



Integrating the Issue of Sexual and Gender-Based Violence in Detention Monitoring

A Guidance Note for Oversight Mechanisms

osce
ODIHR

Integrating the Issue of Sexual and Gender-Based Violence in Detention Monitoring

A Guidance Note for Oversight Mechanisms



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 2021

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

ISBN 978-83-66690-09-7

The document was conceived of and co-ordinated by ODIHR and drafted by lead consultant Sharon Critoph, who also undertook expert interviews and research.

Designed by Homework

Table of Contents

1. INTRODUCTION	6
2. WHAT IS SEXUAL AND GENDER-BASED VIOLENCE?	9
3. WHAT ARE THE SPECIFIC RISKS IN PLACES OF DEPRIVATION OF LIBERTY?	11
3.1 Who Is at Risk of SGBV?	12
3.2 Who Are the Perpetrators?	14
4. UNDERSTANDING WHY SGBV IS OFTEN UNDERREPORTED	16
5. HOW TO INCLUDE THE ISSUE OF SGBV IN MONITORING	19
5.1 Strategic Planning and Prioritization	19
5.2 Setting Clear Objectives in Relation to SGBV	21
5.3 Monitoring tools	22
5.4 Associated Risks and Challenges	22
5.5 Ensuring Full Confidentiality	23
6. MONITORING METHODOLOGY	24
6.1 Reviewing Laws, Policies and Procedures	24
6.2 Reviewing Other Relevant Information and Documentation	25
6.3 Visiting the Facility	26
6.4 Interviewing Detainees/Prisoners	26
6.5 Information from Former Detainees/Prisoners, Family Members and Other Stakeholders	31
6.6 Information from Authorities	32
7. COMPOSITION OF THE MONITORING TEAMS	33
7.1 Identity of the Monitors	33
7.2 Professional and Inter-Personal Skills	34
7.3 Language and Working with Interpreters	34
7.4 Building the Capacity of Monitoring Mechanisms in Relation to SGBV	35
8. MONITORING RISK IN SPECIFIC SITUATIONS	37
8.1 Interactions with Police: Stop, Arrest and Detention	37
8.2 Investigation Stage: Interviews and Interrogation	41
8.3 Allocation and Supervision	42
8.4 Body Searches	44
8.5 The Use of Restraints, Force and Arms	49
8.6 Segregation and Other Disciplinary Measures	51
8.7 General Living Conditions and Potential “Blind Spots”	53
8.8 Transit and Transfer	54
8.9 Initial Medical Screening and Ongoing Healthcare (as a Risk Factor)	56
9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV	59
9.1 Risk and Needs Assessments	59
9.2 Access to Healthcare	60
9.3 Contact with the Outside World	63
9.4 Access to Information	67
9.5 Static and Dynamic Security	68
9.6 Staff Recruitment, Training and Supervision	68
9.7 Complaints Mechanisms	69
9.8 Activities and Programmes	73
10. FOLLOW-UP ACTIONS	75
10.1 Gender-Responsive Reporting	75
10.2 Recommendations and Dialogue	76
10.3 Follow-Up on Investigations	76

1. INTRODUCTION

Sexual and gender-based violence (SGBV) is a persistent problem in places of deprivation of liberty. This reflects not only the extent to which society tolerates such violence, but also the fact that acts of SGBV in places of deprivation of liberty remain largely ignored and under-reported, and authorities often fail in their duty to protect detainees and prisoners.

Criminal justice systems often lack clear policies for responding to SGBV, and staff do not receive adequate training on identifying and responding to such abuse. Authorities fail to take SGBV seriously when it occurs in detention settings, or they dismiss it as an inherent aspect of prison life. Society can also be dismissive of SGBV in detention settings, due to bias against those behind bars and the marginalized communities that are overrepresented in closed facilities.

Only limited attention has been devoted globally to understanding the nature and extent of SGBV in places of deprivation of liberty, the characteristics of perpetrators and victims, and the most effective interventions for preventing and responding to it when it occurs. Similarly, little effort has been made to protect those most vulnerable to SGBV or to effectively deal with the consequences for victims, perpetrators and society as a whole.

Monitoring mechanisms can play a key role in detecting instances of SGBV in places of deprivation of liberty. Monitors can identify risk factors, detect misconduct and provide recommendations to authorities on how to tackle this form of violence. It is also now well established that monitoring is an important factor in preventing SGBV and other forms of abuse.

There is already a wealth of guidance available on monitoring places of deprivation of liberty, including in relation to torture and other ill-treatment. Yet, while SGBV may often constitute torture and other ill-treatment, there is little specific guidance available on monitoring for SGBV, gender-sensitive monitoring or the particular chal-

allenges and risks associated with such work.¹ This publication aims to bridge that gap and can be read in conjunction with other monitoring tools.

Effective systems of monitoring can help to restore public confidence in the way places of deprivation of liberty are run and serve to increase the overall accessibility of closed institutions to actors from outside the criminal justice system. In addition, the findings of monitoring mechanisms can challenge the stereotypes that are often associated with SGBV in places of deprivation of liberty.

This guidance note is designed to help all detention monitoring mechanisms integrate the issue of SGBV in their ongoing work. The document summarizes the importance of monitoring for SGBV and provides practical suggestions on how to incorporate these considerations into monitoring work without further endangering those at risk.

Specifically, the guidance note gives examples of how monitoring mechanisms can incorporate SGBV into their research and planning, how best to approach the issue of SGBV, and how to follow up when they become aware of incidents of abuse. It also identifies specific situations of risk for SGBV and the preventive measures that should be in place, providing suggestions of the types of issues monitors could focus on.

The suggested questions should serve as guidance for monitors to integrate the issue of SGBV in their existing work to the best possible extent, taking into account particular country contexts and the constraints under which monitors may be working.

This document draws from and accompanies the ODIHR publication *Preventing and Addressing Sexual and Gender Based Violence in Places of Deprivation of Liberty: Standards, Approaches and Examples from the OSCE Region*,² which was published in 2019. Monitors and others should consult the main document for more detailed information on SGBV in places of deprivation of liberty.

1 Examples of existing guidance related to sexual and gender based violence and gender in detention include: ODIHR, *Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty*, (Warsaw, ODIHR 2019), <<https://www.osce.org/files/f/documents/f/b/427448.pdf>>; The Geneva Centre for Security Sector Governance (DCAF), ODIHR & UN Women, *Places of Deprivation of Liberty and Gender* (Geneva: DCAF/ODIHR/UN Women 2018), <<https://www.osce.org/files/f/documents/a/e/442531.pdf>>; and the International Committee of the Red Cross (ICRC), *Sexual Violence in Detention*, (Geneva: ICRC (2017), <<https://www.icrc.org/en/publication/4293-sexual-violence-detention>> Other relevant resources include: DCAF, ODIHR & OSCE, *Guidance Note on Integrating a Gender Perspective into Oversight of the Security Sector by Ombuds Institutions and National Human Rights Institutions*, (Geneva: DCAF/OSCE/ODIHR 2014), <<https://www.osce.org/files/f/documents/0/e/118327.pdf>>; ODIHR & the Convention against Torture Initiative, "Providing Rehabilitation to Victims of Torture and Other Ill-Treatment – A Practical Tool", <<https://www.osce.org/odihr/385497>>; ODIHR & Penal Reform International (PRI), *Guidance Document on the Nelson Mandela Rules* (Warsaw: ODIHR & PRI 2018), <<https://www.osce.org/odihr/389912>>; Association for the Prevention of Torture (APT), *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide* (Geneva: APT 2018), <<https://www.apr.ch/en/resources/publications/towards-effective-protection-lgbti-persons-deprived-liberty-monitoring-guide>>; APT & PRI, "Women in Detention: A Guide to Gender-Sensitive Monitoring", 2015, <<https://www.penalreform.org/resource/women-detention-guide-gender-sensitive-monitoring>>; and UN Women, the World Health Organization (WHO), The United Nations Population Fund, the United Nations Development Programme & the United Nations Office on Drugs and Crime, "Module 3: Justice and policing", in "Essential Service Package for Women and Girls Subjected to Violence", 2015, <<https://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>>.

2 ODIHR, *Preventing and Addressing Sexual and Gender-Based Violence in Places of Deprivation of Liberty*, *Ibid.*

Objectives of this Guidance Note

This guide is aimed at any individual or body responsible for monitoring places of deprivation of liberty, including national, regional and international visiting mechanisms. While the types of monitoring mechanisms vary from one jurisdiction to another, and each body has its own mandate, it is hoped that this publication will provide useful guidance to the full range of monitors, including both internal and judicial inspectors, as well as independent external monitors, such as civil society organizations (CSOs), national human rights institutions (NHRIs), ombudsperson institutions and national preventive mechanisms (NPMs).

This guide is primarily aimed at those monitoring places of deprivation of liberty within criminal justice institutions, including police custody, pre-trial detention facilities and correctional institutions. Some of the information could also be useful, however, to those groups and individuals monitoring other places of deprivation of liberty, including immigration and refugee detention centres, drug and alcohol rehabilitation centres, military detention facilities, and psychiatric and other medical facilities. Some of the recommendations, however, will not be relevant or appropriate for monitoring these other types of facilities.

It is hoped that this guide will also be useful to those responsible for running places of deprivation of liberty, including policymakers, management and staff.

Thus, the overall objective of this guidance note is to improve the capacity of detention monitoring mechanisms to identify and prevent SGBV in places of deprivation of liberty and to incorporate gender perspectives into their work. The specific objectives are:

- To provide practical guidance on how monitoring mechanisms can incorporate the issue of SGBV in their daily work;
- To increase awareness among monitoring mechanisms of the types of behaviour that can constitute SGBV, and the prevalence of such behaviour in places of deprivation of liberty;
- To help monitoring mechanisms understand the causes and consequences of SGBV in places of deprivation of liberty, and to include this in their planning;
- To identify and address the particular risks and challenges associated with monitoring for SGBV; and
- To assist monitors in developing appropriate methodology to research the occurrence of SGBV

2. WHAT IS SEXUAL AND GENDER-BASED VIOLENCE?

Gender-based violence refers to a number of acts of physical, mental or social abuse (including sexual violence) that are “directed against a person because of his or her gender roles and expectations in a society or culture.”³

Sexual violence is a particular form of gender-based violence that encompasses any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or acts otherwise directed against a person’s sexuality using coercion by any person, regardless of their relationship to the victim, in any setting.⁴

Many acts of SGBV committed in places of deprivation of liberty may amount to torture and other ill-treatment. Rape constitutes torture when it is carried out by, at the instigation of, or with the consent or acquiescence of public officials.

Acts of SGBV in places of deprivation of liberty can include, but are not limited to:

- Rape, attempted rape and threats of rape;
- Sexual assault, threats, harassment and misconduct;
- Sexualized torture, including rape as torture, the application of electrical currents to the genitals and forced masturbation;
- Criminal sexual contact (contact or sexual touching that does not involve elements of rape or sexual assault);
- Forced prostitution;
- Being stripped naked or being forced to undress in public or in front of others;
- Unwarranted strip searches or invasive searches;
- Improper behaviour during body searches, including invasive body searches;
- Monitoring or voyeurism in cells, while changing clothes, bathing or in toilets;
- Insults of a sexual nature;

3 UN Women, Glossary of Terms from Programming Essentials and Monitoring and Evaluations Sections, 31 October 2010, <<http://www.endvawnow.org/en/articles/347-glossary-of-terms-from-programmemeing-essentials-and-monitoring-and-evaluation-sections.html>>.

4 UN Office of the High Commissioner for Human Rights (OHCHR), “Fact Sheet on Sexual and Gender-Based Violence in the Context of Transitional Justice”, October 2014, <https://www.ohchr.org/documents/issues/women/wrgs/onepag-ers/sexual_and_gender-based_violence.pdf>.

2. WHAT IS SEXUAL AND GENDER-BASED VIOLENCE

- Humiliation and harassment based on gender, sexual orientation or gender identity;
- Obscene comments or sexualized gestures, such as whistling or leering;
- Deprivation of essential items, such as food or soap or other hygiene items, including tampons and sanitary pads, for sexual bartering;
- Forcing women to continue pregnancies where existing legal provisions permit interruptions of pregnancy or to have abortions while in custody, as well as virginity testing;
- Coerced sterilization of female and male prisoners; and
- Workplace sexual harassment affecting staff members.

The Association for the Prevention of Torture (APT) has also identified forms of SGBV that are specific to LGBTI detainees/prisoners, including, for trans women, pulling off their garments and wigs or beatings in the breasts and cheekbones to burst implants and release toxins. The organization also notes that lesbians are especially exposed to the risk of being forced to perform sex acts on male police officers and to “corrective rapes”.⁵

5 APT, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, *op. cit.*, note 1.

3. WHAT ARE THE SPECIFIC RISKS IN PLACES OF DEPRIVATION OF LIBERTY?

The risk of SGBV in places of deprivation of liberty is high. There are many reasons for this, including the fact that they are closed facilities, operating far from the public eye, and in which detainees/prisoners have little or no control over their daily lives.

As the International Committee of the Red Cross (ICRC) has pointed out, in places of detention, “[t]he likelihood of sexual violence is even greater when a broader pattern of negligence, lack of respect for human dignity and abuse is present, when authorities fail to provide a safe and decent detention environment or when they promote an approach to detainees that focuses on power and the use of force.”⁶

Places of deprivation of liberty can also be highly sexualized environments, due to the close confinement of large groups of people, often in extremely overcrowded conditions. Normal sexual activities are usually prohibited or strongly discouraged, and detainees/prisoners often lack regular meaningful activities. In such closed facilities, sex can be used as a means to assert power and authority over others, and to establish a position in the prison hierarchy. In men’s detention facilities, the culture of homophobia, misogyny and toxic forms of masculinity is pervasive and fuels SGBV.

Victims may be unable to complain about instances or threats of SGBV. They may also feel that speaking out will put them in even more danger, or that it would be a waste of time. Places of deprivation of liberty can, therefore, become spaces in which perpetrators of SGBV act with total impunity. Staff are sometimes directly responsible for the abuse, but authorities are also often complicit, by turning a blind eye or by failing to respond appropriately.⁷

Many detainees/prisoners have histories of violence and social problems. Perpetrators of SGBV may find that it is easier to “get away with it” in closed facilities, while survivors of SGBV in the past may find that they are particularly at risk in detention. Staff may not have received adequate training to identify or deal with instances of abuse in closed facilities. Others may be perpetrators of SGBV and use their position of power to commit such abuse.⁸

6 ICRC, *Sexual Violence in Detention*, op. cit., note 1

7 ODIHR, *Preventing and Addressing Sexual and Gender-Based Violence in Places of Deprivation of Liberty*, op. cit., note 1.

8 *Ibid.*

3.1 Who Is at Risk of SGBV?

Everyone deprived of their liberty is at risk of SGBV. However, as in the community, some groups or individuals are more likely to experience violence than others. This might include, for example, women and girls and LGBTI persons. While the persons most commonly victims of SGBV in the community and in the private sphere are women and girls, in detention, men and boys are also at particular risk of SGBV, as it is used as a means of humiliating, degrading and/or controlling them.⁹

There are many other factors that increase vulnerability to SGBV in places of deprivation of liberty, and these will vary in different countries/detention settings. When preparing their research, monitors should consider which groups are most likely to be at risk in their country or in the specific institution. At risk groups are often those that stand out from the general population and include, but are not limited to:

Women and girls: Many detained/imprisoned women have been exposed to violence before their arrest, and their incarceration is often linked to these experiences. Their needs differ widely from those of men and, because they are a minority group within detention settings, staff and management may not be adequately prepared to meet their specific needs. Girls are particularly vulnerable in detention settings.

Men and boys: Sexual violence against men and boys in places of deprivation of liberty, perpetrated by both male and female staff, is a common but under-reported problem. Prisoner-on-prisoner violence is particularly prevalent among male detainees/prisoners. Men who do not conform to the dominant form of violent masculinity, as well as boys, are at particular risk of abuse.

LGBTI detainees/prisoners: The stigmatization, discrimination and lack of legal protections LGBTI persons face in the general community are replicated and aggravated in places of deprivation of liberty. Each distinct group faces different problems. LGBTI persons are also vulnerable when authorities do not consider their needs in specific situations, including cell allocation and during body searches.

Ethnic and racial minority detainees/prisoners: Ethnic and racial minority detainees and prisoners, as well as indigenous people, are at risk of SGBV, because the discrimination present in society is often reproduced or magnified in detention settings. Ethnic minorities in countries with a history of inter-ethnic conflict may be subjected to violence as a form of punishment or retaliation.

