

United Nations Optional Protocol to the Convention Against Torture

**Independent Police Conduct Authority, Office of the Children's Commissioner and the
New Zealand Human Rights Commission
Joint Thematic Review of Children and Young Persons' Detention Issues 2010**

TERMS OF REFERENCE

1. To examine national Police policy on provision for children and young persons in the custody of Police:
 - Qualitative assessment of the national policy or policies;
 - Quantitative assessment of the Police data available in relation to children and young persons detained in Police custody for the last financial year;
 - Identification of any District variations on the national policy and, where appropriate, seek further clarification from Police as to the rationale behind the variation; and
 - Examine / identify District initiatives in relation to children and young persons (to identify models of best practice).

2. To examine national Child, Youth and Family policy on children and young persons in custody
 - Qualitative assessment of the national policy or policies;
 - Quantitative assessment of the Child Youth and Family data available in relation to children and young persons detained in Police custody for the last financial year;
 - Identification of any Regional variations on the national policy and, where appropriate, seek further clarification from Child Youth and Family as to the rationale behind the variation; and
 - Examine / identify CYF initiatives that could benefit from Police / CYF engagement.

3. To identify national and international standards applicable to the detention of children and young persons:



- Identify relevant *Children, Young Persons and their Families Act* (CYPFA) provisions and / or policy applicable to children and young persons in detention, including (with agency consent) both a qualitative and quantitative analysis of the provisions and data obtained in this process;
 - Identify further relevant domestic legislation or policies beyond CYPFA (if any) that apply to children and young persons in detention;
 - Identify international instruments, rules, or principles that apply to children and young persons in detention; and
 - Identify any relevant case law or commentary that supplements or adds value to the analysis of the laws and policies above.
4. To agree upon an expanded assessment criteria to ensure a thorough assessment of children and young person's issues on IPCA site visits:
- Utilise this expanded assessment criteria at upcoming site visits (both announced and unannounced);
 - Where possible, conduct interviews with children or young persons in detention (this benefits not only this study but also ensures that the IPCA interviews a range of detainees over the financial year – an international best practice indicator);
 - Incorporate random data sampling requests (as provided for under the information request provisions of the *Crimes of Torture Act*) and analyse this information both for the purpose of District recommendations and this review; and
 - Consult with the Human Rights Commission in relation to a human rights analysis of detention issues for children and young persons and, if appropriate, agree upon a wider consultation plan and carry out that plan.
5. To make appropriate recommendations for Police and Child, Youth and Family to improve the quality and consistency of treatment of children and young persons in Police custody:
- Identify minimum standards or guidelines for the treatment of children and young persons.
6. To prepare a comprehensive report that covers, inter alia:
- OPCAT in the international framework and in New Zealand;
 - The role of the Human Rights Commission and other National Preventive Mechanisms and the importance of joint thematic reviews;
 - The background and impetus for the present study;
 - Methodology, including limitations and ethics; and
 - Analysis, findings, and recommendations.