

QUICK GUIDE

Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty



osce
ODIHR

Acknowledgements

Elisabeth Duban acted as lead consultant for the drafting of this guide. ODIHR would like to thank the Polish National Preventive Mechanism for their support and advice during the drafting of this publication.

Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty – Quick Guide

Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR)
ul. Miodowa 10
00-251 Warsaw
Poland
www.osce.org/odihr

© OSCE/ODIHR 2024

All rights reserved. The contents of this publication may be freely used and copied for educational and other noncommercial purposes, provided that any such reproduction is accompanied by an acknowledgment of the OSCE/ODIHR as the source.

ISBN: 978-92-9271-280-8

Design: Filip Andronik

Cover illustration: Inga Ciumac



Contents

About this guide	3
1. Core concepts	4
What is gender-based violence?	4
What is sexual and gender-based violence?	5
Who can become a victim of SGBV?	6
Forms of SGBV in places of deprivation of liberty	6
What is the scale of the problem?	8
Why don't victims report SGBV?	9
What are the consequences of SGBV?	12
2. Recognizing vulnerability	15
Who are the potential victims and perpetrators of SGBV in places of deprivation of liberty?	15
What increases vulnerability to SGBV?	16
How does gender affect vulnerability?	19
Women	19
Men	20
LGBTI people	21
3. Reducing risk	23
Arrest and detention	26
Interviews	27
Body searches	29

Transit and transfer	31
Accommodation	33
Segregation	34
4. Additional measures	37
Static and dynamic security	37
Information about rights, rules and expectations	40
Complaint mechanisms, response and investigation.....	41
Common barriers to reporting SGBV:.....	42
Medical screening and health services	44
Programmes and activities for prisoners.....	45
Staff recruitment, training and oversight	46
Annexe 1. States' obligations to address SGBV under international law.....	48
Annexe 2. Additional resources on how to prevent and address SGBV	54

About this guide

What is the purpose of the guide?

This is a quick reference book containing practical information about the problem of sexual and gender-based violence (SGBV) in criminal justice facilities. It proposes various safeguards to prevent and respond to such violence.

Who is the guide for?

This guidance is for practitioners working in criminal justice systems, especially those involved in arresting, investigating, interviewing or detaining suspects, those accused of a crime and prisoners or detainees.

How to use the guide?

Chapter 1 reviews the nature of SGBV in places of deprivation of liberty.

Chapter 2 discusses different factors that increase the vulnerability of detainees and prisoners to SGBV.

Chapter 3 outlines good practices to reduce the risk of SGBV in specific situations associated with detention.

Chapter 4 summarizes important approaches to preventing and responding to SGBV.

Where can I find more information?

The guide is based on ODIHR's 2019 *Preventing and Addressing Sexual and Gender Based Violence in Places of Deprivation of Liberty*. There is a list of additional resources at the end of the guide.

1. Core concepts

What is gender-based violence?

Gender-based violence (GBV) is a specific form of interpersonal violence which targets a person or a group because of their (actual or perceived) sex, gender, sexual orientation or gender identity. GBV is rooted in power inequalities between different genders, and is a way to assert control over and to humiliate the victim.

What makes gender-based violence different from other forms of violence?

- GBV is directed at a person because of that person's (actual or perceived) sex, gender, sexual orientation or gender identity.
- It is rooted in societal expectations of gender roles (or gender stereotypes).
- It reflects an intention to assert control or power over someone.
- It is the result of gender-based power inequalities that exist in our societies.

What is sexual and gender-based violence?

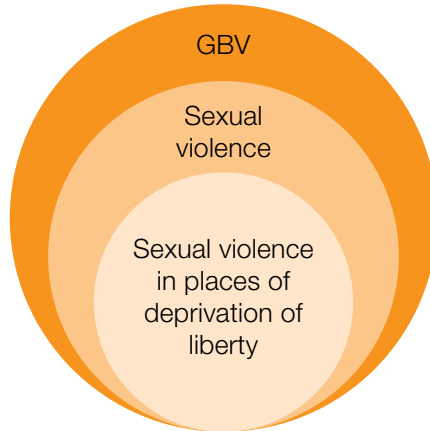
Sexual violence is a form of gender-based violence.

It is an inherently gender-based crime, because it stems from gender inequality and gender stereotypes (e.g., that women should be sexually submissive and that sexual aggression and domination are core components of manhood and masculinity). The term **sexual and gender-based violence** (SGBV) is used to acknowledge both the sexual nature of the violence and the fact that the violence is based on gender, sexual orientation and/or gender identity. SGBV is committed in the community at large and in places of deprivation of liberty.

Remember:

Gender refers to the socially constructed characteristics of women and men. These are the expected norms, roles and relationships of, and between women and men. Gender is an acquired identity that is learned, changes over time, and varies within and across cultures.

Sex refers to the biological and physiological characteristics of females and males, such as their reproductive organs, hormones and chromosomes.



Who can become a victim of SGBV?

Statistically, women and girls are the majority of victims of SGBV, because this form of violence is linked to prejudice and discrimination, gender inequalities in society, harmful gender stereotypes and gender-based power differences. However, men and boys can also be victims of SGBV. In some highly masculinized environments, such as prisons, SGBV is used against men as a way to humiliate, degrade and control them.