Members of particular religious or cultural groups: Perpetrators of SGBV may victimize members of particular religious or cultural groups on the basis of their beliefs or taboos related to sexuality.

⁹ *Ibid.*

Foreign nationals: Individuals with foreign national status, including migrants or refugees, may be singled out for abuse. Foreign nationals who do not speak the primary language used in detention facilities are less able to access information and make complaints about abuse. Such detainees/prisoners are also more vulnerable if they are far from home and unable to access family members or other support networks.

Survivors of prior sexual abuse: Survivors of domestic violence and prior sexual abuse are among the most vulnerable to sexual abuse in detention.

Persons with physical and mental health conditions: Persons with disabilities can be at risk of violence, discrimination and victimization in places of deprivation of liberty if their needs are not properly met, and if authorities do not provide a safe and enabling environment for them. Persons with cognitive disabilities may not be able to make complaints, and risk not being taken seriously if they report sexual abuse.

High profile individuals: This includes celebrities, public officials or the family members of other high-profile individuals, who may be targeted because of their status in society.

Persons involved in prostitution: Persons involved in prostitution are in situations of particular vulnerability to SGBV and, due to their marginalized status, they may lack the confidence or support to take action after violations have occurred.

There are other vulnerability factors monitors need to be aware of that are not explicitly linked to an individual's personal identity. These factors might be personal, environmental or socio-cultural. Monitors should also bear in mind that all vulnerabilities can be multiple or intersecting. Vulnerabilities may include, but are not limited to:

The nature of the offence suspected/committed: Detainees/prisoners suspected, accused or convicted of particular types of offences, including sex offences, may be at increased risk of SGBV.

Incarceration history: Not having previous experience of prison culture, being a first-time offender or being a non-violent offender may place an individual at higher risk of SGBV.

Time spent in detention: Levels of vulnerability or risk may vary depending on the amount of time spent in detention. New arrivals may be vulnerable because they are unfamiliar with prison culture, but vulnerability can also increase over time, and those serving long-term or life sentences may also be at heightened risk.

Addiction or dependency: This can increase risk, especially if people fall into debt with other detainees/prisoners. Vulnerability can also increase if people affected are not provided with appropriate support.

3. WHAT ARE THE SPECIFIC RISKS IN PLACES OF DEPRIVATION OF LIBERTY

Behavioural or personality factors: Those who isolate themselves from the wider community and/or who show signs of vulnerability, such as lack of self-confidence, shyness or suggestibility, are at higher risk of SGBV.

Social isolation and economic status: Those with limited financial resources may be forced into situations of vulnerability in order to survive, including in order to get hold of money or food.

Membership of a particular gang or lack of gang affiliation: Affiliation with specific groups or positions within hierarchies may place individuals in situations of vulnerability vis-à-vis other hostile groups or other higher-level members of their own group.

Contact with the outside world: Detainees/prisoners who have little or no contact with family, friends, lawyers or the outside community may also be at particular risk of violence, partly due to the impact of their isolation, but also because they are unable to report abuse to others.

Links to the criminal justice system: Former public officials, especially police, prison or judicial officers, police informants or other individuals who have previously co-operated with the authorities are likely to be at risk of SGBV.

Individuals in protective custody: Such as witnesses in criminal cases or women who have been threatened with so-called “honour crimes” may also be in particular situations of vulnerability in detention.

Victims of SGBV in places of deprivation of liberty are in the majority of the cases detainees/prisoners, but monitors should bear in mind that staff, visitors, service providers, lawyers, community members who work in prisons and members of monitoring teams themselves might also be at risk. Additionally, monitors should consider the safety of children living with their parent in prison, as well as the children of staff members who spend time in places of deprivation of liberty.

3.2 Who Are the Perpetrators?

The two most prevalent forms of SGBV in places of deprivation of liberty are violence perpetrated by staff against detainees/prisoners and violence between detainees/prisoners. Perpetrators can include contractors, volunteers and service providers. In some situations, prison visitors might also be responsible for abuse. Perpetrators of SGBV might be male or female, adult or juvenile.¹⁰ There are factors that might make a person deprived of their liberty more likely to commit acts of SGBV, and monitors should be aware of these. Such factors might include, for example:

¹⁰ *Ibid.*

A previous history of abusive behaviour: A prior history of being abused is one of the main risk factors for sexual abuse in detention.

Status within the prison hierarchy: Those at the top ends of the prison hierarchy are more likely to perpetrate abuse against those at the lower ends.

The nature of their conviction or alleged offence: Persons accused or convicted of certain offences, including rape and violence offences, could also perpetrate SGBV in places of deprivation of liberty.

Membership of a particular gang or gang affiliations: Gang members may be more likely to commit SGBV against other those in other gangs.

Incarceration history: Detainees/prisoners who have been in prison for a longer time, and who are more familiar with prison culture might perpetrate SGBV, particularly against newly arrived detainees/prisoners.

The extent to which support programmes and activities are available to them: Perpetrators of SGBV who have no access to support programmes, such as violence reduction programmes, are more likely to repeat the abuse.

While information about potential perpetrators may not be comparable across countries, existing research about the characteristics of perpetrators may still be useful for monitors. For example, research in the United States has found that there are both static and dynamic factors that indicate a risk that a detainee/prisoner will commit sexual abuse:¹¹

- Being under the age of 30, but older than the victim;
- Being physically stronger than the victim; and
- Being more accustomed to incarceration than the victim.

It has also been observed that detainees/prisoners who commit sexual assault in detention facilities are:

- More likely to have spent time in juvenile detention facilities;
- More likely to have lived in an urban area prior to incarceration;
- More likely to have committed a violent crime;
- More likely to be affiliated with a gang; and
- More likely to break other prison rules.

11 Kim English *et al.*, "Sexual Assault in Jail and Juvenile Facilities: Promising Practices for Prevention and Response", Final Report, United States Department of Justice, November 2011, p.6, <<https://www.ncjrs.gov/pdffiles1/nij/grants/236738.pdf>>.

4. UNDERSTANDING WHY SGBV IS OFTEN UNDERREPORTED

Studies in the general community demonstrate that victims of SGBV under-report for a number of reasons, all of which are likely to be magnified in closed settings. In addition, there are specific barriers to reporting SGBV in places of deprivation of liberty.

In assessing the occurrence of SGBV in places of deprivation of liberty, it would be useful for monitoring mechanisms to first develop an understanding of whether victims and witnesses feel that they can safely report incidents of SGBV. If monitors discover that SGBV is a latent problem, then they should try to determine why this is the case and develop recommendations to tackle any barriers to reporting.

Some of the common barriers are summarized below to help monitors understand why under-reporting might be an issue. This section also provides some practical ideas of how monitors can assess which barriers might be relevant to the institutions they are monitoring.

Common barriers to reporting SGBV

- **Psychological barriers and stigma:** Societal norms and gender stereotypes play a role in making survivors of SGBV feel ashamed and humiliated. These feelings may be even more difficult to overcome in places of deprivation of liberty, because victims do not have the same access to support services that may be available in the outside community. Men and boys may be particularly reluctant to report acts of SGBV due to feelings of shame and guilt, or to the stigma attached to being a victim of sexual violence.
- **Fear of retaliation and reprisals:** Fear of the perpetrator and of reprisals is one of the most common reasons why victims and witnesses do not report incidents of sexual violence. In closed facilities, the fear of retaliation and potential threats by the perpetrators of violence leading victims not to report are intensified. Detainees/prisoners risk being labelled as “snitches”, which could make them vulnerable to reprisals worse than the aggression they sought to avoid. Juveniles who are detained with adults may have especially strong fears of retribution. Fear of reprisals also deters staff and witnesses to violence from reporting SGBV.
- **Other possible consequences of reporting:** Victims of SGBV in closed facilities may not report violence because they think they will be punished for doing so. They might also be worried they will be transferred to another location for their own protection. This can sometimes lead to a deterioration in their living conditions and, for

women in particular, it might mean that they would be taken further away from their homes. Persons deprived of their liberty may also not report abuse because they fear they will be subjected to invasive medical examinations and/or interrogations.

- **The relationship between the victim and victimizer:** The relationship between the victim and the victimizer presents barriers to reporting abuse in all settings and may be particularly complex in places of deprivation of liberty. When SGBV takes the form of coerced sex in return for a benefit, the victim may be reluctant to report due to concern over losing their benefit, or for appearing to have been complicit in breaking prison rules.
- **Acceptance of SGBV as “part of punishment” or inevitable:** SGBV in places of deprivation of liberty is often dismissed as an inevitable, or even deserved, consequence of imprisonment. Newly arrived prisoners, in particular, might expect that sexual violence is part of the informal “initiation” process into prison. Such attitudes can act as a deterrent to reporting abuse.
- **Absence of independent and effective complaints mechanisms:** In some places of deprivation of liberty, there may be no formal procedures for making complaints. In others, detainees/prisoners may not know how to complain or may lack the ability to do so (e.g., if they do not speak the language, are illiterate or have low literacy, have mental health problems or are held in isolation). Women and juveniles may face specific barriers in accessing such procedures.
- **The view that reporting is pointless and/or a lack of trust in complaint mechanisms:** When authorities are unable to prevent SGBV from occurring or fail to take action against perpetrators, survivors may lose hope and fail to report, due to feelings that it is pointless or dangerous. If such violence is perpetrated by staff members, there may be a heightened sense that there is no possibility of remedial action being taken. Allegations of sexual abuse perpetrated by women, in particular, are often not taken seriously by authorities.
- **Detainees/prisoners are unaware of their rights:** Individuals who are deprived of their liberty may not be aware of their right to be protected from violence, and of their right to redress if such violence has occurred.
- **Fear of ostracism and demotion (staff members):** Staff may be reluctant to report incidents of SGBV against detainees/prisoners due to the fear of potential backlash from colleagues and/or detainees/prisoners, the fear of being demoted or losing their jobs, and the fear of being ostracized by other staff for whistleblowing.

Assessing the reasons for underreporting – suggestions for monitors

To investigate the reasons for under-reporting in particular facilities, monitors could check some of the questions listed below. Please note that some reasons for under-reporting are directly related to complaints mechanisms, and so are included in a later section, on complaints (section 9.7)

4. UNDERSTANDING WHY SGBV IS OFTEN UNDERREPORTED

- > Do victims of SGBV have options about how to report abuse, both internally and externally to the facility, including, for example, to a female or male staff member, a person of the same religious or cultural background, a medical professional or a lawyer?
- > Are victims of and witnesses to violence able to access SGBV support programmes similar to those available in the community? Have there been any attempts to link with such community agencies to explore whether they can provide in-prison services?
- > Does the facility provide any awareness-raising materials on SGBV and what a detainee/prisoner should do if they become a target of such abuse, including information about whom to contact? At what stage do detainees/prisoners receive this information? Is it displayed prominently in the detention facility? Is it provided in languages understood by prisoners?
- > If someone reports abuse, what measures are in place to ensure they are immediately protected from further violence? Are there any victims or witness protection programmes available, and do people know how to access them?
- > How do prison authorities ensure that reports of SGBV are kept fully confidential, in order to reduce the risk that perpetrators of violence will become aware and take retaliatory action?
- > What are the attitudes towards SGBV in the place of detention? Is there a culture of treating SGBV as inevitable or part of the punishment of incarceration?
- > Do prison authorities have effective control over the prison population, or is there a strong culture of self-governance among prisoners?
- > When someone reports that they have been subjected to sexual violence, do authorities provide access to an independent health professional? Is it possible for survivors to be assisted by an expert in documenting sexual assault?
- > Do survivors of sexual violence have any access to experienced psychiatrists, psychologists and gynaecologists who are trained in treating survivors of such violence? Are those at risk of abuse aware that they could have access to such experts if they were to report sexual abuse?
- > What are the usual protection measures authorities put in place when a prisoner reports that they have been the targets of abuse? How do authorities ensure that victims are not penalized for reporting abuse?
- > Are there any mechanisms in place to ensure that staff are not penalized for reporting SGBV?

5. HOW TO INCLUDE THE ISSUE OF SGBV IN MONITORING

This section details how monitoring mechanisms can include SGBV in their ongoing monitoring work, including how to incorporate the issue without drawing unwanted attention to, or creating additional risks for, the victims and potential victims of such violence, or others who wish to speak out about such abuse.

All forms of violence within places of deprivation of liberty are difficult to monitor effectively, including those that amount to torture and other ill-treatment. Monitoring the instances and risks of SGBV may also present particular challenges, due to the nature of the abuse. On the other hand, given the various forms and levels of severity that SGBV can take, some abusive practices may be easier to monitor than others.

As a basic principle, the issue of SGBV should be included in the mandate and guidelines of all monitoring mechanisms and should be based on international human rights principles relating to SGBV.¹² Funding and resources should be allocated with this in mind. Monitoring bodies should also have internal protocols in place for dealing with allegations of SGBV.

Interviewing or surveying a person about abuse, and in particular sexual abuse, is an extremely sensitive matter, and there will be specific considerations for particular individuals, including children, LGBTI persons and those with mental healthcare needs. In order to gain a relationship of trust, monitors may need to undertake a series of visits and, if abuse is detected, follow-up visits with health professionals and experts in dealing with survivors of SGBV may be required.

These and other considerations are dealt with in several expert publications.¹⁵ Additionally, many national and regional mechanisms already have their own monitoring guidelines in place, and it is important for monitors to share information and experiences with each other.

5.1 Strategic Planning and Prioritization

The extent to which SGBV can be included in monitoring will depend on the particular

12 ODIHR, *Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty*, op. cit., note 1.

13 See, for example University of Essex, *The Torture Reporting Handbook*, Human Rights Centre, (Colchester: University of Essex 2000); and OHCHR, *The Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, (New York and Geneva: OHCHR 2004).

5. HOW TO INCLUDE THE ISSUE OF SGBV IN MONITORING

modalities and mandates of the monitoring mechanisms, as well as on their capacity, levels of expertise and the resources assigned to monitoring each facility. Monitoring teams will need, therefore, to plan strategically to include SGBV based on an analysis of existing information, including the outcome of previous visits and the priorities identified by current and former detainees/prisoners, family members and other relevant individuals.

It should be noted that, even if a monitoring visit does not have a SGBV focus or component, it may, nonetheless become apparent that SGBV is a problem, and monitors should be prepared for this eventuality. In such cases, monitors might then decide to prioritize the issue in subsequent visits.

Monitors may choose to include the issue of SGBV in their monitoring in different ways, based on strategic, logistical and resource considerations. Therefore, while mainstreaming gender in all activities, the team might decide to undertake a programme of thematic visits with a dedicated focus on SGBV, or they might focus on SGBV in specific facilities in the course of ongoing work. Whichever the chosen strategy, it must be carried out following careful consideration of any potential safety issues.

When determining sites to visit or otherwise research in relation to SGBV, monitors could undertake a mapping of the different facilities. This might include the following considerations:

- Facilities where little information about levels of SGBV is available;
- Those with high levels of reports of SGBV;
- Places of deprivation of liberty holding significant numbers of individuals deemed to be at risk of SGBV;
- Facilities that have been identified as high-risk environments for SGBV by other monitors, former detainees/prisoners, staff, visitors or other stakeholders;
- Locations holding both men and women detainees/prisoners, and those in which women detainees/prisoners are supervised by men staff members;
- Particularly overcrowded facilities;
- High security facilities;
- Facilities in remote locations;
- Facilities that have not been monitored recently; and
- Facilities that have had a recent change in management.

Sometimes, it may be useful to focus on places of deprivation of liberty with few or no reports of SGBV, either to identify and disseminate examples of good practice, or because there may be reasons to believe that SGBV is taking place but is not being

reported. Monitors might also decide to specifically monitor facilities that already have an effective zero tolerance policy towards SGBV, in order to understand how this works in practice and to develop practical recommendations for other facilities.

When monitors decide to include or prioritize the issue of SGBV during monitoring visits, they should prepare the composition of the team accordingly in terms of the diversity of its composition and relevant knowledge possessed by its members.

5.2 Setting Clear Objectives in Relation to SGBV

When planning to include the issue of SGBV in regular monitoring, or in SGBV-specific monitoring, teams should set clear, achievable objectives, with measurable outcomes. Broadly speaking, the monitoring teams should aim to:

- > Understand the context in which SGBV occurs in detention locations, including relevant laws, regulations and procedures;
- > Research the types and extent of SGBV occurring in each facility;
- > Identify the groups or individuals most at risk of SGBV, and why this is the case;
- > Understand why it is that individuals become perpetrators of SGBV in places of deprivation of liberty;
- > Understand if SGBV is under-reported and, if so, the reasons why detainees/prisoners and staff do not report instances of SGBV;
- > Gain a good understanding of the attitudes of management, staff and detainees/prisoners towards the issue of SGBV;
- > Assess the effectiveness of existing mechanisms designed to prevent and to respond to allegations of SGBV within specific facilities, and in the justice system more broadly; and
- > Review internal monitoring and official complaints mechanisms.

