



المجلس الوطني لشؤون الأسرة
NATIONAL COUNCIL FOR FAMILY AFFAIRS



Situation Analysis of Juvenile Justice

2018

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Preface

The National Council for Family Affairs (NCFA) and UNICEF are pleased to share with you the Situation Analysis of the Juvenile Justice System in Jordan.

Jordan has taken giant strides in recent years towards establishing a restorative justice system for juveniles in compliance with the Convention on the Rights of the Child, including raising the minimum age of criminal responsibility from 7 to 12 years of age.

These are bold and critical milestones for the protection of children in Jordan.

However, our collective efforts must continue to ensure that children in conflict with the law are protected from further harm through a child friendly justice system. Keeping this goal in mind, and in response to the 2014 Concluding Observations of the UN Committee on the Rights of the Child to Jordan, NCFA, in partnership with UNICEF, carried out a Situation Analysis of the Juvenile Justice System in Jordan in 2017. The situational analysis helped identify areas that need to be addressed and strengthened for effective implementation of Jordan's Juvenile Law No. 32 adopted in 2014, as well as identify areas that require further revision to be compliant with the Convention on the Rights of the Child (CRC) and other international standards related to children in conflict with the law, including the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) and United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules).

A multi-sectoral team comprising representatives from NCFA, Ministry of Justice, Judicial Council, Ministry of Social Development, Public Security Directorate and UNICEF collaboratively managed the exercise. The situation analysis adopted a mixed methods approach for data collection including: a desk review of existing international and national reports; expert analysis of statistical data available on children in conflict with the law; focus group discussions with representatives from national and international institutions working in the field of juvenile justice; and case studies with children in conflict with the law. The findings were validated through a workshop with multi sectoral participation.

NCFA and UNICEF are very grateful to numerous individuals and institutions for their active support and valuable contributions to this report, including members of the multi-sectoral team, the supervisors, experts and the research team from the Council. It is our sincere hope that this report will provide useful information and guidance in developing strategies and action plans that will translate into improved quality of services for children in conflict with the law, and ultimately a specialized justice system for children that is based on restorative and rehabilitative practices, in full compliance with the Convention on the Rights of the Child.

NCFA Secretary General
Mohammad Fakhri Meqdady

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PART 1: INTRODUCTION TO THE SITUATION ANALYSIS ON JUVENILE JUSTICE IN JORDAN

1. Abbreviations and Definitions Used in this Report

Within the scope of this situation analysis on juvenile justice in Jordan, UNICEF/NCFA use the following abbreviations and definitions:

Abbreviations:

– CRC:	Convention on the Rights of the Child (1989)
– CRC-Committee	Committee on the Rights of the Child
– CRC-GC	General Comment of the Committee on the Rights of the Child
– CSOs/NGOs	Civil Society Organisations & Non-Governmental Organisations
– FPD	Family Protection Department
– JCLA	Justice Center for Legal Aid
– JJ:	Juvenile Justice
– JPD:	Juvenile Police Department
– MACR:	Minimum age of criminal responsibility
– Model Law on JJ	Model Law on Juvenile Justice and Related Commentary (2013)
– MoI	Ministry of Interior
– MoJ	Ministry of Justice
– MoSD	Ministry of Social Development
– MoT	Ministry of Tourism
– NCFA	National Council for Family Affairs
– PSD	Public Security Directorate
– UNHCR	United Nations High Commissioner for Refugees
– UNICEF	United Nations Children’s Fund
– UNODC	United Nations Office on Drugs and Crime

Definitions¹:

- Aftercare: Control, supervision and care exercised over children (early) released from post-trial detention facilities. Aftercare may include probation, parole, counselling, enrolment in a community-based programme or other services.
- Alternatives to post-trial detention (also called ‘non-custodial sentence’ and ‘alternative sentence’): Measures at the sentencing stage that may be imposed on children who are being formally processed through the criminal (juvenile) justice system and have been found guilty of committing an offence. Alternatives to post-trial detention provide community-based options for the reintegration, supervision and rehabilitation of children rather than sending them to any form of detention facility. [UNICEF Toolkit]²

¹ The definitions provided in this paragraph are international definitions. If the definitions used in the Jordan JJ-context differ from the international ones, the Jordan definitions are included in italic between brackets.

² ‘UNICEF-Toolkit’ refers to the online toolkit on diversion and alternatives to detention (www.unicef.org/tdad).

- Alternatives to pre-trial detention: Measures that may be imposed on children who are being formally processed through the criminal (juvenile) justice system and that provide an alternative means of supervising the child pending his/her trial rather than detention in police station cells or pre-trial detention centres or remand homes. [UNICEF Toolkit] [Jordan definition]
- Arrest: When someone is placed under the custody (they are not free to leave) of the police, military, intelligence or other security forces because of actual, perceived or alleged conflict with the law. [UNICEF Toolkit] [Jordan definition]
- Bail: A suspect who has been arrested or charged with an offence is released by the police or court on condition that he/she reports back at a certain date and time. Sometimes the suspect has to keep to certain conditions and/or to pay a sum of money which is refunded only if he/she returns to appear in court as ordered (called 'monetary bail'). [UNICEF-Toolkit]
- Charge: A child is charged with an offence where the police, a law enforcement authority, the public prosecutor or a competent authority formally accuses him/her of having committed a specific offence. [UNICEF-Toolkit]
- Child: Every human being below the age of eighteen years unless under the law applicable to the child majority is attained earlier.³ [Article 1 of the CRC]
- Child in conflict with the law (also called 'child-offender' & 'juvenile offender'): A child alleged as, accused of, or recognized as having infringed the criminal law. [Model Law on JJ] [Jordan definition]
- Community-based programmes and services: Programmes and services offered by local governmental or non-governmental organisations (NGOs/CSOs) that are not residential (also called 'not institution-based'). [MENARO] [Jordan definition]
- Competent authority: The part of the (juvenile) justice system that is responsible for making procedural or disposition decisions regarding cases of children in conflict with the law. [UNICEF-Toolkit]
- Complaints mechanism: Any system that allows a child (in conflict with the law) to bring any aspect of the treatment that the child has received, including violations of his/her rights, to the attention of the authority responsible for the place of detention, or any other official body established for such purpose. [UNICEF-Toolkit]
- Criminal justice system: The set of laws, procedures, professionals, authorities and institutions that apply to victims, witnesses and persons alleged as, accused of or recognized as having infringed criminal law. [UN Model Strategies on Violence against Children]
- Deprivation of liberty (also called 'detention' & 'custodial sentence'): Any form of detention or custody, in a public or private setting or institution, from which the child is not permitted to leave at will, by order of any judicial, administrative or other competent public authority.⁴ [Model Law on JJ]
- Discharge (also called 'determination of proceedings'): Where appropriate and com-

³ The Jordan Juvenile Law (2014) includes three definitions with regard to children in conflict with the law:

- Adolescent: Every person who has completed twelve years of age but has not completed fifteen years of age. [≥ 12 years to < 15 years]
- Boy: Every person who has completed fifteen years of age, but has not completed eighteen years of age. [≥ 15 years to < 18 years]
- Juvenile: Every person, who has not completed eighteen years of age. [< 18 years]

⁴ Pre-trial/trial detention is the period when children in conflict with the law are deprived of their liberty from the moment of being charged till the moment of being sentenced. Post-trial detention is the period when children in conflict with the law are deprived of their liberty from the moment of being sentenced to deprivation of liberty till the end of their stay in the detention facility.

patible with the legal system, the police, prosecution service or other agencies dealing with criminal cases are empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. Discharge may be unconditional as well as conditional. [Tokyo Rule 5.1.] [Jordan definition]

- Dismissal: An order of the court disposing of a case without conducting a trial of the issues. [UNICEF-Toolkit]
- Disposition: The decision reached concerning a case of a child in conflict with the law.⁵ [UNICEF Toolkit]
- Diversion: The conditional channelling of children in conflict with the law away from formal judicial proceedings towards a different way of resolving the issue that enables many – possibly most – to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record, provided that human rights and legal safeguards are fully respected.⁶ [UNICEF Toolkit]
- Hearing: A court proceeding to decide on a course of action or to determine a child's involvement or non-involvement in an offence. [UNICEF Toolkit]
- Informal (juvenile) justice mechanisms: Informal (juvenile) justice is used as synonym for non-state justice [≈ UN Common Approach] and refers to the resolution of disputes and the regulation of conduct by adjudication or with the assistance of a neutral third party that is not part of the judiciary as established by law and/or whose substantive, procedural or structural foundation is not primarily based on statutory law. [UN Model Strategies on Violence against Children] [Jordan definition]
- Juvenile: A child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult. [Beijing Rule 2.2.][Jordan definition]
- Juvenile court (in this report (English) called 'child court'): A court with authority over cases involving individuals under a specified age, usually 18 years. [UNICEF Toolkit] [Jordan definition]
- Juvenile justice system: The set of laws, policies, guidelines, customary norms, systems, professionals, institutions and treatment specifically applicable to children in conflict with the law, i.e. children alleged as, accused of or recognized as having infringed criminal law. [UNODC/UNICEF JJ-Indicators] [Jordan definition]
- Legal aid: Legal advice, assistance and representation for persons/children detained, arrested or imprisoned as a result of being suspected or accused of or charged with a criminal offence, which is provided at no cost for those without sufficient means or when the interests of justice so require [UN Model Strategies on Violence against Children]
- Legal representation: Representation in court by a qualified lawyer or a legally trained person who is authorised to appear in court.⁷ [UNICEF Toolkit]
- Minimum age of criminal responsibility: This is the lowest age at which the criminal justice system deems a child can be held responsible for his/her own behaviour and can therefore be

5 The term 'disposition' is not synonymous to 'sentence' as disposition includes dismissal of a case whereas sentence always involves the application of certain measures.

6 In Arabic, the concept of 'diversion' is often confused with 'referral', because it is one and the same word ('ehalat'). In English the term 'referral' means the process of formally requesting services for a child or his/her family from another agency (for example legal aid, medical examination, support during court proceedings, etc.) through an established procedure and/or form.

7 Legal representation is not the same as 'legal assistance' or 'legal advice' which can be provided by a lawyer, NGOs or paralegals at any stage of the criminal justice process.

found guilty in a court. Under this age children are not considered to have the capacity to infringe the penal law. [UNICEF Toolkit]

- Offence: Any behaviour (act or omission) that is punishable by law under the respective legal systems. [Beijing Rule 2.2.]
- Placement: Removing a child found to have committed an offence from his/her home and placing him/her elsewhere for a specified period of time, such as in a children's care institution, detention centre or other facility.
- Pre-trial detention: The period when children are deprived of liberty between the moment of being charged and the moment of being sentenced. [UNICEF Toolkit] [Jordan definition]
- Probation (also called 'Judicial Supervision'): Non-custodial measure involving the monitoring, supervision and assistance of a child found to have committed an offence whilst he/she remains in the community. Probation may be employed as a measure on its own, or following a custodial/detention sentence. During probation, the child must maintain good behaviour, not commit another offence and meet any other conditions the court may deem appropriate to impose. [UNICEF Toolkit]
- Proportionate: Ensuring that the relationship between an offence and the response to the offence is 'reasonable' and not an over-reaction or under-reaction. [UNICEF Toolkit]
- Rehabilitation: Restoring of a child to good health or a useful place in society, often through therapy and education. [UNICEF Toolkit]
- Reintegration: Re-establishing of roots and a place in society for children who have been in conflict with the law so that they feel part of, and accepted by, the community. [UNICEF Toolkit]
- Remand: When a competent authority sends a child who has been accused of committing an offence back into custody to await trial or continuation of their trial. [UNICEF Toolkit]
- Restorative justice approach: An approach in which the (child) victim and (child) offender and, where appropriate, any other individuals or community members affected by the offence, participate actively together in the resolution of matters arising from the offence, generally with the help of a facilitator. Examples of restorative justice approaches most often used in child cases are mediation and conferencing (also called 'community conferencing', 'family conferencing' and 'group conferencing'). [UNICEF Toolkit]
- Restorative justice conference (also called 'family group conference' & 'community conference'): A facilitated meeting between parties involved in an offence such as victims/survivors, children in conflict with the law and perhaps families, professionals and community members. [UNICEF Toolkit]
- Semi-open/semi-closed institution: Children placed in an institution with a semi-open/semi-closed regime cannot leave at will, except with the explicit permission of the management of the institution to participate in for specific activities in the community like education, leisure activities and/or visits to parents/guardians or family. [≈ JDLs/MENARO]
- Sentence: Final decision, notwithstanding any right of appeal, by a competent authority about a case of a child in conflict with the law ruling that the child shall be subject to certain measures. [UNICEF Toolkit]
- Social inquiry report: An assessment of the child's current and past social circumstances relevant to understanding why he/she committed the offence(s) and his/her needs and motivation for reintegration, rehabilitation, restoration and other measures. A social inquiry report, also called 'pre-sentencing report', is often a pre-requisite to enable (juvenile/child) judges to use their discretion in disposing of children's cases in the most appropriate way. [UNICEF Toolkit]
- Social welfare system: The set of social protection laws, regulations, services and social work professionals. [UN Common Approach to JfC]
- Status offences: Acts that would not be criminal acts if committed by adults, such as school truancy, school and family disobedience, running away from home, begging, curfew violations, etc. [CRIN]

2. Introduction to the Situation Analysis of Juvenile Justice in Jordan

2.1. Objectives of the Situation Analysis

The ultimate objective of juvenile justice reform is to bring the system and all its components into compliance with the Convention on the Rights of the Child (CRC) and related international standards on juvenile justice. A comprehensive situation analysis is required in order to provide an overview of the juvenile justice system as a whole and to understand the strengths and weaknesses of the various components of the system. The present situation analysis of the JJ-system in Jordan intends to contribute to the improvement of the JJ-system in general and the development and strengthening of diversion, alternatives to detention and restorative justice approaches

in cases of children in conflict with the law that build upon the newly endorsed Juvenile Law (2014) in particular (see also commentary to Beijing Rule 30 in the box on the next page). The assessment builds upon the findings of the regional study conducted by UNICEF Regional Office for the Middle East and North Africa (MENARO).⁸ The concrete objectives of the situation analysis are:

- Exploring available statistics on the extent, nature and trends of children in conflict with the law (see §3.2.2.).
- Analysing the legal framework and national policies on juvenile justice; governmental juvenile justice institutions; juvenile justice professionals and their mandates; and procedures, measures and referral mechanisms concerning children in conflict with the law at all stages of the juvenile justice process (see §5.1. to §5.15).
- Identifying community-based services and programmes available for children in conflict with the law (and their parents/legal guardians) and documenting promising and good practices that promote the reintegration and rehabilitation of children in conflict with the law and prevent reoffending (see §6., §7., §8., §9. & §11.).

The Steering Committee of the National Council for Family Affairs, called ‘NCFA-Committee’ in this report (see Annex 1), has decided to include two special sections, i.e. ‘the Syrian crisis and Syrian/refugee children in conflict with the law’ (§3.3.) and ‘informal juvenile justice mechanisms’ (§4.3. & §4.4.).

“The utilization of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is especially important in juvenile justice. With rapid and often drastic changes in the life-styles of the young and in the forms and dimensions of juvenile crime, the societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.”

Commentary to Beijing Rule 30

⁸ UNICEF MENARO, Development of a Regional Continuum of Community-Based Responses to Children in Conflict with the Law in Five MENA-Countries, UNICEF MENARO, 2015.

2.2. Recommendations of the Committee on the Rights of the Child as Starting Point

The Government of Jordan has ratified the CRC in 1991⁹, which means that Jordan is obliged to harmonize its JJ-system with the CRC and other relevant international standards. The Committee on the Rights of the Child has formulated comprehensive observations and recommendations about juvenile justice in its most recent report (see recommendations in the box)¹⁰

“The Committee recommends that the State party strengthen its efforts to build a system of restorative and rehabilitative juvenile justice fully in line with the Convention, in particular articles 37, 39 and 40, with other relevant standards, and with the Committee’s general comment No. 10 (2007) on children’s rights in juvenile justice. In particular, the Committee urges the State party to:

- (a) Expediently adopt an amended Juveniles Bill raising the age of criminal responsibility to an internationally acceptable level, as previously recommended;*
- (b) Ensure that the new law establishes specialized juvenile courts, focusing on restorative justice and providing for free legal aid for children at an early stage of the procedure and throughout the legal proceedings;*
- (c) Ensure that detention, including pre-trial detention, is used as a measure of last resort and for the shortest possible time, even in cases of very severe crimes, and that it is reviewed on a regular basis with a view to its being withdrawn. Alternative measures to detention, such as diversion, probation, mediation, counselling or community service, should be given priority wherever possible;*
- (d) Designate specialized judges for children and ensure that such specialized judges receive appropriate education and training;*
- (e) Make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime, UNICEF, the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations, and seek technical assistance in the area of juvenile justice from members of the Panel.”*

CRC-Recommendation 64 on the Administration of Juvenile Justice (8 July 2014)

For the present report, the recommendation “strengthen its efforts to build a system of restorative and rehabilitative juvenile justice” is of particular importance.

⁹ “The Hashemite Kingdom of Jordan expresses its reservation and does not consider itself bound by articles 14, 20 and 21 of the CRC, which grant the child the right to freedom of choice of religion and concern the question of adoption, since they are at variance with the precepts of the tolerant Islamic Shariah.” [<http://indicators.ohchr.org/>]

¹⁰ Source: Committee on the Rights of the Child, Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Jordan, 8 July 2014. [CRC/C/JOR/CO/4-5]. In the meantime, the Juvenile Law (2014) has been adopted and the age of criminal responsibility raised to 12 years, some specialized juvenile courts have been established, restorative juvenile justice is incorporated through settlement by JPD and free legal aid for children in conflict with the law at trial stage is guaranteed.

2.3. Methodology Used to Collect the Information on Juvenile Justice

This situation analysis on juvenile justice in Jordan has been conducted by UNICEF-Jordan and the National Council for Family Affairs (NCFA). The research team consisted of one international consultant and two national experts who have been supported and advised throughout the process by the NCFA-Committee (see Annex 1). The information has been collected through a combination of five methods (see also overview 'Methodology of the Situation Analysis on Juvenile Justice' & Annex 2):

- Desk review of international documents, national documents, evaluation reports and other relevant reports (see §18).
- Analysis of statistics on children in conflict with the law at all stages of the juvenile justice process (see Annex 4).
- Focus group discussions with:
 - Legal experts and the NCFA-Committee based on semi-structured questionnaires shared in advance
 - Representatives of Ministries, management of governmental agencies, juvenile justice professionals and staff of local, national and international non-governmental organisations
 - Children in conflict with the law who are/have been subject to alternative measures
- Case studies of children in conflict with the law.
- Validation workshop with the members of the NCFA-Committee and a selected group of experts (see annex 1).



The UNICEF/NCFA Research Team



Discussion with juvenile justice professionals

Methodology of the Situation Analysis on Juvenile Justice

Desk Review		Statistics	Focus Group Discussions		Case studies	Validation workshop
International	National		Professionals	Children		
33	26	4 sources	89 professionals	4 boys & 0 girls	4 cases/ 3 boys	29 professionals
59 documents						

The focus group discussion with children involved in juvenile justice procedures (see §5.15.) have been conducted according to the guidelines on ethical research developed by various international partners¹¹, i.e. respecting the dignity of children, the research should benefit children, children should never be harmed by their participation, children's informed consent and ongoing consent, accompany by a suitable adult, child-friendly research environment and experienced facilitator. Only the requirement 'child-friendly research environment' has not been met entirely. The

11 Graham, A., Powell, M., Taylor, N., Anderson, D. & Fitzgerald, R., Ethical Research Involving Children, Florence, UNICEF Office of Research – Innocenti, 2013 (www.childethics.com) & Inter-Agency Working Group on Children's Participation (IAWGCP), Minimum Standards for Consulting with Children, Bangkok, 2007.

discussion took place in an office of the Juvenile Education/ Rehabilitation Institution where the four boys resided at the moment of the research and in the presence of three staff-members. The CRC-Committee states in this regard that “it is important that children are involved in this evaluation and research (concerning juvenile justice), in particular those who have been in contact with parts of the juvenile justice system” (paragraph 99 of CRC-GC10).

The research team also intended to have a focus group discussion with informal justice providers, an observation of an informal juvenile justice session and a visit to a Vocational Training Centre. Unfortunately, these consultations were not possible within the allocated timeframe. It was also planned to involve probation officers¹² attached to courts and institutions run by MoSD in the discussions, but that was also not feasible.

In total 125 participants have contributed to the situation analysis (69 male and 56 female participants), i.e. 113 participants from Amman, 12 participants from five other governorates, i.e. Irbid, Zarqa, Mafrq, Ajloun and Salt, and 80 participants from Ministries, national governmental agencies and national and local community-based-organisations. Also 7 children in conflict with the law have assisted the research team with the collection of information on juvenile justice, i.e. 4 boys through a focus group discussion and 3 children through providing case studies. The collection of the information took place from March till July 2017 and has been undertaken in Amman. The validation workshop has been organised in Amman in September 2017. The composition of the group of persons that have contributed to the situation analysis can be considered a representative sample for Jordan, i.e. the number and variety of JJ-professionals that have been involved. However, the group is not a representative sample with regard to the views and concerns of children in conflict with the law that are reflected and the geographical coverage. The findings are a little bit too adult-oriented and too much Amman-dominated, which means that a too rosy picture of the juvenile justice system and procedures is provided in the present report. Nevertheless, the research team feels confident to cautiously generalize the findings to the Jordan juvenile justice system and all children in conflict with the law from 12 to 18 years in the entire country.

2.4. Expression of Gratitude

UNICEF-Jordan and NCFJA would like to express their deep appreciation to the members of the Steering Committee and Validation Workshop for their professional and valuable contributions to the situation analysis as well as the validation workshop. Also, many thanks to the Ministries for providing the statistics on juvenile justice, the participants of the focus group discussion and the children who shared their experiences. Without all of you this report on juvenile justice in Jordan would not exist. Thank you very much!

3. Juvenile Offending in Jordan at a Glance

3.1. International Recommendations about Juvenile Justice Statistics

The CRC-Committee has expressed its deep concern about *“the lack of even basic and disaggregated data on, inter alia, the number and nature of offences committed by children, the use and the average duration of pre-trial detention, the number of children dealt with by resorting to measures other than judicial proceedings (diversion), the number of convicted children and the nature of the*

¹² The terms ‘probation officer’ and ‘behavioural monitor’ are synonym. In this report, the term ‘probation officer’ is used.

sanctions imposed on them" (paragraph 98 of CRC-GC10). The CRC-Committee urges the States parties to systematically collect disaggregated data relevant to the information on the practice of the administration of juvenile justice, and necessary for the development, implementation and evaluation of policies and programmes aiming at the prevention and effective responses to juvenile delinquency in full accordance with the principles and provisions of CRC.

UNICEF and UNODC have developed 15 juvenile justice indicators, divided into 'quantitative indicators' and 'policy indicators', of which the following five indicators are considered as 'core indicators' (see Annex 3):¹³

- Specialised juvenile justice system (see §5.5.)
- Pre-trial/trial diversion (see §6.2.)
- Children in detention (see §5.10.)
- Children in pre-trial/trial detention (see §6.4.)
- Custodial sentencing (see §8.3.)

3.2. Available Statistics on Juvenile Justice in Jordan

3.2.1. Sources of Juvenile Justice Statistics and Received Data

In this section, the available statistics relating to children in conflict with the law are discussed. The research team intended to collect all data relevant to juvenile justice (see Annex 4). In first instance, only a very limited selection of data has been shared by the Ministries (March & April 2017). The additional requests for juvenile justice statistics resulted in a better insight into the extent, nature and trends of juvenile justice in Jordan (July 2017), but still not in a comprehensive picture. The following data has been shared by the four relevant governmental partners:

Ministry of Justice (MoJ): [including Judicial Council & Prosecution Office]

- Statistics received:
 - Responses to Children in Conflict with the Law (2015 & 2016)
 - Individual and Joint Offences Committed by Children (2016)
 - Children in Conflict with the Law Deprived of their Liberty (2015 & 2016)
 - Duration of Pre-Trial and Post-Trial Detention of Children in Conflict with the Law (2016)
- Missing and unavailable statistics:
 - Alternatives to Post-Trial Detention for Children in Conflict with the Law (2015 & 2016)
 - Early (Conditional) Release from Post-Trial Detention (2016)

Ministry of Interior (MoI):

- Statistics received:
 - Kinds of Offences Dealt with by Governors in 12 Governorates (2015 & 2016)

¹³ UNODC & UNICEF, Manual for the Measurement of Juvenile Justice Indicators, United Nations, New York, 2006.

An indicator provides a common way of measuring and presenting information that reveals whether standards are being met. The indicators 1 to 11 are quantitative indicators that require the collection of numerical information about children in conflict with the law. The indicators 12 to 15 are policy indicators that provide descriptive information about laws and policies relating to juvenile justice. (see Annex 3)

- Missing and unavailable statistics:
 - Kinds of Cases of Children in Conflict with the Law Dealt with by Governors (2016)

Public Security Directorate (PSD) & Juvenile Police Department (JPD):

- Statistics received:
 - Kinds of Offences Reported to Police (2012 to 2015)
- Missing and unavailable statistics:
 - Kinds of Offences Reported to Police disaggregated by gender (2016)
 - Settlement of Cases of Children in Conflict with the Law by JPD (2016)

Ministry of Social Development (MoSD):

- Statistics received:
 - Kinds of Offences Committed by Children (2012 to 2016)
 - Kinds of Offences Committed by Boys and Girls (2016)
 - Kinds of Offences Committed by First-Time Offenders & Recidivists (2016)
 - Kinds of Offences Committed by Children Placed in Pre-Trial Detention and Post-Trial Detention (2016)
- Missing and unavailable statistics:
 - Number of Probation Officers Involved in Cases of Children in Conflict with the Law (2016)
 - School Enrolment of Children in Juvenile Education/Rehabilitation Institutions (2015 & 2016)
 - Children Sentenced to Deprivation of Liberty for Offences Eligible for Settlement (2016)
 - Separation of Children in Pre-Trial Detention and Post-Trial Detention (2016)
 - Duration of Pre-Trial Detention of Accused Children (2015 & 2016)
 - Duration of Post-Trial Detention of Sentenced Children (2015 & 2016)
 - Visit of Sentenced Children by Parents/Relatives in Post-Trial Detention (2016)

Justice Center for Legal Aid (JCLA):

- Statistics received:
 - Legal Assistance by JCLA in Cases of Children in Conflict with the Law (2016)
- Missing and unavailable statistics:
 - Reporting and Referral Mechanisms in Cases of Children in Conflict with the Law (2016)

3.2.2. Extent, Nature and Trends of Juvenile Offending

The Public Security Directorate (PSD) has provided statistics that show how many offences are allegedly committed by children on a yearly basis and in which kinds of offences children from 12 to 18 years are involved.¹⁴ Of course, the PSD-overview shows only the offences that have been reported to the general police, Juvenile Police Department (JPD) and Family Protection Department (FPD) and not the undiscovered offences, cases dealt with by informal justice providers and offences committed by children below the age of 12 years. Not all categories of offences used by PSD are easy to understand when allegedly committed by children.

¹⁴ Criminal Statistical Report; Criminal Information Department; 2015 & 2016; pages 49-50; Chapter 5.

Number and Kinds of Offences Reported to Police (2012 to 2015)								
	2012:		2013:		2014:		2015:	
Financial Offences:	2577	57.0%	2454	53.5%	1659	64.4%	1883	71.2%
Offences against Humans:	1195	26.3%	1307	28.4%	316	12.3%	278	10.5%
Offences against Public Morals:	254	5.6%	275	6.0%	241	9.4%	174	6.6%
Offences against Public Administration:	134	3.1%	124	2.7%	194	5.5%	165	6.2%
Offences against Public Health:	148	2.3%	188	4.1%	141	7.5%	162	4.8%
Offence against Public Trust:	11	0.2%	3	0.1%	11	0.4%	4	0.2%
Offences against Family & Religion:	6	0.1%	6	0.1%	--	--	--	--
Offences against Judicial Administration:	1	0.0%	1	0.0%	--	--	--	--
Other offences: ¹⁵	196	4.3%	233	5.1%	14	0.5%	16	0.6%
Total:	4526	100%	4595	100%	2576	100%	2646	100%

Source: Public Security Directorate (PSD)

The PSD-overview shows a significant decrease of the total number of cases of children in conflict with the law reported to police in 2012 and 2013 (4526 & 4595) compared to 2014 and 2015 (2576 & 2646). This decrease of more than 40% appears to be predominantly the result of the reduction of 'offences against humans' (1195/1307 versus 316/278), 'financial offences' (2577/2454 versus 1659/1883) and 'other offences' (196/233 versus 14/16). However, it is difficult to explain this substantial reduction of juvenile offending. In 2014, the Juvenile Law came into force, but it is unclear whether and how that may have positively influenced the number of cases of children in conflict with the law reported to the police. The only plausible explanation may be that since 2014 certain cases of children in conflict with the law can be settled at the police level (see §6.2.2.) and that successfully settled cases are not included as 'cases reported to the police' in the above overview. JPD itself has provided the following explanation for the decrease: *"The department has been established in 2011 and implemented the previous Juvenile Law. In 2014, JPD started applying settlement procedures, conducting awareness campaigns and continuously followed-up with other counterparts in cases of children in conflict with the law, such as NCF and UNICEF"*. The disaggregation of the PSD-statistics according to geographical area (not included in the above overview) shows that the vast majority of offences allegedly committed by children are reported in Amman (905 in 2015), Irbid (376 in 2015) and Zarqa (237 in 2015) and the lowest number of offences in Ma'an (28 in 2015) and Tafila (17 in 2015). These findings are logical given the size of the population of these governorates.

¹⁵ The category 'other offences' includes attempt suicide, hiding weapons, drug offences, gambling, etc.

PSD subdivides the offences allegedly committed by children into nine categories. Two of these categories, i.e. 'offences against family and religion' and 'offences against judicial administration', are not used anymore from 2014 onwards. It is unknown whether these categories have been merged with other still existing categories. Drug offences, i.e. drugs possession, use and dealing, were part of 'other offences' in 2012/2013, but are not included in any category in 2014/2015. The overview shows that children from 12 to 18 years are most often involved in 'financial offences' (53.5% to 71.2%), 'offences against humans' (10.5% to 28.4%) and 'offences against public moral' (5.6% to 9.4%). On the other hand, 'offences against public trust' (0.1% to 0.2%), 'offences against family & religion' (0.1%) and 'offences against judicial administration' (0.0%) are hardly or not at all committed by children. The three PSD-overviews below show the details of the three categories of offences in which children are most often involved (see grey-cells in the previous overview).

Financial Offences Committed by Children (2015)

	Total:	
Theft - Felony:	684	36.3%
Theft - Misdemeanour:	1010	53.6%
Attempt theft:	103	5.5%
Fraud:	26	1.4%
Carjacking:	60	3.2%
Total:	1883	100%

Source: Public Security Directorate (PSD)

Offences against Humans Committed by Children (2015)

	Total:	
Attempt murder:	62	22.3%
Murder:	11	4.0%
Manslaughter:	12	4.3%
Torture to death:	2	0.7%
Accidental death:	6	2.2%
Serious injury:	185	66.5%
Total:	278	100%

Source: Public Security Directorate (PSD)

Offences against Public Moral Committed by Children (2015)

	Total:	
Sexual assault:	145	83.3%
Abduction:	15	8.6%
Rape:	10	5.8%
Sex outside of marriage:	3	1.7%
Prostitution:	1	0.6%
Total:	174	100%

Source: Public Security Directorate (PSD)

Theft, both misdemeanours (53.6%) and felonies (36.3%), constitute almost all financial offences in which children between 12 and 18 years are involved (89.9%). Serious injury (66.5%) is the main offence against humans committed by children and sexual assault (83.3%) is by far the predominant offence against public moral committed by children. The research team has requested PSD to provide the statistics for boys and girls separately, but unfortunately data of the kinds of offences disaggregated by gender are not available. However, JPD mentioned that, in general, boys are significantly more involved in offences than girls. They illustrated this trend by providing the numbers for theft cases. In 2015, 2489 boys (97.8%) and 55 girls (2.2%) committed a theft-felony or theft-misdemeanour.

The Ministry of Social Development (MoSD) has also provided statistics that give insight into the kinds of offences committed by children and the trends of juvenile offending over the last five years (2012 to 2016). When interpreting these data, it is important to keep in mind that the MoSD-statistics refer only to offences committed by children from 12 to 18 years who have been placed in Juvenile Education Institutions (pre-trial) and Juvenile Rehabilitation Institutions (post-trial) for which MoSD is responsible. This means that the total numbers of offences provided by MoSD ('institutionalize children in conflict with the law') are (much) smaller than the total numbers of offences provided by PSD ('reported cases of children in conflict with the law').

The MoSD-statistics do not show a clear trend with regard to the number of offences committed by institutionalized children. The number of offences seem to have increased from 2014 onwards, but that appears to be mainly the result of the inclusion of the sub-category 'theft' since 2014. However, also the number of 'drug offences' committed by institutionalized children has significantly expanded over the five years (from 26 cases in 2012 to 389 cases in 2016). MoSD could not provide a plausible explanation why significantly more children are placed in institutions the last three years due to their involvement in drug offences. The MoSD-statistics and PSD-statistics show a similar pattern with regard to the kinds of offences committed by children from 12 to 18 years, i.e. children are most often involved in 'physical assault' (37.5%/631 in 2016) and 'property offences' (33.2%/746 in 2016). The research team is very much concerned about boys and girls who are deprived of their liberty due to their involvement in status offences (392/4.7%).

Kinds of Offences Committed by Children (2012 to 2016)

	Sexual Offences:	Drug offences:	(Attempt) Murder:	Physical Assault:	Property Offences (+ Theft):	National Security Offences:	Status Offences:	Total:
2012:	148	26	37	478	247	2	6	944
2013:	156	66	61	720	194	11	14	1222
2014:	185	158	78	747	13 + 812	25	166	2184
2015:	184	195	62	587	28 + 759	7	107	1929
2016:	218	389	60	631	22 + 724	6	99	2149
Total:	891	834	298	3163	2799	51	392	8428
	10.6%	9.9%	3.5%	37.5%	33.2%	0.6%	4.7%	100%

Source: Ministry of Social Development (MoSD)

The MoJ-overview below shows another interesting dimension of juvenile offending, i.e. the number of offences committed by children together with adults dealt with by child courts in 2016. MoJ could not provide data on group offences committed by children together with peers. The vast majority of offences are committed by children without the involvement of any adult (92.9%). If there is an adult co-offender, it is most often only one adult (6.7%). Children committing an offence with two or more adults is a very rare phenomenon (0.4%). It should be kept in mind that these data only show offences dealt with by child courts. For example, an offence jointly committed by children or an offence jointly committed by children and adults that are settled by JPD or dismissed by the Prosecution Office are not reflected in these MoJ-statistics. The research team has not discussed whether children who commit offences together with criminal adults should be considered 'child offenders' or, at least in many/some cases, as children forced into crime by criminal adults and therefore 'children in need of protection'.

Individual and Joint Offences Committed by Children (2016)								
	No Adult(s) Involved:			Adult(s) Involved:				
	1 child:		≥ 2 children:	1 child + 1 adult:		1 child + ≥ 2 adults:		
	6415	92.9%	<i>Unavailable</i>	460	6.7%	26	0.4%	
Total:	6415 / 92.9%			486 / 7.1%				
	6901 / 100%							

Source: Ministry of Justice (MoJ)

Kinds of Offences Committed by Boys and Girls (2016)									
	Sexual Offences:	Drug Offences:	(Attempt) Murder:	Physical Assault:	Property Offences (+ Theft):	National Security Offences:	Status Offences:	Total:	
Boys:	213	380	60	622	22 + 713 = 735	6	90	2106	98.0%
Girls:	5	9	0	9	0 + 11	0	9	43	2%
Total:	218	389	60	631	22 + 724 = 746	6	99	2149	100%

Source: Ministry of Social Development (MoSD)

The Ministry of Social Development (MoSD) has provided statistics that give more insight into two other interesting aspects of juvenile offending, i.e. the kinds of offences in which boys respectively girls are involved and the kinds of offences committed by first-time offenders respectively recidivists. Like mentioned before, the MoSD-statistics only refer to offences committed by children who have been placed in Juvenile Education/ Rehabilitation Institutions for which MoSD is responsible.