Forms of SGBV in places of deprivation of liberty

In closed facilities, SGBV can take many forms including, but not limited to, rape and sexual abuse as well as other sexually exploitative, humiliating acts. How an act of SGBV is defined will vary, depending on the national legislation,

the relationship between the perpetrator and the victim (for example, if the perpetrator a member of staff or another detainee/prisoner) and the sex of both parties.

Some of the most commonly-recognized forms of SGBV occurring in places of deprivation of liberty include:

- Rape and attempted rape
- Sexual assault, molestation or criminal sexual contact
- Sexual harassment
- Sexual threats
- Sexualized torture
- Involuntary prostitution (sexual bartering)
- Sexual humiliation and misconduct (e.g., forced nudity, voyeurism, 'virginity testing')
- Humiliation and harassment based on sexual orientation/gender identity
- Violence related to reproductive and sexual health, such as forced sterilization, forced abortion, forced circumcision and castration

Places of deprivation of liberty, by their very nature, are closed institutions, out of the public eye, that are highly

controlled and largely same-sex environments. **This controlled environment tends to make it more difficult to identify the power inequalities and control dynamics that characterize SGBV.** Very often, the causes and consequences of SGBV are not properly recognized or addressed; the authorities or staff often treat SGBV as interpersonal violence and deal with it only as a safety and security issue. Sometimes, a member of staff may deliberately use SGBV to control people deprived of their liberty. Understanding the nature and dynamics of SGBV is an important step towards protecting individuals from this form of abuse.

What is the scale of the problem?

SGBV is widely under-reported in the general community. Experts speak of the number of reported incidents of sexual violence as only the ‘tip of the iceberg’, suggesting that there are many more victims than are shown by statistics.

It is difficult to estimate the scale of SGBV in places of deprivation of liberty, due to limited data and studies on its prevalence. Also, differing definitions of SGBV, forms of record-keeping and survey methodologies mean that the available data not only varies greatly by country but also cannot be compared. However, there is consensus that **SGBV is a latent problem** in places of deprivation of liberty and is **broadly under-reported**.

Why don't victims report SGBV?

The main **reasons for under-reporting in society at large are magnified in closed settings.**

There are also barriers to reporting that are specific to places of deprivation of liberty.

- **Feeling ashamed and humiliated**

Victims of SGBV commonly feel ashamed and humiliated, because society often stigmatizes this type of violence. Detainees and prisoners feel the same reluctance to talk about/report sexual violence, and this can be made worse by lack of access to support services (e.g., trauma counselling) and by the specific and extreme stigma affecting victims of SGBV in certain prison cultures. Men and boys may feel immense shame due to widespread misconceptions that they should be able to protect themselves from SGBV. They can feel humiliation for being perceived as 'not masculine'.

- **Fear of the perpetrator and of reprisals**

This is one of the most common reasons that women victims generally give for not reporting incidents of sexual violence. In closed facilities, if SGBV is reported, the fear of retaliation and potential threats from the perpetrators are intensified. The fear of reprisals can also deter staff and witnesses of violence from reporting it.

- **Negative administrative consequences for reporting**

In some facilities, there may be negative consequences for reporting an incident of SGBV. For example, if a victim knows that they will be placed in protective custody for reporting abuse and, as a result, will lose some privileges (e.g., participating in activities), they may decide not to report the violence. Similarly, reporting might lead to a victim being transferred to another facility under worse conditions, such as being located further away from family and friends on the outside.

- **The nature of the relationship between the abuser and the victim**

The relationship between abuser and victim creates specific barriers to reporting. Victims of SGBV at the hands of staff can find that the authorities do not believe their claims. When SGBV takes the form of coerced sex in return for a benefit, whether perpetrated by staff or another prisoner, the victim may be reluctant to report due to concerns over losing ‘privileges’ or for appearing to have been complicit in any infringements (e.g., if the victim is receiving special treatment or goods from prison authorities in return for sexual favours).

- **Victim-blaming attitudes**

In society generally, there are widely-held, but incorrect beliefs that victims provoke sexual violence, including rape, through their own actions. These attitudes to SGBV contribute to victims’ feelings of guilt or the perception that they

have played a role in their own victimization. Self-blame is also a common feeling among people who have previously experienced violence in a relationship. Some victims come to think of such abuse as 'normal'. Detainees and prisoners may have internalized such attitudes and might also feel that, because they are incarcerated, they should accept abuse as part of their punishment.

- **Lack of effective complaints mechanisms and procedures**

According to international standards, all people deprived of their liberty should be given information about how to make complaints. They should be able to complain to different authorities (including, e.g., monitoring bodies) and be protected by safeguards, so that they can make complaints safely and confidentially. However, in some places of detention, there may be **no established procedures for making complaints**. In others, detainees may not know how to complain or may not be able to do so — they may be unable to read, write or speak the language.

- **Lack of trust in complaint mechanisms**

Even if complaint mechanisms are in place, if they are not independent or effective, or if they do not offer confidentiality or anonymity, victims or witnesses of violence might not trust them, and therefore will be unlikely to report SGBV.

When the authorities are unable to prevent SGBV, or fail to take action against the perpetrators, **victims may feel**

that reporting is pointless or dangerous. If SGBV is perpetrated by staff members, victims are more likely to feel that the system is corrupt, and that there will be no effective response. If the staff do not take certain SGBV complaints seriously (e.g., when it occurs between female detainees), victims are unlikely to make a report. Gender and age can also play a role; research has found, for instance, that female and young victims of SGBV, tend to be less likely to understand or trust complaints procedures.