Once the general objectives have been set in relation to SGBV, monitoring teams can more easily determine the specific fact-finding needs when planning to visit particular places of deprivation of liberty. These might include:

- > The composition of the prison population, including its gender composition and the known population of groups that might be in particular situations of vulnerability;
- > The size and location of the detention facility;
- > Staff composition, including gender balance;
- > The security level of the facility;
- > Previous complaints, investigations and prosecutions related to SGBV; and

- > The records of previous monitoring visits in relation to SGBV, and information from other sources, including media, CSOs, former detainees/prisoners, family members and other visitors.

5.3 Monitoring tools

As part of their preparation, monitoring bodies should review their research tools, including lists of questions, checklists and surveys, to ensure they include appropriate questions related to SGBV. Monitoring bodies may wish to develop materials specific to SGBV and/or revise tools used for general visits to incorporate the issue.

In developing these materials, monitors should be aware of ethical, safety and confidentiality considerations, as well as the need to avoid secondary victimization.¹⁴ If possible, monitors could consult with those with experience in interviewing victims of SGBV in the community or with other monitoring bodies that have already developed successful monitoring methodology specialized in SGBV or in monitoring places of deprivation of liberty. There are also expert publications available that monitors could review for more information.¹⁵

5.4 Associated Risks and Challenges

When determining which facilities to visit, and which detainees/prisoners to survey and interview in particular facilities, monitors may want to consider focusing on those deemed to be most at risk of SGBV.

Monitors must, however, be aware that there are significant challenges and risks when monitoring the situations of specific groups or individuals, and they should determine their methodology with this in mind. For example, unless there is a way to ensure that their participation is not known to others, one-to-one interviews might draw unnecessary attention to the target group and expose them to further risk.

Equally, if staff or others receive any indication that an upcoming monitoring visit will focus on SGBV within the facility, then those who have been victims of such abuse might be targeted again, as a means to prevent them from reporting the abuse. Staff and detainees/prisoners, including the perpetrators of abuse, might also be alerted to questions about SGBV if they are interviewed/surveyed themselves, and then take action to prevent others from speaking out about the abuse.

14 Secondary victimization is also known as post-crime victimization. It refers to the act of blaming the victim of a crime instead of blaming the perpetrator. Victim blaming attitudes and behaviour can result in additional trauma for victims of sexual abuse.

15 See, for example: WHO, *Practical Guide for Researching Violence against Women: A Practical Guide for Researchers and Activists*, (Geneva: WHO 2005), <<https://www.who.int/reproductivehealth/publications/violence/9241546476/en/>>; APT, *Monitoring Places of Detention: A Practical Guide* (Geneva: APT 2004), <<https://www.apr.ch/en/resources/publications/monitoring-places-detention-practical-guide-2004>>; APT, *Monitoring Police Custody: A Practical Guide* (Geneva: APT 2013), <https://www.apr.ch/sites/default/files/publications/monitoring-police-custody_en_0.pdf>; and APT, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, *op. cit.*, note 1.

Similarly, if detention authorities are aware that a specific person has been subjected to SGBV or other abuse, they may find a way to ensure that person, or any witnesses to the abuse, do not speak to monitors or otherwise participate in monitoring visits. Monitors should, therefore, make all possible efforts to speak to detainees/prisoners of their choosing without the involvement of detention authorities.

If there is no guarantee of confidentiality – for example, if interviews are monitored by prison staff – then monitors should refrain from asking questions about SGBV directly, as this could put individuals at risk.

If the monitoring team considers that there is any risk to a person they have spoken to, or who participated in any monitoring, they should organize a return visit to assess the individual's situation as soon as possible.

The safety of monitoring teams should also be a key consideration during facility visits. If there are any risks that monitors or interpreters might themselves be subjected to SGBV or other abuse during one-to-one interviews, then it may be necessary to have two monitors available for the particular interview. Teams should also consider whether it is safe or appropriate for female monitors to interview male detainees/prisoners or staff members on their own.

5.5 Ensuring Full Confidentiality

Monitoring bodies must, as a priority, be able to ensure the full confidentiality and protection of their research and data, in order to protect the individuals concerned. They should use only secure systems to store case information and should ensure that any interviews and surveys can take place in full confidentiality.

Monitors should not use the name of specific detainees in conversations with authorities or the media and should respect their anonymity in other discussions. Personal information should not be published or shared without the express consent of the person involved.

6. MONITORING METHODOLOGY

Teams should develop and adapt their monitoring methods to ensure that the issue of SGBV is properly incorporated into their work, and to mitigate against the specific risks and challenges associated with monitoring for SGBV.

It may also be useful for monitoring teams to communicate and co-ordinate with other monitoring mechanisms in their country, or those in other jurisdictions, to discuss how they approach the issue of SGBV, to share ideas and information and, where appropriate, to avoid duplication of efforts. They should also make sure that monitors themselves are sensitive to the issue of SGBV and that they understand how to interact with the individuals concerned with decency and respect.

6.1 Reviewing Laws, Policies and Procedures

As a first strategy, monitoring bodies should review all relevant laws, policies and procedures to assess whether they address the issue of SGBV and whether they do so adequately and in accordance with international human rights standards on preventing and responding to gender-based violence. This is an important step to determine if such provisions are lacking, if existing laws and policies are being consistently applied, and if staff are aware of them. Monitoring bodies can also propose revisions, changes or new legislation where needed.

This can include consideration of:

- > Whether there are clear laws and policies prohibiting SGBV in places of deprivation of liberty;
- > Whether there are gender-sensitive management policies in place and whether the staff code of conduct address SGBV?
- > What provisions are in place to ensure that allegations of SGBV are properly investigated, and that those found responsible are prosecuted? Are acts of violence prosecuted in the same manner they would be if perpetrated in the general community?
- > Whether domestic criminal law, policies and procedures provide appropriate protection against SGBV, and provide redress for victims;
- > Whether existing initiatives to prevent and address SGBV have been independently evaluated for effectiveness; and
- > Whether SGBV is included in the terms and scope of internal oversight mechanisms.

6.2 Reviewing Other Relevant Information and Documentation

Before undertaking a visit to a particular facility, monitors should familiarize themselves with any other existing information, including anecdotal information, related to SGBV.

It will also be important for monitors to assess the extent to which authorities have dedicated resources to conducting research and analysing information on the occurrence of SGBV in places of deprivation of liberty, including data collection. This should include an analysis of the resources and other support made available by the government to research and tackle the issue, and of whether the state enables other organizations to carry out independent studies.

Such research is crucial for the development of informed, evidence-based policy. Country-specific research should be used to inform training programmes, for raising awareness of the problem and identifying proper responses in both policy and practice.

Bearing in mind that monitoring mechanisms will have different levels of access to information, this might include, but should not be limited to:

- > Any existing population-based surveys of relevant stakeholders in relation to SGBV or country-wide reviews and analyses of administrative data, such as prison records, police data, court reports and complaints filed;
- > Any other official data on the incidence of SGBV and information on any follow-up action taken;
- > The findings of previous monitoring and fact-finding visits from their own or other monitoring mechanisms. Previous allegations received should be properly and confidentially recorded to allow easy access to information;
- > Reviews of information submitted under periodic country report processes, e.g., reporting on implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the UN Convention Against Torture (UNCAT), the UN Convention on the Rights of the Child (CRC) or under the UN Human Rights Council's Universal Periodic Review (UPR);
- > Any relevant case law related to SGBV in places of deprivation of liberty. This could include the jurisprudence from domestic and international forums, and can extend to complaints submitted to treaty-monitoring bodies or special rapporteurs;
- > Any academic, NGO or media reports related to SGBV in detention facilities in the country or in specific facilities. A review of media might also reveal useful information about media and public attitudes towards SGBV in places of deprivation of liberty, or the attitude of authorities towards the topic;

6. MONITORING METHODOLOGY

- > Previous complaints of SGBV from detainees/prisoners, staff, service providers, family members or other visitors, including any cases that resulted in court proceedings;
- > Assessing detainee/prisoner composition, levels of overcrowding, staffing levels and the chain of command;
- > Assessing recruitment procedures, staff training manuals and codes of conduct to examine staff vetting, diversity and equality of opportunity; and
- > Examining the extent to which authorities consider and use alternatives to detention for those deemed to be at risk of SGBV, including those with a past history of abuse.

6.3 Visiting the Facility

The visit to the detention facility will probably be the main source of information for the monitoring team and is likely to include interviews with detainees/prisoners, management, staff and other stakeholders. Many monitoring mechanisms will also be mandated to inspect all areas of the facility and to consult detainee/prisoner files and registers. Some may be able to view CCTV footage and listen to audio recordings.

Depending on their mandate, monitors in some countries may be able to plan unannounced visits. In deciding this they should weigh the opportunities and challenges relating to monitoring for SGBV. For example, unannounced visits reduce the opportunity for authorities to threaten survivors of SGBV. On the other hand, unannounced visits may make it more difficult to organize access for monitors who are specialized in SGBV. Monitors should also consider asking current and former detainees/prisoners and visitors if there are particular parts of the facility where they believe the risks of SGBV to be high and should make efforts to visit these locations accordingly.

During visual inspections, it is important for monitors to visit all parts of a facility, to determine if there are places where the risk of SGBV might be particularly high – while keeping in mind that SGBV can occur anywhere and at any time. Chapter 8 of this document provides suggestions for such locations. A general tour of the premises can also give monitors a good impression of the overall culture of the facility, and enables them to get a better understanding of any detailed accounts of SGBV they later receive.

6.4 Interviewing Detainees/Prisoners

When collecting information about SGBV from detainees/prisoners, monitors should consider who they want to include, the sampling methodology and the best methods of obtaining the information. Most importantly, they should choose the methods that would be the safest and most appropriate, given the sensitive nature of the subject matter and the context in which they are operating, including the dominant culture or subculture within the facility.

Above all else, monitoring bodies should ensure they apply the “do no harm principle” when interviewing detainees/prisoners.

In order to protect against the possibility of further abuse, and to get the best possible overview of the nature and extent of abuse, it may be useful to aim for a randomized sample of participants that reflects the composition of the overall prison population. In this way monitors can include those most at risk of abuse of SGBV, including juveniles, foreign nationals and LGBTI individuals, or the potential perpetrators of abuse, without drawing unwanted attention to their situation.

Thus, where possible, the groups of participants should:

- Be gender balanced;
- Include a representative sample of both pre-trial detainees and convicted prisoners;
- Include at-risk groups among a larger group of prisoners, to reduce the risk they will be identified and targeted;
- Include detainees/prisoners who have made reports of sexual abuse;
- Represent the different age groups within the prison population;
- Include detainees/prisoners from different wings/blocks/cells/dormitories;
- Include those detainees/prisoners undergoing any form of punishment;
- Include those who have physical/mental health conditions;
- Represent the different security levels in the detention facility and different sentence lengths of convicted prisoners; and
- Include some detainees/prisoners who have recently arrived in the facility.

When determining the means of information gathering, monitors should consider the most appropriate method for monitoring SGBV, as this is very sensitive. Crucially, they need to gain the confidence of detainees/prisoners.

Closed group discussions with detainees/prisoners might be useful forums for discussing some forms of SGBV, including staff bullying and humiliation, and for gaining a sense of the prevailing culture in the facility. However, they may not be appropriate for discussing violence among prisoners and could pose significant risks for the participants.

Similarly, casual conversations with detainees/prisoners are unlikely to reveal significant information about SGBV, but might provide important indications of staff and detainee/prisoner attitudes towards the issue, and could help to determine the most pressing issues in the facility and to identify those groups and individuals who are most at risk.

When monitoring SGBV in places of deprivation of liberty, one-to-one private and confidential interviews generally provide a much safer environment and allow more time for

6. MONITORING METHODOLOGY

interviewees to discuss the different aspects of their life in detention. This is important because, for some, the issue of SGBV may not be the most pressing concern or may not immediately come to their minds. Others may need this time to consider whether they feel safe and comfortable revealing information about abuse, while some may be confused, emotional or otherwise unable to recall the timing and details of certain incidents.

With one-to-one interviews, however, care must be taken not to draw unnecessary attention to the individual and to reduce the risks of retaliation. Therefore, the location and privacy of the interview room, and the manner in which the person is escorted to the room, should be carefully considered.

Surveys, including climate surveys, could also provide a useful medium for survivors of SGBV to report abuse confidentially and anonymously, though the level of detail included will be limited and participants may not feel comfortable reporting abuse in this manner. Survey tools may, however, be extremely useful in gaining quantitative data on the levels of SGBV in a particular facility, and in providing monitors with ideas for more detailed follow-up.

Monitors must decide on the most appropriate and safest means of gathering information, based on different factors, including country and facility-specific considerations, the relationship with prison management/staff and their own levels of experience.

Interview techniques



At the beginning of any interview, monitors should introduce themselves and explain the purpose of the interview. They should be clear about the confidential nature of the discussion and what they can or cannot do as follow-up.

Monitors should also explain that if any questions make the person feel uncomfortable or upset, they do not need to answer, and that interviewees can also request to end the interview at any time should they wish. It is also important to allow people to take a break during the interview.

Monitors can also suggest that detainees/prisoners speak to a psychologist or counsellor if they find the interview to be distressing or upsetting. This will only be possible in countries/facilities where such services are safely available.

Monitors should ensure that those being interviewed have fully understood the benefits, as well as the possible risks, of any action taken on their behalf. They should also take care to use appropriate language with detainees/prisoners, including when addressing the issue of SGBV.

It is generally more useful to have a series of open-ended questions, rather than a strict list of questions about detention or SGBV more specifically. This will allow people to bring up the issue of SGBV when they are ready to do so and to express themselves more freely. It is important to allow people to talk about the issues that are important to them and to allow them to do so in their own time. It is, however, useful to have a checklist or questionnaire available to ensure that all important topics have been covered during the interview.

People are generally more likely to feel comfortable if the interview begins with some general questions about their situation. For example, interviewers could ask how long a person has been in detention or they could ask where the person is from.

When moving on to more specific areas, leading, judgemental and closed ended questions about SGBV should be avoided, where possible. Open ended questions are preferred. Below is an example of how the same question can be asked in different ways:

- *Leading:* The police officers abused you, didn't they?
- *Judgemental:* What did you do to make them behave aggressively towards you?
- *Closed-ended:* Were you abused by the police officers?
- *Open-ended:* Tell me about your experiences with the police officers. How did they behave?

Depending on the answer given, monitors can follow up on cues and ask for more specific details, as needed and appropriate.

When interviewing detainees/prisoners about potentially sensitive subjects like SGBV, and including body searches and medical examinations, monitors should first check whether the person feels comfortable discussing the issues. Some questions might be inappropriate for particular interviewees, and monitors should be trained to make that judgement during the interview itself, based on their knowledge of and experience with each individual. Monitors should be mindful of the fact that, for some detainees/prisoners, questions about sexual violence might bring back previous experiences of trauma that have happened prior to detention/incarceration.

With LGBTI detainees/prisoners, monitors should be particularly vigilant not to ask direct questions about sexual orientation and/or gender identity, and to be careful about the language they use

Interview Do's and Don'ts

- ✓ Ensure that the interview is fully confidential;
 - ✓ Introduce yourself, and clearly explain the reason for the interview;
 - ✓ Take time to build trust, and allow people time to express themselves freely;
 - ✓ Use a checklist to ensure you have covered all relevant topics, if appropriate;
 - ✓ Clarify any vague, ambiguous or conflicting information; and
 - ✓ Organize a follow-up visit if you believe a person is in danger as a result of the interview.
-
- ✗ Do not say or do anything that could put an individual in danger;
 - ✗ Do not draw unnecessary attention to the person being interviewed;
 - ✗ Avoid asking leading, judgemental or closed-ended questions;
 - ✗ Do not discuss the contents of the interview publicly or with members of detention/prison staff; and
 - ✗ Do not promise any action that you are unable to follow through on.

Interviewing persons who have reported sexual abuse¹⁶



If a person reports sexual abuse, monitors should proceed with caution and sensitivity. They will need to find a balance between obtaining information about what happened and avoiding re-traumatization. Wherever possible, interviews with children about SGBV should be carried out by someone with specific expertise in interviewing child victims of abuse.

