctional institution;
3. Keeping, using, and preparing prohibited objects, items, and food products; or
4. Damaging the property of the place of holding remand prisoners or the correctional institution.

This legislation violates international and European standards on the rights of juvenile prisoners<sup>26</sup>.

Solitary confinement as a disciplinary measure towards juveniles is qualified as a form of cruel, inhuman or degrading treatment<sup>27</sup>.

### Recommendation

- *Make amendments to the law and exclude solitary confinement as a form of disciplinary measure towards juveniles.*

## Bodies conducting investigation

Articles 175 and 180 of the CPC set a formal obligation of the competent authorities; the prosecutors' office, investigator, and body of inquest to initiate a criminal case upon receiving an indication that an offence has been committed.

The reasons for initiation of criminal prosecution are: oral or written statements of physical persons and legal entities. If the applicant is 16 years old, he is warned about the liability for fraudulent representation which is confirmed by his signature.

The causes for initiation of criminal case also include mass media reports about crimes, the discovery of information about crime, material signs, or consequences of crimes by the investigation body, the investigator, the prosecutor, the court and the judge in their line of duty<sup>28</sup>.

<sup>26</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 67. See also Rule 95.3 of the European Rules for Juvenile Offenders subject to sanctions or measures.

<sup>27</sup> "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including 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." United Nations Rules on the Protection of Children Deprived of their Liberty, Rule 63

<sup>28</sup> RA CPC Articles 176-180

Upon receiving allegations of crimes, within the period of 10 days, they should be verified as to sufficiency of grounds and reasons for initiation of a criminal case (Article 180 of the CPC). If it is found that there are enough grounds and reasons for initiating a criminal case, a formal decision is made by the prosecutor, or body conducting investigations.

The investigations department was removed from the system of the prosecutor's office in the course of judicial and legal reforms in the Republic of Armenia in 2007. Currently the prosecutor's office exercises control over the legality of pre-trial investigation and inquiry<sup>29</sup>, but cannot carry out investigative actions. Upon receiving a statement concerning torture, the prosecutor's office should consider it to be a communication about a crime and send it to a designated entity for investigation.

The same prosecutor exercises three powers relating to the same case. He supervises the legality of an investigation, approves the indictment and defends the charges in the court. This fact creates a situation where a prosecutor is not interested in preventing abuses during an investigation, because they are in need of the evidence collected by the investigator, whether lawfully or not. The prosecution is also not motivated to exclude unlawfully obtained evidence, because accepting that the evidence is tainted equates to accepting that the prosecution has failed to carry out its supervisory functions during investigation properly.

In late 2007, a separate agency specializing in the investigation of potential cases of abuse by public officials, the Special Investigation Service (SIS), was established. The law instituting the SIS entered into force on 1 December 2007. The Head of the SIS is appointed by the Armenian President, upon the recommendation of the Prosecutor General. According to Article 190, part 6 of the Criminal Procedure Code, SIS investigators conduct pre-trial investigations into crimes committed by persons performing a special State service or situations in which such persons have become accomplices in connection with their official position. As with other investigative bodies, the Office of the Prosecutor General exercises control over the legality SIS investigations. The SIS cooperates with the police, but does not have any direct connection to them. It is not responsible for their work, and vice versa.

In practice, however, verification of the majority of torture allegations is carried out by police investigators.<sup>30</sup> There are no guidelines requiring cases to be forwarded to the Special Investigation Service. Moreover, Article 53(2) point 3 of the Criminal Procedure Code empowers the Prosecutor to remove a criminal case from a body of inquiry and pass it to a preliminary investigation body, or pass a case between preliminary investigation bodies, in order to ensure a comprehensive and objective investigation pursuant to Article 190 of the Criminal Procedure Code.

<sup>29</sup> RA Constitution, Article 103 which stipulates the powers of the Prosecutors' office

<sup>30</sup> Eric Svanidze, Country Report on Armenia, "Combating ill-treatment and impunity and effective investigation of ill-treatment", "Antares", 2010 Yerevan, para. 41.

The requirement for a proper investigation into communications concerning torture is jeopardized from the very beginning by these arrangements in the law-enforcement system. This is because communications about torture are investigated within the framework of the very entity to which the perpetrators of such acts of torture themselves belong.

During the interviews the experts also identified this issue, and made recommendation to ensure that de facto independent body will be tasked with investigation of the cases involving ill-treatment or torture.

### Recommendations

- *Take measures to ensure the independent, efficient investigation of cases of torture and ill-treatment;*
- *Amend the law so that to ensure that all officials alleged to be responsible for torture and/or ill-treatment are suspended from their duties while any investigation into the allegations is in progress;*
- *Adopt structural reforms to ensure that all allegations of torture be duly and promptly reported to and investigated by the Special Investigation Service (SIS);*
- *Prosecutors exercising supervision over the legality of an investigation conducted by the SIS should be different from the prosecutors exercising supervision over the legality of an investigation conducted by the Police;*
- *Prosecutors supervising the legality of an investigation into a case and prosecutors presenting such cases in court should be different.*

### Internal Investigation/Disciplinary proceedings

The disciplinary regulations of the Armenian police that comprise of the relevant provisions of the Law on the Police of 16.04.2001 and the special Law on the Disciplinary Statute of the Police of 11.04.2005 provide a list of causes for initiation of internal investigations. Article 18 of the Disciplinary Statute of the Police provides for the written reports by the natural and legal persons, by the parliament members, Human rights' defender, Prosecutor, police officers, other relevant state bodies.

Internal investigations involve interviewing of police officers and other persons, examination of documentation and registers and some other procedural actions. Internal investigations should be completed within 30 days. This term can be formally extended for another 30 days by the superior police official. Results of each internal investigation together with the proposals as to disciplinary

measures to be applied are set down in conclusions drawn by the officer responsible for the inquiry.

Article 8.3 of the Disciplinary Statute of the Police provides for parallel accountability of police officers both under criminal and disciplinary frameworks, which means that they do not exclude each other.

Article 42 of RA law on Police Service of 03.07.2002 lists the disciplinary sanctions: reprimand, severe reprimand, reduction of salary rate, warning on unfitness to the position held, demotions in rank and positions by one step, and removal from police service.

Removal from police service can be applied only in case of severe disciplinary violations, which among other things include violation of citizens' Constitutional rights.

The disciplinary proceedings and disciplinary sanctions in relation to the officers of penitentiary institutions are stipulated by the RA Law on "Penitentiary Service" of 08.07.2005. The disciplinary sanctions are applied by the RA Minister of Justice, with the exception of the sanction of demotion in rank by one step, which is applied by the head of the Penitentiary Service with approval of the Minister of Justice. The disciplinary sanctions of demotions in rank and positions by one step, and removal from penitentiary service are applied only on the basis of internal investigations. The procedure of appointment and implementation of internal investigation is regulated by KH-46-N order adopted by the RA Minister of Justice in 29.08.2006.

Internal investigation is conducted in the central body of the penitentiary service, penitentiary agency, penitentiary institutions, in case of necessity also in other institutions (para. 15). During internal investigations in case of revealing signs of criminal act the relevant state bodies must be informed about it (para.5).

However, there is no mechanism that would maintain an outside control over obligations of the internal structures to report such cases. The prosecutors do not supervise a legality of internal investigations.

## PUBLIC MONITORING GROUPS

Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 18 December 2002 was ratified by the Republic of Armenia on May 31, 2006. As a result, amendments were made to the law on the Human Rights Defender of the Republic of Armenia designating the RA Human Rights Defender (Ombudsman) a national preventive mechanism.

A Department for the Prevention of Torture and Violence consisting of 2 staff members was established at the Human rights defender's office in 2011. In addition, the Torture Prevention Expert Council of 11 members was set up<sup>31</sup>, which includes representatives from NGOs<sup>32</sup> and three independent experts who have been specialized in psychology, sociology and law. The members of the Expert Council are appointed by the Human rights defender and work on volunteer basis. They plan their activities and conduct monitoring of the relevant institutions; penitentiaries, police departments, military units, psychiatric hospitals, orphanages, special schools, care homes of the Republic of Armenia aimed at revelation and prevention of cases of torture and other inhuman or degrading treatment or punishment.

Since 2012 March, more than 28 visits have been conducted. The territory to be covered by the NPM activities includes capital Yerevan and all the marzes (provinces) of the Republic of Armenia.

Even before establishment of the National Preventive Mechanism a group of public observers of penitentiary institutions and bodies of the Ministry of Justice had been set up based on KH-66-N order of the Minister of Justice adopted in 2004. It is composed of 9 representatives of NGOs, and 9 experts who work on voluntary basis.

The group has access to the penitentiary institutions, where remand prisoners and convicts are held. The group can conduct both scheduled and non-scheduled visits. Concerning urgent issue, it prepares an ad hoc report and raises the issue before the Minister of Justice.

When a complaint is received by the Group members (remand prisoners, inmates and their relatives can contact the group on phone or in writing), they may visit the penitentiary institution, talk to the inmate and the representatives of the administration.

Similarly, a group of public observers for places where arrested people are kept under the Police was established under 1-N order of the Head of Police in 2005. It is also comprised of NGO

<sup>31</sup> The Council can include up to 20 members.

<sup>32</sup> In particular, representatives from "Civil Society Institution" NGO, "Foundation Against the Violation of Law" NGO, "The Armenian Children's Association" NGO, "TRTU" NGO, "Armenian Association of Physicians after Grigor Magistros" NGO, "Social Justice" NGO and "Project Harmony International" NGO.

representatives, who work on voluntary basis. This group has access to the temporary detention facilities of the police, where arrestees are kept and monitors conditions in these facilities.

One of the operational shortcomings of the group is that it does not have access to the police stations, where most cases of torture or ill-treatment take place. Arrested persons are interrogated at police stations, investigators' offices, where pressure may be exerted.

## SPECIALIZATION OF THE BODIES

In the Republic of Armenia (RA), there are no specialized juvenile courts. Even though trainings have been organized by UNICEF and the RA Judicial School, they were inconsistently held and accommodated a very limited number of participants on an ad hoc basis. Furthermore, there is no coherent practice of assigning the juvenile cases to the judges who have participated in the trainings and have more professional experience in realm of juvenile justice.

In 2008, July 17 to 19 and July 24 to 26 UNICEF has organized two training sessions for judges, prosecutors and police officers.

According to the information provided by the Court of Cassation, training for two days for 20 judges was provided by the Judicial School. 17 of those judges were from courts of general jurisdiction and 3 of the judges were from the appeals courts. A total number of 220 judges make up the judicial system of the RA<sup>33</sup>.

World Vision has been consistently organizing trainings for judges of the courts of general jurisdiction for nearly two years. One judge from each district court is recruited for training. The trainings last 2-3 days and are held 3 times per year.

The limited number of judges trained cannot ensure a specialized approach to all juvenile cases throughout the judicial system. However, judges have stated in interviews that in almost all courts, there is at least one judge assigned to examine juvenile cases. Juvenile cases are usually forwarded to these specific judges.

*“Each court has a judge who generally examines the juvenile cases,” stated a judge from the Court of General Jurisdiction of Aragatsotni marz). Another judge from the Court of Cassation stated that “generally the same judges handle the cases, although they do not have special qualification.”*

There are very few young, flexible judges who are guided by the interest of children and likely to impose relatively mild punishment, so as the child is not negatively affected. An advocate from Yerevan gives an account of how stereotypes play a role in imposing punishment and the rehabilitation and education approach is much less common. *“A child from a boarding school, from an extremely poor family, whose parents are mentally retarded, came home for New Year; TV channels were not working, he stole satellite, but it did not work either, and he stole another one, he was caught by the police. I was persuading the judge to apply to educative measures, but according to Article 70 of the Criminal Code, it was decided not to apply punishment conditionally”.*

<sup>33</sup> Information is provided by the RA Court of Cassation

The following examples mentioned by the judges demonstrate the unique professional approach to offenses committed by the juveniles:

- *“In all my practice, only once I sentenced the juvenile to imprisonment of four months, since he committed sexual encroachment against 6-year old child. In all other cases, I sentence to a conditional term, since I think that every child may change, and one should not kill the future of the child.” (Judge, Court of General Jurisdiction of Aragatsotni marz);*
- *“The first time juvenile offender should not be sentenced. Now there is a case pending in Kentron court. The child stole AMD 10000, he was sentenced, and now I am waiting for the case to be forwarded to me, so I can take the child under my wing. I sentenced the person convicted for the fifth time to imprisonment for five years, although the prosecutor required six years. That 50-year old man told me, “I wish the first judge who sentenced me when I was a juvenile was like you. My life would not have continued this way.” I always remember this.” (Judge, Court of Appeals).*

There is no specialized unit to prosecute juvenile cases within the Prosecution or among investigators within the police department.

There is a special unit on minors within the police department, which carries out juvenile delinquency preventive activities, and undertakes the responsibility mainly through the “registration” of children at risk.

As a result of cooperation between the police and Project Harmony International-Armenia, a community-based prevention and rehabilitation program was launched<sup>34</sup>. It is operational in ten cities: Yerevan, Gyumri, Vanadzor, Alaverdi, Chambarak, Ijevan, Talin, Kapan, Artashat and Echmiadzin. Children are referred to the Community Justice Centers (CJC) by police departments, schools and the community members. Among the juveniles referred to the Community justice centers are children who are both registered and not registered in the police rosters.

These centers mainly work with children under the age of criminal responsibility who were registered at the police departments or children under 18 years of age who have committed minor offenses. The Center consists of restorative board members, psychologists, teachers, social workers etc., who facilitate rehabilitative activities for children. In addition, a good number of active community members also volunteer for the centers. In 2010, 78 juveniles were referred to these centers by the police. In 2011 and 2012 as of 30 September, the number of juveniles referred

<sup>34</sup> With financial support from U.S. State Department (2003–present) and with modest co-funding from UNICEF via an EU program (2010–present), Project Harmony International-Armenia, in cooperation with the RA Police has been implementing a community-based prevention and rehabilitation initiative called ZANG Armenia Legal Socialization Program. One of the components of the program is the establishment of Community Justice Centers and their capacity building in Armenia.

to the CJs is 138.

“Children’s Support Center” of Armenian Relief Fund established two day-care rehabilitation centers, the operation of which was launched in 2011<sup>35</sup>. The centers operate in Yerevan and Abovyan cities. Since establishment of the centers, they have worked with total 101 children. Children are referred to these centers by the Police, the Departments of Protection of the Rights of Family, Women and Children, and in Yerevan– the department of Children’s Rights Protection, the Guardianship and Trusteeship Committees and schools.

In addition to judges, both advocates and prosecutors participate in various trainings on proceedings involving juveniles. According to the respondents, the staff of the police, PHAPs, PIs, special schools and community centers also participated in relevant trainings on the rights of the child. However, there has been difficulty in training with regard to developing the skills necessary to reveal the traces of ill-treatment and torture and assessing moral and psychological stress.

There is a medical representative only in Yerevan PHAP, who has not been trained on revealing the traces of torture or ill-treatment and does not have relevant qualification to assess the moral and psychological stress and ill-treatment. The other PHAPs do not have any medical practitioners at all. The medical staff of PIs has not been trained on how to reveal the traces of torture or ill-treatment and is not qualified to assess the psychological stress and ill-treatment as well.

The staff of PHAPs and PIs has been trained on the rights of the child, as well as on the main issues of torture or ill-treatment. However, such trainings are not conducted consistently and regularly.

The staff of the PI and the PHAP, as well as the investigators, indicated that the commitment to working with the juveniles and respect for their rights is a precondition for recruitment of the staff for the institution, whereas the prosecutor, judges and advocates stated that this kind of precondition is difficult to ensure in recruiting members of their profession<sup>36</sup>. Moreover, work with juveniles accounts for small portion of the general work.

One more problem was identified concerning the qualification of investigators working with juveniles. At the beginning of their career the investigators deal with juvenile cases. After accumulating the experience, they are transferred to other units. *“A 25-year young investigator interrogates the child, whereas he does not have any child, which is wrong,” stated a judge from the Court of General Jurisdiction of Aragatsotni marz).*

A precondition for recruitment of the employees of the NGOs is the commitment to work with the juveniles and respect for their rights. The staff of both the community justice centers and

<sup>35</sup> The centers were established within the framework of the project “Promotion of modern concepts in the administration of juvenile justice in Armenia” funded by EU.

<sup>36</sup> For instance, one of the experts mentioned that there is a lack of investigators

special schools has also participated in the training on the rights of the child, as well as on the consequences of torture and ill-treatment.

