



Briefing N°1

Making Effective Recommendations

Since its founding in 1977, the Association for the Prevention of Torture (APT) has promoted the regular and independent monitoring of places of detention as an effective means for preventing torture, ill treatment and other violations of human rights. This new Series of Briefings makes APT's pioneering research-analysis and our counterparts' best practices available to practitioners at national and international levels around the world.

Feedback, comments or suggestions on the content of the series are welcome and should be sent to apt@apt.ch.

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Making Effective Recommendations

1. Introduction

Report and recommendation writing require specific skills. Given the complexities of what might initially seem a simple task, practical guidance is useful and even experienced monitors and drafters can benefit from reconsidering their own practice in light of specialist guidelines.

This paper is designed to be read and applied by any person drafting recommendations as a part of the detention monitoring cycle. It is particularly intended to be used as a framework for collective or individual analysis and review of draft recommendations prior to publication.

While the political, legal, social, cultural and linguistic context in any country will have implications for the ways in which recommendations are phrased, the **Double-SMART** model presented below defines criteria that can be systematically applied in order to make recommendations as effective and useful as possible.

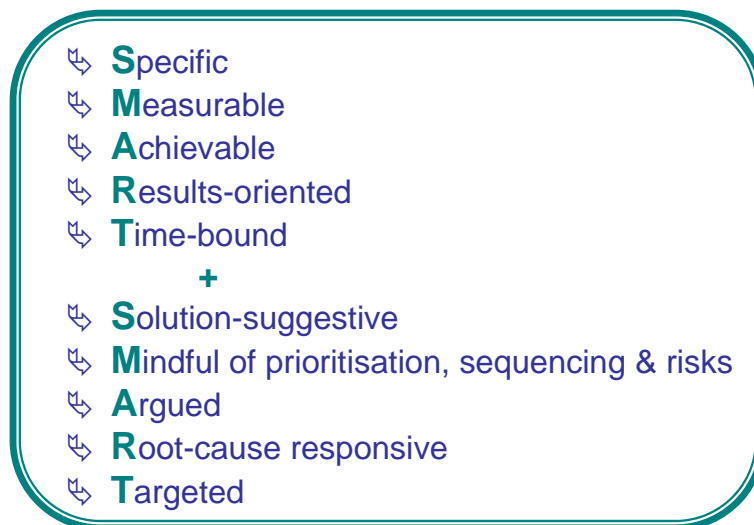
2. The purpose of recommendations

Making recommendations forms a fundamental part of the monitoring cycle. Taking sufficient time in crafting them is essential for several reasons:

- Without recommendations, a report has reduced chances of achieving change;
- Recommendations are often the part of detention monitoring reports that are read most closely;
- They are the result of the multidisciplinary expert analysis carried out by the monitoring body;
- They define and prioritise the actions that need to be taken to enhance respect for human rights in situations of deprivation of liberty;
- They should make a constructive contribution to national problem-solving and to provide a structured framework for dialogue with the authorities;
- They should form the basis for periodic evaluation and follow-up both by monitoring bodies and the authorities themselves.

3. The Double-SMART recommendations model

The quality and utility of detention monitoring-related recommendations can be assessed against the following ten inter-related and mutually reinforcing criteria:



4. Considering each criteria

Each criterion is analysed below and followed by self-check questions and considerations as guidance for ensuring compliance against it. It is to be expected that in considering recommendations according to **Double-SMART** criteria, monitoring organisations may find themselves obliged to revise the content of their report as well. This can only add to the coherence of the overall monitoring process. While recommendations may not meet all criteria, maximising compliance will make them considerably stronger.

Specific

Each recommendation should address one specific issue only. Each may also propose one or more specific actions but these should each be clearly defined and separated using bullet or number points. This will assist the authorities in understanding and implementing the recommendations as well as facilitate follow-up by the monitoring body. Given its non-specific nature, a general statement reminding the authorities of their duty to bring detention conditions into line with international standards and guaranteeing the rights of persons deprived of their liberty can usefully be included in an introductory paragraph previous to the recommendations.

Check-points:

- ✓ Does the recommendation address one specific problem or issue only?
- ✓ Are individual action points clearly differentiated within the recommendation?
- ✓ Are all the proposed actions directly related to the subject of the recommendation?

Measurable

In the future, the authorities and monitoring organisation(s) should be able to assess unequivocally whether or not and to what extent a recommendation has been implemented.

