



# UNODC

United Nations Office on Drugs and Crime

## **Alternatives to pretrial detention in terrorism-related cases**

**Available international standards and norms**

**Malta, 18-19 February 2016**



## Global trends

Figure I: Pre-trial prison population (2010)

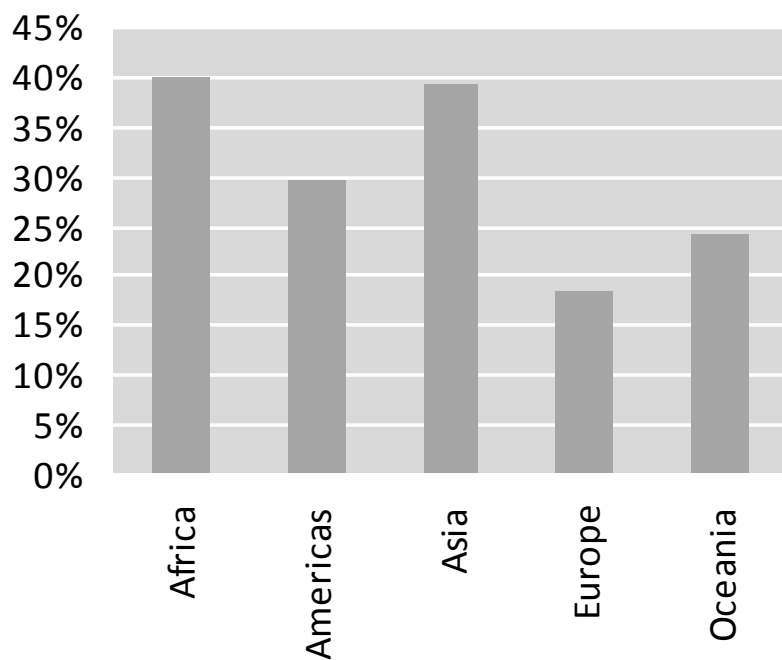
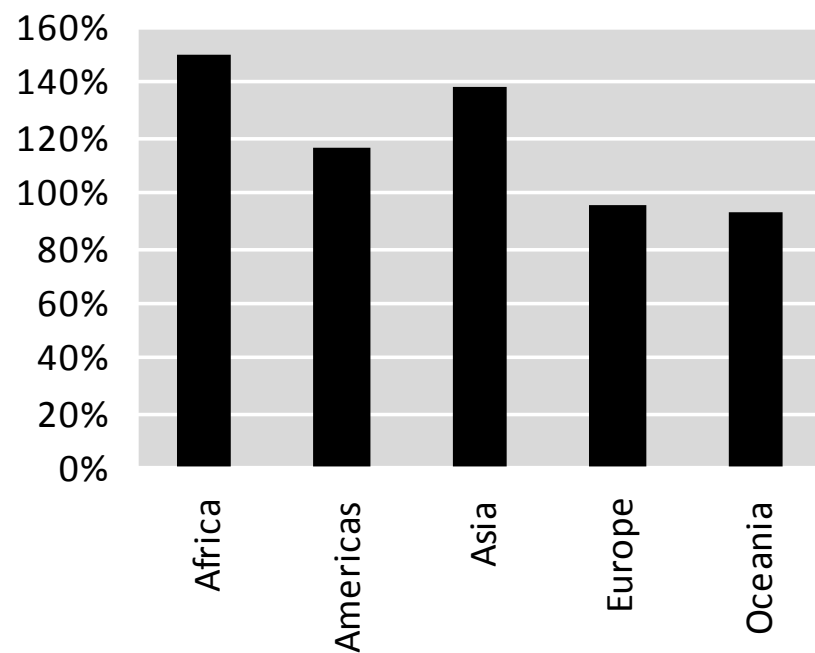


Figure II: Population as percentage of capacity (2010)