Based on the RA Government decree N 952n of 26 July 2012 the program of introduction of integrated social services is approved. The aims of the integrated social services is to reveal the factors which create social shortages for a person (family), their interconnection and causation links by assessing the needs of the person (family), as well as to take measures to eliminate negative impact of these factors and to meet the needs. The integrated social services shall take 3 forms; social-administrative services, general professional services, specific professional services<sup>37</sup>. Thus, certain attempts are made to show a preference for social approach to the treatment of juveniles, the importance of which is highlighted in a number of UN instruments<sup>38</sup>.

### Recommendations

- *Within the framework of the ongoing reform on introduction of integrated social services, these services should establish cooperation with the Community Justice Centers, Police, Special Schools and other bodies dealing with the issues related to juveniles by conducting individual juvenile case management;*
- *Services should be established to provide rehabilitation, psychosocial, legal assistance to torture victims (this can be done with the involvement of integrated social services);*
- *Training manuals on Juvenile Justice should be prepared and mandatory pre-service and in-service trainings should be organized for all of the actors involved in the field, namely judges, investigators, advocates;*
- *Curriculum on human rights should be prepared for main stream schools, with a focus on criminal proceedings and torture, and ill-treatment issues and the rights of the child;*
- *Develop ethical guidelines for the judges, investigators, advocates working on a juvenile case.*

<sup>37</sup> RA Government decree Number 952N, adopted on 26 July 2012, paragraphs 19, 20,

<sup>38</sup> Beijing Rules, Rules 1.1-1.6, Riyadh Guidelines, para 9, 11, 15

## TYPES AND REASONS OF THE OFFENCES COMMITTED BY JUVENILES

According to the experts juveniles more often commit property crimes (i.e. theft and robbery) as well as crimes against persons (i.e. assault, battery, etc.). According to juveniles, their reasons for coming into contact with law enforcement are as follows:

1. theft, suspicion of theft – 45%
2. engaging in fighting – 8%
3. conviction of stabbing – 7%
4. registration (begging, vagabondism) – 6%
5. group robbery – 6%
6. hooliganism – 4%
7. skipping class – 3%
8. witnessing an accident – 3%
9. abducting a girl – 2%
10. accusation of crime, (did not want to specify the exact types) – 2%
11. wrong number call, firefighting service – 2%
12. use of guns – 2%
13. accusation of murder – 1%
14. extortion with fatal outcome – 1%
15. suspicion of rape – 1%
16. forgery – 1%
17. starting a fire – 1%
18. giving false testimonies – 1%
19. car accident – 1%
20. escape from military academy – 1%
21. escape from home – 1%

22. writing an explanation note – 1%

23. personal security so as not to be injured – 1%

As the above-mentioned data demonstrate, the reasons of juveniles' encounters with the police are various.

The Community Justice Centers carry out more work with children with a behavior such as begging, or vagrancy, and intervene when there is a problem of skipping classes.

With regard to the reasons of the juvenile crimes, the experts (interviewed judges, advocates, prosecutor, NGO representatives) highlighted a number of reasons, including:

- unfavorable family environment, abandonment by parents;
- self-esteem issues during adolescence;
- difficult social situation, poverty;
- negative influence from surrounding;
- negative mass media, film series;
- insufficient preventive measures by school;
- decline in the educational level (many children do not continue their education in high school after the basic school, barely finishing the 9<sup>th</sup> grade);
- deteriorated value system, as a result of which the juvenile “*does not understand right and wrong*”;
- criminal and legal character of the person; (Prosecutor stated that “*once the juvenile commits a crime and a trial period (probation) is imposed as a penalty according to RA Criminal Code, Article 70- in this case he or she may develop a sense of impunity.*”)
- lack of the appropriate behavior culture and widespread intolerance;
- increasing influence of criminal world, “criminal” subculture mentality of the juvenile;
- juvenile mental condition, presence of neurological problems;
- aggression.

The experts indicate an increase in juvenile crimes, which is due to the above-mentioned reasons and their complex effect. *“In the 80s, 8-10 juvenile cases reached the court. The lowest rate in the whole territory of the USSR was recorded in Armenia. And about five years ago, the number of juveniles was already 500-600 per year,”* stated a Yerevan judge.

23% (20 juveniles) of the interviewed juveniles have never had any encounters with the police. 77% (66 juveniles) of the respondent juveniles had encounters with the police. Namely 37% as a suspect, 35% as a defendant, 18% without any status, 6% as a witness, 2% as a victim; 2% is only registered by the police.

The study showed that for 40% (27 juveniles) of juveniles, out of 77% (66 juveniles) who had contact with the police, was the first and the only such experience. 23% (16 juveniles) had encounters with the police twice, 12% (8 juveniles) had encounters three times, 5% (3 juveniles) four times, 7% (4 juveniles) five times, 2% (1 juvenile) six times, and another 2% (1 juvenile) had nine encounters. 8% (5 juveniles) could not mention a precise number and answered “many times, very often.”

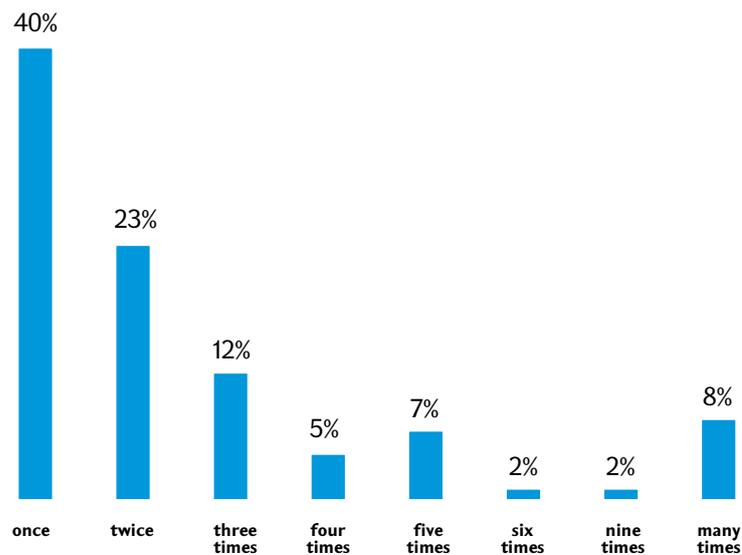


Diagram 1. How many times have you encountered the police?

## TREATMENT

When assessing the treatment of juveniles by the staff of any institution, the juveniles' responses to the question "how have you been treated in the institution?" were as follows: 35% mentioned that they were treated very politely, 58% estimated the treatment towards them as normal; 1% (1 person) mentioned that they were humiliated, and 1% (1 person) gave other responses. The comparison of the responses of the juveniles detained in different institutions showed that children in the Community Justice Centers and day care rehabilitation centers mentioned only "very politely" and "normally" responses. Only the respondents detained in PIs (3%) (1 juvenile) mentioned the response "I was humiliated" and 3% of the children of N1 Republican special school (in Vardashen) gave other responses, explaining that "when we make them angry, as a punishment, we are forbidden to visit group classes."

	PI	Community Centers (Project Harmony)	Day Care Centers of FAR	Special School	Total
Very politely	37% (12 juveniles)	78% (14 juveniles)	29% (2 juveniles)	21% (6 juveniles)	39% (33 juveniles)
Normally	59% (19 juveniles)	22% (4 juveniles)	71% (5 juveniles)	76% (22 juveniles)	58% (48 juveniles)
Rudely	0%	0%	0%	0%	0%
I was humiliated	3% (1 juvenile)	0%	0%	0%	1% (1 juvenile)
Other	0%	0%	0%	3% (1 juvenile)	1% (1 juvenile)

Table 1. 39 How have you been treated in the institution?

Trying to explain the response "very politely," the children gave the following comments: "I have been treated very well," "I have been treated like a friend," "I have been treated respectfully and benignly," "I have been treated like one family." The children who gave the response "normally" commented on their responses in the following way:

- Humanly, respectfully, freely;
- It was possible to use everything allowed under law, everything was under control;

39 During the survey 8 juveniles reported on torture and/or ill-treatment. The data presented in Table 1 are based on the juveniles' direct answers to the question concerning treatment in different institutions. These data clearly reflect the juveniles' perception of treatment standards in such kind of institutions. Torture is often defined as "normal".

- *I did not see anything bad;*
- *Treated like a friend, relative, one family;*
- *If I run away, the punishments are not very strict, I was only deprived of my favorite occupation<sup>40</sup>.*

With regard to the response “*I was humiliated,*” which was given by one of the remand children detained in the PI, he explained that he was beaten.

8 children (5 persons of which were detained in Abovyan PI at the moment of the study), mentioned that they were subjected to physical violence. ***Out of 8 children 7 were male and 1 female. All 8 children were subjected to physical violence in the police station, one of them (female) was subjected to physical violence both in the police station and penitentiary institution. The following details were provided:***

- *“I was beaten, cursed and threatened by the police;”*
- *“I was beaten, my nails were put under the door and beaten, they beat my feet with a baton, the gun was pointed at my head;”*
- *“I was beaten by the police, forced to stand, no water was provided, no food was provided for three days, and I was not allowed to go to the toilet for 2 days.”*
- *“One full day I was taken from the investigator’s room to another room where I was beaten by the operators officers, then was taken back to the investigator’s room. This was repeated several times. They wanted me to sign the protocol”.*

Most of them were not able to specify who inflicted physical pressure in the police station–investigator or operations officer or other policemen.

In addition, 2 children mentioned that they were treated in police rudely; however they were not willing to give details.

The juveniles explained the reason of ill-treatment and torture by the police as the intention to obtain testimonies: *“they thought I had committed more crimes, they wanted me to take the blame upon me,” “I didn’t confess,” “to give testimonies, confess, I was forced to say the places of any thieves or drug users,” “forced to sign the protocol.”*

Underreporting of the cases of torture and ill-treatment by children is one of the core problems. The children are reluctant to tell about these cases because they fear retaliation and have no trust

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<sup>40</sup> This response is given by one of the students of special school.

in the system. Impunity convinces most victims that the risks involved in making a complaint—the risk of punishment and retaliation—far outweigh the very small possibility that the perpetrator will be punished, and the lack of complaints contributes to the false perception that the problem is not serious one.

51% of the surveyed juveniles heard of ill-treatment and torture of other children, including beating, sexual violence, cursing, case of intimidation, threats.

Two of the respondents told an adult (friends, father) about ill-treatment/torture, but the other two did not. One of these juveniles did not tell an adult about it in order not to cause “*more distress*,” and the other one mentioned that there is nobody whom he could tell.

### Treatment by Police

45% of the respondent juveniles who had contact with police could not answer who arrested or apprehended them; 41% mentioned that they were apprehended by the operations officers, 7% by the investigator, and 3% came to the police voluntarily. 2% said the district police officer called and asked him to come to the police, where he was caught, and 2% said the traffic police apprehended them.

65% (43 juveniles) of the juveniles who had encounters with the police mentioned that they were informed by the police of the reasons of the arrest/apprehension; 21% (14 juveniles) mentioned that they were not informed, 10% (7 juveniles) mentioned the response “*I don’t know*”. 2% (one respondent) mentioned that “*I was asked to confess to committing it*,” another 2% (one respondent) refused to answer the question.

With regard to the treatment of juveniles in the police stations, 12% of the respondents mentioned the response “*very politely*,” 65% “*normally*,” 12% “*rudely*,” 6% mentioned that they were “*humiliated*,” 4% gave the response “*other*.”

Very politely	12%
Normally	65%
Rudely	12%
I was humiliated	6%
Other	4%

Table. How have you been treated in the police station?

The juveniles did not comment on “very polite” treatment; only one respondent mentioned that he was treated politely, because they knew who he was (probably he meant his parents).

And while commenting on normal treatment in the police station, the juveniles very often mentioned the following examples: *“the investigator spoke rudely”* and *“I got a slap in the face,”* The others explained that they were treated *“neither well nor badly,” “as it is should be,” “a little bit angry,” “within moral limits;”* one respondent stated the following: *“I was offered coffee and a cigarette.”* Some respondents also mentioned the reasons of “normal” treatment with the following statements: *“I immediately confessed,” “because my parents and judges were present,” and “because my father is a military servant.”*

When commenting on the cases of rude treatment in the police stations, the juveniles mentioned that they were beaten, subjected to physical pressure (8 juveniles gave similar responses), they were cursed (6 juveniles gave similar responses). The juveniles who gave the response *“I was humiliated”* explained it as follows: *“I was cursed at,” “I was beaten, hit,” “I was told that my head will be shaved.”* There were also such cases when the juvenile was not given water and not allowed to go to the toilet for two days. One of the children who gave the response *“other”* mentioned that he was screamed at.

### Treatment in the PHAPs

The juveniles detained in the PHAPs assessed the treatment towards them as follows: 20% mentioned that they were treated *“very politely,”* 63% said *“normally,”* 3% said *“rudely,”* 6% mentioned that they were humiliated, and 9% gave the answer *“other.”*

Very politely	20%
Normally	63%
Rudely	3%
I was humiliated	6%
Other	9%

Table. How have you been treated in PHAPs?

In this context, the juveniles explained the response *“very politely”* as follows: *“I was sleeping the whole day and nobody said anything”* and *“I got what I needed.”*

While explaining normal treatment, the juveniles indicated that (referring to the authorities) *“they were asking me what I need,”* and *“it was quiet; the only thing was that there were many police officers as usual.”*

The response *“I was humiliated”* was explained as follows: *“I was cursed,”* (2 people) *“I was taken to the basement and beaten,”* (one responded stated about physical violation in the PHAPs).

### Treatment by investigator

71% of the juveniles classified the treatment by the investigator as “normal,” 23% said it was “very polite,” and 6% (2 persons) said it was “rude.”

Very politely	23%
Normally	71%
Rudely	6%
I was humiliated	0%

Table. How have you been treated by the investigator?

Those juveniles, who assessed the treatment by the investigator as “normal”, commented on it as follows:

- “everything was normal;”
- “nobody was insulting;”
- “cannot say anything good, since he is not completely informed of some aspects of the law;”
- “he was a good investigator, he was saying that if you committed it, confess it, if no, say that it was not you;”
- “They were offering a cigarette;”
- “he was a 22-year old young person”;
- “explained by words.”

Two of the respondent juveniles assessed the treatment by the investigator as rude. One mentioned that the investigator was exerting pressure on him by shouting at him, and was telling him that he should tell the truth so as the investigator could know as much as possible. The other respondent mentioned that the investigator threatened him and compelled him to confess to committing the crime, stating that “if you don’t take the blame upon you, you would be taken to the SSC basement.”

### Treatment by judge

Very politely	43%
Normally	57%
Rudely	0%
I was humiliated	0%

Table. How have you been treated by the judge?

43% of the juveniles assessed the treatment by the judge as “*very polite*” and 57% said it was “*normal*”. When explaining “normal” assessment, the juveniles mentioned that the judge was speaking with respect, in accordance with the procedure; the judge reprimanded the investigator, since he had not visited the juvenile, and the juvenile of Russian origin mentioned that the judge provided a translator, whereas the policemen did not.

According to 50% of the juveniles, both the judgment and the punishment were fair. 18% of juveniles had difficulty in answering, and 32% (9 people) thought that neither the judgment nor the punishment were fair, mentioning that they had been sentenced many times, the crime was not correctly qualified, and the psychology, desperate situation, and private life of the juvenile had not been taken into account. One juvenile stated the following: “*They have not considered the fact that I committed the crime for the first time and I am a juvenile.*”

## Experts’ opinion on treatment in PHAP, PI

Within the framework of the expert survey, the discussion of ill-treatment and torture demonstrated that the staff of the PHAPs insist that ill-treatment and torture are absolutely absent in their institution, stating that “there is no such practice in PHAPs.” They also state that they do not know if it exists in other institutions. The staff of the PIs similarly mentioned that no physical punishment is used in prison facilities and correctional establishments. Staff members mentioned that physical force is never used in the prison facilities and correctional establishments, but it is sometimes used during the interrogation and in PHAPs. The same trend was noticed during the interviews with the investigator and the prosecutor. They mentioned that ill-treatment of juveniles more often happens in everyday life, on streets, and public places, which does not address the concrete subject matter of the study.

The advocates and judges are inclined to believe that cases of ill-treatment could take place in the above mentioned institutions; however there is no precise information. “*It is not excluded that there are cases of ill-treatment also in the police station and PHAPs and PIs, but they are not registered.*” stated a judge from the Court of General Jurisdiction of Erebuni and Nubarashen administrative districts.