What are the consequences of SGBV?

The **consequences of SGBV**, especially if not addressed, are serious and far-reaching, for both individuals and institutions.



Victims of violence can experience:

- **Physical effects:** including, but not limited to, physical injuries, sexually-transmitted infections and reproductive health problems.
- **Emotional and psychological issues:** such as feelings of shame, guilt, depression, anxiety, post-traumatic stress disorder (PTSD), difficulty sleeping and concentrating, feelings of vulnerability and panic attacks that can lead to self-harm or even suicide attempts.

- **Socio-economic repercussions:** such as difficulties in forming relationships and in finding/maintaining employment. Stigma can cause victims to become isolated and abandoned by their family and friends.



The consequences for institutions include:

- **Increased violence:** SGBV undermines security. It leads to further violence and reinforces gender inequalities, sexism and discrimination. A violent institution is harder and costlier to run.
- **Difficulties in hiring and retaining staff:** If SGBV goes unaddressed, it damages staff morale, safety and stability. When a facility develops a reputation for violence and abuse, it will likely face problems hiring and keeping staff, especially female staff.
- **Economic costs:** The economic consequences can significantly increase the cost of security measures and in-prison programmes (such as those that address the spread of communicable diseases, including tuberculosis and sexually-transmitted infections). SGBV in places of detention undermines rehabilitation and reintegration programmes, with long-term costs for public health and social care systems and future employers.

2. Recognizing vulnerability

Who are the potential victims and perpetrators of SGBV in places of deprivation of liberty?

Potential victims

- Adult detainees and prisoners; women and men
- Detainees and prisoners who are lesbian, gay, bisexual and transgender, and/or intersex (LGBTI) or who are perceived as such
- Juvenile detainees and prisoners; girls and boys

Potential perpetrators

- Authorities involved in arrest, detention, searches, investigation and interviewing
- Prison officers, prison managers and others who work in places of detention, including prison medical staff
- Detainees and prisoners
- Service providers, health-care providers, lawyers or community members who work in places of detention
- Members of monitoring teams
- Visitors, including family members (i.e., during conjugal visits), friends or others

What increases vulnerability to SGBV?

Some groups of people are especially vulnerable to SGBV due to their gender and other patterns of discrimination that exist in society. These detainees and prisoners require special measures to address their needs and ensure their safety.



CHECKLIST: Vulnerability factors

- ❑ **Age:** Young detainees/prisoners may need special protection from SGBV and exploitation due to their age and level of maturity. Elderly inmates can also be at risk of victimization by younger inmates.

- ❑ **Minority status:** Prisoners and detainees from minority groups (e.g., based on ethnicity, religion or foreign national status) can be at risk of SGBV, because discrimination present in society is often reproduced or magnified in prison or other detention settings. In countries with a history of inter-ethnic conflict, ethnic minorities may be subjected to violence as a form of punishment and retaliation.

- ❑ **Disability:** People with disabilities (including with physical, mental, intellectual or sensory impairments) can be at risk of SGBV if their needs are

not properly met and if the prison or detention facility does not create a safe and enabling environment for them. Perpetrators often assume that people with mental health issues or intellectual disabilities will not be taken seriously if they report violence.

- ❑ **People involved in prostitution:** This group is especially vulnerable to SGBV in detention, particularly by the police and in countries where prostitution is criminalized. People involved in prostitution are likely to have experienced violence previously. As well as suffering the psychological and physical consequences of past abuse, their marginalized status may prevent them from reporting SGBV.

- ❑ **High-profile individuals:** Certain categories of detainees and prisoners, such as public figures, celebrities or their family members, may be targeted due to their status in society.

- ❑ **Individuals who have experienced violence in the past:** These people are more likely to be subjected to further victimization at the hands of other inmates or staff. Those who have been subjected to SGBV in the past usually develop their

own coping strategies, which can also increase their vulnerability in detention.

- ❑ **Other personal factors** that should be considered include: addiction or dependency, family and community connections, socio-economic status, the nature of their offence, any gang affiliation and previous prison history.

Remember:

Factors that increase vulnerability are **dynamic**. This means that vulnerability may change over time or depending on a particular circumstance or location (for example, if a prisoner has become more isolated due to a transfer to a new facility or is no longer receiving visitors). Vulnerability factors are also **intersecting**, meaning that they may combine to increase a person's risk of experiencing SGBV (as would be the case, for example, for a young man or woman belonging to an ethnic minority group).

Remember:

Detainees/prisoners suspected, accused or convicted of particular types of offences (such as offences related to sexual violence) may be more likely to become targets of sexual abuse in places of deprivation of liberty.

How does gender affect vulnerability?

In addition to the personal factors described above, which can be relevant to any prisoner or detainee, gender also plays a role in increasing vulnerability to SGBV.

Women

Women are a high-risk group for SGBV in general and in places of deprivation of liberty. This is because SGBV has its roots in gender inequalities, which are magnified in places of detention.