The recommendation should be designed in such a way as to make this evaluation as easy as possible. As such, the report which accompanies the recommendations should outline the current level of the problem, establishing a baseline or snapshot for future comparison whenever possible. Attention should be given to the pros and cons of using process or outcome and qualitative or quantitative indicators.

Check-points:

- ✓ Does the body of the report establish the current situation with clarity?
- ✓ Does the report or recommendation include or imply an indicator for follow-up?
- ✓ Would a different or modified indicator be easier to verify in future?
- ✓ To what extent will the evidence given by the indicator be irrefutable?

Achievable

Any recommendation should seek to be feasible in operative terms. However, this criterion does not contemplate the issue of financial resource availability. Being based on international standards, recommendations should highlight what must be done within reason. It is the responsibility of the State to find and assign the resources to do it. Alternative or additional actions that might produce the desired results more easily or reinforce the results should be considered.

Check-points:

- ✓ Is the implementation of this recommendation possible in practical terms?
- ✓ Are there alternative or complementary actions that could be recommended?
- ✓ Which options will meet least resistance in addressing the situation?

Results-oriented

The description and analysis of the problem should be in the main body of the report and not in the recommendation. The actions suggested in the recommendation should be designed to lead to a concrete result or state of affairs. This desired situation may be implicit in the recommendation or concretely defined.

Check-points:

- ✓ Does the recommendation contain information or analysis that should be in the main body of the report?
- ✓ Does the recommendation identify the desired state of affairs for the future and/or concrete actions to that end rather than merely describing the problem and calling for change?

Time-bound

Including a realistic time-frame for implementation assists the authorities in prioritising their response, increases pressure for action and enhances accountability. Timing may be expressed in terms of months or years or for “immediate” implementation. Alternatively, a short-, medium- and long- term framework may be employed but there should be mutual clarity over what each implies in numerical terms.

Check-points:

- ✓ Does the recommendation identify by when implementation should be initiated and/or completed?

- ✓ Is the time-frame sufficiently short to create pressure for change but sufficiently long to take genuine time requirements for implementation into account?

Solution-suggestive

Recommendations that simply call for ‘change’ or ‘improvement’ will require further study by the authorities before a solution can be identified, let alone implemented. This reduces significantly the strategic possibilities for achieving concrete results. A multi-disciplinary monitoring team applies the professional, analytical and other expertise of its members to the specific issue of detention and should, wherever possible, try not just to identify problems but also to propose credible solutions. Recommended actions should be concrete and concise but include the relevant technical details to avoid mis-implementation.

Check-points:

- ✓ Has the analysis identified concrete actions that should help overcome the problem identified?
- ✓ Are they included in the recommendation?
- ✓ Is there a need to include technical elements or change the phrasing in order to avoid misinterpretation or erroneous implementation?

Mindful of prioritisation, sequencing and risks

Monitoring bodies may identify many issues that require action. As preventive monitoring is an ongoing process, reserving less pressing recommendations may be useful in enabling the implementing authorities to focus on more urgent ones. Secondly, some recommendations may be more successfully made in later reports with others implemented earlier. Thirdly, monitors must also analyse risks that may arise from implementation in terms of a negative impact on the enjoyment of human rights by persons deprived of their liberty or others. Unforeseen negative consequences of implementation will discredit both the preventive monitoring initiative and the implementing authorities.

Check-points:

- ✓ Are some recommendations in the report so important that they should come earlier in the list?
- ✓ Would it be better to omit certain recommendations in order to get the authorities to focus on fewer, more urgent ones?
- ✓ Is the implementation of some recommendations dependent on the implementation of others first?
- ✓ Could the implementation of any specific actions have a negative impact on the enjoyment of human rights?

Argued

Recommendations should be based on high quality objective evidence and analysis gathered during the monitoring cycle and systemised in the body of the report. The relevant international and national legal standards and the professional (e.g. medical, psychological, detention management, social work, etc.) expertise and best practices that complement their content should be clearly outlined and applied. This argumentation gives credibility and assists monitoring bodies in defending their position. It should be remembered that international standards are *minimum* standards and can be exceeded in recommendations if

the monitoring organisation considers this justifiable based on human rights, professional, best practice or other relevant grounds.