The MoSD-statistics on boys and girls in conflict with the law show that significantly more boys than girls are institutionalized as response to their involvement in offences (98% versus 2%). Most boys are placed in MoSD-facilities because of 'property offences (+ theft)' (735) and 'physical assault' (622). None of the 43 institutionalized girls have been involved in '(attempt) murder' (0) or 'national security offences' (0). A high percentage of girls is institutionalized because of their involvement in status offences (9/9%), which is a very concerning finding.

Kinds of Offences Committed by First-Time Offenders & Recidivists (2016)

	Sexual Offences:	Drug Offences:	(Attempt) Murder:	Physical Assault:	Property Offences (+ Theft):	National Security Offences:	Status Offences:	Total:	
First-time:	183	290	52	569	16 + 426 = 442	5	81	1622	75.5%
Recidivist:	35	99	8	62	6 + 298 = 304	1	18	527	24.5%
Total:	218	389	60	631	22 + 724 = 746	6	99	2149	100%

Source: Ministry of Social Development (MoSD)

The MoSD-overview on recidivism of children in conflict with the law illustrates that a quarter of the institutionalized children are recidivists (24.5%)¹⁶ and three quarter of the children are institutionalized for their first offence (75.5%). The number of recidivists is relatively high for 'property offences' (304), 'drug offences' (99) and 'physical assault' (62). Also, the number of children that commit '(attempt) murder' for the first time seems to be quite significant (52). In general, the research team is concerned about the high percentage of first-time offenders that are deprived of their liberty in pre-trial and post-trial facilities (75.5%). It may be expected that boys and girls who commit an offence for the first time, especially status offences (81) and property offences (442), may be eligible for diversion or may be sentenced to a non-custodial sentence and that deprivation of liberty is only used if their first offence is of a very serious nature like '(attempt) murder' (52).

3.2.3. Juvenile Offending according to JJ-Stakeholders

During some of the consultations, professionals who are working with children in conflict with the law have shared their observations with regard to juvenile offending in Jordan. They seem to agree that juvenile delinquency is increasing and especially drug offences. The JJ-stakeholders have mentioned globalisation, family disputes and social media as the main reasons for their perceived increase (see quote in the box). In this context, two specific challenges have been mentioned:

"Previously children had only a fishing-ground, while nowadays children have many things like social media, bad peers, cigarettes, etc. and their parents are unable to supervise their children who all have a smartphone."

National NGO staff

- More and more parents/legal guardians request assistance because they are not able to control their difficult adolescent sons and daughters
- More and more children are giving wrong statements in court seem to increase

¹⁶ During the consultations with JJ-professionals there was confusion about the term 'recidivism'. Some JJ-professionals refer to children who are in conflict with the law for more than one charge as recidivists, while others use the term correctly, i.e. children who come in conflict with the law again after their measure/sentence for their previous offence has come to an end.

3.3. The Syrian Crisis and Syrian Children in Conflict with the Law¹⁷

More than six years after the start of the Syria crisis, Jordan hosts over 660,000 registered refugees. The Jordanian census of 2015 puts the number of Syrians in Jordan at 1.3 million, i.e. refugee or otherwise. Of the registered refugees, there are currently 3,265 unaccompanied or separated children registered with UNHCR.¹⁸ Unaccompanied and separated children receive a best interest assessment through case management agencies while a durable solution in the child's best interest is identified. Unaccompanied children may be placed in an Azraq camp-based reception center managed by a case management organization while the child's family is traced or foster families are identified.

Syrian children in conflict with the law go through the same system as Jordanian children in conflict with the law. However, unlike Jordanian children, a Syrian child's entry point to the criminal justice system can also be through the Syrian Refugee Affairs Directorate (SRAD). The SRAD was initially established by the Government of Jordan in 2013, under the auspices of the Ministry of Interior, to manage existing refugee camps. Its mandate was further extended to non-camp settings as well. The role of the Directorate is to manage the camps in coordination with UNHCR and other agencies, coordinate the humanitarian operations related to Syrian refugees, and conduct certain Syrian-specific policing and security responsibilities both in and out of camps. Since 2014, a number of Syrian children in contact with the law, including alleged child-offenders, have become forcibly separated from their families and placed in the Azraq camp reception center for UASC. In most cases, these Syrian children are detained while living in urban settings with their parents, often during the course of unlawful employment or as a result of failure to carry proper documentation. This policy follows the tightening of government restrictions related to Syrian bailout from the camps in 2014 and usually targets Syrian children whose families have irregular status in urban settings. Reunification of these children with their families requires multiple levels of advocacy and can take months. At least 236 children in 2015 and 141 in 2016 were forcibly separated from their parents, the vast majority of whom are boys.

3.4. Strengths and Improvements Relating to Statistics on Juvenile Offending

In this section, the following strengths and improvements regarding statistics on juvenile offending in Jordan have come to light:

- **Strengths:**
 - All relevant Ministries and governmental bodies, i.e. MoI, PSD/JPD, MoJ and MoSD, collect statistics on children in conflict with the law through their special IT-sections.
 - All relevant Ministries and governmental bodies disaggregate their statistics on children in conflict with the law to some extent.
- **Improvements:**
 - Harmonization of the indicators used for statistics on children in conflict with the law collected by the different Ministries and governmental bodies in order to ensure comparable statistics on juvenile offending.
 - Analysis of the juvenile justice statistics by a committee consisting of representatives of the relevant Ministries and governmental bodies in order to ensure a comprehensive understanding of juvenile offending and a solid basis for policy development and reform initiatives.
 - Considering successfully settled cases of children in conflict with the law as reported cases and include those cases/offences in the police-statistics.
- **Conclusions and recommendations on juvenile justice statistics in Jordan (see §18.2).**

¹⁷ This section is written by Kaitlin Brush who is Child Protection Officer of UNICEF-Jordan.

¹⁸ UNHCR, External Statistical Report, 30 June 2017.

PART 2: INFORMAL JUVENILE JUSTICE IN JORDAN

4. Informal (Juvenile) Justice in Jordan

4.1. International Standards on Informal Juvenile Justice

The UN Common Approach to Justice for Children promotes eight guiding principles relating to justice for children. One of these principles recognises informal justice mechanisms (see §1/definitions) (see the UN-principle in the box). The following explanation is provided: *“It is estimated that in many developing countries the vast majority of disputes are dealt with outside of the state-run system. Non-state justice mechanisms tend to address issues that are of direct relevance to the most disadvantaged children, including protection of land and property for children orphaned by HIV/AIDS or conflict, the resolution of family and community disputes and protection of entitlements, such as access to public services. These systems may be less intimidating and closer to children both physically and in terms of their concerns. In many instances, however, work needs to be done with communities to bring these mechanisms in line with child rights and to remove discriminatory biases towards women and girls.”*

“Deprivation of liberty of children should only be used as a measure of last resort and for the shortest appropriate period of time. Provisions should therefore be made for restorative justice, diversion mechanisms and alternatives to deprivation of liberty. For the same reason, programming on justice for children needs to build on informal and traditional justice systems as long as they respect basic human rights principles and standards, such as gender equality.”

UN Common Approach

“Important issues regarding children’s legal and rights protection arise in relation to IJS. Children should be able to enjoy the same basic rights as any other IJS-users; these rights include compliance with normative frameworks, fair procedures, impartiality of decision makers, meaningful representation in proceedings, and protection from unlawful punishments. At the same time, the rights of children and women are more likely to be violated, as they are both often ‘structurally’ vulnerable parties before IJS, especially in more traditional systems, which are frequently dominated by middle-aged and elderly men. In addition, children, and particularly very young children, are unable to speak for themselves, and, in the proceedings, their interests will either go unrepresented or be represented by another person, perhaps a relative of the child, who may have an interest in the case. Vulnerability increases where the best interest of the child does not coincide with that of his parents or guardians or his or her close family.”

United Nations

In general, international literature on informal justice does not focus on how children in conflict/contact with the law are dealt with by informal justice providers such as tribal leaders, community leaders, religious leaders, etc. The main concerns formulated with regard to children involved in informal justice mechanisms, including children in conflict with the law, concern the four guiding principles of the CRC, i.e. the best interests of the child as a primary consideration, non-discrimination, safeguarding of the survival and optimal development of the child and the child’s right to be heard (see also the UN-quote in the box).¹⁹

¹⁹ UN-WOMEN, UNICEF & UNDP, A Study on Informal Juvenile System: Access to Justice and Human Rights, Charting a Course for Human Rights-Based Engagement, United Nations, New York, 2013.

4.2. Statistics on Informal Juvenile Justice in Jordan

The research team has not been able to collect any statistics or other concrete data on informal juvenile justice in Jordan, i.e. neither through TdH nor the Ministry of Interior (MoI). This is rather logical, because informal (juvenile) justice implies non-state justice and usually it is the State/Government that collects statistics.

4.3. Children in Conflict with the Law Dealt with through Informal Justice Mechanisms in Jordan

4.3.1. Situation Analysis of Informal Juvenile Justice in Amman

In Jordan, the international organisation Terre des Hommes (TdH) has conducted a lot of research on informal juvenile justice, including a recent situation analysis on customary juvenile justice in three districts in Amman during the second half of 2016.²⁰ TdH has analysed the strengths and weaknesses of the customary juvenile justice system in Amman and the relationship between the informal and formal juvenile justice systems. In total 154 persons, i.e. 72 women and 82 men, have participated in the situation analysis. In this section, the main findings of the TdH-study will be presented (§4.3.2., §4.3.3. & §4.4.). According to TdH, it is rather common that children in conflict with the law are dealt with by informal justice providers such as Mukhtars, Sheikhs, community leaders and other respected community members. Neither TdH nor the Ministry of Interior (MoI) can provide an estimation of the percentage of children that commit offences and is dealt with by informal justice providers informally.

4.3.2. Child Rights Considered by Informal Juvenile Justice Providers

The situation analysis on informal juvenile justice in Amman focused on the four guiding principles of the CRC. TdH has summarized the findings as follows:

- Participation of children in conflict with the law:
Children are not or poorly involved in the customary process based on the practices and customary actors beliefs. The situation is different in the formal system, because the participation of the child should be taken into consideration by the formal actors, according to the Jordanian laws and international policies applicable in the country (like the CRC). A specific study needs to be done on that regards to evaluate better the practice on that regard by formal actors. The majority of parents consulted agrees that the child's opinion is not important to be taken into consideration in the customary process. Very few mothers said that child should be heard and considered in the customary process. However, the children themselves are convinced that they should not be heard because "*they might be lying*" as they said, and they added that there is even more restrictions on girls to be involved based on community stereotypes.
- Survival and development of children in contact with the law:
This concept was not taken into consideration by the customary actors while they should take the children's development and wellbeing into consideration. For example, cases of child marriage, child labour, domestic violence or child beggars are dealt to end an existing conflict between adults but are not dealt to address the issues of the child development and survival, by protecting the children themselves against these bad copying mechanisms.
- Non-discrimination of children in conflict with the law:
In comparison with international principles, discrimination against children is recog-

²⁰ Nancy Ootom, Situation Analysis on Customary Juvenile Justice in Amman, Terre des Hommes, Amman, 2017. [DRAFT]

nized in the field, especially against girls. The majority of parents TdH met, admitted that they treat girls differently and only few reported dealing with their girls equally. For example, they do believe that the child in general should not be heard or involved in the customary process, but there would be more restrictions if the child is girl. According to social gender stereotypes, "it is shameful when a girl is part of dispute and a person out of the family knows about it and interferes". Even though the dispute would reach a customary actor or someone out of the family, it will be shameful for the family to allow the girl to participate.

- The best interests of children in conflict with the law:
The notion was not taken into consideration based on the discussions conducted during FGDs with customary actors, and no knowledge about the meaning of this concept either. This has been proved through the customary actors dealing with early marriage as a solution for honour crimes (marriage between the adult offender and his victim).

In addition, the study has paid specific attention to three other components of informal justice in cases of children in conflict with the law. The main findings in this regard are:

- Confidentiality in cases of children in conflict with the law:
Formal actors say to take this factor into consideration, according to the Jordanian procedural policies. This aspect had not been covered for customary actors and it will be analysed through the data collection of 2017.
- Preference of parents and children in conflict with the law for informal and formal juvenile justice:
Generally the parents & children prefer to refer to IJS rather than FJS to avoid the long judicial procedures and potential detention. Some of the customary actors mentioned that parents prefer to avoid the formal system to avoid discrimination in front of the police officers based on the family and origin. Conversely, another group of parents prefers to refer to police and formal system because of their fear that customary actors might discriminate them. The customary actors themselves prefer the customary system process for conflict resolutions, in order to resolve problems more peacefully away from the detention. The juvenile police department (JPD) officers are supporting the role that the customary actors play because they support conciliation for crimes of less than two years detention punishment and therefore decrease the number of children detained. However, some of the judges explained that the customary system is not reliable as a grey zone exist on the possible discrimination against one of the parties in the conflict.
- Awareness and knowledge of customary justice actors as well as parents and children on child protection principles in general:
There is a lack of awareness generally about the basic child protection principles from the customary actors, as well from parents & children. This gap is blatant regarding the juvenile law issued in 2014. Not all of the customary actors are aware about the basic children rights and their interventions are not always motivated in achieving the best interest for child. Often, their objective is to resolve the conflict between adults only and restore community harmony, but not to take the child best interest into consideration.

Two of the four recommendations formulated by TdH relate to the rights of children in conflict with the law who are involved in informal juvenile justice proceedings:

- To provide specialized technical trainings and awareness sessions to customary actors on the child's best interests, gender and restorative juvenile justice.
- To form committees for focal points of children (like the local council members) in order to supervise and promote the implementation of core child protection principles among customary actors.

4.3.3. Collaboration between Informal and Formal Juvenile Justice Professionals

TdH has explored the existing and possible collaboration between informal justice providers and formal juvenile justice professionals from different perspectives:

- Informal justice providers:
The customary actors admit that it's more preferable for them and the people to resolve the conflicts without referring to the formal system (to avoid the long complex procedures, detention and court sessions that takes long time for the cases until the sentence is issued). From the IJO officer perspective, most of the customary actors prefer the informal conflict resolution method rather than the formal, but in the case of felonies committed of by one of the parties, the state has the right to detain the offender directly. So the role of the customary actor will be after the juvenile is passing through the formal system, then it will be referred to customary actors based on what parties agree and if the case sentence is less than two years. They ensured that there is no clear system for referral or links between IJS & FJS, but the only direct contact and organized referral is from the community police officers or JPD to the local committee members, from the point of view of some actors. They ensured that *"there are gaps on resolution of the conflict through the informal actors themselves because there is lack of technical knowledge, but their role still important on the community level."* – one of the actors said.
- Child judges:
The first step of conflict resolution as mentioned on the juveniles' law is to resolve it by the JPD officer or the settlement judge or an external trusted part which might be a customary actor. The judges hope that there will be kind of referral to the customary actors, to reduce the number of detained children and rehabilitate them. This could be done after the capacities of the actors are built, and they become trusted to implement basic children rights in their resolution, as the judges said.
- Juvenile Police Department (JPD):
JPD officers mentioned that customary actors have an important role, because our community is built on the tribal relations and the informal way in dispute resolution. Their importance appears through the monthly meetings of the local committee council members with the police stations, to share the problems of the community and ideas to develop the security situation for the community and through their conflict resolution for the cases that are referred to them. It's really important that there should be a good collaboration between the formal actors (Police, probation officer, general prosecutor), and the customary actors (Sheikh, Mukhtar, Community leaders, LSCs members, etc..), because the law gives the authority to the probation officers to

solve the juvenile cases by themselves or through the referral to any third party, which might be a customary actor. The parties of dispute have the right to choose the actor, or the officer recommends a member of the local security committees to resolve the dispute²¹. The new law gave customary actors a positive value role through the possibility to refer in the conciliation to any third party (but it's not mentioned clearly in the law, that the referral for customary actor, it's only mentioned any third party), which might be one of them. JPD officers prefer that any customary actor could interfere to resolve the dispute for juvenile cases, to reduce the number of detained juveniles. For the local Security Council committees, the JPD appointed an officer (Focal point) to attend their monthly meetings with the police stations, in order to track any juveniles' cases or issues to enhance the collaboration on this regard.

One of the four recommendations formulated by TdH concern the collaboration between informal justice actors and formal juvenile justice professionals:

- To build bridges between the informal justice system and formal juvenile justice system in order to enhance the collaboration between both systems and fill the gaps regarding joint efforts in juvenile justice.

4.4. Views of Children regarding Informal Juvenile Justice

TdH has conducted six focus group discussions with children in conflict with the law, i.e. three discussions with 40 boys and three discussions with 32 girls. Most children were Jordanian (42) and the others Iraqi (24), Syrian (4) and Palestinian (2). The children were asked to share their opinions and concerns regarding the following topics:

- **Childhood age:**
Most of the children TdH met, are not considering themselves in the childhood age, and they tried to exclude themselves, considering themselves as adults, and some of them mentioned that because we are teenagers and start the adulthood age so we are not children any more. i.e.: Only two out of 32 of the girls knew that the childhood continues until 18 years old.
- **Customary versus formal justice system:**
Most of the children who attended the FGDs prefer to refer to their parents to resolve any dispute that might happen, especially the father or someone who is trusted from their families or relatives. In worst cases, they don't prefer to go through the formal system directly to avoid the judicial procedures, (ex: if a problem happened and they will be sent to the police if they didn't conciliate, then they will choose an actor to avoid going through the formal system). Generally, majority of the children boys & girls prefer to avoid the formal system, and to refer to recognized customary actor. Sheikh or Mukhtar or any elder trusted person for them.
- **Participation of children:**
Both children boys and girls ensured that there is insufficient involvement from them in the customary process in general, on the first hand because it's not allowed for them, because they are children, and on the other hand they believe that adults can resolve the problem without children involvement. For example, some of them mentioned: *"Child should be heard, but usually they are not taken into consideration"* another

²¹ Based on Article 13 from Jordanian juvenile law number 32 for the year 2014.

child said, "this concept is not applicable with adults, they don't hear us". Which ensures that the children themselves realize that they are not been took into consideration in the customary process because they are children, and their opinion is not important or trusted. Other children agree that the children should be heard, and they justified the reason, i.e.: one of the girls mentioned: "He should be heard because his family might hide the truth. The adults don't take our opinion into consideration because some children are lying" another girl mentioned. Which means that the children were trying to justify the adult perspective; why they are not taking children opinion into consideration. Other group of children was trying to justify for gender discrimination against girls, i.e.: one of the girls mentioned: "Girls should not be heard, because they don't have an opinion, because of customs and traditions" and a boy said, "For boys it depends on the adults to hear them or not, but for girls, they should not be heard at all because it's shame and our society is more protective for girls". Some of the children was justifying that it's acceptable to be beaten from their parents, some of them mentioned: "sometimes parents will beat us if we are referring to them" and "we might refer to someone we trust from the family like aunt or uncle" two girls mentioned.

4.5. Strengths and Improvements Relating to Informal Juvenile Justice

In this section, the following strengths and improvements regarding informal juvenile in Jordan became clear:

- **Strengths:**
 - Formal JJ-professionals use the experience of informal justice providers and build upon informal practices when dealing with children in conflict with the law.
 - Informal justice mechanisms are perceived to be closer to communities, families and children and easier to access than formal justice mechanisms.
 - Informal justice mechanisms establish harmony in local communities.
 - Informal justice providers are interested in exploring collaboration with the formal JJ-system.
- **Improvements:**
 - Systematic collection of national data on informal justice in cases of children in conflict with the law, including collaboration between formal JJ-professionals and informal justice providers.
 - Monitoring of informal juvenile justice practices and establishing feedback mechanisms.
 - Involvement of child lawyers and social workers in informal juvenile justice processes.
 - Acknowledgment of the four guiding principles of the CRC, i.e. best interests of children, non-discrimination of children, participation of children and promoting the development of children, by informal justice providers.
 - Systematic referral of cases and collaboration between formal JJ-professionals and informal justice providers according to agreed guidelines.
- **Conclusions and recommendations on informal juvenile justice in Jordan (see §18.3)**

PART 3: FORMAL JUVENILE JUSTICE IN JORDAN

5. Core Components of Juvenile Justice in Jordan

5.1. Child-Specific and General Legislation on Juvenile Justice

Article 40(3) of the CRC states that “States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law”. The way in which children in conflict with the law should be treated may be written down in separate child-specific law, like juvenile justice laws, child protection laws or welfare laws, or in special chapters of the general criminal and procedural law. In Jordan, both child-specific legislation and general legislation deals with children in conflict with the law in the different stages of the juvenile justice process. The list below provides a comprehensive overview of Jordan’s legislation, regulations/instructions/bylaws and guidelines/standard operating procedures relevant to juvenile justice.

– Child-specific laws relevant to juvenile justice:

- Juvenile Law (2014):

This law replaces the Juveniles Law No. 24 of 1968 (see also quote in the box). It raises the minimum age of criminal responsibility from 7 years to 12 years in accordance with international standards. It prioritises diversion in the form of settlement and puts greater emphasis on alternatives to post-trial detention, ultimately adopting a rehabilitative approach to juvenile justice. The law further facilitates the

work of the Juvenile Police Department (JPD) and introduces the two positions of conflict settlement judges and execution judges. The law also introduces legal guarantees for children involved in trial proceedings.

- Law on Juvenile Probation (2006):

This law deals with so-called status offences, like children who are drinking alcohol, taking drugs, smoking, entering bars or night clubs, begging, etc. (articles 3 & 7). Article 4 addresses the penalties against those who sell alcohol or tobacco to children below 18 years. Governors are given authority to monitor and/or close any shop or store where a violation mentioned in the provisions of the law have been committed (article 9).

– Child-specific regulations/instructions relevant to juvenile justice: (see articles 44 & 47 in the box)

- Conflict Resolution Regulations (2016):

“The child judges are displeased that they have not been part of the drafting process of the Juvenile Law (2014) and that they have not been requested to review the draft. The Juvenile Law (2014) is developed by people who are no experts in juvenile justice and therefore the child judges face a lot of problem with implementing the new law.”

Child judge

These regulations deal with the bodies authorized to settle cases of children in conflict with the law, the principles and procedures to be applied by JPD and settlement judges.

- Non-Custodial Sanctions Regulations (2015):

These regulations deal with the implementation of community service (article 24(c)) and not with all alternatives to post-trial detention listed in article 24 of the Juvenile Law (2014) as the title suggests. It regulates the conditions and procedures for community service hours under supervision of the probation officer.

- Juvenile Centres Instructions (2001)

These regulation addresses all procedures for receiving children in conflict with the law in the Centres as well as activities at the Centres and internal instructions that apply to children at the Centres.

- Post Care Regulations (2015):

These regulations deal with the aftercare programmes for children in conflict with the law who are (early) released from Juvenile Rehabilitation Institutions.

- Behavioural Monitors Regulations (2006):

These regulations are relevant to children in conflict with the law, because they regulate the procedures and penalties, such as fines and imprisonment, taken against persons who sell tobacco or alcohol to children and regulate the formation of Juvenile Probation Committees which are responsible for conducting inspection visits to any store or shop selling these items to children.

- Regulations to Implement the Juvenile Probation Law (2001):

These regulations regulate the establishment of Juvenile Probation Committee that are responsible for monitoring children's behaviour public places, like markets, shops, coffee shops, cinemas, etc.

- Vocational Training Regulations (1985):

These regulations are not directly relevant to juvenile justice, but incorporate vocational training for persons below the age of 18 years which may include children in conflict with the law.

"For purposes of implementing the present law, the Minister shall issue instructions related to the following:

a) Identifying the requirements and information, which should be included in reports submitted by probation officers.

b) Organizing enrollment of detained or convicted juveniles in education or training programs.

c) Identifying the principles to be followed when applying non-liberty-depriving penalties."

Article 44 of the Juvenile Law

"The Council of Ministers shall issue the by-laws necessary for implementing the provisions of the present law."

Article 47 of the Juvenile Law

- **Child-specific guidelines/standard operating procedures (SOPs) relevant to juvenile justice:**
 - SOPs for the Juvenile Police Department (2016) developed by JPD and UNODC: These SOPs deal with all responsibilities of Juvenile Police in cases of children in conflict with the law, but are based on the previous Juvenile Law (1968) and, therefore, not relevant anymore.
 - SOPs on settlement by the Juvenile Police Department (2016) developed by JPD and UNODC: These SOPs incorporate the kinds of cases eligible for settlement, responsibilities of the JPD-officer who settles the case, referrals to the settlement court and follow-up on cases that have been settled successfully.
 - SOPs on the use of CCTV in First Instance Courts (2013) developed by UNODC: These SOPs describe how judges deal with child victims and witnesses of crime when they testify in court through CCTV. The SOPs do not address the use of the CCTV-technology in cases of children in conflict with the law. However, the amended Criminal Procedure Law (2017) allows to use CCTV in cases of children in conflict with the law. Article 22(i) of the Juvenile Law (2014) states in this regard that “... *the means of modern technology may also be used in the proceedings of hearing a juvenile as a witness in any case*”.

- **General laws relevant to juvenile justice:**
 - Penal Law (1960) and its amendments: This law is relevant to children in conflict with the law, because it mentions the kinds of offences and penalties (duration and fine or imprisonment).
 - Criminal Procedure Law (1961): This law is relevant to children in conflict with the law, because it regulates the criminal procedures from the moment of arrest to the end of the trial and issuance of the verdict.
 - Drug and Narcotic Law (2016): This law is relevant to children in conflict with the law, because it stipulates that JPD and child courts do not have jurisdiction over drug cases committed by children but instead the Counter Narcotic Police.
 - Labour Law (1966): This law is relevant because it regulates the conditions of the vocational training contract of children between 16 and 18 years, including children in conflict with the law who may be placed at Vocational Training Centres.
 - Crime Prevention Law (1954): This law regulates the responsibilities of administrative governors, but does not incorporate any specific procedure that can be applied in cases of children in conflict with the law under the age of 18 years. If a child commits one of the offences listed in the law, the governor will oblige the child’s parents/legal guardians to sign a commitment pledge. The law also does not include any provision about settlement, i.e. neither in adult cases nor in child cases.
 - Protection from Domestic Violence Law (2017): This law is relevant to children in conflict with the law to the extent they are alleged to have committed sexual/domestic offences.

- Prevention of Terrorism Law (2014):
This law is relevant to children in conflict with the law, because it applies to both children and adults allegedly involved in crimes mentioned in the law. The Public Security Department has the jurisdiction to deal with cases of crimes mentioned within the law, but children accused of terrorism will be dealt with by the child court (as per article 15(a) of the Juvenile Law (2014)) or the national security court.
 - Law of the National Centre for Human Rights (2006):
This law incorporates the mandate of the National Centre for Human Rights and the receiving and responding to complaints on human rights violation, including child rights.
- **General regulations or bylaws relevant to juvenile justice:**
- Public Security Directorate Circular:
The PSD-Circular is an internal document that is adjusted from time to time. It includes, among other things, the mandate of JPD and how police should treat children in conflict with the law.
 - Medical Committee Regulations (2014): (see also article 6(c) of the Juvenile Law (2014))
These regulations are relevant to children in conflict with the law, because they regulate age determination by a special forensic medical committee of children whose age cannot be proved through documents.

5.2. The Juvenile Law (2014) as Most Prominent Source for Juvenile Justice

JJ-professionals agree that the Juvenile Law (2014) supersedes general national laws that incorporate provisions on juvenile justice and children in conflict with the law. The superseding status of the Juvenile Law (2014) is not explicitly mentioned, but is based on the following provision:

- Article 43: *“Provisions of the Penal Procedure Law shall be applied in cases not stipulated in the present law”.*

And indirectly also:

- Article 3(a): *“A Juvenile Police Department shall be established by virtue of the present Law at the Directorate of Public Security”.*
- Article 15(d): *“A juvenile conciliation court shall be established in each governorate and shall be competent to look into violations and misdemeanors whose penalty does not exceed imprisonment for two years”.*
- Article 15(e): *“A juvenile court of first instance shall be established in the seat of each governorate, if necessary, and shall be competent to look into felonies and misdemeanors whose penalty exceeds imprisonment for two years”.*

The JJ-professionals have emphasized that in actual practice the Juvenile Law (2014) is always applied in cases of children in conflict with the law, even if the case is initially reported to the general police and not referred to JPD or FPD. The only exception to the superseding status of the Juvenile Law (2014) is the Drug and Narcotic Law (2016). Article 33 of this law states that *“the State Security*

Court shall be competent to hear the crimes provided for in this law and to issue all decisions and judgments relating to these crimes, including the consequential penalties and civil obligations". In actual practice, this implies that drugs offences allegedly committed by children are investigated by the Counter Narcotics Department and the boys and girls are interrogated by officers of that department who are not specialized in dealing with alleged child-offenders. The Drug and Narcotic Law (2016) does not provide for any special treatment of children in conflict with the law due to drug offences and does not regulate the presence of a probation officer, lawyer or other JJ-professional. According to JPD, cases of children involved in drug offences are investigated by the Counter Narcotic Police in the presence of a JPD-officer. When discussing the juvenile justice referral mechanisms (see §5.6.), it will become clear that also other cases of children in conflict with the law are dealt with by general police.

5.3. Juvenile Justice Components Covered by National Legislation

The overview 'National Child-Specific and General Legislation Juvenile Justice' shows which juvenile justice components are incorporated in the Juvenile Law (2014) and relating regulations and which components that are not covered by the Juvenile Law (2014) are addressed by general laws (see below & next two pages). The Juvenile Law (2014) and relating regulations cover the vast majority of juvenile justice components, i.e. juvenile justice objectives, child-specific institutions, collaboration among JJ-professionals, age of criminal responsibility, alternatives to detention, procedural rights, rights of children at the different stages of the juvenile justice process, best interests of children, children and adults involved in same offence, social inquiry report, institutionalisation, deprivation of liberty, prohibited sentences and criminal records. Referral mechanisms, diversion, restorative justice approaches, specific child-offences, community-based programmes and accountability mechanisms are covered only to a limited extent (see also quote of UNICEF in the box). The Juvenile Law (2014) and relating Regulations/Instructions do not incorporate the guiding principle 'deprivation of liberty as a measure of last resort and for the shortest appropriate period of time'. The treatment of children below the minimum age of criminal responsibility is also not spelled out. The Childhood Law (draft) will incorporate a few provisions that directly or indirectly address some of these missing elements and will underline some already addressed rights of children in conflict with the law, i.e. right to information about rights, focus on reintegration, detention as a measure of last resort, confidentiality of the trial information, priority to restorative justice options, mandate of the JPD, responsibilities of probation officers, mandate of the settlement judge, complaints for children deprived of their liberty in Juvenile Centres and after care.

"Most JJ-professionals compare the Juvenile Law (2014) with the previous Juvenile Law (1968) and come to the conclusion that the current law is good. However, when we compare the Juvenile Law (2014) with international standards on juvenile justice there is still quite some work to do."

UNICEF-Jordan

National Child-Specific and General Legislation on Juvenile Justice

Juvenile justice components:	Juvenile Law (2014) & Relating Regulations/Bylaws	General legislation & Regulations/Bylaws:
Objectives of juvenile justice:	Juvenile Law (§4(a))	
Child-specific institutions:		
Child police	Juvenile Law (§3, §12 & §13(a))	[PSD-Circulars]
Child prosecution office	Juvenile Law (§7)	--
Child court	Juvenile Law (§15)	--
Child legal aid	Juvenile Law (§21)	--
Rehabilitation institutions	Juvenile Law (§9(c)(d) & Juvenile Centres Instructions	--
Child probation ²²	Juvenile Law (§10 & §11) & Regulations on Behavioural Monitors	--
Specialization of JJ-professionals:	--	--
Capacity building of JJ-professionals:	--	--
Collaboration among JJ-professionals:	Juvenile Law (§10(b), §11(a), §21(a) & §29)	--
Referral mechanisms:	Juvenile Law (§13(b), §33 to §42)	[PSD-Circular] [Protection From Domestic Violence Law (§8)]
Coordination mechanisms:	--	--
Age of criminal responsibility:	Juvenile Law (§4(b))	--
Age determination:	Juvenile Law (§6(c))	[Medical Committees Regulation]
Guiding principles:		
Best interests of the child	Juvenile Law (§4(a), §9(a) & §18)	[Constitution]
Non-discrimination	--	
Right to express views/to be heard	Juvenile Law (§22(f))	
Right to life, survival & development	Juvenile Law (§4(c)(e))	
Dignity & compassion	Juvenile Law (§4(d))	
Right to be protected from abuse, exploitation & violence	Juvenile Law (§42) & Juvenile Centres Regulations (§7)	[Criminal Procedure Law]
Privacy & confidentiality	Juvenile Law (§4(h)(i), §14(a) & §17)	--
No unnecessary delay	Juvenile Law (§4, §19 & §20(a)(b))	--
Primacy of diversion	--	--
Alternatives to detention	Juvenile Law (§9(a)(b) & §24) & Regulations on Non-Custodial Sanctions	--

²² In this report, 'child probation officers' and 'behavioural monitors' are used as synonyms.

Deprivation of liberty as measure of last resort	--	Constitution & Criminal Procedure Law
Deprivation of liberty as short as possible	--	Constitution & Criminal Procedure Law
Proportionality	[Indirectly (§25 & §26)]	Criminal Procedure Law
Presumption of innocence	--	Criminal Procedure Law
Procedural rights:		
Right to legal assistance	Juvenile Law (§21(a)(b) & §22(a))	--
Right to information	Juvenile Law (§22(b))	--
Right to an interpreter	--	Criminal Procedure Law
Right to have one's parents present	Juvenile Law (§17 & §22(a))	--
Specific child-offences:		
Status offences	Juvenile Probation Law	--
Serious offences	Juvenile Law (§25 & §26)	Criminal Law
Drug offences	--	Drug & Narcotic Law
Political offences	--	Prevention of Terrorism Law
Group offences	--	Criminal Procedure Law
Reoffenders	--	Criminal Procedure Law
Children and adults involved in same offence:	Juvenile Law (§16)	--
Children turning 18 years during proceedings:	Juvenile Law (§30)	--
Separation of children and adults:		
During pre-trial procedures	Juvenile Law (§5(a) & §16)	--
During post-trial procedures	Juvenile Law (§5(a) & §16)	
In detention:	Juvenile Law (§42(a))	

Rights of children:		
At the police level	Juvenile Law (§4(d), §13 & §14)	[Criminal Procedure Law]
At the pre-trial stage	Juvenile Law (§4(f) & §9)	
At the trial stage	Juvenile Law (§4(h)(i), §15(f), §16, §17, §19, §20(a)(b) & §22)	
At the sentencing stage	Juvenile Law (§4, §23, §24, §25 & §26)	
At the post-sentencing stage	Juvenile Law (§27, §29(a) & §32)	
Social inquiry/pre-sentencing report:	Juvenile Law (§11, §18, §22(g) & §34(a))	

Alternative measures:		
Diversion	Juvenile Law (§13 & §14)	[PSD-Circular]
Alternatives to pre-trial detention	Juvenile Law (§9)	[Criminal Procedure Law]
Alternatives to post-trial detention	Juvenile Law (§24) & Regulations on Non-Custodial Sanctions	--
Early release from post-trial detention	Juvenile Law (§32(a)) & Post Care Regulations (§3)	[Criminal Procedure Law]
Restorative justice measures	Juvenile Law (§13 & §14)	--
Financial measures:	Juvenile Law (§9(a)(b))	--
Institutionalisation:	Juvenile Law (§25 & §26 & §34(a))	--
Deprivation of liberty:	Juvenile Law (§9, §25 & §26)	--
Prohibited sentences:		
Capital punishment	Juvenile Law (§4(c))	--
Life imprisonment without release		
Corporal punishment		
Community-based services/programmes:	Juvenile Law (§4(g)(1) & §24(f))	--
Records:		
Criminal records	Juvenile Law (§4(g))	--
Administrative records	Conflict Settlement Regulations (§5(n) & §6(d))	
Accountability mechanisms:		
Independent inspection/visits	Juvenile Centres Instructions	[Law of National Centre for Human Rights & Criminal Procedural Code]
Complaint mechanisms		
Informal juvenile justice:	--	-

5.4. National Policy on Juvenile Justice

The CRC-Committee encourages States parties “to develop and implement a comprehensive juvenile justice policy” and states that such policy must not be limited to the implementation of the specific juvenile justice provisions laid down in articles 37 and 40 of CRC, but should also take into account the general principles enshrined in articles 2, 3, 6 and 12 (see §5.8.) and all other fundamental principles relevant to children in conflict with the law. The National Policy must be based on the best interests of the child; designed to promote the child’s right to develop; respect the inherent dignity of every child; consider the child in the context of his/her family; must not discriminate; and must avoid treating social problems as crimes. It also seeks to preserve public safety by facilitating the active and constructive participation of children in society, rather than viewing them as objects of socialization or control. A comprehensive juvenile justice policy should address the following six core components (paragraph 15 of CRC-GC10):

- Prevention of juvenile delinquency²³
- Interventions without resorting to judicial proceedings (diversion) (see §6.2.)
- Interventions in the context of judicial proceedings (see §7., §8. & §9.)