Women are a minority of the overall prison population, and they are generally housed in facilities that were designed for men. The staff and management and the educational, recreational and vocational programmes may not be suited to the specific needs of women. Because of the limited number of facilities for women, they are often held in a higher security environment than necessary, which can restrict their opportunities for visits from their loved ones. Gender discrimination in detention may both lead to, and further compound the harmful effect of SGBV on women. It is therefore important to recognize the specific experiences of women in detention.

Remember:

Several national studies have found that around half of female prisoners have experienced some form of physical, sexual or emotional abuse before being incarcerated.

There is a strong link between violence against women and women's incarceration. Many women in places of detention might have survived GBV or other forms of victimization in the past, including child abuse, domestic violence and human trafficking or other forms of sexual exploitation. This places them at increased risk of experiencing further violence and abuse while in custodial settings.

Men

Although there is limited data, research indicates that SGBV is common against men and boys in places of deprivation of liberty. In prisons and detention facilities, this can take many forms, including rape, gang rape, sexual slavery, enforced nudity and sexual coercion.

Because closed facilities are male-dominated and the principal form of masculinity tends to be violent, in closed facilities men are expected to conform and display aggressive behaviours. If they do not, they are at increased risk of violence. SGBV commonly occurs as prisoner-on-prisoner violence, and men can be victimized by other inmates as a form of punishment, to exert control, to terrorize, to threaten or to disempower an individual or a group.

Because male detainees and prisoners may perceive sexual violence as a threat to their masculinity, they can be especially reluctant to report it, or they might be inclined to characterize their experiences as 'abuse' or 'torture', without focusing on the sexual or gender aspects of the violence.

LGBTI people

Lesbian, gay, bisexual, transgender or intersex (LGBTI) people (or people who are perceived as such) often face negative attitudes, discrimination, harassment and even violence in the general community, because they do not conform to traditional gender expectations. In places of deprivation of liberty, they face similar or greater discrimination and stigma, and they may be particularly targeted by other detainees, as well as staff. This places them at particular risk of SGBV, such as humiliating and invasive body searches.

Criminal justice systems, in general, and places of detention, in particular, tend to overlook, or fail to consider the specific needs of LGBTI people. For example, transgender and intersex individuals can find themselves in vulnerable situations when the authorities do not consider their needs in deciding about cell allocation.

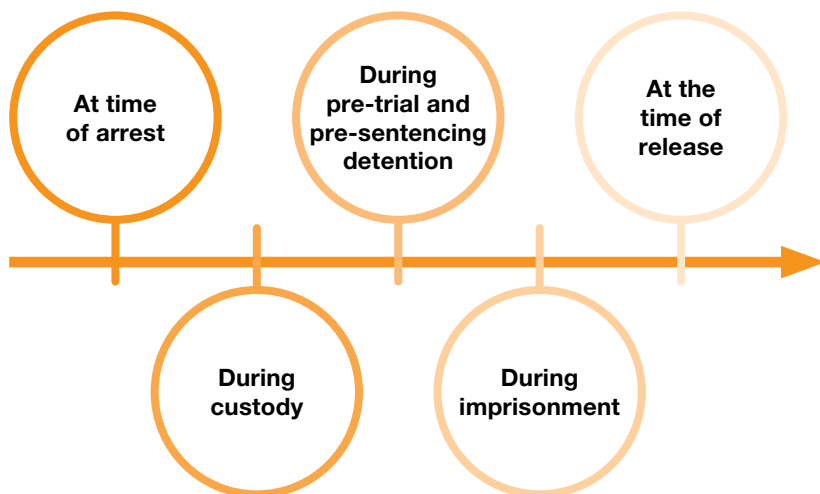
Remember:

There is a common myth in many prison systems that homosexual men are the major perpetrators of sexual abuse and rape. In reality, homosexual men, as other LGBTI people, face a high risk of being victimized by other prisoners or staff when there are no effective prevention and protection mechanisms in place.

3. Reducing risk

Risk and needs assessments related to SGBV should be run at each and every stage of the criminal justice process. The results should be used by police, prosecutors, courts, prison staff and probation officers, among others.

Timeline:



Risk and needs assessments should consider all the factors that may put individuals at risk. They are crucial for identifying signs of vulnerability or aggression, providing effective treatment and rehabilitation, planning reintegration programmes and ensuring everyone's security.



CHECKLIST: Good practices for SGBV risk assessments

- ❑ Consider risk broadly (i.e., risk to potential victims; risk that individuals will perpetrate SGBV; risk of SGBV perpetrated by, or against prison staff or others) and use clear criteria to identify risk.
-
- ❑ Use a range of sources, such as:
 - Criminal history
 - Nature of the offence
 - History of involvement in inter-prisoner violence
 - Past history of victimization
 - Health issues and medical history
 - History of addiction
 - Socio-economic background
 - Other personal factors that can increase vulnerability (see vulnerability checklist)

- ❑ Do not make assumptions based on stereotypes, but do assess risk based on objective findings.

- ❑ Be sure to consider the detainee or prisoner's input about their own sense of risk.

- ❑ Share the risk assessment findings with all relevant staff on a need-to-know basis. Also share with the prisoner in confidential discussions, and allow them to give feedback.

- ❑ Review and update the risk assessments regularly.

- ❑ Train staff on how to conduct risk and needs assessments using standardized methodologies and common criteria.

- ❑ Monitor and evaluate the effectiveness of risk assessment methods.