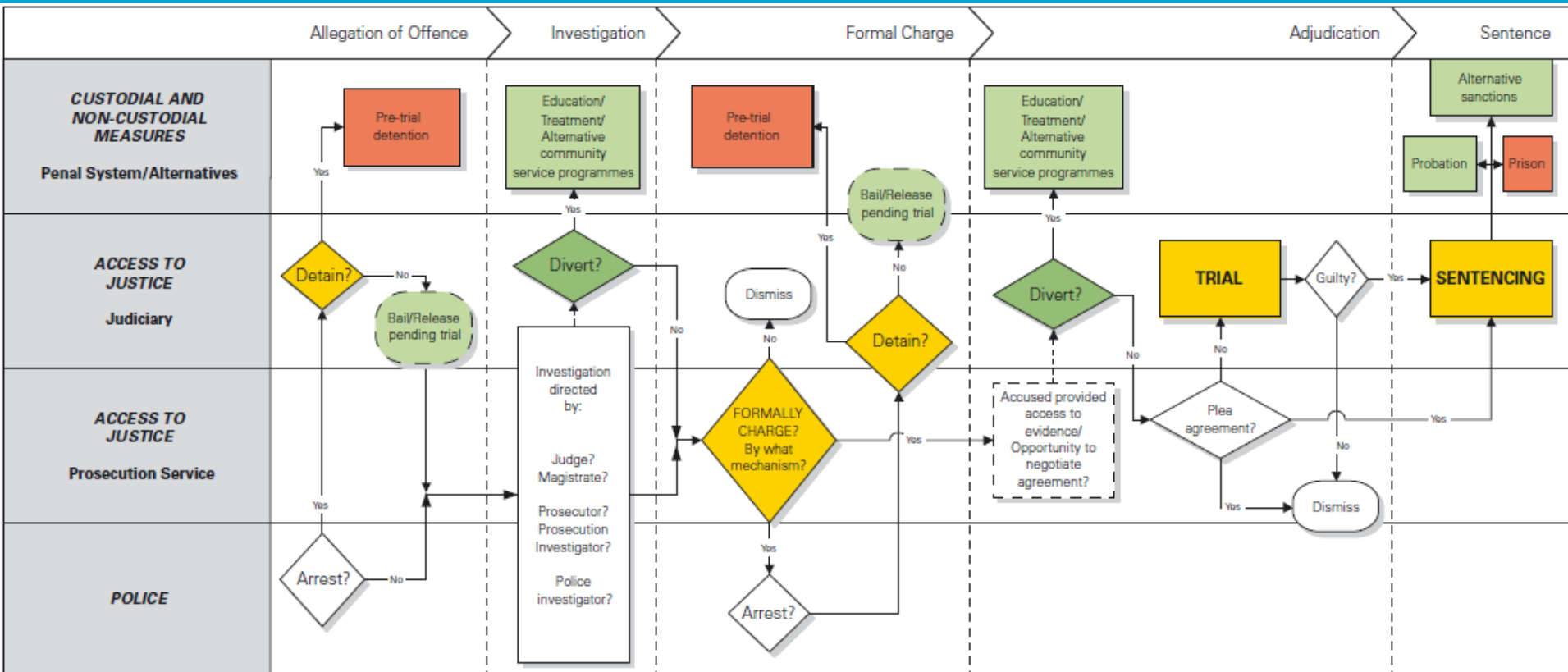


## Decision moments in the criminal justice process

- Pre-trial stage
  - Detain or release pending trial?
  - Divert to alternative measure?
  - Formally charge?
- Trial and sentencing stage
  - Divert to alternative measure?
  - Plea agreement?
  - Custodial or alternative sanction(s)?
- Post-sentencing stage
  - Early release?



# Decisions moments in the criminal justice process





## Standards and norms: alternatives to imprisonment

- International Covenant on Civil and Political Rights (art. 9 and 14), 1966
- UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), 1990 (UNGA res. 45/110, annex)
- Declaration of basic principles of Justice for Victims of Crime and Abuse of Power, 1985 (UNGA res. 40/34, annex)
- Basic Principles on the use of restorative justice programmes in criminal matters, 2002 (ECOSOC res. 2002/12)



# Standards and norms: alternatives to imprisonment

## *Specific groups:*

- Convention on the Rights of the Child (art. 37 and 40), 1989
- UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), 1985 (UNGA res. 40/33)
- UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), 2010 (UNGA res. 65/229)



# Why use alternatives to imprisonment?

- Provide a more adapted response to crime
- Avoid adverse effects of prison
  - disruption of life, family ties severed, health hazard, criminal contamination, stigmatization, etc.
- Reduce prison overcrowding
- Reduce the cost of sentence execution
- Decrease the risk of relapse and improve the offender's chances of social reintegration



## Why are alternatives not more widely used?

- Lack of appropriate legislation or its implementation
- Lack of infrastructure and organizational mechanism for interagency cooperation
- Lack of a specific administrative body (e.g. probation), insufficient funding, staff and training
- Lack of public support / fear of judges or politicians to be perceived as „soft“ on crime

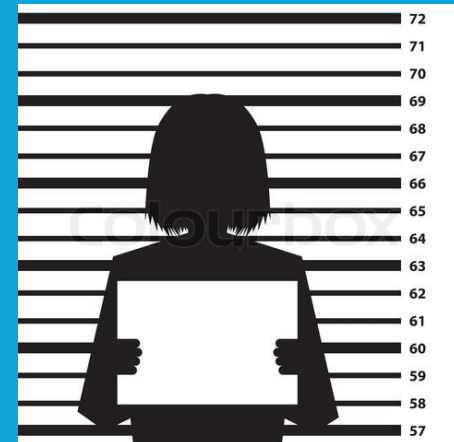






## Alternatives at the pre-trial stage

- Principle of minimum intervention
  - avoid formal criminal proceedings
- Pre-trial detention as a measure of last resort
- Judicial review and right to appeal against pre-trial detention
- Requirement of consent to any alternatives that entail obligations





## Examples of pre-trial alternatives

- To appear in court on specified days;
- To report on a daily or periodic basis to a court, the police or other authority;
- To remain at a specific address;
- To surrender passports or identification papers;
- To accept supervision by a court-appointed agency;
- To pay a monetary bail;
- To submit to electronic monitoring;
- To pledge financial or other forms of property as security to assure attendance at trial or conduct pending trial.



## Potential challenges for alternatives to imprisonment

- Insufficient attention to victim/safety of society
- Human rights concerns
- Net-widening
- Public opinion
- Lack of required inter-agency cooperation and insufficient resources





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## UNODC technical assistance on custodial and non-custodial measures

- Range of penal reform-related publications and curricula



- on-going prison reform programmes with an overall budget of \$ 35 Million USD
- comprehensive assessments upon request from Member States



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# THANK YOU FOR YOUR ATTENTION !

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