Monitors should ask if the person wishes to see a medical professional or speak to a psychologist or counsellor if such services are available. For any follow-up action, it is very important for medical personnel to be able to document the allegations as soon as possible.

16 For more detailed information about interviewing victims of sexual abuse that may amount to torture and other ill-treatment and gathering medical evidence, including ethical guidelines and standards of documentation, see: University of Essex, *The Torture Reporting Handbook*, op. cit., note 13; and OHCHR, *The Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, op. cit., note 13*

When responding to specific reports of abuse, monitors should first ask if it is OK to ask more questions. They should avoid asking for specific details about the abuse unless the person volunteers this information. Monitors should also ask if and how they can use the information.

If a person is uncomfortable talking about the abuse itself, monitors can focus on the basic facts and any follow-up action (e.g., did the person make a complaint, how did the authorities respond, have they been able to see a doctor since the abuse, have they been able to talk to anyone about it?). They should make it clear that the interviewee can let them know at any time if they do not want to answer any more questions.

In order to ensure an effective investigation into reports of abuse, monitors should also establish:

- The exact date and place of the reported abuse;
- The person responsible for the abuse;
- The circumstances of the abuse; and
- Any witnesses to the acts

If there are any medical professionals in the monitoring team, they may also document any physical or psychological evidence of the abuse.

More information about specific questions to ask about follow-up actions, including on complaints mechanisms and healthcare, are included below, in [Section 9](#), on monitoring efforts to prevent and respond to SGBV.

6.5 Information from Former Detainees/Prisoners, Family Members and Other Stakeholders

Monitors should consider interviewing former detainees/prisoners as part of their research. This will be particularly helpful for research into places of deprivation of liberty where detainees/prisoners are too fearful to talk, or where it is not possible to conduct fully confidential interviews. These interviews can also be useful if monitors need to confirm patterns of abuse or obtain more details about particular incidents. Former detainees/prisoners who were the perpetrators of abuse might also be more willing to talk about their actions once they are no longer detained.

Interviewing former detainees/prisoners also allows monitors to follow up more easily in terms of referring a case, if appropriate, and facilitating the provision of any med-

6. MONITORING METHODOLOGY

ical care and psychological support if the victims of SGBV do not already have access to these services. Released detainees/prisoners are more likely to talk about abuse and may also be more prepared to give their consent for follow-up action.

Similarly, monitors may wish to consider interviewing family members and other visitors, lawyers and service providers. This can be useful in obtaining information if detainees/prisoners are themselves unable to discuss the abuse. Such discussions might also reveal instances of abuse against the visitors, lawyers and service providers themselves. Additionally, based on their knowledge of particular facilities, former detainees/prisoners and other stakeholders may give useful suggestions on priority areas for monitoring, or the most effective way to approach the issue of SGBV in a particular location.

While third parties have the right to lodge complaints of abuse on behalf of those in detention, monitors must nevertheless carefully consider the status of the detainees'/prisoners' consent to any follow-up action, including in relation to their personal safety.

When determining who to include in the monitoring, monitors should ensure a good gender balance and make efforts to include as broad a range of participants as possible.

In all cases, the methods of gathering information from detainees/prisoners and other victims of abuse should be approached with care and sensitivity. Monitors need to gain the trust and confidence of participants and provide them with reassurances that their identity and the information they provide will remain fully confidential, unless the interviewee has given their informed consent for monitors to take follow-up action.

6.6 Information from Authorities

In the course of meetings with managers, policymakers and other public officials, such as government ministry/agency staff, monitors should take the opportunity to raise the issue of SGBV. This might be useful in assessing their attitudes towards such abuse, their understanding of the issue and their knowledge of how SGBV is regulated by law, policies and procedures.

Where possible, monitors should also seek to meet with staff who are directly involved in the supervision of detainees/prisoners, in order to assess their awareness of SGBV, their knowledge of applicable regulations and their views on the extent of the problem.

As with all other monitoring, interviews with staff should include a gender balance and a representative sample of staff members. Monitors might also wish to consider interviewing former staff members, as they may be more willing to disclose information when they are no longer in active service.

7. COMPOSITION OF THE MONITORING TEAMS

The composition of detention monitoring teams should be a critical consideration when determining how best to include the issue of SGBV in monitoring visits. Monitoring mechanisms should also take this into account when assessing the potential risks of SGBV to monitors or to detainees/prisoners during private, one-to-one interviews.

Ensuring a well-balanced, representative and professional monitoring team is important not only for establishing trust, but also for building confidence in the monitoring mechanism among detainees/prisoners, staff and the public at large. It follows that if monitors are well-respected, their recommendations are more likely to be properly considered and implemented.

7.1 Identity of the Monitors

Those who have experienced sexual abuse might not feel comfortable talking about the abuse. Therefore, if monitors want to conduct individual interviews, the detainees/prisoners, whether male or female, should be given a choice about whom they talk to. This should be done in advance of the interview if possible. Additionally, if it becomes clear during the course of an interview that the detainee/prisoner is not comfortable discussing certain issues with the interviewer, then, if possible, they should be given the opportunity to reconvene at a later time/date with a different person.

It should be noted that it is not necessarily the case that female and male detainees would feel more comfortable talking about SGBV with members of their own sex. This may depend on the identity of the person who abused them and on the specific issue, as well as on their own personal preferences and cultural or religious backgrounds. Monitoring teams should, therefore, have an appropriate gender balance for all detention monitoring visits, so that they can get the best possible understanding of any issues of concern.

In addition, individuals of particular ethnic or religious backgrounds may only feel comfortable discussing issues of SGBV with persons of similar backgrounds, LGBTI persons may prefer to talk to someone from within the LGBTI community, and others, such as those with disabilities, may only want to speak with someone who understands the particular issues they face. Interviews with children should be conducted by people with appropriate expertise and training.

While it will not usually be possible to include a fully representative group in each monitoring visit, monitors should assess the prison population in a particular facility

7. COMPOSITION OF THE MONITORING TEAMS

during the preparation phase. If it is found that there is a significant proportion of members of particular groups in the facility, then efforts should be made to reflect those groups in the composition of the monitoring team. Monitors should also consider which languages are spoken in each facility so that they can allocate team members who speak the languages or find interpreters, if necessary.

7.2 Professional and Inter-Personal Skills

It is well established that detention monitoring groups should ideally include at least one person with a legal background, and at least one person with a medical background. Ideally, the team would also have other relevant professionals available, including psychologists, engineers, child experts, those with a background in social care and education, as well as those with relevant language skills.

In the context of SGBV monitoring and prevention, it would be particularly useful to include health professionals, including those specialized in children's and women's health, gender experts, psychologists and social workers. If possible, the team could also include a person/s who has/have direct experience of working with victims or perpetrators of SGBV, including those who have experience dealing with the assistance and rehabilitation of victims.

For many monitoring mechanisms, and particularly those with limited human and financial resources, it will, however, not be possible to include such a broad range of professionals in each monitoring visit. In these situations, monitoring mechanisms might try to include experts in selected visits only, or at least get their input into the best techniques and methodology for monitoring SGBV, including how to interview victims of abuse.

It might also be that some visits require only a smaller, dedicated team of monitors, depending on the scope and purpose of the visit, especially if the aim is to focus on a particular group of detainees or on a specific issue. Depending on how the visits are organized, gender experts or those with in-depth knowledge of SGBV might, therefore, only be required for selected visits.

In addition to specific technical skills, it is important that members of monitoring mechanisms have appropriate inter-personal skills, including good listening skills and cultural and gender sensitivity. This is particularly important for those who will be conducting interviews with survivors or perpetrators of SGBV.

7.3 Language and Working with Interpreters

While monitoring mechanisms should make reasonable efforts to include members who can understand and speak the other languages commonly found among detainees/prisoners, this will often not be possible.

To address this, it may be that those with language skills are only asked to join certain visits. Training could also be provided to existing monitors to give them a basic level of understanding of relevant languages, even though they will still require interpretation. Such basic language skills can be extremely useful in building initial trust and confidence in the monitoring team, a particularly important factor when discussing issues such as SGBV.

Monitors are likely to have to employ the services of interpreters for interviewing some detainees/prisoners, and these should be chosen with care, particularly as the interviews are likely to cover sensitive issues, such as SGBV. In such situations, the relationship of trust and confidence between interviewee and interpreter is equally important, or even more so, than that between interviewee and interviewer.

Ideally, interpreters should have previous experience of interviewing victims of SGBV and of working within a detention setting. They should have a clear understanding of the concept of SGBV, the reasons for underreporting, and particular issues that are likely to arise.

All interpreters, and particularly those with no prior experience working with the issue of SGBV, should be fully briefed on the interview topics in advance, and the specific words or phrases that might come up in the context of SGBV. This is important not only because the language might be very technical, but also because the interpreter must feel comfortable dealing with language related to sexual abuse and rape, including slang and language that some might find offensive. If the monitoring team plans to use survey tools, any translations should be carefully checked to ensure that any SGBV related language has been appropriately and sensitively translated.

As with monitoring teams, interpreters should be carefully selected based on gender and cultural and religious considerations, and taking into account the identity of the likely interviewees. It may sometimes be necessary to have more than one interpreter available, in case an interviewee is not comfortable discussing SGBV with a particular person.

If possible, interviewees should be asked in advance if they would prefer a male or female interpreter. Monitoring teams should avoid using those who live locally and who may have a connection to detainees/prisoners and/or staff members. All interpreters must commit to respecting the confidentiality of the interview and to protecting the identity of the individuals concerned. In this regard, provisions on confidentiality could be included in the interpreter's terms of reference and/or contract.

7.4 Building the Capacity of Monitoring Mechanisms in Relation to SGBV

In order to effectively monitor and prevent SGBV in places of deprivation of liberty, monitors first need to understand the nature of SGBV in such facilities, the types of

7. COMPOSITION OF THE MONITORING TEAMS

abuse that can constitute SGBV, and the problems and risks associated with monitoring this aspect of detention.

Monitors should, therefore, be sensitized to the issues that may arise in relation to SGBV, and they must feel comfortable discussing such matters in detention settings.

In order to provide monitors with the skills and capacity to undertake this form of monitoring, training providers – be they national or international – for monitoring mechanisms should include SGBV-specific modules in their training programmes, including, in particular:

- The different forms of SGBV and how it relates to torture and other ill-treatment;
- The impact of SGBV, including trauma and secondary victimization;¹⁷
- Interview techniques, including how to approach the issue of SGBV with perpetrators and survivors of abuse, and the most appropriate responses;
- How to handle reports of sexual abuse made during an interview, including what type of questions to ask and how to determine if specialist care is needed;
- Understanding how to obtain the information required while avoiding the possibility of re-traumatization;
- How to follow up on specific cases of abuse, including how to deal with issues of consent and confidentiality;
- How to document reports and instances of SGBV;
- Relevant national legislation, regulations and policies, and applicable international and regional instruments; and
- Personal safety during monitoring visits.

In addition, monitoring mechanisms should facilitate support mechanisms and counselling services for monitors who have been the survivors of SGBV themselves, or who have otherwise been affected by their experiences of documenting SGBV within places of deprivation of liberty.

17 According to the WHO, gender-based violence has serious short – and long-term consequences on physical, sexual and reproductive and mental health as well as on personal and social well-being. The health consequences of violence against women include injuries, untimed/unwanted pregnancy, sexually transmitted infections (STIs) including HIV, pelvic pain, urinary tract infections, fistula, genital injuries, pregnancy complications, and chronic conditions. Mental health impacts for survivors of gender-based violence include Post Traumatic Stress Disorder (PTSD), depression, anxiety, substance misuse, self-harm and suicidal behaviour, and sleep disturbances. In addition, a survivor of GBV may also face stigma and rejection from her community and family. See: WHO, "Gender-Based Violence in Health Emergencies", <<https://www.who.int/health-cluster/about/work/other-collaborations/gender-based-violence/en/>>.

8. MONITORING RISK IN SPECIFIC SITUATIONS

This chapter identifies situations that pose a high risk of SGBV and suggests specific areas for monitors to focus on in their preparatory research and during facility visits and interviews. Each focus area includes a set of suggested questions to relevant stakeholders that monitors could consider incorporating into their existing monitoring tools. Additional suggestions focusing on specific at-risk groups are included, where relevant.

8.1 Interactions with Police: Stop, Arrest and Detention

Detainees are often at their most vulnerable to SGBV during arrest, transfer and in the immediate period following their arrest. Even when not in formal custody, there can be periods of time in which authorities *de facto* detain individuals as suspects or witnesses, and might subject them to SGBV.

This period of detention is also one of the most difficult to monitor, given the many different locations where abuse can occur, and because contact with the outside world is generally more restricted during this initial period of detention.

SGBV can occur at the point of apprehension, and before a formal arrest has been made, including in a detainee's home, during transfer or in the place of custody itself. During this stage of detention, suspects are more likely to be alone with the arresting authorities. They may also be in locations where there are no CCTV cameras, audio recording devices or witnesses to any abuse. Detainees are also at risk of SGBV and other abuse when they are released from custody, particularly if police want to threaten or otherwise intimidate them.

Detainees in police custody also have less recourse to complaints mechanisms, or are unlikely to complain while still in police custody, due to their particular vulnerability, and to the fact that they are often only detained for short periods. In addition, those who are never formally charged with an offense may choose not to report abuse, for fear of retaliation.

Because police custody should be short-term only, there are often no detailed, individualized risk or needs assessments to determine with whom a person should be detained. In addition, in police stations and other temporary places of deprivation of liberty, there are usually fewer support mechanisms in place for those who may be at risk, or for likely perpetrators of violence.

8. MONITORING RISK IN SPECIFIC SITUATIONS

It may be that some monitoring mechanisms do not have the mandate to monitor police custody. Others that can carry out such monitoring could face logistical problems due to the sheer number of local police stations and the fact that abuse can happen outside of formal custody. However, reports of abuse in police custody may also come to light once the person has been transferred to prison, or after their release. Even those monitors who lack the mandate to monitor police custody can still document and respond to allegations of abuse in such facilities when it comes to their attention. If they have the consent of the survivors of SGBV, they could, for example, refer the case to legal aid organizations for possible follow-up.¹⁸

Preparatory research and reviewing existing documentation

- Does police training contain any modules related to gender, gender-sensitive approaches to policing or SGBV more specifically?
- Is there a police code of conduct or similar document that governs the professional conduct of police officers? If so, does it contain any standards relating to the prohibition of SGBV?
- What police oversight mechanisms are in place? Do they include the issue of SGBV in their mandate?
- Have there been any complaints of SGBV during arrest and detention by police authorities? If so, what was the outcome? Are there any instances of police officers being disciplined or prosecuted for SGBV? What are the penalties for police officers found to have perpetrated different forms of SGBV?
- If there are disaggregated data on complaints of SGBV by police, are there any groups who appear to be targeted more than others?
- Do background checks for potential recruits to the police service include checks for a history of committing gender-based violence, including domestic violence, or of active discriminatory behaviour?

Checking police custody facilities

In most countries, it may not be possible for monitoring mechanisms to visit every police station in the country on a regular basis, particularly if there are many small, local facilities. However, if monitors have the mandate or the opportunity to inspect police custody, they may be able to gain a good understanding of potential risk factors for SGBV in certain types of facilities, as well as police attitudes towards the issue. The subject of police transport is included in the section on transit and transfer, below ([section 8.8](#))

18 For more detailed information on monitoring police custody, please see: *Monitoring Police Custody: A Practical Guide*, *op. cit.*, note 15.

- Are detainee cells single or shared – occupancy? Are there separate cells for women, men and juveniles in the facility?
- Are there CCTV cameras in the facility? Are these in good working order? Are there any “blind spots”, where abuse would not be recorded?
- Is information about how to contact lawyers, family and friends clearly visible to detainees/prisoners in police custody, in different languages, as appropriate? Are working telephones available in the police station?
- Is there any information clearly visible to detainees/prisoners about SGBV support services, or what they can do if they have been a victim of SGBV?
- Is there a buzzer in each cell that detainees can use to call if they need help?
- Are there any medical facilities in the police station or any way for detainees to access medical assistance or basic medicines?

Evaluating arrest and detention procedures

Information from authorities

Staff involved in arrest and detention may reveal information about the occurrence of SGBV in custody and the measures in place to prevent SGBV. When interviewing staff, monitors should try to establish the following:

- Are authorities responsible for detention separate from those responsible for interrogation?
- Are there any risk and needs assessments in place for police custody detention, including in relation to cell allocation?
- Does the staff culture tolerate SGBV?