It is worth mentioning that the respondents did not perceive the legal concept “torture” appropriately during the interview<sup>41</sup>. “*Torture as a phenomenon is not observed,*” stated a judge from the Court of Appeals.

## Context of torture, ill-treatment

Expert interviews showed that ill-treatment more often occurs in the police stations as compared to other institutions, while detaining and interrogating, as a punishment for disobeying the instructions.

<sup>41</sup> One of the social workers of the NGOs concerning the term “torture” stated “What is this word that you use? Change this kind of wording and then ask a question”.

Ill-treatment is mainly exerted by operations officers, since they generally have one-on-one meetings with juveniles. It is used in the police stations mainly for eliciting testimonies and confessions.

Widespread form of ill-treatment is beating in the form of several slaps. Cases of humiliating treatment are various, but they are more difficult to reveal. It takes place mainly when there is a failure to settle issues of cursing, callousness, indifference, shouting, exerting psychological pressure, threats, and humiliation.

“Each juvenile could be subjected to beating,” stated a judge from the Court of General Jurisdiction of Erebuni and Nubarashen administrative districts. However, the experts mentioned several regularities:

- *“Socially secured children are exerted less pressure, since there are expectations from their parents;”<sup>42</sup>*
- *“Poor children are deceived or threatened, and those who are aggressive are beaten or shouted at in order to call them to discipline.” Those who are aggressive and more disobedient undergo ill-treatment, and for those who are calmer and easy to manage, no force is needed;*
- *“Active children and disobedient are beaten, whereas those who are in financially difficult situations (i.e. children from boarding schools) are humiliated;”*
- *“Ill-treatment in the police stations is used towards more active juveniles, whereas in PIs, the aggressors are taken under the control of the administration in order to use them later”<sup>43</sup>*

According to the observations of the experts, the cases of ill-treatment in the PI were decreased. *“Nowadays, such treatment occurs only in case of unmanageable children, when no pedagogical action helps,”* stated a judge from Yerevan. An advocate stated the following: *“In the past, beating was more often. Now it is decreased, and mainly humiliating treatment occurs.”*

The representatives of NGOs highlighted another context of ill-treatment for disobeying the instructions in schools. According to them, in schools, the cases of humiliating treatment occur more often than in other institutions.

<sup>42</sup> Police preference to bribes was implied

<sup>43</sup> This is done to control the behavior of other children kept in the institution. The active juveniles are used as a tool. So ill-treatment is exerted indirectly not by the staff but by the active juveniles.



## ARREST PROCEDURES

The circumstances of arresting the juveniles are very different. According to Article 205 of the Criminal Procedure Code, the witness, the injured person, the suspect, and the accused are summoned to the investigator by a notice, juveniles shall be summoned through their legal representatives.

More often, in 26% (9 juveniles) of cases, the juveniles were arrested at home. The police officers introduce themselves and take the juvenile to the police station. In 21% (7 juveniles) of cases, the juveniles were taken to the police station when found outside, and in 6% (2 juveniles) of cases, juveniles went to the police by themselves. The rest of the responses were observed one time each, but are important in the view of the subject matter concerned:

- “the hands were tied with USB cable, handcuffs, then was taken to the police by car”;
- “caught at friend’s place;”
- “people caught, called police;”
- “one of my acquaintances called me at night, he went to the club, then people from the investigation body of Armenia arrested him and took him to Erebuni police station by car;”
- “they came without any notice; I asked where I was being taken and I was told that I would know;”

- “10-15 people put handcuffs on me at 22.00 p.m., took me to the police station, and I was kept in the station for one day without anyone asking questions;”
- “I was called and invited.”

The reason of the arrest in 83% (29 juveniles) cases was the immediate suspicion of committing the crime, and in 17% (6 juveniles) of cases, there was an arrest warrant.

37% (24 juveniles) of adolescents could make notes and/or changes in the protocol; 46% (30 juveniles) mentioned that there was no need to make any changes in the protocol; 11% (7 juveniles) could not answer this question. 6% (4 people) mentioned that they wanted to make some changes in the protocol, but they were not allowed to.

According to the interviews with the juveniles, the date and the hour of the protocol mostly corresponded to the reality (64%). 5% (3 people) mentioned that it did not correspond to the reality and 30% stated that they did not remember. The juveniles clarified that the date mentioned in the protocol was different – with difference of three days. In another case, the date was deleted and something else was written in its place.

The drawing of the protocol on arrest must be completed within 3 hours of detaining the person<sup>44</sup>. This period of time is frequently used to elicit confessions and/or collect evidence before the apprehended person is formally declared a criminal suspect and informed of his or her rights. This practice entails a heightened risk of ill-treatment. The protocols on arrest were drawn up within more than three hours – 37%. In 28% of cases, they were completed within three hours. 34% of the juveniles could not indicate how long it took for the protocol on arrest to be completed. It should be mentioned that during the study, the juveniles reported on the violations of this time period: there were cases when the protocol had been drawn up in 3–4 hours, in one case after ten hours, and in another case – the following day; one of the juveniles could not clearly mention when it was drawn, but mentioned that it took longer than 3 hours for the protocol to be drawn up. The drawing up of a protocol on arrest very often exceeded the three hour limit set forth by the legislation, which was also noticed by the international bodies a number of times.<sup>45</sup>

45% of the juveniles could read the protocol on arrest before signing, while 42% could not, and 12% could not answer this question. Those who could not read the protocol had different reasons: some didn't want to read, others signed it without reading, and in some cases, the legal representative read it and gave it to the juvenile for signing. There were cases when the staff/investigator from the police department and the juvenile signed it. Four juveniles mentioned that they did not read it, since they were confused at that moment, felt bad, couldn't think. One of

<sup>44</sup> Criminal Procedure Code, Article 131'

<sup>45</sup> See the CPT's Report on the visit to Armenia from 2 to 12 April 2006, CPT/Inf (2007) 47, paras. 20-22, 25; CPT report on the visit to Armenia from 10 to 21 May 2010, CPT/Inf (2011) 24, para. 9, the Report on the Special Mission to Armenia by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, Yerevan, 12-15 March 2008 CommDH (2008) 11 REV Strasbourg, section 11

the juveniles could not read and understand Armenian, and for this reason he did not read the protocol. One respondent mentioned that he was rushed, and therefore was not given any time to read.

The total period until a decision on detention or other preliminary measure is taken, if any, should not exceed 72 hours<sup>46</sup>. There are no specific clauses in this respect regarding juveniles. A person shall not be arrested for more than 72 hours<sup>47</sup>. During this period, an arrestee shall be held in a place designated for arrested people. This period is also used for bringing forth the charges against the person detained.

Whereas in 71% of cases the charge was brought in 72 hours, in 15% (5 cases), the charges were brought forth later and 15% (5 cases) could not remember when the charge had been brought.

The majority of juveniles – 51% – have been detained for three days (72 hours), 21% have been detained for less than three days, 21% have been detained for more than three days and up to seven days. One of the respondents mentioned that he was taken to the police department once in three days during twenty-three days, and one person could not remember.

63% of the juveniles were kept in the police station for less than twenty-four hours, while 31% were kept for one to three days, 3% (1 person) were kept for five days, and one of the respondents did not remember how long he was kept in the police station. One of the respondents mentioned that he stayed in the police station for ten days, then was taken to the PHAP, and another one said he was “kept in the cell for ten hours, then brought to school.”

## Duration of the Interrogation

The youngest juvenile being interrogated was nine years old<sup>48</sup>. Juveniles under sixteen years of age accounted for 48%, juveniles sixteen years of age accounted for 38%, and those at seventeen years of age accounted for 14%.

According to Article 205<sup>1</sup> of the CPC, the interrogation of the juvenile cannot last more than two hours without disruption. The interrogation can be continued after a break of 1 hour for rest and food. The interrogation during the whole day cannot exceed six hours.

<sup>46</sup> Criminal Procedure Code, Articles 11.3, 128-1311. The Constitutional amendments of 2005 had reduced the length of police custody from 96 hours.

<sup>47</sup> RA Constitution, Art. 16, Criminal Procedure Code, Art. 11

<sup>48</sup> It should be pointed out that it's common for the juveniles under the age of 14 to be brought to police for 'talks'. The registration of these children upon entering the police station is not done, and the safeguards (presence of the parent, pedagogue) are not always applied to these children in practice. In Yerevan-Kentron police station one of the staff members had mentioned that they do not have a right to bring the juvenile under the age of 14 to police station, as a consequence they do not register these cases in the registry.

In 50% of cases, the duration of an interview was two hours, in 33% (22 cases), it lasted more than two hours without interruption, and 17% of the respondents could not remember how long the interview lasted.

The total duration of the interview during one day was up to six hours in 65% cases. In 24% (16 cases), it lasted more than six hours. 11% of the juveniles could not remember how long the interview lasted.

## SAFEGUARDS AGAINST ILL-TREATMENT

### Informing of One's Rights

According to the Criminal Procedure Code, criminal suspects and those accused should be provided a written document with their rights immediately after being detained (Articles 63.2.2 and 65.2.2 accordingly). The Law on the Custody of Arrestees and Remand Prisoners (Articles 13 and 29) requires that the rights are just explained to the arrestees and detainees.

52% of the juveniles having encounters with the police mentioned that they were verbally explained of their rights and obligations; 32% said they were not informed at all; 16% could not answer.

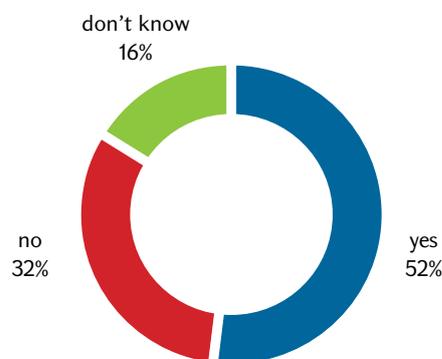


Diagram 2. Have you been verbally explained of your rights and obligations?

43% of the juveniles being arrested previously mentioned that they were informed in writing of all their rights and obligations after the arrest, 31% said they were not informed at all, 23% answered “I don't know,” and one of the respondents (3%) mentioned that he was informed by the advocate.

51% of the juveniles didn't read the section of the rights and obligations provided for in the arrest protocol (one mentioned that his father read and gave it to him for signing, another juvenile mentioned that he is of Russian origin, and was not able to read, since he does not understand Armenian, and translation was not provided). Only 29% read the document and 20% said “I do not know.”

### Notification of custody

The right of notification of custody is set forth by Articles 63.2.9 and 65.2.9 of the Criminal Procedure Code. According to the Code, the notification should be done within 12 hours.

The same right is stipulated by Article 5 of the Law on Police. However, it is outlined as being applicable within three hours after a person is apprehended and in addition to close relatives, the circle of those who can be notified include the detainee's employer or educational institution.

74% of the children brought to the police station could contact their relatives or other persons, 24% could not contact them, and 2% could not answer this question.

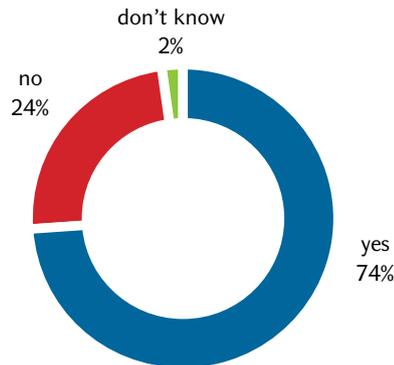


Diagram 3. Could you contact your relatives or other persons?

After being arrested/apprehended, 66% of the juveniles immediately contacted their relatives or other person in an hour, 9% contacted them in twelve hours, 23% were able to contact them in twenty four or more hours, and 2% could not remember when they had contacted relatives. One of the children mentioned that he was able to contact his relatives in one day, “when all testimonies were taken, the process was completed.”

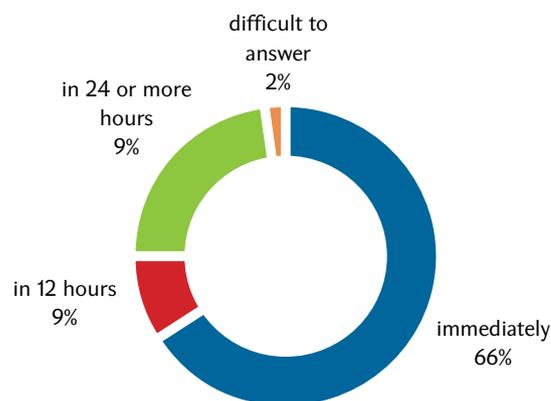


Diagram 4. When have you first contacted your relatives or other persons after the arrest/apprehension?

65% of the juveniles could contact their relatives or other persons for the first time after the arrest immediately **at the direct meeting**, 31% contacted them **by phone**, and 2% of the respondents could not remember how they contacted their relatives; another 2% (1 person) mentioned that he did not want to contact his parents.

The parents or guardians of the juvenile are not always informed that their child is in custody. When the parents are not timely informed, one of the respondents mentioned that “*the investigator frightens the child, elicits all information and only then inform the parents.*” The advocates claim the same: the parents or guardians of the child are not informed of the detention of the child in due time, and “the child is not allowed to make a call until opening the case, during this period they manage to collect verbal information from the child.” Often, testimony is taken from the child first; only then the parents are called. The law does not explicitly require the legal representative or the advocate to be present while taking an explanation. The parents are called later, in order to compel the child to testify. The fact that the parents are not informed in time creates many opportunities for violations. The juvenile is told that he or she can call an advocate or can keep silence when he or she has already signed the testimony. There are cases where the child is threatened and compelled to sign a blank paper before the parents are invited.

## Involvement of an Advocate, Legal Representative, and Pedagogue

With respect to juveniles accused of crimes, domestic regulations require the mandatory involvement of a defense counsel<sup>49</sup> and a legal representative<sup>50</sup> in juvenile cases, both when the juvenile is a suspect and when he is a defendant. This means that the juvenile suspect or defendant cannot renounce the right to have an advocate present during interrogation. The testimony given in the absence of the defense advocate can be considered as inadmissible evidence by the court.

Juvenile suspects and defendants have a right to free legal assistance, which is provided by the the body conducting proceedings through the Public Defenders’ Office. The Public Defender’s Office has 36 public defenders, 17 of which work in Yerevan and 19 in the regions<sup>51</sup>.

Armenian legislation does not provide for a requirement of presence of a pedagogue, social worker or other professional during the interrogation of juvenile suspects and defendants.

34% (12 persons) of the respondents immediately met with the investigator, 29% (10 persons) – met after an hour, 9% (3 persons) – met after twelve hours, and 6% (2 persons) met after twenty-four hours. The other respondents could not remember when they met with the investigator, and did not provide answers.

In 11% of the cases (4 persons) no other person was present during the interrogation by the investigator.

<sup>49</sup> RA Criminal Procedure Code, Article 69, part 1, point 5

<sup>50</sup> RA Criminal Procedure Code, Article 441

<sup>51</sup> Webpage of the Chamber of Advocates [http://www.advocates.am/index.php?option=com\\_content&view=article&id=57&Itemid=91](http://www.advocates.am/index.php?option=com_content&view=article&id=57&Itemid=91)

In 67% of the cases, the advocate was present. In 54% of cases, the advocate was present during all the interrogations of the juvenile. The advocate was usually missing at the first interrogations; before confession, the juvenile was told to “write a testimony before the advocate arrives” and in one case he was present only during the trial. Before the interrogation, 56% of the interviewed juveniles were able to speak with the advocate, 37% were not, and 7% were not able to answer the question.

In 20% of cases, other police officers were present during interrogation.

During the interrogation of arrested and detained juveniles in 81% of cases, the legal representative was present; in 19% of cases, the legal representative was not present, and in 6% of cases the legal representative was not present at the beginning of the interrogation, but was involved later. Once the advocate arrives, he or she insists that parents be invited.

