

# Monitoring Weapons and Restraints in Places of Detention:

A Practical Guide for Detention Monitors



Omega Research Foundation



## Acknowledgments

This work was supported by the Economic and Social Research Council [ESRC Future Research Leader Award, PI Abi Dymond, grant number ES/N016564/1] and the Omega Research Foundation (under a project funded by the European Commission – European Instrument for Democracy & Human Rights EIDHR). It was co-authored by Dr. Abi Dymond, Lecturer in Criminology at the University of Exeter, and colleagues at the Omega Research Foundation. The Omega Research Foundation is an independent UK-based research organisation. We are dedicated to providing rigorous, objective, evidence-based research on the manufacture, trade in, and use of, military, security and police (MSP) technologies.

The publication was strengthened by feedback and suggestions from participants at a series of events where draft versions of the Guide were presented, including: members of the UN Subcommittee for the Prevention of Torture during their 32rd Session (June 2017); participants at the Association for the Prevention of Torture, Bristol Human Rights Implementation Centre and Penal Reform International Summer School on Detention Monitoring: Applying the UN Nelson Mandela Rules (August 2017); and from Stephanie Selg and Anita Danka at the OSCE Office for Democratic Institutions and Human Rights. All errors and omissions are the responsibility of the authors.

Note on translation: to aid understanding, translations into French and Spanish have included the translations of quotes from various sources, some of which were initially available only in English.

The Guide is intended to be a living document and comments and suggestions for additions are welcome to be sent to: [info@omegaresearchfoundation.org](mailto:info@omegaresearchfoundation.org) or [a.dymond@exeter.ac.uk](mailto:a.dymond@exeter.ac.uk)



Part funded by the European Union  
EIDHR European Instrument for  
Democracy and Human Rights.

Cover Photo: a spiked baton, serrated thumb-cuff and fixed restraint single cuff, designed to be affixed to walls and floors.  
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## Foreword

Whilst almost anything can be used as a tool of torture or ill-treatment, evidence suggests that such brutality is often perpetrated using mass manufactured weapons and restraints such as firearms, less lethal weapons and handcuffs. Whilst some of these types of equipment may have a legitimate role to play in places of detention under strictly controlled conditions, others (such as the spiked baton pictured on the front cover) have no place at all – being inherently cruel, inhuman and degrading – yet they continue to be promoted, marketed, bought and sold.

Monitoring bodies are increasingly starting to recognise the importance of accurate documentation of weapons and restraints in places of detention, and of paying attention to the instruments used to inflict abuse. Enhanced awareness of weapons and restraints can help torture prevention bodies to recognise when inappropriate equipment is being used, or is being considered for use; to investigate the use of weapons and restraints where there are grounds for concern; and provide additional evidence around the allegations of torture and ill-treatment made by detainees. In particular, it is important that monitors are able to recognise and differentiate between weapons and restraints that are inherently abusive and that have no place in detention settings, and those that may have a legitimate use under certain circumstances but that can easily be misused. Monitors should also have the knowledge and expertise to independently document weapons and restraints and initiate appropriate follow-up actions and recommendations where necessary.

This can be a technical area, and several torture prevention bodies, including the UN Subcommittee for the Prevention of Torture, have requested additional information to support them in their work. This specialist resource aims to help answer that call. It comprises a Practical Guide, a detailed resource which collates standards around the use of firearms, less lethal weapons and restraints in places of detention, and provides checklists of questions to ask and key areas for monitors to observe. It also includes a one page foldable Pocket Book, which summarises certain key points and is designed to be easy for monitors to print out and use in places of detention.

This Practical Guide and pocket book have been developed in close conjunction with the UN Subcommittee for the Prevention of Torture and other detention monitors. Having been closely involved in the development of this resource, I am confident that it will be of value not just to the Subcommittee but to a wide range of detention monitors and torture prevention bodies more broadly, and will be an invaluable resource in the fight against torture.



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## Introduction

Reports by a wide range of international, regional and national monitors have expressed concern that firearms, less lethal weapons and restraints are misused, including for the purposes of torture and other forms of ill-treatment, in a range of countries worldwide. Concerns have been documented by a wide range of bodies including the UN Subcommittee for the Prevention of Torture, or SPT (2016), the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (henceforth referred to as the Special Rapporteur on Torture) (2017), the UN Committee Against Torture (2008), the Council of Europe's Committee for the Prevention of Torture, or CPT (2010), the Inter-American Commission on Human Rights (2013) and the South African Judicial Inspectorate of Correctional Services (2010). This Guide is intended to help detention monitors document this important area by:

- Collating standards around the use of firearms, less lethal weapons and restraints in places of detention. The focus is on mass manufactured weapons and restraints, as opposed to more rudimentary, improvised devices that may also be used for torture and ill-treatment.
- Providing a useful, practical guide on how to document these weapons in places of detention, what to ask, and key observations to be made – applicable to a wide range of detention contexts, including prisons, healthcare settings and other places of detention.
- Collating other useful resources for detention monitors.

### Why document firearms, less lethal weapons and restraints in places of detention?

Whilst almost anything can be used for the purposes of torture and ill-treatment, monitoring and documenting the firearms, less lethal weapons and restraints that can be used for such purposes can assist detention monitors in providing protection to persons deprived of their liberty in several ways. First, some equipment has been deemed to have no use other than torture and ill-treatment and thus has no role in places of detention – and monitors have a unique role to play in recognising and documenting such equipment, where it exists. This is vital, as the presence of such equipment (discussed in Section 1) amounts to a heightened risk of detainees in the facility in question being subjected to torture or other ill-treatment. It is seemingly incompatible with Article 2.1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or UN CAT, which states that *'each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction'* and the United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) (Rule 47), which prohibits the *'use of chains, irons or other instruments of restraint which are inherently degrading or painful'*.

The importance of this issue has been further underscored by the United Nations General Assembly (UNGA) which has called upon all States to *'take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, import and use of equipment that have no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment'* (United Nations General Assembly, 2011, henceforth referred to as the UNGA Torture Resolution). Detention monitors can help States to fulfill this resolution by documenting when such equipment is used (or otherwise found) in places of detention, and recommending its prohibition, in line with international norms and standards. Furthermore, in cases where this equipment has been imported into the country in question, documenting its presence (and, as we shall see in Sections 1 and 2, any markings on the equipment) can help contribute to the UNGA Resolution's focus on prohibiting the international trade in such items.

Second, whilst some equipment has no use other than torture or ill-treatment, other equipment (for example, handcuffs and batons) can have a legitimate function in places of detention, but can also easily be used for torture and cruel, inhuman and degrading treatment and punishment. The UN Special Rapporteur on Torture, Professor Nils Melzer (2017: point 52), has noted that *'weapons that might not be inherently cruel, inhuman or degrading may nonetheless carry significant risks of being used in a manner contrary to the prohibition of torture and cruel, inhuman or degrading treatment or punishment, thus placing particular emphasis on the requirement of precautions'*. A former UN Special Rapporteur on Torture (2005a) also noted that the *'vast majority'* of cases seen by his office *'have involved the misuse of those instruments, legitimate in appropriate circumstances, to inflict torture'*, and considered that *'the obligation to prevent torture in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment necessarily includes the enactment of measures to stop the trade in instruments that can easily be used to inflict torture and ill-treatment'*. He further noted that there is a role for torture prevention monitors in examining *'the situation of trade in instruments used for torture in the course of his/her country visits and transmit communications to Governments concerning allegations of trade in security and law enforcement technology easily used for torture'* (Special Rapporteur on Torture, 2005a). At the regional level, Article 14 of the Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa (henceforth Robben Island Guidelines) notes that *'states should prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends'* (emphasis added).

Paying attention to the misuse of legitimate law enforcement techniques for torture and ill-treatment, including through using the methodologies and checklists outlined in this guide, has the potential to bring many benefits, including being able to recognise whether:

- The equipment is being issued, carried and used appropriately, and only in suitable circumstances. This can help to minimise inappropriate use and enhance accountability where misuse has occurred, as well as

contribute to a more positive environment and improved relations between detainees and staff.

- The weapons and restraints are stored and secured effectively, safely and in ways which minimise risk to officers and detainees, and are in keeping with international standards. For example, ensuring that there are procedures to dispose of out of date ammunition is important, as many weapons - including rubber bullets and chemical irritants - have an expiry date, after which they may present a higher injury risk or, conversely, may become less effective.
- The firearm, less lethal weapon or restraint itself contains characteristics of concern, which may make its deployment more problematic, enhance the risk of injury and/or have implications for proportionality and necessity of its use. For example, there is wide variation in the amount of the active chemical irritant that sprays can contain, with certain commercially available formulations being many times stronger than others, meaning that inmates may be exposed to a higher degree of chemical irritant than is necessary. Studies have also found that some of the solvents and carriers used in the sprays are suspected carcinogens, are toxic and can cause corneal erosion and other side effects (Holopainen et al 2003, Rappert 2003). Such factors can help inform discussions around whether current policy and practice is appropriate, and may help in assessing medical implications, and in identifying less harmful options available to places of detention.

Third, being able to independently document and research the presence and use of firearms, less lethal weapons and restraints in places of detention -and the suitability of any such equipment found - can help to further safeguard the independence of monitors, by ensuring that they are not reliant on information provided by the authorities in their enquiries. It may also help monitors to corroborate allegations of torture and ill-treatment made by detainees if, for example, a particular piece of equipment alleged to have been used in the incident is later found elsewhere on the premises, and monitors are able to match the features on the weapon or restraint to those recounted by the detainee. Documenting such weapons, including through using the tools and checklists provided here, is thus not only a way to help monitor the implementation of the Convention Against Torture or the Nelson Mandela Rules (including the requirement in Nelson Mandela Rule 36 that 'discipline and order shall be maintained with no more restriction than is necessary') - but from a practical perspective also provides a relatively quick and easy way for monitors to capitalise upon, and add additional value to, the time they are already spending, and observations they are already making, in places of detention.

## The structure of the Guide

This document can be read as a whole, or in sections, should monitors wish to follow up a particular area of concern in a particular place of detention. It is likely that certain sections of this document

may be more relevant in some places of detention than others (for example, in some facilities detention monitors may wish to follow up the storage of and access to firearms, whilst this may not be an issue in other facilities) and the Guide has been designed to allow monitors to easily refer to particular sections of interest, and to signpost to additional resources that deal with particular topics in more depth.