²³ Prevention of juvenile delinquency is not covered in this situation analysis on juvenile justice in Jordan.

- Minimum age of criminal responsibility and the upper age-limits for juvenile justice (see §5.11.)
- Guarantees for a fair trial (see §7.)
- Deprivation of liberty, including pre-trial detention and post-trial incarceration (see §5.10, §6.4. & §8.3.)

The Beijing Rules explicitly states that *“efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation”* (see commentary to Beijing Rule 30 in the box).

“Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The rule draws particular attention to the need for regular review and evaluation of existing programmes and measures and for planning within the broader context of overall development objectives.”

Commentary on Beijing Rule 30

In Jordan, there is currently no comprehensive National Policy on juvenile justice in place. The National Council for Family Affairs (NCFA), in close consultation with all relevant governmental partners and international organisations, has drafted the ‘National Strategy on Juvenile Justice 2017-2019’ that is due to be approved in the second half of 2017. The document is based on and incorporates available scientific research, evaluation reports and statistics on juvenile justice in Jordan. Civil society organisations have been consulted during the development of the strategy. The views of children (in conflict with the law) could not be included. The current draft of the National JJ-Strategy contains the following topics:

- Analysis of the judicial reality for juveniles, including JPD, child courts, probation officers, measures and sentences, etc.
- Analysis of the social reality for juveniles, including aftercare, alternatives to detention, etc.
- Comparison of the reality with the most important international standards
- International standards relevant to the criminal juvenile justice system, including the CRC (1989), Human Rights Declaration (1948), Child Rights Declaration (1924) and United Nations Rules for Protection of Juveniles Deprived of their Liberty (1990).
- Regional standards relevant to the criminal juvenile justice system, including the Arab Charter for Human Rights (2001), Cairo Declaration on Child Conference (2001), Model Juvenile Law adopted by Arab Justice Ministries Council (1996).

The objectives of the National JJ-Strategy that are directly relevant to this situation analysis are:

- National capacity to develop/apply child-friendly procedures, diversion programs and non-custodial responses
- National capacity to implement community service programs and post care programs
- An infrastructure of Juvenile Care and Rehabilitation Institutions that is compliant with the national standards
- Defined and implemented complaint mechanism in Care Institutions

Hopefully, the final ‘National JJ-Strategy’ will take into consideration the recommendations of the present situation analysis on juvenile justice in Jordan (see §18.1. to §18.9.) as per Beijing Rule 12.

5.5. Child-Specific Institutions and Specialized JJ-Professionals

5.5.1. Establishment of Child-Specific Institutions

A comprehensive juvenile justice system requires the establishment of specialized units within the police (see Beijing Rule 12 & commentary in the box), the judiciary, the court system, the prosecutor's office, as well as specialized defenders or other representatives who provide legal or other appropriate assistance to children in conflict with the law. The CRC-Committee recommends that *"the States parties establish juvenile courts either as separate units or as part of existing regional/district courts. Where that is not immediately feasible for practical reasons, the States parties should ensure the appointment of specialized judges or magistrates for dealing with cases of juvenile justice"* (paragraph 93 of CRC-GC10). In addition, specialized services such as probation, counselling or supervision should be established together with specialized facilities including for example day treatment centres and, where necessary, facilities for residential care and treatment of child offenders. An effective co-ordination of the activities of all these specialized units, services and facilities should be promoted in an ongoing manner (see §5.7.). Non-governmental organizations (NGOs) play an important role not only in the prevention of juvenile delinquency, but also in the administration of juvenile justice. The Committee therefore recommends that *"States parties seek the active involvement of these organizations in the development and implementation of their comprehensive juvenile justice policy and provide them with the necessary resources for this involvement"* (paragraph 95 of CRC-GC10).

"In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose." Commentary: "Rule 12 draws attention to the need for specialized training for all law enforcement officials who are involved in the administration of juvenile justice. As police are the first point of contact with the juvenile justice system, it is most important that they act in an informed and appropriate manner. While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable, not only in the interest of implementing specific principles contained in the present instrument (such as rule 1.6) but more generally for improving the prevention and control of juvenile crime and the handling of juvenile offenders."

Beijing Rule 12 & Commentary

As mentioned before, the CRC-Committee urges the State party in its most recent report relating to child rights in Jordan to *"ensure that the new law establishes specialized juvenile courts, focusing on restorative justice and providing for free legal aid for children at an early stage of the procedure and throughout the legal proceedings"* (CRC-recommendation 64(b)). The CRC-Committee continues that the government should *"designate specialized judges for children and ensure that such specialized judges receive appropriate education and training"* (CRC-recommendation 64(d)). The Jordan Juvenile Law (2014) provides for the establishment of various child-specific institutions:

- Juvenile Police Department (PSD) (article 3(a)) will be entrusted with the affairs of juveniles (article 2).
- Juvenile Settlement Court (Judicial Council) will be established in each governorate and will be competent to look into violations and misdemeanours whose penalty does not exceed imprisonment for two years (article 15 (d)).
- Juvenile Court of First Instance (Judicial Council) will be established in each governorate, if necessary, and will be competent to look into felonies and misdemeanours carrying penalty exceeding imprisonment for two years (article 15(e)).
- Judicial Council (Public Prosecution Department) shall designate members of the Public Prosecution Department to look into juvenile cases (article 7).
- Office for Behaviour Monitoring (also called 'Probation Service') (MoSD) (article 10(a)).
- Juvenile Education Institutions (MoSD) (article 3(b)) have to be established for the education and rehabilitation of accused children (article 2).²² [These institutions are (semi-) closed pre-trial facilities for sentenced children.]
- Juvenile Rehabilitation Institutions (MoSD) (article 3(b)) will be established for the reform, education and rehabilitation of convicted juveniles (article 2). [These institutions are (semi-) closed post-trial facilities for accused children.]

5.5.2. Child-Specific Institutions in Jordan

The overview 'Institutions Dealing with Children in Conflict with the Law & Specialized JJ-Professionals' shows which juvenile justice institutions have been established in Jordan and the sources for the mandate of professionals working with children in conflict with the law (see pages 40 & 41). Quite a significant number of institutions relevant to juvenile justice are child-specific institutions with a considerable part of their staff specialized in dealing with children in conflict with the law. The child-specific institutions are child police, child courts, child rehabilitation facilities and child probation. However, there is not yet a full geographical coverage over the 12 governorates of these specialized institutions and their specialized professionals. The three general institutions that do not have specialized juvenile justice staff, but nevertheless deal with children in conflict with the law, are the General Police, Governor Offices and National Centre for Human Rights. Also Legal Aid in Jordan is not specialized in children in conflict with the law, except their Legal Juvenile Unit.

General Police Stations: (see also §5.6.)

- The general police stations receive all kinds of cases of children allegedly in conflict with the law reported by victims, parents/legal guardians and other community members.
- The general police stations in the six governorates where there is no JPD (Aqaba, Tafilah, Madaba, Balqaa', Jarash and Ajloun) inves-

"The general police communicates with JPD when they receive a child in conflict with the law. In these cases, JPD takes the decision according the best interests of the boy or girl and the circumstances of the case. JPD will either refer the case to the nearest JPD or send a JPD-officer to the general police station."

JPD-Officer

²⁴ The term 'rehabilitation' may be inappropriate when used at the pre-trial stage, because the presumption of innocence applies at this stage.

tigate the child cases they receive or refer the children to the JPD in a neighbouring governorate (as per the relevant PSD-Circular) (see quote in the box).

- The general police deal with all drug offences committed by children from 12 to 18 years as per the Drug and Narcotic Law (2016).
- Not any police officer of the general police stations is specialized in juvenile justice or has participated in capacity building initiatives on juvenile justice.
- The pre-service curriculum of the Public Security Department (PSD) incorporates the Juvenile Law (2014).
- PSD is currently in the process of establishing a ‘Child Drugs Department’ and is discussing the need for child-desks and/or JPD-focal-points in all general police stations across the country.
- PSD is not able to provide the average caseload of children in conflict with the law per general police station per month.

Legal Aid & Child Lawyers: (see also §5.14.)

- There are no Child Legal Aid Centres/Clinics in Jordan, except the Legal Juveniles Units that JCLA has established in 6 governorates. In each unit, one child-lawyer is appointed (see quote in the box). The child-lawyers of JCLA have participated in capacity building initiatives on juvenile justice organised by JCLA-staff, judges, NCFAs and civil society organisations.

- The lawyers of NGO-Mizan, ARDD Legal Aid and UNCHR are not specialized in juvenile justice. They deal with cases of children in conflict with the law as well as cases of adults in conflict with the law (‘Nour Network of Lawyers’). The UNHCR-lawyers are specialized in dealing with cases of refugees, including child refugees. They have been trained on relevant international instruments, including the CRC.

“The Judicial Centre for Legal Aid (JCLA) and the Ministry of Social Development (MoSD) have a Memorandum of Understanding on legal aid in cases of children in conflict with the law. When the probation officer involved in the case contacts JCLA, a specialized child lawyer is assigned to the case in order to provide legal assistance from that stage of the juvenile justice process onwards.”

JCLA lawyer

Governors, County Executive and District Administrators: (see also §5.6.)

- Each Governorate has one Governorate Office.
- Not any governor is specialized in juvenile justice or has participated in capacity building initiatives on juvenile justice.
- Governors take only administrative measures in cases of children in conflict with the law as per the Crime Prevention Law (2016).
- The average caseload per Governor Office per month is 15 cases of children in conflict with the law.

National Centre for Human Rights: (see also §12.)

- There is one Centre for Human Rights in Jordan that addresses all human rights violations, including violations of the rights of children in conflict with the law, as per the Law on the Centre for Human Rights (2006). The research team has not been able to collect any example of rights violations of children in conflict with the law.
- The average monthly caseload of children in conflict with the law of the National Centre for Human Rights is unknown.

Juvenile Police Department (JPD) & Specialized JPD-Officers: (see also §6.1. & §6.2.)

- The first JPD was established in 2011 and operational since 2012.
- There are 10 JPDs in Jordan in 6 governorates, i.e. 4 JPDs in Amman and 1 JPD in respectively Zarqa, 1 JPD in Irbid, 1 JPD in Karak, 1 JPD in Mafraq and 2 JPD in Ma'an, including 2 JPDs in two refugee camps (Zaatari & Azraq).
- There are JPD focal points in Counter Narcotics Police Stations.
- All JPDs, except the one in Amman Centre, are units inside general police stations.
- It is the ambition of the recently appointed head of the JPD to have full geographical coverage of JPDs through establishing small juvenile units with specialized police officers in each general police station in Jordan as well as a JPD-contact-person for each general department that deals with children in conflict with the law in Jordan (see quote in the box).

"We need full geographical coverage of JPD, because nowadays cases of children in conflict with the law are not referred to JPD by the general police because of the long distance to the JPD of the governorate. The parties rather prefer to settle the case among themselves or through a community leader."

Head of the JPD

Institutions Dealing with Children in Conflict with the Law & Specialized JJ-Professionals

Relevant Institutions:	Child-Specific Institutions:	Staff:		General Institutions:	Number of specialized JJ-staff	Sources for responsibilities of JJ-professionals:
		Total number of staff	Number of specialized JJ-staff			
Police:	12 Juvenile Police Department (JPD)	unknown	unknown	Regular Police Stations (all governorates & directorates) 18 Family Protection Department (FPD)	None	<ul style="list-style-type: none"> - Juvenile Law (2014) - Conflict Resolution Regulations (2016) - Juvenile Probation Law (2006) - SOPs on Settlement (2016) - PSD-Circular - Criminal Law (1960) - Criminal Procedure Law (1961) - Protection from Domestic Violence Law (2017) - Domestic Violence Protection Law (2008)
Prosecution:	--	--	--	15 First Instance Courts	15 JJ-prosecutors	<ul style="list-style-type: none"> - Juvenile Law (2014) - Criminal Law (1960) - Criminal Procedure Law (1961)
Courts:						
Settlement	--	--	--	15 First Instance Courts	12 settlement judges	<ul style="list-style-type: none"> - Juvenile Law (2014) - Conflict Resolution Regulations (2016)
Trial	3 Child Courts	unknown	14 child-judges	15 First Instance Courts	14 JJ-judges	<ul style="list-style-type: none"> - Juvenile Law (2014) - Criminal Law (1960) - Criminal Procedure Law (1961)
Execution	--	--	--	15 First Instance Courts	14 JJ-judges	<ul style="list-style-type: none"> - Juvenile Law (2014) - Criminal Law (1960) - Criminal Procedure Law (1961)
Appeal	--	--	--	Appeal Courts	None	<ul style="list-style-type: none"> - Juvenile Law (2014)²⁵
Civil	--	--	--	Civil Courts	None	<ul style="list-style-type: none"> - Juvenile Law (2014) - Criminal Law (1960) - Criminal Procedure Law (1961)
Legal Aid:	6 Legal Juvenile Units (JCLA)	6 child-lawyers	6 child-lawyers	UNHCR ARDD Legal Aid NGO Mizan	None	<ul style="list-style-type: none"> - Juvenile Law (2014) - Criminal Law (1960) - Criminal Procedure Law (1961)

²⁵Article 28 of the Juvenile Law (2014) states that "a personal right case shall not be accepted before a juvenile court and the victim may resort to the competent courts". The 'competent court' in this regard is the Civil Court.

Relevant Institutions:	Child-Specific Institutions:	Staff:	General Institutions:	Number of specialized JJ-staff	Sources for responsibilities of JJ-professionals:
Residential Institutions:	--	--	--	--	--
Open regime	--	--	--	--	--
Semi-closed	4 Juvenile Education Institutions 3 Juvenile Rehabilitation Institutions	155	143 educators/ social workers 12 supervisors	--	Juvenile Law (2014) Juvenile Centres Regulations (2001)
Closed regime	--	--	Adult Remand Homes & Prisons	None	--
Probation:	--	--	--	--	--
at police (JPD/FPD)	--	--	11 officers at JPD & 16 officers at FPD	--	--
at prosecution	--	--	None	--	--
At (child) courts	42 Child Probation Departments (all directorates)	225 child probation officers	At least 1 officer per child court/ 9 child probation officers	--	Juvenile Law (2014) Behavioural Monitors Regulations (2015)
At residential institutions	--	--	2 officers per Centre/16 child probation officers	--	--
Ombuds/Child Rights Office:	--	--	National Human Rights Institute	None	--
Governor:	--	--	12 Governorate Offices	None	Juvenile Probation Law (2006) Protection from Domestic Violence Law (2017) Crime Prevention Law (2016)
Others:	International, national and local community-based-organisations, both non-governmental and governmental (see §11.)				
	Juvenile Probation Committees (Mol) are established in each Governorate in order to monitor children's behaviour in public places. The Committee consists of the Governor, Deputy Governor and representatives of MoSD, MoT and PSD.				
	The Family Protection Department (PSD) is established in 1997 and will be merged with/linked to the Juvenile Probation Committee in the near future in order to deal with family matters of children in conflict with the law.				

- All JPD-officers are specialized in juvenile justice and have participated in capacity building initiatives on juvenile justice organised by JPD and PSD as well as by UNODC, UNICEF, Terre des Hommes and local NGOs (see quote in the box).
- The JPD police officers are of the opinion that they are sufficiently equipped to deal with cases of children in conflict with the law.
- According to the PSD-website, JPD is responsible for “all offences allegedly committed by children”. The exception of drugs offences committed by children is not mentioned on the website.
- In actual practice, JPDs deal with all cases of children in conflict with the law from 12 to 18 years, except the following four categories:
 - Drugs offences, because these are the responsibility of the Counter Narcotic Police (article 32 of the Drug and Narcotic Law (2016))
 - Sexual and domestic offences, because these are the responsibility of the Family Protection Department (FPD) (article 6 of the Protection from Domestic Violence Law (2017))
 - Extreme serious cases such as murder and terrorism, because these are the responsibility of the Criminal Investigation Department (article 4 of the Prevention of Terrorism Law (2014) deals with terrorism)
 - Serious theft cases, because these are the responsibility of the Criminal Investigation Department (no legal provision)
- There are two internal circulars from PSD that are relevant to cases of children in conflict with the law, i.e. a circular that deals with referral mechanisms of cases from general police to JPD and a circular on the four conditions for settlement.
- The Childhood Law (draft) states that “in spite of what is stated in any other legislation, juvenile police shall receive the complaints and conduct investigations into child cases”. It is not clear whether this means that FPD will not deal with domestic/sexual cases committed by children anymore and/or that drug cases, terrorist cases, severe theft, etc. will be dealt with by JPD in the future.
- JPD was not able to provide the average caseload of children in conflict with the law per JPD per month.

“All police officers working in JPD participate in three courses, i.e. settlement, juvenile justice and how to deal with children in conflict with the law. They apply child-friendly procedures such as no delay, privacy, no uniforms, no handcuffs, transportation in JPD-vehicles, etc.”

JPD police officer

Family Protection Department (FPD): (see also §6.1.)

- The first FPD was established in 1997.
- There are 18 FPDs in Jordan distributed over all 12 governorates, including 2 FPDs in two refugee camps (Zaatari & Azraq).
- In none of the governorates the FPD is inside a general police station; all FPDs are in separate buildings
- All FPD-staff are specialized in dealing with victims and perpetrators of sexual and

domestic offences, but not any FPD-staff is specialized in dealing with alleged child-offenders of sexual and domestic offences or juvenile justice in general.

- The PSD-website does not explicitly mention whether FPD is responsible for children who are allegedly involved in sexual and/or domestic crimes as perpetrators.
- FPD was not able to provide the average caseload of children in conflict with the law per FPD per month.

Specialized Child Prosecutors: (see also §6.3. & §6.4.)

- There are no Child Prosecution Offices established in Jordan.
- There are 15 child prosecutors divided over all 12 governorates, i.e. 4 in Amman & 11 in the other governorates (see quote in the box).
- The child prosecutors of Amman deal only with cases of children in conflict with the law, while the other 11 child prosecutors deal with cases of children as well as cases of adults.

“There are not sufficient child-prosecutors. For example in Irbid, there is only one child-prosecutor. Some children in conflict with the law have to travel six hours to reach Irbid. The children are brought to me in the same vehicle with accused adult perpetrators.”

Child-prosecutor of Irbid

- Most, but not all, child prosecutors have participated in capacity building initiatives on juvenile justice organised by JCLA, FPD and local NGOs.
- The child prosecutors are of the opinion that they are sufficiently equipped to deal with cases of children in conflict with the law, although additional capacity building will be appreciated. For example, child prosecutors interrogate children in conflict with the law but are not specifically trained on child-interviewing and child development.
- The Prosecution Office could not provide the average caseload of children in conflict with the law per Prosecution Office per month.

Child Courts & Specialized Child Judges: (see also §7., §8. & §9.)

- (Child) Settlement Courts are not yet established, but 12 settlement judges have been appointed to settle cases of adults in conflict with the law. Their mandate does not include cases of children in conflict with the law. None of the settlement judges has participated in capacity building initiatives on how to settle cases of children in conflict with the law or juvenile justice in general.
- There are 3 Child Courts specialized in dealing with children in conflict with the law (called ‘Child Courts’ in this report and ‘Juvenile Courts’ in the Juvenile Law (2014)) in 3 governorates (Amman, Irbid and Zarqa). The first Child Court was established in 2014. In the 9 governorates where there is no Child Court, cases of children in conflict with the law are dealt with by child-judges appointed at Criminal Courts (see article 15(b) in the box). Most child judges do not exclusively deal with cases of children in conflict with the law, but also with

“Child judges and execution judges shall be designated to their courts from among individuals with experience.”

Article 15(b) of the Juvenile Law

cases of adults in conflict with the law. There is a high turnover of child judges (every 1 or 2 years).

- All child judges have participated in general capacity building initiatives on the Juvenile Law (2014) organised by the Judicial Council, but not in specialized training on juvenile justice and how to deal with children in conflict with the law. Some child judges are of the opinion that they are not sufficiently equipped to deal with cases of children in conflict with the law, especially the child

"I have not received training on juvenile justice, because I was appointed before the Juvenile Law (2014) came into force. My knowledge is based on my experience with children in conflict with the law. I still deal with them in the same manner as before the enforcement of the Juvenile Law (2014), especially the juveniles who entered the JJ-system before 2014."

Child-judge

judges who have been appointed before the Juvenile Law (2014) came into force (see quote in the box). None of the child judges is satisfied with the capacity building they have received. They want continuous training focused on how to deal with children in conflict with the law, the challenges they face in actual practice and the responsibilities of all professionals involved in cases of children in conflict with the law.

- The average caseload per Child Court per month is 532 cases of children in conflict with the law.
- There are no Child Execution Courts, but 14 execution judges have been appointed to implement and monitor cases of children in conflict with the law (see article 15(b) in the box above). All execution judges deal with cases of children in conflict with the law as well as cases of adults in conflict with the law. None of the execution judges have participated in capacity building initiatives on juvenile justice.
- There are no Child Appeal Courts and no appeal judges that have participated in capacity building initiatives on how to deal with cases of children in conflict with the law.
- There are no Civil Child Courts and no civil judges specialized in dealing with personal rights cases relating to children in conflict with the law (see article 28 in the box).

"A personal right case shall not be accepted before a juvenile court and the victim may resort to the competent courts."

Article 28 of the Juvenile Law

Child Probation Offices & Specialized Probation Officers:

- There are 42 Child Probation Offices, i.e. one department in each directorate, and 225 child probation officers (see articles 2 & 10(a) in the box).
- Of the 225 probation officers in total, 11 officers are attached to JPD and 16 probation officers to FPD, 12

"Probation Officers are governmental employees who monitor the behaviour of children in conflict with the law in accordance with the provisions of the present Law and the regulations issued by virtue thereof."

Article 2 of the Juvenile Law

"An Office for Behavior Monitoring (Probation) shall be established at every court provided that one of its employees shall be specialized in psychology or sociology."

Article 10(a) of the Juvenile Law

officers to prosecution offices, 9 probation officers to Child Courts and 16 probation officers to Education/ Rehabilitation Institutions.

- All child probation officers are specialized in working with children in conflict with the law as well as children in need of care and protection and have participated in capacity building initiatives on juvenile justice organised by MoSD, MoJ and JCLA.

Residential Child Institutions & Specialized Staff:

- There are 7 child institutions (see article 2 in the box) that receive children in conflict with the law:
 - There are 4 Juvenile Education Institutions (MoSD) for boys and girls who are accused of having committed an offence(s) and have to await their trial in an institution (article 9):
 - Amman (boys from 12 to 15 years)
 - Irbid (boys from 16 to 18 years)
 - Arrsayifeh (boys from 16 to 18 years)
 - Amman (girls from 12 to 18 years)
 - There are 3 Juvenile Rehabilitation Institutions (MoSD) for boys and girls who are sentenced by the child court to placement in the institution (articles 25 & 26):
 - Irbid (boys from 15 to 18 years)
 - Arrsayifeh (boys from 12 to 15 years)
 - Amman (girls from 12 to 18 years)
- There is no residential institution in the South of Jordan, which means that children in conflict with the law are deprived of their liberty in JPD-cells and other police-cells while awaiting their trial or in the Juvenile Rehabilitation Institutions of Amman and Irbid if they are sentenced to placement in a Juvenile Rehabilitation institution.
- There is a special pre-trial detention centre in Ma'an where children can be detained for 24 hours.
- In the near future, one extra Juvenile Institution (for offenders who committed serious offences) will be established in Madaba.
- All Juvenile Education/Rehabilitation Institutions are closed institutions. However, with the permission of the management, the children may go to school in the community and may leave the facility for other activities such as family-visits (semi-closed regime).
- There are no open institutions for children in conflict with the law in Jordan.
- In actual practice, accused children and sentenced children are placed in the same institution, sleep in the same dormitory and participate in the same activities.
- The staff of Juvenile Education/Rehabilitation Institutions are trained to deal with children in conflict with the law by MoSD as well as by civil society organisations.

“Juvenile Education Institution: Any institution, established or approved for the education and rehabilitation of detained juveniles in accordance with the provisions of the present Law.”

“Juvenile Rehabilitation Institution: Any institution established or approved for the reform, education and rehabilitation of juveniles in accordance with the provisions of the present law.”

Article 2 of the Juvenile Law

5.6. Juvenile Justice Process and Referral Mechanisms

5.6.1. Referrals of Children in Conflict with the Law

The two flowcharts (see pages 49 & 50) show how children in conflict with the law move through the juvenile justice system according to the Juvenile Law (2014) respectively in actual practice.

5.6.2. Challenges Faced by JJ-Professionals in Actual Practice

The discussion with JJ-professionals about the two flowcharts has revealed some discrepancies between the juvenile justice process in law and in practice as well as some challenges JJ-professionals face in actual practice when dealing with children in conflict with the law (and their parents/legal guardians).

– **Limited referral of children in conflict with the law from general police to JPD:**

According to article 12 of the Juvenile Law (2014) *"complaints shall be submitted to the Juvenile Police Department or the nearest police station by the juvenile him/herself, either of his/her parents, guardian or care provider, the probation officer or the judicial police. Article 2 of the Juvenile Law (2014) states that "the Juvenile Police Department is established by virtue of the present Law at the Directorate of Public Security and entrusted with the affairs of juveniles".* From the discussions with the JJ-professionals, it has become clear that not all cases of alleged child-offenders that are reported to the general police are referred to JPD. It might even be the minority of cases. In the governorates where no JPD exists, the number of cases of children in conflict with the law reported to and investigated by the general police is much higher than the number of cases received and dealt with by JPD. According to the head of JPD, the relevant PSD-Circular (2017) that states that all cases of children in conflict with the law should be dealt with by JPD or FPD has resulted in a significant increase of cases referred from general police to JPD. In the first five month of 2017, about 900 cases have been referred to JPD, while in the 12 months of 2016 about 1500 cases have been referred. General police refer all alleged child-offenders of domestic and sexual offences to FPD. Various JJ-professionals have expressed their concerns about the treatment of children in conflict with the law by general police (see quote in the box). The research team has tried to complete the overview 'Reporting and Referral Mechanisms in Cases of Children in Conflict with the Law (2016)' (see below), but has not been able to fill up the cells. This means that there does not exist any prove of how cases of children in conflict with the law are referred among the main law enforcement and justice bodies.

"Alleged child-offenders are badly treated by general police. They are handcuffed, transported in police vehicles, transported together with adult criminals and sometimes it happens that children's hair is shaved."

Child judge

Reporting and Referral Mechanisms in Cases of Children in Conflict with the Law (2016)

	Cases Initially Reported to:	Cases Referred to:		
		JPD	FPD	Others
General Police:	unknown	350	unknown	unknown
JPD:	1200	--		
FPD:	unknown	unknown		
Prosecution Office:	469	unknown		
Trial Court:	6384	unknown		
Settlement Court:	0	0		
Governor:	unknown	unknown		
Total:	unknown			

Sources: Ministry of Justice (MoJ) & Juvenile Police Department (JPD)

- **Non-separation of children in conflict with the law and adults:** (see articles 5(a) & 42(a) in the box)

The JJ-professionals have mentioned various moments during the JJ-process that children and adults in conflict with the law are not separated, such as:

- Children and adults are transported in the same police vehicle when they are brought from the general police station to the Prosecution Office or the Court.
- Children and adults in conflict with the law are kept in the same cell in general police stations during the first 24 hours.
- There are no separate child-friendly waiting areas/rooms in general police stations, Prosecution Offices, Settlement Courts, First Instance Courts and Appeal Courts.
- Sometimes children are placed in adult prisons by governors.

“Co-mingling of detained or convicted juveniles with accused or convicted adults shall be prohibited in all the stages of investigation and trial and during execution.”

Article 5(a) of the Juvenile Law

“Anyone detaining a juvenile along with adults in any of the legally-approved detention centers, during any of the stages of the lawsuit, or during execution of the sentence, shall be punished by imprisonment for a period of not less than three months and not more than one year.”

Article 42(a) of the Juvenile Law

– **Reporting of cases of children in conflict with the law straight to the trial court:**²⁶

Some cases of children in conflict with the law are reported to the trial court instead of JPD or general police²⁷ In most of these cases, the trial judge deals with the case him/herself instead of referring the case to JPD or FPD for investigation. This practice may result in children being sentenced by the judge who were actually eligible for settlement. Instead of living with their family and continuing their education, the children may be deprived of their liberty in a Juvenile Rehabilitation Institution. The research team has tried to find out how many children are in Juvenile Rehabilitation Institutions for offences that carry a penalty of less than 2 years imprisonment. Unfortunately, MoSD has not been able to provide that data. In order to tackle this potentially negative practice, some prominent child judges have developed a tool that motivates trial judges to consider referring cases that have been directly reported to them to the settlement court instead of dealing with the case themselves.

– **Discontinuity of probation officers in cases of children in conflict with the law:** (see also §5.13.)

The practice of having more than one probation officer in one and the same case of a child in conflict with the law is considered bad practice by most JJ-professionals (see article 10(b) in the box). The research team has tried to collect data in this regard, but MoSD was not able to provide any details as appears from the overview 'Number of Probation Officers Involved in Cases of Children in Conflict with the Law (2016)'

"The Juvenile Police Department shall, as much as possible, see to it that the same probation officer is designated, for all the stages of investigation and trial if he/she works in the same geographical jurisdiction."

Article 10(b) of the Juvenile Law

Number of Probation Officers Involved in Cases of Children in Conflict with the Law (2016)'

Number of Probation Officers Involved in Cases of Children in Conflict with the Law (2016)

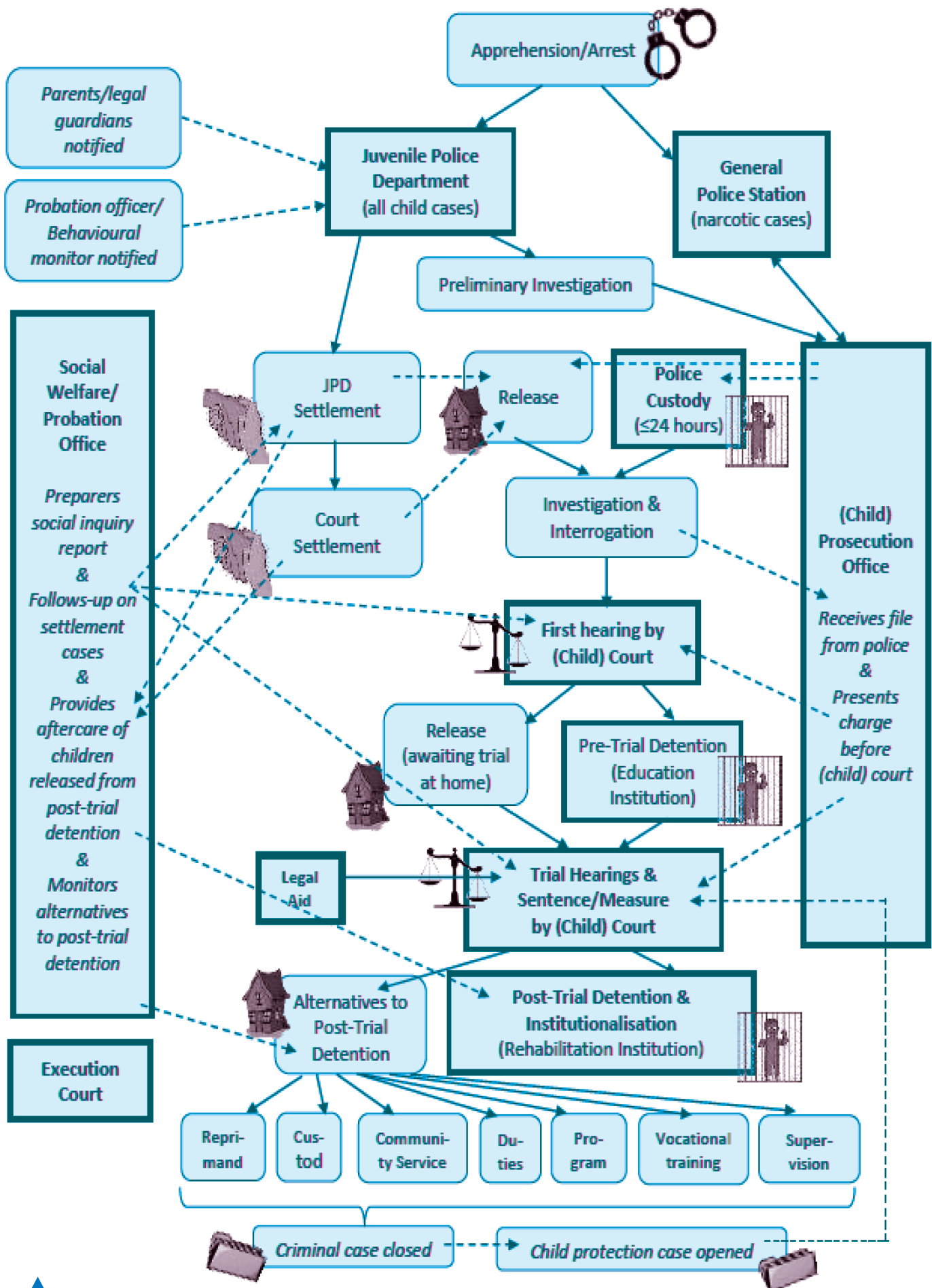
Total Number of Cases:		1 Probation Officer:	2 Probation Officers:	3 Probation Officers:
225	100%	unknown	unknown	unknown

Source: Ministry of Social Development (MoSD)

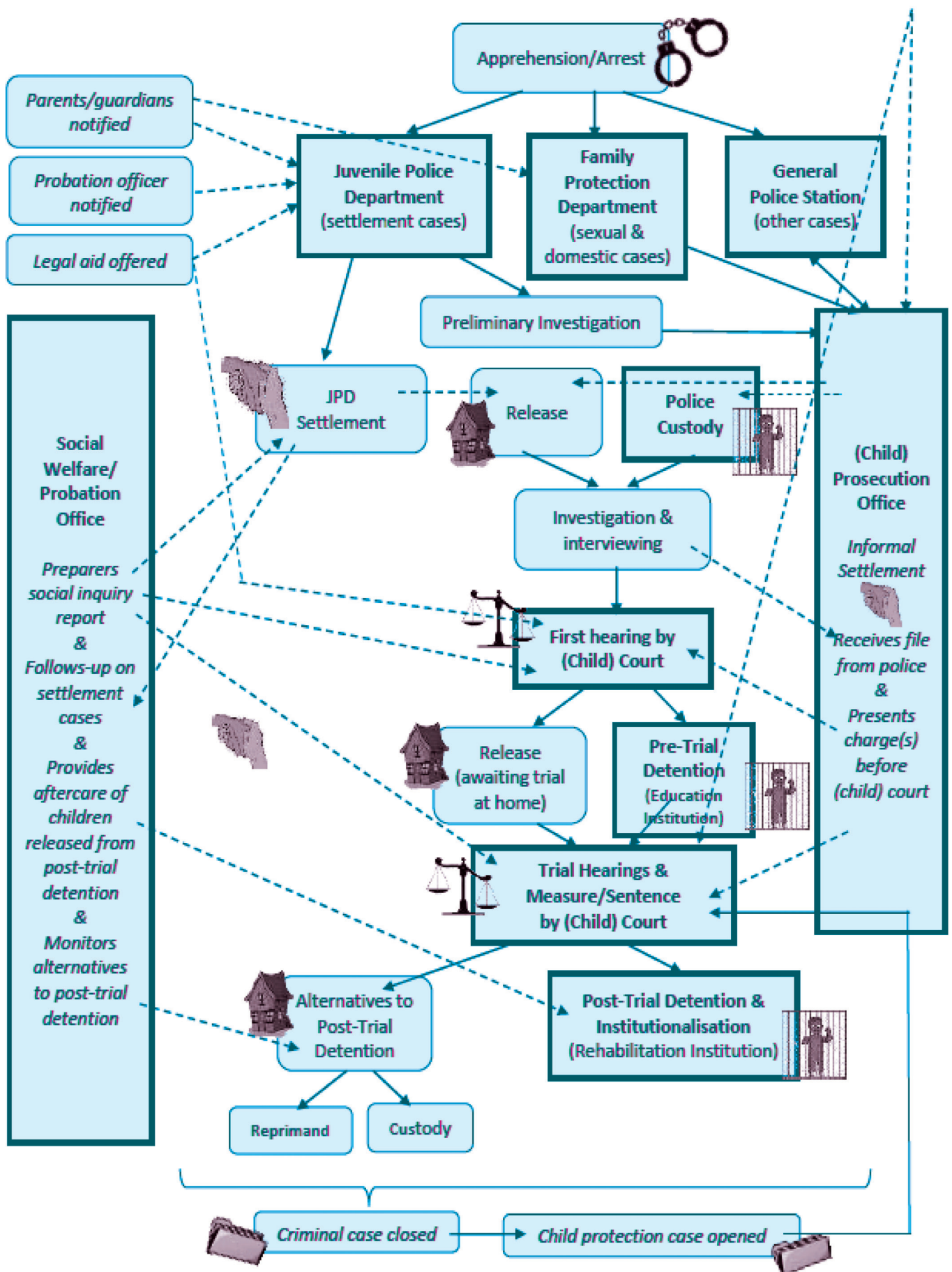
²⁶ The statistics on juvenile justice at the court level received from the 'Rule of Law Program' (see Annex 5) may be helpful in this regard. The data show that JPD, FPD and Prosecutor Department refer cases of children in conflict with the law to the child courts (2012-2016). During this five-year period, JPD has referred 88 cases, FPD 179 cases, the general prosecutor department 9906 cases and general police 11199 cases.