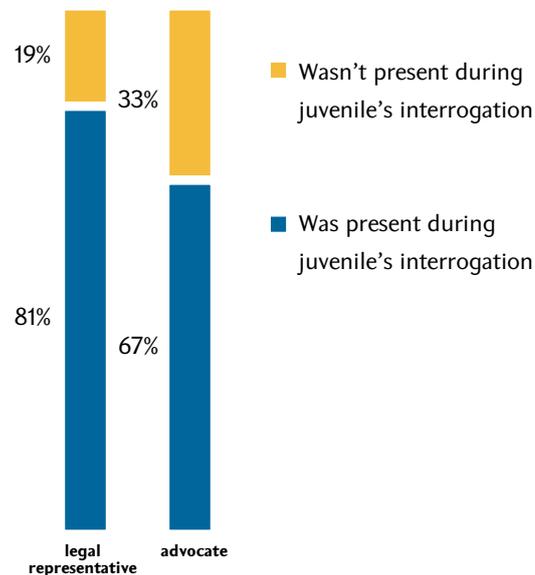


Diagram 5. Presence of advocate and legal representative during interrogation

As for the confidentiality of the meetings of juveniles with an advocate, in 52% of cases, police officers neither saw nor heard them; in 14% of cases, police officers saw but did not hear them; in 25% of cases, police officers both saw and heard them, and in 9% of cases the juveniles did not know.

There are certain issues concerning involvement of the public defense counsel. There are cases when the investigator invites his or her acquaintance advocate, which may affect negatively on the effectiveness of the advocate. “During the interrogation of the suspect, the advocate must be provided by the Public Defender’s Office but it happens that the investigator invites the defense counsel he or she wants,” stated a judge from the Court of General Jurisdiction of Ajapnyak and Davtashen administrative districts. “A public defender must be involved, but they are few, and justice suffers, human rights are violated,” stated another judge from the Court of General Jurisdiction of Erebuni and Nubarashen administrative districts. “It may be their acquaintance

advocate because socially needy children cannot hire their desired advocate,” stated an advocate.

28% of interviewed juveniles had a private defense counsel, 35% had a public defender<sup>52</sup>, 12% had both public and private defenders (first a public, then a private, and vice versa), 6% (3 persons) did not have a counsel and had never been arrested, another 6% (3 persons) were involved as witnesses, and 2% (1 person) refused a counsel.

If the advocate is not always present at the juvenile interrogation at the police station, he is generally present at the juvenile interrogation in the Place for Holding Arrested People.

Of those surveyed, 75% were satisfied with the services of the advocate and 25% were not satisfied. The juveniles explained the reason of their dissatisfaction as follows: *“he or she was not a good specialist, did not do his or her work properly, and was not able to release me,”* *“Prosecutor asked for 10 years and a sentence of 10 years was granted”* *“the advocate could not do anything, kept talking about money, and wanted to become a private advocate.”* There also was an opinion that *“the public defender was their man.”*

According to Republic of Armenia’s CPC, the interrogation of a juvenile witness or a victim under the age of 16 must be conducted with the participation of a pedagogue. A legal representative also has a right to be present<sup>53</sup>. The legal representative of a witness who is under the age of 14 has the right to be informed about the summons of the represented person to the body conducting proceedings and to participate in investigatory or other procedural actions by accompanying him. As for children who have reached 14, it can be done only upon the permission of the body conducting criminal proceedings. The same article defines also that the legal representative has the right to file motions, objections, get acquainted with record, etc<sup>54</sup>.

In practice there are cases when the pedagogue signs the protocol but is not present, and often the same pedagogue is invited who is usually involved by the police in such cases, and who cannot fulfill his/her functions appropriately.

Interviews with juveniles prove the same issue: there was no pedagogue present during the interrogation of witnesses below sixteen years of age in the 6 cases out of eleven cases.

The experts raised an issue concerning involvement of the pedagogue. It is a frequent practice that the pedagogue is invited from the institution where the child studies. However, the child does not feel free to speak during the pedagogue’s presence.

<sup>52</sup> One of the juveniles stated that they had paid USD 400 to the public defender.

<sup>53</sup> RA Criminal Procedure Code, Article 207

<sup>54</sup> Criminal Procedure Code, Article 87

## The Timing of Application of Safeguards

The timing of application of safeguards, namely access to an advocate, involvement of legal representative during the interrogation etc. in Armenia, remains problematic in terms of both legislative regulations and practice. While the international standards put emphasis on the actual deprivation of liberty, the domestic legislation maintains diverse terminology.

Article 63.2.4 of the Criminal Procedure Code refers to the presentation of decisions and protocols of detention. RA Law on the Custody of Arrestees and Remand Prisoners (Article 15) again refers to a formal decision on arrest as the moment from which they can benefit from such access.

On the other hand, according to Article 180 of the Criminal Procedure Code, after a crime is reported to police, in considering the legitimacy for initiating a prosecution, the police can request explanations to be provided. In such instances, people can be summoned to appear before the police without being designated any formal status (e.g. suspect, defendant, witness etc.). The law does not explicitly stipulate that at this stage, such persons enjoy the right to notify a relative, have access to an advocate or doctor, or any other rights belonging to arrested and detained persons. They can only enjoy such rights once the protocol on arrest is drawn up<sup>55</sup>.

Before involving an advocate, 21% (10 persons) of the surveyed juveniles, without the status of a suspect, gave explanations to the police representative, 29% (14 persons) were questioned as suspects, 10% (5 persons) were questioned as accused. 40% of surveyed juveniles did not speak to the police representative without an advocate.

In general, the advocate is not present when receiving explanations from a juvenile; he is involved only when the juvenile is officially involved in the case as a suspect. “It is true that at court, explanations shall not be considered evidence, but it already becomes clear how to proceed with the examination,” stated an advocate. The law does not clearly regulate the involvement of parents and an advocate while receiving explanations.

The fact that this matter is not clearly regulated by law creates a situation where children, who are in such a situation for the first time, may confess with even one loud or rude word. This mainly happens in the first stage, when the advocate has not yet arrived. They force the child to tell them who has participated in the crime, promising to let him or her go home after he provides the information. They do not even write his or her words; the child is ready to provide all the information so he or she can be sent home. As a result, the “explanation stage” becomes the most problematic one: out of fear, the child may say such things which can cause irretrievable consequences, even resulting in the sentencing of innocent people.

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<sup>55</sup> According to Article 63, part 2 (4) of the RA Criminal Procedure Code a suspect is entitled to access to an advocate from the moment the protocol on arrest is drafted and presented to the suspect.

Advocates often face the following situation. Investigators promise parents that if what the child said during the oral, unrecorded explanation is made a testimony and the child confirms it, then he or she will be set free. Otherwise, the parent asks the advocate whether he will be able to prove in court that the child is not guilty. But the advocate cannot guarantee anything and leaves it up to the parent to decide what to do (stated the advocate). The advocate explained the consequences, and stated that he “cannot take the responsibility, because the child’s future is at stake.”

Experts qualified the institute of “taking explanations” as an open and meaningless one. “It is a gap of law, a negative phenomenon, because it allows avoidance; the explanation is rewritten in the testimony and some judges follow it. Regardless of the legal status of the juvenile, one may not take explanations without an advocate,” stated a judge from the Court of General Jurisdiction of Erebuni and Nubarashen administrative districts.

In conclusion, arrestees benefit from the safeguards, notification of the custody, the access to an advocate, only after their detention is formally processed or registered and not as from the moment of actual deprivation of liberty.

## Information on Juveniles Recorded in the Institutions

According to Decree N 574-N on internal regulation on the Places for Holding Arrested People under the RA Police, of 5 June, 2008, upon admission, the grounds of admitting and holding the arrested person is checked. For each arrested person an individual case is prepared, which includes information on the data of arrest and release, personal card, protocol on the list of clothing and personal items, information concerning any previous conviction, protocol on search, fingerprint data, parcels, visit requests, and flow of the personal account.

The on-duty guard of a place of holding remand prisoners shall check the following documents necessary for admitting a person brought to the place of holding detainees: the passport or, in case of its absence, another photo ID; the court decision on ordering detention as a preventive measure; the apprehension protocol; the protocol with the list of clothes and personal items; and a statement on conviction issued in accordance with the established procedure<sup>56</sup>.

According to employee of PHAP when being admitted to PHAPs, a personal card of the child and information on the items with him are recorded. Additional documents prescribed by the law were not mentioned. According to the staff of the PI, personal data of the child (health, family information), previous conviction, medical examination data, diseases, bodily injuries, tattoos, scars, psychological and psychiatric anamnesis are registered upon admission.

In the Community justice centers, personal data, place of residence, information on the family

<sup>56</sup> Internal regulation of places of holding detainees and correctional institutions of the penitentiary service of the RA Ministry of Justice, RA Government N1543n decision dated August 3, 2006, point 6

members, status of parents, diseases the child suffers, friends, hobbies, development stages of the child, nature of the offense are recorded, and a referral sheet and agreement with the juvenile are attached. Other information is researched by relevant experts through home visits.

The Republican N1 special school in Vardashen also records the person who has brought the child, application by the custodian/parent, the problem he or she has, school reference, etc.

The study shows that the information recorded both by Community justice centers and special schools is not sufficient for revealing and disclosing traces of ill-treatment.

### Recommendations

- *Ensure that a form enumerating the rights of persons deprived of their liberty by the police (including the right of access to a doctor) is systematically given to all persons from the very outset of their deprivation of liberty;*
- *Legal provisions on notification of custody should be amended to comply with the constitutional provisions and ensure that they are granted from the outset of actual deprivation of liberty;*
- *Amend the law to ensure that all detainees are afforded full legal safeguards from the moment of de facto deprivation of liberty. These safeguards include access to an advocate, notification of a relative, information on rights, medical examination;*
- *Take practical measures to ensure the involvement of the defense counsel of a detainee from the early stages of a pre-trial investigation;*
- *Ensure in practice that whenever a juvenile is interrogated in the absence of a defense counsel, written testimony may not be relied upon;*
- *Child-friendly interviewing rooms should be constructed for interrogation of underage victims and witnesses of crime.<sup>57</sup>*

<sup>57</sup> These types of rooms have already been launched in Moldova, Ukraine, Belarus. For instance, in Moldova it is set that the procedure of interviewing of a child should be conducted in specially prepared and equipped premises outside of police, prosecutor's offices, or courts. The room is to be equipped with recording tools. The room is to be divided into 2 parts by a wall containing the one-way mirror. All participants of the investigation will stay in observation part of the room and they can participate in the interview via telecommunication tools connected them to specialist who translate the question to a child. The cassette or CD where the testimony of a child was recorded is packed into closed and sealed envelop to be sent to the court together with the written protocol of the interview. The cassette or CD containing the testimony of a child is to be stored in Courthouse in the file with all materials of the criminal case.

## MEDICAL EXAMINATION OF JUVENILES

According to Article 21 of the Law on the Custody of Arrestees and Remand Prisoners, in cases when any bodily injury is detected on arrested or detained persons, the medical personnel of the place of arrest or detention shall examine that person immediately. A medical representative of the injured person's choice can participate in the examination. Thus, while the right should apply automatically to all persons deprived of their liberty, the stipulation makes it conditional by linking it to a health complaint and existence of injuries.

Article 21 of Law on the Custody of Arrestees and Remand Prisoners requires that the results of medical examinations are recorded in the personal file and reported to the detainee, as well as to the body conducting the criminal proceedings against him or her. In case of serious illness or death of arrestees or remand prisoners, the administrations of the places of arrest or detention shall immediately inform the arrestees' or remand prisoners' close relatives, the body conducting criminal proceedings and the supervising prosecutor.

In general, those injuries that are considered by the custodial staff as insignificant or not posing a threat to the state of health of detainees/arrestees are just put down in the protocol of personal search of the detainee/arrestee or special form, and not reported to the body conducting criminal proceedings<sup>58</sup>.

According to the staff of the PHAP and PI, in cases when during medical examination at the facilities, signs of physical, psychological or sexual abuse are detected; they are registered and reported to the head of the facility, who in turn has to report about it to the investigator conducting criminal proceedings against this person. This can be inefficient procedure, as it might be assumed that the person had received the injuries at the police station when he was under the supervision of the investigator. It'll be more purposeful to inform about the injuries to the prosecutor, who conducts supervision of the criminal proceedings of the given case.

In the majority of PHAPs, there is no medical staff. Only Yerevan PHAP has appropriate conditions and a nurse. This is in contradictory to the law on the Custody of Arrestees and Remand Prisoners, which stipulates that medical practitioner of the places for holding arrested people should conduct immediate examination upon detection of injury<sup>59</sup>. First aid is left to the PHAP's daily police officer on duty, who lacks the necessary medical education and basic knowledge. There are no regulations that would specify the arrangements of access to a doctor during the periods spent by arrestees at the police stations.

According to the staff of the **PHAP**, upon arrival to the PHAP the juveniles undergo medical

<sup>58</sup> Erik Svanidze "Combating police ill-treatment and impunity in Armenia" 2010, p. 17

<sup>59</sup> RA Law on "Custody of arrestees and remand prisoner", Article 21

examination. The juveniles undergo medical examination every time they leave the PHAP (going to court, transfer, etc.) and return. External examination is carried out, the juvenile is asked what problems and complaints he has, and this information is recorded in the registry book and if necessary, medical aid is provided or emergency is called. In case of injuries, such information is also recorded in the registry book.

From the 33 arrested adolescents, 16 underwent medical examination in the PHAPs. For two people, emergency services were called in the police.

Medical examination should also be conducted in the PI. Thus, according to point 10 of the N1543n decision of the RA government on “Approving the internal regulation of Places of Holding Remand Prisoners and Correctional Institutions of the Penitentiary Service of the RA Ministry of Justice”, after admission to a place of holding remand prisoners or to a correctional institution, remand prisoners and convicts, respectively, shall be placed for a period of up to seven days in cells specifically designated within the quarantine ward for the purpose of passing a medical checkup and becoming familiar with the conditions in the place of holding remand prisoners or the correctional institution.

According to the PI staff, in practice medical examination is carried out in the PI. The juveniles, upon arrival at PIs, undergo medical examination (measuring temperature, weight, pressure, heart rate). In case of complaints, relevant organs undergo special examination; the complaints are examined.

From the interviewed 11 juveniles in custody, 2 mentioned that medical examination was not conducted; from the interviewed 21 convicted adolescents, 1 person mentioned that he did not undergo medical examination.

According to the PI staff, general medical inspection is carried out daily, which may be sufficient for revealing traces of ill-treatment and torture. Prisoners or detainees requesting medical attention are examined by the medical officer several times per day, as needed. Each day at the beginning and end of every shift, the person on duty checks whether there is a bruise and may, at any time, call, examine and ask about what has happened.

Among the respondents, 50% of the juveniles needed medical aid. 13% of this state that they did not receive any.

According to the staff of the **special schools**, children undergo examination upon arrival at the special school in relevant clinic within two weeks. If the child has medical problems, the doctor is immediately consulted. From twenty-nine interviewed children at the special school, one person has not undergone medical examination. Medical examination in the special school is carried

out twice a year. In cases when the medical examination of the child shows traces of physical, psychological and sexual violence, the matter is forwarded to the police. The doctor and the psychologist report on the torture and ill-treatment to the director of the school.

No medical examination is carried out in the community justice centers. Yet, if necessary, the juveniles are referred to the relevant medical institution. From twenty-five interviewed children, there were two cases when a doctor was called.

## Confidentiality of medical screening

Ensuring confidentiality of medical examination is an additional precondition for revealing the cases of ill-treatment and torture. Article 21 of the Law on the Custody of Arrestees and Remand Prisoners stipulates that examination of the arrested people or remand prisoners should be conducted out of the hearing of the administration of the places for keeping arrested people and remand prisoners– unless the doctor expressly requests otherwise in a given case –out of their sight as well.

The interviews with the juveniles showed that medical examination confidentiality of 69% of children was ensured; they were neither heard nor seen. 21% mentioned that they were both seen and heard (inspectors, accompanying policeman, deputy head of the institution, etc.), 2% mentioned that they were seen but not heard, and 8% stated they did not know.

The staff of the PHAP stated that the confidentiality of professional interference by the medical staff in PHAPs is not ensured: during the examination, the accompanying person and officer on duty are mainly present to confirm the existence of injuries. The staff of the PIs mentioned that the confidentiality of professional interference by medical staff is ensured, but if necessary, there is a need to inform the senior member of the group in order to proceed with the matter.