- ❑ Ensure that risk assessment teams are gender-balanced and include experts on SGBV whenever possible.

- Introduce immediate protection measures for individuals assessed to be at risk of SGBV to limit their exposure to discrimination and stigmatization and to prevent a deterioration in their detention conditions. One approach could be to consult the prisoner/detainee about ways to keep them safe, for example, discussing the sex/gender of co-detainees and staff members who carry out searches.

Particular steps should be taken to **reduce the risk of SGBV in situations that are associated with heightened vulnerability**, for example, during initial interactions with police, the investigation stage and factors connected with detention, such as prison overcrowding.

Arrest and detention

There is a heightened risk of SGBV in the period between a person's arrest and their formal placement in police custody. Suspects are more likely to be alone with the arresting authorities and may be in locations where there are no CCTV (closed-circuit television) cameras, audio recording devices or witnesses to any abuse.

Safeguards must be in place when a person is held in any type of detention. One of the most important measures is providing the detainee information about:

- The reason for their arrest and any charges
- The place of custody
- Their rights and how to protect them. (Note that this includes the right not to be subjected to violence and the right to make a complaint about treatment while in detention)
- Their right to contact family members and to have a lawyer

It is also recommended to divert specific groups, e.g., children and people with mental health issues, away from custody to health/social services.

Interviews

Suspects can be at high risk of SGBV during the investigation stage, especially during interviews to obtain confessions from suspects or information from witnesses.



CHECKLIST: Safeguards to reduce the risk of SGBV in interview

- Promptly identify the needs of people in situations of particular vulnerability (including gender- and age-specific needs). Vulnerable people can

include, but are not limited to, women and girls, minors, people with disabilities or people with a minority status.

- ❑ Ensure that clear regulations are in place describing the procedure for bringing a detainee to an interview.
-

- ❑ Give the detainee information about their rights – to legal counsel, to inform a third party about their detention, to access medical care and to have contact with their family.
-

- ❑ Ensure a timely judicial review of the legality of the arrest and detention.
-

- ❑ Review regularly the interview methods and practices in order to prevent torture and SGBV.
-

- ❑ Maintain full records of all interviews, including all the people present.
-

- ❑ Train all officials involved in interviewing on how to conduct gender-sensitive interviews of suspects, including in relation to the prevention of SGBV.

- ❑ Ensure that interview rooms have a working panic button that can be used by both interviewer and interviewee if they feel in danger.

- ❑ Ensure that interviews are not held in isolated rooms.

Body searches

The risk of SGBV is high during body searches. Body searches could amount to SGBV and/or torture and other ill-treatment under international law if they are conducted excessively and routinely, if they involve particularly invasive probing, or if they intentionally target particular groups of detainees.

The term ‘body searches’ refers to three distinct procedures:

1. **Pat-down or frisk** searches that are performed over clothing
2. **Strip searches**, which involve the removal or reorganization of some or all clothing in order to permit a visual inspection of all parts of the body, without physical contact
3. **Body-cavity searches**, also known as **invasive or intimate** searches, which are physical examinations of body entry points, such as the vagina or anus



CHECKLIST: Good practices for body searches

- Only use searches as a last resort. Prison officials should always assess whether a search is needed (*the principle of necessity*) and should use the least intrusive method to achieve the purpose of the search (*the principle of proportionality*). Alternative screening methods (e.g., body scanners) should also be in place.

- Keep a full record of body searches.

- Ensure that gender-sensitive and human rights-compliant policies on permissible and prohibited conduct during searches are in place and that all staff are trained on the policies.

- Carry out searches in a way that guarantees the full respect for the dignity and privacy of the individual being searched.

- Conduct searches in a private room where the person being searched cannot be seen by other staff or detainees/prisoners.

- ❑ Give detainees/prisoners the opportunity to disclose or hand over any concealed contraband/banned objects to staff before conducting a search.

- ❑ Do not require detainees/prisoners to fully undress. Carry out strip searches in stages (undressing above the waist and then below the waist).

- ❑ Trained staff of the same sex should carry out searches, particularly when searching women and girls. For LGBTI people, give the detainee/prisoner the choice of being searched by a male or female staff member.

Transit and transfer

Detainees are regularly transferred from places of deprivation of liberty to court, between institutions or to medical facilities. During the transfer, there is an increased risk of SGBV from staff, other detainees or other people who do not usually come into contact with detainees/prisoners. This risk may be greater when non-state/private agencies are responsible for transporting detainees.

To reduce this risk, institutions should have clear policies regulating transfers that directly address SGBV in a gender-sensitive way.



CHECKLIST: Key safeguards for transit and transfers

- Apply the usual safety measures on the separation of prisoners and appropriate staffing in the same way during transfers (this includes the separation of men and women, juveniles and adults).

- Women should only be supervised by other women officers.

- Undertake the transfer of transgender and inter-sex individuals with special care and sensitivity.

- The conclusions of individual risk assessments should inform decisions about transferring specific detainees/prisoners separately or together.

- Detainees/prisoners must be able to communicate with their family and lawyers or to inform other third parties about the transfer.

- CCTV cameras should be installed, when possible, in vehicles and transit facilities. Tracking

devices installed on vehicles can also help reduce the risk of abuse.