²⁷ Stavros, P. & Makhadmeh, R., Situation Analysis of Settlement in Zarqa, UNICEF-Jordan, 2016.

Flowchart 'Juvenile Justice Process in Jordan according to the Juvenile Law (2014)'



Flowchart 'Juvenile Justice Process in Jordan in Actual Practice'



– **Administrative measures by governors in cases of children in conflict with the law:** (see also §5.6.)

According to article 3 of the Crime Prevention Law (1954/2016), governors can only take administrative measures in cases of children in conflict with the law, i.e. in the following cases:

- Any person found in a public or private place in circumstances that convinces the governor that he/she was about to commit any offense or to assist in committing an offence
- Anyone who is used to theft or possession of stolen money or used to protect thieves, to shelter them or to help to hide stolen money or disposed of
- Anyone who is in a situation where his/her unrestricted existence without a guarantee constitute a danger against people (for example, if someone is found at night in a property does not belong to him/her)

Governors are not allowed to impose penalties on the children themselves, but only on children's parents/ legal guardians. However, according to JJ-professionals, governors administratively arrest and detention children (see also quote in the box). The JJ-professionals have provided various examples of cases in which governors deprive children in conflict with the law of their liberty at the various stages of the juvenile justice process, including when prosecutors/ judges have decided:

- to discontinue the case because of lack of evidence
- to discontinue the case because the child is innocent
- to release the child in order to await his/her trial at home
- to impose a non-custodial sentence
- to early release the child from post-trial detention

In these cases, governors justify administrative arrest or detention as a way of preventing the child from revenge by the community and/or to ensure peace in the community. The JJ-professionals referred to the "Jordan culture" in this regard. The international term is 'protective detention'. In actual practice, it also happens that prosecutors, judges, JPD and FPD refer cases of children in conflict with the law to the governor in order to take an administrative measure, i.e. in cases where the community has threatened to harm or even kill the child if he/she is released. However, the governor of Amman has explained his responsibilities in cases of children in conflict with the law rather differently than the JJ-professionals (see summary of the interview in the box on the next page).

The overview 'Kinds of Offences Dealt with by Governors in 12 Governorates (2015 & 2016)' shows in which kinds of offences committed by children governors have been involved in the last two years. The vast majority of interventions by governors were in cases of physical assault (40 & 45) and sexual offences (15 & 27)²⁸. Governors seem not to intervene in 'property offences' and 'national security offences'. There are no statistics available that show to which extent governors deal with cases of children in conflict with the law without any contact with the formal juvenile justice system respectively after the formal juvenile justice system has been involved. According to the governors themselves, it is rather exceptional that the formal juvenile justice system is not all involved in a child case.

28 The Public Security Directorate stated that sexual offences allegedly committed by children have to be reported to the police/JPD.

Kinds of Offences Dealt with by Governors in 12 Governorates (2015 & 2016)								
	Sexual Offences:	Drug offences:	(Attempt) Murder:	Physical Assault:	Property Offences (+ Theft):	National Security Offences:	Status Offences:	Total:
2015:	15	10	3	40	0	0	9	77
2016:	27	0	4	45	0	0	0	76

Source: Ministry of Interior (Mol)

The governor of Amman emphasized that governors in Jordan only deal with children if they have been involved in acts mentioned in the Juvenile Probation Law (2006), such as buying cigarettes, buying alcohol, sniffing glue, smoking shisha, entering bars or night clubs, begging and other so-called status offences. Governors also facilitate reconciliation between parties in cases of children in contact with the law, such as murder, rape and other offences that are sensitive for the communities involved, but only at the request of the parties and if they have not filed a complaint. This practice is based on the Crime Prevention Law (2016). They never deal directly with the (alleged) child-offender and never punish a child. Governors only deal with the parent(s) of the child, i.e. the father, grandfather, an uncle and sometimes the mother or both parents. There are no other people present than the governor, the child-offender's parent(s) and the victim (or the parent(s) of the victim in case the victim is a child). Confidentiality is one of the main principles of governors in cases of children in conflict with the law. A successful reconciliation means that the parties come to an agreement to settle the case, including monetary compensation, without going to the formal (juvenile) justice system and sign a pledge that states that the child-offender will not commit an offence anymore. The pledge, contrary to the agreement, is signed in the presence of the Governor. If the child does not comply with the pledge and reoffends, the governor does not initiate a second reconciliation but reports the case to the police. When the research team asked the governor of Amman about the examples of administrative detention of children between 12 and 18 years provided by the JJ-professionals, he underlined again that "governors do not deal with children in conflict with the law and do not deprive children of their liberty; if the community threatens to harm the child, governors deal with the revengeful person instead of with the child and/or his/her parents".

5.7. Inter-Sectoral Coordination between Juvenile Justice and Social Welfare Agencies

Juvenile justice systems involve many actors, such as police, prosecution office, court, probation office, staff of community-based programmes and staff of residential/detention facilities for offenders. Also local governments and civil society organisations often have a role in cases of children in conflict with the law. The way each organisation/professional carries out its functions affects the work of others. Coordination needs to be established in order to ensure the smooth interaction of the different parts of the juvenile justice system as well as collaboration between governmental juvenile justice institutions and social welfare institutions or any other agency concerned with the reintegration and rehabilitation of children in conflict with the law. In order to ensure full respect of the rights of children in conflict with the law, the 'UN Common Approach to Justice for Children' underlines that inter-sector coordination is required. The full involvement of the social welfare system in juvenile justice issues needs to be enabled and coordination between the two systems needs to be strengthened. The social welfare system has an important role to play at all stages of the juvenile justice process:²⁹

²⁹ See: Nigel Cantwell, The Role of Social Work in Juvenile Justice, UNICEF, 2013.

- In the prevention of conflict with the law, for example through supporting families at risk.
- During the judicial process, for example through preparing and/or assisting the child during the interview, preparing a social inquiry report/pre-sentencing report.
- In diversion programs and the provision of alternatives to deprivation of liberty, for example through providing orientation, organising diversion programmes/restorative justice processes, monitoring children who serve their sentence in the community, and probation services.
- In the provision of support services to children in conflict with the law who have suffered harm during their involvement in the juvenile justice process, for example children abused while in detention.
- At the reintegration stage, for example through preparing the family for the child's return after release from detention and providing post-release support/aftercare.

The Juvenile Law (2014) explicitly incorporates the relationship and collaboration between the juvenile justice system and social welfare/child protection system (articles 33 to 42). Article 33 lists the eleven situations in which children are considered *"in need of care and protection"*; including status-offences (article 33(b)(c)(e)(f)(g)), offences against children (article 33(a)(h)), children <MACR (article 33(j)) as well as other situations (article 33(b)(d)(e)(i)(k)). Article 34 continues and authorizes the execution judge to *"oversee execution of the final judgment passed by the court"* and *"to refer the care-needing juvenile to a Juvenile Welfare Institution"*.³⁰ The decision to transfer children in conflict with the law from the juvenile justice system to the social welfare/child protection system can be taken, not only in the situations listed in article 33, but also if the child *"has not yet completed the education or training program in which he/she has been enrolled"* (article 34(b)). This seem to imply that the two systems work successively instead of in a collaborative manner. Article 34(a) states that *"after the sentence has been implemented"* children in conflict with the law can be transferred to a Juvenile Welfare Institution instead of incorporating the child's needs for care and protection in his/her treatment/sentencing-plan while serving his/her sentence in an institution or, preferably, in his/her community (see article 51 in the box). Also article 37(c) illustrates the interwoven and successive relationship between the juvenile justice system and social welfare/child protection system. It states *"the Probation Officer, with approval of the Director of the Directorate, may bring before the Execution Judge any juvenile in need of protection or care, who is about to complete the term for which he/she has been sentenced to spend at any institution in accordance with paragraph b(2) of the pres-*

"... In case of conviction, an individual sentencing plan is necessary to ensure that the child is prepared to form a valuable part of society after serving his or her sentence. The sentencing court should include all stakeholders in the elaboration of the sentencing plan, in particular the competent welfare agency. An individual sentencing plan is of particular importance in the imposition of a custodial measure as it structures the child's time served in a detention facility in a rehabilitative manner through meaningful activities."

Article 51 of the Model Law on JJ

³⁰ Juvenile Welfare Institution is defined by the Juvenile Law (2014) as "any institution established or approved for the provision of shelter, education and training to juveniles in need of protection or care" (article 2 of the Juvenile Law (2014)).

ent article (= 'referral to a Juvenile Welfare Institution or any accredited institution for a period not exceeding two years'), if he (the Probation Officer) is of the opinion that the juvenile will be harmed in case he/she is released at the end of his/her stay at the institution". The research team has not been able to verify whether article 34(a) and article 37(c) are put into practice.

The draft National JJ-Strategy developed by NCFA includes two references with regard to inter-sectoral coordination. These are: "develop the national capacities for implementing the community programmes and post care programmes and alternative to detention by involving the national and international organization" and "develop a national control and complaint management system credited by all the relevant authorities and develop the formation of national team trained on the system". There is no provision in the Childhood Law (draft) that deals with inter-sectoral coordination.

5.8. Four Guiding Principles for Professionals Handling Children in Conflict with the Law

In the administration of juvenile justice, States parties have to apply systematically the fundamental principles of juvenile justice (articles 37 & 40 of the CRC) and the guiding principles of the CRC (articles 2, 3, 6 & 12 of the CRC). The four guiding principles are:

- **Non-discrimination (article 2):**

Governments have to take all necessary measures to ensure that all children in conflict with the law are treated equally. Particular attention may be required for children in street situations; children belonging to racial, ethnic, religious or linguistic minorities; indigenous children; girl children; children with disabilities; and children who are repeatedly in conflict with the law (so-called 'recidivists'). Many children in conflict with the law suffer discrimination, for example with regard to access to education or to the labour market. In order to prevent such discrimination, it is necessary to take measures such as providing former child offenders with appropriate support and assistance in their efforts to reintegrate in society and to conduct public campaigns emphasizing their right to assume a constructive role in society. So-called 'status offences' are another example of discrimination of children in conflict with the law (see paragraphs 8 & 9 of CRC-GC10 in the box).

"It is quite common that criminal codes contain provisions criminalizing behavioural problems of children, such as vagrancy, truancy, runaways and other acts, which often are the result of psychological or socio-economic problems. It is particularly a matter of concern that girls and street children are often victims of this criminalization. These acts, also known as status offences, are not considered to be such if committed by adults. The Committee recommends that the States parties abolish the provisions on status offences in order to establish an equal treatment under the law for children and adults. ... In addition, behaviour such as vagrancy, roaming the streets or runaways should be dealt with through the implementation of child protective measures, including effective support for parents and/or other caregivers and measures which address the root causes of this behaviour."

Paragraphs 8 & 9 of CRC-GC10

– **Best interests of the child (article 3):**

In all decisions taken within the context of the administration of juvenile justice, the best interests of the child should be a primary consideration. Children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser accountability of children in conflict with the law and are the reasons for a separate juvenile justice system and require a different treatment for children. The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety.

– **Right to life, survival and development (article 6):**

Governments have to develop effective national policies and programmes for the prevention of juvenile delinquency, because it goes without saying that delinquency has a very negative impact on the child's development. Furthermore, the right to life, survival and development should result in a policy of responding to juvenile delinquency in ways that support the child's development. The death penalty and a life sentence without parole are explicitly prohibited under article 37(a) of CRC. The use of deprivation of liberty has very negative consequences for the child's harmonious development and seriously hampers his/her reintegration in society. In this regard, article 37(b) explicitly provides that deprivation of liberty, including arrest, detention and imprisonment, should be used only as a measure of last resort and for the shortest appropriate period of time, so that the child's right to development is fully respected and ensured.

– **Right to be heard (article 12):**

The right of the child to express his/her views freely in all matters affecting the child should be fully respected and implemented throughout every stage of the juvenile justice process, starting with the pre-trial stage when the child has the right to remain silent, as well as the right to be heard by the police, the prosecutor and the investigating judge. But this right also applies to the stages of adjudication and of implementation of the imposed measures (see paragraph 45 of CRC-GC10 in the box). It is obvious that for a child alleged as, accused of, or recognized as having infringed the penal law, the right to be heard is fundamental for a fair trial. It is equally obvious that the child has the right to be heard directly and not only through a representative or an appropriate body if it is in her/his best interests. The child's views should be given due weight in accordance with the age and maturity of the child. This means that the child, in order to effectively participate in the proceedings, must be informed not only of the charges, but also of the juvenile justice process as such and of the possible measures.

“The child should be given the opportunity to express his/her views concerning the (alternative) measures that may be imposed, and the specific wishes or preferences he/she may have in this regard should be given due weight. Alleging that the child is criminally responsible implies that he/she should be competent and able to effectively participate in the decisions regarding the most appropriate response to allegations of his/her infringement of the penal law. It goes without saying that the judges involved are responsible for taking the decisions. But to treat the child as a passive object does not recognize his/her rights nor does it contribute to an effective response to his/her behaviour. This also applies to the implementation of the measure(s) imposed. Research shows that an active engagement of the child in this implementation will, in most cases, contribute to a positive result.”

Paragraph 45 of CRC-GC10

The Juvenile Law (2014) only explicitly incorporates the principle of ‘best interests’ of children in conflict with the law, i.e. in articles 4(a), 9(a), 9(d) and 18 (see article 4(a) in the box). The ‘right to be heard’ and ‘right to life, survival and development’ of children in conflict with the law are only indirectly covered by the Juvenile Law (2014). Article 4(c) ensures children’s ‘right to life’ by stating that

“The best interest, protection, reform, rehabilitation and welfare of the juvenile shall be observed when applying the provisions of the present law.”

Article 4(a) of the Juvenile Law (2014)

“the juvenile shall not be sentenced to death or life imprisonment” and article 4(e) emphasizes the ‘right to development’ and underlines that *“in all cases, any measures shall not affect enrolment of the juvenile in school”*. The ‘right to be heard’ of children in conflict with the law is explicitly mentioned in article 22(f), but only during the trial stage and not during other stages of the JJ-process. It states that *“if it becomes clear that there is evidence against the juvenile, the Court shall listen to his/her affidavit and defense evidence in the presence of his/her attorney in criminal cases and with assistance from his/her protector, guardian or Probation Officer in cases of misdemeanors and infractions, and then issue its decision”*. Also article 36(a) mentions the ‘right to be heard’, but only with regard to children in need of protection and not in cases of children who are in conflict with the law. The guiding principle ‘non-discrimination’ is neither directly nor indirectly addressed by the Juvenile Law (2014). The Constitution, however, mentions that *“all Jordanians maintain the same responsibilities and rights”* (article 1(6)).

In the actual Jordanian juvenile justice context, there are various violations of the four guiding principles. There seems to be overuse of deprivation of liberty in cases of children in conflict with the law at the pre-trial stage and post-trial stage (see §5.10.). Alternative measures such as diversion (§6.2.), alternatives to pre-trial detention (§6.3.), alternatives to post-trial detention (§8.2.) and early release from post-trial detention (§9.1.) are only used to a very limited extent. This implies that both ‘the best interests as a primary consideration’ and ‘the right to development’ are not systematically applied in the juvenile justice system in Jordan. However, children who are placed in Juvenile Education/Rehabilitation Institutions can continue their education inside the institution or can get permission to go to schools in the local communities. Surprisingly, MoSD could not provide the number of children in Juvenile Education/Rehabilitation Institutions that go to school inside the institutions and in the local communities (see overview below).

School Enrolment of Children in Juvenile Education/Rehabilitation Institutions (2016)

	Juvenile Education Institutions [pre-trial detention]		Juvenile Rehabilitation Institutions [post-trial detention]		Total:					
	school inside:	school outside:	school inside:	school outside:						
2016:	unknown	%	1	%	5	%	unknown	%	unknown	100%

Source: Ministry of Social Development (MoSD)

JJ-professionals acknowledge that children in need of protection are heard during justice procedures, but seem not to invite children in conflict with the law to express their views and concerns in all stages of the JJ-process or at least they do not ask children's views systematically. In cases eligible for settlement the 'right to be heard' is not fully implemented. The child's informed consent is not guaranteed and there is also no real participation of the child during the settlement process. It is not clear to which extent probation officers invite children in conflict with the law to express their views and take the children's views into account when formulating their recommendations in the social inquiry reports. The research team has come across one example of a violation of the guiding principle 'non-discrimination', mentioned by UNHCR-lawyers when they deal with unaccompanied refugee children in conflict with the law. In order to be released on financial bail, these children need either money themselves or a Jordanian sponsor. As long as they cannot pay their bail, they remain in pre-trial detention.

5.9. Reintegration of Children in Conflict with the Law as Ultimate Objective

Governments that have ratified the CRC have the obligation to establish a juvenile justice system, whose principal aim is to reintegrate children into their communities and society. Article 40(1) of the CRC grants every child subject to criminal justice proceedings treatment which takes into account his/her age and the desirability of promoting the child's reintegration and assumption of a constructive role in society. In order to ensure the reintegration of children in conflict with the law into the community, the main principle is that *"deprivation of liberty should be used only as a measure of last resort and for the shortest appropriate period of time"* (article 37(b) of the CRC). Reintegration of children in conflict with the law can be achieved, inter alia, through the following juvenile justice interventions:

- Not depriving children of their liberty unlawfully or arbitrarily
- Ensuring that children have continued access to government-funded legal aid during all stages of the justice process
- Increasing the use of diversion from the judicial process
- Increasing the use of alternatives to pre-trial detention
- Increasing the use of alternatives to post-trial detention
- Increasing the use of restorative justice approaches
- Ensuring that children can exercise their right to appeal a sentence and obtain legal aid necessary to do so
- Providing for the possibility of early release from post-trial detention
- Ensuring that aftercare and social reintegration services and programmes are available
- Facilitating specialization of criminal justice professionals

Article 18 of the Juvenile Law (2014) refers directly to the aim of reintegrating children in conflict with the law. It states that *"the court shall observe the best interest of the juvenile on the basis of the probation officer's report and the statements provided in the case, including respect of the juvenile's rights and the ways and means of reforming and integrating him/her in the society"*. Also, article 41 refers to integration of children, i.e. children in conflict with the law who are released from Juvenile Rehabilitation Institutions.

In the actual JJ-practice, not all reintegrative options are (fully) used, especially not the available alternatives to post-trial detention (see §8.2.2.) and the potential of diversionary measures and restorative measures (see §6.2.2.) for children in conflict with the law.

5.10. Deprivation of Liberty as Measure of Last Resort

Article 37 of the CRC includes the leading principles for the use of deprivation of liberty, the procedural rights of every child deprived of liberty, and provisions concerning the treatment of and conditions for children deprived of their liberty. The leading principles for the use of deprivation of liberty are:

- Arrest, detention or imprisonment of a child shall be in conformity with the law
- Arrest, detention or imprisonment of a child shall be used only as a measure of last resort
- Arrest, detention or imprisonment of a child shall be used only for the shortest appropriate period of time
- No child shall be deprived of his/her liberty unlawfully or arbitrarily
- Children should be kept separate from adults
- While in detention, children should receive care, protection and all necessary assistance

Pre-trial detention, also called 'detention pending trial', should be an exceptional measure, including for serious offences. The Beijing Rules clearly limit the offences for which children can be deprived of their liberty following a finding that they have committed the offence (see Beijing Rule 17(1)(c) in the box). The duration of pre-trial detention should be limited by law and be subject to regular review, preferably every two weeks.

"In many countries, children languish in pre-trial

detention for months or even years, which constitutes a grave violation of article 37(b) of CRC" (paragraph 80 of CRC-GC10). Convicted children in conflict with the law, including recidivists, should be treated in ways that promote their reintegration and minimize the likelihood of committing a further offence and the child's assuming a constructive role in society (article 40(1) of the CRC). This means that governments should have in place a well-trained probation service to allow for the maximum and effective use of alternatives to post-trial detention, also called 'non-custodial sentences', and the possibility of early release from detention (paragraph 28 of CRC-GC10). House arrest of children in conflict with the law, although less intrusive than detention in a closed juvenile facility, is also considered a form of deprivation of liberty and not promoted by international child-specific instruments.

The Juvenile Law (2014) incorporates neither the principle 'deprivation of liberty as a measure of last resort' nor the principle 'deprivation of liberty for the shortest appropriate period of time'. Articles 9, 13, 24 & 32 deal with alternative measures for children in conflict with the law, but the law does not explicitly prioritize these measures. The only exception, although a very limited and specific provision, is article 14(b) that states that *"a juvenile may not be detained during the settlement process"*. However, the *Childhood Law (draft)* mentions *"avoid, to the extent possible, recourse to detention, to preventive detention and to penalties for deprivation of liberty, in particular short-term sanctions"* and in article 83 that *"priority is given to resorting to restorative justice and non-deprivation of liberty in juvenile cases"*. Diversion, which should be the measure of first resort, is not included in this article.

"Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response."

Beijing Rule 17(1)(c)

During the discussions with the JJ-professionals, the principle of deprivation of liberty as a measure of last resort and for the shortest possible period of time as well as the well-known adverse effects of deprivation of liberty on children have not been mentioned spontaneously, i.e. neither with regard to pre-trial detention nor with regard to post-trial detention. The research team got the impression that JJ-professionals consider deprivation of liberty and institutionalisation as an appropriate response in many cases of children in conflict with the law and not a response that should only be used in exceptional cases. A logical result of this attitude may be overuse of deprivation of liberty. The statistics provided by Ministry of Justice (MoJ) and Ministry of Social Development (MoSD) give insight into the use of deprivation of liberty at the pre-trial stage and post-trial stage in cases of children in conflict with the law from 12 to 18 years. As mentioned before, accused children and convicted children are placed in the same institutions and are not separated from each other during activities, meals, sleeping, etc.

The MoJ-overview 'Children in Conflict with the Law Deprived of their Liberty (2015 & 2016)' illustrates that the vast majority of all children who are detained, stay in pre-trial detention (84.3% & 95.9%) and the minority is sentenced to placement in a post-trial detention facility (15.7% & 5.1%). These MoJ-data may suggest that there is overuse of deprivation of liberty at the pre-trial stage, because only 18.8% (66 of 354) to 5.4% (31 of 576) of the children detained at the pre-trial stage are subsequently sentenced to deprivation of liberty at the post-trial stage. The disaggregation of the MoJ-data according to geographical area (not shown in the above overview) demonstrates that most children are deprived of their liberty in Amman (91%), Irbid (5%) and Zarqa (1%).

Children in Conflict with the Law Deprived of their Liberty (2015 & 2016)						
	Total Number of Children in Detention		Pre-Trial Detention: (Juvenile Education Institution)		Post-Trial Detention: (Juvenile Rehabilitation Institution)	
2015:	420	100%	354	84.3%	66	15.7%
2016:	607	100%	576	95.9%	31	5.1%

Source: Ministry of Justice (MoJ)

The MoSD-overview 'Kinds of Offences Committed by Children in Pre-Trial and in Post-Trial Detention Children (2016)' shows for which kinds of offences children are deprived of their liberty at the pre-trial and post-trial stages in 2016. The research team has not received a plausible explanation for the different total numbers of detained children in 2016 according to the two MoJ and MoSD overviews (607 versus 2158). The overview below illustrates that by far most children are detained at the pre-trial stage because of their involvement in 'property offences' (649) or 'physical assault' (598) as well as 'drug offences' (380). At the post-trial stage, on the other hand, most children are deprived of their liberty because of their involvement in 'sexual offences' (183) or 'property offences' (106). The research team does not have a valuable explanation why the number of children detained at the post trial stage for 'sexual offences' is more than five times higher than the number of children detained for these offences at the pre-trial stage (183 versus 35). The MoSD-data also show that children in Jordan are placed in closed institutions for status offences (99). The over-

view further suggests overuse of deprivation of liberty at the pre-trial stage. Only a quarter of the children detained at the pre-trial stage are subsequently deprived of their liberty at the post-trial stage (1758/400=23%). Overuse of pre-trial detention seems to be the case especially in drug offences (380/9=2.4%), (attempt) murder (56/4=7.1%) and property offences (649/106 =16.3%).

Kinds of Offences Committed by Children Placed in Pre-Trial Detention and Post-Trial Detention (2016)								
	Sexual Offences:	Drug offences:	(Attempt) Murder:	Physical Assault:	Property Offences (+ Theft):	National Security Offences:	Status Offences:	Total:
Pre-Trial:	35	380	56	598	6 + 643 = 649	6	34	1758
Post-trial:	183	9	4	33	16 + 90 = 106	0	65	400
Total:	218	389	60	631	22 + 733 = 755	6	99	2158

Source: Ministry of Social Development (MoSD)

5.11. Minimum Age of Criminal Responsibility

One of the core components of a comprehensive juvenile justice policy is the minimum age of criminal responsibility (MACR) (see §5.11.). Article 40(3) of CRC *requires "the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law"*. There is no specific minimum age mentioned in the CRC or other international instruments. The CRC-Committee considers a MACR below the age of 12 years not to be internationally acceptable. If there is no proof of age and it cannot be established that the child is at or above the MACR, the child shall not be held criminally responsible. Children who commit an offence at an age below the MACR cannot be formally charged and held responsible in a penal law procedure. For these children special protective measures can be taken if necessary in their best interests.³¹ Children at or above the MACR at the time of the commission of an offence but younger than 18 years can be formally charged and subject to penal law procedures.³² The CRC-Committee strongly recommends that *"States parties set a MACR that does not allow, by way of exception, the use of a lower age. The system of two MACRs is often not only confusing, but leaves much to the discretion of the court/judge and may result in discriminatory practices"*.

The Juvenile Law (2014) explicitly addresses the MACR in article 4(b). It states that *"despite the provisions of any other legislation, a juvenile, who has not completed twelve years of age, shall not be prosecuted criminally"*. The age of the child at the time of committing the offence will be taken into account by JJ-professionals. If necessary, age determination of children in conflict with the law can

³¹ The treatment of children below the MACR is not covered in this situation analysis. The 'Regional Guidelines on Collaboration in Cases of Children below the Minimum Age of Criminal Responsibility' (2017), developed by UNICEF-MENARO, provides more details in this regard.

³² See: UNICEF MENARO, Regional Guidelines on Collaboration in Cases of Children in Conflict with the Law at or above the MACR, UNICEF MENARO, Amman, 2015.

be ordered by the court (see article 6(c) in the box). Article 33(j) elaborates that if a child “has not completed twelve years of age and has committed a misdemeanour or felony” he/she should be considered a ‘juvenile in need of protection’. Article 33(j) mentions that children <MACR who have “committed a misdemeanor or felony” should be considered and treated as children in need of protection who may, among other options, be institutionalized in a Juvenile Education Institution (article 37(b) (2)). The Juvenile Law (2014) does not provide further details about the treatment of children <MACR.

“If it has been proven that the person represented in the lawsuit is not registered in Civil Status records and it has been claimed that he/she is still a juvenile or is younger than he/she looks, in which case the results of the lawsuit may be affected, then the Court shall refer him/her to the medical committee, in accordance with the valid Medical Committees Bylaw, to assess his/her age before proceeding with the trial, in which case the time needed for the age assessment shall be considered as part of the litigation time.”

Article 6(c) of the Juvenile Law

In actual practice, all JJ-professionals know that the MACR is 12 years and that children in conflict with the law who are below 12 years of age should not be prosecuted and not considered ‘delinquents’, but ‘children in need of care and protection’ who cannot be held accountable for their offences. Currently, there is no debate about increasing (or decreasing) the MACR in Jordan and neither the draft National JJ-Strategy nor the draft Childhood Law incorporate any reform in this regard. The JJ-stakeholders have mentioned the following challenges relating to the MACR in Jordan:

- Most informal justice providers are not aware of the MACR and/or do not distinguish between children in conflict with the law below respectively at or above the MACR. They use children’s physical appearance as criterion for childhood versus adulthood.
- The Juvenile Law (2014) is not clear about how children below the MACR have to be dealt with. Especially in cases of serious offences, JJ-professionals disagree how to deal with the children.
- The views of JJ-professionals also differ with regard to how they have to deal with children who become 18 years during the juvenile justice procedures or while they are subject to alternatives to pre-trial and post-trial detention. The Juvenile Law (2014) only covers children who turn eighteen while they are placed in post-trial detention facilities by the judge and follow vocational training (see article 37(d) in the box).
- The Juvenile Probation Law (2006) defines a juvenile as any person who has completed seven years and did not complete eighteen years.

“The Execution Judge may extend the stay of the juvenile at the institution if the juvenile has not completed the handicraft or vocational training program he/she has already started. The stay may be extended until the juvenile completes the training program or reaches the age of twenty years, provided the juvenile, who has completed eighteen years of age, agrees to the extension.”

Article 37(d) of the Juvenile Law

During the discussion about age determination in cases where no official documents exist that prove the age of children in conflict with the law, it was mentioned that the Medical Committee provides the court only with a full age of the child, like 11 years, 14 years or 16 years. This implies that children who are about 12 years (like 11 years and 10 months), children who are about 15 years (like 14 years and 9 months)³³ and children who are about

“The Committee notes that if a penal disposition is linked to the age of a child, and there is conflicting, inconclusive or uncertain evidence of the child’s age, he/she shall have the right to the rule of the benefit of the doubt.”

Paragraph 72 of CRC-GC10

18 years (like 17 and 9 months) do not get the benefit of the doubt but are considered respectively ‘criminal responsible’, ‘boys’ and ‘adults’ (see also paragraph 72 in the box). If this really happens in actual practice, it means that the best interests of children in conflict with the law is not taken into consideration. Practical challenges regarding age determination mentioned by JJ-professionals are:

- Delay in age determination procedures
- The fee of JOD.15 has to be paid by the client
- Uncertainty about how children have to be dealt with while awaiting the result of their age determination

The Medical Committee Regulations (1977) only regulates the formation of Medical Committees and does not describe the process and steps required for age determination.

Mentally retarded children in conflict with the law and children in conflict with the law with psychiatric problems are placed in the Mental Health Centre (Ministry of Health) in Fuheis (close to Amman), where they are examined by medical staff and/or psychiatrists. There is no special unit in the Centre for children in conflict with the law who (may) have mental or psychiatric problems. In actual practice, the beds in the Mental Health Centre are almost always full and children in conflict with the law are placed in Juvenile Education Institutions in order to await their diagnose/report. If the report shows that the child suffers from a mentally illness, he/she will not be considered criminal responsible. If the report shows that the child suffers from a mentally illness, he/she will not be considered criminal responsible.

5.12. Presence of Parents during Juvenile Justice Proceedings

Parents/legal guardians should be entitled to participate in the proceedings in cases of children in conflict with the law, so that they can provide general psychological and emotional assistance to their child. However, the presence of parents/guardians does not mean that they can act in defence of their child or be involved in the decision-making process. Moreover, at the request of the child or of his/her legal or other appropriate assistance or because it is not in the best interests of the child, the judge may decide to limit, restrict or exclude the presence of the parents/legal guardian from the proceedings. The CRC-Committee recommends that Governments “*explicitly provide by law for the maximum possible involvement of parents or legal guardians in the proceedings against the child*”, because in general their involvement contributes to an effective response to the child’s infringement of the penal law (paragraph 54 of CRC-GC10).

³³ Articles 25 and 26 of the Juvenile Law (2014) divide children who are found guilty and will be sentenced by the child court into two age groups, i.e. boys (from 15 till 18 years) and adolescents (from 12 till 15 years).

The Juvenile Law (2014) incorporates two provisions on the presence of parents of children in conflict with the law, i.e. articles 17 and 22(a), but both provisions only refer to the trial stage of the JJ-proceedings. Article 22(a) clearly states that *“a juvenile may not be tried in the absence of one of his/her parents, protector, guardian, or custodian as required”*. The JPD-officers have mentioned that they always notify the parents/legal guardians when they apprehend or arrest a child, which does not mean that the parents/legal guardians are always present when their son or daughter is interrogated. The research team has not been able to verify whether the same procedure is applied by FPD-officers in cases of alleged child-offenders involved in sexual and domestic offences. The child judges explained that the parents/legal guardians are always present during trial proceedings as laid down in the Juvenile Law (2014), although not all child judges consider it a necessity (see quote in the box).

“There is no need that the parents/legal guardians are present during all trial proceedings. It is a waste of time for them, because they have other commitments like work, and the child’s probation officer and lawyer are present anyway.”

Child judge

5.13. Assistance by Probation Officers and Social Inquiry Reports

Beijing Rule 16 concerns ‘social inquiry reports’ (also called ‘social reports/studies’ and ‘pre-sentence reports’) and states that *“in all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority”*. Social inquiry reports are an indispensable aid in most legal proceedings involving children in conflict with the law. The competent authority should be informed of relevant facts about the child, such as social and family background; the child’s current circumstances, including where he or she is living and with whom; educational background; health status, previous offences, the circumstances surrounding the commission of the offence; etc. Adequate social services or personnel attached to the court should be available to deliver social inquiry reports of a qualified nature. Probation officers may serve the same function. If the social inquiry report is prepared in order to inform the court before passing a sentence on a child, it should also provide possible alternatives to sentencing and deprivation of liberty the child and the likely impact on the child of any sentence.

The Juvenile Law (2014) addresses the presence and assistance of probation officers during JJ-proceedings (articles 17 & 22(a)(f)(h)). Article 22(a) states that *“a juvenile ... shall be tried in the presence of the probation officer and the juvenile’s attorney”*. The law does not indicate that the presence of probation officers is required during investigation, interrogation, pre-trial proceedings and sentencing. The Juvenile Law (2014) also incorporates various provisions that deal with reports, including social inquiry reports, prepared by probation officers in cases of children in conflict with the law. These provisions are:

- Article 11(a): *“The probation officer shall submit to the public prosecutor, at the beginning of the investigation, a detailed written report, including information concerning the conditions of the child and his/her family and the physical, social and environmental circumstances under which he/she has been reared, as well as his/her school and scholastic achievement. Furthermore, the probation officer shall submit to the court similar reports whenever needed.”*

- Article 18: *“The court shall observe the best interest of the juvenile on the basis of the probation officer’s report and the statements provided in the case, including respect of the juvenile’s rights and the ways and means of reforming and integrating him/her in the society.”*
- Article 22(g): *“The Court shall study the probation officer’s report. The court, the juvenile and his/her attorney may, subsequently, question the probation officer about his/her report.”*
- Article 24(g)(3): *“When issuing the judicial supervision order, the court shall specify the period of time and the number of reports, which the probation officer needs to submit to the court on the situation of the juvenile.”*
- Article 34(a): *“The execution judge may, based on a report by the director of the directorate, which in turn is based on the probation officer’s report, after the sentence has been implemented, decide to refer the care-needing juvenile to a Juvenile Welfare Institution.”*

The JJ-professionals have discussed the presence and assistance of probation officers during JJ-proceedings and the social inquiry reports prepared by probation officers in cases of children in conflict with the law. Unfortunately, no probation officers involved in these proceedings were present during the discussions. Basically, JJ-professionals consider the involvement of probation officers in cases of children in conflict with the law as useful and relevant. However, their experiences in actual practice are not very positive. The following challenges regarding the Probation Service have been mentioned:

- The practice of having more than one probation officer in one and the same case of a child in conflict with the law is considered bad practice by JJ-professionals
- If JPD-officers take the statement of an alleged child-offender before the probation officer has arrived, the probation officers sign the statement as if they were present.
- The quality of the social inquiry reports is (very) low and the reports do not provide a comprehensive picture of the child’s background and the circumstances of the (alleged) offence(s).
- The report is not a real report with detailed information and well-justified recommendations about possible measures/sentences, but rather a completed standard form mainly prepared in the office of the probation officers.
- The ‘Behavioural Monitors Regulations’ (2006) is not implemented according to some prosecutors and lawyers, especially the delivery of the behavioural monitor reports.