Section 1 is concerned with absolute prohibitions contained within international norms, standards and statements made by international and regional monitoring bodies: namely, i) firearms, less lethal weapons and restraints that are deemed to be inappropriate for places of detention and ii) places of detention where weapons must not be used. Section 2 is concerned with firearms, less-lethal weapons and restraints that may have a role to play in places of detention, but that can be misused for torture and ill-treatment. It focuses, in turn, on:

- *Issues prior to use.* What do international norms and standards say about how different weapons should be stored and kept? How and when should they be issued and carried? What should monitors look out for when visiting the armoury and when documenting weapons and ammunition located there, and elsewhere on the premises? When should regulations be established for different types of weapons? What training should be given on their use?
- *Standards and thresholds for use.* What do international norms, standards and statements by detention monitoring bodies tell us about when it might be more or less appropriate to use different types of equipment, under what circumstances and with what limits?
- *Issues post-incident / after the use of a weapon:* what action should be taken by officials after use of the weapon? What reporting should be done, when and how? What accountability mechanisms should be in place?

Many of these elements are common to all weapons but where this is not the case, each of these sections is further sub-divided by weapon type.

Throughout sections 1 and 2, a series of text boxes set out practical guidance and suggestions on how to monitor and document these issues and standards. These text boxes set out questions that monitors may wish to consider asking, observations they may wish to make, features they may want to record about the weapons in use, and records that they may wish to access should they wish to follow up on any of the points raised in the text. The intention is that readers can thus quickly identify how to follow an issue of concern by finding the relevant section of the text (but can also read cover to cover, should they so wish).

Section 3 builds on this foundation by providing a further practical tool to assist monitors working in this area. Specifically it provides a detachable pocket friendly guide or aide-memoire, suitable to

take into places of detention, with key observations and questions that can usefully be posed at different locations in the detention centre (e.g. when in the armoury, when on tour of the prison, when speaking to detainees and staff). The pocket-guide aims to relay, in a user-friendly format, some of the key questions and observations listed in Parts 1 and 2. However, given space limitations it does not include the full list of questions and observations detailed within, so should ideally be consulted together with the rest of this document. Finally, a list of useful resources is provided in Section 4.

## Section 1: Absolute Prohibitions

### Section 1.1: Weapons and restraints whose use is prohibited in places of detention.

#### Restraints:

Rule 47 of the Nelson Mandela Rules prohibits the use of 'chains, irons or other instruments of restraint which are inherently degrading or painful'. Whilst there is no agreed definition of chains, irons or 'inherently degrading or painful' restraints in the Nelson Mandela Rules, it seems likely that this includes:

- *Weighted restraints.* The former UN Special Rapporteur on Torture (2006), on his mission to China, has noted that the practice of applying 'leg irons weighing approximately 3 kg, 24 hours per day and in all circumstances' is inhuman and degrading. The UNODC and UNOHCHR Resource Book on the Use of Force and Firearms in Law Enforcement (2017, henceforth referred to as the UNODC / UNOHCHR Resource Book), also notes that 'there should be an absolute prohibition on weighted restraints'.
- Restraints which have a *fixed, rigid bar between cuffs.* For example, leg restraints which have 'an iron bar riveted to shackles, keeping the prisoner's legs permanently apart at the bar's length' have been described as 'inherently inhuman and degrading' by the former UN Special Rapporteur on Torture (2003, paragraph 9).
- Restraints where the cuff cannot be adjusted (i.e. where the size of the cuff is fixed). For example the UNODC and UNOHCHR (2017) note that 'there should be an absolute prohibition on... nonadjustable (restraints) such as fixed rings'.
- *Thumb-cuffs, finger-cuffs, thumbscrews and finger-screws.* The UN Special Rapporteur on Torture (2017, point 51) cites thumb and finger-cuffs and screws as examples of 'inherently cruel, inhuman or degrading weapons'. The EC Regulation 1236/2005 and amendments, henceforth referred to as the EU Torture Regulation, is a regional trade regulation which prohibits the import and export of goods with 'no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment'. It defines these restraints as falling in that category.

• *Fixed restraints* - that is, cuffs 'designed to be anchored to a wall, floor or ceiling'. The EU Torture Regulation has deemed these restraints to have 'no practical use other than for... the purpose of torture and other cruel, inhuman or degrading treatment or punishment'. The Committee for the Prevention of Torture (CPT) noted that handcuffing detained persons to 'fixed objects' is a 'matter of long-standing concern' and has called upon authorities to remove 'fixtures such as metal rings and floor to ceiling bars clearly designed for this purpose' (CPT 2010: 15 - 16).

• *Cage beds and net beds.* The European Union has ruled these restraints to have 'no practical use other than for the purpose of torture and other cruel, inhuman or degrading treatment or punishment' (EU Torture Regulation) and the CPT (2017: 3) has stated, in its Revised CPT Standards for Means of Restraint in Psychiatric Establishments for Adults that 'the use of net (or cage) beds should be prohibited under all circumstances'.

• *Restraint chairs, shackle boards and shackle beds* (chairs, boards or beds fitted with shackles or other devices to restrain a human being). The Special Rapporteur on Torture (2014) has noted that restraint chairs are 'inherently inhuman, degrading or painful' and the European Union has noted that the trade in 'restraint chairs, shackle boards and shackle beds' should be prohibited, given the 'inherent risk of torture or inhuman treatment', although there is an exception for 'chairs, boards and beds fitted exclusively with straps or belts... as in certain circumstances their use may be justified for short periods of time' (EU Torture Regulation).

#### Weapons:

• Body worn electric-shock weapons (equipment designed to be worn on the body, often around the arm, leg, or waist, which delivers an electric-shock by remote control) have been deemed inappropriate for use by a number of bodies including the UN Committee Against Torture, the Special Rapporteur on Torture and the CPT (Committee Against Torture 2000; UN Special Rapporteur on Torture 2017; Council of Europe 2010).

• *Spiked batons and spiked shields.* The UN Special Rapporteur on Torture (2017, point 51), cites spiked batons and spiked shields as an example of 'inherently cruel, inhuman or degrading weapons'. The European Union (EU Torture Regulation) state that they have 'no practical use other than for... the purpose of torture and other cruel, inhuman or degrading treatment or punishment'. Certain whips, specifically those with multiple lashes or thongs, and those fitted with 'barbs, hooks, spikes, metal wire or similar objects enhancing the impact of the lash or thong' are also deemed to fall into this category. (As the EU Regulation is a trade control regulation, it does not prohibit the trade in whips altogether, but this should not be taken as implying that whips have a legitimate role in places of detention).

- *Some launched kinetic impact projectiles:* UNODC/UNOHCHR Resource Book states that 'weapons that fire multiple projectiles at the same time, or that otherwise cannot be targeted at a specific individual, should never be used due to the risk of injury to bystanders'.
- *Automatic firearms:* The UNODC/UNOHCHR Resource Book states that 'an automatic firearm will continue to fire as long as the trigger is pressed until the magazine is empty... Law enforcement officials should not use their firearms in fully automatic mode... in view of the great risk of death or serious injury to people that do not pose an imminent threat to life... Equipping officers with such weaponry is incompatible with the Basic Principles on the Use of Force and Firearms' (henceforward referred to as the Basic Principles)'.

## Section 1.2: Places of detention where weapons must not be used

The UN Rules for the Protection of Juveniles Deprived of their Liberty (Rule 65) notes that 'carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained' – although the term 'weapon' is not defined, and so it is not clear precisely what equipment is covered by this provision. Restraints are not automatically prohibited, but can only be used in the 'exceptional cases' (Rule 64) discussed in Section 2.2.6 of this document. Similarly, the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (2015) prohibits 'the carrying and use of weapons by personnel in any facility where children are detained' (Model Strategy 39d) and 'any form of violence or threats of violence against children by staff of places of detention in order to force children to engage in activities against their will' (Model Strategy 39f).

It should be noted that this list is not exhaustive, indeed, the current UN Special Rapporteur on Torture, Professor Nils Melzer (2017, point 51) has noted that 'a weapon has to be considered as inherently cruel, inhuman or degrading if it is either specifically designed or of a nature (that is, of no other practical use than) to: (a) employ unnecessary, excessive or otherwise unlawful force against persons; or (b) inflict pain and suffering on powerless individuals'.

### Checklist for detention monitors: Documenting prohibitions on carrying weapons in places of juvenile detention, and on certain types of weapons

- 1) Are weapons carried, used, or authorised for use in facilities where juveniles are detained?
- 2) Are any of the restraints in use, or authorised for use, 'inherently degrading or painful'?
- 3) Are detainees restrained to fixed objects, and / or do regulations authorise this practice? Are there fixed installations (e.g. metal rings) which could be used for restraining detainees?
- 4) Are the restraints weighted and / or do they have a rigid bar between the leg restraints? Is it possible to adjust the size of the cuffs, to prevent injury from the application of cuffs that are too small / tight?
- 5) Are restraints that are designed to be applied to the thumbs or fingers authorised for use, or otherwise used, in places of detention?
- 6) Are cage beds or net beds authorised for use, or otherwise used, in places of detention?
- 7) Are restraint chairs, shackle boards and shackle beds authorised for use, or otherwise used, in places of detention?
- 8) Are body worn electric shock devices authorised for use, or otherwise used, in places of detention?
- 9) Are spiked batons and shields authorised for use, or otherwise used, in places of detention?
- 10) Are whips, in particular those with multiple lashes and / or those fitted with objects to enhance its impact authorised for use, or otherwise used, in places of detention?

## Next Steps: Following up on Section 1 - Prohibited equipment

If you have found weapons or restraints in places of detention, including equipment that is prohibited, there are a number of useful steps you may wish to consider taking, including:

- 1) Closely documenting the weapon or restraint by making a note, sketch and / or photo of:
  - The feature of the equipment in breach of international standards (for example, the number and location of spikes in the case of spiked batons, the position and length of rigid bars or weighted elements on hand and leg restraints).
  - Markings (text and numbers) and / or logos on the weapon (which may indicate country of origin, manufacturer, serial number). This can help identify what the weapon and ammunition is, and which companies supplied and / or manufactured it.
  - Dates, which may indicate its expiry date and / or when the equipment was manufactured (which can be used to work out its expiry date).
  - The colour(s) of the weapon and/or ammunition - including the background colour, any coloured bands or logos that may be on the weapon, and the colour of any texts or logos. This can help to identify the contents of the weapon and can also aid in identifying the supplier and manufacturer of the equipment.
  - A photo (or sketch) of the weapon or equipment as a whole, recording its overall shape, the position of key features (for example, the number of barrels it has, where the trigger is) and any unusual or distinguishing features (for example, any marks or ribbing that may be on the weapon or ammunition).
  - The size of the equipment. If you don't have a ruler to hand, you can indicate size by comparing it to a common object (for example, a pen or a coin).
  - Document the weapon or ammunition from all angles, including from the sides and the top and bottom of the equipment, if you are able to do so safely.