## Recommendations

- *Involve a medical practitioner as a staff member in all places for keeping arrested people;*
- *Ensure immediate medical examination of the people admitted to the places for holding arrested people and penitentiary institutions upon admission, as prescribed by RA legislation;*
- *Ensure that persons in custody and detention have the practical possibility of being medically examined by a doctor, without the presence of police and penitentiary officials, as stipulated in RA legislation;*

- *The medical practitioner of the institution should be independent from the administration of the institution and should be subordinate to the Ministry of Health;*
- *The medical practitioner of the institution in case of detection of injuries should inform about it directly to the prosecutor conducting supervision over the case and not to the director of the institution;*
- *The accountability of the medical staff for not informing about the detected injuries should be strengthened;*
- *The medical examination should also be conducted in the community justice centers. Taking into consideration the fact that these centers are independent from the police, it is more probable that the victims will feel more secure and will report about the cases of ill-treatment and traces of injuries.*

## Forensic medical examination

The forensic medical examination is an important tool for revealing the traces of ill-treatment and torture and serves as a basis for proceeding with the case in a proper manner. Under Article 243 of the Criminal Procedure Code, expert examination including forensic medical examination is implemented on the basis of a decision by the body conducting the inquiry, the investigator or the prosecutor. Neither defense counsels nor victims of torture can directly apply to licensed forensic medical practitioners for a medical examination.

The forensic medical examination is effective only in cases when it is assigned timely, and when the traces of ill-treatment and torture still exist. However, in practice, it is not always assigned on time. According to the respondents, one of the reasons for this is the juvenile defendant's lack of knowledge about the procedure. Noting such a problem may indicate the failure of the defense counsel, tasked with securing the rights of the juvenile during the criminal proceedings, to fulfill his obligations appropriately. In case of late application, when the traces do not exist, the forensic medical examination is not assigned anymore. The experts suggest that the procedure of assigning a forensic-medical examination should be reviewed and made more effective.

Out of the interviewed juveniles within the framework of this study only 1 person received forensic medical examination.

Even in case of assigning the forensic medical examination in time, it takes long, four to five months until the conclusion of the examination is sent to the court; *“And since during that period the suspect is in the control of the investigator, everything can happen”*, stated a judge from the

Court of General Jurisdiction of Erebuni and Nubarashen administrative districts.

There are cases when the staff members, who exert ill-treatment, threaten the juveniles and/or their parents and they do not apply timely. There is no procedure which would compel assigning forensic medical examination in cases of noticing traces on the child; the child should apply himself or tell his advocate, which rarely happens.

The effectiveness of the investigation largely depends on the consistent actions of the advocate; according to the experts interviewed, if there is a forensic medical examination, a criminal case will be instituted.

### Recommendations

- *The provisions of the Law on the Treatment of Arrestees and Detainees regulating the right of access to a doctor by the arrested persons should be amended so as to remove the limitations of its applicability to those complaining or bearing injuries only;*
- *There is a need for legislative amendments that would clearly extend the right of access to a doctor during the de facto deprivation of liberty;*
- *Ensure advocates have prompt access to medical documentation and conclusions about arrested persons;*
- *Ensure timely provision of the conclusion of forensic medical examination to the court;*
- *Create the possibility for independent doctors to obtain a forensic medical qualification, and entitle detainees to an examination by an independent doctor with recognized forensic training without prior authorization from an investigator, prosecutor or judge.*

## DETENTION AS A PREVENTIVE MEASURE

Within 72 hours after apprehension of a person, accusation should be brought and the decision on a preventive measure should be made. Article 134 of the Criminal Procedure Code lists the preventive measures that can be applied with respect to the suspect or accused: 1) detention; 2) bail; 3) a written obligation not to leave the jurisdiction; 4) personal voucher; 5) an organization's vouching for the defendant; 6) release under parental supervision; and 7) release under the supervision of commander.

Release under parental supervision can be applied only towards juveniles.

In general, pretrial detention may only be imposed for a crime punishable by more than one year of imprisonment, or if there is sufficient reason to think that the accused may flee justice, interfere with the criminal investigation, challenge it, etc<sup>60</sup>. Armenian legislation does not explicitly state that detention as a measure of restraint should be used as a last resort. However, there are a number of factors which should be considered while determining the preventive measures, including, the severity of the crime, gender, age, health and family situation, etc<sup>61</sup>. Article 442 of the Criminal Procedure Code contains *lex specialis* on juveniles, which provides that an accused juvenile may be detained only if charged with a crime of medium or more severe gravity.

Detention during pre-trial criminal proceeding shall be appointed for 2 months, which can be extended up to 6 months and in exceptional cases, up to one year. The duration of each extension period shall not last longer than 2 months<sup>62</sup>.

For 30% (26 persons) of the respondents, detention was used as a preventive measure, out of which five persons were detained for less than one month (3–13 days); the others were detained for one to nineteen months. In average, the detention period was 7.4 months. With regard to rendering a decision on detention, the majority, 44% were taken to the hearing within 72 hours, and 31% were taken later. One of the juveniles mentioned that only his father participated in the trial; the detainee himself was not present at the trial<sup>63</sup>, in violation of the law.

60 CPC, Article 135

61 Ibid

62 CPC, Articles 138, 139

63 CPC, Article 302 "Court trial is done in the presence of the defendant whose attendance of the court is mandatory, except for the cases provided by 3141 part 6 (The repetitive disturbance of the normal procedure of the hearing, or non-implementation of the lawful orders of the judge can be the reason for imposition of the sanction on removing the defendant from the court room and continuing the hearing without his presence.)



## COMPLAINT PROCEEDINGS

Article 13 of the law on the Custody of Arrestees and Remand Prisoners gives right to the arrested and remand prisoners to submit complaints about violations of his/her rights and freedoms, both personally and through his/her advocate or legal representative with the administration of the places of arrest or detention, to their superiors, to the court, to the prosecutor's office, to the human rights defender (ombudsman), to central and local government bodies, public organizations and parties, the media, as well as to international bodies or organizations involved in protection of human rights and freedoms.

Article 18 specifies that arrestees' and remand prisoners' correspondence with prosecutors, judges, human rights defenders, and the bodies supervising the places of arrest and detention should not be subjected to a censorship and provides for its expedited delivery. The letters can be censored by the body conducting investigation only based on the court decision. Further, Article 18 of the Law on the Treatment of Arrestees and Detainees directly bans any repercussions for complaining and refers to responsibility for such actions.

The right of the convicted persons to file complaints concerning violations of their rights both in person, and by advocate or legal guardian, is recognized by Article 12 of the RA Penitentiary Code. The right of the convicted persons to legal assistance is also set forth; however, a right to free legal assistance by the advocate is not envisaged, in contrast to suspects or defendants.

The administration of the place of holding remand prisoners or the correctional institution are

obliged to accept suggestions, applications, and complaints filed by remand prisoners or convicts. Complaints received by the administration must be sent to the addressees within three working days of such receipt, and replies thereto must be handed over to the relevant detainee or convict against such detainee's or convict's signature and, if he so wishes, can be attached to his personal case<sup>64</sup>. It should be noted that there is a contradiction with the Penitentiary Code, Article 15.1, which provides that the complaints of the convicts shall be sent to the addressees not later than during one day.

In the course of interviews with juveniles, eight children reported cases of ill-treatment. The juveniles did not file any complaints for the following reasons:

- They were afraid that it could aggravate their situation;
- They did not believe that it is an effective tool to change the situation: *“who can I complain to, all of them are the same and nothing is going to change”*;
- They did not focus and were not properly informed how to act in such a situation: *“my brain wasn't functioning, and I just wanted them to let me go home”*;
- The following incident was also presented: *“the police officer that beat me offered money to my father so that he does not file a complaint. My father did not take the money but did not file a complaint.”*

The experts remembered few cases instituted relating to ill-treatment and torture. The reason is that allegations of ill-treatment are attempted to be “resolved” on the spot and it never reaches to official investigation. The complaints are mainly communicated verbally, which does not allow to institute criminal cases.

The judges and advocates brought the following examples of cases of ill-treatment that remained undisclosed and with regard to which no cases were opened:

- *“I received a complaint of the juvenile stating that he was kept at the police station for ten days. Yet, the investigation revealed that there were no clear facts and it was an unfounded complaint. I found out that during those ten days he had contacted his father, as well as other details”,* (judge from the Court of General Jurisdiction of Ajapnyak and Davtashen administrative districts).
- *“One boy mentioned that testimony was taken from him through battery, but when we became familiar with the case, we understood that there was no beating. We use cross-questioning and other methods to clarify the situation,”* (judge from the Court of Appeal).

<sup>64</sup> Internal regulation of Places of Holding Remand Prisoners and Correctional Institutions of the Penitentiary Service under the Ministry of Justice, paras 169-173

- *“The advocate filed a complaint on his own initiative because he saw signs of battery on the child. When the case was seized by the court, the child withdrew his words and said that he fell and the bruises were the result of falling. The advocate found himself in a very bad situation,”* (advocate).
- *“Psychological pressure was exerted at the PHAP by the operational officer, but the child changed the testimony and the internal investigation was refused,”* (advocate).
- *“A 16-year-old boy was apprehended from Stepanavan, who gave testimony without the presence of his parents. Afterwards he withdrew his testimony and explanation, grounding that he was subjected to psychological pressure. Yet, he was convicted, and the court did not take the latter circumstance into account,”* (advocate).
- *“Operational officers threatened the child to testify, the latter wrote down the testimony. Later the child withdrew his/her testimony, but was consequently convicted,”* (advocate).
- *“I was the boy’s advocate and he told me that he was cruelly beaten to testify. But he told me about it late, when there were no signs of the battery on his body and nothing could be done. I asked him why he hadn’t told me earlier, to which he answered: “I was afraid that if I told you they would beat me more,”* (advocate).
- *“Some 3–4 years ago there was a case when the child was beaten, and the parent filed a complaint. The circumstances were revealed, yet no one was punished, because the parent withdrew the complaint,”* (advocate).

During the study, ill-treatment cases of children at special schools were also expressed:

- *The teacher of school No11 of Yerevan’s Nubarashen district beat the pupils, but no case was instituted because the statute of limitations expired.*
- *Teachers of a special school forced a child to engage in begging, yet no case was instituted in that regard.*

Below are examples of those cases of ill-treatment and torture, with regard to which cases were opened and justice was administered.

- *“At Nubarashen N 18 special school, which no longer operates, complaints were filed against the deputy director relating to sexual abuse and trafficking which encouraged other victims to complain. As a result the deputy director was convicted<sup>65</sup>.”*(NGO employee).

<sup>65</sup> The criminal case was instituted on December, 2008. The director of the special school applied to the police stating that 2 of the special school pupils had told her that they were compelled by the deputy director of the school to vagrancy. As a result of further investigation ac-

- As a result Nubarashen N 18 special school was reorganized to “Poqr Mher” education complex based on Government N1722n decree of 23 December 2010. “Poqr Mher” education complex is a state public education institution, which conducts general public education, as well as military education programs. *“I was tasked with a case where no pedagogue was involved, and I won the case, with the court recognizing such testimony inadmissible,”* (advocate).
- *“I had a case in 2010 when the child declared at court that they beat her to extort false testimony. It turned out that the girl was subjected to sexual abuse, and she applied to the police for this crime. The police — for the purpose of concealing the real abuser — threatened the girl and made her tell that it was her father. They also beat the father and extorted a testimony from him. But the judge noticed some incompatible issues and the case drew a wide response<sup>66</sup>”* (Judge, Court of General Jurisdiction of Aragatsotni marz).

The data of the study show that often no complaints are filed in relation to ill-treatment, and as a result, there appears to be no practice of holding the responsible people liable.

There are also many cases when the juveniles withdrew their testimonies on ill-treatment driven by fear. The juveniles do not file complaints or withdraw testimonies during the investigation because they are afraid. Frequently, the parents adopt a wrong stance and refrain from filing complaints, fearing that their child will be punished.

According to the experts, the major issue relating to ill-treatment and torture is that the juveniles do not file complaints in cases of incidents. Reasons for this are different, yet the main problem is they lack awareness on the lawful demand for proper treatment, as well as on the option to file complaints and corresponding procedures. Another reason is that the juveniles are afraid to make complaints – in view they are in the territory of the same [police] system, supposing that they will be treated even worse. An investigator voiced yet another cause: “No complaints are filed because

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cusation was brought under Article 132<sup>1</sup> of the Criminal Code (Engaging a person in prostitution or other forms of sexual exploitation, forced labour or services, or putting or keeping in slavery or situation similar to slavery) and Article 139 (part 3) (Violent sexual actions against a victim below the age of fourteen). Based on the decision of the Court of General Jurisdiction of Erebuni and Nubarashen administrative districts the deputy director was found guilty under Article 132<sup>1</sup> and acquitted under Article 139. The prosecutor appealed the decision in the Court of Appeals which found the deputy director guilty under Article 139 as well and sentenced to 10 years imprisonment based on its decision of December 17, 2010.

<sup>66</sup> See Sasha Davtyan’s case, ARAD 1/0016/01/09, <http://hra.am/en/tag/davtyan>, In court Sh. D stated that she and her sister were taken to Kentron Police Station on 7 May 2009 and subjected to torture, inhumane and degrading treatment over 4 days. They were forced to confess that Sasha Davtyan had tortured and raped Sh.D. The testimonies received under this physical pressure served as the ground for the accusations against Sasha Davtyan. Sasha Davtyan too was repeatedly beaten and tortured. On 17 December 2009, the Aragatsotn District Court of First Instance acquitted Sasha Davtyan of the rape of his daughter but found him guilty for torturing his daughters. Sasha Davtyan was sentenced to 4 years imprisonment based on Article 119.2 (1). This decision was appealed and the sentence was reduced to 3 years imprisonment. On the basis of a Decree on amnesty of the National Assembly, Sasha Davtyan was released. No investigation has been carried out into the allegations of torture and ill-treatment perpetrated against Sasha Davtyan and his daughters by the police.

the juveniles keep from giving testimony due to their *hoodlum-boyish mentality*<sup>67</sup>. As a result, because of the absence of complaints, no criminal case is instituted. A judge stated that the case will be 100% disclosed based on the complaint of the victim, yet if the latter doesn't raise the issue – it will not be disclosed.

According to the information provided by the **RA Ministry of Justice** for the period of January 1, 2010 through June 15, 2012, no complaints were received concerning ill-treatment or torture towards the juvenile remand prisoners and convicts held in “Abovyan” PI.

For the same period based on Article 21 of the Law on the Custody of Arrestees and Remand prisoners, juveniles underwent medical examination upon admission to the “Abovyan” Penitentiary Institution, and as a result, body injuries were detected, and protocols were prepared. **As a result of the medical examinations in 2010, five such cases were revealed; in 2011, ten cases were revealed, and in 2012 as of June 20, seven cases were revealed.**

20 cases concerned seventeen year old juveniles, only one case was related to fifteen year old and one case to sixteen year old juvenile.

In the protocols, it was registered that the juveniles had wounds, scars, grazes in different parts of the body, which were sustained before detention, in most cases as a result of the fight, falling down, self-harm, at home during the repair activities, mother's stroke, or dog's bite.

Office of the **RA Prosecutor General** informed that for the period of January 1, 2010 through June 15, 2012, they **did not receive any complaints on ill-treatment or torture of the juveniles, as well as information on body injuries received by them.** However, as certain data was received from the Ministry of Justice, additional inquiry was done. An explanation was provided by the Prosecutor's office<sup>68</sup> that, no information was filed concerning 5 cases of 2010 revealed in “Abovyan” Penitentiary Institution, 4 allegations were submitted to the Prosecutor's office out of 10 registered cases of 2011. Prosecutor's office also mentioned that “As of July 25, 2012, 10 cases of bodily injuries were registered in “Abovyan” Penitentiary Institution and information about 7 cases was submitted to the Prosecutor's Office”. It was also stated that the juveniles have not mentioned about being subjected to torture or ill-treatment in their statements but mentioned some home/living circumstances or other situations.

**RA Human Rights Defender's (Ombudsman) office received two complaints** about torture and ill-treatment against juveniles in the Republic of Armenia from 2010 to June 1, 2012.

<sup>67</sup> This type of mentality example- It's a shame [not a men's act] to file a complaint with the police, or to bring a case against another person.

<sup>68</sup> Letter N32/6-12, 08 August 2012, addressed to the Human Rights Defender's office

The Human Rights Defender received the first complaint on September 7, 2011 from a citizen whose son was involved as a defendant in a case under 258 Article, part 4 of the Criminal Code (Hooliganism, committed with a weapon or another item used as a weapon, is punished with imprisonment for the term of four to seven years). The testimony of the juvenile defendant was allegedly received under the influence of beatings, threats and torture.

Human Rights Defender made an inquiry concerning this case and received information from the Deputy Prosecutor General that testimony allegedly received under the influence of beatings, threats and torture was not proven in court. The court found that the arguments of the defendant and his defense counsel did not correspond to the data of the criminal case. Consideration of a complaint was terminated.