5.14 Legal Assistance for Children in Conflict with the Law

Upon apprehension or arrest, alleged child offenders have to be informed about their right to be provided with free legal aid and to consult with their legal representative before being questioned by the police officer or prosecutor. They can only be questioned about the alleged offence(s) in the presence of their legal representative, who may be an expert lawyer or paralegal professional. Beijing Rule 15.1 states that *“throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country”*. The purpose of legal assistance when the child is first questioned by either the police or prosecutors is to ensure independent scrutiny of the methods of questioning used and to ensure that

the evidence is voluntary and not coerced. Children should be granted time alone with their legal representative to allow him/her to discuss the allegations with the child, and for the child to ask questions and generally understand the situation he/she is in before any questioning commences. Other appropriate assistance may also be provided, for example assistance of a social worker. However, those professional should have *“sufficient knowledge and understanding of the various legal aspects of the process of juvenile justice and must be trained to work with children in conflict with the law”* (paragraph 49 of CRC-GC10).

As mentioned before, the CRC-Committee urges the Jordan Government in its most recent report relating to child rights *“to provide for free legal aid for children at an early stage of the procedure and throughout the legal proceedings”* (CRC-recommendation 64(b)). The Juvenile Law (2014) incorporates two provisions on legal assistance of children in conflict with the law. Article 21(a) (b) states that *“the court shall appoint an attorney in criminal cases to represent the juvenile if he/she does not have a counsel or was unable to appoint an attorney. Furthermore, the attorney’s fees shall be paid by the State Treasury as stipulated in the Penal Procedures Law. The attorney appointed on behalf of the juvenile shall attend all the stages of investigation and trial.”* Article 22 continues that *“a juvenile may not be tried in the absence of ... the juvenile’s attorney”*. Unfortunately, the interpretation of JJ-professionals of these provisions of the Juvenile Law (2014) is rather restricted. Child judges, child prosecutors and child lawyers have stated during the discussions that legal aid in cases of children in conflict with the law is only obligatory at the trial stage and only in cases of felonies, while it is clearly stated in the Juvenile Law (2014) that the child’s lawyer shall attend *“all the stages of investigation and trial”* and the restriction to ‘felonies/criminal cases’ is only mentioned in article 21(a) and not in article 22. Moreover, the child court should already be involved in cases of children in conflict with the law whose pre-trial detention has to be extended for the second time (article 9(c)). This means that the child court has to appoint a lawyer at the pre-trial stage if the case concerns a felony/criminal offence (article 21(a)).

In actual practice, children in conflict with the law are not informed about their right to free legal assistance. The research team has tried to collect the information shown in the overview ‘Legal Assistance by JCLA during the Juvenile Justice Process (2016)’. Unfortunately, JCLA has not been able to provide this data. However, JCLA has shared relevant data about the services they have offered in cases of children in conflict with the law in 2016 disaggregated by kinds of offences committed, gender and Governorate.



Poster on free legal aid for children in conflict with the law

Legal Assistance by JCLA during the Juvenile Justice Process (2016)

Total Number of Cases:	unknown	100%
Apprehension/Arrest:	unknown	unknown
Investigation:		
Settlement/Diversion:		
Pre-trial release/detention:		
Trial proceedings:		
Disposition/Sentencing:		
Early release from detention:		

Source: Justice Center for Legal Aid (JCLA)

JCLA's Services in Cases of Children in Conflict with the Law (2016)

Kinds of Offences:	Number of Cases:			Number of Consultations:		
	Boys:	Girls:	Total:	Boys:	Girls:	Total:
Theft:	107	4	111	190	6	196
Physical assault:	19	2	21	53	5	58
Sexual assault & rape:	33	1	34	66	18	84
Drugs:	15	4	19	54	5	59
Murder:	25	1	26	47	2	49
Total:	199	12	211	410	36	446

Source: Justice Center for Legal Aid (JCLA)

The above overview suggests, as concluded before, that much more boys than girls are involved in offences and that theft is the offence most frequently committed by children. In general, JCLA has at least two consultations per case of a child offender. Most cases concern Jordanian children (86%), followed by Palestinian and Syrian children (6% & 6%) and Egyptian children (2%). Most children supported by JCLA are from Amman Governorate (57%) and Zarqa Governorate (16%). In 2016, JCLA has not provided legal assistance to children from Karak, Ma'an, Tafeela and Aqaba Governorates (0%).

5.15. Views of Children regarding Formal Juvenile Justice

The research team has organised a focus group discussion with four boys in conflict with the law. Three of them were awaiting their trial in a Juvenile Education Institution and one boy was sentenced to two months in a Juvenile Rehabilitation Institution. In actual practice, the four boys were deprived of their liberty in the same institution, slept in the same dormitory, followed the same (remedial) classes and participated in the same sports and leisure activities. All four boys mentioned that they have been interrogated by general police officers and did not have any contact with JPD. Especially the youngest boy looked distressed when he shared his experienced about being beaten by the police officers. He showed the injuries in this face and the research team believed that also his hair was shaved while being interrogated. Nobody had told the boy that he could file a complaint against the police. When the research team asked the staff whether they inform children about their right to file a complaint and/or whether there is any complaint mechanisms in Juvenile Education/ Rehabilitation Institutions, they said *"only parents can file a complaint on behalf of their son and so far this boy's parents never visited their son while he stayed with us"*. Two of the boys responded to the question whether they have been offered bail. The boy who stayed in an orphanage when he allegedly committed the offence, mentioned *"my lawyer explained to me that I cannot be released on bail because I am living in an orphanage"*. The other boy said: *"I can only get bail if the shopkeeper from whom I stole the goods drops his personal right and he did not want to do that"*. All four boys were relieved when their case was dealt with by the child judge. Two of them got a lawyer who explained the justice procedures to them and for all of them it implied that the torture and/or harsh investigation by police officers ended. They all received assistance from a probation officer from the moment the child judge got involved in their case.

5.16 Strengths and Improvements Relating to the Core Components of Juvenile Justice

In this section, the following strengths and improvements regarding core components of juvenile justice in Jordan emerged:

– **Strengths:**

- Jordan has ratified the Convention on the Rights of the Child.
- Child-specific legislation, regulations/instructions and guidelines covering children in conflict with the law exist.
- The Juvenile Law (2014) supersedes general national laws that deal with children in conflict with the law.
- The Juvenile Law (2014) is used in the vast majority of cases of children in conflict with the law.
- Most juvenile justice core components are covered by the Juvenile Law (2014) and relating regulations/ instructions.
- Intersectoral collaboration between professionals of the juvenile justice system and social welfare system is regulated by child-specific legislation.
- Various specialized JJ-institutions for children in conflict with the law (JPDs, Juvenile Courts, Child Probation Departments & Juvenile Education/Rehabilitation Institutions) and specialized JJ-professionals (child police, child prosecutors, child judges, child lawyers, child probation officers and child educators/social workers) exist.
- The minimum age of criminal responsibility in Jordan complies with international standards.
- The presence of the parents/legal guardians of children in conflict with the law during trial proceedings is guaranteed by child-specific law and in actual practice.
- Legal assistance of children in conflict with the law is regulated by child-specific law and guaranteed during all proceedings.
- Probation officers have to prepare social inquiry reports in cases of children in conflict with the law according to child-specific legislation.

– **Improvements:**

- Clear legal provision(s) on deprivation of liberty of children in conflict with the law as a measure of last resort and for the shortest appropriate period of time.
- Establishment of specialized Child Prosecution Offices, Child Settlement Courts and Child Rights Centre.
- Development of a comprehensive national juvenile justice policy that also incorporated children in conflict with the law below the minimum age of criminal responsibility.
- Treatment of children involved in drug offences by specialized JJ-professionals and children involved in status offences by specialized JJ-governors.
- Systematic separation of children in conflict with the law and adults in conflict with the law in all stages of the juvenile justice process.
- Systematic referral of cases of children in conflict with the law from general police to JPD (and FPD).

- Reconsidering the possibility of reporting cases of children in conflict with the law straight to child courts.
 - One and the same probation officer responsible for a child in conflict with the law throughout the juvenile justice process.
 - Unambiguous mandates for JPD, FPD and Governors in cases of children in conflict with the law.
 - Incorporation of the four guiding principles of the CRC in the Juvenile Law (or other child-specific legislation dealing with children in conflict with the law) and systematic application in the JJ-context.
 - Using deprivation of liberty of children in conflict with the law at the pre-trial and post-trial level only in exceptional cases and never in cases of status offences.
 - Strengthening the use of reintegrative measures for children in conflict with the law, especially diversion, alternatives to post-trial detention and restorative justice approaches.
 - Presence of the parents/legal guardians of children in conflict with the law during the entire juvenile justice process.
 - Legal assistance of children in conflict with the law throughout the juvenile justice process, including during interviewing.
 - Solutions for the challenges relating to age determination of children in conflict with the law.
 - Solutions for the challenges relating to social inquiry reports in cases of children in conflict with the law.
 - Solutions for the concerns expressed by children in conflict with the law, including abuse by general police.
- **Conclusions and recommendations on the core components of juvenile justice in Jordan (see §18.4)**

6. Pre-Trial Stage of the Juvenile Justice Process

6.1. Apprehension, Arrest, Investigation and Questioning of Alleged Child-Offenders

The first contact of children in conflict with the law with the juvenile justice system is usually when he/she is apprehended or arrested by the police. This initial contact can have a lasting impact on the child and can profoundly influence the child's attitude towards the State and society. The success of any further intervention is largely dependent on such initial contacts. Compassion and kind firmness are important in these situations. Children who are treated with respect and fairness are more likely to accept responsibility for their actions, while those who experience abuse or unfair treatment tend to become resentful and distrustful of adults and other authority figures. The Beijing Rules therefore

“CRC provides a set of fundamental principles for the treatment to be accorded to children in conflict with the law: ... Treatment that is consistent with the child's sense of dignity and worth. This principle reflects the fundamental human right enshrined in article 1 of UDHR, which stipulates that all human beings are born free and equal in dignity and rights. This inherent right to dignity and worth, to which the preamble of CRC makes explicit reference, has to be respected and protected throughout the entire process of dealing with the child, from the first contact with law enforcement agencies and all the way to the implementation of all measures for dealing with the child.”

Paragraph 13 of CRC-GC10

require that “contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case” (BR-10.3.). The CRC requires that children are “treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age” and that “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time” (article 37(b) of the CRC (see also paragraph 13 of CRC-GC10 in the box). Every child who is apprehended or arrested shall be informed immediately of the reason(s) as well as his/her rights in a child-friendly manner and should be brought before a competent authority to examine the legality of his/her deprivation of liberty (i.e. police custody/pre-charge detention) within 24 hours. An apprehended or arrested child who is brought to a police station and remains uncharged has to be released and handed over to his/her parents immediately. Where the child is charged, he/she should also generally be released post-charge after the police officer has consulted the competent prosecutor (see article 33 in the box). In any case, the child needs to be handed over to his/her parents on condition that he/she may have to return to the police station or appear before the court if subsequent formal proceedings are initiated.

The CRC-Committee has stated that children being questioned by law enforcement officials (police and/or prosecutor) must have access to a legal or other appropriate representative and must be able to request that their parent(s) be present during questioning (see §5.12., §5.13 & §5.14.). A child should not be questioned until he/she has had the opportunity to receive legal advice. If a child cannot understand or speak the language used by the juvenile justice system, he/she has the right to get free assistance of an interpreter. Children are more vulnerable to questioning techniques than adults. Therefore, children need a higher level of protection against oppressive and unfair questioning, among other things, through the use of

“The vast majority of crimes committed by children are minor property crimes. Such crimes rarely pose a danger to the public and there is little reason for children in these cases to be detained for as long as 24 hours. If further questioning is felt to be necessary, then rather than being detained, the child should be given notice to return to the police station at a stated place, date and time. States will need to give consideration to what sanctions should be put in place for children who fail to return on their due date.”

Article 33 of Model Law on JJ

well-trained investigators/interviewers in order to avoid questioning techniques and practices that result in coerced or unreliable confessions or testimonies. The investigators/interviewers should not at any time shout at the child or threaten him/her physically or psychologically. The professionals should use child-friendly language during questioning; provide the children with adequate breaks, adequate food and drink and regular access to toilet and washing facilities; and never question children after 10PM (article 28 of the Model Law on JJ). Article 4(d) of the Juvenile Law (2014) is directly relevant to JPD-officers and other police officers who deal with alleged child-offenders. It states that “it is prohibited to handcuff, use force against, or isolate a juvenile except in cases where he/she is recalcitrant or violent, but within the limits of necessity”. This provisions also applies to the investigation stage of the juvenile justice process. The arrest of children in conflict with

the law is not regulated by the Juvenile Law (2014), but by the Criminal Procedural Code (1961). It states that “no person shall be arrested or detained except by order of the competent authorities by law” (article 8). The enforcement officer has the responsibility to start the investigation of the alleged offence, to collect evidence, to arrest the alleged offender(s) and to refer him/her/them to the competent court.

The Juvenile Law (2014) does not incorporate any provision that concerns communication with or questioning of alleged children in conflict with the law. According to the JPD-management and the JPD-officers themselves, all JPD-staff are well trained in juvenile justice and sufficiently equipped to deal with cases of children in conflict with the law in a child-appropriate manner. The JPD-officers have mentioned that children in conflict with the law are treated in accordance with the Juvenile Law (2014) and internal PSD-Circulars. Other JJ-professionals revealed that, in actual practice, JPD-officers do not always call a probation officer when a child is apprehended or arrested and that the probation officers are not always present during the preliminary investigation. Probation officers attached to JPDs do not have an office inside the JPD-compound. The limited situation analysis of settlement by JPD conducted by UNICEF-Jordan has shown that the settlement practice is not harmonized with juvenile justice and restorative justice standards (see §6.2.). The research team has not been able to collect further details on the treatment of children in conflict with the law at the JPD-level and whether interrogation and investigation are conducted according to international standards. However, during the discussion on accountability mechanisms (see §12.), it was mentioned that “*most complaints about violations of the rights of children in conflict with the law are related to the investigation stage*”, but without further specification whether the complaints were related to JPD, FPD and/or general police.

Police officers and other staff working at the FPD have not participated in capacity building initiatives on dealing with and interrogating alleged child-offenders of sexual and domestic offences. The same goes for police officers working at general police stations in the governorates where there is no JPD and who deal with all kinds of alleged child-offenders.

6.2. Diversion from Formal Judicial Proceedings

6.2.1. Diversion according to International Standards

The CRC states that Governments should take measures, whenever appropriate and desirable, for dealing with children in conflict with the law without resorting to judicial proceedings as an integral part of their juvenile justice system and ensure that children’s human rights and legal safeguards are thereby fully respected and protected (article 40(3)(b)) (see paragraph 25 of CRC-GC10 in the box on the next page). Such measures are also called ‘diversion from formal judicial proceedings’. According to the CRC-Committee “*referring children in conflict with the law to alternative social services should be a well-established practice that can and should be used in most cases. Diversion should certainly not be limited to children who commit minor offences, such as shoplifting or other property offences with limited damage, and first-time child offenders. Statistics in many States parties indicate that a large part, and often the majority, of offences committed by children fall into these categories. It is in line with the principles set out in article 40(1) of CRC to deal with all such cases without resorting to criminal law procedures in court. In addition to avoiding stigmatization, this approach has*

good results for children and is in the interests of public safety, and has proven to be more cost-effective" (paragraph 24 of CRC-GC10). The internationally accepted definition of diversion implies that diversion is 'conditional' (see §1.). When determining the diversion conditions to be complied with by the child, the needs of the child, the victim and society have to be taken into account. The conditions should aim at promoting the child's reintegration into society and playing a constructive role in society as well as reducing the likelihood of reoffending and, where appropriate, restoring the harms caused to the victim, society, family and others.

6.2.2. Diversion in the Jordanian Juvenile Justice Context

As mentioned before, the CRC-Committee has recommended in its most recent report relating to child rights in Jordan that *"the State party strengthen its efforts to build a system of restorative and rehabilitative juvenile justice fully in line with the Convention, in particular articles 37, 39 and 40, with other relevant standards, and with the Committee's general comment No. 10 (2007) on children's rights in juvenile justice"* as well as *"ensure that the new law establishes specialized juvenile courts, focusing on restorative justice"* (CRC-recommendation 64). This recommendation implies that diversion should not be limited to *"minor offences with limited damage"* and *"first-time offenders"*, which does not seem to be the actual settlement practice in Jordan. The Juvenile Law (2014) does not incorporate any explicit reference to diversion. However,

"As far as full respect for human rights and legal safeguards is concerned, the Committee emphasizes the following:

- Diversion should be used only when there is compelling evidence that the child committed the alleged offence, that he/she freely and voluntarily admits responsibility, and that no intimidation or pressure has been used to get that admission and, finally, that the admission will not be used against him/her in any subsequent legal proceeding;*
- The child must freely and voluntarily give consent in writing to the diversion, a consent that should be based on adequate and specific information on the nature, content and duration of the measure, and on the consequences of a failure to cooperate, carry out and complete the measure. With a view to strengthening parental involvement, States parties may also consider requiring the consent of parents, in particular when the child is below the age of 16 years;*
- The law has to contain specific provisions indicating in which cases diversion is possible, and the powers of the police, prosecutors and/or other agencies to make decisions in this regard should be regulated and reviewed, in particular to protect the child from discrimination;*
- The child must be given the opportunity to seek legal or other appropriate assistance on the appropriateness and desirability of the diversion offered by the competent authorities, and on the possibility of review of the measure;*
- The completion of the diversion by the child should result in a definite and final closure of the case. Although confidential records can be kept of diversion for administrative and review purposes, they should not be viewed as "criminal records" and a child who has been previously diverted must not be seen as having a previous conviction. If any registration takes place of this event, access to that information should be given exclusively and for a limited period of time, e.g. for a maximum of one year, to the competent authorities authorized to deal with children in conflict with the law."*

Paragraph 25 of CRC-GC10

articles 13 and 14 deal with settlement, which can be considered diversion with a restorative justice approach. Article 13 deals with the preconditions of settlement and the cases eligible for settlement by Juvenile Police Department (JPD) and Settlement Courts. These are:

- *Violations and misdemeanours for which penalties do not exceed a two-year imprisonment term*
- *Offences dependent on a complaint by the injured party*
- *Consent of the parties to the dispute*

The Settlement Court is competent for settling the disputes that could not be settled by JPD (article 13(b)). The settlement judge may “personally carry out the settlement process or refer it to any party or person approved by the Minister in accordance with a bylaw issued for this purpose and known for successfully reconciling differences” (article 13(c)). Article 15(f) states that “*judgments issued by the juvenile conciliation and first instance courts are subject to appeal, contestation and objection provisions and procedures*”, which may be considered not in line with the international standard that ‘the completion of the diversion by the child should result in a definite and final closure of the case.’

The Conflict Resolution Regulations (2016) elaborates on the principles and procedures to be taken into account by JPD and settlement judges when settling a case of a child in conflict with the law. The Juvenile Law (2014) does not incorporate any form of diversion in cases of children in conflict with the law that carry a penalty of two-year imprisonment or more, offences that do not depend on a complaint by the victim and cases in which the victim does not consent to settlement or to the suggested agreement. Article 28 of the Juvenile Law (2014), states that “a personal right case shall not be accepted before a juvenile court and the victim may resort to the competent courts”. This might mean, again, that the international standard ‘completion of the diversion by the child should result in a definite and final closure of the case’ may not be respected in actual practice in Jordan. The Juvenile Law (2014) does not incorporate any responsibility of prosecutors in settlement proceedings. Technically, there is no provision that prohibits prosecutors to be involved in settlement proceedings. Actually the opposite can be argued based on articles 15 and 20 of the Criminal Procedure Law. The Juvenile Law (2014) also does not mention any role of probation officers or members of the judiciary, such as the first magistrate judge tasked with presiding over misdemeanour and minor felony cases. The Childhood Law (draft) states in general that “priority is given to resorting to restorative justice”, which may imply that if not prohibited by law, prosecutors and first magistrate judges may use settlement. The Childhood Law (draft) continues that “the settlement judge shall settle disputes in all cases of offenses and misdemeanors assigned to the child, in the best interests of the child” and does not repeat that settlement judges are mandated to settle cases that were unsuccessfully settlement by JPD.

In 2016, UNICEF-Jordan has conducted a limited situation analysis of settlement by JPD.³⁴ The main conclusion was that “*settlement as currently conducted by JPD is a form of unconditional diversion, also called ‘police warning’, with a limited restorative juvenile justice approach and does not fully comply with international standards on juvenile justice and restorative juve-*

³⁴ UNICEF-Jordan, Limited Situation Analysis of Settlement by the Juvenile Police Department in Cases of Children in Conflict with the Law in Jordan; Strengths, Building Blocks, Opportunities and Recommendations, UNICEF-Jordan, 2016.

nile justice”. The head of the JPD confirmed that the settlement practice can be improved and harmonized with international standards. In some cases of children in conflict with the law, JPD-officers collaborate with Mukhtars. “Mukhtars, who are the heads of ‘Local Councils’, can settle cases of children in conflict with the law on behalf of JPD or can assist during the settlement process conducted by JPD-officers.” During the discussions with JJ-professionals, the settlement judges confirmed that they never receive cases of children in conflict with the law to settle and that the Ministry has not yet taken an initiative to create a pool of persons/organisations to whom the dispute settlement judge may refer cases to settle on his/her behalf. Also, the prosecutors and trial judges mentioned that they neither settle cases of children in conflict with the law themselves nor request Mukhtars to settle on their behalf.

The research team has requested JPD to provide detailed information about their settlement practice. Unfortunately, the data received do not give a comprehensive picture. JPD-overview ‘Settlement of Cases of Children in Conflict with the Law by JPD (2016)’ does not show the proportion of cases of children in conflict with the law received that is eligible for settlement. It only illustrates that all 813 cases that were eligible for settlement in 2016 have been successfully settled and not any case has been referred to the Settlement Court for a second attempt. The kinds of offences settled by JPD is also unknown as well as whether children reoffend after their cases has been successfully settled. The research team also does not know whether cases of alleged child-offenders of sexual and domestic offences are settled by JPD-staff and, if so, to which extent successfully and according to international standards. However, according to Criminal Law, sexual violence cases are not subject to settlement because they contain a public right in which the child offender will be prosecuted even if the victim dropped the charges.

Settlement of Cases of Children in Conflict with the Law by JPD (2016)									
	Cases Reported to JPD	Cases Eligible for Settlement:		Cases Successfully Settled		Cases Unsuccessfully Settled		Cases Sent to Settlement Court:	
2016:	unknown	813	%	813	100%	0	0%	0	0%

Source: Juvenile Police Department (JPD)

The research team has requested MoSD to provide information about children sentenced to deprivation of liberty for offences that were eligible for settlement. Unfortunately, MoSD is not able to give any insight in this regard. Due to time-constraints, the research team could not examine the files of children in Juvenile Rehabilitation Institutions in order to determine whether there are children convicted to deprivation of liberty for offences that carry a penalty of less than two-year imprisonment and also meet the other criteria of settlement.

6.2.3. Two Practices Related to Diversion

In actual practice, there are two other practices that are important to mention when discussing diversion, i.e. besides settlement by JPD (and settlement judges). These are:

- **Reconciliation by governors, county executive and district administrators:**

The Crime Prevention Law (2016) regulates the mandate of governors. According to the county executive administrator of Amman “the law provides governors with the

power to reconcile parties and to take administrative measures in certain cases of children in conflict with the law, such as murder, rape and other offences that are sensitive for the communities involved". The Crime Prevention Law does not include a provision that explicitly regulates diversion or settlement in cases of children in conflict with the law. UNICEF-Jordan explains the actual settlement by governors in child cases as follows: "reconciliation by governors is a security settlement between the community members to prevent revenge; it is not a legal settlement that ends the prosecution because such cases need to be referred to the competent court in order to prosecute the child offender". Governors only reconcile at the request of the parties and if the parties have not filed a complaint. They never deal directly with the (alleged) child-offenders, but only with the parent(s) of the children. A successful reconciliation means that the parties come to an agreement to settle the case, including monetary compensation, without going to the formal (juvenile) justice system and sign a pledge that states that the child-offender will not commit an offence anymore. The pledge, contrary to the agreement, is signed in the presence of the Governor. If the child does not comply with the pledge and reoffends, the governor does not initiate a second reconciliation but reports the case to the general police, JPD or FPD. This practice of governors cannot be considered diversion, because the original cases are not reported to the formal JJ-system but dealt with in a non-formal manner. However, the practices of governors may be relevant when considering 'unconditional diversion' (see commentary to Beijing Rule 11 in the box).

– **Assistance by education counsellors:**

Education counsellors at public secondary schools may assist in minor offences committed within the school compound by students of the school, for example fighting, attacking a teacher, vandalism, bullying, etc. However, education counsellors can only assist in such 'school-offences' if the child victim and the parents/legal guardians of the alleged child-offender do not report the case to the formal JJ-system and the parents/legal guardians of the child victim drop the charges. Assistance in school offences by education counsellors implies separate sessions with the respective parties and a joint session with the students involved and their respective fathers and/or mothers. They agree on the behavioural contract for the child-offender, which may incorporate obligations such as regular school attendance, participation in problem solving sessions, stress management sessions, awareness session(s) and particular obligations formulated by the child's parents/legal guardians. The behavioural contracts of child-offenders are tailored to the child's needs and take into consideration the child's age and whether he/she is a re-offender. Also, this practice of education counsellors cannot be considered diversion, because the cases are dealt with in a non-formal manner and not reported to the formal JJ-system. However,

"In many cases, non-intervention would be the best response. Thus, diversion at the outset and without referral to alternative (social) services may be the optimal response. This is especially the case where the offence is of a non-serious nature and where the family, the school or other informal social control institutions have already reacted, or are likely to react, in an appropriate and constructive manner."

Commentary to Beijing Rule 11

like the practices of governors, the experiences of education counsellors with children in conflict with the law may be relevant when considering 'unconditional diversion' (see commentary to Beijing Rule 11 in the box). There is a JPD-focal-officer in the Ministry of Education who can be contacted by education counsellors if students commit 'school offences' like theft, inappropriate sexual behaviour or drug possession.

6.3. Alternatives to Pre-Trial Detention

Alternatives to pre-trial detention, also called 'detention pending trial', must be available for governments to realize their obligation under article 37(b) of the CRC to use deprivation of liberty only as a measure of last resort. Children may be released without conditions or with certain conditions imposed by the court. For example:

- Requirement to attend at a particular place during the day, which could include attendance at school
- Curfew requiring the child to remain in the home between certain hours
- Close supervision of the child
- Intensive care or placement with a foster family

Financial bail as pre-trial release condition is internationally not encouraged, because "requiring payment is likely to impact disproportionately on the most vulnerable and marginalized children, whose parents may not have the financial means to pay bail, or may be unwilling to pay due to estrangement between the child and themselves, or may be impossible to find" (see commentary to article 34(2) in the box).

Article 9 of the Juvenile Law (2014) deals with alternatives to pre-trial detention. It states:

a) If a juvenile is detained for a misdemeanour, he/she shall be released against a financial bail, personal bond, or cash surety guaranteeing the juvenile's appearance at the various investigation or trial stages, unless the juvenile's best interest indicates otherwise.

b) The public prosecutor or the court may release a juvenile, detained for a criminal offense, if the circumstances of the lawsuit or the situation of the juvenile so requires against a financial bail or bond guaranteeing the juvenile's appearance at the various investigation or trial stages.

Although the Juvenile Law (2014) allows pre-trial release for more serious offences (see article 9(b)), it seems to be used only in cases of misdemeanours (see also quote in the box) which is not in line with international standards that clearly state that pre-trial detention should be an exceptional measure.

"Children are unlikely to have either sufficient income or sufficient capital to pay bail themselves. The practice of requiring a bail payment or a sum of money to be paid into court as security is likely to discriminate against poor children and result in their being unnecessarily deprived of their liberty. In order to avoid discrimination, it is therefore prohibited to require such payments."

Commentary to article 34(2) of the Model Law on JJ

"If JPD cannot settle a case of a juvenile, the only available option is to place the child in a Juvenile Education Institution till his/her trial is over."

Child prosecutor

The research team has received statistics from the Ministry of Justice about the responses to children in conflict with the law at the pre-trial level (2015 & 2016). However, the data do not provide a clear picture of the proportion of children detained at the pre-trial stage and the proportion of children that have been released against financial bail, personal bond and cash surety in order to ensure that the child will appear for investigation and/or trial proceedings.

As mentioned before, UNHCR-lawyers encounter challenges with unaccompanied refugee children in conflict with the law who may be released on financial bail. In order to be released, the children either need money themselves or a Jordanian sponsor. As long as refugee children cannot pay their bail, they remain in pre-trial detention. The prosecutor from Zarqa has mentioned that the establishment of a 'Bail Fund for Children' may be a solution for (unaccompanied) refugee children as well as Jordanian children in conflict with the law who cannot pay their bail.³⁵

6.4. Pre-Trial Detention

Pre-trial detention (also called 'detention pending trial') should be an exceptional measure, for example *"when the child has allegedly committed a serious offence, is a persistent offender, where he/she poses a danger to him/herself or others, where he/she may tamper with a witness or obstruct the course of justice, or where it is believed that he/she may avoid further judicial proceedings by physically escaping"* (commentary on article 35 of the Model Law on JJ). The law should clearly state the conditions that are required to determine whether to place or keep a child in pre-trial detention, in particular to ensure his/her appearance at the court proceedings, and whether he/she is an immediate danger to him/herself or others. The duration of pre-trial detention should be limited by law and be subject to regular review, preferably every two weeks. The CRC-Committee states that *"decisions regarding pre-trial detention, including its duration, should be made by a competent, independent and impartial authority or a judicial body, and the child should be provided with legal or other appropriate assistance"* (see paragraph 83 of CRC-GC10 in the box on the previous page). Under no circumstances may the police officer have the power to decide on pre-trial detention. Every child deprived of liberty at the pre-trial stage has to be separated from adults and from convicted children. The children must receive care, protection and all necessary individual assistance, i.e. social, educational, vocational, psychological, medical and physical, that they may require in view of their age, sex and personality (Beijing Rules 13.4. & 13.5.) (article 37 (c)(d) of the CRC). The CRC-Committee recommends that *"State parties ensure that a child can be released from pre-trial detention as soon as possible, and if necessary under certain conditions"* (paragraph 81 of CRC-GC10).

The Juvenile Law (2014) does not explicitly mention that pre-trial detention should be a measure of last resort and for the shortest appropriate period of time, but it incorporates provisions dealing with detention of children in conflict with the law that also apply to pre-trial detention. These are:

- Article 4(f): *"Any party, detaining a juvenile, shall be obligated to provide care to him/her and to refer him/her to the competent medical authority, where he/she shall receive the*

³⁵ UNICEF Regional Office in Amman promotes various models of juvenile justice services in the MENA-region, including 'revolving bail fund'. A 'revolving bail fund' is a deposit set up for the specific purpose of paying bail of vulnerable children in conflict with the law. The fund remains available to finance children's bail, because repayments of bail are used again for the same purpose. The 'revolving fund' will be managed by the probation service or prosecution office. Vulnerable children in conflict with the law and their parents/guardians can borrow the amount of money they need as monetary bail. If the child appears before court when summoned, the amount will be transferred back to the 'revolving bail fund' by the probation service or prosecution office. While the child in conflict with the law awaits his/her trial at home/in the community, he/she will already show his/her goodwill to be a good citizen through attending school (and maybe some other constructive community-based activities, such as sports, cultural or religious activities. If the child will be found guilty and the judge considers to take a measure or to impose a sentence, the child's school attendance/participation in constructive community-based activities during the pre-trial period will be taken into account by the judge.

treatment of whatever type that he/she needs for the treatment of a disease, an addiction or otherwise.”

- Article 5(a)(b): “Co-mingling of detained or convicted juveniles with accused or convicted adults shall be prohibited in all the stages of investigation and trial and during execution. All the necessary measures shall be taken to separate juveniles according to the classification of their cases or the degree of gravity and the verdicts passed against them. Furthermore, detained juveniles shall be separated from convicted juveniles.”
- Article 8: “In spite of any provisions stipulated in any other legislation, a juvenile may not be detained or placed in any juvenile education, rehabilitation or welfare institution stipulated in the present law, without a decision by the competent judicial body.”
- Article 9(c)(d) applies specifically to pre-trial detention of children in conflict with the law. It states: “The public prosecutor may renew the juvenile detention period for one time only, in which case he/she shall communicate the renewal decision in writing to the Juvenile Education Institution. If the investigation requires continuation of the juvenile’s detention, the public prosecutor shall request the court to extend the detention for a period not exceeding ten days each time. A juvenile accused of a misdemeanour or felony may be detained at a Juvenile Education Institution for a period not exceeding 10 days, provided that the best interest of the juvenile is observed.

It does not require much explanation, that the criterion ‘if the investigation requires continuation of the juvenile’s detention’ (article 9(c)) is not formulated from the perspective of the child’s best interests, but rather from the interests of the JJ-professionals involved in the case. There are four pre-trial detention facilities for children in conflict with the law in Jordan, called ‘Juvenile Education Institutions’, i.e. three facilities for boys and one facility for girls (see §5.5.2.). As mentioned before, accused children and sentenced children are placed in the same institutions and participate together in the activities.

The research team has requested the Ministry of Justice to provide data about the duration of pre-trial detention of children in conflict with the law disaggregated for boys and girls and misdemeanours and felonies. Unfortunately, this information is not available. MoJ could only provide data about the number of days that children stay in pre-trial facilities (‘Juvenile Education Institutions’) plus post-trial facilities (‘Juvenile Rehabilitation Institutions’). It should be mentioned, that it is good practice that the time children have spent in pre-trial detention is deducted from their post-trial detention sentence, if any (article 41 of the Criminal Law).

The JJ-professionals have mentioned that they often face challenges regarding pre-trial detention of boys and girls in conflict with the law. The main challenges are:

- Only in 3 governorates, i.e. Amman, Irbid and Madaba, there are special police custody cells where children can be held for maximum 24 hours/one day
- Extension of pre-trial detention with 10 days is a very time-consuming procedure



Programmes and activities for of the Juvenile Institute (Amman)

- Extension of pre-trial detention causes a lot of practical problems, like bringing the children from the Juvenile Education Institution to the court and back to the institution and children have to come to court again if witnesses do not show up in court
- There is often a lack of collaboration between the execution police and the court

6.5. Case Study of a Child Subject to an Alternative to Pre-Trial Detention

Release on Bail from Pre-Trial Detention

Sameer is 16 years old and lives in East Amman with his parents and five siblings, two sisters and three brothers. Sameer is the youngest child. Due to the family's financial situation, Sameer and his three brothers are working in different professions. Sameer works as a plumber. He has never been enrolled in school and neither his brothers did. His two sisters are married and also never attended school.