This may help provide additional confirmation of:

- Whether the equipment was locally manufactured or imported (and, if so, from where) – a key issue with regards to the UNGA Torture Resolution, and the Robben Island Guidelines, both of which seek to prohibit the production of, and trade in, torture equipment. Depending on the type of equipment and the country of origin, the export may also be in breach of national or regional trade control regulations (for example, EU 'Torture Regulation').
- Which companies manufactured and / or supplied the equipment, and from which countries. This is useful to support the UNGA Torture resolution and to document equipment that may have been transferred in breach of national or regional trade controls.
  - 2) Investigating the regulations and policies surrounding its issue and use, and investigating whether, in practice, the equipment has actually been i) issued, and ii) used by officials, cross referencing with use of force records, and armoury records, where available.
  - 3) Raising the issue with the relevant authorities, bringing their attention to relevant texts and statements by international and regional bodies (detailed above) in support of a prohibition, and asking for details of: stocks of the equipment, when they were ordered and received, and from where they were obtained.

In addition to following up with the prison authorities directly, such information can be further utilised by:

- Approaching the country of origin (including trade control departments) and the manufacturer directly.
- Reading relevant procurement, tender and award documents for further details of the equipment in use, the manufacturer and supplier, the number of units ordered and the dates ordered and received.
- Checking whether national or regional trade controls in the country of origin prohibit the export of this equipment, or require a license.
- Using the further sources of information listed in the last section of this Guide to assist with researching particular topics.

## Case study: electric-shock belts in Hungary

The proposed introduction of electric-shock belts in Hungary provides an illustration of how this process can work in practice, and the value it can add in the prevention of torture. In 2005, the (CPT) was informed that electric-shock belts were to be introduced in all Hungarian prisons and police establishments by the end of the year. The CPT found that the belts 'constitute a potentially dangerous and inhumane means of treating detained persons' and called for 'detailed information on the Hungarian authorities' plans to introduce... (them) and, in particular, on the training provided to staff, the concrete circumstances in which the use of this equipment is envisaged, and any instructions which have been issued in this respect' (CPT 2006b).

This facilitated further enquiries by the CPT, Amnesty International and Omega (Amnesty International and Omega Research Foundation 2012) which resulted in the Hungarian Trade Licensing Office stating that 'the Hungarian Prison Service Head Office... informed us that the electric shocking belts have never [been] in use' and that the Prison Service are

'examin(ing) the possibilities of the verifiable destroying of the devices'.

The plans to introduce shock belts also had possible trade controls implications as, under the EU Torture Regulation, electric-shock belts are classified as having 'no practical use' other than torture and ill-treatment and are thus subject to an import and export prohibition to and from European Union member states. However, the Hungarian authorities had informed the CPT of the introduction of the belts prior to the entry into force of the Regulation and stated that 'no such... goods (were) imported after... (it) entered into force'. In this case, paying attention to the weapons and restraints authorised for use in places of detention revealed the planned introduction of equipment deemed to have no use other than torture and ill-treatment and enabled preventative action to be taken before the devices were used. Subsequent enquiries, including to the prison authorities and to trade control officials, resulted in further assurances that the equipment had never been used, had not been imported in breach of trade control legislation and that efforts were being made to destroy them.

## Section 2: Equipment that should be monitored in places of detention

Whilst some equipment is prohibited outright in places of detention, firearms, less-lethal weapons and restraints that are not subject to prohibition can nevertheless be misused for torture and ill-treatment (as noted above) and therefore require careful monitoring. Whilst such weapons and restraints can often be found in prisons and police stations, they can also be used in a wide range of other detention settings, including healthcare, mental health settings and psychiatric units.

For the purposes of this Guide, distinctions can be made between:

- Firearms, commonly defined as 'any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive' (UN Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, Article 3a). Weapons falling into this category include automatic and semi-automatic weapons, shotguns (often used to fire a large number of small pellets simultaneously) and handguns (e.g. pistols). Whilst firearms are often considered to be synonymous with deadly force, it should be noted that their use does not always result in death, and that some so-called 'less lethal weapons' have been found in practice to have deadly effects, under certain circumstances.

- Less lethal weapons are those which are designed to 'subdue or incapacitate' rather than to cause 'serious harm or death' (Bozeman and Winslow, 2005). A range of different weapons can come into this category, including:

- Electric-shock weapons, which deliver their effect via the application of electricity. These include projectile electric-shock weapons, which deliver a potentially incapacitating electric-shock through a series of probes and wires and can be used at a distance (such as Taser-brand weapons). It can also include 'stun guns' or 'stun batons' - sometimes referred to as direct contact electric-shock weapons - which deliver an electric-shock when pressed directly against an individual. Unlike projectile electric-shock weapons, they are not designed to produce incapacitation, instead using the pain of the electric-shock to deliver an effect.

- Kinetic impact weapons and ammunition (sometimes referred to as 'rubber bullets') which are designed to exert an effect by the force of their physical impact and are intended to deliver blunt trauma and pain compliance to subdue the subject (Omega Research Foundation, undated). Kinetic impact weapons come in a range of calibres and sizes and fire a range of ammunition, including plastic, rubber, wooden and foam projectiles. Some firearms can also be converted to fire this ammunition. Hand-held batons (tonfas) would also come into this category, as they also rely on kinetic impact.

- Chemical irritants (also referred to as 'tear gases', or 'riot control agents'), which are designed to temporarily deter or disable by producing sensory irritation of the eyes and upper respiratory tract, with these effects intended to disappear within a short time following termination of exposure. A number of chemicals are used, most commonly CS, OC/Pepper and PAVA. They can be delivered in a variety of ways, including via hand-held sprays, larger 'back-pack' style sprays, grenades and projectiles that are fired from launchers, and fixed position dispensers which deliver irritants into a set area.

- Instruments of restraints, defined by the APT and PRI (2015) as external mechanical devices designed to restrict or immobilise the movement of a person's body, in whole or in part. They can vary according to which parts of the body, and how many parts of the body, they are designed to restrain, the material they are made out of, and other design features.
- Chemical restraints, defined by the CPT (2017: 2) as the 'forcible administration of medication for the purpose of controlling a patient's behaviour'.

Having given a brief overview of the different types of equipment, the document now details areas that monitors may wish to consider:

- *Prior to the use of these weapons and / or restraints.* For example, how should the weapons and restraints be stored and kept? What regulations and training should be established?
- *Standards and thresholds for use.* What clauses should policies and procedures contain? When might it be appropriate to use different types of equipment, under what circumstances and with what limits?
- *Post-incident:* what action should officials take after the use of the weapons and / or restraints? What reporting should be done, when and how? What accountability mechanisms should be in place?

## Section 2.1: Considerations Prior to Use

### Section 2.1.1: Storage, Issuing and Stock Management procedures

#### Firearms.

The United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Section 2, para 17) states that signatories undertake to ensure that any 'body authorized to hold small arms and light weapons establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons'. These principles are reinforced by the Basic Principles, which state that regulations should 'regulate the control, storage and issuing of firearms, including procedures for ensuring that ... officials are accountable for the firearms and ammunition issued to them' (para 11d).

The UN Co-ordinating Action on Small Arms (2012, henceforth referred to as the UN Co-ordinating Action) deals with the issue of firearms storage specifically, recommending that 'physical security of weapons... should be achieved by the use of an armoury, a secure room or... a secure cabinet'. It also recommends that 'risk assessments of all facilities in which small arms and light weapons are stockpiled shall be carried out...(and) renewed' as required. It further stresses, amongst other issues, the need to regularly check the stocks of firearms that are being held in the secure facility, and the importance of reporting, and independently investigating, any losses that may occur. It recommends that the quantity and type of weapons is checked every day (in the case of places holding a small number of weapons), that a check against the serial number is conducted on at least 10% of the weapons every week, and that all stock is checked every six months, and whenever the custody of keys is permanently transferred between an in-coming and outgoing key custodian. The UN Co-ordinating Action also stresses the importance of effective record keeping, noting that there should be a register documenting the removal of firearms, and that 'only authorized officials shall remove small arms and light weapons from storage areas'.

### Checklist for detention monitors: International standards on the Storage and Stock Management of Firearms

- 1) Is there a dedicated, secure space – no matter how small for storing firearms?
  - Date and time of issue and return of weapon(s);
- 2) Is there an up-to-date risk assessment, which has been produced and effectively implemented? Does it satisfactorily cover various risks, as identified by the UN Co-ordinating Action on Small Arms, including:
  - Make, model and serial number of weapon(s) removed and returned; and
  - Purpose of removal of weapon(s).
  - The number of rounds issued and returned with the weapon?
- 3) Is there a register for the removal and return of firearms, which details:
  - Any physical threat posed by the weapons to the local population;
  - The financial value of the facility and its contents;
  - Active hazards to the security of weapons and their frequency (e.g. loss, theft);
  - Damage or destruction due to sabotage or other forms of attack;
  - Passive hazards and their frequency (e.g. natural disasters);
  - The attractiveness of a facility to an internal or external attack;
  - Vulnerability to espionage, theft or loss;
  - Vulnerability to sabotage or terrorist attack?
- 4) Are the stocks of firearms regularly checked, including whenever custody of keys is permanently transferred between an in-coming and outgoing key custodian?
  - identity of the weapon, including its make, model, calibre, serial number, and country of manufacture or most recent import;
  - date, location and unit involved;
  - summary of circumstances of loss;
- 5) Are suspected losses or theft of weapons immediately reported? Are independent investigations conducted, and a report compiled, which includes the:
  - explanation of loss (e.g. negligence, theft, etc.);
  - disciplinary and/or criminal action taken;
  - recommendations to prevent a reoccurrence;

#### Less lethal weapons and restraints.

The UNODC /and UNOHCHR Resource Book (2017: 100, emphasis added) states that ‘control, storage and registration, and issuing of firearms and ammunition, but also of tasers, and rubber and plastic bullets, should be strictly regulated’. Building on this, it might be considered that the standards recommended for the storage of firearms—such as ensuring that the equipment is securely stored, only removed by authorised personnel as documented in a register, and that officials are accountable for the equipment and ammunition issued to them—could usefully apply to the storage of less-lethal weapons and restraints more broadly.

In addition the following practices, whilst not the subject of international standards, could be considered to be good practice and to have a practical utility:

- Firearms (and / or less lethal launchers) should be stored separately from ammunition, in case of unauthorised access to the armoury.
- Firearms, training ammunition and less-lethal ammunition should be kept separate and clearly marked, given the potential

for confusion when loading rounds.

- In cases where one weapon can fire multiple kinds of ammunition, these should be kept separate from each other, and should be clearly marked.
- Ammunition (whether lethal rounds, rubber bullets or tear gas) should be checked regularly in order to ensure it is still in date, and in order to allow sufficient time to replenish stocks in advance of expiry dates, should this be necessary.
- Weapons should be checked regularly to ensure that they are functioning correctly and to assess whether they are within the manufacturer’s warranty (where appropriate), to help reduce risks associated with their use.
- Monitors may wish to note whether the ammunition is made by the same company that has manufactured the weapon, as less-lethal weapons may be designed to be used only with specialist ammunition provided by the manufacturer. However, alternative suppliers may provide ammunition other than that recommended by the weapon manufacturer. This should be documented for, as the UK’s College of Policing (2017) have noted, ‘any change, or addition to any part of the system, can

have implications... (for its) less lethal nature’.