Another complaint was submitted by the advocate on April 26, 2012. The defendant was accused under Article 176 (robbery) of the Criminal Code. According to the advocate, the defendant's father was called to sign his son's explanation, which was obtained through torture.

The deputy head of the RA police, in a reply to the letters of the RA Human Rights' Defender, stated that as a result of the internal investigation, RA policeman on duty was given disciplinary sanction and "severe reprimand" for losing information concerning the injuries detected on the body of the arrestee during the examination at the PHAP.

In addition, the RA police investigator was warned for not proceeding with the statement which was made by the juvenile defendant in court concerning the violence exerted towards him by the police servants. Merely warning was given, taking into consideration that he has four months' working experience.

It was also informed that internal investigation did not confirm the information about torture.

### Recommendation

- *Develop effective complaint procedures aimed at facilitating the submission of complaints by victims and witnesses of torture and ill-treatment to public authorities, and to ensure in practice that complainants are protected against any ill-treatment, or reprisals as a consequence of their complaint;*
- *Perpetrators of torture and ill-treatment should be brought to justice.*

## THE INADMISSIBILITY OF STATEMENTS OBTAINED THROUGH TORTURE

The Constitution prohibits the use of unlawfully obtained evidence<sup>69</sup>. The CPC expressly prohibits the use of evidence obtained through the use of torture, coercion or fraud, or as a result of a violation of rights of the suspect or the accused, or as a result of a procedural violation<sup>70</sup>. The court is under a duty to review evidence for admissibility<sup>71</sup>.

During the interview the judge stated that in cases when the accused states at the court that he or she gave a testimony as a result of ill-treatment, an investigation is conducted pursuant to Article 17 of the Criminal Procedure Code of the RA, which states that all complaints of the suspect, the accused, and their defense counsel on violation of the law in the course of criminal proceedings shall be thoroughly examined by the body conducting the criminal proceedings. The official in concern is called for interrogation. The judge shall forward the case to the Special Investigation Service of the Republic of Armenia after clarifying the details. The judge interrogates the operational officer responsible for the case, and as a result of cross-questioning, the actual state of affairs is revealed. One of the judges from the Court of Appeals mentioned that *“an official investigation is conducted if a juvenile reveals a name [of an officer].”* However, the identification of the perpetrator is the task of the investigative bodies.

According to the interviews, in practice, although the judge is obliged to send the case to the prosecutor’s office, 99% of complaints are considered as unsubstantiated. Very often, there is no forensic examination conducted in time, and the judge does not regard the complaint trustworthy.

As involvement of the defense counsel during the interrogation of the juvenile suspect or accused is mandatory, the testimonies provided in absence of the advocate cannot be considered evidence. However, according to the interviews, in practice, if the defense counsel does not motion to recognize this evidence inadmissible, the court may accept them.

It should also be mentioned that, however, some respondents see positive changes in this context. According to an advocate, *“the judges have begun to respond to complaints; they make a decision to send the case for investigation. Recently they started sending relevant communications to the Special Investigation Service.”*

In the opinion of one of the judges participating in the study, for conducting effective investigation of a torture case, it is necessary that the court be the party assessing the findings. Meanwhile,

<sup>69</sup> Constitution of the Republic of Armenia, Article 22

<sup>70</sup> CPC, Article 11 (7) “It shall be prohibited to use force, threats, fraud, violation of rights, and other unlawful methods while trying to obtain testimony from the suspect, the accused, the defendant, the injured party, the witness, and other persons participating in criminal proceedings”. Article 105 “In criminal procedure it is illegal to use as evidence or as basis for an accusation facts obtained: by force, threat, fraud, violation of dignity, as well with the use of other illegal actions”

<sup>71</sup> CPC, Article 106, 127

according to the current procedure, the case is instituted; the investigation is launched, while the court awaits the results of the process. In cases where there is a suspicion of ill-treatment and/or torture, no separate proceedings are instituted; the incident is examined within the same case, which decreases the chances of effective investigation with regard to the case from the start.

Moreover, the investigation of such cases is not conducted in a timely manner; it is dragged out until it becomes untimely both with regard to the examination of injuries and to involving the interested parties.

### Recommendation

- *Amend legislation so that the courts would exclude confessions as evidence given during the pre-trial proceedings if the defendant retracts written testimonies in court.*

## Recommendations of the respondents of the study aimed at decreasing ill-treatment and torture

During the study, a number of recommendations aimed at decreasing ill-treatment and torture were voiced.

In particular, during interviews with juveniles, a question was raised about the need of changing the way they are treated at the mentioned institutions.

The interviewed juveniles gave the following answers to the question regarding the need of changing the way they are treated at respective institutions:

- no need to change anything, everything is all right – 93%<sup>72</sup>;
- [they should] treat us stricter, impose sanctions – 3% (this answer was given by three students of special schools);
- treat us with respect, not force anything – 2% (this answer was given by one of the juveniles kept at the PI and a student of a special school);
- find difficult to answer – 1%.

Answering to a hypothetical question whether they want to become the head of the police, 15%

<sup>72</sup> The question concerning the changes of the attitude towards the juveniles in the institutions is complicated for the juveniles to answer. There can be different factors that influence their response (to avoid further problems with these institutions, pressure can be exerted towards them, they might not be aware of the alternative state/conditions to compare and recommend changes, or they may not be willing to give extended answer to an open question, etc.).

of the juveniles mentioned that they will never be a head of the police or do not want to be; 20% mentioned that there is no need to change anything; 15% didn't have an answer. As regards real reforms in the police, 15% of the respondents answered that humane treatment is lacking in the ranks of the police, while 12% noted that no physical violence should be used in the police institutions, particularly:

- beating, injuring;
- slamming a door on the fingernails;
- hitting under the feet with bludgeons;
- hitting on the head with a pistol.

An estimated 12% of respondents said they want the investigator to treat them in a decent way – with reciprocal respect; the others did not voice any wishes or recommendations.

Recommendations on introducing proper order in the police, which relate to elimination of corruption among the police officers and change in treating the juveniles, were voiced by the interviewed adolescents. Of particular interest are the following statements [relating to hypothetically becoming police officers]: “...wouldn't incriminate many people,” “wouldn't ridicule them,” “wouldn't humiliate,” “would change the way of talking, they speak as if you are already convicted,” “[wish] interrogation is conducted by one person, not ten, so that you can speak freely, not feel oppressed,” “would introduce proper order,” “would not tolerate the practice of releasing [guilty] people against a bribe,”

On the changes necessary to introduce in the PI, a number of respondents noted that there is no need for change, while others said they do not want to ever be a head of the PI. The need for increasing the possibilities of activities at PIs was also voiced among recommendations, including organization of sporting events, availability of computers, possibility to listen to music, possibilities to work/engage in an occupation, learn crafts. One respondent said: “I want to learn jeweler's art.”

Regarding the improvement of conditions for keeping juvenile convicts in the PI, the juvenile respondents have also come up with recommendations to allow the use of mobile phones among juvenile inmates, leaving the doors of cells open, apply free routine or change it (wake up at 9 a.m., but not 7 a.m.), change the style and color of the prison uniforms. One juvenile shared his wish to “help those [fellow inmates] who are in need of something – give clothes, cigarettes.”

Recommendations to change the treatment of juveniles were made: “I would treat a convict with the highest standards of humanity,” “I would change the behavior of a penitentiary officer.”

Respondents have also touched upon very important issues relating to correction of juveniles: “[I]

would do so that criminal mores do not spread,” “would keep inmates of “same status” together, so that they do not disturb each other,” “would not tolerate prisoners who have privileges,”

They also made suggestions on expanding the possibilities to be released from prison: “[I] would increase the chances of release,” “would help [inmates] to be released earlier,” “would release on parole,” “would release all,” and even “would close all prisons,”

Commenting on the way judges treat them, the juveniles wish they:

- were nice;
- treat juveniles mildly, with conscience, “give a “short” punishment (in means of prison years);
- do not apply remand detention as a means of restraint;
- do not listen to “high ups” (higher instances).

Discussing the options of decreasing ill-treatment and torture of juveniles, experts highlighted the need for training of specialists working with juveniles, as well as the need of targeted staffing policy in the justice sector as a primary issue. *“Increasing the level of lawfulness, educated and humane people must be involved in the system who will not venture to beat a child. The police officers must treat juveniles at the police station like a parent would, behave in a manner that the child itself tells the whole truth,”* stated a judge from the Court of General Jurisdiction of Erebuni and Nubarashen administrative districts. In regards to the specialists working with the juveniles at PIs and the administrative staff of the PI, a special emphasis was put on pedagogical knowledge. Police officers are suggested to pass trainings on the age based peculiarities of the children, and acceptable treatment of the juveniles and appropriate communication with them. *“Correct application of the law and civic duty ought to decrease ill-treatment and torture of juveniles, especially at PHAP,”* stated a judge- from the, Court of General Jurisdiction of Aragatsotni marz.

A recommendation was made to involve a larger number of social workers and psychologists in working with children in all the institutions.

The next recommendation refers to increasing the legal awareness among population and particularly children, which entails informing people and raising the level of public consciousness. If a child knows his or her rights, and psychologists and social workers work with youth, the identification of cases in concern will increase. The child should be aware of what ill-treatment is and who they can report incidents to.

As discussed earlier, the compulsory presence of the advocate at the police station and the PHAP

will also reduce the number of cases of ill-treatment and torture. As one advocate stated, *“the advocate must be invited from the beginning, not after receiving the explanations.”* The same principle shall be applied with regard to compulsory presence of the parent of the child and a pedagogue at the police station – from the very beginning.

Ensuring transparency of the activities of all institutions, as well as supervision and monitoring of such would also help reduce the cases of ill-treatment and torture. The experts considered the issue of supervision of police officers and special instruction thereof. Installation of video cameras could help the process of supervision. One of the officers of the PI, in response to a question on potential measures to decrease ill-treatment and torture of juveniles, made the following statement: *“How can beating be excluded at the police station?”*

According to the results of the study, the persons responsible for ill-treatment and torture do not receive punishment. The respondents suggested to subject the police officers to liability.

The necessity of publicity of the facts relating to ill-treatment and torture, as well as of the process of subjecting those responsible for it to liability flows from the above-mentioned suggestion. *“If all the facts are publicized, neither the violator, nor anyone else would act like that,”* stated an advocate. *“If people are informed, and a certain number of people file complaints and police officers are convicted, this kind of practice will become widespread,”* stated another advocate.

It was also mentioned that the social-psychological support rendered to police officers would help them work more efficiently.

Another aspect that would contribute to the solution of the issue is the opportunity of children to be in contact with relevant state authorities or NGOs, and address their complaints to the latter whenever necessary. As one advocate stated *“if there is a body dealing with the issue, the child and the parents will be sure that no psychological pressure will be exerted, and will turn to it. If juveniles realize that there is no harm, they will voice the problems.”*

Cooperation among different bodies, namely NGOs and state bodies should be developed. For the purpose of decreasing corruption risks, the experts suggested to increase the salaries of specialists employed in the [police and penitentiary] system.

Recommendations aimed at improving the image of the police officers were made. A court of appeals judge stated that *“the stereotypes should be eliminated. For example, the new video reels about the police officers are very good. The police officers themselves shall change; young officers are open to changes.”*

Development and expansion of community justice centers can also foster the identification of and

decrease of cases of ill-treatment and torture. The children do not want to go to police stations to register in police rosters; they do not want to communicate with the police officers in an oppressive atmosphere. Often parents turn to the community justice centers with a request that they deal with their children, not the police.

## RECOMMENDATIONS

- Amend the Criminal Code and relevant legislation to define torture and ill-treatment according to the provisions of the UN Convention against Torture, and Other Cruel, Inhuman and Degrading Treatment or Punishment;
- Bring perpetrators of torture and ill-treatment to justice;

### Investigation

- Take measures to ensure the independent, efficient investigation of cases of torture and ill-treatment;
- Amend the law so that to ensure that all officials alleged to be responsible for torture and/or ill-treatment are suspended from their duties while any investigation into the allegations is in progress;
- Adopt structural reforms to ensure that all allegations of torture be duly and promptly reported to and investigated by the Special Investigation Service (SIS);
- Prosecutors exercising supervision over the legality of an investigation conducted by the SIS should be different from the prosecutors exercising supervision over the legality of an investigation conducted by the Police;
- Prosecutors supervising the legality of an investigation into a case and prosecutors presenting such cases in court should be different;

### Legal Safeguards

- Ensure that a form enumerating the rights of persons deprived of their liberty by the police (including the right of access to a doctor) is systematically given to all persons as from the very outset of their deprivation of liberty and not a formal documentation of their detention;
- Amend legal provisions on notification of custody so as to comply with the constitutional provisions and ensure that it is granted as from the outset of actual deprivation of liberty notwithstanding a completion of formalities related to it;
- Make amendments to the law on the access to an advocate, notification of a relative, information on rights, medical examination and other safeguards from the moment of a person's de facto apprehension, regardless of his/her legal status according to law;

- Take practical measures to ensure the involvement of defense counsels from the early stages of a pre-trial investigation;
- Ensure in practice that whenever a juvenile is interrogated in the absence of a defense counsel, written testimony may not be relied upon;
- Make amendments to the law and make compulsory videotaping of the interrogations at police, by the investigative bodies;
- Child-friendly interviewing rooms should be constructed for interrogation of underage victims and witnesses of crime;

### **Access to doctor, forensic medical examination**

- Amend the provisions of the Law on the Custody of Arrestees and Remand Prisoners regulating the right of access to a doctor by the arrested persons so as to remove the limitations of its applicability to those complaining or bearing injuries only;
- Amend the legislative amendments clearly extending the right of access to a doctor during the de facto deprivation of liberty;
- Ensure timely provision of the conclusion of forensic medical examination to the court;
- Ensure advocates have prompt access to medical documentation and conclusions about arrested persons;
- Create the possibility for independent doctors to obtain a forensic medical qualification, and entitle detainees to an examination by an independent doctor with recognized forensic training without prior authorization from an investigator, prosecutor or judge;
- Ensure immediate medical examination of the people admitted to the places for holding arrested people and penitentiary institutions upon admission, as prescribed by RA legislation;
- Involve a medical practitioner as a staff member in all places for keeping arrested people;
- Ensure that persons in custody and detention have the practical possibility of being medically examined by a doctor, without the presence of police and penitentiary officials, as stipulated in RA legislation;

- The medical practitioner of the institution should be independent from the administration of the institution and should be subordinate to the Ministry of Health;
- The medical practitioner of the institution in case of detection of injuries should inform about it directly to the body conducting supervision over the proceedings and not to the director of the institution;
- The accountability of the medical staff for not informing about the detected injuries should be strengthened;
- The medical examination should also be conducted in the community justice centers, where juveniles can be directed away from the police. Taking into consideration the fact that these centers are independent from the police, it is more probable that the victims will feel more secure and will report about the cases of ill-treatment and traces of injuries;

### Complaints

- Develop effective complaint procedures aimed at facilitating the submission of complaints by victims and witnesses of torture and ill-treatment to public authorities, and to ensure in practice that complainants are protected against any ill-treatment, or reprisals as a consequence of their complaint;

### Coerced confessions

- Amend legislation so that the courts would exclude confessions as evidence given during the pre-trial proceedings if the defendant retracts written testimonies in court;
- Ensure that in practice confessions obtained through torture are never used as evidence in judicial proceedings;

### Disciplinary measures

- Make amendments to the law and exclude solitary confinement as a form of disciplinary measure towards juveniles;

### Rehabilitation Services

- Amendments should be made to the legislation including provisions on rehabilitation for damages caused by torture in accordance with Article 14 of the UN Convention against torture. Rehabilitation services, including medical and psychosocial

rehabilitation programs should be developed and provided to torture victims (this can be done with the involvement of integrated social services);

- Within the framework of the ongoing reform on introduction of integrated social services, these services should establish cooperation with the Community Justice Centers, Police, Special Schools and other bodies dealing with the issues related to juveniles by conducting individual juvenile case management;

### Trainings

- Training manuals on Juvenile Justice should be prepared and mandatory pre-service and in-service trainings should be organized for all of the actors involved in the field, namely judges, investigators, advocates;
- Curriculum on human rights should be prepared for main stream schools, with a focus on criminal proceedings and torture, and ill-treatment issues;
- Develop ethical guidelines for the judges, investigators, advocates working on a juvenile case.