In 2014, Sameer met a group of boys between 16 and 22 years of age from the neighborhood. They became good friends after they met several times. One day, while Sameer was hanging out with his new friends, they convinced him to engage with them in selling mobile phones. Sameer went to a mobile phones store close to his home and offered the phone for sale. The mobile phone appeared to be a stolen phone that belonged to the mobile shop. Immediately, the shop owner called the police who arrested Sameer. According to Sameer, he was arrested at Al Qwasimeh police station and the police interrogated him for the theft incident for four days. The police did not allow him to contact his father or his brother. Further, Sameer stated that he was beaten at the police station in order to confess and to reveal the names of his friends. He also mentioned that he was detained at the police station together with adults and that he did not meet a behavioral monitor. On the fifth day of his arrest, Sameer's father reported that his son was missing. Accidentally, he found his son in detention at the police station. Sameer's case was referred to the prosecutor, who charged him with theft after spending 70 days at the Juvenile Education Center (Dar Osama). His parents visited Sameer once a week. Although Sameer was a first time offender, Sameer's oldest brother tried to bail him out, but his request was refused twice. According to Sameer, that was because in theft cases bail-out is not granted in the first submission. Sameer was then released and bailed out upon his brother's personal pledge which was attached with a copy of his identification to ensure Sameer's attendance to all court hearings till the final verdict issued. Sameer mentioned that a behavioral monitor attended the prosecutor session, but that the behavioral monitor did not ask any information and did not explain the procedures. Sameer could not tell whether the behavioral monitor prepared a social inquiry report."

6.6. Strengths and Improvements Relating to Diversion and Pre-Trial Proceedings

In this section, the following strengths and improvements regarding diversion and the pre-trial stage of the juvenile justice process in Jordan became clear:

- **Strengths:**
 - The Juvenile Police Department (JPD) is a specialized unit and established by the Juvenile Law (2014).
 - Settlement in specific cases of children in conflict with the law is regulated by the Juvenile Law (2014) and applied at the police level.

- The Conflict Resolution Regulations (2016) has been issued.
 - Restorative justice approaches are used by governors and education counsellors.
 - Alternatives to pre-trial detention are regulated by the Juvenile Law (2014).
- **Improvements:**
- Conducting a training needs assessment of JPD-investigators and other JPD-staff (and FPD-officers dealing with children in conflict with the law) and organising specialized training to address the needs.
 - Broadening the scope of settlement and other diversionary measures (with and without a restorative justice approaches) in order to ensure that most children in conflict with the law will not be subject to formal judicial proceedings.
 - Specialized training on restorative justice approaches for JJ-professionals involved in settlement and other restorative justice practices in order to ensure that the practices are in line with international standards and principles.
 - Coordination between JPD (and FPD), governors and education counsellors with regard to cases of children in conflict with the law.
 - Use of pre-trial detention of children in conflict with the law only as an exceptional measure and not linked to the victim's willingness to drop the personal right.
 - Solutions for the challenges faced by JJ-professionals with regard to alternatives to pre-trial detention and pre-trial detention procedures.
 - Collecting detailed statistics on settlement, arrest, pre-trial detention and alternatives to pre-trial detention and using the data to improve settlement, diversion and pre-trial practices and to formulate required legal amendments.
- **Conclusions and recommendations on diversion and the pre-trial proceedings in Jordan (see 18.5.).**

7. Trial Stage of the Juvenile Justice Process

7.1. Trial Procedures and Procedural Guarantees

Children in conflict with the law who could not be diverted and are subject to judicial proceedings have to be informed prior to trial. The court has the duty to inform the child in a child-friendly manner why he/she is being tried and what needs to be established before a sentence can be passed upon him/her. The court also has to tell the child about his/her own role during the trial; introduce the other participants; tell him/her about the court procedures; and the legal consequences for him/her if found guilty. Prior to the start of court proceedings against the child, the court should satisfy itself that diversionary measures in order to avoid formal judicial proceedings have been fully considered by the police and/or the prosecutor's office. Where the police and/or prosecutor have failed to consider the use of diversion, the court should have the power, depending on the legal system of the country concerned, either to decide itself on applying measures alternative to judicial proceedings or to refer the case back and require the police or the prosecutor to reconsider its original decision to take the case to trial. The court should also have the power to discontinue judicial proceedings at any stage. The court may discharge the child if it considers that it is not necessary to proceed with the case for the protection of society, the prevention of crime or the promotion of respect for the law and the rights of victims. The court may also discharge the

child if there is evidence that the child is suffering from mental illness or where the impact of continuation would have a disproportionate effect on the child's well-being. A conditional discharge court order should also be possible. Conditional discharge allows the child to avoid a sentence on condition that he/she does not commit another offence in a set period of time. If the child does commit such a further offence then he/she judicial proceedings will be restarted.

Judicial proceedings should be conducive to the best interests of the child and conducted in an atmosphere of understanding, which allow the child to participate and to express him/ herself freely, and without unnecessary delay (see commentary to Beijing Rule 20 in the box). Article 40(2) of the CRC contains the rights and guarantees that are all meant to ensure that every child alleged as or accused of having infringed the Criminal Law receives fair treatment and trial. The basic procedural safeguards are the presumption of innocence, the right to be notified

"Each case shall from the outset be handled expeditiously, without any unnecessary delay. The speedy conduct of formal procedures in juvenile cases is a paramount concern. Otherwise whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically."

Commentary to Beijing Rule 20

of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority. These elements for a fair and just trial are minimum standards, meaning that governments should try to establish higher standards. Also the child's right to privacy has to be respected at all stages of the JJ-process in order to avoid harm being caused to him/her by undue publicity or by the process of stigmatization. No information that may lead to the identification of a child in conflict with the law may be published (see article 44 in the box).

"Right to privacy during trial:

(1) The general rule that a trial is to be held in public shall not apply to court proceedings involving a child or to an appeal against any conviction or order of the court within the proceedings.

(2) No person may be present at a sitting of the children's [juvenile] [youth] court unless his or her presence is necessary to the proceedings of the court or the children's [juvenile] [youth] court has given permission for him or her to attend.

(3) Information that may lead to the identification of the child shall not be published in any oral, written, visual or virtual form."

Article 44 of the Model Law on JJ

The Juvenile Law (2014) incorporates various child-sensitive procedures, rights of accused children and procedural guarantees:

- Article 4(h) deals with the right to privacy: *"Despite the provisions of any other legislation, publishing the name and picture of a juvenile shall be prohibited at the time when the measures stipulated in the present law are being taken."*
- Article 4(i) underlines no unnecessary delay: *"Juvenile cases shall be considered urgent cases."*

- Article 15(f) addresses the right to appeal: *“Judgments issued by the juvenile settlement and first instance courts are subject to appeal, contestation and objection provisions and procedures stipulated in the Courts of Conciliation Law and the Criminal Procedure Law, as appropriate, and the protector, guardian, custodian, or representative attorney may deputize for the juvenile in these procedures.”*
- Article 16 deals with offences jointly committed by children and adults: *“In the event that juveniles and adults participate in one or simultaneous crimes, the two groups shall be separated by virtue of a decision issued by the Public Prosecution; a separate dossier shall be organized for the juveniles to be tried before juvenile courts in accordance with the provisions of the present law.”*
- Article 17 also addresses the right to privacy: *“Proceedings of juvenile trials shall take place confidentially and shall, otherwise, be subject to annulment. Nobody shall be allowed to attend a juvenile’s trial except his/her probation officer, attorney, parents, protector, guardian, or custodian, as the case may be, as well as persons the court deems to have direct relation to the case.”*
- Article 19 ensures unnecessary delay: *“The court shall hold its session on weekends and official holidays and in the evening if deemed necessary by the interest of the juvenile.”*
- Article 20(a)(b) also ensures unnecessary delay: *“The court shall proceed with looking into the case immediately and sessions may not be postponed for more than seven days, unless otherwise deemed necessary, provided the reason is shown in the minutes of the session. The court shall decide on a misdemeanour within three months and on a felony within six months from the date the case is received by the court’s bureau, with exception of cases where the decision is dependent upon an incoming medical report or upon hearing a witness.”*
- Article 21(a)(b) guarantees legal assistance.
- Article 22(a) guarantees the presence of a probation officer and lawyer.
- Article 22(b)(c)(d)(e)(f)(g)(h)(i) deal with procedural safeguards: *“The court shall make the juvenile understand at the start of the trial the charge against him/her and shall ask him/her about it in simple language which he/she understands. If the juvenile admits the charge, his/her confession shall be recorded in words that are as close as possible to the words he/she uses in his/her confession. The juvenile’s admission shall not be considered sufficient evidence for a sentence to be passed against him/her unless the court is convinced thereof. If the juvenile refuses to respond, he/she shall be considered as having not admitted the charge and the court shall order this to be entered into the trial’s records. If the juvenile denies the charge or refuses to respond, or if the court is not convinced of his/her admission thereof, it shall proceed to hear the evidence. If, after having completed hearing the supporting evidence, the court realizes that the evidence statements are not sufficient to convict the juvenile, it shall declare the juvenile innocent or not responsible, as the case may be. But, if it becomes clear that there is evidence against the juvenile, the court shall listen to his/her affidavit and defence evidence in the presence of his/her attorney in criminal cases and with assistance from his/her protector, guardian or probation officer in cases of misdemeanours and infractions, and then issue its decision. The court shall study the probation officer’s report. The court, the juvenile and his/her attorney may, subsequently, interrogate the probation officer about his/her report. The Court may ask the juvenile to leave the court-room at any time, but may allow the juvenile’s representa-*

tive and the probation officer to stay, if it is of the opinion that the action is necessitated by the juvenile's interest, provided that the juvenile is entitled thereafter to have knowledge of the procedures agreed during his/her absence. The public prosecutor or the court may use the means of modern technology to protect whoever is below the age of eighteen years during the proceedings of witness hearing, deliberation and confrontation, provided that these means enable any of the opposing parties to cross-examine the juvenile or witness during the trial. Furthermore, the means of modern technology may also be used in the proceedings of hearing a juvenile as a witness in any case."

- Article 23: *"The Court may pass a verdict of rejection or sequestration when deciding on the case"*.

The JJ-professionals have explained that in actual practice the trial proceedings are conducted according to the relevant provisions of the Juvenile Law (2014) and that they do not face particular challenges with regard to the procedural safeguards of children in conflict with the law, except regarding the social inquiry reports (see §5.13.) and in cases jointly committed by children and adults (see quote in the box). There

"If a child commits an offence together with an adult, the cases are split up and the witnesses have to come twice to the court. Often they do not come the second time, which means that the child's detention may have to be extended."

Child judge

are no specific procedures applied in cases in which both the offender and victim are children. In actual practice, cases involving misdemeanours are tried by child courts, if available, while cases involving felonies are dealt with by child judges of the criminal court.

7.2. Strengths and Improvements Relating to Trial Proceedings

In this section, the following strengths and improvements regarding the trial stage of the juvenile justice process in Jordan have come to light:

- **Strengths:**
 - The Juvenile Law (2014) incorporates various child-sensitive procedures, rights of accused children and procedural guarantees and the trial proceedings are conducted accordingly.
- **Improvements:**
 - Improving the quality of social inquiry reports prepared by probation officers.
 - Procedures on dealing with cases in which children and adults have jointly committed an offence and cases in which both the offender(s) and victim(s) are children.
 - Exploring whether it is (more) in the best interests of children in conflict with the law if cases involving felonies are dealt with by specialized judges of child courts.
 - Collecting detailed statistics on trial proceedings in cases of children in conflict with the law and using the data to improve the practices and to formulate required legal amendments.
- **Conclusions and recommendations on trial proceedings in Jordan (see 18.6.).**

8. Sentencing Stage of the Juvenile Justice Process

8.1. Sentencing Principles

Internationally, it is acknowledged that child courts that impose measures and sentences on children found guilty of an offence have to take into account the following sentencing principles (Beijing Rule 17 & article 51 of the Model Law on JJ):

- That any sentence must promote the reintegration of the child and his/her assumption of a constructive role in society (article 40(1) of the CRC).
- That the child is to be dealt with in a manner appropriate to his/her well-being.
- That any sentence given to the child must be proportionate not only to the circumstances and the gravity of the offence but also to his/her age, individual circumstances and needs as well as to the needs of the society.
- That the sentence imposed must be the one most likely to enable the child to address his/her offending behaviour.
- That the sentence must be the least restrictive one possible.
- That detention is a measure of last resort and must not be imposed unless all available sentences other than a custodial sentence have been considered and adjudged inappropriate to meet the needs of the child and provide for the protection of society.
- That following every conviction, an individual sentencing plan must be elaborated (especially if a detention sentence is imposed).
- That capital punishment (also called 'death penalty') and life imprisonment without parole should not be imposed for any offence committed by children.
- That a strictly punitive approach is not in accordance with the guiding principles on juvenile justice and children should not be subject to corporal punishment and forced labour (article 37 of the CRC).

The aim of juvenile justice is indirectly described in article 4(a) of the Juvenile Law (2014). It states that *"the best interest, protection, reform, rehabilitation and welfare of the juvenile shall be observed when applying the provisions of the present law"*. The principles that child courts and child judges have to take into consideration according to the Juvenile Law (2014) when deciding on the sentence for children are:

- Article 4(c): A juvenile shall not be sentenced to death or life imprisonment.
- Article 4(e): Measures shall not affect the enrolment of the juvenile in school.

During the consultations, the JJ-professionals confirmed that the sentencing principles as laid down in the Juvenile Law (2014) are applied in actual practice. In addition, it was mentioned that sentences imposed on children are proportionate to the age of the child. The JJ-professionals referred to the distinction between 'adolescents' (*"every person who has completed twelve years of age but has not completed fifteen years of age"*) and 'boys' (*"every person who has completed fifteen years of age, but has not completed eighteen years of age"*) in this regard (article 2 and articles 25 & 26 of the Juvenile Law (2014)).

8.2. Alternatives to Post-Trial Detention

8.2.1. Community-Based Sentences according to International Standards

If diversion is not possible and a fair and just trial has been conducted, the court decides on the measure or sentence to be imposed on the child found guilty of the alleged offence(s).

The law(s) must provide the court with a wide variety of possible alternatives to institutional care and deprivation of liberty (article 40(4) of the CRC). Examples of alternatives to post-trial detention, also called 'non-custodial sentences' and 'community-based sentences', are:³⁶ (Beijing Rule 18.1. & articles 53 & 54 of Model Law on JJ)

- Attendance at a community-based programme to help the child address his/her offending behaviour
- Education order
- Probation order
- Attendance at counselling
- Treatment order (non-residential/community-based)
- Drug or alcohol treatment order (non-residential/community-based)
- Restorative justice order
- Community service order
- (Intensive) Supervision order (also called 'guidance order')
- Suspended sentence & suspended detention
- Curfew order (also called 'exclusion order' & 'prohibited activity order')
- Electronic tagging
- Combination of measures listed above

Social inquiry reports, also called pre-sentence reports, should incorporate possible alternatives to sentencing the child and details of the family background of the child, the child's current circumstances, including where he/she is living and with whom, the child's educational background and health status, previous offences, the circumstances surrounding the commission of the offence and the likely impact on the child of any sentence. The paramount consideration for any alternatives to post-trial detention should be the needs of the child. This requires the careful consideration and assessment of every individual case. Therefore, it is also necessary to review the imposed measure on a regular basis and adjust it accordingly if it is not meeting the needs of the child. The review of the measure should be undertaken by the competent court (commentary to article 54 of the Model Law on JJ). If the child does not comply with the requirements of the alternative to post-trial detention imposed on him/her, deprivation of liberty/custodial sentence should not be the automatic default sentence (Tokyo Rule 14). For example, if an offender fails to meet the conditions of a community service order fully or fails to make all the restitution to a victim that was required, a hearing should be held to determine the causes of the non-compliance. In deciding what further action is to be taken, partial fulfilment of the requirements has to be considered as a proportionately positive factor (see article 5(2) in the box).

"If the juvenile fails to comply with the requirements of the non-custodial sanctions, the general rules of the Criminal Procedure Law on implementing penal verdicts shall be enforced." [The Criminal Procedure Law states in this regard that "the juvenile will be returned to the execution judge to impose the custodial sentence or to pay the fine mentioned in the verdict" (article 356)]

Article 5(2) of the Regulations on Non-Custodial Sanctions

³⁶ See the report 'UNICEF-Jordan & NCFA, Development of a Continuum of Community-Based Measures and Restorative Justice Approaches in Cases of Children in Conflict with the Law in Jordan, June 2017' for more details on the various alternatives to post-trial detention.

As mentioned before, the CRC-Committee has recommended in its most recent report relating to child rights in Jordan that *“alternative measures to detention, such as diversion, probation, mediation, counselling or community service, should be given priority wherever possible”* (CRC-recommendation 64(c)). The Jordan Juvenile Law (2014) incorporates various provisions that deal with on the social inquiry report (see §5.13.) as well alternatives to post-trial detention. The provisions that cover alternative measures are:

- Article 24: *“... the court may take any of the following non-liberty-depriving measures:*
 - *Censure and reprimand*
 - *Custody*
 - *Obligation to serve the public interest*
 - *Enrolling the juvenile in a vocational training program*
 - *Undertaking certain duties*
 - *Abstaining from undertaking a specific task*³⁷
 - *Enrolling in rehabilitation programs*
 - *Judicial supervision*
- Article 25: This provision lists the kinds of sentences and duration of the sentences, both institutionalisation and so-called ‘non-liberty-depriving measures’ for ‘boys’, which the law defines as *“every person who has completed fifteen years of age, but has not completed eighteen years of age”* (article 2). If boys are sentenced to placement in an institution, he/she will be sent to a ‘Juvenile Rehabilitation Institution’, defined as *“any institution established or approved for the reform, education and rehabilitation of juveniles”* (article 2).
- Article 26: This provision lists the kinds of sentences and duration of the sentences, both institutionalisation and so-called ‘non-liberty-depriving measures’ for ‘adolescents’, which the law defines as *“every person who has completed twelve years of age but has not completed fifteen years of age”* (article 2). If adolescents’ are sentenced to placement in an institution, he/she will be sent to a ‘Juvenile Rehabilitation Institution’
- Article 29(a): *“After the verdict related to the juvenile has been passed, the execution judge shall undertake the following tasks and authorities: (1) monitoring the implementation of any arrangement or measure to which the juvenile has been convicted in accordance with the provisions of the present law or of with valid legislation and (2) verify continuously the juvenile’s abidance by the conditions for implementing the verdict. In this regards, the execution judge may commission the probation officer therewith and with submitting the necessary reports”.*

8.2.2. Community-Based Sentences in the Jordanian Juvenile Justice Context

The Juvenile Law (2014) gives the execution judge the responsibility *“to oversee the execution of the final judgment passed by the court”*, including alternatives to post-trial detention (article 2). Article 29 further states that *“after the verdict related to the juvenile has been passed, the Execution Judge shall undertake the following tasks and authorities: (1) monitoring the implementation of any arrangement or measure to which the juvenile has been convicted in accordance with the provisions of the present law or of with valid legislation; (2) verify continuously the juvenile’s abidance by the conditions for implementing the verdict. In this regards, the execu-*

³⁷ In article 24(e) of the Juvenile Law (2014) ‘undertaking certain duties’ and ‘abstaining from undertaking a specific task’ are one and the same alternative to post-trial detention. In this report they are separated, because ‘undertaking certain duties’ may have a (considerable) constructive as well as restorative value to children in conflict with the law, while ‘abstaining from undertaking a specific task’ does not have such values.

tion judge may commission the probation officer therewith and with submitting the necessary reports". The Regulations on Non-Custodial Sanctions (2015) describe how non-custodial sentences have to be implemented by the court as well the responsibilities of the probation officer in this regard. However, the regulations only deal with community service for children in conflict with the law (article 24(c)) and not with the other alternatives to post-trial detention listed in article 24 of the Juvenile Law (2014). The implementation of the community service should serve the best interests of the child, tailored to the child's situation and proportionate to the offence (article 4). The probation officer monitors the child and prepares reports for the court. The Regulations on Non-Custodial Sanctions (2015) Regulations on Non-Custodial Sanctions (2015) are not fully in line with international juvenile justice standards.³⁸

During the consultations, it became clear that alternatives to post-trial detention are hardly applied by child judges mainly due to the absence of implementation mechanism. Only in cases of misdemeanours children may be subject to 'reprimand' and 'custody' (article 24(a) (b)). None of the other alternative measures are used by child judges. Alternative measures are never used in cases of assault. The JJ-professionals have mentioned various challenges they face while applying alternatives to post-trial detention in cases of children in conflict with the law. These are:

- There are hardly any community-based programmes for children in conflict with the law that child judges can consider as alternative measures.
- Child judges do not have a list of community-based-organisations that are available for children in conflict with the law who are sentenced to community-based-measures (see quote in the box).
- Probation officers prepare social inquiry reports that include recommendations about alternatives to post-trial detention, but the measures they advise are not realistic and not implementable.
- Vocational Training Centres are not cooperative and do not accept children in conflict with the law and there is no collaboration between the Centres and MoSD in this regard (see quote in the box).
- Judicial supervision cannot be used, because probation officers do not even have time to supervise children in conflict with the law for one month.

"Unfortunately, community-based programmes are not available for children in conflict with the law who have committed a non-serious offence. Detention is almost always the only option in Jordan."

Child judge

"I have sent a few children to the Vocational Training Centre, but the staff did not want to enrol them. These children are now in the Juvenile Rehabilitation Institute and go to school in the community."

Child judge

³⁸ International standards emphasize that community service work may never be used in cases of children younger than 12 years; may never involve exploitative, harmful or humiliating work; and may never interfere with children's education (ILO Conventions 138 & 182). Community service work should be work that implies a contribution to the community; light forms of work; preferably work alongside positive adult or peer role models; an opportunity for the child to practice and demonstrate competent and responsible behaviours; and work that makes the child feel valued. In addition, the number of hours should not be excessive (not above 120 hours if used as alternatives to post-trial detention); the serving of hours should preferably be blocked (i.e. over school holidays) rather than spread out over a long period of time; and informed consent of the child and his/her parents/guardians is required (UNICEF-Toolkit on Diversion and Alternatives to Detention).

- JCLA has mentioned that child judges do not reduce the sentence if the victim drops his/her personal right as per article 99(3) of the Penal Code.
- Child judges mentioned that they cannot impose alternatives to post-trial detention if the community threatens to harm or sometimes even to kill the child if he/she will not be detained.

In actual practice in Jordan, if a child in conflict with the law fails to comply with the requirements of the imposed non-custodial sentence, the general rules of the Criminal Procedure Law on implementing penal verdicts are enforced, as per article 43 of the Juvenile Law (2014), without prejudice to the safeguards of trying juveniles (article 356 of the Criminal Procedure Law). This means that the child will be referred to the execution judge who will impose placement in a Juvenile Rehabilitation Institute (or the payment of the fine mentioned in the verdict).

The research team has asked the child judges whether they invite the children to express their views and concerns about the possible sentences (see paragraph 45 in the box on the next page). It became very clear that child judges do not ask children's opinions during the sentencing stage. One judge responded by saying "in cases of felonies we do not ask children to speak, because what the child says in court can be used against his/her". Unfortunately, the research did not have the opportunity to ask the probation officers who prepare the social inquiry reports/ pre-sentencing reports whether they invite the children to express their views and concerns before formulating their recommendations about possible measures/sentences.

The MoJ-overview 'Alternatives to Post-Trial Detention for Children in Conflict with the Law (2015 & 2016)' illustrates that the Ministry has no data on the use of the eight alternatives to post-trial detention listed in the Juvenile Law (2014) for children in conflict with the law. They could also not provide details about the duration of the alternatives to post-trial detention (see quote in the box).³⁹

"I have court orders to supervise thousands of sentenced juveniles."
MoSD

Alternatives to Post-Trial Detention for Children in Conflict with the Law (2015 & 2016)

	Sentenced Children:		Children in Post-Trial Detention: [Juvenile Rehabilitation Institution]	Alternatives to Post-Trial Detention							
				Censure & reprimand	Custody	Obligation to serve the public interest	Enrolling in vocational training	Undertaking certain duties	Abstaining from under-taking a specific task	Enrolling in rehabilitation program	Judicial supervision
2015:	unknown	100%	unknown	unknown							
2016:	unknown	100%	unknown	unknown							

Source: Ministry of Justice (MoJ)

³⁹ The statistics on juvenile justice at the court level received from the 'Rule of Law Program' (see Annex 5) may be helpful in this regard. The data show the number of children sentenced to a non-custodial sentence (2012-2016). During this five-year period, 1317 reprimands, 22 judicial supervisions, 5 enrolments in rehabilitation programs and 2 community services have been imposed by the child courts.

“The child should be given the opportunity to express his/her views concerning the (alternative) measures that may be imposed, and the specific wishes or preferences he/she may have in this regard should be given due weight. Alleging that the child is criminally responsible implies that he/she should be competent and able to effectively participate in the decisions regarding the most appropriate response to allegations of his/her infringement of the penal law (see paragraph 46 below). It goes without saying that the judges involved are responsible for taking the decisions. But to treat the child as a passive object does not recognize his/her rights nor does it contribute to an effective response to his/her behaviour. This also applies to the implementation of the measure(s) imposed. Research shows that an active engagement of the child in this implementation will, in most cases, contribute to a positive result.”

Paragraph 45 of CRC-GC10

8.3. Institutionalisation and Post-Trial Detention

The Beijing Rules states that *“no juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her/his case make this necessary”* (BR-18.2.) and *“the placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period”* (BR-19.1.). The negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for children than for adults because of their early stage of development. A child offender should not be institutionalized unless there is no other appropriate response. Priority should be given to open institutions over closed institutions. The objective of any form of institutionalization is *“to provide the children with care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society”* (BR-26.1.) (see Beijing Rule 26.4. in the box).

“Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.”

Beijing Rule 26.4.

Children who are sentenced to deprivation of liberty have to be separated from adults. They should not be placed in an adult prison or other facility for adults (see quote of the CRC-Committee in the box), but in facilities specifically established for children deprived of their liberty, which include distinct, child-centred staff, personnel, policies and practices. The CRC-Committee mentions in this regard that this does not mean that *“a child placed in a facility for children has to be moved to a facility for adults immediately after he/she turns 18; continuation of his/her stay in the facility for children should be possible if that is in his/her best interest and not contrary to the best interests of the younger children in the facility”*.

“There is abundant evidence that the placement of children in adult prisons or jails compromises their basic safety, well-being, and their future ability to remain free of crime and to reintegrate.”

CRC-GC10

The following principles and rules need to be observed in all cases of children who are deprived of their liberty (paragraph 89 of CRC-GC10 & Havana Rules):

- Children should be provided with a physical environment and accommodations which are in keeping with the rehabilitative aims of residential placement, and due regard must be given to their needs for privacy, sensory stimuli, opportunities to associate with their peers, and to participate in sports, physical exercise, in arts, and leisure time activities.
- Every child of compulsory school age has the right to education suited to his/her needs and abilities, and designed to prepare him/her for return to society; in addition, every child should, when appropriate, receive vocational training in occupations likely to prepare him/her for future employment.
- Every child has the right to be examined by a physician upon admission to the facility and shall receive adequate medical care throughout his/her stay in the facility.
- The staff of the facility should promote and facilitate frequent contacts of the child with the wider community, including communications with his/her family, friends and other persons or representatives of reputable outside organizations, and the opportunity to visit his/her home and family. In order to facilitate visits, the child should be placed in a facility that is as close as possible to the place of residence of his/her family.
- Restraint or force can be used only when the child poses an imminent threat of injury to him/herself or others, and only when all other means of control have been exhausted.
- Any disciplinary measure must be consistent with upholding the inherent dignity of the juvenile and the fundamental objectives of institutional care.
- Every child should have the right to make requests or complaints and independent and qualified inspectors should be empowered to conduct inspections (see §12.).

As mentioned before, the CRC-Committee has recommended in its most recent report relating to child rights in Jordan that the government should *“ensure that detention, including pre-trial detention, is used as a measure of last resort and for the shortest possible time, even in cases of very severe crimes, and that it is reviewed on a regular basis with a view to its being withdrawn”* (CRC-recommendation 64(c)). The Juvenile Law (2014) incorporates various provisions dealing with institutionalisation of children in conflict with the law. Both boys and adolescents may be deprived of their liberty a Juvenile Rehabilitation Institution (articles 25 & 26). A ‘Juvenile Rehabilitation Institution’ is *“any institution established or approved for the reform, education and rehabilitation of juveniles in accordance with the provisions of the present law”* (article 2). The duration of the placement of boys and adolescents depends on the gravity of offence the child has committed and may vary from not less than one year (article 26(c)) to a period of not less than twelve years (article 25(a)). Article 30 deals with children in Juvenile Rehabilitation Institutions *“who complete eighteen years of age before their sentence is over”*. These children *“shall be transferred, by virtue of a decision adopted by the Execution Judge, to the Correction and Rehabilitation Center to complete the sentence”* (article 30(b)). However, the execution judge may also extend the stay of these juveniles at the Juvenile Rehabilitation Institution *“until he/she completes twenty years of age in order to complete his/her education or vocational training”*. Article 42 explicitly states that *“anyone detaining a juvenile along with adults in any of the legally-approved detention centers, during any of the stages of the lawsuit, or during execution of the sentence, shall be punished by imprisonment for a period of not less than three months and not more than one year”*. Article 4 does not specifically deal with institutionalized or detained children, but states in general that *“in all cases, any measures shall not affect enrolment of the juvenile in school”*. According to the Juveniles Rehabilitation Center Regulations (2001), the children have to be separated based on their age, i.e. 12 to 15 year old children and 16 to 18 year

old children. The regulations also outline the daily programmes at the institutions, the rights and responsibilities of the children, visits to parents and family, education or vocational training, disciplinary procedures and the obligations of the staff with regard to the treatment of the children.

There are three post-trial detention facilities for children in conflict with the law in Jordan, called 'Juvenile Education Institutions', but as mentioned before accused children and sentenced children are placed in the same institutions. There are three Juvenile Rehabilitation Institutions for boys and one such facility for girls (see §5.5.2.). Both in the Juvenile Law (2014) and in actual practice, there are no open institutions where children can be placed by the child judge. When the research team asked the JJ-professionals whether they could give an explanation for this lack, they said "children will run away from open institutions". During the discussions, the JJ-professionals have not mentioned anything with regard to the placement of children in conflict with the law in Juvenile Rehabilitation Centres, except that some of them are overcrowded and too far away from the children's home which implies that some children do not or hardly receive visits from their parents/legal guardians. The research team has not discussed post-trial detention and institutionalisation with the probation officers attached to the institutions or with staff of the institutions. However, as mentioned before, accused children and convicted children are residing in the same Juvenile Education/Rehabilitation Institutions. The MoSD could not say whether children in conflict with the law are placed together with adults in conflict with the law in detention facilities in Jordan. They also could not provide details on the duration of children's placement in Juvenile Rehabilitation Centres and the frequency of visits children receive from their parents/legal guardians and family members.

8.4. Two Case Studies of Children Subject to Alternatives to Post-Trial Detention

Supervision by a Behavioural Monitor as Alternative to Post-Trial Detention

Sameer is 16 years old and lives in East Amman with his parents and five siblings. Sameer was arrested and charged with theft. [see case study 'Release on Bail from Pre-Trial Detention' on page 78] Sameer attended five sessions at the first instant juvenile court. His behavioral monitor as well as his lawyer assigned by the Justice Center for Legal Aid (JCLA) also attended every court session. After each court session, the behavioral monitor inquired whether everything was going well with Sameer and his relationship with his family. The lawyer explained the trial procedures to Sameer and the purpose of each court session. They met at the Juvenile Education Center. Sameer experienced the trial procedures as less stressful than the police procedures. Sameer, his brother and his father could freely discuss the steps forward and what to do with the lawyer and behavioral monitor. "I feel that the behavioral monitor is like a friend or a big brother to me, sometimes I disclose some issues to him before going to my parents". Three months after Sameer's arrest, the final verdict was issued by the juvenile court. Sameer was sentenced for one year supervision by the behavioral monitor. He meets with the behavioral monitor every week at the Ministry of Social Development Directorate in Marka or at Sameer's home. The behavioral monitor also follows-up with Sameer over the phone once a week or when needed. Sameer mentioned that he has become more disciplined since the behavioral monitor behavioral monitor advises him. Sameer started a new job in a different district and does not meet his previous friends anymore. However, he and his family had to move to another district in order to protect Sameer from his previous friends who caused all the trouble and to maintain the family's reputation. "I am affected by the whole situation, especially because my family was forced to move somewhere else."

Vocational Training as Alternatives to Post-Trial Detention

Omar is a 16-year old boy who currently lives with his parents in a governorate south of Amman. His father sells antique and Omar's mother is a housewife. Omar has six siblings and is the oldest. Omar left school at an early age. He did not finish his seventh grade, because of his relationships with teachers and his irregular school attendance. He participated in the national athletics marathon. Since Omar left school, he has worked in several professions, like cooking and home décor. In 2014, Omar was 14 years old when he met a group of peers from 12 to 22 years in a café close to his house. Omar was not aware of their backgrounds and drug-use and used to hang out with them a lot. They introduced Omar to drugs. Because of his uncontrolled behaviour when he was under the influence of drugs, his father could not control him and his mother contacted the Drug and Narcotic Prevention Police. The police immediately came and took Omar to the police station for an initial interview. According to Omar, his name was mentioned in a theft committed by his friends, in which Omar had not been involved. During the investigation of the two cases, he stayed five days in the police station cell together with others minors and adults. His mother tried to contact him, but the police refused to let her talk to her son till the investigation was done. Omar mentioned that he was severely beaten during his detention in the police station in order to reveal his friends names and to admit his participation in the theft case. "I try to forget that period of my life; 2014 was a bad year to me; I just want to take that year out of my life". Omar mentioned that he did not meet any behavioural monitor at the police station and that he was interviewed only by the police officer. After those five days, Omar was referred to the prosecutor. The prosecutor detained him in Tabrbour Juvenile Education Center. Omar had to appear four times for investigation by the prosecutor. His father was present each time. There was no behavioural monitor present. The prosecutor refused to release Omar on bail, because Omar was involved in a joint case with two adults and one other juvenile. Omar spent one month at the Juvenile Education Center before he was referred to court. At the Center, he was medically checked and interviewed once by a social specialist. He did not follow any programme at the Center. His family visited him once every week. During the trial proceeding at the child court, his father and behavioural monitor were present. The behavioural monitor did not talk to him or his father. The child judge approved Omar's bail out request on condition that his father ensures Omar's presence at each court hearing session. The child court appointed a lawyer to represent him. However, the lawyer met only during the court session and did not attend at all court sessions. The lawyer represented Omar as well as the other offenders allegedly involved in the case. Omar attended 15 child court sessions. He was convicted for theft and other offence(s). [He did not give more details about the offences and verdict.] Omar was sentenced to placement in the Juvenile Rehabilitation Center in Amman for two years. Omar mentioned that the child judge explained to him that if the complainant drops the charges, he will not have to complete his two-year sentence in the Juvenile Rehabilitation Center but will be referred to the Vocational Training Center (VTC) after one year. Omar's family reconciled with the complainant and paid JD.1700 as compensation for the damages resulted from the theft. As a consequence, the child judge sentenced Omar to one year enrolment at the VTC after a stay of one year in the Juvenile Rehabilitation Center. During his participation in the VTC, Omar lived with his parents and siblings at home. Omar enrolled in décor training. He mentioned that "this is a real opportunity to learn a skill which will assist me in earning an income to support myself and my family". The trainers and the head of the VTC treated him well. No one apart from the head of the VTC learnt about his story. The only disadvantage was that VTC was very far from his village. He needed about one hour to reach the VTC, which also caused a financial burden. Sometimes, Omar did not have that money and missed the training hours. Luckily, his trainer helped him through compensating his absence with additional training hours."