### Section 2.1.2: When should the weapons be issued

Carrying weapons in places of detention should not be a routine measure and, as such, they should seldom be issued. The Nelson Mandela Rules (Rule 82.3) note that, ‘except in special circumstances, prison staff performing duties which bring them into direct contact with prisoners should not be armed’. Whilst this would seem to prohibit the routine carrying of firearms, it is not immediately clear whether this provision applies just to firearms, or also extends to less lethal weapons. However, some monitoring bodies have argued for a broad interpretation. For example, the CPT have noted that ‘preferably, custodial staff should not carry batons at all. If, nevertheless, it is considered indispensable for them to do so, the CPT recommends that the batons be hidden from view’ (CPT 1999). The European Prison Rules (69.1 and 69.2) note that; ‘except in an operational emergency, prison staff shall not carry lethal weapons within the prison perimeter’ and that ‘the open carrying of other weapons, including batons, by persons in contact with prisoners shall be prohibited within the prison perimeter unless they are required for safety and security in order to deal with a particular incident’.

Moreover, as noted in Section 1, the carrying and use of weapons is prohibited in any facilities where juveniles are detained.

#### Checklist for detention monitors: Carrying weapons.

- Do staff carry firearms as a routine measure? If so, how often and under what circumstances?
- Do staff carry any less lethal weapons routinely? For example, batons, chemical irritant sprays (e.g. pepper spray)? If so, how often and under what circumstances?

### Section 2.1.3: Establishing Policies and Procedures

International standards and bodies have deemed it important that regulations are set around the use of force including, but not limited to, the use of firearms. The Basic Principles (Principle 11a) state that ‘the circumstances under which law enforcement officials are authorized to carry firearms and... the types of firearms and ammunition permitted’ should be specified in regulations. It is not just firearms that require detailed, specific regulations: the SPT (2013) has previously noted that authorities should ‘establish clear rules about the use of weapons within prisons, so as to ensure that they are used in strict conformity with the principles of proportionality and necessity’. Similarly, the European Prison Rules (Rule 65) states that ‘there shall be detailed procedures about the use of force including stipulations about: the various types of force that may be used; the circumstances in which each type of force may be used; the members of staff who are entitled to use different types of force; the level of authority required before any force is used; and the reports that must be completed once force has been used’.

Nor is the need for clear guidance around use of force and restraint restricted to prisons; the CPT (2017: 3) have stated the need for clear guidance in other places of detention, including psychiatric establishments. They have noted, for example, that ‘every psychiatric establishment should have a comprehensive, carefully developed policy on restraint... Such a policy should be aimed at preventing as far as possible the resort to means of restraint and should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated’. Similarly, the UNODC/OHCHR Resource book notes that ‘clear guidelines should be provided for in law on the conditions and circumstances under which force may be used against persons deprived of their liberty’ more generally. Hence these provisions, and the need for clear rules about the use of particular weapons, are useful not only in prison contexts, but are relevant for any detention setting where weapons, or other force, may be used.

As well as setting out clear standards for the use of force, the UNODC/OHCHR Resource book also notes that ‘it is good practice to specify in the regulations on the use of force the circumstances or cases when the use of force is not lawful and therefore is prohibited... In some countries... (policies) explicitly list what kind of force is prohibited by the police, providing detailed examples such as the prohibition to hit someone’s head against a wall. This can be a good practice in particular as a tool to address patterns of unlawful, arbitrary or excessive use of force within a law enforcement agency’ and in detention settings more broadly.

The Basic Principles (Principle 11c) do not prohibit the use of firearms and ammunition per se, but do state that regulations should ‘prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk’. It does not define, however, the firearms and ammunition intended to be covered by this provision, or whether it should also be interpreted so as to include less lethal weapons, many of which may also fire ammunition, and may also cause ‘unwarranted injury or present an unwarranted risk’. Amnesty International’s close reading of the Basic Principles (Amnesty International 2015) argues that lethal and / or less lethal equipment should be prohibited if it meets one or more of the following criteria:

- Is found to be inaccurate enough to carry a great risk of causing significant injury including to persons other than the targeted person (e.g. pellet firing shot guns, certain kinetic impact projectiles such as rubber balls).
- Causes harm which is disproportionate to the objective (e.g. carries a high risk of causing death, despite being considered to be less lethal, such as rubber coated metal bullets);
- Aims to achieve an objective that is equally achievable with a less harmful device (e.g. thumb-cuffs vs. ordinary handcuffs, spiked batons vs. ordinary batons);
- Is highly abusive (electric shock devices that do not have a cut-off point, electric stun guns that act as a direct contact weapon)’.

### Section 2.1.4: Training

International standards emphasise the importance of giving officers appropriate training on any use of force equipment they may have access to, or occasion to use. The Basic Principles (Principle 19) note that 'Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the

#### Checklist for detention monitors: establishing policies and procedures on the use of force.

- 1) Are there clear, detailed regulations for the use of force, including regulations for all weapons (including firearms and less lethal weapons) authorised for use?
- 2) Do these regulations specify:
  - the various types of force that may be used;
  - the circumstances in which each type of force may be used;
  - the members of staff who are entitled to use different types of force;
  - the level of authority required before any force is used; and
  - the reports that must be completed once force has been used

For more detail on what might constitute appropriate content of the regulations / appropriate circumstances in which particular types of force might be used, please see the next section.

- 3) Do regulations prohibit firearms and ammunition which cause unwarranted injury or risk?
- 4) Do these regulations ensure that only authorised equipment, as set out in the regulations, may be used in places of detention? This helps to clarify that it is not permissible for officials to use equipment that has not been authorised, or to use equipment that has not been designed for use on humans. It also helps to clarify that whilst the personal ownership of certain less lethal weapons (for example, electric-shock weapons) for civilian self-defence purposes may be legal in some countries, these are not suitable for use in places of detention.
- 5) Do the regulations set out circumstances or cases where the use of force is prohibited?

use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use'. Similarly, the Nelson Mandela Rules note that officials should be trained in 'use of force and instruments of restraint' (Rule 76.1c) and that 'prison staff should in no circumstances be provided with arms unless they have been trained in their use' (Rule 82.3). Such principles can be usefully applied not just to prison and law enforcement officials, but to any staff member using force on detainees (including, for example, staff working in mental health settings or in immigration detention).

Consideration should also be given to the content of training given to officers in places of detention. It is important that training does not *just* ensure that officers are proficient in use of the weapon, but that it also covers a broader range of issues around the use of force. The Basic Principles (Principle 20) specify that training should 'give special attention to issues of police ethics and human rights... to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms' and that 'training programmes and operational procedures' are 'reviewed' in light of 'particular incidents'. The Nelson Mandela Rules note that training should cover 'security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation' (Rule 76.1c). UNODC/OHCHR Resource book notes that, among other elements, training on use of force should be 'scenario-based, with emphasis on those scenarios that the new recruit is most likely to encounter in practice' and should cover the 'relevant legal and ethical framework for... use of force... and the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment', 'personal safety and stress management' and cultural awareness and sensitivity to diversity, including gender awareness and awareness of child-related issues.

Training should not be seen as a one-off but should be 'reinforced by regular refresher training' (UNODC/OHCHR Resource book 2017: 79). The UN Special Rapporteur (2017; point 66) has also stressed the need to 'regularly monitor the effectiveness of such training in preventing torture and other cruel, inhuman or degrading treatment or punishment and other human rights violations'. Article 11 of the Convention Against Torture notes that 'each State Party shall keep under systematic review interrogation rules, instructions, methods and practices... with a view to preventing... torture'.

#### Checklist for detention monitors: providing training on the use of force.

- 1) Are firearms, less-lethal weapons and restraints issued only to staff who have been trained in their use, and who have passed appropriate proficiency standards?
  - Realistic scenarios?
  - Alternatives to the use of force and firearms, such as preventive and defusing techniques to assist in the management of violent offenders?
  - Cultural awareness and sensitivity to diversity, including gender awareness and awareness of child-related issues?
- 2) Does the training given to staff include the following elements:
  - Technical proficiency in the use of force technique in question?
  - Legal, ethical and human rights framework, including the absolute prohibition on torture and cruel, inhuman or degrading treatment or punishment?
  - Security and safety, including the concept of dynamic security, personal safety and stress management?
- 3) Do staff undergo regular refresher training?
- 4) Is the content of the training reviewed regularly, and in light of particular incidents?

### Section 2.2: Policies, Procedures and Thresholds for Use

#### Section 2.2.1: Firearms

The Basic Principles (Principles 9 – 11 and Principle 16) state, in part, that 'law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives'. They further note that 'intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life' and that, when used, they shall be used 'in a manner likely to decrease the risk of unnecessary harm' – although the issue of harm to whom is not specified (but has been broadly interpreted to include harm to third persons, see Amnesty International 2015). They note that warnings should be given, with sufficient time for the warning to be observed, 'unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident'. As the UNODC/OHCHR Resource book (2017: 98) notes, though, warnings should not be interpreted to include warning shots. Indeed, it notes that 'warning shots should be avoided as they carry serious risk of causing damage or injury. Indeed, it is good practice to prohibit warning shots altogether'.

The Inter-American Commission on Human Rights (2013) has stated that 'in cases of flight or escape of persons deprived of their liberty, the State must employ all non-lethal means at its disposal to recapture the offenders and may only use lethal force in cases of imminent danger in which prisoners attempting to escape react against prison guards or third parties with violent means that threaten their lives. Therefore, there is no ethical or legal justification for a so-called 'escape law' legitimizing or empowering prison guards to

automatically fire on prisoners attempting to escape.' The Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Guideline 25) similarly 'limits the use of firearms for reasons of self-defence or the defence of others against the imminent threat of death or serious injury'. The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (Principle 23) states that 'personnel shall be forbidden to use firearms or other lethal weapons inside places of deprivation of liberty, except when strictly unavoidable in order to protect the lives of persons'. Thus, as a former Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Professor Christof Heyns has noted, 'the guiding principle in respect of the lethal use of force or firearms is defence of one's own life or that of others'. He further notes that 'lethal force may be used intentionally only if the objective is to protect life, and less harmful measures are inadequate' (UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions 2010, Point 60).