Information from detainees/prisoners

It may be difficult for monitoring mechanisms to speak safely to those still held in police custody about their experiences of SGBV, mainly because of the associated risks, but also because detainees tend to be held in custody for short periods of time. It may, therefore, be easier to obtain such information from those who have already been transferred to prison, or from those who have been released from detention. Monitors could try to establish the following:

- At what stage of arrest were detainees able to contact their lawyer/family/friend/other contact person?
- Were lawyers allowed to be present during their interrogation?
- Did they experience any SGBV, including verbal abuse and threats, during arrest, detention and interrogation? If so, additional information should be provided.

8. MONITORING RISK IN SPECIFIC SITUATIONS

- Were they able to access medical professionals during detention in police custody?
- Whether it is possible/safe for detainees to complain confidentially about abuse in police custody? If not, why not?

Information from other sources

Lawyers, families, friends and others may also be able to provide information about detainees' experiences of SGBV in police custody, particularly if detainees are themselves unable to speak about instances of abuse. Those who have visited detainees in police custody may also have experienced SGBV from police officers or may have a sense of police attitudes towards the subject. For particular groups of detainees, including LGBTI persons, it may also be possible to get information about treatment in police custody from specialized grassroots organizations.

- Have detainees/prisoners ever mentioned instances of SGBV in police custody (either perpetrated against themselves or others)?
- Have visitors ever been subjected to any verbal or physical abuse when they visited someone in police custody?
- Do visitors feel that police officers have a good understanding of how to work with different groups of detainees, including women, children, LGBTI persons?

Focus on specific groups

Some groups or individuals may be particularly at risk during arrest, detention and interrogation. This could include women and children, LGBTI persons, foreign nationals or others who don't speak the language of the arresting authorities. Individuals involved in prostitution are also particularly at risk in police custody. Monitors could, therefore, try to establish the following:

- Are foreign nationals and others who do not speak the language of the arresting authorities provided with information about their rights in a language they understand?
- Are foreign nationals able to inform their consular representatives of their arrest, without delay?
- Are there any special protections in place for arrested LGBTI persons, including in relation to their cell allocation, and the sex of the supervising officer? What are the arrangements in place for the accommodation of trans persons in police custody?
- Are female detainees and children fully separated from male detainees and adults throughout the course of their arrest, detention and interrogation?
- Are female detainees attended to and supervised only by female police officers?

- Are there any specific protections in place for those suspected of sex offences or other crimes that might carry a high risk of abuse in custody?

8.2 Investigation Stage: Interviews and Interrogation

Detainees are at a high risk of SGBV during the investigation stage, especially during interrogations to obtain information or confessions from suspects or information from witnesses. The risks are particularly high when there are no CCTV cameras or audio recording devices in the interview rooms, and when lawyers are not present during interrogations.

It might also be useful for monitors to look at written records of interrogations, as these can give an indication of police officers' attitudes towards particular individuals or groups, including women, LGBTI detainees and minority groups. Monitors may also use CCTV footage to cross-check information, in case of allegations of mistreatment, though abuse usually takes place in other rooms or when there are no cameras recording.

Preparatory research and reviewing existing documentation

- What rules are in place to govern the way in which interrogations are carried out?
- Are detainees given information about their right to legal counsel and early access to legal assistance or legal aid?
- Is there a provision for detainees to see an independent medical professional during their time in police custody, including after interrogations?
- Are there any other measures in place to prevent SGBV during interrogation? For example, do authorities maintain complete records of all interrogations, including information about the identity of all those present?
- Do officials involved in interrogations receive proper training on interviewing suspects, including in relation to the prohibition of SGBV?
- Is there any prosecutorial oversight of investigation methods used by police?

Checking interrogation facilities

- Are there CCTV cameras and/or audio recording devices in interrogation rooms? Are these in good working order, and are there any areas not covered by CCTV?

Evaluating interview and interrogation techniques

Information from detainees/prisoners

- It is unlikely that individuals will report abuse that took place during their interrogation while they are still in police custody, because it will not be safe for them

8. MONITORING RISK IN SPECIFIC SITUATIONS

to do so. Those who have been sent to prison or released might feel more able to report abuse. Monitors can try to determine:

- Were lawyers allowed to be present during individual interrogations?
- Were detainees' interviews audio-recorded?
- Was SGBV, including verbal abuse and threats, used during the interrogations?

Focus on specific groups

Some groups may be more vulnerable than others during interrogation, including children, women and girls, members of minority and indigenous groups, and foreign nationals or others who don't speak the language of the arresting authorities. LGBTI persons are particularly at risk of abuse during arrest and interrogation, especially in contexts where same-sex relations and non-binary identities are criminalized.

LGBTI persons in prostitution report particularly high levels of abuse in police custody and during interrogations. Police officers might also threaten to disclose a detainee's sexual orientation or gender identity in order to force a confession or to extort money from them. When focussing on specific groups, monitors could consider the following:

- Are interpreters available during interrogations for those who do not speak the language?
- Do police officers use any offensive language or threatening actions when interrogating LGBTI persons?
- Have police officers received any training on interrogating specific groups of detainees, including age – and gender-sensitive approaches?

8.3 Allocation and Supervision

The appropriate allocation and supervision of detainees/prisoners is critical in ensuring their protection against SGBV. Women should always be held separately from men, and juveniles should always be held separately from adults. Women should be attended and supervised only by female staff members.

All detainees/prisoners should be allocated to the appropriate facilities based on individual, ongoing risk and needs assessments, to avoid allocating potential victims of abuse in the same cells as likely perpetrators. The allocation of LGBTI detainees/prisoners, particularly transgender and intersex persons, is especially important in this regard.

In some facilities, women and men, adults and children and detainees/prisoners with different security classifications may be allowed to interact with each other outside of their cells, such as at recreation time or during vocational training. Where this hap-

pens, authorities must ensure that there are additional safeguards in place, including the careful selection of those involved and adequate supervisory arrangements. Women are particularly at risk of SGBV when male staff are involved in their supervision, especially if this involves direct contact. The supervision of transgender and intersex detainees/prisoners also requires particular attention.

Preparatory research and reviewing existing documentation

When looking into detainee/prisoner allocation and staff supervision in relation to SGBV, monitors should consider:

- Are men and women, adults and juveniles detained in separate institutions? If in mixed facilities, are they kept in entirely separate facilities?
- Are there special measures in place regarding the allocation of those convicted of rape and sexual assault, or those with a known history of abusive behaviour?
- Are men and women, adults and juveniles allowed to interact with each other at any time? If so, are there any additional safeguards in place?
- Are there any specific procedures in place regarding the supervision of female detainees/prisoners, including juvenile girls?
- Are men ever involved in the supervision of female detainees/prisoners? If so, have they been properly vetted and have they received any particular training? Are there any additional safeguards in place, including the requirement that a female staff member also be present?
- Are male staff allowed to enter women's places of deprivation of liberty without being accompanied by a female staff member?
- Are there special measures in place regarding the allocation of those deemed to be at risk of SGBV, including those with a known history of abuse, sex offenders and individuals accused or convicted of particularly serious crimes?
- Do authorities make every effort to ensure that two detainees/prisoners do not share a room alone? Where dormitories are used, are detainees/prisoners carefully selected as being suitable to associate with one another in those conditions?

Monitoring allocation and supervision procedures

Direct observation

During visits to places of deprivation of liberty, monitors might be able to directly observe the extent to which allocation and supervision procedures are enforced in practice. They should, therefore, pay attention to interactions between male and female, adult and juvenile detainees/prisoners, and the areas of the facility where male staff are seen to be working. In addition, they might consider the following questions:

Interviewing staff and service providers

How is the decision made to allocate staff to work with particular detainees/prisoners?

Interviewing detainees/prisoners

- Do detainees/prisoners feel safe with the other people in their cell? If not, are there specific SGBV concerns?
- Do detainees/prisoners interact with members of the opposite sex outside their cells? If so, are there concerns about SGBV?
- Are women and children asked to give their agreement before interacting with male detainees/prisoners or adults?
- Did authorities conduct a needs/risk assessment for each detainee, including in relation to SGBV, when they first arrived in the facility? If so, has this assessment ever been reviewed/updated?
- Can detainees/prisoners challenge their allocation and the outcome of the risk/needs assessment if they feel it is inaccurate or if they feel they are in danger?

Focus on specific groups

- Are there special policies in place for the housing and supervision of transgender or inter-sex detainees/prisoners, taking into consideration their self-perceived gender?

8.4 Body Searches

Body searches present a particular risk factor for SGBV in places of deprivation of liberty. They can be carried out on detainees/prisoners, visitors, service providers and staff, as well as on those monitoring places of deprivation of liberty.

There are three main types of body searches: pat down/frisk searches, strip searches and body cavity searches, which are also sometimes known as “invasive” or “intimate” searches. Searches are also sometimes carried out with the assistance of dogs trained to detect possible narcotics possession.

All those being searched, but detainees/prisoners in particular, are at a heightened risk of SGBV during body searches. This could take the form of verbal or physical abuse and can occur during any type of body search. Sometimes, body searches are conducted to deliberately degrade or humiliate the person being searched. Women are particularly vulnerable during body searches, especially strip and body-cavity searches. Body searches can also be particularly problematic for LGBTI persons.

Body searches can amount to torture when they are carried out with the intention of inflicting severe mental or physical pain or suffering on the person being searched. The

risk of torture and other ill-treatment is particularly high when searches are conducted systematically, when not strictly necessary, when they disproportionately target particular groups of prisoners, and when carried out by a member of the opposite sex.

There could also be a risk of SGBV during cell searches if the detainee/prisoner and staff member are in the cell together during the search, particularly if there are no witnesses present.

In order to fully assess the link between searches and SGBV in particular places of deprivation of liberty, monitors should consider the following means of gathering information:

Preparatory research and reviewing existing documentation

It is important for monitors to understand the framework under which searches take place, as well as any recorded history and complaints of abusive behaviour. As such, they should review relevant documentation as part of their preparatory research:

- Are there any laws, policies, procedures or guidelines that define when different types of searches can be carried out, by whom, under which circumstances, and in what way are they to be conducted? Is this framework in accordance with human rights standards, including the principles of legality, necessity and proportionality?
- Are there any specific gender-sensitive guidelines or procedures for searching women, children, LGBTI persons or other particular groups/individuals?
- Has the monitoring mechanism received any complaints of SGBV during body searches? Is it possible to find out if there have been any other such recorded complaints? If so, what was the outcome/follow-up?
- Can staff be punished for improper conduct during searches? If so, what is the usual sanction? Are there any recorded instances of staff having been disciplined or prosecuted, including in direct relation to SGBV? If so, what was the outcome/follow-up?
- Do places of deprivation of liberty keep records and details of searches conducted, including the reasons for the searches, the identities of those who conducted the searches, and the results? If so, is it possible to determine whether they are used in a discriminatory way? (e.g., are some groups of prisoners searched more than others? Are different procedures used for different people?)
- Have there been any recent changes in search procedures? Is there any ongoing review of their effectiveness, or how they should be conducted?
- Do authorities use any alternatives to body searching? In what situations?
- If detainees/prisoners have reported that they have been subjected to SGBV in the past (prior to or during their detention), would those conducting searches usually be made aware of this? Are there specific protections in place for such detainees/prisoners?

Assessing areas where searches take place

The location and set-up of search areas are important in assessing the risks of SGBV. Generally speaking, abuse is more likely to take place if searches take place in an isolated area, and there may be more risk if the door to the room is locked or closed. However, this must be balanced with the need for searches to take place in full privacy, in a space that is out of view of others. While CCTV or audio recording might prevent abuse during body searches, it can also be degrading for those being searched, and recordings may be used inappropriately. Monitors should, therefore, consider the following factors:

- Where are the different search areas in the facility (including visitor search areas) located? Are they particularly isolated?
- In what conditions do strip and cavity searches take place? Do the location of doors and windows allow for full privacy? What is the lighting situation in the room?
- Is the door usually closed or locked during strip and cavity searches? Is there a panic button in the room that someone can press to get attention if they need?
- Is there any CCTV or audio recording in the search rooms? If so, who monitors this material and how are these persons selected?
- Are there separate search rooms for men/women and adults/juveniles?
- Do body searches ever take place at night-time?

Assessing the way searches are conducted

Monitors should be able to witness the way “pat down” or “frisk” searches are conducted, and are likely to be subjected to such search procedures themselves. It is possible, however, that staff will conduct searches differently when they are being observed or when they are searching official visitors. Monitors should not attempt to observe strip and body cavity searches being carried out.

In order to gain a good understanding of how searches are conducted, monitors could seek the following information from staff/management, detainees/prisoners and prison visitors:

Information from staff/management

- How many staff members are usually present during pat down/frisk searches, and strip and body cavity searches?
- How are strip searches conducted? Is the two-step strip search procedure in use?¹⁹

¹⁹ The two-step strip search is when the upper and lower clothes are removed in separate stages, so the detainee/prisoner does not have to be fully naked in front of detention/prison staff at any one time.

- How do staff determine whether a search, and what type of search, is necessary? Who makes the decision that a strip or body cavity search is necessary? Are these decisions based on risk assessments?
- Are staff generally aware of which laws/policies/procedures/guidelines regulate the use of body searches?
- Are medical staff involved in searches, including invasive searches? In what capacity?²⁰
- Have all staff members involved in searches received training? What did the training consist of, and did it include training on gender sensitivity?

Information from detainees/prisoners

- How often are detainees/prisoners subjected to pat down/frisk searches, and in which situations? Under which circumstances are detainees/prisoners subjected to strip or body cavity searches?
- Do detainees/prisoners ever feel threatened, degraded or humiliated during search procedures? Are there reports of individuals being touched inappropriately during body searches?
- Have staff ever used inappropriate verbal and/or body language during searches?
- Do staff clearly explain search procedures before commencing the search? Are people given the opportunity to hand over any hidden items before being searched?
- Have individuals ever complained, or wanted to complain, about the way a search was conducted? What was the outcome?
- Are people given an opportunity to explain their concerns about SGBV before the search commences? Are those who have previously been a victim of SGBV able to discuss their specific concerns safely and confidentially?
- Are strip searches generally carried out in two stages? (top and bottom part of body separately)?
- In cases of cavity searches, is there any follow-up action to check on any negative physical/psychological impact(s) of the search?
- Are other prisoners ever involved in any body searching procedures (including pat down/frisk searches)?

20 The Mandela Rules stipulate that body cavity searches should be conducted by qualified health-care professionals other than those primarily responsible for the care of the prisoner. Where this is not possible, the Rules suggest that, in such instances, body cavity searches can be carried out, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety. See: UN General Assembly, "The United Nations Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)", 17 December 2015, <https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf>

8. MONITORING RISK IN SPECIFIC SITUATIONS

Information from prison visitors

Visitors may be able to provide good insights into the way searches are carried out and the attitude of staff conducting the searches. They may not only offer feedback about their own experiences of body searches, but may also be able to provide information, without fear of retaliation, about the treatment of detainees/prisoners during searches.

- What are their own experiences of search procedures? Are visitors ever subjected to strip and body cavity searches, in addition to pat down/frisk searches?
- Have visitors ever felt threatened, degraded, intimidated or humiliated during search procedures?
- Do staff conducting the searches treat visitors with respect? Do they use appropriate body and verbal language?
- Are there any allegations of staff subjecting visitors to SGBV during body searches?
- Do staff clearly explain the search procedure before commencing the search? Are visitors given the opportunity to hand over any hidden items before being searched?
- Do visitors feel they can complain about the way a search is conducted if they wanted to?
- Have any detainees/prisoners complained to their visitors that they or others have been subjected to abuse during body searches?

Focus on specific groups/individuals

Certain individuals or groups of detainees/prisoners may be particularly at risk of SGBV during body searches. This might include LGBTI persons, women, children, those with physical or mental healthcare needs, those who have previously experienced SGBV, and members of particular religious groups or from particular cultural backgrounds. For this reason, monitors could also focus their attention on the following areas:

- Are male staff ever involved in searching female detainees/prisoners? (including all forms of searches.)
- Is there a total prohibition of the use of vaginal searches for pregnant women, young children and juvenile girls?
- Are there any specific guidelines in place for searches of LGBTI persons?
- How do authorities deal with body searches of transgender and intersex persons? Are they given the choice of being searched by male or female staff member?
- How do authorities deal with body searches for those with mental healthcare needs?
- Are there any guidelines in place to adjust procedures to take into consideration cultural and religious diversity?

- Are children living with their parent/caregiver in prison, or visiting children, ever subjected to searches? If so, is the parent/caregiver allowed to be present during the search?
- Are body searches approached differently if staff are aware that the prisoner has previously been a victim of SGBV?
- Is there any consideration of how body searches might be experienced by persons from particular cultures and religions?

