



CHILDREN IN PRETRIAL DETENTION:

PROMOTING STRONGER
INTERNATIONAL TIME LIMITS

FACT SHEET No. 3

Emerging Good Practices for Reducing Court Delays

Reducing the time children spend in pretrial detention should be a critical priority and equally important as focusing on promoting diversion and other alternatives to detention, to ensure that all children are protected. The following good practices will help national practitioners ensure children are in pretrial detention for the shortest period of time possible:

1. Strict statutory time limits:

States should set a child-specific time limit of 30 days in pretrial detention with limited and narrowly defined exceptions.

2. Clear definition of pretrial detention period:

States should clearly define that the pretrial detention period begins at the moment of initial detention, usually either at the moment of arrest or at the initial detention hearing, and that it terminates once the sentence is set.

3. Enforcement of statutory limits:

The justice system in general, and the courts in particular should enforce statutory time limits. The justice system must also track this information and provide it to the court in a timely manner.

4. Automatic review of pretrial detention:

Courts should automatically review all cases of children in pretrial detention every 14 days. Rather than cursory reviews, pretrial detention reviews should be individualized to determine if non-detention measures could be used, if diversion measures or other alternative case resolution mechanisms could be applied, and if the time period granted by the court is still justified or if it could be shortened.

5. Prioritize cases of children in pretrial detention:

All justice sector actors, including courts, prosecutors, public defenders, probation offices and auxiliary agencies such as evidence labs, should prioritize cases of children who are detained awaiting trial. This should include allocating more resources to these cases when necessary and setting calendars that take into account the pretrial detention or release status of children.

6. Alternatives to pretrial detention:

If courts are prioritizing cases of children in detention, utilizing pretrial release will result in a reduced burden on the court system as fewer cases will need to be prioritized on the court's calendar freeing up resources to focus on the remaining cases in detention. These alternatives should be applied as early in the legal process as possible, preferably within days of arrest.

7. Alternative case resolution mechanisms:

Alternative mechanisms, such as diversion and restorative justice, reduces stigmatization and results in better long-term outcomes for children. These mechanisms also can reduce the case load burden on justice systems, avoiding long and costly trials. As a result, justice sector agencies can devote more resources to processing cases of children in pretrial detention more efficiently.

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8. Adequately resource child justice systems:

Courts, prosecutors' offices, public defenders' offices, and auxiliary agencies should be adequately resourced in order to reduce and eliminate case backlogs that slow down case processing for children in detention.

9. Ensuring timely first-appearances that set pretrial conditions:

Children should be brought before the court for a detention hearing in a timely manner and without delay so that the legality of detention can be reviewed, and the court can set pretrial measures. Bail or pretrial conditions hearings should be set as soon as possible after arrest and preferably during the first court appearance.

10. End trying children in adult court:

Children should not be tried in adult courts. In countries where children can be tried in adult courts, the legal process can be much longer than in the child justice system. The process of moving a case to adult court can result in lengthy proceedings and appeals.

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