### Checklist for detention monitors: The use of firearms.

- 1) Do policies and procedures governing the use of firearms clearly specify the circumstances under which staff are permitted to carry firearms?
- 2) Do policies and procedures around the use of firearms in places of detention state that they should only be used in situations where there is an imminent threat of death or serious injury - i.e in order to protect life - and only if less harmful measures are inadequate? Do they specify that, when the threshold for their use has been met, they should be used in a 'manner likely to decrease the risk of unnecessary harm'?
- 3) Do policies and procedures specify that warnings should be given, unless this is clearly inappropriate (given the specific circumstances detailed above)?

### Section 2.2.2: Less lethal weapons: General provisions

General provisions around the use of less lethal force, including less lethal weapons, state that they can only be used in a limited number of circumstances, for example to maintain security and order, to prevent escape and in self-defence or in the defence of others. However, in order to be justifiable, when force is used in such circumstances it must be exceptional, strictly necessary, proportionate to the circumstances faced, and a last resort (as well as lawful, which we have discussed above, and accountable, which we discuss in the next section). For example:

- The Code of Conduct for Law Enforcement Officials (Article 3) states that officials may use force 'only when strictly necessary and to the extent required for the performance of their duty'.
- The Basic Principles (Principle 16) state that 'law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened'.
- The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (Principle 23) state that officials 'shall not use force and other coercive means, save exceptionally and proportionally, in serious, urgent and necessary cases as a last resort after having previously exhausted all other options, and for the time and to the extent strictly necessary in order to ensure security, internal order, the protection of the fundamental rights of persons deprived of liberty, the personnel, or the visitors'.
- The European Prison Rules (Rule 64) state that 'prison staff shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to a lawful order and always as a last resort. The amount of force used shall be the minimum necessary and shall be imposed for the shortest necessary time'.
- The Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Guideline 25) note that States should 'limit the use of force against persons in police custody or pre-trial detention to circumstances in which force is strictly necessary for, and proportionate to, the need

for maintenance of security and order within the detention facility, or when personal safety is threatened'.

- The UNODC/OHCHR Resource book (2017: 79) states that, 'whenever possible, a warning should be given prior to the use of an instrument of force, if appropriate, and the subject should be allowed to comply before using the weapon'.

Using force on someone who has been restrained, handcuffed or otherwise under control, is of particular concern. The UNODC/OHCHR Resource book (2017: 17) states that 'Law enforcement officials should never... use force against an alleged offender who is already under control, or in police custody—unless in self-defence or defence of others against an imminent threat. When the person subjected to the force has been restrained or is incapable of resisting, additional use of force would be unnecessary, and therefore unlawful. Such use of force may amount to assault and battery, or even torture or ill-treatment'. Similarly, as a former UN Special Rapporteur on Torture (2005b; paragraph 38 - 40) has noted, 'the principle of proportionality, which assesses the lawful use of force to fall outside the scope of CIDT, only applies in situations in which the person concerned is still in a position to use force in turn against a law enforcement official or a third person. As soon as that person ceases to be in a position to resist... (e.g. hors de combat, otherwise unable to resist or flee a premises, is arrested and handcuffed, detained in a police van or cell, etc.), the proportionality test ceases to be applicable and the use of physical or mental coercion is no longer permitted. If such coercion results in severe pain or suffering inflicted to achieve a certain purpose, it must even be considered as torture'.

In addition to these general provisions, monitoring bodies have developed more detailed guidance for certain types of less lethal weapons, indicating the circumstances in which their use may, or may not, be appropriate.

### Section 2.2.3: Chemical Irritants

On Chemical Irritants, the UN SPT has expressed "serious reservations about the use of irritant gases in confined spaces, as it may entail health risks and cause unnecessary suffering" (SPT 2012:128). The CPT has stated that "tear gas is a potentially dangerous substance and there can be no justification for its use against a prisoner in

a confined space such as a cell... prison officers should be able to perform their duties quite effectively without having recourse to this...means of coercion... Only exceptional circumstances can justify the use of tear gas inside a place of detention – but never in a confined space such as a cell – for control purposes, and such exceptional use should be surrounded by appropriate safeguards' (CPT 2009: 92). The UN Special Rapporteur on Torture, Professor Nils Melzer has noted that certain types of chemical irritants 'carry significant risks of being used in a manner contrary to the prohibition of torture and cruel, inhuman or degrading treatment or punishment' (2017: 53). UNODC/OHCHR Resource book further notes that law enforcement officials should 'never use riot control agents against persons who are restrained or confined to a place where they have no escape routes from the chemical... (and) never use riot control agents in confined spaces or expose the same targets to riot control agents several times during a short time period'.

In addition to these important considerations, other considerations of note include; the type and strength of the chemical irritant (which may be of relevance for ensuring that the minimum amount of force is used, and for the effects experienced by the subject), the solvent in which it is carried (an important observation, as some solvents have been found to be toxic and / or are suspected carcinogens), and the way in which it is delivered. For example, there are important distinctions to be made between chemical irritants that are dispersed by handheld sprays, by larger 'back-pack' style systems, by fixed position sprayers, and those that may be fired, in cartridges or grenades, from specialist launchers. Each type of chemical irritant dispenser poses distinct human rights risks (for example, firing tear gas projectiles may present a risk of head injury from direct impact of the projectile or grenade), as well as risks posed from the chemical irritants themselves, that should be carefully managed.

### Section 2.2.4: Electric-shock weapons

The UN Committee Against Torture (2013) has stated that 'electrical discharge weapons should be used exclusively in extreme limited situations where there is a real and immediate threat to life or risk

of serious injury, as a substitute for lethal weapons'. Elsewhere the CPT (2010) has stated that 'the use of electrical discharge weapons should be limited to situations where there is a real and immediate threat to life or risk of serious injury. Recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible. Furthermore, recourse to such weapons should only be authorised when other less coercive methods (negotiation and persuasion, manual control techniques, etc) have failed or are impracticable and where it is the only possible alternative to the use of a method presenting a greater risk of injury or death'.

Important distinctions should also be made between projectile electric-shock weapons, that deliver an electric-shock at a distance by means of projectiles (usually wires and barbs) and contact electric-shock weapons, such as stun guns, stun batons and shock shields. Whilst the former have the potential to incapacitate, the latter must be pressed directly up against an individual and work solely through pain compliance. As such, it has been argued that they are prone to abuse and have less utility than projectile electric-shock weapons – and therefore that their use should be prohibited in places of detention (ISS and Omega Research Foundation 2016). The UN Special Rapporteur on Torture, Professor Nils Melzer (2017: point 54), has noted the issues around the use of both types of electric-shock weapons, in particular the 'risk of cruel, inhuman or degrading treatment or punishment associated with the extra-custodial use of electrical discharge weapons delivering electric shocks through projectiles (for example, tasers), or upon direct physical contact'.

### Section 2.2.5: Kinetic Impact Weapons

On batons, as noted above, the CPT (1999) has noted that 'preferably, custodial staff should not carry batons at all. If, nevertheless, it is considered indispensable for them to do so, the CPT recommends that the batons be hidden from view'. The UNODC/UNOHCHR Resource Book (2017: 81) notes that 'where a law enforcement official has hit someone (with a baton) repeatedly, or whilst on the ground, this may amount to excessive force and should be investigated as such'.

### Checklist for detention monitors: The use of less lethal weapons.

- 1) Do regulations provide that force may only be used in a limited number of circumstances, and that it must be exceptional, strictly necessary, proportionate to the circumstances faced, and a last resort? Are there indications that force is used in keeping with these standards? (For more details on use of force reporting, see the next section).
- 2) Are irritant gases available for use in places of detention and, if so, what kinds? Do the regulations allow the use of irritant gases in confined spaces such as cells, and are there indications that this has occurred?
- 3) Does the detention facility have fixed position chemical irritant dispensers in place? If so, in what circumstances are these authorised, and used?
- 4) Are electric-shock weapons authorised for use in places of detention? Is the use of electric-shock weapons limited, in theory and in practice, to situations where there is a real and immediate threat to life or risk of serious injury?
- 5) Are kinetic impact projectile weapons authorised for use in places of detention? Is the use of these weapons limited, in theory and in practice, to situations 'that meet the criteria for the potential use of lethal force, that is when there is an imminent threat to life or limb'?
- 6) Are batons authorised for use in places of detention?
- 7) What kinds of weapons, if any, are routinely carried by staff?

On launched kinetic impact weapons, the UNODC/UNOHCHR Resource Book notes that; 'although projectiles may be used for the purpose of incapacitating an individual, they should only ever be used when the situation meets the criteria for the potential use of lethal force, that is when there is an imminent threat to life or limb'. The current UN Special Rapporteur on Torture, Professor Nils Melzer has noted that certain types of kinetic impact projectiles 'carry significant risks of being used in a manner contrary to the prohibition of torture and cruel, inhuman or degrading treatment or punishment' (2017: 53).

### Section 2.2.6: Chemical Restraint

The CPT (2017: 3) note that 'if recourse is had to chemical restraint, only approved, well-established and short-acting drugs should be used. The side-effects that medication may have on a particular patient need to be constantly borne in mind'. The UN 1991 Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care further clarify the circumstances in which chemical restraint may be considered, stating that:

- 'Treatment may... be given to any patient without the patient's informed consent if a qualified mental health practitioner authorized by law determines that it is urgently necessary in order to prevent immediate or imminent harm to the patient or to other persons. Such treatment shall not be prolonged beyond the period that is strictly necessary for this purpose' (Principle 11.8).
- 'Every patient shall have the right to be treated... with the least restrictive or intrusive treatment appropriate to the patient's health needs and the need to protect the physical safety of others' (Principle 9).
- Medication 'shall never be administered as a punishment or for the convenience of others' (Principle 10).
- The Principles also note that 'all medication shall be prescribed by a mental health practitioner authorized by law and shall be recorded in the patient's records' (please see Section 2.3 for further details).

#### Checklist for detention monitors: The Use of Chemical Restraints.

- 1) Are there regulations for the use of Chemical Restraints?
- 2) Do they provide that treatment may only be given without consent if 'urgently necessary in order to prevent immediate or imminent harm to the patient or to other persons'?
- 3) What records are kept around the use of chemical restraints?