8.5 The Use of Restraints, Force and Arms

Some instruments of restraint are inherently degrading or painful, while others pose a risk depending on why and how they are used. Instruments of restraint that are not considered to be inherently degrading or painful may, nevertheless, be humiliating for the person concerned or can be applied in ways that are unnecessarily painful.

If the necessity of using restraints against particular groups of detainees/prisoners, such as women or LGBTI persons, is lacking, then it can also constitute SGBV.

In addition, the use of restraints presents a significant risk factor for SGBV, including sexual taunts and physical abuse. When restrained, victims are physically less able to defend themselves, and they may be completely immobilized. Instruments of restraint are also sometimes used deliberately to inflict pain or humiliation on particular prisoners, or to intimidate them during interrogations.

International standards prohibit the use of restraints that are “inherently degrading or painful”, and require that other restraints are used restrictively, only in exceptional cases, and when lesser methods of control have been tried and failed. Despite these provisions, restraints are often used as a matter of routine when not essential, including when detainees/prisoners are ill or when women are pregnant, during labour or after they have given birth.

The use of force and arms also presents high-risk situations for SGBV. Their use is likely to cause pain and humiliation, and they may be used with the sole purpose of deliberately abusing detainees, including during interrogations, as a means to intimidate or to elicit confessions. Their use must also be strictly regulated to reduce the potential for abuse.

When monitoring places of deprivation of liberty for risks of SGBV, teams should consider the use of restraints, force and arms. They should familiarize themselves with the different types of instruments and methods in use, as well as their associated risks. Monitors should also consider in advance whether they would be prepared to interview detainees/prisoners who are restrained at the time of the interview. Monitors should also consider the questions provided in relation to the aspects of monitoring covered below.

Preparatory research and reviewing existing documentation

It will be important for monitors to review existing documentation related to the use of restraints, force and arms, in order to assess how well their use is regulated and monitored, specifically in relation to the high risk of humiliation, pain, torture and other ill-treatment, including SGBV.

- Is the use of restraints, force and arms regulated by law, and are there any policies or guidelines regarding their use? Are there any instruments of restraint or any types of arms that are specifically prohibited by law? What types of restraint, force and arms are permitted, and for what purposes are they meant to be used?
- When detention/prison officials use restraints, force and arms, are they required to record this in the prisoner's file? What information is included?
- Do prison administrations compile periodic statistics on the use of restraints, force and arms, including anonymized data on the identity of those restrained (e.g., a breakdown by gender/age)
- Have there been any recorded complaints about the use of restraints, force and arms in relation to SGBV? If so, what was the outcome?
- Who authorizes the imposition of restraints, force and arms, and which members of staff are permitted to use them?
- Is there anything in the staff training manual about the use of restraints, force and arms and alternative means of control?
- Is there anything in staff disciplinary procedures related to the improper, unnecessary or disproportionate use of restraints, force and arms? Have any staff been disciplined or prosecuted for these reasons?
- Are detention/prison officers required to wear body-worn cameras or other devices when using instruments of restraint, force or arms?
- Has there been any recent review about the use of restraints, force and arms? If so, were there any changes in policy and practice?

Inspecting instruments of restraint/restraining areas

- In order to fully inform themselves about the use of restraints in each facility, monitors should also inspect the instruments of restraint and types of arms that are utilized. For certain types of instrument of restraint, such as restraint chairs and beds or wall mounted restraints, this will also include inspecting the areas in which they are located.
- In cases of instruments of restraint that are used in a particular location, are there CCTV or other recording devices in the area? Is the area particularly isolated within the facility, and what is the set-up, including the location of doors and windows?

Information from staff

- Are staff authorized to use different types of instruments of restraint, force and arms? If so, which ones?
- Have staff been trained in the use of restraints, force and arms? Was the training specific to the different types of restraint, force and arms, and do they receive updated training if new methods are introduced?
- Are they aware of the laws, regulations and procedures related to the use of restraints, force and arms?
- Are detainees/prisoners usually restrained during transfer? Do staff think this is necessary?
- Have they ever witnessed incidents of SGBV in relation to the use of restraints, force and arms?
- Do staff need to record the use of restraints, force and arms? If so, what information do they need to include? Would it include any injuries sustained as a result?

Information from detainees/prisoners

- Have there been any instances of detainees/prisoners being subjected to SGBV while restrained or in the context of the use of force or arms?
- Are detainees/prisoners examined by a member of the health team after the use of restraint, force or arms to check for injuries?

Focus on specific groups

- Are women ever restrained during advanced pregnancy, during labour and birth or immediately after birth?
- Are pregnant women restrained when they are transported to hospital for regular appointments or to give birth?
- Are there any specific policies governing the use of restraints on pregnant women during labour and after birth?
- Are there any specific policies governing the use of restraints of detainees/prisoners with mental healthcare needs?
- Are there any specific policies governing the use of restraints, force and arms on juvenile detainees/prisoners?

8.6 Segregation and Other Disciplinary Measures

Some disciplinary procedures, including segregation, can pose a high risk of abuse, especially when contact with the outside world is limited, and particularly in cases

8. MONITORING RISK IN SPECIFIC SITUATIONS

of solitary confinement. In police custody, detainees might be held in solitary confinement and subjected to abuse to intimidate them, elicit co-operation or extract a confession.

There are also particular risks of SGBV if other detainees/prisoners are employed in a disciplinary capacity, or in facilities where there are informal systems of discipline among detainees/prisoners that are not properly managed by the authorities.

Additionally, in some countries, victims of SGBV and those at risk of SGBV might be placed in segregation for their own protection, and sometimes at their own request. However, removing a detainee/prisoner from the general population can also place them in danger of abuse from staff, especially when contact with the outside world is limited, and particularly in cases of solitary confinement.

Segregating individuals because they belong to a group that is vulnerable to SGBV may further stigmatize them and put them at additional risk when they are returned to the general prison population. This may be especially dangerous for LGBTI persons or those who have committed specific types of crimes, such as rape. International standards are clear that the use of protective segregation is only justified in exceptional circumstances, for the shortest possible time, and with adequate procedural safeguards.

The practice of segregation and other forms of discipline can also be discriminatory when used routinely for certain groups of detainees/prisoners.

In considering the use of segregation in the context of SGBV, monitors should consider the following:

- Under what circumstances can detainees/prisoners be segregated/placed in solitary confinement? Is this clearly regulated?
- Is segregation/solitary confinement ever used as a protective measure for victims of SGBV, or for those deemed to be at risk? If so, is this decision made in consultation with the individual concerned?
- Is there any indication that segregation and solitary confinement, or other disciplinary measures, are disproportionately used against certain groups of detainees/prisoners?
- How is the use of segregation/solitary confinement regulated? What procedural safeguards are in place against SGBV and other abuses?
- Are juveniles, pregnant women, women with infants and breastfeeding mothers, as well as prisoners with mental or physical disabilities, ever subjected to solitary confinement?
- Do those held in solitary confinement or segregation still have the right to family contact and contact with their lawyer, including through visits?

- Are those undergoing disciplinary punishments, including segregation/solitary confinement, regularly visited by a healthcare professional? Can those undergoing such punishment have access to a healthcare professional upon request?
- Are other detainees/prisoners ever employed in any disciplinary capacity? Are informal systems of punishment among detainees/prisoners prevalent in the facility?
- Is the use of disciplinary punishments and protective segregation properly recorded and monitored?
- Are there any CCTV or other monitoring devices in segregation/isolation rooms?

8.7 General Living Conditions and Potential “Blind Spots”

There may be particular parts of places of deprivation of liberty that present high risks for SGBV. These might include shared cells and toilet and shower areas, as well as areas that are less well supervised and monitored, including corridors, vocational and other training rooms and kitchens. The risks may be compounded in areas where there is no CCTV or other monitoring equipment, or when detainees/prisoners are taken off the premises for vocational programmes and other activities.

When assessing the risks of SGBV, monitors should inspect all areas of the facility, including potential “blind spots” including sleeping areas, toilets and shower areas. The supervision of these locations should be balanced against respect for privacy. Monitors might also consider visiting external facilities where detainees/prisoners spend time, such as training facilities or places of employment, including if they are supervised by staff other than those employed by the detention facility.

In general, overcrowded and under-resourced facilities present greater risks of SGBV, because staff are unable to properly monitor and control the actions of detainees/staff, and because staff themselves are able to perpetrate abuses without being noticed, or because there are not enough resources to deal with the problem.

When assessing the overall living conditions within particular facilities, monitors should consider:

- What is the level of overcrowding, if any, in the facility?
- What is the staff-prisoner ratio?
- Are all suspects/prisoners provided with a separate bed?
- Is there regular night-time supervision of cells and dormitories?
- Are arrangements in place to ensure that detainees/prisoners do not have to shower or use the toilet in public and, specifically, that women do not have to shower or use the toilet in front of male staff?

8. MONITORING RISK IN SPECIFIC SITUATIONS

- Are there any special arrangements in place regarding showering facilities for transgender and intersex detainees/prisoners?
- Are all areas of the prison supervised by appropriate staff, and is there proper supervision of all prisoner activities, including external training and work programmes?
- Do women have to walk through areas that house men to access education, work or recreational areas?
- Are there buzzers or other means of communication in each cell/dormitory that detainees/prisoners can use to call for attention if they need to?

8.8 Transit and Transfer

Detainees/prisoners are at an increased risk of abuse during transit between different institutions, including during emergency evacuations, as there are generally fewer protections and monitoring mechanisms in place at this time. During the transit period, there is an increased risk for staff misconduct or for SGBV to be committed by other detainees/prisoners who may not otherwise come into contact with each other. Staff, themselves, may also be at increased risk during this period.

These risks are particularly acute if there are no CCTV cameras in vehicles used for transport and if the transport staff have not been assessed for their suitability to supervise particular detainees/prisoners. Regulations that apply within places of deprivation of liberty, and that protect against SGBV, may also not apply, or may be applied less strictly during transport, including the provision that men and women be kept separate and that women only be supervised by female staff members. Similarly, assessments for the suitability of detainees/prisoners to spend time with each other may not be strictly applied during transit.

The transfer of transgender and intersex persons should be undertaken with particular care and sensitivity, in light of the particular risks they face.

The risk of abuse during transit may be heightened when non-state agencies are responsible for the transportation of detainees/prisoners, particularly if they have not been properly vetted or if there is no effective system of monitoring their conduct.

When monitoring the risks and occurrence of SGBV during transit, monitors should consider the following:

Preparatory research and reviewing existing documentation

- Are there any policies in place that regulate the conditions of transfer in order to minimize the risk of abuse? Do these guidelines explicitly address SGBV in a gender-sensitive way?

- Are individual risk assessments used to inform decisions about transferring specific detainees/prisoners separately or together?
- Who is responsible for the transport of detainees/prisoners? Are there any procedures regulating the conduct of these individuals or entities?
- Are male staff ever involved in the transport of female detainees/prisoners? If so, are there any additional safeguards in place? Is there a requirement that a female staff member also be present?
- Are male and female detainees/prisoners transported separately? Are adults and juveniles transported separately? If not, are there any specific safeguards in place?
- Are detainees/prisoners usually transported in groups, or are some transported on their own? How many staff members are usually involved in the transfer?
- Are there any particular procedures or safeguards in place for the transit of transgender and intersex individuals?
- Are detainees/prisoners given the opportunity to inform their lawyers, family members or other third parties before being transferred?
- Is the date, time and purpose of the transfer recorded?
- Have there been any specific allegations of SGBV that occurred during transfer? If so, what was the outcome?

Assessing means of transportation

In most cases, monitors will not have the opportunity to be present in a police or prison vehicle during transit. During the course of their monitoring visits, however, members of the team may witness detainees/prisoners being transferred to and from the facility, including as they enter or leave vehicles. They can also follow vehicles to and from different facilities. If this is done on an unannounced basis, but it is known by prison staff that such monitoring can take place, it may act as an effective deterrent against abuse during transit.

When monitoring the transfer of detainees/prisoners from one facility to another, monitors should be aware of every situation of risk, including potential black spots. This might include, for example, periods of time when detainees/prisoners are waiting in hospitals and courthouses, or when they are taken to use toilet facilities during transit.

Monitors should pay particular attention to the transfer of women and juveniles, and to the staff allocation for these groups. Monitors can also request to inspect the vehicles used for transporting detainees/prisoners, and may wish to ask if they can directly observe detainees/prisoners being transferred. In doing so, they should take note of the following:

8. MONITORING RISK IN SPECIFIC SITUATIONS

- Are there CCTV cameras or audio recording devices in all vehicles used for transporting detainees/prisoners? Is the footage effectively monitored on a regular basis by appropriately trained and vetted persons?
- What type of vehicles are used for transporting detainees/prisoners? Are detainees/prisoners physically separated in any way during transit, and is there the possibility of any physical contact between them?
- Are detainees/prisoners regularly restrained during transfer?

Information from staff responsible for transporting detainees/prisoners

- Have staff received any specific training on protecting detainees from abuse during transport?
- Who makes the decision on which detainees/prisoners can be transported together? Is this decision based on any risk and needs assessment?

Information from detainees/prisoners

- Are there reports of detainees/prisoners having been subjected to abuse during transit? Do prisoners know how to complain in this situation? Have there been any complaints and, if so, what was the outcome?
- Are detainees/prisoners able to inform their family/friends/other contact person and lawyer before being transferred to another institution?
- Are female detainees/prisoners supervised by male staff during transit? Are female staff also present? Are female detainees/prisoners transferred in the same vehicle as male detainees/prisoners? Is there any physical contact?
- Are juveniles transferred in the same vehicle as adult detainees/prisoners? Is there any physical contact?

8.9 Initial Medical Screening and Ongoing Healthcare (as a Risk Factor)

When detainees/prisoners access healthcare services in places of deprivation of liberty, they may be at risk of SGBV. However, healthcare services can also play a key role in detecting and preventing SGBV. This section summarizes healthcare as a risk factor, while healthcare as a preventative factor is dealt with in the subsequent section, access to healthcare ([section 9.2](#)).

The requirement for prisoners to be able to access healthcare services in full privacy and confidentiality can be at odds with the duty of prison authorities to ensure the safety and security of prisoners, staff, service providers and visitors at all times. Thus, both detainees/prisoners and healthcare providers may be at risk of SGBV during in-

itial medical screenings and subsequent appointments with healthcare providers, especially if a prisoner is alone in a room with the healthcare professional.

This risk is present during consultations with prison healthcare staff, as well as with external healthcare providers. SGBV can occur in prison healthcare facilities or other locations, such as hospitals and specialist clinics. Such violence might also occur in a prisoner's cell or place of punishment.

Monitors should, therefore, check for reported abuse during medical consultations and during other interactions with medical professionals, as well as measures that have been taken to prevent SGBV occurring in the context of prison healthcare provision.

Preparatory research and reviewing existing documentation

- Is there a code of conduct for healthcare professionals working in places of deprivation of liberty and, if so, does it address SGBV? Is there anything else in prison healthcare policies and guidelines that relates to the conduct/misconduct of medical staff, including in relation to sexual abuse and discrimination?
- Have there been any complaints from detainees/prisoners about SGBV occurring in medical facilities or during other interactions with healthcare professionals?
- Are there any recorded instances of prison medical staff having been disciplined or prosecuted because they were found to have subjected detainees/prisoners to SGBV? If so, have authorities made any changes to healthcare policy and practice as a result of this?
- Are the details of initial medical screenings, subsequent health appointments, and the detainees'/prisoners' healthcare needs properly recorded, including the date and location of medical examinations, the identity of the healthcare professional who carried out the examination, and any follow-up action taken?
- Are prison medical staff screened for suitability for working in detention settings, including an assessment of their attitudes towards detainees/prisoners? Is this equally the case with healthcare staff employed by private agencies?

Inspecting healthcare facilities

The location and layout of prison health facilities are important in assessing the risks of SGBV. Health facilities should not be located in isolated areas, yet medical examinations must be able to take place in full privacy and confidentiality. In assessing healthcare facilities for SGBV risk factors, monitors could focus on the following areas:

- Where are the healthcare facilities located? Are they particularly isolated?
- In what conditions do medical examinations take place? Do the location of doors and windows allow for full privacy and confidentiality?

8. MONITORING RISK IN SPECIFIC SITUATIONS

- Is the door usually closed or locked during medical examinations?
- Is there a panic button in the room that the patient/healthcare provider can press to get attention if they need? Are prison guards located nearby in case they have to intervene?
- Are there separate medical facilities for men/women and adults/juveniles?