8.5. Strengths and Improvements Relating to Sentencing Proceedings

In this section, the following strengths and improvements regarding the sentencing stage of the juvenile justice process in Jordan surfaced:

- **Strengths:**
 - The Juvenile Law (2014) incorporates the main sentencing principles and JJ-professionals apply those principles during the sentencing stage in cases of children in conflict with the law.
 - The Juvenile Law (2014) incorporates a variety of alternatives to post-trial detention for children in conflict with the law.
 - The Non-Custodial Sanctions Regulations (2015) have been issued.
 - The Juveniles Rehabilitation Center Regulations (2001) has been issued.
- **Improvements:**
 - Increasing the use of alternatives to post-trial detention in cases of children in conflict with the law, among other things, through establishing implementation mechanisms and developing reintegration programmes and alternatives tailored to assault cases.
 - Improving the quality of social inquiry reports prepared by probation officers.
 - Ensuring that children are invited to participate in sentencing proceedings, that sentences do not interfere with children's education and that children subject to alternatives to post-trial are monitored and assisted by probation officers.
 - Exploring how to respond to treats of the victim's family and/or community that they will harm the child in conflict with the law if he/she will not be detained.
 - Transforming one or more of the closed Juvenile Rehabilitation Institutions into open facilities for children in conflict with the law.
 - Collecting detailed statistics on sentencing proceedings and using the data to improve sentencing practices and to formulate required legal amendments.
- **Conclusions and recommendations on sentencing proceedings in Jordan (see 18.7.).**

9. Post-Sentencing Stage of the Juvenile Justice Process

9.1. Early (Conditional) Release from Post-Trial Detention and Aftercare

- Article 37(b) of the CRC states that deprivation of liberty shall be for the shortest appropriate period of time. In order to implement this provision, any detention sentence should be reviewed on a regular basis and a decision should be made as to whether continuing detention is necessary. The periodic review includes the following:
 - A full assessment of the child's rehabilitative progress and whether he/she is ready to be released
 - The views of the child
 - The views of the institution
 - A written recommendation on the release or continuing detention of the child

Early conditional release should be preferred to serving a full sentence and used to the

“Upon evidence of satisfactory progress towards rehabilitation, even offenders who had been deemed dangerous at the time of their institutionalization can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment of the requirements specified by the relevant authorities for a period of time established in the decision, for example relating to ‘good behaviour’ of the offender, attendance in community programmes, residence in half-way houses, etc.”

Commentary to Beijing Rule 28

greatest possible extent and granted at the earliest possible time (see commentary to Beijing Rule 28 in the box). Whenever there are grounds to believe that early release is appropriate, the management can put a request for early release to the competent authority. The detention institution actively participates in the early release process through:

- Developing a reintegration plan together with the child and the child's family
- Offering rehabilitative activities
- Offering educational and psychosocial support to prepare the child for release
- Cooperating with the services and agencies responsible for the child's supervision after release
- Considering permitting the child to make short visits home
- Considering permitting the child to be placed in a semi-open institution in preparation for release
- Providing information to the child in a manner which he/she can understand on how he/she can gain access to support and assistance upon their release

The reintegration plan has to be prepared as soon as the release date is known and no later than three months before the anticipated release date. Examples of release conditions are:

- Registering with the probation service (or appropriate authority)
- Living in a certain place, such as a 'halfway house'
- Attending specified community-based programmes
- Returning home every night at a specified time
- Not going to certain places
- Not associating with certain people
- Submitting to regular drug testing
- Visiting a mental health facility
- Taking medication on a regular basis

The child should have a right of appeal against the decision on early release. The probation service will generally be responsible for ensuring that the child meets the conditions of release. If there is no probation service in the country, a decision needs to be made as to which body will have responsibility for monitoring that the child is complying with the release conditions. If there has been a breach of the conditions; the child is committing further offences and/or the child poses a risk to others, he/she may have to return to the detention facility to serve the rest of his/her custodial sentence. In order to assist institutionalized children with their successful reintegration into society, efforts should be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other appropriate arrangements. Care and support following a period of detention is crucial in order to assist released children in their successful reintegration into society. Upon release from the post-trial facility, the child should receive the following minimum practical and psychosocial support from the appropriate welfare agency (article 81 of the Model Law on JJ):

- A suitable residence if the child cannot return to the family or such return is not in his/her best interests
- Support in gaining access to education and/or vocational training and/or securing employment
- Adequate clothing suitable to the climate
- Psychosocial support, to assist with the reintegration of the child into his/her family and community

- Transport to his/her home or the place where he/she is to live
- Financial support until he/she has finished his/her education and/or training or obtained employment, unless the child is financially supported by his or her family

The Jordan Juvenile Law (2014) provides for early (conditional) release of convicted children who stay in Juvenile Rehabilitation Institutions. Early release may be considered by the execution judge if the following combined provisions are fulfilled (article 32(a)):

- The juvenile has been of good conduct and behaviour throughout his/her stay at the institution
- The period spent by the juvenile at the institution is not less than one-third of the term to which he/she has been convicted
- Release of the juvenile should not put his/her life or safety at risk
- The juvenile is not convicted for a crime the original sentence for which is death or hard labour for fifteen years or more

In order to be able to decide on early release, the execution judge has to “conduct periodic reviews every three months” (article 27). Before taking the final decision on early release, the execution judge has to take the opinion of the director of the Juvenile Rehabilitation Institution into account. If a child is released, the probation officer in the region where the juvenile resides has to guide and supervise the child during the remaining period of the sentence/measure (article 32(c)). “In the event that it has been established to the execution judge that the juvenile does not comply with the release conditions, the judge shall caution the juvenile of the need to abide thereby”.

The execution judge may cancel the child’s release and send him/her back to the Juvenile Rehabilitation Institutions in order to complete the remaining detention-period. The decision of execution judge to reject the release of a child as well as to return him/her to the Juvenile Rehabilitation Institution is subject to appeal before the competent Juvenile Court (article 32(e)). Article 41 provides for aftercare, but it is not clear whether that includes care for children who have been placed in a Juvenile Rehabilitation Institution. The aftercare intends to “guarantee the child’s re-integration into the society and to protect him/her from delinquency”. As already discussed (see §5.7.), the Juvenile Law (2014) provides for the possibility to place children in conflict with the law who are in need of care and protection in a Juvenile Welfare Institution after they have served their sentence (article 34(a)). The Post Care Regulations (2015) includes the programmes to be implemented for children who are released from the Juvenile Rehabilitation Institutions,



Requirements for home-visits
Juvenile Rehabilitation Institute (Amman)

both early release and release at the end of the placement. The probation officers attached to the institutions design and implement the release programs for the children. The programmes have to be approved by the head of Social Development Directorate. The Childhood Law (draft) also addresses aftercare. It states that *“special attention should be given to the development of appropriate programs for girls who face difficulties in leaving Juvenile Rehabilitation Centres and provide physical, moral and psychological support services to ensure their reintegration into society”* and mentions *“community reintegration programs”*, but it is unclear whether those programmes are meant for children released from post-trial detention facilities.

During the discussions, the JJ-professionals have mentioned a few issues regarding early (conditional) release (see also quote in the box):

- Execution judges regularly assess whether early release can be granted to convicted children in Juvenile Rehabilitation Institutions and report to the Judicial Council.
- The decision of the execution judge with regard to early release is based on two reports, i.e. the report of the director of the Juvenile Rehabilitation Institution that describes whether the child has behaved well during his/her placement and the report of the probation officer who is officer attached to institution also includes whether the child has been of good behaviour throughout his/her stay at the institution.
- It was mentioned that execution judges mainly focus on whether there might be a ‘community threat’ in case the child will be early released to his/her community and not that much at the child’s good conduct and behaviour throughout his/her stay at the Juvenile Rehabilitation Institution and the recommendation formulated by the probation officer in the report.
- In actual practice early release is not granted in severe cases.
- Probation officers do not monitor released children and do not support them practically and psychologically. Released children are also not requested to regularly report to the Probation Office or other agency.
- The execution judges consider it a challenge that the victim has to drop his/her personal right before the child can be early released. Sometimes victims (mis)use this opportunity and ask for a big amount of financial compensation. If the child and his/her parents/legal guardians cannot pay, he/she is not early released and has to stay in the Juvenile Rehabilitation Institution.

“Once, I ordered the early release of a boy, but the director of the Juvenile Rehabilitation Institution was not present. Therefore, the boy could not be released that day.”

Execution judge

The research team has requested MoJ and MoSD to provide statistics on early (conditional) release from post-trial detention, i.e. the number of requests for early release, after how many requests early release is granted and under which conditions children are released from Juvenile Rehabilitation Institutions. Unfortunately, the authorities were not able to provide any details in this regard.

9.2. Case Study of a Child Subject to Early Release from Post-Trial Detention

Early Release from the Juvenile Rehabilitation Centre

Zaid is a 16 years old boy who lives with his parents and siblings in Wehadat in East Amman. His father used to work at a minimarket, but stopped working for a while because he suffered from severe diabetes. Zaid's mother is continuing her education after staying at home for ten years. Zaid is the oldest among his siblings, he has two sisters and one brother who are enrolled in school, except for his 5 year old brother. Due to his father's health condition and their economic situation, Zaid decided to work during the summer holiday to support his family. He takes care of his family through supporting his father at the minimarket. He used to be a very good student. His educational rate ranged between 85% and 90%. Zaid's case started in 2016, while he was helping his father at the minimarket. A woman from the neighbourhood came with her daughter and they asked for some grocery items without paying. Zaid's father refused to give anything. Then, the woman and her daughter started shouting and insulting Zaid's father, who asked them to leave. However, they continued yelling and slandering. Zaid became very angry, especially when the daughter insulted his father. He slammed the girl on her face.

The next day, an officer of the Family Protection Department (FPD) came to Zaid's home and told the father that Zaid was wanted for sexual assault. The woman had filed a complaint against Zaid accusing him of assaulting her daughter by taking-off her skirt. Zaid was escorted to the FPD for investigation. Zaid confessed that he committed the sexual assault. According to Zaid, he admitted the offence because his family received threats from the woman's family members, who were known for their criminal records. After the FPD-investigation was finalized, Zaid was transferred to the regular police station (Al Zahouhr), where he was interviewed and interrogated again by the general police about the incident of sexual assault. Zaid spent one night at the police station. He was alone at the police detention and did not meet his father or another family member or a behavioural monitor. The next day, Zaid was referred by the police to the child public prosecutor. The prosecutor questioned Zaid about the incident once. A behavioural monitor attended the session, but he neither say anything nor asked any question to the prosecutor or Zaid. Zaid did not change his statement, because the treats to his family still continued. Zaid mentioned that his uncle and the woman's brother had a fight because of the incident in the shop and his uncle was stabbed. After the hearing at the Prosecution Office, Zaid was charged with sexual assault and referred to the trial court. He was sent to Juvenile Education Center. Zaid's father tried to bail him out, but he failed three times. Finally, he submitted a bail-out request using his mother's identification document which was accepted by the trial court and Zaid was released. During the trial proceeding, Zaid attended five court sessions together with his father and a different behavioural monitor than the one who had escorted him to the Juvenile Prosecution Office. There was no lawyer assigned. He was convicted for the act of sexual assault by the child judge and sentenced to placement at the Juvenile Rehabilitation Center in Amman. The time Zaid had spent in pre-trial detention was deducted from his detention term. Zaid did not understand for how long he had to stay in the Centre, but was afraid to miss one school year. The verdict was appealed and the Appeal Court returned the case file to First Instant Child Court due to lack of evidence regarding the sexual act and because the girl did not witnessed in front of the Child Court. At this stage, a lawyer was assigned who provided advice to him and his father. During the appeal period, Zaid was detained for two months at the Juvenile Rehabilitation Center where a social specialist prepared a report about his health, education and relationship with his family. Zaid asked

the staff at the Center to allow him to continue his school classes. The Center requested his father to sign a pledge to take his son to the school and return him back to the Center after school hours on a daily basis. Zaid refused this offer, because it would imply a financial burden for his family as they had to pay the transportation fees of JOD.2 per day. Eventually, the Child Court issued its verdict of six months placement in the Juvenile Rehabilitation Centre. After one month, the behavioural monitor presented a report to the child judge and recommended early release because of Zaid' good behaviour during his stay at the Center. Zaid said: "I find myself doing nothing at Al-Dar (Juvenile Rehabilitation Center), I only watch television and sleep. I have no friends here. I hope I will be released and accepted in scientific class for the 11th grade exam. I am afraid that I will lose a school year and cannot make it to the exam." The court granted the release under supervision of a behavioural monitor for the remaining period of three months. Since Zaid is under supervision, he attends a weekly monitoring session of the behavioural monitor during which they discuss his education, family situation, etc. The behavioural monitor did not conduct a home visit so far. Zaid mentioned that he changed his school after the incident and he keeps repeating that his uncle blames him because his father was hospitalized after a family dispute over Zaid criminal case.

9.3. Strengths and Improvements Relating to Post-Sentencing Proceedings

In this section, the following strengths and improvements regarding the post-sentencing stage of the juvenile justice process in Jordan emerged:

– **Strengths:**

- The Juvenile Law (2014) regulates early (conditional) release from Juvenile Rehabilitation Institutions and executive judges regularly assess possibilities for early release.
- The Post Care Regulations (2015) have been issued and include provisions on after care for children released from Juvenile Rehabilitation Institutions.

– **Improvements:**

- Specialization of executive judges involved in reviewing cases of children placed in Juvenile Rehabilitation Institutions.
- Ensuring that children placed in Juvenile Rehabilitation Institutions are prepared for their (early) release and reintegration into the society from the very beginning of their placement and a tailored reintegration-plan is developed and followed.
- Ensuring quality follow-up reports as basis for the application for early release and ensuring that early (conditional) release does not depend on the victim's willingness to drop his/her personal right.
- Ensuring that children (conditionally) released from Juvenile Rehabilitation Institutions are monitored and assisted by specialized probation officers (according to the designed release-programme).
- Exploring whether it is feasible to separate accused children and sentenced children in Juvenile Education/Rehabilitation Institutions during education, sleeping and other activities.
- Collecting detailed statistics on post-sentencing proceedings and using the data to improve post-sentencing practices and to formulate required legal amendments.

– **Conclusions and recommendations on post-sentencing proceedings in Jordan (see 18.8).**

PART 4: CROSS-CUTTING COMPONENTS OF JUVENILE JUSTICE IN JORDAN

10. Criminal Records of Children in Conflict with the Law

Children who have successfully completed a diversionary measure should not be regarded as having been convicted of a criminal offence and should not be treated as having a criminal record. The CRC-Committee requires in this regard that *“the completion of the diversion by the child should result in a definite and final closure of the case”*. Confidential administrative records of diverted children may be kept (see paragraph 27 in the box). In case a child is convicted, he/she will have a criminal record. Criminal records should be kept strictly confidential and closed to third parties. The Beijing Rules state that the records of children in conflict with the law should not

“Although confidential records can be kept of diversion for administrative and review purposes, they should not be viewed as ‘criminal records’ and a child who has been previously diverted must not be seen as having a previous conviction. If any registration takes place of this event, access to that information should be given exclusively and for a limited period of time, e.g. for a maximum of one year, to the competent authorities authorized to deal with children in conflict with the law.”

Paragraph 27 of CRC-GC10

be used in adult proceedings in subsequent cases involving the same offender (Beijing Rule 21). The CRC-Committee recommends that governments introduce *“rules allowing for an automatic removal of a child’s criminal record once he/she turns 18 years or if necessary where certain conditions have been met, for example not having committed an offence within two years after the last conviction”* (paragraph 67 of CRC-GC10).

The Juvenile Law (2014) refers to records of children in conflict with the law in article 4(g). It states that *“conviction of a juvenile shall not be considered a precedence, nor shall the provisions, stipulated in the Penal Law or any other law in relation to repetition of offences, be applied thereto. Furthermore, the concerned authorities shall delete any record of whatever type against a juvenile when he/she completes eighteen years of his/her age”*. The same article continues that the judge may examine children’s records *“for the purpose of imposing the measures that are suitable for the juvenile”*.

In actual practice, criminal records of children in conflict with the law are classified. Only authorized JJ-professionals have access to criminal records, i.e. courts and public security/police. Probation officers who are responsible for preparing additional reports in cases of children in conflict with the law may request access to criminal records. In case a child who has a criminal record wants to apply for a job, he/she may request a so-called ‘non conviction certificate’.

11. Community-Based Programmes and Services for Children in Conflict with the Law

Community-based programmes and services are non-residential responses to children in conflict with the law offered by local governmental or non-governmental organisations. Residential responses to children in conflict with the law, also called ‘institution-based responses’, are not only the most costly interventions, but also the least effective way of dealing with juvenile delinquency and in fact may increase the chances that children will continue committing further offences. Approaches focused on diversion and restorative juvenile justice and other community-based responses have achieved better results (see paragraph 3 of CRC-GC10 in the box). Internationally,

governments are shifting away from institution-based responses and gradually invest in the development of community-based responses to children in conflict with the law. Formal judicial proceedings and institutional placements are increasingly reserved for persistent offenders and children who have committed very serious crimes. Community-based programs that teach children in conflict with the law necessary life-skills and other competencies and that provide support services to both the children and their parents/legal guardians or families have been proven to be much cheaper and more effective at promoting a long-term constructive role in society. The CRC-Committee emphasises the importance of promoting community-based interventions and community-based sentencing alternatives to children in conflict with the law (paragraphs 24 to 27 & paragraphs 70 & 73 of CRC-GC10). Community-based responses are designed to provide children in conflict with the law with assistance in order to take responsibility for the offence and its consequences; to reintegrate into the society and their communities; to develop a constructive role in society; to reduce the risk of re-offending; and/or to restore the harms caused the offence to the victim(s), community and others.

“An administration of juvenile justice in compliance with CRC, which should promote, inter alia, the use of alternative measures such as diversion and restorative justice, will provide States parties with possibilities to respond to children in conflict with the law in an effective manner serving not only the best interests of these children, but also the short- and long-term interest of the society at large.”

Paragraph 3 of CRC-GC10

The Juvenile Law (2014) incorporates only one provision that directly refers to community-based programmes or services for children in conflict with the law, i.e. article 24(f) that provides for *“enrolling the juvenile in rehabilitation programs organized by the Ministry or by a civil society institution or any other party approved by the Minister”*. However, also some other alternatives to post-trial detention, called ‘non-liberty-depriving measures’ in the law, may imply involvement of community-based-organisations (article 24(c)(d)(e)(g)).

The research team has prepared an (non-comprehensive) overview of the main community-based organisations in Jordan that organise programmes for children in general, children at risk and/or children in conflict with the law (and their parents/legal guardians) (see pages 100, 101 & 102). The overview shows which governmental and non-governmental programmes are already available or can be made available for children in conflict with the law as diversion programme, alternative to post-trial detention and/or early release programme.

Potential Community-Based Programmes for Children in Conflict with the Law in Jordan

Name of organisation:	Type of organisation:	Coverage:	Programmes for children in general, children at risk & children in conflict with law:	Current target group(s) of children:	Willing to include children in conflict with the law:
Ministry of Social Development (MoSD)	Juvenile Directorate	Jordan/All Governorates	‘(Early) Release Preparation Programme’ for boys and girls in Juvenile Education/Rehabilitation Centres consisting of psychosocial support, vocational training, economic empowerments, sports and support to parents (MoSD & JCLA). (The programme can also be used as aftercare programme).	Children in conflict with the law	Already included

Ministry of Education (MoE)	Department of Guidance and Awareness	Jordan/All Governorates	MoE organises various programmes for school children, like 'Stress Management', 'Campaign to Maan' and 'Peace Generations' (protection against violence), 'lectures on specific topics' (including Juvenile Law (2014)), 'Art Programme for Psychosocial Support' 'Fingerprint' and 'summer camps'.	School children	Already included (but not targeted)
			'Scouts activities'	All children	
			'Back to School Support' for boys and girls in Juvenile Education/Rehabilitation Centres who go to school inside the facility or in the community.	Children in conflict with the law	Already included
Ministry of Culture (MoC)	Art and Heritage Department	Jordan/All Governorates	'Mobile Theatre' is a one/two-months programme for boys and girls of 8 to 18 years from cities and remote areas (MoC & MoE) that helps them to address their stress and problems through drama. ⁴⁰	All children, including children in conflict with the law	Already included (but not targeted)
			'Mobile Library' is for boys and girls of 12 to 18 years in remote areas (MoC, MoE & CBOs).		
			'Children Creative Festival' with parallel sessions on writing stories, poems, theatre, etc. is organised once a year with the gifted children from 'Mobile Theatre' (MoC & MoE)	Gifted children from 'Mobile Theatre'	
Ministry of Youth (MoY)	Volunteers Department	Jordan/All Governorates	'Voluntary programmes and camps' & 'Youth Community Initiatives'	School children	Unknown
Justice Centre for Legal Aid (JCLA)	National NGO	Jordan/All Governorates	'Legal Empowerment & Awareness Programme' at schools and communities. The 'Legal Awareness Programme' is also offered to parents/legal guardians.	Children in need of protection & Children in conflict with the law	Already included
Questscope	National NGO	Zatari Camp & Irbid	'Mentoring Programme' in Zatari camp and Irbid for boys of 12 to 18 years and girls from 14 to 25 years. A volunteer adult functions as mentor of 1 child or a group of maximum 5 children. The mentor develops a professional relationship with the children, assesses their needs and offers educational, vocational, psychosocial and emotional support, recreation, life skills, etc.	Children at risk & Children in conflict with the law	Already included
Jordan River Foundation (JRF)	National NGO	Amman, Zarqa & Irbid	'Life Skills & Psychosocial Programme' that also includes 'Family Counselling & Family Parenting Programme'	Children at risk	Yes
ARDD Legal Aid	National NGO	5 Governorates & 2 refugee camps	'Protection and Awareness Programme' is for youth between 16 and 27 years to learn about social media, to enhance their participation in decisions making and to promote gender equality. 'Journalism and Press Programme' may be potential entry-points for community-based services/programmes for children in conflict with the law.	Children at risk & Refugee children (and their parents/legal guardians)	Yes

40 MoC and MoSD, in close collaboration with CBOs like 'Association of Artists', 'Social Peace' and 'Royal Medical Service' intend to organise drama-programmes in the Juvenile Education/Rehabilitation Institutes in the near future, including an awareness programme on fundamentalism. Currently, MoC organises the programme inside adult detention facilities. Similar drama-projects are organised in boarding schools in Jordan.

Red Crescent	National NGO	Jordan/All Governorates	Life Skills & Group Awareness Activities' inside the Juvenile education and rehabilitation Institution (Amman & Irbid)	Children in conflict with the law	Already included
JOUHD	National NGO	5 Governorates	'Support Centres' that offer a 3-month programme of psychosocial support, education and life-skills on a daily basis for children involved in child labour, school dropouts & child refugees.	Children at risk	Yes (but not specifically)
			'Youth Committees' organise activities free of charge for children <18 years from different communities.	All children	
			'Creative Labs', including computer, scientific, creative and music, for children <18 years.	All children	
			'Better Parent Programme' for parents of children ≤8 years (that can be expanded to ≤16 years).	Parents	Yes

Mizan	National NGO	6 Governorates	The 'Protection and Awareness Programme'	Children at risk	unknown
Save the Children Jordan	National NGO	Jordan/All Governorates	Prevention children labour through education services and 'Income Generating Activities' for families	Children at risk & refugees	unknown
Family & Child Protection Organisation	NGO	Irbid	'Behavioural Correction Program' of 16 weeks for boys and girls of 12 to 18 years in conflict with the law who are referred by the child court (previous 'C-FIT-programme'), including family counselling.	Children in conflict with the law	Already included
			'Centre for Children at Risk' for children involved in child labour and sniffing glue and school dropouts, including workshops on life-skills, psychosocial support and referral to other community-based-organisations.	Children at risk	Already included
			'Narcotics Combating Awareness Programme'	Children at risk	Already included
UNICEF	INGO	Jordan/All Governorates	UNICEF does not offer services/programmes for children and/or their parents/legal guardians, but assists and coordinates various programmes, including for children in contact with the law in refugee camps, through local community-based-organisations.		
UNODC	INGO	Jordan/All Governorates	UNODC does not offer services or programmes for children (in conflict with the law) and/or their parents/legal guardians		
USAID	INGO	Jordan/All Governorates	USAID does not offer or coordinates services or programmes for children (in conflict with the law) and/or their parents/legal guardians.		
Terre des Hommes (TdH)	INGO	Amman & Zarqa	TdH does not offer services/programmes for children and/or their parents/legal guardians, but assists and coordinates various programmes, including for children in contact with the law in care institutions, through local community-based-organisations.		

In actual practice, it is possible that not all community-based organisations will be willing to make their programmes available to children in conflict with the law for fear of negative influence on other children that participate in the programme. The CBO-staff have mentioned the need for additional budget and human resources, and in some locations also additional capacity building, if they decide to welcome children in conflict with the law in their programmes. In general, CBO-staff were interested and even enthusiastic about the possibility to work with children in conflict with the law in the future. Specifically, with regard to community service for children in conflict with the law (article 24(c)), a committee has been established by the MoSD in order to prepare a list of community-based organizations that may be capable and willing to receive children sentenced to community service hours. The committee has listed an initial 26 local community-based organisations. When the list is finalized, MoSD and the Judicial Council will consider approval.

12. Accountability Mechanisms in the Juvenile Justice Context

International instruments on the rights of children emphasize the need for certain kinds of accountability mechanisms, especially mechanisms for investigating detention facilities where children are deprived of their liberty (Havana Rules 72 to 78). The CRC-Committee emphasizes that in all cases of children deprived of their liberty *“every child should have the right to make requests or complaints, without censorship as to the substance, to the central administration, the judicial authority or other proper independent authority, and to be informed of the response without delay; children need to know about and have easy access to these mechanisms”* and *“independent and qualified inspectors should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative; they should place special emphasis on holding conversations with children in the facilities, in a confidential setting”* (paragraph 89 of CRC-GC10). In order to ensure that the rights of detained children are fully protected, an independent inspection service needs to be established. Detention facilities for children should be inspected regularly by a government agency in order to assess the compliance with national and international standards and norms. The independent inspection service should not belong or be accountable to the administration of the detention facility it is inspecting. Inspectors should have unrestricted access to all persons employed by or working in any facility where children are deprived of their liberty and should be required to place special emphasis on meeting, speaking and listening to children in detention facilities in a confidential setting. Where the inspector(s) identifies violations of the rights of children or legal provisions, the case should be referred to the competent authorities for investigation. In order for the child not to fear any negative consequences or be influenced by detention personnel, the child must have the opportunity to speak with the inspector in private. States are encouraged to establish not only an independent inspection body, but also an independent ombudsman who can receive and investigate complaints of children in detention. The complaint procedure should be confidential, age-appropriate, gender-sensitive and accessible to children deprived of liberty.⁴¹

The Juvenile Law (2014) and the Juvenile Centres Instructions (2001) do not explicitly incorporate a provision dealing with accountability mechanisms. However, the draft National Juvenile Justice Strategy developed by NCFR and article 10 of the Law on the National Centre for Human Rights

⁴¹ The Optional Protocol to the CRC on a Communications Procedure (2011) enables children and their representatives to submit complaints to the ‘Committee on the Rights of the Child’ about specific violations of their rights under the CRC, as well as under its other two Optional Protocols. Children from countries that have ratified the protocol can use the treaty to seek justice if the national legal system has not been able to provide a remedy for the violation. The CRC-Committee is able to hear complaints from children, groups of children or their representatives and to launch investigations into grave or systematic violations of children’s rights. Jordan has not yet ratified the third protocol.

(2006) allow children in Juvenile Institutions to submit complaints and talk about violations (see quote & article in the box on the next page). Some JJ-professionals have also cited article 27 of the Juvenile Law (2014) in this regard. The article states that *“the competent execution judge shall visit the juvenile rehabilitation and welfare institutions stipulated in the present law periodically at least every three months, provided he submits a report on the visit to the President of the Judicial Council with a copy to the Minister”*. Some JJ-professionals are of the opinion that the executive judge can only deal with his/her own cases while visiting these institutions. Other JJ-professionals consider this article as a potential basis to conduct independent inspection visits and to report on the conditions of the institutions and complaints of children in conflict with the law placed in these institutions. The Childhood Law (draft) also includes a provision that deals with complaints of children who are deprived of their liberty. It states that *“opportunities and procedures for the submission of applications or complaints shall be available for children deprived of their liberty and their parents or guardians at all juvenile courts under the supervision of the execution judge or the prosecutor who shall considering simplifying the procedures for the submission of applications or complaints and to ensure their effectiveness by making decisions on the consideration of such requests or complaints as fast as required”*.

In actual practice, there does not exist a national mechanism for regular independent inspection of Juvenile Education/Rehabilitation Institutions or other organisations that offer programmes and services for children in conflict with the law, such as Vocational Training Centres, organisations involved in community service and other CBOs. Also, complaint mechanisms for children who are involved in (juvenile) justice proceedings, subjected to alternative measures or sentenced to placement in an institutionalisation are not yet put into practice. The research team has tried to find out which Juvenile Education/Rehabilitation Institutions have received independent inspection visits last year, but unfortunately neither MoJ nor MoSD were able to provide this information.

“Develop a national control and complaint management system credited by all the relevant authorities and develop the formation of national team trained on the system”

Draft National JJ-Strategy

“The Center has the right to (a) visit rehabilitation and Rehabilitation Centers, Detention Centers and Juvenile Care Centers according to the established rules and (b) visit any public place where it is reported that there have been violations of human rights.”

Law of the National Centre for Human Rights

13. Collaboration among INGOs Involved in Juvenile Justice

The UN Common Approach to Justice for Children includes five cross-cutting areas of cooperation on justice for children to be implemented by UN-entities jointly:

- Developing common guidelines and tools
- Inter-agency advocacy
- Fundraising
- Expanding partnerships
- Building internal capacity

The draft National JJ-Strategy developed by NCFA and the draft Childhood Law do not include any guidance on collaboration and/or cooperation among INGOs or between INGOs and local community-based organisations. However, in actual practice, various INGOs collaborate on juvenile justice. For example:

- UNICEF and UNODC on capacity building of JJ/JfC-professionals
- UNICEF and UNODC on the development of standard operating procedures (SOPs) for JPD

14. Juvenile Justice Reform Initiatives

Juvenile justice reform is a complex and longer-term process. The course of the reform depends on many variables, some of which cannot be predicted with certainty. Juvenile justice reform should, whenever possible, be based on an assessment of the juvenile justice system as a whole, such as the present situation analysis, and should involve all relevant stakeholders. A strong coordinating mechanism (see §5.7.) can be the driving force of juvenile justice reform.

Both the draft National JJ-Strategy developed by NCFA and the draft Childhood Law incorporate initiatives on juvenile justice reform. For example:

- Building national capacities on child-friendly procedures and diversion programmes and after care procedures
- Developing a national database system on various juvenile justice programmes
- Developing media campaigns on prevention of delinquency

Also, the model court that USAID and UNICEF are developing is an example of possible future juvenile justice reform.

15. Capacity Building on Juvenile Justice

The CRC-Committee has stated that *“it is essential for the quality of the administration of juvenile justice that all professionals involved, inter alia, in law enforcement and the judiciary receive appropriate training on the content and meaning of the provisions of the CRC in general, particularly those directly relevant to their daily practice”* (paragraph 97 of CRC-GC10) (see also Beijing Rule 22.2. in the box).

This training should be organized in a systematic and ongoing manner and should not be limited to information on the relevant national and inter-

national legal provisions. It should include information on, inter alia, the social and other causes of juvenile delinquency; psychological and other aspects of the development of children; with special attention to girls and children belonging to minorities or indigenous people; the culture and the trends in the world of young people; the dynamics of group activities; and the available measures dealing with children in conflict with the Criminal Law, in particular measures without resorting to judicial proceedings.

“Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.”

Beijing Rule 22.2.

The Juvenile Law (2014) alludes to capacity building of juvenile justice professionals, although to a very limited extent or in an indirect manner. Article 10(a) states that an office for behaviour monitoring (probation) shall be established at every court *“provided that one of its employees shall be specialized in psychology or sociology”* and article 7 mentions that *“the Judicial Council shall designate members of the Public Prosecution*

Department to officiate at juvenile lawsuits". The draft National JJ-Strategy developed by NCFA includes the following with regard to capacity building: "develop the national capacities for implementing the community programmes and post care programmes and alternative to detention by involving the national and international organization". There is no provision in the Childhood Law (draft) that deals with inter-sectoral coordination.

Unfortunately, the research team has not been able to provide an overview of the various capacity building initiatives for JJ-professionals that INGOs have organised the last few years. However, it is known that UNICEF, UNDP, UNODC, Terre des Hommes and other INGOs have done quite a lot in this regard, but do not efficiently coordinate with regard to capacity building. Also, national NGOs/CBOs, like JCLA, and NCFA provide training for JJ-professionals.

16. Data Collection and Analysis of Juvenile Justice

The CRC-Committee is deeply concerned about the lack of even basic and disaggregated data on, inter alia, the number and nature of offences committed by children, the use and the average duration of pre-trial detention, the number of children diverted, the number of convicted children and the nature of the sanctions imposed on them. Therefore, the CRC-Committee urges the States parties to systematically collect disaggregated data relevant to the information on the practice of the administration of juvenile justice, and necessary for the development, implementation and evaluation of policies and programmes aiming at the prevention and effective responses to juvenile delinquency in full accordance with the principles and provisions of CRC. UNICEF and UNODC have developed 15 juvenile justice indicators, of which 5 indicators are considered as core indicators (see Annex 3 & quote in the box). The juvenile justice indicators provide a framework for measuring and presenting specific information about the situation of children in conflict with the law. Disaggregation according to gender, age, category of offences, district/governorate, etc. is extremely important for the purposes of maximising the usefulness of the juvenile justice indicators. This is due to the fact that disaggregation both reveals patterns that are not apparent from looking at the complete group as a whole and it allows the situation of particularly vulnerable subgroups of children to be examined.

"Government officials may find it difficult to assess the impact of new juvenile justice policies or guidelines. In short, a failure to carefully record and strategically make use of juvenile justice related information contributes to a failure to ensure the protection of the child in conflict with the law."

UNICEF & UNODC

The draft National JJ-Strategy developed by NCFA refers to the importance of juvenile justice statistics. It states that "a national database for all data of relevant juvenile justice actors needs to be developed".

According to JJ-professionals, all statistics relevant to juvenile justice are available at the various Ministries. However, in actual practice there are various challenges that seriously hampers the analysis of the available statistics and, as a consequence, the formulation of policies on juvenile justice. The main challenges are:

- Ministries do not cooperate on statistics
- Ministries use different juvenile justice indicators
- Ministries disaggregate the juvenile justice data in differ categories

In 2005, the initial version of the MIZAN electronic data management system was established. The MIZAN-system computerizes the work of the courts from the stage of registration till the final verdict, including the follow-up of all proceedings. In 2006 and 2007, the system was implemented in most courts in the country, including child courts, in order to increase efficiency, effectiveness and transparency of data and to improve the level of court services. In addition, the system aims to provide electronic supervision in order to reduce the likelihood of administrative corruption, to speed up procedures and to eliminate the need to replicate the implementation of actions by submitting the data from various sources of ministry of justice. Currently, the MIZAN-system covers 65 courts of various degrees as well as Public Prosecution Offices, Law Execution Departments (civil & criminal) and Notary Public Chambers.

17. Strengths and Improvements Relating to Cross-Cutting Components of Juvenile Justice

In this section, the following strengths and improvements regarding cross-cutting components of juvenile justice in Jordan became clear:

- Strengths:
 - Criminal records have to be deleted when the child turns eighteen years.
 - Children who have a criminal record and who want to apply for a job, may request a so-called 'non conviction certificate'.
 - National legislation allows children in conflict with the law placed in Juvenile Education/Rehabilitation Institutions to submit complaints on child rights violations.
 - There are quite some community-based organisations in Jordan that offer or are willing to offer services and programmes for children in conflict with the law (and their parents/legal guardians).
 - The MIZAN electronic data management system has been established at the court level in Jordan.
- Improvements:
 - Establishing a national mechanism for regular independent inspection of Juvenile Institutions and community-based programmes and services for children in conflict with the law.
 - Coordination among INGOs that are involved in juvenile justice reform and especially diversion, alternatives to detention and restorative justice approaches.
- Conclusions and recommendations on cross-cutting juvenile justice components (see 18.9).

PART 5: CONCLUSIONS AND Recommendations about JUVENILE JUSTICE IN JORDAN

18. Conclusions and Recommendations Based on the Findings of the Situation Analysis

UNICEF-Jordan and NCFA have conducted a situation analysis in order to strengthen the juvenile justice system in Jordan in line with international standards on juvenile justice and restorative juvenile justice and especially alternative measures for children in conflict with the law between 12 and 18 years such as diversion, alternatives to pre-trial and post-trial detention and restorative justice approaches. In this final section of the report, UNICEF/NCFA formulate the conclusions and recommendations based on the findings of the situation analysis. The conclusions and recommendations concern the design of the situation analysis (§18.1.), statistics on juvenile offending (§18.2.), children in conflict with the law involved in informal juvenile justice (§18.3.), core juvenile justice components (§18.4.), pre-trial proceedings, (§18.5.), trial proceedings (§18.6.), sentencing proceedings (§18.7.), post-sentencing proceedings (§18.8.) and cross-cutting juvenile justice components (§18.9.).