Accommodation

In many countries, closed facilities are overcrowded, and this can increase stress, mental health problems and violence, including SGBV. Overcrowded, under-resourced facilities are also more difficult to manage, which makes preventing and responding to SGBV more challenging. In overcrowded facilities, the authorities may not be able to meet prisoners' basic needs or to deliver programmes and services that help to reduce violence, such as rehabilitation, education and training programmes.



CHECKLIST: International standards for accommodation

- Each prisoner should have an individual cell to sleep in at night.

- If not possible, reduce the risk by avoiding having only two prisoners housed together.

- ❑ If using dormitories, take special care to select prisoners who can safely associate with each other in these conditions, and monitor them regularly.

- ❑ Men and women, as well as adults and minors, should always be accommodated separately.

- ❑ Always consult transgender detainees/prisoners on decisions about their place of detention/the facilities in which they will be placed.

- ❑ Ensure adequate staff supervision to prevent violence.

- ❑ Only staff of the same sex as the people deprived of their liberty supervise toilet, washing and dressing areas.

Segregation

Segregating or separating certain detainees/prisoners is often used to address the risk of SGBV or as a reaction to violence after it has occurred. In some cases, detainees/prisoners who are considered to be at risk of SGBV are separated from the others for their own safety and sometimes

at their own request. However, segregation can place detainees or prisoners in a vulnerable position and at risk of abuse from staff members, especially when contact with the outside world is limited, and particularly in cases of solitary confinement. Increased isolation can have negative mental health consequences for detainees/prisoners, and separating them from the general prison population can put them at risk of stigmatization.



CHECKLIST: Good practice on segregation

- Consider ways of protecting vulnerable detainees other than by segregation. Ensure that alternative protection measures do not stigmatize or discriminate against them.

- When a facility is intending to segregate an individual for protective purposes, always obtain the detainee/prisoner's agreement to be placed in segregation.

- Limit the use of protective segregation to exceptional circumstances, for the shortest-possible time and with adequate procedural safeguards and regular review.

4. Additional measures

In addition to steps for directly **managing the risk** of SGBV, state authorities have obligations to **prevent** SGBV in places of deprivation of liberty and to **respond** if it happens. The good practices described here should be applied to the day-to-day operation of closed facilities. They are practices that reinforce each other to create an environment in which SGBV, or indeed other forms of violence, become far less likely to occur.

Static and dynamic security

Security in places of deprivation of liberty generally involves both static measures and dynamic practices.



Static security refers to the **physical design and infrastructure of buildings**, meaning the walls, bars, locks, gates etc., **and use of technology**, such as alarm systems, movement sensors and CCTV cameras.



Dynamic security, in contrast, refers to **positive and constructive interactions between staff and detainees/prisoners** that allow staff to develop a situational awareness so that they can **anticipate and prevent problems before they arise**. Dynamic security approaches are far less dependent on high-tech equipment and can be implemented in any place of detention.

Combining static and dynamic security measures can contribute to the prevention and response to SGBV, and this approach is also a necessary part of risk management and violence prevention generally. They also contribute to a prisoners' sense of well-being and fair treatment.



CHECKLIST: Static security features to enhance the safety of people at risk of SGBV

- Ensure that the design of closed facilities allows all detainees and prisoners (women and men) to move around the facility without being put in vulnerable situations.

- Ensure that the facility's layout keeps detainees and prisoners of different sexes and ages separate, both visually and from noise.

- Keep blind spots where SGBV may not be detected under particular supervision (e.g., sleeping areas, toilets and bathing areas) while also maintaining respect for detainee/prisoner privacy.

- Use CCTV to prevent or deter SGBV and to secure evidence if SGBV has occurred. The use of

CCTV must be properly regulated so that rights to privacy, dignity and confidentiality are protected.

Remember:

CCTV is only effective in preventing SGBV if it is used together with other measures, especially dynamic methods of security.

CCTV should not be used to compensate for staff shortages.



CHECKLIST: Key elements of dynamic security

- Train staff to develop relationships with detainees and prisoners through positive interactions and interpersonal skills.

- Ensure staff are alert and take a proactive approach to recognizing security threats at an early stage.

- A professional relationship between staff and prisoners is the basis for de-escalating potential incidents of violence and for restoring order through dialogue and negotiation.

- ❑ Staff should ensure that prisoners are kept active in constructive and positive ways, which also contribute to their future reintegration into society.
- ❑ Staff should understand the backgrounds and needs of different groups held in the place of deprivation of liberty.

Remember:

Staff need to be specially trained in dynamic security approaches.

Dynamic security measures are most effective when used alongside comprehensive, ongoing risk and needs assessments.

Information about rights, rules and expectations

During the admissions process, each detainee and prisoner should be given information about their rights, including on how to make complaints if they believe their rights have been violated. They should also be informed about the disciplinary sanctions that can be applied if they infringe prison rules, including those related to SGBV.

Information about rights, obligations and the complaints process should be communicated in a way that is understandable to each detainee/prisoner. This can include providing information in written and oral form, displaying the information prominently (such as posting signs in visible places in common areas), making information available in different languages and considering any disabilities (e.g., providing information in Braille, easy-to-read formats or through sign language).

It is important that the administration of places of deprivation of liberty provide newly-arrived prisoners/detainees and staff with educational materials specifically about SGBV, the various forms it can take, its consequences and what action someone can take if they have been abused or feel they are at risk of abuse.