Assessing the conduct of healthcare professionals

Information from healthcare staff

- Do healthcare staff receive any training on providing healthcare in a detention setting or, on working with prisoners specifically?

Information from detainees/prisoners

- Do detainees/prisoners ever feel threatened, degraded or humiliated during medical examinations, including initial medical screenings?
- Are there reports of medical staff having used inappropriate verbal and/or body language during medical examinations or of individuals being touched inappropriately during medical examinations?
- Do detainees/prisoners feel they can complain about the actions of healthcare staff in relation to instances of SGBV if they need to? Have there been any such complaints and, if so, what was the outcome?
- Are staff members or other prisoners ever present or involved in medical appointments?

Focus on specific groups/individuals

- Do female detainees/prisoners have the right to refuse vaginal examinations and to refuse to provide information on their reproductive health history?
- Do women have the option to be screened and examined by a female healthcare professional? If this is not possible, are they given the option to be accompanied by a female chaperone of their choice for the examination?
- Are transgender and intersex detainees/prisoners asked with which gender they identify, and are they then medically examined by a healthcare professional of the relevant gender?
- Do female healthcare staff ever feel at particular risk when examining male patients?
- If a prisoner is accompanied by a child, can they accompany the child to the health screening and any subsequent appointments?
- Are female detainees/prisoners ever subjected to virginity testing?

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

In addition to looking at risk factors, it is important for monitors to assess the effectiveness of measures in place to prevent and respond to SGBV. This section identifies specific topics that monitors can include in their preparatory research and during facility visits and interviews, including suggested questions to relevant stakeholders for possible inclusion in existing monitoring tools. Additional suggestions focussing on specific at-risk groups are included, where relevant.

9.1 Risk and Needs Assessments

Initial, ongoing and individualized risk and needs assessments are crucial tools in identifying signs of vulnerability or aggression in detainees/prisoners. When implemented correctly, effective assessment tools can play a major role in preventing SGBV, by ensuring that individual needs are met and appropriate security measures and sentence plans are in place. Good classification and assessment procedures reduce the risk that vulnerable detainees/prisoners are detained alongside potential perpetrators of SGBV, and can also reduce risks to staff and prison visitors.

Unfortunately, many risk and needs assessment tools have been designed to predict the behaviour of men, and do not take into account the gender-specific needs and circumstances of women prisoners.

Preparatory research and reviewing existing documentation

- Do risk and needs assessment tools include an assessment of detainees'/prisoners' risk of being sexually abused by others or being sexually abusive towards others, including an assessment of their previous history of abuse or of abusive behaviour?
- Are there specific protection measures in place for those identified as being at risk of SGBV?
- Are risk assessments carried out at all stages of detention, including police custody and during prisoner transfer?
- At what stage do these assessments take place? Are they regularly reviewed and updated, and is the detainee/prisoner involved in the process?

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

- What are the procedures/risk assessments in place to determine how staff should be allocated to work with different detainees/prisoners?
- What risk and needs assessments are used to inform individual sentence plans, including in relation to risks of abuse and/or the need for protection against abuse?
- Who carries out the assessments? Have they received any training in assessing risk and needs in relation to SGBV?

Information from detainees/prisoners

- Are detainees/prisoners aware of any form of risk and needs assessment having taken place at any stage of their arrest and detention? If so, were they involved in the process? How is the history of SGBV included in the assessment?
- How are risk and needs assessments regularly updated?

Focus on specific groups/individuals

- Do risk and needs assessments in relation to an individual's risk of sexual abuse include whether they are or are perceived to be LGBTI?
- Are there risk and needs assessment tools in place that address the gender-specific needs and circumstances of women prisoners, including in relation to SGBV risks?

9.2 Access to Healthcare

Healthcare professionals can play a vital role in detecting signs of abuse and preventing SGBV. To do so, they should have access to detainees in police custody, as well as those who have already been transferred to prison.

Medical screening on first admission to police custody or prison enables staff to detect and record any indications that SGBV has occurred, including any psychological or psychiatric disturbances that point to incidents of SGBV. This may relate to SGBV that took place before the arrest, including domestic violence, or abuse that took place during the arrest or while in police custody.

The availability of ongoing medical care can also play a key role in identifying and preventing abuse occurring within places of deprivation of liberty. This will only be possible if all detainees/prisoners are able to access medical staff in full privacy and confidentiality, and if the health staff are properly trained in identifying and documenting signs of abuse. If healthcare providers are independent of the police/prison administration, detainees/prisoners are more likely to trust that they can safely report incidents of SGBV to them, and the staff themselves are more likely to report abuse. All medical appointments should involve a conversation with detainees/prisoners to provide them with the opportunity to report abuse.

Preparatory research and reviewing existing documentation

- Are prison healthcare staff independent of prison management? Who directly manages them, and to whom do they have to report?
- Is there a procedure in place for steps healthcare professionals should take if they suspect that SGBV has occurred?
- At what stage of the admission procedure are prisoners given their initial medical screening? Does the initial medical screening include anything about past experiences of SGBV?
- Does the template for medical records contain any section relating to torture and other ill-treatment, or SGBV in particular?
- Does the healthcare team compile periodic statistics on incidents of abuse that come to their attention, or incidents of SGBV in particular?
- Is there a requirement that prisoners are given another medical screening in cases where they are returned to police custody for investigations?
- Are there any available statistics of the number of instances of SGBV recorded by medical staff, including during initial medical screenings and subsequent healthcare appointments?

Inspecting healthcare facilities and the location of medical files

- In what conditions do medical examinations take place? Do the locations of doors and windows allow for full privacy and confidentiality?
- Are prison health facilities in a location where all detainees can access them if they need to? How does access to health facilities work in facilities where both men and women, or adults and juveniles are located?
- Where are medical files stored, and who is allowed to access them? Are the files locked securely? Are they kept separately from the main prisoner file?
- Are there any other measures in place to ensure medical confidentiality?

Information from healthcare staff

- Do healthcare staff receive any specific training on identifying incidents of SGBV and/or appropriate ways of dealing with victims of SGBV? Are there any members of the healthcare staff specialized in dealing with SGBV?
- Are prison healthcare staff trained in applying the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol)?²¹

21 OHCHR, *The Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, op. cit., note 15.

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

- If there are no specialists in SGBV on staff, are there any external health providers that can be called on if staff suspect that a prisoner has been the victim of SGBV?
- What type of support and treatment is available to victims of SGBV?
- Are staff required to report if they become aware of any signs of SGBV? Are they first required to get the consent of the victim?
- Have staff ever received reports that detainees/prisoners have been victims of SGBV (either before or during their detention)? Do staff know what to do in these situations?
- Do all prisoners receive a medical examination upon their admission to police custody/prison? If so, when does this usually take place?
- What are the opening hours of the place of detention's health facility? Are health-care staff also available at night-time?
- What is the procedure for detainees/prisoners to request to see a healthcare professional? How do staff ensure that they can request medical assistance in full privacy and confidentiality?
- Are there any mental healthcare professionals among the healthcare staff?
- Are those prisoners undergoing any form of punishment, including solitary confinement, able to access healthcare professionals when they need to? Do prison healthcare staff visit those prisoners held in any form of involuntary segregation on a daily basis?

Information from detainees/prisoners

- Are detainees/prisoners given an opportunity to tell medical staff about any history of SGBV? If so, what action is usually taken?
- Do detainees/prisoners feel they would be able to safely and confidentially report incidents of SGBV to the healthcare staff in the prison if they wanted to? If not, why not?
- Are detainees/prisoners able to request medical appointments in full confidentiality? Do they know how to do this?
- Do initial medical screenings and subsequent healthcare appointments take place in full privacy and confidentiality?

Focus on specific groups/individuals

- Are there any female healthcare staff available? If a female prisoner requests that she be examined by a female healthcare professional, is this possible?
- Are any of the healthcare staff specialized in healthcare issues specific to women and girls, including reproductive healthcare?

- Do newly arrived female prisoners undergo screening for sexual abuse and other forms of violence?
- Are there any child healthcare specialists available for the healthcare of children accompanying their parents in prison?

Healthcare and other follow-up for persons who have reported sexual abuse



When interviewing persons who have made specific reports of sexual abuse, and sought follow-up action, monitors could try to get more information on the following:

- The length of time between reporting the abuse and authorities responding;
- Whether staff responded swiftly and appropriately gathered evidence;
- Whether there was a chance to see a healthcare professional, including a mental healthcare professional, soon after reporting the abuse;
- Whether any follow-up services, including counselling or access to community services, were made available, and whether this support is ongoing
- Where relevant, whether they were provided emergency contraception, pregnancy tests and tests and information about sexually transmitted diseases
- Whether there was any investigation into the abuse, and whether they were told of the outcome.
- Whether they have had any further contact with the perpetrator
- Whether they feel protected against further abuse or retaliation

9.3 Contact with the Outside World

Contact with the outside world is a crucial safeguard against SGBV for those in detention. Detainees/prisoners who have little or no contact with family, friends, lawyers or the outside community may be at particular risk of violence, due not only to the impact of their isolation, but also because such contact provides a vital opportunity to report violence or the threat of violence.

However, external visits can only be useful in terms of preventing or reporting SGBV if detainees/prisoners feel that they can safely report abuse, or the threat of abuse, in privacy and confidentiality.

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

Access to the outside world is also vital to preventing retaliatory action and further abuse against those who have made complaints of SGBV, to ensuring that they receive appropriate counselling and support, and to ensuring that the complaint is being properly followed up.

Perpetrators of SGBV are less likely to target individuals who they know can report the abuse, or who appear to be less vulnerable because they have external support. Potential perpetrators may also be less likely to commit violent acts if they themselves have regular contact with family, friends and others.

Contact with the outside world is particularly important in situations where the risk of SGBV is intensified, such as in the early stages of arrest and detention, or if the detainee/prisoner has been segregated from others. Some groups, including women, juveniles and foreign nationals, may have specific needs when it comes to ensuring meaningful contact with the outside world.

Situations of contact between detainees/prisoners and their family member, friends, lawyers and others, may also pose a risk of SGBV for either the detainee/prisoner or their visitor, particularly during private visits. Prisons should, therefore, conduct risk assessments based on the nature of the visit to balance the potential risks of abuse with the right of privacy.

The right to conjugal visits might act to prevent SGBV, but might also present risk factors that need to be addressed. Procedures should be in place and premises made available with due regard to safety and dignity.

Detainees/prisoners and their visitors will also be able to provide information about their own experiences of prison visiting or other forms of communication, including whether the arrangements would allow for detainees/prisoners to safely report instances of SGBV.

Monitors can also get a sense of how different forms of communication are organized and the levels of privacy and confidentiality in place through direct observation and from their own interactions with detainees/prisoners. During inspections, they may be able to observe how staff interact with prison visitors, the levels of supervision and monitoring, and the types of visit permitted.

Monitors could consider the following information to determine the extent to which contact with the outside world can prevent incidents of SGBV:

Preparatory research/reviewing documentation

- Are there any existing laws, policies and procedures related to family visits and other forms of communication with the outside world?

- Do prisoner files contain contact information for family members, including emergency contacts?
- What percentage of recorded complaints relate to problems with the right to contact with the outside world?
- Is there a mechanism under which lawyers, family members, friends and others can file complaints to the prison administration on behalf of detainees/prisoners? How frequently is this mechanism used?
- Do authorities keep a record of whether each prisoner receives visits from family, lawyers etc.?
- Is there any system of voluntary visitation in place for those who do not get visits from family or friends?
- What percentage of detainees/prisoners have contact with a lawyer or legal aid provider?
- Is there a system of assessing which detainees/prisoners can receive conjugal visits, to address any risks to the detainee/prisoner themselves or their visitor?

Assessing visitor areas and communication facilities

- Do lawyers' visiting rooms provide full privacy and confidentiality so that detainees/prisoners could safely report SGBV to their legal representative if they want to?
- Do general visiting areas allow for privacy, while also permitting visual monitoring if necessary?
- Do all detainees/prisoners have access to a telephone, as well as the means to send letters/other forms of communication, so that they can report abuse or the fear of abuse through these channels safely and confidentially? Is any support provided for those who have no money?
- Are conjugal visiting rooms set up so as to allow full privacy to avoid voyeurism? Is there a facility in the room for detainees/prisoners or their visitor to alert authorities in case of violence?

Evaluating how external contact works in practice

Information from staff and management.

- How often/what type of visits are allowed, and what is the length of such visits?
- Does the frequency/type and length of visits differ between groups of prisoners and, if so, why?
- Does the facility allow conjugal visits? If so, is this applied equally to men and women?

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

- What type of risk assessment procedures are in place for private or intimate visits?
- How are telephone calls, manual and electronic correspondence monitored?

Information from detainees/prisoners

- At what stage are detainees/prisoners able to inform their family and lawyer about their arrest and imprisonment?
- Are detainees/prisoners able to meet with their legal representative in full privacy?
- Are they able to safely report instances of SGBV to their lawyer/family member/other contact? If not, why?
- Do they feel they would be able to do this during visits/over the telephone/by letter/other means of communication? If not, why?

Information from families, friends, lawyers and others

- Have prisoners ever spoken about SGBV in the prison (either directed at themselves or others)?
- Do visitors know whether they can file complaints of SGBV on behalf of prisoners? If so, do they know the process? How did they learn about this?
- Are there reports of visitors themselves having experienced SGBV during their visits to the place of detention? If so, were they able to make a complaint about it? What was the result?
- Have visitors ever felt at risk of SGBV during visits? If so, from whom, and in what circumstances?

Observing prison visits

- Do staff interact appropriately with visitors, including children?
- Are prisoners able to speak with their external contacts (during visits and on the telephone), out of earshot of staff and other prisoners?
- Where staff are visually observing prison visits, do they appear to be threatening or intimidating to prisoners and/or their family members?

Focus on specific groups/individuals

It may be that those prisoners who are most at risk of SGBV are also those who have less contact with the outside world, including foreign nationals, refugees and migrants, high security prisoners and those held in segregation. Monitors should, therefore, check to ensure that authorities encourage and facilitate communication with the outside world for all detainees/prisoners. They should also look for positive examples of authorities making special efforts to facilitate contact for those who are most in need of assistance.

- Are there any specific guidelines in place for when and how embassies and consulates should be informed when one of their nationals is arrested?
- Are there any special arrangements in place to allow foreign nationals to contact their embassy/consulate and their family and friends?
- Can embassies/consulates file complaints on behalf of foreign nationals?
- Are those detainees/prisoners who are undergoing punishment, including being held in segregation, still able to contact the outside world?
- Are there any special programmes in place for detainees/prisoners who have no one with whom they can communicate/have no visitors?
- Are there any special visiting programmes for those who have previously been victims or perpetrators of SGBV?
- Are there restrictions on external communication for high security prisoners?

9.4 Access to Information

On admission, all detainees/prisoners should be provided with information about their rights, including how to make complaints confidentially if their rights are violated. They should also be informed about the disciplinary sanctions that can be applied if they infringe rules, including those related to SGBV. This information must be made available to all detainees/prisoners in a language and format they understand.

Monitors should investigate the type of information made available to prisoners, including:

- Are detainees/prisoners and staff members provided with information materials about SGBV and what they can do if they become a victim of abuse, including contact details for SGBV support services, telephone hotlines and how to contact monitoring mechanisms?
- Are they provided with any information about protective measures that will be applied for those alleging abuse?
- Is the information presented in a format that is easy to understand, and is it prominently displayed in the facility?
- Are any other strategies in place to raise awareness among detainees/prisoners and staff on the prevention of, and response to, abuse?
- Are detainees/prisoners provided with information on the staff code of conduct, prison rules and regulations, including information about behaviour that is considered unacceptable among staff as well as detainees/prisoners?
- Do detainees/prisoners receive information about disciplinary procedures in place for perpetrators of SGBV?

- Is this information available to all, including those who cannot speak the main language of the facility and those who are illiterate?
- Are there any special measures in place to ensure that those who have mental healthcare needs are aware of their rights, to the extent possible?

9.5 Static and Dynamic Security

When monitoring places of deprivation of liberty, teams should consider how facilities use static and dynamic security measures, both of which are essential components of effective prison management, including in SGBV prevention and response.

Static security features have already been discussed in earlier sections of this document, including infrastructural considerations, the use of CCTV and potential blind spots in their coverage.

Dynamic security can be especially effective in countering the hidden nature of SGBV. However, the extent to which such approaches are applied in practice can be difficult to monitor, as it relates to the overall prison management style and institutional culture.