18.1. Conclusions and Recommendations about the Design of the Situation Analysis

Conclusions on the design of the situation analysis:

- Conclusion 1: The situation analysis has provided a rather clear understanding of the strengths and weaknesses of the juvenile justice system in Jordan (see the final sections of each chapter), despite the fact that the assessment-methodology has been too much Amman-dominated and the assessment-findings are predominantly of a qualitative nature.

Recommendations about the design of the situation analysis:

- Recommendation 1: Ensuring that both quantitative and qualitative information is collected through a combination of different methods, including desk review, analysis of statistics, focus group discussions and case studies.
- Recommendation 2: Guaranteeing that the group of participants involved in the situation analysis is a representative sample of JJ-professionals and other JJ-stakeholders in Jordan according to profession, gender and governorates.
- Recommendation 3: Involving children, both boys and girls, who have been/are in conflict with the law and incorporating their views and concerns about juvenile justice in the report on the situation analysis.

18.2. Conclusions and Recommendations about Statistics on Juvenile Offending

Conclusions on juvenile justice statistics:

- Conclusion 1: A significant part of the required juvenile justice statistics are available at the Ministry of Justice, Ministry of Social Development, Ministry of Interior and Public Security Directorate/Juvenile Police Department. Mainly due to the use of different indicators by the Ministries and different way of disaggregation of the data it is not possible to provide a coherent picture of the extent, nature and trends of juvenile offending in Jordan. Various statistics are missing, including data on the application of alternative measures which has been the main focus of the situation analysis.

- Conclusion 2: None of the governmental departments are able to provide disaggregated and detailed data on children in conflict with the law involved in informal justice mechanisms, referral mechanisms in cases of (alleged) child-offenders, settlement in cases of children in conflict with the law, application of alternatives to pre-trial detention, use of alternatives to post-trial detention and early (conditional) release from post-trial detention. The MIZAN electronic data management system may be a good initiative in this regard.
- Conclusion 3: Children from 12 to 18 years in Jordan are mainly involved in theft and physical assault. The vast majority of children commit their offences without adult criminals being involved. Boys commit significantly more offences than girls, especially in Amman, Irbid and Zarqa. Child recidivists are mainly institutionalised because of their involvement in theft, drug offences and physical assault. The police-statistics suggest that there is a decrease of child offending behaviour in Jordan since 2014.
- Conclusion 4: The perception of professionals working with children in conflict with the law may not correspond with the actual situation. They are of the opinion that juvenile delinquency is increasing, especially drug offences, while in actual practice juvenile offending may be decreasing.
- Conclusion 5: The Syrian crisis has resulted in an influx of Syrian children, including unaccompanied and separated children, in Jordan. The situation analysis does not allow any conclusion about Syrian children in conflict with the law.

Recommendations about juvenile justice statistics:

- Recommendation 1: Promoting coordination between the relevant governmental departments (their respective special IT-sections) in order to guarantee systematic collection of detailed and disaggregated statistics relevant to the administration of juvenile justice and the development, implementation and evaluation of policies and programmes for children in conflict with the law in full accordance with the international standards on juvenile justice.
- Recommendation 2: Ensuring that the governmental departments (their respective special IT-sections) that collect and analyse statistics on children in conflict with the law use the same juvenile justice indicators and disaggregate the data in a similar manner, including according to gender, age, categories of offences and governorates.
- Recommendation 3: Guaranteeing that statistics regarding deprivation of liberty of children in conflict with the law at all stages of the juvenile justice process as well as the use of alternatives to pre-trial and post-trial detention are available retroactively, preferably from 2012 onwards.
- Recommendation 4: Publishing comprehensive annual detailed statistics on the extent, nature and trends of juvenile offending in Jordan.

18.3. Conclusions and Recommendations about Informal Juvenile Justice

Conclusions on informal juvenile justice:

- Conclusion 1: A significant proportion of children in conflict with the law are dealt with in their communities by informal justice providers and do not come into contact with the formal juvenile justice system and JJ-professionals, mainly in order to avoid lengthy formal juvenile justice procedures and potential deprivation of liberty of chil-

dren. Neither the Government nor the INGOs in Jordan are able to provide an estimation of the proportion of cases of children in conflict with the law that are informally dealt with.

- Conclusion 2: Informal justice providers do not consider the minimum age of criminal responsibility (12 years) and hardly apply the guiding principles of the CRC when dealing with children in conflict with the law, i.e. the best interests of children as a primary consideration, non-discrimination, participate in decision-making and taking children's development and well-being into account.
- Conclusion 3: Informal justice providers and formal JJ-professionals, i.e. child police, child prosecutors and governors, collaborate in various ways and degrees.

Recommendations about informal juvenile justice:

- Recommendation 1: Conducting a study on the nature and potential of informal justice mechanisms in cases of children in conflict with the law up to 12 years and children from 12 up to 18 years, collaboration between formal and informal justice actors and how access to informal justice in line with basic human rights principles and standards can be maximized.⁴²
- Recommendation 2: Ensuring that resorting to informal justice mechanisms takes place only when it is in the best interests of the child, does not jeopardize the rights of the child and/or excludes the child from access to the formal justice system. Guaranteeing that informal agreements/settlements in cases of children in conflict with the law do not involve harmful practices, such as corporal or other inhuman punishment.
- Recommendation 3: Providing guidance, information and training to informal justice providers in order to ensure that their practices, legal interpretations and decisions in cases of children in conflict with the law comply with international standards and principles on juvenile justice and restorative juvenile justice.
- Recommendation 4: Considering formal recognition of informal justice mechanisms to ensure that the best interests of children are a primary consideration and juvenile justice principles and standards are respected and child rights violations are prevented.
- Recommendation 5: Ensuring that international organisations working on informal and formal juvenile justice collectively develop their policies and coordinate their initiatives in order to guarantee transparency, coherence and an optimal result for children in conflict with the law.

18.4. Conclusions and Recommendations about Core Juvenile Justice Components

Conclusions on core juvenile justice components:

- Conclusion 1: The Juvenile Law (2014) is the most recent and prominent law that deals with juvenile justice and supersedes general national laws covering children in conflict with the law, except children involved in drugs offences. The Juvenile Law (2014) and relating regulations cover the vast majority of juvenile justice components.
- Conclusion 2: The Juvenile Law (2014) and relating Regulations/Instructions do not incorporate sufficiently detailed provisions on referral mechanisms, diversion, restor-

⁴² UNICEF MENARO intends to conduct research on informal juvenile justice and Sharia courts in the near future. Jordan will be one of the five countries that will be part of the study.

ative justice approaches, specific child-offences, community-based programmes and accountability mechanisms. The guiding principle 'deprivation of liberty as a measure of last resort and for the shortest appropriate period of time' and the treatment of children below the minimum age of criminal responsibility are not regulated.

- Conclusion 3: There is currently no comprehensive National Policy on Juvenile Justice in place in Jordan.
- Conclusion 4: Various child-specific institutions are regulated by the Juvenile Law (2014) and established in actual practice, i.e. Juvenile Police Department, Juvenile Courts, Child Probation Departments and Juvenile Education/Rehabilitation Institutions. There are also the Child Legal Aid Unit and various national community-based organisations that have specialized staff working with children in conflict with the law.
- Conclusion 5: Referrals of children in conflict with the law among juvenile justice institutions as well as between juvenile justice institutions and social welfare institutions are not always clear and efficient. The main challenges JJ-professionals face, are the limited referral of children in conflict with the law from general police to JPD, reporting of cases of children in conflict with the law straight to the trial court, non-separation of children in conflict with the law and adults, discontinuity of probation officers in cases of children in conflict with the law and administrative measures by governors in cases of children in conflict with the law.

Recommendations about core juvenile justice components:

- Recommendation 1: Considering whether the Juvenile Law (2014) needs to be amended in order to regulate at least all core juvenile justice components and to be fully in line with international juvenile justice standards or developing regulations fully in line with international juvenile justice standards that will cover the missing juvenile justice components and the implementation of the juvenile justice provisions.
- Recommendation 2: Ensuring that child-specific legislation explicitly regulates the four guiding principles as well as deprivation of liberty as a measure of last resort for children in conflict with the law and for the shortest appropriate period of time.
- Recommendation 3: Developing a comprehensive National Policy on Juvenile Justice based on the present situation analysis and international standards and principles on juvenile justice and restorative juvenile justice.
- Recommendation 4: Specializing professionals (and volunteers) working with children in conflict with the law and staff of child-specific institutions on how to treat children in conflict with the law according to national and international standards and principles. Ensuring that interdisciplinary capacity building for JJ-professionals is incorporated in the curricula of approved training institutes and not organised on an ad-hoc donor-driven basis (by INGOs).
- Recommendation 5: Ensuring a transparent, explicit and efficient referral system of cases of children in conflict with the law, both among JJ-institutions and between JJ-institutions and social welfare/child protection institutions.

18.5. Conclusions and Recommendations Diversion and Pre-Trial Proceedings

Conclusions on children in conflict with the law involved in diversion and pre-trial proceedings:

- Conclusion 1: The Juvenile Law (2014) and relating Regulations incorporate various provisions on proceedings to be applied by JPD and/or child prosecutors when dealing with children in conflict with the law at the pre-trial stage, but not any provision on the arrest of children in conflict with the law, questioning of alleged child-offenders and diversion from formal judicial proceedings without a restorative justice approach.
- Conclusion 2: JPD does not investigate all cases of children in conflict with the law, i.e. not sexual offences, domestic offences, drug offences, extreme serious offences and serious theft allegedly committed by boys and girls between 12 and 18 years.
- Conclusion 3: The Juvenile Law (2014) regulates the authority of JPD to settle certain minor cases and the authority of settlement courts to settle cases in which JPD could not reach an agreement between the parties. Settlement is considered a restorative justice approach by law and JJ-professionals as well as those who have drafted the Juvenile Law (2014). In actual practice, settlement is used by JPD in most cases eligible for settlement. All cases are settled successfully, but not conducted according to international standards on restorative justice. There are also restorative justice practices implemented in cases of children in conflict with the law by governors and educational counsellors.
- Conclusion 4: The Juvenile Law (2014) regulates alternatives to pre-trial detention, i.e. through financial bail, personal bond and cash surety. In actual practice, it seems that pre-trial detention in Juvenile Education Institutions is overused and not an exceptional measure. It is unknown how long accused children stay in pre-trial detention and which alternatives to pre-trial detention are applied in cases of children in conflict with the law. Accused children reside together with convicted children in Juvenile Education/Rehabilitation Institutions.

Recommendations about children in conflict with the law involved in diversion and pre-trial proceedings:

- Recommendation 1: Considering whether the Juvenile Law (2014) needs to be amended in order to explicitly regulate all pre-trial proceedings in cases of children in conflict with the law, especially diversionary measures and the exceptional use and regular review of pre-trial detention, or developing regulations that will cover the missing pre-trial proceedings.
- Recommendation 2: Clarifying and justifying the mandate of JPD and FPD in cases of children in conflict with the law and, if non-child specific institutions deal with alleged and accused child-offenders, ensuring that the professionals involved are specialized in child-sensitive treatment and collaboration with child-specific institutions.
- Recommendation 3: Harmonizing settlement practices in cases of children in conflict with the law with international standards on juvenile justice and restorative juvenile justice, developing guidelines and/or SOPs on settlement and conducting capacity building for professionals involved.
- Recommendation 4: Applying diversion with and without a restorative justice ap-

proach as a measure of first resort, as much as possible and not limiting diversion to children who commit minor offences and are first-time child offenders. Holding children in conflict with the law accountable for their actions and preparing child-centred diversion-plans that incorporate conditions focussing on the child's reintegration and rehabilitation and prevention of reoffending in as much cases as possible. Guaranteeing that sufficient community-based (accredited) diversion programmes are available at the local level.

- Recommendation 5: Harmonizing alternatives to pre-trial detention of children in conflict with the law with international standards on juvenile justice, developing guidelines and/or SOPs on alternatives to pre-trial detention and conducting capacity building for professionals involved.
- Recommendation 6: Limiting financial bail and other financial options as conditions to release children at the pre-trial stage.
- Recommendation 7: Ensuring that children in conflict with the law are not deprived of their liberty in order to prevent them from revenge and threats of the victim(s), victim's family or community (so-called 'preventive detention'), for example through implementing alternatives such as CSO/NGO-shelters, anonymous foster families and/or placement with relatives in another village.

18.6. Conclusions and Recommendations about Trial Proceedings

Conclusions on children in conflict with the law involved in trial proceedings:

- Conclusion 1: The Juvenile Law (2014) incorporates various child-sensitive trial procedures, including separation of children and adults, no unnecessary delay, legal assistance, presence of a probation officer, right to privacy, right to appeal and other procedural guarantees.
- Conclusion 2: JJ-professionals treat children in conflict with the law during trial proceedings according to the legal provisions and do not encounter particular challenges. Cases involving misdemeanours are tried by child courts, if available, while cases involving felonies are dealt with by child judges of the criminal court.

Recommendations about children in conflict with the law involved in trial proceedings:

- Recommendation 1: Ensuring confidentiality of all cases of children in conflict with the law, including cases of serious and violent offences, sexual offences and recidivists, so that children who return to their communities get a second chance.
- Recommendation 2: Guaranteeing that the child's parents/legal guardians are present throughout the justice proceedings, except if their presence is considered not to be in the best interests of the child or the parents/guardians are the suspects in the case.
- Recommendation 3: Providing legal assistance to children in conflict with the law, free of charge, throughout the juvenile justice process – among other reasons – to maximize the use of diversion, alternatives to pre-trial and post-trial detention and early release from post-trial detention.
- Recommendation 4: Ensuring that children who have been forced into criminal activities and violent acts by relatives, other criminal adults, criminal gangs or armed groups are not considered children in conflict with the law, but children in need of special protection who will not be subjected to criminal (child) justice proceedings but child

protective measures.

- Recommendation 5: Considering not to move accused child-offenders placed in pre-trial detention facilities to a facility for adults when they turn 18 years. Continuation of their stay in Juvenile Education Institutions should be possible if in their best interests and not contrary to the best interests of children <18 years in the institution.

18.7. Conclusions and Recommendations about Sentencing Proceedings

Conclusions on children in conflict with the law involved in sentencing proceedings:

- Conclusion 1: The child courts and child judges have to take into consideration the sentencing principles laid down in the Juvenile Law (2014), i.e. no death penalty or life imprisonment, measures may not affect children's education and different sentences for respectively children between 12 up to 15 years and children between 15 up to 18 years. In actual practice, the measures/sentences imposed by child courts often interfere with children's education.
- Conclusion 2: The Juvenile Law (2014) incorporates various provisions that underline the importance of social inquiry reports that inform child judges about the background of children in conflict with the law, the circumstances of the offence and recommendations about possible measures and sentences. In actual practice, the quality of social inquiry reports that probation officers prepare require serious improvement.
- Conclusion 3: The Juvenile Law (2014) incorporates a variety of alternatives to post-trial detention, i.e. censure/reprimand, custody, community service, vocational training program, certain duties, abstaining from undertaking a specific task, rehabilitation program and judicial supervision. Child-specific legislation does not regulate any measure that allows for suspension of trial procedures, sentences or imprisonment. In actual practice, it seems that these measures are hardly used, mainly due to a lack of community-based programmes for convicted children, insufficient probation officers to monitor children who serve their sentence in the community and treats from victims/community members to harm or sometimes even to kill children if they will not be detained.
- Conclusion 4: It seems that in actual practice post-trial detention is overused. The vast majority of convicted children seems to be placed in Juvenile Rehabilitation Institutions instead of serving their sentence at home and in their communities. It is unknown whether institutionalized convicted children are enrolled in schools inside or outside the institutions, how long convicted children stay in post-trial detention facilities and whether they receive regular visits from their parents/legal guardians.

Recommendations about children in conflict with the law involved in sentencing proceedings:

- Recommendation 1: Applying alternatives to post-trial detention as a measure of second resort whenever appropriate and feasible in cases of children in conflict with the law and in line with international standards.
- Recommendation 2: Ensuring that child courts receive in all cases of children in conflict with the law a social inquiry report that includes well-founded recommendations about the appropriateness of alternative(s) to detention and the motivation of the child to reintegrate and rehabilitate. Building the capacity of probation officers on pre-

paring quality and in-depth social inquiry reports that aim at reintegration, rehabilitation, prevention of re-offending and the child's constructive role in society and, where appropriate, restoration of the harms caused by the offence.

- Recommendation 3: Considering a child who is criminally responsible as being competent and able to effectively participate in decision-making processes regarding the most appropriate response.
- Recommendation 4: Developing guidelines/SOPs for child judges and probation officers on sentencing principles, the use of alternatives to post-trial detention, development and monitoring reintegration/ rehabilitation-plans, interdisciplinary approach and available (accredited) programmes for sentenced children. Guaranteeing that alternatives to post-trial detention are implemented in line with international standards, especially community service imposed on children in conflict with the law.
- Recommendation 5: Ensuring coordination and collaboration between juvenile justice institutions and social welfare institutions involved in the implementation of alternatives to post-trial detention.

18.8. Conclusions and Recommendations about Post-Sentencing Proceedings

Conclusions on children in conflict with the law involved in post-sentencing proceedings:

- Conclusion 1: The execution judge may consider early release of convicted children who stay in Juvenile Rehabilitation Institutions if the child has been of good conduct throughout his/her stay at the institution, the period spent in the institution is not less than one-third of the sentence term, release should not put the child's life or safety at risk and the child is not convicted for a crime the original sentence for which is death or hard labour for fifteen years or more. The decision of the execution judge is based on two reports, i.e. the report of the director of the Juvenile Rehabilitation Institution and the report of the probation officer who is officer attached to institution.
- Conclusion 2: It is unknown to which extent early release from post-trial detention is granted, in which cases it is granted or not and whether there are conditions linked to children's early release. The main challenges execution judges face when considering early release of convicted children from post-trial detention are community threats if children are released, insufficient probation officers to guarantee that released children are monitored and victims who do not drop their personal right.

Recommendations about children in conflict with the law involved in post-sentencing proceedings:

- Recommendation 1: Reviewing children's placement in Juvenile Rehabilitation Institutions on a regular basis and preparing quality assessment reports by probation officers and/or staff of the facility on the child's reintegration/rehabilitative progress and readiness to be early (conditionally) released.
- Recommendation 2: Developing an individual rehabilitation/reintegration plan together with the convicted child and his/her parents/guardians, providing effective programmes and activities during detention that aim at the rehabilitation and reintegration of the child, gradually preparing the child for early (conditional) release, monitoring the release conditions imposed, if any, and ensuring support and supervision of

children after their release from post-trial detention facilities.

- Recommendation 3: Ensuring that a well-trained probation service is in place in order to allow for the maximum and effective application of early (conditional) release from detention.
- Recommendation 4: Ensuring coordination and collaboration between the probation service, post-trial detention facilities and social welfare institutions in order to prepare the early (conditional) release of children and to monitor and assist them when released from post-trial detention facilities.

18.9. Conclusions and Recommendations about Cross-Cutting Juvenile Justice Components

Conclusions on cross-cutting juvenile justice component:

- Conclusion 1: Various governmental and non-governmental organisations offer programmes that can potentially be used as part of diversion programmes, alternatives to post-trial detention and/or early release conditions.
- Conclusion 2: According to the Juvenile Law (2014) any record of a convicted child has to be deleted when the child completes eighteen years. Criminal records of children in conflict with the law are classified. Only authorized JJ-professionals have access, i.e. courts and public security/police, and in specific cases also probation officers. Convicted children may request a 'non conviction certificate' if they are going to apply for a job.
- Conclusion 3: Various child-specific and general legislation incorporate provisions that allow children to file complaints about violations of their rights and/or mechanisms for inspection of Juvenile Education/ Rehabilitation Institutions. It is unknown whether children involved in criminal proceedings actually file complaints and whether independent inspections of detention facilities take place.
- Conclusion 4: There are various INGOs involved in juvenile justice/justice for children, but there does not exist a detailed overview of the juvenile justice programmes and capacity building initiatives in which INGOs collaborate and align their policies and strategies.
- Conclusion 5: The draft National JJ-Strategy and draft Childhood Law incorporate initiatives on juvenile justice reform, but both documents have not yet taken into account the conclusions and recommendations formulated in the present situation analysis.

Recommendations about cross-cutting juvenile justice component:

- Recommendation 1: Encouraging close cooperation among the juvenile justice sector, social welfare/child protection sector, health sector and education sector as well as an interdisciplinary approach in cases of children in conflict with the law.
- Recommendation 2: Ensuring sufficient governmental and non-governmental programmes for children in conflict with the law at the local level.
- Recommendation 3: Establishing independent inspection mechanisms and complaint mechanisms for children in conflict with the law, including but not exclusively in detention facilities, and ensuring regular independent visits of Juvenile Education/Rehabilitation Institutions and other organisations that offer programmes and services for children in conflict with the law.

PART 6: REFERENCES AND ANNEXES

19. References

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- Jordanian Labour Law (1966)
- Behavioural Monitor Regulations No. 11 (2001)
- Juvenile Law No. 32 (2014)
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20. Annexes

Annex 1: Research Team, Members of the National Steering Committee & Validation Workshop

Members of the Research Team: [in alphabetical order]

- Ingrid van Welzenis (international consultant for UNICEF-Jordan)
- Nasser Al-Domour (national consultant for NCFA)
- Rola Makhadmeh (child protection officer - UNICEF-Jordan)

Members of the National Steering Committee: [in alphabetical order]

- Official members:
- Judicial Council
- Justice Centre for Legal Aid (JCLA)
- Juvenile Police Department (JPD) – Public Security Directorate
- Ministry of Interior
- Ministry of Justice
- Ministry of Social Development
- National Council for Family Affairs
- UNICEF Jordan

- Additional non-official members who participate in certain meetings:
- Jordan River Foundation
- Mizan
- Terre des Hommes Jordan
- USAID (Role of Law Project)
- UNODC Jordan

Organisations of the Validation Workshop: [in alphabetical order]

- Jordan River Foundation
- Justice Centre for Legal Aid (JCLA)
- Ministry of Education
- Ministry of Justice
- Ministry of Social Development
- National Council for Family Affairs
- Public Security Directorate – Juvenile Police Department (JPD) – Family Protection Department (FPD)
- Questescope
- Terre des Hommes Jordan
- UNICEF Jordan
- USAID (Role of Law Project)
- Vocational Training Institution

Annex 2: Situation Analysis Agenda

- 8 May 2017: Discussion with legal experts on legal juvenile justice issues.
- 9 May 2017: Discussion with the NCFA-Committee on the juvenile justice system and procedures.
- 10 May 2017: Discussion with INGOs and CBOs on community-based programmes and services for children in conflict with the law.
- 15 May 2017: Discussion with police, prosecutors, settlement judge, lawyers and probation officers on pre-trial procedures.
- 16 May 2017: Discussion with judges, lawyers and probation officers on trial, sentencing and post-sentencing procedures.
- 18 May 2017: Discussion with TdH on informal juvenile justice.
- 21 May 2017: Discussion with NGOs and ministerial community-based-organisations on community-based programmes and services for children in conflict with the law.
- 22 May 2017: Discussion with a representative of Mol and a governor on treatment of children in conflict with the law in the community.
- 23 May 2017: Discussion with education advisers on settlement of school offences.
- 24 May 2017: Discussion with JPD on treatment of children in conflict with the law at the police level.
- 29 May 2017: Discussion with children placed in the Juvenile Education/Rehabilitation Institute in Amman

Annex 3: Internationally Agreed Juvenile Justice Indicators

UNICEF and UNODC have developed 15 juvenile justice indicators, of which 5 indicators are considered as core indicators (CORE).⁴³

Indicator		Definition
Quantitative Indicators		
1	Children in conflict with the law	<ul style="list-style-type: none"> Number of children arrested during a 12 month period per 100,000 child population
2	Children in detention (CORE)	<ul style="list-style-type: none"> Number of children in detention per 100,000 child population
3	Children in pre-sentence detention (CORE)	<ul style="list-style-type: none"> Number of children in pre-sentence detention per 100,000 child population
4	Duration of pre-sentence detention	<ul style="list-style-type: none"> Time spent in detention by children before sentencing
5	Duration of sentenced detention	<ul style="list-style-type: none"> Time spent in detention by children after sentencing
6	Child deaths in detention	<ul style="list-style-type: none"> Number of child deaths in detention during a 12 month period, per 1,000 children detained
7	Separation from adults	<ul style="list-style-type: none"> Percentage of children in detention not wholly separated from adults
8	Contacts with parents and family	<ul style="list-style-type: none"> Percentage of children in detention who have been visited by, or visited, parents, guardian or an adult family member in the last 3 months
9	Custodial sentencing (CORE)	<ul style="list-style-type: none"> Percentage of children receiving a custodial sentence
10	Pre-sentence diversion (CORE)	<ul style="list-style-type: none"> Percentage of children diverted or sentenced who enter a pre-sentence diversion scheme
11	Aftercare	<ul style="list-style-type: none"> Percentage of children released from detention receiving aftercare
Policy Indicators		
12	Regular independent inspections	<ul style="list-style-type: none"> Existence of a system guaranteeing regular independent inspection of places of detention Percentage of places of detention that have received an independent inspection visit in the last 12 months
13	Complaints mechanism	<ul style="list-style-type: none"> Existence of a complaints system for children in detention Percentage of places of detention operating a complaints system
14	Specialised juvenile justice system (CORE)	<ul style="list-style-type: none"> Existence of a specialised juvenile justice system
15	Prevention	<ul style="list-style-type: none"> Existence of a national plan for the prevention of conflict with the law amongst children

⁴³ UNODC & UNICEF, Manual for the Measurement of Juvenile Justice Indicators, United Nations, New York, 2006.

Annex 4: Comprehensive Set of Statistics on Juvenile Justice

The overview 'Statistics on Juvenile Justice' has been restructured by NCFA and shared with the various Ministries in order to collect all juvenile justice data (see §3.2. and throughout the report).

Situation Analysis on Juvenile Justice in Jordan – Statistics on Juvenile Justice	
Extent of Juvenile Offending in 2016: ⁴⁴	
<ul style="list-style-type: none"> – Number of offences (N=...) and percentage of arrested children per 100.000 children (...%) at the police level? – Number of offences (N=...) and percentage of registered children (...%) at court level? – Number of offences (N=...) and percentage of convicted children (...%)? – Number of children <12 years of age in conflict with the law/in contact with law enforcement officers/arrested (N=...)? 	
Kinds of Offences in 2016	
<ul style="list-style-type: none"> – Number (N=...) and percentage (...%) of various kinds of offences in 2016: – Offences with a penalty < 2 years and penalty ≥ 2 years imprisonment? – Property offences, drug offences, sex offences, etc.? – Violent and non-violent offences? – Status offences? – Administrative offences? – Offences based on a complaint by the injured party versus offences without an injured party? – Group offences: <ul style="list-style-type: none"> • Children ≥12 years only? • Children ≥12 years and children <12 years? • Children ≥12 years and adults (≥18 years)? – First-time offenders versus recidivists? 	
Trends in Juvenile Offending during the Last Five Years (2012 – 2016)	
<ul style="list-style-type: none"> – With regard to the number of children in conflict with the law? – With regard to the kinds of offences? – With regard to children in detention/deprived of their liberty (per 100.000 children)? – With regard to the number of child deaths in detention per 1.000 children detained? – With regard to children placed in care institutions (open regime)? – With regard to alternatives to pre-trial detention? – With regard to alternatives to post-trial detention/closed care institutions? – With regard to children who are early released from post-trial detention? – With regard to victims who resort to a competent court for their personal right case (= article 28 of the Juvenile Law)? – With regard to the age of children in conflict with the law? – With regard to the gender of children in conflict with the law? – With regard to the duration (in weeks) till the proceedings from apprehension/arrest till measure/sentence are completed? Disaggregated for all children in conflict with the law versus children in pre-trial detention? – Are the trends real or (also) due to the new Juvenile Law (2014), changed policies, changed data collection methods, etc.? 	

⁴⁴ Children in conflict with the law means children from ≥12 years up to <18 years. UNICEF/NCFA have not collected/analysed statistics on children below the age of 12 years in conflict with the law and children in need of protection who are in contact with the law.

Disaggregation of Juvenile Offending in 2016

Statistics on juvenile justice from an **age-perspective**?

Statistics on juvenile justice from a **gender-perspective**?

Statistics on juvenile justice from a **governorate-perspective**?

Kinds of Measures Applied in Cases of Children in Conflict with the Law in 2016

Number (N=...) and percentage (...%) of measures taken in 2016:

Police level:

- Dropped or sent back to the community at the police level?
- Settlement at the police level? (see next cell) Other measure with a restorative juvenile justice approach?
- Diversion at the police level?
- Deprivation of liberty at the police level (police custody)? Duration of deprivation of liberty at the police level? Percentage of children in police custody not entirely separated from adults?

Pre-trial stage:

- Dropped or sent back to the community at the pre-trial level?
- Deprivation of liberty in pre-trial detention/care facilities? Duration of deprivation of liberty at the pre-trial level? Percentage of children in pre-trial detention not entirely separated from adults? Percentage of children in pre-trial detention who have been visited by, or visited, parents, guardian or an adult family member in the last 3 months?
- Alternatives to pre-trial detention? Kinds of alternatives to pre-trial detention?
- Measure with a restorative juvenile justice approach?

Trial stage, sentencing stage & post-sentencing stage:

- Dropped or sent back to the community at the trial level?
- Deprivation of liberty in post-trial detention/care facilities (custodial sentence)? Duration of deprivation of liberty at the post-trial level? Percentage of children in post-trial detention not entirely separated from adults? Percentage of children in post-trial detention who have been visited by, or visited, parents, guardian or an adult family member in the last 3 months?
- Placement in care institutions (open regime)?
- Proportion community-based alternatives to post-trial detention versus placement in care institutions (open, semi-open/closed, closed regime)?
- Alternatives to post-trial detention/non-custodial sentences? Kinds of alternatives to post-trial detention/non-custodial sentences?
- Early (conditional) release from post-trial detention? Percentage of children released from detention receiving aftercare?
- Measure with a restorative juvenile justice approach?
- Measures taken in cases of children who have committed very serious offences?
- Measures taken in cases of reoffenders?

Disaggregated by governorate, kind of offences, age of the child and gender of the child (to the extent possible).

Settlement in Cases of Children in Conflict with the Law in 2016

- Number of cases and/or children (N=...) & percentage of cases and/or children (...%) eligible for settlement and settled by:
 - JPD?
 - Settlement Court?
 - Prosecution Office?
 - Trial Court?
 - Others? Whom?
- Percentage of children in post-trial detention facilities who have committed an offence with a penalty <2 years (= cases eligible for settlement)?
- Reasons for not settling cases that were eligible for settlement?
- Measures taken in cases eligible for settlement but that were not settled by JPD or Settlement Court?
- Percentage of successful settlements between parties (...%)?
- Percentage of successfully settled cases that were monitored/followed-up (...%)? By whom? For how long? Percentage of successfully settled cases in which the child has breached the conditions?
- Reasons for unsuccessful settlements?
- Percentage of cases in which the child has reoffended after successful settlement (...%)? In which kinds of cases?
- Injured party:
 - One child-victim
 - More than one child-victim
 - One adult-victim
 - More than one adult-victim
 - Combination of child-victim(s) & adult victim(s)

Disaggregated by governorate, kind of offences, age and gender of the child (to the extent possible).

Reporting and Referrals in 2016

- Number (N=...) & percentage of children in conflict with the law (...%) reported to:
 - Regular police station?
 - JPD?
 - FPD?
 - Prosecution Office?
 - Trial Court?
 - Settlement Court?
 - Governor?
 - Other?
- Number (N=...) & percentage of children in conflict with the law (...%) initially or finally dealt with by JPD?

Disaggregated by governorate, kind of offences, age and gender of the child (to the extent possible).

Social Inquiry Reports in 2016

- Percentage of cases (...%) eligible for settlement in which a social inquiry report was prepared?
- Percentage of cases (...%) registered at the court in which a social inquiry report was prepared?
- Percentage of cases (...%) of children in conflict with the law sentenced to deprivation of liberty/detention in which a social inquiry report was prepared?
- Percentage of cases (...%) of children sentenced to an alternatives to post-trial detention/non-custodial sentence in which a social inquiry report was prepared?

Children in Need of Protection in 2016:

- Percentage of children in conflict with the law (...%) that are considered a child in need of protection (article 33) and are placed in a Juvenile Welfare Institution after their sentence is implemented/served (article 34(a))?
- Percentage of children in conflict with the law (...%) that are considered a child in need of protection (article 33) and treated as a child in need of protection instead of sentenced as a child in conflict with the law (article 35)?

Inspection Visits & Complaint Mechanisms in Detention in 2016

- Percentage of pre-trial and post-trial detention facilities that have received an independent inspection visit?
- Percentage of pre-trial and post-trial detention facilities that have a complaints system?

Children in Conflict with the Law Dealt with by Informal Justice Providers in 2016

- Number of cases?
- Kinds of offences?
- Trends during the last five years (2012-2016)?

Disaggregated by governorate, age and gender of the child (to the extent possible).

Annex 5: Statistics on Juvenile Justice (Rule of Law Programme)

توزيع عدد التهم لقضايا الأحداث حسب خلاصة الحكم للأعوام (2012 - 2016)

النسبة %	العدد	خلاصة الحكم	
31.1	19093	إدانة	1
5.9	3631	إعلان براءة	2
0.1	55	إدانة اعفاء من العقوبة	3
5.2	3181	تسليم - الحدث	4
23.9	14675	إسقاط دعوى الحق العام	5
4.7	2898	إحالة	6
0.9	565	إحالة الحدث إلى دار ورعاية الأحداث	7
7.1	4379	إحالة الدعوى الجزائية	8
0.1	34	إدانة - وقف التنفيذ	9
0.0	6	إدانة والحكم بالحق الشخصي	10
0.0	3	إسقاط بالتقادم	11
0.1	55	إسقاط بالعفو	12
0.0	2	إسقاط بالعفو ورد الادعاء والحق الشخصي	13
4.8	2967	إعلان عدم مسؤولية	14
0.1	31	إفراج - الحدث	15
0.0	5	إحاق الحدث ببرنامج تأهيل	16
0.0	2	إلزام الحدث بالخدمة للمنفعة العامة	17
2.1	1317	اللوم والتأنيب للحدث	18
0.6	341	إيداع - الحدث	19
2.1	1267	تسليم الحدث إلى وليه أو وصيه	20
0.2	130	تعديل وصف التهمة	21
0.1	57	رد الاعتراض	22
0.0	1	رد طلب المستعي / رد الاعتبار	23
0.1	66	ضم قضية إلى أخرى	24
0.1	1	ليس الشخص المقصود	25
0.0	22	وضع الحدث تحت الإشراف القضائي	26
0.2	117	وضع الحدث تحت رعاية أسرة مناسبة	27
0.0	10	وضع الحدث تحت رعاية شخص مناسبة	28
10.4	6390	وقف ملاحقة	29
100.0	61301	المجموع	

توزيع عدد التهام لقضايا الأحداث حسب مكان ورود القضايا للأعوام (2012 - 2016)

النسبة %	العدد	خلاصة الحكم	
2.2	1332	إحالة من محكمة أخرى	1
0.3	179	إدارة حماية الأسرة	2
0.1	88	إدارة شرطة الأحداث	3
0.0	5	إدارة مكافحة المخدرات	4
1.1	697	استدعاء شكوى	5
0.1	46	اعتراض	6
0.0	9	الانتربول	7
18.3	11199	الشرطة	8
0.0	2	المحكمة الشرعية	9
35.4	21672	المدعي العام	10
17.2	10525	المركز الأمني	11
0.1	84	المشتكي	12
0.3	212	بعد الاعتراض	13
1.2	730	بعد الفسخ	14
0.0	2	دائرة الأحوال المدنية	15
0.0	3	دائرة الرقابة على الغذاء والدواء	16
0.0	1	دائرة السير والمركبات	17
16.2	9906	دائرة المدعي العام	18
0.0	9	دائرة النائب العام	19
0.4	225	شكوى	20
0.7	405	طرف ثالث	21
0.0	3	قبل إعادة المحكمة	22
0.0	3	قبل الاعتراض	23
0.1	77	محكمة أخرى	24
0.0	7	محكمة أحداث عمان	25
0.0	25	محكمة الجنايات الكبرى	26
0.0	3	محكمة الجنايات الكبرى بعد النقص	27
0.0	22	محكمة جنايات معان	28