Complaint mechanisms, response and investigation

Places of deprivation liberty should have clear guidelines on how a detainee/prisoner can complain about SGBV and what steps to take when a complaint is made. The response should set out clear timelines for investigation and outline measures to ensure the safety and confidentiality of victims and witnesses.

A number of factors deter people from reporting SGBV (see *Why don't victims report SGBV?*), but these barriers can very often be overcome through responsive and sensitive complaint mechanisms that are clear and communicated to all.

Common barriers to reporting SGBV:

Complaint mechanisms not independent or effective

Lack of information on (or lack of trust in) the mechanism

Ensure there are written guidelines establishing and detailing how people deprived of liberty can raise complaints, including on SGBV.

Provide various channels for reporting SGBV confidentially (e.g., written, by telephone hotline, in person).

Inform all prisoners about these mechanisms upon arrival; ensure this information is also disseminated within the detention facility.

Provide mechanisms for staff, including medical personnel, to make reports when they become aware of signs of SGBV.

Fear of retaliation or reprisals

Respect the confidentiality of the person reporting the issue.

Allow anonymous complaints to be made, and make sure those complaints are not censored.

Accept reports from victims, as well as witnesses and third parties (e.g., family members, lawyers, monitoring bodies or representatives of civil society organizations).

Provide protection and supervision for the victim from the moment they report abuse.

Ensure safe disclosure for all individuals.

As soon as a complaint is made, ensure that alleged perpetrators are suspended from positions of power and have no contact with complainants.

Stigma and feelings of shame or embarrassment

Give victims different options on where they can send complaints, and ensure both internal and external oversight.

Allow victims to choose who they feel most comfortable disclosing their complaint to (e.g., a staff member of the same gender, person of the same religious or cultural background, medical professional, lawyer).

Provide specialized support and assistance for victims as soon as a complaint has been submitted.

Remember:

Filing a report should immediately trigger specialized support and assistance for victims of SGBV (including physical and mental health care, counselling, legal aid, safety measures). Cooperation with civil society organizations that address the problem of SGBV can be a valuable resource for prison authorities to ensure that they provide victims with quality care.

Medical screening and health services

When admitted to a facility, a qualified healthcare professional should perform a comprehensive medical examination that includes screening for SGBV. Keep in mind that prisoners and detainees retain their rights regarding health care. Therefore, they must provide their informed consent before any medical screening is performed. Because of special safety and security concerns around their reproductive health history, women prisoners/detainees must be given the right to refuse gynaecological examinations and must not be coerced into disclosing information. Women must also have the option to be examined by a female doctor.

When conducting health screenings, it is important that medical staff identify any ill-treatment that the prisoner or detainee may have been subjected to before admission. Likewise, screening for women should try to establish whether the prisoner or detainee suffered from sexual abuse or other

forms of violence before admission. Due to the sensitivities and risks involved in compiling histories of SGBV, special screening processes should be in place, and staff should be trained how to ask about and detect signs of prior SGBV. This is an important element of risk assessment.

The care that medical professionals provide to victims of SGBV, such as counselling, voluntary testing for sexually-transmitted infections and post-exposure prophylaxis, should be the same for people in places of deprivation of liberty as it would be for the general public. The prison administration should try to recruit specialists on detecting and dealing with incidents of SGBV. Where this is not possible, all medical staff should at least be trained in how to identify and respond to SGBV.

Programmes and activities for prisoners

Educational, vocational and recreational activities play an important role in prisoner rehabilitation and reintegration. Activities can help relieve boredom and stress and bring a sense of normality to life inside a closed facility, particularly when they are offered by outside organizations.

Carefully-designed programmes and activities can also mitigate some of the factors that contribute to the risk of violence and abuse, and can be effective in preventing SGBV. Areas of programming include:

- Activities that **create safe spaces for respectful interaction** between detainees/prisoners. However,

prison authorities must be attentive to any potential risks of SGBV during these activities, especially if men and women prisoners take part together.

- Programmes **aimed at prisoners in vulnerable situations**, such as counselling and support, or that address dependency (e.g., for drugs or alcohol) or experiences of gender-based violence before detention, as well as comprehensive support programmes for detainees with mental health needs. It is good practice to base such programmes on tried and tested approaches already used in the community. This also helps to forge links between prison authorities, law enforcement and civil society organizations that address SGBV.
- Programmes that **target potential perpetrators**. This could be training that aims to provide prisoners with alternatives to violent behaviour, reduce aggression, challenge gender stereotypes and foster positive, rather than negative, masculinities.

Staff recruitment, training and oversight

Careful selection and proper training of law enforcement and penitentiary staff at all levels is essential for creating an environment in which SGBV is not perpetrated, condoned or tolerated. Not only must staff be properly recruited and trained, but they must also be well-supervised and supported.

Training for staff should cover, at a minimum: human rights, gender equality, non-discrimination, tolerance, ethics, risk assessment, management and communication strategies through a gender-aware lens, and the identification, prevention of and response to SGBV.

Gender-sensitive recruitment methods should be used to increase the number of women staff members. Family-friendly workplaces are also important to ensure that staff with care responsibilities are retained and that they can advance in their careers. Workplaces must be safe and harassment-free. Places of deprivation of liberty should also have clear policies and procedures on staff safety and zero tolerance for sexual harassment in the workplace.