### Section 2.2.7: Restraints

#### The application of restraints:

The Nelson Mandela Rules (Rule 47.2) state that restraints can only be used when authorised by law, and only in a specific, narrow set of circumstances, namely:

- As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;
- By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.
- Use of restraints in these specific, limited circumstances is not automatically justified and will not necessarily be appropriate. Instead, they should only be used if 'no lesser form of control would be effective to address the risks posed by unrestricted movement' – i.e. when there are no effective alternatives (Nelson Mandela Rules, Rule 48).
- The Nelson Mandela Rules also provide that no more restraint shall be applied than is necessary: 'the method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner's movement, based on the level and nature of the risks posed' (Rule 48). For example, handcuffs and leg cuffs should not be used if the application of handcuffs alone would be sufficient. Also relevant here is the manner in which restraints are applied, with some techniques being more intrusive and painful than others. For example, the UNODC/OHCHR Resource book recommends that 'hog-tying, that is tying someone's hands and legs together at the back, should not be used given the unnecessary discomfort and suffering it causes, as well as the risk of asphyxiation it poses. Hog-tying may amount to cruel, inhuman and degrading treatment or punishment'. Over-tightening of handcuffs has also been raised as a concern, and classified as 'misuse' by the CPT (2008: paragraph 10).
- Moreover, restraints shall only be applied 'for the time period required...(being) removed as soon as possible after the risks posed by unrestricted movement are no longer present' (Nelson Mandela Rules, Rule 48). The CPT (1992: 53) notes that 'in those rare cases when resort to instruments of physical restraint is required, the prisoner concerned should be kept under constant and adequate supervision. Further, instruments of restraint should be removed at the earliest possible opportunity; they should never be applied, or their application prolonged, as a punishment' – something reinforced by the Nelson Mandela Rules, which state that 'instruments of restraint shall never be applied as a sanction for disciplinary offences' (Rule 43.2).

Similar standards apply in other places of detention, with the UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care stating that 'physical restraint... shall not be employed except in accordance with the

officially approved procedures of the mental health facility and only when it is the only means available to prevent immediate or imminent harm to the patient or others. It shall not be prolonged beyond the period which is strictly necessary for this purpose... A patient who is restrained or secluded shall be kept under humane conditions and be under the care and close and regular supervision of qualified members of the staff' (Principle 11).

More recently the CPT (2017), in their Revised Standards for the Means of Restraint in Psychiatric Establishments for Adults have stressed that 'means of restraint should always be applied in accordance with the principles of legality, necessity, proportionality and accountability... Patients should only be restrained as a measure of last resort (ultimo ratio) to prevent imminent harm to themselves or others and restraints should always be used for the shortest possible time. When the emergency situation resulting in the application of restraint ceases to exist, the patient should be released immediately... Means of restraint should never be used as punishment, for the mere convenience of staff, because of staff shortages or to replace proper care or treatment'. The CPT Standards (2017: 4) also state that 'preference should be given to the least restrictive and least dangerous restraint measure. When choosing among available restraint measures, factors such as the patient's opinion (including any preferences expressed in advance) and previous experience should as far as possible be taken into account'.

It should also be noted that the Nelson Mandela Rules (Rule 48) prohibit the use of instruments of restraints on 'women during labour, during childbirth and immediately after childbirth'.

#### Which restraints may be considered for application:

The UNODC/OHCHR Resource book notes that 'metal limb restraints, such as leg cuffs or chains that connect the limbs with chains to handcuffs and belts, should be avoided. Soft restraints should always be preferred'. Similarly, the CPT Standards for the Means of Restraint in Psychiatric Establishments for Adults note that, 'for the purpose of mechanical restraint, only equipment designed to limit harmful effects (preferably, padded cloth straps) should be used in order to minimise the risk of the patient sustaining injury and/or suffering pain. Handcuffs or chains should never be used to immobilise a patient. Patients under restraint should always be face up with the arms positioned down. Straps must not be too tight and should be applied in a manner that allows for the maximum safe movement of the arms and legs. The vital functions of the patient, such as respiration and the ability to communicate, must not be hampered'.

#### Checklist for detention monitors: the use of restraints

##### Prohibited uses of restraints:

- 1) Are restraints used in circumstances other than i) during transfer (as a precaution against escape), ii) in order to prevent an individual harming themselves or others, iii) in order to prevent the individual damaging property?
- 2) Is the use of restraints routine, rather than an exceptional measure?
- 3) Are restraints ever used in circumstances where the incident could have been resolved without their use (i.e. where lesser forms of control could have been used instead)?
- 4) Are restraints ever applied as a punishment, or on women during labour, during childbirth, or immediately after?
- 5) Are restraints used to hog-tie individuals?

##### When and what kind of restraints are applied:

- 6) Are metal or soft / fabric / padded restraints used?
- 7) Are the number and type of restraints applied the least intrusive option (that is reasonably available, and in light of the particular risks posed)?
- 8) Is the detainee kept under constant and adequate supervision?
- 9) Are they removed as soon as possible, once their use is no longer necessary?
- 10) Are they removed when the prisoner appears before a judicial or administrative authority?
- 11) Are qualified health-care professionals and higher administrative authorities informed? (Please see the next section for more details).

## Section 2.3: Post-Incident Procedures and Accountability Mechanisms.

### Section 2.3.1: Medical examination and treatment

The Basic Principles (Principle 5) note that, when force is used, officials shall 'ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment'. Similarly the CPT (1992) note that 'a prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. This examination should be conducted out of the hearing and preferably out of the sight of non-medical staff, and the results of the examination (including any relevant statements by the prisoner and the doctor's conclusions) should be formally recorded and made available to the prisoner'. The Istanbul Protocol (1999) provides international guidance for investigating cases of alleged torture and for reporting findings to the judiciary or any other investigative body, and should be followed in cases where there are allegations of torture and ill-treatment.

### Section 2.3.2: Reporting and Accountability

#### *Use of force recording and internal oversight:*

The Basic Principles (Principle 11f) note that there should be a 'system of reporting whenever law enforcement officials use firearms in the performance of their duty'. They also note, moreover, that 'effective reporting and review procedures' should be implemented not *only* around the use of firearms but also whenever the use of force has caused injury or death (Principle 22). The Nelson Mandela Rules (Rule 8) also stress the importance of reporting, noting that prisoner files should include 'requests and complaints, including allegations of torture or other cruel, inhuman or degrading treatment or punishment, unless they are of a confidential nature' and 'information on the circumstances and causes of any injuries or death'.

The SPT (2013) notes that 'a register of the use of any means of coercion, including non-lethal means, should be kept', and the CPT stress that 'a record should be kept of every instance of the use of force against prisoners' (1992: 53). Similarly, the UNODC/OHCHR Resource book (2017: 153) notes that it is 'considered good practice to report any use of force, including incidents that involve a "show of force", such as the pointing of a firearm, or taser, at any person'. This includes the use of restraints, with a provision that 'where law enforcement officials apply handcuffs, they have to report it afterwards, and also account for the period of time the handcuffs were applied before their eventual removal' (2017: 83). Article 12 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment notes that 'each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction'.

Furthermore, the CPT (2017: 5) recommend that 'a specific register should be established to record all instances of recourse to means of restraint (including chemical restraint). This should supplement the records contained within the patient's personal medical file. The

entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register, and should be informed of this entitlement; at their request, they should receive a copy of the full entry'.

#### *Supervisory oversight.*

The UNODC/OHCHR Resource book (2017: 153) further notes the importance of having 'detailed forms to systematize the reporting process, enabling officers to describe as accurately as possible what has occurred and why', and ensuring that each incident report is 'reviewed by the supervising officer, who should always formulate an opinion on the use of force: was the force applied justified or is (disciplinary or other) action required? Are there lessons to be learned? Are there any needs for training that should be identified?'

#### *Data collection and analysis*

As well as analysis of individual incidents, the UNODC/OHCHR Resource book highlights the importance of data collection and analysis, and is worth quoting at length. It notes that:

'the data of all the individual incidents where force or firearms have been used, including from complaints about use of force and firearms, and otherwise, need to be collected to allow meaningful monitoring of use-of-force practice, through further analysis and establish trends and patterns. It is recommended to collect the data regarding use of force and deaths and serious injuries that are the result of law enforcement action, and complaints about the same, at a central level, under the authority of an independent body, rather than an internal unit, as they may be put under pressure to give a more favourable representation of the agency than the facts merit. Central data collection also facilitates central data analysis. The data should provide answers to questions such as how many incidents of force there have been; how many people died as a result of police action; how many got seriously injured; and how many of these incidents were unlawful, providing statistical data that are crucial to developing appropriate interventions to remedy overreliance on force or otherwise abusive use of force, where applicable'.

#### *Independent review of individual incidents:*

International standards go beyond mere reporting, however, and also stress the importance of review and accountability mechanisms, including by independent bodies and processes. The Basic Principles (Principle 22) note that, in cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities. They also note that 'persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process' (Principle 23), whilst the UN Rules for the Protection of Juveniles Deprived of their Liberty (Rule 57) state that, following the death of juveniles in detention, 'there should be an independent inquiry into

the causes of death, the report of which should be made accessible to the nearest relative'. Similarly, the UNODC/OHCHR Resource book notes that 'in cases of death and serious injury or other grave consequences resulting from the use of force...it is not sufficient to report internally to one's line manager...An independent review process is necessary, i.e. independent from the law enforcement official or unit involved in the incident' and, as noted above, there is an important role for independent agencies in conducting broader data analysis on use of force incidents.

Whilst assessing the qualities needed for such a process to be independent and effective is covered in detail elsewhere (for example, the University of Essex Human Rights Centre and Penal Reform International 2017, and the UNODC and OHCHR Resource Book, 2017) and is outside the scope of this paper, it nevertheless points to a final important consideration for monitoring bodies to assess when documenting the use of firearms, less lethal weapons and restraints in places of detention.

#### **Checklist for detention monitors: Post-Incident Procedures and accountability mechanisms.**

- Are people on whom force is used given the right to be immediately examined by a medical doctor, out of the hearing (and ideally, sight) of non-medical staff? Are the results of the examination, and the doctor's conclusions, formally recorded? Are they made available to the prisoner?
- Is a record kept any time force, including mechanical and chemical restraints, are used? Ideally this register should also indicate not just whether force was used but further details about the incident, including the type of force and restraint used, and how long it was applied for.
- Are these records reviewed internally by the supervising officer?
- Is there an independent review process in place for cases of death, serious injury or other grave consequences resulting from the use of force?
- Do individuals affected by use of force and firearms have access to an independent process, including judicial mechanisms where appropriate?
- Is there analysis of use of force data more broadly, in order to establish trends and patterns and to develop appropriate interventions where necessary?

## Following up on Section 2: Equipment that should be monitored in places of detention.

It should be remembered that, whilst worthy of note, the mere presence of equipment with potentially legitimate uses in places in detention (such as batons, or handcuffs) may not necessarily indicate cause for concern, depending on the circumstances, in the same way that the presence of prohibited equipment would do. Hence monitors may wish to use the checklists given in Part 2 in order to examine the safeguards prior to use, at the point of use, and following use of the weapon—including the regulations and policies surrounding the issue and use of the equipment—and indications of how it is used in practice, including any indications of misuse.