## ANNEX 1. LEGISLATION

### The Republic of Armenia Constitution (adopted on 27.11.2005)

#### Article 6.

... International treaties shall come into force only after being ratified or approved. International treaties are a constituent part of the legal system of the Republic of Armenia. If a ratified international treaty stipulates norms other than those stipulated in the laws, the norms of the treaty shall prevail. International treaties contradicting to the Constitution can not be ratified. Normative legal acts shall be adopted on the basis of the Constitution and the laws and for the purpose of the ensuring their implementation.

#### Article 103.

... In conformity with the procedure and cases defined by the law, the Office of the Prosecutor General shall ...

2) oversee the lawfulness of preliminary inquiries and investigations.

### The Republic of Armenia Criminal Code (adopted on 18.04.2003)

#### Article 119. Torture

1. Torture is any act through which strong pain or bodily or mental suffering is intentionally inflicted upon a person, unless it has caused the consequences envisaged by Articles 112 and 113 of this Code, and shall be punished with imprisonment for a term of up to three years.

2. The same acts, perpetrated:

...

3) in relation to a juvenile or a person in material or other dependency upon the perpetrator, or in relation to a person abducted or taken hostage

...

shall be punished with imprisonment for a term of three to seven years.

### **Article 308. Abuse of Official Authority**

1. The use by an official of his official position contrary to the interests of service or the failure to carry out official duties in view of mercenary or other personal or group interests, which inflicted material damage upon the rights and lawful interests of persons and organizations or the lawful interests of the public or the state (in case of property damage, it must exceed the amount or value of 300 minimal salaries as prescribed at the time of committing the crime) shall be punished with a fine in the amount of 200 to 300 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for a term of up to five years, or with detention for a term of two to three months, or with imprisonment for a term of up to 4 years.

### **Article 309. Exceeding Official Authority**

1. The intentional performance by an official of acts that obviously exceeded the scope of his authority and inflicted material damage upon the rights and lawful interests of persons and organizations or the lawful interests of the public or the state (in case of property damage, it must exceed the amount or value of 500 minimal salaries as prescribed at the time of committing the crime) shall be punished with a fine in the amount of 300 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for a term of up to five years, or with detention for a term of two to three months, or with imprisonment for a term of up to 4 years

## **The Republic of Armenia Criminal Procedure Code**

*(adopted on 01.07.1998)*

### **Article 11. Security of Person**

7. During criminal proceedings, no one shall be subjected to torture, illegal physical or mental violence, including with the use of medical drugs, hunger, exhaustion, hypnosis, deprivation of medical assistance, or other cruel treatment. It shall be prohibited to extract statements from a suspect, accused, defendant, victim, witness, or other participant in the criminal proceedings by means of violence, threats, deceit, encroachment upon their rights, or other unlawful actions.

### **Article 53. Powers of the Prosecutor in Pre-Trial Proceedings**

2. By conducting procedural management of inquiry and preliminary investigation, the prosecutor shall have the exclusive authority:

...

3) To take any criminal case from the inquiry body and to assign it to the preliminary investigation body, or to assign a criminal case from one body of preliminary investigation envisaged by Article 190 of this Code to another body or preliminary investigation for the purpose of ensuring comprehensive, complete, and impartial investigation.

### **Article 175. Obligation to Initiate a Criminal Case**

If the grounds and reasons envisaged by this Code for initiating a criminal case are present, the prosecutor, investigator, or inquiry body shall be obliged, within the limits of their authority, to initiate a criminal case.

### **Article 180. Procedure of Reviewing Reports of Crime**

1. Reports of crime shall be reviewed and solved immediately or, in case of necessity to check the lawfulness of the reason for initiating a case and the sufficiency of the grounds for initiating a case, within 10 days of receiving such reports.

### **Article 183. Criminal Cases Initiated on the Basis of the Victim's Complaint**

1. Cases concerning crimes proscribed by ... Paragraph 1 of Article 119 ... of the Criminal Code of the Republic of Armenia may only be initiated on the basis of the victim's complaint, and shall be discontinued if the victim settles with the suspect, the accused, or the defendant. Settlement shall be permitted until such time when the court moves to the deliberation room for rendering the judgment.

### **Article 190. Investigative Jurisdiction**

6. Investigators of the Special Investigative Service shall conduct the preliminary investigation of crimes committed by or with the participation of senior staff of the legislative, executive, and judicial branches of power of the Republic of Armenia, or by persons performing special public service, in connection with their official position, as well as under Articles 149, 150, 154<sup>1</sup>, or 154<sup>2</sup> of the Criminal Code of the Republic of Armenia.

If necessary, the prosecutor general of the Republic of Armenia may take from investigators of other investigative bodies and assign to investigators of the Special Investigative Service the criminal cases that are related to crimes committed by or with the participation of the officials listed in this Paragraph, or cases in which such persons are recognized as victims.

## **The Republic of Armenia Penitentiary Code**

*(adopted on 24.12.2004)*

### **Article 95. Penalties Applied with Respect to Persons Sentenced to Imprisonment**

1. In accordance with the prescribed procedure, the following penalties may be applied with respect to persons sentenced to imprisonment who violate the procedure for serving the sentence:

- 1) Reprimand;
- 2) Severe reprimand;
- 3) Transfer to a punishment cell for up to 15 days, or up to 10 days in case of juvenile convicts.

### **The Republic of Armenia Civil Code**

*(adopted on 05.05.1998)*

### **Article 17. Compensation for Losses**

1. A person whose right has been violated may demand full compensation for the losses inflicted upon him, unless a law or contract provides for compensation for losses in a lesser amount.

2. Losses include the expenses that the person whose right was violated incurred or must incur in order to reinstate the right that was violated, as well as the loss of or injury to his property (actual damage), and income not received, which such person would have received under the usual conditions of civil commerce had his right not been violated (forgone benefit).

### **Article 1081. Compensation for Losses Suffered by Persons as a Result of the Breadwinner's Death**

1. In case of the death of the victim (breadwinner), the following shall have the right to compensation for losses:

- 1) persons not capable of work that were dependent upon support by the deceased or were entitled to support from the deceased as at the day of his death;
- 2) a child of the deceased born after his death;

3) one of the parents, spouse, or other family member, regardless of ability to work, who does not work and engages in the care of children, grandchildren, brothers, or sisters of the deceased, who were dependent upon support by the deceased and have not attained 14 years of age or who, despite of having attained such age, need additional care due to health conditions based on the reports of medical bodies; and

4) persons that were dependent upon support by the deceased and became incapable of work in the course of five years after his death.

One of the parents, spouse, or other family member, who was not working and was engaged in the care of children, grandchildren, brothers, or sisters of the deceased and became unable to work during the time of providing care shall retain the right to compensation for losses after the end of care for such persons.

#### **Article 1087. Compensation of Funeral Expenses**

Persons liable for the harm inflicted by the victim's death shall also be obliged to compensate for the necessary funeral expenses to the person who has incurred such expenses.

#### **The Republic of Armenia Law on Police**

*(adopted 16.04.2001)*

#### **Article 5. Activities of the Police; Safeguards of the Security of Person**

... Torture, violence, or other cruel or degrading treatment of a person by the police shall be punished by law.

The police may restrict rights and freedoms only in the cases, procedure, and limits stipulated by law.

Police officers shall, in any case of limiting human rights and freedoms, immediately notify him, in a language that he understands, of the reasons and causes of limitation, to explain the rights and obligations arising therefrom, and to facilitate the exercise of rights.

Notification of the rights and obligations shall be performed in writing, if the person so requests. The list of rights to be notified and the notification procedure shall be approved by the Republic of Armenia Government.

The police shall be obliged to provide a real opportunity for arrested persons to exercise the right to legal aid, to notify their relatives within three hours of the time of bringing them to the police, or, in the absence of such relatives, the administration of the place of work or study of

the whereabouts of such persons. If necessary, measures shall be taken to provide medical and/or other assistance to them, and to eliminate threat posed by the arrest to the life, health, and property of the person or his family members.

The police shall be obliged to enable the person to become familiar with the documents and materials that are directly related to his rights and freedoms, unless the law provides otherwise.

The police may not collect, store, use, or disseminate information concerning the private and family life of the person, save for cases provided by law.

### **Article 29. Grounds, Conditions, and Limits of Use of Physical Force, Special Means, and Firearms**

... When choosing the physical force, special means, or firearms to use, police officers shall be guided by the current situation, the nature of the offence, and the person of the offender.

...

Police officers shall also be obliged:

...

3) Immediately to report to the supervisors of each case of use of special means (save for handcuffs and rubber truncheons) and firearms, as well as any case in which anyone was injured or died because of the use of physical force, special means, or firearms.

The police shall be obliged to notify, in a short period, the close relatives of victims about the cases envisaged by Paragraph 8 of this Article.

The use of physical force, special means, and firearms by police officers in cases not envisaged by law, as well as their use exceeding the limits shall give rise to liability in the procedure stipulated by law.

### **Article 30. Use of Physical Force**

For preventing or deterring violations of law, for capturing violators of law and bringing them before the police, in cases of failure to comply with the lawful demands of police officers, in cases of resistance, or for the purpose of self-defense, police officers may use physical force (including hand-to-hand combat techniques) in relation to violators of law, as well as the necessary objects available to them, if non-coercive means do not secure the performance of the obligations imposed on the police.

### Article 31. Use of Special Means

... It shall be prohibited to use special means in relation to women with noticeable signs of pregnancy, persons with obvious disability, and minors (except for cases of them engaging in armed attacks, armed resistance, or group attacks threatening the life and health of persons)...

### Article 32. Use and Application of Firearms

... It shall be prohibited to use firearms in relation to women with noticeable signs of pregnancy, persons with obvious disability, and minors (except for cases of them engaging in armed attacks or armed resistance, or group attacks threatening the life and health of persons), as well as when there is a large buildup of persons, when other persons may suffer because of the use of firearms.

### The Republic of Armenia Law on Approving the Disciplinary Code of the Republic of Armenia Police

*(adopted 11.04.2005)*

### Article 8. Penalties Imposed on Police Officers

3. A police officer on whom a disciplinary penalty has been imposed shall not be exempted of criminal liability, if he has committed an act subject to criminal prosecution, in addition to the disciplinary offence. Police officers relieved of criminal liability or the sentence on a non-acquittal basis may be subjected to a disciplinary penalty for the act in question.

### The Republic of Armenia Law on the Service at Police

*(adopted 03.07.2002)*

### Article 42. Disciplinary Penalties Imposed on Police Officers

1. The following disciplinary penalties may be imposed on police officers in accordance with the procedure defined by law in case of a disciplinary offence, i.e. the non-performance or improper performance of official duties without due cause, the abuse of official position, or exceeding of official authority:

- 1) Reprimand;
- 2) Severe reprimand;
- 3) Reduction of the official base pay by 10-50 percent for a term of up to three months;
- 4) ***(Paragraph 4 was repealed by Law HO-169-N dated 15.11.10);***

- 5) Declaration of incompatibility with the position held;
- 6) Lowering of position by one degree;
- 7) Lowering of title by one degree;
- 8) Dismissal from the police.

Penalties imposed on police officers shall be documented in writing.

3. Officials empowered to impose disciplinary penalties may impose the penalty provided by subparagraph 1(8) of this Article only for grave disciplinary offences. The following shall be deemed grave disciplinary offences:

- 1) Encroachment of the constitutional rights of citizens ...

**The Republic of Armenia Minister of Justice Decree Approving the Procedure of Ordering and Conducting Internal Investigations**  
*(adopted on 29.08.2006)*

5. In case of discovering features of crimes and offences during internal investigations, the person empowered to order an internal investigation shall notify the relevant state bodies thereof by decision, and shall continue it in case the internal investigation has not ended.

15. An internal investigation shall be conducted in the headquarters of the penitentiary service, the penitentiary inspectorate, penitentiary institutions, or other places if necessary.

**The Republic of Armenia Law on Penitentiary Service**  
*(adopted on 08.07.2005)*

**Article 49. Use of Civil Weapons or Special Means in Penitentiary Institutions**

4. It shall be prohibited to use civil weapons or special means in relation to women with noticeable signs of pregnancy, persons with obvious disability, and minors, except for cases of them engaging in armed resistance or committing acts threatening the life or health of a penitentiary servant.

**Article 50. Use of Combat or Service Weapons in Penitentiary Institutions**

2. It shall be prohibited to use weapons in relation to women with noticeable signs of pregnancy, persons with obvious disability, and minors, except for cases of them engaging in armed resistance or committing acts threatening the life or health of a penitentiary servant.

### **Article 51. Conditions and Limits of Use of Physical Force, Special Means, and Arms**

1. In the cases and procedure stipulated by Articles 48 to 50 of this Law, a penitentiary servant may use physical force, special means, and arms, if other means cannot secure the performance of his obligations ...

3. In case of using physical force, special means, and arms, the penitentiary servant shall immediately report to his supervisor, and all cases of use of arms shall be reported also to the prosecutor.

The head of the penitentiary department or the official substituting him shall immediately notify the relevant health and prosecution authorities of all cases of bodily injuries and death inflicted by the use of physical force, special means, and arms.

4. Use of physical force, special means, and arms, which exceeds the authority, shall give rise to liability provided by law.

### **The Republic of Armenia Law on Holding Arrested and Detained Persons**

*(adopted 06.02.2002)*

### **Article 35. Penalties Imposed on Detained Persons; Procedure of Their Imposition**

The following penalties may be imposed on detained persons for violating the internal regulations or for not performing or improperly performing their obligations:

- 1) Warning; and
- 2) Placement in a punishment cell for up to 10 days, or for up to five days in case of minors.

The penalties envisaged by this Article may be imposed by decision of the head of the place of holding detained persons.

When imposing penalties on detained persons, the circumstances of committing the offence, the person's characters, and conduct prior to the offence shall be taken into consideration. The penalty imposed shall correspond to the gravity and nature of the offence. The penalty shall be imposed only in relation to the person that committed the offence, immediately after discovering the offence, but no later than within 10 days. It shall be prohibited to impose more than one penalties for one offence. When imposing a penalty, the act constituting the disciplinary offence,

the penalty, and its duration shall be specified, and the detained person shall be notified thereof.

Prior to imposing a penalty, a written explanation from the detained person shall be taken or, if he refuses to provide it, then an appropriate protocol thereon shall be prepared.

The time of holding in a health care institution the detained person transferred from a punishment cell to a health care institution shall be considered a part of the penalty term.

The imposition of a penalty on a detained person may be appealed to the bodies conducting oversight and supervision of places of holding detained persons. An appeal shall not suspend the application of the penalty.

## ANNEX 2. Questionnaires

### For the semi-structured interview with children

Dear friend, my name is \_\_\_\_\_. I work at CSI, which is conducting survey on children rights protection in the context of juvenile justice in Armenia. The main aim of the survey is to study whether children are treated properly. Your cooperation and honest answers will help much. This project is supported by UNICEF and will take place in several countries.

Do you have any questions?

Would you be so kind to answer the following questions?