Recruitment procedures should also ensure that opportunities are provided to diverse candidates, to ensure that the staff includes under-represented groups or, at a minimum, staff who have expertise in working with particular minority groups.

Notes:

Annexe 1. States' obligations to address SGBV under international law

States have binding obligations under international law that pertain to preventing and addressing SGBV. Staff who work in places of deprivation of liberty must not only be aware of these obligations but must also ensure respect for the rights of prisoners and detainees at all times. It is essential that practitioners who work in criminal justice systems not only know the international human rights standards but also apply them in practice.

States have committed to protect and promote the equal rights and opportunities of women and the right to be free from discrimination on the basis of sex/gender. These commitments are found, for example, in [OSCE Ministerial Council decisions](#), the [Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#), the [International Covenant on Civil and Political Rights \(ICCPR\)](#) and the [European Convention on Human Rights \(ECHR\)](#).

States also have specific obligations to prevent, investigate and punish all forms of gender-based violence, including SGBV, perpetrated by state actors and by private individuals, in the community at large and in places of deprivation of liberty. [OSCE Ministerial Council decisions](#), General Recommendations [No. 33](#) and [No. 35](#) of the CEDAW Committee, as well as the [Council of Europe Convention on Preventing and Combating Violence against Women and Domestic](#)

Violence (Istanbul Convention) describe States' obligations to combat gender-based violence in all forms.

Fundamental human rights

Equal rights and opportunities of women and men and gender equality

The right to be free from discrimination

The right not to be subjected to gender-based violence

States should follow these core principles in their efforts to prevent and eliminate GBV and to protect all victims, whether in places of deprivation or liberty or in the general community:

- Take a human rights-centred and gender-sensitive approach, recognizing that gender inequality is both a cause and consequence of GBV;
- End impunity by holding perpetrators accountable and take a zero-tolerance approach to all forms of GBV;
- Consider the experiences of victims of GBV when developing justice system interventions;

- Involve multiple agencies working toward the shared goal of eradicating GBV when developing comprehensive and coordinated measures; and
- Prioritize the human rights, needs and safety of victims (also referred to as taking a victim/survivor-centred approach).

People who are deprived of their liberty do have some of their rights and freedoms restricted. However, detainees and prisoners retain their fundamental human rights. The core human rights that are involved in SGBV — such as the right to security of the person and not to be subjected to torture and other ill-treatment — apply equally to people in places of deprivation of liberty as they do to people in the general community. In addition to OSCE commitments, these rights are contained in the [ICCPR](#), [ECHR](#) and the [Convention Against Torture \(CAT\)](#).

Fundamental human rights

The right to security of the person

The right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment

The right to equal protection under the law

The right to health

- States are obliged to prevent acts of torture, as well as acts of other cruel, inhuman or degrading treatment or punishment, including when such acts are committed by, at the instigation of, or with the consent of, a public official or a person acting in an official capacity. Torture and other ill-treatment are prohibited absolutely, and human dignity must be respected, also in detention.
- SGBV in places of deprivation of liberty can amount to torture when used against detainees/prisoners. Women and people who do not — or who are perceived not to — conform to gender roles are at heightened risk of torture and other ill-treatment, in the form of sexual violence, during interviews and in periods of pre-trial detention.

Based on states' human rights obligations, international standards have been developed that provide specific guidance and practical recommendations for the treatment of prisoners and detainees that states should implement. Three important sources of guidance are:

- [UN Standard Minimum Rules on the Treatment of Prisoners \(the Nelson Mandela Rules\)](#)
- [UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders \(the Bangkok Rules\)](#)

- [Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity](#)

Key principles for operating places of detention

Protection of detainees/prisoners from torture and other forms of cruel, inhuman or degrading treatment or punishment, including in areas of health care in prisons and in disciplinary measures (strict limitations on the use of solitary confinement).

Prompt, impartial and effective investigation of all allegations of torture and other ill-treatment as well as serious injuries or deaths in custody.

Responding to the particular needs of groups in situations of vulnerability is not considered to be discriminatory.

Full implementation of specific standards to protect the human rights of women in detention.

Address violence against women and discriminatory practices in places of deprivation of liberty.

Use gender-sensitive prison management policies throughout the detention cycle.

Guidance for upholding human rights principles for LGBTI people.

Attention to ensuring that detention does not lead to further marginalization on the basis of sexual orientation or gender identity or subjecting them to risks of ill-treatment, violence, physical, mental or sexual abuse.

Annexe 2. Additional resources on how to prevent and address SGBV

OSCE ODIHR publications:

- Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty: Standards, Approaches and Examples from the OSCE Region
- Guidance Document on the Nelson Mandela Rules: Implementing the United Nations Revised Standard Minimum Rules for the Treatment of Prisoners

Standards on the treatment of prisoners:

- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- UN General Assembly Resolution 70/175 (2015) - United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)
- UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)

- <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial>
- Principles on the application of international human rights law in relation to sexual orientation and gender identity (Yogyakarta Principles)
- <https://yogyakartaprinciples.org/>

Acronyms

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCTV	closed-circuit television
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
ECHR	European Convention on Human Rights
GBV	gender-based violence
ICCPR	International Covenant on Civil and Political Rights
LGBTI	lesbian, gay, bisexual, transgender and/or intersex
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
SGBV	sexual and gender-based violence