Documenting weapons and restraints in places of detention brings a number of benefits, but is perhaps particularly important in cases where there are concerns that the equipment is insufficiently regulated, is being used inappropriately including for torture or ill-treatment, has serious medical or psychological effects, or presents concern in other ways. In such instances, a number of options are available:

- 1) Documenting any markings and logos (for example, company names and logos), colours, and serial numbers, if any, that are present on the equipment itself, or on its packaging. This may help provide additional confirmation of:
  - Whether the equipment was locally manufactured or imported (and, if so, from where). Depending on the type of equipment and the country of origin, the export may also be in breach of national or regional trade control regulations (for example, of European Union trade control regulations), or may highlight regulatory gaps.
  - Identifying the manufacturer can also allow you to check their guidelines for use of the product—which may identify, for example, minimum ranges for use and provide product warnings in certain circumstances—and to ascertain whether these are reflected in policy and practice around the weapon (for example, whether they are being used at distances closer than the manufacturer recommends).
  - Serial numbers (which are unique to the weapon in question) can help identify when, and where, the equipment was manufactured and transferred. In cases where, for example, equipment is being systematically misused, identifying the supply routes, and the States and corporate actors involved, may help to provide additional angles to enhance accountability, and to prevent further transfers in the future.
- 2) Documenting dates, as many weapons—including rubber bullets and chemical irritants—have an expiry date, after which they may present a higher injury risk (in the case of some rubber bullets) or, conversely, may become less effective.

- 3) Documenting any technical features of the equipment, which may be available on the weapon or restraint itself or on the packaging—including, for example, details of the characteristics and composition and length of the electric shock produced, or the strength of the chemical irritant / tear gas, and details of chemicals (both active agents, such as CS, and chemicals used as solvents or carriers for the active agent). —may be helpful in discussions of proportionality and medical implications. Such factors are relevant for discussions of necessity and proportionality (for example, as noted above, is it strictly necessary to use, say, an unusually high strength chemical irritant spray, when weaker formulations may be effective and available), can help inform discussions around whether current policy and practice is appropriate and may also help in assessing medical implications, and in identifying less harmful options.
- 4) Investigating the regulations and policies surrounding the issue and use of equipment, and investigating whether, in practice, the equipment has actually been i) issued, and ii) used by officials.
- 5) In addition to following up with the prison authorities directly, additional ways of following up include:
  - Approaching the country of origin (including trade control departments) and the manufacturer directly.
  - Reading relevant procurement, tender and award documents for further details of the equipment in use, the manufacturer and supplier, the number of units ordered and the dates ordered and received.
  - Checking whether national or regional trade controls in the country of origin prohibit the export of this equipment, or require a license.
  - Using the further sources of information listed in the last section of this research to assist with researching particular topics.

### Section 3: Pocket book resource

This Section provides a practical tool to assist monitors working in this area. It consists of a one page guide or aide-memoire, suitable to take into places of detention, with key observations and questions that can usefully be posed at different locations in the detention centre (e.g. when in the armoury, when on tour of the prison, when speaking to detainees and staff). This aims to relay, in a user-friendly format, some of the key questions and observations listed in Parts 1 and 2.

However, given space limitations it does not include the full list of questions and observations detailed within, so should ideally be consulted together with the rest of this Practical Guide.

## Monitoring weapons & restraints

A Pocket Guide for detention monitors and torture prevention bodies.




<p><b>Look out for inappropriate items</b></p> <ul style="list-style-type: none"> <li>• Weighted restraints.</li> <li>• Leg restraints with a fixed bar.</li> <li>• Thumb-cuffs &amp; thumb screws.</li> <li>• Finger cuffs &amp; finger screws.</li> <li>• Restraints fixed to wall or floor.</li> <li>• Cage beds &amp; net beds.</li> <li>• Restraint chairs, shackle boards or shackle beds, if not fitted with straps or belts.</li> <li>• Body worn electric-shock devices.</li> <li>• Spiked batons and shields.</li> <li>• Whips.</li> <li>• Carrying weapons in places where juveniles are detained.</li> </ul>	<p><b>At the armoury</b></p> <p><b>i) Examine procedural issues:</b></p> <ul style="list-style-type: none"> <li>• Is the ammunition (ammo) in date?</li> <li>• Are weapons &amp; ammo kept securely?</li> <li>• Is there an up-to-date register detailing issuing of weapons?</li> <li>• Are weapons routinely issued?</li> </ul> <p><b>ii) Examine weapons &amp; ammo. for:</b></p> <ul style="list-style-type: none"> <li>• Writing, markings, logos.</li> <li>• Dates.</li> <li>• Colours.</li> <li>• Size, shapes &amp; notable features.</li> <li>• Look at all sides, top &amp; bottom.</li> </ul>	<p><b>Touring the Premises</b></p> <ul style="list-style-type: none"> <li>• Look out for prohibited or inappropriate items.</li> <li>• Observe which weapons staff are carrying, if any. Observe who and which shifts are carrying them and if there are exceptional circumstances that might justify this.</li> <li>• Note and photograph (where possible) key features of any weapons, restraints and ammunition you see.</li> <li>• Is this equipment visibly carried, or concealed?</li> </ul>
<p><b>At the training centre</b></p> <ul style="list-style-type: none"> <li>• Are weapons issued only to officers trained and tested in their use?</li> <li>• Does training cover ethics, human rights, negotiating skills, and alternatives to using force?</li> <li>• Is the content of training in line with international standards?</li> <li>• Do officers have regular refresher training?</li> <li>• How often is training reviewed?</li> </ul>	<p><b>Speaking to detainees</b></p> <ul style="list-style-type: none"> <li>• Have detainees experienced or witnessed use of force by officials on detainees?</li> <li>• What were the circumstances, as they can recall them? Can they recall any features of the weapons or restraints used?</li> <li>• Was medical aid given promptly (where necessary)?</li> <li>• In their experience, how often do officers carry weapons and use force?</li> </ul>	<p><b>Speaking to staff</b></p> <ul style="list-style-type: none"> <li>• What weapons and restraints are staff issued with? Under which circumstances and how regularly?</li> <li>• Does staff understanding of when they may use weapons and restraints accord with international standards?</li> <li>• Do they have an adequate understanding of human rights? Do they feel they are trained and given skills to help them avoid using force?</li> <li>• Are they aware they need to document their use of force? Are there indications they do this?</li> </ul>
<p><b>At the office</b></p> <ul style="list-style-type: none"> <li>• Are there regulations for each type of weapon &amp; restraint? Do they set out when they may be carried, used &amp; by whom, and prohibit equipment not listed therein?</li> <li>• Are regulations in keeping with international standards?</li> <li>• Are use of force records submitted internally, and incidents and records referred to external bodies as necessary?</li> </ul>		

## Section 4: Selected Further Resources

### Searchable Online Databases:

- **Association for the Prevention of Torture; *Detention Focus*.** /[www.apt.ch/detention-focus/en](http://www.apt.ch/detention-focus/en) – a database on prison topics and human rights standards. Designed for prison monitors, it combines analysis, norms, checklists and further readings and has sections on ‘use of force’ and ‘means of restraint’.
- **Geneva Academy of International Humanitarian Law and Human Rights; *Weapons Law Encyclopedia*.** <http://www.weaponslaw.org/> - a compilation of information on the regulation of weapons under public international law.
- **Mispo; [www.mispo.org](http://www.mispo.org).** - a databank containing thousands of images of military, security and police (MSP) equipment, updated by photojournalists, photo agencies and human rights organisations. Arms trade researchers work to identify equipment displayed. Register here; [www.mispo.org/user/register?destination=comment%2Freply%2F1%23comment-form](http://www.mispo.org/user/register?destination=comment%2Freply%2F1%23comment-form)
- **Omega Research Foundation; *Visual Glossary of Military, Security and Police Equipment*** a glossary designed to help human rights monitors, researchers and others recognise and accurately report on the types of equipment used. [https://omegaresearchfoundation.org/visual\\_glossary?search\\_api\\_language=en](https://omegaresearchfoundation.org/visual_glossary?search_api_language=en)

### Online Guides:

- **Amnesty International (2005) *Monitoring and Investigating Equipment used in Human Rights Abuses***- a handbook on monitoring and investigating MSP equipment [www.amnesty.nl/content/uploads/2017/01/booklet\\_eng\\_equipment\\_0.pdf?x44743](http://www.amnesty.nl/content/uploads/2017/01/booklet_eng_equipment_0.pdf?x44743)
- **Association for the Prevention of Torture and Penal Reform International (2015) *Instruments of Restraint: Addressing Risk Factors to Prevent Torture and Ill-Treatment*.** [www.penalreform.org/wp-content/uploads/2016/01/factsheet-5-restraints-2nd-ed-v5.pdf](http://www.penalreform.org/wp-content/uploads/2016/01/factsheet-5-restraints-2nd-ed-v5.pdf) . Provides practical guidance on how monitoring bodies can focus on instruments of restraint.
- **Omega Research Foundation (undated) *Introduction to Equipment Types*** <https://omegaresearchfoundation.org/publications/introduction-equipment-types>. Condensed version of the Visual Glossary detailed above.
- **Omega Research Foundation (2016) *Guide to Taking Photos in the Field*** <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/20160125%20Guide%20to%20taking%20photos%20FINAL%20Update.pdf>. A practical guide to taking photos of military, security and police equipment.
- **Omega Research Foundation (2017) *Torture Tools Questionnaire*** <https://omegaresearchfoundation.org/publications/torture-tools-questionnaire> - a guideline questionnaire for obtaining information from torture survivors on weapons and equipment used in instances of torture or cruel, inhuman and degrading treatment.

## References

African Commission on Human and People's Rights (2014) *The Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa*. Available online at [http://www.achpr.org/instruments/guidelines\\_arrest\\_detention/](http://www.achpr.org/instruments/guidelines_arrest_detention/)

Amnesty International (2005) *Monitoring and Investigating Equipment Used in Human Rights Abuses*. Available online at [https://www.amnesty.nl/content/uploads/2017/01/booklet\\_eng\\_equipment\\_0.pdf?x31772](https://www.amnesty.nl/content/uploads/2017/01/booklet_eng_equipment_0.pdf?x31772)

Amnesty International (2015) *Use of Force: Guidelines for the Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Available online at [https://www.amnesty.org.uk/files/use\\_of\\_force.pdf](https://www.amnesty.org.uk/files/use_of_force.pdf)

Amnesty International (2016) *Combatting Torture and Other Ill-treatment: A Manual for Action*. Available online at <https://www.amnesty.org/en/documents/pol30/4036/2016/en/>

Association for the Prevention of Torture (undated) *Detention Focus*. Available online at [http://www.apt.ch/detention-focus/en/detention\\_issues/34/](http://www.apt.ch/detention-focus/en/detention_issues/34/)

Association for the Prevention of Torture (2004) *Monitoring Places of Detention: A Practical Guide*. Available online at [http://www.apt.ch/content/files\\_res/monitoring-guide-en.pdf](http://www.apt.ch/content/files_res/monitoring-guide-en.pdf)

Association for the Prevention of Torture Monitoring (2013) *Police Custody: A Practical Guide*. Available at [http://www.apt.ch/content/files\\_res/monitoring-police-custody\\_en.pdf](http://www.apt.ch/content/files_res/monitoring-police-custody_en.pdf)

Association for the Prevention of Torture and Penal Reform International (2015) *Instruments of Restraint: Addressing Risk Factors to Prevent Torture and Ill-Treatment*. Available online at <https://www.penalreform.org/wp-content/uploads/2016/01/factsheet-5-restraints-2nd-ed-v5.pdf>

Bishopp, S. A.; Klinger, D. A.; Morris, R.G I (2014) 'An Examination of the Effect of a Policy Change on Police Use of TASERS' *Criminal Justice Policy Review* advance access version.