#### General Information (Do not ask)

1. Date of the interview \_\_\_ day \_\_\_ month \_\_\_\_\_ year
2. Time of the interview \_\_\_\_ : \_\_\_\_
3. Duration of the interview \_\_\_\_\_ minutes
4. Place \_\_\_\_\_
5. Facility \_\_\_\_\_

#### Information on respondent

6. Date of birth \_\_\_ day \_\_\_ month \_\_\_\_\_ year
7. Sex (*Do not ask*)
  1. Male
  2. Female
8. Ethnicity
  1. Armenian
  2. Other \_\_\_\_\_
9. Status
  1. On remand
  2. Convicted
  3. Special Boarding school pupil (*continue to the question #11*)
  4. Community Justice Center (CJC) beneficiary
10. Education
  1. Studies at secondary school
  2. Studies at vocational education facility
  3. Studies at higher education facility
  4. Doesn't study anywhere
11. Who are you living with?
  1. Both parents

2. Single parent
3. At the institution

**Institution**

12. How long are you in this institution? \_\_\_\_\_
13. What was the reason for entering this institution? \_\_\_\_\_
1. Not attending school (ex. difficult behavior)
  2. Criminal case was instituted and terminated (or suspended)
  3. Involvement in a case as a defendant
  4. Detention
  5. Conviction
  6. Other \_\_\_\_\_
14. How were you treated in the facility?
1. I was treated very polite (provide details \_\_\_\_\_)
  2. I was treated normally (provide details \_\_\_\_\_)
  3. I was treated roughly (provide details \_\_\_\_\_)
  4. I was humiliated (provide details \_\_\_\_\_)
  5. Other (provide details \_\_\_\_\_)
15. What would you like to change in the way you were treated? \_\_\_\_\_

**Contacts with Police**

16. When was the first time you encountered the Police?  
 \_\_\_\_ day \_\_\_\_ month \_\_\_\_ year (if never, continue to the question #)
17. You were encountered as
1. Witness
  2. Victim
  3. Suspect
  4. Defendant
  5. No status defined
18. In what circumstances have you encountered the Police for the first time? \_\_\_\_\_  
 \_\_\_\_\_
19. How many times have you encountered the Police afterwards? \_\_\_\_\_
20. Why?
- First time \_\_\_\_\_
- Second time \_\_\_\_\_
- Third time \_\_\_\_\_
21. How were you treated in the facility?
1. I was treated very polite (provide details \_\_\_\_\_)
  2. I was treated normally (provide details \_\_\_\_\_)
  3. I was treated roughly (provide details \_\_\_\_\_)
  4. I was humiliated (provide details \_\_\_\_\_)

5. Other (provide details \_\_\_\_\_)

22. Who has arrested/brought you to the police?

1. Investigator
2. Operative-intelligence officer
3. Do not know

23. Did the police inform you of the reasons of arrest?

1. Yes
2. No
3. Do not know

24. Were you informed of your rights and responsibilities in verbal form?

1. Yes
2. No
3. Do not know

25. Were you able to contact your relatives or any other person?

1. Yes
2. No
3. Do not know

26. When did you contact your relatives or any other person after your arrest?

1. Immediately
2. In an hour
3. In 12 hours
4. In 24 hours
5. Other \_\_\_\_\_

27. How did you first contact your relatives or any other person after arrest?

1. By phone
2. Face-to-face
3. Other \_\_\_\_\_

#### **Arrest**

28. When were you arrested?

1. I was never arrested (*if never, continue to the question #48*)  
 \_\_\_\_ day \_\_\_\_ month \_\_\_\_ year

29. Where were you arrested? \_\_\_\_\_

30. Describe the circumstances of your arrest, how was it done? \_\_\_\_\_

31. What was the reason for being arrested?

1. Suspicion emerged
2. Decision
3. Don't know

32. What was the first detention facility after your arrest protocol was prepared? \_\_\_\_\_

33. Were you provided information about your rights and responsibilities in written form? (should be mentioned in the protocol on arrest)

1. Yes
  2. No
  3. Don't know
34. Did you read the section on the rights and responsibilities of the protocol on arrest?
1. Yes
  2. No
  3. Don't know
35. How long did you stay in the police department before you were brought to the place for keeping arrested people?
1. Less than 24 hours
  2. 1-3 days
  3. Other (specify \_\_\_\_\_)
  4. Don't know
36. How were you treated in the place for holding arrested people?
1. I was treated very polite (provide details \_\_\_\_\_)
  2. I was treated normally (provide details \_\_\_\_\_)
  3. I was treated roughly (provide details \_\_\_\_\_)
  4. I was humiliated (provide details \_\_\_\_\_)
  5. Other (provide details \_\_\_\_\_)
37. How long were you arrested? \_\_\_\_\_
38. Have you been in pre-trial detention?
1. Yes
  2. No (*if no, continue to the question #41*)
39. How long have you been in pre-trial detention?
40. When were you taken to court to get the decision on pre-trial detention?
1. in 72 hours
  2. after 72 hours
  3. other \_\_\_\_\_
41. When did you meet the investigator for the first time?
1. Immediately
  2. In an hour
  3. In 12 hours
  4. In 24 hours
  5. Other \_\_\_\_\_
42. How did the investigator treat you?
1. I was treated very polite (provide details \_\_\_\_\_)
  2. I was treated normally (provide details \_\_\_\_\_)
  3. I was treated roughly (provide details \_\_\_\_\_)

4. I was humiliated (provide details \_\_\_\_\_)
5. Other (provide details \_\_\_\_\_)
43. What would you like to change in the way you were treated? \_\_\_\_\_
44. Was anyone else present during your meetings with the investigator?
1. Yes (specify who \_\_\_\_\_)
  2. No

45. When was the protocol on arrest prepared?

1. During an hour
2. Up to 3 hours
3. Later \_\_\_\_\_
4. Don't know

46. Could you read the protocol on arrest before signing?

1. Yes
2. No (If no, provide details \_\_\_\_\_)
3. Don't know

47. Was the accusation provided during 72 hours after arrest?

1. Yes
2. No
3. Don't know

#### **Interrogation**

48. You were interrogated as

1. Suspect
2. Witness
3. Injured
4. Other \_\_\_\_\_

49. How old were you (exactly)? \_\_\_\_\_

50. How long did one interrogation last?

1. Up to 2 hours
2. More than 2 hours
3. Don't know

51. How long did the interrogations last during one day?

1. Up to 6 hours
2. More than 6 hours
3. Don't know

52. Could you include your statements and/or petitions in the protocol?

1. Yes
2. No need for inclusion of any additional statement
3. No, I wanted to make a change, but was not allowed.

(If no, provide details \_\_\_\_\_)

4. Don't know

53. Did the data described in the protocol match the reality?

1. Yes

2. No (If no, provide details \_\_\_\_\_)

3. Don't know

54. Was the pedagogue involved during the interrogations? (If the child is witness under 16)

1. Yes

2. No

3. Don't know

55. Was your legal representative (parent, or guardian) present during the interrogations? (If the child is arrested or detained)

1. Yes

2. No

3. Don't know

#### **Medical assistance**

56. Were you ever examined by medical personnel?

1. Yes

2. No (*continue to the question #59*)

57. Where were you examined? (*multiple choice*)

1. at Community Justice Centers

2. at Places for holding arrested persons

3. at Places for holding detained persons

58. Were you examined by the doctor in private?

1. We were neither seen, nor heard by the police

2. We were seen by the police, but not heard

3. We were seen and heard by the police

4. Other \_\_\_\_\_

5. Don't know

59. Did you need medical assistance?

1. Yes

2. No

3. Don't know

60. If yes, was the medical assistance provided?

1. Yes

2. No

3. Don't know

#### **Treatment**

61. If you were the head of the Police, what would you like to change in Police? \_\_\_\_\_

\_\_\_\_\_

62.If you were the head of the Prison, what would you like to change in Prison? \_\_\_\_\_

63.Have you ever been subjected to ill-treatment while in this or in other facility?

1. Yes

2. No (*continue to the question #76*)

64. Please describe what happened. \_\_\_\_\_

65.Why did it happen? \_\_\_\_\_

66.Who subjected you to ill-treatment? (Please don't mention names)

1. Investigator

2. Warden

3. Fellow detainee

4. Other \_\_\_\_\_

67.How often did this happen?

1. Once

2. Twice

3. Three times

4. More than 3 times

5. Other \_\_\_\_\_

6. Don't know

68. Did you tell any adult about this?

1. Yes, (specify whom \_\_\_\_\_) (*continue to the question #70*)

2. No

69.If not, why? \_\_\_\_\_

70. Did you submit any complaints on ill-treatment?

1. Yes, to the head of the police (*continue to the question #72*)

2. Yes, to the prosecutor's office(*continue to the question #72*)

3. Yes, to the court (*continue to the question #72*)

4. Yes, to the human rights defender (*continue to the question #72*)

5. No

71. If not, why? \_\_\_\_\_

72.Was a criminal case instituted based on your complaint?

1. Yes

2. No

3. Don't know

73.Was anyone punished based on a court decision following your complaint on ill-treatment?

1. Yes (provide details \_\_\_\_\_)

2. No (provide details \_\_\_\_\_)

3. Don't know

74. Was any disciplinary action taken against the person who ill-treated you?

1. Yes
2. No
3. Don't know

75. If yes what kind of disciplinary action was taken? \_\_\_\_\_

76. Have you ever heard about torture or ill-treatment toward other children?

1. Yes (If yes, specify \_\_\_\_\_)
2. No

### **Lawyer**

77. You had

1. Private Lawyer
2. Public defender
3. Did not have a lawyer

78. Did you talk to police representatives before the lawyer was involved?

1. Yes, I gave explanations (without status of suspect)
2. Yes, I was interrogated as suspect
3. Yes, I was interrogated as defendant
4. Yes, I was interrogated as witness
5. No
6. Don't know

79. Could you talk to the lawyer before interrogation?

1. Yes
2. No
3. Don't know

80. Was your meeting with the lawyer confidential?

1. We were neither seen, nor heard by the police
2. We were seen by the police, but not heard
3. We were seen and heard by the police
4. Other \_\_\_\_\_
5. Don't know

81. Was your lawyer present during all the interrogation sessions?

1. Yes
2. No (specify How many times \_\_\_\_\_)
3. Don't know

82. Were there any obstacles for meeting the lawyer?

1. Yes, there was time limitation ( provide details \_\_\_\_\_)
2. Yes there were other limitations ( provide details \_\_\_\_\_)
3. No
4. Don't know

83. Are you satisfied with his/her services?

1. Yes
2. No

84. Why or why not? \_\_\_\_\_

**Court**

85. How did the judge treat you?

1. I was treated very polite (provide details \_\_\_\_\_)
2. I was treated normally (provide details \_\_\_\_\_)
3. I was treated roughly (provide details \_\_\_\_\_)
4. I was humiliated (provide details \_\_\_\_\_)
5. Other (provide details \_\_\_\_\_)

86. What would you like to change in the way you were treated by the judge?

\_\_\_\_\_

87. Do you think the verdict and the punishment was fair?

1. Yes
2. No
3. Don't know

88. If no, why? \_\_\_\_\_

## Interviews with prosecutors, police representatives, advocates, judges and NGOs

General Information (*Do not ask*)

89. Date of the interview \_\_\_day\_\_\_month\_\_\_\_year

90. Time of the interview \_\_\_\_:\_\_\_\_

91. Duration of the interview \_\_\_\_\_ minutes

92. Place \_\_\_\_\_

Information on respondent

93. Position of the respondent \_\_\_\_\_

94. Place of work \_\_\_\_\_

95. Work experience \_\_\_\_\_ years

96. Sex of the respondent (*Do not ask*)

1. Male
2. Female

**Ill-treatment**

97. What kind of crimes are Juveniles mainly involved in?

98. What are the main reasons for juvenile offences?

99. When do cases of ill-treatment occur mostly?

100. In what context do cases of ill-treatment occur mostly?

101. Who are the main perpetrators?
102. How often are the instances of ill-treatment of children by other children in the facility?
103. How often are the instances of ill-treatment of children by staff in the facility?
104. What kind of ill-treatment is applied by staff?
105. Who are mostly abused by other children?
106. Who are mostly abused by staff?
107. What kind of violence occurs most often?
108. Is physical punishment used in police facility?
109. How often physical punishment is used?
110. Was any criminal case concerning a complaint on torture or ill-treatment instituted during last 2 years?
111. What was the process and the result of these cases? (Provide details)
112. What actions do judges take when defendant states in the court that he was ill-treated?
113. Is any disciplinary action taken against perpetrators? (if no, continue to the question #27)
114. If yes, what kind of disciplinary action is usually taken?
115. When are child's parents or guardians notified that the child is at the police station?
116. Are parents or guardians present during the interrogation? (if yes, continue to the question #30)
117. If no, are any sanctions taken for that?
118. Is lawyer present during questioning of juvenile suspect?
119. Are pedagogues present during questioning of a witness child under 16?
120. In your opinion, approximately what percentage of ill-treatment cases are being disclosed?
121. Please tell about cases of ill-treatment complaints you are aware of.
122. Are there any legislative gaps that hinder effective investigation into allegations of torture?
123. In your opinion what will help to reduce ill-treatment and torture against children
  - (a) in police facilities?
  - (b) on detention ?
  - (c) in imprisonment ?
124. In your opinion what will help to increase disclosure of ill-treatment cases
  - (a) in police facilities?
  - (b) on detention ?
  - (c) in imprisonment ?
125. Is information provided by juvenile suspect in the absence of a lawyer used as evidence during legal proceedings? (provide details)
126. What special qualifications (training participation) do the investigators questioning

children have? (provide details)

127. What special qualifications (training participation) do the judges have for examining juvenile cases ? (provide details)
128. What special qualifications do the attorneys working with juveniles (training participation) have? (provide details)
129. What are the prerequisites for recruitment or appointment to the position of the police investigators working with children? (provide details)
130. Additional notes

## Interviews with staff of community justice centers, staff of facilities where juveniles are deprived of liberty

General Information (*Do not ask*)

1. Date of the interview \_\_\_ day \_\_\_ month \_\_\_ year
2. Time of the interview \_\_\_\_\_
3. Duration of the interview \_\_\_\_\_ minutes
4. Place \_\_\_\_\_

Information on respondent

5. Position of the respondent \_\_\_\_\_
6. Place of work \_\_\_\_\_
7. Work experience \_\_\_\_\_ years
8. Sex of the respondent (*Do not ask*)
  1. Male
  2. Female

### **Ill-treatment**

9. What kind of crimes are Juveniles mainly involved in?
10. What are the main reasons for juvenile offences?
11. When do the cases of ill-treatment occur mostly?
12. In what context do the cases of ill-treatment occur mostly?
13. Who are the main perpetrators?
14. How often are the instances of ill-treatment of children by other children in the facility?
15. How often are the instances of ill-treatment of children by staff in the facility?
16. What kind of ill-treatment is applied by staff?
17. Who are mostly abused by other children?
18. Who are mostly abused by staff?
19. What kind of violence occurs most often?
20. Is physical punishment used in police facility?
21. How often physical punishment is used?
22. Was any criminal case concerning a complaint on torture or ill-treatment instituted

- during last 2 years?
23. What was the process and the result of these cases? (Provide details)
  24. What actions do judges take when defendant states in the court that he was ill-treated?
  25. Is any disciplinary action taken against perpetrators? (if no, continue to the question #27)
  26. If yes, what kind of disciplinary action is usually taken?
  27. When are a child's parents or guardians notified that the child is at the police station?
  28. Are parents or guardians present during the interrogation? (if yes, continue to the question #30)
  29. If no, are any sanctions taken?
  30. Is the lawyer present during questioning of a juvenile suspect?
  31. Are pedagogues present during questioning of a witness child under 16?
  32. In your opinion, approximately what percentage of ill-treatment cases are being disclosed?
  33. Please tell about cases of ill-treatment complaints you are aware of.
  34. Are there any legislative gaps that hinder effective investigation into allegations of torture?
  35. In your opinion what will help to reduce ill-treatment and torture against children
    - (a) in police facilities?
    - (b) on detention ?
    - (c) in imprisonment ?
  36. In your opinion what will help to increase disclosure of ill-treatment cases
    - (a) in police facilities?
    - (b) on detention?
    - (c) in imprisonment?
  37. Upon entering the facility what kind of information is registered about the child?
  38. How do you think is that enough? Why?
  39. What kind of information is provided to children upon entering the facility?
  40. How do you think is that enough? Why?
  41. Is medical examination performed on children upon admission to any facility where they are deprived of liberty? What kind of medical examination is provided?
  42. When and how often the medical examination is performed?
  43. What is the time limit within which it must be performed?
  44. In your opinion is that enough to identify the consequences of ill-treatment and torture (physical, psychological or sexual violence or harm)?
  45. If medical examination shows signs of physical, psychological or sexual violence or harm, what actions are taken?
  46. Whom health service provider reports evidence indicating that the child has been subjected to torture or ill-treatment?

47. Who is responsible for further proceeding and investigation on the evidence of ill-treatment and/or torture?
48. What trainings do medical professionals in the facilities have for identification of physical evidence of possible torture or ill-treatment?
49. Are they qualified to assess evidence of mental or psychological stress or ill-treatment?
50. Is professional relationship between health service provider and child confidential (provide details)?
51. Can a juvenile deprived of liberty have access to independent medical services?
52. How many meals are children provided with per day in the facility?
53. Is there a special diet provided for sick children?
54. Do correctional officials, staff of special schools have training on child rights?
55. Do correctional officials, staff of special schools have training on the issue of torture and ill-treatment?
56. Is commitment to assist children and respect their rights a prerequisite for hiring or appointing the staff of facilities where children are deprived of liberty, such as special schools, detention centers for juveniles and correctional facilities for juveniles (provide details)?
57. Additional notes