Check-points:

- ✓ Is the problem to be addressed by the recommendation clearly identified in the main body of the report?
- ✓ Is that analysis based on objective, verified and quality evidence?
- ✓ Does the analysis identify the relevant legal, professional and best practice justifications for the recommendation?
- ✓ Does the analysis lead logically and persuasively to the related recommendation?

Root-cause responsive

Monitoring should seek to identify the root-causes of problems, or the systems and processes that need to be put in place or modified to mitigate risk factors. Recommendations as a result should be directed at these aspects and not the symptoms. This requires conscientious fact-checking as well as critical re-analysis. When it is not possible to identify the root-causes or risk mitigation factors, incremental actions that facilitate improvement and further analysis, proposed in a series of reports over time, should be considered.

Check-points:

- ✓ Does the main body of the report outline the symptoms of the problem (i.e. the evidence)?
- ✓ Does the analysis identify the causes?
- ✓ Do the actions proposed in the recommendation address directly the causes rather than the symptoms?
- ✓ If the root causes remain unidentified, could an incremental approach be applied?

Targeted

‘The government’ and ‘the state’ should not be considered as monolithic entities. The particular actors/institutions that can legally and practically implement the recommendation must be correctly identified. This will assist the government in assigning responsibilities, increase accountability and facilitate follow-up by monitors and the larger society. At the same time, however, monitors should be aware of institutional protocol and ensure that hierarchies are adequately observed both in the recommendations themselves and when presenting the report. Some reports group recommendations by target sector (e.g. judiciary, penitentiary system, interior ministry).

Check-points:

- ✓ Which specific actor(s) in the organisational hierarchy should be most able to implement the recommendation in practice?
- ✓ Is there an authority at a higher level that may need to give authorisation, orders for action or be instrumental in facilitating implementation?
- ✓ Which of the implementing actors and their authorities need to be explicitly linked with the recommendation from a strategic point of view?
- ✓ Would grouping the recommendations according to the target sector enhance or reduce their impact?

5. Applying Double-SMART in practice

Consider the following four questions with regard to the three paired draft recommendations below:

1. Which Double-SMART criteria are not met by the first version in each pair?
2. Which criteria have been addressed in drafting the second version?
3. Which criteria have not been addressed and why?
4. How else could the recommendation be improved?

Example 1

- Within one month, the Secretary of Social Welfare should address the vulnerability to violations of physical integrity of juveniles in transfer and the late and long transport times for moving juveniles to and from court facilities and between rehabilitation centres.
- The Minister of Justice, the Secretary for Social Welfare, the Director of the Penitentiary System and the Chief of Police should develop within the next year a strategic and operational policy on the transfer of juveniles in order to ensure that:
 - Juveniles are not transferred in vehicles together with adults
 - At least one female officer is always present when transferring female juveniles
 - Adequate provision is made for food, water and physical necessities in journeys longer than four hours
 - All juveniles are given the opportunity to see a nurse or doctor upon arrival
 - All transfer registers are fully filled out

Example 2

- The numerous incidents of excessive use of force in places of detention should be reduced by the authorities.
- Each Director of Prisons should ensure by the end of the current year that all incidents involving the use of force by staff are recorded in a single specific register that should include the name of the staff member registering the incident; the time and date of the incident; the name(s) and position(s) of the staff involved and other staff present; the name(s) of the person(s) deprived of liberty involved; a detailed description of the incident including the reasons for the use of force; any equipment used in the incident; and the signature of the supervising officer that reviewed the incident.

Example 3

- Reduce the arbitrary administration of psychoactive drugs on patients as a means of coercion.
- Hospital authorities should ensure within twelve months that anti-psychotic drugs are administered according to relevant medical, ethical, and legal standards including by:
 - Developing clear guidelines on their use;
 - Ensuring that only qualified and specifically assigned medical personnel may administer them;
 - Implementing a regular and multidisciplinary system of review.

6. Conclusion

Recommendations should seek to propose concrete ways in which human rights issues in places of detention may be addressed. They should also aim as much as possible to be incontestable from the point of view of the would-be implementer. **Double-SMART** provides a suitable framework for critically assessing draft recommendations in pursuit of these goals.

Having decided on the final format for the recommendations, it will be worthwhile for the monitoring body to consider whether there is a need to revise its planned strategy for releasing the report and following-up. The way in which a detention monitoring report and its recommendations are deployed represents the next significant test in the detention monitoring cycle.