Information about dynamic security approaches can, however, be gained from written policies and discussions with staff and other stakeholders. Detainees/prisoners themselves can also provide information on the style of security in the facility. Additionally, monitors are likely to get a good sense of the security culture during their visits to the facilities. In considering the use of dynamic security in relation to SGBV, monitors should consider:

- The nature and extent of staff and detainee interactions and levels of trust between them;
- The interpersonal skills of staff members;
- The extent to which staff are aware of the particular situation of detainees/prisoners, including which groups or individuals might be at particular risk of SGBV;
- The extent to which staff are aware of what is happening in the facility, including the dynamics among detainees/prisoners; and
- Whether staff receive training in the concept and application of dynamic security and are encouraged to take an active interest in the welfare of detainees/prisoners.

9.6 Staff Recruitment, Training and Supervision

The careful selection and proper training of staff at all levels is essential for creating an environment in which SGBV is not perpetrated, condoned or tolerated. Staff not only need to be properly recruited and trained, they must also be well-supervised and supported. Increasing diversity among staff, including female representation, is also critical to addressing SGBV.

Candidates should be properly screened during recruitment to ensure only suitable applicants are recruited. Vetting processes for staff must include background checks, to ensure that there is no history of perpetrating or condoning SGBV. Fundamentally, all those recruited into the criminal justice system, including healthcare providers, must be committed to the prevention of SGBV.

In addition to improving the representation of female staff, the recruitment procedures should ensure that opportunities are provided to diverse candidates, with the aim of ensuring that the overall body of staff includes representation of under-represented groups or, at a minimum, staff who have expertise in working with particular minority groups or victims of SGBV specifically. Staff diversity should be reflected at all levels, including in senior and management posts and among policymakers.

Staff diversity should also extend to the retention of a diverse staff, especially female staff. Attention should be given to mentoring for new recruits, establishing family-friendly workplaces, and making sure that there are no barriers to their advancement, including with regard to training opportunities.

When considering staff recruitment, retention and training in relation to SGBV, monitors could consider:

- What screening processes are in place for prospective staff members, and whether this includes a background check and testing for personal ethics, including attitudes towards SGBV;
- The diversity of the staff at all levels, including gender representation and whether there are any policies or procedures in place that encourage staff diversity;
- Whether there are any identifiable barriers to staff diversity, including promotion and training opportunities for women or gender non-conforming persons;
- If staff training manuals contain modules on SGBV, gender sensitivity, non-discrimination and working with vulnerable groups or victims of abuse;
- Whether staff receive relevant training, including training on gender sensitivity, before entering active duty, and then periodically during service; and
- Whether staff salaries, benefits and conditions of service are adequate to attract and retain suitable staff.

9.7 Complaints Mechanisms

Access to effective complaints procedures is essential for preventing and tackling SGBV in places of deprivation of liberty. The potential perpetrators of SGBV, including staff members, may be deterred from acting if they are aware that others can safely and confidentially report such abuse and that there will be follow-up action. Victims of abuse may themselves feel more empowered if they know they can report SGBV.

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

For many in detention, access to complaints mechanisms may be their only hope of ending the abuse.

In this context, monitors should be aware that those detainees/prisoners who are in particular situations of vulnerability may also be those who will face difficulties reporting abuse or accessing complaints mechanisms, including, for example, children, foreign nationals and those with mental healthcare needs.

The accessibility, independence and confidentiality of complaints mechanisms are issues of particular concern in cases of SGBV, due to fear of inaction by security and justice providers and the particular risks that can accompany complaints of sexual harassment and abuse. The timeframe in which complaints can be lodged is also significant, as victims of SGBV may need time before issuing a complaint. Some may not want to complain until they have been released from detention.

If different avenues of complaint are available to all, are properly managed and clearly documented, prison administrations should be able to identify and deal with systematic problems, as well as with individual instances of abuse.

In addition to monitoring the complaints procedures themselves, monitors can also look into how complaints of SGBV are handled, to determine if such complaints are dealt with any differently than others, or whether complaints are handled differently depending on who makes them. This is particularly important, because complaints related to SGBV may be ignored, disbelieved or regarded as “trivial”, or authorities may not know what to do about them.

If the complaints process is not fully confidential, victims of SGBV might also be specifically targeted for further abuse, marginalization or derogatory remarks, because of the nature of their complaint, whether it is upheld or not.

In a very masculinized institutional culture, staff members may fail to report instances of SGBV for fear of appearing weak or being branded as a “troublemaker”. They may also be concerned that they will be ostracized or lose promotion opportunities, particularly if the complaint is against a superior.

Given the nature of complaints of SGBV, the particular barriers to reporting such abuse, and the high risk of retaliatory action, authorities should make special provision for responding promptly to such complaints.

Prison monitors should consider looking into the following in relation to complaints procedures:

Preparatory research and reviewing existing documentation

- What are the existing complaints mechanisms? Are there written guidelines in place detailing how a detainee can complain and the steps to be taken when a complaint of SGBV is received?
- What are the timelines for response/investigation, and what measures are to be taken to protect the safety and maintain confidentiality of the victim and any witnesses?
- Does the detention facility prominently display information about the rights and responsibilities of detainees/prisoners?
- Can detainees/prisoners access independent external complaints mechanisms (including the monitoring mechanism itself), as well as internal ones?
- Does the complaints system allow for anonymous, confidential complaints, and are victims/witnesses required to give their consent for any follow-up action to be taken?
- Is there any time limit on how long after the abuse an incident can be reported? What mechanisms are in place for individuals to file complaints after they have been released from detention?
- Is there gender diversity among those dealing with complaints? Have those persons received any training in how to deal with complaints of SGBV specifically, and have they been vetted in any way to ensure they have the appropriate skills and background to handle complaints of SGBV?
- Are there any written policies or guidelines related to complaints mechanisms, and do they include information on protecting complainants or witnesses against reprisals?
- Do authorities in any way encourage the reporting of SGBV, and do they do anything to reassure victims that they will be supported and protected if they lodge a complaint of abuse if such programmes are available?
- Do complaints mechanisms accept complaints from witnesses and third parties, such as family members, lawyers, monitoring mechanisms or CSO representatives?
- Are complaints usually recorded in the prisoner file, and are statistics and details of complaints also recorded for monitoring purposes?
- Have there been any previous complaints of SGBV that led to investigations and follow-up action? If so, were there any demonstrable positive outcomes, including changes in policy and practice?
- What are the usual disciplinary measures in case of instances of SGBV, and are these sanctions usually enforced in practice?
- Are there any written procedures of how staff can make complaints of SGBV?

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

- Are there any measures in place against prison managers or staff members who are aware of incidents of SGBV, but who fail to take action to prevent or respond appropriately?
- Is there any oversight of prison complaints procedures to ensure that they are effective and available to all?
- Are there any measures to allow whistleblowing and relevant protection measures for those who report?
- Are there any policies and/or mechanisms in place to discipline any staff member who threatens, intimidates or retaliates against a complainant?

Inspecting tools for making complaints

- Can everyone get hold of a complaint form, or paper and pen/pencil if they need? Where are the forms and writing materials stored, and how do detainees/prisoners access them? Do women have the same access as men? Do juveniles have the same access as adults?
- Where are complaints boxes located? Can all detainees/prisoners access them confidentially?
- Are complaint forms available in other languages? Are there any other mechanisms for illiterate detainees/prisoners or others who cannot write, so that they can still make complaints?
- If there is a complaint form, does it include anything specific about SGBV?
- If a phone hotline for reporting complaints exists, are all detainees/prisoners able to make reports confidentially, away from earshot of others?
- Can victims of abuse be accompanied by a third person to any interview if they so wish?
- Is information about complaints procedures clearly displayed in the detention facility in a place that is accessible to all, including prison visitors? Does this information make clear that this can include complaints of SGBV?
- What tools are available for staff members to make complaints of SGBV?

Assessing individual experiences of complaints mechanisms

Information from staff

- Are staff aware of procedures for detainees/prisoners to make complaints?
- Do staff feel they are able to report incidents of SGBV safely and confidentially? Do they think that there would be any negative consequences against them if they made a report of SGBV?

Information from detainees/prisoners

- Do detainees/prisoners know how to make a complaint, including the different mechanisms for complaints?
- Were they given information about complaints procedures when they first arrived at the facility, or at any other time? How was this information presented?
- If they have been subjected to SGBV, do they feel that they would be able to complain confidentially? How would they do this?
- Have there been any specific allegations of SGBV? If so, what was the outcome? Are individuals offered any support services and protective measures?

Information from families/lawyers/other visitors

- Do visitors know how to complain if they have been subjected to abuse within the detention facility?
- Do they know if and how they can make a complaint on behalf of detainees/prisoners?

Focus on specific groups/at risk situations

When considering access to complaints mechanisms, monitors should also assess whether there are any reasons why it might be more difficult for certain groups of detainees/prisoners, or those in at risk situations, to complain, particularly those groups who are particularly at risk of SGBV. For example:

- Are complaints procedures accessible to those in police custody?
- Do women have the same access as men to complaints mechanisms?
- Are there any measures in place to ensure that complaints procedures are accessible to juveniles?
- Are those under disciplinary measures, including those in segregation, able to access complaints mechanisms?
- Are there any measures in place to allow for safe disclosure, particularly for LGBTI persons?
- Can foreign nationals make complaints via their embassy or consular representative?

9.8 Activities and Programmes

The availability of activities and programmes within places of deprivation of liberty is relevant for SGBV prevention and response in a number of ways. First, if prisoners are provided with a range of meaningful educational, vocational and recreational activities, this can reduce their boredom and stress levels, contributing to a more

9. MONITORING EFFORTS TO PREVENT AND RESPOND TO SGBV

positive environment and improved, respectful interactions within the facility. Some programmes might be specifically designed to reduce prison violence and to foster good relations within the facility.

There may also be specific programmes aimed at detainees/prisoners in situations of vulnerability, those who have a history of sexual abuse, or those with substance-dependency issues. Such programmes could be adapted from existing programmes in the broader community and may, in addition, be a useful way of forging links with specialist organizations.

Individualized sentence plans, based on thorough risk and needs assessments, can play a role in reducing potential vulnerabilities and are also an important part of a detainee's/prisoner's rehabilitation. The existence of specialized help may also encourage victims to come forward to report previous or ongoing abuse.

Similarly, facilities might have programmes that are targeted at potential perpetrators of abuse, including those convicted of sexual offences. This could include programmes on anger management, healthy intimacy, women's rights, positive masculinity and victim empathy.

Survivors of SGBV must have access to comprehensive support and assistance, including, but not limited to, legal aid, medical treatment, psychological support and counselling.

As with all training programmes, authorities should be attentive to the potential risks of SGBV taking place in the context of the training itself. Consideration should be given, therefore, to the risk of prisoners, staff and training providers being abused, particularly if activities take place in situations where oversight is reduced, if the trainers have not been properly vetted, and if the activities are supervised by non-state agencies.

When assessing the availability and effectiveness of existing programmes in relation to SGBV, monitors should consider:

Whether there are any counselling and professional support programmes for survivors of SGBV and those deemed to be at risk. If so, who runs these programmes?

- Whether victims of sexual violence are provided with support and advice, where appropriate, on sexually transmitted infections, HIV and pregnancy;
- Whether there are any support programmes on violence reduction for potential perpetrators of violence, and specialized programmes for sex-offenders. Are specialist service providers involved in designing/running the programme?
- Whether there are any SGBV self-help and peer-support groups in the facility;
- Whether there are any programmes for drug and alcohol addiction/dependency; and
- Whether those with mental health needs receive appropriate, individualized counselling, psycho-social support and medication

10. FOLLOW-UP ACTIONS

Monitoring mechanisms will be able to follow up on patterns and specific instances of SGBV in different ways, depending on their mandate and working guidelines. Some will provide detailed recommendations to authorities, while others might be involved in revising national legislation. Some monitoring mechanisms will be more directly involved in individual case follow-up, including directly providing legal aid, or referring cases to other institutions for follow-up action, including the provision of medical, social and psychological services. Some monitoring mechanisms may refer cases to criminal justice systems, or internal disciplinary proceedings.

When it comes to follow-up on cases of SGBV, the monitoring mechanism should have a clear mandate and guidelines on what they can do and the processes to follow. In all cases, they should bear in mind the following key principles when determining the most appropriate form of follow-up:

- > The follow-up action should not put the victim of SGBV at any further risk of abuse or retaliation, or draw any unnecessary attention to their situation;
- > Monitors must respect the anonymity of the individual concerned and the confidentiality of any information provided;
- > Where possible, the victim of SGBV should have given their free, prior and informed consent for any follow-up, and they should fully understand the benefits, possible risks or negative consequences. This means that there should be no coercion, intimidation or manipulation, that consent has been sought sufficiently in advance of action being taken, and that detailed information is provided;
- > Intervention, including medical intervention, should be a priority if an individual's life and health is determined to be at risk; and
- > Where necessary, monitors should plan a follow-up visit to check on the safety of all individuals they have taken action on behalf of.

10.1 Gender-Responsive Reporting

Monitoring mechanisms will have different reporting requirements and strategies, depending on the nature of each visit, the significance of the findings and the target authority. In all cases, reports are an important opportunity to highlight the issue of SGBV, and gender issues more generally. Gender should, therefore, be a key consideration in both the presentation of the report and any accompanying recommendations. In reporting, monitors should, therefore:

10. FOLLOW-UP ACTIONS

- > Include information about how gender issues were incorporated into planning and methodology, and any challenges they faced in doing so;
- > Be gender specific in reporting, and include a gendered analysis of the findings;
- > Include gender specific recommendations and include considerations of intersectionality, such as age, ethnicity and the nature of the offence;
- > Consider issuing thematic reports that deal with the issue of SGBV specifically; and
- > Ensure that the reports are disseminated to authorities who can use their influence to address issues of SGBV.

10.2 Recommendations and Dialogue

Recommendations will target different authorities, depending on the level of action required, and some issues will require intervention at many different levels. In addition to policy and legislative recommendations to government ministries, and practical suggestions to prison management and staff, monitoring mechanisms could consider the following actions in relation to SGBV:

- > Communicate and co-ordinate with other monitoring mechanisms, including international and regional mechanisms, on developing strategic, realistic recommendations related to SGBV;
- > Liaise and establish a dialogue with CSOs and individuals specialized in dealing with issues of SGBV in the community, as well as with victims of abuse themselves;
- > Undertake educational and awareness-raising activities on SGBV, and gender issues more generally, in places of deprivation of liberty and develop outreach to specific target audiences; and
- > Closely monitor the response to all recommendations, including the extent to which authorities deal with recommendations in a gender-responsive manner.

10.3 Follow-Up on Investigations

In assessing whether authorities respond appropriately to specific complaints of SGBV, monitors might include consideration of the following questions:

- > Who decides how a complaint will/should be investigated, including whether it should be treated as a crime?
- > How was the outcome of the investigation handled? Were recommendations effectively implemented in a timely manner?
- > Were those found responsible for abuse, or for failing to act on reports of abuse, sanctioned appropriately?

- > Did the case reach the courts? If so, how was it handled by the prosecutor and by the judicial authority?
- > Were remedies provided?
- > Has there been any change in the policies and practices at the facility following investigations of SGBV?
- > Has there been any change in the situation of the individuals concerned?
- > Have there been any recorded complaints of retaliation by the authorities?

Conclusion

In many countries, detention monitoring mechanisms have been at the forefront of torture prevention through their regular, independent monitoring work, and some have already made progress in tackling the issue of SGBV.

However, much more needs to be done to integrate the issue of SGBV in the ongoing work of monitoring mechanisms. Specifically, these mechanisms need to incorporate the issue of SGBV in their planning and learn how to identify specific situations of risk and appropriate preventive measures. This guidance document has endeavoured to provide advice and suggestions on how to do so, including by improving their capacity, increasing SGBV awareness among their own members and recognizing the challenges associated with such monitoring for SGBV.

This publication has aimed to provide concrete tools that can be used by monitors and incorporated into their routine visits to places of detention, so as to include the issue of SGBV into their work. Oversight mechanisms are key to identifying and detecting abuse in places of deprivation of liberty and to contributing to change the institutional cultures of closed settings through their monitoring, reporting and advocacy work. At the same time, such efforts need to be supported by the willingness of a criminal justice system to prevent and address SGBV in all of its institutions.

As has been noted, monitoring mechanisms can not only detect instances of SGBV, but they can also play a key role in contributing to the prevention of such abuse. Such a commitment will be an important first step to ensuring the protection of human rights in the facilities they monitor and contribute to promoting deprivation of liberty free of violence and abuse.