Bozeman W P, Winslow J E. (2005) Medical aspects of less lethal weapons, *International Journal of Rescue and Disaster Medicine* 5 (1): 37-47.

College of Policing (2017) *Armed policing: Use of force, firearms and less lethal weapons*. Available online at <https://www.app.college.police.uk/app-content/armed-policing/use-of-force-firearms-and-less-lethal-weapons/#the-systems-approach>

Council of Europe (2010) Press release: 'Council of Europe anti-torture committee calls for strict regulation of electrical discharge weapons', 26 October 2010. Available at: <http://www.cpt.coe.int/en/annual/press/2010-10-26-eng.htm>

CPT (1992) *2nd General Report on the CPT's activities covering the period 1 January to 31 December 1991*. Available online at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696a3f>.

CPT (1999) *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 9th General Report on the CPT's activities covering the period 1 January to 31 December 1998*. Available online at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696a73>

CPT (2006a) *16th General Report on the CPT's activities covering the period 1 August 2005 to 31 July 2006* <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696a83>

CPT (2006b) *Report to the Hungarian Government on the Visit to Hungary from 30<sup>th</sup> March to 8<sup>th</sup> April 2005*.

CPT (2008) *Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 November to 1 December 2008*. Reference: CPT/Inf (2009) 30.

CPT (2009) *Report to the Portuguese Government on the visit to Portugal carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 25 January 2008*, Paragraph 92

CPT (2010) *Report to the Government of the Slovak Republic on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 March to 2 April 2009*

CPT (2010) *20th General Report of the European Committee for the Prevention of Torture and Inhuman, Degrading Treatment or Punishment*. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696a87>

Council of Europe (2006) *European Prison Rules*. Available online at <http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/PCCP%20documents%202015/EUROPEAN%20PRISON%20RULES.pdf>

Council of Europe (2017) *Means of restraint in psychiatric establishments for adults (Revised CPT standards) European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) CPT/Inf(2017)6* Available online at <https://rm.coe.int/16807001c3>.

European Union, Council Regulation (EC) No 1236/2005 of 27th June 2005 Concerning Trade in Certain Goods Which Could Be Used for Capital Punishment, Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (EU Torture Regulation), and amendments. Available at <http://publications.europa.eu/en/publication-detail/-/publication/301735cd-0d8b-11e4-a7d0-01aa75ed71a1/language-en>

Geneva Academy of International Humanitarian Law and Human Rights (2013) *Weapons Law Encyclopedia*. Available online at <http://www.weaponslaw.org/>

Holopainen, J; Moilanen, J; Hack, T and Tervo, T (2003) 'Toxic carriers in pepper sprays may cause corneal erosion' *Toxicology and Applied Pharmacology* 186: 155 – 162.

Inter-American Commission on Human Rights (2008) *The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*. Available online at <http://www.oas.org/en/iachr/mandate/Basics/principlesdeprived.asp>

Inter-American Commission on Human Rights (2013) *Report of the Inter-American Commission on Human Rights on the Situation of Persons Deprived of their Liberty in Honduras*, 18 March 2013, OEA/Ser.L/V/II.147 (IACHR Report on Honduras).

ISS and Omega Research Foundation (2016) *Compliance through pain: electric-shock equipment in South African prisons*. Available at <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/Compliance%20through%20pain.pdf>

Mispo – a fully searchable online database of images of military, security and police equipment. <http://www.mispo.org/>

Omega Research Foundation (undated) *Visual Glossary of Military, Security and Police Equipment* [https://omegaresearchfoundation.org/visual\\_glossary?search\\_api\\_language=en](https://omegaresearchfoundation.org/visual_glossary?search_api_language=en)

Omega Research Foundation (undated) *Introduction to Equipment Types* Available online at <https://omegaresearchfoundation.org/publications/introduction-equipment-types>

Omega Research Foundation (2016) *Guide to Taking Photos in the Field* <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/20160125%20Guide%20to%20taking%20photos%20FINAL%20Update.pdf>

Omega Research Foundation (2017) *Torture Tools Questionnaire* Available online at <https://omegaresearchfoundation.org/publications/torture-tools-questionnaire>

Rappert, B (2003) 'Health and safety in policing: lessons from the regulation of CS sprays in the UK' *Social Science & Medicine* 56: 1269–1278

South African Judicial Inspectorate of Correctional Services (2010) *Annual report for the period 1 April 2009 to 31 March 2010*. Available online at <http://bit.ly/1o2LYya>.  
University of Essex Human Rights Centre and Penal Reform International (2017) *Essex paper 3: Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules*. Available online at [http://www.essex.ac.uk/hrc/documents/practice/Essex\\_III\\_2017.pdf](http://www.essex.ac.uk/hrc/documents/practice/Essex_III_2017.pdf)

UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). Available online at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>

UN CAT (2000) *Report of the Committee against Torture, Section M United States of America, A/55/44, 15 May 2000, para. 179(e)*

UN CAT (2008) *Conclusions and recommendations of the Committee against Torture: Portugal* CAT/C/PRT/CO/4.

UN CAT (2013) *Concluding observations on the combined fifth and sixth periodic reports of the Netherlands, adopted by the Committee at its fiftieth session* CAT/C/NLD/CO/5-6

UN Co-ordinating Action on Small Arms (2012) *International Small Arms Control Standard: Stockpile Management: Weapons*. Available at [www.smallarmsstandards.org/isacs/0520-en.pdf](http://www.smallarmsstandards.org/isacs/0520-en.pdf).

United Nations General Assembly (2011), *66th Session, Third Committee, Torture and other cruel, inhuman or degrading treatment or punishment*, A/C.3/66/L.28 Rev 1, 8th November 2011, paragraph 24.

United Nations General Assembly (2014) 'United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice' *Sixty-ninth session Third Committee Agenda item 105 Crime prevention and criminal justice*. Available online at [http://www.unodc.org/pdf/criminal\\_justice/Model\\_Strategies\\_violence\\_children.pdf](http://www.unodc.org/pdf/criminal_justice/Model_Strategies_violence_children.pdf)

United Nations General Assembly (2017) 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: A/72/178. *United Nations General Assembly Seventy-second session Item 73 (b) of the provisional agenda. Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms*. Available online at <http://undocs.org/A/72/178>

*United Nations News Centre* (2007) UN outlaws use of rubber bullets in Kosovo and consults on possible wider ban Available online at <http://www.un.org/apps/news/story.asp?NewsID=23130>

UN Office of Drugs and Crime / UN Human Rights Office of the High Commissioner (2017) *Resource Book on the Use of Force and Firearms*; United Nations, New York.

UN Office of Drugs and Crime (2011) *Handbook on Police Accountability, Oversight and Integrity*; United Nations, New York. Available online at: [http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability\\_Oversight\\_and\\_Integrity\\_10-57991\\_Ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf)

UN Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the UN Conventional Against Transnational Organised Crime (2001). Available online at <http://www.unodc.org/unodc/en/firearms-protocol/firearmsprotocol.html>

UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2003) 'Civil and Political Rights, including the question of torture and detention. Study on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms'. Commission on Human Rights Fifty-ninth session Item 11 (a) of the provisional agenda /CN.4/2003/69. Available online at

<http://antitorture.org/wp-content/uploads/2012/07/P2-Study-On-the-situation-of-trade-in-and-production-of-equipment-which-is-specifically-designed-to-inflict-torture..pdf>

UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2005a) *Torture and other cruel, inhuman or degrading treatment: Report of the Special Rapporteur on the question of torture, Theo van Boven* Summary E/CN.4/2005/62. Commission on Human Rights Sixty-first Session Item 11a. Available online at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/104/83/PDF/G0510483.pdf?OpenElement>

UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (2005b) 'Civil and political rights, including the questions of torture and detention: Torture and other cruel, inhuman or degrading treatment Report of the Special Rapporteur on the question of torture, Manfred Nowak' *United Nations Economic and Social Council Commission on Human Rights: E/CN.4/2006/6*. Available online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/168/09/PDF/G0516809.pdf?OpenElement>

UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (2006) *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: Mission to China, 10 March 2006*, E/CN.4/2006/6/Add. 6. Available online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/117/50/PDF/G0611750.pdf?OpenElement>

UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2014) 'Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' *United Nations General Assembly Sixty-eighth session Item 69 (a) of the provisional agenda. Promotion and protection of human rights: implementation of human rights instruments*. Available online at [http://www.unodc.org/documents/justice-and-prison-reform/SPECIAL\\_RAPPORTEUR\\_EN.pdf](http://www.unodc.org/documents/justice-and-prison-reform/SPECIAL_RAPPORTEUR_EN.pdf)

UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017) 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' *Human Rights Council Thirty-fourth session 27 February-24 March 2017*.

UN Special Rapporteur on extrajudicial, summary or arbitrary executions (2010) Human Rights Council Seventeenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns .

UN SPT (2012) Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil CAT/OP/BRA/1

UN SPT (2013) Report of the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Argentina CAT/OP/ARG/1. Available at <http://docstore.ohchr.org/SelfServices/>

UN SPT (2016) *Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Visit to Brazil undertaken from 19 to 30 October 2015: observations and recommendations addressed to the State party*. CAT/OP/BRA/3. Available online at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fBRA%2f3&Lang=en&FileHandlerashx?enc=6QkG1d%2FPPrICaQHkb7yHshvppSqtKTDPmdq98f%2Bfq8%2BwMgQwvuSrCfuTMYanDrlHJeSRnt1Q82O%2BrxFVIP9OM4zkPRIsE28811leMQb3TztjsxDqDBmR%2Bjhl8u9TdCK3](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fBRA%2f3&Lang=en&FileHandlerashx?enc=6QkG1d%2FPPrICaQHkb7yHshvppSqtKTDPmdq98f%2Bfq8%2BwMgQwvuSrCfuTMYanDrlHJeSRnt1Q82O%2BrxFVIP9OM4zkPRIsE28811leMQb3TztjsxDqDBmR%2Bjhl8u9TdCK3)

UN SPT (2016) *Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Visit to Brazil undertaken from 19 to 30 October 2015: observations and recommendations addressed to the State party*. CAT/OP/BRA/3. Available online at <http://tbinter>

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